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THE SUPREME COURT
OF NEW SOUTH WALES
CRIMINAL DIVISION

MATHEWS J

And a jury of Twelve.

.70162/90 - REGINA -v- IAN STUART JONES

WOLLONGONG: SIXTH DAY: MONDAY 31 AUGUST 1992.

(Crown Prosecutor stated that by agreement between Mr Finnane and himself he was going to interpose a number of witnesses.)

SONIA ELIZABETH ADAMS
Sworn and examined:

CROWN PROSECUTOR: Q. Miss Adams, is your full name Sonia Elizabeth Adams?

A. Yes.

Q. In 1989 were you a full time university student in Bathurst?

A. Yes.

Q. Did you meet the accused Ian Jones?

A. Yes.

Q. Did you purchase from him a Morris Mini panel van?

A. Yes.

Q. Do you remember the registration number now?

A. No. It starts with an O. I don't remember.

Q. Did he come to your house where you were living?

A. Yes.

Q. Did you agree to purchase the motor vehicle?

A. Yes.

Q. Do you remember for what price?

A. I think \$650.

Q. Do you remember how you paid him?

A. I think the agreement was, it was on a weekend so I only had about half the amount in cash and we agreed to meet on the Monday after the bank opened and to pay the other half.

Q. Before you agreed to purchase the motor vehicle did you have a test run?

A. Yes.

Q. How did it perform?

A. Quite well. I bought it.

Q. Did you subsequently use the motor vehicle?

A. Yes, every day.

Q. Did you eventually sell the motor vehicle that year?

A. Yes.

Q. Do you remember how long it was that you had it?

A. Less than twelve months. Probably nine, nine or ten months.

Q. Was there some difficulty with the registration papers but that was resolved - that was when you were purchasing the vehicle from the accused?

A. Yes.

Q. What sort of use did you put the vehicle to - you said you were using it every day, what do you mean by that?

A. Just as a run around between my house and University and then on weekends and occasionally longer trips.

Q. Where would you go on these longer trips?

A. To visit my family which was a trip from Bathurst to Oberon, around 100 kilometres.

Q. Did you use it in any other way than doing these round trips?

A. Oh, we used it for hockey, firewood which we put in the back.

Q. Did you have any trouble with it?

A. At one stage we had a problem with the starter motor.

Q. Did you have that repaired?

A. Yes.

Q. Do you remember what the problem was?

A. Had some dirt, I think, in the starter motor.

Q. Did you take it through any particular conditions?

A. Yes - weather conditions?

Q. Yes?

A. Yes. I actually drove it through a snow storm one day.

Q. No problem?

A. No.

Q. How was the vehicle when you sold it?

A. Probably in the same, if not better condition than when I bought it.

Q. Still going quite well?

A. Yes.

Q. Did the accused man tell you anything about his use of that vehicle?

A. From memory he told me, because I was concerned about whether or not it would make the trip from where I was living to my parents, he told me he had driven it on long trips himself, it hadn't been just around town.

Q. Did he specify where he was driving to?
 A. I think from memory somewhere near Orange.

CROSS-EXAMINATION:

FINNANE: Q. Was somewhere near Orange close to Lucknow?
 A. I think so. From memory he was working for an earth moving contractor.

NO RE-EXAMINATION

WITNESS RETIRED

LILLIAN ALMA SCHWARTZ
 Sworn and examined:

CROWN PROSECUTOR: Q. Doctor, is your full name Lillian Alma Schwartz?

A. Yes, it is.

Q. Your surname is spelt S-c-h-w-a-r-t-z?

A. Yes.

Q. You are a legally qualified medical practitioner?

A. Yes, I am.

Q. Are you a forensic pathologist?

A. I am a forensic pathologist registrar.

Q. You are with the Division of Forensic Medicine, is that correct?

A. Yes.

Q. That is in Sydney?

A. Yes, it is in Sydney, Glebe.

(Crown Prosecutor sought and was granted leave for the doctor to refer to her notes.)

Q. About 7.30 pm on 6 May 1989 did you go to flat [REDACTED] at number [REDACTED] Greenknowe Avenue, Kings Cross?

A. Yes, I did.

Q. Did you there see a dead body?

A. Yes, there was a dead body lying on the bed.

Q. Would you say what you saw?

A. Yes, it was a very small unit, very hot and stuffy and on the bed was lying a man. This man was fully dressed and tied from the back on the wrist and feet. His head was covered also with a bag and around the neck there was a belt. That is more or less what I saw then.

Q. You described it as a bag, was it in fact a pillow case?

A. Yes, sorry.

Q. Was there any staining on that pillow case that you remember?

A. It is not written here and I can't remember.

Q. What do you say about blood in your report or did you see any blood?

A. When I did the post mortem examination- -

Q. No, no?

A. Sorry.

Q. Before that did you see any blood at the scene that you remember?

A. No, I really can't remember now. Sorry, I wrote here that there was a minimal amount of blood around the head, sorry.

Q. Did you take any temperature at that stage?

A. I took the temperature at the morgue.

Q. That was at a later time?

A. That was four hours later.

Q. Did you see the body, as you have indicated, at a later time that day at 11 pm?

A. Yes, I did.

Q. What did you notice about the body when you saw it at a later time?

A. I examined - I tried to determine the time the body - the time of death and therefore, I examined the presence of rigor mortis, lividity and temperature at that time, 11 o'clock, rectal temperature was 28 degrees celsius.

Q. What other signs did you see?

A. Rigor mortis was well established. Lividity was present but also there was early decomposition in the body. Because of all of these changes I estimated that the time of death was between 9 to thirty six hours from the time that I took the temperature. That means 11 o'clock that night.

Q. You say a wide range, in effect, from 9 to 36 hours?

A. Yes, the reason was because it is a very rough estimation. It is related to many variabilities such as the temperature on that specific day, presence of wind, if the person is fat or thin, if the person is fully clothed, if the room had a heater or not. Because of all those variabilities it is a rough estimation and not an exact one. In this case already the decomposition was established and therefore, I believe that it was up to 36 hours even though the rectal temperature was quite high.

HER HONOUR:Q. Can't you take account of some of the matters that you observed, for instance the heat of the room and the fact that this person was of small build - does not reduce the variability?

A. Your Honour, I would certainly state that the body temperature follows the room temperature and if the room temperature is high at that specific moment the body temperature at a certain stage will follow that and will be higher than perhaps an hour before that and therefore I cannot give a more accurate estimation.

CROWN PROSECUTOR: Q. You mentioned about rigor mortis; for the benefit of the court what is rigor mortis?

A. That is actually the stiffness of the body, of the muscles of the body.

Q. You noticed that there was a stiffening of the muscles?

A. Yes, that was present.

Q. You said about lividity; what is lividity?

A. Lividity is the presence of blood in the blood vessels; if they are small blood vessels on the lower part of the body. Therefore, if the person was lying on his front, on his abdomen blood will be more prominent or that specific colour will be more prominent on the anterior part of the body, the face or the abdomen. The opposite if he was lying on his back.

Q. So there was a lighter colour of the body on the back, darker colour towards the front of the body?

A. In this case, yes.

Q. You caused a testing to be done and you found that the dead man was positive for hepatitis B, is that correct?

A. Yes, I did.

Q. So an internal examination was not performed, is that correct?

A. Exactly.

Q. So you performed an external examination only, is that correct?

A. Yes.

Q. What did you find on your examination?

A. The body was already decomposing. There was mainly - -

Q. I might just interrupt. The close examination took place on 9 May, is that correct?

A. Yes, exactly.

Q. So what did you notice then?

A. I noticed a ligature mark around the neck. This ligature was recent, horizontal. On the left side of the neck there was a small abrasion. There were also petechial haemorrhages on the face and eyes. There was also a bruise on the left side of the neck just below the angle of the jaw in this area (indicating).

Q. You indicate to the jury?

A. Yes, here. (Indicating) There was a bruise on the left side of the back of the neck just above the ligature. There was a bruise on the back of the head. (Indicating)

Q. Which you indicate?

A. Yes. There was a bruise on the back of the head just above the left ear. (Indicating)

Q. Which you indicate?

A. There was a bruise on the left side on top of the head, towards the back. (Indicating)

Q. Which you indicate?

A. Yes, and another bruise on the back of the head (indicating).

Q. Again indicating?

A. Yes. There were also lacerations. There were actually numerous lacerations on the back of the head near the bruises as I described before. These lacerations were superficial and up to the periostum. That is the external membrane of the skull, and I couldn't notice any fracture. I also x-rayed the body and I didn't find any fracture, I didn't find any bullet or foreign bodies.

Q. Were the lacerations consistent with being caused by some blunt object?

A. Yes, they were.

Q. Consistent with being caused by a ceramic vase or lamp being used?

A. Any object which is not sharp could cause those lacerations and at the scene there was a broken ceramic vase.

Q. And one blow, or two blows or more could cause those injuries?

A. More than one. There were several lacerations, therefore, more than one blow would cause those lacerations.

Q. It would have to be more than one blow, is that what you are saying?

A. Yes.

Q. What about the bruises which you saw, what were they consistent with?

A. The bruises could be caused by a blunt instrument but also by him falling towards the back.

Q. Each bruise being caused by the infliction of some force separate from the other bruises?

a. I'm sorry, I can't understand.

Q. Each bruise being caused by the infliction of some force which was separate from any force from the other bruises?

OBJECTION.

HER HONOUR:Q. You described a number of bruises, could all of them have been caused by falling backwards?

A. No. There was a bruise on the left side of the neck, that is not consistent with him falling backwards, that is consistent with the deceased trying to release, or with a bruise caused by the assailant himself or herself when they were pressing around the neck, that is an example.

Bruise number two on the back of the neck also could be caused at the time that the ligature was used.

Bruise number three on the back of the head could be caused by him falling backwards, or by the use of another object against the skull.

Bruise number four could be caused by the deceased falling backwards or him being hit on the head.

The same with bruises five and six.

Q. But could they all be caused by him falling backwards?

A. No.

Q. All of those ones that you have mentioned, or individually they could but it would have taken several falls for them all to have done so - I am just not sure, I am asking you?

A. Yes, I understand. Bruises one and two were caused during the application of the ligature.

Bruises numbers 3, 4, 5 and 6 could be caused by him falling backwards or the deceased being hit with a blunt object. Did I answer you now?

Q. By the one fall or more than one fall?

A. It could be by one fall.

CROWN PROSECUTOR: Q. Did you come to an opinion as to the cause of the death of this man?

A. The cause of death in this case was asphyxia due to strangulation by the ligature.

Q. Do you remember the ligatures that you saw?

A. Yes. There was a ligature mark or recent ligature mark on the neck and below this ligature was an area of pallor on the neck. This area of pallor had a width between 3.5 to 2.7 centimetres and it was all around the neck. This area of pallor would correspond to the belt that was used to secure the pillow case, to tie the pillow case up.

Q. Did you take some blood from the deceased man?

A. Yes, I did. I sent the blood for toxicology and it was negative.

Q. Did you give any sample of blood to the police, that you remember?

A. Yes. I gave the blood for grouping, hairs and fingernails.

Q. Would you look at this certificate, please, doctor. (Shown) That shows there was no alcohol in the deceased man's blood, is that correct?

A. Yes. He didn't consume alcohol or any other drug at the time of his death, or before his death, I am sorry.

Q. There were no traces found of heroin or anything like that?

A. No.

ABOVEMENTIONED CERTIFICATE MFI 16.

CROSS-EXAMINATION:

FINNANE: Q. Doctor, you arrived at this flat at 7.30 pm on 6 May?

A. Yes, I did.

Q. You were asked by the Crown Prosecutor to estimate how long before 7.30pm on 6 May this man died - do you recollect that?

A. Yes.

Q. I could not pick up what your answer was, could you tell me again what it was?

CROWN PROSECUTOR: Might I interrupt. I think she estimated it was from 11pm that night. That is what she has given in evidence.

FINNANE:Q. If that be so, can I take you to 7.30pm and ask you how long before 7.30pm on 6 May, that is when you first inspected the body, was it that that man died?

A. At 7.30 when I saw the body in his flat I did not measure the temperature and I could not and did not have the facilities to be certain about the rigor mortis and lividity. Therefore, I took the body to the morgue and I did that at the morgue and that those measurements were done at 11 o'clock pm.

Q. What did you estimate at 11pm on that night?

A. That the rectal temperature was of 28 degrees./

Q. What is the significance of that?

A. That means that body reduced or decreased after death.

Q. What is the normal body temperature?

A. Normal body temperature is 37 degrees.

Q. The morgue itself is a place which has cooling, has it not?

A. It has a room temperature exactly of 21 degrees but I took the temperature just immediately after the body arrived. The body did not have time to adapt to the new room temperature.

