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THE SUPREME COURT
OF NEW SOUTH WALES
CRIMINAL DIVISION

IRELAND J
AND A JURY OF TWELVE

MONDAY 16 NOVEMBER 1998

96/91/0034 - REGINA v MICHAEL ALAN HEATLEY

CHARGE: For that he on 7 March 1995 at Surry Hills in the State of New South Wales did murder James William Meek.

PLEA: Not guilty.

Mr B Dawe QC as Crown Prosecutor
Mr T Molomby with Mr B Vasic for the Accused

(The Crown Prosecutor read out the names of the witnesses that the Crown anticipated it would call during the trial)

(Jury empanelled)

HIS HONOUR: Members of the jury, serving on a jury may be a completely new experience to some, if not all of you. It is an important service which you are to perform. One of the most precious rights which members of the community have is to be tried by a jury of one's peers. It is, therefore, appropriate for me to explain a number of matters to you.

The case which you have been chosen to hear as representatives of the community at large is a criminal case. It is alleged by the Crown that the accused committed the offence of murder, which was referred to in the indictment which was read out to you. The accused has pleaded not guilty, and it is accordingly your responsibility as the jury to decide whether he is guilty or not.

Later in the proceedings I will have more to say to you about your respective roles; yours and mine. From the outset, however, you should understand that you are the sole judges of the facts. If there is a dispute as to some matter of fact, then you, and you alone, determine which facts you accept and which you reject. You should, therefore, pay particular attention to what the witnesses say, and how they say it; listen and watch, and of course do so carefully.

My role in the trial is confined to questions of law. During the trial I am required to ensure that all the rules of procedure and evidence are observed. After all the evidence has been presented, I will give you directions as to the relevant legal principles. I will also identify for you the particular issues that you will need to decide, and

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I will try to assist you by giving a summary of the evidence bearing on each issue, and remind you of some of the arguments relied upon by the parties.

It sometimes occurs during a trial that a question of law or evidence will arise on which the parties will want to address some legal arguments. It is common for counsel to suggest that some matter be debated in the absence of the jury. In such cases it may be that I will ask you to retire to the jury room whilst I hear the argument and determine the question. If that happens, you should not think that it is being done to keep something from you which you ought to be hearing, it is done simply in order that you might not be distracted from your task of concentrating on the facts by hearing purely legal argument, and in order to ensure that what you do hear is what you ought to hear in accordance with law.

The persons involved in the presentation of the Crown case and the defence are Mr Dawe, the barrister sitting closest to you. Mr Dawe is the Crown Prosecutor. In a criminal case the Crown Prosecutor presents the charge in the name of the Queen and on behalf of the community. The Crown Prosecutor is traditionally referred to as Mr Crown. He will call such witnesses and present such other evidence as he considers appropriate in support of the charge.

Mr Molomby of counsel, who is the barrister sitting at the far end of the bar table from you, appears for the accused, and his role of course is to represent the accused. With Mr Molomby appears Mr Vasic as Mr Molomby's junior, and he is the barrister sitting next to Mr Molomby.

You have been told by my associate you are required to choose a foreman who may be any one of you, lady or a gentleman. I will refer to that person as Mr Foreman or Madam Foreman as the case may be. That person's role will simply be to act as a spokesman for you all whenever during the trial I need to communicate with you, or you need to communicate with me. It is a matter for you whether you also ask that person to preside over your deliberations in the jury room. So how you choose your foreman is entirely a matter for you. I suggest that you make your choice in the privacy of the jury room during the first adjournment of the proceedings.

When the Court reassembles after the first adjournment, the person you have chosen should sit in the front row of the jury box in the seat nearest to me. In that way we will all know, without anything being said, whom you have chosen. During the trial you may change the person you wish to act as your foreman if you so desire.

Now, as you have heard, counsel have estimated that this case is likely to take two to three weeks. Should there be no unforeseen eventualities, the Court will sit daily from 10 a.m. to 4 p.m., with a break for morning tea and a lunch break from 1 p.m. to 2 p.m.. Lunch will be provided

for you. I mention these matters purely as a matter of convenience.

You are perfectly entitled to take notes as the case progresses, and the Sheriffs officers will make writing materials available to you on request. I'm not suggesting that you need or should try to take down what is said, as you can see, we have a court reporter here, and a transcript of the evidence is taken down. Indeed you should not allow taking notes to distract you from the prime task of absorbing the evidence and assessing the witnesses. Nevertheless, as I said, if you would like to take notes at any stage please feel free to do so.

The general procedure we adopt is for the evidence to be presented by way of questions asked of witnesses. Both the Crown Prosecutor and counsel for the accused are entitled to ask questions of those witnesses. They are both trained and experienced, and it will almost certainly be the case that they will ask all the questions that need to be asked. Nevertheless, I may interpose a question from time to time to clarify some matter as we go along.

If you have any questions about the evidence, or the procedure during the trial, you should direct those questions to me, and to me alone. The Sheriffs officers who will be attending to your general needs are not there to answer questions about the trial, and under no circumstances should you direct a question about the trial to the Sheriffs officers. Should you have any questions about the evidence or the procedure, please through your foreman make a written note, give it to the Sheriffs officer, and he or she will make sure that I get that note, and we will answer it as soon as possible.

I will shortly ask the Crown Prosecutor to give an outline of the case the Crown anticipates establishing by evidence. Such an opening is intended to assist you in understanding the evidence as it is produced. And Mr Molomby may also wish to open the defence to you after the Crown has given the Crown opening. What counsel say to you is not evidence in the case. The evidence will be given by witnesses in the witness box here, and by documents and photographs tendered in court. What counsel say to you in opening is no more than an outline of what the Crown expects the evidence will establish, and also the case which the defence proposes to make out. That is all I wish to say to you at the moment members of the jury.

CROWN PROSECUTOR OPENED

MR MOLOMBY OPENED

(The Crown Prosecutor indicated that there were matters of law.)

HIS HONOUR: Members of the jury, we would normally take the morning break now, but as I indicated to you in my first comments to you, there is a matter of law that has to be decided. That will be decided in your absence, so that you can take the morning break now, and have a cup of coffee or whatever you wish in the jury room, but then you won't be required before two o'clock. Lunch will be available at 1 o'clock, if you wish to have it here, and it will be available up until, of course, two o'clock, when you will be required to come back. So, you can now retire. If you would be good enough, and be good enough to appoint your foreman, a lady or a gentleman, whichever you prefer.

<IN THE ABSENCE OF THE JURY.

(Mr Molomby made an application for admitting his client to until further order. Discussion ensued.)

HIS HONOUR: I will continue the accused's bail as follows:
1. His timely attendance at Court in the company of one of his legal representatives.
2. That he not leave the Court until 15 minutes after the jury has retired for the day on any particular day.
3. That he not approached or contact directly or indirectly any witness proposed to be called by the Crown, and
4. His bail will continue until further order of the Court.

<SHORT ADJOURNMENT

MOLOMBY: There are three matters I raise. Obviously they need to be addressed individually. They arise from the evidence from two witnesses and they don't effect the evidence of the whole of the witness. The surnames, Cane, and that man made more than one statement. The objection is to a portion of his statement of 11 July 1995.

EXHIBIT #A COPY OF STATEMENT OF BRIAN PATRICK CANE DATED 11 JULY 1995 TENDERED, ADMITTED WITHOUT OBJECTION ON VOIR DIRE.

EXHIBIT #B COPY OF STATEMENT OF KEVIN JOHN JAMES PLUMB TENDERED, ADMITTED WITHOUT OBJECTION ON THE VOIR DIRE

MOLOMBY: Paragraph 5 through to 12, your Honour. In the other statement, it is briefer, paragraph 7. There is one similar issue between the two of them, your Honour. 7 and 8 in relation to Mr Plumber, but they involve two separate issues.

(Paragraphs read by his Honour.)

HIS HONOUR: I have read those.

MOLOMBY: There is one issue that arises as a general issue. That is claiming identification of Mr Heatley at the scene prior to the time when he admits he was there.

As I opened to the jury, he admits he was there on the Monday night, and it might be convenient if I address that issue in relation to both statements.

HIS HONOUR: One is 11 am on Tuesday, the second one--

MOLOMBY: Sorry, your Honour.

HIS HONOUR: Paragraph 7, Tuesday 7 March. He was then, I think, talking about the jewellery.

MOLOMBY: That is sighting of the deceased. That is in issue. The process by which that ring identification is here made in paragraph 8 is one of the issues, and if I

could put it in more customary terms to foreshadow that issue. If the identification of a person was in issue, and a photo of the person was shown to the witness and then the witness was asked to review an identification parade, that would be regarded as a contaminated identification.

Similar difficulties and principles as to identification applies to the identification of objects. There are cases that say that, which I will go to, and it is my proposition to show a person first a ring and then get him to say that particular ring was worn by a particular person on a particular day, runs the risk of contamination. The appropriate procedure is to say to a person, "What was the other person wearing?" and if the response to that doesn't trigger something direct to jewellery, to say, "Was the other person wearing anything in the nature of jewellery?" and illicit a description and having got a description, to present the person with an identification parade of jewellery.

That has, in fact, been done in other circumstances. The police don't have a ready selection of jewellery. It is possible to take them to extensive displays and say whether anything they see is similar to the item they have described. I don't want to develop that at the moment. That is the problem in relation to paragraph 8.

HIS HONOUR: I am just concerned for the moment to know whether there was in the Crown case, is there evidence relating to other items other than the Tiger's eye ring?

MOLOMBY: No, never seen since.

HIS HONOUR: He wasn't shown a photograph of those, I take it, he merely describes what he, sorry, he says there is a distinction to be drawn from the Tiger's eye ring and other items of jewellery which are not the subject of being shown?

MOLOMBY: He was shown the Tiger's eye ring, which is the one Mr Heatley acknowledges having stolen and having bought.

HIS HONOUR: Is there any issue about the Tiger's eye?

MOLOMBY: Yes, the effect of this person's, the witness to say it was still in the possession of the deceased at that time, probably some three hours or so after Mr Heatley says he left. As I opened to the jury, Mr Heatley says to the police in his interview in June he left before 9. And, indeed, he relates his leaving to some other activity involving the cutting off of the electricity supply for some hours that day to the block. That will be established to have occur in the prosecution case some time between 8 o'clock and 9 o'clock that morning.

That is the role of the ring, it plays, as I apprehend it, an important role in the prosecution case. The other issue involves both of these witnesses.

In paragraph 7 of Mr Plumb's statement he is shown a

video. No exception is taken to that procedure. But he says there is no contest that number 5 is Mr Heatley. He gives evidence of hanging around the carpark in January and February. Now, in my submission, that evidence, first, is not relevant. Second, even if there is some relevance, it is clearly prejudicial. I think my friend will concede that Moore Park(?) will appear in the evidence on a number of occasions as one of the locations that Mr Meek is to solicit people.

HIS HONOUR: It is a beat?

MOLOMBY: That is the conclusion the jury will draw, and will gain the impression other people in that block were engaged in similar activity in that area. This evidence doesn't place Mr Heatley there in relation to Mr Meek. It just says he was there. It clearly raises a most prejudicial suggestion, that was, in himself engaging in homosexual promiscuous behaviour, but that is the prejudice of it, your Honour.

But if I could revert to the relevant point. My major objection is the relevance, one, if Mr Heatley's position was that he had never been anywhere near these flats, and had nothing to do with them, not prejudicial may have a role, but he admits having been at the deceased's flat on the Monday night quite unequivocally. In my submission it does not add anything to the prosecution case to then prove that he was there at some previous time.

HIS HONOUR: When you say there, the flat?

MOLOMBY: In the area or in the flat, actually, certainly in the area. It does nothing at all to the prosecution case by way of relevance, because there is no contest that he was there on the Monday night.

HIS HONOUR: This evidence establishes no specific dates, does it, it relates to him being seen in the carpark area in January/February?

MOLOMBY: In January and February, not saying anything to do with Mr Meek at all. The area generally of the park or the flat becomes relevant in looking at the similar evidence, that is, of presence prior to the night from Mr Cane. Your Honour will see that Mr Cane, again I take the same point as to relevance. I don't apprehended that my friend will be pressing some of the aspects of this evidence. The more obviously prejudicial aspects in paragraphs 6, 7 and 8.

As I apprehend it, he would be pressing the effect of the evidence that Mr Heatley was present on the Monday morning and that appears in paragraph 5.

HIS HONOUR: There is no objection to that?

MOLOMBY: Yes, I apprehend he is not pressing some of the more prejudicial material in 6, 7 and 8, the discussion with

the deceased about what happened, but he is, as I understand it, pressing the essential evidence of the sighting and the presence on the Monday morning. I say it is not relevant, given the presence on the mob, the night is not in issue.

If it provided some evidence of a motive, it might be relevant, but all it says is that he was there early on the day as well. He is admitting he was there later in the day, more centrally on the Tuesday morning he stayed overnight, that is all admitted.

I say, how does it add to the force of anything in the prosecution case to prove that he was there at any time the morning previously, ten morning's previously, a year previously?

HIS HONOUR: To establish a closer relationship than just the single episode?

MOLOMBY: If it established a closer relationship which with it would be capable of doing it, would still need to be relevant to a fact in issue, and as I understand the case, there is no fact in issue to which the degree of the relationship is relevant.

Of itself, the relevance of what perhaps would be more towards the defence case, if there were any, that is the closer the relationship between two people the less you might expect one to attack the other.

HIS HONOUR: Well, I think Mr Molomby--

MOLOMBY: There are always extra examples.

HIS HONOUR: I think the Family Court would probably take issue with that, Mr Molomby.

MOLOMBY: Yes, indeed, for the reason that is notably absent here, but that is in circumstances where there is evidence of some animosity. If material at any date provided evidence of some animosity between the parties, at least from the part of Mr Heatley, that could have relevance, but that doesn't do that, this doesn't establish anything adverse about the relationship, it doesn't establish any conceivable motive. It just puts in there presence at that earlier time.. And even some of the more juicy detail in paragraphs 6, 7 and 8, it does carry some risk of sexual promiscuity, adverse influence.

I think my friend will concede this in the interview with Mr Heatley, he was asked was there any sexual activity with the deceased, he says no; he slept the night on the couch in the loungeroom. And the exhibit photos show a pillow and sheets or blankets, I forget which, on the couch in the loungeroom. These are the photos taken at the same time as the deceased was discovered dead on the Wednesday afternoon, or shortly after, by the initial police. There is the risk of some inference of some form of promiscuous association from that which does not go anywhere in the case; does not relate to something that is truly at issue.

Your Honour would see in addition to what I am putting about this material, there is not in fact a positive identification made anyway of the person seen on the Monday morning. In paragraph 12 - and again I take no exception to the procedure adopted here for the identification, it's the same video shown. But in paragraph 12 line 5, your Honour will see that he says, "the person is very similar", and in line 7 he describes himself as "90 percent sure".

HIS HONOUR: There is no issue about that did you tell me; photograph 5 is that of the accused?

MOLOMBY: Yes, but he says very similar and 90 percent sure. But those are matters also which need to, in my submission, be taken into account in assessing this matter. But my essential point remains the absence of relevance to any earlier sightings, given the absence of any issue to which they can go.

Now, I don't apprehend that I need to address in particular the prejudicial nature of paragraph 6, 7 and 8, the discussion the witness says occurred that afternoon, but of course I would be objecting to that both in terms of its relevance and its gross prejudice. As I say, I don't apprehend that my friend is actually going to press that. Your Honour, might I address in more particular detail the question of the identification of the ring which arises in Mr Plumb's statement. I am addressing these three issues compendiously your Honour.

Your Honour will see from paragraph 8 there the witness is shown the ring. It is not previously mentioned in his statement. And then he says he recognises it, and it was worn on the day. Now I have made my prime submission on that already, that the proper procedure, the procedure which avoids the recognised prejudices not to show the person the thing in issue first, and then get their reaction, but first to get their memory, and then to see if they can identify the item from a fair representation of other such items.

Now there is authority. I can hand up a copy. There are a number of cases addressing the application of identification principles which primarily have been developed for their application to people, to objects, and as I apprehend it there is no controversy that the same risks are acknowledged to apply, and the same care should be

taken.

I could hand up your Honour most conveniently the a reported case. It's **Klout**, Court of Criminal Appeal in 1995. That was a case where a semitrailer was involved in causing a serious accident by crossing the centre line and dropping drums which damaged other cars and so on, and the question was whether a semitrailer seen speeding and crossing the centre line some seven or eight kilometres back, if I recall the distance, something like that, was the same semitrailer. Two people have driven down the hill behind the trailer, which was swaying around, and later came to the police and gave evidence. The question was, could it be linked to the one that caused the accident.

If I can just take your Honour to the statements of principal in the report. There are some general principles outlined from about letter C down to letter E.

HIS HONOUR: Yes I looked at that.

MOLOMBY: I am not relying precisely on the terms of that for the moment except for this proposition: The way the issue is addressed in this judgment clearly recognises that, as I said earlier, the principles and approaches which have been devised in relation to the identification of people are also appropriate for the identification of objects. And if one were confronted with a circumstance where because of a serious failure in procedure, and the serious possibility of contamination through an identification being inappropriately made, one can get to the circumstance where the identification should be excluded absolutely.

One also gets to the circumstance addressed here in this judgment where, if it is to be admitted, it's to be admitted accompanied by some very clear warnings and directions. And of course, the circumstance in this case was that it was admitted, but the warnings and directions were not given. It has equal the case simply at this point, re-enforces that the same principles apply.

Now the particular sections of the Evidence Act apply only to personal identification. And one is, therefore, left with the principles of the general law as to which for these purposes are not all that divergent as to the appropriate approach for the identification of objects; Domincan's case and so on.

Your Honour I would of course have a fallback position in relation to this identification in relation to warnings and directions to be given, and if the evidence were ultimately admitted, it might be appropriate if I address that with particularity later in the trial, but at this point, my application is that this evidence should be excluded because of the very clear and prejudicial failure to follow the appropriate procedures which necessarily, by showing the witness the ring first, must have contaminated his memory. Now of course there is no point in

cross-examining people about whether their memory has been contaminated or not, because they always think it hasn't been, that is part of the insidious nature of the process, but there are some essential elements of this situation your Honour which, in my submission the Court would take into account; not least among them that this man's statement that appears to be the only statement he made to the police, is dated 14 September 1995, six months and one week after the events.

HIS HONOUR: This is Mr Plumb.

MOLOMBY: Mr Plumb. Six months your Honour. It appears that Mr Meek died on the 7th of the 3rd. So it is a circumstance where somebody's memory of over six months previously is being approached, apparently for the first time, by the police.

HIS HONOUR: The death was said to be on -

MOLOMBY: The 7th your Honour. The medical evidence leaves it perhaps open to the 8th, but I would concede in the light of evidence that is going to be lead, it is highly likely it was somewhere around the afternoon of the Tuesday. That is the high probability.

Your Honour another matter of concern which may put this into the area of really improperly obtained evidence in a sense is that the police knew at the time of approaching Mr Plumb about this ring that it played a most significant role in the case. I'm not suggesting malice in this, but a clear failure to comply with acknowledged principles nevertheless. This was known to be an important matter, because Mr Heatley had been questioned about the ring on 22 June, 1995 and it had been recovered from the pawn shop either on that day or the next day.

HIS HONOUR: The 22nd?

MOLOMBY: The 22 or 23 June. My recollection is it was very late on the very same day as Mr Heatley was interviewed. It was certainly that day or the next. The ring was recovered then. And indeed another factor of concern in that light may be the time that was allowed to elapse between when the ring was recovered and when Mr Plumb was asked about it at all. Because from June to September is itself a substantial time gap. Although I would concede that the major erosion of memory probably occurred in the first half rather than the second half. The second half no doubt would have contributed to it.

Unless there is any particular issue your Honour wishes me to address, that is my position. There are other authorities to support the approach I have said arises from Klout. That is that generally similar principles of identification should be applied to objects. And if it pleases the Court, those are my submissions.

CROWN PROSECUTOR: If it be convenient your Honour that I just go to the argument in relation to the Klout principle, if I could be so brash as to put it that way. I submit that Klout is really authority for the fact that the judge in that relevant case should give a warning on identification on a similar basis of fallibility of memory et cetera, as is set out in page 21 to which my learned friend drew your Honour's attention. The Crown would not cavil at the suggestion that your Honour should also give a warning in relation to the identification of the ring, as your Honour no doubt will give warnings in relation to any identification evidence that is admitted in this trial. But the Crown submits that a ring, such as the ring in question, is an individual item of jewellery, it wasn't inappropriate for the police to present to the witness in the fashion in which they did. It would require I suppose the police getting a collection of jewellery, or taking the witness to a jewellery shop, having previously inserted the subject ring in amongst other rings in a display, and the Crown submits that that would put a great burden on any witness in an attempt to identify a ring, perhaps from a style so similar as may be the style of the ring before the Court. And that is why the warning that your Honour no doubt would wish to give, and should give in relation to the evidence relating to identification, would suffice. I can't offer any more submission in relation to that identification issue.

Going to firstly to the evidence of Mr Cane about which my learned friend has made objection.

HIS HONOUR: Do you press those paragraphs that have the descriptive activity references?

CROWN PROSECUTOR: No I don't your Honour. Not the description of the activities.

HIS HONOUR: 6, 7 and 8 are they?

CROWN PROSECUTOR: I don't press that which is contained in paragraph 6, or 7 or 8. However, I do press 5, and I do press 9, 10, 11 and 12. And firstly on the question of relevance, about which my learned friend addressed the Court, the Crown says that the occasion of receiving two Tally Ho papers from Mr Cane, as described by Mr Cane, is relevant when consideration is given to what the accused told the police during the course of his record of interview relating to the events of the morning of 7 March. That is the Tuesday, the day of the death, as opposed to 6 March, that Mr Cane is talking about.

HIS HONOUR: Would you say that again?

CROWN PROSECUTOR: Mr Cane talks about the events relating to the cigarette papers being Monday morning, 6 March. The accused in his record of interview talks about getting papers from Mr Cane, or from the person two doors up, which the Crown doesn't perceive there is any objection or contest, that that is Mr Cane's place. He talks about

receiving Tally Ho papers from Mr Cane, but he talks about it as having occurred on the Tuesday, not on the Monday as Mr Cane does.

HIS HONOUR: So do you say it goes to credit?

CROWN PROSECUTOR: It certainly goes to credit. It goes to the credibility of the accused relating to his version of events said to have occurred on the Tuesday, 7 March 1995. It also goes to the question of the fact that the accused was - and his version of when he arrived at the deceased premises. He told the police he arrived on the Monday evening, and Mr Cane gives evidence relating to the Monday morning. It also relates to just what Mr Cane gave the accused when he did give it to him. That is whether it be the Monday or the Tuesday. Now Mr Cane says he gave him two Tally Ho papers and that was it. The accused said that he got two Tally Ho papers and some tobacco.

That particular matter I suppose does relate to some of the content I think in paragraph numbered 8. That is the second half of paragraph numbered 8. If you look at the line "not exaggerating", and "then I also told Jim certain things". Now the Crown would not be pressing that. The Crown does not press that at this stage, because at this stage its prejudicial value outweighs its probative value. However, it may well have probative value when one considers the version given by the accused to the police as to what occurred between he and the fellow that gave him the Tally Ho papers, because he says he also gave him tobacco, which runs contrary to that portion in paragraph 8.

So far as relevance is concerned, the Crown says that it goes directly to the issue of the credibility of the version of events given by this accused to the police during his recorded interview relating to the events on the 6th and the 7th, because he says he did not get there until the evening of the 6th, and the cigarette paper incident took place early on the morning of the 7th, which is quite contrary to the evidence of Cane.

HIS HONOUR: What do you say about the other paragraphs 9, 10 and 11 and 12.

CROWN PROSECUTOR: Paragraph 9, your Honour the Crown submits that that is relevant on the question of paragraph 9, particularly with paragraph 5, on the question of credibility of the accused's version as given to the police. And so is paragraph 10. There is a description given there of the person. And 11 is a description of the clothing that that person was wearing. 12 says he is very similar to the young person. But your Honour, having regard to the accused's version of events to the police, that is he got two Tally Ho papers and some tobacco from the fellow two doors down, or one or two doors down from Jim Meek's place, I would submit would take any danger of a wrong identification away. Because Mr Cane talks about only the one event of giving a person two cigarette papers. In

paragraph 9 he says: "No other person ... Tuesday morning." So the Crown's submission would be that the accused has transposed the events of the Monday to the Tuesday. So there is no danger of an incorrect identification because there is material coming from the accused himself which supports that which is contained in paragraph 12.

HIS HONOUR: Can I just ask you this: Does this need to be resolved before the morning?

CROWN PROSECUTOR: No.

HIS HONOUR: You don't plan to raise this evidence in the Crown case today?

CROWN PROSECUTOR: No, we don't have Mr Cane here today and we don't have Mr Plumb here today.

CROWN PROSECUTOR: The fact that the accused is alleged to have been there for a longer period of time than he admits, is a relevant fact. It is relevant, firstly it goes to the credibility of the accused's version of events. Apart from these other people we have no other version of events for that Tuesday morning. We have the accused saying what he told the police in the record of interview, and then we have what Mr Cane says occurred on the Monday, as opposed to the Tuesday.

The Crown would be calling evidence from Mr Peter Graham from 2WS, who will give evidence to the effect that he spoke to the man, who had spoken to him on a number of occasions over about a six month period, giving his name as James Meek, and had won prizes in competitions with 2WS, and who also rang him quite often, just to talk to him, not necessarily competition mode, but who does recall receiving a call from that James Meek on the morning of the 7th March, that is the Tuesday morning, and, indeed, around 10.30am.

Now, the accused says that before he left the premises of the deceased on that day he had rung 2WS, taking part in some competition.

The Crown says that they are one of the same conversation, and that if Mr Graham is correct, and the deceased rang him at around 10.30 am on 7 March, then the accused was still at the premises at that time, and hadn't left the premises before 9 am.

So, therefore, the accused's version is at once attacked by Mr Graham's evidence or potential attack by Mr Graham's evidence, so if Mr Cane is correct when he says that he gave the accused two cigarette papers on the Monday morning, that takes on a greater significance. I think unless there is some aspect of Mr Cane's evidence, your Honour, having regard to my learned friend's submission, that is as far as I can put as to that.

As far as Mr Plumb's evidence is concerned, well, that is the evidence of having seen a person like the accused in the vicinity of the Northcott carpark area in January and February. The Crown cannot press that anywhere as strongly as it presses that other material.

HIS HONOUR: I wouldn't have thought with respect, Mr Crown.

MOLOMBY: Perhaps if we address on matters of fact not strictly in statements, the evidence of Mr Graham about the call to the radio station is not quite to the effect that my friend puts it. The evidence of Mr Graham shows that the deceased was a frequent caller to the radio station daily and the accused, Mr Heatley, did not say that the deceased rang Mr Graham. He said that he rang 2WS in relation to a competition and Mr Graham's evidence is that such competitions were run early in the morning as well, before he came on deck. He was the man on deck at 9 o'clock, and he got to work usually 8.30. There were competition on the

station 7.20 and 8.30. All Mr Heatley said was that the deceased rang the station, not Mr Graham, in relation to a competition. There will be evidence clearly establishing such competitions existed early in the morning, he used to run them, Mr Graham, before he changed his shift, and in that light his evidence does not have the force that my friend advocates.

HIS HONOUR: Do you say there is any discrepancy between his statement and the evidence?

MOLOMBY: No.

EXHIBIT #C MR GRAHAM'S STATEMENT ADMITTED WITHOUT OBJECTION ON VOIR DIRE.

CROWN PROSECUTOR: I don't contest there were other competitions at 2WS.

MOLOMBY: That is the essential matter I wish to raise.

HIS HONOUR: I'll consider the matter overnight and give my reasons in the morning.

<LUNCHEON ADJOURNMENT

MOLOMBY: We have two subpoenas, one from Commissioner of Police and one to the State Rail Authority.

(State Rail Authority subpoena material called for. Subject to any claim to privilege, granted access to material. No claim for privilege.)

(Documents from Paul Richardson, Network Programme Services called for, access granted.)

HIS HONOUR: You answered a subpoena directed to the Commissioner of Police?

TANNO: Yes.

HIS HONOUR: Do you produce documents in answer to that subpoena?

TANNO: Yes.

HIS HONOUR: Are they all the documents?

TANNO: There are some outstanding.

HIS HONOUR: Do you claim privilege?

TANNO: Yes, I have contacted Mr Bell, solicitor and he asked that it be put over to Wednesday.

HIS HONOUR: Have you any objection?

MOLOMBY: Yes, if there is material to which no production,

I would seek access.

HIS HONOUR: It answers the subpoena?

TANNO: Substantially.

HIS HONOUR: Your name?

TANNO: Detective Sergeant Tanno, sir.

MOLOMBY: If it could be specified, the general nature to which objection is taken. If we can know the general nature of which there may be any problem. I mention it now.

HIS HONOUR: Is there material which you can identify, inspect, of which objection is taken? Perhaps your solicitor or junior one or the other might DISCUSS with Detective Sergeant Tanno, sir, just the nature of the material in respect of which privilege is claimed, and that might take place outside.

< IN THE PRESENCE OF THE JURY

KAELENE MICHELLE RICHMOND(2.10PM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Officer, would you tell the Court your full name, rank and station, please?
A. My rank, senior constable of police stationed at Broadmeadow Transit Office.

Q. In March 1995 were you attached to the Surry Hills Police Station?
A. That is correct.

Q. And did you make a statement on 13 March 1995 setting out the parts you played in relation to the matter now before this Court?
A. I did.

(No objection was made to the Crown Prosecutor leading.)

Q. Constable, do you tell this Court about 3.30pm on Wednesday 8 March 1995 you went with Constable Humphreys to the ground level of the Northcott flats located in Belvoir , Street Surry Hills?
A. Yes.

Q. You two police officers then there met a man William James Coffey?

Q. Was Mr Coffey the tenancy manager of the Department of Housing in charge of the management of Northcott flats?
A. Yes, correct.

Q. Did he inform you of his concern relating to an occupant of [redacted], floor 12, flat [redacted], who hadn't been seen on that day, and was unable to be raised from inside his premises?
A. That is correct.

Q. Did he also tell you that there were also dogs inside the flat, that had been barking?
A. Yes.

Q. Did Mr Coffey have a locksmith with him to unlock the door to flat [redacted]?
A. Yes.

Q. Did you go then with Constable Humphreys to level 12 of that block [redacted]?
A. Yes .

Q. Did you there see a man Michael Francis Lawrence?
A. Yes.

Q. Did he inform you that he was a friend of a man James William Meek, who is the deceased?
A. He did.

Q. Did he express some concern relating to not being able to contact Mr Meek?
A. Yes, he did.

Q. Did you then with Mr Coffey, Constable Humphreys and the locksmith go to Mr James Meek's flat?
A. Yes.

Q. And outside the front of those premises did you notice that the front flyscreen door was slightly ajar?
A. Yes.

Q. The main wooden front wooden door to the premises was locked shut?
A. That is correct.

Q. Were there some newspapers on the ground in between the front locked door and the fly screen door?
A. Yes, there were.

Q. Did you see that main door was locked and secure in its position?
A. Yes, it was.

Q. Did you notice that the window to the left of the front door was also locked and secure?
A. Yes, it was.

Q. Do you tell this Court there appeared to be no signs of forced entry to the premises?
A. That is correct.

Q. Did Constable Humphrey knock loudly on the door?
A. She did.

Q. And after she knocked did you hear dogs barking from in side the flat?
A. Yes.

Q. With permission from Constable Humphrey did the locksmith then unlock the door?
A. Yes.

Q. Did constable Humphrey push the door open?
A. Yes.

Q. Did you see a male, you know now to be James William Meek, lying face down on the floor in front of the wooden door?
A. I did.

Q. When you say in front of the wooden door, did you know the person, once the door was pushed?
A. Once the door was open, I could see him.

Q. Before you entered that flat, did you notice two dogs running around the deceased?
A. Once I entered?

Q. Yes?
A. I can't recall, I could see them running around the lounge room area.

Q. Were they big dogs or little dogs?
A. Little dogs.

Q. Did you go into the unit and stand about 20 centimetres from the deceased's head?
A. Yes.

Q. Did you notice a small amount of blood underneath his nose dark, in colour, that appeared to have come from his nose?
A. Yes.

Q. Was the deceased lying on his stomach?
A. Yes.

Q. Was the deceased's head slightly turned towards his right?
A. Yes.

Q. Was his right arm outstretched in a north easterly direction ?
A. Yes.

Q. With his fist clenched?
A. Yes.

Q. Was his left arm positioned under his torso and right elbow?
A. Yes.

Q. Were the deceased legs situated slightly in a diagonal position from his body?
A. Yes.

Q. Were his legs slightly separated with the lower parts of his legs on to the kitchen floor?
A. Yes.

Q. Was that located about two metres to the right upon entering the front door?
A. Yes.

Q. So that the kitchen floor where the deceased's legs were, were about two metres to your right?
A. Yes.

Q. Did you see that the deceased's face was a very dark purple to black in colour?
A. Yes.

Q. Did his body appear to be rigid?
A. Yes.

Q. Did you notice he was wearing a T-shirt and blue shorts?

A. Yes, he was.

Q. Did Mr Coffey then enter and identify the deceased as James William Meek?
A. Yes, he did.

Q. Did you then briefly look around the living room area of the flat in a northerly direction way from Mr Meek?
A. Yes.

Q. Did it appear to be reasonably untidy, but did it also appear not to have been disturbed?
A. That is correct.

Q. Did you then make a radio call to the police radio section asking for a supervisor's attendance?
A. Yes, I did.

Q. About 4.10pm did Sergeant Wallis and Detective McEnroe enter the flat?
A. Yes, they did.

Q. Was the Crime Scene Unit also contacted?
A. Yes.

Q. A short time later did Constable First Class Whybro and Constable First Class Daveney from the Crime Scene Unit attend the flat?
A. They did.

Q. After a short conversation with Constable Whybro and Constable Devaney, did they enter the flat?
A. Yes they did.

Q. Now outside the flat, were both you and Constable Humphreys approached by a neighbour of Mr Meek who introduced himself as Brian Patrick Kane, who resided at flat [redacted] Block [redacted]?
A. Yes.

Q. 12th floor?
A. Yes.

Q. And was that two flats away from Mr Meek's flat?
A. Yes.

Q. Did Constable Humphreys re-enter flat [redacted]?
A. Yes.

Q. Did you speak with Mr Kane?
A. Yes I did.

Q. Did Mr Kane tell you certain things that you noted in your notebook?
A. He told me some things. I did note some things in the notebook and others I didn't note in there at the time. Other information I didn't note in my notebook at the time. There was some.

Q. Did he tell you that the last time that he had seen Mr Meek was at 7.30 a.m. on Tuesday 7 March?
A. Yes.

Q. When Mr Meek was walking his dogs?
A. Yes.

Q. Did he tell you that Mr Meek appeared to be healthy at that time?
A. Yes.

Q. I show you this photocopied document (handed to witness). Is that a photocopy of an entry that you made in your notebook at the time?
A. Yes it is.

Q. Do you have that notebook?
A. No I don't. It was taken from me.

MFI #1 PHOTOCOPY OF THE POLICE OFFICER'S NOTEBOOK.

HIS HONOUR: Members of the jury, documents which are identified by a witness and not tendered in evidence against the case are marked for identification, and they are given what is referred to as an mfi number; meaning marked for identification. This is first such a document.

Documents marked for identification may or may not become evidence in the case. That is to say they may or may

not become exhibits. It depends on the way the evidence goes. Documents which are marked as exhibits will be given the letter A as the first exhibit, going through the alphabet when tendered by the Crown, and they are given the numerals 1 continuously when tendered by the defence.

All exhibits in the case will be available to you when you are asked to consider your verdict, but they may be inspected by you at any time you want to see them merely by letting me have a request to that extent. You can look at them at any time you like. You can take them with you into the jury room and consider them at your own convenience. So that document you have just seen dealt with is now marked MFI 1.

CROWN PROSECUTOR: Q. After the Crime Scene police had completed their examination of those premises, did you contact the police radio to arrange for the government contractors to attend and remove the body of the deceased?
A. Yes.

Q. And that about 5.55 p.m. did the government contractors attend and convey the deceased to St Vincents Hospital where life was pronounced extinct at 6.20 p.m.?
A. Yes.

Q. Did the Crime Scene Unit police then leave the premises?
A. Yes.

Q. Did Constable Humphreys then close the front door, ensuring that it was locked?
A. Yes.

Q. And did you and Constable Humphreys then attend the Glebe morgue?
A. Yes.

Q. At that location did Constable Humphreys identify the body of the deceased to the officer in charge of the morgue?
A. Yes.

Q. Did you attend to paperwork, and then resume your duties at the Surry Hills Police Station?
A. Yes.

Q. Now I just show you some photographs. I show three photographs firstly, numbered 1, 2 and 3 (handed to witness). Each of those photographs has a caption affixed to the back of the photo. Now do you recognise what you can see in each of those three photos?
A. Yes.

Q. And does the caption accurately set out what you can see in those photos?
A. Yes.

(Photographs handed back to Crown Prosecutor)

Q. In photograph numbered 1 can you see a view towards the north of Block B Northcott Flats Belvoir Street Surry Hills?
A. Yes.

Q. And in photograph number 2 can you see the view north towards the main entry of that block of flats?
A. Yes.

Q. And photo 3, is that a view of the vestibule and the foyer area of those flats?
A. Yes.

EXHIBIT #A, THREE PHOTOGRAPHS IDENTIFIED BY WITNESS TENDERED WITHOUT OBJECTION, ADMITTED AND MARKED AS PART OF EXHIBIT A.

Q. I show you three photographs numbered 4, 5 and 6 (handed to witness). Do you recognise what is shown in each of those photographs?
A. Yes.

Q. And are they further views of the Northcott Flats, and more particularly the 12th floor area, and the front door area of Mr Meek's unit?
A. Yes.

Q. And in that front door area can you see the newspaper about which you spoke at the front of the door?
A. Yes.

EXHIBIT #A THREE PHOTOGRAPHS IDENTIFIED BY THE WITNESS TENDERED WITHOUT OBJECTION, ADMITTED AND MARKED AS PART OF EXHIBIT A.

Q. I show you these two photographs marked 7 and 8. I ask you to look at them carefully (handed to witness). Do you recognise what is shown in those photos?
A. Yes.

Q. And do those photographs reflect what you saw when you first went into the flat?
A. Yes.

Q. Now when you were in the flat, did you see anybody open or shut the door of the stove?
A. No.

Q. And did you make any note as to whether or not the door of the stove was open or shut?
A. No I can't recall. I didn't make any note, no.

Q. In photograph 8 it would appear as though the door of stove was open would it not?
A. Yes.

Q. Otherwise, do those photographs accurately reflect what you saw?
A. Yes.

Q. And do the captions on the back accurately depict what can be seen in the photos?
A. Yes. From that point, yes.

EXHIBIT #A, TWO PHOTOGRAPHS IDENTIFIED BY THE WITNESS TENDERED WITHOUT OBJECTION, ADMITTED AND MARKED AS PART OF EXHIBIT A.

Q. I show you this photograph separately. It's photograph numbered 9 (handed to witness). Is that a view of the kitchen area of the unit of Mr Meek?
A. I can't really recall.

Q. It doesn't have anything striking about it to you?
A. No. I can't say definitely.

EXHIBIT #A PHOTOGRAPH TENDERED WITHOUT OBJECTION, ADMITTED AND MARKED AS PART OF EXHIBIT A.

Q. Officer, were you present at any stage when the deceased's body was turned over?
A. Yes.

Q. I show you photographs numbered 10 through to 16 (handed to witness). Now in each of those photographs can the body of the deceased be seen?
A. Yes.

Q. Do the first number of photographs show him or his body to be in the position where you first saw it?
A. Yes.

Q. And which is the first photograph in that group of photographs that I have just given you which shows anything having been done to the body for photographic purposes?
A. Sorry?

Q. Which is the first of those photographs which shows anything having been done to the body for photographic purposes?
A. I would say where the shirt has been lifted.

HIS HONOUR: Q. What is the number on it?
A. 14.

CROWN PROSECUTOR: Q. And then say 14 through to 16 show the body after something has been done, and indeed has it been rolled over by the time?
A. Yes.

Q. Photograph 15 or 16, which one is it?
A. Which has been rolled over first?

Q. Yes?
A. Oh well, I would say - I can't really say for sure.

Q. But 15 shows something having been placed under the body, and he is rolled over, is that correct?

A. Yes, and the shirt's been lifted.

Q. And then 16 you say is a closer view of the deceased's face area and head area?
A. Yes

EXHIBIT #A THREE PHOTOGRAPHS IDENTIFIED BY THE WITNESS TENDERED WITHOUT OBJECTION, ADMITTED AND MARKED AS PART OF EXHIBIT A.

Q. When you looked through the flat Constable, did you make any detailed search of the place at all?
A. No.

Q. Did you leave that for other police?
A. Yes, I had a brief look.

Q. And was it your position that you wanted to preserve the crime scene?
A. Yes.

Q. If indeed it was a crime scene?
A. Yes.

Q. I show you photographs 17 and 18 (handed to witness). Are they general views of the living room area of the deceased's flat?
A. Yes.

EXHIBIT #A TWO PHOTOGRAPHS IDENTIFIED BY THE WITNESS TENDERED WITHOUT OBJECTION, ADMITTED AND MARKED AS PART OF EXHIBIT A.

Q. Constable, when you spoke with Mr Kane, and you took a statement from him which you recorded in your notebook, a copy of which has been marked for identification, was there any aspect of anything that he wanted to tell you that you weren't or didn't regard to be relevant to police business at that time?
A. Yes there was.

Q. And what was that?
A. Well at the time I had spoken to him I was trying to find out who last seen Mr Meek, but at the time Mr Kane informed me that a young fellow, with no further description, had come around asking for - knocked on his door asking for Tally Ho papers.

HIS HONOUR: Q. I'm sorry, perhaps you might try speaking into that microphone. I'm having difficulty understanding what you say?
A. Yes, sorry. Mr Kane had informed me that a young fellow, who he hadn't described, had knocked on his door and asked him for some Tally Ho papers. He came from Mr Meek's room - flat.

CROWN PROSECUTOR: Q. Did he tell you when that was?
A. I can't remember. I thought it was from the night

before.

Q. When you looked at the body, as you have told us you did, an observation that you were making from a distance sort of thing, did you observe any other injuries other than the blood about which you have spoken about underneath Mr Meek's nose?
A. No.

<CROSS-EXAMINATION

MOLOMBY: Q. Just about Mr Kane, from whom you took a statement in your notebook, you gave evidence that he told you some other things that you didn't put in the notebook?
A. Yes.

Q. Did you ever make any sort of record of any of those sort things?
A. Yes I did, but it wasn't until July; three or four months later.

Q. Was that at the time that Mr Kane himself made a formal typed police statement?
A. It was a time that it was brought to my attention. I was advised to record it, which I did.

Q. Was that as a result of Mr Kane having made a police statement in which he said he told you some things that didn't appear in your notebook entry?
A. Yes I believe it was.

Q. And you have just given evidence today, in relation to one of those things, that he told you something about a young man knocking on his door for some cigarette papers?
A. Yes.

Q. And you thought that was a reference to something that happened the night before; is that what you just said?
A. He informed me that somebody had knocked on his door, Mr Kane's door, and who had come from Mr Meek's flat, and asked him for Tally Ho papers. I can't remember exactly if he referred it as the day before. I can't remember the exact time.

Q. But this is something he told you during that period on Wednesday afternoon?
A. Yes.

Q. When you were at the flats up on the 12th floor?
A. Yes.

Q. And did you just say to the Crown Prosecutor in answer to a question that you didn't see any injuries associated with the blood that apparently had come from Mr Meek's nose?
A. That's correct.

Q. And in fact you didn't notice any injuries of any sort?
A. That's correct.

Q. And nobody else in your presence drew attention to any injuries?
A. No they didn't.

Q. It was the general view at the time that there weren't any injuries was it not?
A. No there was only the blood coming from the nose and the ears. There didn't appear to be any injuries though.

Q. Did you take any role in the further investigation of this matter other than the record that you said you made after Mr Kane gave a statement in July?
A. No I didn't.

Q. So in other words, once you left the scene on this particular Wednesday, apart from the statement in July, that was it as far as you were concerned?
A. Yes.

Q. And does that mean you had no later discussion of any sort, or communication of any sort with Mr Kane?
A. That's correct.

Q. And as a result of the radio contact made, a photographer attended the scene; that is correct?
A. Yes.

Q. And you had been continually at the scene from your arrival until the arrival of the photographer?
A. I actually had been canvassing the area during the - I believe I was still there while the Crime Scene Unit were there taking photos.

Q. Right. And that are you able to say now how long it took for the Crime Scene people to arrive after they were called?
A. No I can't - I'm not sure. I'm not sure of the exact time they took.

Q. But there was some delay?
A. Yes there always is.

Q. Waiting for them to turn up?
A. Yes.

Q. And were you there then until they left?
A. Yes.

Q. Because, as you have given your evidence, it sounds as though you were one of the last of the police on the scene that day?
A. Yes I was.

Q. Now you went through the flat, is it correct, generally looking at things before any other police, except Constable Humphreys who was with you, turned up?
A. Yes.

Q. I mean did you look inside cupboards and that sort of

thing?
A. No.

Q. Just looked around?
A. I just had a brief look.

Q. Did go into every room?
A. I didn't go right in, I probably stood at the door.

Q. Just looked in?
A. Yes.

Q. And while you were still there before the other police arrived, what happened to the dogs?
A. I can't recall. I am not sure whether his friend took them or they still stayed in the unit.

Q. You have given evidence there were two little dogs when you arrived?
A. Yes, I can't recall what happened to the dogs.

Q. Do you recall whether they were still there?
A. They were still there when I got in - went inside the unit, they were there.

Q. What about when the other police arrived?
A. I can't remember if they were still in there.

<NO RE-EXAMINATION

<WITNESS RETIRED AND EXCUSED

<SAERAN HUMPHREYS(2.45PM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Officer, would you tell the Court your full name please?
A. My full name is Saeran Humphreys.

Q. And your rank and police station please?
A. My rank now is senior constable, and I'm attached to Hurstville Police now.

Q. In March of 1995 were you attached to the Surry Hills Police Station?
A. Yes I was.

Q. And did you make a statement on 12 March 1995?
A. Yes I did.

Q. Did you type 1994 on the top of it?
A. Yes I did.

Q. Does that statement accurately set out what you saw and did in relation to the matter now before this Court?
A. Yes it does.

Q. And on Wednesday 8 March, 1995 did you go with Constable

Richmond to the Northcott Flats at Surry Hills?
A. Yes I did.

Q. Did you see a man by the name of Coffey at those units?
A. Yes.

Q. And with him and a locksmith did you go to the 12th floor of those units?
A. Yes.

Q. And Constable Richmond accompanied you?
A. Yes she did.

Q. And did you eventually gain access to the unit with the assistance of the locksmith?
A. Yes we did.

Q. And when you went into the unit, did you see the body of the deceased lying on the floor?
A. Yes I did.

Q. Did you also see two small dogs?
A. Yes I did.

Q. Did you also see a broken ceramic bowl with dog food on the floor near the deceased's outstretched arm?
A. Yes I did.

Q. Did you also see dog excrement around the deceased on the floor?
A. Yes I did.

Q. Did you see a two litre Coke bottle a few centimetres to the west of the deceased with a cloudy white coloured liquid in it?
A. Yes I did.

Q. Did you see that the deceased had a key ring with two keys attached to it in his right hand?
A. Yes I did.

Q. Did you walk into the unit and stand to the northeast of the deceased?
A. I have to refer to my statement for that. I walked into the unit.

Q. At the bottom of page 2, paragraph 5, last sentence?
A. Yes.

Q. And did you see a small amount of blood near his nose which appeared to have dried?
A. Yes I did.

Q. Do you tell this Court that the deceased was lying on his stomach with his legs outstretched?
A. Yes.

Q. And his right arm was outstretched in a northeasterly

direction with his left arm under his torso?
A. That's correct.

Q. Did you notice that the deceased's face was coloured a deep purple grey colour, and appeared distended and slightly bloated?
A. Yes.

Q. Was the deceased's face turned to face the east?
A. Yes it was.

Q. Did you notice that there appeared to be slight wetness near the right ear of the deceased, which you believed to have come from one of the dogs perhaps licking the deceased?
A. Yes.

Q. Was the broken ceramic bowl with dried dog food about 1 foot north of the deceased?
A. Yes it was.

Q. And did Mr Coffey identify the deceased to you?
A. Yes he did.

Q. Were other police then called to the unit?
A. Yes they were.

Q. And did Sergeant Wallis, Detective McEncroe and then later Constable Whybro and Constable Devaney attend the unit?
A. Yes.

Q. Did you have a short conversation with Mr Patrick Kane who told you he was from flat number [redacted] floor 12, B Block?
A. Yes.

Q. Did you leave Constable Richmond speaking with Mr Kane and return to the unit?
A. Yes I did.

Q. And did you notice that the deceased, or when the deceased's body was turned over, you saw a graze on his right lower leg with a small amount of blood on it?
A. Yes I did.

Q. And do you tell this Court that you saw no other apparent injuries?
A. That's correct.

Q. Was the deceased wearing a grey T-shirt with blue shorts?
A. Yes he was.

Q. Was his body fairly rigid?
A. Yes it was.

Q. Do you tell this Court that you made observations in the unit which appeared to you to be in a dishevelled state, but did not appear to be disturbed?

A. That's correct.

Q. Was the kitchen to the east of the entry hall where the deceased was lying?
A. Yes it was.

Q. (Exhibit A handed to witness) Would you have a look at the photographs, more particularly 4, 5 and 6. I don't know if I have asked you to look at the right ones. Are they inside the unit or not?
A. No, they're leading to the entrance of the unit.

Q. Is there a photograph there where you can see the deceased lying face down with his legs into the kitchen area?
A. That would be number 7.

Q. And do you notice that the door of the stove appears to be open in that photograph?
A. Yes it does.

Q. Do you have any recollection of that being the fact or not?
A. I didn't open it myself, but I can't recall.

Q. Did you disturb anything in the flat at all?
A. No.

Q. From the time you entered the flat, did you notice if anybody else disturbed the flat?
A. Constable Richmond and I were careful not to move anything.

Q. The first photographs then taken by the crime scene officer when she arrived would depict the flat as you first saw it?
A. That is correct.

Q. And that those photographs in front of you including photograph number 7, are they photographs which depict the flat as best you can recollect when you first saw it?
A. Yes.

Q. Would you go to photograph 15 of the deceased when his body is turned over and you can see his legs (complied)?
A. Yes.

Q. Can you see the small graze about which you have spoken in your evidence?
A. Yes.

Q. Whereabouts on the leg is that?
A. Above the right, just on the right knee.

Q. Just on the right knee area?
A. That is the cut I can see in the photo.

HIS HONOUR: What numbered photograph?
A. 15.

CROWN PROSECUTOR: Q. .

Q. Did you remain with Constable Richmond until the other police had finished their work there?
A. Yes.

Q. Were you the last police to leave?
A. Yes, we were.

Q. Did you secure the premises before you left?
A. Yes, we did.

Q. Did you then go with constable Richmond to the Glebe Morgue?
A. Yes.

<CROSS-EXAMINATION

MOLOMBY: Q. Officer, did you have any other role in this matter except for your attendance at the flats on that Wednesday afternoon?
A. No.

Q. Nothing beyond that day, ongoing involvement of any sort?
A. Not in any further investigation.

Q. You made a statement some days later?
A. Yes.

Q. That was it, as far as any involvement by you?
A. Yes, it was handed over to Detectives.

Q. I think you have a copy of your statement with you?
A. Yes.

Q. You have said in evidence that you arrived there I think shortly after 3.30, that you were up at the door of the flat?
A. About 3.30pm.

Q. And Constable Richmond made a radio contact back to base, you have referred to this at paragraph 6?
A. Yes.

Q. Presumably as a result of that Sergeant Wallis and Sergeant McEnroe attended at 4.10?
A. That is correct.

Q. How long after they arrived until the next police arrive?
A. A short time later.

Q. That is what you have said in your statement?
A. Yes.

Q. At this stage you cannot remember exactly how many minutes?
A. Not minutes.

Q. 10 minutes perhaps?
A. A short time, I'd say under half an hour.

Q. It could have been as much half an hour between these officers at 4.10 and the others arriving?
A. Yes, could have been.

Q. When Sergeant Wallis arrived was he the most senior person on that day?
A. Yes, he was.

Q. You have said in the statement they attended the unit and made observations?
A. Yes.

Q. That is Sergeant Wallis and Sergeant McEnroe?

A. Yes.

Q. Did they go inside the unit?
A. Yes.

Q. Did you remain outside?
A. From memory I went inside.

Q. Were you accompanying one or other of them?
A. They were together.

Q. In the photo you may or may not refer to them for this, please do if you feel a need to, the dead man was clutching some keys in his right hand.
A. Yes.

Q. That is shown in at least two of the photos.
A. I can see in about 4.

Q. Photographs 12 and 13 are perhaps the best ones, not the only ones?
A. Yes.

Q. And you have referred in your evidence to a bottle containing some cloudy white liquid, is that the bottle that is shown in photograph number 10, for example, towards the bottom left of the photo?
A. Yes.

Q. It may be touching the dead man's side, just the bottom left of his left shoulder blade?
A. Yes.

Q. Did you know what was in that bottle?
A. No.

Q. Did you make any specific observation?
A. What I observed it to be was cloudy milky white colour.

Q. The bottle looks as though a third full and tipped on its side.

Q. Lying on its side?
A. About a third full, a quarter.

Q. Now, if I can take you to one of the photos further on, 17 and 18, if you could go to those two. Now, from different angles they both show a lounge room area, don't they?
A. Yes.

Q. And on the left of both photos there is a cushion, isn't there?
A. Yes, there is.

Q. And a pillow at the at one end of the couch closest to the camera?
A. Yes.

Q. And a sheet, green in colour, any way shown on that page?
A. Yes.

Q. They were in that position when you arrived?
A. Yes.

Q. You and Officer Richmond didn't move any of those in any way?
A. No.

<RE-EXAMINATION

CROWN PROSECUTOR: Q. Just on last subject, do you recall whether it was a sheet or blanket on the lounge?
A. I don't actually recall, from memory

<WITNESS RETIRED

ROBERT ERNEST GARRATT (3.03pm)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Would you tell the Court your full name?
A. Robert Ernest Garratt.

Q. And you are a security officer?
A. Yes.

Q. Are you a licenced security guard, and in 1995 were you subcontracted to Ardvaark Security Services?
A. I was.

Q. And had you been subcontracting to them for about ten months as at March 1995?
A. That is correct.

Q. Did you perform security services at Northcott Place, which takes in all the units, blocks bounded by Devonshire, Clisdell, Goodlet and Riley streets, Surry Hills?
A. Yes.

Q. And do you patrol or at that time did you patrol those premises sevens days a week?
A. I did.

Q. And from Sunday to Thursday did you patrol from 4pm to midnight?
A. I did.

Q. And from Friday and Saturday did you patrol from 4pm to 2am?
A. That is correct, yes.

Q. And over that ten month period had you come to know a number of the residents of the unit blocks that you patrol?
A. Yes.

Q. And did you come to know in particular a man, Jim Meeks?
A. Yes, that is correct.

Q. Did Jim live at floor 12 unit [redacted], block [redacted] of the Northcott Place apartments?
A. Yes, he did.

Q. And did you meet Mr Meeks and become friendly with him mainly because there was a security gate at the end of the block on his level that you had to check every night four times a night at random intervals?
A. That is correct.

Q. And did Jim make himself known to you in the first week that you were at Northcott Place?
A. That is correct.

Q. Over that time did it become a bit of a habit of yours to rattle the handle of the security door to his unit to let him know that you were up there checking the security gate?
A. Yes.

Q. Would he normally invite you in for a cuppa?
A. Yes.

Q. Do you say not every night, but the majority?
A. On occasions, yes.

Q. And was that usually towards the end of your shift?
A. That is correct, yes.

Q. Do you tell this court that whilst you were having coffee you would talk about a number of things to do with Mr Meek's life?
A. That is correct, we did.

Q. Did he tell you about contests he was on within the Housing Estate?
A. Yes, he did.

Q. Did he tell you about his life and his life-style?
A. He did.

Q. And did he inform you that he was HIV positive?
A. He had mentioned it, yes.

Q. Did you make a number of statements to the police regarding the matter now before this Court?
A. I did.

Q. Was the first statement that you made on 11 March 1995?
A. I believe it was, yes.

Q. And was the second statement you made on 5 April 1995?
A. That is correct.

Q. And was the third statement on 19th September 1995?
A. That is correct.

Q. And did the making of the statements on 5 April 1995 and 19 September 1995 arise out of your realisation that you had made an error or perhaps two errors in your first statement?
A. The second one I recall, I made an amendment to the first statement.

Q. Did you tell the police or give the police information relating to Mr Meek and your observations of him and any person with him by you saying that that happened on a Sunday night and then following events on a Monday and Tuesday?
A. Yes, I mention to the police on the Sunday night.

Q. And did you make the statement on 5 April 1995 amending the days about which you were speaking to Monday, Tuesday and Wednesday instead of Sunday,?
A. That is correct, there was a movie that made me recall the actual date.

Q. You had told the police that you had watched a movie at the premises of Mr Meek on the night that you were telling them?
A. That is correct.

Q. And did you then tell the police on 5 April that the movie that you had watched or part which you had watched you believed was a movie named K9 and that you had referred to a television programme and found that that was shown on the Monday and not the Sunday night?
A. That would be correct.

Q. And was the third statement that you made amending in portion, anyhow, the name of the movie to K9 to K2?
A. That is what I told them, that is correct.

Q. And did you recount to the police in April of 1995, in September 1995, that the movie was about a man either being left on a mountain or dying on a mountain or being rescued on a mount and that you believed that the title was not K9 but, in fact, K2?
A. Yes.

Q. Do you tell this Court that the last time you saw Jim was when you left his unit at about 10.35pm on Monday 6th March 1995?
A. Yes, it was at the end of the movie that I left.

Q. You had been called up to his unit earlier (discussion Monday 6 March 1995).

Q. Do you tell this court you called up at his unit earlier and had a cup of coffee with him?
A. Yes.

Q. And stayed a short while?
A. Yes, I did.

Q. And there was the movie on the television that at stage you thought was K, 9 but you now believe to be K2?

A. That is correct.

Q. You stayed there until it finished and left his unit, checked the security gate and went about the rest of your patrol?
A. That is correct.

Q. You went over to The Pottery, which is across the road from the units?
A. I did.

Q. You tell the Court that when you went to see Jim on that Monday night there was a young man with him about 18 years of age?
A. That is correct.

Q. Had you ever seen that person there before?
A. I don't think I had.

Q. Do you recall any conversation with that person as to his name or your name?
A. I assume, he said something like, "Do they call you Bob or Robert like me?" So I took that his name would be Bob or Robert.

Q. Just answer this question yes or no, if you can, did you make some observations of that young person on that night?
A. I did.

Q. And did you see that young person doing anything on that night?
A. I did.

Q. Do you tell this Court you didn't take too much notice of the person you believed to be Robert, is that correct?
A. I didn't take that much notice, but I was always observant of that area.

Q. Do you recall that Robert was about 18 years of age, you believed to be 5 foot 6 to 5 7 tall, medium build, stray unkept sandy hair about colour length?
A. I do.

Q. Do you describe him as being Australian in appearance, speaking in an normal Australian sort of voice?
A. I do.

Q. Do you tell the Court you didn't notice at that time as to identifying marks on Robert?
A. That is correct.

Q. He was wearing a pair of dark grey baggy knee length shorts that had a double hem on them, is that correct?
A. Correct.

Q. A dark coloured sloppy Joe that may have had a logo on the front left-hand side of his chest?
A. That is correct.

Q. He didn't have any shoes on when you saw him?
A. That is correct.

Q. You did notice a pair of thongs near the fridge when you walked in, but you do know that Jim wore thongs a lot?
A. That is correct.

Q. Do you tell the Court that Jim's dogs usually played with his thongs?
A. That is correct.

Q. Did you also see another pair of thongs underneath the table?
A. I did.

Q. When you left Jim's unit was Robert still there with Jim?
A. He was.

Q. Do you tell this Court that you have not seen either Jim or Robert since that time?
A. That is correct.

Q. That is certainly at the time of the making of this statement?
A. That is correct.

Q. Now, do you tell this court that within half an hour of leaving Jim's unit when you were over at The Pottery you looked up at Jim's unit and saw that the lights in the kitchen and the bathroom were off?
A. To the best of my knowledge, yes.

Q. And go do you tell the Court that the kitchen light was on when you had earlier left?
A. That is correct.

Q. And you were sitting down in front of The Pottery for about 20 minutes and in that time you saw the bathroom lights in Jim's unit go on and off a couple of minutes later?
A. That is correct.

Q. Do you tell the Court that that happened twice and it was about ten minutes between the two occurrences?
A. That is correct.

Q. The lights going on and the lights going off?
A. That is correct.

Q. Do you tell the Court that when everybody leaves the unit Jim usually turns the lights off and goes to bed?
A. That is correct.

Q. Was that something you had observed over the months you had known him?
A. Yes.

Q. When you saw the lights in the bathroom go on and off on a couple of occasions, did it occur to you that Jim may have been sick or something like that?
A. That is correct.

Q. Did you go around your normal patrol and exactly 11.50pm leave the area and walk down to Railway Square and to catch the bus at about 12.10 am from Central?
A. That is correct.

Q. On Tuesday 7th March 1995 were you concerned about whether Jim was sick or not, having regard to what you had observed of the bathroom lights?
A. That is correct, I was.

Q. Did you ring his unit about 9.30 am to give him a stir about that?
A. Just to check on him, that is correct.

Q. Do you tell the Court there was no answer when you rang and you left it at that?
A. That is correct.

Q. Did you go to work at those units in the afternoon of 7th March 1995?
A. I did.

Q. Did you go to Jim's unit at about 5.15pm on that day to check the gate at the end of his level?
A. Yes, I would have, that is correct.

Q. Do you say about 5.15pm because the gate at the end of his level is one of the last you checked on that first round?
A. That is correct.

Q. Now, when you got to Jim's unit, do you tell the Court the security screen door was unlocked and open?
A. That is correct.

Q. Are you able to tell the Court anything about that?
A. It seemed very unusual for James to leave the door open, he was quite security conscious the doors open between the main door, wire doors there was a newspaper jammed up between the two doors.

Q. Had you ever noticed anything like that at Jim's place before?
A. No, I had not, it seemed very unusual.

Q. So far as the habits of Mr Meek, and that is security wise, are you able to say anything about the locking of doors or anything like that whilst you were in the unit with him?
A. Sometimes he would close the door, he was quite security conscious he would lock the doors he was quite paranoid about that.

DC:CAT:5 D1

Q. Even when you were in the premises with him he would lock the security?
A. Quite often, yes.

Q. Do you tell the Court that although the security door was unlocked, and there were papers stuck between the security door and the main door, the main door was locked?
A. That is correct.

Q. And as far as you can recall, are you reasonably certain that it was the Sunday Telegraph dated 26 February, 1995 that was between the security door and the main door to Mr Meek's apartment?
A. I'm quite sure of it.

Q. And was it Jim's usual habit to get newspapers from other people, after they had finished with them, in preference to buying them himself?
A. That is correct.

Q. Did he did he usually get them for the television guide?
A. That is correct.

Q. In so far as Mr Meek locking his security door, do you tell the Court that even when he was home, and you would come past, you would rattle the door handle and say "You home Meeksy", and he would have to unlock it to let you in?
A. That is correct.

Q. Did the fact that his door was - that is the security door - unlocked, and that you hadn't been able to raise him earlier by phone, cause you some concern?
A. That's correct.

Q. Had you noticed that his car was still in its carparking spot?
A. His car had not been used.

Q. And you could hear his two dogs in the unit?
A. I did, that's correct.

Q. And was it the fact that the dogs were in the unit that added to your concern?
A. That is correct.

Q. Why is that?
A. Because Jim, if he went out, would always take the dogs with him. He very rarely went out without them.

Q. Did you continue to check his unit during your patrol?
A. I did.

Q. And were you looking to see if any of the lights were on, or for any movement in the unit?
A. That is correct.

Q. But do you tell this Court that there appeared to be no movement, and no-one home?
A. That is correct.

Q. Did you complete your shift that night and go home?
A. I did.

Q. Then on the Wednesday, do you tell the Court that you were still concerned about James, and did you ring his unit at about 9.15 to 9.30 a.m.?
A. That would be correct.

Q. And was there still no answer?
A. That is right.

Q. Did you continue to ring his unit every hour to an hour and a half during the course of the day?
A. That is correct.

Q. And do you tell the Court that there were still no answer?
A. That is correct.

Q. Did you go to work at the units as usual, and commence your patrol as normal?
A. I did.

Q. Was Jim's car still in the carpark?
A. It was.

Q. And were you extremely concerned about him at that stage?
A. That is correct.

Q. Do you tell the Court that at about 9 p.m., you went up to Jim's unit and stuck some sticky tape on the door and the doorway?
A. Between the doors, that is correct.

Q. And why did you do that?
A. Well by putting - by seeing that if the door had been opened; didn't want anyone had come or gone to the premises.

Q. How would you see that with the sticky tape?
A. By folding two bits of tape together, and putting them to the jam in the door on both sides, and when the door was opened they would fall out.

Q. Did you speak to a man by the name of Michael Lawrence who was also a resident of Northcott units?
A. I did.

Q. Was that on the Tuesday or the Wednesday, do you know?
A. I can't recall at this time.

Q. Did you tell Mr Lawrence about the tape that you had placed on the door?
A. I did.

Q. Now on that Wednesday morning, 8 March, did Michael Lawrence ring you and tell you that the tape was still in its position where you had put it?
A. He did.

Q. Did he tell you that he was going to see Mr Bill Coffey?

A. He did.

Q. And did you give him some advice about any access, or gaining any access to Mr Meek's apartment?
A. I did.

Q. At about 3.55 p.m., as you were starting your patrols, and walking to the Housing Commission office in the foyer of B Block to sign on, did you see Michael Lawrence in the foyer?
A. I did.

Q. Did he tell you that entry had been gained to Mr Meek's unit, and that he had been found to have passed away?
A. That is correct.

Q. Was he distressed about that?
A. He was.

Q. When you made your statement on 5 April 1995, do you tell this Court that after having read through your statement, that events that you described in your original statement as happening on Monday 6 and Tuesday 7 March, 1995, with the exception of putting the tape on Jim's door and speaking to Michael Lawrence, were the same events as happened on 7 March 1995?
A. That is correct, yes.

Q. At about 5.15 p.m., on 19 September, 1995 was a video cassette tape marked T. F. Fireweed, F-i-r-e-w-o-o-d, shown to you by Detectives Tanos and Walker?
A. Correct.

Q. And did that video show photographs of a number of male persons?
A. It did.

Q. And after viewing that video, are you able to say that the person shown in photograph numbered 5 is similar to the person you saw with Jim Meek at his unit on Monday night when you watched the movie K 2 at Jim's unit?
A. I believe that's correct.

Q. Did you initial and date the spine of that video cassette?
A. I did.

Q. I will just show you this item (handed to witness). Your signature or your initials and date appearing on that?
A. That is correct.

MFI #2 VIDEOTAPE IDENTIFIED BY WITNESS

Q. Did Detective Tanos and Detective Walker show you a mens dress ring, which you have described as being a gold mens ring set with a stone in it that looks like petrified wood?
A. That is correct.

Q. Do you tell the Court that that ring is similar to a ring that you have seen Jim wearing?
A. That is correct.

Q. And do you tell the Court that he told you he bought it from Cash Converters?
A. That is correct.

Q. I will show you this item (handed to witness). Are you able to say anything about that?
A. I believe it to be the same ring.

Q. The same ring as was shown to you by the police, or the same ring as Jim used to wear?
A. As shown to me that the police shown me. Yes, similar to the one.

HIS HONOUR: Q. Would you say those words again?
A. I believe it's the same ring police had shown me the same type of ring, and the same as what James Meek had too.

CROWN PROSECUTOR: Q. The same as James Meek?
A. Yes.

EXHIBIT #B RING IDENTIFIED BY WITNESS TENDERED WITHOUT OBJECTION ADMITTED AND MARKED.

Q. Do you tell the Court that in addition to that ring, Jim wore another gold ring similar to a wedding band?
A. That is correct.

Q. Did he have two watches, a gold one, which he had told you belonged to his father, and had been engraved on the back, and had an expandable type gold watch band?
A. That is correct.

Q. Do you tell the Court you do not recall what the other one was like, other than it being a metal watch and band with an old fashioned style?
A. That is correct.

<CROSS-EXAMINATION

MOLOMBY: Q. Mr Garratt, do you have copies of the three statements that you made for the police?
A. I have.

Q. Do you have them with you now?
A. I have.

Q. Have you looked at them recently; I mean read them recently?
A. I did peruse through them outside.

Q. I am asking you that because you may need to refer to them in the course of these questions. If you think you need to, would you please say so?
A. I will.

Q. Now let me just make one thing clear, I am not seeking to be critical of you in this examination, I just want to establish clearly what happened?
A. Right.

Q. In relation to what you described in your first statement?
A. Right.

Q. Now you gave a statement to the police on 11 March 1995; correct?
A. I believe that to be correct.

Q. That was the first one you made was it not?
A. That is correct.

Q. And by far the longest one?
A. Yes.

Q. And in that statement you spoke generally about Mr Meek first, and your job and how you had come to meet him?
A. That's correct.

Q. And then in paragraph 6 you started to address the last time you had seen him alive?
A. I would have to look at my notes to be sure of that.

Q. Sorry?
A. I would have to be look at the notes to be sure of that.

Q. Do you have the statement there?
A. I have.

Q. Would you like to get it out please?
A. (Witness complied)

Q. This is the one of 11 March?
A. Right. 11 March, yes.

Q. When you made this statement of 11 March, and I am reverting to another question for a moment from the one I just asked you, all right. When you made the statement of 11 March, did the police give you a copy of it to take away with you then?
A. I don't recall at this time.

Q. Is it the case that the copy you have got now is something you got much more recently?
A. No, I got it at that period of time.

Q. So you did get a copy?
A. Be that day, or might have been next morning I picked it up, I'm not sure at this time.

Q. But certainly within a few days?
A. Most certainly, yes.

Q. Of making this statement, the police supplied you with a

copy of it?
A. True.

Q. You have had one ever since, is that right?
A. I have, yes.

Q. Go to paragraph 6 on the second page. Does your statement there, in the form you have it, have some handwritten corrections about the date in the second line?
A. No it has not.

Q. That is all right, because what I am seeking to ask you now is about the form in which you first gave your statement. Do you understand?
A. Right.

Q. What you recorded there with the police was that: "The last time I saw Jim was when I left his unit about 10.35 p.m. on Sunday 5 March 1995"?
A. That's what I got here, that's correct.

Q. And then you went onto describe through the rest of paragraph 6, and paragraph 7, and paragraph 8, things that happened on that night did you not?
A. It seems I have, yes, that's correct.

Q. And then when you got down to paragraph 9, you went to the next day. Have you have got paragraph 9 at the bottom of page 3?
A. I'm just looking down at it.

Q. You talked about: "On Monday 6 March 1995 I was a bit concerned about Jim perhaps being sick the night before, so I rang his unit about 9.30 a.m."?
A. That's correct.

Q. Correct?
A. Yes.

Q. And then, and I'm abbreviating a little, I'm just going to the essence of what you said. All right. And then you said: "I rang and there was no answer." At the bottom of the page, have you got it?
A. (No answer)

Q. And you said: "And left it at that until in the afternoon when I went to the units"?
A. Yes that's correct, yes.

Q. And then in paragraph 10 you said that you got to work at the units about 5.15 on Monday afternoon. I'm sorry, you got to Jim's units at about 5.15 on Monday afternoon?
A. That is what I got here, that's correct.

Q. Then you detailed your observations about the security door being opened, and the newspapers, and your concern that arose from that?
A. That is correct.

Q. Then in the next paragraph, paragraph 11, you went to the following day did you not?
A. 7th, that's correct.

Q. "On Tuesday 7 March, I was very concerned and I rang his unit about 9.15 to 9.30"?
A. That is correct.

Q. And then you said you continued to ring his unit every hour or hour and a half?
A. That's correct.

Q. Then you went to work, again you documented, later that day?
A. That is correct.

Q. And at 9 p.m. that night, you went up to his unit and put these bits of sticky tape on the door to show you if it was opened or not?
A. That is correct.

Q. And before you went home you had a discussion with Mr Michael Lawrence about the sticky tape you put on the door?
A. That is correct.

Q. And you said you told him about it, and why you explained why you put it there?
A. I mentioned to him, that's correct, yes.

Q. And then you have said, paragraph 13: "In the morning, on Wednesday 8 March, 1995 Michael Lawrence rang me and told me that the tape was still there"?
A. That is correct.

Q. And he was going to see Bill Coffey, who was the manager, about getting a locksmith to go in?
A. That is correct.

Q. And then you have detailed later that day you found out that Mr Meek had been discovered dead?
A. That is correct.

Q. Now what you set out there in the statement, was events from the last time you saw Jim to when he was discovered dead, was it not; that is what we have just gone through?
A. That's correct, yes.

Q. And you located that as happening over the Sunday night, the Monday, the Tuesday, and the Wednesday?
A. I believe I had.

Q. You later saw a t.v. guide?
A. I did, yes.

Q. Which showed you that the movie you had some clear recollection of, what it was about, wasn't on the Sunday night, it was on on a Monday?

A. That's correct.

Q. Now that means, doesn't it, that the incidents that you chartered in your statement as happening over Sunday night, Monday, Tuesday, and Wednesday, four days, really happened over only three days; Monday night, Tuesday, and Wednesday?
A. And Wednesday, that's correct.

Q. That is right is it not?
A. That would be right.

Q. Because they had the same concluding point with when Mr Meek was discovered dead somewhere 4 o'clockish on the Wednesday afternoon?
A. That's correct.

Q. I think they had a starting point in the two different versions, the starting point is a whole day later in the corrected one?
A. Yes.

Q. Now that means, does it not, that somewhere in your original account that you made on 11 March, within just a few days of the events, you put things as occurring on two separate days which actually occurred all on the one day?
A. It seems that way.

Q. Now appreciating this is all now three and a half years ago?
A. Mmm mmm.

Q. Are you able, with whatever assistance you need from your statement, to say which of the events that you put separately on two days really belonged together on same day, and which day it is?
A. To the best of my knowledge, the date, the actual day I start would be with the movie, K 2 I believe it was.

Q. Yes?
A. From that point on, following through, so that would be the Monday I believe.

Q. But perhaps it might be easier if we take it step by step. Let's go to the statement of paragraph 6 where you talk about the Sunday night, which really turns out to be the Monday night?
A. Monday night, that's correct.

Q. "The last time I saw Jim was when I left his unit about 10.35 p.m. on Sunday 5 March". That should be Monday 6 March?
A. That would be correct, yes.

Q. And then, but you still stick to the account you gave of what happened that night -
A. That is correct.

Q. Up in his unit and so on?

A. Yes that's correct.

Q. And up until the time where you left the site and went home?
A. That is correct.

Q. It's all just on the wrong night?
A. It's on the wrong days, yes that's correct.

Q. That brings us up to paragraph 9 where originally you had written: "On Monday 6 March I was a bit concerned about Jim, so I rang his unit about 9.30 a.m. to give him a razz, stir him up. I rang and there was no answer, and I left it at that until in the afternoon when I went to work at the units"?
A. Mmm mmm.

Q. Now is that last sentence I read, correct, that is: "I rang", meaning about 9.30, "and there was no answer, and left it at that until in the afternoon when I went to work at the units"?
A. I believe it to be right at this stage, but I would say, yes. This would be the Tuesday.

Q. That is the Tuesday?
A. Yes.

Q. The immediate day after you watched the movie?
A. That would be right.

Q. Watched the movie Monday night. You ring him 9.30ish on the Tuesday morning, and get no answer, and then you leave it at that until you turn up for work on Tuesday afternoon, is that right?
A. It seems that way, yes that's correct.

Q. And then when you got to work on the Tuesday afternoon, is when you see the security door open a little bit and the newspaper in there, as you have chartered in paragraph 10, is that right?
A. That is what it's stated here, yes that's correct.

Q. Paragraph 10 finishes with you going home on the Tuesday does it not: "I completed my shift that night and went home"?
A. That is correct.

Q. We have got to the end of Tuesday in your story, and then paragraph 11 reads: "On Tuesday 7 March". Do you say that should read on Wednesday 8 March?
A. That is what it seems it should be, yes.

Q. But it's typed "on Tuesday the 7", correct?
A. That is what it's typed, yes that's correct.

Q. And it's meant to be the morning after you finish the shift that is covered in paragraph 10, isn't it?
A. That is right, yes.

Q. Then you say on - so correcting it, it's: "On Wednesday 8 March, I was very concerned about Jim and rang his unit about 9.15 to 9.30, and there was no answer"?
A. It seems that way, that's correct, yes.

Q. And that is the day where you say you continued to ring every hour or hour and a half through the day?
A. That correct, yes.

Q. Then you went to work late in the afternoon?
A. That's correct, yes.

Q. About 9 o'clock that night you put the sticky tape on the door?
A. Yes that's correct.

Q. You see that is the Wednesday night, isn't it?
A. Yes.

Q. And he was found dead on the Wednesday afternoon?
A. Yes. There has been a mix-up in the dates, yes.

Q. But what I am putting to you is that it's not just a mix-up in dates, it's not just a matter of taking everything that happened on Sunday and putting it on Monday, and everything that has happened on Monday and putting it on Tuesday, and everything that happened on Tuesday and putting it on Wednesday, because if you do that, you find yourself putting this tape on the door late on Wednesday night, when he has already been found dead at 4 o'clock on Wednesday afternoon?
A. Yes, I see your point

Q. So what I am suggesting to you is, there is something radically wrong, not just with the days on which you have got things but the orders in which you have got them, and somewhere here, you have got things stretched - in the original account, things are stretched over two days but must have all happened in one?
A. It is possible.

Q. It's inevitable is it not; it has to be?
A. It has to be, yes

Q. Can you assist us now in sorting it out?
A. Quite a few years ago, day by day over that period of time, it would be very hard, I imagine, from memory it is three and a half years ago.

Q. You made the correction statement about the night the movie was on TV, you probably have that one with you?
A. No, this is a continuation of the statement, there is no date on 5 April.

