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THE SUPREME COURT  
OF NEW SOUTH WALES  
CRIMINAL DIVISION

MATHEWS J

And a jury of Twelve.

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70162/90 - REGINA -v- IAN STUART JONES

WOLLONGONG: SEVENTH DAY: TUESDAY 1 SEPTEMBER 1992.

IN THE ABSENCE OF THE JURY:

(Errata noted)

(Mr Finnane informed her Honour that the accused come to the court today with his solicitor Miss Clark.

Mr Finnane indicated he wished to play a tape recording to Mr Greenwood and Mr Gould. In reply to a question from her Honour he advised he had not played the tape recording to Mr Locke because Mr Locke had seemed to agree with what had been put to him.

The Crown Prosecutor advised he had informed Mr Finnane he would be making a comment in his address to the jury about the tape recording.)

IN THE PRESENCE OF THE JURY:

STEPHEN ALLAN BRAZEL  
On former oath:

CROSS-EXAMINATION CONTINUED:

CROWN PROSECUTOR: Q. When you went to the Social Security centre was it packed? Were there a lot of people there?

A. No, no, it was not.

Q. It was not packed?

A. No.

Q. How many people were there?

A. Oh, about 15 people.

Q. That is not a lot of people for that centre?

A. No, no, it is not.

Q. I suggest to you that there were more people than that, more people than what you say?

A. Well, I reckon there were only fifteen.

Q. There are stairs at this Social Security Centre

A. Yes, that is the only way you can get up there.

Q. You walked up the stairs with Mr Jones?

A. Yes.

Q. When you first saw Mr Locke he wasn't on the stairs?

A. No, he was inside.

Q. He was watching TV?

A. Yes.

Q. That is inside where the counter is?

A. Yes, it is.

Q. That is where you eventually got your cheque from?

A. Yes.

Q. Was Mr Jones talking loudly at any time whilst you were at the social security?

A. No, he was not.

Q. Not at any time?

A. Not at any time.

Q. Are you about five foot eleven?

A. Five foot ten.

Q. About the same build then as you are now?

A. Yes, I am.

Q. Would you describe yourself as a thin build?

A. Medium to thin.

Q. You say that you saw the accused Jones go over to the man Locke and there was a conversation between them?

A. That is correct.

Q. Then Locke came over to you?

A. That is right.

Q. You were there in the -

A. Queue. I was in the queue.

Q. In that queue inside the office?

A. Yes.

Q. The queue was going towards the counter?

A. Yes.

Q. Did Jones in your presence say that you were going to get a counter cheque?

A. How do you mean by that?

Q. Did Mr Jones in your presence say to the man Locke that you were going to get a counter cheque

A. No, I can't remember that.

Q. That is indeed what you were doing, you were waiting for a cheque, is that right?

A. Yes.

Q. From the counter?

A. That is correct.

Q. Was there a stage when the three of you commenced to walk down the stairs together?

A. Yes, sir.

Q. With Locke in between the two of you?

A. I can't remember that.

Q. Did you walk down the stairs, the three of you?

A. Yes, we did walk down the stairs.

Q. And Locke went off, you say, to the barrister's chambers?

A. That is right.

Q. The conversation you had with Locke, do you remember you told us yesterday he was talking about Plotecki?

A. Yes.

Q. The conversation you say took place with Locke, where do you say that took place?

A. In the foyer.

Q. The same place where the counter was?

A. No. (Indicating) The counter was there and the thing was further, you have to go through a pair of doors.

Q. But it is on the same floor?

A. Yes.

Q. You go through the doors where the foyer is?

A. Yes.

Q. And you say that is where Locke spoke with you?

A. Yes.

Q. Did you hear anything like this from Jones to the man Locke, "Listen you are not going to bolt, are you?"

A. No, he did not say that at all.

Q. Not in your presence?

A. No.

Q. Did you walk down Oxford Street with Locke and Jones?

A. Yes, we did.

Q. Was Locke walking in between you and Jones?

A. I can't remember that.

Q. Did you hear Jones saying anything like this: "You are going to come to my solicitors with me and you are going to tell them you are going to change your statement."

A. I can't remember that. I don't think he said that, no.

Q. You don't think he said that? A. No.

Q. Why did you think you were going down to the lawyers?

A. Well, Mark Locke said that. Said, "Let's go down to Ian Jones' barristers".

Q. That is the first you heard of it when Mark Locke said it?

A. That is correct.

Q. He was volunteering that you should go down to the lawyers ?

A. Yes.

Q. Did you hear anything like this, "You are going to change your statement. You are going to tell them it's all bullshit" from the man Jones?

A. No.

Q. How did it come to be that you were walking down Oxford St and ended up at the barristers?

A. Mark Locke wanted to go down there.

Q. Who said where it was?

A. I can't remember that.

Q. Did Mark Locke say that he knew where this place was?

A. I do not know.

Q. Did you hear any conversation where, perhaps, Jones was indicating that it was down this way and over there?

A. No, I do not know.

Q. Did Locke seem to know where he was going?

A. I do not know.

Q. Anything like this said: "You are coming with me. You are coming up there now and you are going to come with me to the office and we will both be there"?

A. I do not know that.

HER HONOUR: Q. You don't know?

A. I don't know.

CROWN PROSECUTOR: Q. You don't know whether that was said or not?

A. No.

Q. Anything said about Jones getting trouble for bringing Locke to the lawyers?

A. no.

Q. Not said or you can't remember?

A. I just can't remember.

Q. Well, you remember going into the building?

A. Yes.

Q. And do you remember the reception area?

A. No, I do not know the ~~reception~~ area. I just can't remember the reception area.

Q. Did you sit down in an area with people at any time?

A. Yes, yes, I did.

Q. How long were you seated there?

A. About ten minutes.

Q. What happened after that?

A. I got up and I said to Jonesy, I said, "I'll see you later. I'm going."

Q. You left?

A. Yes.

Q. You left Jones there, did you?

A. I can't remember that.

Q. Who was there when you left just in the area where you were, wherever it was, who was there?

A. I can't remember who was there.

Q. Eventually Mr Jones approached you and asked you to make a statement, did he?

A. Yes, he did.

Q. How long ago was that?

A. I can't remember how long ago it was.

Q. How long after the incident?

A. I do not know.

Q. Was it last year that he approached you or this year?

A. I do not know. I can't remember.

Q. You can't remember?

A. No.

Q. (Approached) Do you know who that person is shown in this photograph?

A. No. I don't know who it is.

Q. You don't know who that person is at all?

A. No.

Q. It is not Michael Tuff?

A. It is so long ago I can't remember.

Q. It is not you?

A. No. It's not me.

Q. Did you ever have glasses like that?

A. No, I don't think so.

Q. Did you have your hair like that?

A. No.

Q. Did you have any tattoos on you?

A. No.

Q. What did Michael Tuff look like?  
A. I can't remember what he looks like.

Q. Did he have dark hair?  
A. I just can't remember what he looked like. It is so long ago.

RE EXAMINATION.

FINNANE:Q. You were asked whether you had ever made a statement to Mr Jones or Mr Jones had asked you to make a statement?  
A Yes.

Q. To whom did you make a statement?  
A. To Robyn Clarke.

Q. Although you can't read was that statement read over to you?  
A. Yes it was.

Q. Was it read over to you by a solicitor?  
A. Yes, it was.

Q. Did you sign it?  
A. Yes, I did.

Q. Can I just show you a three page document (shown). Do you recognise your signature on the bottom of that document?  
A. Yes, that is my signature.

Q. Do you know what date it was that you -  
A. On the 17th of the 6th, 91.

Q. 17th of the?  
a. Sixth, 91.

THREE PAGE STATEMENT OF STEPHEN BRAZEL MFI 17.

Q. Mr Brazel, before you made that statement to Miss Clarke had you discussed its contents with anybody?  
A. No, I had not.

Q. Have you ever discussed its contents with Mr Jones?  
A. No, I have not.

Q. You were asked some questions about your childhood and you said you were in a boy's home?  
A. Yes.

Q. What sort of boy's home was this?  
A. It is where the family can't support you and the family has just broken up and that is the only place they could put you.

Q. What was the name of it, can you remember?  
A. no, I can't remember that.

Q. Was it run by -  
A. I think it was run by the Church.

Q. The church was it?  
A. Yes.

## WITNESS RETIRED &amp; EXCUSED

MORNA RAE DAVIES  
Affirmed and examined:

FINNANE: Q. Are you Morna Rae Davies?  
A. Yes.

Q. Are you Miss or Mrs.  
A. Mrs.

Q. Do you live at [REDACTED] ?  
A. That is correct.

Q. You are the receptionist at Forbes Chambers?  
A. Correct.

Q. The reception desk being on the 11th floor at 185 Elizabeth Street, Sydney?  
A. That is correct.

Q. I think you have been there since the foundation of those chambers some two and a half years ago?  
A. That is right.

Q. Can you recall an occasion in June 1991 when the accused and some other people came to the chambers?  
A. Yes.

Q. Can you remember how many people came?  
A. Three, three gentlemen.

Q. Can you describe them at all?  
A. There was one shorter gentleman and then two around about the same size, from memory. One was, the shorter one was dark and the other one was blonde and I think the other one was dark.