Q. The body was at the flat in Kings Cross at 7.30pm; what time did the body get to the morgue?

A. I said 11 o'clock

Q. At 11 o'clock and you immediately took the rectal temperature?

A. Yes, I did.

Q. You found it was 28 degrees, yes, and what then did you estimate was the time of death?

A. I said - I cannot remember what I said then. When I estimate the time of death now and I am sure then, I used the rectal temperature as well as the presence of rigor mortis, lividity and the presence of early decompositional changes.

Q. What I am asking you for is your estimation at the time of death before 11pm on 6 May 1989 - how long before that time and on that date did death occur?

A. Between 9 to 36 hours before that.

Q. 9 to 36?

A Yes.

Q. Doctor, do you recall giving evidence about this very matter at the Coroner's Court Glebe on 18 July 1990 before Mr Hand?

A. Yes, I do. I cannot remember exactly what I said then.

Q. But you would agree that were you giving at a time which was much closer to the examination which you made on 6 May 1989 than today?

A. Yes, but also then I based myself on my notes. I cannot remember after doing two post-mortems per day, I cannot remember exactly what is going on in each case. Therefore, I went to my notes, through my notes also then.

Q. Before you gave evidence before the magistrate, the coroner, Mr Hand, on that occasion you checked your notes?

A. Yes, I did.

Q. You were careful about the evidence that you gave?

A. Yes, I was.

Q. You realise its importance?

A. I always realise the importance of giving evidence at court.

Q. You recall a police officer was assisting the Coroner, Mr McIntosh at this Coronial inquiry - I am sorry, a solicitor called Mr McIntosh was assisting the Coroner and he started off by asking you questions?

A. Yes, he probably did.

Q. Well now he said to you and this is at p 36 and I would ask you to listen to what I am saying because I am suggesting that Mr McIntosh put this to you:

"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 p 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 on 6 May?

A. Not less than 24 hours and less than 72 hours, sorry."

Now that is what is you said then, is it not?

A. I believe you that I said that but I need to take into consideration really that the temperature was 28 degrees and I answered to - -

Q. Well, Dr Schwartz, you no doubt on that occasion when giving evidence before the Coroner took that into account when you gave that answer, did you not?

A. Yes, I do and - -

Q. Are you saying that answer is wrong?

A. No, I still believe that it is closer to the 36 hours than to the nine hours because of the presence of early decomposition but I need to take into consideration that the body had a temperature of 28 degrees.

Q. Well now, you also were asked this question, and this is on p 37 and this was asked by a Mr Egan, another solicitor there who was appearing for Mr Jones:

"Q. Now, how long does it take a body to reach equilibrium with room temperature after the time of death?

A. About 24 hours."

A. Sorry, again, how long it takes - -

Q. "Does it take a body to reach equilibrium with room temperature after the time of death?" Your answer was, "About twenty four hours"?

A. And that is also true. To achieve equilibrium it would be about twenty four hours. However, if the environment is very hot the body will achieve the temperature of the environment faster than twenty four hours. It is - -

Q. Can I just take you back then: in July 1990 you were prepared to agree that death occurred at least twenty four hours before 7.30pm on 6 May, that is by 7.30pm on 5 May at least that man was dead and less than 72 hours before that time. So, on that occasion you were saying that that man had to be dead by 7.30pm the night before at least, were you not?

A. Yes, I did.

Q. Isn't that true?

A. Yes, it is true but what I am trying to say and I said before, it is a rough estimation, it is not an accurate estimation.

Q. Well, it is more likely to be correct than nine hours, is it not?

A. Yes, as I said to you, that I believe that the person was dead closer to twenty four hours but I need to take into consideration that the temperature was of 28 degrees and if I take into consideration that, I need to put a lower limit of about nine hours and I repeat it is a rough estimation, it is not an exact estimation.

Q. Isn't this the position: from your looking at the position that man had to be dead at the latest by 7.30pm on 5 May and perhaps even longer than that?

A. I am only repeating again what I said before. The person was dead for a minimum period of nine hours before the person was found and up to thirty six hours, perhaps a little bit more than that. Now, the nine hours limit, lower limit is very much, is in exact because the person is already beginning to decompose at the time that I took the temperature and I examined the body but because it is a rough estimation I need to give that as the lower limit.

Q. Why didn't you give that as the lower limit before the Magistrate if that was the lower limit; why twenty ^{four} hours the lower limit then?

A. Because the body started to decompose and I thought at that time that it would be appropriate to give that as the lower estimation but if I need to be more exact and more accurate I need to extend that period.

Q. This is the position: in 1990 you were prepared to say the minimum time was twenty four hours, now you are saying - that is before 7.30pm at night - now you are saying it is nine hours before the body was found, found by whom?

A. Before - nine hours before that the temperature was taken, not before the body was found.

Q. Before two o'clock in the afternoon?

A. Yes.

HER HONOUR: Q. What time did you take the temperature?

A. 11 o'clock that night.

FINNANE: Q. Nine hours before that would be two o'clock in the afternoon, would that be right?

A. Yes.

Q. You can take it from me that the deceased's body was found at 1.30 in the afternoon in exactly the condition that you saw it, that is lying there with the bandages and everything on, so it is completely improbable, would you not agree, that the deceased was dead nine hours before you took that temperature?

A. Perhaps I was not clear before but I said that because the person was decomposing the deceased would be dead probably for 24 hours but because the temperature was so high I need to give that nine hours as a lower limit. It does not mean that is an exact estimation and I said before, it is a very rough estimation.

HER HONOUR: Q. Can I just ask something to try and clarify it. Do I understand from what you are saying that there being a quite high rectal temperature you cannot exclude the possibility that the person is in the process of losing body heat, is that what you are saying?

A. Yes, exactly.

Q. But if they had been in a very hot room then they would not lose body heat beyond the temperature of the room, is that also what you are saying?

A. It even can follow that room temperature. If the room temperature is 25 degrees and he already was at 21 he can increase his temperature because of the room temperature to the 25 degrees of the room temperature. It is clear.

Q. What you are saying is that a person after death loses body heat below the normal 37 degrees and goes down to something initially below the ambient temperature and then can come back up to the ambient temperature, is that what you are saying?

A. Below or equal to the room temperature.

Q. Below and equal?

A. Yes.

Q. And thereafter will remain at the ambient temperature?

A. Yes, exactly. Like any other object, if it is exposed to the sun will be hotter and if it is in the shade it will be cooler. It is exactly the same.

FINNANE: Q. As the body was decomposing it is more probable than not, is it not, that the time of death was at least 24 hours before you first saw the body?

A. That is what I said before, that it most probably will be that, the truth.

Q. Is that not correct, what you said before?

A. I said that, that it is correct but I need to take into consideration the temperature too.

Q. But the temperature obviously gave you, would you now agree, a minimum time of death which is ridiculous - nine hours before being half an hour after the man had been found dead?

OBJECTION.

Q. Your nine hours estimation at 11 o'clock at night was based on your taking the rectal temperature, is that right?

A. Yes.

Q. You had no information in your possession as to when the body was found?

A. That is true, I didn't know

Q. You did not take that into account at all, is that right?

A. Exactly. That is, I believe, the first time that I heard that the body was found at 1.30.

Q. If the body was found at 1.30 already dead, already with rigor mortis set in, then it would be clear, would it not, that the lower limit of nine hours is clearly wrong?

OBJECTION. QUESTION WITHDRAWN.

Q. The body is found at 1.30pm, lying on the bed in that position and the person is obviously dead, and that is clearly half an hour before the nine hour minimum period, would you agree?

A. Yes.

Q. Well, that would make it improbable, wouldn't it, when you take that into account the death occurred near the nine hour limit?

A. We are talking about a rough estimation. That means that the person could have died eleven hours before, ten hours before, that is the eleven hour limit. I agree with you the time of it would be closer to twenty four than nine hours.

Q. If you then take into account - so you know that the body is found at 1.30 in the afternoon already dead. You take into account also the body temperature, because that is something you also take into account, you take into account the body was found in a hot room, although you don't know what the temperature was, all you know it was hot?

A. Very hot.

Q. Uncomfortably hot, would you agree?

A. Yes.

Q. You take into account the fact there was decomposition at the time you conducted your examination at 11 o'clock at night. Taking all those things into account, it would be more probably than not that your original evidence that death occurred at least twenty four hours before 7.30 and less than 72 hours is correct?

A. Again I say that it is a rough estimation because rigor mortis was still present then. I would say that the upper limit would be closer to thirty six than to seventy two. By seventy two hours I would expect that the rigor mortis would disappear, and in this case it was still present.

Q. But why then, if that is so, did you give to the Coroner evidence that death occurred at least 24 hours before 7.30 pm and less than 72 hours?

A. It is a very rough estimation and I really don't know if I was asked then that question if I considered the time of death there as 6 May at 11 o'clock or at a later stage when I did an external examination, I don't know. The estimation is very rough.

Q. Did you attend the address at Kings Cross with another forensic pathologist, Dr Oettle?

A. Yes, I did.

Q. Was rigor mortis apparent at the time you saw the body at 7.30 pm on 6 May?

A. I can't remember to touch the body then, perhaps I did but I didn't write in my report. I did that at 11 o'clock at the morgue and rigor mortis was fully present. Lividity was established on the abdomen and so on.

Q. Well now, without wanting to labour this point unduly, you'd agree when you were asked questions about this before Mr Hand in July 1990 you mentioned nothing about nine hours?

A. I didn't. I didn't do. I didn't say anything.

Q. You were clearly asked to estimate the time of death?

A. And I answered then and I answer you now it is a very rough estimation. I believe that the time of death would be closer to 24 hours but on the temperature it has given a lower time of death than that.

Q. If it were closer to 24 hours, what you are saying is this, are you not, it would be more probable than not that death occurred somewhere between, at the latest, 8 o'clock on 5 May than at some later time?

A. It is, again, a rough estimation. It is an approximate period.

Q. I am asking you as a matter of probability, you are a scientist, is that not more probably the position, the person was dead at the latest by 8 o'clock on the previous night?

A. Approximately is not exact.

Q. All right. When you say approximately, what do you mean by approximately?

A. Approximately, I mean I go back to say again it is a rough estimation and it could be 24 hours, it could be 22, it could be 26. It is a very rough estimation.

Q. All right. Would you agree somewhere between 22 and 26 hours before 7.30 pm would be the probable range, as the lower limit?

A. Around the 24 hour period. I can't say exactly. I can't say exactly when it happened.

Q. What would be the outer limit then - 36 hours, would it?

A. Yes, approximately.

Q. So that would be 36 hours, that would be another 12 hours further back?

A. Yes.

RE EXAMINATION.

CROWN PROSECUTOR:Q. Have you done any research since you gave your evidence in 1990 on the question of time of death?

A. I didn't do any present research but I went through the literature, not only because of this case but from different cases and in all the literature that I went through is written again and again that the estimation is very rough, very inexact because of all the variabilities with the body temperature, rigor mortis and lividity are susceptible. If I could use that word.

There were researches that were done when the person died and they measured the body temperature each hour by hour and exactly in ideal conditions and even then the estimation was inexact, therefore, it is a very rough estimation.

WITNESS RETIRED AND EXCUSED.

TWO LETTERS FROM THE LEGAL AID DEPARTMENT DATED 3 DECEMBER 1990 AND 29 MAY 1991 TENDERED, ADMITTED WITHOUT OBJECTION AND MARKED EXHIBIT X. HER HONOUR READ AND EXPLAINED EXHIBIT X TO THE JURY.

GILLIAN KAYE HEBBARD
Sworn and examined.

CROWN PROSECUTOR:Q. What is your full name?

A. Gillian Kaye Hebbard.

Q. You are living in Victoria now, is that correct?

A. Yes.

Q. In 1989 were you living at one time at [REDACTED] Rankin St, in Bathurst?

A. Yes.

Q. Do you remember when you moved into those premises?

A. Yes.

Q. What date was it?

A. What date?

Q. Yes, approximately?

A. Approximately March - between, I'd say 13 and 18 March, about then.

Q. Who were you living with?

A. I was living with Margaret Higgins, Scott Mason, and my two sons.

Q. Did they live with you from the time you moved in, that is, the boys plus Margaret and Scott?

A. Yes.

Q. When did you leave those premises?

A. I think June.

Q. 1989?

A. Yes.

Q. Do you remember meeting the accused Ian Jones?

A. Yes.

Q. Do you remember approximately when it was you met him?

A. April, I'd say.

Q. April 1989?

A. Yes.

Q. Do you remember where it was that you met him?

A. I think it was at the Park Hotel in Bathurst. It was in a hotel.

Q. Did he seem to be friendly with Scott?

A. Yes, I thought they'd been friends before.

Q. Did you see him a number of times whilst you were there living at the house?

A. Yes, about five or six times.

Q. Where was it that you saw him?

A. I'm sorry?

Q. Whereabouts was it that you saw him?

A. At my home after the first time.

Q. And he was there, what, five or six times at your home?

A. Yes.

Q. Did he ever stay overnight at your home?

A. Yes, once.

Q. Do you remember the day of the week that was?

A. No.

Q. Do you remember when it was?

A. I know that it was - I looked at the calendar to work out the dates and it was either the last weekend in April or the first weekend in May, on one of the nights of those weekends he stayed.

