

IN THE SUPREME COURT)
OF NEW SOUTH WALES)
COURT OF APPEAL)

Term No. 22 of 1959

BETWEEN:

ALEXANDER EWAN ARMSTRONG; GEORGE ARMSTRONG & SON PTY. LIMITED; FINLAYSIDE PTY. LIMITED; SOUTHERN TABLELANDS FINANCE CO. PTY. LIMITED; GOULBURN ACCEPTANCE PTY. LIMITED; A. E. ARMSTRONG PTY. LIMITED

Appellants (1st to 6th Defendants)

AND:

JOHN OSBORNE BOVILL; CLARE BARTON; TERENCE BARTON; AGOSTON GONCZE; HOME HOLDINGS PTY. LIMITED; ALLEBART PTY. LIMITED; and ALLEBART INVESTMENTS PTY. LIMITED

Respondents (15th to 21st Defendants)

Term No. 25 of 1969

BETWEEN:

ALEXANDER BARTON

Appellant (Plaintiff)

AND:

ALEXANDER EWAN ARMSTRONG; GEORGE ARMSTRONG & SON PTY. LIMITED; FINLAYSIDE PTY. LIMITED; SOUTHERN TABLELANDS FINANCE CO. PTY. LIMITED; GOULBURN ACCEPTANCE PTY. LIMITED; A. E. ARMSTRONG PTY. LIMITED; LANDMARK (QUEENSLAND) PTY. LIMITED (IN LIQUIDATION); PARADISE WATERS (SALES) PTY. LIMITED; PARADISE WATERS LIMITED; GOONDOO PTY. LIMITED; LANDMARK HOME UNITS PTY. LIMITED; LANDMARK FINANCE PTY. LIMITED; LANDMARK HOUSING & DEVELOPMENT PTY. LIMITED; LANDMARK CORPORATION LIMITED; CLARE BARTON; TERENCE BARTON; AGOSTON GONCZE; JOHN OSBORNE BOVILL; HOME HOLDINGS PTY. LIMITED; ALLEBART PTY. LIMITED; ALLEBART INVESTMENTS PTY. LIMITED

Respondents (1st to 21st Defendants)

APPEAL BOOK

VOLUME 5

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IN THE SUPREME COURT)
OF NEW SOUTH WALES)
COURT OF APPEAL)

Term No. 22 of 1969

BETWEEN: ALEXANDER EWAN ARMSTRONG; GEORGE ARMSTRONG & SON PTY. LIMITED; FINLAYSIDE PTY. LIMITED; SOUTHERN TABLELANDS FINANCE CO. PTY. LIMITED; GOULBURN ACCEPTANCE PTY. LIMITED; A. E. ARMSTRONG PTY. LIMITED

Appellants (1st to 6th Defendants)

AND: JOHN OSBORNE BOVILL; CLARE BARTON; TERRENCE BARTON; AGOSTON GONCZE; HOME HOLDINGS PTY. LIMITED; ALLEBART PTY. LIMITED; and ALLEBART INVESTMENTS PTY. LIMITED

Respondents (15th to 21st Defendants)

Term No. 25 of 1969

BETWEEN: ALEXANDER BARTON

Appellant (Plaintiff)

AND: ALEXANDER EWAN ARMSTRONG; GEORGE ARMSTRONG & SON PTY. LIMITED; FINLAYSIDE PTY. LIMITED; SOUTHERN TABLELANDS FINANCE CO. PTY. LIMITED; GOULBURN ACCEPTANCE PTY. LIMITED; A. E. ARMSTRONG PTY. LIMITED; LANDMARK (QUEENSLAND) PTY. LIMITED (IN LIQUIDATION); PARADISE WATERS (SALES) PTY. LIMITED; PARADISE WATERS LIMITED; GOONDOO PTY. LIMITED; LANDMARK HOME UNITS PTY. LIMITED; LANDMARK FINANCE PTY. LIMITED; LANDMARK HOUSING & DEVELOPMENT PTY. LIMITED; LANDMARK CORPORATION LIMITED; CLARE BARTON; TERRENCE BARTON; AGOSTON GONCZE; JOHN OSBORNE BOVILL; HOME HOLDINGS PTY. LIMITED; ALLEBART PTY. LIMITED; ALLEBART INVESTMENTS PTY. LIMITED

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OF NEW SOUTH WALES }
COURT OF APPEAL }

Term No. 25 of 1969

<u>BETWEEN:</u>	<u>ALEXANDER BARTON</u>	Appellant
<u>AND:</u>	<u>ALEXANDER EWAN ARMSTRONG</u>	First Respondent
<u>AND:</u>	<u>GEORGE ARMSTRONG & SON PTY. LIMITED</u>	Second Respondent
<u>AND:</u>	<u>FINLAYSIDE PTY. LIMITED</u>	Third Respondent
<u>AND:</u>	<u>SOUTHERN TABLELANDS FINANCE CO. PTY. LIMITED</u>	Fourth Respondent
<u>AND:</u>	<u>GOULBURN ACCEPTANCE PTY. LIMITED</u>	Fifth Respondent
<u>AND:</u>	<u>A.E. ARMSTRONG PTY. LIMITED</u>	Sixth Respondent
<u>AND:</u>	<u>LANDMARK (QUEENSLAND) PTY. LIMITED</u>	Seventh Respondent
<u>AND:</u>	<u>PARADISE WATERS (SALES) PTY. LIMITED</u>	Eighth Respondent
<u>AND:</u>	<u>PARADISE WATERS LIMITED</u>	Ninth Respondent
<u>AND:</u>	<u>GOONDOO PTY. LIMITED</u>	Tenth Respondent
<u>AND:</u>	<u>LANDMARK HOME HOLDINGS PTY. LIMITED</u>	Eleventh Respondent
<u>AND:</u>	<u>LANDMARK FINANCE PTY. LIMITED</u>	Twelfth Respondent
<u>AND:</u>	<u>LANDMARK HOUSING & DEVELOPMENT PTY. LIMITED (In Liquidation)</u>	Thirteenth Respondent
<u>AND:</u>	<u>LANDMARK CORPORATION LIMITED</u>	Fourteenth Respondent
<u>AND:</u>	<u>CLARE BARTON</u>	Fifteenth Respondent
<u>AND:</u>	<u>TERRENCE BARTON</u>	Sixteenth Respondent
<u>AND:</u>	<u>AGOSTON GONCZE</u>	Seventeenth Respondent
<u>AND:</u>	<u>JOHN OSBORNE BOVILL</u>	Eighteenth Respondent
<u>AND:</u>	<u>HOME HOLDINGS PTY. LIMITED</u>	Nineteenth Respondent
<u>AND:</u>	<u>ALLEBART PTY. LIMITED</u>	Twentieth Respondent
<u>AND:</u>	<u>ALLEBART INVESTMENTS PTY. LIMITED</u>	Twenty First Respondent

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BARTON v. ARMSTRONG & ORS.