Q. Do you recognise Mr Jones, the man here, he was one of them?  
A. Yes, he was the blond.

Q. Do you recall what time of day this was?  
A. It was in the afternoon.

Q. About what time?  
A. About mid-afternoon, three o'clock, half past three, something like that.

Q. Something like that?  
A. Yes.

Q. You were working on the reception desk?  
A. That is right.

Q. Now, I think at Forbes Chambers the barristers in fact extend over three floors, don't they?  
A. That is correct.

Q. But the reception desk is on the 11th?  
 a. The 11th.

Q. Where in relation to the lifts is the reception desk on the 11th floor?  
 A. The lift <sup>f</sup> places the reception desk so you have to see people as they are coming out.

Q. Did they come over to the reception desk area?  
 A. Yes, they came straight over to me.

Q. Can you recall what order they came in?  
 A. The smaller man came out first and then I think it was Mr Jones and then the second man - the third man came out.

Q. And what happened then?  
 A. They came over and asked me if Mr Greenwood could see them.

Q. Do you remember who asked you?  
 A. It was Mr Jones that asked me if Mr Greenwood was there, so I rang through to Mr Greenwood, told him there were three gentlemen, Mr Jones out here to see him and he said he would be out and I asked them to take a seat.

Q. Were you able to observe anything about their manner, these three men?  
 A. Yes, they were extremely agitated. They kept - when they sat down and they stood up, they were all talking together. They were partially talking to me and talking amongst themselves.

Q. Could you hear what any of them said?  
 A. The word "harass" came out. The police seemed to be harassing the smaller man.

CROWN PROSECUTOR: I ask for the words.

FINNANE:Q. Can you recollect what it was the smaller man said, just as if you were there? Could you hear him and this group saying something to him?  
 A. I can't exactly remember the exact words but I can definitely remember the word "harass".

Q. Can you remember the small man saying anything about that?  
 A. The small man was talking and Mr Jones.

Q. What did their manner towards each other appear to be?  
 A. Very friendly. From memory, Mr Jones was referring a couple of times to "mate" to the little man, to Mr Locke.

Q. To "mate"?  
 A. To "mate".

Q. Were you told while you were there what the name of this little man was?  
 A. I was, but I can't remember it.

Q. You mentioned the word Locke?  
 A.. Yes, well, it has been mentioned to me since that date, Mr Locke.



Q. Well then, so you heard they were talking excitedly?

A. Very much so.

Q. Sitting down and standing up and you heard snatches of what they had to say. Did Mr Greenwood come out at some point?

A. Later on he came out and spoke to them and he went, from memory he went back into his room while he was getting a solicitor.

Q. Well now, at about this time when Mr Greenwood came out was something happening on the reception desk?

A. I was very busy because it gets very busy from about quarter to four on but Mr Jones and the other two gentlemen were talking most of the time in a very excited way and from memory, they were also talking to me but I could not take much notice of what they were saying.

Q. After you started to get busy on the reception desk did you notice what these men did then?

A. Mr Locke was sitting on my right on the chair facing the lift and the other two gentlemen were sitting on a chair facing me. They were talking among themselves and they were also getting up and sitting down and moving around just in that small area.

Q. Now, did you see any of them go anywhere?

A. No. After a while Mr Greenwood and Mr Gould came out. They went into Mr Greenwood's chambers and after that I didn't see them.

HER HONOUR: Q. Who went into Mr Greenwood's chambers?

A. I can't remember if it was all three but it was Mr Gould and I think it was Mr Jones but I'm not sure on the other two.

FINNANE: Q. Did you pay any notice after Mr Greenwood and Mr Gould -

A. No, no, from about quarter to four on the board gets very busy and although you might see things you don't really take much notice of them because you are busy doing what you are doing on the board.

Q. Do you know when any of these men, for example?

A. I certainly did not see them after that. I leave at ten to five and I don't remember seeing them after that.

NO CROSS-EXAMINATION

WITNESS RETIRED

BRONWYN JILL SOMMEN

Sworn and examined:

FINNANE: Q. Is your full name Bronwyn Jill Sommen?

A. Yes.

Q. Do you live at 4 Darley Street, Darlinghurst?

A. I work there.

Q. That is your work address?

A. Yes.

Q. You are a relieving secretary?  
A. That is correct.

Q. You work with Mr Gregory Gould, solicitor?  
A. Yes, I do.

Q. On 7 June 1991 were you given a small cassette to transcribe?  
A. Yes, I was.

Q. Did you do that?  
A. Yes, with difficulty.

Q. And did you then put the cassette, small cassette and a transcript in an envelope and have it delivered to Miss Robyn Clarke, solicitor?  
A. Yes, I did.

Q. Can I show you this. Do you recognised that as a cassette that you transcribed?  
A. Yes, I do.

Q. Can I show you this document. Apart from some notes on it is the typing your typing?  
A. Yes, it is.

CASSETTE AND TRANSCRIPTION BY MS SOMMÉN MFI 18.

NO CROSS EXAMINATION.

WITNESS RETIRED & EXCUSED.

IAN MACKAY  
Sworn and examined.

FINNANE:Q. Is your name Ian Mackay?  
A. It is.

Q. ARE you the managing director of the Audio Cassette Duplicating Company?  
A. I am./

Q. At 22 Wetherill St, South Silverwater?  
A. That is correct.

Q. Is your business concerned with the enhancement of audio cassettes?  
A. It is, yes.

Q. How long have you been doing that?  
A. All of fifteen years.

Q. Do you have equipment that enables you to get cassettes, where there are sound difficulties and enhance them and copy them on to other cassettes where you can hear it better?  
A. That is correct, yes.

Q. Did Miss Robyn Clarke on 20 August this year cause to be delivered to you a Philips micro cassette (shown cassette mfi 18).  
A. That appears to be the same cassette, yes.

Q. Did you then, using your equipment and expertise, cause what appeared on that cassette to be placed on the two cassettes that are in front of you?

A. That is correct, those are the cassettes.

Q. And you then returned them to Miss Clark?

A. That is correct.

Q. You could, if required, detail the exact methods that you used to cause this enhancement?

A. I would be happy to do so if required, yes.

CROSS-EXAMINATION:

CROWN PROSECUTOR: Q. What does enhancement mean, Mr Mackay, precisely?

A. To try and clarify in this case the speech that was present on the cassettes.

Q. What is, very broadly, the procedures that you follow?

A. There are two procedures. Firstly, to try and remove the background noise. These pocket cassettes players are notorious for picking up background noise. So we try and remove all those extraneous frequencies and then enhance or increase the frequencies where the voice is. It is a matter of trial and error, you can tell by listening to it when it becomes clearer.

Q. It must be very sophisticated equipment.

A. It is, yes.

Q. What did you end up with, what was the result of your enhancement?

A. In some cases the voice is difficult to understand but in many cases the voice is much clearer and easier to understand.

Q. How do you get a voice clearer?

A. Mainly by trying to isolate - there's a device that we used called an oral excitor without going into the details, it is tuned to voice frequency. It is used in music to bring the voices out from the background. You can isolate them.

Q. Try and find one voice?

A. Try and found one voice? In this case there were two voices or three voices and you could put one on the left channel and one on the right channel. The two voices required different settings to try and make them clearer.

Q. How do you get the final result, when you concentrate on one voice at a time, what do you get at the end - do you get them back together again?

A. Because most cassettes are listened to on a stereo recorder you have two settings and the voices are there and you can hear them more clearly.

Q. You separate them - -

A. We don't actually separate them into two channels.

Q. But at the time of recording the voices you some how separate them, is that what you are saying?

A. No. What I am saying, we use two entirely different settings to make the different voices clearer. Rather than record the settings on two different tapes, we just change one into the left channel and one into the right channel. The voices are not isolated. You can still hear the voices on both channels. There was no effort to remove one voice or put another voice in.

FURTHER EXAMINATION BY LEAVE.

FINNANE:Q. These tapes are self contained, are they not?

A. They are.

Q. They are just copies one of the other?

A. One was done straight after the other. There were no alterations or edits in any way to those tapes. They are a complete transcript of what was on the micro cassette.

TWO CASSETTE TAPES MARKED FOR IDENTIFICATION 19.

Q. You try to eliminate background noise. The Philips cassette player is notorious for picking up background noise. What sorts of things are you talking about?

A. These recorders use an automatic level control which goes looking for some sort of sound to lock on to and increase that level. When nobody is speaking it picks up the background in the room. Now, there is an ambient hiss in here and the cassette magnifies that sort of sound. Quite often it is a different frequency to the voice so it is possible to reduce those and leave the voice frequency intact.

Q. Do you agree to some extent you were successful in reducing the background noise and to some extent not?

A. That is correct.

WITNESS RETIRED & EXCUSED.

ROBERT FRANCIS GREENWOOD  
Sworn and examined.

FINNANE:Q. Is your name Robert Francis Greenwood?

A Yes.

Q. And are you a barrister of law holding the rank of Queen's Counsel?

A. Yes.

Q. And are you a barrister practising in New South Wales and Queensland?

A. Yes.

Q. And you hold the rank of Queen's Counsel in both those States?

A. That is true, yes.

Q. Do you carry on your practice in Sydney at Forbes Chambers, 185 Elizabeth St, Sydney?

A. That is right.

Q. Now until a couple of weeks ago were you a barrister instructed to act for Mr Jones in relation to this trial of murder?

A. That is correct. I had been acting in that capacity since April/May of 1991.

Q. I think since the time that you had been his barrister the trial had been mentioned on a couple of occasions and you had had a number of conferences with Mr Jones?

A. Correct.

Q. And is it the normal practice in New South Wales when a barrister has a conference with an accused person that there is a solicitor present?

