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LOCAL COURT
HEARD AT
CORONER'S COURT GLEBE

MAGISTRATE: D W HAND

18 July 1990

DIRECTOR OF PUBLIC PROSECUTIONS v IAN STUART JONES

CHARGE - Murder

Mr McIntosh for the Informant
Mr Egan for and with the Defendant

BENCH: Brief been served? Reply been received?

McINTOSH: Yes it has.

MICHAEL CHARLES PLOTECKI
sworn and examined

McINTOSH: Q. Tell the Court your full name, rank and station please? A. Yes, my full name is Michael Charles Plotecki. I'm a Detective Constable 1/c, I'm presently attached to the Regional Crime Squad South, Homicide Squad.

Q. Detective have you seen a statement that I typed - a list that I typed of statements to be tendered to the Court? A. Yes I have.

Q. In that list is your statement? A. That's correct.

Q. Is everything in your statement true and correct? A. It is.

McINTOSH: I tendered the brief containing the--

BENCH: The list has got a couple of deletions there - Aaron Lee Hill and [redacted] 151, they're not contained in the brief are they?

McINTOSH: They are sir, there are forty one in all Your Worship.

BENCH: Are they - Hill and [redacted] 151 are they still in the brief?

McINTOSH: They aren't in the brief--

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BENCH: They have been deleted.

McINTOSH: Yes that's correct and I would seek to have those statements marked for identification.

BENCH: Any objection to the brief Mr Egan?

EGAN: Only - if the brief's being tendered - if it's being marked for identification I have no objection. If it's being tendered as pursuant to 48AA then I do have an objection in relation to statements of Mark Locke.

BENCH: What's the objection?

EGAN: Your Worship there had been a reply given to the brief, as indicated to my friend, Mark Locke's name does not appear on that reply. That was simply an oversight. What I say in relation to that is this that the - under section 48E the Court does have the power to require the attendance of a witness if he believes it's in the interests of justice to do so. I understand from what the - I've been told today that a subpoena has issued for the attendance of one Mr Locke. He is not here at the present moment. I don't know if he can be located. It would seem from the prosecution's case in the absence of Mr Locke the prosecution's case is largely circumstantial. And indeed, I'll put it quite bluntly that the kernel of their case seems simply to be this - and I'm quoting here from one of the statements of Jones, that being the statement on the--

BENCH: Can I just condense it. You're saying that you inadvertently left Locke off the list of witnesses that you require. Do you accept that Mr McIntosh?

McINTOSH: I accept that, yes.

BENCH: Because Locke is a very crucial witness I take it, is he?

McINTOSH: He is.

BENCH: At this stage I would accept that - even though his name wasn't on the list I'll accept Mr Egan that, having regard to the fact that he was a crucial witness and the crown case relies heavily on him that it was an oversight. The Crown had made arrangements I understand for Mr Locke to be here. So subject to Mr Locke attending I'll mark his statement for identification at this stage and then if he arrives it'll be then tendered in the normal way. Mr McIntosh are you--

McINTOSH: Yes I'm happy with that course but I wouldn't want Your Worship to think that I'm not pressing its tender.

BENCH: No I know you're pressing its tender--

McINTOSH: Yes, even if he doesn't attend because of the failure to comply with--

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BENCH: That's so but--

McINTOSH: Certainly at this stage--

BENCH: At this stage I'll mark it for identification--

McINTOSH: Yes but I'd just like the Court to know that I'd be pressing its tender at a later stage if he doesn't attend.

BRIEF TENDERED - WITH THE EXCLUSION OF THE TWO STATEMENTS OF LOCKE - ADMITTED AND MARKED EX 1.

TWO STATEMENTS OF LOCKE MARKED FOR IDENTIFICATION A

STATEMENT OF HILL MARKED FOR IDENTIFICATION B

STATEMENT OF 151 MARKED FOR IDENTIFICATION C

BENCH: And the question of whether of not Locke's statements are tenderable if he doesn't turn up to give evidence will have to be argued at a later stage.

McINTOSH: Q. Detective you've also seen a list of exhibits?

A. That's correct yes.

Q. Do you have the exhibits with you? A. Yes I do.

Q. Do you have - number 1 of that list is a blue jacket? A. The woollen jacket?

Q. Yes. A. Yes.

BLUE WOOLLEN JACKET TENDERED, ADMITTED WITHOUT OBJECTION AND MARKED EX 2.

McINTOSH: Q. Exhibits 2, 3, 4, 5, 6--

BENCH: Wait a minute, we haven't got them marked yet. Be careful.

McINTOSH: On the list.

BENCH: The blue jacket will be exhibit 2. What else are you tendering?

McINTOSH: Exhibits - there are a number of exhibits in the file before Your Worship.

BENCH: Yes. They're numbered according to the Constable's brief, yes. So you've got - the blue jacket will be exhibit 2 - on the list that's exhibit 1.

McINTOSH: Yes.

BENCH: On his list but it'll be exhibit 2 here. Or if - gentlemen if you like to reverse it I can make them 1 and then make the brief 1A and then the list will be easy to follow. Are

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you happy with that?

EGAN: Yes thank you.

BENCH: Right, we'll make the brief 1A and the blue jacket will be exhibit 1. So then we can just follow down that list. That'll make it easy to follow. Go on. What about - the other matters, are you tendering the photograph of the defendant?

McINTOSH: Yes. I tender the photographs, the passbook, the photographs mentioned in number 4. Number 5, the time sheet. Number 6, the diary. Number 7, the rent-a-car agreement. Number 8, 53 photographs.

Q. You have with you Detective item number 9, a wind jacket? A. That's correct.

McINTOSH: I tender that.

BENCH: Then you got copy of a time sheet--

McINTOSH: Yes, copy of time sheet--

BENCH: Budget Rent-a-Car.

McINTOSH: Copy of the rental agreement. Section 12 certificate.

Q. Detective you have with you item 13, that's the photo board?
A. Yes I do.

McINTOSH: I tender that.

BENCH: Then a photograph of the accused.

McINTOSH: Number 15 is - comprises part of the - what is mentioned in the statement of 151 --

BENCH: So you're not seeking to tender that?

McINTOSH: No.

BENCH: And 16, St George Building Society records which would become 15. Now do you have any objection - have you seen all these things?

EGAN: I've seen them - well I've seen copies Your Worship of them. The only thing I'll say is this, in relation to the brief and the statements that have been referred to there are a number - there's a large amount of inadmissible material either in the form of hearsay or the expression of opinion. Now, what I'd ask the Court in due course to exclude that--

BENCH: As the witnesses are--

EGAN: As the witnesses are called.

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BENCH: Okay so subject to that those exhibits from the blue jacket down to St George Building Society records will be exhibits 1 to 15. That one on your list becomes 15 instead of 16.

PHOTO OF DEFENDANT TENDERED, ADMITTED AND MARKED EXHIBIT 2.

ST GEORGE PASSBOOK TENDERED, ADMITTED AND MARKED EXHIBIT 3.

PHOTOS OF DEFENDANT'S CAR TENDERED, ADMITTED AND MARKED EXHIBIT 4.

TIME SHEET TENDERED, ADMITTED AND MARKED EXHIBIT 5.

DIARY TENDERED, ADMITTED AND MARKED EXHIBIT 6.

BUDGET RENT-A-CAR AGREEMENT TENDERED, ADMITTED AND MARKED EXHIBIT 7.

FIFTY THREE PHOTOS TENDERED, ADMITTED AND MARKED EXHIBIT 8.

WIND JACKET TENDERED, ADMITTED AND MARKED EXHIBIT 9.

TIME SHEET COPY TENDERED, ADMITTED AND MARKED EXHIBIT 10.

COPY BUDGET RENT-A-CAR AGREEMENT TENDERED, ADMITTED AND MARKED EXHIBIT 11.

SECTION 12 CERTIFICATE TENDERED, ADMITTED AND MARKED EXHIBIT 12.

PHOTO BOARD TENDERED, ADMITTED AND MARKED EXHIBIT 13.

PHOTO TENDERED, ADMITTED AND MARKED EXHIBIT 14.

ST GEORGE BUILDING SOCIETY RECORDS TENDERED, ADMITTED AND MARKED EXHIBIT 15.

McINTOSH: Could I ask that the photograph of the accused as mentioned in [REDACTED] 151 's statement be marked for identification?

BENCH: Photo of accused - we'll mark it with [REDACTED] 151 's mfi C - and photograph of the accused goes with [REDACTED] 151 's statement. That'll be mfi C, part of mfi C.

PHOTO OF ACCUSED MARKED FOR IDENTIFICATION C.

BENCH: So we've got the brief as 1A. Those 15 exhibits are 1 down to 15. Two statements of Locke are mfi A. Hill is mfi B. [REDACTED] 151 and the photograph mfi C.

McINTOSH: Q. Detective this morning we received a photogrammetry diagram of the deceased's unit? A. That's correct.

PHOTOGRAMMETRY DIAGRAM TENDERED, ADMITTED WITHOUT OBJECTION AND MARKED EXHIBIT 16.

BENCH: Is Locke still in this brief? I should take that out--

McINTOSH: Yes it will be.

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BENCH: I'll have them taken out.

McINTOSH: Number 40 and 41.

BENCH: They come out at this stage.

McINTOSH: Q. Detective in your statement, paragraph 4, you mention that "About 2.45 on Saturday 6 June 1989" is it the case that that should be 6 May-- A. Yeah it should be 6 May. Some copies it's been altered, others it hasn't.

BENCH: Q. What number is your statement Constable? A. Number 29.

Q. What paragraph is that? A. Paragraph 4.

Q. Would you mind just altering that and initialling it please. Thank you.

McINTOSH: Q. Take you to paragraph 6 of your statement. You say "I was unable to locate the wallet, credit cards or any money belonging to Hughes"? A. That's correct.

Q. Did you find a National Australia Bank Passbook of any sort? A. No we didn't. There were some bank accounts relating to a National Australia Bank account that inquiries were made on.

Q. Where did you find those? A. They were in drawers and various other locations around the unit. Some of them are actually shown in the photographs.

Q. Did you find any key cards to any accounts? A. No we didn't.

McINTOSH: Might the witness be shown exhibit 1.

BENCH: Yes, that's the jacket.

McINTOSH: Q. Just to clear it up, this is the jacket with the two stab marks in the back? A. That's correct.

Q. And in which the St George passbook was found? A. Yes, that's my understanding it was found in this jacket, yes.

Q. There's another exhibit, exhibit 9, a wind jacket, what part does that play? A. No real part. It was handed to me by Miss Stanton at the time I received this jacket and she identified both those items as being unwashed, as opposed to a number of other items she gave me on that date which were washed clothing.

Q. Exhibit 13 is the photo board, you still have that in front of you? A. Yes I do.

Q. In a number of cases this photo board was shown to witnesses? A. That's correct.

Q. Can you tell the Court how you went about using that photo board? A. Yes, I used the same photo board for all the witnesses

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to whom I showed photos. It was a case of placing a new photo of the defendant Mr Jones into the photo board in one of the various positions which are easily able to remove or to place photos in. The photos because they are police photos have the names on them, they were obscured by texta colour at the time so that they couldn't be read by the witnesses when they viewed them.

Q. I think in your brief there is a photograph which was shown to Mr Locke where the name of Mr Jones appears on the photograph? A. Yes I've examined that exhibit and what happened there is that during the course of handling and being removed from the plastic envelope once he'd been identified, the texta colour which is on it which is still visible had started to wear off and the name became clear only after that. At the time he was identified the name wasn't clear.

Q. In the first statement of the witness Scobie mention is made of a person named Bruce? A. Yes.

Q. Were any inquiries made as to the identity of Bruce? A. Yes a number of inquiries were made to identify this person and at this stage we are still unable to identify him.

Q. Mention is also made of a Commodore car that was rented by the witness Stanton and driven to Bathurst? A, That's correct.

Q. Does that Commodore have any part to play in - I withdraw that. Was a check done on the mileage-- A. Yes it was.

Q. Of that Commodore? A. Yes.

Q. What were the results of that check?

OBJECTION RELEVANCE QUESTION ALLOWED

McINTOSH: Q. Was any check done on the mileage? A. Yes it was and it was consistent with the vehicle travelling from Sydney to Bathurst only.

Q. A number of fingerprints were found on items? A. It's my understanding that's correct, yes. There were varying results - obviously the deceased's fingerprints were found in the flat and so was the flat mate Aaron Hill. Other prints were found there but some of them were unable to be identified.

Q. Can you tell the Court the distance from Bathurst to Sydney?
A. In kilometres?

Q. Yes. A. No I'm--

OBJECTION HEARSAY

BENCH: Not unless he knows personally.

WITNESS: No, I can't say I know exactly what the kilometres would be. I know it's about a two and a half hour trip.

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CROSS EXAMINATION

EGAN: Q. Two and a half hours trip is that in a police vehicle or is that by the average motorist? A. That's - that was the time we travelled up there in but it's also the time that other people from Bathurst have told us it takes to drive to Sydney.

Q. Don't worry about what they told you. You were driving a police vehicle weren't you? A. Yes.

Q. You don't have the normal apprehension of being apprehended for exceeding the speed limit that we other mortals in the community share do you?

BENCH: I disallow that.

EGAN: Q. You don't--

BENCH: No I don't want the question in. You can ask him about what speed he was doing and so forth but I don't want the other comment.

EGAN: Q. You weren't as concerned about the speed limit in a police vehicle as you might have been in a private car, that's fair to say isn't it? A. In fact you're more concerned because if we're pulled over we are subject to disciplinary action.

Q. Is that so? A. It's been my experience that's the case.

Q. You refer to fingerprints being found in the premises, they being the premises occupied by the deceased? A. That's correct.

Q. And you referred to the prints of Aaron Hill? A. Yes.

Q. And there's of course - well you've been told that he was a resident of those premises at some time, is that the case? A. That's correct.

Q. You've said of course you found prints of the deceased? A. That's correct.

Q. And you said some of the others were unable to be identified. Apart from the prints of Hill and the deceased what other prints were identified? A. None that I'm aware of.

Q. None? A. Not at this stage, no.

Q. Is it still under investigation? A. There's a - from my understanding from the computer section, they have a computer selection system with the fingerprints. Any prints that are unidentified at a major crime scene are randomly placed in there at periodic times to be identified. Some of the prints may not be suitable for identification, some of the prints may be from parts of the hand which are not normally fingerprinted so they may not ever come up or they may simply be prints belonging to people known which can't be identified at this time.

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Q. But the simple answer is - are inquiries still underway in relation to those prints? A. Yes I believe so.

Q. In relation to the bankbook - I believe St George, what St George -- A. Christmas Club Account I believe.

Q. Which is said to be found in exhibit 1. What's the last entry on that account? A. Might I have access to that exhibit?

BENCH: Yes. Exhibit 3.

WITNESS: A. The last entry is 24.4.1989.

EGAN: Q. That was by way of a withdrawal, is that the case? A. Actually no, that's a - I'd say - it's got "fixed duties, eighty five cents".