Q. How many statements?
A. If I can show you this one.

Q. How many statements of yours have you been provided with?
A. There was done after finishing this one here, it is on page 6, paragraph 14.

Q. I am not going to that, we may have crossed lines, after you made your first statement you discovered you were wrong?
A. Yes .

Q. And you made the latest statement regarding that?
A. I have not got that statement.

(Call for Mr Garratt's original statement.) I don't want to put you at disadvantage, does it mean you haven't seen it for quite a while?
A. I would have to look through it for a second.

Q. Please read it?
A. It is my signature, it is my statement.

Q. You have read that one now?
A. I have.

Q. It is the statement where you corrected the night the movie was on?
A. Yes.

Q. Well, now, is it the case when you realised your mistake about the night of the movie you contacted the police and thought you had made a mistake?
A. This period of time, I can't recall, I am not sure about it.

Q. You see in paragraph 3 of this statement of 5 April about half way through you say, of your first statement, "At the time that was my recollection, but since making that statement I have checked the TV guide and the movie was in fact on 6 March 1995"?
A. That is what I have written.

Q. That is true?
A. Yes.

Q. Does that help you recall, you were the one who discovered the mistake because you checked the TV guide?
A. Again, I don't recall that, sorry.

Q. Do you recall what contact it was with the police that caused you to come to Surry Hills police station and make this statement on 5 April 1995?
A. No, I believe the police had visited the units where I was employed on numerous occasions, made contact there, but I had also gone there a number of times, where this statement went to I don't recall.

Q. Can you go over to the second page of that statement, you have attempted to explain the confusion in paragraph 5, haven't you?
A. It seems that way, yes.

Q. What you have said after reading the statement through, "I can only say that the events I have described in my original statement on Monday 6 and Tuesday 7 March 1995 with the exception of putting the tape on Jim's door and speaking to Michael Lawrence are the same events and happened on Tuesday 7 March 1995" I have read that correctly?
A. Yes, quite confusing that is what I have written there.

Q. It is probably meant to say the same events that happened on 7 March?
A. Yes .

Q. What you are saying here then in this statement is this, isn't it, that the things you originally put as happening on the Monday and on the Tuesday all really happened on the Tuesday?
A. I am not real sure of that.

Q. What is the precise sense that you make now of this passage you recorded in April 1995?
A. As I state here the same events that happened on Tuesday 7 April I have written down as correct.

Q. You see it says with the exception of putting the tape on Jim's door?
A. Yes, that is what I have written there.

Q. Are the same events that happened on Tuesday?
A. Terribly confusing, yes.

Q. You put the tape on Jim's door the night before the day on which he was found dead, didn't you?
A. I believe so, I believe so.

Q. That was the Tuesday night, because he was

found dead on the Wednesday?
A. It would have been the Tuesday, that is right.

Q. So when you say in this paragraph here, "With the exception of putting the tape on Jim's door" that is actually wrong, because it has to include putting the tape on Jim's door?
A. It seems that way.

Q. You weren't conscious when you were making this statement on 5 April 1995 that part of it was wrong?
A. I didn't believe it to be wrong at that time, no.

Q. With the exception of putting the tape on Jim's door?
A. A discrepancy.

Q. Correcting the mistake you made another mistake?
A. Yes.

Q. I am not seeking to be critical, it was very easy to make these mistakes?
A. To a degree.

Q. It was just quite natural because it was very hard to remember even though a few days later?
A. I did have a notebook I carried with me and I jotted few notes and times in that book. Quite often you put short little notes, reference notes, sometimes refer back to it, now it could be mistaken by putting on the wrong page wrong, one page instead of two.

Q. Did you rely on some notes in your own notebook for the police?
A. I think I referred to something in my notebook that is correct.

Q. Do you still have that notebook?
A. No.

HIS HONOUR: Members of the jury that is as far we will take it today. There are two things I'd like to say. One, when you are moving about the precincts of the Court would you please not speak to any one who is not a member of your jury. There are many witnesses that have been present in the precincts of the Court, and it is most important that you don't speak to any of them, and for that matter if someone does speak to you in the precincts of the Court and not a member of your jury do not respond. They may think you are rude, it is most important that you don't speak to any anybody and don't appear to speak to any one who is a witness in this case.

The other thing I would like to say to you is this. You are required under your oath, the oath you took charges you to decide this case on the evidence. Now, the only people who hear the evidence are you, members of the jury, and the people who are in this courtroom. So you may, for example, with members of your family you may say that you are sitting on a jury, but what I would particularly ask you to be careful not to discuss in detail the case to the extent that you may be influenced by the views of people who haven't heard the evidence because the case must be decided on the evidence and that applies not only to people that you may speak to, but to media reports that you may hear of these cases.

You will be aware often of reports in the press or radio sometimes sports and television, and it is most important that you are not influenced by some truncated or shortened version in the press, by that evidence, you hear in the witness box. Those are the two things I'd ask you bare in mind. I'd ask you to retire now and be back in good time to commence at 10 o'clock in the morning. Thank you, members of the jury.

MATTER ADJOURNED TO TUESDAY 17 NOVEMBER 1998

oOo

THE SUPREME COURT
OF NEW SOUTH WALES
CRIMINAL DIVISION

IRELAND J
AND A JURY OF TWELVE

SECOND DAY: TUESDAY 17 NOVEMBER 1998

96/91/0034 - REGINA v MICHAEL ALAN HEATLEY

<IN THE ABSENCE OF THE JURY

(The Commissioner of Police was called on two subpoenas duces tecum. Parties granted access to documents produced not the subject of privilege.)

(In relation to yesterday's legal argument on the admissibility of evidence, the Crown Prosecutor handed up to his Honour the unreported decision of R v Lowe CCA NSW 24 April 1997.)

FOR HIS HONOUR'S JUDGMENT SEE SEPARATE TRANSCRIPT

THE FOLLOWING ERRATA NOTED

1. Page 7 line 7, "Moore Park" amended to "Eddie Ward Park".

2. Page 8 line 4, "mob, the" amended to "Monday".

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<IN THE PRESENCE OF THE JURY

<ROBERT ERNEST GARRATT(10.22AM)
ON FORMER OATH

MOLOMBY: Q. Mr Garratt, do you have the statements still, that you had yesterday?
A. I do.

Q. Did anything come to you overnight as a result of any the questions I asked you yesterday as to any further explanation or things that that might have contributed to the events?
A. Yes, at the time I had a saddlery business, started 8 o'clock in the morning, finished 2 or 3 o'clock and continuing down to the other job at Surry Hills, with long hours, that is what has confused the times of the days.

Q. Are you saying at this particular period you were working two jobs?
A. That is correct.

Q. The security guard job, whose hours have already been given in evidence?
A. Yes.

Q. That is roughly 4 to midnight?
A. Yes.

Q. But going to 2 am on Friday and Saturday?
A. Yes.

Q. The other job?
A. A saddlery business, for horses.

Q. And the hours?
A. I usually opened up around 8 o'clock in the morning.

Q. Until when?
A. Average 2 o'clock, across the station at Pendle, it is a matter of getting changed on the job and down to Surry Hills.

Q. What days did you do the saddlery job?
A. Seven days a week.

Q. How long had you been doing that before the week in question?
A. Some period around the 18 months at least.

Q. So is it correct for 18 months up to the week we are investigating in this case you were doing the two jobs?
A. Yes.

Q. Seven days a week?
A. Yes.

Q. That is not the case now?

A. Just about still.

Q. It is?
A. Yes.

Q. I want to give you the opportunity, often people ask questions, go away overnight and come into their ~~ahead~~? head
A. Yes.

Q. Is there anything else that has come into your ahead to help explain which events that appear in your first statement stretched across two days?
A. No, I had Monday to Sunday as discussed yesterday, I think I have got confused with the hours and times.

Q. You do accept that your original account covered four days from the Sunday night, Monday, Tuesday and Wednesday and your correct account covers three days, Monday night, Tuesday and Wednesday
A. Yes.

Q. Somewhere in the first account it would appear that events that originally occurred on one day have been stretched to make up two days?
A. Yes.

Q. Is it correct even now you are not absolutely able to put back in order the events what you would say the proper way?
A. That is right.

Q. In the second statement you made that I was asking you about yesterday, 5 April, you corrected the night the movie was on by reference to a TV guide?
A. That is correct.

Q. Subsequently you made a statement also on 19 September 1995?
A. I don't recall the date, but I would say yes.

Q. Do you have the statements with you?
A. I have.

Q. Would you get them out please, and if you would go to the September one, there is one of 19 September, a short one of two pages?
A. No, I have 11 March and 5 April.

(Call for Mr Garratt's statement of 18 September 1995. Produced.)

Q. Can I hand this to you (shown). Just put it aside for the moment. Just to be clear about it, when you came to Court yesterday, how many statements did you actually have copies with you?
A. The original I acquired at the station, I thought I had them all, I didn't.

Q. You came to Court with the first one you made of 11 March 1995?
A. Yes.

Q. But only that one?
A. That is correct.

Q. Just have a look at the one I have handed you and confirm that is a statement you made on 19 September 1995?
A. I have signed, it is mine.

Q. Do you see in that statement in the third paragraph, you refer to the two earlier statements by their dates?
A. Yes.

Q. And then you refer again to the movie that you watched at the night you were at Mr Meek's?
A. Yes.

Q. Now, and you have actual corrected the title of the movie. I will read exactly what you have written, "In addition to previous statements I have made on 11 March 1995 and 5 April 1995 regarding this matter, the movie K9 I make mention of, I now recall that movie being about a man either left on a mountain, dying on a mountain or rescued on a mountain. I believe the title was not K9 but K2?
A. Yes.

Q. I am not suggesting you are wrong about what the movie was about or your ultimate position about the name, but you checked the TV guide back in April to work out which night the movie was on, didn't you, that is how you changed the Monday to a Sunday?
A. That is right.

Q. Now, when you checked the TV guide, didn't that give you then the right name of the movie back in April?
A. I don't recall the time, looking up the programme and seeing the name, it doesn't recall a note I took of at the time.

Q. How could you check the TV guide to get the right night the movie was on and change the night, but not also get the right name?
A. I don't know.

Q. I am not stopping you going to the statements, but I don't think you will need them for the moment. You had become a friend of Mr Meek's over quite a period?
A. As passing his door and saying hello.

Q. Dropping in for a chat and having a cup of coffee?
A. Yes.

Q. The sort of thing you did when the young man was there was quite common?
A. Yes, it was quite common.

Q. And there were weeks when you would have dropped into Mr Meek's place every night of the week?
A. I past his door every night and I would say hello.

Q. And drop in?
A. Yes, and drop in.

Q. The young man you saw there the night the movie was on, that was the only night you saw him there?
A. To the best of my recollection.

Q. You did from time to time, see other people there?
A. That is correct.

Q. Indeed, quite frequently Mr Meek had visitor of one sort or another quite frequently?
A. I have seen people in his residence on different occasions, yes.

Q. And the night you were there watching the movie the young man was smoking marijuana, wasn't he?
A. Yes, he was smoking marijuana.

Q. Out of a bong?
A. A plastic bottle.

Q. A plastic bottle with a tube in it?
A. Yes.

Q. Mr Meek had told you on other occasions that he had had marijuana?
A. He had smoked it many times he mentioned, he had smoked marijuana.

Q. When you made your first statement to the police you believed that you had been at Mr Meek's place on the Sunday night?
A. Yes.

Q. And, indeed, even though the movie was actually on the Monday night, we now know it is highly probable you were at Mr Meek's place on the Sunday anyway, for a normal drop in on the Sunday.
A. Yes.

Q. In your conversations with Mr Meek you were aware, weren't you, that he was in the Gay Mardi Gras?
A. Yes.

Q. And the Gay Mardi Gras happened on that very weekend?
A. I recall so.

Q. And you recall Mr Meek talking to you about being at the Gay Mardi Gras about how a good event and basically a good time?
A. He had made comment on the Mardi Gras.

Q. That he had been there?

A. I don't recall, I can't recall at the moment what his comments were, I believe he went there.

Q. I am not asking for your account, but he did mention to you he had been there?
A. He implied that.

Q. And had been a good event?
A. Yes.

Q. The big activity of the Mardi Gras was on the Saturday night?
A. I am not sure of the day.

Q. Well, what I am suggesting to you, is the high probability is that you spoke to Mr Meek in one of your regular drop ins, chats, as you went past on the Sunday night about the Mardi Gras that happened on the Saturday?
A. Quite possible, it could have been.

Q. Do you remember talking to him about the Mardi Gras, how it had gone, things about how it--
A. There was talk on the Mardi Gras.

Q. And the high probability is that that was on the Sunday, if what I am putting to you, the big event of the Mardi Gras was the Saturday night?
A. It could quite possibly be on the Saturday night.

Q. The high possibility is that Mr Meek spoke to you on the Sunday night on how it had all gone?
A. Yes.

Q. Just thinking about that, do you recall dropping into his place on the Sunday night, the Sunday night, this is the correct, the version where the movie is on the Monday, the young man and the movie is on the Monday night?
A. I don't recall anything spectacular about the Sunday night.

<RE-EXAMINATION

CROWN PROSECUTOR: Q. So far as the time that you placed the tape on the door of Mr Meek's flat, are you confident that you did that on the Tuesday night or some time on the Tuesday?
A. The day after I got concerned about not seeing him that afternoon, the day after I got concerned about him, I didn't see him that afternoon.

<WITNESS RETIRED

PETER MAXWELL GRAHAM(10.40 am)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Would you tell the Court your full name?
A. Peter Maxwell Graham.

Q. Are you a radio announcer with station 2WS?
A. Yes.

Q. If I would have called you yesterday I would have asked you the last name of that song on that competition, I won't ask that?
A. We have another contest and there are another ten songs today.

Q. Now, Mr Graham, during your course as a radio announcer with 2WS, did you become familiar with a person who rang you at that station and gave you a name, Jim Meek?
A. I certainly did, for about six months. In the radio game people listen to you and they become very familiar. They treat you as a friend. Jim was one of those listeners who phone up everyday, wanting a song, win some money or win a prize. I am very, very familiar with Jim.

Q. Indeed, in November 1994 were you introduced to a prize winner at 2WS as Jim?
A. Prize winners come into the station a lot of times and they call out. I met a man called Jim or Jimmy, never told the surname, I assumed it may have been him, Jimmy was his name, very friendly.

Q. How would you describe the person you met as Jimmy?
A. About 60 years of age, very white silvery hair. The thing I remember him for most was a very suntanned look about his face, suntanned look, that is probably about all.

Q. Now, so far as the person who rang you and gave you the name Jim Meek or Jimmy?
A. Yes.

Q. Could you recall how often it would be that Jim would ring you?
A. On average probably for about six months probably everyday, I imagine. There would always be a song he wanted. He had a daughter at Saint Clare and always wanted a song dedicated to her or grandchild, "A Glad Heart is Hard to Find". There would be quite a few regular callers, Jim was certainly one, quite a character.

Q. What times are you at the station and receiving calls?
A. Well, basically from listeners you get them on air, I am on air between 9 o'clock and 1pm. I handle all the calls myself you, do get calls beforehand doing your prep, normally 7.30 and leave after two or three.

Q. Had this person Jim told you anything about his personal life?
A. Just a few things, he told me he used to walk the dogs for his neighbours quite a bit. He also said at some stage earlier in his life he was held up or robbed at the Entertainment Centre. I vaguely recall he had been in an armed robbery. He did say he did charity work, and he also said he had the Aids virus. I assumed he had a blood transfusion with the armed hold up. I didn't ask him, I

just assumed.

Q. Had he told you anything about the circumstances of the armed hold-up?
A. No.

Q. No?
A. No, I am afraid, I think he said The Entertainment Centre, it is very difficult, sometimes you are at work and you cannot get too involved in the conversation, very short and sharp, "See you tomorrow or the next day".

Q. On Thursday 9 March 1995 did you receive a phone call from a female person?
A. Yes, very distraught and said her Dad had died of a heart attack and introduced herself to me as Jim's daughter on the phone. I tried to console her, I was very shocked, I had seen him a few days before, that he was great, on top of the world, I thought it very odd that he died of a heart attack.

Q. On Friday 10 March 1995 did you become aware of something?
A. Yes, a news release, actually our radio station also carried the story of a murder of Jim at Surry Hills I said, "Oh that's probably the bloke who phones me up all the time", something is odd here, I had only spoken to him earlier that week. I thought I would just phone the police and say that he was a regular and used to phone me up.

Q. So you contacted the police?
A. Yes.

Q. And do you recall when it was that you last spoke to Jim Meek?
A. It was on the Tuesday morning and because he was a happy go lucky person you remember things like that. It was only a few days before, the Friday, Tuesday morning, 10.30 in the morning.

Q. Tuesday 7 March 1995?
A. Yes.

Q. At the time you spoke to him at 10.30, what was his demeanour like as far as you could make it out?
A. Really happy go lucky, very happy, everything normal, no signs of a heart attack, no nothing.

<CROSS-EXAMINATION

MOLOMBY: Q. Mr Graham, as a result of contacting the police you made a formal statement for them?
A. Yes.

Q. Have you got a copy of that, I am not asking you to go through it, were you provided with a copy of that at the time you made your statement or very recently?
A. I got a copy of a statement when they gave, I gave the

statement.

Q. You have had one ever since?
A. Yes.

Q. Now, that statement, the statement you made was on 23 March 1995, wasn't it, would you like to get out your copy?
A. Yes.

Q. You made the statement in the general area where you reside, Castle Hill?
A. The statement was made at Castle Hill.

Q. That is the only statement that you made in this for some time.
A. Yes.

Q. The statement was made fairly soon after you contacted the police?
A. Yes, very short period.

Q. They reacted very quickly to your information and asked you to come in and make a statement?
A. Yes.

Q. The man you knew has been referred to here as Mr Meek, or Jim Meek, you knew him only as Jim or Jimmy?
A. Jimmy. I knew his surname was Meek on the telephone, yeah, but it was mainly Jim or Jimmy, yeah.

Q. You have said over a considerable period he used to ring virtually every day?
A. Yeah, pretty well, yes.

Q. And some of the conversations though, that conversations of which you have already given evidence, such as him telling you about walking the dogs?
A. Yes.

Q. And the armed hold up at the Entertainment Centre for example?
A. That's right.

Q. They weren't conversations that were broadcast on air?
A. No.

Q. It works this way, lots and lots of people try to ring up the radio station?
A. That's right.

Q. And particularly, there are quite a large number of what you would call regulars?
A. Yes.

Q. People like Jimmy for example, there would have been a good twenty or so at that time, would there not?
A. Easy. Even more now as the station sort of gains in popularity.

Q. I know it's a bit hard, but let's try to talk about all this as it was then, which is early 95?
A. Yes.

Q. You had been doing that particular shift for what, some three or four years at that stage?
A. That's right, yes.

Q. You are still doing it now?
A. Yes.

Q. You have previously worked on the radio station, on -
A. Birthday Wheel - breakfast show.

Q. The earlier one before that?
A. Yes, for six years.

Q. And the regulars are a recognised phenomenon, there is quite a team of them out there?
A. Yeah, every station has that kind of thing.

Q. And many of them tend to ring the station almost every day?
A. My word.

Q. You work yourself Mondays to Fridays?
A. That's right, yes.

Q. But they would still be ringing on the weekend, whoever was on then?
A. Yes, lots - well some identify with you, and they sort of, you call them maybe a fan, or things like that, but other people, like prize winners, would go seven days a week, and in the afternoons or night, yeah.

Q. Because your show had competitions or -
A. Competitions and request lines, yes.

Q. It wasn't the only show at that time that had competitions?
A. No it wasn't

Q. If we're talking precisely now about March 1995, the breakfast show, the one you used to do, had competitions?
A. That's right.

Q. At 7.20 in the morning?
A. That's right, yes.

Q. And 8.20 in the morning?
A. Yeah, they still have the same contest.

Q. But relevantly we're going back to March 95?
A. Yes.

Q. And indeed competitions were a feature of lots of programs, weren't they?
A. That's right.

Q. Because the idea is, they attract interest to the listeners?
A. That's right.

Q. Many of the regulars would ring you up, basically while the song is playing, and talk to you while you're off air, wouldn't they?
A. Yes that's right.

Q. This is how you got to chat about the hold up at the Entertainment Centre?
A. Yeah, the format allows you a bit of leeway because you had maybe two or three songs in a row, and you work the phones in between and prerecord for a request or prerecord for the contest, yes.

Q. And quite often the regulars complained that they had been trying to get onto you, but they can't because too many people have been getting onto you?
A. That's right, yes.

Q. Even the non-regulars will make that complaint that often the lines are blocked, and it's very hard to get on?
A. That's right.

Q. Now you have said in your evidence that you became aware of, I think you said, a press release about the death of somebody in Surry Hills?
A. That's right, yes.

Q. Identified by name as Jim Meek?
A. Yes that's right. Surry Hills it was I think. A detective from Surry Hills. It was a press release regarding people knowing anything of, or information about, and I thought that sounds like Jim Meek. I made inquiries, and I thought it was unusual that his daughter had phoned the day before and saying he had a heart attack.

Q. What I want to ask you about is precisely this date, you have said 10 March; Friday 10 March as the date for the press release?
A. Yeah.

Q. Where do you get that date from?
A. Well that would be from my memory at the time. I couldn't recall that now I'm afraid, but at the time -

Q. You may need to go to your statement for this, and if you do, please say so, but your statement is dated 23 March. We have been through that?
A. Yes.

Q. You reacted quickly when you heard this press release did you not?
A. Oh yeah.

Q. I mean you didn't sit around twiddling your thumbs before you rang the police?
A. No, that's right. It was - it came as a bit of a shock actually. It's not every day you talk to someone and they've been murdered, and it came as a shock so I thought ...

Q. And the press release referred to the person being murdered, or words that conveyed that message to you?
A. That's right, yes.

Q. And so you reacted with alarm?
A. Shock, yeah, because I talked to the daughter and she was so upset, and that upset me.

Q. Not suggesting your reaction was anything other than responsible in the circumstances, but you got onto the police quickly, and the police quickly arranged for you to come and make a statement?
A. Yes.

Q. Given that you made the statement on 23 March, it's really not likely, is it, that you heard about the press release on 10 March; thirteen days before that is too big a time lapse before you got to the police station and made your statement, isn't it?
A. I'm not quite sure what you're getting at but.

Q. I'm sorry, if anything I ask is too convoluted, come back at me and I will do my best to straighten it out. But your statement is 23 March, that is the day you attended the police station?
A. That's right, yes.

Q. They reacted fairly quickly to your information; I might have something to tell you, and ask you to come -
a. That's right, yes.

Q. So you must have rung the police station, the police, wherever you rang, only a day or so before 23 March?
A. I think I rang pretty early. I think it took them quite a time to get to Castle Hill. The police from Surry Hills came out. I think there was a time lapse there. I don't recall phoning the police and then getting a statement off me the next day.

Q. You said earlier you thought they reacted fairly promptly and -
A. Well that is thirteen days, or however long it was, to my mind that is a fast reaction. Sorry.

Q. Would that have been a fast reaction for you if you waited the thirteen days before you rang the police?
A. Well, the indication on the phone, I can - yeah, yeah, I would say it was fast. I knew that something was set in motion, and eventually they would come around. And they did explain they would come to Castle Hill and get a statement off me.

Q. You see, I am suggesting to you, at the end of all this, that you are wrong about that date of Friday the 10th, and that the matter was not regarded as a potential murder investigation until actually Saturday 11, when they did an autopsy on Mr Meek and discovered some signs of his having been attacked?
A. Mmm mmm.

Q. You understand me?
A. Okay.

Q. Now if what I am suggesting to you there is right, that is that it wasn't regarded as involving suspicious circumstances until the Saturday, and that the way it was regarded up until the Saturday is the way his daughter explained it to you?
A. Mmm mmm

Q. That they thought he had a heart attack. If that is right, you couldn't have heard the press release on the Friday, could you; I mean do you think it's possible?
A. Yeah - sort of obviously it must be possible, then I assumed it was the Friday for the press release. Certainly, after the daughter had phoned me.

Q. Yes?
A. Yes.

Q. And I'm not suggesting you can't recall what the daughter told you is in error at all, but is that possible that you have mixed up the date of the press release; I can't give a suggested date to you, but it was sometime after?
A. Obviously must be possible, yes.

Q. Well now, Jimmy used to ring the radio station and speak to people other than you, did he not?
A. Yes. I think he came in that day to get a prize from another show.

Q. And for example there was a woman who used to field calls that came in up to 9 o'clock before the start of your on-air shift?
A. That's correct

Q. Called Rebecca?
A. That's right.

Q. I don't know if she is still there?
A. Still is.

Q. To your knowledge she was certainly familiar with Jimmy, wasn't she?
A. Yes.

Q. He used to ring up, and she used to field his calls sometime?
A. Yes.

<RE-EXAMINATION

CROWN PROSECUTOR: Q. Just a couple of questions Mr Graham. You have spoken about a competition that runs in the breakfast program; that ran in the breakfast program as at 1995?
A. Mmm mmm.

Q. And some times were given to you, 7.20 and 8.20 a.m.. Now, I think you said, "yes the birthday wheel", is that correct?
A. That's the contest for those times, yes.

Q. Now what is the format of that competition; is it open to all people, or people with birth dates in particular months, or what is the situation?
A. It's open - used to be open to all people, and the format changed a little bit, and now it's - nowadays it's the people born on a certain month. And they spin the wheel, if it lands on the day of that month you were born, then it's yours. Before, at one stage if it landed on the year you were born, the thing was yours. So it's changed format. Basically it's still - you got to call in, and the caller gets to air, and they spin the wheel. So it was either the day of the month they're born, which is currently now, or the year they were born, which it used to be ages ago.

Q. So it either has to be month or the year?
A. Yeah.

Q. So people wouldn't be ringing up, say back in 1995 if it was a 1948 birthday, and the competition was a certain year, wouldn't -
A. In those days - now I can't be exact when the contest changed, because I hadn't done that show myself, but in those days it would be something like caller number 10, you're on the line, we spin the wheel, if it lands on the year you were born, you're the prize winner.

Q. So anybody could have -
A. Yeah, nowadays you have to be the month you were born. Say it's only people in April, spin it, if it lands on 10 April, it's yours.

Q. When you rang the police, did you supply information to the police over the phone before they came out to see you?
A. Yes.

Q. And did you supply them virtually what you put in your statement later on?
A. Main thing I put - yeah, I told them about he phoned me, he phoned me on the Tuesday about 10.30. That is the thing that they were sort of asking for in the media, anyone that knows the last sort of whereabouts, or whatever, and I thought they may be interested in that.

Q. And so whether you rang on the 10th, or during the next week, does that affect your recollection of the subject matter about which you were ringing them?
A. No, no it doesn't, because when I spoke to Jim's daughter on the Thursday, and trying to talk to him, things like that, she was very emotional, very upset. I talked to her about I had spoken to her father only a few days ago, and he sounded really happy and really good, and so on. I can recall that.

<WITNESS RETIRED AND EXCUSED

<STEPHEN NOEL DONNELLAN(11.05AM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Sir would you tell the Court your full name and occupation please?
A. My full name is Stephen Noel Donnellan, and I work for Energy Australia as an area operator.

Q. In 1995 did you work as a district operator with Sydney Electricity?
A. That's correct.

Q. And at that time had you been in employed with that authority for about twenty-five years?
A. Yeah that's correct.

Q. Did your work involve electrical safety duties, and

power supply restoration?
A. Yes.

Q. And as part of your work, used you have to interrupt the power supply to any premises to allow other people to work on equipment safely?
A. Yes.

Q. Do you tell this Court that whenever electricity needs to be interrupted for maintenance work, the customer involved makes a request to Sydney Electricity to organise a power interruption?
A. Yes that's right.

Q. And the paperwork relating to that eventually ends up with you on the day of that interruption?
A. Yeah that's right.

Q. You then meet the customer on that day, and obtain permission from the customer to interrupt the electricity supply?
A. Yes that's right.

Q. You then turn off the supply and make it safe for people to work on it?
A. Yeah.

Q. Following that do you fill out an access permit to work?
A. Yeah that's right.

Q. And does that guarantee the person working on the power that the power will not be switched on until the access permit to work has been signed?
A. Yeah, that's correct.

Q. And does he retain the access permit to work until he has completed his work and wants the power restored?
A. Yeah, that's correct.

Q. Did you have a conversation with Detective Sergeant Tanos in relation to the matter now before this Court?
A. Yes, that's right.

Q. And did you check records maintained by Sydney Electricity in relation to the maintenance of electrical equipment at Northcott Flats Belvoir Street Surry Hills?
A. Yeah, that's correct.

Q. Did you locate an access permit to work dated 7 March 1995, and numbered 51522?
A. Yeah, that's correct.

Q. And was that for the interruption of the electricity supply at the Northcott Flats on Tuesday 7 March, 1995 and was accepted by the customer?
A. Yeah, that's right.

Q. Now when you talk about customer, who is the customer,

Northcott Flats or the person who wants to work on the building?
A. I refer to the customer as the electrician who is on the job, who is going to do the maintenance.

Q. And I will show you this photocopied document (handed to witness). Is that a photocopy of the access permit to work document, numbered 51522 and dated 7, 3, 95?
A. That's correct.

Q. Now perusing that document, what does that indicate to you so far as when electricity was interrupted at those flats on that day?
A. Well prior to 9 a.m. on that date.

Q. So prior to 9 a.m. on that day, what happened; what do you mean?
A. Well, what did I do or -

Q. Yes?
A. I got permission off the electrician to interrupt the supply. And our procedure is, they turn off their switches in their switch room, and they then they tell me to turn off the power to the switchboards; two separate rooms.

Q. Does that form indicate that the customer, that is the electrician, had signed and time of the permit at 8.20, which indicates something to you?
A. Well that to me, he wasn't supposed to sign that bit of paper until 9 o'clock.

Q. Right?
A. But so whether he has made a mistake with the time, or he put on there the time that the power was turned off, I'm not sure.

Q. Are you able to say when the power was restored?
A. Yeah. Yes. It's - well it's got "due for cancellation at 11 o'clock" up the top, the top of the page, so it would have been restored not long after that.

EXHIBIT #C PHOTOCOPIED ACCESS PERMIT TO WORK DOCUMENT IDENTIFIED BY THE WITNESS TENDERED WITHOUT OBJECTION, ADMITTED AND MARKED.

(His Honour read Exhibit C to the jury.)

HIS HONOUR: That is a document that will be with you as an exhibit when you are considering your verdict and you can see it at any time.

CROWN PROSECUTOR: Q. Could you tell us please what "above equipment isolated and danger tabbed" means?
A. I will try and make this as simple as possible. But it means that we turn off switches, and physically make it impossible for someone except me, or someone who does the same job as me, to turn it back on again.

HIS HONOUR: Q. Do you put some tab on it to indicate that it's turned off?
A. Yeah, it's a piece of plastic with "danger" written on it

Q. A "danger" tab is it?
A. Then it's locked in position.

CROWN PROSECUTOR: Q. What does "proved dead" mean?
A. It means - I've got a tool that I put on the switches, which lights up if they are alive, and if they're dead, it does not.

HIS HONOUR: Q. It means there is no current there, does it?
A. That's correct.

CROWN PROSECUTOR: Q. And what does the underlined word "note" then "L V distributor number 2 is alive in T/Con to screen" mean?
A. Well from the switchboard, as well as going through to the next room to the customer's switchboard, there is a cable which goes out into the street and feeds some of these street supply, and for our electricians to do the maintenance, on our switchboard - we get them to disconnect those cables at the switchboard and put screening over it, which is like a piece of rubber, and it's taped over those cables, which are alive, so they don't get an electric shock off them.

Q. Now on the back of that document there is also some material written (handed to witness); printed and written. Can you explain to us what that means on the back of that document?
A. The bit down the bottom, that is - where the handwriting is - the electrician's signature to tell me that he has finished, and that gives me permission to turn the electricity back on.

Q. And that also indicates a time?
A. Yeah it does.

Q. That indicates a time of 11 a.m.?
A. Yes.

Q. And actually, it indicates a time of "11.00", and neither a.m. or p.m. is scratched out, is that correct?
A. That's correct.

Q. And that is working on 2400 hour clock?
A. That is correct.

Q. And that is dated 7.3.95?
A. Yes.

Q. You told us at the front of the first page where the customer signs 8.20, there is also a similar signature on the back which indicates 1100 hours. That is the customer's signature?
A. That is correct.

<CROSS-EXAMINATION

MOLOMBY: Q. Mr Donnellan, is it correct, what is really involved in this permit is a very important safety procedure?
A. That is correct.

Q. And people in positions such as yours are instructed that once the power is turned off by you, it is not to be turned back on until you get this document back from the electrician on the job, properly signed?
A. That is correct.

Q. And the idea is that you or your equivalent hands this document to the person on the job as their permission to go ahead safely?
A. Yes.

Q. Because you have turned it all off at the major switch board?
A. Yes.

Q. And it not going to be switched back on, on any account?
A. Yes.

Q. Were you the only person doing that, those types of duties on this job this day?
A. I had a partner with me.

Q. You were in charge?
A. Yes, I was.

Q. You say you are an area director, is your job the same as it was then?
A. No.

Q. Is the job you did in March 1995 one you had done for some considerable time?
A. Yes.

Q. Some years?
A. 18.

Q. Had you been to those flats on other occasions?
A. Yes.

Q. Is it correct, turning off the power on the way you did it on this day does not have to be done for every electrical job that might be done at that particular site?
A. No, they are all similar, but different, not every switch board is the same. We use the same procedure, but different substations have different switches.

Q. Forgive me if I get the terminology wrong, is the basic concept that there are really two switch boards or two places the power can be turned on and off?
A. That is correct.

Q. There is a big master one that comes straight in from the electricity supply?
A. There is the Energy Australia substation and that is the one we control, and this particular building there is another room next door with a lot of other switches that turn off lights, power.

Q. Would that fairly be described as a local switch board?
A. Yes.

Q. If an election, say, was putting in an extra double power point in somebody's flat, would you come along and turn off the substation for a job like that to be done?
A. No.

Q. Is it correct for a job like that to be done they would throw a switch in their local switchboard?
A. To do that particular thing there would be a small switch board in the flat, more than likely. I am not sure, normally a small switchboard in the flat, an electrician would pull a fuse out.

Q. Does that mean in terms of electricity supply going into a flat there are three points, the substation, the local switchboard and some little switchboard individually in each flat?
A. Most, most places, not unless you go and have a look at them.

Q. You don't know of your own inspection whether this was the case in Northcott flats, but you think it is correct?
A. That is right.

Q. There is a lot of electrical work at Northcott flats, without somebody like you having to come along and turn off the substation?
A. That is correct.

Q. The reason on this occasion the substation was turned-off was that there was work to do on their own switchboard?
A. Yes, that is right.

Q. So their own switch board had to be isolated and made dead for them to work on it?
A. That is correct.

Q. There were, in fact, a considerable number of electricity workers on the site that day?
A. That is right.

Q. Some from Sydney Electricity?
A. Yes.

Q. Apart from you and your partner, some 6 to 11 other people.
A. Yes.

Q. They came in Sydney Electricity vehicles of one sort or another?
A. That is right.

Q. Then there were people on the job to whom you gave access permits after you had turned of the substation?
A. Yes.

Q. And there were perhaps 10 of them?
A. Could have been 10, might have been 6, but there was a considerable number.

Q. A considerable number of workers other than Sydney Electricity workers?
A. Yes.

Q. With their associated vehicles?
A. Yes.

Q. And at this stage you cannot remember precisely who they were?
A. No, I have no idea.

Q. They weren't people well known to you at the time?
A. No.

Q. Now, this particular document, do you have a copy of it there with you?
A. I do.

Q. That was signed by you on the first page at 9 o'clock, 7.3.95?
A. Yes.

Q. That means, doesn't it say within the 10 minutes or so before 9 o'clock you switched off the substation?
A. Yes, in a time frame before that.

Q. You sign when you finish satisfactorily switching off?
A. Yes.

Q. And it is safe for everybody to work?
A. Yes.

Q. It means you completed your job in the shortest span of time, in the short space of time before 9 o'clock?
A. Yes, the final isolation, yes.

Q. It is often done when jobs of this nature are on, the electricity to the site is first switched off through what I would call the local switchboard?
A. Well, always, that is a separate procedure for us. We get the ~~litigation~~ electrician to turn the power off at the local switch board before we turn it off at the substation.

Q. Turning it off at the local switchboard involves turning it off at a number of different switches?
A. Yes.

Q. The local switchboard has the capacity, has turned off different parts of the site, you can put out B wing but not all the rest, for example?
A. That is correct.

Q. In a building like this where there are lifts going up many stories one of the important things that the local electricians do while turning off the board is to get all lifts down, up or down to a common point?
A. Yes.

Q. So they know where they are and no-one is locked in them?
A. Yes.

Q. And that sometimes takes time if a queue up the top floor you make, you get them down before you switch the lifts off?
A. Yes.

Q. And it is not unknown as the lifts are progressively switched off, "Can you get it back to me" before you switch it off for the next couple of hours?
A. Yes, I would say that.

Q. The electricians on the job keep their eyes open for that, calls for help,"I have a big load of luggage, don't leave with me with the stair well"?
A. That could happen.

Q. The electricians on the spot are responsive to that sort of request from people, "Just give me a lift before you turn the whole system off"?
A. They wouldn't leave someone stranded up there.

Q. If someone gives a yell it is not too late, someone gives a yell they will even switch it back on and bring them down?
A. That is possible, yes.

Q. Whether you were at Northcott flats at this time, any other time, 7 March 1995?
A. On another day?

Q. Different day?
A. I work around that area so I could have been there any amount of time, any number of times, but I just couldn't say

for sure.

Q. In that particular period did your work duties cover a particular part of the city, not just running anywhere?
A. The city and Eastern suburbs.

Q. And is it correct you worked out what happened on this particular day as a result of a request from the police?
A. As best as I could.

Q. I am not seeking to criticise you at all, but you were asked by the police in September 1995 to help with their inquiries, weren't you?
A. Yes, I think that is on the statement.

Q. Have you got your statement there as well. You made your statement to the police on 21 September 1995?
A. Yes.

Q. They asked you to come along and looked up the relevant records?
A. Yes.

Q. You probably did that a week or so before you made the statement, found the access permit?
A. Somebody else found them and past them on to me.

Q. That was certainly in September 1995?
A. That is correct.

Q. Did you search for records in relation to any other day of the Northcott flats or were you asked only about Tuesday 7 March and specifically go to that day?
A. All the relevant information just turned up with me from another, from other people who work in Energy Australia, and I was asked to arrange an interview with Sergeant Tanos, sir.

Q. Someone else provided you with the access permit out of the file?
A. That is correct.

Q. Because you were the man with the name on it?
A. That is correct.

<NO RE-EXAMINATION
< WITNESS RETIRED
<SHORT ADJOURNMENT

IN THE ABSENCE OF THE JURY

CROWN PROSECUTOR: It has been brought to my attention that it is alleged that during the morning tea adjournment the accused was down the street. I don't know with whom he was down the street, and he came to face to face with a Crown witness by the name of Marsh, and he smiled at the man Marsh in a fashion, according to the man Marsh, which has intimidated him. Mr Marsh is outside and no doubt could relate the intent.

Short of reminding the Crown doesn't know whether the accused was accompanied at the time, short of reinforcing upon the accused his obligation not to communicate in any way with a Crown witness, the other option that the Crown has is to request a revocation of bail. That is the situation, your Honour.

I am not seized of any information of any other breach of conditions of bail.

HIS HONOUR: I want to make it perfectly clear that the bail application is conditional in the strictest sense of no communication between the accused and any Crown witness or any attempt to communicate and it would be most unfortunate in the circumstances of this case if the Court were required to change the bail situation, but would have no hesitation in doing so if there were any suggestion of the communication or attempt to communicate with any Crown witness.

Mr Molomby, we will take it no further at the moment other than I will ask you to make it abundantly clear to your client.

MOLOMBY: I raised this matter briefly with Mr Heatley. He has no particular recollection of what is being referred to. This man Marsh is not a witness who hurts us, I might say. There are a very large number of witnesses in this case in circumstances where there are a number outside the Court. It is quite possible, of course, that Mr Heatley might see them and not know who they are. As I understand, this happened in the street, where down the street, how he is to know whether a Crown witness is difficult. Nevertheless, I accept entirely what your Honour says, but I'll to have devise some mechanism that such things, however unintentionally cannot occur. That is obviously a desirable course, extreme caution is necessary, not to cause any disruption some mechanism will be devised.

CROWN PROSECUTOR: I just have to refer to this matter if I could your Honour. As the Crown understands the conditions of bail, the accused is to come to the Court with a legal representative. And perhaps the Crown did not insist on it being conditioned that at any stage he leaves the Court during the course of the day he would be in the company of a legal representative. But it was perhaps wrongly assumed by me that the accused would attend the Court. He would come into the Court with his legal representatives, remain at the court in the care and control of his legal representatives until such time as he left fifteen minutes after the jury left at the end of the day.

HIS HONOUR: Yes I think that provision generally relates to the avoidance of contact with a juror Mr Crown, it's more difficult with a large array of witnesses, and it may not be an appropriate measure to impose at this stage, however, I think the matter having been ventilated, we can at least try and leave it on that basis at the moment.

<IN THE PRESENCE OF THE JURY

<MARY ELIZABETH NIGHTINGALE(12.25PM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Would you tell the Court your full name please?
A. Marry Elizabeth Nightingale.

Q. Are you the aunty of the deceased James Meek?
A. Yes.

Q. And was his mother your sister?
A. Yes.

Q. Do you tell this Court that over the years you have enjoyed a very close relationship with James?
A. Oh, aunty nephew relationship.

Q. Now I think you told us that you had an aunty nephew relationship?
A. Yes.

Q. Is it the fact that the last time you spoke with Jim was on the evening of the Gay Mardi Gras?
A. Yes.

Q. 4 March 1995, at about 7 p.m.?
A. Yes.

Q. And did you ring him at his home?
A. Yes.

Q. And did he tell you that he was leaving to go to the Mardi Gras?
A. Yes.

Q. Did he tell you that he would be selling buttons on one of the stands?
A. Yes.

Q. Was the conversation a brief one, as he told you he was in a hurry to meet someone?
A. Yes.

Q. Did he tell you that he would ring you on the following Thursday, that is 9 March 1995?
A. Yes.

Q. Was that to let you know whether or not he would be coming to your house to visit?
A. Yes.

Q. And is it the fact that Jim would go to your house to visit you on a monthly basis?
A. Yes.

Q. And you would talk to Jim by telephone on almost a daily basis?
A. Yes.

Q. Are you able to say whether or not you were probably his closest relative, apart from his daughter?
A. Yes.

Q. Do you tell the Court that you were aware that he had a hard upbringing?
A. Yes.

Q. And you are also aware that he was homosexual?
A. Yes.

Q. And that he was H I V positive?
A. Yes.

Q. And you had been aware that he had been sick with that disease for at least four years?
A. Yes.

Q. And due to the fact that you were the closest, apart from his daughter, relative to him, did you try to include him in your life and give him some family support?
A. Yes.

Q. Did you have a rule between yourselves that Jim virtually never discussed his sexuality with you, and you always attempted to steer clear away from conversation on that topic?
A. Yes.

Q. If Jim came to your house to visit, was it not uncommon for you to have lunch in the local mall, or to go and visit Jim's father who was in a nursing home suffering from dementia?
A. Yes.

Q. Is that correct?
A. Yes.

Q. Do you tell the Court that you never visited Jim's flat at the Northcott Flats mainly because you had surgery to your hips, and it was not a practical thing for you to do?
A. Yes. Didn't go.

Q. Do you tell the Court that Jim was a kind and caring person, but you knew that he was homosexual, and that even at a young age it wasn't uncommon for him to dress in female clothing?
A. Yes.

Q. Did Jim mention to you various names of people with whom he was friendly, but not necessarily the basis of that friendship?
A. There was a Jackie. Someone by the name of Jackie, but I never met them.

Q. Did he tell you about exercising his dogs in the park as being one of his -
A. Yes.

Q. His habits?
A. Mmm mmm.

Q. Did he inform you that in the past he had been assaulted whilst doing that?
A. Yes.

Q. Were you aware that at one stage of his life Jim had employment as a security guard?
A. Yes.

Q. That he received a payout in compensation relating to injury he received during the course of that employment?
A. Yes.

Q. And did he tell you that he purchased a new car?
A. Yes.

Q. With that compensation payout, or a portion of it?
A. Yes.

Q. Was that a Daewoo?
A. Yes.

Q. Were you aware that Jim used to play the poker machines?
A. Yes.

Q. That he was a social drinker?
A. Yes.

Q. Would you describe his drinking habits?
A. Very little.

Q. Very little?
A. Mmm mmm.

Q. Did you ever see Jim under the influence of liquor in your lifetime?
A. No.

Q. Would you describe your relationship with your nephew as saying that you were one of his confidants?
A. Yes.

Q. And that was in matters apart from his sexuality?
A. Yes.

Q. In the weeks preceding his death, had he discussed with you any perceived threats or anxieties relating to his safety?
A. Yes.

Q. He had?
A. Yes, only to do with the park, that incident, and there

was another one.

Q. The assault in the park?
A. Yes.

Q. And some run-in with a person by the name of Jackie, is that correct?
A. Yes.

Q. Was Jim a physically strong person?
A. No.

Q. Has it been your experience to ever have seen him being physically demonstrative with anybody?
A. No.

Q. On any occasion when you were with Jim did you come to realise anything, or notice anything about any jewellery that he might wear?
A. Yes, one particular ring, on that hand.

Q. Would you describe that ring for us?
A. Yes, it was a quite a large gold one, thick gold and mustard and black stone in the centre.

Q. A mustard and black stone?
A. Yes, square. A square stone.

Q. Can you recall how long he had had that ring at the time of his death?
A. No, I would only be guessing.

Q. (Exhibit B handed to witness) Would you just have a look in that little box please?
A. (Witness complied)

Q. Are you able to say to say anything about that item?
A. Yes, that looks black the further you're away from it, and when I walked past the table, you know, I said "That's a nice ring". Yes, I would say that was it. That black line through it, yes.

Q. And in other respects, are you able to say anything about the shape or the size of it as compared with the one that you described as being a chunky ring with a mustard and black - A. No that would be the size.

<CROSS-EXAMINATION

MOLOMBY: Q. Mrs Nightingale, you were just shown a ring in a box?
A. Yes.

Q. Have you been shown that ring in that box before?
A. No.

Q. Is that the first time you have ever seen it?
A. Yeah, first time I've seen it in the box.

Q. When was the last time you saw the ring?
A. At my place when he was having lunch, you know, just passing the table. I didn't go up and sort of look at it close, I said "That's a nice ring". It was on that hand, and I passed that side of the table.

Q. What hand did you say?
A. I just passed the side of the table. No I didn't go up close and sort of look at the ring like that, but I noticed it close near the table, and commented on it.

Q. You are indicating the ring on the left hand, is that correct?
A. Yes.

Q. You just grasped your own left hand in a demonstration?
A. Yes.

Q. When you were speaking to the Crown Prosecutor, you indicated on your left hand too?
A. Yes.

Q. That is correct is it not?
A. Yes, I would say he had it on the left.

Q. It is your recollection, is it not, that Jim had this ring for quite a long period?
A. No, only that once that I saw him when he came up to my place. It's the only time that I saw that ring.

Q. I see, you have only ever seen that ring once?
A. That I recollect seeing it on him. He could have had it on but, you know, you don't go around looking at the hand once you seen it, but I can't remember whether he wore it out when we were out any other time.

Q. Is the result of what you are saying there, that before today, as far as you remember, you have only ever seen that ring once?
A. On him, yes.

Q. On him?
A. Mmm mmm.

Q. Do you mean in saying it like that, on him, that there is some other time when you have seen it off him?
A. No.

Q. That comes down to this then does it not: That before today, what you are saying is you can only remember seeing that ring ever on him, or off him, once?
A. Yes, I would say that.

Q. That is a time when he was visiting your place?
A. Yes.

Q. And he used to visit your place quite often?
A. Yes.

Q. Is that correct. He had a car did he not?
A. Yes.

Q. He bought a new car?
A. Yes.

Q. With a compensation payment, did he not?
A. Yes.

Q. But before that, he had an old car had he not?
A. Yes, yes, yes.

Q. So in other words, he was able to get around with a car?
A. Oh yes.

Q. Over quite a period?
A. Yes.

Q. And when he got the compensation payment, he bought the car fairly quickly did he not?
A. Yes.

Q. And that was early in 1995 was it not?
A. Yes.

Q. Sometime in January 1995. Is that your recollection?
A. Well I couldn't remember the month, you know. It would be then, 1995, yes.

Q. Only a couple of months before he died?
A. Yes. Yes that's right.

Q. And had he come to your place since he bought the new car?
A. Yes.

Q. And the occasion you speak of when you saw him wearing the ring on his left hand at your place, are you able to say what year that was in?
A. 95. The car. The new car.

Q. After he had the new car?
A. Yes.

HIS HONOUR: Q. You are being asked about the ring. When he came and had lunch at your place, and you saw the ring, what year was that?
A. Before he got the car. Just before. I saw that ring on his hand. I'm sure.

MOLOMBY: Q. Are you able to say -
A. Very close.

Q. - how long before?
A. (No answer)

Q. I mean was it three years before?
A. No it's just - to me it wasn't that important you know,

just going past, that's a nice ring sort of thing, you don't go thinking of dates. I don't want to sort of guess at it, I'm just trying to -

HIS HONOUR: Q. You're not being asked to guess, you're just being asked, can you remember, and if you can't remember just say so, but you are being asked can you remember when it was that you saw the ring on his hand at your place when you were having lunch. Now if you can't remember, just say so?
A. No, well I can't remember.

MOLOMBY: Q. But it's a long time ago now?
A. Yes.

Q. And is it correct that Jim came to your place for lunch on quite a number of occasions?
A. Yes.

Q. Monthly roughly?
A. Yes.

Q. Is that right.
A. Mmm mmm.

Q. That was over a period of several years?
A. No, not several years.

Q. There was a -
A. No.

Q. Before he lived at the Northcott Flats -
A. Yes.

Q. - he lived elsewhere in the inner city did he not?
A. Yes, Kings Cross.

Q. You visited his place?
A. Yes.

Q. But you never went to the Northcott Flats after he moved there?
A. No, no.

Q. But is it correct that he used to come to your place?
A. Yes.

Q. In the period he lived at Kings Cross as well?
A. Yes.

Q. For these lunches?
A. Yes.

Q. Roughly monthly?
A. Yes. He would visit.

Q. And appreciating that you are under some difficulty in remembering, but are you able to say roughly in what year

the lunch might have been when you saw the ring?
A. 95.

Q. 95 is the year he died?
A. Yes.

Q. In March.
A. Wasn't that long before then. I can't remember it on him when he was going down to the flat at Kings Cross, it was only that one time at my place.

Q. One time out of all the times he had been to your place?
A. Yes, I never noticed it. I'm not a jewellery person. I don't look at jewellery much.

Q. If you used the words "black onyx"?
A. Yes.

Q. Would you mean a ring like the one that has been shown to you?
A. No, I think I said that was like a tigers eye. It was only just at a glance, I didn't get the ring and look at it, I just saw the black line through it and the mustard colour.

Q. The words "black onyx", you recognise those words?
A. Yes.

Q. As words -
A. I know what you mean.

Q. You have an understanding of those -
A. Yes.

Q. If you use those words, the way you use them, some people might use them differently?
A. Yes.

Q. The way you use them, would you use those words, "black onyx", as a fair description of that ring which you have been shown today?
A. Maybe. Just offhand, yes. It's hard to say. I might have said "black onyx" and then thought, it's not all black, it's mustard and black - not black, the dark line through it.

Q. What does black onyx to you -
A. If you haven't got your glasses on, with good eyesight it's very hard to - you're moving around, busy getting lunch and race over and take it into mind.

Q. But when you say - if you ever say "black onyx", what do you mean by that, is there anything in this Court that is like a black onyx that you can show us?
A. No. It's probably all black.

Q. Tends to mean that, doesn't it?
A. Yes. Probably, yes.

Q. My asking you this question about black onyx has reminded you, hasn't it, that -
A. Yes.

Q. Those are words you once used?
A. I might have said that, yes

Q. To describe the ring you had seen on Jim?
A. Yeah, probably.

Q. We will try to do this one at a time. You do recall don't you, that you have on a previous occasion used the words black onyx to ~~decide~~ describe the ring you saw on Jim, at your place?
A. Yes.

Q. And all that indicates is that your memory of the ring you saw is not very certain, correct?
A. When I saw that, it is the colour and the stone and the black.

HIS HONOUR: Q. When you say "that", you point to the ring in the box, Exhibit C ?
A. It is identical to that.

MOLOMBY: Well, you said, "When I saw that", do you mean when you saw it today?
A. Yes.

Q. Are you sure when you saw it today that is the ~~wrong,~~ ring you saw on Jim?
A. Yes.

Q. Even though you previously called it black onyx?
A. Yes.

Q. You wouldn't use the words black onyx as a proper description of that ring you saw today?
A. No, it probably slipped out, black onyx, Tiger's eye I meant to say.

Q. Do you think Tiger's eye is a fair description?
A. Its colouring.

Q. Meaning that deep, yellow pale colour with a suggestion of black somewhere through the middle of it, that is a fair description of Tiger's eye?
A. Yes.

Q. But have you been doubtful in the past about whether that was really the right description of it?
A. Not when I saw that ring.

Q. When you were shown the ring today at the invitation of the Crown Prosecutor, did you believe before you saw it that what he was arranging to have shown you to you was Jim's ring?
A. I didn't know it was there today.

Q. You knew there was a ring involved in this case, didn't you?
A. Yes.

Q. And didn't you think before the box was actually opened and you saw it that what they were arranging to show you was Jim's ring?
A. Yes.

Q. And that was one of the things that was influencing your mind when you said you had previously seen it, wasn't it?
A. No, it just brought to mind with that black line in it that I saw that day at home.

Q. I am not saying it is difficult to unravel one's own mental processes, but isn't it the case your certainty today about saying that is Jim's ring comes from your belief that you are being shown Jim's ring, that is the one they are putting in front of you?
A. No, I am just saying it was like the ring I saw on his finger that time, the colour.

Q. And you don't think you are influenced at all by believing that the ring you were being shown was actually Jim's?
A. Really, how can it be proved because you could have two rings the same.

<NO RE-EXAMINATION

<WITNESS RETIRED

<IAN GEOFFREY PUDDICOMBE (12.50PM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Would you tell the Court your full name?
A. Ian Geoffrey Puddicombe.

Q. In 1995 were you in partnership with your wife Sandra Ann Puddicombe operating a business known as Ian King's Loan Office?
A. That is right.

Q. Was that situated at 142 Merrylands Road, Merrylands?
A. Yes.

Q. Was that business operated as a licensed second-hand dealer and pawnbroker's business?
A. Yes, it was.

Q. And was your wife the holder of those licences that were required for that business in 1995?
A. At the time, that is correct.

Q. At that time had the business been operating approximately four years?
A. That is right.

Q. On Tuesday 7 March 1995 were you working at the loan office at Merrylands?
A. That is right.

Q. And you opened the shop at about 9 am?
A. Yes.

Q. Then about 1.15pm that afternoon did a young chap

approach you offering to sell a ring and show you a 9 carat jet gold yellow stone ring?
A. That is right.

Q. Did you negotiate a price for that ring at $40?
A. I did.

Q. Did you ask him for some identification?
A. Yes.

Q. Did he say to you, "I don't have any"?
A. That is correct.

Q. Did you say, "How old are you"?
A. Yes, I did.

Q. Do you tell this Court you don't recall how old he said he was, but it was under 16?
A. That is right.

Q. Did you say, "We cannot buy the ring because you are underage and you have no identification"?
A. That is correct.

Q. And did he then leave the store?
A. Yes, he did.

Q. At about 1.30pm that afternoon, did the same young chap return to the store with a gentleman you knew from prior business dealings?
A. Yes, he did.

Q. And was that a person you knew as Roger Cochran?
A. That is right.

Q. Did Roger Cochran say you to you, "The young fellow is my nephew and he wanted to sell his dead father's ring, is it all right by you, I'll sell it on his behalf using my identification?"
A. Yes, that was said.

Q. And did you say, "that's okay"?
A. Yes.

Q. Did you then enter the description of the ring and Roger's details in the purchase books entry 5/136 dated 7.3.95 and the time of 1.30pm?
A. That's right, I don't, I don't recall all that detail, detail for detail, but that is what is in my statement, at the time.

Q. Did Roger Cochran then sign the entry?
A. Yes, he did.

Q. Did you complete the purchase of the ring giving the $40 to Roger and taking possession of the rings?
A. Yes.

Q. On Thursday 22 June 1995 did you speak with Detectives Walker and Callinan from Surry Hills directly in relation to the purchase of that ring, and did you hand possession of the ring to Detective Walker?
A. Yes, that is correct.

Q. On Wednesday 2 August 1995 did you again speak with Detective Walker and Detective Morridge in relation to the purchase of that ring?
A. Yes, that is correct.

Q. Did you then view a video tape containing 12 photos of young males?
A. Yes, yes.

Q. After viewing that video, are you able to say that the male depicted in photograph numbered 5 is the one most similar to the young fellow Roger Cochran who said he was his nephew and on whose behalf Roger sold the ring?
A. That is correct.

Q. Did you then sign and date the spine of that video tape?
A. Yes.

Q. Did you also make a statement in relation to the purchase of the ring and the viewing of the video tape?
A. Yes, that is correct.

Q. Do you tell this Court that you have not seen the young fellow since the day that you purchased the ring until the time you made that statement?
A. That is correct.

Q. I show you this item (shown MFI 2)?
A. Yes.

Q. Do you recognise anything on the spine of that?
A. Yes, my signature and the date 11.^7 ^seven.95.

Q. I'll show you this photocopy document which accounts of two pages?
A. Yes.

Q. Is that a photo copy of a page from your record of purchases and receipts of second-hand goods?
A. That is correct, yes.

Q. And on the page that has at the top of it form 5, second- hand dealers, can you see an entry 5/136 in a reference number column, column 1, date and time of purchase of receipt, 7.3.95, 1.30, in detailed description of goods purchased or received, 9 carat yellow stone gent's ring, then in signature of dealer or agent, servant or collector effecting transaction, it appears to have 6.5 something?
A. That is the weight of the ring, we identified 6.5 grams of weight.

Q. Then is there a column in which there are some initials?

A. They are my initials, next to that in code, the price paid for the ring which was $40.

Q. Is it 40 or 45?
A. 40.

Q. And then on the page which has at the top of it ND Collectors Act, 1906, and the number 181818, do you see, name and address of owner of goods described Roger Cochran, lending customer, [redacted] Crosslands Street, Merrylands and then a signature?
A. That is correct, yes.

Q. Does that entry, a complete entry, reflect the dealing that you had?
A. Yes that is the entry for the purchase of the ring.

EXHIBIT #D PHOTOCOPY FROM RECORD AND PURCHASES OF RECEIPTS TENDERED AND ADMITTED WITHOUT OBJECTION

<CROSS-EXAMINATION

MOLOMBY: Q. It is a legal requirement to fill out a record such as the one tendered?
A. Yes.

Q. The entry 1.30 is an entry you made at the completion of the transaction?
A. That is correct.

Q. This page that has been tendered, tell me if you want to see it, it would seem to extend from 1 March through the 2nd, 3rd, 4th, down to something on the 13th March?
A. Right.

Q. Would that be a fair representative sample of business you did in those days?
A. Purchasing.

Q. We can all work out the figures, perhaps it indicates an average of two or three purchasing transactions a day?
A. Yes.

Q. And indicates a purchasing transaction 1.35, five minutes after?
A. I don't recall, I don't recall without looking at the document, but it is quite possible.

Q. That is correct.
A. Yes.

Q. A transaction right on the heels of this one?
A. Yes.

Q. And the price $40?
A. They are in codes, we are no longer to do that, but we did that as a matter of, I guess not to reveal to the next customer who signed, the next customer, what was paid on the

purchase.

Q. It is a legal requirement to get the person to sign the book and get the detail shown to them?
A. Yes.

Q. They are in code?
A. That is correct.

Q. Not only official paperwork but dealers such as yourself are often visited by police?
A. That is correct.

Q. Weekly?
A. It is a little spasmodic, but presently weekly.

Q. To check things are all in order throughout the industry, that is regular?
A. Yes.

Q. Now, you did this transaction on 7 March, buying the ring and nothing happened to make you pay any further attention to it until the police approached you on 22 June?
A. That is correct.

Q. That was the first time anybody asked you to go back to that transaction and think about it?
A. Yes.

Q. You located the ring and it was taken away that day?
A. Yes.

Q. And at some time asked to give a statement of what occurred.
A. Yes.

Q. And you gave your statement on 2 August?
A. If that is what is in the statement.

(Statement called for. Produced.)

Q. It was 2 August?
A. That is correct.

Q. One of the things you say in that, and you have given some evidence about that, being shown some photos and chosing the one the one most similar?
A. Yes.

Q. I'm not arguing with that at all, but in your statement that is said to be on 2 August, that you looked at the photos?
A. That is correct.

Q. When you were just shown the tape with the your signature on it, didn't you read out a date 11 July. Just look at this one again, and tell me what is your signature, because I could be confused about it, where is your

signature on that?
A. If you have a look at the tape it has interview reference number which says 2.8.95.

Q. Is your signature on that label?
A. It is.

Q. Would you mind putting your finger on it and turning it around so I can see. Is your signature left most on the label?
A. It looks like initialled by somebody else to me.

Q. Are you identifying?
A. That is my signature there.

Q. On the right-hand side?
A. Left-hand end of the tape.

Q. There is a rectangle on the left-hand side of the label and your signature is on the right?
A. Yes.

Q. Did you write the date on the left?
A. No, on the right, received 2.8.95.

Q. Is it correct that until the day you made the statement 2.8.95, you hadn't any cause to bring back into your mind the discussion you had, first with the young man, and then with Mr Cochran?
A. No, that is correct.

Q. And Mr Cochran, you wrote on the entry in the book, was the lending customer?
A. That is right.

Q. That means you had done business with him previously?
A. We knew him well.

Q. You were satisfied of his credentials because of that
A. Yes.

Q. Probably you had done something like 300 purchasing transactions since between this one and the time you came to make your statement?
A. If that is how it works, okay.

Q. Four a day, 20 a week, 80 a month, would be 250 or 300 is a fair estimate.
A. Yes.

Q. With other transactions as well?
A. Lending transactions as well.

Q. As at early August, you wouldn't have been able to remember the conversations with all those 300 people, if the police asked you?
A. Possibly right.

* didn't come in at 1.15

Q. Definitely right, except for the ones the day before?
A. That is right.

Q. You don't say you have a claim of the conversation with Mr Cochran or the young man?
A. I don't know how the transaction went, I do remember that much.

Q. I am not saying the young man ~~came~~ * didn't come at in 1.15, I am not suggesting anything dodgey from your point of view, but what I am querying with you, the reason the young man went away and brought back Mr Cochran was that he didn't have credentials to satisfy you?
A. That is right.

Q. That was the main reason, got an agreeable price but cannot buy it because hasn't the ID? A. Yes.

Q. You cannot be sure he said anything about his age?
A. It is a standard thing, I am sure for it to have been said, obviously of elder years, but anybody, it is a standard question.

Q. Is there a legal age?
A. 16.

Q. You sent him away, because he didn't have proof of ID?
A. It was a combination of two things.

Q. From the transaction, you couldn't be confident he was under 16?
A. We do it to protect ourselves, we ask for the ID, age, et cetera, et cetera, I can confidently say that was asked.

Q. I am not suggesting you didn't ask the question, you cannot be confident the answer you got was that he was under 16, because you had another reason?
A. Well, I can't word for word quote what the answer was, but definitely no ID.

Q. That was enough to send him away?
A. Yes.

Q. You have said that when Mr Cochrane came back he said that the young man was his nephew?
A. That is right.

Q. Is it possible that you are slightly ~~mishearing~~ misremembering what Mr Cochran said, and he did say there was a relationship between himself and the young man, but not exactly the one you remember?
A. Well, we are talking four years ago, honestly, I can't remember that point now, three months in the statement after the event, but after all these years I can't swear to that.

Q. But Mr Cochran said he was related to the young man?
A. Yes.

Q. But it is quite possible that what Mr Cochrane said, you did quite a good job, but not exactly, but that the young man was the son of a cousin of his?
A. That is possible, that is possible.

Q. Son of a brother makes a nephew, son of a cousin, it is quite possible that was said?
A. That is quite possible.

<RE-EXAMINATION

CROWN PROSECUTOR: Q. Mr Puddicombe, was this what is known as a pawn-type deal or was it a sale to you, purchased by you of the ring?
A. An outright sale to us of a ring, not pawned to us in any way.

<WITNESS RETIRED

<LUNCHEON ADJOURNMENT

UPON RESUMPTION

<SUZANA CATHERINE WHYBRO(2.20PM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Officer, would you tell this Court your full name, rank and station please?
A. Suzana Catherine Whybro. I am a Detective Senior Constable of Police, and I'm attached to the Bass Hill Crime Scene Section.

Q. In 1995 were you attached to the East Sydney Zone Crime Unit?
A. Yes.

Q. Did you prepare a statement dated 2 April, 1995 in which you set out the part that you played in the course of the investigation of the matter now before this Court?
A. Yes.

Q. And do you have a copy of that statement with you?
A. Yes.

CROWN PROSECUTOR: Your Honour, I would ask that this witness be allowed to read from her statement in accordance with the Act. And if that is permitted, I would ask the officer to read in a loud tone of voice, and at a pace with which the jury can take in what you have got to say.

MOLOMBY: No objection.

CROWN PROSECUTOR: Q. Would you read from your statement then please from the paragraph that you numbered 1?
A. I am attached to the East Sydney Zone Crime Scene Unit of the Major Crime Squad South where part of my daily duties include the examination of scenes of crime, incidences, occurrences, the collection of physical evidence, the taking and processing of photographs and the preparation of scale plans. I am currently undertaking a diploma of Applied Science in Forensic Investigation. Some of the subjects successfully completed include Forensic Physics, Forensic Chemistry, Crime Scene Examination 1 and 11, and Fire Examination 1 and 11. I have been performing Crime Scene duties since 1990.

About 4.40 p.m., Wednesday 8 March, 1995 I attended unit [redacted], floor 12, Block [redacted] of the Northcott Flats in Belvoir Street Surry Hills. There I spoke to Constables Humphreys and Richmond of Surry Hills Police Station.

Block B Northcott Flats is situated on the northern side of Belvoir Street. This building is a Housing Commission block of residential units. It comprises of fifteen floors.

Access to the floors can be gained by stairs or two lifts at the northern end of the front foyer - sorry, front ground floor foyer.

Q. If I can just interrupt you there (sought access to Exhibit A) I show you three photographs which are numbered 1, 2 and 3 (handed to witness). Did you take those photographs on that day?
A. Yes.

Q. And you affixed the labels to the back of each of those photographs?
A. Yes.

Q. And those labels accurately set out what can be seen in those photos?
A. Yes.

Q. Would you continue reading please from where you have photo 1?
A. Sorry, would you like me to read out what photo 1 is?

Q. Yes please?
A. Photo 1 is a view north towards Block [redacted] Northcott Flats, Belvoir Street, Surry Hills. Photo 2, view north towards the front main entry on the ground floor of the Northcott Flats. Photo 3, view north inside the front foyer area of the ground floor.

Q. Would you continue on with your paragraph 4 please?
A. On the 12th floor, a public walkway gave access to the residential units along the northern side of the walkway. A balcony ran along the length of the southern side of the walkway.

Q. I show you these two photographs numbered 4 and 5 (handed to witness). Did you take those photographs on that day?
A. Yes.

Q. And would you tell us please what photographs 4 and 5 are please?
A. Photo 4, view southeast from the lift area towards the public walkway on the 12th floor. Photo 5, view east along the public walkway towards the units.

Q. Would you continue please?
A. Outside unit number [redacted] I saw a security mesh door which was in the open position. I also saw the front timber door slightly ajar. There were a number of bunched up newspapers along the base of the door between the front timber door and security mesh door. I saw that the locks on the exterior and interior surfaces of the front door were intact.

Unit [redacted] comprises of one bedroom, lounge/dining room combined, bathroom and kitchen. Inside the doorway I saw the body of a deceased male lying face down in the hallway. Behind the front door at the western wall was a mop sponge on a handle, and a blue packet of dried dog food biscuits. The deceased was later identified to me as James William Meek. A kitchen was just to the east, right of the hallway.

Q. I show you these two photographs numbered 6 and 7 (handed to witness). Did you take those photographs on that day?
A. Yes.

Q. And did you affix the captions to the rear of each of those photos?
A. Yes.

Q. Would you tell us please what can be seen in each of those photos?
A. Photo 6, view north towards the front door and newspapers at the base of the door. Photo 7, view north from the front door into the unit.

Q. Proceed please?
A. The deceased was lying face down on the floor with his head and chest lying on a hall runner rug. His legs were straight and extended towards the entry to the kitchen. He was wearing a grey coloured short sleeved shirt, blue shorts, and blue thongs. The deceased's feet were resting on spread out newspapers on the vinyl floor of the kitchen. At the rear of the deceased was an empty plastic bottle and tea towel. Further south of the deceased was a dirty blue sock on the hall runner rug. Near the deceased's arms were pieces of broken ceramic bowl. Alongside this broken bowl were scattered dried dog food pellets.

The kitchen was situated in the southern corner of the unit. There were washed dishes in the sink draining tray on the sink. The kitchen appeared to be generally tidy.

Q. I show you four photographs numbered 8 through to 11 (handed to witness). Did you take those photographs on that day?
A. Yes.

Q. Did you affix the captions to the rear of each of those photos?
A. Yes.

Q. Would you tell us what can be seen in each of those photos please?
A. Photo 8 view north towards the deceased James William Meek. Photo 9, view east towards the kitchen from the hallway. Photo 10, view north towards the back of the deceased, James William Meek. Photo 11, view south towards the front door of unit [redacted].

Q. Yes, continue please?
A. On closer examination of the deceased I saw deep dark lividity in his face.

Q. Just interrupt you there. What do you mean by "lividity"?
A. It's basically just discolouration. It's mainly blood that has just settled due to gravity.

Q. So it's a discolouration of the skin?
A. Of the skin.

Q. Due to the blood having settled?
A. Sure, because the blood is not circulating any more so it goes to its lowest point.

Q. Thank you?
A. The left side of his face was on the carpet runner and the deceased's nose was down on the rug and there was blood pooled on the rug under his nostrils. The deceased's tongue was slightly protruding. His left arm was stretched out across towards the right side of his chest at shoulder height. His right arm was bent at the elbow, and the right wrist was under the left forearm. The deceased had a set of keys in his right hand~~s~~. A house key was positioned in between his index and middle finger of his right hand, with the remote control resting in the palm of his hand. There was lividity in both palms and fingertips.

Q. And I will show you five photographs numbered 12 through to 16 (handed to witness). Did you take those photos on that day?
A. Yes.

Q. And did you affix the captions to each of those photos?
A. Yes.

Q. Would you tell us then please what can be seen in each of those photos?
A. Photo 12, close view of the right side of the deceased's head. Photo 13, close view of the broken ceramic bowl, dried dog pellets and deceased's hands. Photo 14, view of the deceased's back. Photo 15, view of the chest and face of the deceased. Photo 16, close view of the face of the deceased.

Q. Yes?
A. The loungeroom was at the northern end of the unit. The window at the northern wall was slightly open with the curtains tied into the centre. There was a China cabinet and a lounge at the western wall in the loungeroom. At the southern end of the China cabinet I saw an empty resealable plastic bag with a label from the 'Surry Hills Veterinary Clinic'. In the northeastern corner was a table with a television, video, electric fan, and other items on top. There was a square table with two chairs in about the centre of the room. Amongst other items on the table, I saw two ashtrays with cigarette butts, three coffee mugs. The loungeroom was in general disarray.

Q. I show you the photographs numbered 17 and 18 (handed to witness). Did you take those photographs on that day?
A. Yes.

Q. Did you affix the captions to the rear of them?
A. Yes.

Q. Would you tell us what can be seen in photographs 17 and

18 please?
A. Photo 17, view north towards the loungeroom. Photo 18, view north towards the dining table.

Q. Now I will show you photographs numbered 19 through to 24 (handed to witness). Did you take those photos on that day?
A. Yes.

Q. Did you affix the captions to the back of each of those photos?
A. Yes.

Q. Do the captions accurately set out what can be seen in each of the photos?
A. Yes.

EXHIBIT #A PHOTOGRAPHS 19 THROUGH TO 24 TENDERED WITHOUT OBJECTION, ADMITTED AND MARKED AS PART OF EXHIBIT A.

(Photographs 19 to 24 returned to witness.)

Q. Would you tell us please what can be seen in photographs 19 through to 24 please?
A. Photo 19, view west towards the southern end of the dresser at the western wall of the loungeroom. Photo 20, close view of the resealable plastic bag on the cabinet. Photo 21, view of the open top right drawer at the northern end of the cabinet in the loungeroom. Photo 22, close view of Ventolin inhaler in the top right drawer of the cabinet in the loungeroom. Photo 23, view southeast towards the bathroom door from the loungeroom. Photo 24, view east of the table in the northeastern corner of the loungeroom.

CROWN PROSECUTOR: Your Honour, I have photo books made up, and it had been my intention to have, with your Honour's permission, those distributed to the jury instead of them having to go separately through each of the photos. Perhaps it would be of more assistance to the jury, now that the officer who took the photographs is here, if those photo books were now distributed to the jury and they can follow what is happening as it is occurring.

And I would ask you your Honour to tell the jury that the real exhibits are the photographs that are tendered, and they of course are of better quality than the photocopies of the photos, and if anything is to be seen in the photos, it is unclear in the photocopies, they should have resort to the actual exhibit.

HIS HONOUR: Yes, very well. Members of the jury, you heard what Mr Crown has said. There is only one exhibit, and that is Exhibit A. They are the photographs. 1 to 24. The photocopies may be less accurate, so if there is something that has some meaning to you in the photographs in particular, would you please make sure you have a look at Exhibit A, and rely on Exhibit A. That is to say the photographs that have been marked as an exhibit rather than

the copies that will now be distributed to you.

CROWN PROSECUTOR: And your Honour, I would ask your Honour to instruct the jury that there is six books, one between two jurors, and I would ask that they do not get ahead of us until each of the photos is tendered.

HIS HONOUR: You have heard that. You will be progressively taken through them, so save yourselves and look at them in pairs if you wouldn't mind. But don't get ahead of the explanation of the photographs.

(Six copies distributed amongst the jury)

CROWN PROSECUTOR: Q. Would you continue then with reading from your statement. Would you continue reading from paragraph 11 of your statement please?
A. The bedroom was at the northeastern corner of the unit. I saw a double bed at the eastern wall. There was a brown patchwork bedspread cover over the bed. There the bedspread was pulled up at the head of the bed but the bed cover was generally crumpled. There was a two draw bedside table on the western side of the bed. There was a wardrobe adjacent to the bed at the northern side. There was a chest of drawers at the western wall inside the bedroom door and a wardrobe on the northern side of the chest of drawers. There was a large amount of clothing stacked on top of this dresser. At the southern end of the chest of drawers there were a number of homosexual pornographic magazines, a blue 'bum' bag, and a used condom.

On the bedside table adjacent to the bed I saw a radio cassette player. There were several packs of lubricant, 'Brylcream' and hankie on top of the table. In the top draw of this table I saw several packets of condoms and papers. The bottom drawer contained personal affects.

Q. I show you seven photographs labelled 25 to 31 (handed to witness). Did you take those photos on that day?
A. Yes.

Q. And did you affix the captions to the back of each photo?
A. Yes.

Q. Do they accurately represent what can be seen in each photo?
A. Yes.

Q. Would you tell us please what can be seen in photos 25 through to 31?
A. Photo 25, view north into the bedroom. Photo 26, view east towards the double bed.

HIS HONOUR: They are not in sequence Mr Crown. They're numbered correctly but the photograph 24, which the officer is looking at, and 25, is not 25 in the folder. That is a photograph of a pot plant.

CROWN PROSECUTOR: That is another 25 your Honour.

HIS HONOUR: How many 25s do we have?

CROWN PROSECUTOR: There is 2 25s, because some photographs were taken by another photographer on another day.

HIS HONOUR: Do we start again at some stage do we?

CROWN PROSECUTOR: Yes.

HIS HONOUR: Yes we do, after 32 we start at 1.

CROWN PROSECUTOR: Yes your Honour, and they have green stickers on them as opposed to yellow. We're looking at the yellow stickers.

HIS HONOUR: We can go back to the yellow 25.

WITNESS: Do you want me to start at photo 25 again?

CROWN PROSECUTOR: Q. Yes. Well photo 25 is a view north into the bedroom?
A. Yes. Photo 26, a view east towards the double bed. Photo 27, view west towards the homosexual pornographic magazines and blue 'bum' bag on the chest of drawers in the bedroom. Photo 28, close view of the lubricant, radio cassette and other items on the bedside table. Photo 29, close view inside the top drawer of the bedside table. Photo 30, close view inside the bottom drawer of the bedside table. Photo 31, view south towards the bedroom door.

EXHIBIT #A PHOTOGRAPHS 25 TO 31 TENDERED WITHOUT OBJECTION, ADMITTED AND MARKED AS PART OF EXHIBIT A.

CROWN PROSECUTOR: Q. If you would continue with paragraph 13 please?
A. The bathroom was located south of the bedroom in the southeastern corner of the unit. In the bathroom I saw a bath, toilet, and hand basin. I saw several stained sheets of newspapers laid out on the tiled floor. On top of these papers I saw what appeared to be dog faeces.

Q. I show you this photograph numbered 32 (handed to witness). Did you take that photo on that day?
A. Yes.

Q. Did you affix a caption to the back of it which accurately depicts what can be seen in the photo?
A. Yes.

Q. And that photo reflects what you have just told the Court, is that correct?
A. That's right.

EXHIBIT #A PHOTOGRAPH 32 TENDERED WITHOUT OBJECTION, ADMITTED AND MARKED AS PART OF EXHIBIT A.

Q. Now officer, if you would continue reading from your statement?
A. The unit was untidy but did not appear to have been ransacked or recently disturbed. There were no signs of forced entry to the premises. Due to the lividity present to the deceased's face, and the impression of the carpet runner on the left side of his face, I could not see any obvious signs of abrasions. The deceased's chest and back appeared to be clear and no apparent injuries. He did not appear to be the subject of recent trauma.