A. Indeed.

Q. Is that the practice that you have always adhered to?

A. Not only in New South Wales but in all jurisdictions in which I have practised.

Q. Do you know a Mr Gregory Gould, solicitor?

A. Yes, I do.

Q. Has Mr Gould ever acted for Mr Jones?

A. No.

Q. Was one of the principal witnesses a man called Mark Phillip Locke?

A. Yes. He is known to me.

Q. In our criminal system before a case comes to trial it is common to have, almost invariable to have a hearing before a magistrate called a committal proceeding?

A. Correct.

Q. Were you present at that committal proceeding?

A. No.

Q. So you had never cross-examined Mr Locke?

A. No, the committal proceedings in this matter took place before I came back to the private bar in April of 1991.

Q. Did you meet Mr Locke?

A. Yes.

Q. When was that?

A. It was the afternoon of Friday, 7 June 1991.

Q. Had you ever before that day seen Mr Locke?

A. No. Well, not that I know of.

Q. How did you come to meet him on that day?

A. To the best of my recollection it was about half past three in the afternoon, it was a Friday. I fancy that the receptionist at chambers, Morna, rang me through my extension and indicated that Mr Jones, who she would have seen coming to conferences on previous occasions, was in the reception area and wanted to speak to me, words to that effect.

I left my room, walked from my room in chambers, this is the Castlereagh St end of the building, through to the reception area which is at the front of the building near Elizabeth St. I there saw Mr Jones, who, of course, I knew, another man who I was introduced to and who I believe had the surname Brazel, I don't remember his first name and I was introduced to Mr Locke.

Q. And had you been expecting this visit?

A. No, it was completely out of the blue.

Q. Did you have a solicitor there with you at the time?

A. No, I didn't. I was working in chambers on my own on other matters.

Q. What happened then?

A. There was a conversation in which it was indicated to me by Jones that Mr Locke wanted to talk to me in respect of the evidence or the statements that he had given to the police and in respect of matters material to the trial. That was the gist of what Jones told me.

Q. Was Locke there when Jones told you this?

A. Yes.

Q. What was Locke's manner?

A. There was - there was nothing that I noticed about it which was unusual. I don't think that at that time Mr Locke actually said anything very much.

Q. I take it this would be fairly unusual?

A. To say the least, yes. Mr Locke, of course, was a very material witness.

Q. Crown witness?

A. And it was not every day of the week that such a thing occurs.

Q. So, what did you do?

A. Well, I decided that I would, if I could, take advantage of Locke's apparent willingness to talk to me. So, I went back to my room - yes, I went back to my room and tried to ring my instructing solicitor, Miss Clarke.

Q. That is Robyn Clarke?

A. Yes, at the legal aid office. I must have been told that she was not available - I don't remember that but I tried to contact her. I was unsuccessful and then I took some other steps to procure the presence of someone independent.

Q. What did you do?

A. I inquired around the chambers or the rooms which are on the 11th level as to whether or not there was a solicitor in conference with another barrister that I could prevail upon. Eventually, I don't remember how exactly I found out but I found out that Mr Greg James QC who has chambers on actually the sort of 13th level of our chambers but is a member of our chambers and who is one of the seniors in our chambers was having a conference with a solicitor.

So I, to the best of my recollection, I took Mr Jones with me up in the lift to the 12th and then you have to walk up the stairs to the 13th and had a conversation with Mr Jones on the way up and again on the way back. I went to Mr James' chambers, I was introduced to Mr Gould and asked - -

Q. Had you met him before this day?

A. No, I had never seen him before. He was introduced as a solicitor by Mr James. He indicated that he would be prepared to help me. I said, "Something has arisen unexpectedly. I need a solicitor, could you make yourself available?" To the best of my recollection, they were finishing that conference, winding up. Mr Gould indicated to me that he would be able to make himself available. I said - I would have said, "Sorry to bother you but it is of some importance and I really do need somebody." And he said, I think, that he would join me soon when he was finished with Greg James.

I then went back to the 11th level with Mr Jones and we conducted the conversation which was - the subject matter of it was how he had come to have Locke with him.

Q. Well then, what did you do with Mr Locke?

A. I took Mr Locke down to my room.

Q. To get to your room you have to leave the reception area and walk down quite a long corridor?

A. Yes, I paced it out last night, it is 30 yards long.

Q. Then turn to your left to get into your room?

A. Yes, another ten paces. It is right at the other end of Castlereagh Street, so it is a city block deep, the building.

Q. It is well removed from the waiting room?

A. Oh, yes.

Q. Along this corridor there are rooms occupied by barristers on both sides?

A. Correct.

Q. Well now - -

A. It goes down into a T and there are rooms along Castlereagh Street of which mine is the one on the extreme left and there are other rooms, smaller rooms.

Q. Well then, you brought Mr Locke into the room and was Mr Gould with you at the time?

A. I don't remember.

Q. Did Mr Gould join you?

A. Yes.

Q. Was something done about recording this conversation?

A. Yes, either Mr Gould or I procured from somewhere in chambers a small, fairly tatty little tape recorder and a spool.

Q. Did you tell Mr Locke this?

A. Oh, yes. We had it on the - I have got two desks in my chambers and we had it on the other desk, turned it on and said words to the effect: For everyone's, in everyone's interest and for everyone's protection it would be better if we recorded what was going to be said.

Q. Well now - -

A. It did not work, I don't think because I recall that we had been there for quite sometime and quite a lot had been said and either Mr Gould - I think it was Mr Gould or myself - I think Mr Gould said that he doubted whether the tape had been working and fiddled with it and reactivated it and it then recorded rather inadequately but it then at least recorded something of the end, about ten minutes, quarter of an hour of conversation.

Q. How long were you with, you and Mr Gould, with Mr Locke?

A. From the point of time that I went out and was introduced to Mr Locke to the point of time Mr Gould and Mr Locke left the building would have been substantially an hour I would say.

Q. An hour?

A. Of that order, maybe a little longer but I doubt whether it would be much less.

Q. Now, at some point in the time that you were with Mr Locke and Mr Gould in your chambers did you go and speak to Mr Jones?

A. Yes, and it was to do with Mr Jones and Mr Brazel leaving or not leaving the building. To the best of my memory Mr Jones indicated and probably through Morna getting me on the phone in chambers, but I could not swear to that, but indicated that he and Mr Brazel wanted to leave to go and I said to them in one such conversation, "No, look, just hold your horses, hang around for a while", words to that effect, "Everything is OK".

I was uncertain in my own mind what I was going to do next, whether I would want to see Mr Jones or not and then I think I must have gone out again because I made up my mind that as Miss Clarke had not previously been available and it was getting on, it was Friday evening, I changed my mind, went out and indicated to them that they could go.

Q. And did they?

A. Yes, and Locke was - this was a matter of conversation also in Locke's presence. I indicated first of all that Jones and Brazel were still there and that I indicated that they had gone and certainly that was before they left, before Mr Gould and Mr Locke left together. There is no doubt about that.

Q. When Mr Gould and Mr Locke left did you accompany them down the corridor?

A. I think I did part of the way but I do not have a positive recollection of going and seeing them into the lift, physically but part of the way down the corridor.

Q. If we go then back to what you recollect of the conversation between Locke and Gould and yourself, before the tape recorder was reactivated?

A. Yes.



Q. Can you tell the court, to the best of your recollection, what occurred in that time?

A. Yes. I first of all preface this by saying that I did not take notes of the conversation because I assumed that the tape was providing a contemporaneous record of what was going on.

Q. You said that to Mr Locke and Mr Gould?

A. What?

Q. That you were not taking notes?

A. Did I say that?

Q. Yes.

A. No, I don't think so. I said: I preface what I am about to say by indicating I did not take notes.

Q. You did not take notes?

A. Not for that reason, but I do have a recollection of the conversation. It was a very unusual conversation to have. It commenced by my indicating, for Mr Gould's benefit, what the case in respect of Mr Jones was all about, that it was a murder, that I described how the victim had been found. I indicated that, in Mr Locke's presence, that there were a number of people who may have been looked at by the police as being suspects, not the least of which was Mr Locke himself. I indicated that the case against Mr Jones included some circumstantial evidence and very substantially, the evidence of Mr Locke himself.

I did not go into the details of the circumstantial evidence. I do remember mentioning that a Mr Hill had reportedly found the body by climbing into the flat - enough to give Mr Gould a sensible understanding of what the case was about and indicate that Mr Locke was a witness of some importance.

Now, Mr Gould would be a much more reliable historian on that conversation than I am because he was taking notes for his own purposes on what was said at the outset.

Q. If I could just ask you about your recollection at this stage?

A. Yes, sure.

Q. After this preliminary information that you had given to Mr Gould, what happened then?

A. I then had a conversation with Mr Locke in which he was asked how he came to come to my chambers that day.

Q. What did he say to that?

A. He gave an account that he, by chance, had run into Mr Jones, I think there was a mention of a Social Security office or CES, or some such Social Security office and that Jones had approached him by saying, "I want to talk to you." Locke indicate that he also wanted to talk to Mr Jones; that they had had a conversation about the evidence that Locke had given in the committal proceedings and about what was contained in statements that Locke had given to the police.

Locke indicated that he told Jones that what he said had inculpated Jones - in other words, accounts of a confessional type were not volunteered by him to the police and that he had

been virtually stood over by the police to go along with that version of events. Now, this is what Locke is telling me about the conversation between he and Jones. Locke then said that he asked him if he would be prepared to come and see me.

Q. Locke asked?

A. Locke said to me, "Jones then said, 'Will you come and see my barrister'". Locke said that he agreed to do that and that they came with Mr Brazel to my chambers and that is how he got there. That was the first part of the conversation.