Q. Back from that there's a withdrawal? A. That's correct.

Q. What's the date on that? A. Same date. For two thousand six hundred dollars.

Q. Have any inquiries been made with the organization as to that withdrawal form? A. Yes it has.

Q. Has that withdrawal form been obtained? A. It has, it's with the brief.

Q. Who's signature appears on the form - so far as the form indicates? A. John Hughes.

Q. Was that form printed? A. I beg your pardon?

Q. Was that - were any prints taken off that form? A. No, we - inquiries were conducted as to the amount that was withdrawn and it was established that Mr Hughes used that money to pay a solicitor's account and the solicitors involved were interviewed and it was established that he paid a cheque, using that money.

Q. The money is gone from the account. So you're satisfied that the money which was withdrawn on that account did not go into the hands of the person responsible for his death, is that the case? A. Yes. We're satisfied Mr Hughes has taken that money out.

Q. Now there's no other evidence of that account being used subsequent of course to that date on the twenty fourth, is that right? A. No.

Q. We refer to a person by the name of Bruce and you say that he is yet to be identified, is that the case? A. That's correct.

Q. Throughout the - I withdraw that. From time to time in the brief there's a reference to a Greg West? A. That's correct.

Q. Indeed as I understand it, he is said to have - there's some suggestion he may have been with the deceased on the morning of

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the day the deceased died, is that the case? A. I can't recall exactly what his movements were now. He was interviewed. He was eliminated from the inquiry as a suspect.

Q. Did you take a statement? A. Yes I believe a statement was taken from him.

Q. Did the statement ever appear in the brief? A. No it didn't.

Q. Why isn't there a statement in the brief? A. Because it didn't relate to the offence before the Court.

Q. Is it the case that so far as persons can be identified by name Mr West may have been the last person to see the deceased alive? A. No, the last person as far as we can establish at this time was Detective Scalion(?).

Q. When did he see him? A. I think he says about 3.00 pm on Friday 5 May at a coffee shop I believe.

Q. You interviewed the defendant on how many occasions? A. Three times all up.

Q. And it's correct to say isn't it that at all times he denied any responsibility or involvement in the death of Mr Hughes, is that right? A. That's correct.

Q. On the first occasion you interviewed him where was that? A. Sutherland Police Station.

Q. And he was released, is that the case, in relation to this? A. Yes he - well he wasn't released as such but he wasn't--

Q. Wasn't taken into custody in relation to this matter? A. Wasn't necessary for him to be taken into custody in this matter, yes.

Q. When was the second time he was interviewed? A. That was at Kings Cross Police Station.

Q. On that occasion was a six page statement taken from him? A. That's correct, yes.

Q. On the basis he'd be a witness in the matter? A. That's correct.

Q. Subsequently he was again interviewed and a record of interview was taken, is that the case? A. That's correct.

Q. Prior to the record of interview being taken there was a discussion with him, a conversation, is that the situation? A. Yes.

Q. He was shown his prior statement, you say? A. That's correct.

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Q. That conversation occurred at that time was it recorded in any fashion? A. It was.

Q. When was it recorded? A. At the time.

Q. Who by? A. Detective Sergeant Smith.

Q. What in? A. A police notebook.

Q. And when you say "at the time" you meant as the questions were asked and the answers given? A. That's correct.

Q. Have you that notebook here today? A. I have.

EGAN: I call for the notebook.

McINTOSH: Produced.

BENCH: What's the notebook number and the pages, if it's an official notebook?

McINTOSH: F38145 and the pages are from 14 to 24.

BENCH: Do you wish to see that?

EGAN: Yes thank you Your Worship.

Q. This interview recorded here occurred over two days, is that the case? A. No.

Q. I don't want to -- A. I'm sorry, yes, it would have gone over midnight from the time of the arrest.

Q. So it would have gone from what days to what days? A. From the time of arrest which I believe is 30 April, it would have gone over to the next day - midnight, yes would have because he was charged after midnight.

Q. Well tell me - I might show you the book and you might just confirm it. If you see on page 14 it seems to commence at 3.55 on 30 April. I gather on page 16 we have continuing on 27.4.90. A. I can't explain that other than to say that it was probably a mistake by Detective Smith. I believe we discussed that earlier.

Q. We discussed a date earlier didn't we of a date in June, 6 June? A. That's right, what I'm saying is that - Detective Smith and I went through the notebook, found that error, but we can hardly change it.

Q. Wasn't the - again correct me if I'm wrong, wasn't the date you changed in your evidence in relation to paragraph 4 of your statement "On Saturday 6 June 1989, I believe that should have been another date. Should have been 6 May". That's not the error which appears in the notebook is it? A. No that's the date of the murder.

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Q. That's right. And that's the matter you said you cured earlier today - or you corrected earlier today in your evidence, isn't it, the reference to 6 June? A. That's correct.

Q. The error I'm referring to you is this - that the - you say that interview seems to commence on 30 April and then continue over onto 27 April? A. No, what happened is that Sergeant Smith made these notes--

Q. I realise that. A. He would have to indicate to the Court --

Q. So you don't know what that's about? A. Well, what's happened is quite obviously Sergeant Smith has written another date in there in error and he would need to correct that at Court.

Q. Tell me, just in relation to that, did you read those notes at a later date when you made your statement? A. I did. I used them to compile my statement.

Q. You didn't see that error? A. No, that was actually indicated to him, it's just that it slipped my mind.

Q. Slipped your mind. Perhaps I might have that back. Simply in relation to your statement you interviewed the defendant, I take it at page 10 of that statement - page 9 I'm sorry. If you look at paragraph 20 which continues over of course onto page 10 and then onto page 11, paragraph 21-- A. Yes.

Q. You go into the defendant's employment history, where he came from, his family connections, what relevance was that? A. The fact is that often we are criticized at Court that evidence is verballled. In order to establish that it's not verballled and in the event that the accused declines to sign the record of interview I try to establish as much personal detail from them as I can which could not possibly be known to me otherwise.

Q. And this is heading off some accusation of fabrication is it? A. Well it is a common occurrence at Court, yes.

Q. Well this doesn't solve that problem at all does it. You could throw in your verbal before and after this couldn't you? A. Perhaps so but it would seem very unlikely. Particularly in light of the fact that he'd signed the record of interview in this case.

Q. We've had some reference to Martin - what's his name, Locke - what's his first name? A. Mark Locke.

Q. Did you interview him? A. Yes I did.

Q. How many times did you interview him? A. Three times in fact.

Q. Is it the case that when you first interviewed him he had warrants outstanding? A. That's correct.

Q. And is it the case when you interviewed him on the second

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occasions he had warrants outstanding? A. Yes, committal warrants - commitment warrants, I should say, on the second occasion. On the first occasion it was to do with a fail to appear.

Q. And on the third occasion when you interviewed him did he have warrants outstanding? A. No the first occasion I interviewed him, I interviewed him twice - on two different days.

Q. I'm sorry -- A. And obtained the statement on the second day.

Q. Did you ever put him in custody? A. No I never caused him to be put in custody.

Q. Did you ever execute the warrants on him? A. No.

Q. One of those warrants was for an abduction, fail to appear on an abduction, is that the case? A. That's correct, yes.

Q. Was that a fail to appear was it on that abduction? A. That was my understanding, yes.

Q. Why didn't you execute the warrant on him? A. That was on the first occasion. He was interviewed when he - he'd been arrested in regard to those matters.

Q. Why didn't you execute the warrant on him? A. As far as I was aware it had already been executed.

Q. He was in custody was he? A. That's right.

Q. Where at? A. Sydney Police Centre.

Q. Did he get out on bail or was he released? A. He was released on bail subsequently, yes.

Q. Did he go to Court? A. I believe so.

Q. The second occasion, what warrants were they? A. Commitment warrants. I believe on the first occasion he was given a warning with regard to a number of traffic matters and he was in custody concerning those matters.

Q. Those commitment warrants, what became of those? A. Well I understand they were placed on him by the people who arrested him and he served a pro-rata time on the--

Q. He went into custody you say? A. That's right.

Q. You've issued - you've spoken to Mr Locke recently have you?
A. Yes.

Q. A subpoena was served on him yesterday was it? A. No, it was served on him on Friday.

Q. For his attendance at Court today? A. That's correct.

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Q. What has become of Mr Locke's abduction matter, do you know?
 A. Well my understanding of the matter is that it stems back to a female whom he was closely associated with and the charges were actually brought about by this female's mother. My understanding, from talking to the police involved, is that they've had difficulties getting the witnesses to Court and that the matter has been - he's been receiving bail continually despite failing to - a number of failures to appear on it, simply because they can't find the witnesses or the victim in the matter to produce at Court.

Q. He's still on bail? A. That's my understanding, yes.

Q. In relation to that. Mr Locke has given evidence or has offered to give evidence on behalf of other people, is that the case? A. With regard to what matter?

Q. Other matters. He's, so to speak, been an informer on behalf of the police in other matters, is that the case?

OBJECTION

WITNESS: A. Not that I'm aware of, no.

EGAN: Q. Are you aware of the circumstance of the death of a Wayne Tonks, school teacher? A. Yes I am.

Q. Mr Tonks was found bound with his hands behind his back and indeed his legs behind his back, is that the case? A. Yes.

Q. With a bag over his head? A. Plastic bag over his head.

Q. After suffering a head wound? A. Yes.

Q. Mr Tonks it's alleged was an active homosexual, is that the case? A. That's been alleged, however his homosexual activities were considerably different to that of Mr Hughes'.

Q. But nevertheless it's been suggested he was an active homosexual? A. Yes.

Q. And indeed you say, if I understand you, he was but his activities were of a different nature? A. That's my understanding.

Q. But you concede he was a homosexual? A. I'm only going on what I've been told by the investigating police.

Q. When Mr Tonks was found dead of course the defendant was in custody, is that the case? A. That's correct.

Q. You'd agree the matters bear a striking similarity? A. There are some similarities.

OBJECTION

EGAN: Q. You'd agree that there is a significant number of

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points of similarity, is that right? A. There are some similarities, however there are also similarities between the Hughes murder and a number of other murders that I'm aware of.

Q. Just limiting ourselves to Mr Tonks. In Mr Tonks case isn't the allegation that the entry seems to have been unforced? A. Yes that's my understanding.

Q. And of course in Mr Hughes' the entry was unforced, is that the case? A. That's correct.

Q. In Mr Tonks case there's no great evidence of disturbance of the premises, is that the case? A. I couldn't answer that.

Q. In both cases - I'm sorry, in Mr Tonks case the death is by asphyxiation. In Mr Hughes' case it's said to be by strangulation, is that the case? A. Yes I understand that's correct.

Q. In both cases, isn't the case, there's evidence of persons being present either sharing the meal or some sort of repast prior to the death? A. No, I'm not aware of that.

Q. But nevertheless at the time - and of course both persons suffered a head wound? A. Yes I understand that's the case.

Q. Both persons had a bag over their head? A. No, there was a significant difference there, one was a plastic bag and his case - Mr Hughes' case it was a pillow slip.

Q. Both had a covering over thier head? A. Yes.

Q. Which was fastened around the neck? A. Different means of bondage I understand in both cases.

Q. Fastened around the neck, that being the covering over the head? A. As I said, I haven't got detailed knowledge but I understand there was a significant difference in the bonding in both cases.

Q. Both bound behind their backs, hand and foot? A. They were both bound but I don't know whether it was behind the back for the other matter.

Q. But nevertheless at the time of that of course the defendant was in custody, is that the case? A. That's correct.

Q. You've given evidence of finding - or coming into possession, I'm sorry, of the - of exhibit 1, the blue jacket? A. That's correct.

Q. Where was that located by yourself? A. In the flat occupied by Kerrie Stanton at the rear of premises in [REDACTED] at Sylvania.

Q. How was it located by yourself? A. I asked Miss Stanton, for

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the second time, whether she had any clothing belonging to Mr Jones. On this occasion she said "Yes" and she indicated some clean clothing and then she also - I also asked her about any clothing that might be unwashed that she had and two jackets were produced.

Q. So you asked her about any unwashed clothing did you? A. That's right.

Q. Because you couldn't see it, you simply asked her "Well do you have anything further?" is that fair to say? A. Yeah, that's correct.

Q. When was that done? A. That was the day of the 29 December 1989.

Q. Miss Stanton made some four statements, is that the case? A. That's correct.

Q. When she made these statements to you in turn did she simply contact you over the phone, say "I've remembered something new" or did you go and ask her on each time to extend it further? A. I believe on the second statement she contacted me because she'd found a diary. And on the third and fourth times I contacted her.

Q. Why did you contact her? A. Because I found a number of ambiguities in the evidence that she'd supplied me with.

Q. Conflicts? A. That's correct.

Q. What did it conflict with? A. With what Mr Jones had told me. And--

Q. What about the other-- A. And also what she'd told me once I checked various aspects of her story.

Q. And what she'd told other witnesses? A. That's right.

Q. So her evidence conflicted of course you say with what Mr Jones has said. It conflicted internally with what she had told you herself, is that right? A. Yeah.

Q. And it conflicted with what other witnesses has said, is that right? A. That's correct.

Q. So she was at odds at various times with Mr Jones and an unknown number of other persons, is that right? A. Only a couple. She - the dates and that she was very vague on until we established certain times with the hire car company. Once those times - a reference point was given to her she remembered a lot of things far better then.

Q. That's what I was going - how did you then put these inconsistencies to her? A. Simply pointed them out.

Q. What did she then say? A. She eventually told me that

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Mr Hughes in fact had not been where she'd said and that he had taken off for a period.

Q. Mr Hughes-- A. Mr Jones I should say.

Q. And you say she eventually told you, what do you mean by "eventually told you"? A. Well I put the inconsistencies to her and then she told me.

Q. Well why do you say "eventually", did she require some sort of coaxing did she? A. No. Just a turn of phrase.

Q. Well why did you use that turn of phrase? A. I think you're playing semantics with the English--

Q. I'm asking you why did you use that word? A. Well I pointed out a number of inconsistencies to her and then she told me. I mean--

Q. So it was forthcoming immediately was it, she just-- A. Well I pointed out a number of inconsistencies first as I've said.

Q. A number - how many? A. Probably two or three.

Q. Now at the time you took the record of interview from the defendant is that when you arrested him, took him into custody for this matter? A. Not until the conclusion of the interview.

Q. But that day? A. That's correct.

Q. And indeed as I understand your statement you arrested him that day in the Kings Cross area, is that right? A. No, in Oxford Street. I suppose that would be Darlinghurst there.

Q. And that was in relation to information what, received from Mr Locke, is that the case? A. No, no. I'd sooner not discuss where the--

Q. Well where did it come from? A. What, about the defendant's presence at that time?

Q. Yes? A. I'd sooner not say.

Q. Well you can answer the question unless his Worship says "No". Where did it come from? A. It came from certain authorities.

Q. What authorities? A. Authorities that Mr Jones had been dealing with.

OBJECTION

McINTOSH: I object, your Worship.

