

COPYRIGHT RESERVED

NOTE: Copyright in this transcript is reserved to the Crown. The reproduction, except under authority from the Crown, of the contents of this transcript for any purpose other than the conduct of these proceedings is prohibited.

THE SUPREME COURT
OF NEW SOUTH WALES
CRIMINAL DIVISION

MATHEWS J

And a jury of Twelve.

WOLLONGONG: Monday 24 August 1992.

70162/90 - REGINA -v- IAN STUART JONES

CHARGE: For that he on 5 May 1989 at Potts Point in the State of New South Wales did murder John Gordon Hughes.

PLEA: Not guilty.

MR THOMPSON QC as Crown Prosecutor.
MR FINNANE QC for the Accused.

(Crown Prosecutor read the names of the main Crown witnesses to the jury panel. No further applications to be excused were made.)

JURY EMPANELLED:

FINNANE: Before the Crown opens, there is something I want to put to your Honour. I wonder if I could do that now?

HER HONOUR: Members of the jury, as I will be saying to you in just a few minutes, the division of functions in this trial is that I am the judge of the law and you are to be the judges of the facts. It does sometimes mean that if there are any matters of law to be dealt with they really need to be done in the absence of you, the jury, so that everybody can speak openly and without any danger of prejudice of you hearing, for instance, about evidence that might turn out to be inadmissible.

If you would not mind going with the officer who will show you the jury room. It sounds as though it will only be a short time. It will give you the opportunity of introducing yourselves to each other. You will obviously have enough time to get to know each other. We will be resuming shortly.

IN THE ABSENCE OF THE JURY:

(Mr Finnane raised with her Honour a point arising out of the remarks that her Honour made to the jury that was empanelled last week in referring to the accused as "the defence". Mr Finnane

stated that he always put to the jury that in our courts the accused is actually called "the accused", not "the defendant" because the Crown is making an accusation and he is not defending anything. Mr Finnane further said that it gave the wrong impression to the jury to talk about him being the defence.)

(Her Honour stated that this was the first time this matter had been raised with her and to avoid the word was almost impossible but that she would try to avoid the use of the word.)

IN THE PRESENCE OF THE JURY:

HER HONOUR: Members of the jury, before the trial proper starts I think I should just very briefly outline to you, in general terms, what you can expect to happen during the course of the trial and just say something, also briefly, about your role here in the trial.

First of all, what you can expect to happen during the course of the trial: the first thing that will happen will be that the learned Crown Prosecutor will address you about the Crown case and he, as you probably realised, is the senior counsel sitting down your end of the Bar table. His address is not part of the evidence. It is for the purpose of telling you in advance what the case is generally about and the type of evidence that the Crown will be relying on so that you will be in a position to put that evidence into context when it is called. So that will be the first that will happen, the Crown Prosecutor will open the Crown case and address you and tell you what the trial is all about.

He, after having done that, will then proceed to call the evidence in the Crown case, in other words, the evidence which the Crown will be relying upon in support of its charge of murder laid against Mr Jones. To the extent that that evidence consists of the oral evidence of witnesses - they will come into the witness box and, first of all, give their evidence-in-chief to the Crown Prosecutor and then Mr Finnane of Queen's Counsel, who is obviously the other counsel at the Bar table and who appears for Mr Jones, the accused, can cross-examine any of those Crown witnesses and they can be re-examined by the Crown Prosecutor.

To the extent that the Crown case depends on documentary material, they will be tendered as exhibits and all of those exhibits will be available for you when you deliberate the matter at the close of the trial. We will also ensure that any important exhibits be available to you so that you can keep up with them during the course of the trial.

When the Crown Prosecutor has put before you all the evidence at his disposal that he proposes to rely upon in his case or in the Crown case against Mr Jones, the Crown Prosecutor will close the Crown case and at that stage the accused, through Mr Finnane, may wish to put material before you or may not. If he does, the Crown has a very limited right to calling evidence in reply.

Finally, at the close of all the evidential material in the case each counsel will address you on behalf of his respective interest and finally, at the very end I shall sum-up to you. When I do that I will give you directions of law and briefly remind you of the evidence as it will have been given. But, I will also ensure that in so far as there are any important matters of law that you are told about them during the course of the trial so that you are not operating, as it were, in a legal vacuum.

Now, this brings me to saying what is probably the most important thing you need to know at the outset of the trial and relates to your own role, your own function here during the trial. As I said to you just a couple of minutes ago, on matters of law I am the judge. You are not brought in as representatives of the community and expected to know what the law is. I will tell you directly what the law is. I am the judge of the law in this trial but so far as the facts are concerned, it is you the jury who are the only judges of the facts. That is your fundamentally important role here in this trial and it means that if there is any conflict between evidence, any question as to whether some witnesses are to be believed or not to be believed, as to the weight which is to be attached to their evidence - all these assessments being entirely factual matters are entirely and exclusively within your domain.

That is your fundamentally important role in this trial and at the close of the trial within the legal framework, as I will have directed you that it is, it will be your fundamentally important role to determine the facts and on the basis of those determinations to bring in a verdict of guilty or not guilty according to the directions I will have given to you and subject to the matter which I will be saying to you in just a moment about the burden which falls on the Crown.

But what I am concerned to do at the moment is to simply make you realise right from the outset the importance of your fact-finding role in this trial so that right from the very beginning you can be looking critically at the evidence as it emerges, watching the witnesses critically, making your own determinations while the witnesses are there of how much you believe them, how much weight you attach to their evidence because these will be important assessments you will have to make during the trial.

When the evidence starts I will have writing material made available to you. Now, it is entirely up to you whether you do utilise this writing material. You may wish to do so and where there are a number of witnesses to be called, as is apparent there are in this case, it is often valuable for you to make notes and aide memoires so that you will be able to readily recall those witnesses and generally what they say. But, there is and will be a transcript available and although it is not normally made available to jurors, nevertheless, any parts of the evidence which you want to be read back to you can be read back to you and it is very important that you do not rely on faulty recollection or incomplete notes.

It is also very important that whilst taking notes you do not, as it were, let the trial pass away while you are so involved with note-taking that you miss what is happening in the court. It is important to sit there and watch the witnesses and so, as I say, it is a danger to be aware of, that you can get so carried away with taking notes that the trial, as it were, passes you by.

The final thing I want to say to you is this: that this being a criminal trial, it is for the Crown to prove the guilt of this man, Mr Jones. He walks into this court an innocent man and he has in his favour what I am sure you have all heard about, the presumption of innocence. It is one of the fundamental corner stones of our system of criminal justice, that all persons are presumed to be innocent until they are proved guilty. You have no doubt all heard that phrase. What it means is that it is for the Crown from the beginning to end to prove all the important matters in this trial. He need prove nothing whatsoever to you. The only person who need prove anything to you is the Crown and the Crown must prove the guilt of the accused beyond reasonable doubt before that presumption of innocence can be displaced. It is a heavy burden which the Crown bears in this, as in all criminal trials, in this community to prove the guilt of the accused beyond reasonable doubt.

So having said that, members of the jury, I think that is all I need to say to you at this early stage of the trial and the Crown Prosecutor will now commence - while I talk, Mr Crown, it is ten past eleven. Perhaps it would be more convenient for the jury to take an early break and then for you to keep going without any interruption.

CROWN PROSECUTOR: If the court pleases.

HER HONOUR: Members of the jury, we normally take a morning tea break at 11.30 but that would involve interrupting the Crown Prosecutor's opening, so I think we should take an early morning tea break and then we will go through without interruption. That will give you the opportunity of selecting a foreperson, as to which I simply say this:

As you know, this trial is expected to last for two weeks. How you conduct your deliberations at the end of it is entirely up to you. Often a foreperson of a jury is selected very early in the piece before you have had an opportunity to get to know each other particularly well. All I need to say to you is this, that the only necessary role of that foreperson is to act as the speaker, as it were, for you the jury when you need to communicate anything in this court room.