On Tuesday 14, March 1995 I submitted the following items to the Division of Analytical Laboratories, Lidcombe, where it was received by forensic biologist C Gill: 1, blood sample in the name of James William Meek; 2, fingernail scrapings from the right and left hands of James William Meek; 3, swabs and smears from the body of James William Meek; 4, blood swab collected from the kitchen floor on 11, 3, 95.

Q. I show you this document (handed to witness). Is that a certificate that you received from the forensic biologist, Christine Gill, of the Division of Analytical Laboratories Lidcombe, setting out results of her examination of those items you have just mentioned?
A. Yes.

EXHIBIT #E CERTIFICATE OF FORENSIC EXAMINATION TENDERED AND ADMITTED WITHOUT OBJECTION.

HIS HONOUR: Exhibit #E, the certificate you have just heard mentioned, and it sets out the evidence you have just heard about the various items that were submitted for forensic examination and the results of those examinations.

The results indicate in this certificate, and you will have this certificate, of course, are human blood was detected on the swab which was item 6, the swab collected from the kitchen floor, the swab had been retained for further analysis, if required, a preliminary or screening test for blood was positive on the nail clippings, the finger nail scrappings you heard and also on the oral swab, which was item 4. The nail clippings had been retained for further analysis, semen not detected on oral and rectum swab areas, they are the two areas that you heard, swabs and smears taken and forwarded for examination. That is the outcome of that certificate, and you will be able to examine it more carefully in due course, if you wish.

CROWN PROSECUTOR: Q. Officer, were you provided with a computer-assisted diagram of the unit, which was prepared by Senior Constable Ford of the Crime Scene?
A. Yes.

Q. From your observation in the unit, are you able to say whether or not that accords with your memory of the unit as you saw it?
A. Yes.

Q. And there is a key in the right-hand top of the diagram, is there?
A. Yes.

Q. And does that relate to numbered circles which appear throughout the different areas of the diagram?
A. Yes.

Q. Does that key and do those circles accord with your recollection of the position of things that you saw and noted when you examined the premises on 8 March 1995?
A. Yes.

EXHIBIT #F COMPUTER-ASSISTED DIAGRAM TENDERED AND ADMITTED WITHOUT OBJECTION

HIS HONOUR: Members of the jury, the photos of the sketch plan, Exhibit F, will be handed to you, any doubts refer to Exhibit F.

CROWN PROSECUTOR: Q. Officer, I'll show you Exhibit A, photo numbered 8 (shown). Before you took any photographs, more particularly, before you took that photograph, did you do anything to anything in the unit, did you touch anything, remove anything, open anything, shut anything?
A. No, I never do.

Q. In that photograph, in the bottom right-hand corner, correct me if I am wrong, it appears that the door to the stove is open, is that correct?
A. It appears that way.

Q. So that was how it was when you went into the building?
A. Yes.

Q. And just to the back of the body of the deceased is a plastic bottle, do you see that?
A. Yes.

Q. Is that the container that you have referred to as being empty?
A. Yes.

Q. Did you see anything in that that bottle at all when you made your examination?
A. No.

Q. I show you photograph numbered A10 (shown). That is a closer view of the bottle, amongst other things, but the bottle?
A. Yes.

Q. Does that appear to you to have some something in it, the bottle?
A. To me that looks like the reverse side of the label that they fix on to the bottles, I can't recall seeing anything in the bottle and I still cannot see it.

Q. I show you photograph numbered A11 (shown). Now, that is a view looking back down the hallway towards the open door?
A. Yes.

Q. Now, in that photograph and correct me if I am wrong, it appears as though the oven door is closed. Do you know anything about that or can you tell us anything about that?
A. I can't recall closing it because I usually don't touch anything, so I can't give an explanation for that, somebody else there, perhaps at the scene, could have closed it without my knowledge.

Q. That is certainly not a normal police procedure?
A. Generally not, the only time you would basically close anything such as an oven door, if you are working in a cramped, crowded area. You might have to close the door to get your photograph, so sometimes when things are in the way you might have to step over or move things around to get your photo.

Q. If you had to do that or had to get somebody else to do that would there normally be some record of that having been done?
A. No.

Q. See the bottle again, harking back to the bottle from

another angle, do you have anything to say about the bottle and its possible contents now?
A. I can still see the reverse side of the label, and some of the plastic reflecting in the bottle, but I can't see anything inside the bottle.

<CROSS-EXAMINATION

MOLOMBY: Q. Picking up in relation to the stove door, are the photos numbered in the order in which they were taken or not necessarily?
A. Not necessarily.

Q. So as between those photos that show the door of the stove, the griller, really that upper door?
A. Yes.

Q. Open and shut you do not say which was first taken?
A. No.

Q. You would have to look at the negatives to see the sequential orders?
A. The negatives themselves, because they show the order.

Q. The photos before the Court were all the photos that you took inside that flat on that day?
A. I couldn't tell you exactly, you might have one or two extra or under exposed photos, I can't tell you "yes" or "no" on that.

Q. 8 and 11, I'll hold mine up so everybody can see what we are talking about. Do you have 8 in front of you?
A. Yes.

Q. Bottom right-hand corner there is a black triangular shape?
A. Yes.

Q. That represents the open upper door of the stove being probably a door to a grilling compartment or is it the open full door of an oven?
A. From that photograph, yes, it appears to be the full door to the oven.

Q. It is certainly the front door of the stove that has been opened outwards and downwards.

HIS HONOUR: If it is the top door, that is to say to the griller compartment, photograph number 11 may still show that item to be open, is the issue. If it is the bottom or oven door, photo 11 would indicate it was closed.

MOLOMBY: Q. You have an original set of prints there?
A. Yes.

Q. Taking his Honour's point, in relation to photograph 11, is there as far as you are concerned, anything on the front of the stove in photo 11?

A. No.

Q. It is all shut?
A. Yes.

Q. That is with the benefit of the actual photograph prints in front of you.
A. Yes.

Q. In other words, there is a difference what is shown in photograph 8 and photograph 11 according to the original photos?
A. Yes.

Q. Now, also with the assistance of the original photos that you have got, this question of the bottle, photo 10, officer, do you have photo 10? A. Yes.

Q. The white in the bottle, this is the bottle here?
A. Yes.

Q. It really does look, doesn't it, exactly the way liquid lies in a bottle when it is only partly full and the bottle is tipped sideways?
A. It does look like liquid.

Q. Slightly wider at one end indicating the bottle is tilted up a little and slightly more liquid?
A. It looks wider at the bottom edge, yes.

Q. One doesn't ever see a label that is the shape that has white in that bottle there, does one?
A. All I can say is that what it appears to me, I can't honestly remember seeing anything in the bottle, so.

Q. Did you take any further part in the investigation of this matter in taking the photos on that Wednesday afternoon?
A. No.

Q. So, if for example there was a question of examining the contents of that bottle, assuming contents, to see what they were, you had no role in that?
A. No.

Q. You cannot tell the Court what might or might not have happened?
A. No.

<NO RE-EXAMINATION

<WITNESS RETIRED

<STEPHEN WATSON(3.11PM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Would you tell the Court your full name?

WATSON X

A. Stephen Watson.

Q. In 1995 were you a postal delivery officer?
A. Yes.

Q. Are you still a postal delivery officer.
A. Yes, I am.

Q. As at 1995 had you been employed as a postal delivery officer for a period of four years?
A. Correct.

Q. Have you worked at the Crown Street post office since 20 December 1990?
A. I have.

Q. Did your duties as at 1995, we are speaking, include the sorting and delivery of mail within the Surry Hills district?
A. Yes.

Q. Do you still--
A. No.

Q. You are not there?
A. No.

Q. Did you start the day at 5.45am and complete your shift around 2pm?
A. Yes, I did.

Q. And as part of your delivery beat, did you deliver mail to the Northcott flats at Belvoir Street, Surry Hills?
A. I did.

Q. Did you always get to the Northcott flats at the same time or not?
A. No, it just varied everyday, the volume of mail.

Q. What would be the latest time you would arrive there?
A. About 2pm.

Q. And what was the earliest time you arrived there?
A. 10am.

Q. What was a normal time, if we can say that, what was your average time?
A. There wasn't an average time, it varied every day, because of volume of mail. If there was a lot of mail we would go late, if not much mail we would go early, it depended on the mail.

Q. Did you on any particular day of the week arrive later than other days of the week?
A. Only Monday, because of the amount of mail that we received from the weekend.

Q. And on your average day, Tuesday, Wednesday, Thursday,

Friday, they were postal delivery days?
A. Yes.

Q. Did you have a time span when you would normally be expected to be at the Northcott flats?
A. No, not really, just depended on the volume of mail.

Q. Did you know a person by the person by the name James William Meek?
A. I did.

Q. Were you friendly with him?
A. Yes, I was.

Q. How did you come to know James William Meek?
A. Just from delivering the mail, chatting to different people. One day I was sorting the mail and he said, "Have you any mail for me?" I gave him the mail and after that I started chatting to him every time I saw him.

Q. Did you see him away from the unit at all?
A. May be at Coles, that is all.

Q. Was is your association with James Meek usually confined to your postal delivery duties, apart from bumping into him at the shops?
A. Yes.

Q. Now, had you known him for a period of about four years?
A. Yes.

Q. Do you tell this Court that before his death he was receiving mail from a particular motor vehicle company?
A. That is correct.

Q. Do you remember what that was?
A. Just mail from Daewoo, the car company.

Q. Do you tell the Court that you had become aware that he had received a compensation pay out?
A. He told me that he was going to get one soon.

Q. Did he purchase a new car subsequently to getting his compensation pay out?
A. Yes, he did.

Q. Do you tell the Court that he received mail from Daewoo at least once a month since he purchased his car?
A. That is correct.

Q. Do you recall delivering any mail from Daewoo to Mr Meek, at any time close to the time of his death?
A. I think it was a couple of days later after his death.

Q. Did you make a statement in relation to this matter in May 1995?
A. I did.

Q. How was your memory of events of March 1995 then?
A. Not too good.

Q. Was it any better than it is now?
A. No.

Q. So your memory is as good now as it was then?
A. I think so.

HIS HONOUR: You were being asked about the memory of those particular events at the time of the death of Mr Meek. Was it better then than it is now about those events?
A. Well, vaguely yes, I would say.

CROWN PROSECUTOR: Q. When you made your statement did you give the police any information relating to the delivery of mail from Daewoo to Mr Meek at around about the time of his death?
A. I think so, yes.

Q. Are you able to say what you believe, whether or not the information that you gave to the police in May of 1995 relating to the delivery of mail from Daewoo to Mr Meek around about the time of his death was fresher in your memory then than it is now?
A. I suppose so.

Q. And when you told the police about the time or about delivery from Daewoo to Mr Meek about the time of his death, were you trying to be as accurate as--
A. Close as possible, I can, because of the large amounts of mail I was delivering everyday, 340 flats in that one block of flats, it is hard to remember what letters I did deliver that day.

Q. When you made your statement besides being, trying to be as accurate as you possibly could be, were you telling them the truth as best you could relating to the delivery of mail?
A. Yes, I was.

Q. Did the police inform you that a letter was sent from Daewoo on a certain date being 2 March 1995?
A. I think so, yes.

Q. And did you tell the police if that was the case would you find it unlikely that the letter would have been delivered on Friday 3 March 1995?
A. No, couldn't, it wouldn't have got there that quickly, probably would have come a few days later.

Q. You, no doubt, are in an unfamiliar position, Mr Watson, and you are probably a bit nervous, but if you listen to what I asked you, it might help you answer the question?
A. Yes.

Q. Did you tell the police that if the letter had been posted on 2 March 1995, it would have been unlikely that the

letter would have been delivered on the Friday, 3 March?
A. That is correct, sorry.

Q. And if the letter had of been sent on 2 March 1995, did you tell the police that you would say that you delivered the letter, if it was sent that day, on Monday?
A. Either Monday or Tuesday, yes.

Q. When was the last time you recall speaking with James Meek?
A. The Tuesday morning of his death.

Q. And can you recall this time approximately when it was that you spoke to James Meek on that Tuesday?
A. Well I was sorting the mail into the mailboxes in the foyer of the Northcott Flats, and I was chatting to another tenant, and Mr Meek came over and started chatting to the both of us, and that's when I gave him his mail. And I also gave him a letter that was insufficiently addressed for his floor, and to just ask him if he knew who it might have been.

Q. Can you recall about what time it was that that occurred?
A. About quarter past 11 in the morning.

Q. And when you make that estimate of a quarter past 11, how is it that you came to that estimate of a quarter past 11?
A. Well I left the office about 10.30, walked down to Devonshire Street, which takes about fifteen minutes, then I had to deliver Devonshire Street and three other streets, and then up to the Northcott Flats. That would have only taken forty-five minutes altogether.

Q. So you left the office at 10.30, took you forty-five minutes to do your deliveries up until you got to -
A. That's correct.

Q. The Northcott Flats, putting you there about 11.15?
A. That's correct, yes.

Q. And did you also deliver a letter from Daewoo for Mr Meek about two weeks after his death?
A. That's correct, yes.

Q. Can you recall the name of the other tenant to whom you were speaking when Mr Meek came and had his conversation with you?
A. Kevin Plumb.

Q. I show you two photographs Mr Watson, photograph number 2 and photograph number 3 from Exhibit A (handed to witness). Firstly, do you recognise the view shown in photograph number 2?
A. I do.

Q. And having regard to what is written across the building in that, is that a photograph of the outside entrance to Northcott Flats?
A. It is, yes.

Q. Is that Block B of not Northcott Flats?
A. It is, yes.

Q. And photograph number 3, do you recognise what is shown in there?
A. It's the foyer of the vestibule.

Q. Having regard to either of those two photographs, if you can help, can you indicate where the mailboxes were for unit B, or Block B?
A. Well there's - as you walk in the front - you go through to the left there are mailboxes for floors 1 to 7, and then you go to the other side and there's mailboxes for 7 to 14.

Q. Now I will just show you this document (handed to witness). Do you recognise that?
A. Yes that's correct.

Q. Now is that a rough sketch plan drawn by you at another time?
A. That's correct, yes.

Q. And indeed, was it drawn by you on the date that is on the top of the document?
A. Yes.

Q. That being when?
A. 6 March 1996.

Q. And looking at that document that you have, is that a rough sketch plan you have drawn showing the position of the entry into the Northcott units and Block B?
A. Yes it is.

Q. And are the position of the mailboxes for 1 to 7, and the mail and the mailboxes 8 to 14?
A. Yes. That's correct, yes.

Q. That drawing incorporates the stairs, and also indicates where the lifts were?
A. Yes.

Q. Is that correct?
A. That's correct, yes.

Q. And are you able to recall where it was that you were when you had the conversation with Mr Meek about which you have told us?
A. I was on the right-hand side where the 8 - 14 letter boxes are.

Q. And where was Mr Meek, can you recall, at this stage?
A. He was just coming from the lifts, near the lift area.

Q. Did he come from the lifts, or was he going towards the lifts?
A. I couldn't say really because I was sorting the mail and

chatting to that other tenant.

Q. And he just sort of?
A. He just appeared.

Q. At this stage can you remember how he was dressed?
A. No I couldn't tell you.

Q. Can you remember whether he had any of his dogs with him or not?
A. No he didn't have his dogs, he was just by himself.

EXHIBIT #G ROUGH SKETCH PLAN TENDERED WITHOUT OBJECTION, ADMITTED AND MARKED.

HIS HONOUR: Members of the jury, Exhibit G just depicts what the witness has said. I don't think you need to look at it at the moment. Is that right Mr Crown?

CROWN PROSECUTOR: I think it's rather self-explanatory what the witness has said.

CROWN PROSECUTOR: Q. There are some initials on that plan. On your plan you have the initials "J M", is that the position where Mr Meek was, or roughly where Mr Meek was when you were talking to him?
A. That is vaguely where he came from when I was talking to Kevin Plumb.

<CROSS-EXAMINATION

MOLOMBY: Q. Mr Watson, that was a mail route you did for a number of years was it not?
A. That's correct, yes. Six years I did it for altogether.

Q. And at the time we're concerned with in this case, early 1995, you knew quite a number of people there did you not?
A. Oh yeah, quite a few people, yes.

Q. Mr Meek was by no means the only one that you used to chat to?
A. No, definitely not.

Q. Mr Plumb is another example?
A. Yes.

Q. But there were lots of them?
A. Lots of them, yes.

Q. The long-term stayers, many of them you tended to know by name if they presented themselves to you?
A. Yes.

Q. Indeed, people tend to gather in that foyer area of the Northcott Flats sometimes don't they?
A. That's right, yes.

Q. Waiting for other people to turn -

A. Yes.

Q. And indeed, on very many days, no doubt people waited for you to turn up to get their mail from you?
A. Definitely, yes.

Q. Especially if there was something in it they were waiting for. And indeed, on the day that you had this conversation with Mr Plumb, it's your recollection that he was waiting for you when you arrived?
A. I just sort of walked into the building and he was there.

Q. He was there right from the start when you arrived?
A. Mr Plumb was, yes.

Q. You might have covered this. Apparently what you said earlier, your routine was to do the distribution to the lower levels first?
A. Only the lower levels.

Q. 1 to 7?
A. Yes. And then 7 to 14. Or 8 to 14, sorry.

Q. 8 to 14, yes. That was your regular routine, you would do 1 to 7 first?
A. Yes, sir

Q. And then 8 to 14?
A. That's correct, yes.

Q. And obviously how long it would take you on each side would depend on what the volume of mail was for the day?
A. Yes.

Q. Whether somebody else was talking to you as well?
A. That's right, there was always somebody coming up and saying something.

Q. Sometimes you had to hold them at arms length to get on with your job, is that right?
A. Yes.

Q. Have you a copy of your statement that you made to the police?
A. I have, yes.

Q. You have got one now, have you?
A. Yes I have.

Q. Did they give it to you around the time you made it?
A. Yes.

Q. You made that on 19 May, 1995 did you not?
A. Yes.

Q. And you haven't made a statement to the police before that, had you, before this matter?

A. I had.

Q. There was no other statement?
A. No, no.

Q. This was it?
A. That was it, yes.

Q. And the Crown Prosecutor was asking you about the police telling you about a letter posted by Daewoo on Thursday 2 March. Do you remember those questions just before?
A. Yes, yes.

Q. And what you said in your statement, you made about that, was this was it not - sorry, do you have the statement there?
A. Yes I have.

Q. A copy?
A. Yes

Q. Would you get it out?
A. (Witness complied)

Q. This is on the top of the second page when you get there. You see top of page 2; have you got the top of page 2?
A. Yes.

Q. Where it says - I will just read this part, and you tell me if I am it reading incorrectly: "I have been informed that the letter was sent from Daewoo on Thursday 2 March, 1995." Correct?
A. That's right.

Q. "If that was the case, I would find it unlikely that the letter would have been delivered on the Friday 3 March 1995"?
A. That's correct, yes.

Q. "I would say that I delivered the letter, if it was sent that day, on the Monday"?
A. Yes.

Q. And that is what you say today?
A. About Monday or Tuesday, yes.

Q. But more likely Monday?
A. More than likely, yes.

Q. That is the one you mentioned to the police, isn't it?
A. Yes.

Q. Now you can put the statement aside for the moment thanks. Just keep it out. We might need it again?
A. (Witness complied)

Q. Now when you arrived on the day, you had this

conversation with - the last time you saw Mr Meek?
A. Yes.

Q. You started - Mr Plumb was there when you arrived?
A. Yes.

Q. You started to do your job, and Mr Plumb was talking to you?
A. That's correct, yes.

Q. You two were talking for the whole time, while you were doing your job that day were you not?
A. That's right, yes.

Q. So Mr Plumb was with you while you were over on the side doing 1 to 7?
A. Yes.

Q. And then he came across with you to the 8 to 14 - what is it, 15 side?
A. 14, yes.

Q. Sorry, 14. And you had been talking to Mr Plumb for some twenty minutes at least before Mr Meek turned up had you not?
A. Not twenty minutes. Wouldn't have been twenty minutes, would have only been about five, ten minutes.

Q. Didn't Mr Meek come along towards the end of the time you were there with Mr Plumb?
A. No, I was putting the mail in the boxes for the 8th floor, because you have got to face that way for the 8th floor, and then you have got to turn around to the back and do the 9th to the 14th floor.

Q. The fact is, in those foyers the mailboxes go along two walls, don't they?
A. Yes.

Q. That is what you're talking about now. They're in a sort of an L-shape?
A. Yeah, well it's a square sort of shape, but you have one in front and one behind. So there is only a small one at the front and a large one at the back.

Q. Were you talking to Mr Plumb while you were doing the 8 to 14 boxes?
A. Yes.

Q. And that is when Mr Meek turned up?
A. That's right, yes.

Q. And you have the general impression he came from the direction of the lifts do you not?
A. Yes.

Q. Without having actually seen him do that?
A. That's correct.

Q. And when he left at the end, he walked out towards the carpark did he not?
A. Yes.

Q. You did see that?
A. I just glanced up and saw him go out that way.

Q. That is definitely the way he left at the end?
A. Yes.

Q. Now Mr Meek we know died. Who told you that first, that Mr Meek -
A. I can't remember.

Q. - had died?
A. I can't remember.

Q. On what day did you find out that he had died?
A. I think it was that Tuesday afternoon. I think it was actually Kevin Plumb that rang me and told me.

Q. Rang you?
A. Rang me, and told me when I was just talking to him.

Q. On that Tuesday afternoon?
A. I think it was either the Tuesday or the day after.

Q. You're not sure of that now, is that right?
A. No, that's correct.

Q. Initially you didn't seem to be sure who told you?
A. No.

Q. Are you sure it was Mr Plumb?
A. I think it might have been, yes.

Q. Well did you have a number of communications with people about Mr Meek dying?
A. No.

Q. I mean when you turned up to do your job at the Northcott Flats, on the day you heard about his death, or the day after it, depending on when you heard about it?
A. Yes.

Q. Did anyone raise the topic with you?
A. No.

Q. "Did you hear about Jim Meek"?
A. No.

Q. No-one said that to you?
A. Nobody, no.

Q. Well you think you got a phone call from Mr Plumb?
A. I could - could have been, yes.

Q. Did Mr Plumb have your home number?

A. Yes.

Q. Other people in Northcott Flats have your home number?
A. A few, yes.

Q. Was that unusual for Mr Plumb to ring you?
A. No, not really.

Q. Well when you made the statement for the police, it was in May, 19 May, you were no doubt doing your best to help the police?
A. Yes.

Q. With what you could remember. But you were required at that time to remember back to things that happened about ten weeks before were you not?
A. Yes.

Q. Nine or ten weeks before?
A. Yes.

Q. Now you said earlier today, when you were asked what your memory is like at that time, it wasn't very good?
A. No not really.

Q. You agree with the answer you gave earlier?
A. Yes.

Q. That was an honest answer?
A. Yes.

Q. Your memory when you gave this statement in May 95 about the events of March wasn't very good?
A. Not very good, no.

Q. Well it's possible, is it not, that despite your best efforts, some of the things you thought you were remembering you could have been a bit wrong about?
A. Could be, yes.

Q. I am not suggesting for a moment you weren't doing your best throughout this. And one of the things that you could be wrong about is this, is it not: The day of the week on which you had the conversation with Mr Plumb?
A. No, it was definitely Tuesday.

Q. Why, in all the things you would have to remember, about conversations with different people, and delivering different letters, would you remember that one with Mr Plumb definitely on Tuesday?
A. Because Monday is a very heavy volume of mail, and Tuesday was reasonably light, so I wouldn't have had that much mail on the Tuesday.

Q. You're working it out are you by which day had what volume of mail?
A. Yes.

Q. Not by anchoring it to anything else that related to the day?
A. No. No, because we were all on set times when we had to deliver our mail.

Q. But didn't you indicate earlier to the Crown Prosecutor that there was an enormous amount of variability in the time of your arrival, depending on the volume of mail?
A. That's correct, depending on the volume of mail. And Monday, it was a large volume of mail, and Tuesday usually most of the time was just a small amount of mail.

Q. But that is usually isn't it?
A. Yes.

Q. You could get variations on any day of the week could you not?
A. Yes, yes.

Q. You could have a very heavy Monday, or rather lighter Monday could you not?
A. Never.

Q. Never a lighter Monday?
A. Never a lighter Monday.

Q. Well there was variation in the Mondays was there not?
A. Yeah, but depends on how much mail there was there.

Q. Perhaps rather than calling it a heavy Monday, or a light Monday, we might just call it a heavy Monday and a monstrously heavy Monday, but there was a range of difference on Mondays was there not?
A. Yes.

Q. Monday, as a general rule, you had more mail than any other day of the week?
A. Because we had to clear all the weekend mail.

Q. Because there was backlog from the week?
A. Yes.

Q. But nevertheless some Mondays were lighter than others?
A. Not - very rarely.

Q. Were all Mondays the same then?
A. Yeah most of the time, yes. Because you have a backlog of mail that you have got to clear up, and we have extra mailers, depending what comes in.

Q. Well you have worked out, have you not, the time you think you had the conversation with Mr Plumb?
A. Yes.

Q. By reference to the time you left the post office that morning?
A. That's correct, yes.

Q. You went and looked it up in the book?
A. Yes. Well no I haven't, no.

Q. You haven't looked it up in the book?
A. Not lately, no I haven't.

Q. But you did once, did you not?
A. Yes. Long time ago.

Q. That is what you are now remembering?
A. Yes.

Q. There is a book where you sign out?
A. That's correct.

Q. You went and looked up the time you left on the Tuesday?
A. Yes.

Q. And you discovered it was about 10.30 I think?
A. That's correct.

Q. Or was it 10.15?
A. 10.30 I think.

Q. And then you added to that the average time you thought it would take you to get to Northcott, and so you have timed your conversations with Mr Plumb at about 11.15?
A. That's correct.

Q. I mean, for argument sake, even on that basis, the conversation with Mr Plumb could have been say 11.30 could it not?
A. Could have been.

Q. Quite easily?
A. Yes.

Q. It could even have been later than 11.30?
A. It wouldn't have been later.

Q. Say 11.40. I don't mean an hour later?
A. Not that later, no. Not on a light Tuesday.

Q. But that is how you have arrived at that time, isn't it?
A. Yes.

Q. By looking at a book, what time did I leave for the run on Tuesday, 10.30, add the forty-five minutes, and we get approximately 11.15?
A. Yeah.

Q. Now if contrary to your recollection that conversation was on the Monday, the only way you would know what time the conversation occurred would be to go and check your departure time in the book at the post office?
A. That's correct, yes.

Q. And if it was on the Monday, how much time would you add

to that departure time to get your arrival at Northcott Flats?
A. About fifteen minutes. No, take more than that, takes fifteen minutes to walk from Crown Street Post Office to Devonshire Street, then I have to deliver three streets beforehand.

Q. Is that what you attributed to the forty-five minutes to on the Tuesday?
A. Yes.

Q. It's the same pattern of delivery is it on each day?
A. Yes.

Q. But it's just the volume of mail?
A. That's correct.

Q. So if it was the fact that the conversation was on the Monday, and not the Tuesday, you would have to determine what time you left the post office to work out what time you arrived at Northcott would you not?
A. Yes.

Q. And it is possible that that conversation was on the Monday is it not?
A. I couldn't remember.

Q. You couldn't remember realistically from now, could you?
A. No, not really.

Q. But even in May, 1995 it's possible, is it not, that you said then it was on the Tuesday, it was possible you were misremembering it was actually on the Monday?
A. Could be, yes.

Q. Because there is really nothing specific for you to anchor it to, is there?
A. No.

Q. And do you remember I asked you about how long you were talking to Mr Plumb just before?
A. Yes.

Q. And I suggested to you it was twenty minutes?
A. No it wouldn't have been that long

Q. You don't think it would have been that long?
A. No. Not really, no.

Q. That is the total time you would have been talking to Mr Plumb that day, it wouldn't have been twenty minutes?
A. No, about ten, fifteen minutes. Fifteen minutes at the most.

Q. Well you see, you attended court once for a committal hearing in relation to this matter did you not?
A. Yes.

Q. The Magistrates Court?
A. Yes.

Q. And indeed, that was the occasion on which you drew the diagram that has been tendered in evidence?
A. That's correct.

Q. 6 March 1996?
A. Yes.

Q. And didn't you say there that you were talking to Kevin for about twenty minutes?
A. I couldn't remember exactly how long I spoke to him.

Q. That's right, but it's unrealistic, isn't it, to say that it couldn't have been twenty minutes at this distance?
A. Not really, no.

Q. Well were you not asked on that occasion, when you gave evidence there: "Do you remember how long you had been there with talking to Mr Plumb?" Answer: "Well I was talking to Kevin for about twenty minutes"?
A. Could have been.

Q. And it was towards the end of the time with Mr Plumb that Mr Meek arrived was it not?
A. Yes that's correct.

Q. Mr Watson, you spoke of a letter - this is when you were answering questions from the Crown Prosecutor - that day. I think you said it was misaddressed. It was to Mr Meek's floor but not to him?
A. Yes.

Q. Something like that, is that -
A. Yes it had 14 - I think it might have had 14th floor, but not a flat number.

Q. So did it have anyone's name on it?
A. It had somebody else's name, but I can't remember exactly what the name was. It just had such and such, 14th floor, John Northcott Flats.

Q. In other words it was directed to the level, but without a flat number on it?
A. Yes.

Q. And presumably it wasn't a name you recognised?
A. Yes.

Q. A new arrival?
A. Yes.

Q. And you were asking Mr Meek?
A. Who it might have been.

<RE-EXAMINATION

CROWN PROSECUTOR: Q. Mr Watson, you told my learned friend about book in the post office to fined out when you left on the Tuesday?
A. Yes.

Q. In that book at the post office, what is recorded?
A. The time you start, your meal breaks, the time you leave for your delivery rounds, and the time you return to finish your rounds.

Q. Can you remember what time you returned to work that day from the rounds?
A. Usually 3 hours 15 minutes afterwards.

Q. Do you know whether or not that book could still be in existence?
A. I would say it would be.

Q. Surry Hills Post Office?
A. Crown Street, I suppose they keep records.

Q. Are you able to say how much longer you were at the Northcott flats after you had finished speaking with Mr Plumb and Mr Meek?
A. I delivered to C block and A block and B block and the other part of Belvoir Street, and did the rest of the round.

Q. How long does that take?
A. The whole run, 3 hours 15 minutes.

Q. On a heavy delivery day?
A. Any day.

Q. Any day?
A. That is what we are timed at.

HIS HONOUR: Monday?
A. Monday does usually take longer.

Q. You are talking about days that are not Mondays A. Yes.

CROWN PROSECUTOR: Q. Tuesday, Wednesday, Thursday, Friday,

you are timed at 3 hours 15 minutes, so your estimation of times--

OBJECTION

Q. Is there any indication anywhere that might indicate or notation that would indicate the load of mail you had on that day?
A. No way can you tell how much mail. They could have records at the postal, I don't weigh up the mail everyday and find out how much I carry, they just give it to me and I deliver it.

Q. Certainly it is noted when you return?
A. Yes.

<WITNESS RETIRED

HIS HONOUR: Members of the jury, you heard Mr Molomby mention committal proceedings, where this witness had given some evidence. Committal proceedings are a preliminary hearing, generally conducted before a magistrate to determine whether or not there is evidence that requires a person to be put on trial for a particular matter and that is all being referred to there. It is not another determination of the matter which is here for your determination. The matters here are being determined by you and not anybody else.

Please remember the two things I mentioned to you, don't speak to anybody in the precincts of the Court and don't be influenced by anything you hear. Thank you.

<MATTER ADJOURNED TO WEDNESDAY 18 NOVEMBER 1998

CM:CAT:5 D3

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THE SUPREME COURT
OF NEW SOUTH WALES
CRIMINAL DIVISION

IRELAND J
AND A JURY OF TWELVE

THIRD DAY: WEDNESDAY 18 NOVEMBER 1998

96/91/0034 - REGINA v MICHAEL ALAN HEATLEY

<IN THE ABSENCE OF THE JURY

THE FOLLOWING ERRATA NOTED

1. Page 59 lines 7 and 10, the word "ahead" amended to "head".

2. Page 78, line 5, the word "litigation" amended to "electrician".

3. Page 91, line 3, the word "decide" amended to "describe".

4. Page 91, line 21, the word "wrong" amended to "ring".

5. Page 98, line 48, the word "mishearing" amended to "misremembering".

6. Page 98, line 9, the word "came" amended to "didn't come", and insert the word "at" before "1.15".

7. Page 103, line 16, the word "hands" amended to "hand".

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<IN THE PRESENCE OF THE JURY

<KEVIN MARSH(10.15AM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Sir would you tell Court your full name please?
A. My full name is Kevin Marsh.

Q. Mr Marsh, in 1995 did you make a statement to the police on 30 April?
A. Yes I did.

Q. And at that time were you a resident at the Northcott Flats Surry Hills?
A. Yes.

Q. And had you been resident there for some thirty-two years at that stage?
A. Yes I had.

Q. Now did you, in about 1981 or 1982, meet a man you know as James Meek?
A. Yes I did.

Q. And used James Meek live in Tusculum Street Potts Point?
A. Yes he did.

Q. And used you see Mr Meek around the Aussie Rules club on Darlinghurst Road?
A. Yes I did.

Q. And did you become known to him?
A. Yes I did.

Q. And were you an acquaintance of his?
A. Yes.

Q. And would you see him on occasions and pass the time of day?
A. Yes.

Q. Did you then meet Mr Meek when he moved into the Northcott Flats?
A. Yes I did.

Q. And as at April of 1995 did you believe that to be two or three years before?
A. Yes I did.

Q. And used you see him around the flats occasionally and, once again, pass the time of day?
A. Yes.

Q. Used you see him walking his dogs in Eddie Ward Park opposite the flats?
A. Yes.

Q. And did you see him in the park at nighttime?
A. Yes.

Q. And were you aware that Mr Meek was gay, as you call it?
A. Yes. 5

Q. And that he liked young boys?
A. Yes.

Q. Had you seen Mr Meek with several young men including - young men rather including people from the flats?
A. Yes, I have.

Q. Do you recall having seen Mr Meek on Wednesday the 1st of March, 1995 at about 7.50am?
A. I saw him on the 1st of March but I don't think it was a Wednesday. I said that in my statement but I think it could have been the Friday, but it was definitely the first March.

Q. Anyhow, it was the 1st March was it?
A. Yes.

Q. And the 1st of March would appear to have been a Wednesday, by referring to the calendar, so Wednesday the 1st of March?
A. Okay.

Q. And where was that that you saw him?
A. I went over to get some milk in the morning and Jim was outside with a young man -.

Q. If I could just interrupt you there. Where did you go to get milk?
A. In the shop in Belvoir Street.

Q. Do you know who owns that shop?
A. It was owned by some Philippino people.

Q. You say you saw Mr Meek with a young chap?
A. Yes.

Q. Would you describe that young many?
A. He had bleached blonde hair. His hair was shoulder length. He looked about 17 to 18.

Q. What were they doing at the time you saw them - where were they?
A. It was outside the shop and Jim wanted to come into the shop but he had dogs and the young person came into the shop to buy cigarettes.

Q. What is the next thing that you saw after that?
A. The young man walked out and he gave - I cannot say he gave the money to Jim or he offered him some change but there was an argument over money.

Q. What did you hear, as best you can remember, and when you are telling us, can you tell us who said what as best you can remember?
A. The best I can remember is that the young guy said "I want some money" and he said - Jim said something - maybe "keep the change" and he said "it is not enough because you fucked me and I want more money off you".

Q. Was there anything more that you heard at that stage?
A. Not at that stage.

Q. When you heard that then, what did you do?
A. I started to walk back to the flats and they passed me and there was argument among themselves but I had a distance, I couldn't hear the conversation.

Q. When you say "there was argument" then, did you form the opinion that there was an argument?
A. Yes I did.

Q. And what caused you to form the opinion that there was an argument?
A. The voices was raised.

Q. What did you observe between those two - that is Meek and this young person that you have spoken about?
A. They went into the foyer and they went into the elevator.

Q. What did you do?
A. I went - I got in the second elevator and I went up to my unit.

Q. Do you recognise that young male from anywhere?
A. It is the boy in the witness box but his appearance today is completely different from that appearance he had long bleached blonde hair. It was coming down to his shoulders.

Q. Did you believe that that person lived anywhere at the time?
A. I thought he lived in Northcott. I thought I had seen him around the building a few times.

Q. Did you believe he lived in any particular place in Northcott?
A. I wasn't sure of the unit. I thought he could have been on the sixth floor or the eighth floor.

Q. What block?
A. [redacted]

Q. What block?
A. Sorry [redacted] not [redacted].

Q. [redacted] block?
A. Yes.

Q. And you were in what block?
A. I am in [redacted] block.

Q. And what block did Mr Meek live in?
A. He lived in [redacted] block.

Q. Can you describe that - as you told us the person had bleached blonde hair. What else about him can you remember, can you remember how old he was?
A. He looked about 18 - 16 to 18 but he can - you know -.

Q. Yeah, 16 to 18 - about how tall was he?
A. Five-ten.

Q. What about his complexion?
A. Just fair skin.

Q. Racial features?
A. I would say British ancestry.

Q. Do you believe that that person lived with any particular person in [redacted] block - like you told us that you believe he lived in [redacted] block?
A. No I do not.

Q. Was your memory of this young person or, his whereabouts - his home address, for want of a better term, was that better when you spoke to the police in 1995 than it is now?
A. Yeah, when I spoke to the police I said I thought he lived in the flats on the 8th - 6th to the 8th floor, but that was three years ago.

Q. And did you have any opinion in - at that time, that he might have been living with some particular person?
A. I think I said to the police I thought he lived with his mother.

Q. Do you still believe that to be the fact?
A. No I do not.

Q. Up until the time you made your statement in April of 1995, had you seen that young person around the flats?
A. Yes I had.

Q. Where had you seen him?
A. Coming in through the foyer, and the incident I described before when he was with Mr Meeks at the shop.

Q. Perhaps I didn't phrase my question very fairly to you. I will rephrase it. Between the time of Meek's death and the time you made your statement had you seen that young man?
A. Yes, afterwards I did. I saw him in Oxford Street near the corner of Riley Street and Oxford, outside the National Bank and that was in April.

Q. What street did you say, I am sorry?
A. It is in Oxford Street. It is on the block - it is Riley and I think it is Pelican Street outside the National Bank.

Q. Was that the only time that you saw him after the death of Mr Meek and to the time of making your statement?
A. Yes, it was.

<CROSS-EXAMINATION.

MOLOMBY: Q. Do you have a copy of the statement that you made to the police?

A. I have it in my pocket, yes.

Q. Have you read it recently?
A. Yes I did.

Q. Did the police give you a copy of it around about the time you made it?
A. Yes they did.

Q. And you have had it therefore ever since?
A. The original copy I couldn't find anywhere in my house. I destroyed it - I don't know.

Q. So, did you get a replacement copy of one more recently?
A. I was given one yesterday.

Q. Yesterday?
A. Yes.

Q. In the statement you recorded, didn't you, "I knew that Mr Meek was gay and he liked young boys from 12 years old and upwards"?
A. Yes.

Q. And in relation to the argument you heard outside the shop on the 1st of March, you recorded a version of that in your statement, didn't you?
A. Yes I did.

Q. Which would be more reliable than what you can remember of that conversation now?
A. Yes they would be.

Q. And what you actually recorded in the statement about that was this, wasn't it, I heard the two argue about money. I can't recall exactly what was said but the young boy said you fucked me and you owe me money, give it to me. Meek said, keep the change. The kid said it is not fucking enough you are a fucking poofter and I want more"?
A. Yes.

Q. And then you recorded, "That is all I heard and the two walked off"?
A. Yes.

Q. And you did say in your statement as you give in evidence that you believe they continued to argue later but you could not hear what was said?
A. I could not hear the conversation.

Q. Do you have the statement there with you please?
A. Yes I do.

Q. Would you get it out?
A. (Complied).

Q. When you made this statement it was as a result of contact between you and the police and an arrangement being

made for you to go to Surry Hills Police Station, wasn't it?
A. Yes it was.

Q. And you were doing your best at that time to help the police, is that correct?
A. Yes, yes.

Q. There is no doubt about that, is there?
A. No, no, there is no doubt about that.

Q. There wasn't any hurry or pressure on you to make this statement and get away - anything like that?
A. No there wasn't, no.

Q. And when you made this statement, after it was made you were given it to read through, weren't you?
A. Yes.

Q. Before you signed it?
A. Yes.

Q. And then you signed the bottom of every page of it separately, didn't you?
A. Yes I did.

Q. As being correct?
A. Yes.

Q. In the statement, referring to the person you saw in the argument outside the shop, you said this, didn't you - paragraph 8, "The young male I know lives somewhere in [redacted] block at Northcott Apartments"?
A. Yes that is in the statement.

Q. That is exactly as you recorded it, isn't it?
A. Yes.

Q. And then you went on, "I have seen him with James Meek on many occasions"?
A. Yes.

Q. And further, in the statement, at the end of paragraph 8 you said this, didn't you - this is on the next page, page 3, "This kid lives with his mother in [redacted] block could be floor [redacted], but I'm not exactly sure" - do you have that - it is at the end of paragraph 8?
A. Yes, yes.

Q. And there is no qualification in the statement to those sections that I have just read, is there - that is, the young male I know lives somewhere in [redacted] block not - "This kid lives with his mother in [redacted] block could be floor [redacted] but I'm not exactly sure", there is nothing else in the statement that qualifies those, is there?
A. No there is not.

Q. Are you seeking to retreat somewhat from those statements now?

A. No, I am not.

Q. Are you able to describe the mother?
A. No, I am not.

Q. The mother you were referring to in this statement?
A. No I am not.

Q. Had you ever seen her?
A. No, I just believed the man lived in [redacted] block with his mother.

Q. You didn't say in your statement "I believed"?
A. No I did not.

Q. You said in very dogmatic, clear terms, "This man lives with his mother in [redacted] block"?
A. Yes, that is in the statement.

Q. You gave the police no indication that you had any doubt or reservation about that, did you?
A. No I did not.

Q. And the fact is you didn't have any doubt or reservation about it when you made the statement, did you?
A. No I didn't.

Q. Equally you didn't have any doubt or reservation about the statement, "The young male I know lives somewhere in [redacted] block at Northcott apartments" - you didn't have any doubt or reservation about that at the time you said that to the police, did you?
A. No I did not.

Q. And you say you have no doubt or reservation about it now?
A. I believe he did not live in Northcott.

Q. You believe he did not live in Northcott, is that what you just said?

HIS HONOUR: That is now?
A. Now, now.

MOLOMBY: Q. You do retreat from what you said in your statement on this point?
A. No, I do not retreat. I just answered your question - maybe I might have misunderstood the question, I am sorry.

MOLOMBY: Q. Maybe I misunderstood your answer. Let's be clear on it. I did ask you earlier, I think, whether you retreated now from these two particular statements recorded here?
A. What do you mean by "retreat" - back off?

Q. That is a pretty good other version?
A. Okay, I don't back off from the statement because you are just taking one paragraph of the statement. Do you say

I am backing off from the section 8 of the statement or my full statement.

Q. No just the sections I have read to you and you have agreed are in it now. That is, and I will said say them again so we are clear, "The young male I know lives somewhere in [redacted] block at Northcott Apartments". That statement, and, "This kid lives with his mother in [redacted] block could be floor [redacted], but I'm not exactly sure"?
A. That part of the statement I would retract. "This kid lives with his mother in [redacted] block."

Q. That part of the statement you would?
A. I would take out.

Q. You would take out now?
A. Now I would, yes.

Q. But you had no doubt or reservation about it then, is that correct?
A. Yes, at the time.

Q. What about the first one, "The young male I know lives somewhere in [redacted] block at Northcott Apartments"?
A. That I would say stay in there.

Q. You say that now, do you?
A. Are you going from paragraph 8 - "The young male I know lives somewhere in [redacted] block at Northcott Apartments", this one sentence I would take out.

Q. You would take that sentence out?
A. Yes.

Q. So you would back off that sentence?
A. Yes I would.

Q. But at the time you said it to the police?
A. I believed he lived in [redacted].

Q. You had no doubt about that?
A. At that period of time.

Q. That is something you believed one hundred percent when you said it to the police, is that correct?
A. Yes.

Q. This is the only formal statement that you made to the police, isn't it?
A. Yes it is.

Q. And the police didn't show you any photographs or anything like that, did they?
A. No I have never seen any photographs.

Q. They didn't ask you who this person might be in any way?
A. No, not at all.

Q. Or they didn't use your assistance to do an Identikit or any of that sort of thing?
A. No they did not.

Q. And you were never asked by the police to go through that sort of exercise, were you?
A. No I was not.

Q. Neither at the time you made this statement nor after it?
A. No I was not.

Q. You weren't asked by anyone else to go through that sort of exercise, were you?
A. No I was not.

Q. And you came to court for a committal hearing in relation to this matter in March 1996, didn't you?
A. Yes I did.

Q. And when you came to court in March 1996, you saw this young man who is before the court now, before that court, didn't you?
A. Yes I did.

Q. And then you have turned up in this Court and you have said that this young man who you saw at the committal is the man you saw outside the shop arguing with Mr Meek?
A. Yes.

Q. And you have been influenced into saying that, Mr Marsh, I suggest, by the fact that you know this young man has been charged with murdering Mr Meek?
A. No, I am not inferencing at all.

Q. Not at all?
A. No.

Q. You have seen him outside court here, haven't you?
A. Yes, I have. I also saw him walking down Oxford Street too and coming back up from Oxford street.

Q. You mean in recent days while you have been waiting to give evidence in this trial?
A. I saw him yesterday -.

Q. Because were you waiting outside court yesterday?
A. Yes.

Q. And you knew he was the person charged when you saw him outside court?
A. Yes.

Q. That is because you had seen him in the committal, isn't it. You knew who he was?
A. Yes.

Q. Because you indicated, haven't you, that he doesn't

really look like the young man who you saw arguing with Mr Meek on the 1st of March 1995?
A. His appearance is different today, yes.

Q. Appearance is quite different, isn't it?
A. Yes.

Q. And that is because he is not the young man?
A. As far as I am concerned he was the young man who I saw with long blonde hair with Mr Meeks.

Q. You could be wrong about that, couldn't you?
A. I don't think so.

Q. Have you ever been wrong about something even though you didn't think you were wrong?
A. I think we have all gone through that experience.

Q. Could this be one of them?
A. No, no.

Q. You said Mr Marsh that the person you saw in the argument on the 1st of March with Mr Meek-?
A. Yes.

Q. You also saw in Oxford Street, I think you said on the corner of Riley Street in April, 1995?
A. Yes.

Q. But you were overseas for the early part of April, weren't you?
A. Yes I was. I came back on the 13th of April.

Q. You returned to Australia on the 13th of April?
A. Yes I can prove it with my passport. I brought my passport in case you want to see.

Q. You said that. I accept it. But the point is you could not have seen anyone in Oxford Street before the 13th of April 1995, in April, could you, because you were away?
A. Yes.

Q. When did you go away?
A. The 7th of April.

Q. And you saw the person you believe was the same one who was in the argument with Mr Meek after you returned from overseas?
A. Yes I did.

Q. And some days after you returned from overseas?
A. I think it was two days after I returned from overseas.

Q. In other words that would have been the 15th of April?
A. The 15th yes.

Q. And that was just an occasion when you saw a person in the street?

A. No he was - there was two other people. They sat outside the National Bank and they - they had shoe polish and shoe brush in front of them as though they were trying to earn money by cleaning shoes.

Q. But you didn't talk to them?
A. No, I did not.

<RE-EXAMINATION.

CROWN PROSECUTOR: Q. Would you just care to check your passport to see what date it was you came back to Australia, please?
A. (Complied) Sorry, I came back on the 11th of April - not the 13th. And I left on the 7th of April and, there it is if you want to check.

Q. When do you say it was, approximately, after you came back that you say you saw the same person as you saw arguing with Mr Meek, in Oxford Street?
A. I think it was two days later.

Q. Which would make it, as you have got it in your statement, the 13th?
A. The 13th, yes.

MOLOMBY: I have an application to make which it might be appropriate for me to raise now prior to this witness being finally excused.

HIS HONOUR: Is that an application that you would need to make in the absence of the jury?

MOLOMBY: It would need to be, yes.

<WITNESS STOOD DOWN.

<IN THE ABSENCE OF THE JURY.

MOLOMBY: Your Honour, I do this at this point because I believe it should be raised at the earliest possible opportunity and in case there are any implications in relation to the presence of the witness you mentioned whether he should be excused or not. The point I raise is a strong concern about the purported identification made in court by the witness which of course was no part of his statement and indeed one would infer is somewhat inconsistent with what is in his statement but it is made in circumstances where he knows Mr Heatley is the person charged. He has previously been exposed to him both prior to this moment in this trial, yesterday, and previously at the committal and in my submission an identification - well the authorities are well known to your Honour on this - Alexander is one - identifications made in court, particularly - merely from the fact they are made in court with the person presented isolated in the dock are highly dubious.

HIS HONOUR: It is a question of weight.

MOLOMBY: Having had previous exposure to a person out of the dock but known to be the accused, that reinforces it. After an enormous lapse of time in this case, with no identification having been made when there was the opportunity to do it - your Honour, I don't know how much detail is necessary to go into in this one but in my submission there could scarcely be more serious circumstances to an identification than the one that has just been made, after such a lapse of time, with no effort having been made to do it originally. I mean, in the face of an acknowledgment that the man now looks different.

HIS HONOUR: What is your application?

MOLOMBY: On basis of all those concerns my application is that that particular evidence be withdrawn from the jury, and indeed, that they should be told at this point in the trial that they should disregard, put aside that aspect of this witness' evidence. I would also be seeking in due course a repetition of that in your Honour's directions at the end of the trial.

HIS HONOUR: It wasn't put to this witness that he made identification at the committal, was it - was there any mention of his evidence at the committal.

MOLOMBY: I think he may well have done the same at the committal. What I raised with him is that he had seen Mr Heatley at the committal just now but I think he may have done the same at the committal.

(Mr Molomby indicated that he did not seek to have the witness recalled but sought an exclusion by his Honour of the identification aspect of the witness' evidence, and his Honour to give the appropriate direction to the jury now and at a later point in the trial as well.)

(Discussion ensued)

HIS HONOUR: The evidence is there before them. I think it's always inadvisable to ask juries to take things out of their head. What they really have got to be told is whether they can rely on it, and whether they can't, and if there is any doubt about it, to what extent or how they should actually deal with it.

CROWN PROSECUTOR: With the greatest respect I agree your Honour. You can't ask this jury not to have any regard at all to that evidence. There is only one way that that can be dealt with, and that is not something that I'm certainly advocating.

HIS HONOUR: I am minded to follow that course, but I think that in the circumstances I should ask you and Mr Molomby to agree as to the directions that should be given. Now if you cannot, then I will deal with it by reference to your respective submissions, but perhaps you may be able to agree.

CROWN PROSECUTOR: Yes, well if your Honour then would give us some little time to do that. I would be certainly happy to attempt to come up with a suitable direction, or a direction that my learned friend and I will concur with.

HIS HONOUR: Are you content with that Mr Molomby?

MOLOMBY: If it please the Court, I do maintain my original position.

HIS HONOUR: The whole of the identification evidence should be withdrawn from the jury?

MOLOMBY: Yes your Honour, and that they would be given a direction to that effect now, and of course reminded of it in your Honour's summing up.

HIS HONOUR: I'm content to give them a direction now, and to remind them of it in my summing up, but I don't think it appropriate to make a blanket withdrawal of identification evidence. But if you are content on that ruling, to endeavour to settle with the Crown the direction that relates to the way in which they should now deal with that evidence -

MOLOMBY: I understand what your Honour says, and of course if that is the position, I will endeavour to do that with my friend.

HIS HONOUR: Do you think that it is enough that when you have an opportunity to speak to the Crown that we deal with it as soon as that; perhaps after the morning adjournment?

MOLOMBY: Something like that perhaps. Even after lunchtime. But if your Honour is against me on my primary submission, that is the course I would adopt.

HIS HONOUR: I will perhaps at this juncture, in order to add some temporal impact, say that I will give them a direction as to the way in which they should consider that evidence of identification later in the day.

MOLOMBY: That is the evidence of the identification in the Court?

HIS HONOUR: Yes. I will tell them, when they come back, that at a later stage I will give them a direction as to the way in which they should deal with the identification evidence given in court.

<IN THE PRESENCE OF THE JURY

(Mr Marsh returned to the courtroom and his Honour excused him from further attendance.)

HIS HONOUR: Members of the jury, Mr Marsh, you will recall, made an identification of the accused in the witness box. There are some problems with that, and I will give you a direction concerning an identification in court later in the day.

<BRIAN PATRICK KANE(11.10AM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Sir would you tell the Court your full name please?
A. Brian Patrick Kane.

Q. Mr Kane, did you make a statement to the police, firstly to a policewoman on 8 March, 1995?
A. Yes.

Q. And then to some detectives on 11 March 1995, and then again on 11 July 1995?
A. Yes. Approximately those dates. I'm not - don't hold me to it, it's three years.

Q. Have you had copies of your statements since you made them?
A. I've had copies of the statements to the police detectives, but not to the female constable - the female constable on - 8 March in her police notebook. I didn't get copies of that.

Q. Now as at 1995, were you living at the Northcott Flats, Floor 12, Block [redacted], Flat [redacted]?
A. Yes sir.

Q. And did you meet a fellow who introduced himself to you as Jim on the day you moved in on 20 December 1993?
A. On or about 20 December I met Jim. A person by the name of Jim who introduced himself as Jim.

Q. And is that Jim Meek?
A. That is the person that I became known as Jim Meek.

Q. And what was the circumstance of you meeting Mr Meek?
A. I just moved in, and I had no furniture, nothing, all I had was the clothes on my back, some bed furniture - bed clothes, and Jim loaned me a couple of chairs, also some cushions. The cushions that he loaned me in 93 I still had in 95, and I still have now, because Jim didn't want them back. One of them is worn out and I'm about to toss it.

Q. Did you and he become very good friends?
A. We did.

Q. And did you each share a love of dogs?
A. Yes sir.

Q. And did Jim give you a dog?
A. He did. He gave me a small dog, which I named Goldie, as a Christmas present that year. In Christmas 93.

Q. And do you know where that dog came from?
A. Yes. A friend of Jim's, who later became a sort of friend of mine, I would see him when he visited Jim, had given to Bob Woodward, who then lived at Lethbridge Park. When I sent him a Christmas card last year I got it returned "not known at this address".

Q. Used you see a lot of Jim, like in your apartment, his apartment, share coffee, things like that?
A. We did. We shared coffee on the balcony, and also walked our dogs together.

Q. And would you see him regularly?
A. Yes.

Q. And you know of course that it was on 8 March that Jim's body was found in his flat?
A. Yes sir.

Q. Now if you just go back a little bit from that day, can you tell us about any movements, of which you are aware, of Jim Meek in the days leading up to 8 March?
A. Well, 8 March was a Wednesday -

Q. Yes?
A. - if my memory serves me correct. On the Tuesday before Jim had rung me at 6.30 on Tuesday morning asking me - woke me up -

Q. Is that the day before?
A. The day before, yes.

Q. Yes?
A. Rang me at 6.30, and said: "Do you have any cigarettes". And I said: "No, I'm out of - been out since Sunday". Then I, since I had been woken up, had a wash, had some breakfast. And by that time it was 7.30, and Jim came back and gave me a - well about - don't know exactly, about a dozen Horizon cigarettes.

HIS HONOUR: Q. Gave you about a dozen did you say?
A. Yes sir. And he said, well: "This is all I can get for you". The previous day, and it threw me, when I was giving my statement to police, the female police constable on Wednesday, said it's none of the police's business, but I seen somebody going into Jim's, or he came to my door on Monday morning, asking for some Tally Ho papers.

CROWN PROSECUTOR: Q. Yes?
A. And said that Jim had sent him to my door to see if I could give him a couple of Tally Ho papers, as Jim didn't

roll his own. I was rolling my own at the time when I ran out of Long Beach. And I gave this guy two Tally Ho papers, looked out the door, and Jim was at his door, waved to me, and I waved to him, and the young fellow walked back towards Jim.

Q. Had you seen that young person before?
A. Not prior to the Monday.

Q. And so what was your next connection with Jim, or meeting with Jim?
A. Well Jim and I walked our dogs that - on the Monday, Monday afternoon, and we talked about -

Q. You had a discussion with him there?
A. Well we talked as we walked around the park; Ward Park. Also on the way down, on the way back, and -

Q. Yes?
A. Don't hold me to where, word for word, that whether it was in the lift or in the park, and we discussed the young fellow.

Q. And then what sort of health was Jim in at that time?
A. About the same as I am now. He had had some trouble before, but he seemed to be recovering well.

Q. And what was his demeanour like on that Monday afternoon; was he in good form or?
A. Yes. He was friendly and ...

Q. Now then did you see him again after that walk with him on that Monday afternoon?
A. No I didn't.

Q. Then the next time you saw him was?
A. Tuesday morning.

Q. That is the cigarette incident?
A. Yes.

Q. And you have told us that he rang first, and then he sometime later, about 7.30, came back and gave you some cigarettes?
A. Yes.

Q. How did he approach you when he gave you the cigarettes how?
A. He said: "This might help you out until pension day" - which is tomorrow - and don't forget I owe you $20".

Q. And where were you at that time?
A. At the door to my flat.

Q. And how did you come to be at the door of your flat?
A. Because Jim knocked at it and I answered.

Q. Were you expecting him to turn up there?

A. No I wasn't expecting him to turn up, but he did say on the phone "I'll see what I can do" at 6.30, and - yeah I suppose I could say I was expecting him, but I didn't hold out high hope, because most of the people in the flats we can borrow money from, it's say the same for all of them the day before pension day.

Q. When the young person came to your flat on that Monday morning, did you get a good look at him?
A. I got a slight look at him, and I recognised a likeness the same when I saw the likeness of this young fellow in the foyer of B Block in June or July after it. That's when I tried to contact the police mentioned, and that's why I made a second statement to the police. Only thing, they tried to get back to me and I was in hospital at the time having a hernia operation.

Q. Did you notice any of the features of the young man when you spoke to him on that morning?
A. Yes, in that he was - when I was standing at the door he came up to about my nose.

Q. How tall are you?
A. I'm 6' 1.

Q. Yes?
A. He had blondish hair that covered - that didn't cover his ears but came down to his ears. And casually dressed. I can't remember what he was - I know I describe it in my statement to the police, but I can't just at this moment remember what he was wearing unless I reread it now.

Q. What was your next contact with Mr Meek, if there was any, after the cigarette incident?
A. There was no further contact with Jim after 7.30 on Tuesday morning. With Jim himself. There was other people enquiring about him, and I'd go and knock on his door. And rang about lunchtime on Tuesday, a person, fellow tenant in the Northcott estate who lived in Devonshire Street, Gale McKay.

Q. M-c-K-a-y?
A. I think so. I haven't seen her for a couple of years now. She rang me about lunchtime looking for Jim, and I said: "I haven't seen him". I went out and knocked on Jim's door. His fly screen door - this was strange to me - was ajar with rolled up newspaper at the foot between the locked wooden door and the fly screen. It was rolled up, bunched up, to prop - looks like he was trying to prop it open, but that was something that Jim didn't ever do. He was a house-proud man, he liked to keep it neat and tidy. And I stuck a - when Gale - after Gale rang, sorry, I stuck a note on Jim's door saying words to the effect "Please ring Gale", and left her phone number.

Q. Were you aware of any involvement of Mr Meek in any committees and that to do with the Northcott Flats?
A. Yes I was.

Q. And was Gale McKay also involved?
A. That was why Gale was ringing Jim, because he had missed a committee meeting that morning and hadn't put - I presume he hadn't put an apology in, so everybody was concerned.

Q. Are you able to say, from your knowledge of Mr Meek, whether or not he was keen to be involved with any committee on which he was on; you know, was he a person who took his commitments to committees seriously?
A. Yes sir.

Q. Now you say that it was unusual to see the door ajar, and the paper at the bottom, and one reason you have given is because Jim was house-proud, and liked things neat and tidy?
A. The other -

Q. Is there anything else -
A. The other reason was Jim always kept the fly screen door locked with his key, where you would need a key to unlock it or lock it either from the inside or outside, which just seemed weird.

Q. So are you saying that even when you, if you went into his unit with him, he would lock his fly screen door?
A. Yes.

Q. And are you able to say whether or not Jim had taken any other precautions so far as the locking of his doors were concerned?
A. In what way?

Q. Do you know if he had any extra locks on the door or -
A. No, just the standard -

Q. Slidebolts, or anything like that that you noticed?
A. I can't remember them. There was no slidebolts on the fly screen door.

Q. Yes?
A. Fly screen security door, and I can't remember if there was a slide bolt on the main door. But there was a deadlock on the main door.

Q. Now so far as your flat is concerned, does your flat have any extra slidebolts on the main wooden door?
A. No.

Q. Have you been into other units at the Northcott Flats?
A. Yes I have. Because I'm also on various committees there since then.

Q. And are you able to say whether or not there are any slidebolts on the main doors, as a general proposition, for the units?
A. It's not encouraged by the Fire Department. But I do know of one or two amongst the hundreds that do have slidebolts on the main door, not on the - also there is one

on the security door. But it's not encouraged by the Fire Department.

Q. Now on that Tuesday, when you have told us that you went and you knocked on his door, did you get any response at all from within his unit?
A. Yes I did. His two dogs barked and barked and barked, but there was no other answer.

Q. Did that cause you to think anything, or any concern, or anything like that?
A. I just wondered why Jim had left his dogs in there for such a length of time without giving me a key. Because he - normally we, if I went out I would give him a key to my place, and he would look after my dog, or if he went out for four, six hours he would give me a key to his place, and I would look after his dogs. And hearing dogs barking lunchtime, Tuesday, then Tuesday evening, when I knocked on the door again.

Q. And you have told us of some contact with Gale McKay. Did you have any contact with any other of the tenants?
A. Well another tenant, Michael Lawrence, came up Tuesday.

HIS HONOUR: Q. Who is that I'm sorry?
A. Michael Lawrence. He came up Tuesday, early evening, and I heard - I didn't see him come up, I heard someone banging on Jim's door, because I had been prone to Jim's door, because we liked to walk our dogs together. So I knew the sound of that. And after Jim left, after Jim's death his flat was vacant for a long time, and I noticed that the silence, the absence of the door opening and closing, and that's what drew my attention to - but Michael Lawrence came up early evening Tuesday and knocked on his door. That brought me out, and I also knocked.

Q. And is that the occasion about which you have told us that you knocked on his door in the evening and you heard the dogs barking?
A. That's the second time I heard the dogs - the first, or second time was when I went up from Gale McKay's enquiry, and I stuck a note on the door. And I can't remember if I did go another time in the afternoon and then in the evening, and I also went, after I'd been with Michael, and we walked back towards the elevator foyer, when we were met by the security guard.

CROWN PROSECUTOR: Q. What is his name?
A. I did have it on record, but I don't remember his name now.

Q. Was it Bob?
A. That rings a bell. And he asked me and Michael had any - had we seen the "young hoon" racing around the building. Michael and I said no, and he started to go off, and I called him back and said: "Look, Jim's missing. I don't know what's going on. His dogs are barking madly in his flat." And the security guard came up to the door with us,

and he also banged on the door and got the same reaction from the dogs. Then I just left it at that until - because I was taking my dog out for a walk. Then I came back, I tried Jim's door again, knocking on it, still the same reaction, and that was all. I got back to my flat about, oh I'm not sure of the exact hour, about 8.30, 9. That was the last time that night I tried to - tried his door.

HIS HONOUR: Q. This is the Tuesday night?
A. This is Tuesday night.

CROWN PROSECUTOR: Q. Mr Kane, can you tell us how many times in 1995 up until Jim Meek's death did a young person come to your door and ask for two Tally Ho papers?
A. In 1995, once. No-one other than this one young person came up asking for Tally Ho papers that I didn't know. And ... No.

Q. So after you tried late on the Tuesday evening, about 8.30 I think you've said?
A. 8.30ish.

Q. Yes. When was the next occasion, if you did, when was the next occasion that you endeavoured to make contact with Mr Meek?
A. Well I got up about 6, 6.30 Wednesday morning, and as it was pension day, we went and drew - Peter Mattock, my flatmate, went down and got some money out, bought some cigarettes, had a beer until 9 in the pub, then went and did some shopping. Then we came back to the flat. Peter took my dog down for a walk. I can't remember if I went and knocked on Jim's door or not that morning. I think I probably would have but I can't say. Then I spoke to a couple of people by phone, family and friends, about what I should do, and as it turned out they advised me to ring the Surry Hills Police, which I did at 10.24 Wednesday morning. And I described the situation to - I did have the constable's name but I've forgotten it, and he said he would send the first available car. I hung around until 12.30, and then because I had an appointment up at Ashfield Uniting Church, I went to Ashfield Uniting church, did what I had to do, and I returned about, 3.30.

Q. Yes?
A. Where I saw Jim Coffey and a constable and a few other people in and out of Jim's door. I went into my flat, took off my backpack, took off my coat and my flat mate told me that Jim was dead. We then went up to the constable - or I went up towards Jim's door and bill coffee challenged me "what are you doing here" - I can't remember the exact words and I said to the constable, "do you wish to speak to me, I reported Jim's disappearance" - or - I reported something at 10.24 that morning and she said "yes, I'll talk to you later". I went back to my flat and waited for her.

Q. So you later spoke to her and, she made some notes in a notebook, is that correct?
A. Yes.

Q. And you have already indicated to us that when you endeavoured to speak to her about a young man she indicated she -?
A. When I tried to indicate about me seeing a young man there, Monday morning, she said that - words to the effect - "that is not a police matter".

SHORT ADJOURNMENT.

CROWN PROSECUTOR: Q. You have told the Court that you knew Mr Meek quite well over those years that you lived so close to him and associated closely with him?
A. Yes, sir.

Q. Did Mr Meek wear glasses?
A. He sometimes wore glasses.

Q. And you have told the Court that you used on occasions to feed his dogs for him?
A. Not feed his dogs. I'd look after his dogs from his place, or he would look after mine from mine.

Q. Take them for a walk - go to the toilet, things like that?
A. Yes and he would have his food out in his flat for his dogs and I would have food out in my flat for my dog - sorry to be pedantic.

Q. Do you know whether or not Mr Meek fed his dogs with milk or any milk mixture?
A. No I don't. It doesn't ring a bell, a milk mixture.

Q. Did you ever see at any time when you were in Mr Meek's flat any large plastic type soft drink bottles with milk or milk mixture in them?
A. He had large soft drink bottles which he got from the man that calls around once a week, but I don't remember seeing milk mixture or milk like substance in them. I am sorry.

Q. I am just asking you the question. Are you aware when during the day Mr Meek might give his dogs some refreshment,

as in food or drink?
A. Water was always out - a bowl of water was always out for the dogs and he would feed the dogs morning and night. He would put a small amount out after meal in the morning or half the day's ration in the morning and half the day's ration at night. He did the opposite to me. I feed my dog once a day in the morning only.

Q. You described the young chap that came to your door and asked for the Tally-ho papers as being about, around about your nose height, from where you were standing in your doorway?
A. Yes, sir.

Q. Was there a little step up into your doorway from the landing outside or is it straight level?
A. There is a little step up. It is about one to one and a half inches at the most.

Q. So notwithstanding that little step up, and you being six foot one he was still about your nose height?
A. Yes, but I can't remember if he was standing on my door mat which - my door mat is the same as the step so I can't remember if he was standing on my door mat when I judged his height, so he could have been - there could have been that one to one and a half inch gap.

Q. I don't know whether you told us this before but can you recall the colour of the young man's hair?
A. I think I said blonde - a darkish blonde.

Q. Can you recall whether or not he was clean shaven?
A. Yes he was clean shaven.

Q. Can you recall any of the clothing that he wore?
A. Not without referring to my statement to police because my memory is gone over that period of time. It wasn't a suit, I know that.

Q. When you say it wasn't a suit, was it casual type clothing or what?
A. Yes.

Q. When you made your statement to the police on the - you described this young man to the police on at least two occasions, didn't you?
A. No, once.

Q. Only the once?
A. Because the two occasions that I had the interviews with detectives, the first time with the detectives I didn't bring it up because the uniform constable said "that is none of the concern of the police" and it was only through seeing 'photofit' or whatever they call them in the foyer of B Block that I contacted the police again in the middle of the year and said, well look, I tried to get through to Detective Sergeant Tanos when I saw that and I couldn't get past their front desk person and then when Tanos got back to

me I was in hospital that day, having a hernia operation.

Q. So you did finally make a statement to the police on the 11th of July 1995?
A. Yes.

Q. And when you made that statement to the police on the 11th of July 1995, did you then have a good recollection of the clothing that you saw on the person?
A. Yes, oh, yes.

Q. When you made your statement did you read through your statement at the conclusion of it, being typed up?
A. Yes, sir.

Q. And did what you read as to the description of this young person accord with your memory of what you said he looked like?
A. Yes, sir. Don't ask me to say it now unless you let me refer to my statement.

CROWN PROSECUTOR: I would seek the Court's leave to have this witness refer to paragraphs 10 and 11 of the statement he made on 11 July 1995. That is after I get him to identify it as his statement.

NO OBJECTION.

Q. Would you just have a look at this photocopy document, please - now firstly, is the date on the front page of that statement, the 11th of July 1995?
A. Yes, sir.

Q. At the Surry Hills Police Station. And do you see your signature at the bottom of each of the pages of that statement, together with the signature of Sergeant Tanos?
A. Yes, sir.

Q. I would ask you then to turn to page 3 and going down to paragraph number 10, do you say, "I would describe this person as being male white Caucasian approximately late teens or early 20s the top of his head reached about my nose height at my front door where I am standing about one and a half inches" - it says 'about' - but that should be 'above', is that correct?
A. Yes.

Q. "I am 6 feet 1 inches tall. He was a little below average in build and bulk but very good looking and in my own words gorgeous. He had dark blonde hair which was medium cut but did not cover his ears but laid on top of his ears. He was also clean shaven and then going over to paragraph 11, at the time I saw this person he was wearing a khaki coloured jacket where the sleeves reached three quarters down the arm. He was also wearing khaki coloured pants which were three quarter length only and reached just below his knees by about an inch or two. The jacket was open or unbuttoned and he had a dark coloured singlet on

underneath. He was also wearing khaki coloured long socks and dark coloured sneakers sort of like tennis shoes". Is that correct?
A. Yes, sir.

Q. Are you telling the Court that what you told the police was to the best of your recollection the description of the young man you saw on that day?
A. That is the best memory - recollection I have of the young fellow that came to my door for Tally-ho papers mid morning on Monday, prior to Jim's death.

Q. Would you return that statement, please?
A. (Complied).

Q. When you went to see the police, on the 11th of July at the Surry Hills Police Station did you see a video?
A. Yes, sir.

Q. What were the circumstances of you seeing that video?
A. During the interview with Detective Sergeant Tanos he said he would show me a video with some number of young people that - I think it was the video was labeled "TF5 Firewood". It is in my statement what it is labeled, don't expect me the remember after three years what a code name is of the police operation, and he had me initial the binder of the video after I identified - I forget which one, which number in the video.

Q. And at the time you looked at the video, did you indicate a particular photograph in that video, did you?
A. Yes, sir.

Q. And did you indicate that photograph as being very similar to the young person who came to your door?
A. Yes, sir.

Q. If it was recorded in your statement as being photo number five that you selected as being very similar to the young person that came to your door, would that be the correct number?
A. Yes, sir.

Q. I show you this item marked for identification 2. I just ask you to have a look at the side of that - the spine or whatever you call it on the video. Did you recognise anything on that item?
A. Well I recognise my initial and the date 11 - or 11/7/95 and also the "TF5 Fireweed" is on there as I -.

Q. Would you just indicate to us where your initials and the date is?
A. Initials are just above my index finger and the date is there (indicated).

Q. Could I just have that back please?
A. It is a BPK all in one.

Q. It was right at the-?
A. Left hand.

Q. The very left hand side of the label?
A. Yes, sir.

Q. You told us that you stuck a note on the door?
A. Yes, sir.

Q. Relating to a message?
A. From Gail McKay.

Q. What door did you stick that on?
A. Initially I stuck it on the solid wooden door but because it was raining - or it rained during the course of the day and evening it started to come off so I stuck it to the fly screen door where the stick tape sticks back on itself. The louvres you can stick around, that message I offered to the female police constable Wednesday afternoon and she said its - don't want it.

Q. So what did you do with it?
A. Well I took it back inside and I have since thrown it.

Q. Had you ever seen paper stuffed in the doorway as it was on the Tuesday and the Wednesday at Jim Meek's place before?
A. Never, as I said before, he was a very house proud man and everything was always neat and tidy. There was never a shortage of clean cups. He would always be washing cups straight, as soon as we had a cup of coffee - as soon as we finished.

<CROSS-EXAMINATION.

MOLOMBY: Q. Mr Kane, you put your note on the door of Mr Meek's flat as a result of getting a call from Gail McKay, is that correct?
A. Yes, sir.

Q. And that was probably somewhere around 1.30 or so on the afternoon on the Tuesday was it?
A. It was between 12 and 1.30.

Q. You can't do better than that span to located that time?
A. I can't - but I can't recall any closer than that. It was around that time.

Q. Somewhere in that span of time?
A. Yes, sir.

Q. And you put the noted on fairly soon after getting the call from her did you?
A. Yes, sir - what I done - I picked up the phone. I wrote a note and took it straight out but I can't remember exactly the time I got the phone call.

Q. You have done your best haven't you - 12 to 1.30 somewhere in that span?

A. Yes, sir.

Q. That call was about Mr Meek's involvement in some tenancy business, wasn't it?
A. Yes, sir.

Q. He was on a number of committees and that sort of thing?
A. Yes, sir.

Q. There was a group called the Tenants Group wasn't there - among other things?
A. There was the Estate Advisory Board and the meeting that he missed was one of the subcommittees of the Estate Advisory Board, it was then called. It is now called the Neighbours Advisory Board - typical they change the name every so often.

Q. What I am going to raise is a bureaucratic matter - hadn't Mr Meek resigned from the Tenants Group on the 27th of February that year?
A. I don't know - well which Tenants Group, there's numerous ones there.

Q. Something that someone intimately involved with those questions could call the Tenants Group - do you recognise that is a reference to any identifiable body in the affairs of the estate at that time?
A. As far as I know, unless you give me the exact name of the Tenants Group - or the organisation that he was supposed to have resigned from, I don't know -.

Q. Put it this way - you knew Gail McKay?
A. Yes, sir.

Q. She was involved in tenant affairs, wasn't she?
A. To a certain extent, yes.

Q. If she said in these exact words what I am about to put to you would it make sense to you, "Jim felt betrayed by a member of the Tenant's Group and he resigned on the 27th of February 1995"?
A. Well it depends which Tenants Group. As I said before. We had about five different competing groups.

Q. Do you know a Mavis Johnson?
A. Yes. I didn't know her as well as I do now.

Q. Was she involved in the same Tenants Group that Jim Meek was involved in?
A. Yes, organisation.

Q. If it was said that Mavis Johnson and Jim Meek were on the Tenants Group would you be able to get some sense from that?
A. They were both involved in the Community Centre and Jim could have resigned from - at that time we had three separate bodies, we had the Estate Advisory Board, the Northcott Combined tenants Association and the Department of

Housing Surry Hills Community Centre Arrangement Committee.

Mavis Johnson and Jim were involved in that third one. Gail was involved with Jim on the Estate Advisory Board.

Q. Do you recognise anything called the Public Tenants Council?
A. Yes.

Q. Is that one of the things you mentioned under another name or is that another one again?
A. That is another one again, that is Central Sydney Region Public Tenants Council Incorporated.

Q. I take it you have had some involvement in these activities yourself?
A. I am currently on the council.

Q. Did you know anything of Mr Meek having resigned from any body connected with tenants activities on the 27th of February 1995?
A. No.

Q. You never heard it before I just raised it just now?
A. No but I did know that Jim at times got upset with some actions and said I'm going to resign or I'm going to leave. I'm giving this up, and a week later he changed his mind.

Q. Now, you made two statements to the police, you have given in evidence, one in March and one in July?
A. Yes.

Q. And it was in the statement in July that you referred to the young man coming to your door and getting the Tally-ho papers?
A. Yes sir and the only reason I didn't mention it in the March statement -.

Q. You have given that explanation I think twice Mr Kane - don't you think you have given the explanation?
A. I just thought you were leading to that.

Q. The police officer told you it wasn't necessary?
A. The female constable on the day of finding his body told me it wasn't necessary - that it was not police business.

HIS HONOUR: It really works out much better if you think about the question and just answer that question. If counsel want to ask you something else you can rest assured they will do it but you just answer the question that is being asked and things go better?
A. Sorry your Honour.

MOLOMBY: Q. They are the only two formal statements you made to the police, aren't they?
A. Yes, sir.

Q. And there was the third account that the officer on the

scene did write on her notebook on -?
A. It is really the first account.

Q. Yes, the first in time?
A. Yes.

Q. Now, you have given evidence that the boy came to your door for the Tally-ho papers on the Monday and on that afternoon you went walking dogs with Mr Meek?
A. Yes, sir, only thing was I didn't call him "boy" - "young man" I think I said.

Q. I am sorry I wasn't meaning to attribute that word to you - but - fair enough - you discussed the young man with Mr Meek on the Monday afternoon during this joint walk of your dogs?
A. Yes, sir, but don't ask me to recall unless I can refer to my July statement again.

Q. Now that was a walk which took half an hour to an hour, wasn't it. The walk that you jointly did with Mr Meek and your dogs?
A. Approximately that.

Q. And it occurred at some time you say between 1 o'clock and 3 o'clock on the Monday, don't you?
A. Approximately that time, yes.

Q. They are the times that you have actually recorded on the statement aren't they?
A. If that is what is recorded on my statement that is more accurate than my memory now.

Q. Do you have a copy of your statement handed to you earlier, and I think that was the 11 July statement - do you still have that with you or has it come back?
A. It has come back.

Q. (Called for. Produced) I will hand this to you - I am referring to paragraph 6 in the statement - do you see paragraph 6 there half way down the page?
A. Yes, sir.

Q. That begins doesn't it between 1pm and 3pm that Monday I walked from my flat and saw Jim exiting his flat both of us with our our dogs"?
A. Yes, sir.