BENCH: Well he just said authorities he'd been dealing with.

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I'll just see what the situation - have you got any further questions on that?

EGAN: I want to press that. I want to press the identity of this source, your Worship.

BENCH: No. He's not required to give the - name the source that he got the information from.

EVIDENCE PRESSED. LEGAL ARGUMENT.

BENCH: Well I won't ask the constable to name the informant, Mr Egan.

EGAN: Q. Is this a police officer?

OBJECTION

BENCH: No, nothing going towards going to identify the informant, Mr Egan.

EVIDENCE PRESSED. LEGAL ARGUMENT.

BENCH: Having regard to the general rule I don't consider that the witness should be asked to answer questions which would go to the identity of an informant, Mr Egan.

EGAN: As your Worship pleases.

Q. Now you took him into custody though in relation to something else didn't you? A. That's correct.

Q. You took him into custody in relation to some warrants, is that right? A. That's correct.

Q. And indeed you asked him some questions generally in relation to those matters, is that the case? I think it might be referred to in the notebook or in the other notebook, is that right?
A. That's correct.

Q. And then you decided after taking him into custody for some warrants to have a chat to him about the murder? A. That's correct.

Q. Though that not being the reason why you arrested him, is that right? A. No, I told him quite clearly he was under arrest with regard to a number of warrants.

Q. Now of course in the record of interview he simply denied any involvement, isn't that the case, emphatically? A. That's correct.

Q. Went for twenty-six pages? A. That's correct.

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Q. Why was he put into custody at the end of it, what had changed? A. With regard to what?

Q. The murder? A. There were a number of answers in that record of interview which on the face of it, and bearing in mind the evidence available to me, I was led to believe - formed a sufficient case for this person to answer a charge of murder.

Q. Now did you regard my client as being dangerous when you spoke to him in the street? A. Yes, I would say I--

Q. He was handcuffed was he? A. Yes.

Q. And when you took him back to the Sydney Police Centre, I think that's where you took him to, he was handcuffed is that the situation? A. That's correct.

Q. He was handcuffed initially hands behind his back wasn't he? A. Yes.

Q. People in custody are supposed to be handcuffed in front aren't they, their hands in front, isn't that the case? A. I'm not aware of that rule - unless they're travelling in motor vehicles.

Q. Now did you walk him back or did you put him in a motor vehicle? A. Walked him back. It was only a short distance.

Q. And then at the police station he was partially unshackled so to speak but handcuffed to a table wasn't he? A. Which room are you referring to here?

Q. Pardon? A. Which room are you referring to here?

Q. Well at some stage was he or wasn't he, irrespective of the room? A. He was handcuffed when he was seated in the exhibit room and the handcuffs were removed. I can't recall him being handcuffed to a table at all.

Q. I put to you he was handcuffed to a table. You can't disagree with that can you, you just don't recall you said? A. No, I don't recall him ever being handcuffed to a table.

Q. Well you're not saying he wasn't, you're just saying you can't remember whether he was or he wasn't, isn't that the idea--
A. At one stage in the homicide office he was there without me being in attendance so it could happen there and I can't answer.

Q. Now who conducted (1) the conversation and then (2) the subsequent record of interview? A. I did.

Q. But was any other police officer participating? A. Detective Sergeant Smith took notes and typed the interview.

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Q. And indeed the defendant was shown you had the earlier statement wasn't he? A. That's correct.

Q. And he was asked to agree with it wasn't he? A. He was asked to read it and he was asked whether it was true and correct.

Q. I put to you at that time he was hit over the head on more than one occasion with an open hand? A. You are joking - no, that didn't happen.

Q. Well you wouldn't admit it if it did would you? A. It didn't happen--

OBJECTION

EGAN: Q. I put to you whilst he was handcuffed with his hands behind his back he was told or it was said to him that "Now you know what it's like to be tied up behind your back, you maggot"? A. No, that was never said to him.

Q. But you agree he was handcuffed behind his back? A. When we arrested him and walked him down to the police station yes, he was.

Q. Now you know he had a problem with drugs don't you? A. Yes, I am aware he has a problem with drugs.

Q. And you know at the time he was in custody he had a prproblem with drugs didn't he, that's when you arrested him on this occasion and you took the record of interview? A. Yes.

Q. And indeed you found a syringe, isn't that right? A. That's correct.

Q. But that syringe was unopened, it was still in a cellophane pack wasn't it? A. That's correct.

Q. So you had no evidence that you knew of he'd just recently used anything? A. Not that I'm aware of, no.

Q. And how long did you have him in custody before the record of interview commenced? A. Only a short time from - I think the record of interview commenced at - sorry, can I have the record of interview just to refresh my memory? It's got a commencing time on it.

EGAN: --his Worship--

BENCH: Yes. What number is it? 36.

WITNESS: The record of interview was commenced at five-fifteen.

EGAN: Q. What time did you take him into custody? A. Three-forty five.

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Q. Five-fifteen to three-forty five, that's what, an hour and a half? A. Yes.

Q. A minimum of an hour and a half isn't it? A. Yes.

Q. And you agree you saw no evidence of him having recently used and you stated you knew he had a drug problem? A. Yes.

Q. During the course of the record of interview and before he was starting to look uncomfortable wasn't he? A. No.

Q. You knew he was hanging out, he was on methadone, you knew all that? A. No, not at all. I knew that he had a drug problem.

Q. The record of interview went for how many pages? A. Twenty six.

Q. How long did it take? A. It was completed at eleven-twenty four.

Q. Eleven-twenty four - how many hours is that after you took him into custody? A. About six - sorry - about eight.

Q. You were satisfied he hadn't used anything before you took him into custody, or not recently anyway, and he's in custody for eight hours and you say no signs of any withdrawal or discomfort - eight hours - that's what you're telling the Court? A. That's correct.

OBJECTION TO LINE OF QUESTIONING

EGAN: Q. Now if we can just go back to Mr Locke, he made how many statements to you? A. Two.

Q. And how far were they apart? A. Without looking at the statements--

Q. I'm not asking you to be precise-- A. --some time, I think about twelve months I think between them.

Q. What led him to come to you, if you know, to make the second statement? A. I don't know. You'd have to ask Mr Locke.

Q. Did he just come in did he? A. Well a message was received that he was in the cells with regard to commitment warrants and he wished to talk to me. It's my understanding he was in fear of being locked up on those warrants--

Q. And he wanted to talk to somebody? A. No, no, I hadn't quite finished. He was in fear of being locked up on warrants, otherwise allegedly he tells me that he would have come and seen me sooner.

Q. So it was only when in fear of being locked up on the warrants

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that he decided to talk to you, is that the case? A. No, he'd been locked up on them and--

Q. Well you said he was in fear of being locked up on the warrants? A. Yes. What had happened was between talking to him on the first occasion and the second occasion he was aware of warrants in existence. Now my understanding is in his second statement where he alleges certain things he was in fear of being arrested in regard to these warrants so he didn't come and see me. However when he was locked up on those warrants he subsequently contacted me to speak to him about these allegations that he had.

Q. And did he give any reason as to why he did that? A. Just that he wanted to make sure they were known.

Q. Basically a good citizen? A. Well I assume so. You'll have to ask him for his motive.

Q. That seemed to be the reason - he thought he had a public duty, the best you can ascertain, to make this known to you? A. That's correct.

Q. And was any discussion made of any advantage that might flow to him from doing this? A. Not at the time that he gave me these statements, no.

Q. At any time? A. Since him making these statements I have indicated that representations should be made should his statements prove correct.

Q. Representations made about what? A. About the possibility of a reward. However they were made after the statements were obtained.

Q. What sort of reward? A. Well I don't know. I've never had the occasion to ask for rewards for witnesses in the past.

Q. What, you're talking about some sort of monetary reward he gets paid? A. Well yes. I understand there's a system for--

Q. For paying the witnesses--

OBJECTION. QUESTION NOT PRESSED.

EGAN: Q. Was there any discussion between yourself and him about his outstanding matters, that being the abduction? A. Yes, he was told about his outstanding matters. The police involved in those matters were contacted on a number of occasions and--

Q. What - sorry, go on? A. And he was told to clear them up.

Q. Why were the police - you contacted the police or did he contact the police in your presence? A. No, I contacted the police to tell them he was in custody on the first occasion I

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think because I didn't know whether they'd been informed by the Warrant Index.

Q. Did you tell them he was being of assistance to you in investigation into a murder? A. On the first occasion he was actually a suspect.

Q. Yes, well subsequently - he was a suspect was he? A. Well naturally.

Q. What changed - why are you saying "naturally"? A. Well a number of witnesses originally nominated him.

Q. As the murderer? A. Well nominated him as being a possibility.

Q. Who are these people? A. Their statements are before you. Mr Scobie--

Q. Who else? A. I just can't think off the top of my head who the others were.

Q. How many of them? A. A couple of people. 151 I believe also originally told us that he believed Locke capable.

Q. Otherwise known as 151 (?) is that-- A. That's correct. However it was established that he was in Brisbane at the time and this was established positively by Queensland Police.

Q. By Queensland, not by yourself? A. No. My understanding is he was collecting methadone at a clinic and up there it requires a photo identification and the clerk - they keep records of these and he was collecting methadone on the day. He also made a bank withdrawal on the day of the fifth.

Q. And up until then he was a suspect, is that the case? A. He was a likely suspect, yes.

Q. Subsequently to that when you say you satisfied yourself as to his bona fides in relation to Queensland was there any contact made with the arresting officers in the abduction matter about the fact that he was being of assistance to you in the inquiry into this murder? A. No, not at that stage.

Q. Had he ever expressed fears to you about going into custody independent of any allegation involving Mr Jones? A. No, he wasn't scared of Mr Jones until the second statement.

Q. Now-- A. In terms of going into custody that is I should say to clarify that. He was scared of him for other reasons, as is clear in his statements. You'd have to bring that up with him.

Q. And I understand the situation is you received information he from time to time had been standing over the deceased, is that the case? A. Sorry, could you repeat that?

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Q. He'd been standing over intimidating the deceased? A. Yes.

Q. And those allegations ranged from holding a knife to his throat to simply taking property off him, is that the case?

A. Yes.

Q. And this is the person you are calling to give evidence or you propose to, is that right? A. That's correct.

Q. Now just on specifics if I can, I put to you the defendant was interviewed as of course you agree and indeed a record of interview was taken from him? A. That's correct.

Q. And prior to that there had been a handwritten statement taken from him. I put to you there were no notes taken as that conversation proceeded? A. I'm sorry--

Q. The conversation was not recorded as it occurred - I'm not referring to the record of interview, I'm referring to the preliminary conversation between you and the defendant prior to the record of interview? A. It certainly was recorded.

Q. Now if you can just turn to paragraph 10, if you have your statement. Have you got paragraph 10 there? A. Yes.

Q. I put to you the defendant at no time said to you that the vehicle, I believe we're talking about the Mini station wagon now, was wrecked, he said it wasn't going. I put to you his reply to you was it wasn't going? A. No, his words at that time were "wrecked".

Q. I put to you that came from other witnesses, the reference to him saying it was wrecked? A. No, no, at that time he told me it was wrecked.

Q. I put to you - paragraph 21 - I put to you prior to that appearing in the conversation the defendant had already told you he'd be on his way to Rankin(?) Court to pick up methadone, that was not the first mention made of methadone in short? A. He may have mentioned it in the Homicide Squad office to other police but he didn't mention it to me prior to that.

Q. Now paragraph 22, just bear with me for a second, if you look to the middle of that paragraph where it says "Jones appears to read statement" you're said to have asked "Is it true and correct?", he said "It's all the truth, every page, exactly as I remember it". I put to you his reply there was "It's the truth as I remember it"-- A. No.

Q. Did not use the word "exactly"? A. No, he said "exactly". As I remember it he said "exactly". He later in the record of interview pointed out a couple of additions but that was on a different occasion.

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Q. I put to you throughout the conversation the defendant does not use the word "Yeah", Y-E-A-H? A. Well that's the way it sounded when we--

Q. I put to you he preferred "Yes"? A. If Detective Sergeant Smith recorded "Yeah" - I recall him saying "Yeah" on a number of occasions. I don't recall him saying "Yes" that often.

RE-EXAMINATION

McINTOSH: Q. You've told the Court about the charge against Locke for abduction? A. Yes.

Q. You said there were difficulties getting witnesses to Court? A. That's my understanding of it, yes.

Q. Do you know what those difficulties are? A. My understanding is that the witnesses are reluctant to appear, the matter was a domestic matter and that the charges were laid at the insistence of the girl's mother. Now I understand that Locke and this girl had a sexual relationship for some time and that the alleged abduction was as a result of her wanting to run away with Mr Locke. The person who would probably be best to answer those questions would be probably Locke.

Q. You've told the Court about the death of Mr Tonks? A. That's correct.

Q. Where did Mr Tonks live? A. North side, Chatswood way. I can't recall the exact address.

Q. When did he die? A. I'm sorry, I can't recall the exact date. We were contacted or actually I contacted the north side in relation to it because of the similarities that existed between this and the Hughes murder because of other contingencies that we believed may have been scenarios in the Hughes murder.

Q. Do you know how old Mr Tonks was at the time of his death? A. No, I don't. I know he was late twenties, early thirties I believe but I can't give you an exact age.

Q. Do you have that police notebook with you?

McINTOSH: I don't know if it was ever marked, your Worship.

BENCH: I don't think we did.

McINTOSH: It's not an exhibit and it hasn't been marked. If that might be marked too, your Worship. I tender that, your Worship.

POLICE NOTEBOOK TENDERED, ADMITTED WITHOUT OBJECTION AND MARKED EX 17

BENCH: Q. Is that a current police notebook? A. I'm not sure, sir. It's Detective Sergeant Smith's.

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BENCH: Well if it is a current one then it might be needed in respect of other matters, Mr Egan and Mr McIntosh. We'll have the pages photostated.

EGAN: Just on that tender, your Worship, if I might ask one question. I don't propose to prolong the matter, I just want to verify dates if I might, your Worship.

BENCH: Yes.

McINTOSH: I'll just finish that. In fact I'm tendering in police notebook F38145 pages 14 to 24.

BENCH: Yes, exhibit 17.

FURTHER CROSS-EXAMINATION

EGAN: If I just might have access to exhibit 17, your Worship, and I say this. The reason why, your Worship, I seek access that the entries immediately before and immediately after verify the date - if I might, your Worship.

BENCH: Yes, you might do that. Well perhaps it might be better to give it to the constable and he can approach and you can show--

EGAN: Q. If you can perhaps just remove that-- A. The next date was the 27/4/90 and the date following is the 1/5 - yeah, 1/5/90 then 8/5/90 and then 9/5/90.

Q. I'm sorry, those following dates are? A. It's 1/5/90 Sydney Police Charge Room and then there's another matter 8/5/90 and 9/5/90.

WITNESS RETIRED

RONALD FLOWER
sworn and examined

McINTOSH: Q. Is your full name Ronald Flower? A. Yes.