Q. Having told you that information as to how he got there, did he go on to say anything else?

A. Well, I then asked him specifically whether he was there as a result of being forced to be there in any way by Jones or Brazel or both and he indicated that no, he was there of his own freewill, that he had not been cajoled or whatever and I dwelt on that and came back to it a number of times during the conversation and on each occasion he assured me that he was there of his own free will, that although Jones was unhappy with him that he had given this evidence, this false evidence against him, although Jones was unhappy with him he was not standing over him and that he had decided that he wanted to get the matter off his conscience and set the record straight, as it were.

Q. Did you or Mr Gould say anything about that when that was said?

A. Sure. I said to him that he was making very serious allegations against a police officer, that what he had to say, if accepted, was very serious and had wider implications than just Mr Jones' trial itself because that sort of behaviour for a police officer, to stand over somebody to encourage them to give false evidence was very serious and would almost certainly lead to an inquiry. I do not know whether I used the words Royal Commission or not but that was the gist of it. I said, "This is a very serious allegation you are making and it will lead to further ramifications".

I also discussed with him that implicit in what he was saying that he had already committed perjury before the Magistrate and that in my view, he should avail himself of the services of Mr Gould, at least at first instance to make a full statement in relation to the matter and to get some independent advice.

I emphasised to him that the allegations that he had made, coupled with the fact that it was implicit that he had already committed perjury were very serious matters, indeed.

Q. Did he say anything about that?

A. Yes, he indicated that he understood all that, not that he understood it all before but that he followed what I was saying and then I think that it was Mr Gould who sort of summed it all up by saying to him, "Well, look, we have addressed all those ramifications, the consequences of where this may all lead. Are you still comfortable with what you are telling us? Are you still sticking to what you are saying and are you satisfied you are doing the right thing?" Words to that effect and he said, "Yes, yes".

Q. What was his manner when he was speaking to you?

A. It was the manner of somebody who was saying something of considerable importance. It was the manner of a man who, as he said, was getting something off his chest but he was, within those confines, he was composed and rational and straight forward.

Q. At some point Mr Gould managed to get this tape recorder to go?

A. Yes. My recollection is that Mr Gould or I said that we didn't think this thing was going and he fiddled with it and reactivated it and so forth, but there is more of the conversation I think that occurred before the tape actually started.

Q. Can we finish everything, the entire conversation that occurred before the tape was activated?

A. Yes, sure. There was conversation in relation to just how he had been cajoled into giving evidence against Jones.

Q. What was said in relation to that?

A. He said that he had given statements following the - early in the investigation soon after Hughes' body was found - it is Hughes, isn't it?

Q. Yes.

A. Soon after Hughes' body was found he gave statements to the police or a statement to the police and then there were subsequent occasions when he was again interviewed by the police, on some of which occasions actual written statements came into existence. He indicated that in particular, a statement which contained an alleged oral confession or what could be said to be such, words to the effect, "Not many people know that I killed the little so-and-so", "cunt" I think was the word used. That statement, he indicated, was read by him in detail after he had signed it.

It was a coddling together of a number of things that he had said to the police in conversation. So, it was a mixture of things that had happened and had been happening but that the confessional type material in that statement and in another statement had been inserted by the police and he had been then cajoled into sticking to that as the version of events.

He did mention that he had outstanding warrants that were - he might have been susceptible to and at some stage of the conversation, whether it was before and/or, and after the tape actually started to pick up he said that one of the threats delivered to him was that if Jones didn't go down for Hughes' murder, then he, Locke, would. That was the threat that was made to him, he said, by Det Plotecki.

Q. By Plotecki?

A. Yes.

Q. Can you recollect anything else said before the tape was activated?

A. I certainly told him that I was Mr Jones' barrister and that for that reason I brought Mr Gould in to be an independent witness as to what he had to say and the subject matters were dealt with of not being stood over to be there, how he had run

into Jones and how he came to be there, the wish to set the record straight, to get it off his conscience, the business about the inquiry, perjury - they are the topics that were substantially covered.

Q. I show you a tape recording which is part of mfi 18 (shown).

A. Yes.

Q. Does that appear to be the sort of cassette record that was taken on that day, something of that size?

A. It may be.

Q. When the conversation was over did Mr Gould take the record with him, the cassette or can you not recollect that?

A. I can't remember.

Q. Did you at some stage listen to that little cassette?

A. Did I?

Q. Yes?

A. Yes, recently.

Q. Were you able to recognise your voice on it?

A. Yes, with difficulty, but I could recognise my voice, yes.

Q. Were you able to recognise other voices but again, with difficulty?

A. Yes, Mr Gould and Mr Locke.

Q. Then more recently, as late as today, did you listen to what you were told was an enhanced version of that tape?

A. Yes.

Q. Did you recognise your voice and Mr Gould's?

A. Yes.

Q. And Mr Locke's?

A. Yes.

Q. Were you satisfied that that was the tape of part of the conversation, that part of the conversation that was taped in your office?

A. There is no doubt about that.

(At this point Mr Finnane sought for the cassette to be played; equipment to be set up over the morning tea adjournment).

SHORT ADJOURNMENT.

UPON RESUMPTION.

(Her Honour requested for the cassette to be played in court. During the course of the playing of the cassette the Crown Prosecutor advised that he could not understand what was being said on the cassette.

In answer to a question from her Honour, Mr Finnane indicated that a transcript had been made of the cassette recording.)

FINNANE: Q. I think you would agree, Mr Greenwood, you would really need to put your ear next to it to hear it - in fact, you have done that?

A. Yes.

(Her Honour requested that copies of the transcript be obtained and provided to the jury so that they could read the transcript in conjunction with the playing of the cassette.)

Mr Finnane requested that before this was done that the jury listen to a part of the cassette in which Mr Greenwood was able to be heard very clearly. Permission granted.)

HER HONOUR: With the transcript will we be able to decipher some of the intermediate portions?

FINNANE: I think we would, yes.

HER HONOUR: In that event I think it is worthwhile waiting. I have intervened and suggested that but, Mr Crown, do you have any objection to that course?

(The Crown Prosecutor addressed her Honour and reminded her Honour that most of the matters said to appear on the cassette had been agreed to by the witness Locke.)

Mr Finnane addressed her Honour.)

HER HONOUR: Members of the jury, in the normal course of events evidence cannot be given of what anybody, including a witness, said on another occasion outside court. One of the exceptions to that rule is that if a person who is a witness has been cross-examined and it has been put to him that he has said something different on another occasion that is relevant to the case and he denies that he has done so, then the person who cross-examined him is entitled to prove that he did, in fact, make that statement which he denied making in cross-examination.

The purpose of putting the evidence of the statement before you is not to prove at all the truth of what was said in that statement, the truth of what was said to Mr Greenwood or Mr Gould, but to undermine his credibility on the basis that he denied before you that he had ever made those statements, if it does contradict him, and of course that is really a matter for you, to undermine his credibility by saying that in spite of his denial that he had ever said this, he had, in fact, said it and that is a matter which is relevant to the case.

So that the basis upon which this material is being put before you is not to prove the truth of anything that he said to Mr Greenwood or Mr Gould - that would infringe our hearsay rule and I will say something to you about that later - but to, as

the defence would have it undermine his creditworthiness by showing in spite of his denial that he said these things he had, in fact, said them and because of this he is a person who should not be believed. That is the basis upon which this material is put before you.

It follows from this that any material that is on this tape which was not denied by Mr Locke when it was put to him is not admissible in evidence nor is what he denied admissible in evidence. It seems almost impossible to isolate them when playing back to you the portions which he denied when he was cross examined about them by Mr Finnane and those which he freely admitted.

I think all we can do, subject to the Crown's objection and maybe we will know about that when we get the transcript, is to play it all to you with the rider that really only those portions which were denied by Mr Locke in his cross examination are admissible and the sole purpose is to undermine his credibility, not to prove the truth of anything he said on that occasion.

Do you have a copy of the transcript there Mr Crown?

CROWN PROSECUTOR: No your Honour.

(Mr Finnane referred her Honour to page 158 of the court transcript).

WITNESS: Your Honour, do you want me to leave while this is going on?

HER HONOUR: I don't think so Mr Greenwood.

(Mr Finnane further addressed her Honour in relation to Mr Locke's evidence).

HER HONOUR: The Crown must have a copy of the transcript in advance so that he can sort out the basis of the limited admissibility of this material. Do you have a copy you can give him?

FINNANE: I only have one copy. My solicitor is getting one. There is evidence of a partial transcript on mfi 18.

HER HONOUR: Could I say this, the whole of Mr Greenwood's evidence is in the category that I have just described to you, it is for the purpose of undermining Mr Locke's credibility rather than proving the truth of anything that it was said to have been said to him.

(Mr Finnane gave a copy of the transcript of the tape to the Crown and the Crown was given some time to look at the transcript.)

(Copy of transcript handed up to her Honour).

(Mr Finnane stated that it would be best if he put something on this matter to her Honour in the absence of the jury before going any further).

IN THE ABSENCE OF THE JURY:

WITNESS: Excuse me, your Honour, I know I'm not supposed to make suggestions but if I am going to be examined on this, now that the jury has gone out could I have a look at it?

(The Crown had no objection to that course. Copy of transcript given to Mr Greenwood.)

(Mr Finnane stated that one thing that concerned him was that the transcript did not appear to pick up everything. He further stated that it would seem that the alternatives would be to play the tape, tender it as evidence and tender the transcript. The other alternative would be for Mr Greenwood to refresh his memory from the transcript and the tape and for him to then say what was said in this conversation.)