Q. I just want you to confirm that is how you recorded it in your statement?
A. Yes, sir.

Q. Now you made this statement in July of 1995 about events of early March, 1995?
A. Yes, sir.

Q. And you relate in the statement the young man getting the Tally Ho papers on the morning of the day, talking about him with Jim during a walk on the afternoon of the same day, do you not?
A. Yes sir.

Q. Is it possible that you're wrong about that, and that those two events which you relate together in the statement as on the same day actually occurred on different days?
A. No sir.

Q. Is it possible that you are wrong about the day on which the young man asked for the Tally Ho papers, and it was not the Monday but Tuesday?
A. No sir.

Q. Isn't that the sort of mistake that is sometimes easy to make when you are looking back on events?
A. (No answer)

Q. The confusion of a day that something happened?
A. No, because Tuesday, there was so many people looking for Jim and not finding him, and it was the day before that that I saw the young man and he got the Tally Ho papers off me.

Q. Well that is certainly how you remembered it?
A. Yes.

Q. When you made your statement in July?
A. Yes sir.

Q. Were you given a copy of that statement at the time, or sometime soon after you made it?
A. I was given a copy when - prior to appearing at the committal hearing, whenever that was, in the local -

Q. In March 1996?
A. Yes sir.

Q. And have you had a copy of it since then?
A. Yes sir.

Q. You have reread it on a number of occasions have you?
A. Yes sir.

Q. That is the statement of July 95?
A. Yes sir.

Q. And you have also read, have you, the statement that you made in March 1995?
A. Yes sir.

Q. Have you had a copy of that all through -
A. Yes sir.

Q. Since around the time you made it?
A. Not around the time I made it, around the time of the

committal hearing.

Q. You got both of those statements together around that time?
A. Yes sir.

Q. You have had them since?
A. Yes sir. But since - never mind.

Q. Well I am suggesting to you you are definitely wrong about going for a walk with Mr Meek and both of your dogs between 1 o'clock and 3 o'clock on that Monday, that is 6 March 1995?
A. No sir, I did go for a walk with Jim and our three dogs on the Monday afternoon.

Q. In that time span?
A. Within that time span.

Q. If you were wrong, demonstrably definitely wrong about that, you could be wrong too about the day on which the young man got the Tally Ho papers could you not?
A. No sir.

<NO RE-EXAMINATION

<WITNESS RETIRED AND EXCUSED

<WILLIAM JAMES COFFEY(12.40PM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Would you tell the Court your full name please?
A. William James Coffey.

Q. And Mr Coffey, as at 1995 were you a Client Service Officer for the Northcott apartments Belvoir Street Surry Hills?
A. That's correct.

Q. And did you make a statement on 25 March, 1995 in relation to the matter now before this Court?
A. Yes that's correct.

Q. And at that time were you employed by the Department of Housing as the Client Services Officer?
A. Yes, I was the manager of a high rise complex at Surry Hills.

Q. Is that complex the Northcott apartment complex?
A. Yes that's correct.

Q. And does that complex consist of four hundred and twenty-eight units which are managed by the Department of Housing?
A. That's correct. I think it's four hundred and twenty actually.

Q. And in 1995, had you been with the Department of Housing for ten years managing numerous housing complexes owned by that Department?
A. Yes, I worked for them in all for twelve years - I've just recently medically retired - managing projects in Redfern, Waterloo, Surry Hills. High rise projects for the Department.

Q. Had you been in your position as Client Service Manager at the Northcott apartments for seven years as at 1995?
A. That would be correct, yes. It's actually a resident position. The position I held is what they call Resident Client Service Officer, or Resident Manager.

Q. So you actually lived?
A. It's a condition of the employment to live on the project.

Q. Do you recall first having met a man named Jim Meek about two years before 1995 - so that's about 1993 - when he took up tenancy at the Northcott apartments?
A. Yes I do recall.

Q. And was, so far as you are concerned, Mr Meek a man who lived alone and appeared to keep to himself?
A. Yes. Yes he lived on his own, and he kept to himself, although he did - I did observe him in company with other people at times. Different times.

Q. You are not suggesting he was a recluse?
A. No, no, no, no.

Q. And did Mr Meek become a tenants activist involved in local tenancy issues on behalf of the tenants in the complex?
A. Yes he did. There was a committee that existed on the project to handle grievances and problems of the tenants who brought them to the Department and so on, and we had regular meetings and that type of thing. Yeah, he joined that committee.

Q. And your relationship was that of a normal type relationship that existed between the manager and a tenant in the units?
A. Yes.

Q. Were you aware that Mr Meek was homosexual and that he was suffering, or was H I V positive?
A. Yes that's correct, I knew that.

Q. During your time at the Northcott Flats, was it not uncommon for you to see Mr Meek walking around the complex, and in the Ward Park area at various times, during both the day and the night?
A. That's correct, I had observed him on many occasions walking in Eddie Ward Park. He had two little dogs who used to walk early mornings, late evenings. Quite often he was - he spent a lot of time in the park.

Q. To the best of your knowledge, do you tell the Court that you were unaware that Mr Meek was involved in any steady relationship with any person or persons?
A. No, not to my knowledge. But it was not my position to keep track of relationships of people. You know, we only managed it just as their tenancies and so on. As I say, I observed him with people but as to what his relationship with them was I don't really know.

Q. Were you aware that Mr Meek was unemployed and received some sort of disability support pension?
A. Yes, because that information has to come out on the rental rebate application, his income status. Yeah, he was unemployed and on a benefit - on a pension.

Q. And were you also aware that shortly before his death he had received a large compensation payout as a result of an incident when he was employed as a security guard?
A. Yes, again that had to be declared, any moneys that you, you know, received from any source had to be declared, and he had declared that he had received a compensation payment. I think he just purchased a new car at that time too.

Q. Now do you tell this Court that the last time you saw James Meek alive was on Thursday 2 March, 1995 at about midday?
A. Yes that would be correct.

Q. Now on Tuesday 7 March, 1995 do you tell this Court that a tenancy meeting which had been organised by Mr Meek on behalf of other tenants, with yourself as the Department of Housing representative, was scheduled to commence at 10 a.m. at the Northcott community centre?
A. That's correct. I went to the meeting. The meeting was held every week for the tenants to, as I say, discuss any problems on the estate, or on the project. I attended this morning and nobody turned up at all, which was very strange.

Q. And do you tell the Court that you found it unusual as it was unlike Meek to not attend a meeting that he had organised?
A. Yes it was, because he was very involved in this group, and very active within it, and I thought it was very strange that he hadn't excused himself or let our office know, because we have an office on the project.

Q. On Tuesday, 7 March 1995, in the afternoon, did a resident by the name of Eileen McCarrdle come and express some concern in relation to Mr Meek's welfare?
A. Yes, she did. She is a tenant of long-standing. And she came in and said that she hadn't seen him around, and she thought - she heard that he hadn't attended a meeting, she thought it was strange and she was wondering, you know, whether I could do anything about checking on his welfare. I explained to her that we couldn't really enter his flat, or do anything like that. She was more or less intimating that she should enter his flat to see if he was okay. I suggested that she call the police, that they were the only

ones with concern for welfare who had the right to gain entry, we didn't have that right, and that she should do that.

Q. And on Wednesday morning, 8 March 1995 did a tenant by the name Peter Lawrence come to your office expressing some concern about Mr Meek's welfare?
A. Yes. Michael Lawrence actually is his name. Yes, he came in that morning and said more or less exactly the same as Mrs McCarrdle. He was very concerned for Meek's welfare, and again wanting to know whether we could do something about gaining entry to the unit. Again I explained, similarly as I had to Mrs McCarrdle, he should contact the police, that we couldn't do anything. So it was explained - the same thing was explained to him as to Mrs McCarrdle.

Q. Did Mr Lawrence later, at around 3.15 p.m., inform you that he had contacted the police?
A. Yes he did. He came to the office again and said that he had contacted the police, and that the police would be attending - well that they were already there I think, if I recall correctly, that they had already arrived, and could I make arrangements to gain entry to the unit. And as it happened, there was a locksmith working on another job on the project, so the police asked if I could gain entry using this locksmith, which we did.

Q. Did you go up then with the police and the locksmith, and Mr Lawrence, to Floor 12, Unit 24, B Block?
A. Yes, there was the two female police officers, Michael Lawrence, myself and the locksmith.

Q. When you arrived at Mr Meek's unit, did you observe that the security grill door was closed but unlocked?
A. Yes, that is correct.

Q. And do you say that that was unusual because Mr Meek maintained a level of concern about his personal security?
A. Yes, that was very unusual because he was very very security conscious. The project's security guard had informed me of this, that he was very conscious. And also Jim Meek himself had told me that he had been bashed once in Eddie Ward Park by a friend of another tenant in the building, and he was quite concerned generally for his safety. So the fact that the door was unlocked was unusual.

Q. Now did you also observe that between the security grill and the front door, which was closed and locked, there was some newspaper crunched under the bottom of the door and the floor?
A. Yes there was newspaper all crunched up and jammed up against the door so as to, it would appear, stop the wind getting in, or for, you know, for insects, cockroaches, that type of thing. But it had been - it looked to be purposely put there, the way that it appeared. It was the full length across the door.

Q. And did it appear to have been put there from outside

the main door?
A. Yes, well that's the only way that it could be put there. It's between the security door - the security grill door and the front door.

Q. Did you notice whether or not it was pushed under in any little gap that might be there or -
A. It wasn't pushed really tightly, I didn't think, it was - it was fairly large crumpled paper rolled and all scrunched up, but pushed up fairly firmly against the door.

Q. Then with the permission of the police did the locksmith open that main door?
A. Yeah. It took him a few minutes. The locksmith, he used the lock picks, picked the lock and opened the door, and he stepped back and the two female police officers entered the unit.

Q. And do you tell this Court that you didn't detect any unusual smells that you might associate with a deceased person when you went into the unit?
A. No. No.

Q. And during your time with the Department of Housing, have you been exposed to numerous deceased persons who have been deceased for different periods of time?
A. Probably twenty or thirty.

Q. Now on the request of the police did you enter the unit?
A. Yes.

Q. Did you see the male person known to you as James Meek lying on the ground in the entrance hall near the kitchen?
A. Yes.

Q. And as far as your observations were concerned, do you say that he was lying parallel to the common wall between his unit and unit 23, which is the unit immediately to the left as you go into his unit?
A. Yes. That would be - it's hard to gauge the description - yes, that would probably be right.

Q. And was Mr Meek's head facing up the passage way away from the front door?
A. That's right, yes.

Q. And at the time do you recall Mr Meek was wearing shorts and T-shirt, but you can't recall what colour?
A. No I can't. It was shorts and a singlet.

Q. And do you believe that Mr Meek's glasses, which he always wore, were lying on the floor next to his head?
A. Yes.

Q. Did you see that there was a blood trail coming from somewhere on his body?
A. Yes, there was congealed blood from his nose trickling down his face, down the front of his face. His body was very

discoloured, going black. It hadn't - as I say, there was no smells, but the body was very very black, very black in colour.

Q. Just getting away from the black colour that you saw on the body, generally though, was Mr Meek a fair complexion, or was he suntanned, or what was the situation?
A. What I can recall, I think he was fair, a fair complexion. Fair to medium I think you would say. I don't know. He certainly wasn't heavily suntanned. Fair.

Q. Did you identify the body lying on the floor as that of James Meek?
A. Yes. Police asked me if I knew him, and if that was him, and would I be prepared to I D him.

Q. And after you finished that identifying process, did you go about your business?
A. Yes I left, and the police officer said that she would come to the office with the papers for me to sign in relation to the identification later on in the afternoon, so I left and went back to my office.

Q. And later on did the police officer come and see you?
A. Yes she did.

Q. You mentioned in your statement and the evidence that you have given today that Mr Meek always wore his glasses?
A. Yes he always wore glasses.

Q. You never saw him out of his premises without his glasses?
A. No.

Q. I just show you photographs numbered 8, 10, 11, and 12 from Exhibit A (handed to witness). Do you recognise what is depicted in each of those photographs?
A. Yes.

Q. Where was it that you believe you saw Mr Meek's glasses?
A. Don't appear to see them in the photograph, but I'm sure that they were - probably just up from where his hand is.

Q. Which hand are you referring to, and in which photo?
A. In photo number 8.

Q. Are you referring to the hand that can be seen?
A. Yes.

Q. That is apparently his left hand?
A. Yes.

Q. And so far as you can recall, that is around where you believe you saw his glasses?
A. Well that's what I believed. I thought they were glasses. See, bearing in mind I was only in there for a very short time. The police officers asked me to take particular notice of his face to identify him, that that was

him. Which I bent down. I bent down and looked at his face, and then more or less I left immediately. I wasn't in there for any length of time really, but I would have sworn that I seen glasses there. Doesn't appear to be in the photograph.

Q. Well, they're not in the photograph, but that does not necessarily mean you did not see them there, does it?
A. No that's right.

LUNCHEON ADJOURNMENT

IN THE ABSENCE OF THE JURY.

MOLOMBY: My friend and I discussed the direction question in relation to that identification and we have by agreement resolved something. I have it in handwritten form which I can hand up or if it is more convenient I could read it out.

HIS HONOUR: If you hand it up I can read it.

MOLOMBY: Just before I do that might I say something else. I put my application earlier today in relation to basing this as purely relating to factors in identification. Over the lunchtime it has occurred to me that I ought without wishing to traverse your ruling to put it on an expanded basis which is the basis on which I have already put it which I don't seek to repeat, and additionally, the prejudicial and seriously prejudicial effects of the evidence which in my submission would outweigh any probative effect it might have. No if it is in order for me to renew the application on that basis I will expand on that slightly.

HIS HONOUR: What you say is the actual evidence that fits that description.

DISCUSSION

<IN THE PRESENCE OF THE JURY

HIS HONOUR: Members of the jury, I said to you that I would give you a direction about the evidence given by Mr Marsh on the identification of the accused. This morning, in the course of his evidence, Mr Marsh identified the accused, he said in the witness box, as the person whom he saw and heard having an argument with the deceased on 1 March 1995, when Mr Marsh went to a nearby shop to purchase milk. I'm sure you will remember him giving that evidence. You will recall that he said that the accused looked different from the person he saw on that day, and he identified some different features of appearance.

Mr Marsh has seen the accused in court on two occasions in circumstances which may well have influenced his recollection, and the accuracy of his identification of the accused as being the person he saw on 1 March outside the shop. The identification of the accused here today was not something which he was asked to do by the Crown. It was a non-responsive answer to the question that he was asked.

I now give you this special direction of law, that the identification by Mr Marsh here in court cannot be relied upon as part of the Crown case, and must be put out of your minds entirely as evidence upon which you can rely in identifying the accused as the person with whom the deceased had the argument on 1 March 1995 outside the shop.

(Mr Coffey returned to the witness box)

<CROSS-EXAMINATION

MOLOMBY: Q. Mr Coffey, did you have this morning a copy of your statement that you made for this case to the police?
A. Yes.

Q. Do you have it with you now?
A. Yes.

Q. Most of the evidence you gave to the Crown Prosecutor was almost in the terms in which you recorded it in the statement was it not?
A. Yes.

Q. And you may or may not need to refer to the statement, if you have just got it out there you can go to it if you need to. In the position you had at the Northcott Flats, you had on occasion received complaints about Mr Meek had you not?
A. Yes I had.

Q. In relation to attempting to solicit young males in sexual way?
A. Yes.

Q. Now you referred to a meeting that on the Tuesday 8 March, 1995 involving tenancy matters, that Mr Meek did not

turn up to, and nobody else turned up either?
A. That's right.

Q. You went and nobody -
A. No-one turned up, no.

Q. Now I think you gave evidence in the form that it was unusual, because it was unlike Mr Meek not to attend a meeting that he had organised?
A. Yes.

Q. It is rather the case in these circumstances, is it not, where nobody else turned up either, it would appear just that the meeting was never organised?
A. Well, that well could be. I don't really know because it was a standard arrangement for that time every Tuesday.

Q. But in terms of logical conclusions that you might derive from the facts, you agreed that there is another way of looking at it from the way you presented it in your evidence originally, it might be that Mr Meek did not fail to turn up to a meeting that he had organised, but that in fact the meeting was never organised at all?
A. That well could be, yes.

Q. Because the other people did not come either?
A. No, one - Michael Lawrence did come and apologise afterwards, I think it was the next morning, that he was unable to attend when he couldn't - he wasn't able to tell anyone in private.

Q. Were you aware of a body that had something to do with tenancy matters called the Tenants' Group?
A. Yes. Northcott Tenants' Group was what I think they called themselves.

Q. Mr Meek was involved with that?
A. Yes.

Q. Was that the group that was having the meeting on that morning, the Tenants' Group?
A. They have a subcommittee so to speak of about four people, three or four, four people, I can't recall exactly; some weeks there might be different people attend the meeting, but always roundabout four.

Q. Yes, but is that the group that was meeting on that morning when nobody came, that the Tenants' Group?
A. Yes.

Q. Isn't it the case that Mr Meek resigned from that group just shortly before, on 27 February, 1995?
A. Well that I don't know. I don't know the internal politics, or the running of their organisation. I don't know whether he did or he didn't. To my knowledge he was still a member of it. I never knew any different to that.

Q. That is, the first you have heard of that suggestion is

just now when I asked you, is it?
A. Yes.

Q. In the normal course of events, as the Northcott Flats were run, if somebody like Mr Meek resigned from the Tenants' Group, was that as a matter of course notified to you or not?
A. It would be in due course, although not necessarily me on all occasions, because I wouldn't always attend every meeting. There were other officers in our Department who may go to a meeting. I might miss a couple, and then I would go along to one sort of thing. But generally they would give us in their next lot of minutes, tell us who the new members were on the committee, or who had resigned.

Q. Now, how long were you working on that estate?
A. I think at that time I had been there about seven years.

Q. Were you familiar with all the tenants?
A. Pretty well, yes.

Q. You knew who they were?
A. Yes, yes.

Q. And have you seen this young man before the Court today, Michael Alan Heatley?
A. Only at the committal hearing that I was - where I gave evidence. Other than that, I haven't seen him before.

Q. He was never a resident of those flats, was he?
A. Not to my knowledge, no.

Q. He did not live in [redacted] Block with his mother, did he?
A. No.

Q. And I'm speaking about now early in 1995, in particular March 1995?
A. No I don't know who his mother might be, whether her name is Heatley, but he certainly wasn't a tenant.

Q. You had never seen him around, had you?
A. No.

<NO RE-EXAMINATION

<WITNESS RETIRED AND EXCUSED

<KEVIN JOHN JAMES PLUMB(2.49PM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Tell the Court your full name please?
A. Kevin John James Plumb.

Q. And in 1995 Mr Plumb did you live in Unit [redacted], Level [redacted] Belvoir Street Surry Hills?
A. I did.

Q. And was that part of the Northcott apartments?

A. Yes it was.

Q. And did you know a person by the name of Jim Meek?
A. Yes I did.

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Q. What block of the Northcott apartments was it in which you lived?
A. [redacted] Block.

Q. That was the same block as Mr Meek is that correct?
A. That is correct.

Q. He was one floor up?
A. No he was on the 12th floor.

Q. Was he on the same floor as you?
A. No.

Q. He was on the 12th floor?
A. Yes.

Q. And you were on the?
A. [redacted] floor.

Q. [redacted]
A. (Nods).

Q. Did you meet Mr Meek through other neighbours in your block?
A. Yes I did.

Q. Did you become an acquaintance of his in that you would talk and you would walk your dogs together and things like that?
A. Yes.

Q. Do you tell the Court that at that time you used to walk your dog about six times a day?
A. That is correct.

Q. Do you recall Tuesday the 7th of March 1995?
A. Yes I do.

Q. Can you recall at about what time you woke up on that day?
A. 7 o'clock.

Q. When you woke up did you get up?
A. Yes.

Q. Do you have a flatmate?
A. Yes I do.

Q. What is his name?
A. Peter Sharpe.

Q. Was Peter at home on that day?
A. Yes he was.

Q. So when you got up, you say you went and had a shower?
A. Yes.

Q. What did Peter do?
A. Peter walked the dog.

Q. Did he return from walking the dog around about some particular time that you - did you note?

A. About quarter to eight.

Q. And when he returned did he mention whether or not he had seen anybody else walking a dog?
A. He mentioned he saw Jim Meek walking his two dogs.

Q. Was it common for you to discuss who you might have seen out when you were walking the dog if one walked the dog and the other one stayed behind?
A. Yes it was.

Q. Did you then clean your house?
A. Yes I did.

Q. Did you then next walk the dog?
A. Yes I did.

Q. About what time was that?
A. That would have been about 11 o'clock.

Q. So the first time the dog was walked was about 7.30?
A. Um-hm.

Q. And the next time the dog was walked?
A. 9.30 and then 11 o'clock.

Q. Who walked him at 9.30?
A. I did.

Q. When you did go to walk your dog at 9.30 did you notice something about the lifts?
A. The lifts weren't working as the power was off on the day.

Q. Did you know that that was going to be the fact?
A. No. I went to the lifts. The lights were out. Someone had told me the lifts weren't working. Then I went down the 9 floor stairwells.

Q. You went down the 9 floor stair wells?
A. Yeah.

Q. Where did you go with your dog then?
A. I went to the landing near the park.

Q. Did you see somebody while you were out there with your dog?
A. I saw Jim walking his dogs.

Q. Where was he?
A. He was just near 'C' block.

Q. Can you recall what Jim Meek was wearing when you saw him at that time?
A. At that time he had on a shirt and long pants.

Q. Can you recall what his footwear was?
A. He was just near the park.

Q. You mightn't have heard me because I wasn't facing you, I am sorry. Can you recall what his footwear was?
A. Yes. He was wearing sneakers.

Q. Now, when you finished walking your dog, did you return to the B block foyer?
A. Yes I did.

Q. About what time would that have been?
A. That would have been quarter to ten.

Q. What did you do when you got in there about quarter to ten - you were in the foyer - what did you do?
A. I - then I saw Stephen in the foyer.

Q. Are we talking about the time when - at a quarter to ten, you had been out walking your dog and you went back in to the foyer at quarter to ten?
A. Um-hm.

Q. What did you do then?
A. I went back to the lifts.

Q. And were they functioning?
A. Yes they were.

Q. So your lift functioned at quarter to ten?
A. Yes.

Q. Where did you go?
A. I went upstairs to my flat.

Q. When you went up to your flat did you do something?
A. Yes I started the washing.

Q. Did you look outside at all while you were up there?
A. Yes I put up the blinds and saw Jim was downstairs.

HIS HONOUR: Q. Could you say that again?
A. I went upstairs and opened the blinds and saw Jim downstairs.

CROWN PROSECUTOR: Q. At about what time would that have been by the time you got up there and started doing what you were doing in your unit and you looked outside?
A. That he would have been about 10 o'clock.

Q. Then did you continue with your housework?
A. Yes I did.

Q. Did you once again go out with your dog?
A. Yes I did.

Q. At about what time was that?
A. 11- 11.30.

Q. Did you say 11 - 11.30 other did you mean to say 11.30?
A. 11.30.

Q. When you went downstairs, how did you go?
A. I went down via the lift.

Q. When you got down there did you see somebody?
A. Yes I saw Stephen the postman.

Q. Where was he?
A. He was the other side of the foyer doing the mail.

Q. Did you go over and have a talk with him?
A. Yes I did.

Q. Do you recall about how long it was you had a talk with him?
A. 20 minutes.

Q. What did you do then, after - did something happen while you were talking to Stephen?
A. After Stephen finished on one side he when to the other side to do the mail, Jim Meek came up behind me, talked to Stephen. Stephen gave him some mail and then he walked out. I continually talked to Stephen.

Q. So Stephen gave Jim some mail and Jim walked out?
A. Yes, that is right.

Q. Where did he go?
A. Out the glass sliding doors.

Q. Did he have anything with him?
A. Sorry?

Q. Other than the mail that Mr Watson had given him, did he have his dogs, for example, with him?
A. No he didn't.

Q. Can you recall how he was dressed on that occasion when you saw him?
A. He had a T-shirt on and shorts and thongs.

Q. What did you do after you finished speaking with Mr Watson, the postman?
A. I went upstairs.

Q. Did you notice anything about Jim Meek when you were talking to the postman and he was talking to the postman?
A. I noticed he was wearing jewelry.

Q. What jewelry was he wearing?
A. On one hand he had a tiger ring. On the other hand he had a black onyx ring, a watch and a chain.

Q. Where did he have the chain?
A. On his left hand.

Q. So it was a bracelet type chain, was it?
A. Yes.

Q. And when you say a tiger's ring what do you mean by that?
A. A tiger as in striped colour, like a tiger's eye ring.

Q. Have you seen that ring on any occasion since that time?
A. I saw it at the Police Station when I made a statement.

Q. Can you describe the watch he was wearing?
A. It was rectangular and very chunky.

Q. Rectangular and?
A. Chunky.

Q. Are you able to describe the faces of it at all - like - the colour of the face or?
A. It was a black face watch.

Q. And what colour was it?
A. Gold.

Q. Had you seen that watch before?
A. Yes I saw it for several weeks before.

Q. Had you seen the ring before?
A. Yes, on the same occasions.

Q. What about the onyx ring, had you seen that ring before?
A. Yes.

Q. Was it a silver or a gold ring?
A. It was gold.

Q. Was the tiger's eye ring a silver or a gold ring?
A. It was gold.

Q. (Ex. B shown) do you recognise that ring?
A. Yes, that is Jim Meek's ring.

Q. Is that the ring that you described as a tiger's eye ring?
A. Yes.

Q. Can you recall on what hand it was that Mr Meek had the tiger's eye ring?
A. His watch hand.

Q. His watch hand?
A. This hand.

Q. His left hand?
A. (Nods).

Q. The bracelet that you saw on his hand, on which hand was that on?
A. The other hand.

Q. The righthand?
A. Um-hm.

Q. And was that - what type of a bracelet was that?
A. Solid chunky bracelet.

Q. Colour?
A. Gold.

<CROSS-EXAMINATION.

MOLOMBY: Q. Mr Plumb, you made a statement for the police about this matter?
A. Yes I did.

Q. Around the time you made it did the police give you a copy of it to take away for yourself?
A. Yes they did.

Q. And have you had a copy of it ever since then?
A. Up until about - no - I just recently got a copy.

Q. They gave you one originally though?
A. Yes.

Q. What, has that been destroyed somehow did it?
A. Yes.

Q. And you more recently were given a copy again?
A. Yes.

Q. How long ago?
A. Saturday.

Q. Have you read it since you were given it on Saturday?
A. Yes, I have.

Q. More than once?
A. Twice.

Q. And you have read it before today?
A. Yes I have.

Q. I am not suggesting there is anything wrong with reading it, do you understand - Now that statement you actually made on the 14th of September, 1995, didn't you?
A. That is correct.

Q. At the Surry Hills Police Station?
A. That is right.

Q. And is it correct that that is the only formal statement that you made in relation to this case?
A. Yes, I have.

Q. There aren't any others anywhere?
A. No.

Q. And the first time the police spoke to you about this matter generally was some - shortly before you made that statement, is that correct?

A. That is correct.

Q. Within just a few days of making that statement?
A. Yes.

Q. You hadn't had any discussions with the police in the immediate time after Mr Meek was found dead?
A. No.

Q. Or after it was believed that he had been murdered - when that news was around - you didn't have any contact with the police then?
A. No.

Q. You have given some evidence about events of the day that I want to go back on. Is it correct you first went out of your flat on the day you have given evidence about at - something about 9.30?
A. That is correct, yes.

Q. Your flatmate had previously been out to walk the dogs at 7.30?
A. That is correct.

Q. But you first went out at 9.30?
A. Um-hm.

Q. That was the first time you went out of your flat on that day for any purpose, was it?
A. Yes.

Q. And was that a regular routine of yours to walk the dog as you did on that day?
A. We would take it in turns to walk the dog.

Q. Was round about 9.30 in the morning a fairly common time for one or other other of you to do so?
A. Yes.

Q. And equally was around about 7.30 a fairly common time for one or other of you to do so?
A. Yes and as in 11 as well.

Q. You had a general routine that was followed during the day?
A. That is right.

Q. And is it correct that sometimes your flatmate would do the 9.30 walk rather than you?
A. Depends on what we were doing during the day.

Q. But depending on what you were doing during the day, it could be that perhaps you did the 7.30 and your flatmate did the 9.30?
A. No, most mornings I would do 9.30 and 11.

Q. Most mornings you would do those?
A. Yes.

Q. So that is a routine that you follow on very many days, is that correct?
A. That is correct.

Q. Now on this particular day you discovered when you were going for your 9.30 routine that the lifts weren't working?
A. That is correct.

Q. And you had no advance knowledge of that, it was a surprise to you?
A. Yes it was.

Q. You got around that by going down the stairs?
A. That is correct.

Q. And how long once you are downstairs does the walking routine take approximately?
A. On an average 15 minutes.

Q. Does that vary a bit whether you meet someone and get chatting to them, something like that?
A. That does, yes.

Q. It would be 15 minutes minimum and perhaps more if you got in a chat with someone?
A. Yes, or the dog wouldn't go to the toilet, or something like that.

Q. If that happens you have to keep the dog going a bit longer, is that right?
A. That is correct.

Q. Now, you went down and you went through your normal routine around 9.30 and you saw Mr Meek out there?
A. Yes.

Q. Was that a fairly common sight for you to see him walking his dogs at some time when were you walking yours?
A. We normally walk the dogs the same time.

Q. Are there other people in the flat too who walk dogs in that same area?
A. Yes, as the park is next to the flats.

Q. A fairly popular area for walking dogs for the people in the flats?
A. That is correct.

Q. So you went through your 9.30 routine and at about 9.45 I think you said in your evidence you returned to the foyer?
A. That is correct.

Q. When you returned to the foyer though you discovered that the lifts were working again?
A. That is right.

Q. And indeed, you took advantage of that, you pressed the button, a lift came, you went back up to the 9th floor in

the lift?
A. That is right.

Q. Was that the first time you ever discovered a lift not working in Northcott flats by the way that you couldn't get down that morning?
A. Yes it was - the power wasn't working so the lifts weren't working.

Q. But your first knowledge of the power not working, was when you got to the lift, wasn't it?
A. That is correct.

Q. You hadn't known specifically that the power wasn't working while you were back in your flat, had you?
A. No.

Q. You hadn't detected through any of your electrical appliances not working or any of your lights not working that the power was off, had you?
A. No.

Q. So it was actually that the lift wasn't working?
A. There was actually no power.

Q. You didn't know that before you got to the lift did you?
A. No.

Q. But when you came back around 9.45 you took the lift back up to the 9th floor?
A. Yes.

Q. And you started to go through a housework routine didn't you?
A. Yes.

Q. And one of the things involved in that was doing washing in the laundry wasn't it?
A. That is correct yes.

Q. Using the washing machines up there?
A. Yes.

Q. And you put the washing in the laundry and you started the machines didn't you?
A. Yes.

Q. And the washing started in the machines in the normal way?
A. That is correct.

Q. So the power was on at that time wasn't it?
A. Yes.

Q. In fact the power was on when you went back up the lift?
A. Yes.

Q. And as far as you know continuously on in a way that

allowed you to start the washing machines?
A. That is correct.

Q. And that was at about 10 o'clock was it, that you started the washing machines?
A. Yes.

Q. If you have any doubt about that you have recorded that actually in your statement, haven't you?
A. Yes.

Q. "The power was on at that time for machines to work. This would have been 10 am"?
A. That is correct.

Q. Then you continued to do your housework for quite a time, didn't you?
A. Yes.

Q. Until, as you have told the Court you went for another walk with the dog?
A. That is correct.

Q. Was your flatmate at home that morning after he had done the early morning walk of the dogs or?
A. We were both home.

Q. Now you said in your evidence to the Crown Prosecutor, you went out with the dog again about 11.30?
A. That is correct.

Q. And this time you went down by the lift?
A. That is right.

Q. In your normal way?
A. Yes.

Q. And on this occasion you encountered Stephen the postman?
A. That is correct.

Q. Now that is Stephen Watson?
A. That is correct.

Q. And he is someone that you knew well at that stage?
A. He is a personal friend of my friend and myself.

Q. And you had known him for some time at that time early 1995?
A. I had known him about 15 years.

Q. And when he arrived on that day were you waiting for him in the foyer?
A. No. He was in the foyer when I got to the bottom of the main foyer. He was in the foyer already.

Q. Was he doing his work - distributing letters to boxes?
A. Yes.

Q. It is correct isn't it that the mail boxes for the flats are divided into two groups?
A. That is correct.

Q. For block B this is?
A. Um-hm.

Q. And if you were walking in, one is sharp on the left once you get inside and one is sharp on your right?
A. That is correct.

Q. And the ones on your left as you walk in are for floors 1 to 7?
A. That is correct.

Q. And the ones on the right are for the floors above that?
A. Yes.

Q. Which group of boxes was Mr Watson working at when you approached him?
A. He was starting the first - the lower floor boxes.

Q. And you talked to him throughout the time that he made that distribution?
A. Sorted the mail - yes.

Q. And is it correct that you followed him across to the other side for upper floors?
A. Which was our mail box as well.

Q. Where your floor number 9 is in that group?
A. Yes.

Q. Did you get any mail that day?
A. Yes I did.

Q. While you are talking to Mr Watson he was continuing to do his work, wasn't he?
A. That is correct.

Q. Going along and putting the things in the boxes and the boxes are in several rows one above the other, aren't they?
A. Yes they are.

Q. Is it three rows deep?
A. Four rows deep.

Q. There are very many of them?
A. Yes there are.

Q. And in that position for someone who is facing the boxes, the lift is essentially behind, isn't it?
A. That is correct.

Q. And that is the position you were in, isn't it?
A. Yes.

Q. You were facing Mr Watson while he was doing his work at

the boxes?
A. That is correct.

Q. And somewhere during this you became aware that Mr Meek had come up behind you?
A. Yes.

Q. You didn't actually see him coming?
A. No but he put his hand over my shoulder to get the mail and knowing his voice I knew it was Mr Meek.

Q. I am not suggesting for a moment it was not Mr Meek, you understand?
A. Um-hm.

Q. You say he came up behind you and there was some brief conversation between him and Mr Watson was there?
A. That is correct.

Q. And he stretched past you as you just indicated with his hand, is that right?
A. Yes.

Q. Were you indicating with your right shoulder?
A. Yes I was.

Q. And his right hand over your right shoulder?
A. Yes.

Q. And what did he - was Mr Watson holding out a bunch of mail to him and he put his hand over and grabbed it or did he put his hand over and hold it out and Mr Watson then got the letters for him and put them into his hand?
A. Stephen handed them to Mr Meek.

Q. But there are a number of ways in which that sort of transaction can happen aren't there?
A. Yes.

Q. I mean I could go up to someone and say where are my letters and in the end he put them in my hand or the other extreme the person would be holding letters and they say these are yours and I can come up and just grab them. Do you understand me?
A. Yes.

Q. They are rather different ways of doing what are essentially the same thing, aren't at they?
A. Yes.

Q. Was this one either of those?
A. He extended them like that.

Q. Mr Watson was holding them out?
A. Yes.

Q. And so Mr Meek just came up and grabbed the bundle that was handed to - offered to him?

A. Yes the two letters.

Q. Two letters?
A. Um-hm.

Q. And then Mr Meek went away?
A. Yes, out the glass sliding door.

Q. And there was only a very brief exchange of words between those two, weren't they?
A. Yes, there was.

Q. And, indeed, you took no part in that did you?
A. No.

Q. This was an interruption into your continuing conversation with Mr Watson?
A. Yes.

Q. When you say Mr Meek went out the glass sliding doors you are referring to what could be called the front doors?
A. No, the side doors. There is actually three sets of doors.

Q. (Exhibit A) These unfortunately may not show exactly what we need to talk about but let's see where we go. Can I just show you these photos out of Exhibit A they are numbered 1, 2 and 3. I am sure you will recognise those - you recognise those photos, don't you?
A. Yes.

Q. If I could just hold up my copy of number 2 as a guide chart - the door that is shown there under Northcott, that is really like the main front door of block B, isn't it?
A. That is right.

Q. And the lifts are straight in behind that at the back of the foyer?
A. Yes.

Q. As shown in photo number 3?
A. Yes.

Q. But the mailboxes we are speaking about are actually off really on the left and right-hand edge of this photo are they not?
A. That's correct, yes.

Q. In other words, they are in behind this brick wall on the left?
A. And where the - on the other side of the "No Standing" sign.

Q. And the brick wall on the right?
A. That's correct.

Q. And perhaps if we go to photo number 3, that actually shows - just down the bottom of photo number 3 on the right - there is a sort of the start of a curve of the wall around the vestibule is there not?
A. That's right, yes.

Q. And in fact what happens in this foyer is, that you can go down that way, to the right of the photo, inside the building where that wall is moving around can you not?
A. Yes.

Q. And if you go right to the front, that gets you to where the mail boxes are?
A. That's correct.

Q. And similarly on the left, although it's not quite clearly shown on the photo as to the commencement of it?
A. That's correct.

Q. And off that foyer there are also automatic opening glass sliding doors on each side are there not?
A. Yes.

Q. And that is out of the photo on the right-hand side, and on the left-hand side?
A. That's correct.

Q. They lead -
A. To the carpark.

Q. They lead to the carpark don't they. Now the lift that you have spoken of getting, when you were walking your dog, is the lift that is straight at the back of photo number 3 is it not?
A. Yes.

Q. And that is the lift that you would get to go up to Mr Meek's place?
A. Yes.

Q. When he left, he did not go and get that lift, did he?
A. No.

Q. He went out one of the glass sliding doors to the side of the foyer?

A. Near the wall, yes.

Q. Which glass sliding doors was it actually?
A. The one near the tiled wall.

Q. The one on the right-hand side of the photo?
A. Yes.

Q. They both go to the outside of the building, don't they?
A. Yes.

Q. I mean, when we say they go to the carpark, in fact if you wanted to go to the carpark you have to go out the door, but you can go to lots of other places if you go out the door too, can't you?
A. Yes

Q. When you went to see the police to make the statement, you knew from talk around the place that some of Mr Meek's jewellery had not been found?
A. Yes.

Q. And you raised that with the police?
A. Yes.

Q. And were you talking to Sergeant Tanos were you not?
A. That's correct.

Q. He is the man who actually took your statement?
A. And Detective Walker.

Q. Mr Tanos is the one who has signed the pages of it I think?
A. Yes.

Q. And when you raised this question of the missing jewellery, Sergeant Tanos told you that they had found something did he not?
A. Yes.

Q. And he showed it to you did he not?
A. Yes.

Q. He showed you a ring?
A. Yes.

Q. And he showed you the ring as a ring of Mr Meek's that "we've recovered" did he not?
A. He showed me a ring and asked me if I recognised it.

Q. But you started a conversation with him about whether any jewellery had been found did you not?
A. Yes.

Q. You meant Mr Meek's jewellery?
A. Yes.

Q. And in response to that he showed you a ring did he not?

A. Yes.

Q. And he said: "We've found this"?
A. Yes.

HIS HONOUR: Q. Did he say that, or did he say: "Do you recognise it"?
A. He said: "Do you recognise the ring?"

MOLOMBY: Q. When you asked him about missing jewellery, did he tell you they had found any?
A. They said some jewellery had been found.

Q. And they said that before they showed you the ring, is that correct?
A. Yes.

Q. So you understood, when they were showing you the ring, that it was something that they had found; correct?
A. Yes.

Q. By the way, you described the way Mr Meek was dressed when he came and got his letters from Mr Watson, he had a T-shirt, shorts and things. That was not an unusual way for Mr Meek to dress, was it?
A. No, that was something that he would wear often.

Q. I mean especially around that time of year, it was hot weather, it was early March?
A. That's correct.

Q. It was a very common way for him to dress?
A. Yes

Q. Seen him that way on many many days?
A. Yes.

Q. You said in your evidence today, Mr Meek, when he got his letters from Mr Watson, was wearing a tigers eye ring?
A. Yes.

Q. Which finger was he wearing it?
A. He was wearing it on his finger.

Q. I'm sorry, if you move quickly it's hard for us to -
A. This finger.

HIS HONOUR: Q. You're indicating?
A. The ring finger.

Q. The ring finger of your left hand?
A. That's correct.

MOLOMBY: Q. Meaning the finger next to the little finger?
A. Yes.

Q. Was there anything else on that hand?

A. Which hand?

Q. Sorry, his hand?
A. Yes there was two rings on different hands.

Q. But tigers eye ring on the -
A. This hand.

Q. Ring finger of the left hand?
A. And a black ring on this hand. On this finger.

Q. A black ring on the equivalent finger?
A. Yes. On the other hand.

Q. On the ring finger of the other hand?
A. In gold.

Q. In gold?
A. Mmm mmm.

Q. Did I understand you to say they were both gold rings, is that correct?
A. That's correct.

Q. And something by way of a chain?
A. Yes.

Q. Which - a chain on the wrist?
A. A chain on the wrist.

Q. Which hand was that on?
A. This wrist.

Q. Meaning the right wrist?
A. Yes.

Q. And did Mr Meek have short sleeves on this day?
A. Short T-shirt.

Q. And you said something by way of a watch?
A. Yes.

Q. On which?
A. This hand.

Q. On the left wrist. So, do I have this right, an onyx ring and a chain on the right?
A. This hand, yes.

Q. On the right. Yes. And watch, and the tigers eye ring on the left?
A. Yes.

Q. Did he have anything else on him of jewellery?
A. He had a gold chain around his neck.

Q. A gold chain around his neck?
A. Yes.

Q. Was that something he was accustomed to wearing?
A. He would wear a lot of jewellery, yes.

Q. I'm sorry, I was asking about the gold chain around the neck now for the moment. The gold chain around the neck, is that something he wore on previous occasions?
A. Sometimes.

Q. Sometimes?
A. On most occasions.

Q. But not always?
A. Yes.

Q. What about the watch, was that something that he had worn on other occasions?
A. Yes. The watch and the rings he would wear quite often.

Q. Quite often. Did he always wear all of them?
A. Yes.

Q. Did he have any others that he wore?
A. No. No others that I saw.

Q. The watch that you speak of you said was rectangular and chunky with a black face and gold?
A. That's correct.

Q. Had you ever seen him wear any other watch?
A. He had an old silver, like a old beat up watch.

HIS HONOUR: Q. What sort of watch?
A. A Seiko. Sort of a Seiko sort of watch.

MOLOMBY: Q. Had you seen him wear that sometimes too?
A. Yes.

Q. Instead of the gold one?
A. If he was dog something to his car, he would wear that sort of watch.

Q. Now Mr Meek came up behind you, and you realised he was there when he spoke, is that correct?
A. Yes.

Q. And you recognised him instantly?
A. From his voice.

Q. The voice. You didn't turn around and look at him did you?
A. I didn't turn at that stage, no.

Q. When you turned and looked was when he was walking away was it not?
A. That's correct.

Q. That is what enabled you to see which door he went out?
A. Yes.

Q. But in fact, while he got his letters, you were still relating to Mr Watson were you not?
A. Yes.

Q. And his hand came over and took the letters, and took them back, and at that point he finished - once he got his letters he finished the conversation he was having with Mr Watson?
A. Yes.

Q. I mean the conversation he had with Mr Watson only related to getting his letters did it not?
A. Yes.

Q. So he finished his conversation once he got the letters, and he then walked away, as you have said, out those glass sliding doors, did he not?
A. Yes.

Q. Now as you were standing - if I can do it this way without getting tangled up: If I am representing your position in this matter, and my solicitor here is Mr Watson, and the letter boxes would be behind her, wouldn't they?
A. Yes.

Q. You're talking to Mr Watson, he is doing a job along the letter boxes, correct?
A. Correct.

Q. Mr Meek then comes up, what, rather at your right shoulder?
A. That's right.

Q. In effect, is that right. And has a brief conversation over your shoulder with Mr Watson?
A. That's correct.

Q. Reaches past you and grabs his letters?
A. Yes.

Q. And then he didn't walk around the front of you to go to the door, did he?
A. No he walked behind me.

Q. He walked behind you, and then you looked to your left, presumably over your shoulder?
A. Yes.

Q. And saw him going down that way, indicating towards the - behind me to my left -
A. Behind me, and the door was just here.

Q. And the door was to your left, perhaps what, 2 metres away, something like that?
A. It would be as far as that bench, the door would be.

Q. That is more like 1 metre away from you?
A. Yes.

Q. And once he had gone outdoor, you didn't follow where he had gone, did you?
A. No.

Q. You just knew he gone out the door, and closed behind him?
A. Yes.

Q. You see, in that circumstance you could not really be sure what he had on his left hand, could you?
A. Yes I could, because I saw his hand.

Q. But the hand he put past you to get his letters was his right hand was it not?
A. Yes.

Q. That is the hand that came in front of you and took the letters?
A. Mmm mmm.

Q. The left hand was never extended past you for any purpose was it?
A. I saw his left hand when he walked out of the door.

Q. You don't have to manipulate those doors to go out, they open automatically?
A. Yes, but when he went out, I saw him like holding his keys, so you could see his ring.

Q. Was he sort of turning his - around the back his hand poked out at you?
A. No, he was walking like that.

Q. Walking like that?
A. He was holding something.

Q. Just a normal position, surely down by his side?
A. Yes.

Q. He was holding some keys?
A. Keys.

Q. Were they like a big bunch of keys or what?
A. His car keys, house keys. He had something in that hand.

Q. They were keys you say?
A. Yes. It wasn't a wallet.

Q. In other words you are saying it was something relatively small are you, that he was clutching in a closed hand?
A. You could see it was keys. You could see keys through the hand.

Q. What, the flash of the steely look of the keys, and the serrations of the edge, is that what you could see?
A. Yes.

Q. But you would have had as best a glimpse of a fraction of a second at his left hand would you not?
A. It's a long walkway from where the mail box is, there is also a window, and looking that way as well.

Q. Didn't he go from just behind you on your right?
A. Yes.

Q. Across about a metre to the doors?
A. Yes.

Q. And you were not watching him after he went through the doors?
A. I looked to him when he went through the doors.

Q. You weren't looking at him particularly to see what he had in his left hand were you?
A. No, I was looking to see where he went. Where he was going.

Q. When you watch people who are walking to see where they are going, you don't concentrate on their hands, do you?
A. But I noticed he was wearing his ring.

Q. That is something that you recorded in your statement, is it not?
A. Yes.

Q. That is something you have read in your statement is it not?
A. Yes.

Q. When you made the original statement, before it went astray, you did read that a number of times did you not?
A. Yes.

Q. And you know that is something that you told the police in your statement, don't you?
A. Yes.

Q. That you saw a tigers eye ring on his hand?
A. (No answer)

Q. But it's not something that you can reasonably be sure about, is it?
A. I could.

Q. You could?
A. Yes. It's the ring on his hand, because it's the only ring he has that was that big.

Q. But you were deducing that that must be the ring he was wearing because it was too big to be anything else?
A. I had seen the ring several times.

Q. You see, it was of no importance to you on that day, when you were talking to Mr Watson, and Mr Meek came to get his mail, what Mr Meek was wearing particularly, was it?

A. No.

Q. I mean, you saw other people in the foyer that day, did you?
A. Yes.

Q. Would you be able to account for what they were wearing on their hands?
A. If I knew the people and the jewellery they used to wear, yes.

Q. You see, you knew that Mr Meek had a tigers eye ring did you not?
A. Yes.

Q. You had seen it up close at leisure on a number of occasions had you not?
A. Yes.

Q. I mean close enough to inspect it and have a good look at it?
A. Yes.

Q. On his hand?
A. Yes.

Q. You only had to see the flash of a ring on his hand for you to conclude he was wearing the tigers eye ring did you not?
A. Because that was the only ring he would wear on that finger.

Q. The only ring he would wear on that?
A. On that finger.

Q. On the ring finger of the left hand?
A. Yes.

Q. So if you saw a flash of a ring on the ring finger of his left hand, you would be confident that that had to be the tigers eye ring?
A. Yes.

Q. Is that what you mean?
A. Yes.

Q. Because he never wore any other ring on that finger, is that what you mean?
A. He never took it off.

Q. He never took the tigers eye ring off?
A. No.

Q. Ever?
A. At times if he was having a shower or something,

Q. You weren't with him when he was having a shower were you?

A. No.

Q. So I mean you are just speculating, aren't you?
A. Yes.

Q. You don't know whether he never took the ring off or not do you?
A. The times I saw him he had the ring on.

Q. Well did the times you saw him include times in his flat?
A. Once.

Q. Mostly you see, you saw him out and about did you not?
A. That's correct

Q. When he was perhaps dressing for a little bit of display?
A. Yes.

Q. And you would agree would you that that wouldn't necessarily represent at all the way he might dress when he was at home?
A. He would wear his jewellery most times.

Q. When he is out and about?
A. All the time.

Q. You don't know about all the time, do you, because you weren't there all the time?
A. The times I saw him he would wear the jewellery.

Q. Mr Plumb, I am not suggesting that you are not doing your best with relation to this, but do you agree that it is somewhat difficult, this long after the events of early March 1995, to remember precise detail?
A. I agree it's been a long time.

Q. And do you agree it was difficult for you, even when you gave the police statement in September 1995, to remember details back in early March?
A. No.

Q. Well for example, would you say adamantly you could not conceivably be wrong about the power being off when you went to walk the dog about 9.30, but the power being back on again at about 10 o'clock for you to do your housework and indeed go up in the lift?
A. Yes.

Q. You could not conceivably be wrong about that?
A. No, I could not.

Q. You spoke of Mr Meek on this day wearing a bracelet, a solid chunky gold bracelet?
A. That's correct.

Q. And that, do I have you correctly, was on the right

wrist?
A. Yes.

Q. And that was in contrast to the watch which was on the left wrist?
A. That's correct.

Q. Now the only hand that you saw of Mr Meek's while he got his mail was his right hand, is that correct?
A. Yes.

Q. Meaning in that precise transaction?
A. Yes.

Q. You only saw his right hand. You, therefore, could not have seen his watch during that transaction, that is correct?
A. Yes.

Q. And you could not have seen the tigers eye ring during that transaction?
A. Not when he got the letters, no.

Q. Meaning that when he came up behind you, put his hand out, got the letters and took them back to him, calling that the transaction, to that point, you had no opportunity to see the watch or the tigers eye ring, correct?
A. Correct.

Q. Now do you acknowledge it's possible that your memory about this matter has shifted over time?
A. Yes.

Q. And that you could be wrong about some of these details?
A. To my - at the moment, I think I know most things, yes.

Q. You see, have you not previously said that you saw Mr Meek's watch when he put his hand over your shoulder to get his letters?
A. Yes.

Q. On his right wrist?
A. Yes.

Q. Now that is an example, is it not, of how easy it is for you to get confused about these things?
A. Yes.

Q. And if you can get confused about the watch, you could get confused about other things could you not?
A. Yes.

Q. You see, when you were speaking to the police, you were doing your best to describe Mr Meek as you believed he was that day, were you not?
A. Yes.

Q. One of the things you were used to seeing on him at that

time was the tigers eye ring was it not?
A. Yes.

Q. And it's quite possible, is it not, that you thought he was wearing that tigers eye ring that day because that is the expectation you had of him at that time, but actually he wasn't. That is possible is it not?
A. Yes.

Q. And this is all with you making your best endeavours?
A. Yes.

Q. Because it was asking a lot of you, six months and one week after the event, to describe precisely what jewellery Mr Meek was wearing, wasn't it?
A. Yes.

Q. I mean, you recognise that the police wanted that. They asked you for it, did they not, a description of what he was wearing?
A. They asked me what he was wearing, yes.

Q. And you did your best to help did you not?
A. Yes.

Q. But you could have been wrong could you not?
A. To my knowledge I wasn't.

Q. No, but you have had the experience in life, have you not, of honestly believing that you are right?
A. Yes.

Q. About your memory of something, and discovering later, sometimes to one's embarrassment, that you are actually wrong?
A. Yes.

Q. And you do not claim any special exemption from the frailties of memory, that people in general are subject to, do you?
A. No I don't.

Q. And you would acknowledge that you could be wrong, honestly wrong, in your memory that Mr Meek was wearing any of these individual items of jewellery that day couldn't you?
A. Yes.

Q. I mean he could have had any three of the four you have mentioned on, and you have mistakenly put the other one in, couldn't he?
A. On the times I saw him.

Q. Yes?
A. He had all the jewellery on.

Q. Yes. And that is an image of him you had in your mind, isn't it?

A. Yes.

Q. If someone said to you, just close your eyes and give us a close-up of Jim Meek's hands, you would have seen them sparkling with that stuff on would you not?
A. Yes.

Q. Hands and wrist?
A. Yes.

Q. That is the way you expected him to be?
A. Yes.

Q. And because that is the way you expected him to be, you could easily, in circumstances where you only got a quick look at him, have convinced yourself that he had all those things on him that you expected, when he only had some of them. That is true is it not?
A. Yes.

Q. There is no doubt you had a conversation with Mr Watson at the letter boxes, and Mr Meek came up and got some letters?
A. Yes.

Q. Late one morning in March 1995?
A. Yes.

Q. But that could have been the morning of Monday 6 March 1995, couldn't it?
A. It was Tuesday, because the power was off.

Q. It was Tuesday because the power was off?
A. Yes.

Q. Well the power wasn't off when you went down and spoke to Mr Watson was it?
A. No.

Q. Because you went down in the lift?
A. Yes.

Q. And the things you did earlier that day, walking the dog, and the housework, were very ordinary things that you do on almost every day, weren't they?
A. That's correct, yes.

Q. Now you see, when you have an ordinary day, and that ordinary day, walking the dog and the housework, was interrupted by the power going off?
A. Yes.

Q. But things were normal by the time you got to go down to see Mr Watson were they not?
A. Yes.

Q. So how can you be sure that the power went off during the course of a normal day, that wasn't a day one or other

side of the day that you went down to see Mr Watson rather than that exact day?
A. It was on the Tuesday.

Q. I'm not quarreling at all with the fact that you remember it that way, but you came and gave the police the statement six months later, isn't it possible that you have actually put into one day events that really belong to two separate days?
A. No.

Q. Do you acknowledge that memory can sometimes play tricks like that?
A. I do, but I remember the day well.

Q. You see you had no particular reason to pay any attention to the housework aspects of the day, or the walking dog aspects of the day, or the power failure aspects of the day, did you?
A. No.

Q. That being the case, isn't it easy for you, some considerable time after the event, and I mean when you are talking to the police, to actually get things a bit mixed up, however, hard and honestly you try?
A. No.

Q. Well, if it is the case, if it is the case that there was a day in early March 1995 in which the Sydney Electricity power authority cut off the substation servicing part of Northcott Flats - you understand that proposition?
A. Yes.

Q. If there was a day when that happened, that the power was cut off from some time just before 9 o'clock to 11 o'clock continuously, no power at all between 9 o'clock and 11 o'clock because the substation is cut off, that is not the day you were talking about, is it?
A. No.

Q. It can't be, can it?
A. No.

Q. Because on your day the lift was off when you went down or tried to go down for 9.30 but the power was back on again around 10 o'clock?
A. Yes.

Q. Sufficient for you to do the washing and other housework?
A. Yes.

Q. So that day cannot be the day you are talking about, can it - you said that?
A. Yes.

Q. Now it is not unknown for power in those units to be cut off for short periods for one purpose or other?
A. It is unusual for the lifts not to be working.

Q. Unusual but not it is not unknown, is it?
A. No.

Q. Mr Plumb, on the day you are speaking of when you had the conversation with Mr Watson and Mr Meek came along, was Mr Meek wearing glasses?
A. Yes he was.

Q. Is Mr Meek somebody that you had seen frequently?
A. Mr Meek - I would see him like four or five times up to 20 times a day.

Q. Did you ever see him wearing any other jewelry other than the jewelry you have spoken about in this case?
A. Yes.

Q. Yes, including the watch?
A. Only the two different watches.

Q. One for the dirty work, if you like, and the gold one?
A. Yeah.

Q. And two rings you mentioned?
A. Yes.

Q. And the one bracelet you mentioned?
A. Yes and the chain.

Q. The neck chain - you never saw any other type of rings or bracelets or chains?
A. No.

<RE-EXAMINATION.

CROWN PROSECUTOR: Q. You were asked by my learned friend about the occasion that you made your statement to the police?
A. Yes.

Q. Did the police suggest to you what Jim Meek had been wearing that day?
A. No they didn't.

Q. Was that the first time, that is the time you made your statement to the police, was that the very first time that you ever brought to mind the last time you saw Jim Meek?
A. Yes it is.

Q. Had you not at any time between the time of your notification of his death and the time you went to the police about that occasion, that you saw him last?
A. That was the last time I saw him.

Q. But had you thought about that independently of the police having asked you about the last time you saw him - had you thought about the last time you saw him before you actually told the police about it?
A. Yes.

Q. And how soon after his death was it that you thought about that?
A. A few days.

Q. You considered Jim a friend did you?
A. An acquaintance, yes.

Q. If the ring that you had been shown by the police hadn't been of the type that you had seen on Mr Meek, would you have told the police that?
A. It was an unusual ring, so, it was a ring I would recognise. If it had been a plain band ring rather than a different ring - but because it was unusual, you recognise the ring, things like that.

Q. My question was if the ring that you had been shown by the police was not Mr Meek's ring would you have told the police that?
A. No.

Q. You wouldn't have told them that it wasn't Mr Meek's ring?
A. If the ring - if it wasn't Mr Meek's ring I wouldn't have said anything.

Q. I've just got to expand on that a little bit. Would you have identified it as Mr Meek's ring if it hadn't been?
A. No.

<WITNESS RETIRED AND EXCUSED.
HEARING ADJOURNED TO THURSDAY 19 NOVEMBER 1998 AT 10AM.

THE SUPREME COURT
OF NEW SOUTH WALES
CRIMINAL DIVISION

IRELAND J
AND A JURY OF TWELVE

FOURTH DAY: THURSDAY 19 NOVEMBER 1998

96/91/0034 - REGINA v MICHAEL ALAN HEATLEY

<PETER MICHAEL DANIEL COYLE (10.05AM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Sir would you tell the Court your full name please?
A. Peter Michael Daniel Coyle. It was changed. Before it was Peter Michael Sharp.

Q. How do you spell Coyle?
A. C-O-Y-L-E.

Q. In September of 1995, and indeed earlier than that, in 1995 you were known as 'Sharp' is that correct?
A. That is correct.

Q. As at 1995 were you residing in the Northcott flats?
A. I was.

Q. And had you been there for about 17 months?
A. That is correct.

Q. And in that time had you met one of the other residents by the name of Jim Meek?
A. I had.

Q. Did you meet Jim through another friend?
A. I did.

Q. As at March of 1995 were you sharing a flat with one Kevin Plumb?
A. I was.

Q. Did you get to know Jim a little better while you were there with Kevin Plumb?
A. I did.

Q. Did you and Kevin have a dog?
A. We did.

Q. And did you and Kevin walk your dog at similar times to that which Mr Meek used to walk his dog?
A. Our paths crossed quite a few times, yes.

Q. Indeed Jim Meek had two dogs, is that correct?
A. That is correct.

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Q. I would like you to think back to the 7th of March, 1995 and as best you can remember that day, would you tell us what you did and who you saw, if anybody, in the early morning of that day?
A. That morning as per was usual our dog woke us - woke me in particular and I took her downstairs to the front of B Block and let her go to the toilet. That was about between 7 an 7.30 of that morning.

Q. How did you do that?
A. Down the lift.

Q. And when you got down there, and you were letting the dog do whatever it had to do, did you see anybody else?
A. I did. I saw Jim Meek.

Q. What was Jim doing down there, do you know?
A. He had his dogs.

Q. And when you saw him did you speak to him?
A. Not as such really, no.

Q. And can you remember where it was that you saw Jim?
A. Yeah, out the front of B Block. I then - my doing had finished going to the toilet and I was going back and Jim was heading off towards Moreton park.

Q. With his dogs?
A. With his dogs.

Q. Can remember how he was dressed on that morning when you saw him?
A. He had a Penguin style shirt and khaki pants and thongs.

Q. About what time would it have been that you saw him?
A. Well it would have been between 7 and 7.30. Again, I couldn't tell you the exact minute.

Q. And when was the last time you saw Jim?
A. That was the last time I saw Jim.

<CROSS-EXAMINATION.

MOLOMBY: Q. Mr Coyle, in giving your evidence is it correct you had the assistance of a statement you made to the police back in 1995?
A. I requested that statement, yes.

Q. That is a statement you made on the 14th of September 1995, wasn't it?
A. If that is the date written down - yes.

Q. Have you got a copy with you?
A. I have.

Q. Would you like to check that?
A. Certainly - the date is the 14th of September 1995.

<NO RE-EXAMINATION.

<WITNESS RETIRED AND EXCUSED.

<MICHAEL FRANCIS LAWRENCE (10.11AM)
SWORN AND EXAMINED.

CROWN PROSECUTOR: Q. Sir would you tell the Court your full name please?
A. Michael Francis Lawrence.

Q. Mr Lawrence, did you make a statement to the police on the 11th of March 1995 relating to the matter now before this Court?
A. Yes, I did.

Q. And did you only make that one statement to the police?
A. Yes.

Q. As at 1995, March of 1995, were you living at the Northcott Apartments?
A. Yes, I was.

Q. And were you living in Block [redacted] of the Northcott Apartments?
A. Yes.

Q. And at that time had you lived there for about 18 months?
A. About that.

Q. Did you know a man by the name of Jim Meek?
A. Yes I did.

Q. Had you known him for about as long as you lived at the units?
A. Yes.

Q. You were aware that he lived on the 12th floor of [redacted] Block?
A. Yeah, yes.

Q. He was a good friend?
A. Yes, he was.

Q. Mr Lawrence, used you assist Jim with advice in relation to certain matters to do with the Tenants Group, things like that?
A. Yeah.

Q. And indeed were you both on the Tenants Group at the Northcott flats?
A. Yes we were.

Q. And you were also both on the Northcott Estate Advisory Board?
A. Yes, we were foundation members.

Q. Would you visit Jim a couple of times a week?
A. Yes.

Q. And would you also have telephone contact regularly during the week?
A. Yeah, from time to time.

Q. Jim sometimes would come over to your place?
A. He would, but fairly infrequently.

Q. Was much of your discussion taken up with tenant matters and descriptions of people that he knew and would meet?
A. Most of it was tenant matters and other people who lived on the estate.

Q. Watch TV, have coffee things like that?
A. Yeah, I wouldn't spend that much time at Jim's place, half an hour - hour.

Q. Whilst you were there and knew Jim did you also know that the security officer who was employed to patrol that building also used to call in and see Jim?
A. Yes, Bob Garrett.

Q. Do you tell this Court that Jim knew a lot of people and he didn't like being alone?
A. Yes, he was well known to most people in the estate. They either knew him by his first name or they knew his face, and he didn't like being alone.

Q. He didn't?
A. He didn't.

Q. When was the last time that you saw Jim?
A. The last time I saw Jim would have been Sunday, Sunday morning.

Q. Sunday morning before?
A. March 5 the day after Mardi Gras.

Q. Did you ring him earlier on that morning?
A. Yes, I wasn't feeling that well and I just asked if he could come down. I had also rung another friend who was coming over.

Q. And was that other friend a man by the name of Egan?
A. Yes, Frank Egan.

Q. Did Jim come - can you recall about what time it was that Jim came to your unit?
A. They both arrived about the same time. I think it was around about - 9 or 10 o'clock - probably closer to 10.

Q. Now, did Jim stay long, so far as you were aware?
A. No, I believe not. I had gone to bed. Jim I think stayed and talked with Frank Egan for a short time and then left.

Q. You have said that was the last time you saw him, so, what was the next time that you either contacted him or attempted to contact him?
A. I think I tried to call him on the Monday - I'm not really sure. It is four years ago, right?

Q. Yes?
A. I think it was on the Monday - Tuesday morning, I think I might have tried to call him.

Q. Were you successful in contacting him?
A. No.

Q. On that Tuesday did anything happen so far as the power in Block B was concerned?
A. Yes, at around about 8 o'clock or just before 8 o'clock - well I noticed in Block A and one of the other residents on the floor asked me - an elderly lady - to check what was going on and I walked from my flat through to the underpass between Block B and Block D and there was a power generating unit there.

Q. Yes?
A. And all the power in the block had been turned off.

Q. Did you speak to somebody?
A. From recollection I think I did. It was an employee for a company that was doing work on the estate, and then I recalled there was a power cut off that day.

HIS HONOUR: Q. Would you say that again?
A. Yes I did speak to an employee, from the power company I think it was, he was adjacent to the generating device. All the power in the estate had been turned off for Blocks A, B, C and D.

CROWN PROSECUTOR: Q. And then I think you said, you then recalled that the power was to be interrupted or something?
A. Yeah.

Q. Had you been notified that there was going to be an interruption to the power service?
A. All residents were notified, I later discovered, but with much of the mail you get from the Department of Housing on the estate, you read it and then you tend to throw it away, as it was like just notices -

Q. Just a memo sort of thing?
A. Yeah.

Q. Did you find out how long the power was likely to be turned off from this employee?
A. I think he said something like 11.30, 12 o'clock, something like that. 11.30.

Q. So what did you do?
A. I went home and went to bed. There was a maintenance meeting later that morning, scheduled for that morning, I presumed with the power being off that it wouldn't be occurring.

Q. So you -
A. I just went to bed.

Q. Did you later on that day go over to the administration unit at the Northcott Flats?

HIS HONOUR: It's a Tuesday?

CROWN PROSECUTOR: Q. Yes, this is the Tuesday?
A. Yes I did, from recollection.

Q. Can you recall about what time it was that you went over there?
A. It would have been around 12.30, 1 o'clock.

Q. Did you speak to somebody there?
A. I thought I spoke to Bill Coffey. But I can't - it's four years ago, I really can't be sure now.

Q. But at the time you made your statement to the police, was it fresh in your mind?
A. I'm pretty sure it would have been Bill.

Q. So did you go over to the administration unit about 12.30 or 1 p.m. and speak with Mr Coffey?
A. To apologise for not attending the meeting.

Q. And did he inform you that none of the other residents had attended the meeting, only Margaret Perryman?
A. I'm not sure if my recollection is correct in that whether he said none of the other tenants including Margaret Perryman, or none of the other residents besides Margaret Perryman, but in any case the meeting didn't go ahead

because no-one attended.

Q. Did you say something in relation to Jim?
A. I thought I remarked that "even Jim"; just a rhetorical question.

Q. Did he tell you something about Jim?
A. No, no-one attended.

Q. Did you then go upstairs to Jim's place?
A. Yes I did. The power was back on.

Q. So you went up via the lift?
A. Yep.

Q. Up to the 12th floor?
A. 12th floor.

Q. And did you notice something when you got to Jim's unit?
A. Yes I did. The door was closed. The wooden door to the flat. The security door was ajar with a note on it, and there was some newspaper stuffed into the bottom of the wooden door.

Q. To you, did that take your notice, the state of the door and the newspaper, and the fact that the door was unlocked?
A. It wasn't so much that the door was locked, but that there was newspaper there, yes. And that the security door was unlocked, I thought that would be strange if you only lock one door. I thought one would normally lock both.

Q. And was it, so far as you are aware, Jim's habit to lock both?
A. On most occasions but not always. But on most occasions, I think so.

Q. And the message on the door, was that a message from Brian Kane?
A. Brian Kane.

Q. When you were there, did Brian come out?
A. Yes Brian came out while I was there.

Q. And did you have some conversation with him; just yes or no to that?
A. I can't remember the exact words but -

Q. No, well just yes or no, did you -
A. Yes. Sorry, I did. I did have a conversation with Brian. Sorry.

Q. And did you do anything, so far as trying to contact Jim, at that time?
A. Yes, I asked other people when I left the floor -

Q. Before you left the floor, did you knock on a door or anything?
A. Oh yes yeah, sorry. I knocked on the door. Of course I

did.

Q. And when you knocked on the door, did you get any response at all from inside?
A. Yeah, sorry, yes, there was. I heard barking from his dogs. And I thought that was unusual because the dogs usually didn't bark.

Q. Now did Brian Kane indicate to you that he was concerned about Jim?
A. Yes he did.

Q. And did you note that Jim's car was still downstairs in the carpark?
A. Yes. Brian I think drew my attention to it.

Q. And did you then speak to a number of people around the units to see if they had seen Jim?
A. Yes I did.

Q. And was the result of those enquiries that nobody had seen him?
A. No.

Q. Well you said no to that. Was the result -
A. Oh sorry, yes the result was that nobody had seen Jim. All my enquiries were in the negative.

Q. Did you leave the complex then for sometime?
A. Yes, I did.

Q. Later on that day, that is the Tuesday, did you return to the units?
A. Yes I did.

Q. Did you have a conversation with somebody about Jim's whereabouts?
A. I did have a conversation with a security guy, Bob Garratt. And I think I probably would have had other conversations with other residents as well, but I just I can't recall.

Q. Did you notice that the car was still in the carpark?
A. Yes I did.

Q. Eventually on the Tuesday did you retire, go to bed?
A. Yes I did.

Q. But before that, when you had the conversation with the security guard, Mr Garratt, did he tell you that he had done anything so far as Jim's door was concerned; doing anything to the door?
A. I think it was by way of a telephone conversation with regard to that, that he put some paper or something on the - around the door.

Q. The door jam?
A. The door jams, yeah.

Q. And did he indicate to you that the purpose for that was to -
A. To ascertain if anybody either entered or left the apartment during that period. If Jim came back.

Q. On Wednesday, did you make some attempt to contact Jim?
A. Yes, in the morning.

Q. Can you recall about what time it was in the morning that -
A. Would have been when I woke up. Probably roundabout 9 o'clock.

Q. Did you return to Jim's unit at that time?
A. Yes, when I hadn't had any answer on the phone.

Q. You tried to contact him by phone first, and then when you got no answer you went around to the units?
A. I went back up to the unit.

Q. When you went around to the unit again, or back up to his unit, did you notice that the window drapes to Jim's unit hadn't been moved?
A. (No answer)

Q. Had not been moved?
A. I can't recall.

Q. Did you once again knock on Jim's door?
A. Yes.

Q. And was there any answer?
A. No.

Q. Was there any response from the dogs?
A. I can't recall.

Q. Did you have another conversation with Brian Kane?
A. Yes. I asked Brian who might have a key to Jim's flat, and I remembered that Jim had recently - that is some months before - had an operation, and that another resident had looked after his dogs, a Barbara Wilson, and I thought she might have a key, so I asked Brian whether she did.

Q. And did you talk to Barbara Wilson?
A. Yes. I think Brian came down with me. Not certain, but I think he did. And I rang - by this stage I was very concerned, I rang the police from her apartment.

Q. What happened then?
A. I think I probably still asked around. Went back to my own apartment. I may have gone back up to Jim's apartment and tried one more time. I can't recall.

Q. About 1 p.m., did you go to the administration -
A. Oh sorry, yes, because of my concern, at 1 p.m., when on Wednesday the office opened at 1, I went in, Bill Coffey wasn't there, there was a relief clerk there, and I reported

my concerns about Jim to him.

Q. And did you continue to check Jim's unit during the day after that?
A. I made some telephone enquiries after that, and I think I made some in the morning too, trying to find out if anybody knew any people who might have some access to Jim's apartment.

Q. At 3 o'clock did you did you make another phone call to the Surry Hills Police?
A. Yes I did, because they hadn't turned up and I was very concerned. From recollection, the - it was female voice, the control traffic, or whatever they're called, traffic controller or whatever, had indicated that they had despatched a car but it had been recalled because someone had rung in saying that they had sighted Jim.

Q. Did you have further conversation?
A. I continued the conversation, saying what my concerns were and asked them to dispatch another car.

Q. Soon after that did a police car arrive?
A. Yes.

Q. Was there then a meeting with yourself and Mr Coffey?
A. Bill Coffey was in the office when I walked from my flat up to the foyer of B Block, and there was a locksmith - I voiced my concerns to Bill. There was a locksmith on site. And the police arrived - it all sort of happened almost all at once I think. The police arrived and we went up to Jim's flat.

Q. And the locksmith gained entry to Jim's flat?
A. Yes.

Q. And did you enter the flat or not?
A. I was at the entrance to the flat.

Q. Did you see Jim lying on the floor in the unit?
A. Yes I could see.

Q. Could you also see his dogs?
A. I tried to grab the dogs as they ran out onto the walkway.

Q. And did you successfully grab the dogs or -
A. Not completely.

Q. Were you aware that Jim was homosexual?
A. Yes I was.

Q. And that he was H I V positive?
A. Yes.

Q. And that he was taking a lot of medication from time to time?
A. Yes.

Q. Are you aware that over the period of time Jim had a number of casual relationships?
A. Yes.

Q. Was Jim an early riser?
A. Yes he was. Very early riser.

Q. And -
A. In comparison to me.

Q. I was going to say, I suppose that is in comparison with one's own habits?
A. Yes, in comparison to me.

Q. What time do you normally rise?
A. Depends on what time I get home.

Q. So you are a night person and not a day person as a description, is that correct, you like late days than early days?
A. Yes. I'm a pensioner myself. I do a lot of volunteer work but I haven't got the rigours of having a 9 to 5 job now, so I can choose my times.

Q. Did Jim have a new car, a crimson red 1995 Daewoo hatchback?
A. I'm not a vehicle person, but I believe it was a Daewoo; whether it was a hatchback or another description, I don't know.

Q. Do you know that Jim had a male friend by the name of Jason?
A. At that time -

Q. Yes?
A. There was a particular male friend, Jason, but there were also other acquaintances also known as Jason.

Q. So there were several Jasons?
A. Several Jasons.

Q. And can you remember Jason's description?
A. The one he particularly liked -

Q. Yes?
A. I think he was in his early twenties, fairly tall, fairly thick set, dark hair, light complexion. Worked for the City Council.

Q. Are you able to describe what type of a person or personality Jim had?
A. From a fairly knockabout sort of bloke. I believe he was in his mid fifties but he looked older. He was likable, agreeable, to me a bit brazen, but he was a nice bloke. Socially we sort of mixed in different circles, so it was ... while we were friends, we were not close friends.

<CROSS-EXAMINATION

MOLOMBY: Q. Mr Lawrence, Jim Meek had actually pointed out to you some other men he was interested in had he not?
A. He described them, yes.

Q. But indeed, physically pointed out on some of the occasions, that man over there?
A. If I was in the park, or if they were at his units, or if you could see them from his balcony on the estate, yes.

Q. Indeed there was one such person he pointed out to you as someone he had met during the Mardi Gras was there not?
A. Yes.

Q. He actually physically pointed out a person to you?
A. Yes. During the Mardi Gras period, the lead up to the Mardi Gras.

Q. Over perhaps the week before you mean, or something like that?
A. Yes.

Q. He pointed out to you on one occasion a beat he went to in Centennial Park hadn't he?
A. Yes.

Q. And he told you a number of things. I don't propose to go into all the detail, but he told you a number of things about his activities in that area had he not?
A. Yes he had.

Q. And he used to take a lot of chances meeting men did he not?
A. Yes, but that is relative to my own personal experience, yes.

Q. That is how you would have assessed what you knew of what he did?
A. Yes.

Q. Now Mr Meek was involved in tenant related activity?
A. Yes he was.

Q. Did you know anything about him having resigned from the Tenants' Group on 27 February 1995?
A. He hadn't resigned from the board.

Q. Did you know anything about him having resigned from anything relating to tenants at the end of February; on the 27?
A. I can't really recollect. I've had a lot of tenant meetings since then. I'm sorry. He may have.

Q. Now you went over to the office, the Northcott Flats office, on the Tuesday?
A. Yes.

Q. That was after you had gone to sleep through the morning, is that correct?
A. Yes.

Q. And you cannot be precise about the time you went over there, can you?
A. (No answer)

Q. That it was somewhere in the early afternoon?
A. It would have been - I would have got there when it opened, or the scheduled time for it opening, or roundabout that time

Q. 1 o'clock?
A. I think 12.30, 1 o'clock, something like that.

Q. Was 1 o'clock a scheduled time they had for opening?
A. I think it might have been 12.30, 1 o'clock. 1 o'clock was for Wednesdays, I think Tuesdays was 12.30. It would have been around that time. I can't be precise.

Q. When you got there, did you spend some time at that office?
A. (No answer)

Q. Or is that impossible for you to remember now really?
A. It's four years, but it wouldn't have been long.

Q. In any event, it was after you went to that office that you went for the first time in relation to your concern about Mr Meek up to his apartment was it not?
A. Yes.

Q. And so it's likely that you were up there at his apartment sometime after 1 o'clock is it not?
A. Sometime around 1 o'clock, yeah.

Q. 1 o'clock, or shortly after it?
A. Something like that, yes.

Q. Now you had some conversations with Mr Garratt, Bob Garratt the security officer, about your concern about Mr Meek?
A. Yes.

Q. And is the situation, that late on the Tuesday, on the Tuesday night Mr Garratt told you he put some paper on the jams of the doors, and this is slightly in conflict with I think something you said earlier, but I want you to consider this, Mr Garratt told you in a face to face conversation late on the Tuesday, he had put some paper on the doors, and then on the Wednesday morning, on the phone, discussed that with you and said there had been no movement of the paper; does that accord -
A. I couldn't recollect to argue that point with you, or be precise about it.

Q. In your evidence earlier -

A. Sorry.

Q. Go ahead?
A. Well I know that there was paper put on the doors, and it wasn't moved in the morning.

Q. I'm not suggesting anything to the contrary of that, it's just the pattern of conversations that you had with Mr Garratt about it I'm asking you, you see?
A. I wish I could be more precise but I can't.

Q. Now on the Tuesday, the electricity was off for some hours was it not?
A. Yes it was.

Q. To all the flats. And during that time there were a number of people present doing work?
A. I believe there would have been. I didn't see it.

Q. You didn't see any. You saw a generator you've said?
A. Yes but I didn't see people doing work all over the estate. I was asleep.

Q. You saw a little bit at the start of things by way of preparation at least?
A. Mmm mmm.

Q. There was some people from Wormald among those attending were there not?
A. There were Wormald people on site, yes. They were there for some months.

Q. But they were there that day too?
A. I believe they would have been.

<NO RE-EXAMINATION

<WITNESS RETIRED AND EXCUSED

<RODNEY THOMAS MASON(10.54AM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Sir, would you tell the Court your full name?
A. Rodney Thomas Mason.

Q. Mr Mason, are you a locksmith by occupation?
A. That's right.

Q. And in 1995 were you a locksmith by occupation?
A. Yes.

Q. Did you make a statement to the police on 29 March 1995?
A. Yes.

Q. Relating to the matter now before this Court?
A. Yes.

CROWN PROSECUTOR: Is there any objection to me leading this witness?