Q. Do you still reside at [REDACTED], Dubbo? A. No, I am now living in central Queensland.

Q. Could you tell the Court your address? A. [REDACTED], Claremont, Queensland.

Q. And your occupation? A. Invalid pensioner.

Q. Would you look at those two documents in front of you? There's a copy of a statement dated 14 February 1989 - I think that should read 14 February 1990. Do you see that statement?
A. Yeah.

BENCH: Should that be--

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McINTOSH: Q. Is that your signature on the bottom of each page of the statement? A. Yes, it is.

Q. Is everything in that statement true and correct? A. Can I have a look through it again?

BENCH: Q. Well you signed that statement at the time did you - did you read it at the time? A. No, I have difficulty reading so I did it from basically what I had said.

McINTOSH: Q. Is everything in that statement true and correct? A. It seems to be.

Q. Would you have a look at the other document there dated 31 March 1990? Is that your signature on the bottom of each page? A. Yes, that's correct. It seems to be right.

BENCH: The first statement I think, Mr McIntosh, you mentioned something about it dated '89 instead of '90, is that--

McINTOSH: Yes, that's correct.

BENCH: Q. That first statement you have, the first one you read, Mr Flower, should that show February '90 at the top? A. '90, yes.

BENCH: I'll get him to amend it and initial it. Have you got a pen? Just change it to "90" and please initial the side of it.

CROSS-EXAMINATION

EGAN: Q. Mr Flower, you've indicated that you had some difficulty reading I gather as of this date in 1990, is that the case, you said you didn't read your statement? A. No, I did not.

Q. Why was that? A. I had difficulty reading it and I thought it was best - the policeman said did I want to read it and I said I had trouble and what I said was that basically what I thought was correct.

Q. Why did you have trouble reading that? A. My eyes were damaged in a car smash.

Q. And is that damage - is that injury still persisting today? A. It's a permanent injury.

Q. So you were no more able to read then than you are now? A. No.

Q. So if you couldn't read it then you couldn't read it today, is that right, when you-- A. I can read it at a distance reasonably well but it's a little bit double.

Q. Well you haven't read the full statement - you haven't read

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both statements today have you? A. No.

Q. So putting it simply I put it that you don't really know what's in them do you? A. Well it appears that this seems to be right to me from what I can see.

Q. It appears to be right from what you can see. In short you don't know for certain what's in those statements do you?

A. I know what I can read and what I can read seems to be right.

Q. Now when you made these statements to the police how was it done? A. I was asked questions and they just typed out the statements.

Q. They asked you questions and then you'd give an answer and then would they seek to have you explain the answer from time to time? A. Well on one occasion - I have a copy in my pocket, can I--

Q. Well I don't want you looking at things in your pocket. What have you-- A. I just--

Q. What have you got in front of you now, what have you pulled out of your pocket? A. The statements that I was given which I was supposed to read, the same as these.

BENCH: Q. Have you read those statements? A. I looked through them a couple of times in the evening and it didn't seem right what was here to what it should actually be.

EGAN: Q. Perhaps you might identify what you're looking at now, sir. What have you got in your hand now? A. The one that we just amended which was dated 1989. In paragraph 3--

Q. Well what is it? It's a statement dated 14 February 1989 - what is it though, is it a statement or what is it? A. It's--

BENCH: Q. Is it a copy of the one that you identified earlier-- A. Yes.

Q. --or supposedly a copy? A. Correct.

EGAN: Q. Now what do you say is the difficulty with it? A. Well it's just minor things. In the conversation in paragraph 5, "In relation to the vehicle I recall that on"--

BENCH: Q. What was that? A. "In relation to the vehicle I recall that on two occasions, one in April and one in May, Ian had told me that he had driven the Mini to Sydney and back. I don't recall when exactly he told me this or what exactly he said but I know he told me before my wedding" but I don't know whether the interpretation is that it's twice that he had driven or--

EGAN: Q. Or what-- A. --but I had - it was the same conversation about driving the car once--

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BENCH: Q. Once, either April or either May is that what you're saying? A. It would have been in April.

Q. In April? A. Yeah, because that's--

Q. The conversation regarding driving the vehicle in April?

A. That's right.

EGAN: Q. So what you're saying in relation to paragraph 5 is that in fact you told the police that the defendant only drove the car you say to Sydney on one occasion? A. That's right, one occasion that I recall. The conversation that I had was about the same incident, about the same time of driving, because we had been talking about how the car was and if it was treated with tender loving care it seemed to get along all right.

Q. Sure, but just bear with me for a moment, sir. What you're saying today is this, that you told the police that he'd driven to Sydney on one occasion, is that what you say you told the police? A. Yeah.

Q. And you say he drove to Sydney you say in a Mini panel van on one occasion? A. On one occasion that he'd said he'd driven it.

Q. Sir, how did two occasions and one in May and one in April get in there? A. Well we talked about driving the car on two occasions.

Q. Well when you referred-- A. In other words say driving the car - the conversation talking about the car and what it was was that on both occasions it was the same - the same - we were talking about the same time, the one event, not two events, the one event, but we talked about it twice.

Q. All I want to know is why did the police officer, if you know, write in your statement that the defendant had driven to Sydney twice, one in April and one in May, when in fact you say he'd only done it once in April?

OBJECTION

EGAN: Q. How did it come to be in your statement in the form that it is now, that "On two occasions, one in April and one in May, he told me that he'd driven the Mini van to Sydney", is that what you told the police? I'm not asking you what you meant to tell, all I'm asking you is that's what you told the police, in paragraph 5 is that what you told the police officer? A. That he had driven - I had two conversations about driving the panel van to Sydney, that's what it says.

Q. Is that what you told the police officer? A. Yeah, I think so. I'm pretty sure that's right.

Q. What do you mean you're pretty sure it's right? A. Well do you interpret it--

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Q. No, no--

BENCH: Mr Egan, does it really matter? The bottom line is this, that on two occasions - he's put in his statement, it can be read one of two ways. He said it means that "On two occasions he told me about a trip that he made to Sydney" and he has said that trip was in April.

EGAN: Well what it means is this, your Worship. We're talking to a witness who apparently did not read his statement, he signed it without having read it, and now today he produced this document from his pocket and said there was a difference and that's what--

BENCH: No, the document he's got is a copy of the other one and he's read it now, the document that he produced from his pocket.

EGAN: Yes, I realise that.

BENCH: He's not saying there's a difference in what is typed in the one he pulled out of his pocket and the one that's been tendered.

EGAN: Well the witness - I'll rephrase that. The witness produced the document, which we accept is a copy, we haven't seen it but we accept it's a copy, and then he apparently felt the need to clarify this paragraph and what I want to know is why, that's all.

WITNESS: Because it to me seemed to give the opinion that it was perhaps two trips.

EGAN : Q. But now you say that the reference was only--
A. Only the one trip.

Q. --to the one trip and you believe it was in April? A. That's correct.

Q. Now is there anything else in your statement that you would now wish to clarify or change? A. No, there isn't.

Q. Now when were you first approached about the matter, Mr Flower?
A. I was in Dubbo at my Mum's.

Q. And when the police did sit down to take a statement from you, we go back to where we were before, did they simply ask you to give your account of what happened or did they lead you to certain areas? A. Well the statement that I made in Dubbo at the police station I had been waiting for Detective Plotecki and he didn't come and another detective, Walkham(?) as I recall, I spoke to him and that's--

Q. Yes, all I want to know is when he took the statement from you did he ask you questions step by step or did he just ask you "What can you tell us in relation to the movements of Ian Jones?"

FLOWER XX

JI-A2

A. To be fair I cannot remember the actual interview.

Q. You can't remember the interview? A. I have subsequently been in a car smash in the last two weeks and I'm having a lot of problems with that.

Q. So at the present moment, sir, you're really relying on the fact that your signature appears on this document and therefore it's accurate, is that the case? A. Well I have to.

Q. So you have no, if I can use the word, and bear with me, independent recollection of the conversation with the police officer apart from what's before you in the statement? A. No, that's correct.

Q. And if you haven't got a recollection of that you haven't got a recollection of any conversation you purported to have with the defendant have you which preceded that? A. I can only remember some basic things and there are things that concerned me but at the time when I gave the statement I was doing the best that I could.

Q. Were you suffering from difficulties then? A. Yes, I've suffered difficulties for twelve years.

Q. What sort of difficulties do you suffer from, sir? A. Upset of balance from movement, if I get in an elevator I get out and I lose my balance.

Q. What else? A. Poor concentration, hearing loss.

Q. What else? A. I can't work.

Q. Why can't you work? A. Because I suffered irreversible brain damage.

Q. And is your memory affected in part? A. It is in part, yes.

Q. And when you say "in part" putting it simply, forgetting about the "in part" business, your memory's affected is that right?
A. That's correct.

Q. And that simply means you can't remember things, is that right? A. I can't remember things a hundred per cent accurately, no.

Q. And indeed you would have difficulty recollecting a conversation you had with somebody over a period of eight months wouldn't you?

OBJECTION

EGAN: Q. You would have difficulty in recollecting accurately conversations which happened eight months previously wouldn't you?
A. Yes, that would be a fair thing to say.

FLOWER XX

JI-A2

Q. And indeed that was your condition as of 14 February this year, is that right, so at 14 February this year you had difficulty recollecting conversations from eight months? Is that right? A. That's right.

Q. So when we proceed on to paragraph 9 of your statement, if you're having trouble reading it tell me and I'll read it to you, you see the conversation recorded there you say you had with the defendant? A. Yes, I can see it. I don't focus very well. I can see it.

Q. Can you read it to yourself? A. I can read that, yes.

Q. I put to you you couldn't guarantee that to be an accurate recollection of the conversation you had with the defendant some time in May of the previous year could you? A. Not - the only thing I can recall about the conversation--

Q. Well perhaps, sir, you just might answer that question and then - you couldn't guarantee that to be an accurate account of the conversation you had in May of the previous year could you? A. Not now I can't, no.

Q. And indeed you couldn't in February either could you? A. I thought that it was as near enough to what I could recall.

Q. But then as you say your memory regrettably isn't the best is it? A. No.

Q. Your powers of concentration unfortunately are not what you'd like them to be are they? A. No.

Q. And you suffer unfortunately from a disability stemming from brain damage, is that right? A. That's correct.

Q. Which affects your capacity to recollect these sort of details, is that right? A. Yes.

Q. Indeed, sir, I put it to you the defendant was resident at your premises, he did live with you? A. Yeah.

Q. From time to time you spoke to him obviously, but I put to you that conversation didn't occur? A. I had a conversation with him and what I can remember was that Ian was concerned. I do remember after we had a talk about it we went inside and as I remember Ian cooked dinner and that was it.

Q. Now how long up to the time - I'll withdraw that. How long had he been living with you prior to your wedding? A. He had lived in the house for a few weeks before I was there. I think probably a couple of weeks - I think we spent about three or four weeks in the period between April and June actually living in the house. We weren't there very often.

FLOWER XX

JI-A2

Q. How long have you spent in the house whilst Ian was - the defendant was in residence? A. Probably about three weeks that we would have been.

Q. During that period he was employed, is that right, to your knowledge? A. Yes, he worked for a plant hire--

Q. Mitchell Plant Hire, and he was working as a plant operator is that right? A. Yes, he was operating a backhoe.

Q. A backhoe? A. I think--

Q. And working normal hours? A. Yeah.

Q. And he appeared to be in a good state of health? A. Yeah, he was very fit.

Q. Very fit, not complaining of such things as nausea, constant nausea? A. No.

Q. Not evidencing what appeared to be stomach cramps or complaining of them? A. There was the odd time that he felt a bit crook and he was cold but I don't know what that was.

Q. It was June or May wasn't it? A. It was freezing cold. It was minus 3 and 2 degrees and when I first met Ian he had said that he'd been in trouble years ago or some time back and I said to him "Well you know as long as you do the right thing here"--

Q. Well look if I could put it to you this way and leave you with this, that whilst he was living at your address and whilst you had him under your observation he did not appear to be suffering from any constant severe distress or discomfort, is that the case?

A. No, he never appeared to be in any constant pain or discomfort. He was always happy and--

Q. I'm sorry - he was always happy? A. He was always happy and things.

Q. And indeed you've got a fuel fire in the house is that right?
A. Yeah, a wood stove.

Q. A wood stove? A. A wood fuel oven.

Q. He used to chop the wood for the stove, is that right?

A. Yeah, and I don't know how he managed it because the axe was always blunt.

Q. He did that on a daily basis? A. Virtually every day, yeah.

Q. Now one last thing about the wedding, I put to you that - well I'll withdraw that. I understand you left to go to Sydney for your wedding on 3 May? A. That's approximately right, yes.

Q. When was that? A. A few days before my wedding--

FLOWER XX

JI-A2

Q. Three days, and your wedding was on the? A. Saturday.

Q. The sixth? A. 6 May.

Q. I put to you when you left to go to the wedding the defendant was still at Upton Street(as said)? A. Yes, he was in the house in Upfold(?) Street.

Q. And when you returned he was at Upfold Street, back at your address? A. Yes.

Q. I put to you at no time did he ever admit to driving - to going to Sydney during that period? A. I thought he might have said he'd been to Sydney or somewhere like that. It's very hard when you're outside because we've got the cement works next door and it's pretty noisy when they've got the gravel things operating.

Q. So you can't be sure? A. No, I just thought much that he'd said he'd been somewhere and I thought it was Sydney.

RE-EXAMINATION

McINTOSH: Q. When I showed you those statements in the Witness Box earlier you appeared to be reading them. Did you read them?
A. I read them as best I could, yes.

Q. Do you recall the second statement you made to the police on 31 March this year? A. I remember attending the detectives office, yes.

Q. The detective read that over to you after you'd done it?
A. I do not recall that.

Q. Did you have your glasses with you? A. I don't have glasses. I'm pretty sure that I was asked if I wanted to read it and I said I had trouble reading, and that was the best that I could remember, sorry.

Q. Do you wear glasses at any time? A. No.

Q. Now if you could look at that second statement, is there anything in that statement that you wish to clarify or change?

BENCH: Q. Would you like that statement read out to you, Mr Flower? A. No, I'd prefer to try.

McINTOSH: Q. Which one are you looking at there, Mr Flower, is that 31 March? A. That's correct, yes.

Q. It's important that you understand everything that's in that statement. You've read that, have you read everything in it?
A. I think so, yes.

FLOWER XX RX

JI-A2

Q. What do you mean you think so? A. Well I flick sometimes and I don't know whether I'm always reading over what I'm reading, if I'm not going back on the line.

BENCH: Give it to me, Mr Flower, and I'll read it out to you. I'll start at paragraph 4.

BENCH READS STATEMENT TO WITNESS

BENCH: Q. Now you heard that? A. Yes.

Q. Now is that statement true and correct or is there anything you want to change in it? A. As I indicated before I cannot remember wholly and solely my conversation with Ian. I only recall that Ian had travelled. I remember talking to Ian about the wedding but what he said as to whether he didn't come or not - I thought he said that he'd gone to Sydney but I cannot recall exactly that.