THIRTIETH DAY: TUESDAY, 3RD SEPTEMBER, 1968.

MR. BAINTON: There are a couple of matters in the transcript. On p. 1002, in the middle of the page, there is "Mr. Volp" in ink. That should be "Mr. Bovill".

On p. 1013, the third last question, the answer to that question omits the words "not been" at the end of the answer. The answer should finish "I would like to add that since these court proceedings I certainly wish it had not been." 10

FIRST-NAMED DEFENDANT
On former oath:

HIS HONOUR: Q. You are still on your former oath, Mr. Armstrong? A. Yes.

MR. GRUZMAN: Q. You appreciate what has been suggested is that this diary which you have produced was made up by you after you had received advice that your diaries could be brought into evidence. You understand that is the suggestion? A. You have been suggesting that it was made up for some time. I don't know when you are suggesting I made it up. 20

Q. I am suggesting that you made it up some time in March or April 1967 - this particular one?
A. Yes.

Q. You understand that? A. I understand what you are suggesting, yes.

Q. I am also suggesting to you that your remaining diaries were not destroyed until after the commencement of these proceedings? A. You did that the other day, didn't you? 30

Q. Yes. You might just tell us whether you prepared the diary - you might tell me whether your purpose in keeping a diary was that you could refer back to events which had occurred and conversations you had and people whom you met, and such matters as that? A. I would not say that that was my only purpose. It is just to keep a general record. 40

Q. That was one of your purposes? A. That was one of the purposes, yes.

Q. And in practice that meant that you kept fairly detailed notes of events which occurred, both important and unimportant? A. Not always, Mr. Gruzman. It could happen that I did not at times. I said that I sometimes wrote the diary a week later, and when I did that I could slip on something. I am quite prepared to admit that.

Q. What I am putting to you is that, having re-written the earlier months of the diary, you then 50

kept the diary as your diary? A. No. I did not re-write it. This is the genuine diary, Mr. Gruzman.

Q. I am suggesting to you as the months went on you tended to get back into the habit of keeping the diary more or less the way you would have, except bearing in mind the fact that it could be brought to court? A. You may be suggesting that, Mr. Gruzman, but it is the genuine diary.

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Q. For example, and only for the purpose of illustrating the method by which you kept your diary in the later months, I just want to put to you one or two pages, and I want you to tell me whether you agree that is the way you keep your diary - that is the method by which you keep your diary. Do you understand what I am putting to you? I open the diary at the page for 12th August, which reads "Got up about 10.30. Called " - I won't mention names; it is not necessary for this purpose - "called so and so and saw their new flat at such and such an address. It was very nice, with a lovely view. Then called and saw somebody else at a hospital. Went to the pictures, and somebody else called in on their way home and we had a chat." That is the record in the diary, excepting that I have omitted the names of people. You will agree, that is a fairly detailed statement of the events of that day, isn't it? A. Reasonably so. Can you tell me what day of the week that is?

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Q. That is a Saturday? A. Yes. That is what unfortunately occurs. I generally write the diary on a Saturday or a Sunday if I don't do it daily, and I might put much more detail then for the Friday, Saturday and Sunday than I do for the preceding Monday and earlier days unless there was anything that really stuck in my mind. That is my explanation of that.

Q. I have opened it more or less at random for Monday, 28th August? A. Yes.

Q. Which happens to be when you were at Windradene? 40
A. That is a different matter.

Q. The Windradene entries are detailed? A They would tend to be detailed because I don't keep anything much in the way of notes on Windradene, because they are kept in my diary. I would tend to make them a detailed record so far as possible - tend to make the diary notes as detailed a record as possible.

Q. Does that mean there are other notes of matters which appear in your diary other than Windradene? A. No, there are no other notes which I have not handed to Mr. Grant.

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Q. What did you mean your last statement to mean? A. What I said was that in regard to Windradene I keep more copious notes in the diary.

Q. You say that your diary notes for Windradene are more extensive than your notes on other matters?
A. Yes, they tend to be.

Q. You said the reason for that is that you don't keep any other notes on Windradene other than in the diary? A. I don't keep any particular detailed notes.

Q. Didn't you tell his Honour just now that the reason why the Windradene notes are more copious is that you don't keep any other notes of what you do at Windradene other than what is in the diary? A. No, I did not say I don't keep any other notes. I keep quite lengthy correspondence files from the manager at Windradene and other things.

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Q. Did you tell his Honour just now that the notes in the diary at Windradene had been put in in a more copious way because you do not keep any other notes of what happens at Windradene other than what goes into the diary? A. Perhaps I should have said -

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Q. Did you say that? A. If I said it I said it, yes.

Q. Was it true? A. No, I don't think it is completely true.

Q. Why did you tell an untruth about it? A. I am not trying to tell an untruth about it at all. I am trying to explain it would be more important than if I said I was at the office for the day. That is what I was trying to explain.

Q. The fact is, I suppose, that in respect of the whole of the year 1967 you have kept other notes of your activities other than what is in your diary? A. No notes that I have not handed to Mr. Grant.

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Q. You did keep other notes? A. I kept certain notes, yes. But nothing of any interest that I have not handed to Mr. Grant at all. I handed all my notes to Mr. Grant.

Q. In other words, the diary for 1967 in respect of matters other than Windradene is not complete? A. I would not say it is a complete and utter record, no.

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Q. You have kept other notes which made your diary complete? A. No, I did not keep any other notes that I have not handed to Mr. Grant. I am sure that any notes that I kept I have handed to Mr. Grant.