Whether that person also plays a dominant role in your deliberation processes is entirely up to you but it does not have to be so. It is entirely for you, all twelve of you, to determine how to conduct your deliberations. Your foreperson may have a dominant role in it but it is not a necessary part of that person's role, the only necessary part of that person's role is to be speak on behalf of the jury with any communications that need to be made to myself during the course of the trial and up to the end of the trial.

Having said that, members of the jury, would you mind going up to the jury room where you will be provided with refreshments and we will resume in about 20 to 25 minutes.

(The jury left the courtroom.)

IN THE ABSENCE OF THE JURY:

FINNANE: During the day what are your Honour's requirements so far as the accused is concerned?

HER HONOUR: I do not think at the moment he should be on bail during the day. There are real problems with people, as you know, within the precincts of the court. The four o'clock situation is entirely different, as it was last week, but I think during the day it would be inviting too many problems.

So I think I have to say that during the morning tea and lunch breaks and any other breaks during the day, I must refuse bail but the overnight situation obviously will be entirely different. Unless there is something different to it, otherwise I would be doing as I did last week.

CROWN PROSECUTOR: We did expect to have a fairly long witness today to give evidence - some very short witnesses, some long witnesses. We were notified this morning that that witness is ill. We would hope that he will be here tomorrow. What I am worried about, we may run short. We are trying to rustle up some people to fill in, as it were, any gap that might appear.

FINNANE: I have spoken to my learned friend about that. It seems important in my view for some sort of scene to be set and this particular witness was a man who took photographs and so forth. Without him it is really hard to envisage what actually occurred.

HER HONOUR: Who is this witness?

FINNANE: Detective Khoudair. He was the scientific officer who went to the scene and made a precise examination of the scene and took photographs and he is the one who examined various articles and so forth.

HER HONOUR: And when you say he is ill?

CROWN PROSECUTOR: Somebody contacted us. Apparently he had broken out in some sort of allergic reaction.

HER HONOUR: I think somebody had better impress upon him - it is not particularly controversial evidence, is it?

FINNANE: It is a matter of important detail. I may be a little while with him just to make parts of it clear.

HER HONOUR: You want him before too much other evidence is given?

FINNANE: We would, because otherwise I do not think anybody would really understand - I understand and my learned friend understands, having seen the photographs but it is difficult, we need someone to explain the photographs.

HER HONOUR: Do what you can - he cannot be here by two o'clock?

CROWN PROSECUTOR: We have spoken to the officer-in-charge of the case and indicated our difficulties. I will make some more inquiries.

HER HONOUR: If you would. It would be a pity to waste so much time. I understand Mr Finnane's point, it is difficult, particularly in a case like this which will be relying on circumstantial evidence, for the jury to be able to understand what is going on.

Do you have copies of documentary material for the jury?

CROWN PROSECUTOR: We do not have copies of photographs. We have copies of the aerial plan we had last week. There is material by way of photographs which show the various items found at the premises. There is a photogrammatic plan but it is very faint in its appearance.

FINNANE: I indicated to my learned friend this morning I was somewhat unhappy about that document. I thought a jury might get a misleading impression about it.

HER HONOUR: I have not seen the document.

CROWN PROSECUTOR: (Indicating to document) This is the photogrammatic plan here. It is very faint. It is a photogrammatic plan of the interior of the flat showing the body and the various articles which were seen in the flat. It is extremely detailed.

HER HONOUR: Is there any way, as the matters are being referred to, it seems like a shiny surface, of putting the items on when they are referred to?

CROWN PROSECUTOR: I will make some inquiries.

HER HONOUR: That might bring it to life for the jury and also physically make it easier to decipher.

(Discussion ensued.)

SHORT ADJOURNMENT:

(Crown Prosecutor stated that he had spoken to Det Khoudair who was in bed with the flu and that he had stated that he feels he will be present tomorrow but had been told by a doctor that he should not travel today.)

IN THE PRESENCE OF THE JURY:

(Crown Prosecutor opened to the jury.)

IN THE ABSENCE OF THE JURY:

(Crown Prosecutor stated that he had observed that a juror slept or dozed through practically the whole of his opening address, the juror being the gentleman seated up the back, second from the end on the right. He further said that he wondered about the juror's ability to remain alert throughout the trial and about the state of his health. He further said that he was not seeking that he be discharged at this stage but would try to keep an eye on him.)

(Her Honour stated that there was nothing that could be done at the moment but would see how things developed.)

IN THE PRESENCE OF THE JURY:

HOWARD JOHN FOX
Sworn and examined:

CROWN PROSECUTOR: Q. Constable, is your full name Howard John Fox?

A. Yes, it is.

Q. You are a Constable of Police?

A. Yes, that is correct.

Q. On 6 May 1989 were you working at the Kings Cross police station?

A. Yes, I was.

Q. What were your hours of duty that day?

A. From 7 am to 3.30 pm.

Q. You were at one stage working at the inquiry counter, is that correct?

A. Yes, that was my rostered duty for the day.

Q. A person came into the police station, a particular person?

A. Yes.

Q. Do you remember when that was?

A. Yes, it was shortly before 1.30 pm that afternoon.

Q. He gave you his name?

A. He gave me a name.

Q. What name was that?

A. He gave me the name of Bill St John.

Q. You have since ascertained his real name?

A. Yes. I later found out that his real name was Aaron Hill.

Q. He told you something?

A. Yes, he did.

Q. Did you go and have a conversation with Det Scullion?

A. Yes, I did.

Q. Did you go with Aaron Hill and Det Scullion somewhere?

A. Yes, I did.

Q. Where did you go to?

A. We went to a block of units at the corner of Greenknowe Avenue and Baroda Street, Kings Cross.

Q. What happened when you got to those premises?

A. When we got there Mr Hill took us to unit number [REDACTED].

Q. Do you remember how you got in?

A. Yes. We got in through the security doors. I think Det Scullion buzzed one of the occupants through an intercom.

Q. And you were let in?

A. Yes.

Q. You went up to unit [REDACTED], is that correct?

A. Yes, that is correct.

Q. That is on the third floor?

A. Yes.

Q. What happened after you arrived outside unit [REDACTED], what did you see?

A. When we arrived there I noticed that the front door to the unit was slightly ajar. Det Scullion and I entered the unit. The unit was a small, one bedroom bachelor type unit. As I entered I saw a male person laying face down on a double bed to the left of the front door.

I noticed that the male person had a pillow case over his head and a leather strap around his neck and through the leather strap was a silver coloured pair of kitchen tongs which had been twisted, tightening the leather strap around the neck of the male person.

I also noticed that his hands were tied behind his back with an electrical cord and his legs were tied with a similar type cord. There were also broken pieces of a ceramic type pot on the bed around the male person's head. The male person appeared deceased.

Q. Did you see anything of a heater?

A. Yes. In the room there was a small blow heater which was on and there was also a television which was turned on.

Q. Did you notice anything about the volume of the television?
A. It was only very low.

Q. Were there any lights on inside the premises?
A. Not that I can remember.

Q. After making those observations you left and you went back to the police station?
A. Yes, I went back to Kings Cross police station.

Q. And you later returned again to the flat with a Det Sgt Spain?
A. Yes, that is correct.

Q. You stayed there for a short time only, is that correct?
A. Yes.

Q. Might I show you this photocopy of a page out of a road directory. (Shown) Do you recognise what is shown there?
A. Yes, that is a photocopy of a map of the Kings Cross, Elizabeth Bay, Potts Point area.

Q. I think indicated in green is where the block of flats is, is that correct?
A. There are two marks in green there, one at the corner of Greenknowe Avenue and Baroda Street, that is the block of units. There is also another green mark on the map.