MOLOMBY: No.

CROWN PROSECUTOR: Q. As at 1995, were you employed as a locksmith with Benson Bros, locksmiths?
A. That's right.

Q. Had you been working with that company for the past 18 months?
A. That's right

Q. That is the 18 months prior to March of 1995?
A. That's right.

Q. At that time was the company sub-contracting to a large number of Housing Commission offices in the city area?
A. Yes it was.

Q. And did that include the Northcott Flats?
A. Yes it did.

Q. As a part of your duties did you have to open units for Housing Commission staff when residents had lost their keys or for some other reason they needed to gain access?
A. Yes.

Q. On the 8th of March 1995 were you at the Northcott flats attending to a job at floor [redacted] number [redacted] Block?
A. I was.

Q. And had you been at that apartment since 2pm working on the front door of that unit?
A. Yes that is right.

Q. Had you been working there for about 40 minutes when the job finished?
A. Yes.

Q. Did you return to your vehicle when the manager of the Northcott Apartments approached you?
A. Yes.

Q. Did you go with him after checking with your boss to assist in relation to an inquiry about another tenant?
A. Yes.

Q. Did you notice two uniformed police officers were standing with Mr Coffey?
A. That is right.

Q. Did you take your tools and go with Mr Coffey the two police and another male person to flat [redacted] of the 12th floor of [redacted] Block?
A. I did.

Q. On the way to the unit do you tell us that you did not speak with any other person?
A. Yes, that is right.

Q. But you overheard some conversation between the male person and Mr Coffey to the effect that it is not like him, he is always punctual. He can hear his dogs barking?
A. Yes.

Q. At the unit did you see the same male person knock on the door?
A. That is right.

Q. And was there no reply?
A. No reply.

Q. Did you remove your tools and commence to pick the lock?
A. Yes.

Q. Was the lock a Whitco deadlock?
A. That is right.

Q. And would it be the type of lock that does not require a key to close the lock from the outside?

A. That is right.

Q. Did you notice that the lock had not been damaged?
A. It was undamaged.

Q. And in your opinion, the Whitco style locks are an adequately secure lock?
A. Yes, they are.

Q. Did you gain access after a short time?
A. Yes I did.

Q. In front of you on the living room floor area of the unit did you see a male person lying on the floor with his head tilted at an angle and two small dogs running around the man and the room area?
A. That is right.

Q. As soon as you saw the man did you believe him to be dead?
A. He looked dead.

Q. Did you then wait outside?
A. That is right.

Q. A short time later did Mr Coffey come back out of the unit and ask to you wait downstairs in his office where he would complete paperwork?
A. Yes.

Q. So, did you do that?
A. I did.

Q. And approximately five minutes later did Mr Coffey come and complete some paperwork?
A. He did.

Q. Did you then leave the premises?
A. I did, yes.

Q. Later that day did you complete some written notes in an exercise book you had, just recording what you had done?
A. That is right.

Q. And do you use those notes to summarise each job that you attend?
A. Yes I do.

Q. And on the 29th of March did you make the statement to the police using those notes to assist you?
A. That is right.

Q. And did you also give to Detective Tonnet a copy of those notes?
A. Yes.

Q. That Whitco style lock, you told the Court it was a deadlock?

A. That is right.

Q. Could you describe what you mean by that, more particularly so far as from the inside of the place is concerned - do you understand what I am asking you?
A. It is possible to leave - you just walk out, turn the handle and leave - if that is what you mean.

Q. Is there a locking mechanism though on the inside that would prevent somebody from just turning the handle and leaving if they didn't have a key?
A. If it was deadlocked that would be the case but it wasn't deadlocked.

Q. Whilst you were there it wasn't deadlocked?
A. That is right.

Q. And had that been the case the door wouldn't have been able to be pulled shut, is that correct, from the outside?
A. It would have been - if it had been deadlock you would have had to have a key to open the door, but it wasn't deadlocked.

HIS HONOUR: Q. If it is deadlocked you would need a key to open it from the inside and the outside?
A. Not necessarily, on the inside it can be deadlocked or undeadlocked. If it is undeadlocked, which is it was.

Q. My question was, if it was deadlocked would you need a key to open it from the inside or the outside?
A. If he was deadlocked, yes.

<NO CROSS-EXAMINATION.

<WITNESS RETIRED AND EXCUSED.

SHORT ADJOURNMENT.

<KAREN LOLINE FRANKS(11.55AM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Would you tell the Court please your full name?
A. Karen Loline Franks.

Q. And did you make a statement relating to the matter now before this Court on 12 March 1995?
A. Yes.

Q. And are you one of the daughters of the deceased, Jim Meek?
A. Yes.

Q. And do you tell this Court that your parents were divorced when you were 18 years of age?
A. Yes.

Q. You were the one out of the three of Jim Meek's children who used to keep in contact most with your father?
A. Yes.

Q. You were the oldest child?
A. Yes.

Q. And after your mother and father divorced, did dad move into the city?
A. Yes.

Q. Before your father resided at Floor 12, number [redacted] Northcott apartments in Belvoir Street Surry Hills, did he live at Tusculum Street Potts Point?
A. Yes.

Q. Was your father very involved with committee meetings within the housing complex at Northcott Flats?
A. Yes.

Q. And was he also involved in matters concerning the Gay Mardi Gras?
A. Yes.

Q. Was he also involved with Clover Moore's campaign?
A. Yes.

Q. Did he like to take an interest in community activities?
A. Yes.

Q. Do you tell this Court that your father did not talk a lot about the people with whom he associated, but more about how busy he was, and what doctors' appointments he had to make, to keep, and things like that?
A. Yes.

Q. Would you contact your father almost every second day?
A. Yes.

Q. And sometimes you would do it two or three times in a day?
A. Yes.

Q. And although you lived some distance from where your father was, you kept as close a contact with him as you possibly could?
A. Yes.

Q. Indeed, was it not uncommon for him to come out to your place?
A. Yes.

Q. And quite often you would have dinner together, and things like that?
A. Yes.

Q. Do you tell the Court that the last time you saw your father was about three weeks before you made your statement at a barbecue at your place?
A. Yes.

Q. And at that time your father was in good spirits?
A. Yes.

Q. And he appeared to be in good health?
A. Yes.

Q. And can you remember when it was that you last spoke to your father as opposed to seeing him?
A. I spoke to him after the Mardi Gras.

Q. So was that the Sunday or the Monday, can you remember?
A. I think it was mostly the Sunday.

Q. And how did your dad sound when you spoke to him?
A. On a high.

Q. And did he tell you about some person that he had met at the Mardi Gras?
A. Yes.

Q. And did he tell you of some plans that he at least had been thinking about making, so far as the person he had met was concerned?
A. Yes.

Q. What was that?
A. To go to Mauritius and educate people about Aids.

Q. Did he tell you that this person was some kind of person involved with some religious organisation, something like that?
A. No.

Q. You expressed some concern about that to your father did you?
A. Yes.

Q. And whilst you were on the phone, did you hear a siren in the background?
A. Yes.

Q. Siren that is similar to that which is on ambulances and police and fire brigades?
A. Yes.

Q. And did your father say that he had to go, there was an ambulance just pulled in and he wanted to see what was going on?
A. Yes.

Q. And was that in his nature, he liked to know what was going on around him?
A. He liked to know that everybody was okay so, you know.

Q. Before he was going to finish the conversation with you, did he tell you that he would ring you back?
A. Yes.

Q. And as it transpires did he ring you back?
A. No.

Q. And did you try to ring him again at some stage?
A. About Tuesday.

Q. And so that is the Tuesday, 7 March?
A. Yes.

Q. About what time was it that you tried to ring your father on that day?
A. After 12, 12 o'clock.

Q. And did you get an answer?
A. No.

Q. And did that concern you that you did not get an answer on that occasion?
A. There was a lot to it. Do you want me to go into that?

Q. Well, did you think that he might be doing something when he did not answer?
A. Yes.

Q. And was that walking his dogs?
A. Yes.

Q. Did you try again to ring him?
A. Yes.

Q. And what happened?
A. (No answer)

Q. When was that?
A. Same day.

Q. About what time?

A. Oh it was like every hour.

Q. And then did you become concerned?
A. Not until the next day.

Q. So did you continue to ring on that Tuesday?
A. I rang a few times, and then I like got organised for dinner time, and then I rang the next day.

Q. What time was it that you began to ring the next day, can you remember?
A. I can't remember.

Q. Can you remember whether it was morning or afternoon?
A. It would have been afternoon.

Q. And did you get any answer at all on the Wednesday?
A. Yes.

Q. Was that on the first occasion that you rang or -
A. No.

Q. Did you ring a number of times?
A. Yes.

Q. On the first number of times that you rang, did you get any answer?
A. No.

Q. And then finally, did you get an answer?
A. Yes.

Q. And was it male or female to whom you spoke?
A. Female.

Q. And did that female voice identify herself to you?
A. No.

Q. Did you query who it was to whom you were speaking?
A. No.

Q. What happened when you rang and the female answered?
A. I said: "Hi, is Jim there please."

Q. Right. And what was the response to that?
A. She asked me to hold on for a moment.

Q. And what happened then?
A. Then she came back to the phone.

Q. Yes?
A. And she asked who I was.

Q. Did you tell her?
A. Yes.

Q. Did you tell her of your relationship with Jim Meek?
A. Yes.

Q. And then did she give you some news?
A. Yes.

Q. And was that to the effect that your dad was dead?
A. Yes.

Q. And was your husband home with you at that time?
A. Yes.

Q. And when you received that news, that distressed you?
A. (Witness nodded her head)

Q. Did you then hand the phone to your husband?
A. No.

Q. What happened?
A. I asked her what - how did he die.

Q. And what was the response to that question?
A. She said he had had a heart attack while feeding the dogs.

Q. And what happened then?
A. I was distressed, and my husband took the phone.

Q. Now on 9 March, that is the next day, did you go anywhere?
A. Yes.

Q. Where did you go?
A. To dad's flat.

Q. With whom?
A. My sister and her husband, and my husband and my two children.

Q. And did you go into the unit?
A. I went in but my sister said "Don't let the kids come in", so my husband took them home.

Q. Now how did you gain entry to the unit?
A. I had keys.

Q. And had you had keys for sometime?
A. Yes.

Q. When you went into the unit did you see anything that was unusual?
A. Yes.

Q. What was that?
A. It was messy.

Q. How did your dad usually keep his unit?
A. Every time I had been there it was tidied.

Q. Was he is the sort of person that had a place for certain objects, or anything like that, or did he seem

ordered about the way he kept his place tidy?
A. Yes. I think he did. I think he did.

Q. And did you notice something in particular, or some things in particular in the unit that you had not noticed ever before; anything like that?
A. (No answer)

Q. Did you see anything in the unit that you took note of other than the untidyness of the unit?
A. There was a lot of blood.

Q. Where do you say there was a lot of blood?
A. On a matter.

Q. Where was that mat?
A. In the hallway.

Q. So the bloodstained mat was left there?
A. (Witness nodded her head).

Q. Did you notice anything on a sidetable near the door?
A. That was messy.

Q. It was messy?
A. (Witness nodded her head)

Q. Can you remember anything that was on it?
A. There was like an Orchy bottle, sort of like a bong, but it was all dried up. I remember that.

Q. When you say a bong, you are you meaning something that has been prepared for the smoking of some substance?
A. Yes.

Q. And it is usually associated with cannabis, is it?
A. I don't know. I don't know anything about them.

Q. And was there only the one bong, or was there more?
A. There was another one that had water, but it had all mould.

Q. Mould in the water?
A. Mmm mmm.

Q. Did you notice anything else there?
A. Not that I can remember.

Q. Did the place look like anybody had been eating, or having meals or anything?
A. Yes.

Q. What did you see that indicated that somebody might have had a meal there?
A. There was a dinner plate on the table, and there was three coffee cups.

Q. Was the dinner plate a clean one, a fresh one, or had it

been used?
A. It had been used.

Q. Were the coffee cups clean ones, or had they been used?
A. They were used.

Q. Did you see anything of your father's in any damaged condition there; did your father smoke or anything like that?
A. Yes.

Q. And what was it that you saw?
A. I saw his cigarettes were on the ground crushed, and his lighter was next to them. And I also found, his glasses were on the floor, and they had - the arm was poked through the front of the glasses like they were trodden on.

Q. Whereabouts on the floor was it that you saw the crushed cigarette packet?
A. They were over near the front door.

Q. When you say the cigarettes were crushed, and on the floor near the door, are you talking about the front door to the unit, or what door are you talking about?
A. Front door.

Q. So as you if you are coming in through the front door, whereabouts were the crushed cigarettes in the packet that you have spoken about?
A. As the door was opened, it was right near the door. If it was in open position.

Q. So in the hallway, near the door, if it was in open position. Was it to the right or to the left of the hallway, or in the middle of it or?
A. Over against the wall.

Q. And you are using your right hand, so over against -
A. The door swung that way, so -

Q. To your left?
A. So here.

Q. So it was over against the left-hand side of the hallway, as you go in through the front door?
A. Yes.

Q. And where were his glasses when you saw them?
A. Okay. I found them on the left-hand side of his chair, on the floor.

Q. I think I will have to show you some photographs. I show you photographs numbered on a little yellow circle, 17 and 18. They are part of Exhibit A (handed to witness). Now do you recognise what is shown in those photographs, 17 and 18; firstly, generally, do you recognise those photographs as being photographs of your father's unit?
A. Yes.

Q. And you have spoken about a table. Can you see the table that had the plate and the cups in it that you have told us about, on it?
A. Yes.

Q. Now, you have just told us that you found your father's glasses on the floor beside his chair. Can you see his chair on either photograph 17 or 18?
A. Yes.

Q. Whereabouts is it?
A. It has the green jacket over the back of it.

Q. So it is a chair that could be pulled in to that table if you so desire. It is just near the table?
A. Yes.

Q. And you referred to it as "his chair". Is that a chair in which your father habitually sat?
A. Yes.

HIS HONOUR: Q. Now, are you looking at photograph 17?
A. Yes.

Q. And are you looking at the chair at the bottom edge of the photograph, are you?
A. This one here (indicated).

Q. You are looking at the bottom edge of the photograph that has a multi coloured seat and what appears to be a jacket hanging over the back of chair?
A. Yes, yes.

Q. That is your father's chair?
A. Yes.

CROWN PROSECUTOR: Q. And is that your father's jacket?
A. Yes.

Q. So, are you able to say on what side of that chair you found the glasses?
A. The left hand side.

Q. So that is on the side when you are looking at that photograph numbered 17 which is furthest from the camera man?
A. Yes.

Q. And whereabouts on the floor was it that you found the glasses, was it towards the front of the chair or boards the back of the chair?
A. It was actually around the middle of the chair.

Q. On the ground?
A. Yes.

HIS HONOUR: Q. Did you say the left of the chair as you look at the photographs?

A. Yes.

HIS HONOUR: Sorry about that Mr Crown, furthest from the camera, I am not with that one.

CROWN PROSECUTOR: Q. When you say to the left of the chair - as you are sitting on the chair on the left hand side of the chair as opposed to on the left hand side of the chair as you are looking at the photograph?
A. As you are sitting on the chair, the left hand side.

Q. So that means, on the other side of the chair as the photograph is taken?
A. The side the washing powder is on.

HIS HONOUR: Q. The side the?
A. Washing powder.

CROWN PROSECUTOR: Q. What do you call the washing powder?
A. In number 18, it is a blue and white box in the corner - laundry detergent.

HIS HONOUR: Q. On very left hand edge of photograph 18 you see there the multi coloured seat of the chair with the jacket on the back and immediately above that in the photograph what appears to be a white container with blue writing on it. Is that what you are looking at and calling the "washing powder"?
A. It is on the floor.

CROWN PROSECUTOR: Q. But in terms of the photograph, it is above the chair - in terms of the photograph - but it is on the floor?
A. (Nods).

Q. So down, on that side, about, in the middle of the chair, on the floor (indicated within courtroom)?
A. Yes.

Q. Now, I think you express, in your description of the glasses that the - one of the little wings of the glasses was poked up through where the lens would have been?
A. No, through the nose.

Q. Through this part - so, the arm was up through there (indicated using own spectacles)?
A. Yes.

Q. Were the glasses intact though?
A. Yes.

Q. So just one of the arms was up through where the nose goes?
A. Yes.

Q. Did you see any keys when you were in the unit, at all?
A. Yes.

Q. Where did you see those?
A. They were on the ground, near the cigarettes.

Q. On the same side of the hallway as the cigarettes?
A. Yes.

Q. And how would you describe those keys - were they on a key ring, was there anything with keys - was it keys - were they house keys and car keys, or car keys, or what?
A. They were house keys and car keys and had a module on them.

Q. Little remote control type?
A. Yes.

Q. Was there anything - I can't remember if you told us now - was there anything else with the cigarettes and the keys - I think you have told us that there was a cigarette lighter there too?
A. Yes.

Q. Did you notice dog food in the hallway, too?
A. Yes.

Q. How would you describe that - the appearance of dog food in the hallway, was it scattered everywhere - or what was the situation?
A. It was in a neat pile on the floor.

Q. So, did you and your sister decided to do something so far as your father's flat was concerned?
A. The reason we were there was to organise care for his pets.

HIS HONOUR: Q. Was to do what? I am sorry?
A. Organise somebody to look after the animals.

CROWN PROSECUTOR: Q. Were there any animals there when you went in?
A. No.

Q. Did you locate the animals?
A. Yes.

Q. And where did you locate the animals?
A. One of the neighbours had taken the animals.

Q. So, the reason you went in was to look after his pets. Did you decide to do something when you were in there and you noticed the condition of the flat?
A. Yes.

Q. What did you decide to do?
A. We thought we would tidy it up a bit.

Q. So did you do that?
A. We started to and myself sister picked up the rug and there was just blood everywhere and she said this is not

consistent with a heart attack, and I looked at the dog food become and the dog food didn't seem consistent with a fall from a heart attack and the way it was cracked in a neat pile.

Q. So, did you leave things - once that had occurred, did you desist from cleaning the place up?
A. Yes.

Q. Did you have some further contact with the Police Department?
A. Yes.

Q. And you initiated that contact, did you?
A. No.

Q. Did the police contact you?
A. No.

Q. Did you contact the police?
A. My sister contacted them.

Q. So far as your knowledge of your father is concerned, did he ever express to you any of his opinions so far as security was concerned?
A. Yes.

Q. Was he concerned about the security of his unit?
A. Yes.

Q. Had he told you about incident in the past, particularly 1994, that had concerned him about his security?
A. Yes.

Q. Am did your father take steps to make his unit secure?
A. Yes.

Q. And was that the security door on the front of the premises?
A. Yes.

Q. And the deadlock in the main door of the premises?
A. I don't know about the deadlock but I know he put the security door on it at his own expense.

Q. And do you know whether he put any lever locks on the door of his unit?
A. I don't know.

Q. Had your father told you about being assaulted in the park, in 1994?
A. Yes.

Q. And did he also tell you about the stealing of his car?
A. Yes.

Q. And was that a car other than the car he had at the time of his death?

A. Yes.

Q. Could you describe whether your father was a boisterous type of person, or was he a timid type of person - what was the situation so far as your father's personality was concerned?
A. He is very carefree, very kind. If somebody was in trouble he would go and help. That is the sort of person he was.

Q. Did you ever see him being rough and - or belligerent?
A. No.

Q. And does that include in all of your life time?
A. Yes.

Q. After the car stealing incident, did your father tell you anything about any requests he had made to the Housing Commission?
A. He asked to be transferred out of the unit.

Q. How long before your father's death was the car stealing incident?
A. About 12 months before.

Q. Do you know whether your father had still wanted to be transferred from the unit or had he changed his mind?
A. He changed his mind.

Q. Did your father ever tell you about any other particular disagreement with other residents of the unit?
A. Yes.

Q. Can you recall any names of persons that your father complained about?
A. NP219

Q. Do you know who NP219 was?
A. Yes.

Q. Who was NP219?

[redacted]

Q. Had your father told you about a disagreement with NP219?
A. Yes.

Q. And was he concerned about NP219?
A. He just said he was going to keep away from her.

Q. Did your father tell you about any friends that he had in the unit or in that block of units?
A. Yes.

Q. Did he speak to you at all about the security guard?
A. Yes.

Q. And was he on friendly terms with the security guard?
A. Yes.

Q. Had your father been a security guard himself?
A. Yes.

Q. Indeed had your father been injured as a security guard?
A. Yes.

Q. Did your father have any watches and jewelry?
A. Yes.

Q. Could you tell us about those, please?
A. He had a silver watch and a wedding ring and another ring.

Q. Could you tell us about the silver watch - tell us about that please - could you describe it for us?
A. It was quite a chunky silver watch. It wasn't one of the elastic bands. It was one of the click ones, you close them. It was one like that. It just had the numbers and the second hand.

Q. Had that been a present from somebody to him?
A. Yes.

Q. From whom?
A. Me.

Q. How long ago, at the time of his death?
A. Now you've got me - I was about 17 when I gave it to him.

Q. And you were about how old when he died?
A. 29.

Q. At least ten years before he died?
A. Yes.

HIS HONOUR: Q. How old do you say you were when he died?
A. 29.

CROWN PROSECUTOR: Q. So at least ten years - that your father had the watch?
A. Yes.

Q. Do you know whether he had another watch?
A. He had my grandfather's retirement watch.

Q. And so when you say your "grandfather's retirement watch", where did your grandfather get a watch upon his

retirement?
A. From the railways.

Q. What sort of - as in colour anyhow was that?
A. Gold.

Q. A gold watch. Did your father wear that watch?
A. No.

Q. Not that you saw anyhow?
A. No.

Q. You told us that he had a wedding ring?
A. (Nods).

Q. You have got to answer because -?
A. Oh, sorry - yes.

Q. Did he wear that wedding ring all the time?
A. Yes.

Q. Did he wear it on the finger that one usually wears a wedding ring?
A. Yes.

Q. Is that the ring finger of his left hand?
A. Yes.

Q. You said he had another ring?
A. Yes.

Q. What sort of ring was the other ring?
A. It was a new - like a gent's ring and it had a stone. It was a tiger's eye stone.

Q. What is a tiger's eye stone?
A. It is like a mustard colour with a black fleck through it.

Q. Does that fleck become more obvious depending on the angle you are looking at the ring?
A. Yes.

Q. What colour metal was that stone set in?
A. Gold.

Q. Was it a small ring or a big ring?
A. It was a big ring.

Q. And do you know upon which hand he would wear that ring?
A. On the right hand.

Q. Did he have any other jewelry of which you are familiar?
A. Not that I am familiar with, no.

Q. Did you ever see him with any bracelet?
A. No.

Q. Did you ever see him wearing a chain - a neck chain?
A. I can't remember.

Q. Are you able to tell us what your father's complexion was?
A. Olive skin.

Q. Did he have a suntanned appearance?
A. He looked Maltese. A lot of people thought he was Maltese.

Q. Do you know how long your father had this tiger's eye ring?
A. It was only a recent purchase.

Q. When you say "recent" do you mean recent within days, weeks, months?
A. About, I think he purchased it in January.

Q. Do you know when he bought his new car?
A. In January.

Q. And do you know what sort of a car it was?
A. Yes.

Q. What sort?
A. Daewoo 1.5.

HIS HONOUR: Mr Crown, the green photograph Exhibit A number 20 shows a set of keys. Is that the same set of keys in a different position.

CROWN PROSECUTOR: We haven't got to those photos yet but I'll draw the witness' attention to that photo. Thank you, your Honour.

CROWN PROSECUTOR: Q. I just show you this photograph. It is a photograph numbered 20 on a green dot. Now, do you recognise that as being a photograph, generally, first of all of the interior of your father's unit?
A. Yes.

Q. Do you recognise or see a table being the same table as you saw in the other photographs only with more items upon it?
A. Yes.

Q. As his Honour has pointed out, there is a set of keys on that table just near a pair of scissors - do you see them?
A. Yes.

Q. Are they the keys or similar to the keys that you say you saw on the floor when you went in to the unit?
A. They are not the keys that I saw on the floor.

Q. They are not the keys?
A. No.

Q. Do you know what keys they are that you can see in that photo?
A. No.

Q. Can you describe the keys that you saw that were on the floor?
A. They just looked like a set of keys with the module.

Q. Can you describe the little module for us?
A. It was roundish, whereas that one on the table is square.

Q. Do you know whether it had any buttons on the module or a light?
A. Yes it had a button and a light.

Q. And the light on the module, do you know what colour that light is?
A. Green.

Q. I refer the Court to Ex. A photograph 13 - I show you this photograph. It is a photograph numbered 19 on a green dot (shown). Now, if you have a look on that table, there is a set of spectacles, glasses on it?
A. Yes.

Q. Do you recognise those spectacles?
A. Yes.

Q. And are they your father's spectacles?
A. Yes.

Q. Are they the ones about which you have already given some evidence, having found on the floor with its arm up through the nose area?
A. Yes.

MFI #3 PHOTOGRAPHS 19 AND 20 ON THE GREEN DOT.

Q. Did you place those glasses on the table madam?
A. Yes.

Q. I'll ask you to have a look at this photo too. It is photo numbered 18 on the green dot. You can see probably more clearly on that photo the glasses about which you have been speaking?
A. Yes.

Q. Is that where you put them?
A. Yes.

MFI #3 PHOTOGRAPHS 18, 19 AND 20 ON THE GREEN DOT.

Q. (Ex. B shown) Do you recognise that item?
A. I only had a quick look at it. It was my husband who studied it.

HIS HONOUR: Q. I am sorry, I didn't hear what you said. Would you repeat that?
A. I only had a quick look at the ring, but my husband actually studied it and looked at it.

CROWN PROSECUTOR: Q. When did he do that?
A. At the table, when dad visited us.

Q. So by your answer then, are you able to say anything about that ring that is shown, and the ring that was on your father's hand?
A. Can I say anything?

Q. Yes, do you recognise it or don't you?
A. Not really, no. I'm not a hundred percent so.

CROWN PROSECUTOR: That is the evidence-in-chief.

LUNCHEON ADJOURNMENT

UPON RESUMPTION

<CROSS-EXAMINATION

MOLOMBY: Q. Mrs Franks, is it correct you last actually saw your father at your place some two or three weeks before he died?
A. Yes.

Q. And is that the occasion you were referring to earlier when your husband paid a lot of attention to this ring he had, but you just saw it quickly?
A. Yes.

Q. And he bought that ring, did he not, with some of the proceeds of the compensation payment that he got in January?
A. Yes.

Q. Because he also bought the car and some other things as well?
A. Yes.

Q. But on that occasion at your place, when you saw that ring and he was showing it, he was also wearing the wedding ring that he always had was he not?
A. Yes.

Q. That is the wedding ring that he had on the ring finger of the left hand?
A. Yes.

Q. That was a ring that he had worn constantly for very many years was it not?
A. Yes.

(Mr Molomby called for a receipt in relation to the ring; produced)

Q. Can I just show you this please Mrs Franks (handed to witness). Is that a document you have seen before?
A. Yes.

Q. Is that something that was discovered when you were tidying up your father's flat?
A. Yes.

Q. And that appears to be a receipt for the purchase of the tigers eye ring, is that correct?
A. Yes.

EXHIBIT #1 RECEIPT IDENTIFIED BY THE WITNESS TENDERED WITHOUT OBJECTION, ADMITTED AND MARKED

Q. Mrs Franks, you used to go and visit your father sometimes at the Northcott Flats address?
A. Yes.

Q. And when you went to visit him there, it was always by some arrangement was it not?
A. Yes.

Q. In other words, you did not just drop in on him, you arranged by phone that you would come at a particular time?
A. Yes.

<NO RE-EXAMINATION

<WITNESS RETIRED AND EXCUSED

(His Honour read the contents of Exhibit 1 to the jury.)

<CHRISTOPHER HAMILTON LAWRENCE(2.30PM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Doctor, would you tell the Court your full name please?
A. Christopher Hamilton Lawrence.

Q. Would you tell the Court your professional qualifications please?
A. Yes, I have a doctorate of Medicine from the University of Sydney, I have a degree in Medical Science from the University of Sydney, I am a fellow of the Royal College of Pathologists of Australasia.

Q. And where do you carry out your practice?
A. I work at the New South Wales Institute of Forensic Medicine.

Q. And are you a forensic pathologist at this stage of your career?
A. Yes, I work full-time as a forensic pathologist.

Q. Now Doctor, did you carry out a post-mortem examination on a body which was identified to you as being the body of

James William Meek?
A. May I refer to my notes?

HIS HONOUR: Yes certainly, refer to your notes.

WITNESS: Yes I did.

CROWN PROSECUTOR: Q. And subsequent to carrying out that post-mortem examination, did you make a report pursuant to the Coroners Act 1980?
A. Yes I did.

Q. Do you have a copy of that report with you?
A. Yes I do.

Q. Doctor, do you tell this Court that at 9 a.m., or at 900 hours on 11 March 1995, at the Division of Forensic Medicine, did you commence the post-mortem examination on the body of James William Meek?
A. Yes I did.

Q. Would you please tell the Court what, if any, injuries you found on the body of the deceased Meek please?
A. There were a large number of injuries on the head. On the left forehead, an extending over the left eye there was a triangular bruise. A 130mm by a 100 millilitre red bruise which extended around the eye. Over the left temple, almost continuous with this bruise there was a triangular patterned bruise which appeared to consist of horizontally alined linear bruises.

There was an abrasion or graze over the bridge of the nose, with some bruising of the nose. Over the right side of the head, extending from the eye to the ear and down to the jaw there was a continuous area of bruising.

In the temple, the right temple, there was a separate area of triangular bruising. There was bruising and laceration of the lips. There were also on the outside of the scalp some areas - an area of bruising, and abrasion at the back of the right side of the head, and there was also a bruise at the back of the right head - right side of the head.

On the scalp, underneath, there was virtually continuous bruising extending right around the back of the head. There were no fractures of the facial bones, or of the skull bones, but there was subdural - that is - hemorrhage between the thick membrane which coats the brain and the brain itself, about 20 ml over the surface of the brain. And there was also some subarachnoid hemorrhage, which is right over the surface of the brain.

HIS HONOUR: Q. When you say "20 ml", what do you mean in that respect Doctor?
A. It's an approximation of a volume.

Q. Millilitres?

A. Yes, millilitres, yes.

CROWN PROSECUTOR: Q. So, when you say it's an approximation of the volume, are you saying that that is an approximation of the volume of blood that formed that injury?
A. That's right, yes.

Q. Or was formed as a result of that injury?
A. Yes.

Q. Yes thank you?
A. The brain itself showed some bruising on the undersurface of the front part of the brain. There was also some separate bruising on the right side of the brain towards the back. And in addition there was some hemorrhages in the deep white matter, which I thought would probably be the consequence of traumatic injury.

There was also a V-shaped mark on the neck, but I think this is probably a mark caused by the clothing and not an injury.

There was quite extensive bruising over both sides of the jaw, and extending around to the base of the tongue. The neck itself did not show a lot of injury. There was no bruising around the larynx or the hyoid bone. Which is the bone just above the larynx, or the voice box.

Those were the injuries on the head and neck. On the chest and abdomen there was a curved bruise over the right clavicle which extended onto the right central chest, and there was bruising in the subcutaneous tissue.

HIS HONOUR: Q. The clavicle is the -
A. The collarbone. And some bruising on the left flank. On the arms there was some bruising over the back of the left elbow. On the back of the left hand there was a 30 mm red bruise. And on the second finger of the - on the back of the fourth finger of the left hand there was also a purple bruise.

CROWN PROSECUTOR: Q. You have spoken about a bruise on - is it the second -
A. Second joint of the fourth finger of the left hand.

Q. Where is that; what do you call the second joint?
A. The thumb's the first finger, so from there we're talking about this finger.

Q. So that is what a lot of us call the ring finger?
A. Yes.

Q. And whereabouts was the bruise?
A. The bruise was on the back of the hand. So on the surface - the surface here. On the none palmar surface aspect. It was on the second part of the joint.

Q. So the second phalanx of the fourth finger?

A. That's right.

Q. So what is the second phalanx of the fourth finger?
A. Well you have got three phalanges making up the ring finger, it's the one in the middle.

Q. So that one in there?
A. The one that is being indicated, yes.

HIS HONOUR: The middle third.

CROWN PROSECUTOR: Yes your Honour, I accept that explanation.

CROWN PROSECUTOR: Q. Doctor, are you able to say anything about the force that would have been necessary to cause the bruising to the brain about which you have spoken?
A. Asking a forensic pathologist about degrees of force is always a troublesome issue. It required some force. That force was enough to cause the damage but not enough to fracture the bone. It would require, in my opinion, moderate force to cause such an injury.

Q. Now would you expect the injuries that you saw about the head of the deceased, and including the injuries that you found in the brain of the deceased, to have occurred through him merely falling over and bumping his head in the hallway of his place?
A. In my opinion, the pattern is not consistent - the pattern, the overall pattern of the injury is not consistent with that. When you fall, you usually strike one surface or maybe two surfaces. We have got injuries extending right around the head.

Q. And you spoke of bruising over the jaw; each side of the lower jaw?
A. Yes.

Q. Have you seen injuries like that before?
A. Yes.

Q. And have you been able to associate injuries like that with any type of activity?
A. I have seen the injuries associated with previous blows.

Q. You spoke of the hyoid bone being intact?
A. Yes.

Q. Now is that important in relation to looking at any particular activity which might of caused death?
A. Yes. There was quite a lot of bruising of the face, and there was some bruises under the conjunctiva of the eye, I was looking to exclude the possibility of a manual strangulation. And in my opinion, given the absence of the bruising on the neck, there was no evidence of manual strangulation.

Q. You spoke of the absence of petechial hemorrhage did you

not?
A. That's correct.

Q. Petechial hemorrhage, is that little spots of hemorrhage?
A. These are small hemorrhages which are typically associated with strangulation. They can be caused by other things.

Q. Did you form any opinion as to the cause of the death of Mr Meek?
A. Yes.

Q. What was that?
A. Blunt force head injury.

Q. And from the pattern of bruising, about which you have spoken, are you able to say whether or not there was more than one application of blunt force to the head of the deceased?
A. In my opinion there were probably multiple applications of blunt force.

Q. And when we talk about blunt force, what type of thing - and I'm not asking you to say what definitely caused the bruising, but I'm asking you are you able to say what type of force you would include in blunt force that caused injuries such as you saw?
A. Blows, impacts, falls; impact with broad surfaces.

Q. Now you spoke about a pattern of bruising on the left temporal region?
A. Yes.

Q. While you were conducting this post mortem examination were there police officers present?
A. Yes.

Q. And was there a police officer present taking photographs?
A. Yes there was.

Q. And was he taking photographs that he wanted to take photographs of or was he taking photographs at your direction or your suggestion?
A. He was taking photographs at my direction.

Q. I show you this photograph (shown). Do you recognise that which is shown in the photograph?
A. Yes, this is the pattern bruise that I was describing on the left temple.

Q. Doctor, are you able to tell us what sort of injury was underneath that pattern area?
A. There was bruising.

Q. Was it substantial?
A. Yes, quite substantial.

Q. Are you able to say whether the bruising that you saw was consistent - with whether or not that was consistent with, I think you termed it, a moderate degree of force, or a light force or a heavy force?
A. With pattern bruises the patterns are a reflection of the severity. With a mild impact you might see no pattern at all. With a very heavy application of force there may be just one continuous red bruise. You won't see a pattern at all. This is a pattern that you get with a moderate degree of force. But as I said, degree of force is a difficult thing to assess.

Q. When you first saw the deceased, did the deceased have a good covering of hair in the - well firstly on his head?
A. Yes.

Q. Did he have a good covering of hair in the area of his left temporal region?
A. Yes he would have had some hair there.

Q. Are you able to see, in that photograph, the line pattern of bruising - for your Honour's assistance I am looking at the third last photograph in that book - are you able to see the line pattern about which you spoke and then underneath that there are some larger red marks?
A. Yes.

Q. Are those larger red marks bruises or are they larger red marks caused through some other thing?
A. They appear on the photograph to be abrasions - that is grazes.

Q. Where you have a combination of pattern bruising and

grazing in the same area, does that indicate anything to you, as to the method of injury or anything like that?
A. I don't think so.

Q. Have you ever seen, in your experience, as a forensic pathologist the result of somebody having been kicked in the head?
A. Yes.

Q. Are you able to say anything about the pattern that you see there, and you did see on the deceased, and the injuries underneath that pattern, and in comparison with the injuries you have seen that you know have been caused by kicking?
A. At the time I saw the injuries and in my opinion I ventured the possibility that these could be caused by stomping, with a solid shoe causing this pattern injury.

Q. As opposed to kicking - a stomp?
A. Yes, a downward force.

Q. If indeed that had occurred to the deceased, would or could that account for some of the deep injury that you noticed in the brain?
A. It could.

Q. I show you these two photographs, doctor (shown). Do you recognise what is shown in those photographs?
A. Yes I do.

Q. What is it that you can see in those photographs?
A. This is the left hand - the back of the left hand. It is showing the two bruises we have discussed, the one on the back of the hand itself and the bruise on the ring finger, which in the photograph appears to be on the first part of the finger - not the middle third.

Q. Do you know whether or not there was one, as you have described, in your notes - did you make any drawings at the time?
A. Yes I did.

Q. Do you have those drawings or copies of them with you?
A. Yes I do.

Q. You have been given permission to refer to your notes. Would you just have a look and see whether you made a note of any other bruise on the hand, apart from those shown in that photograph?
A. No I only referred to two bruises on the hand.

HIS HONOUR: Q. In your report, if I correctly understand what you said, when we were discussing the middle third of the finger, was that an error?
A. Well, I drew my diagram at the time. On that diagram I indicate the middle third. Looking at the photograph it is clear it is on the closer one third.

HIS HONOUR: The first phalange?

A. Yes that is right.

CROWN PROSECUTOR: Q. Could there be more than two bruises on the hand doctor?
A. There could have been but I think there were only the two we talked about.

Q. Looking at that hand - does that cause you to bring to mind the hand that you looked at?
A. Yes.

Q. Do you see any other markings other than bruising on the ring finger and the finger adjacent?
A. Yes, there appears to be a compression mark - an indentation in the skin there.

Q. On the second of those photos that I have shown you, can you see that more easily?
A. Yes.

Q. Is there a compression mark on the phalange just below that bruise?
A. Yes.

Q. On the ring finger, and a compression mark similarly on - what - we laymen would call the little finger?
A. Yes there are similar appearing compression marks.

Q. And in your experience are you able to say anything about those compression marks?
A. They could have been caused by the presence of a ring that has been removed.

Q. When you conducted the post mortem, it was the 11th of March?
A. Yes.

Q. And as you understand it, was the deceased found deceased on the 8th of March?
A. Yes.

Q. I think, is it correct to say that you ventured an opinion as to a span of time during which the deceased did die?
A. My means of assessing the time of death are pretty limited in this particular case because I didn't have a rectal temperature, but given the degree of lividity and the changes, my opinion was that it was probably greater than 24 hours before we first saw the body. That is about as close as I can get.

Q. That is of course upset by the fact that when a deceased is taken to the morgue, they are placed in refrigeration, is that correct?
A. That is correct, yes.

Q. I think it would be fair to say that common experience is that if one wears a ring for long enough, there is quite

often left a compression mark on one's hand, is that correct?
A. I think we are sort of getting off my area of expertise.

Q. I am just talking about general experience?
A. In general experience, yes.

Q. I don't think you have to be a forensic pathologist to know that that occurs?
A. Um-hm.

Q. Doctor, if a human being is alive and well and functioning in a normal way, compression marks such as that would you - as a doctor now, I am asking you - would you expect any compressed area to, over a number of days, flesh out?
A. Yes.

Q. But if somebody is deceased at the time or it is around about the time of death, that the ring is removed, there is no blood coursing through the body, is there?
A. No.

Q. And would you expect the compression mark to remain more visible on a person whose ring was removed around about the time of death, and remain more obvious than on a living person over a number of days?
A. I don't know the answer to that.

Q. Did you make any note of a mark on the little finger, other than perhaps compression mark?
A. I can see no mention of it in any report.

Q. Might it be in your notes taken at the time in the diagram?
A. (Perused note) No.

Q. Looking at the photograph of the hand - that is the second one, where the indentations which would appear at least to be where a ring might have been, on that little finger, in that photograph do you see any mark?
A. Yes.

Q. Other than the ring compression?
A. No.

Q. I show you this photograph, doctor (shown). Do you recognise that as being a photograph of the back of the head of the deceased?
A. Yes.

Q. And on that photograph, can you see any of the markings about which you have spoken in your evidence?
A. Yes, there is the injury on the right occipital region, the red bruise.

Q. The red occipital region - that is?
A. At the back on the right, yes.

Q. About where I am pointing there, next to my pig tails?
A. Yes.

Q. Just above - and I'll show you a second photograph, doctor (shown). That is a closer view of a similar area of the deceased's head, is that correct?
A. Yes.

Q. Just up above that dark bruised area, do you see a mark?
A. Yes.

Q. There are several marks - do you see a larger mark than the others?
A. Yes.

Q. And it seems to be almost triangular in its nature, is that right?
A. Yes.

Q. Is that purely a bruise or is it a bruise and abrasion or what is it?
A. I think it is a mark caused by shaving the head.

Q. So, it is a mark caused by the?
A. It is a post mortem mark.

HIS HONOUR: Even some days after death?
A. Yes.

HIS HONOUR: Q. Perhaps I might number them on the taste of them 1 to 5 (they are tendered) - (five - five photographs tendered.

HIS HONOUR: Perhaps I might number them on the face of them 1 to 5.

EXHIBIT #A FIVE PHOTOGRAPHS NUMBERED 1 TO 5 TENDERED, ADMITTED WITHOUT OBJECTION AND MARKED PART OF EX. A.

<NO CROSS-EXAMINATION.

<WITNESS RETIRED AND EXCUSED.

<GREGORY WAYNE FRANKS (3.04PM)
SWORN AND EXAMINED.

CROWN PROSECUTOR: Q. Sir when you do speak, apart from taking notice of what his Honour asks you to do, would you also speak in a loud tone of voice and would you speak at a voice in which the court reporter can keep without undue stress and at a pace which the jury can keep and take in what you say?
A. Yes.

Q. Would you tell the Court your full name please?
A. Gregory Wayne Franks.

Q. Mr Franks, did you make a statement on 12 March 1995 in

relation to the matter now before this Court?
A. Yes I did.

Q. Are you married to Karen Franks, the daughter of the deceased?
A. Yes.

Q. Had you known the deceased at the time of his death for ten or eleven years?
A. Yes.

Q. Did you refer to the deceased as dad?
A. Yes I did.

Q. Used the deceased often come to your place and have meals and the like with yourself and your family?
A. Yes.

Q. Did he also bring his small dogs with him, in the last few months of his life, at least?
A. Yes he did.

Q. When he brought those with him, used his stays not be too long because the dogs were locked in the garage?
A. That is correct.

Q. Is that because you had a dog also?
A. That is right.

Q. What sort of a dog did you have?
A. I had a fox terrier.

Q. When was the last occasion that you saw the deceased?
A. It was at a dinner invitation to our place.

Q. Did you have a barbeque or something like that?
A. Yes, correct.

Q. What was your father-in-law's demeanour on that occasion - do you understand what I mean - what has was his nature like. How was he?
A. Oh, happy go lucky. He is always like that.

Q. Did he appear to be in good spirits?
A. Yes.

Q. Indeed, whilst he was there did you spend some time talking with him?
A. Yes I did.

Q. Had he recently before that meeting purchased himself a new car?
A. Yes he did.

Q. And had he purchased himself some other things as well?
A. Yes, he purchased some jewelry.

Q. And in particular, was there any piece of jewelry that

you saw on that day?
A. Yes, it was a ring.

Q. Could you describe that ring for us?
A. It was a gold ring with a stone in it.

Q. What sort of a stone was it?
A. It was called a tiger's eye stone.

Q. Could you describe that for us?
A. It is a goldy colour with a sort of a brown line through it.

Q. When did you first become aware of your father-in-law's death?
A. It was after - my wife made a phone call to his unit.

Q. And were you at home at that time?
A. Yes we were.

Q. What was the circumstance of you learning of your father-in-law's death?
A. There was a constable on the end of the phone that answered the phone and asked my wife who she was and she said I am Karen, Jim's daughter, and she said -.

Q. You could only hear the one end of the conversation?
A. This is what my wife related to me.

Q. You just tell us what you heard - did you hear your wife talking on the phone?
A. Yeah.

Q. And after she had been talking on the phone for a little while, apparently answering questions, did she begin to ask some questions in relation to her father?
A. Yes, she said "what happened".

Q. Then did she become distressed?
A. Yes she did.

Q. And did she give the phone to you?
A. That is right.

Q. Did you then speak to someone on the other end of the phone?
A. Yes I spoke to Constable Humphreys.

Q. And was Constable Humphreys a female constable?
A. That is correct.

Q. Did she give you some information in relation to your deceased father-in-law?
A. Yes she said my father had a heart attack.

Q. So what happened after that?
A. Well I returned with the conversation was there any suspicious circumstances and she said not that she could

see.

Q. What next occurred?
A. I just asked her what should we do now.

Q. She gave you some advice?
A. That is right, she said to us, "Look I can't say anything now, I will ring you back at 5 o'clock", or something.

Q. And did she do that?
A. No she didn't.

Q. What did you do then - after you finished that conversation - you no doubt consulted your wife, but then what did you do so far as the death of your father-in-law was concerned?
A. Well, I was - I was shocked. I couldn't believe it. I was speaking to my wife and we thought she should ring the family members.

Q. You did?
A. I also rang my father because this was the first death I had experienced so I didn't know what to do. I was trying to arrange for a funeral or something like that.

Q. On the next day, the 9th of March, did you go somewhere with your wife?
A. Yes. We went to the unit.

Q. At the unit, was - did you see Karen (sic), that is your wife's sister?
A. Yes we met them there.

Q. And her husband?
A. That is correct.

Q. What is your sister-in-law's name?
A. Wendy Griffen.

Q. Did you also have a young daughter with you?
A. That is right.

Q. Did you only stay at the unit a short time?
A. Yeah I was told to stay outside.

Q. With the kids?
A. That is right.

Q. Did you then take the children away?
A. That is correct.

Q. Before you left, did you have a conversation with any person?
A. Yeah, Michael Lawrence.

Q. You were aware, were you not, that your father-in-law was HIV positive?

A. That is correct.

Q. Did you speak to Mr Lawrence about that aspect?
A. Yes I did.

Q. Did he tell you of a power failure at the units?
A. Yes he did, on the Tuesday.

Q. Did Karen have discussions with you about things her father had told you - just yes or no?
A. Yes.

Q. In the year before, did you have cause to take your father-in-law to your place for a short period of time?
A. Yes, I did.

Q. What was the cause of that - or, what was the reason that you took him to your place for a short period of time?
A. He was threatened.

Q. Was that in relation to the stealing of his car?
A. That is correct.

Q. Are you able to say whether or not your father-in-law was worried about his security?
A. Yes.

Q. Did he express that to you?
A. Yes he did.

Q. Did he express that to you once or on how many occasions?
A. I would say a couple of times.

Q. Now the car that had been stolen wasn't his most recent car, was it?
A. No it wasn't.

Q. And indeed in 1995 had he purchased a new car?
A. That's correct.

Q. And he had only had that for a short period of time, had he?
A. Yes.

Q. Did you visit your father-in-law at the unit at Surry Hills?
A. Yes we did.

Q. Did you visit him often there?
A. A few times.

Q. Did you notice anything about his maintaining his security while you were there?
A. Yes I did.

Q. What did you notice?
A. He always locked his security door.

Q. When you were inside the place?
A. Yes.

Q. (Witness handed Exhibit B) Do you recognise that item?
A. Yes.

Q. And is that the ring about which you have spoken?
A. That's right.

Q. Mr Franks, when you first made your statement to the police on 12 March, 1995 did you endeavour to give them a description of that ring?
A. Yes I did.

Q. Was that an accurate description?
A. No it was not.

Q. And have you at any stage before this day ever given a different description of the ring to that which you made in your statement?
A. Yes I did. At the committal.

Q. At the committal proceedings. And at the committal proceedings did you describe the ring in a similar fashion to that which you did today?
A. That's correct.

Q. Had you seen the ring itself, between the time you made your statement and the time you went to the committal proceeding?
A. No I hadn't.

Q. Did your father-in-law ever wear any other sort of ring?

A. Yeah he wore a wedding band.

Q. What sort of a wedding band was that?
A. It was just a straight wedding band as far as I knew.

Q. Yellow gold, white gold?
A. Yellow gold.

<CROSS-EXAMINATION

MOLOMBY: Q. Mr Franks, the wedding band you were you just referred to?
A. Yes.

Q. Mr Meek wore that always in the time that you knew him, did he not?
A. Yes.

Q. He wore it on his left hand?
A. That's correct.

Q. And you have just been asked a description you gave to the police of another ring, and whether it was correct. You said you gave them a description that was not correct?
A. That's correct.

Q. The description you gave them was this, was it not, as you record it in your police statement, do you have a copy of your statement?
A. Yes I have.

Q. You have looked at it recently?
A. Yes I have..

Q. If you would like to look at it to check what I am about to read to you, would you mind getting it out?
A. (Witness complied)

Q. Have you got it there?
A. Yes.

Q. This was the statement you made on 12 March 1995 was it not?
A. Yes.

Q. Now on page 3 is where you have covered this topic of the ring. Have you got page 3, paragraph 9?
A. Yes I have.

Q. Well you said there the day that he came for a visit about four weeks ago?
A. Mmm mmm.

Q. "He showed me a solid and thick gold ring, square cut but rounded double edging with a crest going diagonally across the face with a small clear stone"?
A. Mmm mmm.

Q. Then you go on and he told me he paid $300 for it?
A. Yes.

Q. You have acknowledged quite frankly that that is not correct?
A. That's correct.

Q. It certainly does not match up to the ring you have been shown today?
A. No.

Q. Except probably for being a gold ring?
A. That's right.

Q. And you say you've - and I don't dispute this, you said at the committal proceeding, I think you called it a cats eye ring?
A. That's correct.

Q. But you gave a broadly similar description to the one you gave first in your evidence today. What happened between giving this description in the statement to the police and the committal proceeding to change your mind?
A. Well I - because there was a lot of questioning about the ring itself, right, the police kept asking me can you describe it, can you describe it, and I tried my best to describe it. And what happened, I was told to think about the day that my father-in-law was there and showed me the ring

Q. Sorry, are you talking now about what happened when you made your original statement?
A. No, I'm talking after that.

Q. All right?
A. And I was told to think about it. Now I remember on that day that I was sitting - the table was against the wall, I was sitting at this end, and my father-in-law was sitting on the side here, and he reached across and showed me the ring. Well the next thing I said to him I remember was: "I've got one of those tigers eye rings". And at that time my wife went and got it and showed him. That is what - that is what clicked that it was a tigers eye ring, not just a gold ring.

Q. And you had forgotten that?
A. Yes I did.

Q. Matching up with your own ring when you first spoke to the police and made your statement?
A. That's right.

Q. Well then, what was it in your mind that made you give the description that you gave to the police?
A. That I can't tell you. I don't know.

Q. You see -
A. I was - they were pressuring me to give a description of the ring because I said I'd seen the ring. And if you look

at that ring and flash it in front of you, it looks like a gold ring. But it was the time when I thought back of the occasion that we had him over there, when he just had bought the ring and he showed it to me, that come back to me and I realised that what I had said was wrong, and all this time I have been concerned about that.

Q. When it came to you that his reference to the ring had prompted you to say hay I've got one of those, did you go back and have a look at yours and remind yourself what a ring like that really looked like?
A. No I didn't.

Q. Because you knew yours well enough?
A. I knew what a tigers eye ring looked like.

Q. The puzzle I'm getting at is this: When you gave the police the original description in your statement?
A. Yes.

Q. You presumably had something in mind?
A. Yes.

Q. Some sort of picture in your mind?
A. Yes.

Q. Was it perhaps that Mr Meek had another ring like the one you've described here, and you are actually thinking of that; you have mistakenly got that into the picture from maybe some other engagement?
A. That's possible.

Q. But -
A. But I do remember that he showed me on that occasion a tigers eye ring.

Q. Sorry, don't misunderstand me, I am not suggesting that is not the case now, but it's been brought out in your evidence that you gave a contrary description you see?
A. He may have had another ring that I was describing.

Q. But you don't remember that now as a positive fact at all?
A. No I don't. It's three and a half years ago.

Q. Sure. So really your position now, this long after the event, is you can't really explain where this first description you gave came from?
A. Not really, no.

<RE-EXAMINATION

CROWN PROSECUTOR: Q. Mr Franks, you made your statement on 12 March?
A. Yes.

Q. That was only four days after you learnt that your father's-in-law death?

A. That's right.

Q. What was your emotional state at that time?
A. I was pretty upset, because I liked the man.

<WITNESS RETIRED AND EXCUSED

<WENDY ELIZABETH MEEK(3.25PM)
SWORN AND EXAMINED

Q. Tell the Court please your full name?
A. My name is Wendy Elizabeth Meek, formally Wendy Elizabeth Griffen.

Q. You are also a daughter of the deceased, James Meek?
A. Yes I am.

Q. And you have one brother and one sister, is that correct?
A. That's correct, yes.

Q. Did your father and mother divorce about thirteen years before his death?
A. Yes.

Q. Did you live with your father for a short time, about nine years before his death, at San Souci?
A. Yes I did.

Q. Was it about two or three years after the divorce that your father explained to you that he was homosexual, and that that had caused the split between your mother and him?
A. Did you say three years?

Q. It was two or three years after the divorce?
A. I actually think it's closer to five years. A little bit closer to five years.

Q. And about how old were you then?
A. How old was I at the time when I was told?

Q. Yes?
A. I think I was about 17.

Q. In the time shortly after the divorce, your father used to visit you children reasonably frequently, is that correct?
A. That's correct.

Q. After a period of time did your association with your father dwindle off, not because of any animosity but just through the affluxion of time?
A. That's correct.

Q. Did your sister, your older sister, keep constant contact with your father?
A. Absolutely.

Q. Did you keep up-to-date with the affairs of your father through your sister?
A. I did.

Q. Sometimes would your father out of the blue give you a phone call just to see how you were going?
A. Yes he would.

Q. When was the last time before his death that you actually saw your father?
A. It was probably January prior - not January that year, January 95, probably January 94 I actually saw him.

Q. And how was it that you came to see him at roundabout that time?
A. I went to visit him in his apartment at Surry Hills.

Q. Now in 1995 did he contact you by telephone?
A. Yes he did.

Q. And was that in relation to the possibility of fitting an alarm to his new car?
A. Yes.

Q. And at that time were you working in a motor vehicle dealership?
A. Yes.

Q. On 8 March, 1995 had you been in hospital?
A. Yes.

Q. And when you returned to your home did your husband give you some information about your dad's death?
A. Yes.

Q. And as a result of that, did you contact your sister Karen?
A. Yes.

Q. And did you the next day ring the Surry Hills Police and have a conversation with some police officer there?
A. Yes.

Q. Was that Constable Humphreys?
A. Yes.

Q. And did you make enquiries about the personal effects of your father?
A. Yes.

Q. And were you told that there had been no personal effects found on your father, such as jewellery and -
A. Yes.

Q. And watches and things like that?
A. That's correct.

Q. Did you inform the police officer that it was your

father's habit to wear certain items of jewellery and watch?
A. Yes.

Q. Did you make further enquiries through the Coroners Office in relation to your father's personal jewellery and wallet?
A. I did.

Q. And watch?
A. I did.

Q. And indeed, did any of that jewellery ever turn up?
A. The jewellery, no.

Q. Did his wallet ever come to light?
A. His wallet did come to light, yes.

Q. Did you make arrangements to meet with your sister and brother-in-law at your father's unit?
A. Yes.

Q. And that was on 9 March, the day after you learnt of his death?
A. Yes.

Q. When you went to your father's unit, did you find that it was messy?
A. It was messy, yes.

Q. Did you and your sister decide that you would clean it up a bit?
A. Yes.

Q. And was that decision based on the information that had been given to you by the police?
A. Yes.

Q. And was that based on the fact that you had been told that your father had apparently died from a heart attack?
A. Yes.

Q. Did you put some items that you gathered up in plastic bags in the unit?
A. Yes I did.

Q. And did you stop further cleaning up when it became apparent that there was an amount of blood in a mat in the unit?
A. That was actually after we had decided that we were going to leave for the evening, or the after afternoon, yes.

Q. When you found that there was an amount of blood in a mat, did you pick the mat up near the door and blood dripped from it?
A. Yes.

Q. Did you then have further contact with the police?
A. Yes.

Q. And did you also, whilst you were there, take into your possession medication that you found in packages and packings in your father's unit?
A. Yes.

Q. And had it been your intention to take them to a chemist to see what that was?
A. Yes.

Q. Did you ultimately give those chemicals to a police officer?
A. Yes I did.

Q. Had it also been your plan for furniture and other belongings of your father to go to the Smith Family; the Bobbie Goldsmith Foundation?
A. Yes.

Q. Was it after some contact made by you with both the Coroners Office and the Police Department that a post-mortem examination was conducted on your father's body on the Saturday?
A. Yes.

Q. 11 March?
A. Yes. Did you also go to the Surry Hills Police Station on 11 March and see some police officers?
A. I did.

Q. And was that Detective Sergeant Cassis and Detective Walker?
A. Yes.

Q. And did they, with other police, go to your father's unit and take some more photographs, and did you see the things that you had moved and put into plastic bags were still in the unit?
A. Yes.

Q. On 12 March, that is the Sunday, did you go to the Mount Druitt Police Station and see Detectives Walker and Hardy?
A. Yes.

Q. And did you take your father's car to the police station so that it might be examined?
A. Yes.

Q. Did you at a later time go to the unit of your father with police?
A. I couldn't remember.

Q. Do you have any recollection of giving some police officers an item from the bag?
A. Items out of a bag?

Q. Yes?
A. Yes.

Q. And was one of those a letter?
A. Yes.

Q. And was that a letter that was shown to you - rather contained in a photograph that was shown to you by the police?
A. That's correct.

Q. I show you this document (handed to witness). Just leave it in its plastic sleeve because it's got some purple stuff on it. When you last saw that document at your father's unit, it didn't have that purple colouring all over it, did it?
A. No.

Q. But you can turn the document over if you need to. Do you recognise that as being the letter that you gave to the police at your father's unit?
A. Yes.

MFI #4 DOCUMENT IDENTIFIED BY WITNESS

Q. Did you also give to the police portions of a brown ceramic bowl?
A. Yes.

Q. That you located at your father's unit?
A. Yes.

Q. When you first saw that brown ceramic bowl, where was it, or the parts of it?
A. It was in a corner of a wall - on the outside corner of the wall, just neatly placed.

Q. Now you have seen certain photographs that have been taken during the investigation in this matter have you not?
A. Yes I have.

Q. So if I show you anything, it's not going to unduly upset you is it?
A. No.

(Crown Prosecutor sought access to Exhibit A)

Q. I show you two photographs numbered on little yellow stickers, 10 and 13 (handed to witness). Do you see in that photograph some portions of a broken ceramic bowl?
A. Yes.

Q. And do you also see some dog biscuits?
A. Yes.

Q. Now when you first saw those portions of ceramic bowl, is that the position in which you saw it?
A. Yes.

Q. Were those pieces of bowl in that arrangement, or had they been moved when you saw them?

A. No they had been moved.

Q. Sort of gathered up?
A. They had sort of been piled - just pushed aside.

Q. When you went to your dad's flat to clean it up, in the kitchen did you notice anything in or near the sink that would have - in your having regard to your knowledge of your father, been unusual?
A. (No answer)

Q. Would you like me to rephrase that?
A. Yes please.

Q. Did you see any tea bags there?
A. Yes.

Q. Now are you able to tell the Court anything about tea bags and your father as you knew him?
A. I couldn't answer that. I just found that it was - it was odd. Just I didn't believe that for one dad drank tea.

Q. Why didn't you believe that your father drank tea?
A. Because I used to make him coffee all the time.

Q. Always?
A. Always.

Q. So, so far as you are concerned unless he changed his habits in the period of time you used to do that it was unusual to use tea bags?
A. That is right.

<CROSS-EXAMINATION.

MOLOMBY: Q. I don't think you have addressed this in your evidence so far. Your father always wore a wedding band on the ring finger of his left hand, didn't he?
A. That is correct.

Q. And you never knew him not to do so?
A. No.

<WITNESS RETIRED AND EXCUSED.

<JOHN KASSIS (4.45PM)
SWORN AND EXAMINED.

CROWN PROSECUTOR: Q. Would you tell the court your name rank and station please?
A. John Kassis. I am a Detective Sergeant of Police attached to the Surry Hills Police Station.

Q. Detective Sergeant, you were attached to that Police Station in 1995, is that correct?
A. Yes.

Q. And Sergeant, on the 21st of September, 1995, did you make a statement setting out the part you played in the investigation now before this Court?
A. Yes.

CROWN PROSECUTOR: I ask that the Sergeant be allowed to read from his statement (no objection).

Q. I just show you this document. Is that a photocopy of the statement that you made on the 21st of September, 1995?
A. Yes.

Q. Now Sergeant, would you please read from that statement in a loud clear voice at a pace with which we can all keep, particularly the court reporter and the jury so as they can take in what you have to say?
A. Yes.

Q. Would you begin reading your statement at the paragraph you have numbered 2, that is omitting the first formal paragraph of your statement?
A. Yes.

About 1pm on Saturday the 11th of March 1995 I attended the Surry Hills Police where I had a conversation with Detectives Walker and Hardy. I then contacted the

Fingerprint Section and made certain arrangements. I then had a conversation with Detective Van Leeuwan of the Crime Scene Unit.

With Detective Walker I then saw and had a conversation with Wendy Griffen and Karen and Greg Franks. Later that afternoon, with these persons and Detectives Walker and Hardy, I went to unit [redacted] Block [redacted], Northcott Flats, Belvoir Street, Surry Hills. There I saw an officer from the Fingerprint Section who conducted an examination of the premises. Senior Constable Ford of the Crime Scene Unit also attended that address.

Whilst at Northcott Flats, I had a conversation with Mr Brian Kane, Mr Michael Lawrence and Mr Robert Garratt. I remained at the scene until the completion of the examination by the fingerprint officer and the Crime Scene Examination.

At the completion of the examination, I entered the unit with Wendy Griffen and Karen and Greg Franks. I then took possession of a pair of glasses belonging to the deceased, which were on the table in the lounge room.

On Sunday 12 March 1995, I took the glasses to the Crime Scene Unit, Sydney Police Centre, where I handed them to Senior Constable Van Leeuwan.

Q. Now Detective Sergeant, is that the totality of your involvement in this investigation?
A. Yes.

<CROSS-EXAMINATION.

MOLOMBY: Q. Sergeant, you did come to know the results of the search of the unit that was made by other officers, didn't you?
A. Yes.

Q. And particularly there were some illegal drugs found in the nature of marijuana, weren't there?
A. Possibly. I don't remember.

Q. Do you remember giving evidence about this on the 7th of March 1996 at the magistrates court?
A. Yes.

Q. And your memory about this aspect would have been a little better than it is now?
A. Yes.

Q. And if - page 6 - you were asked there, "What's your knowledge now? A. That there was some illegal drugs found. Q. What were those illegal drugs? A. I think it was marijuana," that would have been correct, wouldn't it?
A. Yes, it would be correct.

<NO RE-EXAMINATION.

<WITNESS RETIRED AND EXCUSED

<LYLE WILLIAM VAN LEEUWAN (3.57PM)
SWORN AND EXAMINED.

CROWN PROSECUTOR: Q. Officer, when you speak in this Court would you speak in a loud tone of voice and directly into that microphone so we can all hear you and would you also endeavour to speak at a pace with which the court reporter can keep without undue stress and the jury can take in what you have to say?
A. Certainly sir.

Q. Could you tell the Court your full name, rank and station?
A. Lyle William Van Leeuwan. I am a Detective Senior Constable of Police now attached to the Forensic Services Group working from the Sydney Police Centre in Surry Hills.

Q. The 13th of March, 1995, - withdrawn - on the 11th of March 1995 did you attend the Institute of Forensic Medicine at Glebe?
A. Yes, sir, I did.

Q. Were you present during a post mortem examination carried out by Dr Lawrence a forensic pathologist?
A. Yes, sir I was.

Q. And during the course of that post mortem examination at the direction of Dr Lawrence did you take a number of photographs?
A. Yes, sir.

Q. And was there indeed some 30 odd photographs taken by yourself?
A. Yes, sir, that is correct.

Q. (Exhibit A shown) would you go straight to the larger photographs at the back - there is five photographs there officer - did you take those five photographs?
A. Yes, sir these are my photographs.

Q. And do they accurately represent what you saw at the time you took them?
A. Yes, sir, they do.

Q. If that could be returned to the Court please. Now Detective, on the 12th of March 1995, a Sunday, were you at the Crime Scene Unit Sydney Police Centre?
A. I believe I was, yes.

Q. Did Detective Sergeant Kassis hand you to some glasses?
A. Yes, sir, he did.

Q. What did you do with them?
A. Sir, on the 21st of March, 1995, I photographed and examined those pair of glasses and those glasses had a partial shoe impression on the right lens - on the outside

of the right lens. I developed that shoe impression using fingerprint powders and I photographed that impression. No further examination was possible as there was no sample shoes to compare that impression to - I can tell you some details about the impression sir, if you wish me to.

CROWN PROSECUTOR: At this stage your Honour that is the evidence in chief of this officer, I may need to recall him later.

<NO CROSS-EXAMINATION.

<WITNESS RETIRED.

FURTHER HEARING ADJOURNED TO FRIDAY 20 NOVEMBER 1998 AT 10 AM.

CM:CAT:D

THE SUPREME COURT
OF NEW SOUTH WALES
CRIMINAL DIVISION

IRELAND J
AND A JURY OF TWELVE

FIFTH DAY: FRIDAY 20 NOVEMBER 1998

96/91/0034 - REGINA v MICHAEL ALAN HEATLEY

<IN THE ABSENCE OF THE JURY

CROWN PROSECUTOR: Your Honour, I apologise for the delay. I had a conference with Constable Van Leeuwan. It began just a little after 9.30 this morning and, during the course of that conference Constable Van Leeuwan produced a number of pieces of information, if I can put it that way, and a number of photographs that have been in a box containing material at the Crime Scene Unit of the Police Department at Surry Hills relating to the matter now before this Court.

There was a photograph of a ring produced that caused me quite a deal of concern, and that lead to a line of enquiries as to how that photograph came into being, and it's been in the endeavour to establish that your Honour that the delay has been caused.

My learned friend is aware of that photograph now and, so that I am not talking in puzzles, it is a photograph of a ring that is remarkably similar to the ring which was first described by Mr Franks on 12 March 1995. And so far as I'm aware, and at this stage accept it is due to the description given by Mr Franks on 12 March that the photograph of a ring of that type came into being to assist in the investigation of the matter by police. But I haven't any instructions yet that confirm that to be the fact, but that is, I am told, the most likely reason for that photograph existing.

HIS HONOUR: Do you mean that following Mr Franks giving a description, some investigating officers endeavoured to locate a ring of that description?

CROWN PROSECUTOR: Yes, similar description, for investigative purposes in showing to people, and also in doing their rounds of pawnbroking shops et cetera, to see whether or not a ring of similar description had been pawned. That is the explanation I have so far, and that would seem to be the case. But I felt constrained to tell my learned friends of its existence at least, and Constable Van Leeuwan will give some evidence of that when he does give further evidence this morning. But I do apologise for the delay.

HIS HONOUR: I understand.

MOLOMBY: Your Honour there is a matter I would wish to raise please, and I have advised my friend of this. This arose

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also from information coming into our possession overnight by accident. Mr Vasic, my junior, was last night doing some research on sentencing matters and came across an unreported judgment of the Court of Criminal Appeal from 1987.

Now, for the purpose of this, I raise this your Honour, and I have told my friend entirely of this already, not complaining of any prejudice in this current matter, but I raise it as a serious concern in the general administration of justice. One of the probably three most important witnesses in the prosecution case was Mr Kane. We subpoenaed, along with that of other witnesses, his criminal record. The response we got I have in my hand says, in short, no records found. It records his name, Brian Patrick Kane, and the date of birth [redacted]. The judgment that Mr Vasic found last night relates to a Brian Patrick Kane, date of birth [redacted]. Both the same name, same date. And I hand a copy of the judgment to the Court.

I don't seek to take your Honour to all the detail of it, but on that occasion, a lenient sentence was quashed by the Court of Criminal Appeal and the sentence of 15 months imposed for a particular matter. And the judgment records that he had, in the Court's view, a serious prior history in relation to some other matters.

Now, as it happens, given the course of the evidence, I would not have chosen to rely on that matter if I had had it in cross-examining Mr Kane, but no-one of course is in a position to make that decision in advance; I wasn't, and nobody else of course was entitled to make it on my behalf.

It is a very serious matter if the system cannot be relied upon when a subpoena is issued for the criminal antecedents of an important witness for those to be accurately produced.

I thought I should place it on record at the earliest available opportunity and I say again, I claim no prejudice in the current case because of it. It is a matter of great concern.

HIS HONOUR: It is, I agree, a matter of great concern that, an inaccuracy of that nature should occur.

MOLOMBY: Might I hand up for the Court record the return given to the subpoena in relation to what was said.

I will just say one further thing on the question, your Honour, and again I claim no prejudice or apprehension of it in relation to the current case but because of the way the evidence has gone so far and because of my apprehension of what the evidence is to come but we subpoenaed the criminal histories of other witnesses too and in relation to a number got a nil return. If it happened to matter, our confidence in the answer that we received in relation to those others, at this point, would not be very high. That is all I wish to place before the Court in relation to the matter, your Honour.

HIS HONOUR: Do you wish to say anything Mr Crown?

CROWN PROSECUTOR: I just concur with everything my learned friend has said.

(For his Honour's judgment see separate transcript.)

HIS HONOUR: I will keep those documents - I'll mark the documents for identification Mr Molomby but I wish to incorporate them in my drawing of the matter to the attention of the relevant authorities.

MFI # 5 JUDGMENT OF THE COURT OF CRIMINAL APPEAL IN REGINA V KANE.

THE FOLLOWING ERRATA WAS NOTED:

1. Page 226 line 14 change "matter" to "mat".

IN THE PRESENCE OF THE JURY.

<LYLE WILLIAM VAN LEEUWEN (10.50AM)
ON FORMER OATH. EXAMINATION CONTINUED.

CROWN PROSECUTOR: I hand to your Honour a fresh statement.

Q. Do you have a copy?
A. I'll just find it sir.

Q. I will hand you this copy (shown). Officer, for the record, would you give your full name rank and station once again please?
A. Yes, sir my full name is Lyle William Van Leeuwen I am a Detective Senior Constable of Police attached to the Forensic Services Group Sydney Police Centre.

Q. You made a statement dated the 19th November 1998?
A. Yes, sir, I did.

Q. In that statement you set out your qualifications and certain further matters, is that correct?
A. Yes, sir, I have.

Q. Would you please with the permission of the Court read from your statement at a pace with which we can all keep and in a loud tone of voice so that we can all hear what you have to say. Would you begin please at the paragraph that you have numbered 1 which sets out your qualifications?
A. Yes, sir. I am attached to the East Sydney Crime Scene Unit, where part of my daily duties include the examination of scenes of crime. Duties at the scene include the collection of physical evidence, preparation of plans, the taking and processing of photographs and the macroscopic examination of objects and articles requiring considerations of minute detail. I have completed the Crime Scene Examiners Course and The Disaster Victim Identification Course conducted by the New South Wales Police Service. I have completed the Police bomb Technicians Course conducted by the Royal Australian Army, the Explosives Course and the Police Drafting Course conducted by the Department of Technical and Further Education at Sydney Technical College and the Bomb Scene Examiners Course at the Victorian state Forensic Science Centre. I am the holder of a Powderman's Certificate of Competency for the use and disposal of commercial explosives. I have completed the Leica Microscopy Course in the use and maintenance of Macro and Microscopes. I hold a Diploma in Applied Sciences (Forensic Investigation) issued by the Canberra Institute of Technology. I have been carrying out Crime Scene Examinations for ten years.

On Sunday 12 March 1998 I received a pair of prescription reading glasses from Detective Sergeant Kassis of the Surry Hills Police Station. These glasses were recorded as Exhibit 21/10776.

On 21 March, 1995 I examined the glasses and on the left lens (right lens when viewing the photographs).

Q. Does that have some significance with some of the evidence you gave yesterday?
A. Yes it does sir. I gave evidence yesterday that the tread pattern was on the right lens and it was on the right lens as I am viewing the photograph. It was actually the left lens as you wear the glasses.

Q. Thank you?
A. I saw a shoe tread pattern I saw that the right arm of the glasses was bent. I applied fingerprint powder to enhance the tread pattern. The tread pattern is of a zig-zag ripple pattern, similar to that found on older style shoes such as "Dunlop Volley" sandshoes or "Sneekers" and is approximately 20 mm by 15 mm in size. There were no individual characteristics in the impression and the impression was on a curved surface. I have not received shoes to compare the impression with. I photographed the glasses.

Q. I show you these two photographs?
A. Yes, they are my photos and they are the ones I refer to.

Q. Are they - is one a photograph of the glasses being the actual size of the glasses?
A. Yes, sir a size scale appears in both photographs and in the photograph of the full glasses that is full size and photograph number 2 is a photograph of the left lens only and that left lens has been magnified to twice its actual size to show more detail.

Q. When you say the photograph of the full glasses is the actual size, do you mean that is the actual size of the photo?
A. It is the actual size of the glasses.

EXHIBIT #H TWO PHOTOGRAPHS TENDERED, ADMITTED WITHOUT OBJECTION.

HIS HONOUR: Do you wish the jury to see them.

CROWN PROSECUTOR: If the officer could just indicate what he is calling the developed tread pattern.

HIS HONOUR: You can see it in both photographs. I will just mark the photographs on the back 1 and 2 and they can be marked then as Ex. H.

HIS HONOUR: Members of the jury you will see when you have these photographs in front of you I am sure that the larger one shows the wavy markings of a shoe pattern and the smaller one shows that on the right hand lens as you are looking at them and I will just get the officer to identify those?
A. Thank you your Honour. The tread pattern appears in photograph number 2 basically in the area above digit three of the size scale and it appears in the top right hand side of the photograph number 1.

CROWN PROSECUTOR: Q. And Detective can you also see some - what appears to be splash marks on there?
A. Yes, sir, you would call them droplets on the face of the lens just towards the middle of the glasses.

Q. And are you able to say - do you have any experience in ascertaining a direction that a droplet of liquid might be - in which a droplet of liquid may be travelling when it strikes a surface?
A. Yes, sir, in this case the droplet of the liquid has been travelling towards the centre or towards the nose of the bridge area of the glasses when it struck. That is indicated by the tail of the droplet. You can see the tail especially in number 2 around towards the top righthand corner.

Q. Are you able to tell the Court anything about the type of liquid that struck the glass?
A. Sir from my examination of the glasses and from the tread pattern that is on the glasses it would appear to me that the tread pattern is a transference through a liquid medium whereas a lot of shoe print are usually rubber residues from the shoe left on the glasses but in this case I would be fairly confident to say that it appears to be a liquid medium because it is a very distinct impression and I've yet to see an impression on glasses as distinct as this one, prior to having examined these.

Q. When you say the transference of tread pattern is a liquid medium, in layman's terms does that mean that somebody has probably walked in some liquid of some type and then walked on the glasses?
A. I would say so sir. I would put it as a stamp pad principle.

Q. Is there anything else about that liquid that you can tell the Court?
A. Yes, sir, it - in the droplet form it appeared to have some viscosity to it because it was dry and raised on the surface. It appeared to be some type of fatty type liquid.

Q. A fatty type substance - would that be similar to some milk substance or something like that?
A. Sir it could well be.

Q. And the glasses, were they damaged in any way?
A. As I mentioned in my statement sir, the right hand arm was bent downwards almost to the level with the bottom of the righthand lens.

Q. Now, the right lens had been walked on. Are you able to say anything about whether or not having regard to what you have seen about the arm about the glasses, that it may at some stage have been up through the nose area?
A. It is quite consistent with possibly having been so sir because it is within that far (indicated) off the bottom of the lens, so it could quite easily have popped through the glasses.

Q. You said about half a centimetre (indicated)?
A. I am indicating about half a centimetre, yes.

Q. Do you have the glasses?
A. I do, yes.

Q. While the jury is looking at the photos, do you have the glasses?
A. I do sir, yes.

Q. Would you get those out?
A. (Complied).

EXHIBIT #J GLASSES TENDERED ADMITTED WITHOUT OBJECTION AND MARKED.

Q. Your involvement in the investigation of this matter, has that been extensive?
A. No sir, I was on the fringes of the investigation.

Q. You indeed went to the morgue?
A. Yes, sir.

Q. You also were present during the course of the post mortem examination?
A. Yes, sir.

Q. When you went to the morgue did you become aware of and were you given certain items of property which had been recovered from the deceased's body?
A. Yes, sir, I was.

Q. What were you given?
A. Items of clothing sir and a black wallet containing personal papers of the deceased and a ten dollar note.

Q. Do you know where it was that that black wallet was located on the deceased?
A. Sir, in his trouser pocket.

Q. Did you take photographs of the contents of the wallet and it contents?
A. Yes I did sir prior to handing it back to Detective Hardy.

Q. Did you also make a record of all of the things that you received during the course of your involvement in this investigation?
A. Yes I did sir.

Q. Do you have a copy of that record with you?
A. I do sir, yes.

Q. Would you produce that please?
A. (Witness complied). Sir It's a photocopy of an exhibit entry 21 A for alpha 10774, date 11, 3, 95.

Q. Would you tell the Court what it was that you received?
A. This will include biological samples. Item 1 was a T-shirt. Item 2, a pair of shorts. Item 3 was a blood sample in the name of Meek. Item 4 was a sample of head hair in the name of Meek. Item 5 were left fingernail scrapings in the name of Meek. Item 6 were right fingernail scrapings in the name of Meek. Item 7 was an oral and anal swab in the name of Meek. Item 8 was an oral and anal smear in the name of Meek. Item 9 was a black wallet containing cash to the value of $10. A rego certificate, Medicare card, Advance Bankcard, Telecom card, Department of Housing card, pensioner card, a Mardi Gras card, a Crown Hotel card, a Sizzler card, three NRMA cards, New South Wales driver's licence in the name of Meek and personal papers. Item 10 was a pair of underpants, blue in colour. They're listed on the specimen item register form.