Q. Those you have handed to Mr. Grant, taken with the diary, would make a complete record? A. I would say so yes.

Q. What I want to put to you is that - do you say in respect of the early months of 1967 the diary is accurate? A. I would say reasonably so. I would not say that it is perfectly accurate.

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Q. I want to take you to a few items, and just

tell me - on 3rd January there is this entry "Spent most of day at Jack Murray's with Margaret. Unfortunately she had a bad headache. We decided to return home by car, leaving boat anchored." Is that a true statement of what you did on 3rd January? A. Yes, I believe it to be so.

Q. If I suggest to you that Mr. Smith gave evidence that he saw you in connection with Barton v Armstrong on 3rd January would you say that was right or wrong? A. I would say that the diary was probably accurate so far as 3rd January is concerned. I thought I saw Mr. Smith on 4th January. But I am not clear on that.

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Q. You stake your diary against Mr. Smith?
A. No. I told you that I am not putting that diary up as an absolutely correct record. I said I believed it to be so.

Q. If you saw Mr. Smith about this important matter you would have made an entry in your diary, wouldn't you? A. No. I was seeing and ringing Mr. Smith and Mr. Grant so many times and there were so many changes in the documentation of the matter that I would not have noted all of that in my diary.

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Q. I refer you to p. 472 of the transcript. I am going to read you some of the evidence given by Mr. Smith. He was asked "Well now, would you have a look now, please, at the note you made on 3rd January." And, turning to p. 474, half-way down, he was asked "Well, now, on the same day you told us you subsequently saw Mr. Armstrong?" to which he answered "Yes". And I refer you also to p. 476 at the bottom: "Q. Underneath that 'within 7 days'. Is that something that Mr. Armstrong brought up on the 4th, too? A. Yes. I believe he brought that up on the 3rd."

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Are you prepared to deny that you saw Mr. Smith on the 3rd? A. I don't think I did see Mr. Smith on the 3rd.

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Q. Because if you had seen him you would have made a note in your diary? A. I would not say I would have made a note in my diary. At this stage, if I may explain, Mr. Smith was keeping these copious notes. He even went as far as to make me sign at the bottom a lot of these notes, so that I would not bother keeping them in my diary. All I had to bother to do was to get a photostat of the notes which Mr. Smith made, which were more copious than would fill a diary.

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Q. You have denied that you saw Mr. Smith on the 3rd? (Objected to).

Q. I will ask you again. Do you deny you saw Mr. Smith on the 3rd? A. I said I don't believe I saw Mr. Smith on the 3rd. I don't deny it. I don't think it was likely. If Mr. Smith was only

trying to test his memory, the same as I would be, he would probably agree with the diary. He didn't have his notes beside him when he was asked these questions, did he. I didn't have my diary.

Q. It is entirely inconsistent with your version, according to the diary of what happened on the 3rd, that you saw Mr. Smith. It is entirely inconsistent with your diary version of what happened on the 3rd that you saw Mr. Smith? A. I don't think I saw Mr. Smith. I won't say on my oath that I did not see him, but I don't think I did. I may have 'phoned him on the 3rd. 10

Q. When you made up your diary you were building up the Jack Murray matter, weren't you? A. No. I didn't know anything about it, so why would I build it up. Why was I building it up?

Q. Of course, at that time you did not think that Mr. Smith's notes would refer to a cross reference or talk with you? A. I think I had his notes ad infinitum during the period. 20

Q. What you did, when making up the diary, was to exclude all matters which you thought may prove embarrassing? A. No, there is nothing embarrassing about Mr. Smith's notes.

Q. But you were not sure at the time what would be embarrassing and what would not be? A. No, that diary is completely genuine and correct.

Q. You knew you were in trouble; you knew your diary would be brought to court, and you didn't know what would be hurtful? A. I didn't know I was in trouble at all. 30

Q. Let us take, then the 4th January. You see, you remember seeing Mr. - do you say this, that you remember seeing Mr. Smith on 4th January? A. No, I don't recall seeing Mr. Smith on 4th January.

Q. How can you tell whether you saw Mr. Smith on 4th January? A. If I said I was in Sydney on 4th January, and if Mr. Smith had notes of my seeing him, they would be more accurate than my diary; I would prefer to take his notes. If Mr. Grant and Mr. Smith said I saw him - which I don't know what they said on the matter - I would prefer to take their evidence of that than my own - than my diary. 40

Q. That means that you concede without going any further that your diary might be, to say the least, inaccurate? A. I think I told you that early in the peace, Mr. Gruzman.

Q. Now, would you go so far as to say that no reliance whatsoever can be placed on your diary? A. No, I would not go so far as to say that. 50

Q. If you are asked here to say on your oath did you or did you not see Mr. Smith on 4th January what is your answer? A. I would say I don't recall

clearly seeing Mr. Smith on 4th January. I could not say whether I saw him or did not see him. That would be my straight answer.

Q. If I put it to you that you are a man who is in the habit of keeping a detailed diary would you agree with that? A. Yes I would. Not a terribly detailed diary all the time. I would not agree with that.

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Q. But a diary which included both important and unimportant social and business meetings, didn't it? A. Yes, but I will have to repeat - probably boring the Court - that I do not usually write the diary each day, therefore some matters have larger prominence than others. Some items are given larger prominence than others.

Q. You would not tell a lie to yourself in your diary, would you? A. No, I would not think so.

Q. If you said - A. I could make a mistake in my diary, though.

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Q. But not a whole series of mistakes? A. I would not think so, no.

Q. If you said in your diary "Spent day - "

HIS HONOUR: Mr. Gruzman, my recollection is that there is one entry on 4th January that Mr. Staff took exception to. It was an observation that seems to have nothing to do with anything relating to matters of relevance in this case. I think you can pick up the part that Mr. Armstrong would prefer not to have mentioned. I think you should omit that part.

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MR. GRUZMAN: Certainly.

Q. For 4th January if you said that you spent the day at home and played tennis, etc., you would expect that to be true, wouldn't you? A. I would not be very clear about the accuracy of an entry like that.

Q. If it is true, do you mean you did not go to the city? It would mean that you did not go to the city that day? A. If it is true, yes. I am not suggesting that that entry is terribly accurate one way or another. I could have stayed at home and had a 'phone consultation with Mr. Smith and Mr. Grant and not seen them. I just don't recall. It would be no use saying I do recall seeing them or don't recall seeing them nearly two years ago.