Q. What is the other green mark?
A. The other green mark is the Kings Cross police station in Fitzroy Gardens.

Q. You had initially walked from the police station to the block of flats, is that correct?
A. Yes, that is correct.

Q. About how far from the block of flats is the police station?
A. Between 300 and 400 metres.

PHOTOCOPY OF ROAD MAP TENDERED: ADMITTED WITHOUT OBJECTION AND MARKED EX A.

HER HONOUR: Members of the jury, as I told you, all the original exhibits will be with you certainly when you retire to consider your verdict and probably during the adjournments, the morning tea adjournments in any event.

(Jury given copies of Ex A and also show the original by the Crown Prosecutor.)

CROSS-EXAMINATION:

FINNANE: Q. This man who came to see you was obviously in an agitated state when he arrived, would you agree?
A. Yes, he appeared nervous and upset.

Q. He gave you a false name, as you found out later?
A. Yes.

Q. Bill St John I think was the name, was it not?

A. Yes, that is correct.

Q. Was he accompanied by somebody else?

A. No, he was by himself.

Q. Would it be true to say you later found out he was Aaron Hill?

A. Yes.

Q. Aaron Hill was somebody who was known to police as a drug user, an intraveous drug user, is that right?

A. Not personally to me.

Q. But do you know that from your discussions with the other police in the matter?

A. Since that date I have found that out, yes.

Q. He died because of intravenous drug use?

A. So I have been told, yes.

Q. He claimed to have first-hand information that his friend had been murdered, is that not the position?

A. Yes

Q. That caused you, of course, to very quickly get help from Det Scullion and go there as fast as you could?

A. Yes, that is correct.

Q. A very startling piece of information?

A. Yes, it was.

Q. When you got to the flats in Greenknowe Street - it is not very far from the centre of Kings Cross really, is it?

A. No, it is not.

Q. What, would it be five or ten minutes on foot from where you were at the police station?

A. Five minutes at the most, I would say.

Q. That area of Kings Cross unfortunately is an area where there are many drug users around the place, is it not?

A. Yes.

Q. When you got to this building did you observe it was a place that you could get entry to only by pressing some sort of a buzzer and indicating who you were?

A. Yes, unless the door had been left open by somebody.

Q. Of course, it would be pretty easy if somebody else was going in for you to follow them in if you were a passer-by?

A. Yes, it would.

Q. The door itself into the flat that you say was partly ajar, did that have a peephole in it, do you understand what I mean?

A. Yes.

Q. One of the little holes in the door where the person inside can look out?

A. I cannot say whether it did or not. I cannot say for sure.

Q. Did you notice whether it had deadlocks on it?

A. No, I did not.

Q. I think you described it as a one room bachelor flat?

A. Yes.

Q. It had windows overlooking something or other presumably, did it?

A. Yes.

Q. What did it look out on to, the windows?

A. The only window that I noticed, there is a window that looks out over Baroda Street.

Q. And would you say that this particular flat was in a longish hallway?

A. What do you mean by "longish"?

Q. Well were there a number of other flats in this hallway?

A. Yes.

Q. A number of other hallways?

A. Yes.

Q. Were the walls what you would call just plain walls with a number of doors in them?

A. Yes, yes.

Q. Was the place quiet when you got up there?

A. Yes.

Q. Nobody else around that floor that you went to?

A. No. We did speak to residents but at the time we arrived there there was nobody in the corridor or anything.

Q. The sort of place that you got the impression if you walked into you could walk in and out unnoticed?

A. Yes, you possibly could.

Q. Anyhow, this door was ajar?

A. Yes.

Q. Slightly?

A. Yes.

Q. Inside you saw what appeared to you to be a dead body?

A. Yes.

Q. Somebody who had apparently been dead for more than a few minutes, at any rate?

A. Well, I would presume so. I could not say for how long.

Q. But, a flat with a door ajar, dead body inside and until you arrived there apparently no one in the vicinity noticing this, would that be right?

A. Nobody that came forward, no.

Q. The only person who drew this to your attention was Mr Hill?
A. Yes, that is correct.

Q. He claimed to have seen it, as I understand it, from outside the building?
A. No he did not.

Q. Didn't tell you how he saw it?
A. No.

Q. And for all you knew he might have come up and gone into the flat himself?
A. Who is that, Mr Hill?

Q. Mr Hill?
A. Yes.

Q. He was with you and Det Scullion and I think another detective was there?
A. Yes, Det Harrison was with us as well.

Q. So the three of you and Hill were there?
A. Yes.

Q. You were the only uniformed officer, I think?
A. Yes, that is correct.

Q. And when you went into the flat was it your impression that the flat was one which, apart from the body being on the bed, was largely undisturbed?
A. I would say it was undisturbed. It was untidy but I wouldn't say it had been disturbed.

Q. When I say disturbed, I think you and the police officers had been to other dwellings where burglaries had been and places had been ransacked?
A. It definitely didn't appear to have been ransacked, no.

Q. You saw there what appeared to be a dead body of a man lying on a bed with some sort of broken pot about his head?
A. Yes.

Q. And obviously it appeared to you as an observer to have been strangled, he had something around his neck, a cord?
A. Yes.

Q. And appeared to have been tightened, using this kitchen tool?
A. Yes.

Q. But apart from that nothing in the place appeared to have been particularly disturbed?
A. No.

Q. You yourself didn't take part in any search of the premises, would that be right?
A. No, I didn't.

Q. And you were there for a very short time?

A. Yes, that is correct.

Q. And then you were despatched back to the police station?

A. Yes.

Q. And asked to get the assistance of other people?

A. Yes.

Q. Is that right?

A. Yes.

Q. Then Scullion and Harrison were left there with Hill, is that right?

A. Yes.

Q. He didn't go back with you, Hill?

A. No, he didn't.

Q. And that is the last you saw of this particular building?

A. I returned to the building with Det Sgt Spain and then I was only there for a very short time then and then I went back to the police station.

Q. When you returned with Spain was that merely to take him to the site that you had been to?

A. Yes.

Q. You didn't stay with Spain?

A. No, I didn't.

Q. And you didn't return after that?

A. To the unit?

Q. Yes.

A. No.

Q. You have had nothing to do with this since then?

A. Since then? No.

RE-EXAMINATION:

CROWN PROSECUTOR: Q. You said, I think, that Hill appeared nervous and upset?

A. Yes, that is correct.

Q. Did he have any appearance to you of being affected by alcohol or drugs?

A. No, he didn't. He just appeared sober, not affected by drugs. He just appeared upset.

WITNESS RETIRED

DEATH CERTIFICATE RELATING TO AARON LEE HILL TENDERED: ADMITTED WITHOUT OBJECTION AND MARKED EX B.

HER HONOUR: Members of the jury, it shows that Aaron Lee Hill died on 29 April 1991, as you will see, from acute intravenous narcotism, administration of morphine, diamorphine.

It is not the cause of death that is significant in this case but the fact of death in order to explain his absence, because otherwise, you would expect as the person who first alerted the police to the victim's home, that he would be in a position to give highly relevant evidence. So the only significance of this is to explain why he is not here to give you that evidence. So that is Ex B.

NEVILLE JOHN SCULLION
Sworn and examined:

CROWN PROSECUTOR: Q. Detective, is your full name Neville John Scullion?

A. That is correct.

Q. What is your rank?

A. I am now a Detective Sergeant of Police attached to Kings Cross.

Q. Where were you attached on 5 May 1989?

A. Attached to the Kings Cross detectives.

Q. Did you know the man John Gordon Hughes?

A. Yes, I did.

Q. When did you last see him alive?

A. At about 3.30 pm on Friday, 5 May 1989.

Q. Whereabouts did you see him?

A. He was seated in the Mirras coffee lounge in Darlinghurst Road in Kings Cross.

Q. Was he with anyone?

A. No, he was on his own.

Q. You had known Hughes for how long?

A. A period of approximately eight years.

Q. You had seen him, what, around that area?

A. Yes, I had seen him frequenting Kings Cross and I knew that he lived in the area.

Q. About 1.35 pm the next day, the Saturday, were you in the detectives' office of the Kings Cross police station?

A. Yes, I was.

Q. When Const Fox spoke to you?

A. That is correct.

Q. And did you, after that, speak to a man Aaron Hill?

A. That is correct.

Q. Did you go with Const Fox and Hill to a flat at Greenknowe Avenue in Potts Point, flat [REDACTED] at number [REDACTED] Greenknowe Avenue?