Q. You say you thought he said he went to Sydney? A. That is correct, and I think that that's what I would have said when I was actually making--

EGAN: I'm sorry, I missed that, your Worship.

BENCH: "That's what I would have said when I was actually making"--

WITNESS: My statement.

McINTOSH: Q. Do you recall making those two statements to the police? A. Yes. I remember saying that I--

Q. At the time you made those statements you told the police everything you knew to the best of your recollection? A. Yes, I did.

Q. And that was the best of your recollection at the time you spoke to the police?

OBJECTION

McINTOSH: Yes, I have no further questions.

WITNESS EXCUSED

LUNCHEON ADJOURNMENT

LILIANA SCHWARTZ
sworn and examined

McINTOSH: Q. Doctor, your full name is Doctor Liliana Schwartz?
A. Yes, it is.

Q. And you practise medicine here at the Division of Forensic Medicine? A. Yes, I am practising here.

FLOWER RX
SCHWARTZ X

JI-A2

Q. And do you recall preparing a statement for the purposes of this case? A. Yes.

Q. And is that the statement before you? A. Yes, this is.

Q. Is everything in that statement true and correct? A. Yes.

Q. If I could take you to that part of your statement where you refer to an examination of the body at the scene, external examination only, on page 1, you say that you saw the body at 7.30 pm on 6 May 1989. Are you able to estimate the time of death from 7.30 pm on 6 May? A. Not less than twenty four hours and less than seventy two hours - sorry--

BENCH: Q. At least twenty four but less than seventy two?

A. At least twenty four hours and less than seventy two.

Q. From the time which was-- A. From 6 May, 7.30 pm.

McINTOSH: Q. Why do you say that? Why do you say that it was not less than twenty four hours? A. His body temperature was 28 degrees. I considered that the room where he was located was very warm and he already began to decompose at this stage, very early stage of decomposition.

Q. Now you said that the temperature of the room was very warm. Did you take into account that it was very warm when you made your assessment of the time of death? A. Yes, I did.

Q. On page 2 of your statement under the heading "(B) Petechial haemorrhages", those petechial haemorrhages indicate that strangulation took place?

EGAN: Well I - go on.

WITNESS: Yes, indicated to me that the person was strangulated.

McINTOSH: Q. Now on page 3 you say that the direct cause of death was asphyxia and an antecedent cause was strangulation with a ligature? A. Yes.

Q. Are you able to - well I withdraw that.

McINTOSH: Might the witness be shown exhibit 8, your Worship, and might I approach?

BENCH: The photographs--

McINTOSH: Q. I show you photograph number 28? A. This is the ligature mark. This is the ligature mark, an abrasion and small bruise due to the ligature.

Q. Could you mark that with the letter "L" please? And it extends-- A. It extends all this - all this area.

SCHWARTZ X

JI-A2

Q. Could you put a circle around that area you say? A. This part of pallor that I am marking here is due to the use of the belt or something surrounding the neck. In this case it was a belt.

Q. And you've marked that with a "P"? A. Yes.

Q. Have you marked the whole area of that that we're talking about? A. From here to here.

Q. And does that extend further around? A. To here.

Q. I show you photograph number 36. In your statement you say that a significant condition contributing to the death was a blunt object injury to the head. Can you indicate in that photograph--
A. These lacerations are due to a blunt - sorry - they are a blunt injury, or if I can explain better these lacerations are done with a blunt instrument.

Q. And could you circle those lacerations to which you're referring? Yes, thank you. Doctor, are you able to indicate which occurred first, the asphyxia due to the strangulation or the blow with a blunt object? A. I believe that the blow on the head first and after the person was strangulated.

Q. Why do you say that? A. I didn't see any defensive wounds in the deceased. I would expect to see defensive wounds in the case of the strangulation, in the hands as an example.

CROSS-EXAMINATION

EGAN: Q. Doctor, you've made an estimate of the time of death and you say a minimum of twenty four hours prior to your examination and a maximum of seventy two hours and you've relied on, amongst other things I think, decomposition is that right?
A. Could you clarify the question?

Q. You relied - in making your estimate as to the time you've relied upon the degree of decomposition in the body, is that right? A. I've relied myself on the temperature of the body and the degree of decomposition.

Q. Now how long does it take a body to reach equilibrium with room temperature after the time of death? A. About twenty four hours.

Q. And do you know what the room temperature was of the room where the deceased was found? A. I didn't measure the temperature of the room, I don't know the temperature exactly. However I know that the room was very warm. The deceased was lying on the bed over blankets. He was very well dressed with winter clothes. The room was perfectly closed, there was not movement of air almost and everything together makes me believe, if I can use that word, that the room was very warm and I felt very warm there.

SCHWARTZ X XX

JI-A2

Q. It was a late autumn day is that the case outside? A. Outside was not cold and inside was very warm.

Q. Now in relation to the probability of death having occurred within the shorter period referred to, twenty four hours, can you give some estimate as to that being the probability of that as opposed to it being later than twenty four hours? A. I cannot give a percentage. I believe that the deceased was dead for more than twenty four hours. I cannot tell exactly in percentage how--

Q. How more likely? A. How more likely, yes exactly. More than twenty four hours is for sure.

Q. Now you referred to a ligature mark and you've pointed it out in one of the photos and you've also referred to an area of pallor and you've pointed that out and you indicated that you thought the pallor related to a belt, is that right? A. Yes.

Q. Did you see the belt in position? A. Yes.

Q. Did you see anything in addition to that by way of a ligature around the neck? A. There was - first there was, if I can refer to my notes, he was tied around the neck by a belt and if I remember right also a tie was--

Q. I'm sorry? A. A tie - a tie was located in the same area. I can show in these pictures an example.

Q. Is it on the photos? A. Yes.

EGAN: Perhaps I just might approach the witness--

BENCH: Yes, certainly.

WITNESS: He was covered with a pillowcase, the tie, and beneath the pillowcase was a belt.

EGAN: Q. So the tie you're referring to is the dark object shown around the neck of the deceased in photograph 15, is that the case? A. Yes.

Q. The belt's not obvious from that photo, is that the situation? A. Exactly.

Q. Did the belt appear to be on the outside of the - I'm sorry - did the tie appear to be on the outside of the belt or inside the belt if you understand me? A. Yes, I understood but I cannot remember exactly if it was. The tie was outside. I cannot remember if it was encircling the neck but the belt it was encircling the neck.

Q. Now what do you say constituted the ligature? A. The ligature is the abrasion that we are seeing here, the small bruise and the area of pallor all together.

SCHWARTZ XX

JI-B2

Q. And what, so you say that one's an extension of the other, is that the case? I'll withdraw that. What do you say caused the ligature, what item? A. I believe that the belt.

Q. Now how do you normally arrive at an opinion that death was caused by strangulation, what do you do by way of examination?

A. First thing we need to examine the body externally, as we did in this case, and we found the ligature mark around the neck, which is transversal exactly as in this case. There are numerous petechial haemorrhages on the face and the conjunctiva of both eyes. The colour of the skin of the face is very dark, is very red darkish colour, as in this case. The next step will be to do the post mortem and to do a proper dissection of the neck to show deep injuries to the muscles and the vessels and respiratory system.

Q. Now in the absence of that internal examination or dissection of the neck can you really give an opinion that the cause of death was strangulation? A. I believe that the person was

strangled, even I didn't do a dissection of the neck, because a prolonged compression of the blood vessels of the neck as in this case will cause death.

Q. Now you've indicated that the lacerations at the top of the head were caused by a blunt object? A. Yes.

Q. On what basis do you form that opinion? A. They are the lacerations, first they are lacerations, they are not incised wounds. The markings of the wounds are serrated and there are bridges of tissue between the margins of the wounds which indicates to me that is a laceration and it couldn't be done with a sharp object. These lacerations are done with a blunt object.

Q. You may or may not know there was a knife found in the vicinity of the deceased in the room. Did you see any wounds which might have been occasioned by a knife? A. No, I didn't see any wounds which could be done with a knife.

Q. Now if you have a look at your statement, paragraph C, you refer to bruises? A. Yes.

Q. If you look at number 1 you refer to a bruise 0.3 by 6 centimetres to the left side of the neck at the angle of the jaw. What do you believe caused that? A. The belt itself.

Q. The next one, 2? A. Also.

Q. Number 3? A. It was a bruise associated with the lacerations that I already described.

Q. Towards the back or towards the-- A. Towards the back of the head.

Q. 5? A. Yes. It should be related to the ligature mark.

SCHWARTZ XX

JI-B2

Q. And 6, does that relate again to the-- A. To the lacerations.

Q. Now one last matter, back on to this question of decomposition. Are there stages in decomposition? A. Sorry?

Q. Are there stages in decomposition? A. Yes, there are.

Q. Where does what you observed rank in accordance with those stages? A. First by the time that we received the body lividity was well established. The rigor mortis had worn off and the body was beginning to decompose.

Q. Now at what stage in the process of decomposition - early, late, middle? A. Very early.

Q. Very early? A. Yes. At the time of the examination on 6 May it was very early.

Q. Would you normally expect to see that degree of decomposition within a period of twenty four hours? A. Yes.

Q. Normally would? A. Especially in a warm atmosphere, in a warm environment.

Q. Did you notice any injuries around either the wrist or the ankles where the body was tied? A. There were areas of pallor on the wrists due to the ligatures but there were not injuries on the skin.

RE-EXAMINATION

McINTOSH: Q. You said at the time you received the body and then you talked about the stage of decomposition? A. Yes.

Q. What do you mean by "the time we received the body", is that when you first saw it or at the morgue? A. On 6 May at 7.30 I was at the scene where the body was with the clothes and I couldn't check the rigor mortis and the lividity properly but at 11 o'clock on the same day, 11 o'clock pm on the sixth I re-examined the body here in the Division and I checked the lividity, rigor mortis and temperature.

WITNESS EXCUSED

LANCE RICHARD DODD
sworn and examined

McINTOSH: Q. Is your full name Lance Richard Dodd? A. Yes.

Q. Do you still reside at [REDACTED],
Bathurst? A. No.

Q. Where are you now? A. [REDACTED].

SCHWARTZ XX RX
DODD X

JI-B2

Q. In Bathurst? (No verbal reply)

BENCH: You must answer please, sir, don't just nod your head, and please keep your voice up so we can hear. You answered "Yes" to that. Yes, go on.

McINTOSH: Q. And your occupation? A. Truck driver.

Q. Would you look at the two statements before you? A. Yeah.

Q. Is that your signature that appears on the bottom of each of those statements? A. Yes.

Q. Is everything in those statements true and correct? A. Yes.

Q. If I could take you to your statement dated 6 January, see that? A. Yes.

Q. If I could direct you to paragraph 9 of that statement?
A. Yes.

Q. You say "Kerrie became worried about Ian's whereabouts on the Friday night he went missing. I recall that she went out looking for him around 10 pm". What do you mean by "she went out", did she go driving or walking? A. Driving.

Q. Driving? A. Yes.

Q. Did she drive or-- A. No.

Q. Was that you driving the car? A. No.

Q. Who was driving? A. I'm not sure because I wasn't there. I just know that she went out. She told me she was going out to look for him. I don't know who she was with.

EGAN: Perhaps that might be just repeated again, your Worship.

BENCH: He said "I don't know, I wasn't there. She told me she was just going out to look for him".

WITNESS: I left shortly--

BENCH: Q. What day was that though? A. Friday.

McINTOSH: Q. You say she was driving. Do you know what was driven? Was it a Commodore or another vehicle? A. Commodore, yes, Commodore.

CROSS-EXAMINATION

EGAN: Q. Sir, you're a truck driver, is that right? A. That is correct.

DODD X XX

JI-B2

Q. And as of 4, 5 and 6 May last year a truck driver, is that right? A. That is correct.

Q. And who are you employed by? A. Markham Brothers.

Q. At? A. [REDACTED] Upfold Street.

Q. Bathurst? A. [REDACTED] Upfold Street, sorry.

Q. Bathurst. And what are your hours of work? A. They vary depending on how much work there is.

Q. But normally between what hours? A. Normally between - I'd either start at eight-thirty or nine and finish at four.

Q. That's right, and indeed I put to you on the Friday 5 May you worked your normal hours, nine till four? A. Yes.

Q. And indeed that being the case and you having agreed with that you could not have been at home at eleven-thirty when you say you saw the defendant leave after arguing with Kerrie Stanton? That's right isn't it? A. No, because last year I wasn't a truck driver at that time. I didn't start until July.

Q. So previously I asked you were you a truck driver on 4, 5 and 6 May last year and you said "Yes"? A. Only part-time.

Q. Now so I put to you you did witness an argument between the defendant and Kerrie Stanton? A. Yes.

Q. I put to you that argument occurred at about four o'clock on Friday 5 May? A. Between three-thirty and four.

Q. I'm sorry? A. Between three-thirty and four.

Q. And then it was then between three-thirty and four o'clock on 5 May-- A. Was that the Friday or the Thursday?

Q. Friday - that the defendant did leave? A. Correct.

Q. And how long have you lived at Bathurst, sir? A. Six years.

Q. And how long does it normally take you to get to Sydney? Well I'll withdraw that and I'll ask you. Do you drive from Bathurst to Sydney? A. Occasionally.

Q. How long does it normally take in a car, not your truck, in a car? A. Between two and a half and three hours.

Q. So if he left at four he couldn't have been in Sydney until at least seven, and bearing in mind we're looking at a Friday night? A. The traffic's going the other way.

Q. The traffic's going the other way but there's still heavier

DODD XX

JI-B2

traffic going into Sydney than would normally be going into Sydney during a week day isn't there? A. I don't know, I don't come in on Fridays.

Q. Nevertheless four o'clock, seven o'clock if he leaves at four?
A. Between six-thirty and seven.

Q. If he leaves at three of course it's only six o'clock to six-thirty, is that right? A. Correct.

BENCH: I can't hear you, Mr Dodd. Keep your voice up please.

EGAN: Q. Now, sir, you refer to in your statement the defendant having mood swings and you use the word "violent" as I recollect, is that right? A. That's correct.

Q. And you refer to him being very aggressive, is that right?
A. Occasionally.

Q. Now what he is, he could also be termed as boisterous couldn't he, lively? A. No, aggressive is different to boisterous.

Q. Yes, fair enough, but you could term him from time to time as being boisterous couldn't you? A. He's always boisterous.

Q. And you could refer-- A. Aggressive is different though.

Q. Yes, I'll come around to that. And you could refer to him as being loud isn't he? A. Yes.

Q. And so I put it to you that if you put boisterous and being loud together-- A. It's still different to aggressive.

Q. --you can end up with being aggressive can't you? A. No.

Q. Well, sir--

BENCH: Q. You said "No" did you? A. I said "No".

EGAN: Q. What do you mean by aggressive? A. Aggressive is not boisterous and aggressive is not loud.