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Q. With his Honour's permission I show you the diary, and I ask you now will you say on your oath that you did or did not see Mr. Smith on 4th January? A. I could not tell you. I would not say yes or no. I just could not tell you honestly.

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Q. Would you agree, looking at the entry in your diary, that you spent the day at home? A. That

is what it says, but I don't say that is accurate. There is even something crossed out in the diary. I may have recalled that I went to the office on that date. Normally on 4th January I would not think I would go to the office, but it is quite possible I did, and it is quite possible I went to see Mr. Smith. I don't recall. I could or could not have seen Mr. Smith on that day. I really do not recall. I would prefer to take Mr. Smith's version of it. But I don't think it is very material. I probably talked to him on that day. I would certainly go so far as to say it is very very likely I spoke to him on that day by 'phone at least.

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Q. If you gain some comfort from the alteration which appears in the diary will you explain fully to his Honour what you imply by that? A. I am not making an issue of it. I am not saying one way or another about it. I could not fully recall and I would not swear on my oath that I did or did not see Mr. Smith on that day.

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Q. There are two letters crossed out? A. Not very much.

Q. One or two letters crossed out? A. Nothing of significance.

Q. No significance? A. I would not think of great significance, no.

Q. I will read to you Mr. Smith's evidence on this point, at p. 474 of the transcript, half-way down: "Q. Yes. Who did you see then? A. On 4th January I saw Mr. Armstrong again." I will refer you to the earlier few questions: "Q. Well now, having done that, did you get in touch with anybody else about it? A. I don't believe so on that day.

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Q. And on some subsequent occasion? A. Yes.

Q. On 4th January? A. Yes. Q. Yes. Who did you see then? A. On 4th January I saw Mr. Armstrong again. Q. Yes. When was that? A. I would have to refer to my diary to know what time of the day that was." and, omitting a question, he was asked: "Q. Yes. Please look up your entry for the 4th January? A. 12.15 pm" At p. 475 he was asked "A. Do you recall how long your discussion with Mr. Armstrong lasted? A. No. It took some time, because I wrote out some further notes on 4th January in the presence of Mr. Armstrong."

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Did that take place, Mr. Armstrong? A. I would say if Mr. Smith said it did it did. I would say his recollection of things would be much more accurate than my diary of that day.

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Q. In that case your diary for that day is a complete lie, isn't it? A. I don't think it is terribly important - what didn't register with me on that day. I don't think it is a complete lie. It is not intended to be a complete lie.

Q. If you accept as accurate, as you say you do, Mr. Smith's evidence about 4th January your diary for that day is a complete lie, isn't it?

A. I would not say that. The diary is probably incorrect.

Q. Look, it is a complete lie, isn't it? A. No, Nothing intentional about it being a lie. The thing that impressed me about it is that my wife had a headache, and the other thing his Honour noted. This happened a few days afterwards. I didn't think it was necessary to keep detailed notes if Mr. Smith had written it down and I signed it - what is the good of my putting two pages of the same thing in my diary?

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Q. What is the good of telling lies? A. I did not tell lies. It didn't occur to me. I may have written this diary a week later.

Q. It is not true? A. It is not accurate. I may have spent some of the day at home playing tennis. I may have gone to see Mr. Smith. I don't say I didn't see Mr. Smith. There is nothing significant in my view about it. I will concede that Mr. Smith's notes for that day would be probably more accurate than mine. That is all I can say.

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Q. I am afraid I will have to press you on this. I want to know is it true or is it false that you spent the day of 4th January at your home? A. I would not know. I think it probable the diary entry is incorrect if Mr. Smith saw me on the 4th. As I say, I am not making an issue one way or the other. I would be much more inclined to take Mr. Smith's notes than mine on that day.

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Q. In that case you agree your diary entry on that day is untrue? A. I said it is inaccurate. I do not say it is untrue. I may still have spent most of the day at home. The diary is not word for word. You cannot pinpoint a diary to word for word like that.

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Q. I will read you Mr. Grant's evidence on the same point and see if that helps you. This is on pp. 511 and 512 of the transcript. On p. 511 he was asked: "Q. What happened then on the 4th?"

A. Armstrong contacted me first, and said that there was a proposal that had been made; to come down to Smith's office at either 2.30 or 3.0 in the afternoon. I went down to Smith's office, and there were some handwritten notes of Smith's distributed." He was asked, in the second question from the bottom of that page, "Q. Have you any recollection of how long this conference lasted? A. Probably one to two hours."

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Now, Mr. Armstrong, do you accept that you spent in conference with Mr. Armstrong (sic) and Mr. Grant - A. Mr. Smith.

Q. Do you accept that you spent in conference

with Mr. Smith and Mr. Grant one to two hours on 4th January? A. I think it very probable I did, if they said so.

Q. Will you agree that is completely inconsistent with the version that you spent the day at home? A. The entry "Spent day at home" would appear to be inaccurate, or it did not include the fact that I went and saw Mr. Smith. I am saying it is inaccurate. That is all I am saying. 10

Q. I am putting it to you that the two cannot stand together - the fact that you spent the day at home and the fact that you spent one of two hours in conference with other people in the city. Those two statements cannot stand together. Do you agree with that? A. I told you before that -

Q. Do you agree with that? A. Yes. They certainly cannot stand. I am not arguing with that at all. 20

Q. If you accept that in fact you had this conference, the statement in your diary is untrue, isn't it? A. Not meaningfully untrue. It is a mistake that I did not recall the fact that I went and saw Mr. Smith. That I will agree with. I don't think there is anything untrue. I spent some of the day at home, and I spent some time with Mr. Smith, but I did not record it in the diary.

Q. You say "spent day at home"? A. If you will bear with me and read through you will see there are many entries of "spent day at office" or "spent day at home." It does not detail what I did at the office or what I did at home. They are usually days when I can't remember what I did particularly. 30

Q. I put it to you that your entry in the diary for 4th January is a complete lie? A. You may put it as much as you like, Mr. Gruzman, but I won't concede it.