A. That is correct.

Q. Did anyone else go with you at that time?

A. Yes, Det Harrison was with us at the time.

Q. You went to the third floor after being let into the premises?
A. That is correct.

Q. Do you remember how you were let in?
A. If I recall, I buzzed for the caretaker to allow us through the front entrance doors which are in Baroda Street, Kings Cross and then took the elevator to the third floor.

Q. Would you tell the court what happened after you arrived outside flat number [REDACTED]?
A. We arrived at that unit and I noticed that the door was open, slightly ajar, that the lock was intact.

I then entered the room and on entering it I saw that it consisted of one small room with a small kitchenette to the right side. There was a television and heater which were both on.

To the left of the room I saw a doorway leading to a bathroom. I then saw the body of the deceased lying face-down across a double bed in a room facing towards the northern wall of the room. I saw that the hands had been bound behind the back with an electrical cord, as too had the legs been bound with electrical cord just above the ankles.

There was a pillow case placed over the deceased's head. There was also electrical cord and a leather belt bound around his neck. There was a pair of kitchen tongs which had been entwined in that binding. I noticed there were bloodstains on the pillow case and on the bed around the area of the head of the deceased and I also saw there were pieces of ceramic on the bed around the head of the deceased.

Q. Did you see any articles near the right side of the body?
A. Yes. Just to the right of the body I saw some folders with some papers scattered about the bed. There was also a large kitchen knife about 30 centimetres in length with blood stains on the knife.

Q. What appeared to you to be blood stains?
A. What appeared to be blood stains, yes.

Q. Were you present when other police arrived at the premises?
A. Yes, I was.

Q. And fingerprint police attended whilst you were there?
A. Yes, that is correct.

Q. And Det Khoudair - -
A. From the Crime Scene Unit, he also was at the unit.

Q. Det Plotecki?
A. Yes, he arrived whilst I was there.

Q. Were you involved in a search of the flat?
A. In a cursory search, that is correct.

Q. How did it appear to you, the flat, when you first went into it?
A. It appeared to be cluttered but it was tidy. It was very small room with a lot of articles in the room.

Q. How long were you at the premises?

A. I had arrived there shortly after 1.35 pm and I remained there until approximately 10.30, 11 pm that evening.

Q. You saw a number of police inside the flat?

A. Yes, that is correct.

Q. Did you see them moving around looking at things, touching things?

A. Yes, I did.

Q. Did you yourself look around the flat examining things, looking at things?

A. Yes, I did.

Q. Would you look, please at this article. (Shown) Did you see that book at any time that night in the unit?

A. No, I did not.

Q. Did you see doctors arrive at the flat?

A. Yes, Dr Oettle and Dr Schwartz.

PASSBOOK MFI 1.

Q. On Wednesday, 4 October 1989, were you at Kings Cross police station?

A. Yes, I was.

Q. Did you see the accused at the Kings Cross police station on that date?

A. Yes, I did.

Q. Do you remember what time it was when you saw him?

A. My recollection is it was some time during the late afternoon.

Q. Det Plotecki was with the accused?

A. No, not at that stage. I made certain inquiries and caused Det Plotecki to attend.

Q. That was after you first saw the accused that you saw Det Plotecki?

A. That is correct.

Q. Did you hear a conversation eventually between Det Plotecki and the accused?

A. That is correct.

Q. Do you remember that conversation?

A. Not in whole I don't, I am sorry.

Q. Some recollection of the conversation?

A. Det Plotecki asking - the conversation went along the lines of he wanted to find out from the accused his movements leading up to the time of the murder of Hughes.

Q. Do you remember anything that the accused man said?

A. Yes, in part. He replied along the lines he had nothing to worry about, he had been in Bathurst over that period of time and he would supply us with a statement freely.

Q. There was a statement obtained?

A. That is correct.

Q. Was that a typed statement?

A. Yes, it was.

Q. Who typed that statement, do you know?

A. My recollection was that Det Plotecki was doing the typing.

Q. You were present when the statement was obtained from the accused?

A. That is correct.

Q. he was saying things to the police?

A. That is correct.

Q. What he was saying was being typed?

A. Was being typed down as it was being said.

Q. Did you see what happened after the statement was completed?

A. Yes, the witness, the accused, I am sorry, read through the statement.

Q. Did he read it aloud or appear to read it to himself?

A. He appeared to read it to himself. He then signed it and Det Plotecki witnessed his signatures.

Q. Was a copy given to the accused that you remember?

A. Yes, it was.

Q. Would you look please at this document. (Shown) What do you say about that six page document?

A. That is the document to which I have just referred.

STATEMENT OF ACCUSED MFI 2.

CROSS-EXAMINATION:

FINNANE: Q. Sergeant Scullion, you said that you made a cursory search of the premises - what do you mean by that exactly?

A. Just a brief look around the room to see if there may have been any clues to assist us with inquiries.

Q. When did you do that?

A. It was some time during the evening. I could not say exactly what time it was.

Q. I realise this is rather subjective but how cursory was this looking around for clues?

A. Well, very cursory, if I could use that terminology. It was not a thorough search.

Q. What were you looking for exactly?

A. As I said any clues that might assist us with the inquiry at that point in time.

Q. I take it you then did not take part in any detailed search of the premises?

A. That would be correct, yes.

Q. Was one conducted while you were there at all?

A. Not whilst I was there.

Q. So, you were there from about what, 1.30 until 11 o'clock at night?

A. Approximately, yes.

Q. What was going on in those nearly 11 hours?

A. The fingerprint police were conducting examinations outside of the room, the scientific person - -

Q. When you say outside of the room, where do you mean?

A. They conducted an examination within the hallway and area leading to the room. The scientific man was in attendance.

Q. There were two fingerprint people?

A. From my recollection there were two there, yes.

Q. There was the scientific man and that is I think a police officer called Khoudair?

A. Yes, that is correct.

Q. That is three?

A. Yes.

Q. How many other people were there?

A. At any given time I would be unable to say but there were a number of police who did attend the scene at that time.

Q. What was your role in staying there until 11 o'clock at night? Were you in charge of the scene?

A. Basically you could say I was in charge of the scene, yes.

Q. I gather that Const Fox was despatched back to the police station to bring other police?

A. Yes, that is correct.

Q. What was the purpose of bringing these other police? Have they some role in this?

A. Well, they would have during the initial inquiries, yes.

Q. You did a cursory search looking for clues, nothing more than that and what else did you do in the time you were there?

A. To be quite frank, stood around waiting for other police to perform their particular functions.

Q. You stood there and the fingerprint people were outside and the scientific man was inside?

A. Yes.

Q. And there were other people there as well by then, weren't there?

A. Yes.

Q. What were the other people doing there apart from the scientific people and the fingerprint people?

A. Det Senior Sgt Spain was also present.

Q. What was he doing?

A. I briefed him on what was taking place. He allocated duties to other police.

Q. In the flat, things to do in the flat or things to do outside?

A. Within the block of units.

Q. Speaking to residents and so on?

A. Yes.

Q. This flat is numbered [REDACTED] - do we take it from that that the building is a vast building with hundreds of occupants or is that merely some numbering because it is the third floor?

A. Well, there are a great number of flats within that block, yes.

Q. How many storeys is it?

A. I think it is six or seven floors.

Q. Six or seven floors?

A. Yes.

Q. Do you know how many flats were on this particular floor, the third floor?

A. No, I am sorry, I am unable to say.

Q. Would there be more than say three?

A. Yes, I believe so.

Q. Could there be as many as ten?

A. Yes.

Q. Now, when you got to the exterior of the premises you alerted the caretaker or somebody like that to let you in, did you?