(Mr Finnane stated that there may well be bits in the transcript that he did not put to Mr Locke because he could not hear what was said and that he would have to concede that he could only put to him what he could hear himself.)

(The Crown Prosecutor stated that subject to correction, what was on the top of the fourth page was denied by Mr Locke and that would be something that Mr Finnane would be entitled to adduce.)

(Concerning the transcript, the Crown stated that he would object to one part on the fifth page, "When you gave that statement ... of the trial", et cetera and "I want to talk ... straight away", et cetera. The Crown further said that he did not think any of that was put to the witness Locke.)

(Mr Finnane stated that that section of the transcript was from a part of the tape that was so hard to hear and that he would have to agree.

The Crown Prosecutor stated that he would object to that part going before the jury.)

(Mr Finnane stated that he would be content to do it this way: for Mr Greenwood to say he has heard the tape, he has heard what he said, he can identify Mr Gould's voice as being the voice just before his voice asking some questions and that he would ask, "During the course of this discussion did Mr Locke say something?" and that Mr Greenwood could go to the top of p 4 and refer to the statement, "You are going to go, you'll go next. If Jones doesn't go, you'll go."

Mr Finnane further said that for Mr Greenwood to say as to the rest that he heard that and that he tried to refresh his memory by putting his ear to the tape this morning and he was able to clearly

hear that and there is a lot of other conversation which is quite difficult to understand and a lot of it seemed to concern Mr Locke's fears about the safety of a child, what should happen to this child).

(The Crown Prosecutor stated that because Mr Finnane did put it to the witness he was entitled obviously to call evidence when the witness denied that particular aspect and for convenience then perhaps Mr Finnane's suggestion would be an appropriate course).

(It was agreed that the tape would not be tendered or played).

(Mr Finnane asked if her Honour could merely explain to the jury that having been discussed, it seemed quite inappropriate to put a transcript before them and that it would be dealt with in another way.)

(Mr Finnane asked whether he could ask Mr Greenwood to give evidence about the section of tape that had been played. Her Honour stated that he should be allowed to put that to the witness).

IN THE PRESENCE OF THE JURY.

HER HONOUR: Well, members of the jury, I think a compromise, if I can put it that way, has been reached, in that it has been generally agreed that the balance of the tape which you have not heard is so imprecise that on its own it would be of no assistance at all for you to hear it. Even the transcript, because of the inadequate nature of the tape, the transcript itself is to a large extent not very meaningful and may not be entirely accurate. Therefore, there are some dangers in putting the transcript before you.

Also, there is the problem that I referred you to earlier, that as a matter of law the only admissible portions are those ones which were put to Mr Locke in cross examination and denied by him because the only purpose of this evidence is to undermine his credibility and so as a result, I think you are no longer tendering the tape, is that right?

FINNANE: No, that is so.

HER HONOUR: But, you will ask Mr Greenwood a couple of questions about the conversation which took place whilst the tape recorder was on?

FINNANE: Yes.

HER HONOUR: Just for the record, Mr Greenwood has been refreshing his memory, by consent in the meantime with the transcript.

FINNANE: Q. Mr Greenwood, when the tape recording was played -  
A. What, just now?



Q. Just now; did you hear Mr Gould's voice on it?

A. Yes.

Q. Did you hear Mr Locke's voice on it?

A. Yes.

Q. Did you hear quite distinctly your own voice on it?

A. Yes.

Q. Are you able to say, refreshing your memory from the transcript if you want, what you said, that clear portion of the tape, to Mr Locke?

A. I said to him, "Now, Mr Locke, as you appreciate, my loyalty of course is to Mr Jones because I am his barrister, okay, understand that and I think that it is only proper that I should not be a party to anything that you want to tell on this subject for your protection and my protection and just because I, I think that is the right thing to do, that I pass you over to somebody who is prepared to take a statement from you, find out what your story is, not coloured by anything that Mr Jones might want it to be, okay, because we don't want to be thought as standing over you in any way or whatever. Now, Mr Gould has volunteered to come and see you on this occasion". That statement was made by me about 40 to 45 minutes into the interview because it was the beginning of a recapping and trying to wind the thing up.

Q. Then there was some discussion about a whole lot of other things including something about his son, was there not?

A. Yes, he said his three-year-old son who he was anxious about, in the context of making arrangements as to what was going to happen for the rest of that afternoon. The boy was being looked after by someone who Mr Locke was not terribly happy about.

Q. Was something significant said in the tape affecting Mr Jones?

A. Yes. Mr Jones and Mr Locke - -

HER HONOUR: Do you want to draw his attention to a particular piece?

FINNANE: Q. Page 4 - the bottom of page 3?

A. Yes. Well, there's discussion about the threats that were made by Plotecki.

Q. Can you recollect what he said about that?

A. Yes, this refreshes my memory quite accurately.

Q. What did he say?

A. I said to him, "This is what I would like, the statement showing the parts that you don't think are correct" it should be. Then it goes on, "The other thing that is very important that we work out" - this is Mr Gould, I think, "The other thing that is very important is that we work out what threats were made and what threats were made to you by", it should be Plotecki - -

Q. You can recollect that word was used?

A. Yes.

Q. Using this to refresh your memory, can you just tell the jury without, in effect, treating it as a document that is before them, what it is you recollect was said?

A. There is that passage.

Q. What happened then about the threats?

A. Somebody said something about bangs on the head and then somebody else said, Mr Gould, I think, said and he intimated to Mr Locke and he answered, "Yes." Then Mr Gould said to Locke, "Well, it is there", or "Was there any suggestion that you could be charged with anything, you're a suspect?" That's what Gould said to Locke. Locke said, "Yeah, yeah, he said that. You're gunna go, you'll go, you'll go next. You're gunna go. If Jones doesn't go you'll go". "That is what he kept saying to you, " said Gould. Locke said, "Yeah." That is a reiteration of what had been said before the tape was turned on, words to that effect.

Q. Then there was a great deal of discussion about getting him home to his child, going to Bondi Junction and taking statements and things of that nature, is that right?

A. Yes.

Q. And you say that was in the last fifteen minutes or so of the conversation that this recording occurred?

A. Yes.

Q. And the end of the hour or so what happened with Mr Gould and Mr Locke?

A. They left. As I said before, I walked, to the best of my recollection, part of the way down the corridor with them, they left and that's the last I saw of Mr Locke.

Q. Then subsequently you withdrew from acting for Mr Jones in this case because you could be a witness in this case?

A. That is right.

Q. That is why you are here today rather than as his counsel?

A. That is right.

#### CROSS EXAMINATION

CROWN PROSECUTOR:Q. Mr Greenwood, you were familiar with the brief before Locke came up and spoke with you?

A. Yes.

Q. How familiar were you?

A. No more than reasonably.

Q. So it was not a situation where you would have got yourself, as it were, properly prepared at that stage for a trial that might have, say, commenced the following week, you were not in that sort of trial mode, would that be correct?

A. Well, I was in trial mode for it about three times because we were conducting an ongoing search for the witnesses. I rather fancy, although there would be better records than my memory for this, I rather fancy about this time it had been set down for trial but I know that I was due to leave the country to do some work overseas about a week after Locke came in to see me and so I was going to be away out of the country for about a month.

But my best recollection at the time I saw Locke, the trial was likely to be imminent. I can't do much better than that.

Q. How familiar were you with the transcript of the committal proceedings?

A. Hardly at all, I'd say.

Q. You didn't know when Locke came up there what Locke had said at the committal proceedings and what Det Plotecki had said at the committal proceedings?

A. I didn't have it in my mind, no.

Q. Had you read through the transcript of the committal proceedings?

A. I can't remember.

Q. So you didn't know at that time whether Locke had been cross-examined about outstanding warrants and what had led up to the statement regarding the Taxi Club and what happened afterwards?

A. Yes. I knew he had been cross-examined along those lines but I didn't have it at the top of my mind when I was talking to him.

Q. If we could take it to the outstanding warrants. Did you know whether there had been any discussion between Plotecki and Locke about warrants that had been outstanding against Locke?

A. No, I didn't have those details in my possession otherwise I could have gone into it with Locke.

Q. So you were not in a position to properly evaluate with Locke what was said about the warrants and what was said about the Taxi Club?

A. Yes, I could evaluate it. The confession, the confession by Locke that what Locke was said to have said at the Taxi Club was all lies.

Q. You didn't have that information there to test his credibility

- -

Q. To test whether he had committed perjury before the Magistrate?

Q. Whether there was any inconsistency between what he said to you and what he said at the committal proceedings?

A. No. I wasn't there to cross-examine him. I was there to receive the bones of what he was prepared to say. Why he was saying it and to get him away with Gould to take a statement from him.

Q. But you had assessed that he was getting things off his chest and was telling you the truth?

A. Of course.

Q. But you didn't know what he had said to the magistrate at the committal proceedings?

A. I didn't have it at the top of my mind.

Q. You see, the business about the outstanding warrants was much less emphasised than the fact he was going down for it, to use his phrase, if Jones didn't?

A. Yes.

Q. Did you know that Det Plotecki had been asked about the execution of warrants on Locke?

A. Not at the time I spoke to Locke. As I say, that wasn't on top of my mind, that part of the brief when Locke came to see me.

Q. You are aware at the committal proceedings that Det Plotecki had been asked about these warrants and told the court that Locke had been locked up and had subsequently got out on bail?