Q. And that is because you don't know the difference between truth and lie? A. I don't say there is any question of truth or lie in it. I did not say there was any question of truth or lie. I said the diary entry is inaccurate, and that is all about it. It is not completely full. It is not a completely full entry in the diary of what I did. 40

Q. Will you agree that when you said "At home, played tennis, etc." it is a false entry? A. I will say it is an inaccurate entry. I am not saying it is a false entry. 50

Q. This document was prepared by you as a document intended to pretend to purport that it was your true diary, when you knew it was not?
A. No.

Q. It is a false and fraudulent document, isn't it? A. No.

Q. I suppose you must have sat up one night copying these entries in? A. No. The document is quite genuine. I have told you that I don't know how many times.

Q. And every word you wrote was a lie, wasn't it? A. No. Most of the diary is factually accurate. I am not saying it is word for word perfect as a record of every day I spent during 1967.

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Q. And the object of the exercise was to deceive this very Court, wasn't it? A. Certainly not.

Q. You understand that I am putting to you that you only re-wrote the early portion of this diary after you received advice? A. No. I was not clear on that. I thought you said I re-wrote the whole diary. I was not clear what you were putting quite frankly.

Q. I want to put it to you quite clearly that the suggestion I put to you is that you re-wrote the early part of the diary after you received advice that that diary could come to court? A. Yes. You told me that. Now I am clear that you said something - that you specified that I started to re-write it correctly. Perhaps you can tell us when. I don't think it matters much, because I wrote it correctly at the time.

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Q. When was the first time after the week-end of 7th January that you saw your solicitor or counsel?
A. I could not recall that.

30

Q. You could not recall that? A. After the week-end of the 7th January when?

Q. 1967? A. I would not know anything about it. I could not recall it at this stage. If it is in the diary I may have seen them. I may have seen them without putting it in the diary. I would not recall that at all.

Q. Tell us what your diary - I will show you the entry for 9th January. A. Yes. I would have thought I would be in contact with my solicitor - not my counsel in this case so much - on 9th January, yes. Yes, I see that entry.

40

Q. Can you tell us now, I ask you - with your entry in front of you - with your diary in front of you can you tell us did you see your counsel or your solicitor or both of them on 9th January? A. I would say that I was in touch with them. I was in touch with Mr. Grant during that period I would say most days by 'phone or in person.

Q. There is no reference to that in your diary, is there? A. I think that is it there - "Still lawyer conferences." They were just talking all the time.

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Q. There is no entry in your diary to the effect that you saw Mr. Staff and Mr. Grant on that day, is there? A. Apparently not, no.

Q. Do you know whether you did or did not?
A. No, I could not recall it.

Q. I refer now to p. 515 of the transcript. Mr. Grant referred to a document headed 9/1/66. This is half-way down the page. He was then asked: "Q. On that day, I think in the morning, you had a discussion with Mr. Staff, and with Mr. Armstrong, and concerned yourself with drafting some of the security documents for which your draft provided? For which your draft deed provided? A. Yes."

10

Do you know whether you saw Mr. Staff and saw Mr. Grant? A. I probably did, I think. The remark "still lawyer conferences" would lead me to believe I saw certainly one or other or both, but I could not swear to it. If they said I did I would be very confident I saw them on that day.

Q. Let us come to the entry of 12th January now. May I have the diary back for a moment? Your total entry for the 12th January - and I will read it to you - is "Spent day at home. Walked in gardens, etc.,"? A. That looks as if it was a fill-in one of some sort. I don't know what happened on that day.

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Q. What do you mean by a "fill-in one of some sort"? What do you mean by that? A. Probably - I don't know how many times I have to repeat it to you, that I do not say this diary is always a completely accurate record of what occurs.

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Q. You understand what I am putting to you? A. I know what you are putting to me, yes.

Q. That your diary is clearly quite a comprehensive document, with lots of detail? A. If you go to the back of it you will find much the same after I returned from overseas.

Q. But you knew it was going to come to court at that stage? A. No, I didn't know anything about it.

Q. I will read to you a bit of evidence, and tell me whether you believe it is true. This is on p. 522 of the transcript. I want to put to you - perhaps I won't read it all. I put it to you on the basis of the evidence given by Mr. Grant at p. 522 that during that day there were a number of conferences and a number of company meetings held at which you were present. Do you agree with that?
A. I could have been. If it is recorded in the company minutes I would certainly have been there.

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Q. And his Honour in fact asked the question: "Q. Each of these meetings did in fact take place as a genuine flesh and blood meeting on the 12th? A. Yes." A. Yes, when they are recorded they were always a flesh and blood meeting.

Q. And the common seal was placed on all the documents which were under discussion in the proceedings? A. If the minutes say so, it is correct.

Q. So that it must have been a pretty heavy and important day for you? A. I would say, so, yes.

Q. From a business point of view? A. Yes. I might not have written this diary for a week after that, and by this time I was so sick of the whole affair I did not write very much in it, as the whole thing was documented in the minute books, anyway.

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Q. I put your diary in front of you. Will you agree there is no reference to any of these meetings, conferences, or anything like that, is there?
A. None at all.

Q. And in fact the diary says you spent the day at home? A. Could be quite incorrect, quite inaccurate.

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Q. In fact your diary in respect of that day is a complete lie isn't it? A. No. It is quite inaccurate.

HIS HONOUR: Q. "It is quite - " A. "Inaccurate".

MR. GRUZMAN: Q. Again, you see, perhaps one can make a slight error which could be classified as inaccurate, and - (interrupted) A. I think if I was doing what you said I would have checked very carefully with Mr. Grant and written everything in exactly right so that it is much more likely to be genuine than what you have put, if I had any feelings of any necessity to forge my diary.

30

Q. You think you would have gone to Mr. Grant and said "I want to forge my diary. Will you help me?" A. No, I would not have said that at all.

Q. You know that you could not get any assistance from your legal advisers on a question like that? A. Certainly not. There is no question of forging the diary.

Q. And you had to sit down and do your best?
A. No I didn't.

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Q. And your best was not very good? A. I think it is a completely accurate diary. Not accurate, but a completely factual diary as I wrote it at the time. I did not say it was accurate. I am not saying it was accurate. I said that at the beginning.

Q. When do you say you wrote that entry in respect of the 12th January? A. How could I at this stage recall when I wrote it - whether I wrote it on that day, or a week after.

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Q. Or two or three months after? A. Certainly not that long. It may be up to a week later.