A. Yes, that is correct.

Q. Did you do that by pressing a buzzer that activated a type of a microphone?

A. Yes, that is correct.

Q. He emerged from inside the building to let you in?

A. Yes, that is correct.

Q. Once you were in the building you then went up to the third floor, of course?

A. Yes, that is correct.

Q. Were there any other people around that third floor when you got there, around the corridor?

A. No, to my recollection there was not.

Q. The door itself, did it have a peephole in it?

A. I am sorry, I don't recall.

Q. What about the locks, what sort of locks did you observe it to have?

A. I am just trying to remember what you call the lock. It is not a dead lock.

Q. Not a dead lock?

A. From my recollection, no.

Q. Did it appear to you that the body had been left there for some time, more than a few minutes at any rate, with the door open in that way?

A. Yes.

Q. Probably had been there for some hours unnoticed, perhaps more than that?

A. Yes, that would be correct.

Q. Now, the man Hughes you knew as a drug dealer, did you not?

A. That is correct.

Q. Somebody that the police kept an eye on in the Kings Cross area?

A. Yes, you would say that.

Q. He was a very unhealthy looking man?

A. Insipid I would say.

Q. Very thingy?

A. That is correct.

Q. Very bad skin colour?

A. That is correct.

Q. Known as an active homosexual?

A. That is correct.

Q. Who liked young men?

A. I could not go as far as to say his exact personal habits but he was a homosexual, yes.

Q. Is there a place in the Darlinghurst area not far from here known as "The Wall"?

A. That is correct.

Q. Is that in fact the wall of the old Darlinghurst gaol, now the Sydney Technical College?

A. Yes, that is correct, an old sandstone wall that runs at the rear of the District Court there.

Q. Facing St Vincent's Hospital?

A. The Hospice.

Q. The Hospice?

A. That is correct.

Q. Is that a place, that wall, where homosexual prostitutes hang out?

A. Yes, that is correct.

Q. Is it a place that Hughes used to frequent looking for people?

A. I can't say that for sure.

Q. It certainly would not surprise you?

A. No, it would not.

UPON RESUMPTION:

HER HONOUR: You are still bound by the oath to tell the truth that you took earlier.

FINNANE: Q. Sgt Scullion, you said that you conducted a cursory search of the premises. That was the only search you conducted, would that be right?

A. Yes, that is correct.

Q. Did anybody conduct this cursory search with you, or was this something you did yourself?

A. No, it was in conjunction with the scientific man.

Q. What was his name?

A. Khoudair.

Q. He was taking photos?

A. Yes, that is correct.

Q. When you were conducting this search to look for clues did you make any particular notes of objects you found, documents, items of clothing or anything of that nature?

A. Det Khoudair was taking notes in a form of a running sheet. I believe I may have taken some notes at the time.

Q. But you left it to him, basically?

A. Yes, that is correct.

Q. Would that be right?

A. Yes.

Q. I think after 11 o'clock you then left the premises and did not go back that night, would that be right?

A. That is correct.

Q. Did you go back to the premises at all after that on any occasion?

A. Yes, I did.

Q. For what purpose?

A. I am just trying to recall how many times I did in fact go back to the premises. I went back on one occasion in search of a cash box which was located and another search of the room regarding some information that was given to us. There was also a canvas conducted within the building. I don't recall exactly how many times I went back there.

Q. So on at least one other occasion you went back with a view to finding something, locating something that had not previously been located?

A. Yes.

Q. And you located it?

A. Yes.

Q. Well now, you were then involved in the inquiry in other ways, were you not?

A. Yes, that is correct.

Q. An inquiry into what was obviously a murder?

A. Yes, that is correct.

Q. The circumstances suggested to you, did they not, that the murderer was someone who was let into the flat by the deceased man Hughes?

A. Yes, that would be correct.

Q. Either someone who had gained access to the building below by perhaps following somebody in and then knocking on the door or someone who had alerted him in some way by making a previous appointment or the like that he wanted to see him or someone who actually knocked physically on the door?

A. Yes, that is a possibility.

Q. Also from the street you could actually signal the flat, could you not?

A. Yes, that is correct.

Q. Each flat was connected by a type of microphone device?

A. An intercom system.

Q. An intercom system from the street. You pressed a button and the occupant of a flat could say, "Yes, I will let you in." or, "No"?

A. Yes, that is correct.

Q. If the occupant of the flat said, "Yes, I will let you in", then they could press a button and the door to the building could actually open?

A. Yes, it can be opened.

Q. That is the system that operated?

A. Yes, that is correct.

Q. As well as that somebody could attempt to let the caretaker let them in, as you did?

A. Yes.

Q. Or he could wait till somebody else was going into the building and follow them in?

A. That is a possibility.

Q. So there are a number of ways of getting into the building?

A. Yes, there are.

Q. As far as getting into any flat is concerned, in particular this one, unless you were going to force your way in, obviously it would be necessary for the occupant to let you in?

A. That would be the highest probability, yes.

Q. That was the highest probability in this case?

A. Yes.

Q. That was certainly no suggestion of somebody coming through the window of the premises, breaking into the place in any way?

A. Not breaking into, no.

Q. What were you were looking to then was, with the other police, talking to all the people that you established had some contact with the deceased -

A. Yes.

Q. - in the previous weeks or months before his death?

A. That is correct, yes.

Q. In the course of that you, of course, spoke to quite a few people yourself?

A. Yes, that would be correct.

Q. And other police spoke to many people as well?

A. That is correct.

Q. And you got statements from quite a number of them?

A. Yes, that is correct.

Q. And one of the many people that you spoke to was the accused in this case, Mr Jones?

A. That is correct.

Q. So he, at the time he was spoken to, if I could put it this way, wasn't someone who was being singled out, he was one of a number of people who were being questioned to see what they might know?

A. That is correct.

Q. And virtually the first thing he said to you when the matter was raised about a statement was something to the effect, "Sure, I am prepared to give you a statement. I was in Bathurst at the time. I've got nothing to worry about," or words to that effect?

A. Yes, that is correct.

Q. So he quite willingly sat down and spoke quite freely to you and the other detective?

A. That is correct.

Q. Well now, I take it the man Hill who came to the police station was also asked to make a statement?

A. Yes.

Q. There were other people who were associated with Hill or with the deceased Hughes that were asked to make statements?

A. Yes, that would be correct.

Q. And many of them, of course, lead to nothing?

A. That is correct.

Q. Well now, can you remember anything specific that you located, you, yourself, on your cursory examination of the premises?

A. No, not that evening, no.

Q. I think subsequently you came back and you found, what, that cash box?

A. Yes.

Q. And was that hidden somewhere?

A. No, it wasn't hidden but there was relevant information in regard to that cash box.

Q. Were was that cash box?

A. I believe, as you go into the room it was in a cupboard on the right hand side, or near a cupboard on the right hand side.

Q. Are you able to recollect now when it was that you located this cash box?

A. It was some time after the event.

Q. By some time after, are you speaking of weeks after, months after, days after?

A. Days to weeks.

Q. Tell me, was there any attempt on that night to physically seal off the premises, the flat itself to outsiders?

A. As far as I was aware and concerned the unit had been sealed on that night.

Q. Was there any particular officer in charge of ensuring that, you know, curious people in flats couldn't come in?

A. There was no specific police officer placed as a guard there but the unit was locked.

Q. At what time was it locked?

A. Det Plotecki returned to that unit with some other police later that evening and it was locked by them when they left.