A. Well, I know that now. I have found that out in the meantime.

Q. And he told the court there had been commitment warrants which related to traffic offences and there were warrants out for these commitment warrants?

A. I know that now. It wasn't at the top of my mind at the time.

Q. You know what commitment warrants are?

A. Yes.

Q. A person pays up, pays up the amount of the fine or goes to gaol?

A. Exactly.

Q. You did not know that all this had been explained at the committal proceedings when you were interviewing Locke?

A. I didn't know whether it had been explained or not, or whether we accepted what Plotecki said.

Q. You knew what Plotecki had said about Locke being in custody in relation to failure to appear and in relation to the commitment warrants?

A. Yes. So?

Q. That was before he saw you at your chambers?

A. What, that evidence in the Lower Court?

Q. Yes, all that evidence?

A. Yes.

Q. Did you know that Det Plotecki had said in the committal proceedings that he had received a message from Locke that he was in the cells with regard to commitment warrants and he wished to talk to Plotecki - do you know anything about that?

A. Well, I know it's in the depositions. I recall that something like that is in the depositions but I have never cross-examined Det Plotecki.

Q. Did you know that at the committal proceedings Det Plotecki had said that a number of witnesses had nominated Locke as being a suspect in the murder?

A. Yes, I have a recollection of that.

Q. And Det Plotecki had said to the magistrate that it had been established that Locke was in Brisbane at the time of the murder?

A. That is nonsense.

Q. But that was said to the magistrate?

A. Oh that was said yes, sure.

Q. Det Plotecki said that was established positively by Queensland police?

A. Plotecki said that.

Q. Yes. Did you know that at the time you were interviewing Locke in your chambers?

A. It is very difficult to answer that because whether I did know about that answer or not, you know, obviously I had done some work on the brief before I saw Locke and I did other work on it later but that is in the evidence.

Q. The way the sequence went of these things is that the accused was arrested, is that correct, do you remember how the evidence went, the accused was arrested?

A. Straight after the record of interview or before?

Q. He was charged <sup>after</sup> before the record of interview?

A. Yes.

Q. There was no mention of the incident at the Taxi Club in the record of interview?

A. That is correct.

Q. Because the Taxi Club incident occurred, according to Locke anyway, after that event or the police didn't know about it - -

OBJECTION: REPHRASED.

Q. You know the police did not put anything about the Taxi Club incident to the accused in the record of interview?

A. The Taxi Club incident and what followed, or what allegedly followed, yes, I understand that; because according to the allegations made through the police that Locke's statement had occurred after Mr Jones was charged with the murder of Hughes, yes.

Q. But at the committal proceedings the statement regarding the Taxi Club incident was in evidence, the statement from Locke, it was a statement that was tendered to the magistrate?

A. Yes. That's why the subject of perjury came up.

Q. If Locke had said at the committal proceedings - Locke had indicated to the magistrate that he had volunteered this conversation regarding the Taxi Club - -

OBJECTION.

A. Could you put the context to me?

Q. Did you understand at the time of this interview with Locke, or did you remember that Locke had said to the magistrate that he had been asked if he had seen Jones again and the Taxi Club conversation then had been told by Locke to the police?

A. I can't understand that question, I'm sorry. Why don't you read the context to me and see if I remember, whether I knew that at the time.

Q. "So why did you tell the police then about this conversation with Jones?" This is referring to the Taxi Club conversation with Jones?

A. "So why did you ..."?

Q. "A. Why? Because I was asked to if I'd seen Jones again and what conversation had gone on and this is the conversation and that's what I told them."

A. Yes. I knew that that was included in the tenor of the evidence that he had given before the Magistrate which was the reason that we were talking about the possibility of him then having committed perjury on what he was telling me. What he was telling me was not that at all.

Q. And then there is the question: "Q. So you were motivated by some feeling of duty were you? A. If you like. I don't know - that's - I just told them because I was asked. Q. Well, if you heard this conversation why, once again, didn't you tell the police when it occurred? A. Well I should have but - and I regret not doing so - but - - Q. Why didn't you? A. Because I was scared of going to gaol at the time myself. Q. About what? A. Because I had warrants on me - outstanding fines."

A. Yes, sure. That's there but I can't say that I was across all those details at the time.

Q. You made an assessment of what you understood about the case and what you could see of Locke, you made an assessment about how reliable he was at that time - -

OBJECTION

A. Yes.

Q. This is at the time of the - -

A. You are going to ask me what the assessment was?

Q. You indicated you thought he was being straight forward with you?

A. Yes.

Q. Might I put this to you, Mr Greenwood, you do not say that he may not have been telling you lies, you just do not know because of his acting ability?

A. If he was telling me lies he's Laurence Olivier.

Q. You have been, if I could use the expression, conned before and you will be conned again, Mr Greenwood, by people?

A. Yes. Sure. We've all been had.

Q. And this person was a junkie and a street person and you knew that?

A. Yes.

Q. And it was certainly a surprise to you when you eventually found out that as soon as he got away from Mr Gould he rang the police?

A. No.

Q. Not at a surprise at all?

A. No.

Q. Did Mr Gould tell you that he did not get a statement from him?

A. Yes. Well, I heard from my instructor that a statement had not been able to be procured.

Q. During this conversation that you had with Locke in chambers, at one time he said he wanted to go home to make a statement?

A. Yes.

Q. I think it is on the first page - he wanted to make a statement from home?

A. Yes, he was worried about his boy.

Q. He was very anxious about the three year old child?

A. Yes, that is right.

RE EXAMINATION

FINNANE:Q. Mr Greenwood, my learned friend has referred you to a number of passages in the transcript of the proceedings before a Magistrate?

A. Yes.

Q. Has anything that he put to you caused you to change your assessment of Locke as he was at the time of the conversation?

A. No.

Q. Did he appear to be tense or anxious?

A. Look, he presented as a person who was there on an occasion of importance which made him vulnerable, as we explained to him at considerable length - probably overdid that aspect of it. He was presenting as a person who was getting something very serious off his conscience. He was not completely at ease as you would not expect a person in that situation to be completely at ease, but within those parameters, having regard to what the occasion was all about. He was confident - his tone of voice on the tape bears this out, that he was apparently calm - confident of what he was saying and that is all I can say. My observations were quite consistent with that.

WITNESS RETIRED & EXCUSED.

GREGORY JOSEPH GOULD  
Sworn and examined.

FINNANE:Q. Is your name Gregory Joseph Gould?

A. It is.

Q. Do you carry on practice as a solicitor at 4 Darley St, Darlinghurst?

A. Yes, I do.

Q. Mr Gould, on the afternoon of 7 June 1991 were you at Forbes Chambers, 185 Elizabeth St, Sydney?

A. Yes.

Q. Were you there to see Mr Greg James, QC?

A. Yes, I was.

Q. At some time, about ten to four or so did you meet Mr Greenwood?

A. Yes.

Q. How did that come about?

A. Mr James received a telephone message and shortly thereafter went to his door of his chambers and called me over and indicated something to me and I met Mr Greenwood.

Q. Was that the first time you had met him?

A. Yes, it was.

Q. Did Mr Greenwood indicate that he would welcome your assistance as an independent solicitor?

A. Yes, he indicated to me that he had something where he needed an independent solicitor and would I be prepared to assist.

Q. Well then, after a little while - I think you were finishing off a conference with Mr James, were you not?

A. Yes, I was.

Q. Did you then go down to Mr Greenwood's chambers?

A. Yes. It was two floors down and I passed the reception area and walked along the corridor to Mr Greenwood's chambers.

Q. As you passed the reception area did you notice anyone in it?

A. There were three men, one of them the accused, one of them Mr Locke and another person who I did not know and I still don't know, sitting on the - I think it was the left hand side of the reception area. I'm not sure about that but there were certainly three men in the reception plus Morna, the receptionist.

Q. Did you know any of these men before this occasion on this day?

A. I had not seen any of them before.

Q. Well then, when you got Mr Greenwood's chambers what happened then?

A. Mr Greenwood and I had a short conversation in which he indicated to me the reason he required my assistance. From memory, he then left his chambers and walked - he left the chambers and he came back a very short time later with Mr Locke.

Q. Now, when Mr Locke was there what happened then?

A. In Mr Locke's presence, Mr Greenwood then proceeded to explain to me the circumstances of the charge against Mr Jones, the reason for Mr Locke being there and accordingly, the reasons that my assistance was needed.

Q. Were you given a detail description of the trial or an outline only?

A. I was given an outline only which was only something slightly more than the allegation against Mr Jones and where Mr Locke fitted in and that he had given a statement contrary to Mr Jones' interest.

Q. Did you take any notes?

A. I did take notes.



Q. Have you got with them?  
A. They are in my bag, yes.

(Mr Finnane sought that the witness have access to those notes. No objection by the Crown. The witness procured the notes from his bag).

WITNESS: Yes, I now have those notes.

FINNANE:Q. Were you making those notes on this afternoon?  
A. Yes, I was.

Q. Have you I think found one ~~area~~<sup>error</sup> I think when you looked over them yesterday?  
A. Yes, I have.

Q. Having looked at those notes recently and indeed this morning, are you able to say what course followed or do you need to refer to the notes?  
A. If I am able to refer to them. I could go through it with recollection but it would be easier with my notes.

(Mr Finnane sought and was granted leave for the witness to refer to his notes).

WITNESS: Mr Greenwood explained to me that Mr Jones was a client and a friend of - Jones was a client of Greenwoods and that Locke was a friend of Jones and he had come into chambers with Locke and wanted to tell Mr Greenwood certain things. Mr Greenwood had sought my independent assistance for that purpose.