Q. For such a mistake to occur you would have had to have written it months later, wouldn't you?

A. No. I would not have. I wrote the diary as I told you, Mr. Gruzman. This is the diary for the year 1967, and it is the only one in existence and the only one that has ever been in existence.

Q. And that, of course is another series of lies, isn't it? A. No, it is quite true.

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Q. I would like you to give a full explanation to the Court as to how you say you spent the day of 12th January at home, when in fact you had a number of conferences, and the placing of seals on documents, and such matters. Can you give us a full explanation, in your own words? A. I think I have already given it. All I can say is that it is apparently an inaccurate entry in the diary. That is the only explanation I can give.

Q. That is the best you can do? A. Yes, definitely.

20

Q. On 23rd April, 1967, did you go to Mr. Grant's place? Did you go to Mr. Grant's home for dinner?

A. I don't know. If it says so in the diary, I very probably did.

Q. Have a look at that (entry in diary shown to witness). Did you and Fred Hume and your wife go to Mr. Grant's home for dinner? A. I would imagine so, yes.

Q. That is what the diary says? A. That is what the diary says.

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Q. And at that stage you certainly knew about Hume's interview with the police? A. I have told you I could not recall when I knew about Hume's interview with the police. I told you to the best of my ability it was before I left for overseas. It was so completely scrappy a thing he gave me that I could not recall mentioning it to anybody.

Q. Was there any discussion at Mr. Grant's home between him, Hume and yourself about these allegations made by Vojinovic? A. No, none at all.

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Q. Was the matter present to your mind then?

A. No. That does not mean - so far as I can recollect Mr. Hume did not go to Mr. Grant's home.

Q. Mr. Hume didn't go to Mr. Grant's home?

A. No. If you read the diary carefully you will see that for yourself.

Q. You have now realised the importance of it?

A. No.

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Q. What the diary says is "Spent morning at tennis. Fred Hume called in afternoon and we went to dinner at Bob Grant's home in evening." A. "We" usually refers to my wife and myself.

Q. That is not what you said a few moments ago?
A. No. I don't think that he went - I told you I don't think he went to Mr. Grant's home. He may have; I don't recall. I don't think he did. In fact, I am almost certain he didn't go to Grant's home.

Q. You are not prepared to swear to it? A. Yes, I think I would be almost prepared to swear to it. At that distance of time I don't like to swear to anything that could be conceivably inaccurate, but I am very nearly certain he did not go to Grant's home for dinner. 10

Q. There is no doubt that during these first few weeks of January you were seeing Mr. Hume very frequently? A. No, not much at that time.

Q. I beg your pardon? A. Not much after towards the end of January, I don't think. I was away. The diary would show - 20

Q. The first few weeks of January you were seeing a lot of Hume. A. Not a great deal, I don't think, unless it is shown there.

Q. You will only admit to what is shown in this false diary? A. I don't know the number of times - I don't like you referring to it as a false diary, because it is not one.

Q. Hume is only mentioned in the diary during January - first, on Saturday, 7th January? A. Yes. 30

Q. Then he does not get a mention until 20th January? A. If that is what you say it is probably correct.

Q. You accept that? A. If that is what is in the diary. I don't say I did not see him between those two times.

Q. But there is no mention of it between those two dates? A. Yes. I don't say I did or did not see him between those two dates. I just don't recall.

Q. You were seeing him practically daily over that period, weren't you? A. No. 40

Q. He used to come and play tennis with you, didn't he? A. We were not playing tennis daily over that period, Mr. Gruzman.

Q. On 2nd January - I am sorry, 4th January you played tennis? A. Yes. I don't know whether I played with him or without him.

Q. You don't say who with? A. No, I don't know who with that day. You say it is an inaccurate entry, 4th January, anyway.

Q. It is inaccurate perhaps in that it also omits who you were associating with that day? A. It appears I was associating mainly with Mr. Grant and Mr. Smith.

Q. You are prepared to completely abandon your diary now, are you? A. No.

Q. On 5th January you played tennis? A. So it says there, yes.

Q. You would assume that to be with Hume, too? A. No, I would not. assume, no.

Q. You did not have any friends to speak of other than Hume over that period, did you? A. I consider that in keeping with your usual offensive remarks, Mr. Gruzman. 10

Q. I put it to you that Mr. Hume was a bosom companion as well as bodyguard? A. You have put a lot of things which are completely inaccurate. That is another one.

Q. When you went overseas did you go to a great deal of trouble to contact Hume's family overseas?

A. When we were in Zagreb we met his aunt. A natural course of events - not a great deal of trouble. Nothing sinister in that. We certainly went to some trouble to meet his aunt. in, I think it was Zagreb. 20

Q. On 25th May - Thursday 25th May, 1967 - have you this entry? You wrote this "Had a look at railway station, etc..." A. "... also Fred Hume's father's building."

Q. And then this one here, on the same date. You then apparently looked for Fred's aunt's place?

A. That is the place he told us to look for. 30

Q. You went and looked for it? A. Yes. I don't have many contacts in Zagreb.

Q. You entered "We found Fred's aunt's home, but she was out"?

A. That is right.

Q. And then on the Friday - you take it up on the Friday, and you wrote to who? Your daughters?

A. Yes.

Q. You wrote to your daughters on the Friday?

A. I think that that was only natural, to see the city that his parents had been in. 40

Q. What I am putting to you is that you were a close friend of Hume's? A. Not particularly.

HIS HONOUR: Q. What is the answer? A. Not particularly. Just looked these people up as you might in a place where you would not have any contacts - a place like Zagreb. I am not a close contact of Marshall Tito.

MR. GRUZMAN: Q. On May 26th did you write "That afternoon we went for a drive for a couple of hours. 50

We saw Fred's house at 56 Herzegovacka Street, situated on a nice hill in the best part of town. There are some very nice old houses in the area, but most of them are not well kept." I have then omitted one part. "Later we talked to the Norwegian Consul (Derma) and then we had tea with Fred's aunt Nadamalelic, her husband, two other friends, and a lady who interpreted. We had slivovitz and nice savories, ham, etc. and they were very hospitable. I feel they have had a hard time and Fred's father must have had a bad time. They were very nice and we enjoyed meeting them." That is all correct, isn't it? A. Yes, I think so. Quite correct. 10

Q. By the way, how many people did you have at the airport when you went Overseas on this trip?
A. Oh, I can't recall that.