Q. And that is something he told you later?

A. Yes, that is correct.

Q. You I think were not there at the time?

A. That is correct.

Q. The door itself you think just had a single lock on it?

A. From my recollection I think that is correct.

Q. From what source did the keys to the flat come to enable it to be locked?

A. I think we obtained a spare set from the caretaker.

Q. So, apart from the late man, Hughes, the man Hughes, the caretaker had a set of keys to get into the flat?

A. I am not sure if in fact he had the keys or he arranged the keys through the real estate agent.

Q. But there appeared to be, somewhere or other, another set of keys available?

A. Yes.

Q. I think you said to the Crown Prosecutor that Dr Oettle and Dr Schwartz arrived?

A. Yes, that is correct.

Q. Both those doctors are people whose job it is to examine deceased persons largely and determine the cause of death, would that be right?

A. Yes, that is correct.

- Q. Do you know what time it was they arrived?
A. No, I'm not sure. I could not put a time on it.
- Q. It was some time obviously before you left at 11 o'clock?
A. Oh, yes.
- Q. Were they there long?
A. Yes, they were there for some period of time.
- Q. What is a period of time - half an hour?
A. No, it would have been longer than half an hour but again I cannot say exactly.
- Q. It would have been longer than that?
A. Yes, I think so.
- Q. The flat itself had a heater on?
A. Yes, that is correct.
- Q. When you got there, one of the blow type heaters?
A. Yes, a small floor blow heater.
- Q. The television set was on?
A. Yes, that is correct.
- Q. Did it appear to you as if both of these had been on obviously for some time?
A. Well, I could not say so much about the television but I would assume that the heater may have been on for some period of time as the room was warm.
- Q. I think the window was shut, was it not?
A. The kitchen window.
- Q. Yes.
A. At the time that we arrived it was open.
- Q. It was open?
A. Yes.
- Q. But nevertheless, the flat itself was quite warm?
A. Not overly warm but you could feel that the heater had been on, yes.
- Q. It appeared to you that whoever did this murder was someone who may have been known to the deceased?
A. Yes.
- Q. Perhaps only temporarily, he may have only known him that day?
A. Well, that is a possibility, yes.
- Q. Or he may have been some long-standing acquaintance?
A. That is correct.
- Q. But certainly someone that he let into the place?
A. You would assume that is how they gained entry, yes.

Q. There being no evidence of forced entry?
A. That is correct.

Q. The murderer apparently, as far as you could see, left the premises with the door ajar?
A. No, that would not be totally correct.

Q. What would be the correct position?
A. The door I believe was closed when the person Hill found the deceased.

Q. So, between the time Hill found the deceased and the time you arrived the door had become open?
A. Had been left ajar, that is correct.

Q. According to what Hill told you?
A. That is correct.

Q. He claimed I think that he had gone up a drain pipe and looked through a window?
A. Yes, that is correct.

Q. And within half an hour or so you were there, as far as you could tell, from the time that he claimed to have seen this, you were there in the premises with him?
A. Yes, that is correct.

Q. He had thought, as I understand from what he first said, that the deceased had a knife in his back?
A. Yes, that is correct.

Q. That of course was wrong, he did not have a knife in his back?
A. That is correct, yes.

Q. So, if Hill was telling the truth or was not mistaken, one or the other, the door was closed at the time?
A. Yes.

Q. And some other person or persons opened it before you arrived?
A. No, my understanding was he gained entry to the flat via the window and then left through the door and came straight to the police station.

Q. That accounted for the window being open?
A. Yes.

Q. Did it appear to you that the window had been forced?
A. No, it did not.

Q. So, another way of the murderer getting into the flat would have been to do precisely what Hill did, go up the drain pipe and climb through the window?
A. That is correct.

Q. And then out through the door or back down the drain pipe?
A. Yes.

Q. So there was always the possibility then, apart from a person who knew the deceased being either the murderer or connected with it, that some other person, an intruder came in without forcing his way into the premises and carried out this execution?

A. They could have gained entry the way Hill did, yes.

Q. There appeared to be no sign of a struggle, would that be right?

A. Yes, that would be correct.

Q. The man, the deceased was not a big man?

A. No, he was not.

Q. But nevertheless, one could normally expect if he was confronted by an assailant he might perhaps struggle - that would be a normal human reaction?

A. It would be, yes.

Q. As far as you could tell from your memory, the door had only one lock on it, not a dead lock but just an ordinary lock?

A. Yes, from my recollection.

Q. To deal with the possibility of intruders no doubt the fingerprint people were taking fingerprints all over the place, weren't they, outside in the hallway and windows and so on?

A. That is correct.

Q. That is not something you had anything to do with directly?

A. No.

Q. Apart from outlining to them what you viewed of the circumstances?

A. That is correct.

Q. Leaving it to them to get on with whatever they had to get on with?

A. That is correct.

Q. When you went back, if I can just ask you this, when you went back and you found this money bag, is that how you described it?

A. Cash box.

Q. What was that, a metal tin?

A. Yes, a small metal cash box.

Q. Did you conduct a search for anything else?

A. Yes, I did.

Q. Did you conduct a search for anything else or were you merely looking for your cash tin?

A. No, I did search for other things.

Q. Are you able to recollect now - you cannot recollect which day it was that you searched for other things?

A. No, that is correct.

Q. You were looking for specific things that you were told might be there?

A. Yes.

Q. Did you locate the specific things that you were told might be there?

A. No, I did not.

Q. Was there anybody with you when you conducted the search?

A. Yes, there was.

Q. Who was that?

A. I can't recall who it was. It was somebody from the Kings Cross detectives' office, though.

Q. All you located was this cash tin?

A. That is correct.

Q. Do you know how many people had access to the flat between the time you were there on the night of 6 May and the time you came back and looked for the cash tin?

A. I do not believe there would have been access by many people, whether police went back there or not, I just can't recall but it was not open for people to walk in and out of.

Q. After you left the scene who took over as the person in charge?

A. I can't quite recall now who was left at the premises.

Q. Well, was there some person designated after that time to effectively be the person in charge of security over this flat - I don't mean just on that night but generally after that time?

A. I am just trying to recall if we did in fact leave a guard there that night. After that night there was no guard but I just do not recall now if we had left the guard there after I in fact had left the premises and the time at which Det Plotecki and the others returned there.

Q. Who was in charge of the case, if I can use that expression, after you left the premises? Did you remain in charge of it or was it some other person?

A. Well, Det Senior Sgt Spain was effectively in charge overall. I played a certain part in the initial investigation and some follow up inquiries.

Q. Who decided who went into the flat after this night; was it you or some other person?

A. No, Spain would have made those decisions.

Q. He would make those?

A. Yes.

Q. So everybody reported to Spain?

A. Yes.

RE-EXAMINATION:

CROWN PROSECUTOR: Q. Was there anything found in the cash tin?

A. No, there was not.

Q. When you went back ^{and} at the cash box was found you were looking for something else, were you?

A. As well, yes.

Q. What were you looking for?

A. Drugs.

Q. Did you find any drugs?

A. No, I did not.

Q. Did you look in any particular area?

A. Yes, I did.

Q. Whereabouts did you look?

A. In the seal around the door of the refrigerator and inside the tubing of the towel rail in the bathroom.

Q. And nothing was found in either area?

A. That is correct.

WITNESS RETIRED & EXCUSED

LINDA JANE HARRISON

Sworn and examined:

CROWN PROSECUTOR: Q. Detective, is your full name Linda Jane Harrison?