Q. Do you know how you worked it out?

A. Yes, my son's birthday was on [REDACTED].

Q. Do you remember what time he came - were you there when he arrived?

A. I don't really remember.

Q. You just remember he was there?

A. Yes.

Q. He stayed one night?

A. Yes.

Q. He slept there one night?

A. Yes.

Q. Can you remember whether there was anyone else in the house at the time apart from the accused and you?

A. Oh yes, when he stayed Scott would have been there, I'm sure.

Q. Scott and the two boys?

A. Yes.

Q. And what about Margaret?

A. No.

Q. Do you know what time he left the premises, any idea?

A. The next day.

Q. Any memory of the time?

A. No, I couldn't recall.

Q. You cannot remember the date it was but you remember he stayed overnight and left the next day?

A. Yes.

Q. Did you see him after that, after that night that he stayed?

A. Yes.

Q. Again at your house?

A. Yes.

Q. Had he been to your house on a number of occasions prior to staying that time overnight?

A. Yes, two or three.

Q. And he was there a number of times after he stayed?

A. Twice.

Q. Did you ever speak with him?

A. Yes.

Q. You yourself had talks with him?

A. What, you mean a conversation?

Q. Yes?

A. Nothing really in depth, no.

Q. No, just conversation?

A. Yes, conversation.

Q. Did he ever tell you what he used to do with himself?

A. No. I was under the impression that he came from Sydney - -

Q. No, what he told you?

A. No.

Q. Did he ever tell you what he did with his time?

A. No, I can't recall.

Q. Did he ever tell you if he went anywhere?

A. I was always under the impression that he came from Sydney.

Q. Where did you get that impression?

A. I don't know.

Q. Whenever you saw him you had that impression - -

A. The impression I got each time I saw him he'd either just been to Sydney or was on his way to Sydney. That was my impression.

Q. Did you ever see him with a motor vehicle?

A. Yes.

Q. What sort of motor vehicle?

A. I don't recall. A small car. Very small.

Q. Did you ever meet any friends of his?

A. I met his girlfriend Kerrie on one occasion.

Q. Do you remember when that was?

A. That was a couple of days after he stayed.

Q. Where was that at?

A. At my home.

Q. Did she come into the house?

A. Yes.

Q. Did you ever see anything about the accused that was unusual?

OBJECTION: RELEVANCE:

(The Crown Prosecutor informed her Honour that he wished to address her in the absence of the jury.)

(The jury left the court room.)

(Mr Finnane requested that the witness be asked to remain outside during the course of submissions.)

(The witness left the court room.)

IN THE ABSENCE OF THE JURY:

(The Crown Prosecutor addressed and indicated he wished to raise questions about the accused's unusual sweating on the occasions that the witness had seen him.)

(Mr Finnane suggested that as a matter of fairness the Crown lead from the witness that her married name was Berry, that being the name given in the alibi statement; Crown agreed.)

SHORT ADJOURNMENT:

IN THE PRESENCE OF THE JURY:

CROWN PROSECUTOR: Q. Miss Hebbard, by the way, you were previously married, is that correct?

A. Yes.

Q. Your married name was Berry?

A. That is correct, yes.

Q. Do you remember the night that the accused stayed with you? You have said you can't remember the time that he arrived and the time that he left the next day, is that right?

A. That is right.

Q. Scott Mason was living with you. Was he living in a de facto relationship with you?

A. Yes.

q. Do you remember whether Scott was in bed with you that night?

A. I would assume so.

Q. You would assume so?

A. Yes.

Q. He generally slept with you?

A. As a rule.

Q. Well, if he was in the house he would have been sleeping in the same bed?

A. Yes.

Q. Where did the accused sleep that night?

A. We had a back room, like a spare room, with a bar in it, with a mattress in it. He would sleep in there.

Q. Do you know yourself whether he actually slept there?

A. Yes.

Q. How do you know that?

A. He was in the room when I went to bed and he came out of that room in the morning.

Q. You saw him go into that room?

A. I was there in the room, and I saw him come out of there in the morning.

Q. Do you remember what time it was approximately when you saw him in the morning?

A. I would say mid morning, but I can't be sure./

Q. Was there a dog at the premises?

A. Yes.

Q. Who owned the dog?

A. Myself.

Q. What sort of a dog was it?

A. A Rotweiller.

Q. That is a pretty large dog, is that correct?

A. Yes.

CROSS EXAMINATION

FINNANE:Q. You mentioned meeting a woman called Kerrie Stanton?

A. Yes.

Q. You met her, did you not, on Sunday?

A. Yes.

Q. Was that the only time you met her?

A. Yes.

Q. He had stayed, that is Mr Jones had stayed at your place, had he not, on the Friday night before that?

A. Could have been the Friday, could have been the Thursday, I'm not sure.

Q. It wasn't the Saturday?

A. No.

Q. It was at least a couple of days before you met her?

A. Yes.

Q. But you met her on this one occasion only?

A. Yes.

Q. And your Rotweiller dog was there?

A. Yes.

Q. And you have two children, I think?

A. Yes.

Q. And your son, I think your eldest son's birthday was [REDACTED]?

A. Yes.

Q. And looking at the calendar and looking back to what night it was that Mr Jones stayed, you thought it was either the last week end of April or the first week end of May?

A. Yes.

Q. If it was the first week end of May, the Friday, that would be 5 May, would it not?

A. If it was that day, yes.

Q. But it was certainly only one occasion he stayed there?

A. Yes.

Q. Miss Higgins, I think, lived in the house too?

A. Yes.

Q. She used to work at nights, did she not?

A. Week ends.

Q. And so, what, from about six o'clock on a Friday night she was gone, was she?

A. Oh, before then.

Q. So, you wouldn't see her?

A. Sometimes Thursday night, sometimes Friday. Straight after she finished college she would leave.

Q. You can't remember her on this particular week end?

A. No, she was not there on week ends.

NO RE-EXAMINATION

WITNESS RETIRED

MARGARET ANN HIGGINS

Sworn and examined:

CROWN PROSECUTOR: Q. Is your full name Margaret Ann Higgins?

A. Yes.

Q. Are you a nursing sister? A. No, I am a student, I have gone back to college.

Q. You used to live in 1989 at Blackheath, is that correct, this is in the early part of 1989?

A. Yes, for a small - -

Q. With your parents?

A. Yes.

Q. You met Gillian Hebbard who was then Gillian Berry, is that correct?

A. Yes.

Q. Did you eventually move in with her at premises [REDACTED] Rankin St, at Bathurst?

A. Yes.

Q. Do you remember when it was you moved in?

A. About February.

Q. 1989?

A. Yes, 1989.

Q. Scott was there as well?

A. Yes.

Q. Gillian's two children?

A. Yes.

Q. And I think a dog, is that right?

A. Yes.

Q. How long were you living at those premises?

A. Jill moved out and then I stayed there with another student.

Q. When you were living in those premises at Bathurst what were you doing with yourself?

A. I was a student Monday to Friday at Mitchell - -

Q. What were you studying?

A. Nursing and weekends I was part time down at a children's home at Leura where I did anything from rec officer through to assistant in nursing.

Q. Did you do that every weekend when you were living at Bathurst, go down to Leura?

A. Yes.

Q. What time did you go down to Leura?

A. Well, I finished college about 4 o'clock in the afternoon I would go home, get my gear together and maybe grab a drink, cup of coffee, say "see you later" to Jill and the kids and head off down the mountains about 5 o'clock Friday.

Q. How did you go down?

A. I drove.

Q. That was inevitably what you did every weekend?
A. Every weekend.

Q. What time did you come back?
A. Late Sundays, depends on the shift I was up to. Some nights we didn't finish till 10.30 if I was doing a B shift other than that I usually finished about six and I would be back in Bathurst by about eight, nine o'clock.

Q. On the Sunday evening?
A. On the Sunday evening.

Q. Then back to college the next day?
A. Back to college Monday morning.

Q. You know the accused Ian Jones?
A. I knew him as Jacko.

Q. Do you remember when it was you first met him?
A. Yes, down at the Victoria Hotel in Bathurst I met him, sitting there having a drink with Jill and Scott.

Q. Did you see him after that?
A. Yes, on two other occasions. Once he came round to see Jill and Scott and they weren't home, that was on the Sunday evening, I had just come home from the mountains myself and the other time I came home to let Jill know not to cook tea, I was going up to my boyfriend's place for a meal and he was in the backyard.

Q. Do you remember when these various occasions were when it was that you first met him, what month?
A. I could not give you dates at all.

Q. You cannot give any dates to any of those incidents?
A. No.

Q. Did you ever see him with a motor vehicle?
A. Yes. The car was parked out the front. It was a green Mini station wagon type thing.

Q. Do you know where he was living?
A. No.

Q. Did you ever meet his girlfriend?
A. No.

Q. Kerrie Stanton?
A. No.

CROSS-EXAMINATION:

FINNANE: Q. Can I ask you this: did you usually go to work on a Friday afternoon?

A. No, I didn't start work Friday.

Q. What time did you start?
A. Seven o'clock Saturday mornings usually.

Q. Did you leave on a Friday to go to work?

a. Yes, I would leave Bathurst Friday about 5pm and I would arrive down at my parents place within about an hour and a half, depending on the traffic.

Q. Then you would work the whole of the weekend?

A. Yes, I didn't travel between Bathurst, it is too far.

Q. I know I am asking you to cast your mind back a fair way but can you remember a weekend in May, a Friday in May the first Friday in May actually when Ian Jones came round to the house before you left?

A. No.

Q. In fact, sat on some swings at the back at one stage?

A. No. The only time I saw him in the back yard was that particular day, it was during the week. I went there to tell Jill and Scott I wouldn't be home for tea and he was in the backyard looking over the back fence.

Q. What day of the week was that?

A. I wouldn't be able to tell you.

Q. It wasn't a Friday?

A. No, I was at college all day Fridays.

Q. But the fact is that you would leave Bathurst about five o'clock?

A. Yes.

Q. On Friday evening?

A. Yes.

Q. Then what, come back on Monday morning?

A. Sunday night if I wasn't working a late shift.

Q. After dinner?

A. Usually I would arrive back yeah, about 7, 8 'clock at night.

NO RE EXAMINATION.

WITNESS RETIRED

SCOTT DAVID MASON
Sworn and examined.

CROWN PROSECUTOR:Q. Mr Mason, is your full name Scott David Mason?

A. Correct.

Q. Do you remember residing at [REDACTED] Rankin St in Bathurst?

A. I do.

Q. You lived there with Gillian Berry, as she then was?

A. Yes.

Q. And with Margaret Higgins?

A. Yes.

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Q. And two of Gillian's children?

A. That is right.

Q. And a dog?

A. Yes.

Q. Do you remember the time that you were living at [REDACTED] Rankin Street?

A. Yes.

Q. When was that?

A. I don't remember the exact time or date or anything.

Q. It was, what, early in 1989?

A. About three years ago.

Q. Did you meet the accused Ian Jones?

A. Yes.

Q. Did you meet him whilst you were in Bathurst?

A. Yes.

Q. Did you become pretty friendly with him?

A. Oh, just sort of had a drink with him now and then.

Q. And you called him by a nickname?

A. I can't remember off hand, Jacko or something.

Q. Did he ever come to your place?

A. Oh yes, I think he might have come around for a drink, yes.

Q. Did he ever stay there that you can remember?

A. Oh, I can't remember him staying.

Q. You were drinking pretty heavily around this time?

A. Yes, I used to drink a fair bit.

Q. How is your memory for things that occurred in 1989, looking back?

A. Well, it's pretty - - I can't remember what I did last week mate, like.

Q. You remember him, however, coming to your place?

A. Yes, he would come round for a drink, yes.

Q. Did you ever meet his girlfriend?

A. Oh, I think I saw her in a car.

Q. Whereabouts?

A. Just outside the house.

Q. Did you see Mr Jones about that time?

A. Yes.

Q. When you saw the girlfriend did you speak with Mr Jones?

A. Oh, I would have spoken to him, yes.

Q. Do you remember what you spoke about?

A. Oh, I've got no idea.

Q. Where was it that you spoke with him?

A. Just on the front porch.

CROSS EXAMINATION

FINNANE:Q. I take it from your difficulty with your memory you wouldn't remember, say, Friday, 5 May 1989?

A. No.

Q. You say you can't recall him staying there, is it possible that he did stay there and you just don't remember it?

A. It's a possibility that he did stay but I wouldn't remember. I spent most of my time in the bar.

Q. Did you have a bar out in the backroom area?

A. Yes, I did.

Q. Were there swings in the backyard?

A. I think I built a swing in the back yard.

Q. Your children used to play on them?

A. Yes.

Q. When you say you spent your time in the bar, what do you mean, the bar at the hotel?

A. No. I used to have a bar set up in the back room.

Q. And you spent your time there?

A. Yes.

Q. Is it fair to say you were out of it most of the time?

A. Yes, most of the time.

NO RE EXAMINATION.