Q. The main one was Fred, wasn't it? Fred Hume --

HIS HONOUR: We won't have first names, Mr. Gruzman. 20

MR. GRUZMAN: Q. Fred Hume? A. Not the main one at all. I can't recall who saw us off.

Q. What happened was, when you were leaving, the aircraft you were about to depart in had a cracked windscreen, and it could not depart at the intended time? A. If that is in the diary, probably so, yes.

Q. You might tell me if I am right in this: "We eventually left at 8 p.m. Margaret went to her sister's"? A. Yes. 30

Q. What is the rest of this, please? A. "M. & P., Fred Hume and I went back to Vaucluse."

Q. "M" is Mary, being one of your daughters?
A. Yes. "P" is Pamela, one of Mary's friends.

Q. Mary, a girl friend, Fred Hume and you went back to Vaucluse? A. Just drove back to there.

Q. You mentioned some other people who saw you off? A. They naturally didn't stay there from 1 o'clock to 8 o'clock to see us off - all the people.

Q. Do you still deny that you were quite close friends with Fred Hume? Do you deny you were a close friend of Fred Hume? A. I always said I was quite friendly with him. I don't say he was my best friend or a particular friend. I just said I was friendly with him. 40

Q. I would like to ask you about an entry. I want to show you an entry on September 24th. I will read the whole entry to you, and ask you about part of it: "Spent morning about the place and went to tennis" at a certain place "in the afternoon. Decided on certain action re invasion of privacy and implemented it." A. Yes. 50

Q. What does that mean? A. I think that is when I decided to dispose of my diaries and I implemented it from that time on.

Q. So that that entry means that you came to the decision to destroy your diaries and that you actually did destroy them? A. I don't know whether I destroyed them on that day. I told you I destroyed them at some period between October and December to the best of my recollection - mainly in October and November, I should imagine. 10

Q. Let us have a good look at that entry. There are two sentences in that entry, aren't there?

A. There are two sentences, yes.

Q. Two sentences in the entry? A. Yes.

Q. And they are both written at different times, aren't they? A. No, I don't think so.

Q. Look, they are written in different ink? A. I cannot recall. I would not agree with that. I don't know that they could have been. 20

Q. They could have been? A. I don't know.

Q. By the way, the second entry is about "invasion of privacy", isn't it? The second entry refers to your diaries? A. I imagine so, yes.

Q. How could it be that the second entry could be written in different ink? A. I can't account for it, Mr. Gruzman.

Q. You have gone over the first letter of the word "spent" in the new ink? A. I can't account for it. I don't think there is much difference so far as I can see. 30

Q. I put it to you that is a fraudulent entry, intended to pretend that you decided to destroy your diaries then, when in fact you did not destroy them until after the proceedings started? A. Not correct.

Q. Can you offer any explanation to his Honour at all as to why the second half of that entry appears to be in different ink to the first one? Can you offer any explanation at all as to that? A. I cannot offer any explanation. 40

Q. No explanation? A. No.

Q. Are you prepared to swear on your oath that the two entries were written at the same time? A. I would imagine so. I cannot swear it on my oath. I don't know.

(First-named Defendant's diary, 1967, omitting masked portions, tendered and admitted as Exhibit "AA").

Q. When I put to you it was written in different 50

ink, what I put to you is that the ink now is apparently different in the two paragraphs. The first one has aged, producing a different colour, and - A. I am not clear on what you are putting.

Q. What I am putting to you is that it is quite obvious, by looking at that entry and the variation in the inks - in the colour of the ink in the two paragraphs - that they were written either at different times or with different ink? 10

A. I don't know. I am not an ink expert. It could have been. I am not denying it. It could quite possibly have been written with different inks.

Q. I will ask you again now: Can you offer any explanation as to how it could have been written with different ink? A. No, I could not offer a different explanation.

Q. You could have dropped your pen and had to get another? A. I did not offer that explanation. You would not believe it, anyway. 20

Q. You are right, Mr. Armstrong. You would not dispute that they could have been written at different times? Those two sentences could have been written at different times? A. No, I think they were written at the same time, but I am not quite definite on that. You say the diary is inaccurate. Maybe it is inaccurate according to you.

Q. And it may be inaccurate in that these two passages were written at different times? A. I don't know. I don't think that they - 30

Q. You are not prepared to swear one way or the other? A. No, not one way or the other.

Q. Mr. Armstrong, you have told us that you were seeing Hume from time to time over this period in the early part of 1967? A. What period are you referring to?

Q. The first three months of 1967 you were certainly seeing Mr. Hume, weren't you? A. From time to time. Not very much. Not very much in the February period, as I recall. 40

Q. More in the January period? A. I would say in the early January period, yes.

Q. But you made only two or three entries of his name in the diary, didn't you? A. If that is what is in the diary. Whatever is in the diary is in the diary.

Q. I would like you to just explain to his Honour, if you would, what is the significance of this entry of 4th March: "Played tennis this morning. Talked to Fred Hume and David Thompson in afternoon"? A. Just what it says. They stayed fairly late that afternoon, and we talked. 50

Q. You were talking to Fred Hume with reasonable frequency over that period, weren't you? A. No, I think it happened - I recall that Dave Thompson and I had quite an interesting conversation. That is all I can recall. Mainly I would say with David Thompson.

Q. What is David Thompson professionally?
A. So far as I know he is a lawyer. 10

Q. A lawyer? A. I would say now he is a successful company director more than a lawyer, from what I understand. I don't know. I have never consulted him on a legal matter at all. I don't know.

Q. Can you tell us broadly the subject matter of the discussion? A. Oh, it would be a wide range. I would think mainly his business ventures. This would be the thing that comes to my mind - his business ventures. I would have had much more discussion, I would say, with Thompson, and with Hume on the sideline, perhaps talking a bit about tennis. But mainly the discussion would be between Thompson and myself. I cannot recall it clearly. 20

Q. The entry does not read that way. It says "Talked to Fred Hume and David Thompson in the afternoon"? A. Really I would not know how you read the entry.