Q. What does that mean?
A. It's our exhibit book sir. The book that we record all our exhibits at the Forensic Services Section in.

EXHIBIT #K PHOTOCOPY DOCUMENT, RECORD OF PROPERTY, TENDERED WITHOUT OBJECTION ADMITTED AND MARKED.

Q. Officer I show you these three photos (handed to witness). Firstly, do you know who took those photos?
A. Yes sir, they're mine.

Q. How do you know that?
A. I'm the only person in our office who uses a square medium format camera.

Q. And what is it that can be seen in those photos?
A. Those items I've just read out to you as item 9, contents of the wallet.

Q. So was the wallet and its contents, is that correct?
A. Cards, personal papers, $10 in cash, and the wallet itself.

Q. And does that one photograph show the wallet and all its contents laid out together?
A. Yes sir.

Q. And then the other two photographs are closer views of those items that were found in the wallet?
A. Yes sir, that's the case.

EXHIBIT #L THREE PHOTOGRAPHS IDENTIFIED BY THE WITNESS TENDERED WITHOUT OBJECTION, ADMITTED AND MARKED.

Q. When you left court yesterday afternoon, did you return to your section?
A. Yes sir.

Q. And did you make a search of your section for any information that might assist this Court and, indeed, was collected during the investigation of the matter now before this Court, and which was retained at your section?
A. I did sir, yes.

Q. So does that mean that you have found - did you find anything?
A. Yes sir I did.

Q. And in finding things, did you find things with which you had no previous contact?
A. Yeah I did sir, yes.

Q. Indeed did you find items collected, or which were brought into being during the course of the investigation of which you weren't aware?
A. I did sir, yes.

Q. Before court this morning, did you have a conference with me?
A. Yes sir.

Q. And did you show me what you had found?
A. Yes I did.

Q. And amongst the items which you found, did you find some photographs of a ring?
A. Yes sir I did.

Q. And I will show you this one photograph (handed to witness).
A. Yes sir that's a picture of a ring that was with part of the contents of what we refer to as the brief folder in relation to this incident.

Q. Now do you have a number, more of those photographs?
A. Yes sir, they're available if required.

Q. Would you produce those please?
A. Yes sir (witness complied). Sir I have fourteen photographs separate to the one you've just shown me.

Q. Fifteen altogether?
A. Fifteen altogether. I do believe that some of them are duplicates, but they are before the Court.

Q. Officer, having regard to your experience in this section in which you are work, are you able to say anything about the nature of photographs that are taken, firstly if an item is found for example in premises, or on a deceased person or on any persons, in any person's possession when they come into police custody, and that item is considered to be relevant to the investigation that is currently going

on, how many photographs of, or prints would normally be made on an item that might be perhaps such as a ring?
A. The normal procedure is for any property found upon a person to be photographed on that person if at all possible. What we call mid-range photographs are then taken, which would give an idea of where that item appears on that person, and then close-ups would be taken.

For a lot of other items investigators may wish to have photographed, they will bring them to our office and we will photograph them in controlled situations. We will regularly supply at least three copies of photos to those investigators for them to make their inquiries with. In relation to items found on people, it's usually an overall photograph of the person, and I'm referring to jewellery in this case, a mid-range photo, for argument sake showing an item on a hand, and then a close-up photo of the item.

Q. And if a search is conducted of premises, is it police practice to take photographs of things in situ?
A. Where possible at all times sir that is the optimum, yes.

Q. Are you familiar with persons having given a description of an item to police, and then police searching for a similar item?
A. Yes sir. Yeah that happens a lot of -

Q. And you say, in the case of something such as a ring, what is the general police practice, and we're talking about general police practice, not what definitely happened in this case, because are you able to say anything about these photos other than having found them?
A. I can tell you general police practice, but not relating to these photos.

Q. General police practice?
A. If investigators are seeking to identify certain items, they may bring substitute items to our office for us to photograph. Within the Police Service, the Forensic Service group does the majority of photographs. Each police station is equipped with an exhibit camera but they cannot do photographs as detailed that our equipment can. So they regularly bring substitute items to us for photographing, and they may well circulate those items among other police, amongst other interested authorities, through media outlets; supply them even to television stations if necessary.

Q. What about to investigating police going into various pawnshops, and things like that?
A. Yes sir, it happens all the time.

Q. And in that circumstance, is it common for a large number of copies to be made?
A. Yes sir, because the police will have to leave copies of that subject item with the pawnshops; and there is a considerable amount of pawnshops even within the Sydney business district.

EXHIBIT #M FIFTEEN PHOTOGRAPHS PRODUCED AND IDENTIFIED BY THE WITNESS TENDERED WITHOUT OBJECTION, ADMITTED AND MARKED.

Q. What are those photographs there?
A. Other spare photographs that you already have possession, and your learned friend has seen. They fell out of the folder.

<CROSS-EXAMINATION

MOLOMBY: Q. Mr Van Leeuwan, just dealing first with those glasses and the marks you observed on them and so on?
A. Yes sir.

Q. Your activity about that was conducted in March 1995 was it not?
A. Yes sir.

Q. But the statement that recorded the evidence you gave, evidence in court, was made in July 1995 was it not?
A. Yes sir it was.

Q. And it did not record anything about that aspect of your activities back in March?
A. No sir it didn't, because I hadn't been given any shoes to compare the glasses to.

Q. Meaning you were unable to take it to any useful conclusion?
A. Yes sir.

Q. Tell me if you need to look at the photos for any purpose in these next few questions, but there appears to be on the part of the glasses that you have magnified -
A. Yes sir.

Q. Both, some sort of imprint that you have?
A. Yes sir.

Q. And two drops?
A. Yes

Q. But then some other general splashing of liquid as well; would you agree?
A. If I could possibly have the glasses, I can - we can work it that way, it might be easier.

Q. (Glasses handed to witness) Are the glasses now still in the same condition when these photos were taken?
A. They should be sir because I haven't done anything to obliterate the print.

Q. Have they been in your possession throughout?
A. Been in the Crime Scene Section's possession, sir, yes. Yes sir, there is some other marks near the droplets, and there is actually a small, very small droplet at the top left corner on the right-hand lens. Sir, the glasses are a bit foggy, and that's the fingerprint powder that I have

used to enhance further marks that are there.

Q. Is that fogginess what shows up on these photos?
A. Yes sir it is.

Q. So from the photo it's not totally easy to tell what is liquid that might be associated with the droplets, and what is fingerprint powder, is that right?
A. Put it this way, it's clearly visible on the glasses.

Q. On the original?
A. Yes sir.

Q. But I'm saying not on the photographs?
A. Photos are never as good as the original, no.

Q. When you talk about a transference pattern having made this imprint mark, what is visible on these glasses would be easily explicable, would it not, by somebody who had walked in whatever this liquid is, and got it on the sole of the footwear, having then walked on the glasses?
A. That's exactly what I mean sir, yes.

Q. That is the most natural obvious explanation?
A. Yes it is. I have seen shoe impressions on glass previously, and on a hard flat surfaces; fairly common when offenders jump counters at banks, that is how most - that's the most type of shoe prints we get. And those shoe prints have to be fully enhanced using magnetic powders or fingerprint powders, where this shoe print here is - was fairly visible to start off with, where a lot of the other shoe prints are virtually invisible to the human eye until the application of enhancement powders.

Q. This one being visible because you say it's transference base, it's something that has been left on the glasses that was originally on whatever contacted the glasses?
A. Yes sir.

Q. Now I think that finishes what I want to ask you about the glasses. Just going to the recent topic of this other ring, and the multiple photos of them and so on, there any record of who took those photos?
A. There is no record that I can find sir, no.

Q. Is such a record normally kept?
A. Would normally be, yes.

Q. Is there any indication of when the photos were taken?
A. No sir, I have no indication of that.

Q. And is there any indication of where the ring is that appears in the photo?
A. The ring has not been taken possession of by our office. I can tell you that much. It's not in any Crime Scene section's possession. As I said, it's not uncommon for police to bring us their items that are photographed and immediately returned to them. It doesn't actually leave

their possession as such.

Q. Are you able to tell from the form of those photos, or the background of them where they were taken?
A. Yes sir, I would strongly believe that they were taken in controlled lighting circumstances. They're on what is called an 18 percent grey background, which is a photographic standard, and I strongly believe they have been taken by members of our Unit. In our office.

Q. In other words, that is exactly the way they appear when you take them at your office?
A. Yes.

Q. Is it likely that any further inquiries would be able to establish who took those photos, and when?
A. I believe Detective Sergeant Tanos is already working on that.

Q. That is in progress now?
A. I believe that's the case sir, yes.

<FURTHER EXAMINATION-IN-CHIEF

CROWN PROSECUTOR: Q. (By leave) (Exhibit A handed to witness) Detective, if you have a look at photographs numbered 8 and 10?
A. Yes sir I have those.

Q. Can you see a what appears to be a clear plastic bottle?
A. Yes it appears to be a 2 litre softdrink bottle.

Q. Detective, looking at that bottle, having regard to your experiences at Crime Scene investigator, are you able to say whether or not there appears to be some liquid in that bottle?
A. Yes sir, there is a white milky coloured liquid in the bottle. The bottle, you can see, it's gone to the, like the lowest part of the bottle.

<FURTHER CROSS-EXAMINATION

MOLOMBY: Q. Detective, just sticking with the photo?
A. Yes sir.

Q. No lid on that bottle is there?
A. No sir there isn't.

Q. And tell me if this is the sort of thing that doesn't come into your training of investigating crime scenes, but I would like you to - if that bottle before being tipped on its side in that position had rather more of that liquid in it than there is now - are you with me?
A. Yes sir.

Q. And it was tipped on its side in that position, the liquid would run out onto the rug would it not?
A. Onto the rug, yes.

Q. Soak into the rug would it not?
A. Yes it would.

Q. If the bottle then lay there for a day or so, with as much liquid as possible having run out of it in its presentation on its side, over a day or so, the liquid would evaporate a little bit in the bottle, and would retreat a bit from the mouth of the bottle where it would run out?
A. Yes. It definitely would.

Q. After a day or so, if it's tipped on its side and originally dripped onto the mat, it would look exactly the way it looked in this photo?
A. Yes.

Q. That is exactly what you would expect?
A. Yes.

Q. Depending on how full the bottle was of course, there would be a substantial amount of the liquid soaked into that rug wouldn't there?
A. Yes sir.

Q. If someone walked on that rug, they could then squash the liquid out of it and get it on their footwear?
A. Yes.

Q. If they then walked on those glasses?
A. That could be your transference.

Q. We could have exactly what we're looking at, wouldn't we?
A. Very likely, yes.

<RE-EXAMINATION

CROWN PROSECUTOR: Q. Look at that photograph numbered 10, does there appear to be staining in droplet form at least on a portion of the T-shirt worn by the deceased up in the area of his right shoulder blade?
A. Yes there is sir. Middle of the photograph there is a staining towards the back of the neck. This area of the neck.

Q. Yes?
A. And down the right shoulder blade towards the centre of the back.

Q. That can be seen, can it not, or some of that staining particularly around the neck area can be seen in photograph numbered 11?
A. Yes sir it can.

Q. A bit hard on the reproduction?
A. It's clear in photograph number 12 sir.

<WITNESS RETIRED

SHORT ADJOURNMENT

IN THE ABSENCE OF THE JURY

CROWN PROSECUTOR: The Crown has an application to make regarding one of the members of the jury. Your Honour, this is a novelty for me. I've never been in this position before but it has come to my notice that from about the second or third sentence of my opening to the jury one of the members of the jury has been asleep for large portions of the trial and whilst some might say jocularly that they could understand going to sleep during my opening that may well be accepted but during the course of the evidence that has been given this juror has been asleep almost every time I have looked at him and indeed yesterday whilst adducing evidence from a witness I had to stop or was caused to stop because of a loud snoring noise that came from that particular juror.

I make this application because the accused and the Crown are entitled to have every juror who is present in court listen to the evidence and consider the evidence in accordance with the oath taken by them and therefore be able to give a verdict according to the evidence in accordance with the oath taken by them.

I would respectfully submit that it would be impossible for this juror to do that and indeed it would be impossible for him to give any considered opinion as to the bulk of the evidence that has been called this week.

MOLOMBY: My friend and I discussed this matter prior to that application being made by him. I support the application and I adopt what he has said in support of it.

HIS HONOUR: I have noticed myself that the juror in question, I have no doubt which one it is, has spent the majority of the trial asleep and it has been necessary for other jury members to wake him in a routine manner and the contribution that he can make to the trial in terms of considering the evidence and deliberating upon it is obviously grossly impaired and it is my view that he should be discharged.

Now, perhaps the time to do that would be five minutes to one, I think, in the circumstances of this case and I will take that step at that time.

IN THE PRESENCE OF THE JURY.

(Mr R Tan from NAATI sworn to interpret the Philippino language.)

<CARMEN SAN PEDRO (12.10PM).
SWORN AND EXAMINED THROUGH INTERPRETER

CROWN PROSECUTOR: Q. Madam is your full name Carmen San Pedro?
A. Yes.

Q. In March of 1995 did you conduct a store in Belvoir Street, Surry Hills?
A. Yes, we had a shop then but I can't remember the exact year.

Q. Did you make a statement to the police in May of 1995?
A. I cannot remember.

Q. I just show you this document, is that your signature at the bottom of each - on each page of that document?
A. Yes, I remember.

Q. Was that made on the 20th of May, 1995?
A. I cannot recall.

Q. Is the date the 20th of May 1995 shown on the top of the document?
A. I cannot remember that it is really the exact date.

Q. My question was, is the date 20th May 1995 on the top of the document?
A. (No answer).

HIS HONOUR: Q. Madam, please look at the document. Can you see on the document, the date?
A. Yes (pointing to the date).

MFI #6 STATEMENT DATED 20 MAY 1995.

Q. Did you help your daughter run a business known as "A to Z" which was a mixed business at [redacted] Belvoir Street, Surry Hills?
A. Yes.

Q. And had you been working there for three years when you spoke to the police?
A. I cannot remember exactly when I talked to the police.

Q. Did you know a man named Jim Meek?
A. Yes, I remember.

Q. Do you remember Tuesday the 7th of March, 1995?
A. Its been too long. I can't really remember what happened.

Q. When you spoke to the police do you remember speaking to

the police about Jim Meek coming into your store one morning?
A. I don't recall anything about police talking to me about anything.

Q. Do you remember Jim Meek ever buying cigarettes from you?
A. I know he bought cigarettes in our shop but I don't know that date.

Q. Did he buy Blue Horizons cigarettes?
A. He had been buying cigarettes from our shop but I don't know which brand of cigarettes.

Q. Do you remember him ever putting - rather - do you remember him ever getting cigarettes on credit?
A. Yes I remember him getting cigarettes from our shop on credit but I can't remember the day.

Q. Do you remember hearing about Jim Meek dying?
A. Yes, I've heard about it.

Q. Do you remember whether or not he bought some cigarettes on credit shortly before or around about the time of you hearing of him drying?
A. I really can't recall.

<CROSS-EXAMINATION.

MOLOMBY: Q. Do you speak any English?
A. A little bit. I understand a little bit.

Q. Did you work in the shop selling things?
A. Yes.

Q. Did you have an interpreter in the shop?
A. I understand some of the English words and some I don't.

Q. Do you remember speaking to the police about Mr Meek?
A. No, I don't.

<NO RE-EXAMINATION.

<WITNESS RETIRED AND EXCUSED.

<ROBERT ANTHONY WOODWARD (12.30PM)
SWORN AND EXAMINED.

CROWN PROSECUTOR: Q. Sir would you tell the Court your full name, please?
A. Robert Anthony Woodward.

Q. Did you make a statement to the police on the 10th of July 1995 touching the matter now before this Court?
A. I did.

Q. Did you know a man by the name of James William Meek?
A. I did.

Q. Did you know him as Jim?
A. I did.

Q. And did most of his friends know him as Jim?
A. That is correct.

Q. And had you known him as at 1995 for about 35 years?
A. That is correct.

Q. Did you first meet him when he started working for Dunlop Australia at Chappell Road, Bankstown?
A. That is correct.

Q. Was he 18 at that time and employed there as a process worker?
A. Yes.

Q. Were you also employed there at that time?
A. Yes.

Q. What was your position relating to Jim?
A. We were just friends, that is all.

Q. You were his friend. And, do you think he worked there for about a year and went to drive government buses?
A. Yes.

Q. Did you lose contact with him after that?
A. Yes, quite a few years.

Q. Some years later did you meet him in St Mary's?
A. I did.

Q. That is the suburb of Saint Mary's?
A. Yeah.

Q. Did you learn there that he had married and had started a family and was living at Tregear?
A. Yes.

Q. Is Tregear a suburb in the general vicinity that is known as Mt Druitt Complex?
A. That is right.

Q. Did you not then see him until about five years before - that is round about 1990?
A. That is correct.

Q. Did you meet him by chance near the fountain at Kings Cross?
A. Yeah only by chance.

Q. Did you speak to him at some length since you hadn't seen him for so long?
A. Well I did.

Q. Did you learn that he was living in a boarding house in Elizabeth Bay and had been there for some time?

A. Yeah I learned he was in quite a bad way actually.

Q. When you say he was in quite a bad way, was he ill?
A. He was very depressed.

Q. Did he tell you that his marriage had broken up and that he had been living with a man for a while?
A. Yes.

Q. Did he, at some time, during that conversation, did he tell you that he was gay?
A. Yes.

Q. And that he was indeed infected with the HIV virus?
A. That is correct.

Q. Did you help him to get his Housing Commission unit at the Northcott flat in Belvoir Street, Surry Hills?
A. Yeah through other people I did, yeah.

Q. Through people you knew?
A. Yeah.

Q. After he moved into the Northcott flats did you keep in fairly regular contact with him?
A. Yes I did.

Q. On occasions would you stay with him at his unit if you had business in Sydney?
A. Yes, well I used to take him out to his doctor.

Q. Did you also help him to fix up his flat at the times he wasn't well?
A. Yes.

Q. And you would go over to his flat and clean the bathroom and the kitchen?
A. I did.

Q. Did you also get him the security door for the front of his unit?
A. I did.

Q. Was that because he had concerns about his security?
A. Yes he did.

Q. And after the security door was fitted did you make sure that he locked it whether he was in or out of his unit?
A. I did that.

Q. Did he develop a habit then of locking his security door whether he was in or out of his unit?
A. He did that.

Q. Did he keep some sort of an instrument near the front door of his unit to assist him if there was any need to use it?
A. He kept a metal baseball bat with black tape around it

and I picked it up one day and I said, "I wouldn't like to get hit by that one" and he said, "I've got it there for my protection", and that is all he said.

Q. Do you tell this Court that your association with Jim remained good up until December of 1994?
A. Yes.

Q. And did Jim's mother die then?
A. Yeah she did.

Q. And did you go up with him to Gosford and help him with some of her belongings?
A. I did.

Q. Did he need you and your van to move his mother's belongings?
A. Yes, that is correct.

Q. Was it the fact that he didn't have a car at that time?
A. No, he just needed a van.

Q. Did you drive back to Jim's unit and unpack some of those items before having some dinner?
A. Yeah.

Q. Did you have some disagreement that arose out of - or over the dinner?
A. Well yes, I did.

Q. Was that because you had Kentucky Fried Chicken and coleslaw and you didn't eat the coleslaw because of your diabetes?
A. That is right.

Q. Then there was some cheesecake there and you?
A. Well I needed a bit of sugar and that is what it was.

Q. Jim had a bit of a go at you about not having eaten all your dinner so you weren't going to get any sweets?
A. And I told him I wasn't a five year old kid.

Q. So your friendship deteriorated at that point and you left?
A. My word I did.

Q. He asked for his keys back?
A. Yes.

Q. And you gave them back to him?
A. I gave them back to him.

Q. You said you didn't speak to Jim again until about the middle of January 1995?
A. That is correct.

Q. Do you know through other friends though that he had rung them looking for you to contact you?

A. He did, yeah.

Q. Did he arrive at your door out at your home which at that time was in the Lethbridge Park is that correct?
A. It still is in the Lethbridge Park area.

Q. Did he say that he had come to see a man by the name of Roger Bissett?
A. Yes.

Q. And was Roger Bissett boarding at your place?
A. He was staying with me at the time, yes.

Q. And did Roger Bissett have a girlfriend?
A. Yes.

Q. Was Roger Bissett's girlfriend, Karen Heatley?
A. Yes that's correct.

Q. And had they moved in to your place about a year before July of 1995?
A. That's correct.

Q. And would they stay with you between travelling to and from Tasmania?
A. Yes.

Q. Did he also show you his new Daewoo car?
A. Yes he did.

Q. And had he purchased that from compensation that he received?
A. Yes he did.

Q. Did you go back to his unit with him on that day?
A. Yes I did.

Q. In his new car?
A. Yes.

Q. Did he also show you some other items that he had purchased with his compensation money?
A. Yes he did.

Q. And did those items include two gold mens dress rings?
A. Yes.

Q. Did one of those rings have an amber coloured stone?
A. Yes.

Q. And did the other have a black coloured stone?
A. Yeah, that's the one he showed me.

Q. Did he also show you a gold neck chain?
A. Yes.

Q. Did he tell you that it was an 18 carrot chain?
A. Yes. He was very produced of it.

Q. And a dress watch?
A. Yes.

Q. Did you stay with him that afternoon and catch the train back home?
A. I did.

Q. And do you tell this Court that you did not see him again before his death in March?

A. That's correct.

Q. But you spoke to him on the phone, the Friday night before the Mardi Gras?
A. Mmm mmm.

Q. Did he invite you to go to the Mardi Gras with him?
A. Yes.

Q. Did you tell him that you were not interested in doing that?
A. That's correct.

Q. Did he also tell you that he had met a Mauritian man?
A. Yes.

Q. Who was some sort of a priest?
A. Yes.

Q. And that that fellow wanted Jim to go over to Mauritius with him?
A. Yes.

Q. Was that to speak to people about Aids, and Aids education?
A. Yes that's right.

Q. Did you advise him not to go?
A. I told him no.

Q. Was that the last time that you spoke with him?
A. Yes.

Q. Do you tell the Court that you found out that Jim was dead on the Thursday?
A. Yes.

Q. And how did you find that out?
A. Well the police informed some friends of mine, and they informed me.

Q. When you got back to your home, did you tell somebody?
A. Yeah I told Roger.

Q. And had Roger known Jim fairly well?
A. Oh just briefly sort of thing.

Q. Well through you?
A. Yes.

Q. And his girlfriend Karen Heatley?
A. Yes.

Q. Did she meet Jim through you?
A. Yes.

Q. And did you meet Karen through her uncle?
A. That's correct.

Q. What is her uncle's name?
A. I can't think of it now.

Q. Was it -
A. Tony I think it was. Not too sure. Haven't seen him for years.

Q. Did he live behind you?
A. Yes.

Q. And had you been introduced to her about four years before; that is roundabout 1991?
A. Yes.

Q. And had Karen been boarding with you on and off since that time?
A. Yes.

Q. In her trips to and from Tasmania. Is that right?
A. That's correct.

Q. Used Karen look after the house for you if you were away on business?
A. Yes.

Q. And did you also get to know Karen's sister, Christine?
A. Yes.

Q. And her brother Michael?
A. Briefly, yes.

Q. Now as far as you knew, used that family, or members of that family travel regularly between Sydney and Tasmania?
A. Yes.

Q. Living periods in each state?
A. Yes.

Q. New South Wales and Tasmania?
A. Yes.

Q. Did you know that Jim Meek also new Karen Christine and Michael Heatley?
A. Yes.

Q. And Michael Heatley, that is the accused?
A. Yes.

Q. And did Jim Meek know each of those people through their association with you?
A. Not Michael.

Q. Not Michael?
A. No.

Q. Do you tell this Court that Karen, Christine and Michael used to visit Jim at his unit in Surry Hills?
A. As far as I knew they did, yes.

Q. How did you know that?
A. What he used to tell me.

Q. He used to tell you?
A. Mmm mmm.

Q. Did you understand that Jim only met Michael when he came up from Tasmania late last year?
A. Yes.

Q. And that being in 1994?
A. Yes.

Q. Did Michael ever sleep over at your house?
A. Couple of nights.

Q. When was that?
A. Goodness ... In that period I think it was.

Q. In roundabout the time that Jim died?
A. Mmm mmm.

Q. Did you ever have Michael staying at your place for any lengthy periods of time?
A. No.

Q. Do you tell the Court that Michael turned up on your doorstep after Karen had gone back to Tasmania?
A. Yes.

Q. Was Roger still with you?
A. Yes.

Q. And that is Roger Bissett?
A. Yes.

Q. And did Roger ask if Michael could stay with you?
A. Yes.

Q. And did you let Michael stay with you?
A. Yes.

Q. Was there some proviso to that?
A. As long as he behaved himself.

Q. And also did you expect him to put some contribution in to stay with you?
A. I thought he would but, you know.

HIS HONOUR: Q. Sorry I didn't hear that?
A. I thought he would but he didn't.

CROWN PROSECUTOR: Q. Now was it during that time that Michael was staying with you that Roger told Michael about Jim being dead?
A. Yes.

Q. And did Michael come to you to confirm what Roger had

told him was true?
A. Yes.

Q. On 10 July 1995 did you go to the Surry Hills Police Station?
A. Yes.

Q. Did you there speak to Detective Sergeant Tanos and Detective Walker?
A. Yes I did.

Q. And did Detective Sergeant Tanos show you a gold mens dress ring?
A. Yes.

Q. And did that ring have diamond shaped markings on both sides of the setting with an amber set stone?
A. Yes.

Q. And did recognise that ring from somewhere?
A. Yes.

Q. And where did you recognise that ring?
A. It's one of the rings that Jim showed me.

Q. That is one of the rings that he showed you when you went back in the car?
A. Yeah. Whether it's the same ring I don't know, but it was identical.

Q. (Exhibit B handed to witness) Yes, that's the one they showed me, yes.

Q. You say that was identical to the one that Jim showed you?
A. Yes.

Q. (Exhibit M handed to witness) Have you ever seen a ring like that before?
A. Yes that's the one.

Q. Is that the one?
A. That is the one of the ones he showed me at the flat. Or very similar to that. I can't really see this very well because I haven't got me glasses with me.

Q. Have you got your glasses with you?
A. No.

<CROSS-EXAMINATION

MOLOMBY: Q. Mr Woodward, Karen Heatley was staying at your place on and off for quite a period?
A. Oh yes.

Q. She went back to Tasmania on 27 December 1994 did she not?
A. Roundabout that, yes.

Q. But Roger Bissett -
A. He stayed on.

Q. He stayed on for sometime because he had a job?
A. That's right.

Q. And he went back in April 1995 to Tasmania did he not?
A. From recollection, yes.

Q. And you have mentioned in evidence that Karen stayed in the house sometimes when you were away?
A. Yes.

Q. Minding the house?
A. Mmm mmm.

Q. And you don't have any knowledge of whether she might have let Michael stay with her on some of those periods when you weren't there?
A. I was in Victoria. I wouldn't know.

<NO RE-EXAMINATION

<WITNESS RETIRED AND EXCUSED.

<IN THE ABSENCE OF THE JURY

HIS HONOUR: I will have the juror, the subject of the application, brought back Mr Crown and Mr Molomby.

(Juror brought back into court)

HIS HONOUR: Yes sir, would you come here into the witness box please. Sir I do not propose to identify you other than to ask you, do you have your jury card with you?

JUROR: Yes.

HIS HONOUR: And can you tell me then, are you identified by number 20-80-003 SRJ J?

JUROR: Yes.

HIS HONOUR: Thank you. Well now sir, I have heard an application by one of the parties to these proceedings, which is supported by the other party, that you be discharged from further service as a juror in this case. The basis of the application is that it is obvious to counsel that throughout the five hearing days of this trial you have had such difficulty keeping awake that you have spent the majority of the time asleep, and that in those circumstances you are not in a position to participate in the decision making in this trial in accordance with your oath. I have observed you throughout the trial and, from my own observations, I concur in the views expressed by counsel. I do not know, and I do not require you to explain whether you are unable to remain awake through illness or medication, or for any other reason.

In the exercise of the discretion available to me, pursuant to the Jury Act, I discharge you from further participation in this trial and you are now excused. Would you please accompany the Sheriffs officer.

JUROR: Thank you.

FURTHER HEARING ADJOURNED TO MONDAY 23 OCTOBER 1998

FL:CAT:5 D5

THE SUPREME COURT
OF NEW SOUTH WALES
CRIMINAL DIVISION

IRELAND J
AND A JURY OF ELEVEN

SIXTH DAY: MONDAY 23 NOVEMBER 1998

96/91/0034 - REGINA v MICHAEL ALAN HEATLEY

HIS HONOUR: Members of the jury, on Friday afternoon, after you retired I discharged one of your number from participation in the trial. It was obvious to counsel and to myself that one of the members of the jury was unable to keep awake at all and really could not participate in your deliberations so in the exercise of my discretion I discharged him from further participation. There of course is a very limited extent to which that can be done and if the number drops below a certain figure then of course the trial must be aborted. So, my direction to you at this stage is to remain very healthy. Don't run any risks of becoming ill. Thank you members of the jury.

<WAYNE NOEL RUSCOE (10.10AM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Sir when you speak in this Court, would you speak up in a loud tone of voice so that we can all hear you. Would you direct your voice towards that microphone which is in front of you and would you speak at a pace with which we can all keep - particularly the court reporter, and the jury has to hear what you say and take it in?
A. Yes.

Q. Would you tell the Court please your full name?
A. Wayne Noel Ruscoe.

Q. Mr Ruscoe, did you make a statement on the 14th of March 1995 in relation to the matter now before this Court?
A. Yes.

Q. Did you know a man by the name of Jim Meek?
A. Yes.

Q. How was it that you knew him?
A. I worked as a volunteer with the Ankali Project which is a volunteer group which assists people in an emotional way in relation to AIDS.

Q. Ankali is spelled A-N-K-A-L-I?
A. That is correct.

Q. For how long had you known Jim Meek, as at the time of his death in 1995?
A. It would have been approximately I think six months.

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Q. Had you seen him at group meetings in Ankali House in Crown Street, Surry Hills?
A. No, he was a client of the Project.

Q. He was a client of the Project. The Project is run, is it, from Ankali House in Crown street Surry Hills?
A. Yes, that is correct.

Q. And that is part of the Health Department, New South Wales?
A. Yes.

Q. How often would you see Jim?
A. On average on a weekly basis. It was up to the clients how often I saw them. They would contact me if they needed me between times or sometimes they just said "see you next week", but if something came up that we wanted to he wanted to talk--.

HIS HONOUR: Not too quickly.

CROWN PROSECUTOR: Q. Just try and remember that your words are being taken down?
A. (Nods).

Q. Did you have a reasonably standard booking to see him on any day of the week?
A. Yeah I would see him on Tuesday or Wednesday of each week.

Q. For how long would you see him when you did see him?
A. It depended on what Jim wanted to talk about. I was normally there for an hour to an hour and a half.

Q. During the period of time that you knew him did he tell you something about his life?
A. Yes he did.

Q. Did he tell you something about his former employment as a security guard?
A. Yes he did.

Q. Were you aware that in the months preceding his death did he receive a compensation payout in relation to that?
A. Yes, Jim - when I met him he was waiting for that matter to be decided and then eventually the money came through.

Q. Can you recall when it was that you last spoke to Jim Meek?
A. Yes, I rang him on the Saturday of the Mardi Gras party just to wish him well. I knew he was going to be working as a volunteer and he had been quite looking forward to going to it.

Q. Now, on the 8th of March did you receive some contact from Ankali?
A. Yes the Ankali Project rang me Wednesday morning to ask

if I had a key to his apartment because the neighbours were concerned no one had seen him and the dogs were at the unit making a noise and no one would answer the door.

Q. Did you have a key to Jim's unit?
A. No.

Q. Now at about quarter past four that afternoon did you make a phone call to Jim Meek's unit?
A. Yes I had been calling all day because I was quite concerned that no one one could contact him so I had been trying all day and essentially the telephone was answered.

Q. Do you know who it was that answered the phone?
A. No. The person I spoke to wouldn't identify themselves or tell me why they were there.

Q. Was it male or female to whom you spoke?
A. It was a male.

Q. What time was that about - that you rang?
A. It was approximately 4.15. I immediately left work because I told whoever it was on the phone that I was coming over straight away and I went straight over there from my work.

Q. When you went around there what did you find?
A. The police were already there and there was a police woman outside Jim's apartment.

Q. Did you ever ascertain to whom it was that you spoke on the phone?
A. No.

Q. How long would it have taken for you to have got to Jim Meek's apartment from the time you spoke to that male?
A. I am at East Botany. Would have been 15 - 20 minutes.

Q. Did Jim speak to you about any people that he knew well and who would regularly visit him?
A. He told me of several people he saw on a regular basis.

Q. Can you recall any of the details in relation to any of those people?
A. They were mainly of a sexual nature.

Q. Yes?
A. I gather there were several people he saw fairly regularly.

Q. Can you remember the names or any of the names of those people?
A. The only name I can mainly remember was a fellow called Jason who I gather was employed collecting the garbage in the area and he would visit Jim early in the morning.

Q. Did Jim ever point out any people to you with whom he

had some relationship?
A. There was one person that was pointed out to me from my car. I was returning Jim to his apartment after a party at the Ankali House and just as I was about to drop him off he asked to go to this person's block of unit, and just as we were pulling up he told me that that person just left that building and to stop where we were and I let him out of the car.

Q. Did you see that person?
A. Yes I did, from the car.

Q. Can you recall - his description?
A. Yeah he was a youngish man with black hair. I would say medium build. That is about all.

Q. Can you recall approximately how tall he was?
A. He would have been five foot ten. I don't think he would have been six foot.

Q. Can you recall how long his hair was?
A. It was short hair.

Q. When you say short - do you mean short back and sides type or crew cut short or?
A. No it was longer than short back and sides but it wasn't long - Beatles type or anything like that.

CROWN PROSECUTOR: Q. Can you recall whether it was above his ears?
A. Yes, it was.

Q. Did you meet anybody besides Jim ever at Jim's place?
A. I was frequently visited by the security guard of the block. Almost every that I was there he would come by, but he would only stay briefly and he never sat and had a coffee, or things like that.

Q. Is there anybody else?
A. Jim had one visitor once when I arrived for a meeting. I was introduced to this man. I can't really remember his name, I think it was Michael.

Q. Can you give us a nuggety description of that person?
A. Yes, he was ~~niggardly~~ build fellow. I don't know how tall that would have been, possibly five- seven, five-eight, something like that. He wasn't particularly tall. He was just wearing like a plaid shirt, jeans and boots.

Q. What about his complexion?
A. My feeling was that he was Middle East in appearance.

Q. So does that mean that he had a darker complexion to the normal complexion?
A. Yes.

Q. Of the Anglo-Saxon?
A. Yes, olive.

Q. Did you ever notice anything about any security precautions that Mr Meek had in place there with his flat?
A. When I was there, we'd sometimes take the dog for a walk, his door was locked. Sometimes both doors were secured, he'd make sure that the security door was locked.

Q. What about when you were in the premises themselves, did you notice anything about the doors?
A. I would say the door was locked because he would answer the door to me when I knocked and then just stood behind me and shut up.

Q. Can you tell us anything about the manner in which he normally kept his apartment?
A. It was always very clean and tidy.

Q. Do you know if Jim was involved in any committees or clubs or anything?
A. Yes, Jim was on the residents committee on the building that he lived in and he was also working as a volunteer for the luncheon club.

Q. The luncheon club?
A. It's a voluntary group which provides the meal for people with HIV or AIDS, I assume that's, those are the people who go, I think, as well as a lot of people on pension with trouble managing budgets. This voluntary group

provides them a evening meal, a meal per day.

Q. Can you tell us anything about Mr Meek's drink habits?
A. Jim is a very light drinker. When we went out socially, twice, and on each of those occasions he had two beers.

Q. Do you know whether or not Mr Meek used to wear jeweller?
A. Yes, he had a - used to wear a watch. That is the main thing I remember, except I think when the money came through he bought himself a dress ring.

Q. Did you ever see that?
A. Yes, he was very proud of it. He showed it to me the first time he was wearing that when I visited him. It was a very large, a large ring. It had a big stone set in it. I think that's red, besides, was quite ornate around the stone.

Q. When you say ornate around the stone you mean the mounting at the side of the stone?
A. The mounting that was set on it I think was quite chunky. The room for the stone was just the sort of the thing that took your eyes. It was in the middle.

Q. Have you ever seen that ring or anything like that since?
A. No, I haven't.

Q. Have you ever been shown any ring by the police?
A. No.

Q. Have you ever been shown any ring in relation to this man by any person?
A. No.

Q. Ever.
A. No.

Q. (Shown Exhibit B) Would you just have a look at that ring, please? Are you able to say anything about that ring?
A. No, except that the stone is obviously of a different colour, but the mounting is very much the same, a bit, it's what I call a chunky ring.

Q. And the ornate there, you described as ornate setting, is there anything about that that would match that description or not?
A. Yes, to me this is ornate. I have very simple jewellery.

<CROSS-EXAMINATION

MOLOMBY: Q. Mr Ruscoe, please say if You need to see that ring that you have just been shown again, but is that at all similar to the ring that you were talking about, or not?
A. Only in the way that it's mounted. I am sure the stone is of a different colour.

Q. Now you first met Mr Meek, didn't you, in September 1994?
A. That would be correct, yes.

Q. That's when he became your client in what you are doing?
A. Yes.

Q. And you referred to an occasion on which you were driving him home from a party and he wanted you to drop him off from the flat and then you saw a person coming out?
A. That's right, yes.

Q. That's on 26 February 1995, isn't it?
A. I am not sure of the actual date.

Q. You recorded some detail in your statement which you have forgotten now?
A. Yes.

Q. Do you have a copy of your statement?
A. Yes, I do.

Q. Would you mind getting it out?
A. (Produced a statement.)

Q. I will just direct you to a couple of things, I think, paragraph 9 towards the bottom of page 3 is the - if I understand you correct, is the instance that you were giving evidence about previously?
A. Yes, that's correct.

Q. And you have recorded there, haven't you, that it was on 26 February 1995?
A. Yes, that's correct. It was a party at Ankali House that day.

Q. And have you still got that same page of the statement over there?
A. Yes.

Q. When you spoke to Jim he told ~~up~~ you about particular bids beats he was acquainted with, didn't he?
A. That's correct.

Q. And you believed that the conduct he described to you was dangerous, didn't you?
A. Yes.

Q. I think you said so?
A. Yes.

Q. And you warned him against it?
A. Yes.

Q. But he thought he could handled it himself, as the way he expressed to you?
A. That's correct.

Q. You have given evidence of mostly remembering a watch that he wore?
A. Yes.

Q. That was a silver watch, wasn't it, that you recall?
A. Yes, as I recalled, it is a silver watch.

Q. That he wore on most occasions on which you saw him?
A. Yes, that's correct.

Q. And as you were giving that answer you started to reach for your own left wrist?
A. I just have a memory of an image of the way he sat. His warm was usually resting on the table. I didn't take a great deal of notice.

Q. It's your recollection that he wore a silver watch on his left wrist?
A. Yes.

Q. That's overwhelmingly apparent when you visited him at his flat?
A. Yes.

Q. On the occasions when you visited Mr Meek at his flat was that by arrangement that you either had a regular time on which you both knew that visits were going to occur, or you made a phone call to arrange it?
A. Jim would contact me, or else on a prior Occasion he would say when he wanted to see me next.

Q. So either it was arranged at a previous meeting, or he would phone you up for you to see him?
A. That's correct.

<RE-EXAMINATION

CROWN PROSECUTOR: Q. Just one thing, sir. You have told the court that Jim told you about going to bids. Now I think it has been explained what bids is, but what do you understand by the use of the term bids?
A. A bid is where people go and mix to have sex.

Q. You told the court that you warned Jim against this practice?
A. Yes, I did.

Q. What did you warn him against, so far as that practice was concerned?
A. The main thing is that just that Jim was an older man, most of the people, acquaintances, specifically - I wouldn't say most, but a lot of them are young men who want to meet older man.

Q. And did you perceive a danger in that?
A. Yes, that is a dangerous practice, but Jim was in the habit of taking them to his apartment. It was even more dangerous.

Q. Why is that? Why are you saying that?
A. A bid is at a semi public place, it's usually at a public toilet, in a park, it can be a growth of trees or something like that where there are more chances of running away and calling for help. If you take someone into your home whom you do not know, it is a very dangerous thing to do.

Q. I will try and get you to spell out what leads you to believe that you should warn him against. You told us that the bid is at a semi public place and persons could run away and perhaps get some help from somebody nearby, but couldn't do that at home. Running from what? From what type of particular activity were you cautioning Jim?
A. I got the feeling that Jim made promises to pay the people that he was bringing home, because he said he couldn't do it as often as he liked because he was at that stage on a pension, which made me thinking there was money involved. That's mainly what I was warning him about.

Q. The prospect of robbery, or something, or assault or something like that?
A. Yes. It's very easy for assault on these things, be lured to a secreted area and beaten for our wallet and things like that.

<WITNESS RETIRED AND EXCUSED

<ROBERT ANDREW FORD(10.35AM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Officer, would you tell the court your full name, rank and station, please?
A. Robert Andrew Ford, Senior Constable of Police, attached to the Hurstville Crime Scene Section.

Q. In 1995 were you attached to the East Sydney Crime Scene Section?
A. Yes, I was.

Q. And on 1 October 1995 did you make a statement setting out things you did in relation to the matter now before this court?
A. Yes, I did.

(No objection to this witness reading from his statement.)

Q. Officer, would you bear in mind that what you say needs to be taken down and it has also got to be heard and understood and taken in by the jury? So would you read, please, in a loud tone of voice and at a steady pace beginning from the paragraph you have numbered 1 but omitting the first formal part of this statement?
A. I am a Senior Constable of Police attached to the East Sydney crime Scene Section at the Sydney Police Centre. I joined the New South Wales Police Force in 1985 and have been performing Crime Scene duties since 1991. My duties

have consisted of the technical investigation of serious crime and incident scenes, the evaluation and collection of physical evidence, the examination of people, vehicles and buildings and the production of photographs, scale plans and exhibits at various courts. I have attended numerous serious crimes and incident scenes including suspicious deaths and murders.

About 4.55pm on Saturday 11 March 1995 I attended Unit 24, Block B of the Northcott Flats in Belvoir Street Surry Hills. There I spoke to Detective Sergeant Kassis of Surry Hills Police Station. Also present were Detectives Walker and Hardy of Surry Hills Police Station and Detective Brown of the Fingerprint Section. As a result, I examined the premises and took a series of photographs and measurements from which a sketch plan was later produced.

Q. (Shown Exhibit F) Are you able to say anything about that document?
A. That is a computer generated plan drawn from measurements I took on that day.

Q. Would you just put that beside you for the time being? Would you continue with your statement, please?
A. The building is a fifteen-story block of home units facing south onto Belvoir Street. Access to the floors is from a staircase, or lift, situated at either end of the building. Each unit is accessed from a verandah extending along the southern side of the block. Unit 24 is located on the southern side of the twelfth floor overlooking Belvoir Street.

The front entry door of Unit 24 was fitted with an exterior metal security door and an internal timber door. The security door was fitted with a handle and a keyed lock. I examined the security door and saw no signs of forced entry. The timber door was fitted with a key deadlock and I saw no sign of damage to the door, the lock or the door jamb.

Q. Did you take a series of photographs whilst you were there?
A. Yes, I did.

Q. And I will just show you photographs numbering 1 through to 6 on a green dot (shown). Did you take those photographs on that day?
A. Yes, I did.

Q. And did you affix captions to the rear of each of those photographs?
A. Yes, I did.

Q. Does that caption accurately set out what is seen in each of those photographs?
A. Yes.

Q. Would you tell us, please, what can be seen in each of those photograph?

A. Individually?

Q. Yes, please?
A. Photograph numbered 1 is an external view of the security door for Unit 24. Photograph number 2 is an external view of the deadlock and handle for the security door. Photograph 3 is an interior view of the handle and doorlock for that security door. Photograph 4 is a view of the exterior surface of the timber entry door to Unit 24. Photograph 5 is an exterior view of the door handle and doorlock on the timber door; and photograph 6 is an interior view of the doorlock fitted to the timber door.

EXHIBIT #A ALSO CONSISTED OF THE ABOVE SIX PHOTOGRAPHS NUMBERED 1 TO 6 TENDERED, ADMITTED WITHOUT OBJECTION.

A hallway extended from the entry door along the western side of the unit to the rear living area. A short distance along the hallway from the front door there was a crumpled rectangular rug lying on the floor. There were what appeared to be bloodstains on the carpet and on the rug. The rug and a portion of the carpet were collected for further examination.

A short distance along the hallway on the right or eastern side an archway gave access to the kitchen. A stove and a cupboard were against the southern wall. A cupboard containing a sink was against the eastern wall. A refrigerator was against the northern wall. There was some apparent bloodstain on the floor of the kitchen immediately inside the doorway. A swab was taken for further examination. There was a small rubbish tidy containing plastic drink bottles, "Horizon" cigarette packets and assorted household refuse on the floor between the refrigerator and the eastern cupboard. There was an ashtray containing three cigarette butts on the drainboard at the northern end of the eastern cupboard. The cigarette butts were collected for further examination..

Q. And did you take a number of photographs?
A. Yes, I did.

Q. Did you number and label those photographs 7 through to 17?
A. Yes, I did.

Q. I show you those photographs (shown). No, similarly, officer, did you take those photographs on that day?
A. Yes, I did.

Q. And did you affix the labels which are on the rear of each of the photographs?
A. Yes, I did.

Q. Do those labels accurately set out what can be seen in the photos?
A. Yes, they do.

Q. Or a portion, at least, of what can be seen?
A. Yes.

Q. Would you tell us, please, what can be seen in those photographs?
A. Photograph 7 is a view north in the hallway from the front entry door.

Q. In that you seeing the crumbled mat, is that correct?
A. Yes.

Q. And also in that can you see the bloodstain on the floor in front of the fridge with the little marker next to it?
A. Yes, that's correct.

Q. Who put that marker there?
A. I believe that was there when I arrived, I believe, maybe a fridge magnet.

Q. A fridge magnet?
A. (Witness nodded.)

Q. Thank you.
A. Photograph 8 is a view south of the hallway towards the front entry door.

Q. And in that photograph you can see once again the crumpled mat and the bloodstain from the different direction of the kitchen tidy about which you have spoken, is that correct, or is that something else beside the stove?
A. I believe that's something else, sir, a bucket.

Q. Right, yes. Thank you.
A. Photograph 9 is a view of the rug on the floor of the hallway.

Q. And in this view can you see some items on the floor? What is it that is on the floor that can you recognize, or not? They are dog biscuits, or something?
A. Some sort of pet food biscuits, yes.

HIS HONOUR: Q. Photograph 9?
A. Yes, your Honour.

CROWN PROSECUTOR: Q. Just in the area next to the wall on the left side of the photograph, just before you get to the kitchen space, they appear to be dog biscuits, or something like that, is that correct?
A. Yes.

Q. And also there is one on the mat, is there?
A. Yes, there is.

Q. Thank you?
A. Photograph 10 is a view east in the kitchen from the hallway.

Q. Does that show the kitchen tidy about which you have

spoken?
A. Yes, it does. Photograph 11 is a view of the kitchen tidy. Photograph 12 is a view inside the kitchen tidy. Photograph 13 is a view of the contents of the kitchen tidy. Photograph 14 is a further view of the contents of the kitchen tidy. Photograph 15 is a view of the ashtray on the drainboard at the norther end of the eastern cupboard. Photograph 16 is the view of the cupboard in the south eastern corner of the kitchen; and photograph 17 is a view of the bloodstain on the floor of the kitchen.

Q. And whatever else is next, that you believe may well be a fridge magnet?
A. Yes, that's correct.

Q. Those are other markings that can be seen in that photograph 17, you see some scrape type marks?
A. Yes.

Q. Did you make any record of those, or what they might have been?
A. Not that I recall, no.

Q. If they had appeared to be fresh markings would you have made some notes of it?
A. I believe so. I examined the floor and I believe I would have made a note.

EXHIBIT #A ALSO CONSISTED OF THE ABOVE PHOTOGRAPHS 7 TO 17 TENDERED, ADMITTED WITHOUT OBJECTION.

Q. Yes, Officer, would you continue?
A. The northern end of the hallway opened into the combined lounge/dining-room. A cabinet and a lounge were against the western wall. A window was in the northern wall. A desk and a microwave on a fridge were against the eastern wall. A dining table and chairs were at the southern end of the loungeroom. There was an esky, three coffee cups, a plate and two wine glasses on the table. There were also two ashtrays containing a number of cigarette butts. The cigarette butts were collected for further examination. A door in the southern wall of the loungeroom gave access to a linen closet.

Q. I show you some photographs that you numbered 18 to 24, the first three, which are 18, 19 and 20, comprise MFI 3 (shown). Now did you take those photographs?
A. Yes, I did.

Q. Similarly do they adequately reflect what you saw?
A. Yes, they do.

Q. And have you noted on the back of each of those, at least portions of them, what can be seen in those photographs?
A. Yes.

Q. Now, would you tell the court what it is that can be

seen in those photographs, but before you do so, looking at, particularly photographs 18, 19 and 20, right up to 23, do you know where the esky came from?
A. No, I don't.

Q. Do you know indeed where any of the items that you saw on that table came from?
A. No, I don't.

Q. Yes, would you tell us, please, what you see in each of those photos 18 through to 24?
A. Photograph 18 is a view north in the loungeroom from the hallway. Photograph 19 is a view east in the loungeroom from the hallway. Photo 20 is a view northwest in the loungeroom. Photograph 21 is a view southeast in the loungeroom. Photograph 22 is a view south in the loungeroom. Photograph 23 is a view of items on the dining table. Photograph 24 is a view of the linen closet in the loungeroom.

Q. Continue reading your evidence, please?
A. An archway in the southeastern corner of the lounge room led into a small alcove. A doorway in the southern wall of the alcove gave access to the bathroom. A bath was against the western wall to the right of the door. A toilet was in the southwestern corner of the room. There was a small bucket containing tissue and an empty plastic water ampule, and bucket to the right of the toilet. A door in the northern wall of the alcove gave access to a bedroom in the northeastern corner of the unit. A chest of drawers and a wardrobe were against the western wall. A wardrobe and a bed were against the eastern wall.

Q. Did you take some further photographs?
A. Yes I did.

Q. Did you number those photographs 25 through to 31?
A. Yes I did.

Q. Did you affix labels to each of those photographs which set out portions of what can be seen in each photograph?
A. Yes.

Q. I show you these photographs. Are they the photographs you numbered and labeled 25 through to 31?
A. Yes, they are.

Q. Would you tell the Court at least a portion of what can be seen in each of those photos, please?
A. Photograph 25 is a view east in the alcove, from the lounge room. Photograph 26 a view south in the bathroom from the alcove. Photograph 27 is a view of the ampule and the bucket in the bathroom. Photograph 28 is a view northeast in the bedroom from the alcove. Photograph 29 is a view northwest in the bedroom. Photograph 30 is a view southeast in the bedroom. Photograph 31 is a view of the wardrobe in the northeastern corner of the bedroom.

Q. In photograph number 25 there also appears to be a thong, a rubber thong?
A. That is correct.

Q. Did you ever find the mate to that rubber thong or did you look for it or anything like that?
A. I don't recall another yellow thong being in the premises but it may have, I wasn't really looking for it.

EXHIBIT #A PHOTOGRAPHS 21-31 TENDERED, ADMITTED WITHOUT OBJECTION AND MARKED PART OF EXHIBIT A.

Q. If you would continue with your evidence?
A. About 3pm on Tuesday the 14th of March 1995 I spoke to Senior Constable Whybro at the Crime Scene Section and handed her the following items: One swab from the kitchen floor of unit 24, one sample of carpet from the hallway of unit 24. One floor mat collected from the hallway of unit 24. One bag of cigarette butts collected from the right drain board of the kitchen sink. One bag of cigarette butts

collected from the glass ashtray on the dining room table. One bag of cigarette butts collected from the smoked glass ashtray on the dining room table.

Q. Officer, why did you do that?
A. For later analysis to be submitted to the forensic biology laboratories.

Q. Why did you hand them to Senior Constable Whybro instead of submitting them yourself?
A. She is the Crime Scene Officer in Charge of this particular matter and all exhibits were forwarded to her to be stored and linked to the exhibits she already, if any, and for her to submit to the labs.

Q. According to her discretion?
A. That is correct.

Q. Is that because she was the first senior - first experienced Crime Scene Officer to attend the scene?
A. That is correct.

Q. Could the officer be shown Exhibit M for Mary please (shown). Officer, did you take that photograph?
A. No, I did not.

Q. Have you seen that ring before?
A. No, I have not.

HIS HONOUR: Mr Crown photographs 18 to 24 they will become part of Exhibit A.

CROWN PROSECUTOR: If I haven't done it I tender the last number of photographs 25 through to 31.

NO OBJECTION.

HIS HONOUR: They will be part of Exhibit A.

<NO CROSS-EXAMINATION.

<WITNESS RETIRED AND EXCUSED.

<MICHAEL BANNING (11.03AM))
SWORN AND EXAMINED.

CROWN PROSECUTOR: Q. Would you tell the Court please your full name and occupation?
A. Michael Banning. I manage the Customer Service Unit Infringement Processing Bureau, New South Wales Police Service.

HIS HONOUR: Q. Which Bureau is that?
A. The Infringement Processing Bureau.

CROWN PROSECUTOR: Q. In that Infringement Processing Bureau do infringement notices that are issued by a person in authority acting on behalf of the State Rail Authority or

City Rail or Country Rail or whatever it might be called, do infringement notices issued by those people to persons who are in breach of some regulation relating to the non payment of rail fair, do they come through your Bureau?
A. Yeah, they do.

Q. Does every infringement notice issued by a person acting on behalf of a government authority go through your Department?
A. Yes the process would come to the Bureau.

Q. You get a lot of paperwork through there, do you?
A. We certainly do get a lot of paperwork, yeah.

Q. Around about the 30th of June 1995, did you have a conversation with Detective Tonnet from the Surry Hills Detectives Office?
A. I am not sure of the date but yeah I did have a conversation around about that time.

Q. Did you make a statement on the 13th of July 1995 to the police relating to the matter now before this Court?
A. Yes I did.

Q. What you set out in that statement, was that accurate?
A. Yes it was accurate.

Q. So if you said in your statement that you had spoken to Detective Tonnet on the 20th of June, 1995, can we take that as being accurate?
A. Yes.

Q. As a result of that conversation did you receive a one page fax or fax from him?
A. Yes.

Q. And did you then make a number of inquiries in relation to a male person, Michael Heatley?
A. Yes.

Q. And as a result of those inquiries - or in those inquiries, did you search records maintained by the Infringement Processing Bureau?
A. Yes I did.

Q. And did that search reveal that no person by the name of "Michael Heatley" with the date of birth [redacted] was issued with an infringement notice for the offence of failing to pay or any similar offence while travelling by State Rail?
A. Yes.

Q. Did you make inquiries from the Transit Police at Granville and Lidcombe Patrols?
A. Yes I did.

Q. Did that inquiry confirm that no infringement notices for any person of similar description were issued in those

areas on the 7th of March, 1995?
A. That is correct.

Q. Did that only include persons of similar description or did that search go so far as to - or did that inquiry reveal that there were no infringement notices for any person issued in those areas - that is, Granville and Lidcombe Patrols - on the 7th of March 1995?
A. That is correct.

Q. And on the 12th of July, 1995, did you contact Detective Tonnet and inform him of those findings and later make the statement which I have just referred?
A. Yes I did.

Q. Have you, with you, any infringement notices that you have gathered during the course of your inquiries made in relation to this matter?
A. Sorry can you -.

Q. Do you have with you any infringement notices or copies of them that you have gathered in the course of your inquiries relating to this matter?
A. I haven't got any on me, no.

Q. Do you have any at the court?
A. I think I gave them to Detective Tonnet.

Q. When?
A. On Friday.

Q. So you gave them to a detective on Friday?
A. Yes.

Q. Was that Detective Sergeant Tannos?
A. Sorry, yeah.

Q. Did you ever make a search for anything issued to a Michael Heatley date of birth the [redacted]
A. Yes, I have.

Q. And what was the result of that search?
A. That was also negative. No infringement issued to that person, during that period of time.

Q. What period of time did you search?
A. I checked from the 1st of January to the 30 April 1995.

HIS HONOUR: Q. They were searches in respect of a person or persons with those two birth dates, were they, [redacted] and [redacted]
A. No it was just the first date of birth that you gave me.

Q. The [redacted]
A. Yes.

Q. I think the Crown just asked you if you made any inquiries with respect to another date, [redacted]

CROWN PROSECUTOR: Q. Yes, as opposed to the [redacted] I asked the witness in relation to the [redacted]
A. The check was carried out on that name - I am not quite sure of the date of birth off hand but with the name and date of birth that period of time was checked and the name didn't appear. No infringements were issued to a person of that name.

Q. Were you asked to make any check in relation to persons around about - any named person around about the age of somebody born in 1976?
A. That is correct.

Q. And did you come up with any young males having been issued with an infringement notice at around about - or in that period, the 1st of January, to the 30th of April-?
A. Yes, a check was done on that and.

HIS HONOUR: I don't think the question finished.

CROWN PROSECUTOR: Q. The 1st of January to the 30 of April 1995, for any young males born in 1976?
A. Yeah, a check was carried out for that and there was no - there was no infringements picked up, that fell into that categories.

Q. Did you locate infringement notices issued to female and males of other ages?
A. Yes.

<CROSS-EXAMINATION.

MOLOMBY: Q. You mentioned Transit Police?
A. Yeah.

Q. Are they the railway staff whose duty it is to go up, travel along the trains and do ticket checks?
A. That is part of their function yes.

Q. A major part of their function, isn't it?
A. Yeah.

Q. Hoping to keep people who were overriding the ticket going past the point the ticket authorises, or don't have a ticket at all?
A. Yes that and other offences, misdemeanours, feet on the seat, graffiti.

Q. Or vandalism?
A. Yeah.

Q. They are based in a number of different locations around the State, those people?
A. Basically, yeah.

Q. And do I understand from your evidence you are in some sort of central function in relation to infringement processing?

A. Yes, I manage the Customer Service Unit and all infringements that are issued come through my office - they are microfiched and kept on record.

Q. Are those infringements that are issued by these Transit Police?
A. Yes.

Q. Is there anyone else who issues them?
A. Basically - there are Inspectors, state rail authority, they can issue more but that is the same System.

Q. One sees from time to time big advertising campaigns by the railways - Don't get caught. It will cost you one hundred dollars. That sort of thing?
A. Yeah.

Q. What is the volume of infringements that come to your office of people who is have been caught in relation to tickets either overriding or not having one in the first place?
A. I wouldn't know the exact number issued on a weekly basis for that offence.

Q. Is there a staff member or members or who are kept busy in processing-?
A. There is a local unit.

HIS HONOUR: Please wait until the question is finished - it is impossible for the court reporter to take down the question and answer at the same time.

MOLOMBY: Q. You got the drift of my question but I will just ask it again?
A. Sorry.

Q. Is there a Group of staff members who are occupied full time in processing infringement notices that come into your Office?
A. Yes.

Q. And how many people do that approximately?
A. Round about 20.

Q. So what approximate volume is there - I appreciate there might be seasonal fluctuation of infringement notices - that come in daily or weekly - whatever is the convenient term to put it in?
A. Between probably five and eight thousand a week.

Q. And the vast bulk of those are relating to ticket infringements?
A. No, the majority of those would be for traffic infringements issued by police.

Q. I am sorry because you deal with other business?
A. Any infringement issued - all infringements.

Q. You are not just the railways?
A. That is correct.

Q. In relation to railway business, railway infringements, are you able to put a figure on that?
A. Not accurately. Probably about a hundred.

Q. Within a hundred?
A. I would say probability between 1000 and 1500 a week approximately.

Q. And would that figure have been more or less the same back in the first few months of 1995?
A. It is consistent.

Q. Talking now about the railways, there are Transit Police, we have discussed based at various locations throughout the State, and they among other things do travel on the trains, don't they?
A. That is correct.

Q. They get on a train and work their way from one end to the other and until they are satisfied they checked every one out however long it takes on a particular journey, is that right?
A. That is right.

Q. And you made a check are Transit Police based at Granville and Lidcombe, you said as to whether they issued notices on the particular day the 7th of March 1995?
A. That is right.

Q. And they told you they didn't?
A. That is right.

Q. Were they working that day, did they say?
A. They didn't indicate that.

Q. But you didn't check with Transit Police from any other location?
A. No.

Q. Of course Transit Police from one location can ride a train to another location, can't they?
A. That is correct.

Q. And frequently do?
A. I would imagine so, yes.

<RE-EXAMINATION.

CROWN PROSECUTOR: Q. Just on that last point, although you are not a member of the staff of the stated rail authority do you know whether there are any rules relating to where rail infringement notices can be issued by people from certain locations?
A. No, I'm not sure of their policies in issuing tickets there.

Q. Do you know whether or not the western and southwestern lines are policed by police from Lidcombe and Granville exclusively?
A. No.

Q. You don't know or it is not, which one?
A. No, I am unaware if they do or not.

<WITNESS RETIRED AND EXCUSED.

<GAIL KATHLEEN McKAY (11.22AM)
SWORN AND EXAMINED.

CROWN PROSECUTOR: Q. Would you tell the Court your full name please?
A. Gail Kathleen McKay.

Q. Did you make a statement on the 17th of July 1995 relating to the matter now before this Court?
A. The date I don't know but yes I did make a statement.

Q. Do you have a copy of your statement with you?
A. Yes I do.

Q. With his Honour's permission would you just check the date to make sure it is the right date?
A. Yes.

Q. At that stage were you a resident at the Northcott Apartments in Surry Hills?
A. No, not the Northcott Apartments. I was in the 'walkups', they are called.

Q. Walkups?
A. Yeah.

Q. Is that part of the -?
A. It is the same estate but it is not the Northcott building.

Q. So, on that island of land, if I could call it that, there is a large grassed area in Surry Hills that contains the Northcott Apartments and various other smaller-?
A. Walkups.

Q. Lots of apartments?
A. Yeah.

Q. And when you say 'walkups', is that W-A-L-K-U-P-S?
A. Yeah.

Q. So you were living there anyhow in 1995?
A. Yeah.

Q. Towards the end of 1994 did you become involved in the Tenants Group for the Northcott Estates Tenants?
A. Yes I did.

Q. Was that Group a subgroup of the Public Tenants Council founded by the Department of Housing?
A. Yes it was - or is.

Q. Were you then a delegate on that Tenants Group?
A. An alternate delegate at the time.

Q. Were you a representative on the Estate advisory board which was formed towards the end of 1994 in an effort to improve relations between tenants and the Housing Department?
A. Yes, I was.

Q. Was the basic role of all those groups to represent and clarify both sides on any question or request being made between the tenants and the Housing Department?
A. Yes.

Q. Did you become acquainted with a man Jim Meek?
A. Yes I did.

Q. Did you meet him through Mavis Johnston?
A. Yes I did.

Q. Was Mavis Johnston also a tenant in - at least in that general estate?
A. Yes she was, or could still be, I don't know.

Q. I am only asking you questions so far as 1995 is concerned?
A. Okay.

Q. Perhaps before - was Mavis Johnston also on the Tenants Group committee?
A. Yes she was.

Q. Was Jim Meek also a representative on the Estate Advisory Board?
A. Yes he was.

Q. Did you not have much to do with him except for the months of - the last couple of weeks of February and early March in 1995?
A. That is correct.

Q. At that time was there some dissent amongst members of the Tenants Group?
A. I believe so, yes.

Q. And had Jim relayed to you his feeling that he had been betrayed by somebody on that Group?
A. Yes he did.

Q. And did he also tell you that he was resigning from that Group?
A. Yes.

Q. Did he indeed resign from that Group on the 27th of

February 1995?
A. If that is what I said in this statement, that is correct.

Q. Did he give you something to indicate that he had resigned - or how was it that he resigned on that day?
A. He asked me to come to his house to pick up his letter of resignation and deliver it to the Tenants Group because I was still a member and I said I would do that, which I did, and I delivered it.

Q. Do you know whether he ever withdrew that resignation?
A. No I don't. I don't believe he did, but he seemed very distressed at the time and was definitely adamant he was resigning and would never go back from what he said to me, I never read the letter.

Q. It is very natural for you to talk to me because I am asking you the questions but if you just talk to that - at least more inanimate object in front of you?
A. Okay.

Q. In early March, 1995, were you trying to ring Jim to find out some information?
A. Yes I was.

Q. Did you ring his home on a number of occasions?
A. Yes I did.

Q. You didn't get any response?
A. No.

Q. Was there a meeting scheduled for 5pm on Tuesday the 7th of March, 1995 - for the Estate Advisory Board?
A. Yes there was.

Q. And did you need to have the information you were seeking from Jim prior to that meeting?
A. Yes I did.

Q. And were you concerned that Jim had not passed that information on?
A. Yes I was.

Q. Now at 10 am on Tuesday the 7th of March, 1995, did you get a telephone call from a Margaret Perriman who was also on that Advisory Board?
A. Yes I did.

Q. And did she ask you why you hadn't attended a meeting at 10 am on that day?
A. Yes she did.

HIS HONOUR: Did you ask, Mr Crown, whether or not the phone call was at 10am.

CROWN PROSECUTOR: No I asked, your Honour, was she asked why she hadn't attended a meeting at 10 am.

HIS HONOUR: What time did you ask?

CROWN PROSECUTOR: About 10 am on Tuesday yes - it was 10 am both times?
A. Yeah.

Q. Do you tell this Court that you didn't know that there was any meeting arranged for 10 am on that day?
A. I was told that it had been cancelled and therefore there was no need to go.

Q. Did you then begin ringing Jim's place just after 10 am on that day?
A. Yes I did.

Q. And did you get no answer?
A. No answer.

Q. Did you ring Brian Kane, who lives near Jim?
A. Yes I did.

Q. Did you ask Brian Kane to have Jim contact you when he saw him?
A. Yes I did.

Q. Did he tell you he would put a note on Jim's door to that effect?
A. Yes, he got sick - Brian Kane was getting a bit annoyed with me calling all the time because I'm sort of an anxious person and I wanted the information and I thought he wasn't forthcoming with it for a reason so I kept ringing to try and get him and I kept ringing Brian Kane because I knew he lived next door and they were close friends.

Q. So he put - he told you he would put a note on the door?
A. Yes, that is the reason.

Q. And did you continue to ring Jim's apartment on and off on that day?
A. Yes I did.

Q. And you didn't get any response?
A. No.

Q. Do you say, you rang him about six times - around about every two hours?
A. Minimum.

Q. Did you want Jim to pass on some information - your apologise to attend this Group which was scheduled for the 9th of March, 1995?
A. Yes.

Q. Because you were going to Guilford to assist your mother?
A. Yes.

Q. Who had been injured?

A. She hadn't been injured. There had been a car came through the front of her house and, she was distressed.

Q. Had Jim told you in the past that the best time to get him at home was around 10am in the morning for about an hour and then around about 4pm each day?
A. Yes.

Q. At 5pm on that Tuesday did you go to the Estate Advisory Board meeting at Northcott Community Rooms?
A. I actually think there is an error in this.

Q. You tell us what you did then?
A. I didn't go to the meeting on the Thursday because I couldn't go, and I asked Brian Kane to - because I couldn't get Jim Meek, to send my apologies through I asked Brian Kane to do it. The meeting that he missed - Jim missed - was the one before, the month before.

Q. Yes?
A. And he normally didn't miss meetings and I didn't see him from that time onwards, so just the paragraph is out of sequence.

Q. So it wasn't 5pm on Tuesday the 7th of March?
A. No, I think I got that wrong. The Tuesday was - there was a meeting on - meetings for the Estate Advisory Board were on Thursday nights, once a month, average, roughly they would go sometimes a month to six weeks, the weekly meetings of Tuesdays were for maintenance, every Tuesday, and Jim sometimes turned up to those and sometimes he didn't. He had been given paperwork for the Tuesday that should have been distributed and it wasn't and I needed that paperwork. He was suppose to distribute it on the Tuesday. The meeting was cancelled. I tried to contact him to get the paperwork because I needed it for the Thursday, but mum had the car accident. I had to cancel going to that meeting and Jim didn't go to that one either, apparently - I don't know, I wasn't there.

Q. You never got in contact him?
A. Never got in contact with him, never.

Q. On the 8th of March, 1995 did you continue to ring Jim's place?
A. Yes I did.

Q. With no answer?
A. With no answer, because, if I was absent from a meeting I could send through somebody else the information that I wanted addressed at that meeting.

Q. Have you had great difficulties contacting Mr Meek in the past by telephone?
A. No.

Q. And have you usually been able to get in contact with him that way?

A. Eventually - yeah - within a day - he always called me back if I left a message - that is why - I thought he was avoiding me.

SHORT ADJOURNMENT. 5

<CROSS-EXAMINATION

MOLOMBY: Q. You told the court that Mr Meek resigned from the tenants group?
A. Yes.

Q. And that was on 27 February 1995, wasn't it
A. Yes.

Q. You recall that statement in your statement?
A. Yes.

Q. That he gave you his letter of resignation so that you did that?
A. Yes.

Q. Is it correct that as a result of that you wanted to get material from him?
A. Yes.

Q. To take to this other meeting?
A. Yes.

Q. Because you appreciated that with his resignation he wouldn't be going to meetings, is that right?
A. To tenants group meetings, no, he wouldn't, to estate advisory board meetings he would. He was still on that and he was also on the maintenance meetings that occurred weekly. I realize in my statement that I made a mistake in there.

Q. I want to straighten it out. It is a bit confusing?
A. Because I was on so many of these boards.

HIS HONOUR: Q. Could you say that again?
A. Because I was on so many of these boards and I used to talk to so many people on the estate. The people on the estate would often confuse the different groups that were around and sometimes I did too. As to - I say the tenants group because the tenants are being represented in all of them.

Q. So he resigned from one of the boards?
A. Yes, he did.

Q. And he left on a number of the others?
A. In others that I was involved with. I don't know what other one he was involved with, but the two - all up there used to be three. He resigned from one because he felt betrayed by a member of that group which was the tenants group. He was still on the estate advisory board which met once a month and they were planning to make that once every six weeks, and he was on the maintenance meeting which occurred weekly to update. In that time period between the monthly meeting work was done and other problems were discussed there, and if they weren't resolved at those weekly meetings they were brought to the board on the monthly week.

MOLOMBY: Q. Was it the maintenance meeting that you mentioned you had been told there was an occasion when it was cancelled?
A. Yes, I went to the maintenance meeting at nine o'clock. That was normally the time they were held. No - I didn't. I am sorry my memory is failing over time because I hadn't been there for over two and a half years.

Q. Let us take it carefully step by step?
A. I am sorry. I am trying to be accurate and remember accurately. The way I wrote in my statement, the times of meetings are accurately at the time because I remember I knew I was doing then.

Q. Okay, you made the statement, at one point about it, you made your statement on 17 July 95?
A. Yes, four months later.

Q. Do you have a copy of it with you?
A. Yes, I do.

Q. Have you also had a read no doubt?
A. Out there.

Q. Would you take it out and we will check a couple of things. Is this right, you made it on 17 July 1995?
A. Yes, the date was right. At the time I checked it. Now I couldn't say from memory: Yes, that was the date.

Q. Even then in July 1995 it was stretching a little bit of your memory to be asked, all these toing and froing, over dates in early March?
A. It was at the time, yes.

Q. You did your best?
A. I did my best.

Q. But you could have been wrong about some of the things even then, as you remembered them in July 1995 in relation to March 1995?
A. The only thing that I thought that I left out are things, more details, that was all. On recollection I made the statement I realized there was more I could put into that, not so much what was in there was inaccurate.

Q. You indicated in your evidence that one of things in it was inaccurate?
A. Only the way that it reads.

Q. First can we try and clarify something?
A. Okay.

Q. I remember you said earlier this morning that you had been told that at one of those meetings - I might be confused about which one had been cancelled and that was the reason that you didn't go?
A. Yes.

Q. Now which meeting was that that you were told had been cancelled and had caused you not to go?
A. The maintenance meeting.

Q. Is that a Tuesday morning meeting?
A. Yes.

Q. Now, did you just indicate before, and you may want to rethink it, that the due time for the maintenance meeting was nine o'clock in the morning?
A. Nine o'clock, I am not sure now, between 9 and 10.

Q. Your statement says ten?
A. The statement would be right, now I can't remember.

Q. The next meeting you didn't go to because you were told was cancelled?
A. I actually went. No one was there. I went around to the office, which was the 9 o'clock office, where the Client Service Officers who worked for the Housing Department, they all came to most meetings, I went around to see if they were late and therefore that's why if it was just late, and they said, "No, it's not on today. We gave all the paperwork to Jim Meek", and that's what sent me to calling him so much.

Q. Is that meeting that you would have expected Mr Coffey from the Housing Department to come to?
A. Yes, and he was the one I spoke to and he was the one who told me that he gave the paperwork to Jim Meek.

Q. Did Mr Coffey come to the meeting?
A. No, he said the meeting was cancelled. He was the one who told me.

Q. Is what happened Mr Coffey came to the meeting and no one else did?
A. No, because I saw Mr Coffey in the office, in the Northcott offices, not around where the meeting usually was held in the community centre.

Q. You saw Mr Coffey in his normal office?
A. Yes.

Q. Not where the meeting was due to be held?
A. Yes, because I went around to the meeting where it was normally held. No one was there and I went around to the offices, and not being informed beforehand what was going on and that's why I was getting agitated at the time and I spoke to Mr Coffey in the office and he said the meeting was cancelled, that Jim Meek knew and that he had all the paperwork so I tried to call Jim Meek and it upset me trying to get information.

Q. Do you think there is a chance that you might have mistaken in remembering this now?
A. No, that because when I get angry I remember why I was angry. There is no question what I said the statement.

Q. You see, in your statement - I mean have a look at this if you like. Do you have it there?
A. Yes, which part?

Q. Page 2 paragraph 7?
A. Yes. Yes, by the time - sorry--

Q. Wait till I ask you a question.

HIS HONOUR: Please, Madam, this lady is taking down not only what you say, but what counsel says. If you are speaking together, it is quite impossible. There is no hurry. Take your time, but wait until the question is finished before you give the answer?
A. Okay.

MOLOMBY: Q. If we can try to take it step by step, it would be probably quicker, all right?
A. Sorry.

Q. You say already to the Crown Prosecutor when you were giving your affidavit answering his questions earlier that you got a phone call on this Tuesday, that is 7 March, asking you why you didn't go to the meeting?
A. I understand what you are saying.

Q. All right, and that's how you recorded it in your statement, isn't it?
A. Yes.

Q. The way you have given your evidence earlier--
A. Yes.

Q. When you said that in your statement you meant to indicate, didn't you, that you didn't actually go to the meeting - it wasn't that you got a phone call asking you why you didn't go to the meeting, but you really did go, it was a phone call asking you why you didn't go to the meeting and in fact you hadn't gone, that's what you meant, isn't it?
A. No. I understand what you are saying, but in the way I said it, in the way I have recorded it, you are quite right to read it that way, but I did. It's 9 o'clock, it's 10 o'clock. I got the phone call from Perryman who asked me why I didn't turn up at the meeting, but I did turn up and it was cancelled and I went around to Mr Coffey who told me that it was cancelled and I told Perryman that it was cancelled.

Q. But did you go to him before or after you got her call?
A. Before.

Q. So you already knew the information that he gave you when she phoned you?
A. Yes.

Q. And you told her that fact?
A. Yes. Mrs Perryman and I never saw eye to eye. We never had a really good relationship where board or where these

meetings are concerned. We have differences of opinion, or differences of ways of expressing our goals.

Q. But nevertheless you wouldn't be telling her any lies?
A. No.

Q. No, just that she wasn't a friend of yours?
A. No, I would never have misled her.

Q. You say then your current recollection is that the meeting was due at nine o'clock, is that right?
A. Yes.

Q. You went there then with the result of finding no one and that took you around to Mr Coffey and he told you about Jim Meek with the paperwork, whatever it was?
A. Yes. I can't even remember what the paperwork was now. It was important at the time.

Q. You see, what you said here, have a look at it, "Mrs Perryman wanted to know why I hadn't attended the meeting at 10 o'clock that day", not 9 am, 10 am?
A. Yes.

Q. Doesn't that indicate that the due time of the meeting was ten not nine?
A. The way things were at that time, there was friction between the groups, the people on the tenants group and the maintenance group were all opposed. We had different goals.

Q. You mean between yourselves on the group?
A. Yes. I never talked to them outside of the group. There was no social relationship. Two of the members of that group, the maintenance group, are close neighbours, like nextdoor to each other, so they talked a lot, all day.

Q. Backing each other up?
A. Basically, yes. Jim Meek lived in a separate section of the estate, but they knew him a lot longer then I had. I never knew how close they were in the relationship. So I just try to discuss how I felt was the right thing needed at the time. So if they changed the time, which is what I was thinking in my thinking and not advise me of that within that group, the little cliche that they got into and I wasn't to know.

Q. Did you?
A. I didn't know about a 10 o'clock meeting that day. That's what I was told on the phone by Perryman that day.

Q. But if what you have just said, you had a fear perhaps that they might switch the time for the meeting and just accidentally not tell you?
A. Yes.

Q. So that accidentally your point of view wouldn't be represented there?
A. Yes.

Q. But given that you recorded it this way in your statement about "she wanted to know why I hadn't attended the meeting at 10 am that day"?
A. Yes.

Q. It looks, doesn't it, as though the meeting was on that day at ten not nine?
A. It does look that way, but that's not what was not - that's what she said.

Q. But you say you would have said back to her, "What are you talking about. It was nine o'clock"?
A. I turned up. My answer was I turned up, yes, and that I was told there was no meeting and I spoke to Mr Coffey and I was looking for Jim Meek and I was cranky because she was really aggressive and abusive on the phone because I am such a - like, I always turned up, I always put my point of view across and how dare I have not turned up.

Q. She was blaming you?
A. Yes.

Q. So in the statement, just go back to this paragraph, you see the last sentence you have said: "To my knowledge there was no meeting arranged"?
A. Yes.

Q. But isn't the whole point you have been making, there was a meeting?
A. They didn't turn up, yes. I was under the impression every week we meet on a Tuesday. It was a standard thing.