WITNESS RETIRED & EXCUSED.

MICHAEL CHARLES PLOTECKI

Recalled, resworn.

CROWN PROSECUTOR:Q. (Witness shown exhibit R). Detective, could I take you to question 167 of the record of interview?

A. Yes.

Q. You see the answer:"We left the car in their parking area and put the car under the door to the office"?

A. Yes. I believe that should read "car keys under the door to the office."

Q. Would you go to question 232?

A. Yes.

Q. It reads, the question:"With regard to the answers you have given to my last three questions, how do you account in the pass book of 21 April 1989"?

A. That should read : "How do you account for the entry in the pass book of 21st April 1989".

Q. And Const Irwin who wrote out that list, or who typed that list out that you were shown on Friday, have you made some inquiries about his situation?

A. Yes. He was to attend this morning, however, I contacted him at about ten past ten when he hadn't arrived and from my understanding of him from a phone conversation, his wife had become ill - she has recently had a baby who is now three weeks old - and she is in hospital, she is very ill and he is looking after the baby.

Q. Michelle Nicholas, have you made inquiries about her whereabouts?

A. Yes. I have made inquiries through the police computer system and through her old address. She left no forwarding address, unfortunately. I have made some inquiries through the Housing Commission but they haven't been answered at this point.

Q. She was the girlfriend of Aaron Hill?

A. That is correct.

Q. Have you checked through the bag that all the documents were put in at the flat at [REDACTED]?

A. Not recently, no.

Q. You haven't checked the contents of the bag against that list prepared by Const Irwin?

A. No.

DOCUMENT FORM WESTPAC BANKING CORPORATION TENDERED: ADMITTED WITHOUT OBJECTION AND MARKED EX Y.

HER HONOUR: Members of the jury, this is a certified copy of a statement of account in the name of Mr J Hughes with the Westpac Banking Corporation, savings bank. It shows various entries. The significant one being a withdrawal on 5 May 1989 of \$200. That, I assume is what it is all about, Mr Crown?

CROWN PROSECUTOR. Yes, your Honour.

CROSS-EXAMINATION:

FINNANE: Q. Constable when you arrived at the flat for the first time other police were already there, is that right?

A. That is correct.

Q. How long did you stay at the flat?

A. It wasn't particularly long. I can't remember the exact time of it. Long enough to be shown the body and a quick look around the place, an explanation from the police that had attended as to what they thought had happened. I recall walking back along Baroda Lane to examine a car which had been found which was thought to be relevant at the time.

Q. It is fair to say that the police examined all sorts of things in the vicinity of this block of flats?

A. Yes.

Q. Not you personally but other police, to your knowledge?

A. Yes, that would correct.

Q. And examinations were made of apparent blood stains outside the building?

A. That is correct.

Q. One, as it turned out, to be those of a man who just happened to cut his hand on some broken glass?

A. That is correct.

Q. There were reports made to you, which you investigated, no doubt, of people in the vicinity with blood on their clothing?

A. That is correct, not just myself investigated it, the police from Kings Cross.

Q. And you obtained information from large numbers of people?

A. Yes, that would be fair to say.

Q. It would also be true to say although you and other police conducted an extensive canvass of the building, nobody could point to any particular person being in the flat with Hughes apart from the man called West?

A. That would be fair to say, yes.

Q. West was seen coming in and having some - he was seen come into the building but apart from him nobody else was seen?

A. I believe, from memory, Hill and Nicholas were seen in the building at some point trying to gain entry but not finding a result. I'd have to look through the statements to find.

Q. The man Scobie attempted to get into the flat, you are aware of that?

A. Yes.

Q. He was seen going into the building, presumably?

A. Yes, I believe he was, by witnesses. I can't recall who now.

Q. He claimed to have gone into the building behind somebody else who was entering from outside?

A. Yes. My understanding from a number of witnesses was it was clearly easy to enter the building even though it was a security building.

Q. I think the police even spoke to the care taker of the building to see if he had seen anyone coming in?

A. That is correct, yes.

Q. The deceased was not someone you personally knew?

A. No.

Q. And the initial inquiry was conducted by the Kings Cross Police?

a. That is correct.

Q. Because it was in their area?

A. That is correct, as part of the police patrol base concept they have to deal with it.

Q. Just to explain that concept, police patrol base, does that mean there are certain parts of the City and, indeed, country where there are established police patrols?

A. Yes.

Q. Centred around large police stations?

A. Yes.

Q. Small police stations sometimes?

A. Yes.

Q. Well now, it would also be true to say, would it not, that you investigated at an early point the question of whether Mark Locke was the murderer?

A. Yes.

Q. That was because a number of people suggested that to be a fruitful line of inquiry for you to make?

A. That is correct.

Q. Now, when you first spoke to the accused he spoke to you quite freely, did he not?

A. Yes.

Q. And appeared to have no reluctance whatsoever to discuss with you anything you wanted to discuss with him?

A. Yes, that would be a fair comment.

Q. Indeed, he expressed surprise to you about the death of Hughes?

A. Yes, he did.

Q. He told you he had been in Bathurst at the time?

A. That is correct.

Q. I think he used the expression, "That's one for the books" or something like that?

A. That is right, yes.

Q. He invited you to inquire of Kerrie Stanton, did he not?

A. Yes.

Q. As to where he was in Bathurst?

A. That is correct.

Q. That was something you subsequently did?

A. That is correct.

Q. When you next saw him I think you actually took a statement from him, did you not?

A. That is correct, at the Kings Cross police station.

Q. That was a statement of 4 October?

A. I am not sure of the date without looking at it.

Q. 1989?

A. Yes.

Q. I think you can take it from me that is what the statement says but I will show it to you?

A. No I believe you.

Q. And that statement was taken in this form with you and the accused and I think -

A. Det Scullion.

Q. Scullion and after some initial discussion you sat around a table and you talked about everything that you wanted to find out about and then it was typed out in his presence in the form of -
A. No, it was typed as we were talking. It was done on a word processor.

Q. That is, you would talk to him, ask him something, he would tell you something and that would then be typed out as the conversation went along?

A. As we went, that is correct.

Q. He told you, for example, that he was employed with CPL Civil Engineering as a Plant Operator?

a. That is correct.

Q. Had been employed for the past three weeks and that was something no doubt you checked on, was it?

A. I can't recall whether I checked or not but somebody would have, yes.

Q. That was found to be correct?

A. I can't recall.

Q. That sort of detail is the sort of thing that you attempt to get from people because those little personal details are things that you can check on them?

A. That is correct.

Q. It is a normal police method, is it not?

A. Yes.

Q. To get things like their name and date of birth, whether they are married or single, who they work for?

A. Yes.

Q. Innocuous sorts of questions to help you to make sure that what you are getting is true?

A. Yes.

Q. Well, then he told you that he was an associate of Hughes and had known him for about ten years?

A. Well, I don't have the statement in front of me so I can't recall specifically what he said.

Q. Well, I think paragraph 5 says, "I am an associate of the person, John Hughes and I have known him for about ten years"?

A. I take what you are saying. I am just saying I don't remember the detail of this statement.

Q. That question of course, or that answer was something that he volunteered to you, the length of his association with Hughes?

A. Yes.

Q. He also volunteered to you that Hughes was an active homosexual, a user of heroin although at the time of his death he was on the methadone programme?

A. Yes.

Q. Those particular matters also were true from inquiries the police made?

A. Yes, I believe them to be true.

Q. He said to you that although he had never seen Hughes sell drugs he was aware through conversation with him that he did at some stage sell heroin?

A. Yes.

Q. You were able to establish that some stage Hughes did sell heroin?

A. Yes, we were aware he was a heroin supplier.

Q. I think he was facing some charges at the time of his death, was he not?

A. That is correct.

Q. Was Hughes someone that you would describe as, because of his dealings in drugs, as an associate of the criminal element?

A. Looking at his criminal record not knowing him, I certainly would describe him.

Q. You were made aware of all the inquiries that all the police were co-ordinating about this death?

A. Yes, I believe I was anyway.

Q. You were effectively the man in charge of the operation, were you not?

A. Not until some time down the track. I had made myself aware of a lot of things.

Q. Initially you came in and other people were in charge, if one can put it that way?

A. Yes. The way the system works is that we, the Homicide investigators, go to a crime purely to assist, to take statements and to do a large number of tasks at the direction of the patrol investigators there. In theory, we are supposed to offer advice. At this particular time on this case I had only been at the squad for a month, so basically I was there as a helper and someone to take statements.

Q. Over a period of time you came to be the person on whom the major responsibility devolved for organising the major investigation?

A. Yes, it happened that way, yes.

Q. You have been the person who has been co-ordinating the getting of witnesses to the court and so on?

A. That is right, yes.

Q. It seemed pretty plain from your knowledge, again from talking to all the other police, that Hughes had many contacts and associates in the drug world and the criminal world generally?

A. Yes, that is a fair comment.

Q. People who were active criminals themselves?

A. Yes, I believe that is a fair comment too.

Q. Well now, the accused also told you of how he had been living in a house in Carlton? A. That is right.

Q. Then how he had been stabbed in the back on New Year's Eve.? A. Yes, that is right.

Q. By people whom he thought of as robbers? A. Yes, that is correct.

Q. He claimed he reported that to the police that night? A. Yes, that is correct.

Q. Later on he told you when you interview him in a formal way that that reporting was to somebody in a car, a police officer in a car? A. That is correct.

Q. Who called the ambulance? A. That is correct, yes.

Q. He told you that he spent time at St Vincent's Hospital? A. That is correct.

Q. Being treated for his wounds? A. That is correct.

Q. I take it you checked those matters out? A. Yes, we got a copy of the report that he made with regard to his stabbing.

Q. You established that he had claimed to have been stabbed? A. That is right.

Q. You established that he had been to a hospital ST Vincent's Hospital? A. That is correct.

Q. Then after that he told you that he bumped into Hughes, told him he had nowhere to live and for a few weeks he actually lived in Hughes' flat? A. That is correct.

Q. The flat he lived in was not the flat Hughes' body was found in but another flat in the building? A. Yes, from memory it was a flat on the floor below.

Q. The second floor, and it seems that from inquiries you made with the care taker that Mr Hughes had lived in a number of flats in this building? A. Well at least two, yes.

Q. Then he told you of Hughes' relationship with a young man called [151], he knew was [151]? A. That is correct.

Q. You established from sources independent of Mr Jones that [151] [151] had in fact lived with Hughes? A. That is correct.

Q. [redacted] 151 was a young homosexual prostitute who worked The Wall at Darlington, I think that is what your inquiries revealed?

A. That is correct.

Q. Someone that Hughes had formed a sort of love relationship with?

A. Yes, that depends on who you speak to about it but that is certainly one impression that people have got about him.

Q. This man whose real name is [redacted] 151 who has disappeared from sight?

A. That is correct. He is currently wanted by Ultimo Police for a stealing.

Q. He was somebody who your inquiries led you to believe was involved in theft and crimes of dishonesty generally, was he not?

A. Yes. Well, most of the heroin addicts and male prostitutes at the Kings Cross area tend to be involved in that scene.

Q. They prostitute themselves one day, they steal another day?

A. That would be a correct assumption in most cases.

Q. Well then, Jones told you of Hughes' association with a man called Scobie?

A. Yes.

Q. Again, you were able to establish both from Scobie himself and from other people that Scobie did have that close relationship or a close relationship with Hughes?

A. Yes, that is correct.

Q. Scobie himself of course was fairly active in the drug scene?

A. Yes, I believe that is the case.

Q. And is currently serving a sentence for some drug offences?

A. Yes, that is correct.

Q. According to Jones, Hughes had told him that his association with Scobie went back to primary school?

A. I understand it went back some way, whether it was primary school or not, I don't know.

Q. Scobie himself claimed that happened, that he had known him since they were quite young?

A. Yes, I am aware that he claimed he knew him for sometime.

Q. In the course of this first formal statement Jones told you of Mark Locke?

A. That is correct.

Q. And he volunteered to you that he had confronted Locke whilst he was in the company of [redacted] 151 one day and confronted him in a pretty violent way, head butting him I think?

A. Yes, that is correct. He warned him off going near Hughes, from memory.

Q. It was his claim to you that he did this because Locke had been standing over Hughes?

A. Yes, that was what he alleged.

Q. Well then, Mr Jones told you that he moved out of the flat, Hughes' flat . I think in his first statement he told you mid March and in a later interview it was late February?

A. That is correct.

Q. He went to Lithgow looking for work because at the time a new gaol was being constructed and he thought he might get a job there?

A. That is correct.

Q. It is true, that at the time a new gaol was being constructed?

A. Yes.

Q. He told you then that he then moved to Bathurst and he worked for Mitchell Plant Hire?

a. That is correct.

Q. Indeed, you established from inquiries you made that that was so, that he had worked for Mitchell Plant Hire?

A. That is correct.

Q. He told you that he had stayed at the Bathurst Emergency Accommodation Service in the Victoria Hotel and then had gone to [REDACTED] Upfold St?