Q. What do you mean by "aggressive"? A. The way you're treating me now.

Q. The way I'm treating you now - standing on a Bar Table with my hands down and speaking to you in a firm voice, is that right?
A. Not quite.

Q. I'm being boisterous and I'm being loud aren't I? A. No, you're smiling.

Q. I'm smiling, but you still think that's aggressive? A. No. Look in the dictionary.

DODD XX

JI-B2

Q. Now "volatile" - what do you mean by "volatile"? A. Don't you know?

BENCH: Q. No, you're being asked a question. You've described the person-- A. "Volatile" is apt to explode at any time.

EGAN: Q. Apt to explode? A. For no reason.

Q. Now the defendant and Kerrie Stanton argued whilst they were at Bathurst, is that right? A. Sometimes.

Q. And indeed the relationship was not completely cordial from the time she arrived indeed until the time she left in June, is that fair to say? A. Not all the time.

Q. And is it in relation to that relationship that you're referring to the defendant being aggressive and volatile? A. Not only that, no.

Q. Well you say he was aggressive and volatile with you?
A. Once.

Q. When? A. When he threw a bottle.

Q. When was this? A. I don't know exactly.

Q. Where was it? A. In the house.

Q. Who was present? A. Ian, Kerrie and me.

Q. Whilst the defendant was at Bathurst and after Kerrie Stanton had arrived they went on drives together, is that the case?
A. As I recall it only about twice, maybe three times.

Q. And indeed one of those drives was to Orange, is that right?
A. I don't know, I wasn't there.

Q. Well did you hear they'd gone to Orange? A. Yes.

Q. And that trip which you heard about to Orange, I'm not saying you were there, that was on a Friday wasn't it? A. I don't know.

Q. Well it was not long after Kerrie had arrived, a matter of days after Kerrie had arrived, is that right? A. No.

Q. Whilst - you referred to this volatility and this aggression on behalf of the defendant, was he exhibiting any signs of ill health though, do you understand me? A. No.

Q. Is that you don't understand-- A. In what way do you mean?

Q. Well I'll rephrase it. Did he ever complain of constant ill health? A. No.

DODD XX

JI-B2

- Q. Did he ever complain of things such as nausea? A. Not to me.
- Q. Did he ever seem to be in any discomfort from stomach cramps or matters of that nature? A. No.
- Q. Did he exhibit chronic nose runs, do you understand me, a runny nose? A. No.
- Q. And indeed whilst he was at the address he was active wasn't he? A. Yes.
- Q. Cut the wood-- A. Yes.
- Q. --and he was constantly employed? A. He had a few sick days.
- Q. Now you knew that Miss Stanton had been booked for a PCA, understand what a PCA offence is? A. Yes.
- Q. On her trip from Sydney, is that right? A. Yes.
- Q. Are you aware of the reading? A. No.
- Q. Are you aware it was a high reading? A. I became aware after it was in the paper.
- Q. A 0.310 wasn't it? A. I don't know exactly.
- Q. A figure in that area. Whilst Miss Stanton was at Bathurst did she drink, consume alcohol? A. Yes.
- Q. She drank at home, is that the case? A. Yes.
- Q. She drank with you, is that right? A. Sometimes.
- Q. And she drank a considerable quantity, is that fair to say?
A. When I drank with her it was only about probably eight cans.
- Q. Eight cans, at a time? (No verbal reply)
- Q. Did she appear to be under the influence of alcohol at any time whilst she was at the address at Bathurst? A. No.
- Q. Now you made your first statement, and correct me if I'm wrong on this, on 6 January 1990 is that right? A. Yes.
- Q. Was that the first time you were spoken to by the police in relation to this matter? A. Yes.
- Q. And was it the first time you had any knowledge of the existence of a Mr Hughes, the deceased? A. Yes.
- Q. So is it fair to say 6 January 1990 was the first time you actually had to recall the events of May 1989-- A. Yes.

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Q. --in relation to this matter? A. Yes.

Q. And of course you had no notes or nothing to aid your memory, is that fair to say? A. Correct.

Q. Now you were shown a windcheater at times by Detective Plotecki, is that right? A. Yes.

Q. Can you describe that? A. Navy blue, wool, quite heavy jacket.

BENCH: Q. Speak a bit louder please, sir? A. Navy wool, quite heavy jacket.

EGAN: Q. Was it lined or unlined? A. I don't know.

Q. How often would you see it or had you seen it? A. I had seen it.

Q. How often? A. I didn't count. It used to hang on a hook inside the back door.

Q. See it on a daily basis or what? A. Just about.

Q. Did it have any distinguishing marks on it? A. Yes.

Q. What? A. A few cuts on it.

BENCH: Keep your voice up again. You keep dropping it down, Mr Dodd. I know it's difficult to remember all the time but it's got to be recorded.

EGAN: Q. Now in relation to that have you seen it since the defendant left the address at Bathurst? A. Yes.

Q. Have you been shown it? A. Yes.

Q. Have you been shown it since Plotecki showed it to you?
A. No.

Q. Have you been shown it today? A. No.

Q. When Plotecki showed it to you did he point out the cuts in the back? A. Yes, but I already knew they were there.

Q. Now just one matter, you referred to being shown the jumper, the windcheater-- A. Jacket.

Q. --jacket, and you refer to it being similar if not the same jacket as the person Ian Jones owned whilst he resided with you at Upfold Street, is that right? A. Yes.

Q. And you say you recognised the cuts in the back, is that right? (No verbal reply)

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Q. And you say you recognised the cuts in the back at the time it was shown to you from observing them earlier, is that right?

A. The time I observed them earlier was when Ian Jones showed me.

Q. But when Plotecki showed it to you you said it was similar, is that right? A. That's correct.

Q. Well it'd have to be the same wouldn't it - not going to have two jackets with similar holes in the same position are there?

A. One never knows.

Q. In point of fact you didn't recognise the holes at all did you? A. I did.

Q. It was a similar jacket as you stated in your statement, nothing more wasn't it, is that right? A. No.

Q. Now you made two statements, one on 24 May and one on 6 January. How did that come about? A. I saw Detective--

BENCH: Are you asking in respect of the second one how did it come about?

EGAN: Q. How did the second statement come about? A. The detective came up to see me.

Q. And he drew your attention to things, is that what you're saying? A. No. He interviewed me in the police station.

Q. One last thing, do you know if the defendant ever played snooker or pool whilst he was in Bathurst? A. Who?

Q. The defendant? A. Ian?

Q. Yes? A. Yes.

Q. And where, was it in a competition or just socially? A. Both.

Q. And when he played in a competition where was it? A. At the Park Hotel.

Q. When? A. They used to have it on Thursday nights.

Q. And on 5 May when you say the defendant left the house I put to you the only persons present were yourself, Kerrie Stanton and of course the defendant? A. Yes.

Q. The Flowers had already left? A. Yes.

Q. They'd left some two days before to attend to the wedding?
A. Yes.

RE-EXAMINATION

McINTOSH: Q. Mr Dodd, in your first statement you say that on the second occasion Kerrie came up you believe it was 3 May, you

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went to a darts competition and Kerrie arrived you think at about 10.30 pm, and the next day you recall that Mr Jones took off in Kerrie's car, a hire car that is, for about four or five hours?

A. Yes.

Q. Can you recall what time Mr Jones took off in the hire car?

A. No.

Q. And--

BENCH: Q. The answer was "No"-- A. No.

OBJECTION. NOT RAISED IN CROSS-EXAMINATION. QUESTION NOT ALLOWED.

McINTOSH: Q. You've told the Court that there was a fight on the fifth? A. Yes.

Q. Can you recall the time of that fight?

EGAN: I'm sorry, your Worship, I missed that?

BENCH: Recall the time of the fight on the fifth, the argument.

OBJECTION. QUESTION WITHDRAWN.

McINTOSH: Q. You saw Mr Jones drive off in the green car after the fight with the girl Stanton? A. Yes.

Q. What time did you see him drive off? A. Immediately after the argument.

Q. You said you were driving trucks part-time? A. That's right.

Q. What time did you normally go to work? A. Well quite often I didn't work on Fridays because they didn't have enough--

EGAN: I'm sorry, your Worship, again I missed--

WITNESS: --so on that day I didn't work.

BENCH: "On that day I didn't work".

McINTOSH: Might the witness be shown exhibit 1, your Worship, the blue jacket?

Q. Is that the jacket to which you have referred? A. Yes.

WITNESS RETIRED

BRIAN JOHN TOWNSEND
sworn and examined

McINTOSH: Q. Is your full name Brian John Townsend? A. Yes.

Q. Do you still live at [REDACTED] Bathurst? A. Yes.

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TOWNSEND X

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- Q. Are you still a pensioner? A. Yes.
- Q. Do you see that document before you? A. Mm.
- Q. Is that the statement you made to the police about this matter? A. Yes.
- Q. Is that your signature on the bottom of each page? A. Yes.
- Q. Is everything in there true and correct? Did you read that earlier today? A. Yes, I have read it, yeah, yeah.
- Q. It's the same document-- A. Same document. There's one thing I'd like to say.
- Q. Yes, what's that? A. On the last page I told Constable Plotecki that Ian Jones had told me that he'd smashed the car and it wasn't Ian that told me that at all, it was Lance that had told me that. That's the only other thing.
- Q. That's Lance Dodd? A. Dodd.
- Q. And is everything else in there true and correct? A. Yes.

CROSS-EXAMINATION

- EGAN: Q. Sir, just one thing, turn to paragraph 7 of your statement if you would-- A. Right.
- Q. You've got it there? A. Yes.
- Q. The car it's an 850 is it? A. Yeah.
- Q. And how old when you sold it to the defendant? A. It was a '68 model, a '68 model.
- Q. So it's a 1968 model 850 Mini we looking at, '88, '89, so it's eleven(as said) years old? A. Yes.
- Q. And although I know you say in your statement the motor was very good-- A. Yes..
- Q. --and you refer to reconditioning it but as I understand it when the defendant took it from you it had to be tow started?
A. That's right.
- Q. So it wouldn't start of its own will, it had to be coaxed?
A. That's true.
- Q. So despite your best efforts I take it in reconditioning the motor there were still some problems with it? A. The carburettor.
- Q. So it wasn't necessarily the sort of machine that you'd take

TOWNSEND X XX

JI-C1

off in a hurry to go to Sydney in from Bathurst, is that fair to say? A. Not really, no, unless the carburettor was fixed.

Q. And indeed despite your reconditioning we're still looking at an eleven year old 850 motor, is that right? A. Yes.

Q. Wouldn't have been doing Sydney - I'm sorry - Bathurst to Sydney in two and a half hours in your experience would it? A. Not in two and a half hours, no.

Q. And indeed if I said to you it's three hours or in excess of three hours that would be more realistic? A. Around about three hours, three and a half hours, yes.

Q. Now in relation to paragraph 8, if I could just read it to you, "I can't recall how long Jones was missing. I do recall when he turned up he told me that he'd been to Orange", is that right? A. That's true.

Q. And that relates does it to his movements on 5 May, the Friday? A. Same weekend, yeah--

Q. Well from the-- A. From the Friday, yes.

RE-EXAMINATION

McINTOSH: Q. Did you see Mr Jones at any time after he'd bought the car and before the time you said he went to Orange? A. I'd probably see him drive past. He had to drive past my place you know, like he was going up - he was supposed to be working at Orange, had a job, he was going back and forth to Lucknow, he was to start a job up there driving a backhoe and I've probably seen him drive past the odd time or something like that you know.

Q. Did he have to have the car tow started every time he drove to Lucknow? A. No, the car was going.

WITNESS RETIRED

KERRIE ANNE STANTON
sworn and examined

McINTOSH: Q. Is your full name Kerrie Anne Stanton? A. Yes.

Q. And you now live at an address that you wish not to have disclosed? A. Yes.

McINTOSH: Might the witness be permitted to write her address on a sheet of paper, your Worship?

BENCH: Q. Is it the same as on the statement or different to the statement? A. I can't write.

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STANTON X

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Q. Is it the same as on the statements? A. Yes, it is.

BENCH: Well I'll make the statements the address is not to be disclosed.

McINTOSH: Q. Your occupation? A. Cosmetic consultant.

Q. There are four statements before you, would you look at all those please? If you'd look at all the four statements and tell the Court if your signature appears on the bottom of each page of the statements? A. Yes.

Q. Is everything in those four statements true and correct?

A. If it's the same one I read this morning, yes.

Q. All four? A. Mm.

Q. In paragraph 5 of the statement of 14 September 1989 you make reference to a diary? A. Mm.

McINTOSH: Might the witness be shown exhibit 6, your Worship?

Q. Is that the diary to which you refer? A. Yes, it is.

McINTOSH: Might the witness be shown exhibit 7, the Budget Rent-A-Car agreement? A. Yes, that's my signature.

Q. You make reference to that agreement in paragraph 7 of your statement of 29 December? A. Yes.

Q. Also in that statement you make reference to a Commodore sedan that you hired from Budget Rent-A-Car? A. Mm.

Q. Did that car always remain in Bathurst to your knowledge?

A. Yes, it did.

Q. Did you always have possession of the keys? A. Yes, I did.

Q. You drove to Bathurst from Sydney? A. Mm.

BENCH: Q. You must answer "yes" or "no", don't just "mm"?

A. Yes.

McINTOSH: Q. Did you make any stops on the way to Bathurst?

A. What date was that one - 3 May. Yes I did. I overshot Bathurst and so I went for a sleep and then I phoned Ian up and then I went back. I got booked on the way.

Q. Ian gave you some advice on how to get to Bathurst? A. Yes. I told him where I was and he said to go and flag down the nearest police car.

Q. Do you know how long you slept for? A. I'd say about twenty minutes.

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JI-C1

Q. Do you know where you rang Mr Jones from? A. It was a public phone box, I don't know where. That's why I was ringing him because I was totally lost. I just told him the cross street and things. I can't remember what they were.

Q. If I could take you to paragraph 9 of your statement of 29 December-- A. 29 December, the same one, the same statement?

Q. Yes, that's the same one? A. Yes.

Q. You say "On 5 May Ian called in sick for work. I got up that morning between 9 am and 10 am. On getting up I had a fight with Ian". Can you tell the Court how long after you got out of bed that you had that fight? A. Instantaneously, as soon as we woke up.

Q. A little further down you say "At the time he wanted the hire car to go to see some friends", see that in the statement?
A. Yes.

Q. Can you recall the exact words he used? A. "Give us the keys. I want to go and see me friends".

OBJECTION

EGAN: Your Worship, the statements have been tendered, there's four of them. It's difficult to deal with four statements. These are paper committal proceedings, we haven't gone by way of evidence. My friend either wishes to explain what's in them or he relies on the statements. He doesn't supplement, so to speak, the statements by way of evidence-in-chief, verbal evidence-in-chief.

BENCH: My opinion is he may adduce further evidence of anything additional or to explain matters in the statements. Now the last question for instance was to just give us the exact conversation and I think that's fair enough because actually the conversation should have been given in the first person anyway. Continue on, Mr McIntosh.