He had indicated that Jones was charged with murder, that Locke was a Crown witness and that there had allegedly been confessional statements made by Jones to Locke.

Mr Greenwood indicated in Locke's presence that the deceased had been found in a flat in Kings Cross and had been strangled, that the deceased was an associate of both Locke and Jones, that the deceased's name was John Hughes and that the case, apart from Locke, was purely circumstantial and that the murderer may have been one of a number of people.

He indicated - this is Mr Greenwood - in Locke's presence indicated to me that Hughes was reputed to be a drug dealer and a known homosexual. He had a flat mate by the name of Aaron Hill living with him and Mr Hill had found the body after climbing through a window and further, that Mr Hill had recently been found dead in a park in Campbelltown, apparently suffering from an overdose of heroin.

That was the lead in and then there was some discussion at that stage of which I did not take notes because Mr Greenwood wanted to get it on tape about where Mr Locke fitted into it in relation to the statements.

FINNANE:Q. Did you see something done with a tape recorder?  
A. Yes. I can't recall whether a tape recorder was there but certainly there was - I think Mr Greenwood may have left chambers or had arranged for a tape recorder to be found and there was -

it had to be a mini tape recorder because it was anticipated that it be transcribed, if anything was said it be transcribed in my office and I was using mini tapes as opposed to micro cassettes which are a different type of cassette. So, a mini recorder was found and a tape put in it.

LUNCHEON ADJOURNMENT.

Q. I think just before lunch you had said that you had mini cassettes at your office and you arranged between you and Mr Greenwood to get a recorder that would take a mini cassette?

A. Yes that is correct. Over lunch I have given some thought to when that actually was. I am just not sure whether it was before I had further discussions with Mr Locke or after, but there were some other matters which I recorded in the notes and I stopped recording when I was sure the tape was actually working. So, there was further material that was not recorded on the tape which I took down.

Q. Perhaps we could just go, before we go to the tape then, to what further material it was you recorded before you came to the tape?

A. Following Mr Greenwood's preamble, Mr Locke then spoke and I asked him how he came to be there, that is, at Mr Greenwood's chambers. He indicated that on that day, 7 June at 12 o'clock he had been in the social security - and he didn't tell me which social security just that he was putting in a form and he saw Jonesy there. He said that Jones was a bit angry and said, "I want to talk to you" and Jones replied, "That's good. I want to talk to you too".

Q. Jones replied or Locke replied?

A. Jones said, "I want to talk to you" and Locke replied, "I said, 'That's good, I wanted to speak to you.'" There was then, according to Locke, some conversation about the statements Locke had made and Locke said that Jones said to him, "What's going on with the statements? I have got copies of them. As you know, either you or Plotecki is lying".

Locke then said, "I told him", "Him" being Jones, "What Plotecki had done with the statements". Locke then went on to say, "Upon entering into the interview I commenced to read and I saw that it was a combination of my statement and new parts I did say". Now that is what is recorded in my notes, " I did say" but when I read further it should be "I didn't say:".

Locke then said, "I started to read and he said", that is Plotecki said, "Look, just sign it here." Locke said he didn't read it properly until he got home and he could see "it wasn't mine", that is what I have got recorded here. It was his statement.

Locke said he was not coming forward as a result of any fear and he was not coming here, that was to Mr Greenwood's chambers, with any apprehension about the consequences of his previous false evidence. He then said he was not the subject of any threat from Jones or any of his associates.

My final note is he made this statement originally in fear of reprisals from the police. It was at that time that we established the tape was working and I spoke on the tape.

Q. I show you mfi 18. Does that appear to be it?

A. Yes, that appears to be the tape that was used.

Q. And then after you left the chambers all together you took that with you, I take it, that tape and gave it to your secretary?  
A. Yes, Mrs Sommen.

Q. Well then the tape itself was played and there is no necessity for us to play it again. Can you recollect anything that was said during the course of the playing of the tape?

A. Yes, I started off by telling Locke, once we had established that the tape was actually working, that we would have to go through it again and on the basis of what he had told both myself and Mr Greenwood about the way the statements had been compiled that he had signed and given evidence of in the committal proceedings, I then proceeded to tell him that in coming forward and giving a different statement now would have certain ramifications and would cause an inquiry to be undertaken into his evidence.

I told him that may involve allegations of his perjury and asked him again whether, considering that, he wanted to proceed. I asked him again on the tape whether it was as a result of any pressure that had been brought to bear by Jones that he was at chambers and he indicated that there was no pressure whatsoever being applied and that subject to arrangements that he would have to make for his three-year-old son he was at that time in the care of a baby sitter, that he would have to - he would be prepared to come back to my office at Bondi Junction, where it then was, and make a full statement.

Q. Was anything else said during the course of this taped period as to Jones, Plotecki and Locke?

A. Locke indicated that when he had been spoken to by Plotecki that he was being stood over by Plotecki, that he was in fear of him and that he had been threatened that if he did not give evidence against Jones then, I think to use Locke's words, he would go down.

Q. Well then, was there considerable discussion about his son and picking up this son and arrangements about what could be done for the three-year-old son?

A. Yes, I had my car across the road, I had parked near the City Bowling Club, having one in early for the conference with Mr James and when Mr Locke indicated his concern for his son being with, I think a young woman at that time, I indicated that I was quite happy to drive him to his home to pick up the son and bring him back to the office where there were ample staff to look after him whilst the statement was being taken.

Q. Well then, after some further discussion about these sorts of arrangements did you and Mr Locke then leave the premises?

A. Yes, after some conversation he said well, words to the effect, "Let's go and get it done now. I want to go and get it done now." I said, "Fine, let's go to Bondi Junction" and we left chambers.

Q. When you left you walked down the same corridor, presumably?

A. Yes, my recollection is that Mr Greenwood saw both myself and Mr Locke to the foyer area where the lifts are.

Q. Was Jones and this other man there?

A. No, they were not. I did not see them again after I had walked through the reception area.

Q. What did you and Mr Locke do?

A. Mr Locke and I caught the lift down from the 11th floor, walked out of the Mervac Building on to Elizabeth St. We crossed Elizabeth St approximately 100 metres north of Park St and we proceeded to, from memory, to jump up on to the sandstone wall of Hyde Park and walked across Hyde Park where we had further conversation.

Q. As you were walking across did Mr Locke say something to you?

A. Yes, my recollection is I asked him how he happened to come into this and he indicated that he was an associate of Hughes, the deceased and he was questioned by police as a result of that association and indicated that he was taken to an interview room and spoken to by Det Plotecki. He indicated that whilst he was in the interview room there was conversation about him going - well, Locke, the words he had used before about going down, but someone would have to wear it and it would be him. He then mentioned a bank book.

Q. What did he say about the bank book?

A. He said that whilst he was in Det Plotecki's room or the room where he was being interviewed he saw a bank book on the table and he said it was the same bank book that they later found in a coat at Mr Jones' premises.

Q. Have you ever heard of this bank book or the coat?

A. I don't know anything about the case other than I have given in evidence earlier and that was told to me by Mr Greenwood.

Q. Did he describe this bank book in any way?

A. No. My distinct recollection that he may have said or my recollection is that he may have said there was blood on it but he certainly just said it was a bank book.

Q. Then was there some other conversation?

A. That conversation about the bank book was repeated because it was a reasonably serious import to me and I asked him to put it in context of when he saw the police and when Jones was arrested and he was adamant that he had seen the police before Jones was arrested and had seen the bank book at that time.

We then entered my car and drove to Bondi Junction and whilst on the way to Bondi Junction there was general discussion about homosexual activities at The Wall which is a notorious spot in Darlinghurst, notorious for homosexual activity and about certain comings and goings relating to activities of some of the male prostitutes who worked up there and how they plied their trade.

Q. When you got back to the office what happened then?

A. I took Mr Locke into my room and from memory, I had come in from the back entrance to the office where my car park is and he was getting pretty anxious because it was pretty close to five o'clock and he was anxious about his son and he said to me: Could he make some arrangements for his son and I said, "Well, go out to the foyer for a moment to the waiting room and I'll",

and there was another client out there waiting to see me and, "I'll see how long he is going to be and perhaps you can make a phone call or work out what you are going to do about your son." and I cannot recall if I saw the client or not but after I went back to my room for a short time and went back out and Locke had gone.

Q. And that is the last you have seen of him?

A. That is right.

CROSS-EXAMINATION:

CROWN PROSECUTOR: Q. You formed the opinion that Locke was making pretty serious allegations about the police

A. Yes, I did.

Q. You formed the opinion that the police, from what you heard from Locke had planted a bank book on the accused?

A. Yes.

Q. Did you seek to ascertain the context or rather, the chronology of how things occurred from Locke?

A. Yes, I asked Locke to tell me again so I had it clear in my mind what had happened in relation to the bank book.

Q. Were you aware that there was a record of interview with the accused before he was charged?

A. No I was not.

Q. Were you aware that the police had possession of the bank book before he was arrested?

A. No I was not, not until I spoke to Locke or Locke told me.

Q. Locke told you that the police had the bank book before he was arrested, is that correct?

A. Locke told me that the police had found the bank book in a coat in Jones' premises after Locke had seen it in the police station.