A. That is correct.

Q. All those items of information turned out to be correct?

A. That is correct.

Q. He also told you who he lived with at [REDACTED] Upfold St?

A. Yes.

Q. A man called Dodd and a Ron and Leonie Flower?

A. Yes.

Q. And then later his - Miss Stanton who he described as his ex girlfriend, de facto?

A. Yes.

Q. And of course, as we all know, those facts in fact were true?

A. Yes.

Q. He lived with those persons at that address and he told you that he travelled down in mid April for a court appearance at the Kogarah Local Court?

A. That is correct.

Q. ^{You} Who found out that in fact he had appeared at the Kogarah Local Court?

A. That is correct.

Q. Well now, you asked him some questions at this initial interview about his relationship with Miss Stanton?

A. Yes.

Q. He told you that she visited him in Bathurst twice, the first time staying for twenty four hours; she flew up on that occasion and then flew back by East WEst, he thought?

A. That is correct.

Q. The second time she drove up in a hire car from Budget?

A. Yes, that is correct.

Q. "I think it was a White Commodore", he said?

A. That is correct.

Q. As we all know, she in fact did make a trip to Bathurst in a Budget car which I think was a Commodore?

A. That is correct.

Q. He told you that she was booked for driving under the influence the night she came up?.

A. That is correct.

Q. She had gotten lost and rung in and she later stopped and asked the police at Bathurst for directions and was booked for drink driving?

A, That is correct.

Q. Your inquiries from the police at Bathurst established that that was so; she actually, after driving in a somewhat erratic fashion, she actually pulled over and asked the police how to get to Bathurst?

A. Yes, my understanding was she hailed them down.

Q. They took advantage of the situation and suggested she might like to blow in the bag, as everyone does?

A. That is right, yes.

Q. She was escorted home by police to Upfold St and that in fact turned out to be true as well?

A. That is correct.

Q. That, of course, is a fairly normal thing for police to do in situations like that?

A. Yes, I would say that is a reasonably common occurrence.

Q. Particularly if someone is out of the urban area?

A. Country police in particular are very friendly in that regard.

Q. He told you that this was a Thursday night?

A. I think he said, "I think it is a Thursday night" but I can't recall exactly.

Q. He also told you of buying a car, a Mini, a green Mini panel van from a bloke named Brian Townsend and gave you his address?

A. That is correct.

Q. You established that that indeed was true?

A. Yes.

Q. Now, that interview I think was in October 1989. Now, you had found some of these details out, of course, in your previous discussions with him on 5 June of that year?

A. Yes, that is correct.

Q. When you spoke to him at the Sutherland Police Station?

A. Yes, that is right.

Q. So, I suppose by the time this statement, the second statement was made you knew a lot of the circumstances and a lot of the facts that were contained in it?

A. Yes, that is right.

Q. Now, when you spoke to him, the second time in October 1989 he agreed to give you a statement and he was obviously quite willing to give you that statement?

A. Yes, he was quite willing to give us a statement.

Q. He said to you, "I've got nothing to worry about."
A. That is correct.

Q. On 30 April 1990 you arrested him, interviewed him at the Sydney police centre?
A. That is correct.

Q. And you spoke to him, you and Sgt Smith for something over six hours?
A. That is correct.

Q. In the course of that there were a number of breaks and refreshments were taken and so on?
A. That is correct.

Q. But he spoke to you in a calm and relaxed manner?
A. Yes.

Q. And he didn't appear in the least reluctant to tell you what it was you were asking?
A. Well, he was towards the end of the interview, he was quite obviously very guarded in what he was saying.

Q. Was that when you showed him a pass book from the St George Building Society?
A. That and later on when I asked him for an alibi.

Q. In those two matters he seemed to become a little guarded?
A. I would say evasive at that point.

Q. Evasive?
A. Yes.

Q. The pass book, of course, was shown to him out of the blue, he was given no warning that you had a pass book to show him?
A. No, that is correct.

Q. It seemed to surprise him?
A. Yes, I'd say it did.

Q. But it is true to say he denied ever having seen the pass book before?
A. Initially and then later on he told us that he had taken it from the flat.

Q. Well, did he? I will come to that. When you spoke to him again on this occasion you went through the same procedure of inviting him to give you information on what appeared to be quite incidental matters, such as his date of birth, his address and his occupation?
A. Well, those things are standard in a record of interview, to start with, anyway.

Q. And he told you that he was a plant operator working at Aerolift, Cabramatta and gave you a telephone number and the name of his employer?
A. That is correct.

FINNANE: Your Honour, I notice the record of interview is there and I do not mind in the least if he refers to it as we go along.

Q. He told you he had been employed there for three months?

A. Yes, that is correct.

Q. You checked those things and they were true, were they not?

A. I think earlier he had asked us to ring his employer, from memory.

Q. To verify what he told you?

A. Yes. He was concerned about not being at work that day.

Q. He told you where he lived, the rent, where he had been living previously and that he had been born in Wales?

A. That is correct.

Q. Came out here on a BOAC flight?

A. Yes.

Q. With his parents, two brothers and a sister?

A. Yes.

Q. And he gave you their names?

A. That is correct.

Q. And all those things, on your checking, turned out to be correct?

A. I have got to admit I didn't bother to check into his family other than to get the names from him.

Q. But that is something you could have checked if you wanted to?

A. If I wanted to, that is right.

Q. When you then got into the purpose proper of what you were there for, you started off by showing him a statement?

A. That is correct.

Q. And that is a statement that I have just gone through with you?

A. That is correct.

Q. Of 4 October 1989. You invited him to read it and then you asked him if he wanted to add anything?

A. That is correct. I also cautioned him before he read it he didn't have to say anything about it.

Q. That is also standard fare police procedure?

A. That is correct.

Q. He wanted to qualify that statement in a couple of respects?

A. That is correct.

Q. And the first thing he wanted to qualify was that the accused did use heroin occasionally and he wanted to amplify about what he said about Locke blackmailing Hughes?

A. Yes.

Q. And he wanted to let you know that Hughes had told him this before he left the flat and went to Lithgow?

A. Yes, that is correct.

Q. All right, well then, you went through with him again some of the material that you had gone through with him before in the previous statement, the details about his stabbing and his injuries and what happened and the circumstances of the robbery, where he went to live after he went to hospital and so on?

A. That is correct.

Q. Was your purpose just to verify what had been done previously?

A. That is correct.

Q. And again you went into whether anybody else was living there and he told you about this man [151] and again he told you he didn't know his name?

A. That is correct.

Q. And he described the flat that he had lived in with Hughes which seemed, on the description, to be quite similar to the one that Hughes lived in subsequently - a one bedroom flat with a bathroom and a lounge room come kitchen?

A. That is correct.

Q. And he told you that Hughes slept with [151] in a double bed and he slept on the floor?

A. That is correct.

Q. And then he gave some information about Hughes' drug-taking and [151]'s drug-taking?

A. That is correct.

Q. And you asked him some questions about banking?

A. That is correct.

Q. And what he knew of the banks?

A. What he knew of the accounts and the banks that Hughes had.

Q. And he told you that Hughes had said he had a National and St George account?

A. That is correct.

Q. Indeed, it was your intention at a later point to confront him with this St George account book?

A. That is correct.

Q. And he told you that Hughes didn't let him, that is, Mr Jones, do his banking for him?

A. That is correct.

Q. Now it would be true to say that the only person that the police had been able to determine that did Hughes banking, apart from Hughes himself, was Scobie?

A. That is correct - correction, that is not right. Question 80: "Did John let any other person do his banking for him? A. Not that I know of."

Q. But I am saying from your inquiries the only person that you knew of, apart from Hughes, that did Hughes banking was Scobie - he said in his statement that he gave to the police that he was only person that Hughes had confidence in to do his banking?

A. No, I haven't seen any statement to that effect.

Q. You do not know of anyone else who claimed to have the confidence of Hughes to do his banking?

A. Not that I am aware of, no.

(The jury left the court room.)

CROWN PROSECUTOR: Might I just put it on the record that Det Plotecki is our last witness and I have spoken to my learned friend, we are not calling anyone else. We are not calling any corroborative witnesses or any other persons who have been mentioned. Just for the record.

FINNANE: As we might well be in our case this afternoon, I wonder if it would be all right for the accused to confer with me at lunch time in the public defender's room?

HER HONOUR: I do not see any problem about that.

FINNANE: I would anticipate we would be in the defence case this afternoon.

HER HONOUR: Even with the early stop?

FINNANE: I think so. If it turns out we are so close to it all we can get in is an opening address, I might well ask that that be deferred to the following day.

LUNCHEON ADJOURNMENT:

Q. Constable Plotecki can we take it that the evidence you have given is the complete evidence that you can give about this matter?

A. Yes, I believe so.

Q. Now, how many searches were conducted on this night by you?

A. What do you mean?

Q. You have given evidence of one?

A. What do you mean, searches?

Q. A search of the flat on 6 May, sorry?

A. There was one that I did, yes.

Q. That was at nine o'clock?

A. About nine o'clock. Taking it from my duty book, I had taken a meal at ten o'clock.

Q. Did you go later on and conduct a search with some other police officers?

A. Not that I recall, no. I'd have to look at my duty book but I don't believe so.

Q. Where is your duty book?

A. It's in the Crown's office.

Q. What I am asking you to recollect is, you have given evidence of one search?

A. That is what I can remember.

Q. If you remembered you had performed more than one search you would have given evidence of it?

A. Yes. I said I don't remember doing a second search.

Q. Well, this search was conducted and can we take it that the procedure adopted was that those helping you, you yourself, went through the flat picking up anything that they thought might be of interest and throwing it in a brown paper bag?

A. It was collected and thrown in a brown paper bag, yes.

Q. Nobody was deputed on that night to take a list of what was being thrown in the brown paper bag?

A. That is what I said on the last occasion I was in the witness box, I believe I wrote out a list - -

Q. What did you do with it?

A. I threw it in the bag with the rest of it. I don't know what happened to it. I can only assume that Const Irwin disposed of it.

Q. It is important in a trial, particularly in one involving murder, not to throw lists away?

A. I think the view taken by the police officers at Kings Cross was obviously it wasn't evidence and it was to assist us in establishing associates.

Q. That was sloppy practice, wasn't it?

A. I am not here to criticise the Kings Cross police, that is something for them to decide.

Q. They were helping you with your search?

A. That is quite true, yes.

Q. Just going back to the record of interview. It is quite clear, is it not, that when you first asked him - I refer you to question 92: "Did you ever see John Hughes' bank books?" He said, "No".

A. That is correct.

Q. When you asked him question 221 you produced a St George Passbook?

A. That is correct.

Q., Question 221, you told him you were going to show him this book, "What can you tell me about that book?" and he said, "I've never seen it before"?

A. That is correct.

Q. The only thing he recognised about it when you showed it to him was the name. He said it was John Hughes'?

A. That is correct.

Q. Then you told him that the pass book was found in the jacket, in the lining of the jacket?

A. That is correct.

Q. And asked him in these words, "What can you tell me about that?"

A. That is correct.

Q. And he replied, "That is my jacket, I often put things in that jacket in the lining. If that's where you found it"?

A. "If that's where you found it, I believe you".

Q. "Can you tell me how this pass book came to be in your jacket?"

A. By the sounds of things I must have picked it up at Hughes' place"?

A. That is correct.

Q. At that stage he was seeking to explain how he could have something he had never seen before in the jacket that you showed him or that you spoke of?

A. That's correct.

Q. I take it from my reading of the record of interview that the jacket itself was lying on some table nearby, was it?

A. Well, yes, it was nearby. I can't remember if it was lying on the table or not.

Q. Then you asked about him the last entry in the passbook?

A. That is correct.

Q. He said he didn't know anything about it, "It's John's passbook"?

A. That is correct.

Q. Then you asked him how it was the St George Passbook was in his possession?

A. That is correct.

Q. He said, "I might have picked it up in John's place and left in the meantime and forgotten it."

A. Yes, and he went - -

Q. "And in the intention of returning it but I'd left the premises in the meantime to go and live somewhere else."

A. That is correct.

Q. So he acknowledged the possibility in that answer?

A. That is correct.

Q. Then question 232 you put this to him:

"Q. With regard to the answers you have given to my last three questions, how do you account for the entry in the pass book on 12 April 1989?"

I am putting in the words you thought must have been there?

A. That is correct.

Q. The answer is:

"A. Whatever the book states is whatever the book states. I haven't been to John Hughes' place since I left in mid-March when I went to work for Mitchell Plant Hire."

A. That is correct.

Q. That, indeed, was a stance that he had maintained from the first time you had interviewed him in June 1989?

A. That is correct.

Q. Once he left he never went back?

A. That is correct.

Q. Then you put to him:

"Q. Can you tell me why you picked up John Hughes' St George pass book when you left the unit?"