A. It is.

Q. What is your rank?

A. Detective Constable 1st Class.

Q. You are stationed where?

A. At the Armed Hold-up Squad, South West Region.

Q. Where were you stationed on Saturday, 6 May 1989?

A. Kings Cross detectives' office.

Q. Did you go to flat [REDACTED] at number [REDACTED] Greenknowe Avenue, Potts Point, on that day?

A. Yes, I did.

Q. Do you remember what time you first attended there?

A. Initially the early afternoon and then at different times throughout the evening.

Q. Did you go alone in the early afternoon or with other people?

A. Initially with Det Scullion and Const Fox.

Q. Anyone else?

A. Another male person.

Q. Do you remember the name?

A. Aaron Hill.

Q. And you went to the premises. Do you remember going into the security building?

A. Yes.

Q. Do you remember going up to the flat?

A. Yes, I do.

Q. Do you remember going inside the flat?

A. Yes, I do.

Q. You saw the body inside the flat?

A. Yes, I did.

Q. How long were you inside the flat on that occasion?

A. Only a minute or so on the first occasion.

Q. What did you do after that?

A. I had to go and make inquiries and contact radio and arrange for other police to attend.

Q. Did you go back to the police station, did you?

A. Yes, I did.

Q. You went back to the flat at a later time?

A. Yes, I did.

Q. Do you remember what time it was that you went back, or how long after you were first there?

A. I did go back again after that but only to speak to the police who were at the scene and then I did go back, I think it was probably close to midnight.

Q. Did you go by yourself at around about midnight?

A. No, I went with Det Plotecki and Det Allison and two police from the mounted section.

Q. How long were you at the premises on that occasion?

A. Two or three hours.

Q. What were you doing on that occasion?

A. Searching the room.

Q. Was anyone else searching the room apart from you?

A. Yes, those other police that I mentioned.

Q. What were you doing, what was the process of searching involved?

A. Just opening up all of the cupboards and pulling everything out and searching through the room.

Q. Were you taking things?

A. Yes, I was.

Q. Who was taking possession of what was collected?

A. Detective Plotecki.

Q. How did you give things to him, did you hand things to him?

A. Yes, just passed them to him.

Q. What was he doing, putting them in a container?

A. In a brown bag.

Q. Do you remember anything specific that you collected?

A. Not specific that I collected. Just was paper work and personal papers relating to the deceased.

Q. Did you see what was collected at the end?

A. Yes, I did.

Q. In the possession of Det Plotecki?

A. Yes, I did.

Q. (Witness shown bag) Would you just look through that bag, detective. You don't have to look at everything but just go through the material in the bag?

A. Yes.

Q. Do you recognise that, just looking at that whole collection of items?

A. The Westpac bank deposit books are the same as we took from the place that night but there's a lot of paper work, I can't recall all of it, just it relates to the deceased.

Q. Did you see any savings bank books, anything like that?

A. No. I recall I only saw deposit bank books.

Q. And the deposit bank books are in there?

A. Yes, that is right.

Q. Did you see any money inside the premises?

A. No, I didn't see any money, no credit cards, no wallet.

Q. (Witness shown MFI 1) Did you see that book that night?

A. No. I didn't see it.

Q. You have seen that book recently, I understand?

A. Yes, last week.

Q. Is that the first time you have seen it?

A. Yes, it was.

BROWN BAG MARKED FOR IDENTIFICATION 3.

CROSS-EXAMINATION:

FINNANE: Q. Constable, you first went there at about 1.30 in the afternoon?

A. I can't recall the exact time but it was early afternoon.

Q. This man Hill, was he someone you knew?

A. I knew of him. I had seen him previously on only a couple of occasions.

Q. And you knew him as a drug addict of some kind?

A. Yes.

Q. And when you went to the premises, when you actually got into the floor that this particular flat was on the door was ajar?

A. That is correct.

Q. Do you know what sort of locks were on the door, or lock?

A. No, I am sorry, I don't recall.

Q. Do you know if there was a peephole?

A. I don't know.

Q. Did you notice anything in the flat about windows, how many windows were there in the flat?

A. I recall that it was, I think, there was only one window straight opposite the entrance, opposite the doorway.

Q. Was it open or shut when you went in?

A. I can't recall.

Q. Well now, at the time I take it you were relatively junior in the Police Force?

A. That is correct.

Q. And uniformed Const Fox was sent back to the police station, was he not?

A. I can't remember. I was sent back.

Q. You were sent back too?

A. Yes.

Q. With him?

A. No, actually on my own.

Q. Did you go back to bring more police along, or for some other purpose?

A. To speak to an inspector and to arrange for other police to attend.

Q. And you then later went back to the flat?

A. Yes.

Q. What time did you go back?

A. For the main search, it was fairly late, it was close to midnight.

Q. By this time Det Scullion had left the premises, had he not?

A. That is correct.

Q. When you say the main search, what other search or searches had been conducted at that stage?

A. I don't know if other searches had been conducted but after the body had been taken away and the scientific people had left it was our job to search the flat.

Q. The body had been taken away some time after 11 o'clock, or weren't you there when the body was taken away?

A. I wasn't there, sir.

Q. Do you know what time the specialist police left?

A. I don't know, sir.

Q. When you searched the premises was somebody in charge of this search?

A. Yes.

Q. Who was that?

A. Det Plotecki.

Q. He was in charge. Was he taking a note as he went along of what it was that you were finding, or just shovelling it all into this bag?

A. No, it was just all going into the back.

Q. Did you take a note of what you were looking at?

A. Not a note.

Q. I mean written?

A. No.

Q. Did anybody?

A. No.

Q. Did you search every cupboard, if there were cupboards in the premises?

A. Yes, we did.

Q. Did you look in the refrigerator?

A. I didn't look in the refrigerator, no.

Q. Did anybody?

A. I would assume so. I can't answer for other police.

Q. Did people look under the bed or in the bed?

A. We looked everywhere. It was a very thorough search.

Q. So you missed nothing?

A. I don't know. I hope not.

Q. Well then, there was you and there was Plotecki and who else was conducting this very thorough search?

A. Two police from the mounted section and another police from Kings Cross, Det Allison.

Q. And how long did this search that you described as very thorough take place?

A. Between two to three hours.

Q. Can you remember taking a cash tin or something of that nature?

A. No.

Q. Noticing that?

A. No.

Q. Anybody talk about that?

A. No, not that can recall.

Q. What about documents, did you take every document you saw, or did you leave some, what was the plan?

A. I think just to take anything relevant that might lead to some sort of motivation.

Q. Who determined what was relevant?

A. Well, just from experience, just looking perhaps if it was relevant for police to look at it later in an investigation.

Q. Did any of the police, when you were on this search, open windows or cupboards or do anything?

A. From memory, the window was open at that stage.

Q. When you went into the place in the first instance, would you describe the flat as hot, warm, cold - how would you describe it?

A. The heater was on. It was hot.

Q. How close to the body was the heater?

A. I think the heater was at the end of the bed.

Q. Very close to the body?

A. Reasonably close. It was only a very small flat.

Q. Well then, you then didn't see at any time on that night anybody make out any type of list of what was taken?

A. No, I didn't.

Q. You do not know whether the scientific people took anything?

A. No, I don't.

Q. Because they had gone by the time you got back there to do the search?

A. That is correct.

Q. You are not sure either whether they took fingerprints, you just assume they did lots of things?

A. It would be usual procedure to take fingerprints at a scene.

Q. And you would assume they'd take lots of things away with them?

A. Perhaps.

Q. It is quite common for scientific police to take objects for further observation?

A. Yes, but after they have been photographed in situ.

Q. Yes, of course. You were not there when photographs were taken?

A. No, I wasn't.

Q. After you left the scene on this night you had nothing further to do with this particular matter, would that be right?

A. That is right.

NO RE-EXAMINATION:

WITNESS RETIRED & EXCUSED

SUSAN OSBERRY EMMETT

Sworn and examined:

CROWN PROSECUTOR: Q. Detective, is your full name Susan Osberry Emmett?

A. That is correct.

Q. You are a Detective - what is your rank?

A. I am a Detective Senior constable.

Q. You are stationed where?

A. At the Homicide Unit, Major Crime Squad South.

HARRISON RTD
EMMETT X

Q. Where was you stationed on 6 May 1989?

A. I was stationed at the Homicide Unit.

Q. At about 2.45 pm on Saturday, 6 May 1989, with Dets Spain, Doig and Plotecki did you go to unit [REDACTED] Greenknowe Avenue, Potts Point.