McINTOSH: Q. He said you told us "Give us the keys. I want to visit some friends", did he say where abouts the friends were?
A. No, he didn't.

Q. In paragraph 10 of that same statement, page 3-- A. Right.

Q. --you did not see Ian again until Saturday morning 6 May 1989 at about 11 am? A. Yes.

Q. He returned to the house in the Mini sedan he owned?
A. Yes, he did.

Q. You say "I recall Ian told me he had been with friends although he was never specific as to which friends they were". Can you recall the exact words he told you on that occasion?

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A. He was a man of few words. No, I can't recall the exact words.

Q. Did you ask him where he'd been? A. Yes, I said "Where have you been?".

Q. In paragraph 11 of the same statement you say you went looking for him with some friends? A. Yes, I did.

Q. What do you mean you went looking for him, how did you do that? A. I went down the street and got Brian to drive me around in the hired Commodore to look for Ian. I thought I might have seen his car somewhere. I don't know--

Q. Brian Townsend is it? A. Yeah. I don't know the streets of Bathurst so I needed a guide.

Q. Can you recall where you went? A. Just all around the local streets.

Q. Did you visit any people? A. I couldn't see his car so - I didn't know anyone else but Brian anyway, and Lance of course.

Q. In your statement of 5 May you refer to a jacket which you handed to police? A. Yes, I did--

McINTOSH: Might the witness be shown exhibit 1?

BENCH: Yes.

McINTOSH: Q. Is that the jacket? A. Yes, it is.

CROSS-EXAMINATION

EGAN: Q. Miss Stanton, you made four statements is that right?
A. Yes.

Q. Why did things come up so to speak by instalments like this?
A. Because I didn't understand the line of questioning. I didn't know the date of the death so I didn't correlate things.

Q. Well didn't they simply put to you who they were investigating? A. Yes.

Q. Didn't they tell you when? A. No.

Q. The police never mentioned to you a date? A. No, not that I can recall.

Q. Until when? Pardon? A. Not that I can recall.

Q. So you're saying the police came to question you about the death of Mr Hughes who you knew I take it? A. I had met him on a couple of occasions.

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Q. And at no time advised you of the date-- A. No--

Q. --as to when this death had occurred? A. I would have known otherwise because the fact that I was booked sticks in my mind.

Q. They were asking you about the movements of the defendant, is that right? A. Yes.

Q. But they never told you over what period of time they were concerned? A. No, just the time I was in Bathurst, that's all I thought was all I needed to answer.

Q. Now just in relation to your statements if I might, you made a statement - perhaps if your Worship - you've got it in front of you have you, the four, you've got your statements in front of you - 14 September '89? A. If I can find it. Right, go on.

Q. If you can turn to the fourth page, fifteenth paragraph?
A. Yes.

EGAN: Yes, I've got no objection. Your Worship, my friend suggested you have access to her statement--

BENCH: Yes, Mr Egan.

EGAN: Q. Now this is on 14 September as we've referred to and by that stage the police had told you the date hadn't they because they'd asked you to have recourse to your diary, isn't that right?
A. Yes, they had. I can't remember if they had told me the date or if that was in the last statement.

Q. No, no, we'll just go through the statement. "I've made an entry on 5 May 1989", this is in paragraph 15, "concerning a Dave Allen concert a friend of mine, John Gibson, was booking. I can't recall when we went to the concert but I think I didn't leave for Bathurst until after the concert"? A. That's right.

Q. "I recall travelling to Bathurst from Sydney with my dogs on Monday. This may have been 8 May 1989 but I'm not sure of the date". Now on the basis of that, and I know you express some doubt, you weren't even in Bathurst on the fifth were you?
A. 5 May?

Q. Mm? A. Yes, I was.

Q. Well "I may not have been" - "On a Monday. This may have been" - sorry, I'll withdraw all that. "I recall travelling to Bathurst from Sydney with my dogs on Monday. This may have been 8 May 1989"? A. Well it wasn't. I was in Bathurst.

Q. I gather it wasn't. "I've made an entry on 5 May 1989 concerning a Dave Allen concert a friend of mine, John Gibson, was booking. I can't recall when we went to the concert but I think I didn't leave for Bathurst until after the concert"? A. Well I

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can't - I was definitely in Bathurst on 5 May.

EGAN: I'll just call for the diary, your Worship, please.

BENCH: Yes.

EGAN: Q. Now you say you refreshed your memory as to your movements in May from reference to your diary, is that right?

A. To some of them. Some of those references are out. Some of them are just notes I'd written down by the phone.

Q. But nevertheless you've seen - when you started your statement as I understood it you regarded it as some aid to your memory from which you were going to recall your movements, isn't that right?

A. Well it helped.

Q. Well let's see what you said. "Since giving the police a statement", this is paragraph 5 of that statement, "Since giving the police a statement earlier this year regarding the movements and myself and my ex-de facto, Ian Jones, I am able to assist by further reference to my diary. This diary is a 1989 Collins diary which I started at the beginning of the year and used for recording my personal and business information" and then you proceed through your movements starting in February culminating in these events in May don't you? A. Mm.

Q. Right, now-- A. At that time though the diary was no longer used for business so I didn't regard it as such so I'd write down notes.

Q. So I put it to you on Monday - on Wednesday 3 May you have an entry "Book car through Budget Sutherland. Leave early with", you name the animals, "Thank John for a lovely evening and pick up car a.m.", right? A. Mm.

Q. On Friday you have the--

BENCH: Q. Please answer "yes" or "no", don't just-- A. I'm sorry.

EGAN: Q. Friday you have the reference to the Dave Allen concert, that's Friday the fifth, right? Monday the eighth you've got nothing have you? A. I haven't got the diary in front of me so--

Q. No, well perhaps you can take that from me, I can normally recognise a blank page, and indeed thereafter the diary's remarkably silent as to any events isn't it? A. Yes.

Q. It seems to have stopped being recorded at about a time relevant to this matter. Why is that? A. Because it was too big and heavy to carry around and I didn't need to record anything.

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Q. I see, but you did record certain events in relation to this, is that right? A. I recorded certain events of my social life and previously my business life.

Q. When did you record them? A. What do you mean--

Q. When did you make the entries? A. On whatever day that they're in there, except for the ones that are mixed up at the end.

Q. Well see the ones that are mixed up at the end are the ones in relation to this matter aren't they? A. The only ones that are mixed up in the end are in relation to Dave Allen.

Q. And in your statement the suspicion that you may not have got to Bathurst until 8 May? A. There's no possible suspicion of that.

Q. Well you say so don't you? A. I believe so, I know so, and you can check the police reports.

Q. But why did you include in your statement "I recall travelling to Bathurst from Sydney with my dogs on Monday. This may have been 8 May"? A. Because the dates completely confused me. I didn't remember what I was doing at that time.

Q. Well so you are confused as to the dates? A. No, I am not now.

Q. Now when you arrived at Bathurst, and we'll take it that was most probably some time around about the third, I don't know--
A. It was Wednesday, the third.

Q. And you had a reading of .301, is that right? A. Yes.

Q. A reasonable degree of alcohol? A. Yes.

Q. How much had you consumed to get to that point? A. I suppose about a dozen cans.

Q. A dozen cans gives you a reading of 301? A. It could do.

Q. It didn't did it, it was a little bit more than a dozen wasn't it? A. No, I don't think so.

Q. Over what period of time? A. In the afternoon.

Q. Over what period of time? A. From about three-thirty onwards.

Q. Until when? A. I had a few drinks in the car going up as well.

Q. Just wasn't a dozen cans was it? A. It could have been.

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JI-C1

- Q. Could have been, you don't know? A. It's an approximation.
- Q. You don't know? A. It's an approximation.
- Q. You don't know, is that right, could you answer that?
A. Yes.
- Q. From the time you arrived to the Saturday, the following Saturday, I take it you continued to have the occasional drink?
A. Yes.
- Q. On a daily basis? A. Yes.
- Q. With breakfast? A. Sometimes.
- Q. And indeed during that period of time I put it to you you were to a lesser or a greater extent under the influence of alcohol?
A. It would depend.
- Q. It would depend what, on the hour of the day? A. On how many I'd had.
- Q. So the fact of the matter was during that period of time you continued to be under the influence of alcohol? A. Yes.
- Q. So your recollection of the events of those days of course is one which I put to you can fairly be described as being clouded to a certain degree by the influence of alcohol? A. No.
- Q. Now if you can turn, I know it's difficult for you, it's the next statement - 29 December 1989? A. Right.
- Q. You've got it there - paragraph - sorry, it's second page, paragraph 9? A. Right.
- Q. Now we start with "The following day, Friday 5 May, Ian called in sick for work". Were you there when that happened? A. When he actually phoned in?
- Q. Mm? A. I can't remember if I called in for him or if he phoned.
- Q. Ian attended didn't he, he went down to Mitchell Plant Hire, isn't that the case? A. I don't know. He had - no, he couldn't have because he left at about ten-thirty which was much too late for him to start.
- Q. I put to you he left - he went down there at about seven-thirty in the morning, were you up then? A. No, I was sound asleep.
- Q. I put to you it was raining that day or had been, it was raining that day? A. I can't recall, it was always such revolting weather in Bathurst.

STANTON XX

JI-C1

Q. Cold, wet and miserable, is that right? It was raining on the Friday, is that the case? A. I'm not sure if it was raining or not.

Q. I put to you the defendant came back, this was on Friday 5 May, and you went to Orange, the two of you? A. No, we did not.

Q. I put to you you went to Orange and you went to Orange in the Commodore? A. No, we did not.

Q. Now you say you had a fight with Ian, is that right, on the fifth? A. Yes.

Q. That's the Friday, and I put to you there's no contest about having a fight with the defendant on the fifth? A. No, there's no contest.

Q. Now you say "At the time of the fight Ian's housemates, the Flowers and Lance Dodd, were present" is that right? A. Yes, they were out the front I think.

Q. Out the front? A. Sorry, out the back.

Q. I put it to you that the Flowers had left for Sydney three days before - I'm sorry, I'll withdraw that - two days before. What do you say to that? A. I thought they were there.

Q. You thought they were there - they'd been gone for two days?
A. Well it may have been just Lance who was there.

Q. See you're not sure at all about the details are you?
A. I'm fairly certain about most of the details. I know I did not go to Orange.

Q. Fairly certain, indeed you've nominated in your statement people who were not even present? A. Well I thought they were.

Q. Well you see I'm not saying you're lying, I'm just saying you're badly mistaken aren't you? A. If they weren't there on that day and you can prove that then I must be.

Q. Now I put to you the defendant did leave the premises--
A. Yes.

Q. I put to you that occurred at about four o'clock? A. No, it did not.

Q. How do you arrive at ten-thirty? A. Because I got up and made coffee and some breakfast and he said he wanted the hire car and I said "No", that's when the argument was, and he was gone by ten-thirty and I thought he'd come back but he didn't.

Q. Well how do you know it was ten-thirty? A. Because I was still in my dressing-gown.

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Q. Now you've indicated earlier sometimes you drank at breakfast and sometimes you didn't. Was this one of the occasions when you had? A. No, I hadn't.

Q. You've indicated in your statement that from the time you arrived the defendant was suffering from withdrawal symptoms and you've said you've known the defendant over a period of time. Can you describe these withdrawal symptoms? A. He gets very, very edgy, sweats a lot, shakes, gets tummy cramps.

Q. Nausea? A. Sometimes.

Q. Runny nose? A. Sometimes.

Q. And he was exhibiting at any given time all these symptoms whilst you were at Bathurst I take it? A. Not all of those symptoms at all of the times.

Q. No, no, I agree, but whilst you were at Bathurst he was exhibiting all of those symptoms at some time, is that fair to say? A. yes.

Q. And indeed at any given time exhibiting some of them jointly, so at some time he's exhibiting one or more of them? A. Yes.

Q. And it was obvious? A. Yes.

Q. And indeed, and I don't want to misquote you, but I think you referred to him - this being chronic, is that the case? A. Yes, he's permanently like it. Well not having the symptoms permanently but he unfortunately takes drugs all the time.

Q. But in this particular stage of time, that being around about 3, 4 and 5 May, he was exhibiting these - these symptoms were pronounced, is that right? A. He was particularly edgy and shaky, sweats.

Q. And from time to time having stomach cramps? A. He didn't have any stomach cramps that I can recall at that time.

Q. I thought you just told us he did? A. I said sometimes.

Q. Sometimes during this period, madam? A. I can't remember if he had stomach cramps during that period or not.

Q. Madam, I put to you the period and you agreed. I described the dates, the third, the fourth, the fifth, and you said "Yes"? A. I didn't say for all of the symptoms. I can't recall if he had stomach cramps.

Q. And I said to you, madam, at some times he exhibited some of the symptoms jointly but over that period he had all the symptoms at some time and you said "Yes"? A. He didn't - I don't know if he had stomach cramps, I can't remember.

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Q. He most certainly wasn't fit enough to be regularly out engaging in vigorous athletic activity or physical activity was he? A. He's a very phsyical man but no, there were times when he wasn't fit enough.

Q. And he most certainly wasn't chopping wood or working on a daily basis was he? A. Yes, he was.

Q. He was? A. He was chopping wood and doing things around the house.

Q. During that time he was not exhibiting any withdrawal symptoms at all? A. Yes, he was.

Q. Now you've referred to knowing the defendant over a period of time and that's correct if we take it from the start to the finish isn't it? A. Start of what, when--

Q. Well when you first saw him until now for instance? A. Mm.

Q. You have known him for a number of years? A. Yes.

Q. Over that period of time though how long have you actually associated with him, I mean together? A. We lived together for approximately seventeen months.

Q. When was that? A. We finished last August 8, so seventeen months before that.

Q. Seventeen months from August 8. Now that's just wrong isn't it? A. No, it's not.

Q. There was an incident at Chittaway wasn't there when he had to leave the house and that was in June and you went back to your parents? A. That was in August.

Q. That was not in June? A. No, it was in August.

Q. There was the time when he was living with Hughes, isn't that the case? A. Yes.

Q. The time when he was living I think at Matthew Talbot's during this period, isn't that the situation? A. Yes.

Q. The time when he was in hospital? A. I still classify that as being together.

Q. Now did you at any time go to Orange with the defendant?
A. We went once just for a sightseeing trip.

Q. That was on Friday the fifth? A. No, it wasn't.

Q. When was it? A. I don't know but it wasn't on the Friday.

STANTON XX

JI-C1

Q. Was it before or after this disappearance when you say he left in the green Mini? A. I can't remember.

Q. Now subsequent to his return on the Friday, the sixth, can you get the date right - on the Saturday, I'm sorry, Saturday - I haven't got the date right - Saturday the sixth, are you right there? A. Yes.

Q. I want to be definite about this now - yourself and the defendant went around to see two friends didn't they (as said), two friends of the defendant's in Bathurst named Jill and Tony, isn't that the case? A. I did meet two friends. They had a rottweiler dog, that's how I remember them.