Q. Unless it was cancelled?
A. Unless it was cancelled.

Q. Isn't what you have said in your statement here: "Of the meeting this week to my knowledge there was no meeting arranged"?
A. After I spoken to Mr Coffey.

Q. But he told you, didn't he?
A. That day, yes.

Q. It had been cancelled?
A. Yes, after I had already been. So by the time I got the phone call to my knowledge there was no meeting that day. I hadn't been told previous to me turning up.

Q. Well, I am not seeking to criticize you?
A. No, it's okay.

Q. You agree that the way this transaction was recorded in this paragraph of your statement, paragraph 7 doesn't really give the reader of it any accurate idea at all of the way you now portray as what happened in that event, do you agree with that?
A. The way it's written down it is misleading, it can be misleading, yes.

Q. It just left out an enormous amount of what you say about that morning didn't it, that you went at nine o'clock and then you went to see Mr Coffey?
A. Well, I don't know that it didn't say that at the time. I don't know that. It was just all abbreviated.

Q. When you made the statement, I mean that was--
A. Well, it's accurate to my knowledge.

Q. It's a considered position, isn't it, in which you sat down with a police officer at the Surry Hills Police Station and you progressively went through things?
A. Yes.

Q. It was put up on a screen in front of you?
A. No. Might have been, sorry. I am going back to four years now.

Q. Three years?
A. Three years, and it was four months after, and I tried and I recalled so much later.

Q. Wasn't the process that you went through this paragraph by paragraph?
A. I did, yes.

Q. And it was printed out at the end, or shown to you on the screen?
A. Yes.

Q. And you read through it?
A. Yes.

Q. To check it?
A. It is accurate.

Q. And then they actually gave you the printed pages and you signed every page of if?
A. Yes.

Q. After you read it?
A. Yes.

Q. So you didn't have any criticism of its accuracy at the time?
A. No. In fact here it is accurate. It depends on how much information you wanted, and I just answered what I was asked.

Q. Well, there was one point you have indicated in answering the Crown Prosecutor's questions that you thought the statement was incorrect?
A. Not incorrect, it reads wrong.

Q. That is a fine distinction, but perhaps the way you look at it and that was in relation to, wasn't it, whether you went to a estate advisory board meeting at five o'clock on a Tuesday?

A. Yes. There was a meeting. I am going by my recollection now, not my recollection of the statement. The statement at the time would have been accurate to my recollection then. Meetings were--

Q. Let me go to the estate advisory board. Did I understand you to say earlier in your evidence that that is to meet on Thursdays?
A. Yes.

Q. Now do you ever recollect a meeting on any other day than a Thursday?
A. Yes, sometimes. It depended on the schedule of the Housing Department representatives. They had a tighter schedule than what they considered tenants had, so if they had a busy meeting, or if they couldn't arrive there for any other reason sometimes they would make it a Wednesday,. Thursday was the general day though.

Q. All right. In your statement you say don't you, that you went to the estate advisory board meeting on a Tuesday at 5 pm?
A. Yes, that's what happened. If I said that, that was right.

Q. Did you say that that's right?
A. At the time, yes. I don't recall dates and I didn't keep a diary, but at the time I had a calendar that I don't have now. I used to mark all my meeting dates on.

Q. You had a schedule of meeting at five o'clock?
A. Yes, so I could be accurately then, but I can't remember now.

Q. Did you refer to that calendar for the purpose of making that statement?
A. Yes, I took it with me.

Q. When you said in paragraph 7: "To my knowledge there was no meeting arranged", that was presumably by cross-reference to your calendar, wasn't it?
A. There was a meeting arranged, but it didn't - I wasn't advised of it being cancelled.

Q. But were you advised of it on the first place?
A. It was always on every Tuesday. It was sort of, like, a regular thing, every week you turn up, but if there was a cancellation someone from the group would call you and they all had my phone number.

Q. This is a funny way to say a regular meeting that was due on the day didn't take place because it was cancelled to express that by saying: "To my knowledge there was no meeting arranged", it's an abnormal use of the word, isn't it?
A. I don't know.

Q. You think it's possible now that you are - I am not

suggesting that you are not doing your best to be perfectly honest, please understand that?
A. Okay.

Q. Don't you think it is possible now that you have created a false picture in your memory of what happened that is quite convincing to you and that's what you are saying, but that is actually wrong?
A. No, because I was upset that I couldn't get in touch with him after Perryman had called me because Perryman and him were very - talk to each other quite a bit and I felt there was - because I couldn't get in touch with him, I felt there was a conspiracy to keep me off that room and if they had a meeting unbeknown to me.

Q. He was creating a problem for you for not giving you information?
A. Yes.

Q. For having Perryman accusing you for doing the wrong thing?
A. Yes.

Q. You also said in your evidence that on another occasion when you tried to get through to him, he used to ring you back within a day?
A. Yes.

Q. I think you said you left him a message?
A. Yes, I left several on the answering machine.

Q. You had an answering machine that you left messages on?
A. Yes, he did.

Q. That's Jim Meek?
A. Yes.

Q. Did you leave any messages on the answering machine during the phone call you made on this occasion?
A. Yes, I believe so.

Q. Now is it correct that you have been trying to get some information from him since the time he resigned and gave you that letter of resignation?
A. No.

Q. Because you said in your evidence, didn't you, that in early March you were trying to ring him to find out information that you had been told that he had been given to distribute to other tenants?
A. That was the information from that day that the meeting was cancelled and Mr Coffey had said that he had given me - given Jim Meek the paperwork that was important at the time and I wanted a copy of it because we were all supposed to have a copy and they had information referring to a lot of things at the time that I needed to know.

Q. So it was that information, it wasn't any other

information?
A. Not that I can recall. I tried and called him to gain his views on issues that might come up, but very rarely. I don't think I did, no. He wasn't - he was a different sort of person to me, so we weren't really able to talk naturally about any issues, but he would give me his opinion on a subject now and then.

Q. The resignation of his that you conveyed, which body in that meeting that he didn't go to?
A. The public tenant council. The public tenant Council was where he directed he resignation to. He was a member of the - it was called the tenants group. The tenants group's name gets changing all the time. That's why I have trouble remembering what it was called at any given time because every three months, six months it seemed to change, depending on who was on the group at the time. So the Public Tenant Council is the main body and the group is an offshoot of that that he was on, and he wanted to resign from that. I forgot what he was from. I am not sure.

Q. But which meeting did that mean you wouldn't have expected him to go to any more as a result of the resignation?
A. The tenants group meeting.

Q. When did that happen?
A. Whenever they were called. They were just called irregularly. They would set a date down at the last meeting for the next meeting, but that was a sort of sloppy one, that one.

<RE-EXAMINATION

CROWN PROSECUTOR: Q. Madam, can you just assist, I don't know about other people in the court, but I am a little confused as to whether or not you are saying that paragraph 7 as recorded in your statement was accurate at the time you made it because you referred to your calendar, or are you saying it is inaccurate ~~part of?~~ paragraph
A. No, I think it's an accurate paragraph.

Q. Accurate?
A. Accurate.

Q. And you told us in your evidence in chief that is when you were answering questions from me before - that is called 'evidence in chief', you told the Court that you tried to call Jim Meek on a number of occasions on that Tuesday, the 7th of March, 1995, and there was no answer, right?
A. Right.

Q. So, you have also just told us that you think - your words were, "I think I left a message on an answering machine". Now, if you left a message on an answering machine, would you have said that in your statement as opposed to there was no answer?
A. Well yeah - well I see -.

Q. Would you have said in your statement - There was no answer, if you left a message on an answering machine or would you have said - there was no answer but I left a message on an answering machine, or would you not have referred to an answering machine?
A. I would not have referred to the answering machine.

Q. Do you know whether or not Jim Meek had an answering machine as at March of 1995, as opposed to some earlier time?
A. Sorry - did he have an answering machine?

Q. Do you know whether or not Jim Meek had an answering machine in March of 1995 as opposed to whether you know he had an answering machine at some time earlier?
A. No, I don't know when he got his answering machine.

Q. Do you know whether or not it was his answering machine or he had borrowed one for a period of time from somewhere?
A. No I don't.

Q. You don't know?
A. I don't know anything about it.

<WITNESS RETIRED AND EXCUSED.

<ROGER COCHRANE (12.35PM)
AFFIRMED AND EXAMINED

CROWN PROSECUTOR: Q. Would you tell the Court your full name please?
A. Roger Cochrane.

Q. Are you also known as Roger Griffiths?
A. Well that was - yes - that is my father's name. I was born Roger Griffiths.

Q. Did you make a statement on 11 July 1995?
A. Yes I did.

Q. Did you make that statement using the name 'Roger Griffiths'?
A. Well - yes I did sir, yes.

Q. And indeed did you sign it 'Roger Griffiths'?
A. Well there is a valid reason for that.

Q. All I am asking you to tell us is what happened, not why?
A. Yes, sorry.

Q. Do you know the accused now before this Court?
A. He is my second cousin.

Q. Was his father your first cousin?
A. That is correct.

Q. As at 1995 and earlier - because I am only interested up to March 1995 and earlier - were you living at [redacted] Crosslands Street Merrylands?
A. Yes.

Q. Did you see a lot of that branch of your family from which this accused comes?
A. No.

Q. Was that branch of the family based mainly in Tasmania?
A. Yes, sir.

Q. Was the accused's father 'Paul Heatley'?
A. Yes he was.

Q. And in late 1994 was the accused's father shot dead at Hornsby?
A. Yes.

Q. In the course -?

OBJECTION. QUESTION WITHDRAWN.

Q. After that did you have some feeling for the accused?
A. Yes.

Q. And was the accused in Sydney at about that time - that is, early 1995?
A. Yes.

Q. Did he ever come to see you?
A. Yes.

Q. Did he ever stay with you?
A. Yes.

Q. Was that at your place at Merrylands?
A. Yes, it was, excuse me sir - could I have a glass of water (short pause).

Q. Did you know that the accused was working in some sort of employment as an offsider, or in a warehouse, or something?
A. Well I knew he had a job. I don't know - (pause).

Q. You don't?
A. I don't really know where. I knew he had a job.

Q. Did you come to understand that he had injured himself in his job?
A. Yes.

Q. And indeed he was off on compensation?
A. Yes.

Q. And that money was short for him because he was on compensation - or waiting for compensation?
A. Well I can't answer that question, sir. I don't really know if he was short of money or not, really, but, he was waiting for cheques to come.

Q. Did you allow him to stay with you for periods of time because of his financial situation?
A. It wasn't because of his financial situation.

Q. It wasn't?
A. Well not really sir - he stayed with me because he is related to me.

HIS HONOUR: Move right up to the microphone. You will hear it if it is being amplified right around the court.

CROWN PROSECUTOR: Q. How often would he stay with you?
A. I can only say, on and off. I cannot be specific about it.

Q. Do you know where he would be if he wasn't staying at your place?
A. I assume he was with his sister.

Q. Which sister was that?
A. Christine.

Q. And where did she live?
A. I think she lived in Bankstown.

Q. Would you take your mind back to March of 1995?
A. Um-hm.

Q. Can you recall whether or not the accused was staying with you at that time?
A. Well for the whole of March?

Q. At all?
A. Well yes, in March, yes.

Q. And how often did he stay with you in March?
A. I can't tell you sir.

Q. Regularly?
A. Well, Michael is like a ship that comes in the night - he comes over he stays -.

HIS HONOUR: Please speak up sir. Everyone needs to hear you and if you say something we can't hear you might as well not say it.

CROWN PROSECUTOR: Q. Do you recall the 7th of March, 1995?
A. In what respect sir?

Q. Well firstly, do you recall it?
A. Well, yes I do, yes.

Q. Do you recall whether or not you saw the accused on the 7th of March, 1995?
A. I definitely saw him on the 7th of March.

Q. Can you tell us when you saw him on the 7th of March, 1995?
A. It was the morning, in the morning.

Q. What time?
A. Well I can't give you a specific time.

Q. Was it early morning, mid morning, late morning?
A. Well, it was some time - it would have been - well - it either would have been before 11 o'clock or around 11 o'clock but it was no later than 11 o'clock that he turned up.

Q. No later than 11 o'clock?
A. No.

Q. Right (pause) and where was it that you saw him?
A. At my home.

Q. And was that the [redacted] Crosslands Street, Merrylands?
A. Yes, sir.

Q. I just show you this photocopy street directory of the map - I will give you a pen - now firstly would you look at that document and see whether or not you recognise what it is?
A. Well it appears to be a page from the street directory.

Q. Do you recognise or are you able to see what area it is showing?
A. It is Merrylands, South Granville, Guilford.

Q. Can you see on that the street in which you lived?
A. Yes, sir.

Q. Would you mark with an X approximately where it is that you were living?
A. (Complied).

Q. If I could have that back, please (produced). You put a red mark down here (indicated)?
A. Yes, sir.

Q. Do you know whether or not Michael, that is the accused,

stayed at your place the night before?
A. Well as I said to Detective Walker, I wasn't sure if he had stayed the night before or if he arrived that morning.

Q. And you are still not sure, is that correct - you are still not sure?
A. No, I believe that he did arrive that morning because, I mean this happened - three years ago - yes - but at the time when I spoke to Detective Walker, I wasn't sure but yes - he arrived that morning.

Q. And how is it that you know he arrived that morning now as opposed to when you spoke to Detective Walker, in 1995?
A. Because I have had time to think about it. At the time when Detective Walker spoke to me I really wasn't too concerned with it.

Q. And what did you do with Michael on that morning, if anything?
A. I don't understand the question sir.

Q. Did you stay at home, did you go somewhere or?
A. Pardon me - oh, when he turned up, I was getting ready to go - I was about to go over to Merrylands so I was getting ready to go.

Q. So what did you do?
A. Well I fed the cats, heated up water on the stove, ran a bath. I didn't have a hot water system - had a bath. I didn't drop everything the minute he came home. I got dressed, got the Cadillac and went to Merrylands.

Q. How did you get to Merrylands?
A. I walked.

Q. Did you walk with Michael?
A. Michael, myself and the dog.

Q. Can you recall any version that you were having or the topic of any conversation you were having with Michael when were you walking to Merrylands?
A. On that map you have there, sir, there is a park, alongside Woodville Road and we were walking across the park and Michael said he was short of cash and he said he wanted to either sell or pawn his father's ring.

Q. When he said that to you, did he do anything?
A. Oh, did he do anything?

Q. Yeah?
A. He showed me the ring.

Q. How was it that he showed you the ring - was it in anything at the time he showed it to you?
A. Yes, well, some time after - it was just after his father's funeral in 1994, he left a green jewelry case at my place. He asked if he could leave it for safekeeping.

HIS HONOUR: Speak up. We want to hear what you have got to say. If you speak in a loud voice as the Crown asked you to we will hear but if you let your voice run away you just go off the air.

Q. Do you remember the question?
A. Yes, it is fine your Honour, thank you. Well he left this jewelry case at my place for safekeeping and it had a gold bracelet in it and I was pretty sure it was his father's so I don't know if it was Michael's or his father's and he picked it up that morning and he opened it up and he - Michael never carries a wallet and he always wears tracksuit pants he is forever losing things. He pulled it out of his pocket. He opened it up and he said, "I'm going to pawn" or "sell" - I don't recall whether he said "pawn" or "sell dad's ring", and I said "oh, okay, fine".

CROWN PROSECUTOR: Q. Did you give him any advice in relation to that?
A. Yeah, I popped things at Ian King's Loan Office regularly when I am short of cash but I only ever put something in for say 30 or $40 and that way I always know that even if I don't have the money with the accumulated interest, I can always pay the monthly fee which would probably be about seven dollars so, I think I told him that - because that is what I do.

Q. So you told him to hock it as opposed to sell it?
A. Well actually I said you've got to be careful. You will really regret it if you lose something that belongs to your father - something along those lines.

Q. So what did you do then?
A. Well we continued walking to Merrylands.

Q. Where did you go to at Merrylands - where did you go to?
A. Well I went to the Billabong Pub - got my key, opened the door to the garage, parked the dog in the garage and gave him the key back and sat down and got a beer.

Q. And what did Michael do, do you know?
A. Well no, I don't know, really - he came in later while I was having an I think I was on either my second - probably my second beer, and he said he had been over the road and he tried to pawn his father's ring but he didn't have sufficient ID.

Q. Yes, so what did you do, if anything?
A. Well I went over with him and spoke to Ian and - because Ian knows me, I actually pawned the ring in my name and gave Michael the pledge - the docket.

Q. Did you pawn it or did you sell it?
A. No, I pawned it, sir.

Q. For how much did you pawn it?
A. I think it was $45.

Q. And was Michael with you when that occurred?
A. Yes he was.

Q. How long after you had parted company with Michael the first time was it that he came back and told you that he was having difficulties at the King's shop?
A. Well, I am a slow drinker sir - I don't know, 15 minutes - 20 minutes. I can't really say.

Q. When you made your statement back in 1995, was your memory then fresher of the events about which you were speaking?
A. Yes, sir.

Q. And was what you told the police accurate?
A. Well to the best of my knowledge, it was.

Q. Can you recall what it was that you told the police as to how long Michael had been away from you?
A. I wasn't asked that question, sir.

Q. Can you recall how long it was that you told the police before Michael came back to you at the hotel?
A. I didn't tell the police that, sir. Not in minutes, or-.

Q. After you went to King's shop then with the ring and Michael, what happened?
A. Well Ian gave me the money. I gave it to Michael. I went back to the pub. Michael went up the road, came back and was sitting on the bus seat outside with a ton of food, just eating - well, eating up a storm.

Q. Did Michael stay with you on that day?
A. No, he sat South outside, he finished what he was doing and 'bmm', that is it, off he went.

Q. When was the next time that you saw him, can you recall?
A. Well as I said in my statement sir, I think it was around the time of the Golden Slipper, which would have been what - April, I think, I'm not sure, but it was the Golden Slipper.

Q. What is the Golden Slipper?
A. It is one of the biggest races in Australia.

Q. Horse races, is it?
A. Yes, sir.

Q. Now, did Michael stay with you -

QUESTION WITHDRAWN.

Q. Did you see Michael between the time of the hocking, or sale of the ring or whatever it was, and the Golden Slipper?
A. I can't be sure, sir.

Q. Was he living with you at that time?

A. Well he was never really living with me. He used to come and stay for a few days and then go.

Q. After or around about the time of the Golden Slipper can you recall whether it was before or after the Golden Slipper that Michael was with you?
A. I'm sorry sir - can you -.

Q. Can you recall whether it was before or after the Golden Slipper that Michael left you - left staying with you?
A. Sir, the arrangement, well, not the arrangement, the way things worked out with Michael is, as I said earlier, he comes and goes like a ship in the night. He comes. He stays for a little while. He might stay for two hours. He might stay for a couple of days and he goes - there is no arrangement or anything, it is just, he turns up-he turns up.

Q. Did you go anywhere with Michael at about the time of the Golden Slipper?
A. Well I went over to the - I went over to the pub. He went and bought clothes. I think he went and got a haircut - that day - he bought new clothes because he was going - he said - that is it, "I am off to the Slipper" and I just went over to the pub.

Q. So Michael was going to the Golden Slipper and you were going to the pub?
A. Yeah well on that day, yeah, yes.

Q. Did you go with Michael anywhere that you can anchor to the time of the Golden Slipper or around that time?
A. I don't understand the question, sir.

HIS HONOUR: Q. Was there any event that brings back to mind the occasion when Michael went off to the Golden Slipper and you went back to the pub?
A. Oh, well there is, yes, the reason I remember Michael was going to the Golden Slipper is because he took some of his father's ashes because his father was a big punter and the reason Michael as going to the Golden Slipper was because he was going to sprinkle some of his father's ashes at the winning post at Rosehill.

LUNCH ADJOURNMENT.

UPON RESUMPTION.

CROWN PROSECUTOR: Q. Mr Cochrane, I show you this document (shown). Now do you recognize that document as being the original of the statement that you made to the police on 11 July 1995?
A. Yes, it's true, sir, yes.

Q. I will just ask you if you would read to yourself the first three sentences of paragraph numbered 8?
A. "I told him--"

Q. No, just to yourself?
A. Pardon me. (Witness complied.).

Q. You read the first three sentences?
A. Yes, sir.

Q. Does that refresh your memory as to how Michael was away from you at the time he went out to King's Loan office and then returned to your apartment?
A. Well, I would say about ten minutes, but I believe I said I was a slow drinker and so about twenty-five minutes, but, yes, about ten minutes, yes.

MFI #7 THE ABOVE DOCUMENT.

Q. Now do you remember anything occurring in relation to Michael at around about the time of the Golden Slippers?
A. Well, not really, sir, no.

Q. Did Michael return to that at sometime in 1995?
A. Yes, I think he did, yes.

Q. Can you recall when that was?
A. Excuse me, is it possible for me to refer to the statement, or--

HIS HONOUR: Q. Are you unable to without referring to the statement? If you are not, say so?
A. It's just that - I am sorry, I don't mean to interrupt. Firstly, it's just that I made the statement, on the day that I made the statement I was given a copy of it and the only other time I saw - I actually read my statement was last Monday.

Q. Do you say you can't remember the date without refreshing your recollection from the statement, is that what you are saying?
A. Your Honour, what I am saying is, yes.

Q. That's all right. I have only seen the statement once in three years and that was last Monday.

CROWN PROSECUTOR: Q. Did you see it in 1996?
A. No sir I had conjunctivitis and his Honour read the statement to me. I didn't have my glasses with me either.

HIS HONOUR: Q. When was that occasion?

CROWN PROSECUTOR: That was at the committal proceeding.

CROWN PROSECUTOR: Q. Perhaps the witness could refer to the copy of the statement that he has in front of him. Paragraph numbered 10.
A. Yes.

Q. Have you read that? Does that refresh your memory at all now as to whether or not Michael returned to Tasmania some time in 1995?
A. Yes it does sir, yes.

Q. When was that?
A. Well, it was as I say here, it was the Sunday or the following Sunday.

Q. Sunday or the following Sunday?
A. Following Sunday after the great Golden Slipper, either the next day or the week after, something like that.

Q. Did you accompany him to somewhere on that day?
A. Well the dog and I walked down, I walked down with the dog, we went to Granville station.

<CROSS-EXAMINATION

MOLOMBY: Q. Do you still have that statement there with you?
A. Yes sir.

Q. That was the statement you made on 11 July 1995 wasn't it?
A. That's correct.

Q. Is it correct that you were approached by police on that day and asked to make a statement about your knowledge of various matters, is that correct?
A. No, the police came to my home, yes.

Q. Yes, on that day?
A. Yes.

Q. And as a result you went with them to the Merrylands police station nearby?
A. Yes sir.

Q. And you hadn't known they were coming had you?
A. No sir.

Q. In the statement you made on that day you recorded the best recollection you had of the matters they were asking you about didn't you?

A. Yes sir.

Q. Could I take you to paragraph 7 of it please. Just follow to make sure I have correct what I read. This is the way you recorded one aspect of that isn't it: "In March 1995 Michael had been staying on and off with me for about two months. On Tuesday 7 March 1995 I walked up to Merrylands with Michael. I'm not sure whether he stayed with me the night before or not. I have the feeling that he came over to my place in the morning when I was getting ready to go to Merrylands."
A. Yes sir, that's correct.

Q. That was your best recollection at that time?
A. Yes sir.

Q. You have told the court, subsequently thinking about that, you are convinced what you expressed as a "feeling" here is in fact right?
A. That's correct sir.

Q. You have told the court that when he arrived that day you were about to start your routine of feeding some cats, is that correct?
A. Well that is correct sir, yes.

Q. Is that a regular routine you go through every day?
A. I did it this morning sir, yes.

Q. At about the same time every day?
A. Well no sir because depends on what I'm doing that day. This morning it was - obviously it was earlier, I started at 6am instead of later in the day because I had to be here.

Q. I'm speaking of that routine as it was in March 1995 in case there is any difference?
A. Yes sir.

Q. In March 1995. How many cats did you have?
A. Seventeen adults and two litters of kittens.

Q. Two litters of kittens?
A. Two litters of kittens, 26 or 27.

Q. And you also - had you mentioned in evidence a dog?
A. Yes sir.

Q. Was that part of the feeding routine when you fed the cats?
A. Yes sir.

Q. How long approximately did it take you to go through that feeding routine with the cats?
A. Can I refer to what I did this morning as an example of this?

Q. Well bearing in mind I am asking you about March 1995, in case there is any difference in the number of cats or

kittens you have?
A. Sir I have seven adult cats now and a litter of kittens and this morning from the time I began feeding the cats and doing the dog and locking the house up I walked out the door at 8 o'clock. It took two hours from the time - after I'd washed and looked after myself and fed the animals and secured the house it took two hours.

Q. Well that was preparing--
A. This morning?

Q. Yes.
A. Yes.

Q. But you are adding into that preparing yourself, if I can use that phrase?
A. Exact- yes.

Q. To go out as well?
A. Yes sir.

Q. If we look at just the cats part of it, is your routine just put a big bowl in the middle and let them fight for it?
A. No sir. Can I--?

Q. Yes, give us a brief--
A. The routine was that I had to feed - the kittens have to be fed separately. I would take them into the garage and mash up their food and make sure they had their food, then come out, lock the - close the roller door and then I had, I fed some of the cats under the carport, some in the sunroom, some in the living room, and one that would eat only when it was at the fireplace, but that was the routine, it was very involved.

Q. On that particular day how long do you say it would have taken you to do your cat feeding routine, the day referred to in the statement in the section we have just been through, Tuesday 7 March 1995?
A. Sir it - Then it took, and I can only be approximate here, three quarters of an hour, at least. At least.

Q. You then some time after that walked from your place at Crosslands Street to Merrylands with Michael Heatley?
A. No.

Q. And the dog?
A. No sir, then I had to have a bath.

Q. Sorry, okay, but after you had done whatever you were doing at the house?
A. Yes.

Q. Did you go with Mr Heatley--
A. I did, yes.

Q. -and the dog to Merrylands?
A. Yes.

Q. Now you were shown a map earlier. I call for that map please (produced). You were asked I think to put a Red Cross round about where you live on this map?
A. Yes sir.

Q. I will show it to you in a moment, but is it possible to mark on this map the route you took that day when you walked with Mr Heatley and the day up to Merrylands?
A. Yes, I take the same route when I have the dog.

Q. Could I show you the map back again. Perhaps if you could mark in red the route you took from your place up to Merrylands that day (given to witness).
A. Certainly.

Q. Have you done that Mr Cochrane?
A. Yes.

Q. Could I have a look at it please? (Given.) I will hold this up Mr Cochrane.
A. Excuse me sir, there was a black spot there which is a park, you wouldn't see the line.

Q. Exactly what I'm about to ask you about so just hold it. You have marked in red your house is down here?
A. Uh uh.

Q. You have marked in red along this road?
A. Yes.

Q. Up Woodville?
A. Yes.

Q. To the bottom right corner of a big black square on this map which is a park?
A. Yes sir.

Q. Then you have got yourself taking up from the top left corner of the park. I take it you went approximately diagonally across the middle of the park?
A. Yes.

Q. Which doesn't show because of the black, okay.

EXHIBIT #2 PLAN OF WALK TAKEN BY MR COCHRANE TENDERED, ADMITTED WITHOUT OBJECTION.

MOLOMBY: For the moment I don't seek to have any more of that put before the jury from what I just did.

HIS HONOUR: Very well. You have heard explained it starts here, the red line goes up Woodville, diagonally across the park and finishes at the Merrylands railway station.

MOLOMBY: Q. It is correct isn't it that the hotel that you then went to and Ian King's pawn shop are more or less opposite each other in the road that is on the other side of the railway line from the direction you were approaching?

A. Merrylands Road, yes sir.

Q. Sorry, you mentioned earlier when I was asking you about the cat feeding routine it would have taken a minimum of three quarters of an hour to feed the cats?
A. Uh uh.

Q. You said in your earlier evidence you heated some water for a bath for yourself, is that right?
A. Yes sir.

Q. That's something you did, taking that bath after you had fed the cats that day?
A. Well yes, I always - well I took the bath after I'd fed the cats because it was a bit of a circus feeding them so--

Q. Alright, you tended to need the bath after it than before, is that the idea?
A. Yes sir.

Q. How long did it take you to have a bath?
A. Well I didn't have a hot water system, I had to heat the water on the stove, and I used a kettle, and I'm sorry, I don't think in metric but about--

Q. I'm not asking you for the full explanation.
A. It took a long time to heat water because I had to put enough water in the bath to at least come up to my hips to have a decent wash.

Q. Can you tell me how long? Or approximately?
A. Three quarters of an hour minimum, with all, I don't know, heating water sir, yes it was, it was backwards and forwards, backwards and forwards.

Q. Were you heating the water partly while you were feeding the cat?
A. You can't do that, you can't walk around with cats with boiling water.

Q. That day when you went on that walk that you have marked on the map from your house to Merrylands with Mr Heatley and the dog, how long did the walk take from your house until you got to the hotel?
A. Sir when I - the dog is a very big dog, she's a rottweiler, she weighs 60 kilos she does not run she only trots if it's - she just ambles along, and it takes at least 50 minutes, it might take an hour, she just - it's very hard to cross the road, to cross Woodville Road with the dog, I have to make sure there's no traffic coming in one direction and there's only one place to cross the road there where the island is wide enough to stand with the dog, then I had to stand and wait for the traffic to clear in the other direction. It really does take a long while to cross the road.

Q. Are there any traffic lights to cross Woodville Road at the point of your walk?

A. No sir, no.

Q. At the start of your evidence you were asked some questions about your name. You did an amount of business with Mr Puddicombe at Ian King's loan office?
A. That's correct.

Q. You always used the name Cochrane for that?
A. My legal name.

Q. That's the name under which Mr Puddicombe knew you?
A. Yes sir.

Q. You have just said your legal name. You gave evidence earlier you were born Roger Griffiths?
A. That's correct.

Q. That was your father's surname I take it?
A. Yes sir.

Q. Your mother's surname, married?
A. Yes sir.

Q. I think you indicated you had some explanation about your name as to why you gave this police statement in the name of Griffiths?
A. Well sir I had - the reason I gave it under Griffiths is in 1989, on - where I crossed with a dot my mother was run down and my mother was in firstly in hospital then in a nursing home and it was very confusing to people when they said who are you? I'm Roger Cochrane. What relation to you is Mrs Griffiths? So I fell back into the habit when anyone asked me of saying Roger Griffiths because I couldn't stand going through the rigmarole of explaining I changed my name and--

Q. When did you first start using the name Cochrane instead of Griffiths?
A. Early 70's sir, I changed my name about 25 years ago, approximately.

<RE-EXAMINATION.

CROWN PROSECUTOR: Q. You were asked by my learned friend where King's loan shop was from the Billabong Hotel and you said across the road?
A. No, I think I said it was in Merrylands Road, I think he said it was across the road.

Q. Whereabouts in Merrylands Road from the hotel is it?
A. It's - if this is the hotel it's in a diagonal to the left.

Q. Is it a mile and a half?
A. I beg your pardon sir?

Q. Is it a mile and a half from the hotel to the loan office?

A. Well no sir.

Q. Do you remember giving evidence--

OBJECTION. CROSS-EXAMINATION.

<WITNESS RETIRED AND EXCUSED.

<ARTUR BUBIS(2.27PM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Would you tell us your full name please?
A. My name is Artur Bubis.

Q. Did you make a statement on 14 March 1995 in relation to the matter now before this court?
A. Yes, I did.

Q. Did you in March of 1995 live in the Northcotte Apartments at Surry Hills?
A. Yes I did.

Q. And did you live there with your mother and your brother?
A. Yes.

Q. And your father?
A. Yes.

Q. Did you know a man by the name of Jim who lived on the same level as you in those Housing Commission flats?
A. Yes I did.

Q. Did you know him from the time he moved in to those flats about two years before his death?
A. Yes I did.

Q. Did you used to speak to him?
A. Yes.

Q. And do you tell this court that he used to speak to a lot of people and he seemed to know everybody about the place?
A. Yes.

Q. On Sunday 5 March, that is the day after the Mardi Gras, did you see Jim at about 6pm in the evening?
A. Yes.

Q. Did he tell you that he had come home from a party at about 10 o'clock on that day?
A. Yes.

Q. Did he tell you that he had been to the Gay Mardi Gras because he had been a volunteer and collected money?
A. Yes.

Q. Had he told you that he had been a security guard earlier in his life and that he was shot and he was getting some compensation money?
A. Yes.

Q. And did he tell you that before he got his money, and that when he got his money he was going to get himself a new car?
A. Yes.

Q. Had he also told you that he was HIV positive?
A. Yes.

Q. Did you notice that a couple of months before his death he bought a new Daewoo car?
A. Yes.

Q. Did you see his car at the flats on Sunday when you spoke to him?
A. Yes.

Q. And was it a dark red car?
A. Yes.

Q. Had he borrowed a video from you some time earlier--
A. Yes.

Q. -before his death?
A. Yes.

Q. And had you asked him to return it to you?
A. Yes.

Q. Did you ask for that video back on the Sunday when you were speaking to him?
A. Yes.

Q. Did he tell you that he would give it to you in a day's time?
A. Yes.

Q. When you saw him was he wearing thongs, navy coloured shorts and a faded blue navy jacket similar to that worn by bus drivers?
A. Yes.

Q. Was that the last time that you saw him?
A. Yes, that was the last time.

Q. Now the next day, that is the Monday, did you go to his unit at about 4.30pm to pick up your movie?
A. Yes.

Q. Did you knock on the door?
A. Yes.

Q. Did no one answer?
A. No.

Q. Do you say that he had dogs but they didn't bark?
A. Yes.

Q. He had two small dogs, a little white one which was young and an old black one?
A. Vice versa.

Q. Vice Versa was it?
A. Yeah.

Q. A little black one that was young and an old white one?
A. Yes.

Q. Did you see a piece of blue coloured paper on the door, not on the security door?
A. Yes.

Q. Did you try the security door and that was open?
A. Yes.

Q. Was there a note which started "Jim, please" on the piece of paper?
A. Yes.

Q. And this is on the Monday, is that correct?
A. Yes.

Q. Now the next day, on the Tuesday, did you go to his place at about 4.30pm?
A. That's right.

Q. Do you tell the court that the note was not there?
A. Yes.

Q. You knocked and nobody answered?
A. Yes.

Q. And you heard the dogs inside?
A. Yes.

Q. You say you looked downstairs and you saw that his car was not in its usual place?
A. Yes.

Q. Was that the last time that you visited his unit?
A. That have the last time.

Q. On Thursday did your mother inform you that Jim Meek was dead?
A. Yes.

Q. At first did you believe that it was Tuesday and Wednesday that you had gone to his apartment and seen the things you have told us about?
A. Yes, first I thought it was Tuesday and Wednesday but later on having discussion with my friend we established that on Wednesday we actually went to the movie so it wasn't possible for me to go there on Wednesday, so it must be days

earlier, Monday and Tuesday instead of Tuesday and Wednesday I went to his flat.

Q. Did you see different men in company with Jim?
A. The only mens I saw in his company it was neighbours who's living in the building, as well as this friend of his, Bob, and that was basically all the people I saw him with.

Q. And his friend Bob, was he a big Australian looking fellow?
A. Yes, he is a big guy, yes.

Q. Would you estimate him to be about 183 to 187 centimetres tall, and fat?
A. Yes.

Q. Do you know Bob's second name?
A. No I don't, I have been calling him Bill, Bob so that's how I know him.

Q. Do you say he had a goatee beard and brown hair?
A. Yes.

Q. He didn't have much hair?
A. No.

Q. And he had a van?
A. Yes.

Q. Was the last time you saw him a couple of months before Jim's death?
A. Yes.

Q. Did Jim like to talk to young people?
A. Yes, he did.

Q. Would he do that in the park?
A. Yes, he approach - like in the beginning when I was fairly young at the time you know like, and when I just met him you know, like the sort of a first conversations we had it's like sort of approaching me with this, so there was sex talk like can I play sport, and I remember I came from the training you know, and like sitting in a park walking my dog, like seeing Jim and after a few words like "You're from the - like sort of thing, so he really liked to talk about the sex and you know, like have this sort of sex approach, but after couple of times when I show him not interest he basically didn't bother me any more you know, but he still like to speak about sex you know.

Q. So do I understand you say when you first met him when you were younger he talked in a way that hinted at, or led to sexual connotation?
A. Yeah it would usually start as a general subject, you know, like, just general things and slowly turning into the actual personal things, like "let me do you a massage" or these sort of things.

Q. After you let him know that you didn't want to be interested in that, he didn't talk that way to you again?
A. Yeah he would joke you know he would make as a joke "next time" but it wasn't this sort of, like a personal approach, pushing something, like that. It would be normally as a joke or just a general, you know.

Q. Would sometimes he borrow money from you?
A. Yes he did.

Q. And would he pay you back on pension day?
A. Yes, that is the quality of him. Even if I am not home he would come and leave the money with members of my family, but it was, like, usually on the day when he was receiving his pension, never late.

Q. Do you tell this Court that the last time you saw him he appeared to be in good health?
A. Yeah, yeah.

Q. You didn't notice any injuries on him?
A. No.

<CROSS-EXAMINATION.

MOLOMBY: Q. Is it correct that you moved into those flats with your family when you were 18?
A. Yes.

Q. And in your evidence you spoke of going to Mr Meek's door the second time and looking down - looking for his car, and it wasn't there?
A. Yes, the car wasn't there.

Q. The car wasn't in its usual place?
A. Yeah the car wasn't in its usual place.

Q. He did have a usual place did he?
A. The thing is that the - in front of the building the parking spots they divided for two parts, in one part only the disabled people can park and on another part it is like normal residence can park and another parking like inside the building, so, he usually park on the disabled spot you know because he was pensioner and have this disable card so he was allowed to park in the disabled spot and when I looked it wasn't parked in the disabled spot. It was parked in the normal - the normal resident spot.

Q. You didn't mean that his car wasn't there?
A. No. He was parked in a different spot than he usually

park, yeah.

Q. You said you went up to look for him the first time on the Monday, about 4.30?
A. Yes.

Q. And you knocked and you didn't hear dogs?
A. No, I didn't hear the dogs.

Q. But you said you tried the security door and it was open?
A. Security door was open, yeah.

Q. When you say it was open, do you mean it was in the closed position but not locked?
A. That is right - that is what I mean.

Q. You don't mean it was sticking out like-?
A. No it wasn't sticking out, it was closed but not locked on the lock.

Q. And so you opened it from that position?
A. Yes I did.

Q. Is that correct?
A. Yes.

Q. Was that to allow you to knock on the wooden door?
A. Yes.

Q. And you said you saw a note on the door - the wooden door?
A. Yeah, the wooden door.

Q. When you first spoke to the police, is it correct you thought that all of that happened on the Tuesday?
A. Yes.

Q. But then you spoke to a friend?
A. Yes.

Q. That you went to a movie with on a Wednesday?
A. Yes.

Q. And you thought well it must have been the Monday?
A. Yes.

Q. Is that because you had a memory of going up two days in a row?
A. That is right.

Q. And if you went to a movie on a Wednesday, that couldn't be one of the days?
A. Yeah.

Q. It had to be one day earlier than -?
A. That is exactly right, yes.

Q. Do you think, despite giving it some careful thought with your friend, do you think in the end it is possible that you are wrong about the Monday and the first time that you went up, the time which you saw the note on the door and the security door was unlocked was actually the Tuesday, not the Monday?
A. Can you repeat question again, sorry?

Q. I won't give you exactly the same question again. I will approach it step by step?
A. All right, okay.

Q. The first time you were asked to remember this you thought it happened on the Tuesday - when you saw the note on the door?
A. Right.

Q. Then you thought about it because of going to the movie with a friend?
A. Yes.

Q. And you thought it was the Monday?
A. Yes.

Q. Do you think maybe you were right the first time and it really was the Tuesday that you saw the note there?
A. No it is impossible because the way I was thinking, right, I saw him next day after the Mardi Gras. Mardi Gras on the first Saturday of the March so I saw him on Sunday, right?.

Q. Yes.

Q. And like, and after that, I remember I been going to his place twice because I finish job at 4 o'clock - I was knocking on his door and we determine exactly that the movie we saw was on Wednesday and that was exact, so, I am to his place twice in the row. It was Monday and Tuesday because I definitely saw him on Sunday so that is how I was determine correct day of knocking to his door.

Q. I understand that - but, do you think it is possible then that you went there on the Monday and you went there on the Tuesday but the day you saw the note was the Tuesday, not the Monday?
A. No because the note I saw first time I went there. The first time I actually knocked his door and the second time - the second time I came the note wasn't there, so, it is basically - I noticed that the note wasn't there - that is actually - I remember that quite clearly and that is why it can't be you know, the note must be Monday I saw the note.

Q. The second time was the security door still unlocked when you went there?
A. Yeah it is the same but the only thing that the note wasn't there, and security door was same locked, I open and I knocked on the wooden door.

Q. The security door the second time was shut but not locked?
A. Yeah.

Q. So you could open it by turning the handle?
A. Yes.

Q. And you did that?
A. Yes.

Q. And opened the security danger and knocked on the wooden door?
A. Yes.

Q. Exactly the same both times?
A. Yes.

Q. On this second time when you opened the security door to knock on the wooden door did you see anything inside the security door between it and the wooden door - I don't mean the note - I am talking about on the ground?
A. Nothing that I notice.

<RE-EXAMINATION.

CROWN PROSECUTOR: Q. What time did the picture or the film start that you saw on Wednesday?
A. The picture is -.

Q. What time did it start?
A. It started 4 o'clock because I remember like - like I remember finishing my shift and rushing straight to the movie because friend of mine was waiting like I can't tell exactly what time it starts but I remember finishing my shift and rushing straight to the movie.

Q. Were you employed at that time as a taxi driver?
A. Yes.

<WITNESS RETIRED AND EXCUSED.

<MATTHEW HOARE (2.40PM)
SWORN AND EXAMINED.

CROWN PROSECUTOR: Q. Sir, would you tell the Court your full name please?
A. Matthew John Hoare.

Q. In 1995 were you a senior account manager?
A. Yes I was.

Q. Were you employed with a company known as Auto Mail Pty Limited?
A. Yes I was.

Q. And was that company a part of the Salmat Group of companies?
A. Yes it was.

Q. And for some of the functions of Auto Mail Pty Limited to facilitate the delivery of correspondence for your clients?
A. Correct.

Q. Might a client request you to prepare and cause the delivery of any correspondence they wish to forward to their customers?
A. Yes.

Q. And in accordance with those instructions would Auto Mail prepare correspondence, ensure that the same is sealed in a sealed envelope and delivered to the respective customer via Australia Post?
A. Correct.

Q. Does Australia Post take responsibility for the delivery through the mail, normal mailing channels, of your client's correspondence?
A. Yes providing lodgment office matched what the - yes.

HIS HONOUR: Q. Would you turn around just a little bit please towards that microphone. Pull it closer to you if you need to and get closer to it and we will all hear?
A. Providing lodgment dockets matched the figures that were processed, yes, Australia Post would take responsibility. Then again, if the figures didn't match, Australia Post would not lodge it so it hasn't been mailed, yes.

Q. Provided all the paperwork matched up everything was fine?
A. Correct.

Q. On the 2nd of March 1995 do your company records indicate that Daewoo Australia authorised the distribution of correspondence through Auto Mail relative to the recall of motor vehicles in respect of a defect service?
A. Yes they did.

Q. Included in that mail was a request made via the Daewoo Australia company data base at St Leonards?
A. Daewoo were actually based at Chullora at this time.

Q. What company was based at St Leonards?
A. The company based at St Leonards is another division of Auto Mail or Salmat Group of companies called Salmat Computer Services.

Q. After the request for information regarding Daewoo's clients, what happens?
A. Some information is extracted from a Daewoo piece of information that is sent to Computer Services and the data is tidied up with correct names and addresses and so forth and then it is mailed or processed to be mailed.

Q. After the letters have been prepared are the finished letters folded and placed in sealed envelopes by mechanical means?

A. Yes they are. There is at no point in time hand transition other than loading the blank paper in the machines and the blank envelopes on to the machine as well. The machine physically folds, collates and inserts them into the envelopes at the push of a button.

Q. Was that conducted on the 2nd of March, 1995 in response to a request from Daewoo?
A. Yes it was.

Q. Were those letters prepared - indeed 2,717 letters prepared placed in sealed envelopes and then taken to Leightonfield Mail exchange for delivery?
A. Yes they were processed by mechanical means inserting them into envelopes and then they were lodged at - well - they are lodged at Chester Hill where Auto Mail is and further lodged at Leightonfield Auto Mail Centre.

Q. Who picks them up from Auto Mail?
A. Australia Post have an inbuilt office within Auto Mail which is not for public use, but for private use only.

Q. So Auto Mail have its own post office?
A. Australia Post have its own post office but it is located on Auto Mail premises.

Q. For Auto Mail?
A. Yes.

Q. Are you able to tell the Court that such a posting was completed so far as Auto Mail was concerned on the 2nd of March 1995?
A. The postal agreement or the contracted job with Daewoo was completed fully, yes.

Q. Do you know when that mail actually was taken from Auto Mail?
A. It was lodged on the same day. It is what we call a same day job because its numbers in the contract are very small. It would have been processed and done all the on the one day and it was the 2nd March 1995.

Q. I show you this mfi 4, I would like you to disregard any handwritten material on that and also the purple discolouration, but putting those matters aside, are you able to say anything about that document?
A. Other than it is the document that was processed by -.

Q. By Auto Mail?
A. Correct.

Q. So it is a document processed by Auto Mail processing when?
A. It appears to be the document, yes and it has no physical date on it but I can see -.

Q. It appears to be what?
A. It appears to be the document that Daewoo processed but

there is no physical date that I can see on this document.

Q. Are you familiar with the document that was processed on behalf of Daewoo on the 2nd of March 1995?
A. Could you repeat that question again please?

Q. Are you familiar with the document that was processed by Auto Mail on behalf of Daewoo on the 2nd of March 1995?
A. Not in exact words. I don't know if you are aware but - I was responsible for several of these letters there and there was probably about five hundred in one week, so, I know of the letter that was a recall letter, yes, but if this was an exact recall letter I would not be able to tell you that, but it appears to be. If I could just have - like two seconds I would quickly have another read for through it and I can told you whether it is the precise letter.

Q. Yes, please do that?
A. (Perused document). It appears to be because it mentions the anchorage.

EXHIBIT #N ABOVE MENTIONED LETTER FORMERLY MFI 4 TENDERED, ADMITTED WITHOUT OBJECTION.

CROWN PROSECUTOR: I just ask your Honour to draw not jury's attention the dangers of touching the document with the Ninhydrin on it as it is allegedly cars no general anything and it also burns your eyes if you get it in your eyes will.

<NO CROSS-EXAMINATION.

<WITNESS RETIRED AND EXCUSED.

<WAYNE CLIFF DAUBNEY (3.05PM)
SWORN AND EXAMINED.

CROWN PROSECUTOR: Q. Would you tell the Court your full name?
A. My name is Wayne Cliff Daubney.

Q. Did you make a statement on the 23rd of March 1995?
A. Yes I did.

Q. Mr Daubney, at that time, because we are only interested up until March of 1995?
A. Um-hm.

Q. At that time were you living in the Surry Hills area?
A. Yes I was.

Q. Were you in receipt of a Commonwealth Government disability pension?
A. Yes.

Q. On the evening of 8 March 1995 did you see Mr Robert Garratt, the security guard, for the Northcott Apartments?
A. Yes I did.

Q. Did he come to your unit and inform you that Jim Meek was dead?
A. Yes he did.

Q. Had you known Jim Meek for some time at that stage?
A. At that stage about six months.

Q. Were you aware that Jim lived in B Block on the 12th floor?
A. Yes.

Q. And were you also aware that Jim lived alone and was in receipt of a disability pension?
A. Yes.

Q. Would you class Jim Meek as an acquaintance?
A. Yes I would.

Q. Had you visited Jim's apartment maybe once or twice a month over the period of time that you had known him?
A. Yes.

Q. And do you describe your relationship with Mr Meek as purely platonic?
A. Yes.

Q. Did you meet him through the Northcott Community Centre?
A. Yes I did.

Q. Would you see Jim almost every day, sometimes more than twice a day in Eddy Ward Park which is near the Northcott Apartments?
A. Yes.

Q. Is the earliest time that you had seen Jim in the park at 5am in the morning?
A. Yes.

Q. And is the latest that you have seen him there midnight?
A. About that, yes.

CROWN PROSECUTOR: Q. And did he own one and possibly two small dogs?
A. Yes.

Q. Would Jim use the park to exercise his dogs?
A. Yes.

Q. Are you aware that Jim would use the park in order to meet males?
A. Yes.

Q. Are you also aware that Jim preferred younger men?
A. Yes, I was aware of that.

Q. As far as you knew was Jim not in any steady sexual relationship with anybody?
A. Yes, he wasn't in any relationship.

Q. Would you describe him as a loner?
A. Yes, I would.

Q. And was he a busy body wanting to know everybody's business in Northcott?
A. Definitely.

Q. Was the last time that you saw Jim alive in the afternoon of Monday 6 March 1995 at about 4 pm?
A. I think so.

Q. Was he in Ward Park with his dog and alone otherwise?
A. Yes.

Q. Before that had you seen Jim at the luncheon club store at a party after the gay Mardi Gras on Sunday 5 March 1995 at about 3.30 am?
A. Yes.

Q. And was he not in company of any male person at that time?
A. He was alone.

Q. Did you know a man by the name of Michael Lyons who was a friend of Jim's?
A. Yes.

Q. Did he live in D block?
A. Michael Lyons lived in A block.

Q. Was his name Lyons or Lawrence?
A. Lawrence, sorry, yes, that's right.

Q. Do you recall any jewellery that Jim used to wear?
A. The only jewellery I was aware of is I saw a wrist watch. I can't remember if he wore any ring.

Q. Do you know whether or not he had a wedding ring?
A. Not that I noticed.

<CROSS-EXAMINATION

MOLOMBY: Q. Do you remember seeing a silver wrist watch he used to wear on his left wrist - didn't he?
A. Yes.

<NO RE-EXAMINATION

<WITNESS RETIRED AND EXCUSED

<NEIL ANDREW WALKER (3.13PM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Officer, would you tell the court your full name, rank and station, please?
A. Neil Andrew Walker. I am a Detective Senior Constable of Police at Surry Hills Police Station.

Q. Detective, did you make a statement on 20 September 1995 setting out portions of your involvement in the investigation of the matter now before this Court?
A. I did.

Q. And do you have a copy of that statement with you?
A. I don't, no.

Q. I am just showing you this document (shown). Is that a copy of the statement that you made on 20 September 1995?
A. It's a copy of my statement that I would have started in September, it's 20/9/1995. It's a statement that I would have started on 20 September 1995, but it was actually finished after the arrest of the accused.

(Crown Prosecutor indicated that Mr Molomby had no objection to the witness reading his statement onto the record.)

Q. Officer, that lady has to take down every word that you say and the jury have to be able to take in every word you say and understand it, so would you speak in a loud tone of voice, close to that microphone and read at a very regular and slow pace, would you begin, please, reading from the paragraph that you have numbered 3 and omitting the first two formal paragraphs of that document?
A. About 10 am on Saturday the 11 March 1995 I would a telephone conversation with Detective Senior Constable Van Leeuwen of the Crime Scene Unit. With plainclothes Senior Constable Hardy I then attended the Glebe Morgue and spoke with Dr Christopher Lawrence and Detective Van Leeuwen in relation to a post mortem being carried out on the body of James William Meek. Detective Hardy and I then returned to the Surry Hills Police Station and made certain inquiries.

About 1 pm that afternoon I spoke with Detective Sergeant Kassis and Detective Van Leeuwen. Then with Detective Kassis, we spoke with Karen and Greg Franks and Wendy Griffin in relation to the death of James William Meek. Later that afternoon with these people, Detectives Kassis,

Hardy and Detective Senior Constable Ford from the Crime Scene Unit, I went to unit [redacted], level 12, [redacted] block of the Northcott Flats, Belvoir Street, Surry Hills. We were met at the unit by Detective Senior Constable Brown of the Fingerprint Section. Whilst at the deceased's unit; Detectives Brown and Ford made examinations of the unit.

At the Northcott Flats, with Detective Kassis, we spoke to residents Michael Lawrence and Brian Kane, and security guard Robert Garratt. I then returned to the Surry Hills Police Station with Mr Garratt and spoke further with him. Later that night I spoke further with Brian Kane.

On 12 March 1995, with Detective Hardy, we went to Mount Druitt Police Station and spoke with Wendy Griffin and Karen and Greg Franks. Whilst at the Mount Druitt Police Station the deceased's motor-vehicle, a maroon 1995 Daewoo sedan registered number TMT-943 was examined by Detective Senior Constable Glynn of the Fingerprint Section. I then made an inspection of the vehicle.

On Monday 13 March 1995 Robert Garratt, security guard for the Northcott Flats, attended the Surry Hills Police Station and I took him to the FACE Imaging Unit, Physical Evidence Section, where he spoke with Detective Sergeant Redmond and compiled a FACE.

On Tuesday 14 March 1995 with Detective Sergeant Tanos and Detectives Van Der Graaf, Hardy and Callanan, I went to unit [redacted], level 12, Block [redacted] of the Northcott Flats, Belvoir Street, Surry Hills. There we spoke to Karen Franks and Wendy and Alan Griffin. We then undertook a systematic search of the interior of the unit. A number of items of property were located and taken into police custody for further inquiries. Those items were conveyed to and stored at the Surry Hills Police Station.

On Wednesday 29 March 1995, with Detective Tanos, we spoke to Wendy Griffin and Karen Franks at the Surry Hills Police Station. Wendy Griffin was shown a number of photographs and she told us something about a letter photographed on a table inside the deceased's unit at [redacted] Northcott Flats, Belvoir Street, Surry Hills.

About 3 pm that afternoon, with Detective Tanos, I went to [redacted] Northcott Flats, Belvoir Street, Surry Hills, where I saw Wendy Griffin searching through a large garage bag on the lounge/dining-room floor outside the bedroom. After a short time I saw Wendy Griffin remove a letter from the bag and she told us something. The letter was on "Daewoo Automotive Australia Pty Limited" letterhead and addressed to James Meek. I also noticed that there were doodling patterns on both sides of the letter. I recognized this letter as being the same one as depicted in the photograph shown to Wendy Griffin earlier that day. Detective Tanos then took possession of the letter and we returned to the Surry Hills Police Station where the letter was secured.

On Wednesday 5 April 1995 I again spoke with Robert Garratt and obtained a further statement from him, clarifying points raised in his initial statement to the police.

On Monday 8 May 1995 I had a telephone conversation with Detective Senior Constable Eyres of the Major Crime Unit, Fingerprint Section, Parramatta, who told me certain things in relation to the letter from Daewoo Automotive Australia Pty Limited located at the deceased's unit on Wednesday 29 March 1995. I then relayed this information to Detective Sergeant Tanos.

Q. Now, officer, on Thursday 22 June 1995 did you have a telephone conversation with Detective Constable First Class Sidgreaves?
A. That's correct.

Q. Would you continue at least from there?
A. On Thursday the 22 June 1995 I had a telephone conversation with Detective Constable First Class Sidgreaves. I then made a number of inquiries. As a result of my conversation with Detective Sidgreaves and subsequent inquiries Detective Senior Constable Callanan and I went to King's Loan Office 142 Merrylands Road, Merrylands. There I spoke with Ian Puddicombe and examined his purchase book and pawn receipts. I then took possession of a man's gold dress ring set with a brown coloured stone sold to King's Loan Office on 7 March 1995 by a Roger Cochran, purchase book reference 5-136.

I then conveyed the ring to Surry Hills police station and secured it in the safe within the detectives' office.

On Tuesday 11 July 1995 with Detective Tanos we spoke to Brian Kane at the Surry Hills police station. Brian Kane was then shown a video recording containing the photographs of a number of male persons, the cassette having been marked TF Fireweed. Brian Kane then told us something in relation to the male person depicted in photograph number 5 of the video. The accused Michael Alan Heatley is the male person depicted in photograph number 5 of that video. I then saw Brian Kane initial and date the spine of that video cassette.

Later that morning with Detective Senior Constable Tonnet I went to [redacted] Crosslands Street Merrylands and spoke with Roger Griffiths, alias Roger Cochrane, in relation to the men's dress ring sold to King's Loan Office. Roger Cochrane was then taken to Merrylands police station where I obtained a statement from him.

On Wednesday 12 July 1995 with Detective Tanos we spoke with Wendy Griffin and Karen Franks. I then obtained a statement from Wendy Griffin in relation to recovering the letter sent to James Meek by Daewoo Automotive Australia Pty Limited.

On Wednesday 2 August 1995 with Plain Clothes Senior Constable Morige I went to King's Loan Office 142 Merrylands Road Merrylands where we spoke with Ian Puddicombe and he was shown a video recording containing the photographs of a number of male persons, The video having been marked TF Fireweed.

Ian Puddicombe told us something in relation to the male person depicted in photograph number 5 of the video. The accused Michael Alan Heatley is the male person depicted in photograph number 5 of that video. I then saw Ian Puddicombe initial and date the spine of that video cassette. I then obtained a statement from Ian Puddicombe.

On Thursday 14 September 1995 with Detective Tanos we spoke with Peter Sharp at the Surry Hills police station. Peter Sharp was then shown a video recording containing the photographs of a number of male persons, the video cassette having been marked TF Fireweed. Peter Sharp then told us something in relation to the male person depicted in photograph number 5 of the video. The accused Michael Alan Heatley is the male person depicted in photograph number 5 of the video. I then saw Peter Sharp initial and date the spine of that video cassette.

On Tuesday 19 September 1995 with Detective Tanos we spoke with Robert Garratt at the Surry Hills police. Robert Garratt was then shown a video recording containing the photographs of a number of male persons, the video cassette having been marked TF Fireweed. Robert Garratt then told us something in relation to the male person depicted in

photograph number 5 of the video. The accused Michael Alan Heatley is the male person depicted in photograph number 5 of the video. I then saw Robert Garratt sign and date the spine of that video cassette. Robert Garratt was also shown a gold men's dress ring recovered from King's Loan Office Merrylands on 22 June 1995. He then told us something about that ring. I then obtained a statement from Robert Garratt.

On Monday 25 September 1995 with Detective Tanos we spoke to George Jorgerua at the Surry Hills police station. I then obtained a statement from him in relation to the sighting of the deceased James William Meek.

About 6.45am on Thursday 28 September 1995 with Detectives Tanos, Cooper and Woolley I went to [redacted] Street East Davenport. There I saw the accused Michael Alan Heatley in the hallway of those premises. Detective Cooper said to the defendant, "This is Detective Tanos and Detective Walker from New South Wales." The accused said, "Yeah I know them, anyway him." Indicating Detective Tanos.

HIS HONOUR: Q. Anyway?
A. "Him", indicating Detective Tanos.

Detective Cooper said, "You are under arrest for the murder of James William Meek in New South Wales. You are not obliged to answer any questions or make any statements unless you wish to. Anything you say will be recorded and may later be used in evidence, do you understand that?" The accused said, "Yeah. This is bullshit, I'm not going anywhere with you." Detective Cooper said, "This is not bullshit, you're coming with us and do you want to put any clothes on?" The accused said, "No, I'm right, just let me put my shoes on.

CROWN PROSECUTOR: Q. If I could interrupt you there. Is it your knowledge that Detective Sergeant Tanos had previously spoken with this accused in June of 1995?
A. That's correct.

Q. Was he then taken to the Devonport police station and charged with the murder of James William Meek by virtue of a first instance warrant?
A. That's correct.

Q. Did he later appear at the Devonport magistrate's court?
A. That's correct.

Q. Continue please, paragraph 24?
A. On Friday 29 September 1995 the accused was extradited to New South Wales and conveyed to the Sydney police station where he was charged. Detectives Tanos, Morige, and myself then took the defendant to the Clinical Forensic Medical Unit, level 4, Sydney police station, where Detective Tanos spoke with Dr Stewart Anderson. Detective Tanos said to the accused, "We're going to take blood from you, we can take it with or without your consent, do you understand that?" The accused said, "Yes, I know I have to." Dr Anderson then

completed a consent form and I saw the accused sign and date - sign the consent form. Detective Tanos then signed the consent form.

Dr Anderson then extracted a quantity of blood from the accused's arm and sealed it in a phial. Detective Tanos then took custody of that blood sample.

Q. Did you make a statement on 16 November 1998?
A. Yes I did.

Q. I show you this.
A. I have a copy of that statement.

CROWN PROSECUTOR: I would ask that this officer be allowed to read from that statement your Honour, my learned friend has no objection.

HIS HONOUR: Yes, very well.

CROWN PROSECUTOR: Q. Officer employing the same method, perhaps speaking just a little louder, would you please read from this statement and you can slow it down just a fraction, beginning at paragraph numbered 3?
A. About 10.45am on Wednesday 11 November 1998 with Detective Sergeant Tanos I went to the John Northcotte flats Belvoir Street Surry Hills. There we took the lift to the 12th floor of [redacted] block and walked to the outside - sorry, and walked to outside the door of unit number [redacted].

About 10.53am with Detective Tanos I commenced a stop-watch timed journey from outside [redacted]. We walked east from [redacted] along a walkway towards [redacted] block to the fire escape stairs. We took the stairs down to the 11th floor, then a lift to the ground floor. We then walked around the back of [redacted] block, through the carpark, and between unit blocks in Clisdell Street. We then walked north along Clisdell Street and then west into Devonshire Street to the southern entrance of Central Railway, and proceeded to flat form 19.

The elapsed duration of this journey since leaving [redacted] Northcotte flats Surry Hills was 9 minutes 45 seconds.

Detective Tanos and I waited for the next train to Merrylands to arrive and boarded that train departing for Merrylands. The elapsed time since leaving [redacted] Northcotte flats Surry Hills was 18 minutes 55 seconds.

The train we boarded was a Campbelltown via Granville service which stopped Redfern, Ashfield, Burwood, Strathfield, Lidcombe, Granville and then Merrylands. We alighted from the train at Merrylands. The elapsed time since leaving [redacted] Northcotte flats Surry Hills was 48 minutes.

Detective Tanos and I then walked from Merrylands

railway station to [redacted] Crosslands Avenue Merrylands. We walked along Merrylands Road east towards Granville Park, then diagonally through Granville park to Woodville Road and along to Park Road. Turning left into Park Road we then walked to and turned right into Excelsior Street. We then walked along Excelsior Street to, and then turned left into Crosslands Avenue. We walked down Crosslands Avenue and stopped opposite [redacted] Crosslands Avenue Merrylands. The elapsed time since leaving [redacted] Northcotte flats Surry Hills was 69 minutes 40 seconds.

After noting the--

HIS HONOUR: Q. Did you say 69?
A. 69 minutes 40 seconds.

After noting the elapsed time Detective Tanos and I turned around and walked back to Merrylands railway station via the same route we had just walked. When we returned to Merrylands railway station we walked over the railway pedestrian bridge to Terminal Place and Merrylands Road West, and to outside the premises where the Billabong Hotel operated in March 1995. The elapsed time since leaving [redacted] Northcotte flats Surry Hills was 93 minutes 20 seconds.

I noted from that position I was standing at the entrance to the premises where the Billabong Hotel operated King's Loan Office was opposite - was on the opposite side of Merrylands Road slightly to my left. After completing the timing of this journey Detective Tanos and I returned to Surry Hills police station.

During the journey from [redacted] Northcotte flats, Belvoir Street Surry Hills to Crosslands Avenue Merrylands, then to the premises in Merrylands Road Merrylands where the Billabong Hotel operated, I made notes in my official notebook of the time elapsed and routes taken to complete the journey.

CROWN PROSECUTOR: Q. I show you this, what appears to be a photocopy of a portion of a street map (given to witness), and I also give you a red pen (given to witness). Can you indicate on that map the position of the King's Loan Office and the Billabong Hotel please?
A. Mark the position of the Billabong Hotel with a cross?

Q. Yes.
A. A red cross, and King's Loan Office with a red dot.

Q. Big enough red dot for everyone to see I take it?
A. Yes. Actually the cross is contained with - there's a symbol of a telephone on the corner of Pitt and Merrylands Road.

Q. If I could see that please?

Q. So the hotel is where the telephone is and the red dot is the King's Loan Office?
A. That is correct.

EXHIBIT #O COPY PAGE FROM STREET DIRECTORY TENDERED, ADMITTED WITHOUT OBJECTION.

HIS HONOUR: That cross ought to be a line.

CROWN PROSECUTOR: Q. Make the cross more of a cross, please, detective?
A. (Complied).
See the two positions are marked, one with a cross.

Q. Detective, I show you these two documents. One is a laminated enlargement of a street directory and one is a smaller non laminated one, and I will give you the red pen. Now, it is probably easier for you to mark on the non laminated plan because those red pens don't work very well on the laminated one. Would you be able to indicate the route taken by yourself and Detective Sergeant Tanos as you have just outlined to the Court when you specifically walked that route for the purpose of timing it from Jim Meek's flat?
A. I will mark basically the plan of the Northcott - I will mark the area in red the layout of the Northcott flats as I know it and there is a number of unit blocks in Clisdell Street as well I also marked with letters A, B, C and D which indicates the blocks at Northcott flats.

Q. And you have marked the with red as you walk down the station?
A. That is correct.

HIS HONOUR: That is the route taken from Northcott flats to sentence to-.

CROWN PROSECUTOR: Central Railway.

EXHIBIT #P ABOVE MENTIONED NON LAMINATED COPY STREET DIRECTORY TENDERED, ADMITTED WITHOUT OBJECTION.

Q. Could this witness be shown Ex. B and then I will ask that he be shown Ex. D and Ex. N (Ex. B shown). Detective, are you able to say anything about Ex. B?
A. That is the mens gold dress ring with the brown stone that I recovered from King's Loan Office.

Q. On the 22nd of June 1995?
A. That is correct. That had been pawned by Roger Cochrane on the 7th of March.

Q. (Ex. D shown) Are you able to say anything about that?
A. It is a photocopy of second hand dealer's register that indicates there is an asterisk that entry I have 5 - 136 made on 7 March 1995, at 1.30pm. He purchased a - looks like 9/L or 9/ C yellow ST, GTS ring 6.5 grams.

Q. There is a cave price there?
A. Initial and some sort of price and the column marked column 5 it was sold by Roger Cochrane [redacted] Crossland Street, Merrylands.

Q. Is that the photocopy document or photocopy of the document that you saw and took into your possession at the King's Loan Office?
A. That is correct.

Q. Could the witness be shown Ex. F please (shown). The document with the purple colouring on it?
A. That is correct.

Q. Is that - what?
A. That is the Daewoo Automotive Australia Pty Limited letter that was sent to Jim Meek that was recovered. I can't recall the date but it was taken from Wendy Griffiths back in March, 1995.

Q. You were present when that person retrieved that from a plastic bag outside the bedroom of the deceased in his bedroom is that correct?
A. That is correct.

Q. I show you this item, marked for identification 2, do you recognise that?
A. Yes, that is the videotape that contains the photos of a number of male persons, including that of the accused which is number five on the video marked "T F Fireweed" and it has been signed on the spine by three people.

Q. And you have given evidence as to whom it was signed - that spine - and the occasions upon which it was signed?
A. That is correct.

HIS HONOUR: Q. Three persons?
A. Three persons, that is correct.

CROWN PROSECUTOR: Q. Was Mr Puddicombe?
A. Puddicombe, Mr Garratt and Mr Kane, I think.

TENDERED. OBJECTION. TENDER DEFERRED.

Q. I show you this document (shown) now, do you know anything of the history of that document photocopy which you have?
A. It is a copy of the Campbelltown via Liverpool line timetable that commenced on 5 February 1995, copy of the timetable that Detective Sergeant Tanos obtained.

MFI #8 TRAIN TIMETABLE

<WITNESS STOOD DOWN

ADJOURNED TO TUESDAY 23 NOVEMBER 1998 AT 10AM.

FL:CAT:5 D7

33

THE SUPREME COURT
OF NEW SOUTH WALES
CRIMINAL DIVISION

IRELAND J
AND A JURY OF ELEVEN

SEVENTH DAY: TUESDAY 24 NOVEMBER 1998

96/91/0034 - REGINA v MICHAEL ALAN HEATLEY

IN THE ABSENCE OF THE JURY

THE FOLLOWING ERRATA WAS NOTED

1. Page 298 line 17, change "niggardly" to "nuggety".
2. Page 300 line 41 change "up" to "you" change "bits" to "beats" and insert "was" after "he".
3. Page 301 line 42 change "bid" to "beat".
4. Page 302 line 2 change "bid" to "beat".
5. Page 313 line 27 change "local" to "whole".
6. Page 314 line 6 change "within" between "probably" and "about".
7. Page 322 line 6 change "hadn't" to "haven't".
8. Page 324 line 22 change "affidavit" to "evidence".
9. Page 325 line 44 change "cliche" to "clique".
10. Page 330 line 40 delete "part of" insert "paragraph".

(Discussion re admissibility of videotape labeled "TF FIREWEED" containing the photos of a number of male persons including that of the accused.)

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80311-29384

SG:CAT:4

(Tape shown)

(Further submissions)

HIS HONOUR: Yes I think on balance Mr Crown I should reject the video and I do so.

SG:CAT:4

IN THE PRESENCE OF THE JURY

NEIL ANDREW WALKER (10.36AM)
ON FORMER OATH

<CROSS-EXAMINATION

HIS HONOUR: Q. You appreciate Mr Walker you are bound by the oath you took yesterday to tell the truth?
A. Yes.

MOLOMBY: Q. Mr Walker you still have your statement there do you?
A. I don't.

Q. If you need to refer to it would you say so. I think you probably won't need to. You gave some evidence that on Thursday 22 June 1995 you had a phone conversation with Constable Sidgreaves?
A. Sidgreaves.

Q. And as a result of that you went out to Merrylands to the pawn shop of Mr Puddicombe, do you remember that?
A. That's correct.

Q. At the time that he spoke to you it was your understanding Constable Sidgreaves was in Tasmania?
A. That's correct.

Q. He and Sergeant Tanos had gone to Tasmania I think the day before?
A. Either the day before or a couple of days before, yes.

Q. And what Mr Sidgreaves told you on that occasion was that they interviewed Mr Heatley?
A. That's correct.

Q. And during the course of the interview he told them he had stolen the ring from Mr Meek's place?
A. That's correct.

Q. And that he pawned it at the shop at Merrylands?
A. That's correct.

Q. He had given them the details of the shop?
A. Yes.

Q. And Sidgreaves was asking you to take these details and go to the shop and check that out?
A. Yes, confirm that information.

Q. And if it was true, get a copy of the relevant records and get the ring back?
A. That's correct.

Q. Now tell me if Sergeant Tanos might be better informed about this matter than you, but is it correct that at some stage during the course of enquiries a press release was put

out about Mr Meek having been murdered?
A. I am sure there would have been one yes.

Q. Is that something you directly took part in or is it more likely to be Sergeant Tanos?
A. It would normally be the Officer-in-charge of the investigation that would direct such an action to take place but I may have been a party to the release of the information but possibly just indirectly.

Q. And the officer in charge in this case is Mr Tanos?
A. That's correct.

Q. You went to the unit in the Northcott flats first on Saturday 11 March 1995 didn't you?
A. That's correct.

Q. And it was your understanding that Mr Meek's daughters by that stage had done a certain amount of tidying up and packing up of things in the flat?
A. They had been there, yes, and done some but not a great deal. They had basically been there to have a look at the unit themselves.

Q. But they packed some clothes in a big plastic garbage bag and that sort?
A. I don't know that they had gone to the stage of packing everything up but they had started packing some things.

Q. And there was no telephone answering machine in Mr Meek's flat at all was there?
A. I don't honestly recall at this point in time.

Q. A merchandise that people could leave a message on?
A. I understand that, to be honest I don't recall.

Q. Again, please say if Sergeant Tanos would be the more appropriate person, but it is correct that as part of inquiries an inventory was made of the property found in the flat?
A. No, the property found in the flat, there would have been an inventory made of any items in the flat that we took possession of. I am as you can be well aware Mr Meek had lived there for some time and accumulated a vast amount of property. It would have be a fairly arduous task to individually itemise each item. For our own records we only took what we believed was relevant to our investigation and anything else was left with the relatives.

Q. You don't recall an answering machine being there?
A. No I don't recall. There may have been one there but, there certainly may have at this point in time.

Q. As a matter of investigative procedure, if there had been one there, you or one of the other officers on the investigation would inevitably have checked it and played through anything recorded on it?
A. That's correct, we would have.

Q. And if there had been anything that mattered on that it would have been documented?
A. That's correct and investigated.

Q. Indeed, at least the cassette in such a machine would have been taken possession of by the police wouldn't it?
A. If there was one there, yes.

Q. If I am asking you that--?
A. I believe it would have been, yes.

Q. Did you take any part in getting a statement from a woman who took part in running a shop nearby called Mrs Sanpedro, a Philippino woman?
A. I probably may have been the typist of that statement.

Q. Do you have some recollection of her being interviewed?
A. Yes I do.

Q. Was there an interpreter present for the purpose of taking the statement from her?
A. As far as I am aware I think her daughter interpreted for us.

Q. Would that be recorded somewhere if an interpreter is used for the purposes of taking a statement, is that recorded somewhere?
A. If it is through the Government Interpreter Service, yes, there would be an itemised account for which the Surry Hills police would be liable for.

Q. That is if you got an interpreter from Ethnic Affairs?
A. That's correct.

Q. And that is billed to the police and is an account payable?
A. That's correct.

Q. If someone other than an interpreter from Ethnic Affairs is used, is it the practice to record the fact that a statement has been taken through an interpreter in the statement or somewhere else associated with the case?
A. Possibly and maybe even just a notation in a duty book entry for the police officer concerned just indicating that someone other than a recognised interpreter from the Ethnic Affairs had interpreted the statement for you.

Q. You have given some evidence about a train ride and walk that you and Sgt Tanos recently made to Merrylands?
A. That's correct.

Q. Indeed, out to Mr Coughlin's address ultimately?
A. That's correct.

Q. I don't think you have said in your evidence what sort of walk it was, that is how fast you were walking on that, on the walking part of that trip?
A. Well I walked at my normal walking pace which is I would

say an average walking pace.

Q. All of these terms are subjective of course but would you describe that as a business like walk or a leisurely walk?
A. I would describe it as if I was on my own and I was walking to a destination that I had to get to in no particular time but at a comfortable pace with myself, that was the pace I walked. This is certainly not physical exertion above what I normally walked at, a nice easy walking pace.

<RE-EXAMINATION

CROWN PROSECUTOR: Q. Officer, you were asked some questions by my learned friend in relation to whether or not the use of an interpreter when taking a statement from somebody is recorded - you remember that question?
A. I do.

Q. Is the taking of a statement from a witness or prospective witness treated any differently by way of recording all of the surrounding detail such as presence of persons in rooms and presence of interpreter and not than the taking of a statement from a suspected person or some person who may become an interest to the police?
A. Well there is a significant difference in that where there is some suspicion placed on the person that statement is normally taken by electronic means, taped and the interpretation is then made by a recognised interpreter from the Ethnic Affairs Commission where if it is a witness and at short notice when there is no one available from the Ethnic Affairs, if another member of the service or a member of the community can adequately interpret the statement then they are used.

Q. As an investigator rightly or wrongly do you place any importance on the recording of whether or not there was an interpreter to assist you in taking a statement?
A. In this specific instance I would say probably didn't take much notice of who interpreted or no notes taken - who interpreted the statement from Mrs San Pedro other than I know that in speaking with her I had spoken to her daughter Mrs Loyola previously and I am almost certain that she was present when we took the statement from her and it was her that interpreted the statement for us. Whilst Mrs San Pedro does speak some English, it is broken but she can get her point across, it is more us asking questions that she doesn't understand that has to be interpreted for her, if I can recall.

<WITNESS RETIRED AND EXCUSED.

< NP219 (10.50AM)
SWORN AND EXAMINED.

CROWN PROSECUTOR: Q. Would you tell the Court please your full name?
A. NP219.

Q. Did you make a statement on the 28th of March 1995 concerning the matter now before this Court?
A. I did.

Q. As at March of 1995 had you resided for five years or almost five years at the Northcott flats in Surry Hills?
A. I did.

Q. Had you lived by yourself all through that time?
A. Yes.

Q. Had you changed your name by deed pole to NP219 NP219 from [redacted]?
A. Yes I did.

Q. And did you do that in 1993?
A. Yes.

Q. Did you know a man as Jimmy Meek?
A. Yes I did.

Q. Did he move in to the Northcott flats approximately three years before March of 1995?
A. Yes.

Q. And did you first meet him in the park next to the flats?
A. Yes I did.

Q. Did you meet by him asking you for a cigarette which you provided for him?
A. Yes.

Q. And did he inform you that he is homosexual?
A. Yes.

Q. [redacted]
A. Yes.

Q. Did that conversation then end?
A. Yes.

Q. Did you have some business to conduct at the bank and go off and do that?
A. Yes I did.

Q. Did Jim Meek invite you back to his place for a cup of coffee when you got back?
A. Yes, if I wanted to.

Q. Now after you returned from the bank did you go to his flat and see that he had little furniture?
A. Yes I did.

Q. And was there a person by the name of Bob in his flat?
A. Yes a big fella.

Q. A big fella?
A. Yeah.

Q. Did he come from the Mt Druitt area?
A. That is what I was told, yes.

Q. Did you go to your flat after a short time and find some items of furniture and give them and some other items to Jim?
A. Yes.

Q. Did you see some months later a dog was dumped in the

grounds of Ward Park. You retrieved it, and asked him did he want it. He wanted it so you gave it to him?
A. Yes, that is correct.

Q. Over the next couple of months would you see a fair bit of Jim Meek as you would walk your dog, in similar places to him walking his dog?
A. Yes.

Q. And would you also have coffee together on some mornings?
A. Yes some mornings, yes.

Q. And during that time would Mr Meek brag to you about his sex life and the boys he used to be with?
A. Yes.

Q. In about October or November of 1991 did you go to Melbourne for three days?
A. Yes I did.

Q. Had you asked Jim Meek to look after your dog?
A. Yes and he didn't do so.

Q. When you came back were you upset with him over that?
A. Yes I was.

Q. And did you have an altercation with him?
A. Yes.

Q. Over that?
A. (Nods).

Q. And indeed, did your friendly relationship take a down turn after that?
A. Yes it did.

Q. In 1993 did Jim draw to your attention that he thought your dog was dead?
A. No, he knew my doing was dead because he run over it.