A. Yes.

Q. When you arrived at the unit did you have a conversation with Det Scullion?

A. Yes, I did.

Q. Did you go inside the unit?

A. Yes, I did.

Q. Did you see the body inside the unit?

A. Yes.

Q. Did you see any signs of any breaking into the unit?

A. No, I did not.

Q. Were there any signs of struggle inside the unit?

A. No.

Q. The lock of the front door appeared to be intact?

A. Yes, it did.

Q. The door did not appear to have been forced?

A. No.

Q. You saw how the body was bound, is that correct?

A. Yes, I did.

Q. You saw the pink floral pillow case over the head of the deceased man?

A. Yes.

Q. You saw the kitchen tongs?

A. Yes, I did.

Q. Pieces of broken pottery?

A. Yes.

Q. And the television and heater were still on?

A. Yes, that is correct.

Q. Did you see personal papers scattered on the bed?

A. Yes.

Q. Or what appeared to be personal papers?

A. Yes, that is correct.

Q. And you saw a kitchen knife with what appeared to be blood on the blade?

A. Yes, I did.

Q. You stayed in the unit for some time, in the flat?

A. Yes.

Q. And you were present when crime scene and fingerprint police attended?

A. Yes.

Q. And did you go to Kings Cross police station for a time?

A. Yes, I did.

Q. Did you later return to the unit?

A. Yes.

Q. Do you remember what time you went back to the unit?

A. I'd say about 9 pm.

Q. And you saw Const Langsford at the unit when you went back?

A. Yes, that is correct.

Q. Did you go to the morgue at Glebe?

A. Yes, I did.

Q. And you were present when an examination of the body was conducted by Dr Oettle and Dr Schwartz?

A. Yes, that is correct.

Q. And you were present when photographs were taken?

A. Yes.

Q. And after that you returned to the Kings Cross police station?

A. Yes, that is correct.

Q. When you were inside the flat on any occasion did you make an examination of the interior in any detailed way?

A. No, I did not.

Q. Did you look through any papers or anything like that?

A. No.

CROSS-EXAMINATION:

FINNANE: Q. Det Emmett, did you notice what sort of lock there was in the door for security?

A. I don't recall the sort of lock.

Q. But it was clear to you the lock, whatever sort it was, had not been forced?

A. That is right.

Q. Are you able to say whether there was one or two locks or three locks?

A. No, I cannot.

Q. You do not know whether it was a dead lock or a single lock or what it was?

A. I don't recall the type of lock.

Q. There was a window in this flat, do you recall it?

A. Yes.

Q. Was that open or shut when you were up there?

A. I don't recall.

Q. You were at the flat on a number of occasions on this day?

A. I was there on two occasions, I believe.

Q. How long were you there on the first occasion?

A. I could not estimate the exact time. I was not there for a lengthy time.

Q. Would you have been there for half an hour?

A. Possibly half an hour.

Q. What was happening when you were there?

A. Crime scene police and fingerprint police carried out their examinations.

Q. What was your role?

A. My role was to observe at the time.

Q. To observe?

A. That is correct.

Q. How many other observers were there?

A. I recall four other detectives.

Q. Who were they?

A. Det Spain, Det Doig, Det Plotecki and Det Scullion.

Q. You were all observing what other people were doing?

A. Well, I can't speak for the other police.

Q. Can you think of anything else they were doing?

A. They may have been making notes.

Q. Were you making any?

A. Not at that time.

Q. You then left and what was your purpose of leaving, did you have to go and get someone?

A. I returned to the Kings Cross police station where statements were taken?

A. From Hill and people like that?

A. From various witnesses.

Q. When did you next go to the flat?

A. I believe it was about 9 pm.

Q. Who asked you to go there?

A. I don't recall specifically who asked me to go.

Q. What was your purpose in going there?

A. Well, as far as I recall I saw Const Langsford there and I went with her to the City Morgue.

Q. So, your purpose was to go with her and the people who were conveying the body to the morgue?

A. Yes, that is correct.

Q. One of the processes that is normally gone through when a body is taken to the morgue is an identification of the body to the people at the morgue, is that not correct?

A. Yes, that is correct.

Q. That is so that when they carry out the necessary examination of the body they know who it is they are examining?

A. Yes.

Q. You and Const Langsford went to the morgue for that purpose?

A. Yes, that is correct.

Q Did you know the deceased before this particular occasion?

A. No, I did not.

Q. So, one of the other detectives identified the deceased to you?

A. That is correct.

Q. You were amongst them - -

A. To me.

Q. That then enabled you to confidently identify the deceased to the people at the morgue?

A. I believe Const Langsford did that.

Q. But between the two of you, you knew sufficient of this man to know who he was so that you could do that?

A. Yes, that is correct.

Q. When you attended back at the scene you had no part to play in what was going on that the premises?

A. No, that is correct.

Q. Had the body gone at the time you got back there?

A. I don't recall seeing the body at that time.

Q. For how long were you there at the premises on this occasion?

A. For a very short time.

Q. A matter of minutes.

A. Perhaps five minutes.

Q. Did you actually go into the flat?

A. Not on that occasion.

Q. So, you merely attended in the vicinity of the flat, somewhere in the hallway and then left the building altogether?

A. Yes, that is correct.

RE-EXAMINATION:

CROWN PROSECUTOR: Q. What do you mean you were there to observe - what does that mean?

A. I went with the other police to observe the crime scene, just to note the crime scene and the condition that it was in.

Q. Is that part of your training or that was part of your duties on that day?

A. On that day, yes.

Q. Part of your - -

A. Part of my duty on that day.

WITNESS RETIRED & EXCUSED

CROWN PROSECUTOR: I have witnesses but I do not wish to call them at this stage.

HER HONOUR: This is a matter which was raised earlier in your absence, members of the jury, that apparently one of the significant Crown witnesses, I thin the scientific officer, is ill today. It had been intended that he should be one of the first witnesses to be called and as I understand it, is this putting it correctly, Mr Finnane, that you would not want witnesses to be taken out of sequence because it is important for the jury to get that background information now before the next body of evidence?

FINNANE: Yes, I think that is right. It would become very confusing, I think.

(Crown Prosecutor stated that it was the order in which he would wish to call the evidence and his current information was that Det Khoudair would be available tomorrow.)

(Her Honour stated to the jury that it was important that the sequence be maintained so that they had a better opportunity of placing the material together.)

(Her Honour warned the jury about not talking to anybody at all from outside their group whilst in the precincts of the court house. She further warned the jury that overnight if they happened to see anybody whose face was familiar from inside the court room to ignore them.

Her Honour also warned the jury that it was imperative that their concentration be focused upon the material put before them in the trial and not to discuss the details of the case with anybody from outside their group.)

(Jury released for the day.)

IN THE ABSENCE OF THE JURY:

(Crown Prosecutor stated that for 95 per cent of the time that her Honour was speaking the juror who had been discussed earlier appeared "a bit unconscious" and that he was sleeping on and off this afternoon.)

(Her Honour stated that there was nothing that could be done at the moment.)

(Mr Finnane sought overnight bail for the accused asked that there Honour dispense with the reporting conditions.)

(Her Honour stated that certainly attending at court was adequate.)

(Her Honour granted bail.)

HER HONOUR: He should remain here until half an hour after the jury has been discharged, that he should then get a taxi to the railway station and to that effect, he should be allowed to telephone from the police station if he requests to do so in order to get a taxi.

When in Sydney the embargo about going to the Kings Cross, Darlinghurst, East Sydney areas remains. He is to again come to court from the station by taxi in order to be here at least half an hour before the jury has been asked to return.

At all times whilst he is in the Wollongong area and on a train to or from Wollongong he should be in the company of Mr Scrimgeour.

(In response to her Honour Mr Finnane stated that the accused was prepared to give undertakings in accordance with those conditions.)

FURTHER HEARING ADJOURNED TO TUESDAY 25 AUGUST 1992.

o0o