A. In all honesty, no."

A. That is correct.

Q. You are putting to him that it was a positive fact he had picked it up?

A. Well he had said - -

Q. When he had acknowledged previously it was a possibility that that had occurred?

A. He had said previously that he had picked it up. If at all, he acknowledged it only as a possibility.

Q. "I might have picked it up."

"Q. And you still maintain that you left John Hughes' place in mid-March 1989?"

A. Yes.

Q. Do you also maintain that you have never returned to John Hughes' place after that time?

A. Yes, I never went back there."

So, again he maintains on a further two occasions that once he left he did not go back?

A. That is correct.

Q. Well then, you asked him whether he left any clothes there when he left and he said, "No" and you asked him:

"Q. Did your girlfriend, Kerrie Stanton or anybody else pick up any of your personal possessions, including clothing from John Hughes' flat after the time that you moved to Bathurst?

A. Not that I know of. I know that John Hughes contacted Kerrie Stanton by phone, that's all I know."

Right?

A. Correct.

Q. He did not seek to put forward that as a possibility that the clothes might have been picked up by somebody else?

A. I acknowledge that, yes.

Q. And he said John Hughes did not ever use his jacket?

A. That is correct.

Q. "No never". Nor did [151] ever use his jacket - so, he was not trying to put forward - as we understand Hughes was quite a tiny man and Mr Jones is quite a tall, quite heavily built man?

a. Yes, they are very different.

Q. This man [151], did you understand him to be relatively small and lightly built?

A. Yes, much the same as the deceased.

Q. Then you put to him this question:

"Q. Did you kill John Hughes?

A. No, definitely not".

That again is something that he has always maintained, is it not?

A. Yes.

HER HONOUR: To this witness.

FINNANE:Q. Well, he maintained that to the Magistrate's court too when asked if he wanted to say something?

A. To me, that is a correct assumption, yes, he has never admitted it to me.

Q. He has never admitted it to any police officer, he has always maintained that as far as you know?

A. No, not that I am aware of.-

Q. Then he gave a reason for leaving Hughes' flat in mid march 1989, :

"I was just fed up with the place, it was full of drugs and poofers".

A. That is correct, after I asked him if anyone could account for his movements on the evenings of 5 and 6.

Q. His description of the place seems to accord with the truth, does it not, full of drugs and poofers?

A. Yes, unfortunately it is Kings Cross.

Q. Well now, I think without going into every specific question and answer, you would remember this, he again in this record of interview told you that the man that sold him the car was named Whippet, Brian Townsend and gave you an address?

A. That is correct.

Q. That, of course, was his nickname?

A. That is correct.

Q. And that is the man who sold the car?

A. Yes.

Q. And he said he sold the car to a lady university student at Bathurst?

A. That is correct.

Q. And that, indeed, is correct because Miss Adams, I think, came here today?

A. That is correct.

Q. And she at the time was a university student at Bathurst?

A. That is correct.

Q. If I could go to a few other things, Mr Plotecki. You were anxious to ensure that Mr Jones was convicted of this offence?

A. No.

Q. Did you tell Mark Locke something to this effect: If Jones doesn't go you go"?

A. No, that's absolute rubbish. All the time with any of my witnesses I have always maintained I want the truth from them. The last thing I want to see is an innocent man go down for an offence.

Q. If Locke said that to anyone, I'd take it you'd say that would be a false statement by him?

A. Yes.

Q. Did you show Locke a bank book in a question?

A. I can't recall. Which bank book are you referring to?

Q. The bank book, with blood on it or perhaps something on a bank book that was red?

A. It's quite possible I showed him the St George Bank book, as I have showed a number of witnesses to try and identify it.

Q. What was your purpose in showing Locke the St George Book?

A. To establish whether he had seen it in the custody of the accused. As I said, I showed it to a number of other witnesses.

Q. Well, you were the person who was in charge of the search of the premises, is that right?

A. Yes, that is correct.

Q. As far as you were concerned, leave aside scientific police who might have taken objects away for examination, fingerprints and the like, the only search of the premises was the one that you conducted?

A. That I can remember, yes, that is correct.

Q. Well, you 'd remember another one if you conducted another one?

A. Like I said, I didn't have control over other police. There may have been other searches conducted but I am not aware of them.

Q. Det Scullion conducted a number of searches, didn't he?

A. I know that Det Scullion returned back after he had received information from [REDACTED] 151 that drugs had been hidden in the premises. I know that a cash box was taken and fingerprinted.

Q. And Scullion looked in some ice cubes and a towel rack for drugs?

A. Yes. Leaving aside those searches, I conducted one search.

Q. Leaving aside those searches conducted by Scullion, there was only one search conducted by you?

A. Yes, leaving those aside.

Q. Your claim is that everything that was taken was put in that paper bag?

A. That is correct.

Q. You later went and picked up a blue coat from Miss Stanton?

A. That is correct.

Q. You established from her that it was a coat belonging to the accused?

A. That is correct.

Q. And, indeed, you asked him about that coat in the record of interview?

A. That is correct.

Q. And he readily admitted it was his?

A. That is correct.

q. And you, from the time Miss Stanton gave you that coat to the time that a scientific officer got it, whose name I have forgotten?

A. Matthew Bendt.

Q. You were the only person who had custody of that jacket?

A. That is correct.

Q. The accused readily admitted when you confronted him about the matter that he wore that jacket around Bathurst?

A. That is correct.

Q. And he claimed his girlfriend did?

A. That is correct, and she was asked about it as well.

Q. And she said that, didn't she?

A. That is correct.

Q. And Khoudair produced to you from the lining this bank book, St George pass book?

A. I understand that is where it was found, yes.

Q. That is what he told you?

A. That is correct.

Q. And it follows from all this that the persons who had access to that coat are Miss Stanton, Mr Jones, you and two scientific officers?

A. That is correct, as far as I can ascertain.

Q. You do not know of anyone else who has had access to that coat?

A. No, I don't.

Q. Or who has worn it?

A. No, I don't.

Q. You were the one conducting the search of the flat?

A. That is correct, in conjunction with two uniformed police and two mounted police.

Q. And so you were in charge, you were the one that made the list out that has now been lost, is that right?

A. Yes, although quite obviously one of the Kings Cross police made out a list.

Q. Well, he made out a list from the inspection he made of that paper bag?

A. Yes.

Q. He wasn't at the search was he?

A. No.

Q. Irwin was a man who was at the police station sometime later?

A. Yes. He was one of Det Scullion's assistants.

Q. He made out a list?

A. Yes.

Q. Well, Mr Plotecki, I would suggest that you took that bank book on the night of the raid, the attendance on the premises and kept it in your possession?

A. No.

Q. You put it in the lining of the jacket?

A. No, that is not the case and you are well aware there are quite a number of good reasons why that couldn't be the case.

Q. Why do you say there are a number of good reasons, what are they?

A. You'd have to credit me with a lot of foresight to do that. As I said from the start, I wasn't initially in charge. Nor, had I anticipated being in charge of this matter. The first I knew of that bank book was when Mr Khoudair gave it to me.

Q. Was it something you had accidentally kept in your possession because of carelessness on the night?

A. No. It simply couldn't be possible. You couldn't seriously suggest I'd have two police from the mounted section whom I had never met before that night and two uniform police officers with me and that I kept it to myself.

Q. Why do you suggest you wouldn't keep it?

A. Why would I keep it in that scenario?

Q. If you, as a ^{homicide} ~~police~~ officer, kept it during the conduct of the search, why would a mounted policeman from Redfern question what you were doing?

A. I'm sorry, I can't understand why I would keep it in the first place. I was only at the initial crime scene simply as a worker. I can't understand why I would keep it in the first place. You'd be attributing me with a considerable amount of foresight on the off chance that I'd secure the brief - -

Q. What if you kept it by accident and then you saw an opportunity?

A. No. I'm sorry, it doesn't ring true. I mean, for a start, you'd have to seize the opportunity. I'd just couldn't see how you would do that.

Q. Finally, if I could go to this, you agree after going through this material that was taken into possession that Jones always gave you co operation and spoke freely to you apart from what you say were guarded moments at the end of the record of interview?

A. Bearing in mind he was quite co operative because quite obviously up to the record of interview he believed that Stanton was backing his story that he was back in Bathurst.

Q. He showed no hesitation in sitting down and talking to you?

A. No, I think he was fairly confident about it. As I said, he didn't believe that Stanton would say he disappeared over this amount of hours.

Q. But he gave you co operation?

A. Looking at it in hindsight, that is what it was.

Q. You didn't use any force to compel him to answer questions?

A. I'm sorry, use force to compel him to say - -

Q. You didn't have to threaten him or force him to answer questions?

A. No, I didn't need to. Apart from the physical aspects of it, I think it would be a bit hard.

Q. I am not suggesting you did use force, you understand, I mean, he sat in an interview room with you on three occasions and spoke to you quite freely?

A. That is the case.

Q. What I am suggesting, far from suggesting that you used any force on him, I am suggesting he did not show the slightest reluctance to speak to you whatever was his motivation?

A. No. As I said, he was unaware of what Stanton had told us at that time.

Q. How do you know what he was aware of and he was not aware of, you are only surmising?

A. I am surmising that Stanton had not spoken to him and told him what had happened.

Q. That is only your surmisation?

A. Yes.

Q. He did not seem hesitant to refer you to Miss Stanton?

A. No, he wasn't.

Q. Actually it was fairly clear to you after you had made a check that they had had a falling out and were no longer living together?

A. That is correct.

Q. Well then, Mr Jones always maintained that once he had left Kings Cross he did not ever see Hughes again?

A. That is correct.

Q. He has always maintained that he never went back to that flat?

A. That is correct.

Q. He maintained that he did not kill Hughes?

A. To me, that is correct.

Q. And he maintained, or rather he said when first shown the bank book that he had never seen it before?

A. That is correct.

RE EXAMINATION

CROWN PROSECUTOR:Q. Could the witness be shown this book (permission granted).

A. This is my police duty book number D11613.

Q. Would you look for the entry concerning your movements on 6 May?

A. Yes, I have found it.

Q. Is there any statement there relating to any search?

A. Only the one that I had before my meal between 10 and 10.30 after which I went to the Rex Hotel, from there I interviewed the witness Hill. He was conveyed to the SPC with regard to outstanding assault matters and that was it.

Q. Well, there was no other search apart from the one?

A. No.

Q. Do you have a copy of the record of interview there still?

A. I do.

Q. Would you look, please, at the answer to question 224. Do you see the answer?

A. Yes.

Q. Were you aware before the accused told you that answer that he ever put things in the lining of the jacket?

A. No, I wasn't.

WITNESS RETIRED.

CASE FOR THE CROWN CONCLUDED.

CASE FOR THE ACCUSED.

(Mr Finnane opened his case to the jury).

THE ACCUSED MADE THE FOLLOWING UNSWORN STATEMENT.

ACCUSED: Your Honour, ladies and gentlemen I am innocent of this crime. I did not commit the murder of John Hughes.

About December 1988 I went to Kings Cross for New Years Eve. I was walking along Roslyn St about 1.30 in the morning when a man approached me and asked me for a cigarette. I said, "No problem". As I reached into the side of my jacket to give this guy a smoke two men came out of the shadows and said, "Give us your wallet, mate". I started to laugh because I was broke and I said that fact but they repeated the threat. So, I pushed the man in front of me out of the way and tried to get round him. One of the men behind me stuck a long bladed knife into the middle of my back, in the top left shoulder.

Stabbed

I made it up to the top of Roslyn St and there is Les Girls and a police car was sitting outside the front. I got the front of the police car, turned and lifted my jacket up and said to the policemen, "I've just been stabbed". He said, "Sit in the gutter" and he rang an ambulance. Then he dispatched the police car to look for my assailant.

I spent about three weeks in hospital. I came out of hospital and then I went to Carlton and lived for about a week in a

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boarding house. But, they cut me open when I was in hospital from the bottom of the rib cage to the belly button. The bottom of the belly button started opening up, so they readmitted me into hospital for three days.

When I came out of hospital I ran into a person I know now as John Hughes. I told John that I was having a hard time for somewhere to live. Because I am a big sort of bloke John said to me, "You can come and stay at my place." John is a practising homosexual and I said, "John, I don't want to see any of that sort of thing." And he said, "Look, Ian, I am night manager at the Merlin Hotel. I start work at 10 o'clock at night and I work until 8am in the morning and then I do an additional course for an hour so you will never see me in bed with a man" as he put it, so I said "OK". So, I said, "Sure".

Now, while I was there he told me of a man called Mark Locke that had threatened him and stood over him a few times and was blackmailing to go to his boss over being a drug dealer or whatever so he could lose his job.

*Read:
same place*

I was walking along Kings Cross with a young man by the name of 151 and he pointed out this Mark Locke to me. I grabbed him by the scruff of the neck and I head butted him once. I said, "Listen, leave this guy alone. He doesn't deserve this rubbish, just get out of his life. Leave ^{him} ~~me~~ alone".