Q. After Locke had seen it in the police station?

A. Yes.

Q. Did Locke say how he came to that information?

A. No, that is what he related to me.

Q. Were you aware a committal proceedings had taken place?

A. No, no.

Q. Were you aware that evidence had been given about the book being found in Jones' coat?

A. Well, firstly, in relation to the committal proceedings, if Mr Greenwood told me I have no recollection or I certainly was not aware of any bank book whilst I was in Mr Greenwood's chambers or any finding of any evidence or any evidence other than the importance of Locke's statement to the police regarding admissions made by Jones to him.

Q. Did you establish any dates when this bank book was allegedly seen by Locke in some room?

A. That was - I understood from Locke that it was shortly after Hughes had been murdered or died.

Q. Shortly after?

A. Or whenever - the first time that Jones had been into the police station where he was interviewed.

Q. Locke you mean?

A. I'm sorry Locke.

Q. So you understood that there had been a murder and shortly after that Locke was interviewed and it was at that time that he saw a bank book?

A. Yes.

Q. Were you aware that Locke had been belted up by Jones before you saw Locke at Mr Greenwood's office?

A. I'm not aware of that.

Q. Are you aware that Locke had made allegations that he had been belted up twice, had been attacked twice by Jones before he was in Mr Greenwood's office?

OBJECTION: CLARIFIED.

Q. Locke was introduced as a friend of Jones, is that correct?

A. Yes.

Q. It wasn't put to you that the accused had admitted head butting Locke prior to when you saw him?

A. I was never told that, no.

Q. Was it ever told to you that on two occasions Locke had alleged that he had been attacked by the accused?

A. Certainly never told me and on at least one or more occasions in Mr Greenwood's chambers I gave Mr Locke the opportunity to indicate whether he had any fear of any reprisal from Mr Jones in relation to what he was doing that day.

Q. No one told you of the allegations made by Locke that on previous occasions he had been attacked twice by Jones?

A. No, no one told me that.

Q. And you saw obviously a disparity in height and weight between Locke and Jones?

A. I saw that Locke was a small man. I can recognise the disparity now. It certainly was <sup>not</sup> apparent to me because at the time I passed the reception area Jones, the other man and Locke were all seated on a couch to one side of the reception area.

Q. So you didn't pay a lot of attention to Jones at the chambers?

A. No, I wasn't aware who the witness was to be at that stage.

Q. Anyway you had received very serious allegations from Locke about the conduct of the police?

A. Yes, I had.

Q. Did you ever pass it on to the authorities, these very serious allegations?

A. I put it in writing in a letter to Miss Clark of the Legal Aid Commission.

Q. That is what you did?

A. Yes.

Q. You didn't do anything yourself by notifying the police or the Director of Public Prosecutions or anything like that?

A. I didn't do that.

Q. Was there any conversation like this with Locke at your office, Locke saying to you, "I have to step out for a moment." and you said, "I have put two hours aside for this. You are not going to take off, are you?" Was anything like that said?

A. No. No. I have no recollection of that. There was certainly conversation about him stepping out outside because he expressed concern about the care of his son and about this baby sitter who I understood from him to have had her own problems.

Q. There was no sign from him that he was about to take off?

A. No. I expected him to come back and in fact, I waited there till seven o'clock that evening.

Q. Did you know anything about Locke, what sort of person he was?

A. Only from what I gleaned at chambers and out trip together to Bondi Junction.

Q. Did he tell you he had worked at the wall, did he tell you that?

A. He indicated he had at some stage.

Q. Did he tell you he was a drug addict, he had problems with drugs?

A. I can't be sure he actually told me that. He certainly indicated that the person who was minding the child had problems with drugs and that is why he wanted to get home.

Q. Did you establish what statement it was that Locke was talking about when he said he saw a statement that was a combination of what he had said and what the police officer had put in there, did you ever establish what that statement was?

A. No, because at the time I spoke to him about that statement I had no statement in front of me. At a later stage I was provided with statements but at that stage I didn't see him again.

Q. You are a solicitor who has done a lot of work in the criminal area?

A. Yes.

Q. And you have seen a lot of statements which come to courts which are prepared by police officers and tendered in the courts?

A. Yes, I have.



Q. You know that statements do contain often material which is not quite in the words of the person who makes the statement because the police as it were, edit the statements?

A. Yes, that occurs from time to time, yes.

Q. Hardly ever a statement goes forward which is written or put up in the vernacular, as it were, is that correct?

A. Statements of civil witnesses as opposed to police witnesses?

Q. Yes?

A. Oh, from time to time it happens.

Q. They are often, perhaps, more formal than what you might expect a witness has said?

A. Yes, I would agree with that.

Q. How did Locke appear to you - he was relaxed?

A. Yes, he was relaxed and he didn't appear to be concerned at all, agitated, that was when he was in the office. He was - I should qualify that by saying in terms he was obviously in strange surroundings with Mr Greenwood. Mr Greenwood was at pains to point out he was Jones' barrister and that was the reason I was there, to put him at ease and as an independent person.

Q. He was plausible to you, acceptable?

A. Yes, I had no problems.

Q. You have dealt with drug addicts before in your line of business?

A. Yes, a lot of drug addicts, <sup>I am</sup> ~~are~~ predominantly involved with drug crimes.

Q. A lot of those people have developed a very good sense of knowing what to say at the appropriate time, haven't they?

A. I think that depends on the individual.

Q. They are generally living on their wits, aren't they, these drug addicts?

A. Well nothing that Locke said to me on the day suggested to me that he was there for anything else other than to set the record straight.

Q. Of course, you did not know anything really in depth, did you, about what Locke had said at the committal proceedings, or had said in any statement, etc?

A. No but the purpose in going back to my office was to do a detailed statement of what evidence he had already given and what he wished to change other than the general allegations he made in relation to Mr Plotecki that was in Mr Greenwood's chambers and shortly after the allegations in relation to the bank book.

Q. When he was talking about the bank book was this in combination with his statement which he said was partly his and partly that of Plotecki's?

A. Yes. He said how he came to be in the police station making the statement.

Q. Did he say statement or statements?

A. I was only aware at that stage of one statement.

Q. Was a conversation that took place at the Taxi Club, was that mentioned to you?

A. No, it wasn't.

Q. But it was a statement that Locke mentioned to you?

A. We talked about how he came to be in the police station giving a statement to Det Plotecki.

Q. That there was some conversation, or at least something said by Locke that Plotecki had said if he didn't give evidence he would go down, something like that.

A. Yes, and that was recorded on the tape in Mr Greenwood's chambers.

Q. And did he refer to that statement as being a statement that Plotecki was talking about, that he wanted, that statement that was apparently his and apparently Plotecki's?

A. What I took Locke to be referring to then was an inducement to make a statement. That if he didn't make a statement then he, as a suspect, could go down for it.

Q. But you didn't know to what he was referring when he said that?

A. Yes, he was referring to the evidence he had given in respect to Jones.

Q. He was talking about evidence, not a statement?

A. Well, a statement, evidence, a statement to the police.

Q. But you do not know whether he was talking about this statement which he said was partly Plotecki's and partly his?

A. Yes, he was referring to what had been put in the statement by Plotecki about the conversations he'd had with Jones.

Q. And Locke indicated if he didn't, what, give evidence along the lines of that statement that he would go down?

A. Well, it wasn't so specific as giving evidence but if he wasn't prepared to say that that he would go down.

Q. About a conversation that Locke supposedly had with Jones?

A. Yes. The whole thrust of what had been discussed in Locke's presence by Mr Greenwood was that Locke had made serious allegations about admissions made by Jones to him and that is what the conversation related to. The falsity of those statements.

Q. Conversations had with Jones?

A. Yes.

Q. My learned friend has drawn something to my attention, a mistake on my part, I would just like to correct it in front of the jury. When you were speaking with Mr Locke, firstly, in Mr Greenwood's chambers and at any time after that Locke made no mention of any assault committed on him by Jones, is that correct?

A. That is correct.

Q. And you were not aware when you were in Mr Greenwood's chambers, when he was introduced as a friend of Jones, that Locke had complained that he had been head butted by Jones?

A. No. I have no recollection of being advised by Locke at any time, either in chambers or outside of chambers that he had been assaulted by Jones. I have a recollection that there was a comment by Locke that Jones was angry at him and that Jones had a right to be angry at him.

Q. But you knew nothing of any head butting?

A. No, certainly not.

Q. May I just clear up one thing. I put to you that there had been two alleged assaults, do you remember that?

A. I don't know - -

Q. No, do you remember I put to you that there had been two alleged assaults?

A. Yes, I remember you saying that to me.

Q. Well, I was mistaken, Mr Gould, because at that time there was only one alleged assault. I just want to clear that up?

A. I have no recollection of that.

Q. You knew of no alleged assault at all?

A. No.

CROWN PROSECUTOR: I put it to the witness that there were two alleged assaults when there was only one, your Honour.

NO RE EXAMINATION.

WITNESS RETIRED & EXCUSED.

CERTIFICATE FROM THE BUREAU OF METEOROLOGY RELATING TO RAIN FALL IN BATHURST ON 5 MAY 1989 TENDERED, ADMITTED WITHOUT OBJECTION AND MARKED EXHIBIT 1.

HER HONOUR: It says, members of the jury, that on May 5 there was 6.5 mls of rain at Bathurst. On May 6 nil. What does that go to?

FINNANE: That on 5 May it was raining and that he had the day off.

CASE FOR THE ACCUSED CLOSED.

NO CASE IN REPLY.

COUNSEL ADDRESSED.

FOR SUMMING UP SEE SEPARATE TRANSCRIPT.

FURTHER HEARING ADJOURNED TO WEDNESDAY 2 SEPTEMBER, 1992.