HIS HONOUR: Q. Would you say that again?
A. He knew my dog was dead because he run over it.

CROWN PROSECUTOR: Q. Is that what you know or is that what you believe?
A. That is what I believe.

Q. And did your relationship take a further down turn after that time?
A. Yes.

Q. Did you have little to do with Jim Meek after that time?
A. Yes, virtually nothing.

Q. Do you tell this Court that the last time you saw Jim was the Tuesday after the Mardi Gras?
A. That is right, yes.

Q. In 1995?
A. Yeah.

Q. Can you recall when it was that you saw him?
A. Yeah, between half past eleven and midday.

Q. Where did you see him?
A. Outside the window of my unit, in the park.

Q. What was he doing in the park?
A. Talking to some people and watching his dog run around.

Q. How many dogs did he have on that occasion?
A. Two.

Q. When did you learn that James Meek was dead?
A. After the Salvation Army lady told me on the Thursday.

Q. How is it that you can fix the time when you saw Jim Meek on that day.

HIS HONOUR: The Thursday or the Tuesday.

CROWN PROSECUTOR: Q. On the Tuesday?
A. Because I was going out to the club.

Q. And were you due at the club at a certain time or anything like that?
A. I was going for lunch.

Q. Did you make a note of the time?
A. Yes.

Q. You say it was between 11.30 and 12 midday?
A. That is right.

Q. What did you note the time as?
A. In between 11.30 and midday - because that is the time I left to go out.

Q. And how do you know that?
A. What do you mean?

Q. How do you know it was between 11.30 and midday?
A. Because I had to meet somebody at the club at midday.

Q. What club is that?
A. The taxi club.

Q. And how far away is that from your unit?
A. About half hour walk.

Q. And did you get there by 12 midday?
A. No.

Q. When did you get there?
A. Quarter past.

<CROSS-EXAMINATION.

MOLOMBY: Q. NP219, you were asked about an altercation you had with Mr Meek because he didn't take proper care of your dog when you were away in Melbourne?
A. He didn't take care of it at all.

Q. He didn't do anything at all?
A. No, just locked it in. That was it.

Q. And you were away for some three days, is that right?
A. That is right.

Q. So you were fuming when you got back and discovered that nothing had happened?
A. Yes.

Q. Because you had actually given him your keys so that he could get in and do the right thing?
A. That is right.

Q. Indeed, you were very annoyed?
A. Um-hm.

Q. And so annoyed indeed that you grabbed him and held him out over the balcony?
A. And I could have killed him.

Q. That is how annoyed you were?
A. Yes.

Q. You didn't in fact try to kill him?
A. No.

Q. But you did hold him out over the 12th floor balcony?
A. Not right out. I am not that strong. He is heavier than me.

Q. You held him out over the 12th floor balcony?
A. Yes.

Q. If he had fell?
A. He wouldn't have fell because he was still half way in and half way out.

Q. Just enough to make him worried?
A. Yes.

Q. And you picked him up and threw him in the doorway?
A. Um-hm.

Q. And you made a statement about various matters you knew about him to the police on the 28th of March 1995, didn't you?
A. Yes, probably.

Q. And in that statement one of the things you recorded in these words was this, "I last saw Jimmy alive the Tuesday

after the Mardi Gras about 11.30 to 12 midday?
A. No I thought it was Thursday.

Q. Have you got your statement there?
A. Yes.

Q. Would you have a look please at paragraph 10?
A. Paragraph?

Q. 10. It is on page 3?
A. (Perused document).

Q. Have you got page 3?
A. Yes.

Q. Just short of the middle - have a look at?
A. Yes, it says Tuesday, um-hm.

Q. Well, see, what the whole of that paragraph says - it says, "After this time I had little to do with Jimmy apart from saying 'hello' that would be the end of it"?
A. That is right.

Q. "I last saw Jimmy alive the Tuesday after the Mardi Gras about 11.30 to 12 midday"?
A. Um-hm.

HIS HONOUR: Q. You must answer?
A. Sorry, yes.

MOLOMBY: Q. You agree I have read that correctly, that is what is recorded in the statement?
A. Yes.

Q. You then said, "I saw him walking his dog Nookie and his other new dog in the park"?
A. Yes.

Q. And that was your best recollection on that occasion on the 28th of March when you made your statement to the police, wasn't it?
A. Yes.

Q. And that is what your recollection is now, isn't it?
A. What do you mean?

Q. What you wrote in your statement is true, isn't it?
A. Yes.

Q. To the best of your recollection?
A. Yes.

Q. As we stand now?
A. Yes.

<NO RE-EXAMINATION.

<WITNESS RETIRED AND EXCUSED.

<CAROLE ANN KING (11.02AM)
SWORN AND EXAMINED.

CROWN PROSECUTOR: Q. Would you tell the Court your full name please?
A. My name is Carole Ann King.

Q. Did you make a statement to the police on the 18th of March 1995 setting out matters relating to the matter before this Court now?
A. Yes I did.

Q. Do you tell the Court that you have been residing in the Eastern Suburbs for four years and before that you had been living in Melbourne?
A. That is correct.

Q. This is as at 1995?
A. Yes.

Q. You had been coordinating a voluntary organisation called people living with and affected by HIV Aids Luncheon Club?
A. That is correct.

Q. And was a luncheon held at the Exchange Hotel Lizard Lounge every Monday except public holidays and special occasions?
A. Yes, that is the case.

Q. Would volunteers arrive from approximately 9.30am and the doors to the luncheon were opened at midday?
A. Yes.

Q. Lunch was served at 12.30pm and entertainment was provided beginning at approximately 1pm?
A. Yes.

Q. And you would get an average of about 150 people attending a lunch?
A. Yes.

Q. About 12 months before March of 1995 did Jim Meek attend one of your luncheons and introduce himself to you?
A. Yes he did.

Q. And was he a friend of yours?
A. Yes.

Q. And he had been recommended to the luncheon as something that he should attend?
A. Yes.

Q. Did he inform you that he would be unable to attend every Monday as he had other commitments but he would attend as often as he could?
A. Yes.

Q. Did you find him to be a very friendly person with a wonderful attitude to living with the HIV virus?
A. Yes, I did.

Q. From then on did Jim attend the luncheons once a month, and on a more regular basis from August and September in 1994?
A. Yes he did.

Q. For ten months leading up to March 1995 had Jim been writing a column for the Capital Q Gay Newspaper for the Luncheon Club which tells people what the luncheon is all about?
A. Yes.

Q. And did it also inform readers of coming events and make requests for volunteers?
A. Yes.

Q. Did Jim Meek become a volunteer for the Luncheon Club in September of 1994?
A. Yes he did.

Q. Do you see that as the reason he attended more frequently from that time?
A. Yes.

Q. Did he know a lot of people through the Luncheon Club?
A. Yes he did.

Q. Was he friendly and helpful?
A. Yes.

Q. And do you say that he never had any arguments with anybody that you saw?
A. Never.

Q. Did you have a lot of contact with Jim from September of 1994 because of his involvement with the Luncheon Club and the Luncheon Club Fair Day which was held at Jubilee Park at Glebe in February and the Gay Mardi Gras in Sydney on the 4th of March 1995?
A. Yes.

Q. And for the two weeks before the Gay Mardi Gras, was Jim regularly at your place preparing for the Mardi Gras?
A. That is correct.

Q. Was he helping with decorations for the float?
A. Yes.

Q. Now was that a float for the Luncheon Club or something like that?
A. The Luncheon Club had a float planned in their parade for the Mardi Gras.

Q. Did he fix a car which belonged to the Luncheon Club - when I say "fix it" - did he fix it up for the parade?

A. He took it out to get registered, new tyres and new windscreen, yes.

Q. And the last week before the Mardi Gras did Jim ask you if a friend of his, a Tim Dowling, could join the float and work a stall at the Mardi Gras at the Showground?
A. Yes, did he.

Q. Did you give permission for that and was Jim quite appreciative?
A. Yes he was.

Q. On the night of the Mardi Gras was he busy organising a very large float with volunteers and the stall at the Mardi Gras party which was situated outside the Industries Hall inside the Showground?
A. That is correct.

Q. Now at that stall did you sell toothbrushes and give away coffee?
A. Yes we did.

Q. Did you see Jim at that stall from - at 1.30am on Sunday 5th March 1995?
A. Yes.

Q. Did you then thank him for being at the stall and ask him how the night had gone?
A. Yes I did.

Q. Was he in good spirits?
A. Yes he was.

Q. And was he joking and happy apart from the rain?
A. Yes.

Q. Was he on his own at the time?
A. Yes he was.

Q. Did you inquire as to the whereabouts of Tim Dowling?
A. Yes I did.

Q. And were you informed by Jim that he was grateful that you had organised a ticket for Tim?
A. Yes.

Q. Did you go away to attend to other things and return to the stall at 3am?
A. Yes I did.

Q. And did Jim ask you if he could go home as he was exhausted?
A. Yes, that is correct.

Q. Did you say that that was okay?
A. I did, yes.

Q. Did you later see him at the party?

A. Yes I did, about an hour after I had said that it would be fine if he went home.

Q. At that time was he wearing a Bobby Goldsmith T-shirt and wearing his glasses?
A. When I told him he could go home he with a wearing the Bobby Goldsmith T-shirt but later on when I saw him he had a different T-shirt on - a Luncheon Club T-shirt.

Q. At about 6pm on the Sunday, the 5th of March did Jim call you at your home to inquire as to your health?
A. Yes, and to remind me that at the motorcade parade was going to be shown on the 60 Minutes program.

Q. Did he inform you that he was exhausted and he was going to watch a program on television concerning the Mardi Gras on Channel 2?
A. Yes.

Q. Did he make arrangements with you to see you on the 6th of March at about lunchtime to help you clean up?
A. Yes, he did.

Q. Did he arrive between 12.30pm and 1pm and help clean the car out?
A. Yes he did.

Q. Did he leave at 3pm, inform you that he would come back the next day, that is Tuesday the 7th of March, to further attend to the car?
A. Yes he did.

HIS HONOUR: The next day the Tuesday -?
A. Yes.

CROWN PROSECUTOR: Q. At 8.30pm on the Monday did you ring Jim to ask him if he would be interested in being a committee member at the Luncheon Club?
A. Yes I did.

Q. And was he keen to be involved and tell you that he had a meeting with the Housing Commission Committee in which he was very involved?
A. Yes he did.

HIS HONOUR: Q. What time did you say that he said he would come back on the Tuesday?
A. He was going to come back on the Tuesday around about 10 o'clock.

Q. Ten o'clock?
A. Yes.

Q. In the morning?
A. Yes.

Q. Do you tell the Court he did not turn up the next day?
A. He did not turn up the next day, no.

Q. And did you think that that was quite unusual?
A. Very very unusual that, not that he did not turn up but that he did not ring even to say that he wasn't coming. He was a very reliable person so it was most unusual.

Q. About 2.30pm did you try to contact Jim?
A. Yes I did.

Q. And were you unsuccessful?
A. I couldn't get hold of him.

Q. You couldn't get hold of him?
A. I tried to ring him on several occasions from around about 2.30 in the afternoon, on the Tuesday right up till about 9.30 that night. I didn't try between 6 o'clock and 9.30pm because he said he had a Housing Commission meeting during that period.

Q. When you tried to ring him and you are unsuccessful what happened with the phone, did it just keep ringing or was there some answering machine?
A. There was no answering machine, it just rang out.

Q. Did you make your last phone call about 9.30pm?
A. On the Tuesday night, yes.

Q. On Wednesday 8 March at 9.30am did you again try to contact Jim by phone?
A. Yes I did.

Q. And was there no answer?
A. No answer.

Q. Did you then ring Bob the security guard?
A. Yes I did.

Q. And did he also give you some information as to his attempts to contact Jim?
A. Yes.

Q. When you spoke to Bob the security guard did he say that he had been ringing him and knocking on his door without any success?
A. Yes.

Q. Did he tell you he was also worried about him as he had not seen him since 11.30pm the night before?
A. That's correct.

Q. Did he tell you that he hadn't stayed long because he had a friend with him, a young blond guy?
A. Yes that's correct.

Q. Did he tell you that he was going to put tape on the door to see if he was going in and out of the unit?

A. Yes.

Q. And did he also tell you he would let you know if he saw or heard anything?
A. That's correct.

Q. At 5 pm on that Wednesday did Bob the security guard phone you?
A. Yes he did.

Q. And did he tell you that a locksmith had been called and when police were present had opened Jim's unit?
A. That's correct.

Q. Did he also inform you that Jim had been found inside in a pool of blood?
A. Yes he did.

Q. Later did you speak to Bob in the late afternoon of the next day and did he tell you that the last time he saw Jim was 10.35 on the Monday?
A. That's correct.

Q. And later that week did Bob tell you on the phone that there was a young guy 19 to 20 years old that had been with Jim on the Monday night?
A. That's correct.

Q. Did you ask him was it the blond guy?
A. Yes I did.

Q. Did Bob say no not blond but fair haired?
A. That's correct.

Q. Since you have known Jim do you tell this Court you have never seen him with any men or boys?
A. No not really, in a group, in a crowded room so to speak.

HIS HONOUR: Q. Would you say that again?
A. Not on his own but in a crowded room with a group.

CROWN PROSECUTOR: Q. Did you know he was gay and that he liked younger men?
A. Yes I did.

Q. But he had never told you how he picked them up but he had mentioned to you that he had gone to the gate at Centennial Park?
A. That's correct.

Q. Would you describe Jim as about five foot six, early fifties, straight grey hair, stocky, beer belly and he wore glasses?
A. Yes.

Q. So far as his glasses were concerned, did you have any experience with him of seeing him doing things without his

glasses on?
A. No.

Q. Indeed did you ever see him without his glasses on?
A. No I don't think so.

<CROSS-EXAMINATION

MOLOMBY: Q. Mrs King on the Monday after the Mardi Gras, Mr Meek you have said in evidence came to your place?
A. That's correct.

Q. That was to help with cleaning up the car that had been used in the Mardi Gras parade?
A. That's correct.

Q. He arrived between 12.30 and one?
A. Yes.

Q. Closer to 12.30 wasn't it?
A. I really can't remember.

Q. You made this statement for the police on 18 March 1995?
A. Yes.

Q. You have looked at that recently have you?
A. Yes.

Q. And do you have a copy of it with you?
A. Yes I do.

Q. Would you mind getting that out? I am talking about paragraph 8 on page 3?
A. What paragraph?

Q. Paragraph 8 page 3. I just wanted to confirm the words you used then to describe what happened on that day. About the middle of that paragraph you have said this: "He then made arrangements to see me the next day the 6 March about lunchtime to help me clean up"?
A. Yes that's correct.

Q. Jim arrived between 12.30 and one to help clean up the car?
A. Yes.

Q. He left about 3pm and said he would come tomorrow Tuesday 7 March to remove the lips off the car and rewire the car properly?
A. That's correct.

Q. The place he came to was in Waverley?
A. That's right.

Q. He came by his own car?
A. Yes he did.

Q. And he went back by the same means?

A. Yes.

Q. To drive from that place in Waverley to where he lived, you knew where he lived didn't you?
A. Yes.

Q. That is on the Monday?
A. Yes.

Q. Around that time of day?
A. Yes.

Q. What length drive do you say that is?
A. It would take 15 minutes but I tend to think that he took another volunteer and dropped them home first. I don't think he went straight home from my place.

Q. That's going home?
A. Yes.

Q. Did he bring a volunteer to the function?
A. Yes, no he arrived on his own.

Q. But he was only helping the other person going home?
A. Yes.

Q. Did you have any idea where that person lived?
A. I can't even remember the person. It is just a flash now I have. There were a lot of volunteers there and from memory he took a volunteer home or was to drop them off.

Q. He wasn't the only one who came that day to help was he?
A. No he wasn't.

Q. The people who had been there left rather as a group at about 3 o'clock, you asked them to leave because you wanted some time with your son before he had to go a couple of hours later?
A. Yes that's correct.

Q. And that's why everybody left at about 3 o'clock?
A. Yes.

Q. Otherwise they might have stayed on a little longer?
A. Yes.

Q. You say it would be a 15 minute drive from where he lived to your place at Waverley?
A. That's correct.

Q. Would be a lit longer depending on the traffic?
A. Yes.

Q. There was no doubt at all he was at your place from at least one o'clock on that day to pretty much three o'clock?
A. Yes.

HIS HONOUR: Q. It was on the Monday between one and three?

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A. Yes.

Q. That he was at your place?
A. Yes.

NO RE-EXAMINATION

WITNESS RETIRED AND EXCUSED

SHORT ADJOURNMENT

IN THE ABSENCE OF THE JURY

CROWN PROSECUTOR: If it is suitable to the Court the projected plan for this afternoon is to tender a number of statements and those statements are of witnesses who have been either unable to be located and it is by consent or are able to be located but their evidence isn't contested, and the tender of their statement is by consent, or in the case of one of the witnesses from Tasmania, only a very short portion of that witness' evidence was required so my learned friend has extracted that portion of the evidence that could have been given by her from an interview that was conducted with her and with your Honour's permission I would seek to read that on to the record. When those matters are dealt with the Crown would call Detective Sergeant Tanos who in his evidence the Crown will tender the electronic interview with the accused.

HIS HONOUR: You might just when the jury comes back explain the course to the jury to the extent that you consider it necessary.

CROWN PROSECUTOR: I might explain to the jury that although we lost an hour today we probably saved at least two days of evidence and great expense to all concerned.

IN THE PRESENCE OF THE JURY

HIS HONOUR: I have received a note from the jury concerning a course that one of the members of the jury is required to undertake on 7 December and the inquiry being when the trial is likely to be completed prior to that date. I think it is now the 24th, I think there is very little doubt that the trial will be concluded before 7 December. Would you agree with that Mr Crown?

CROWN PROSECUTOR: Yes your Honour.

HIS HONOUR: Mr Molomby?

MOLOMBY: Certainly your Honour.

MFI9 NOTE FROM THE JURY

HIS HONOUR: Members of the jury the time you have been away has not been wasted and I will ask the Crown to indicate the way in which the case will now proceed.

CROWN PROSECUTOR: Although you might think we have wasted an hour today when you were not in here, in the true spirit of co-operation of the Bar and in the proper presentation of the matter to the Court we have been able to address certain issues in relation to calling of witnesses.

A number of witnesses were unable to be located by the Crown, and they made statements previously to the police. A number of witnesses are able to be located by the Crown but their evidence is not contested or would not be properly contested to any benefit to anybody if they were called and they have made statements, and there is also one witness who was the subject of a lengthy interview in Tasmania and whose evidence consists of four or five sentences and instead of having to call that witness from Tasmania it has been agreed that evidence can be presented by way of tendering of a number of statements which will save no doubt several days of hearing time, a great saving of time and a great saving of costs to all concerned.

The Crown your Honour will proceed now by way of presentation of that evidence if I could.

The Crown was able to call and the person Karen Heatley the sister of the accused was willing to come from Tasmania to the trial. Her evidence was contained in a lengthy interview conducted by police on 2 June 1995. The significant portion of her evidence which has been distilled from that lengthy interview is that indeed she returned to Tasmania in late 1994. She would have said had she come to court that ever since, and using the words she would have used, "ever since I came back to Tasmania Michael has been saying he was coming back but he didn't have the money and then when he got his compensation payment he came back." That is the evidence of Karen Heatley.

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Your Honour I tender the statement of Det Senior Constable Robert Richardson Brown dated 22 September 1995. That officer was then attached to the New South Wales Fingerprint Section at Parramatta. There are two pages to that statement setting out what he did on Saturday 11 March and subsequent dates.

EXHIBIT #Q STATEMENT OF ROBERT RICHARDSON BROWN DATED 22 SEPTEMBER 1995 TENDERED. ADMITTED WITHOUT OBJECTION. READ TO JURY

CROWN PROSECUTOR: I tender the statement of Jim Alleef Morige plainclothes Senior Constable of Police made at Surry Hills Police Station on 19 October 1995 in the matter of Police v Heatley.

HIS HONOUR: Any objection to this?

MOLOMBY: No, I have no objection to any of these statements it is now proposed to tender.

EXHIBIT #R STATEMENT OF JIM ALLEEF MORIGE, PLAINCLOTHES SENIOR CONSTABLE OF POLICE DATED 19 OCTOBER 1995 TENDERED. ADMITTED WITHOUT OBJECTION. READ TO JURY.

CROWN PROSECUTOR: I tender the statutory declaration of Manny Hilton Russell Sergeant in the Tasmania Police Force stationed at the Scientific Bureau Police Headquarters, Burnie declared on 22 September 1995 before Mr Fox, Commissioner for Declarations.

EXHIBIT #S STATUTORY DECLARATION OF MANNY HILTON RUSSELL SERGEANT IN THE TASMANIA POLICE FORCE TENDERED, ADMITTED WITHOUT OBJECTION READ. TO JURY.

CROWN PROSECUTOR: I tender a statutory declaration made by Stephen Thomas Williams an inspector of the Tasmania Police Force stationed at police headquarters Burnie declared on 26 September 1995.

EXHIBIT #T STATUTORY DECLARATION OF STEPHEN THOMAS WILLIAMS AN INSPECTOR OF THE TASMANIA POLICE FORCE TENDERED, ADMITTED WITHOUT OBJECTION.

CROWN PROSECUTOR: In reading this, would it be permissible if I do not read the formal paragraph which is shown as the second paragraph on this document and also that related to the deponent's age. It doesn't change the evidence at all, and the jury is now familiar I think with that formal paragraph and will have it to see at any stage they want to see it.

HIS HONOUR: Yes.

THE CROWN READ EX. T TO THE JURY.

CROWN PROSECUTOR: With that is the register of persons interviewed number 0084149 on a letterhead of Tasmania Police personally interviewed Michael Alan Heatley - introduced to independent person by Detective Sergeant A Tanos New South Wales. Place: Inspector's Office who explained the reason for the subject interview in the following terms: "Interview re the death of...."

CROWN PROSECUTOR: I tender a copy of the statement of Wayne Barber made at Surry Hills Police Station on 20 March 1995 in the matter of the death of James Meek. I might be permitted also to say by consent, that Wayne Barber is deceased.

EXHIBIT #U ABOVE MENTIONED STATEMENT OF WAYNE BARBER, DECEASED TENDERED, ADMITTED WITHOUT OBJECTION.

HIS HONOUR: Members of the jury I might just interpose. You remember at the outset of the case when I said that statements made by the Crown and by Mr Molomby for the defence were not evidence in the case. Of course that doesn't apply to any these statements, they are evidence in the case because by agreement these matters are being put before you in statement form. They are different to the opening that was given to you by the Crown and the opening that Mr Molomby made in reference to the defence case, they of course are not evidence, but these are exhibits and are

in written form as exhibits and they of course are evidence in the case. I might say this. It is helpful and to some degree unusual that these statements come forward but I can only encourage the course of such a proceedings because of the expense of bringing people such as witnesses from Tasmania who only have very short evidence to give and it is really on the edge of the case rather than central material in the case.

EXHIBIT W READ TO THE JURY. PARAGRAPHS NUMBER 1 AND 2 NOT NOT READ.

CROWN PROSECUTOR: I tender statement of Roger Leslie Bissett made on paper headed Tasmania Police, statement dated 28 September 1995.

EXHIBIT #V statement of Roger Leslie Bissett TENDERED, ADMITTED WITHOUT OBJECTION. READ TO THE JURY OMITTING PARAGRAPHS 1 AND 2.

CROWN PROSECUTOR: I tender statement of I378, Surry Hills Police Station, 6 April 1995.

EXHIBIT #W STATEMENT OF I378 TENDERED, ADMITTED WITHOUT OBJECTION. READ TO JURY.

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EXHIBIT #X STATEMENT OF RAY KELLY OF THE NEW SOUTH WALES FIRE BRIGADE REGION SOUTH DATED 4 AUGUST 1995 TOGETHER WITH PRINT-OUT MATERIAL TENDERED. ADMITTED WITHOUT OBJECTION. READ TO JURY

EXHIBIT #Y CERTIFICATE UNDER THE HAND OF RAJEEV MALHOTRA ON NEW SOUTH WALES HEALTH DEPARTMENT DIVISION OF ANALYTICAL LABORATORIES LETTERHEAD DATED 18 MAY 1995 TENDERED. ADMITTED WITHOUT OBJECTION. READ TO JURY.

EXHIBIT #Z STATEMENT OF MICHAEL NOVY, MEDICAL PRACTITIONER, ST VINCENTS HOSPITAL DATED 28 MAY 1995 TENDERED. ADMITTED WITHOUT OBJECTION. READ TO JURY.

EXHIBIT #AA STATEMENT OF JASON RADFORD DATED 23 MARCH 1995 MADE AT SURRY HILLS POLICE STATION TENDERED. ADMITTED WITHOUT OBJECTION. READ TO JURY.

EXHIBIT #AB STATEMENT OF PAUL CHARLES RICHARDSON DATED 13 SEPTEMBER 1995 MADE AT SURRY HILLS POLICE STATION TENDERED. ADMITTED WITHOUT OBJECTION. READ TO JURY.

EXHIBIT #AC TWO STATEMENTS OF GEORGE IVAN RUA DATED 12 MARCH 1995 AND 25 SEPTEMBER 1995. TENDERED, ADMITTED WITHOUT OBJECTION. READ TO JURY.

EXHIBIT #AD STATEMENT OF CARMEN SAN PEDRO DATED 20 MAY 1995 TENDERED, ADMITTED WITHOUT OBJECTION. READ TO JURY.

EXHIBIT #AE STATEMENT OF RADOSLAV MICHAL VALENTIK DATED 10 APRIL 1995 TENDERED, ADMITTED WITHOUT OBJECTION. READ TO JURY.

CROWN PROSECUTOR: They are the statements that the Crown wishes to tender. I call Detective Sergeant Tanos.

<ANTHONY JOHN TANOS (3.40PM)
SWORN AND EXAMINED

CROWN PROSECUTOR: Q. Sergeant, when you talk in this Court would you speak up in a loud tone of voice please. Would you direct your voice in that microphone that is in front of you. Would you remember that every word you say is to be taken down by that young gentleman there in front of you and would you also remember that the jury must hear what you have to say and be able to take it in. Would you please tell the Court your full name, rank and station?
A. My name is Anthony John Tanos. I am a Detective Sergeant attached to the Surry Hills local area command.

Q. Now Sergeant, did you make a statement on the 20th - or begin to make a statement on the 20th of September 1995?
A. I did.

Q. Did you in that statement set out some of the things that you did in the course of the investigations into the matter now before this Court?
A. Yes I did.

Q. Did you also make a statement on the 16th of November 1998?
A. Yes I did.

Q. In that did you also set out some of the things you did in the course of the investigation?
A. Yes I did.

Q. With the Court's permission, I would ask that the Sergeant be allowed to read from his statement, and there is apparently no objection on that course from my learned friend.

HIS HONOUR: Just take it fairly steadily if you wouldn't mind, Detective Sergeant.

CROWN PROSECUTOR: Q. Would you omit the first two formal paragraphs and begin reading your statement. This is the first one dated the 20th of September 1995 at the paragraph numbered 3 please?
A. On the 13th March, 1995 I spoke with Detective Sergeant

Kassis in the Surry Hills Detectives Office concerning the death of James William Meek. I then made certain arrangements and conducted a number of inquiries.

On the 14th March, 1995, with Detectives Vandergraaf, Walker, Callanan and Hardy, I went to Flat [redacted], Level 12, Block [redacted], Northcott Flats, Belvoir Street, Surry Hills. There we spoke with Mrs Karen Franks, Mrs Wendy Griffin and Mr Alan Griffin. A systematic search was then undertaken of the interior of the flat. Certain items of property were located and later stored at the Surry Hills Police Station for further inquiry.

A criminal investigation with the operational name 'Fireweed' was then commenced to inquire into the circumstances surrounding the death of James William Meek.

Q. If I could just interrupt you there Sergeant, where do you get the names for your inquiries?
A. Those names are allocated by the State Intelligence Group.

Q. Thank you?
A. On the 29th of March, 1995, with Detective Walker, I spoke with Mrs Wendy Griffin and Mrs Karen Franks at the Surry Hills Police Station. A series of photos were shown to Mrs Griffin and she told us something about a letter photographed on a table inside Flat [redacted], Block B, Northcott Flats, Belvoir Street, Surry Hills on 8 March 1995.

Q. If I could interrupt you there - could the witness be shown Exhibit A 17 and 18 please (shown). That is 17 with the yellow dot. Are you able to say anything about those two photographs?
A. Yes, in the photographs numbered 17 and 18 there is a piece of what appears to be white paper on the table and a scribbling type of pattern on that paper.

Q. Is that the letter to which you have referred?
A. Yes, it is.

Q. Thank you. Just continue with your statement then please?
A. At about 3pm that day, with Detective Walker, I went to Flat [redacted] Level 12, Block [redacted], Northcott Flats, Belvoir Street, Surry Hills. There I saw Mrs Wendy Griffin searching through a large plastic bag on the floor outside the bedroom. After a short time Mrs Griffin removed a letter from that bag and she told me something. The letter was addressed to James Meek, with the letterhead of Daewoo Automotive Australia Pty Limited. I noted that scribbling patterns was evident to both sides of the letter. I recognised this letter as being the same letter in the photograph shown to Mrs Griffin at the Surry Hills Police Station earlier that day. I returned to the Surry Hills Police Station where I secured that letter in a cabinet.

Q. Could the witness be shown Ex. N, please (shown). Are

you able to say anything about that document?
A. That is the letter that we retrieved from the unit that day, that I referred to.

Q. And the purple stains are the Ninhydrin that are used to locate fingerprints, if any, on that document?
A. Yes, it is.

Q. Yes, if you continue please, Sergeant?
A. On the 30th of March, 1995 I spoke with Detective Sidgreaves and gave him certain instructions. I handed him the letter retrieved by Mrs Wendy Griffin from Flat [redacted], Level 12, Block [redacted], Belvoir Street, Surry Hills on the 29 March, 1995.

On the 8 May, 1995, Detective Senior Constable Walker told me something in relation to information received from Detective Senior Constable Eyres the Major Crime Unit, Fingerprint Section, Parramatta concerning the letter located at the deceased's flat on 29 March, 1995.

On 21 June 1995 I travelled to Devonport, Tasmania where I conferred with Detective Constable Sidgreaves. I also spoke with Acting Inspector Groves and Detective Plumpton of the Tasmanian Police Force. I then made a number of inquiries.

About 3pm on 22 June 1995 I saw the accused Michael Alan Heatley in the company of Acting Inspector Groves at the intersection of Stewart and Rooke Streets Devonport. The accused was then driven to the Burnie Police Station. During the course of that journey the accused said: "Why are we going to Burnie?" I said: "The interview room at Devonport Police Station is being used." He said: "What is it all about?" I said: "We are from Surry Hills Police in Sydney. We are making enquiries about the death of James Meek around 8 March 1995. I want you to understand that you are not obliged to say anything unless you wish to do so but whatever you say may later be used in evidence. Do you understand that?" He said: "Yes. I don't know anything about it. It's got nothing to do with me." I said: "I will speak with you further about this matter at Burnie." He said: "Okay then."

Upon arrival at the Burnie Police Station the accused was placed in an office whilst certain arrangements were made with Sergeant Russell of the Crime Scene Unit to video record an interview with the accused.

A short time later in the presence of Detective Sidgreaves I said to the accused: "Detective Sidgreaves and I are making inquiries into the death of James William Meek at Surry Hills on or about 7 March 1995. What I propose to do is ask you some questions about this matter. My questions and answers given by you will be electronically recorded as the interview takes place. Do you understand that?" The accused said: "Yes." I said: "Arrangements can be made for you to view the video cassette tape of the interview if required, do you understand that?" The accused said: "Yes." I said: "Do you agree to being electronically interviewed?" The accused said: "Yes."

The accused was then taken to an interview room with video recording facilities. In the presence of Detective Sidgreaves I asked the accused a number of questions. Those questions together with the accused's answers were electronically recorded as the interview took place. Detective Sidgreaves also asked the accused a number of questions. Those questions together with the accused's answers were electronically recorded as the interview took place. The whole of that interview was electronically recorded by Sgt Russell.

At the conclusion of the interview I completed a register of persons interviewed form numbered 84149. The accused then accompanied me to another office where I saw Inspector Williams and said to him: "This man has been interviewed regarding the death of James William Meek at Surry Hills on 8 March 1995. The interview was recorded on

video. Could you complete the register please." Inspector Williams then asked the accused a number of questions and recorded his responses on that form.

Q. Could the witness be shown the annexure or part of exhibit T (shown). What can you say about that if anything?
A. That's the register of persons interviewed formed 84149 that I referred to.

Q. If you would continue your statement?
A. Sergeant Russell then handed me a copy of the video cassette recording of the interview with the accused. The accused was later driven to his home at 1 Clare Court, Devonport. I then attended to other duties at the Devonport Police Station.

Q. I just show you this document or this item (shown). Do you recognise that?
A. That is the video recording of the interview I conducted with the accused.

CROWN PROSECUTOR: Might that particular item be marked for identification and I tender this cassette.

MFI10 ERISP VIDEO

EXHIBIT #AF VIDEO TENDERED. ADMITTED WITHOUT OBJECTION

CROWN PROSECUTOR: That video runs for approximately 45 minutes so perhaps that that could be left until tomorrow.

Q. If the Sergeant could continue?
A. During the course of my interview with the accused I showed him a copy of the letter found by Mrs Griffin at the deceased's unit on 29 March 1995.

On 11 July 1995 with Detective Walker I spoke with Brian Kane at the Surry Hills Police Station. I showed him a recording of a number of male persons from a video cassette marked "T.F. Fireweed". He then told me something about the photograph numbered 5 of that recording. Photograph number 5 of the video cassette recording is the accused Michael Alan Heatley. Mr Kane then initialled and dated the spine of that video cassette. I then obtained a statement from Mr Kane.

Q. I show you this item marked for identification 2 (shown). Is that the video cassette marked T.F. Fireweed that you have just referred to?
A. Yes it is.

Q. Indeed, did you show that very same video to a number of other people?
A. Yes I did.

Q. Please continue.
A. On 14 September 1995 with Detective Walker I spoke with Mr Kevin Plumb at the Surry Hills Police Station. I showed him a recording of a number of male persons from a video

cassette marked "T.F. Fireweed". He then told me something about the photograph numbered 5 of that recording. Photograph number 5 of the video cassette recording is the accused Michael Alan Heatley. Mr Plumb then initialled and dated the spine of that video cassette. I also showed Mr Plumb a mens ring recovered from the Kings Loan Office on 22 June 1995. He told me something about that ring. I then obtained a statement from Mr Plumb.

Q. Could the witness be shown exhibit B. (shown) . Can you say anything about that?
A. That is the ring that I showed Mr Plumb on that day.

HIS HONOUR: Q. Did you say that you recovered that from the Kings Loan Office Detective?
A. That's correct.

Q. Was it in the case when you recovered it from Kings?
A. Yes it was.

CROWN PROSECUTOR: Perhaps that is an appropriate time.

WITNESS STOOD DOWN

HIS HONOUR: Members of the jury that is as far as we can take it today. Please remember the usual warning.. Be careful not to speak to anyone within the precincts of the court and don't be influenced by anyone that hasn't heard the evidence.

ADJOURNED TO WEDNESDAY 25 NOVEMBER 1998 AT 10 AM.

SG:CAT:4

THE SUPREME COURT
OF NEW SOUTH WALES
CRIMINAL DIVISION

IRELAND J
AND A JURY OF ELEVEN

EIGHTH DAY: WEDNESDAY 25 NOVEMBER 1998

96/91/0034 - REGINA v MICHAEL ALAN HEATLEY

IN THE ABSENCE OF THE JURY

CROWN PROSECUTOR: I have prepared what could be termed a schedule and I have made some hand written alterations to what the computer put out just so it at first blush makes sense. I hope that is of some assistance. (Handed up)

If I just explain the layout of it your Honour might more easily understand what it is. On the left-hand side of the page your Honour will see dates. The second and third dates have been altered by me because they were written in the American format. Your Honour will see for example in that first section where it has topics. I put every witness into my computer as a topic as well as other things, so Banning was the witness and also the topic.

Where it says witness there, that is what is seen at the foot of the transcript page. As you Honour is aware sometimes on the foot of the transcript page it shows the previous witness and not just the one that has started, so I have altered that to Banning, and where it says Examination, that was examination-in-chief, where the typed documents showed Ford retired, but the page number is correct and all the rest of it.

The Notes is just a note I have made which sets out the chronology. That follows through. On the next page your Honour will see a couple of other changes but normally where the examination is shown as examination-in-chief, that is exactly right, but the page number is correct if your Honour sought to check any of that out.

What is shown is notes made by myself and then an extract of the transcript if I did highlight any of the transcript and the computer program has extracted it and that is repeated in that little section. With some witnesses that extract goes on for quite some distance. It is just an extract of what is in the transcript.

HIS HONOUR: I take it they are the critical aspects of the evidence of that witness?

CROWN PROSECUTOR: Certainly, in relation to your Honour wanted it on a chronological basis, that is on the chronology and where I have put a date or a time, then that has come out in that chronology. I have provided one to my

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learned friend.

HIS HONOUR: So that really has analysed every witness has it?

CROWN PROSECUTOR: Right up until, I don't think there is anything in there in relation to the current witness and of course any dates that came out of those statements tendered isn't in here because they are not in the transcript. That is the only difference, and I don't think there is anything really significant in that that would alter the chronology.

HIS HONOUR: That is very helpful, thank you Mr Crown.

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IN THE PRESENCE OF THE JURY

ANTHONY JOHN TANOS (10.15AM)
ON FORMER OATH
EXAMINATION CONTINUED.

HIS HONOUR: Q. You appreciate you are bound by the oath you took before to tell the truth?
A. Yes I am.

CROWN PROSECUTOR: Q. Sergeant yesterday you were giving your evidence reading from your statement and you had just completed reading paragraph 20 of your statement on page 6, so if you would continue to read in the same fashion as that in which you read yesterday?
A. On 19 September 1995 with Det Walker I spoke with Mr Robert Garratt at the Surry Hills Police Station. I showed him a recording of a number of male persons from a video cassette marked T.F. Fireweed. He then told me something about the photograph numbered 5 of that recording. Photograph number 5 of the video cassette recording is the accused Michael Alan Heatley. Mr Garratt then initialled and dated the spine of that video cassette. I also showed Mr Garratt a men's ring recovered from the Kings Loan Office on the 22 June 1995. He told me something about that ring. Det Walker then obtained a statement from Mr Garratt.

On the Monday the 25 September 1995 with Det Walker I spoke with Mr Jorge Rua at the Surry Hills Police Station.

Q. That Jorge is spelt J-O-R-G-E?
A. That's correct? Det Walker then obtained a statement from Mr Rua.

About 6.45am on Thursday the 28 September 1995 with Dets Walker, Cooper and Woolley, I went to 22 Pardoe Street Devonport where I saw the accused in the hallway of the those premises. Det Cooper said to him: "This is Det Tanos and this is Det Walker from New South Wales." The accused said: "Yeah I know them, anyway him." Det Cooper said: "You are under arrest for the murder of James William Meek in New South Wales. You are not obliged to answer any questions or make any statement unless you wish to do, anything you do say will be recorded and may later be used in evidence. Do you understand that?" The accused said: "Yeah, this is bullshit, I'm not going anywhere with you." Det Cooper said: "It is not bullship, you're coming with us and do you want to put any clothes on?" The accused said: "No I'm right, just let me put my shoes on."

Q. Did you then take him to the Devonport Police Station and charge him by virtue of a First Instance Warrant?
A. Yes I did.

Q. Would you continue with paragraph numbered 25?
A. On the 29 September 1995 the accused was extradited to New South Wales and charged at the Sydney Police Station. The accused was then taken to the Clinical Forensic Unit on

the 4th level of the Sydney Police Centre where I spoke with Dr Stuart Anderson. I then said to the accused: "We are going to take blood from you. We can take it with or without your consent. Do you understand that?" The accused said: "Yes I know I have to." Dr Anderson then completed a consent form which was signed by the accused. I also signed that form. Det Anderson then extracted a quantity of blood from the accused.

Q. Is that Dr Anderson is it?
A. Yes.

Q. I show you this document (shown). Is that a photocopy of the consent form about which you have just spoken?
A. Yes it is.

EXHIBIT #AG CONSENT FORM SIGNED BY THE ACCUSED TENDERED. ADMITTED WITHOUT OBJECTION

HIS HONOUR: Members of the jury that is what it appears to be, an authority signed by the accused for the purposes of taking sufficient blood to be examined and grouped and if necessary to be used in evidence.

I then took that blood sample to the Physical Evidence Section on the 5th Level of the building where I spoke with Detective Courtney. He then made an entry in the Physical Evidence Specimen Item Register numbered A 12597. I handed him that sample of blood taken from the accused and was given the original receipt.

Q. I show you this document. Is that the receipt about which you have just spoken?
A. Yes it is.

EXHIBIT #AH RECEIPT TENDERED, ADMITTED WITHOUT OBJECTION.

Q. Would you continue reading from paragraph 28, please?
A. In relation to a post mortem examination on the body of James William Meek I have received a medical report, number PM 95/04199 (TG) prepared by Dr Christopher Lawrence.

Q. That is the normal report of the forensic pathologist made to the coroner pursuant to the Coroner's Act, is that right?
A. That is correct.

Q. That is the report as far as you know, anyhow - you weren't in here - to which the doctor would have had access when he gave evidence?
A. Yes it is.

Q. 29 please?
A. In relation to a number of scientific examinations I have also received a report, number T 950497 prepared by Mr Rajeev R-A-J-E-E-V Malhotra M-A-L-H-O-T-R-A of the Division of Analytical Laboratories.

Q. Could the witness be shown Ex. Y, please (shown). Is that the document you received from Mr Malhotra?
A. Yes it is.

Q. Were you with Detective Senior Constable Walker on Wednesday 11 November 1998 when from about 10.45am you and he travelled by foot and by rail from the Northcott flats to Merrylands, to Crosslands Avenue Merrylands, back to Merrylands and to the area of where the Billabong Hotel used to operate in 1995 near the King's Loan Office?
A. Yes I did.

Q. And if required you can give evidence relating to that trip?
A. Yes, I can.

Q. (Ex. M shown) are you familiar with that photograph - photographs of the ring that you have, most of them are repeats of various views of that same ring, is that correct?
A. Yes they are.

Q. Can you tell the Court something about that?
A. This was a ring that was obtained by one of my detectives who I had sent out to obtain a similar ring that

was described by Mr Gregory Franks in his statement as being worn by the deceased, Mr Meek. They went to a jewelry shop in the city and gave the jeweller a description and he gave them that ring.

Q. Can you tell the Court when that was done?
A. Yes, that was on the 21st of March, 1995.

Q. Was that ring then taken to the Crime Scene Unit at the Sydney Police Centre?
A. Yes it was.

Q. And those photographs were taken there?
A. Yes they were.

Q. What was the purpose of having those photos taken of that ring?
A. We needed a number of copies for the various investigators that we had but the purpose of the photographs was - for comparison purposes. We were going to various pawn shops and so forth around the city and we wanted a photograph of a ring similar to that described by Mr Franks.

Q. Did you ever during the course of your investigation, apart from the ring that was picked up by one of the detectives under your command, see a ring of similar description during the course of this investigation?
A. No.

Q. Were any illicit drugs found in the unit of James Meek?
A. No drugs were found during any search of that unit .

Q. Was any notation made of that anywhere at any time?
A. There was a running sheet produced in relation to that situation.

Q. When was that running sheet done?
A. That was done on the 25th of March 1995.

Q. By whom?
A. By detective Morige M-O-R-I-G-E.

Q. For the information of the jury, what is a 'running sheet'?
A. During the course of a murder investigation anything that is done is recorded on what we call a TIM System which is - stands for Task Force Investigation Management System, and a running sheet is a description of exactly what is done at any stage during the course of the investigation.

Q. Before the advent of the electronic devices to assist in the collation of evidence, used a running sheet be a compilation, usually in many lever arch binders, of hand or typewritten notations done and filed in date order?
A. Yes.

Q. And hence it got its name, a running sheet?
A. That is right.

Q. Can you tell us what happened to that blood sample that you have given evidence of having given to Constable Courtney on the day it was taken from Mr Heatley, the accused?
A. I gave it to Courtney.

Q. Do you know - did that sample ever make its way to the Division of Analytical Laboratories?
A. To my knowledge it did, yes.

Q. Do you know when that occurred?
A. I don't have knowledge of any particular date or who took it there, no.

CROWN PROSECUTOR: Would it be convenient, your Honour, if the exhibit of the electronic interview is played to the Court - that is Exhibit AF.

(Exhibit AF, ERISP tape, played.)

IN THE ABSENCE OF THE JURY

CROWN PROSECUTOR: In relation to the transcript, there is a transcript. As your Honour no doubt picked up there has been some editing done of that video, only a small amount of editing in relation to words spoken and that would not be a great problem. But as your Honour is also no doubt aware there is not always a coincidence between what is written and what can be heard because different people hear different things and there are a number of things which my learned friend and I believe have been said which are different to that which is written in the transcript.

HIS HONOUR: Anything of any significance Mr Crown?

CROWN PROSECUTOR: Not of great significance, and most of those things my friend and I agree on, and I haven't had the opportunity to convey to my friend that there are just a couple of things that I don't actually agree with his interpretation but it is not of any great moment or value. And the third reason that the Crown does not have a transcript prepared to put before the Court is that my learned friend and I both agree that it was clear enough to be heard without the transcript so we did not bother to prepare one, but I do have a transcript. We could do something with that transcript if necessary.

HIS HONOUR: It is easy for someone who has a transcript to say you don't need a transcript but it is not nearly so easy to get someone to agree they don't need a transcript.

CROWN PROSECUTOR: I watched it without having a transcript the first time and then I watched it reading the transcript.

HIS HONOUR: I picked up a few little variations on the way through but I didn't think there was anything of any significance there. It is just my view they must regard the tape as the evidence of course, not the transcript, the transcript only represents somebody's view of what was said on the tape, but I hold the view that the transcript is of great help to them.

CROWN PROSECUTOR: Apart from what can be seen at the bottom of page 3, there is a question 24: "When did you go to Sydney?" And then the answer to that has been excised because it read "can't remember I actually went to Sydney" and then--

MOLOMBY: Your Honour I object to this.

HIS HONOUR: The jury is not here Mr Molomby.

MOLOMBY: Members of the public are and there is a fair report of all the proceedings.

CROWN PROSECUTOR: But it has been excised, and the top of the next page is an answer "last year" which is responsive

to the first question. So the edited tape plays: "When did you go to Sydney? Last year."

HIS HONOUR: And that was about other events, that was when he went to Sydney?

CROWN PROSECUTOR: Yes. "When did you go to Sydney? Last year." That is how it plays.

HIS HONOUR: Where does the last year come from? Over the page, I follow. That can be blacked out.

CROWN PROSECUTOR: We can photocopy that with some white paper over it and it would appear blank.

HIS HONOUR: In your photocopy if you use a heavy black pen it can take it out. It is easy to remedy.

CROWN PROSECUTOR: Then there are just some other things. My learned friend can say anything he wished to say in relation to--

HIS HONOUR: Mr Molomby, if you don't want the transcript to go to them and the Crown does not, then I won't be forcing it on anybody.

MOLOMBY: I have no opposition to it now they have seen the tape. I have a strong view it is preferable for juries to see the tape for themselves. There are a number of matters, mostly by way of adding things to the transcript that escaped being transcribed rather than corrections, things that have been left out of the transcript. That is most of the points I have in relation to it. I gave my points to my learned friend and we haven't got together to see if he agrees to it or if he has other points. I won't have any serious reservation about the content of this, with the exception of the one thing mentioned, as far as it goes. In a couple of places there are helpful things left out, and by helpful I mean to understand the context around them. Perhaps we can discuss that over the morning adjournment.

SHORT ADJOURNMENT

CROWN PROSECUTOR: Q. Did you cause any inquiries to be made in relation to a person using the name of Heatley traveling on the Spirit of Tasmania in 1995, particularly between March and April?
A. Yes, I believe we did make inquiries in relation to whether he did take the Spirit of Tasmania.

Q. Are you able to tell the Court whether or not those inquiries were successful?
A. We were unable to ascertain whether Michael Heatley had actually used that Spirit of Tasmania at that particular time.

Q. Now, officer, did you recently obtain this document or a document from which this copy was made, and I am showing you mfi 8?
A. Yes I did obtain this document.

Q. Is that the train timetable which was in force on the Meridian's line - using short terminology, in March of 1995?
A. Yes it is.

EXHIBIT #AJ TRAIN TIMETABLE FORMERLY MFI 8 TENDERED, ADMITTED WITHOUT OBJECTION.

<CROSS-EXAMINATION.

MOLOMBY: Q. In the interview tape we have just seen, that, as the tape itself says, was entirely a voluntary exercise on the part of Mr Heatley?
A. Yes it was.

Q. You made it clear before what we see on the tape that he didn't have to come in if he didn't want to?
A. That is correct.

Q. Indeed he was arrested some months after that interview - in September?
A. That is correct.

Q. He answer every question that you had for him on that occasion, didn't he?
A. Yes he did.

Q. In the course of the interview he mentioned going to some other pawn shops - do you remember one, in William Street, near the Cross?
A. Yes he did.

Q. That pawn shop is very near the Eastern Suburbs Railway Line and the station at Kings Cross, isn't it?
A. Yes it is.

Q. It is also up a bit and over the road from the railway station?
A. Yes, that is correct.

Q. Similarly the shops - or the two possible shops that are

mentioned in the interview out at Bondi, at the end of the Plaza I think it says in the interview, are they very near the Eastern Suburbs railway station at Bondi?
A. I don't know it personally but I believe they are in the shopping centre at Bondi, yes.

Q. Yesterday, I am not sure - you were probably not in court yesterday, but a statement was tendered of a witness, Rua. Do you remember such a witness in this case?
A. Yes I do.

Q. He gave evidence - in his statement which was tendered in the court there is a reference to his being shown a photo of a person that he said he went up in the lift with. Do you remember that?
A. I can't specifically recall that in any statement.

Q. Would you just have a look at these Sergeant (Exhibit AC shown) - I think it might be on the second page of it. He talks about being shown a photo?
A. (Perused document).

Q. Paragraph 7?
A. Yes, I see that.

Q. That was a photo of Mr Meek, wasn't it?
A. I believe it to be, yes there.

Q. There was no telephone answering machine in Mr Meek's premises, was there?
A. To my knowledge there was no telephone answering machine.

Q. You have given evidence about some running sheets and what they are. You have provided a number of documents to this Court on subpoena, haven't you, from the defence?
A. Yes I have.

Q. Various records of parts of your investigation?
A. Yes, I have.

Q. I just show you this set of pages. It is really only the top one I am taking you to (shown). That is a printout of some of the - feel free to look at the later pages but I think we only need to refer to the first one. That is a printout of some of the initial information about this matter, isn't it?
A. Yes it is.

Q. That is, in fact what is most on that page is an entry by Constable Humphreys, I believe?
A. Yes, it is.

Q. And the fact is, isn't it, that the death of Mr Meek was officially recorded by police as having no suspicious circumstances until the autopsy was done on the morning of the Saturday?
A. That is correct.

Q. I have some records to show you in relation to the questions I am about to ask. You might be able to take us a certain distance without them, there was some time early in your investigation a press release made wasn't there?
A. There was.

Q. Which caused some articles in various newspapers?
A. Yes, there was.

Q. If I could show you, from the material that you produced here in court. This bundle which is called Category 13 Media, and also your own duty book - and this is merely for the purpose of tying down a date, you see, Sergeant. And I put some yellow tags on these pages to assist finding particular bits. Again feel free to look at whatever you need to but I think the answer is at the tag - perhaps you could look at the duty book first and look at the entries there?
A. Where you have got the yellow tag.

Q. Just read to yourself, looking for material about a press release?
A. Okay, I read that.

Q. Now, that entry indicates, doesn't it, that on the 17th of March, which was a Friday?
A. That is correct.

Q. You were organising the issuing of a press release?
A. Yes, we were in contact with a Media Unit.

Q. The practice is not to issue press releases just by any investigative team that is on the job but to coordinate it through a Media Unit in the Police Force?
A. That is correct.

Q. And you were doing that on that Friday the 17th of March?
A. Yes, that is the case.

Q. Now if you would go to the other bundle Category 13 Media and again feel free to look at what you need but I have tagged some sheets in that. There was in fact an article published in one paper on the 17th of March, wasn't there?
A. That is correct.

Q. What was the name of that paper?
A. That is the 'Capital' Q Weekly.

Q. And then there was an article published in the Telegraph Mirror on the 18th of March, wasn't there?
A. That is correct.

Q. They being - well, on the day of and the day after your press release was issued?
A. That day was mainly to do with electronic media on the 17th. This was more to do with the print media - these

articles - so we had already been in contact with other media organisations but this was the electronic media that we are dealing with on the 17th.

Q. I am not meaning to suggest there were any other but the date this media activity happened, first happened was the 17th, wasn't it?
A. There was other media activity prior to that in relation to print media but that day was designated to deal with the matter through electronic media, on that particular day, 17th.

Q. The first print media publications were those that I have shown you there, weren't they?
A. There may have been others - that's the 17th, the first one there, but I don't know if there were others, I can't recall.

Q. I am showing you your file produced to Court. Would you care to go through it to make sure that I am correct in suggesting to you that there was nothing before the 17th?
A. There doesn't appear to be.

Q. And there is not an entry on your duty book, which is the volume I have shown you, indicating any activity in relation to preparing press releases before the 17th of March, isn't there?
A. I would have to go back - On the 16th I am in contact with Constable Chiack from the Media Unit and that would have been probably arranging for the 17th, to do something on the 17th. But other police may have been arranging media releases at the time or media contact aside from myself.

Q. There was none before that though, was there?
A. No, there doesn't appear to be.

Q. That is all I need to refer to that material for. We will have it up here if you would just like to hand it back - if you just confirm Sergeant that was your official police duty back that I showed you, wasn't it?
A. Yes it was.

<NO RE-EXAMINATION.

<WITNESS RETIRED AND EXCUSED.

CROWN PROSECUTOR: I tender a certificate under the hand of Robert John Goetz dated 25th November 1998. It is a fax document from the Institute of Clinical Pathology and Medical Research.

EXHIBIT #AK CERTIFICATE OF DR GOETZ DATED 25 NOVEMBER 1998 TENDERED, ADMITTED WITHOUT OBJECTION.

CASE FOR THE CROWN CLOSED.

MOLOMBY: If it please the Court, I have an application to make which I would need to make in the absence of the jury.

IN THE ABSENCE OF THE JURY.

MOLOMBY: If it please the Court, this is perhaps somewhat unusual in this sort of case but it is my application that your Honour should at this stage direct a verdict. There has been a considerable amount of evidence but in terms of evidence against the accused it distills to a very small compass indeed. There is no doubt and there is no contest, in relation to the fact that he was present at Mr Meek's unit on the night of Monday the 6th of March and early in the morning of Tuesday the 7th of March. There is no direct evidence, meaning by that either observations of witnesses or admissions by him of presence beyond 9 o'clock, certainly. Inferentially -

HIS HONOUR: Is that the last time Mr Garratt was there, is it?

MOLOMBY: No - that is the night before.

HIS HONOUR: You mean after 9am?

MOLOMBY: 9am on the Tuesday.

HIS HONOUR: I thought you said 9pm. No direct evidence you say of observation beyond 9am on the 7th?

MOLOMBY: Yes, on the Tuesday, the 7th.

And there is nothing within the evidence during the time of his presence suggestive of any animosity to the deceased.

There is an amount of evidence that the deceased was alive considerably beyond that point. It is - I am not claiming to be exhaustive in this but I think I am exhaustive in its more extreme points, Mr Plumb said that he walked the dogs with Mr Meek between 9.30 and 9.40. That is subject to an important qualification which I will come to later as to whether it is really the right day, but he gave the evidence in that form. Mr Graham at the radio station 2WS received a call from the deceased, apparently in good health and spirits at about 10.30.

Subject to the same serious qualification as to whether it is the right day, the postman, Mr Watson, and Mr Plumb both saw Mr Meek alive and well somewhere in the region of 11.30 on that morning and -.

HIS HONOUR: That is in the foyer?

MOLOMBY: That is in the foyer, yes, and Miss NP219 saw Mr Meek walking his dogs from her window at some time between 11.30 and 12 on that morning.

Inferentially from other dates given in the evidence perhaps more likely around 11.45 but the witness did give that span, between 11.30 to 12, initially.

There is other evidence of activity by Mr Meek earlier that morning which is not - buying the cigarettes for example, down at the shop - phone calls to and from a couple of people, I think one of them about cigarettes. I am not attempting to detail that exhaustively.

HIS HONOUR: It is the end of the span that we really need to look to.

MOLOMBY: Yes. It is the point where beyond which there is any evidence of the presence of the accused and there is no evidence of his presence beyond whatever time he was referring to. Actually it is in his own admission but he says he left some time after 9 o'clock.

HIS HONOUR: You say there is no direct evidence that is countervails the evidence given by him in his record of?

MOLOMBY: Exactly. When one goes from the evidence of Mr Donnellan from Sydney Electricity -.

HIS HONOUR: Just pause there for a moment.

MOLOMBY: Which of course has documentary support, from Mr Donnellan of Sydney Electricity. It is established that he turned off the substation somewhere in the ten minutes or so before 9am and that the other electrical workers on the site were arranging for that total turn off in some period, perhaps up to half an hour long, before that.

When one relates that evidence to Mr Heatley's account of how he left, finding the lift switched off and calling out and getting it switched back on again, one would have to locate his departure during that half hour or so when the local electricity workers were getting things ready for the substation to be turned off.

HIS HONOUR: Meaning by that, that they were themselves - power off?

MOLOMBY: They were taking the power off.

HIS HONOUR: Did they say that?

MOLOMBY: Mr Donnellan was the only person to give direct evidence in the case but he gave evidence of the procedure and I said in cross-examination the sort of thing Mr Heatley had described in his interview of turning the lift back on so I can get down, which is the sort of thing people do in that type of situation. I am only addressing these points to say that inferentially when one puts together that evidence and Mr Heatley's account of his departure in the interview one would infer it occurred at some time between 8.20 and 10 to 9 on that day.

HIS HONOUR: You mean he left the premises?

MOLOMBY: Meaning the events to which he is relating his departure in his account in the interview occurred in that span.

Your Honour the only matter which suggests that Mr Heatley was there later than he says and later than any evidence directly establishes is exhibit B and its history, the ring, and that is because Mr Plumb says that Mr Meek was wearing it at the time of the conversation near the post boxes somewhere around 11.30.

Now there are two essential problems with that evidence, both of which, and this is important in the context of the submissions I am now making, both of which are conceded by Mr Plumb. The first is the question of whether Mr Meek really was wearing the ring, and the second is the question of whether it really was the Tuesday on which the conversation occurred.

In relation to whether he really was wearing the ring, there are ample circumstances to show the very serious questions about the reliability of such a claim. I need to go further than that of course, but Mr Plumb's concession is made in that context, that his statement was first taken and his memory first tapped of this matter six months and a week after the event.

Your Honour will recall the physical circumstances. Essentially his account was that while talking to Mr Watson he became conscious of Mr Meek's presence behind him by hearing his voice, it was a very short conversation between Mr Meek and the postman, Mr Meek then reached over with his left hand and took his mail and then walked away to Mr Plumb's left, behind Mr Plumb, out some sliding doors which were only about a metre to the left of Mr Plumb. And Mr Plumb said he believed from watching Mr Meek depart in that way, although he wasn't looking to see if he was wearing any jewellery or anything like that, he believed he had it on the ring finger of his right hand exhibit B.

There are other circumstances going to the reliability but they are the essence of it. But Mr Plumb acknowledged, and this is at pages 197 and 198 of the transcript summarised in a question at the top of 198: "And it's quite

possible is it not that you thought he was wearing that tigers eye ring that day because that is the expectation you had of him at that time but actually he wasn't? That is possible is it not? A. Yes."

Again that is the essence of it. There are other answers in which he acknowledges that he could have been confused and other things. Further down on 198 for example: "You would acknowledge that you could be wrong, honestly wrong, in your memory that Mr Meek was wearing any of these individual items of jewellery that day couldn't you? A. Yes." That is lines 43 to 47. It is further developed a little on 199 but they are the only precise points I need to go to.

The witness in short clearly acknowledges he could be wrong about the ring being worn. In the way I put this it is important that that is an acknowledgment by the witness. In other words it is not a circumstance where a witness is saying something in a context which gives rise to serious reservations about the reliability, it was late at night, it was dark, I was 100 metres away, I was in a hurry, where a witness says: But I am sure that's the man. That is a question that can only be resolved by a court considering those undermining factors of unreliability against the witness' proclaimed certainty.

That is not what this witness has done. This witness has acknowledged he could be wrong, he could be wrong about the wearing of the ring, and it is a real particular acknowledgement against those factors. What is important is that acknowledgment comes from the witness, that is the evidence before the Court of the witness: I could be wrong.

In relation to the question of whether it was the Tuesday, of course the importance of that is that if this conversation occurred on the Monday it is entirely meaningless for the purposes of this trial, although it may well be if the conversation occurred on the Monday it fits into some of the other evidence that has been given because if Mr Meek were going out on the Monday we know where he was going, he was going to Mrs King's place to help clean up the car because he arrived there between 12.30 and 1.00. And he was going out without his dogs, there were no dogs present at that conversation.

HIS HONOUR: Did the policeman, did he say anything about the dog, I forget his name, did the postman say anything about the dogs being there?

MOLOMBY: No-one said they were present. I can't recall if the postman said positively they were not present.

HIS HONOUR: But Mr Plumb said they were not there.

MOLOMBY: One of them did. Certainly no one said the dogs were present; someone said the dogs were not there. I will check that.

HIS HONOUR: Mr Plumb said it at page 177.

MOLOMBY: Line 35. As to whether Mr Watson said it, I am quite confident he did not say the dogs were there. As to whether he corroborates them not being there, he did not have his dogs, page 118 line 11, he was just by himself.

HIS HONOUR: You were going on to draw this distinction whether Monday or Tuesday.

MOLOMBY: The key problem there is one which I raised directly with Mr Plumb. Mr Plumb describes a pattern of activity through the morning which does not fit with the electricity being totally cut off from shortly before nine till eleven. Because Mr Plumb says that although he had to walk down to walk the dogs at 9.30, he got the lift back up and was doing housework relying on electricity, washing machines and so on, at 10 o'clock. And indeed Mr Plumb was not aware of the absence of electricity until he tried to get the lift down. I didn't cross-examine him further about that, and in retrospect perhaps I could have, but it was a surprise to him to find the lift off when he got there, he said that.

HIS HONOUR: When he got there to go down.

MOLOMBY: Yes, at 9.30 to take his dogs for the regular about 9.30 walk he was surprised to find the lift was off. This cannot be absolute, but it is a probability in my submission, if the electricity had been off from 10 to 9, 5 to 9 until 9.30 one might expect he would have known that from the lack of performance of things in his own unit and before he got down to the lift at 9.30.

But certainly the electricity was back on to the lift at about 9.45 when he came up from walking the dogs and then stayed on because he did his housework, until he went back down to the lift at 11 30., well the power was on by 11.30 on both versions of this anyway.

Your Honour really what his evidence about the lift not working establishes could not be taken reliably to be anything more than the lift not working. It does not say that there was an absence of power to anywhere else. In fact his evidence more easily fits with the power still being on to the units in general but for some reason the lift not working when he wanted to go down at 9.30.

One could infer easily from the circumstances that that might either have been some separate work on the lift on that particular day, perhaps for a very short time, only something like 10 or 5 minutes, or it might have been connected with the presence of the Wormalds people who Mr Lawrence said when I asked him about their presence on the Tuesday, had actually been on the site for some months.

HIS HONOUR: Was there some evidence they were working on the lift?

MOLOMBY: They are mainly fire protection.

HIS HONOUR: What is the connection between Wormald and--

MOLOMBY: Sometimes lifts are not operating but they are turned off for a particular purpose to general accessibility because someone is taking some gear up and down in them. One meets the case in buildings at night where cleaners turn the lifts off because they have all their things in them.

HIS HONOUR: There were two lifts?

MOLOMBY: Yes there are, in the main foyer. But the essence of this is simply the fact, as Mr Plumb agreed at page 201, from the bottom of 200 through to 201, I asked him this:

> "Q. If it is the case that there was a day in early March 1995 when the Sydney Electricity Power Authority cut off the substation servicing part of Northcott Flats, do you understand that?
> A. Yes.
>
> Q. If there was a day when that happened, that the power was cut off from some time just before 9 o'clock to 11 o'clock continuously, no power at all between 9 o'clock and 11 o'clock because the substation is cut off, that is not the day you were talking about is it?
> A. No.
>
> Q. It can't be can it?
> A. No.
>
> Q. Because on your day the lift was off when you went went down or tried to go down for 9.30 but the power was back on again around 10 o'clock?
> A. Yes."

And I go on: Sufficient for you to do the housework and so on, but the witness actually agreed the pattern of the, whether it is the lift or power being off perhaps does not matter, the pattern of it being off, it being turned off other than by the substation, I am not suggesting the substation man was there on the Monday, but his evidence made it clear it being be turned off locally even down to switchboards that are turned off in the units, whether it was the lift or the power off Mr Plumb concedes the day he is talking about cannot be this Tuesday.

That means in my submission on a healthy balance of probabilities this conversation did not occur on the Tuesday. It must have been the Monday, and as I say there is an explanation in the other evidence for where Mr Meek would then have been going.

Mr Watson the postman also was not clear really about the day and he too was wrestling with the disability he hadn't been approached for some time after the event,

although it was not nearly as long as the gap to Mr Plumb.

LUNCHEON ADJOURNMENT

MOLOMBY: I was at the point somewhere dealing with Mr Watson's evidence, the postman.

HIS HONOUR: He was not clear about the day, I think you said - and he was approached some time later although how much later was he approached.

MOLOMBY: In May. The date is in his evidence.

HIS HONOUR: That was at least two months.

MOLOMBY: 19th of May. That is recorded at 123 line 10 and at line 33 also he said - well, "Your memory when you gave your statement in May 1995 about the events of March wasn't very good? A. Not very good, no" but then more particularly at page 126 at line 24, "It is possible that that conversation was on ... I couldn't remember".

HIS HONOUR: Is that the conversation that he had with Mr Meek, at the time of giving over the mail?

MOLOMBY: With Mr Plumb. "It is possible that conversation was... No".

That is really the sense of it, and that is the sense of my application. I am not of course addressing some other areas of evidence which could come into play and indeed there is some important evidence that is rather supportive of aspects of what Mr Heatley has said because the task in an exercise such as this is to address the high point of the prosecution case and as I apprehend it, without the evidence of Mr Plumb, as I apprehend it, there is no case at all. Just no case.

That is why I am really confining these submissions to addressing those two central aspects of his evidence as to number 1 whether the ring was worn on the day and number 2 whether it was the Tuesday anyway. If it please the Court, unless there is anything else the Court wishes me to address.

HIS HONOUR: The essence of it being, if he left - he had to be there on the Plumb version and to the extent that it is supported by the Watson version, he had to have been there some time after 11am with the ring on to meet their evidence Mr Meek must have been there - and therefore, the accused must have been there after that period of time to have involved himself in the death of Mr Meek and obtain the ring. Perhaps we shouldn't foreshadow how the Crown will put it.

MOLOMBY: If it please the Court, that is my submission.

CROWN PROSECUTOR: The Crown appreciate that the case presented by the Crown is basically a circumstantial case and so, therefore, the first premise that has to be considered we respectfully submit is the Crown's obligation is to establish a case on evidence which is beyond

reasonable doubt inconsistent with any innocent hypothesis. And its always a very human - central factor in any circumstantial case that that be able to be done particularly when that aspect is challenged at this stage of the trial.

Now, to establish the case sufficiently, so that there isn't any reasonably innocent hypothesis available the evidence presented by the Crown as to be not only truthful but it has to be able to be considered as accurate.

HIS HONOUR: Reliable.

CROWN PROSECUTOR: If I could just put it this way - had the Crown witnesses remained firm on their evidence, that is particularly those Crown witnesses such as Watson and Plumb that, indeed there have been others - had they remained firm as to the conversation they had given in their statements, I don't think that this application could have been made.

HIS HONOUR: There would have been an issue of fact.

CROWN PROSECUTOR: The difficulty with - it is very hard to argue against my friend. I am going to do by my best but it is going to be very hard because when you have a witness who said X Y Z happened and is certain it happened in that way then answers the question - 'Well could you be mistaken' with a 'yes', that in reality wipes out his evidence.

HIS HONOUR: That's the problem.

CROWN PROSECUTOR: And so far as Mr Plumb was concerned - and I don't want to be seen as advocating the argument that my learned friend has put because I am merely acting in a way in which I feel I should, in my duty to the Court, but my learned friend has pointed to several things in relation to Mr Plumb's evidence which might cast doubt upon it, and I can't cavil at what he said there because Mr Plumb indeed said 'yes I could be mistaken' in relation to all of that, so in one respect his evidence is a nullity.

Further to that, the evidence of various witnesses is that the deceased wore the tiger's eye ring on his right hand - Mrs Nightingale says that, I think, - I'll just have to - - I know Mrs Franks says that - because he wore his wedding band always on his left hand and so did Wendy meek say that.

HIS HONOUR: The aunt, she also had a problem with the ring itself didn't she?

CROWN PROSECUTOR: Yes, that could be explained.

HIS HONOUR: The onyx ring because there was an onyx ring wasn't there?

CROWN PROSECUTOR: Mr Woodward said he had seen an onyx ring.

HIS HONOUR: He would probably be the most reliable witness as to the rings themselves.

CROWN PROSECUTOR: Mr Plumb says he saw the ring on the left hand, and he says he was expecting it to be there on the left hand which is something which would no doubt be affected by any direction your Honour would give in relation to that. He said that he saw the right hand come across the shoulder to get the mail, so it definitely wasn't on the right hand. There is evidence that the deceased used to wear the tiger's eye on his left hand as opposed to his right hand, so there is evidence that should be considered when considering the strength of what Mr Plumb says notwithstanding the fact that he says that couldn't be sure. Mrs Nightingale had his ring on the left hand.

So far as the electricity is concerned, Mr Lawrence said that he was in his unit washing when he became aware of the power failure and went to investigate the power failure and came across the workers standing next to a generator and he was informed that the power would be off until 11.30 or 12.

He was living in Block A. That is consistent or that could be seen to be consistent with the power having been shutdown in stages as Mr Donnellan did explain to the customer - that is the elecrician working on the Northcott Apartments - before he actually shuts it down at 9 o'clock, so shutting it down in stages in relation to that.

The Crown would argue that it would be highly unlikely for somebody on the 12th floor of the building to be able to call down to somebody on the ground floor and be heard. Evidence was given that that did occur on occasions by Mr Donnellan but not necessarily from the 12th floor of the building but other floors of the building. That is a very high building and calling to someone on the ground to switch the lift back on, that is something a jury could consider if it ever got that far.

The evidence of NP219 in seeing the deceased in the park with his dog Snooky between 11.30 and 12.

HIS HONOUR: That's NP219s' dog.

CROWN PROSECUTOR: NP219 looked out the window as NP219 was preparing to go to the Taxi Club for a 12 o'clock appointment, NP219 said.

HIS HONOUR: I thought Snooky was NP219s' dog?

CROWN PROSECUTOR: No, Snooky was one of the deceased's dogs as I understand it.

HIS HONOUR: I thought that was the one that the deceased had not looked after.

CROWN PROSECUTOR: As I understand it.

HIS HONOUR: But I don't think that is critical.

CROWN PROSECUTOR: Her dog was Bindy, NP219s' dog.

HIS HONOUR: She looked out and saw Snooky in the park?

CROWN PROSECUTOR: Yes, saw him walking Snooky and his other new dog in the park, that was the evidence. That was at 11.30 or 12.

HIS HONOUR: That was on the Tuesday?

CROWN PROSECUTOR: Yes. When that is considered, when that evidence which is uncontested called by the Crown and not able to be cross-examined by the Crown, although some attempt was made, when that is considered together with the evidence of Plumb and Watson, even if they got any of their events on the correct day, they say that Mr Meek was leaving the units without his dogs at 11.30 or some time thereafter. If that's coupled, or if that is compared with the evidence of NP219 who looks down and sees the accused in the park at around about, probably around about quarter to twelve, but some time between 11.30 and 12 with his dogs, that is something else to weaken the Crown evidence on that particular point.

HIS HONOUR: Yes. On the Tuesday events with the postman not having occurred on the Monday.

CROWN PROSECUTOR: Yes, and then when one considers the evidence of Carrol King who says that the deceased went to her place between 12.30 and 1.00 on the Monday and was there until 3pm, then he went to her place, the question wasn't asked whether he had his dogs with him or not, but it could the Crown would submit be easily argued that he would be likely not to have taken his dogs to circumstances like that where he is working on motor vehicles in someone else's place and other things.

The evidence of Carol King possibly cuts across the reliability of at least a portion of Mr Brian Kane's evidence. Brian Kane said that he walked with the accused between 1.00 and 3pm on Monday afternoon where they discussed the accused.

HIS HONOUR: He said that took place on Monday afternoon.

CROWN PROSECUTOR: On Monday afternoon.

HIS HONOUR: And he was of the view that the events they were discussing had firstly just transpired.

CROWN PROSECUTOR: Over the previous--

HIS HONOUR: Overnight.

CROWN PROSECUTOR: Yes.

HIS HONOUR: That would have really been the Sunday night wouldn't it?

CROWN PROSECUTOR: Yes but that would be consistent with Mr Kane's evidence that it was the Monday morning on which the Tally-Ho papers were given to the accused. Mr Kane's evidence in relation to the cigarettes that he received from the deceased is certainly the Crown submits corroborated by the evidence contained in the statement of Mrs Sanpedro, and certainly consistent with that. But so far as the placing of the time when the Tally-Ho papers were given to the accused, he anchored that and was sure about that because of the discussion he had between 1.30 and 3.00 on that Monday afternoon with the deceased when he discussed the attributes of the accused.

So I submit that definitely is a question for the jury but one just cannot consider the evidence of Plumb and Watson in isolation.

HIS HONOUR: But they are critical.

CROWN PROSECUTOR: They are critical.

HIS HONOUR: They are absolutely critical in the context of the connection of the accused with the deceased.

CROWN PROSECUTOR: They are critical if it is to be accepted by the jury that the deceased was wearing or still in

possession of that ring at 11.30. It is not so much a connection of the accused with the deceased.

HIS HONOUR: That's the third element of the charge, that it was the accused who was responsible for the death of the deceased and it doesn't run as I understand Mr Molomby's submission and as I understand the evidence, in the absence of an sense of the timeframes established by Watson and Plumb in a nutshell, isn't that the situation?

CROWN PROSECUTOR: Yes that's right.

HIS HONOUR: And that being so, really it is encumbent I think on me to direct the verdict but I would like your assistance as to whether or not that is the appropriate way I should proceed. If there is any technical difficulty in any aspect of that I would like to hear it.

CROWN PROSECUTOR: There is no technical difficulty in that. The fact of the matter is that if your Honour is not satisfied there is evidence fit to be left to the jury on this circumstantial case, then it is your Honour's duty to direct the jury that way, and absent any reliable evidence from Watson and Plumb there seems little other choice left to your Honour, particularly if those other weakening factors are taken into account in relation to what is left of the Crown case so far as the critical witness is concerned, that is Kane. That leaves Garratt and Garratt's evidence is unchallenged. And Garratt's evidence, all that does is put the accused there on the Monday night.

HIS HONOUR: Which is conceded.

CROWN PROSECUTOR: Yes he concedes that. It could be argued if the ring was of such significance to the deceased as has been made out in the evidence of various witnesses, then it would be highly unlikely that he would go anywhere without it, even to the shop down the street, but that's only a consideration if there is a case to go to the jury on that vital connecting point and I can't argue against the lack of Crown evidence on that connecting issue.

Plumb and Watson's evidence, which is essential to place the ring in relation to the possession of the deceased at 11.30 because they are the only people that, the only people or one of them is the only person who purported to, and in cross-examination besides the problems he has with the electricity and the day, the directions, leaving your Honour's directions aside, the evidence is that he only had a glance of him as he went from behind him after having taken the mail with his left hand from him clutching something as he went out the door.

HIS HONOUR: The way Mr Molomby dealt with that in cross examination really made it highly improbable that he would even be able to make the observation and especially if he wasn't specifically looking.

CROWN PROSECUTOR: I can't argue against the submission made by my learned friend this afternoon because this morning all he did was recount the evidence. This afternoon he made his submission in relation to that evidence and the evidence is there, I can't argue against that. And I don't see any impediment legally to your Honour making the direction as sought.

IN THE PRESENCE OF THE JURY.

HIS HONOUR: Members of the jury. The charge of murder which is a charge the accused faces requires the Crown to prove beyond reasonable doubt that the deceased died and that his death was caused by an act or omission on the part of the accused.

In the present case there is no issue that the deceased died. His body was found and it was identified. The only issue which you have been called upon to decide is whether it was the act or acts of the accused which caused his death.

The Crown case has now concluded. That is to say all of the evidence that the Crown can put before you has been put before you and the submission has been made that there is not within the Crown case evidence which could satisfy you on the criminal standard of proof beyond reasonable doubt of the guilt of the accused. Evidence which is sufficient to warrant a conviction in a criminal trial must not only be true but must also be reliable. Whether the evidence is not fit to be left to you, the jury, by reference to that test, is a matter of law for me to decide and if in my view it is not, then it is my duty to direct you to acquit the accused by giving a verdict of not guilty.

I have reached the determination that there is not evidence of the standard necessary to be left to you and accordingly I direct you to acquit the accused.

Mr Foreman, my Associate will ask you as the spokesman of the jury how you find and in accordance with my direction, you will find the accused 'not guilty'. Would you please stand.

ASSOCIATE: Do you find the accused guilty or not guilty of the charge of murder?

FOREMAN: Not guilty.

JURY DISCHARGED

MOLOMBY: I have an application to make for a certificate under the Costs in Criminal Cases Act in the light of the outcome of the trial and in the light of the nature of the evidence. I think I can state my position fairly succinctly if now would be an appropriate time to proceed with that.
DISCUSSION

HIS HONOUR: I think the course I prefer to follow would be to adjourn the matter until tomorrow, at 11 o'clock if that would be convenient to counsel.

ADJOURNED FOR SUBMISSIONS TO 11AM 26 NOVEMBER 1998 AT PHILLIP STREET.