About two weeks later I was watching TV and because I am a plant operator I noticed they were building a new prison up at Lithgow. So I decided there and then I had had enough and I wanted to get out of the place and I would go up and seek employment. So I went up to Lithgow and I stayed in a hotel just near the station for two days. The Monday morning I went down

*Described go p. to
Lithgow*

to the site at Lithgow and I approached all the contractors there to see if they needed an operator for a backhoe, a bulldozer, a crane, anything. There were no jobs going. So, I went back up to Lithgow. I went to the CES and there was a job going for a backhoe operator at Mitchell's Plant Hire at Bathurst.

I went to Bathurst and saw a man by the name of Allan Mitchell and applied for the job. I stayed at a place called the Bathurst Emergency Accommodation. It is just a house where people who have not got much money or whatever stay. So, I stayed there for one night, started work the next day at Mitchell's Plant Hire.

Then I went to the Victoria Hotel and approached the manager and said "Look, I have just started a job, would you give me a room?" And he said, "No problem."

While I was staying there I met a guy by the name of Lance Dodd and he introduced me to another man by the name of Ron Flower. He had a house in Upfold Street and he offered me a room for \$30 a week. So, I went and stayed there. After I had been living there a little while I rang Kerrie Stanton and asked her to come and stay with me. She came up for one night and there were a few problems at home, so I put her on the plane the next day and she went back again.

About two weeks later she rang me and said, "I'm on my way." This was about 4.30 in the afternoon and about 11 o'clock that night she rang me again and said, "I'm lost, I don't know where I am." and I was pretty unhappy by this time because she always does this sort of thing and I said, "Pull up a policeman and ask him where you are." And as you know, that is what she did and she got done for DUI.

Opp 7 (a)

On the Thursday I went to work and worked until about 2.30 on that afternoon and came home. That night I drank about half a bottle of scotch. Now, I don't drink hardly at all, so the next day I had a bit of a hang over and I went to work. I got to work about 7, quarter past 7. Alan Mitchell was there and I said, "Alan my girlfriend has just come up from Sydney; it is raining, do you mind if I have the day off?" He said, "Off you go". So, I went home to Upfold St.

S/S
I had breakfast with Kerrie Stanton and then I noticed that Lance Dodd, he worked next door, he is a casual truck driver, he had just gone off to work too. So, about 10.30, 11 o'clock me and Kerrie Stanton went to Orange for a drive, for a day out sort of thing. We had a counter lunch at about 12 o'clock at the Parkview Hotel. About 1 o'clock, 1.30 we left and came back to Bathurst from Orange. About 2.30 Lance came home. Like, when we got back there Lance just came home and me and Kerrie had a bit of a fight about her drinking and what have you. So, I got in my Mini and left.

Now, I went round to a friends place, Jill and Scott's in a street in Bathurst. Now, I had only just recently met these people about three weeks before. When I got there I knocked on the door and Margaret came and I said, "I'm Jonesy" - that is where she has got Jacko from and I said, "I have had a fight with my girlfriend, do you mind if I hang around?" She said, "Jill and Scott aren't home just now but no worries". So, I hung around.

About 5 o'clock she took off, so I just sat on the front verandah with my feet up on a chair. About 7.30 Jill, Scott, the two boys and another guy turned up. I told Jill that I had a fight with my girlfriend and could I stay the night.

Opp 7 (b)

5
6/5

She said, "Yeah, no worries. You are welcome to stay." So, I stayed in the back room where they just finished building this bar. Now, I slept there all night. About seven o'clock the next morning, this was the Saturday, the two kids woke me up and I played with them and the dog and what-have-you and watched the cartoons and mucked around until about 9.30, quarter to ten. Then I made a cup of tea or a cup of coffee for Jill and Scott, went in and gave it to them and thanked them for letting me stay the night and went home.

When I got home Lance and Kerrie were just about to take the hire car back. They asked me if I wanted to go with them. I said, "No, I'm right". So, I just chopped some wood and did whatever you do on a Saturday afternoon in Bathurst.

The next day, the Sunday morning, I said to Kerrie, "I'll take you round and introduce you to some friends." So, I took her around to Jill and Scott's place. I don't think Scott was there when we went inside but Jill had a few other friends there as well and I introduced Kerrie to Jill and we sat around and were having a bit of a laugh about her getting booked for drunk driving, dumb blondes and what-have-you.

Now, about two weeks later the house was sold so we all left Bathurst. That Mini Minor, I drove it to a new job at Lucknow, I started one day. It is just outside of Orange, Lucknow. I drove to there one day. The next day I drove it there and it stopped half way and I ended up losing the job and having to get it towed back to Bathurst. That is why I sold that car, it was jut unreliable.

From that day until the present day, today, I have never seen Jill, Scott or Margaret until they came into court.

Back to p. 7

Locke "A"

Now, regarding Mark Locke, the Earl's place incident about me wanting to rob John just never took place. The business at the bus stop never took place. I have never been to the Taxi Club in my entire life. That young lady, I have never laid eyes on her in my entire life and that is the gist of his sort of story. *cf. 1/11*

Read

Now, the next time I saw him I was in social security. I walked in there with a man by the name of Stephen Brazel and as I walked in I said, "That's the guy that has been causing me all the troubles", and he ran over and said, "Jonesy, I didn't mean to hurt you, I didn't mean to tell all those lies". I said, "Stop, Mark, don't tell me, tell him", and I sat down and watched TV. Him and Stephen went out to the foyer and had a talk. About twenty minutes later they came in and Mark said, "I really want to help you, mate". I said, "Would you be prepared to come and talk to my barrister?" He said, "No worries".

He made all sorts of admissions between then and now and I am not going to tell you that, I am not going to worry about it. When we got upstairs at the barrister's we all sat down and had a cup of coffee in there. Mr Greenwood took about ten minutes to come out. He came out and took Mark away to the back office and I sat down. Then he came back out to me, took me upstairs to the top floor and then back down again into the foyer and then me and Stephen Brazel left and that was the last time I saw Mark Locke that day.

make

This bank book, I never laid eyes on that bank book until this man here showed it to me at the police station. Not once did I ever lay eyes on that bank book. I know nothing about that bank book.

Page 327 under Locke II . . . All read, 1 way or the other.

That jacket, I used to wear around Bathurst and my girlfriend used to wear that jacket around. I have never noticed anything in the inner lining whatever. So, I don't know anything about the bank book.

I have never been back to John Hughes' place and I have never been back to Sydney except for one time for court.

That is all I want to say, really. I just did not commit this crime, I am innocent of it and that is all I have got to say. Thank you very much for listening.

STATEMENT CONCLUDED:

Page 325 - 326
under the "Opportunity"

STEPHEN ALLAN BRAZEL
Sworn and examined:

FINNANE: Q. Is your name Stephen Allan Brazel?

A. Yes, it is.

Q. You now live at [REDACTED] Macdonaldtown?

A. That is correct.

Q. Are you a casual car washer?

A. Yes, I am.

Q. Mr Brazel, do you know the accused Ian Jones?

A. Yes, I do.

Q. When did you first get to know him?

A. About four years ago.

Q. In what circumstances did you get to know him?

A. I was at the Edward Edgar Lodge and we started to get on together at the Edward Edgar Lodge, started to talk.

Q. Is the Edward Edgar Lodge at [REDACTED], Darlington?

A. Yes, it is.

Q. Is that a lodge run by a charitable organisation?

A. Yes it is.

Q. For people who have employment difficulties and accommodation difficulties?

A. That is right.

Q. Do you recall last year meeting a man called Mark Locke?

A. Yes, I do.

Q. Do you remember when it was that you met Mark Locke?

A. No, I can't remember what date that was.

Q. Where was it that you met him?

A. At the social security at the unemployment at Oxford St., Darlington.

Q. What were you doing there?

A. Getting my sickness benefits cheque.

Q. Was anyone there with you?

A. Ian Jones.

Q. How did you come to meet Mark Locke?

A. I went up in for mine. Ian Jones seen a friend of his and that is what I thought it was, a friend of his. He just went over there and Mark Locke and they started to talk to each other.

Q. When was it that you discovered this man's name was Mark Locke?

A. Ian Jones came back later and told me it was Mark Locke and then he introduced me to each other.

Q. What happened then?

A. I said, "You will have to wait for five minutes because I am waiting for my name to get called out".

Q. Did he ask you for something before you told him you had to wait for five minutes?

A. Yes, he said he would like to see me outside to talk to him.

Q. Had you ever heard of him before?

A. That is the first time I had ever seen him, the first time I have ever heard of him.

Q. Did you speak to him outside?

A. Yes, I did.

Q. Can you now remember what it was that he said?

A. Bits and pieces. I can remember he said, "I'm worried about Plotecki".

Q. "Worried about Plotecki"?

A. Yes, "Because he is out to get me. If I don't do what I am told to do Plotecki will get me".

Q. Did you know who Plotecki was?

A. No, I have never heard of him before.

Q. Have you any criminal convictions yourself?

A. No, I have nothing.

Q. Have you ever taken illegal drugs?

A. No, I have not.

Q. Did you know that Ian Jones was facing trial on murder?

A. Yes, he told me once before, yes.

Q. Did you know any of the details of it? A. No, no.

Q. Did you know that Locke was a Crown witness?

A. No, I did not.

Q. You remember those bits of conversation. Can you remember anything else that he said to you?

A. He was talking too fast. I couldn't understand what he was talking about.

q. What happened then?

A. We went outside and Mark Locke started to talk and a friend of mine came over. I told him to go to buggery because I am listening to Mark Locke.

Q. After you had this conversation with Locke was happened then?

A. We went down to - -

Q. Who is we?

A. Ian Jones and myself and Mark Locke, we went down to Greenwood, barrister.

Q. How did you know it was Greenwood, barrister?

A. Ian Jones said it was.

Q. When Locke was first introduced to you what was his manner, or did he appear to be?

A. He was very calm, very pleasant.

Q. And when he spoke to you outside what was his manner there?

A. The same. Very calm, very pleasant.

Q. Are you very athletic?

A. No, I'm not very athletic at all.

Q. Did you have any discussion with Mr Jones at all on this day about running after Mr Locke if he left?

A. I wouldn't be able to catch him anyhow, I'm hopeless at running.

Q. So you went down to Mr Greenwood's place?

A. Yes.

Q. Whereabouts was that?

A. It's Hyde Park, Elizabeth Street side.

Q. Elizabeth Street side?

A. Yes.

Q. Did you have to get a lift?

A. No, we walked.

Q. Oh yes, but when you got to the building?

A. Yes.

Q. Did you get a lift at the building?

A. Yes, we went up the elevator.

Q. Do you know what floor you went to?

A. No, I wouldn't have the faintest idea.

Q. Were the three of you together all the time?

A. Yes, we were.

Q. What was his, Locke's, manner like as you were walking down Oxford Street, or whatever way you were going towards Greenwood's place?

A. He was very pleasant and very nice.

Q. Did he tell you or Jones tell you why you were going to see Greenwood?

A. I honestly can't remember.

Q. When you got out of the elevator what did you do then, what happened then?

A. Mark Locke went down the hallway. I went down and sat on the couch and Ian Jones came and sat next to me and then we had a cup of coffee.

Q. What happened after that?

A. After that I just left.

Q. Did you see Locke again that day after he went down the hallway?

A. No, that's the only time I have seen him.

Q. Have you ever spoken to him since?

A. No, I haven't spoke to him ever since.

CROSS EXAMINATION

CROWN PROSECUTOR:Q. Have you spoken about this case with Mr Jones?

A. Yes, I have.

Q. About what evidence he wants you to give?

A. No, I have not.

Q. What is your date of birth?

A. [REDACTED].

Q. Have you always been called Stephen Brazel?

A. Yes.

Q. Never used any other name?

A. No, never.

Q. What were you getting a pension for?

A. I had bad piles.

Q. And you couldn't work?

A. No, I couldn't even sit down.

Q. Are you still on sickness benefits?

a. No, I'm not.

Q. Do you know anyone called Tuff?

A. Michael Tuff?

Q. Yes?

A. Yes, I do.

Q. Who is that?

A. He was at the Aranui Lodge where I lived. I used to live in a place called Aranui Lodge.

Q. Did you ever use his name?

A. No, I never used his name.

Q. Did he ever use your name?

A. I can't remember.

Q. Haven't you ever used the name of Michael William Tuff?

A. No, I haven't. I have never used Michael William Tuff.

Q. Haven't you ever been arrested by the police?

A. No, I have not been arrested at all.

Q. You know a person called Michael Tuff?

A. Yes, I knew a person called Michael Tuff but that was a long time ago.

Q. How long ago?

A. I wouldn't have the faintest idea.

Q. How long?

A. I don't know.

Q. Back in the early eighties?

A. As I said, I do not know. I wouldn't have the faintest.

Q. Your date of birth isn't [REDACTED], is it?

A. No, it's not.

CROWN PROSECUTOR: Might the witness be shown a document.
(Permission granted) Might I approach. (Permission granted.)