Q. He then said "They're the people I was with when I didn't come home that night", remember that? A. Yes.

Q. And that night of course being the evening of Friday the fifth? A. Yes.

Q. Now the Mini sedan, you hired a Commodore and the defendant had his Mini, is that right? A. Yes.

Q. The Mini was a - I don't expect you know the model range in these things but it wasn't a brand new machine was it? A. It was an old green one.

Q. And it most certainly was movable, going? A. Yes.

Q. But it was the sort of car you would most probably feel more confident about driving on short trips-- A. Yes.

Q. --than driving from Bathurst to Sydney, is that right?
A. I'm not a mechanic.

Q. No, but you just agreed though it was the sort of vehicle you'd be happier about driving on short trips, is that right?
A. I'd prefer the Commodore, yes.

Q. And indeed the other one wasn't exactly real quick nor real reliable, that being the Mini, was it? A. Yes.

Q. And you agree with that. Now paragraph 12, if you could have a look at that in your statement of 29 December 1989, you see that starts with "Ian never specifically told me where he as" - that should be a "w" of course in there - "where he was for that period nor do I recall him mentioning the name of John Hughes at that time". There's only one thing wrong with that isn't there, he had told you where he was at that time, he said he was with Jill and Tony hadn't he? A. Not until afterwards and he didn't say Jill and Tony.

Q. Well see I just put that to you not three minutes ago and you agreed didn't you? A. He said they were the friends that he was with.

STANTON XX

JI-C1

Q. And he told you that whilst you were still in Bathurst?

A. Yes.

Q. And that of course was prior to 29 December 1989 wasn't it?

A. Prior to 29 December?

Q. 1989? A. Yes.

Q. Now if you could look just on, the next sentence there, "I'm aware, however, that Hughes did supply heroin to Ian" and you go on. Is that from what you've been told is it, not from what you observed, is that right? A. Yes, it's from what I've been told.

Q. I'm sorry? A. From what I've been told.

Q. Now if you go on a little bit further, the next one, the second - I'm sorry - the following sentence "Ian had told me of this", right? A. Yes.

Q. Then there's a sentence after that "I am aware too that Ian has in the past", that sentence. Now when you say "aware" is that again from something you say you've been told, not something you've observed, is that right? A. It's something I've observed.

Q. You've observed-- A. I haven't observed the actual--

Q. No. If we just go on a little bit further, "On one occasion he lived at Monterey late 1988", do you see that there? A. Yes.

Q. I put to you that never occurred, the incident with the scale(?)?

A. It did occur.

Q. Now Ian gave - I'm sorry - the defendant was charged with an offence of stealing at Kogarah Local Court, is that the case? Is that right? A. Yes.

Q. And the subject property was yours, is that right? A. Yes.

Q. That charge - well I ask you this - was that charge dismissed?

A. It was dropped because I lied and said that he'd returned the property.

Q. And you made a statement to the police along those lines, is that right? A. I made a statement when they came around to investigate the stolen goods and then I went to Court and I had to lie and say it had been returned.

Q. Now-- A. I had tried to retract it but they said it had to go to Court unfortunately.

Q. Now whilst you were with the defendant in Bathurst to your knowledge he did not go to Sydney, is that correct? A. That's correct. The only time - the only time he went was to attend a case I think on 19 April and then when he drove me down the final time.

STANTON XX

JI-D1

Q. Well that's the only time you're aware of, is that your evidence? A. The only time, yes.

Q. Now you refer to the jacket and you've seen, and you may have been shown the jacket today, I don't know-- A. Yes.

Q. It's the blue I suppose wollen jacket, navy blue.

EGAN: Perhaps the witness just might be shown exhibit 1 so there's no doubt.

WITNESS: I know the jacket.

EGAN: Q. Now in January 1989 the defendant was stabbed, well as far as you're aware he was stabbed whilst at Kings Cross, is that right? A. Yes.

Q. And he was wearing that jacket? A. Yes.

Q. And the jacket has tears in it which seem to relate to the wounds, is that the case? A. Yes.

Q. Now are you aware as to whether the defendant did have a claim for criminal compensation in relation to that stabbing? A. We didn't put it in. We were going to but we didn't get around to it.

Q. The defendant asked you to take particular care of that jacket didn't he because it could be used as evidence on his behalf? A. Yes.

Q. And he was hospitalised for some time, is that right? A. Three weeks I think.

Q. And that jacket was in his property, if I can use that term, when he was admitted to hospital? A. Yes.

Q. You took possession of that jacket didn't you from the hospital? A. Yes.

Q. And the defendant entrusted you with it for the purpose of making sure nothing happened to it because of its value as evidence on his behalf, is that right? A. Yes.

Q. Where did you keep that jacket? A. In my wardrobe at Sylvania.

Q. When you produced the jacket to the police, that being Detective Plotecki, where did you produce the jacket from? A. From the wardrobe at Sylvania.

Q. Had it resided there from the time the defendant was stabbed in January until the time you produced it to the police? A. No.

STANTON XX

JI-D1

Q. But nevertheless you put it in the wardrobe and that's where you produced it from? A. Yes.

Q. You put it in the wardrobe after he was stabbed and you produced it to the police from that same wardrobe, is that the case? A. He was wearing it after he was stabbed for quite a period of time. When I brought his clothes back I cleaned them, tidied them and put them away so they'd air.

Q. So you cleaned them and tidied them did you? A. I don't recall whether we had that jacket drycleaned at the time of the stabbing or not but I didn't clean it afterwards, it was too woolly for me to wash.

Q. Now just going back on to that, yourself and the defendant had a dispute whilst you were at Chittaway is that the case? A. Yes.

Q. And indeed it led to I suppose you could say a separation? A. Yes.

Q. Now you then took possession of you say items of clothing of the defendant's, is that right? A. Yes.

Q. This was in August? A. Yes.

Q. And just how many items of clothing were there? A. I really couldn't count them.

Q. No, I realise, I'm not asking you to be exact. A large number, a small number? A. A bag about yea big and yea high.

Q. So what about a metre by half a metre? A. Yes, something like that.

Q. Now you then took those items back to your parents' place and you took them out of the bag, is that the case? A. Yes.

Q. And then you tidied them up and did you hang the jacket up did you? A. Yes, I did.

Q. The jacket's a soft jacket? A. Yes.

Q. And you I suppose shook it, patted it down, put it on a coathanger, put it in the wardrobe? A. I don't know if I shook it or not. I just put it on a - shoved it on a coathanger and put it in the wardrobe.

Q. But nevertheless you tidied it up, you pulled the sleeves out and you handled it? A. No, it didn't need tidying up. It was already folded. I just undid it and put it on a coathanger.

Q. Did you fold it? A. No. Ian had folded it.

Q. Whose bag was it in? A. His bag.

STANTON XX

JI-D1

Q. Now you gave the jacket to the police, is that right?

A. Yes.

Q. How did that come about? A. Detective Plotecki asked me if I had any clothes and I said "Yes, they're just down the back", so he came down with me and we went through the wardrobe together to sort out what was mine and what was Ian's.

Q. Well just tell me, if you can turn to paragraph 8-- A. Yes.

Q. --of your statement of 5 May 1990? A. Fifth - sorry. Yes.

Q. And if I can just take you to the third sentence, "Indeed I almost neglected to hand this jacket to the detective until the detective indicated it to me along with other items, asked if they were Ian's property". Well I take it from that what you're saying is that he indicated the jacket to you along with other property? A. He helped me go through the wardrobe, yes.

Q. So he pointed it out and asked "Is that Ian's property?"

A. Yes.

Q. It wasn't simply a situation then of him saying to you "Is there any unwashed clothes of Ian's" - I withdraw that - "Are there any washed clothes of Ian's?" and you saying "Yes"? A. I told him that I had washed all of Ian's clothes except for that jacket.

Q. But he then pointed the jacket out to you and asked "Is that Ian's?"? A. Yes. There were several jackets in the wardrobe.

Q. It wasn't a situation of you producing it to him and giving it to him? A. No, we went through it together.

Q. Now when you went through it - I'll withdraw that. Just back in that paragraph, "To my knowledge at the time I handed this jacket to Detective Plotecki I was not aware if there was anything in the jacket pockets or in the lining of the jacket", is that right? A. That's correct.

Q. Well I presume you'd searched through the jacket? A. No. I just picked it up. It didn't have anything heavy in it so I had no business to search through his pockets, and besides the lining and things are so torn--

Q. Well why did you say there was nothing in the - "I was not aware"? A. Because I was asked if I knew if there was anything in them.

Q. Well presumably if you didn't know the answer would have been "I don't know"? A. That's why Detective Plotecki went through them.

Q. So he went through it whilst you were there did he? A. We

STANTON XX

JI-D1

discovered it later on up at the police station.

Q. Well no, you see that's why Plotecki went through it. He went through it whilst you were there did he? A. Up at the police station.

Q. Didn't you just check the jacket out just to make sure there was nothing in there of yours? A. No. Why should there be anything of mine?

Q. Because you've worn it haven't you? A. Yes.

Q. Well why didn't you check it out to make sure there was nothing in it of yours? A. Because whenever I take my clothes off at night I'm very tidy, I take everything out of the pockets.

Q. When you go to a drycleaners to put your clothes in a drycleaners you check the pockets? A. I don't really need to. I always take--

Q. You never do? A. I'm very systematic that way.

Q. And so we have the diary with the entries? A. It's a diary cross notebook.

Q. Just back to these events of 5 May 1989, the Friday, right?

A. May '89.

Q. I put to you that the Flowers weren't present, I mean Mr--

BENCH: That's already been established, Mr Egan.

EGAN: Q. Are you sure that Mr Dodd was there? A. I'm positive of that.

Q. What was he doing? A. He was out tinkering around near the wood heap near the Mini.

Q. When you went to Bathurst - I'm sorry - when you went to Orange part of the reason was to verify Ian's tax file number wasn't it? A. Yes it was, I think. I'm not too sure on that. We toured around. I'd never been to Orange.

Q. And you toured around, that was in the Commodore? A. No. We went in the Mini.

Q. Whilst you were at Orange you had lunch, is that right? A. Yes.

Q. And you had lunch at the Park Hyatt Hotel(?) is that the case? A. I don't know what it's called.

Q. It was a hotel? A. Yes.

STANTON XX

JI-D1

Q. And you regarded yourself and Ian at one stage - the defendant at one stage being a de facto relationship? A. Yes.

Q. That relationship is obviously no longer in existence? A. No.

Q. The parting was not pleasant, is that right? A. That's correct.

Q. Indeed there's a certain degree of resentment about the circumstances of the parting, is that the case? A. No. I still have no resentment against him.

Q. Even though you say the parting was not pleasant in your opinion? A. The parting wasn't pleasant but that's beside the point.

RE-EXAMINATION

McINTOSH: Q. Can you tell the Court what the accommodation was in your house at Bathurst? A. Yes. It was three or four bedrooms, a big house, old kitchen and everything, that we shared with Ron and Leonie Flower and Lance Dodd.

Q. And did you and Mr Jones have a separate room-- A. Yes, we did.

Q. --from the others? You spent a lot of time together? A. Yes, we did.

Q. Away from the Flowers and Mr Dodd? A. It's a bit difficult in a house to spend too much time together alone so no, they were around most of the time.

Q. But you went on trips alone? A. Yes, a few.

Q. Now you said that on 6 May after you again saw Mr Jones that you went to the home of Jill and Tony?

BENCH: She didn't say 6 May.

McINTOSH: After--

BENCH: --she said he came back on 6 May, Mr McIntosh. She hasn't mentioned a date.

McINTOSH: Well I'll withdraw the question.

Q. You did go to the home of Jill and Tony? A. Yes, but I actually don't know if it's that date.

Q. Well that was my next question. Do you know when it was that--
A. I can't recall when it was, but I did meet two people with a rottie.

STANTON XX RX

JI-D1

Q. Where did Jill and Tony live? A. I can't tell you the street but it was a few streets away from where we lived in the top part of Bathurst, I don't know.

Q. Do you know their surname? A. No, I don't.

Q. You've also said that Mr Jones said that at some time he told you that they were the people that he was with when he was missing on the fifth and the sixth? A. I recall now that when we went around there he said "These are the friends I told you about".

Q. Well that's my next question, what were the exact words he used? A. "These are the friends that I told you about". I think that's what he said.

Q. But what did you take that to mean? Had there been any other previous conversation to him saying that to you? A. No, no. He hadn't left me before this day with friends while I was there. I just assumed that they were those friends. He didn't have all that many friends there that he was likely to go and stay with.

Q. Are you saying that when you went to the home of Jill and Tony that that's when he said that? A. Yes.

Q. It wasn't at some other later stage? A. No.

Q. Did he say anything else? A. No, not really. We all just sat and chatted in the kitchen.

Q. Did he say anything else about his absence on the fifth and sixth? A. No, he didn't.

Q. Now during your evidence you said that he didn't actually use the names Jill and Tony? A. I can't recall him using the names Jill and Tony. Quite often a lot of his friends had nicknames and I really can't remember them that much. I only met them once.

Q. What did you mean by he didn't use the names Jill and Tony?

BENCH: Well she's already said "These are the friends I have told you about".

WITNESS: Yes.

BENCH: --did that in cross-examination and it was also done in re-examination.

McINTOSH: Q. Is that what you mean by that? A. Yes.

Q. Now you were referred to your statement when you said you were told - you were aware that Mr Hughes supplied heroin to Ian, you were told that? A. Ian indicated that. He never used to tell me his business--

OBJECTION

STANTON RX

JI-D1

McINTOSH: Q. Was it Ian that told you that? A. Yes.

Q. And similarly was it Ian that told you that "Ian(?) has in the past bashed and robbed other drug users and generally stood over them for drugs"? A. Yes.

Q. The Court case at Kogarah you said that Mr Jones was charged with stealing? A. Yes.

Q. What was he charged - I'll withdraw that. What was the allegation - I'll withdraw that. What was it alleged that was stolen? A. He had taken from the flat in which we lived a stereo, a TV and I forget what else and either sold or hocked them, I don't know.

Q. And you were still having a relationship with him at the time that matter came before Kogarah Court? A. Yes, that's why I had to - I tried to retract the matter before that but they wouldn't do that.

Q. Who did you approach to retract the matter? A. The police.

Q. And what did they say?

BENCH: I've heard enough about it thank you, Mr--

McINTOSH: Q. One last question on that point. Were you in love with him at the time you withdrew that? A. Very much so.

Q. Now you've said that there was to be a criminal injuries compensation claim in respect of the attack with the knife?
A. Yes.

Q. Why wasn't that claim made?

OBJECTION. QUESTION ALLOWED.

WITNESS: A. We simply didn't get around to it and I think you have to do it in a certain period of time, so we didn't.

Q. Was there any formal decision made by you and Mr Jones not to make that claim?

OBJECTION. QUESTION WITHDRAWN.

WITNESS EXCUSED

BENCH: YES, WE'LL ADJOURN UNTIL TOMORROW MORNING AT 10 AM. BAIL IS REFUSED.

oOo