FINNANE: I am told the witness is illiterate so it would have to be read to him.

HER HONOUR: Well, you cannot do that in the presence of the jury.

CROWN PROSECUTOR: Q. Is that correct, is it, you are illiterate?

A. Yes, I am.

Q. You can't read?

A. That is right.

Q. You can't write?

A. Not very good, no.

Q. You can't write at all?

A. That is right.

Q. I would suggest to you that you have used the name Michael William Tuff?

A. I have not used that name at all.

Q. Do you say you know a Michael William Tuff?

A. I know a Michael Tuff but I don't know a Michael William Tuff.

Q. I'm sorry, you know a Michael Tuff?

A. Yes.

Q. And you knew him from Aranui Lodge?

A. That is right.

Q. That was some years ago?

A. That is correct, I haven't seen him ever since then.

Q. Did he ever tell you that he had gotten into trouble with the police?

A. No, I can't - - I do not know.

Q. Do you know a place called Kanwa?

A. No, I don't know.

Q. Craigie Avenue, Kanwa?

A. No, I have never heard of it.

Q. Where have you lived in your life?

A. I lived at [REDACTED], I have lived at the Aranui Lodge.

Q. Where is the Aranui Lodge?

A. It is on the corner of Elizabeth and Wentworth Avenue in Surry Hills.

Q. Where else have you lived?

A. Moore Park Road and Bourke Street, that is the only place I have lived at, [REDACTED] Bourke Street.

Q. Where did you grow up?

A. I lived at Blackman's Flat. That is on the other side of Wallerawang.

Q. Where is that?

A. It is about 3 miles out of Lithgow.

Q. How old were you when you left there?

A. I was about 19.

Q. You were born in [REDACTED], you say?

A. Yes.

Q. Did you ever get into trouble when you were a juvenile, when you were under 18?

A. No.

Q. At home with your parents?

A. I was in a boys' home. My parents couldn't look after me.

Q. Was that because you were uncontrollable?

A. No, because they just could not look after me. My father and mother separated.

Q. Were you being difficult?

A. No.

Q. When did you go to the boys' home?

A. When I was six years of age.

Q. When you were six?

A. Yes.

Q. How long did you stay in the boys' home?

A. Until I was 15.

Q. That was when, about 1974?

A. Yes.

Q. Did you go back?

A. No.

Q. You were let out of the boys' home then?

A. Yes, I went up to my mother and step father.

Q. Where at?

A. At Blackman's Flat.

Q. Near Lithgow?
A. Yes.

Q. How long did you stay there?
A. Until I was 19.

Q. What happened after that?
A. I came down to Sydney.

Q. You did not get into trouble with the police?
A. No, I did not get into trouble with the police.

Q. Why is it that you are illiterate? Did you do school at the boys' home?
A. I was not very good at school. I never used to go to school.

Q. You didn't pay attention?
A. No.

Q. Or you found it difficult to pay attention?
A. Yes.

Q. What happened after 19?
A. I got a job on the railways.

Q. You were with the railways for how long?
A. For two years.

Q. What were you doing?
A. I was a fettler.

Q. What happened after that?
A. I got sick and tired of it and went for another job and just moved around like that.

Q. You have been moving around for most of your life?
A. Yes.

Q. You say you have never been in trouble with the police?
A. I have never been in trouble with the police before.

Q. How is it that you came to meet Michael Tuff?
A. He was staying at the Aranui Lodge and we just bumped into each other, you know, started to talk to each other and that is how I met him.

Q. How old were you when you met Michael Tuff?
A. About 18, 19. No, I was about 20 I should say.

Q. About 20?
A. Yes.

Q. How long did you know him for, about how long?
A. For about two years after that.

Q. Until you were about 22 or something?
A. That is right.

- Q. Have you seen him since?
A. I have not seen him ever since then.
- Q. How old was he?
A. I wouldn't have the faintest idea.
- Q. Younger than you?
A. Younger than me.
- Q. How many years younger, do you think?
A. About three or four.
- Q. You have not seen Michael Tuff?
A. No, I have not seen Michael Tuff.
- Q. For all those years?
A. No.
- Q. You are now what?
A. Thirty-three this year.
- Q. What is your date of birth again?
A. [REDACTED].
- Q. Do you know a place called Kanwa?
A. I have never heard of it before.
- Q. Kanwa or Karnwa?
A. Never heard of it.
- Q. You were living in the same place as the accused when you went up to the social security?
A. Yes, I was.
- Q. How is it that the accused and you went up to social security?
A. I really can't remember how we went up there, we just went up there.
- Q. He joined you to go up there?
A. Yes.
- Q. It was just one of those things?
A. Yes, just one of those things.
- Q. You went up to the social security office in Oxford Street?
A. That is correct.
- Q. You got into a line, did you?
A. Yes.
- Q. You said that Ian Jones went over to this Mark Locke, is that what you said?
A. I didn't know it was Mark Locke at that time.
- Q. Well, the person you now know as Mark Locke?
A. That is correct, yes.
- Q. Where was he?
A. Who, Ian Jones?

Q. Where was Mark Locke when Ian Jones went over to him?

A. Watching TV.

Q. Just what, sitting down, was he?

A. Yes.

Q. Ian Jones went over to Mark Locke who was watching TV?

A. That is correct.

Q. Did you see any discussion between them?

A. Yes, I did. No, I can't remember that far back.

Q. You can't remember that far back?

A. No.

Q. When did this take place? Was it this year or last year or the year before?

A. Last year.

Q. About when last year, any idea?

A. No, I don't know.

Q. How long were they talking?

A. About five minutes.

Q. From what you could see?

A. About five minutes.

Q. How did they seem to be towards one another?

A. Very friendly.

Q. Somehow you were introduced to Mark Locke, were you?

A. Yes, Mark Locke came up to me - no, Ian Jones came up to me and said, "This is Mark Locke."

Q. Mark Locke came over with him?

A. Yes.

Q. You were still in the line?

A. Yes.

Q. He came over and what did he say, Ian Jones?

A. Ian Jones said, "This is Mark Locke". So, we shook hands and I said, "Look, can you just wait for five minutes, I am waiting for my name to be called out."

Q. How were you feeling that day?

A. Great.

Q. You weren't impatient or anything like that?

A. No.

Q. So, what happened after that?

A. My name - he said, "I would like to talk to you outside." I said, "Look, you had better wait for my name to be called out, it will be about five minutes." My name got called out and then we went outside and we started to talk.

Q. You and Mark Locke went outside?

A. Yes, Ian Jones went outside and watched TV.

HER HONOUR: Q. Who said he wanted to speak to you outside?

A. Mark Locke.

CROWN PROSECUTOR: Q. Ian Jones goes off to watch TV?

A. That is right.

Q. Do you know what for?

A. Mark Locke and I wanted to talk privately, that is all.

Q. Why did you want to talk privately?

A. That is what Mark Locke said.

Q. He wanted to talk to you privately?

A. Yes.

Q. Did that surprise you?

A. Yes, it did.

Q. So, you are outside, what, on Oxford Street?

A. No, it is a foyer in there. There are some stairs to go up, then you have a foyer, then you have the main office to go into.

Q. You are in the foyer?

A. That is right.

Q. You are talking with him?

A. Yes.

Q. What did he say to you?

A. He said he was very scared of Plotecki because Plotecki was going to get him.

Q. Didn't he say something else?

A. No.

Q. That is just how it came out, was it?

A. Yes.

Q. Did you ask who Plotecki was?

A. No, I didn't ask who Plotecki was. Then I found out he was a police officer.

Q. Is that all the conversation was?

A. He started to babble on and he was talking too quickly.

Q. At the beginning that is all he said?

A. That is all I can remember.

Q. He may have said something else?

A. That is right.

Q. Before that?

A. That is all I can remember.

Q. He just blurted out that he was very worried about - he just said Plotecki, did he?

A. Yes.

Q. Didn't mention that he was a detective?

A. No.

Q. He said, "He is out to get me."

A. Get him, yes.

Q. Did you say, "Who is Plotecki?"

A. No, I just don't know. I can't remember that far back.

Q. When were you first asked to try to remember what was said on that day?

A. I can't remember the date.

Q. Well, this year or last year?

A. Last year.

Q. Have you had any notes or anything to refresh your memory?

A. I can't read or write.

Q. Have you talked about the evidence with Ian Jones about what you would give?

A. No, I have not talked to Ian Jones about the case.

Q. Who contacted you to come to court?

A. Robyn did.

Q. Robyn here, Miss Clark?

A. Miss Clark, yes.

(Noted that Miss Clark is the solicitor for the accused.)

Q. What happened after he said that Plotecki was out to get him?

A. He started to talk. Somebody was talking to himself and I said, "Why don't you go and buzz off, mate?" He was talking so quickly, I could not understand what he was talking about.

Q. Somebody else came along?

A. Yes, somebody else came along?

Q. Who was that?

A. I don't know. He started to talk to himself or he was talking to somebody else, I don't know. I said, "Look, mate, why don't you go and buzz off?"

Q. How did you say that - aggressively?

A. No, like I was saying it just then.

Q. Mark Locke was still with you?

A. That is right.

Q. Mark Locke is talking very quickly?

A. That is correct.

Q. You told this person to buzz off?

A. Yes.

Q. Does Mark Locke continue on?

A. Yes, he does.

Q. You can't remember any more of the conversation?

A. No, I can't.

Q. When did you find out Plotecki was Det Plotecki?

A. When I went to Greenwood's office.

Q. How did it come to be that you walked to or went down to Mr Greenwood's office?

A. Mark Locke wanted to go down to the barrister's office.

Q. How did he say that?

A. Very easy. You know, "Can we go down to Ian Jones' barrister and talk to him?"

Q. Was Ian Jones there at the time?

A. Yes, he was.

Q. You were having a conversation with Mark Locke, you told a man to buzz off, the conversation with Mark Locke continued and Ian Jones came over to you or something, did he?

A. That is correct, yes.

Q. From watching TV?

A. Yes.

Q. How did that occur that he just came over to you?

A. Well, I got my cheque and we were going to go to the pub for a couple of drinks.

Q. Did you communicate that to Ian Jones?

A. No, he seen me get the cheque in my hand.

Q. He saw you get the cheque?

A. Yes.

Q. Did you have the cheque when you were talking to Mark Locke?

A. No, I did not.

Q. You were talking to Mark Locke, how did you get the cheque?

A. They call your name out.

Q. Did you hear your name called out?

A. Yes.

Q. Did you leave Mark Locke's company?

A. No, he came with me.

Q. He stayed with you - you went over to a counter and got the cheque?

A. That is correct.

Q. When did Ian Jones join you?

A. About say five minutes later.

(WITNESS STOOD DOWN)

IN THE ABSENCE OF THE JURY:

(Her Honour warned the witness about not discussing his evidence with anyone.)

DOCTOR'S CERTIFICATE IN RELATION TO MR SCRIMGEOUR TENDERED TO HER HONOUR.

FINNANE: Mr Jones apparently saw him come struggling out of the shower and he rang an ambulance which took him to Prince Alfred Hospital and he will be in for six or seven days so he could not come down with him today.

CROWN PROSECUTOR: The accused caught a cab with a Crown Prosecutor - it was not me. The train was late and it was totally accidental.

HER HONOUR: I heard about the train being late. Jurors could well be catching those trains in a northerly direction. There area number of jurors who live in the northern suburbs of Wollongong and even a direct train to Sydney could be at a time when jurors could be there.

FINNANE: What he has done is obtained from his Parish church at St Michaels at Surry Hills a list of people who have volunteered to come down with him.

HER HONOUR: I do not mind him coming down here as long as he is accompanied but he is not going to be accompanied today.

FINNANE: Because of the situation, I could take him via my car and drop him off somewhere, your Honour.

HER HONOUR: That would be very kind of you, Mr Finnane. I really do not want him being around public transport in the Wollongong area unaccompanied. He got here this morning unaccompanied and in the light of this one could hardly blame him for the emergency which arose which forced it. But we are getting quite a bit down the track. I do not want the risk that he might come in contact with a juror. So I do not mind who accompanies him as long as he is accompanied.

FINNANE: Either my solicitor or I will accompany him at least back to the city area or somewhere.

HER HONOUR: That is fine as long as you get him out of the Wollongong area.

FINNANE: Would it be all right if we dropped him at a train station somewhere.

HER HONOUR: Absolutely. Do you have any objection to that, Mr Crown?

CROWN PROSECUTOR: No, your Honour.

HER HONOUR: I will obviously withdraw the condition that Mr Scrimgeour accompany him but the condition remains that he be accompanied when he travels to and from the court, at least whilst he is within the Wollongong area.

FINNANE: If for today if he went to the police station as he normally does and when my solicitor and I are ready to go we can pick up him there. If one of these people cannot come tomorrow morning, we will make some arrangements to get him down here.

ADJOURNED TO TUESDAY 1 SEPTEMBER 1992 AT 10 AM.

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