Q. The suggestion is that you played tennis on Saturday morning, and on Saturday afternoon you had what appears to be a lengthy discussion with Fred Hume and David Thompson? A. That was so apparently. I cannot recall that day. 30

Q. At that stage you would have known about the inquiry with the police? A. No, I would not recall it - not as early as March. I think the earliest I can think of is the middle of March. You must refrain from asking the same question. I said that I could not pinpoint it before the time I went away - before 30th April. I did not know about it. I don't think, before the middle of March. at the earliest. That is the date I think I gave, if my memory serves me right, from what I said. 40

Q. Even according to your diary you were skiing with Fred Hume on 20th January, weren't you? A. Apparently, yes.

Q. And there was no discussion with him then?
A. No. I never knew anything about it. I never knew anything serious about it. I would like you to be very clear on this point, Mr. Gruzman. I never knew anything serious about this matter until the affidavit was filed in court. 50

Q. Fred Hume never told you when you went skiing with him on 20th January that he had been interviewed by the police? A. Not a word.

Q. Looking back on it now, and remembering that, although there is a dispute as to the date there is no doubt that prior to 20th January Hume had been interviewed by the police in connection with the allegation that he was party to a conspiracy to kill Mr. Barton? A. What you are saying is we know that as of this court.

Q. Looking back on it now, you see, you know now that prior to 20th January Hume was interviewed by the police, and that there was a suggestion that he was party to a conspiracy with you to have Barton killed - (Objected to; rejected). 10

Q. You know now that Hume was interviewed by the police about this matter? A. Yes, apparently.

Q. Looking back on it now, do you feel that Hume deceived you by not telling you on 20th January? A. I don't think there was any question of deception. I don't think he took it lightly (sic) now, and I would like to say unequivocally in this court I wish I had been told by the police or Mr. Hume in no uncertain terms about this matter. 20

Q. With that hindsight - A. - it would have saved a lot of time in this court if that had occurred.

Q. - what would you have done? A. I would have straightened the matter out one way or another.

Q. What would you have done? A. I would have asked Mr. Barton if there was any duress through my lawyers. 30

Q. You would have gone to the police? A. I would not have done that. I would have asked him through counsel if he thought there was duress. I was not concerned about the agreement going on, or not.

Q. You mean you would have gone to the C.I.B.?
A. I would not have gone to the C.I.B.

Q. That is your method of doing things, isn't it? A. No, not at all. 40

Q. You were aware, weren't you - on a different subject matter - you were aware that a diamond ring had been offered for sale to Mr. Barton's brother, who deals in jewellery - (Objected to; rejected).

Q. Mr. Armstrong, I just want to put these questions to you. In these proceedings it has been suggested that you have been guilty of lying, hasn't it? A. Yes. I could not recall all the things you have suggested in these proceedings.

Q. Perjury - (Objected to; rejected). 50

Q. Put it this way, Mr. Armstrong. There have

been many serious allegations made against you in these proceedings, haven't there? (Objected to; allowed). A. I don't know what you would call them. You have made a lot of allegations. I don't know whether you call them serious, or not. They are so stupid and ridiculous they are not worth bothering about, in my view.

Q. Don't you regard the allegation of blackmail as a serious allegation? A. It depends a lot on who makes the allegation. 10

Q. Don't you regard the allegation of perjury as serious? A. Again the same answer.

Q. And of bribery? A. Again the same answer.

Q. Bribing police? A. Again the same answer. It depends very much on the reputation of the person making the allegation.

Q. Bribing employees? A. Again, the reputation of the person making the allegation. 20

Q. So that even though in some of these cases - take conspiracy to deceive the Court - A. Again the reputation of the person making the allegation.

Q. And even though it is established in your own handwriting it still does not worry you? A. I don't think that the establishment in my handwriting - I told you I was not happy in hindsight about the Eskell divorce case, which you will probably just bring up again to get in the afternoon paper.

Q. Of all the things that have been suggested to you in these proceedings is there anything you have ever done in your life that you are really ashamed of? A. Yes, plenty of things. I think everyone has done something in their life that they are ashamed of. 30

Q. Amongst the allegations that have been made against you in these proceedings is there any one which you admit to and which you are ashamed of? (Objected to: rejected).

(Witness stood down). 40

MR. STAFF: I call for m.f.i. 37 (produced). I call for m.f.i. 44 (produced). I call for m.f.i. 45 (produced). I call for m.f.i. 48 (produced). I call for m.f.i. 54 (produced). I call for m.f.i. 55 (produced). I call for m.f.i. 32, 33 and 34 (produced). I call for m.f.i. 35 (produced.) I call for m.f.i.'s 38 and 39 (produced).

HIS HONOUR: I note the defendant foreshadows a tender of minutes of Landmark Corporation Limited of 6th June, 1966, 16th June, 1966, 16th September, 1966, 28th October, 1966, 7th November, 1966, 8th November, 1966, 14th November, 1966 with annexures, 17th November, 50

1966, 30th November, 1966 with certain annexures, 18th January, 1967, 19th January, 1967, 10th February, 1967 with certain annexures, 17th February, 1967. 14th April, 1967, 16th April, 1967, and 11th October, 1967, and also minutes of Paradise Waters Limited of 16th September, 1966, 1st November, 1966, 8th November, 1966, and 18th January, 1967.

(His Honour adjourned the further hearing until 2 p.m. to enable counsel to confer with first-named Defendant before commencing re-examination). 10

AT 2 P.M.

HIS HONOUR: The plaintiff has moved to set aside a subpoena directed to him requiring production of all documents in his possession or under his control which either are or are believed by him to be in the handwriting of Mr. Armstrong. It is submitted that this subpoena is too wide in that on its face it can be seen not to be confined to documents relevant to this litigation. I am of the view that the subpoena should not be set aside as an abuse of process. It does not fall within the province of a party or a stranger subpoenaed to produce documents to take issue, on production, on the question of the relevance or otherwise of the documents. If the documents can be produced in response to such a subpoena, then in my view they should be produced. 20

This subpoena is not on its face oppressive in the sense of requiring far-reaching or onerous research on the part of the plaintiff, and there is no evidence adduced in support of the present application to prove that compliance with the subpoena would be onerous in this sense. 30

I should add that the ruling to the effect that the subpoena should stand and be answered does not import an entitlement on the part of the first-defendant and his legal advisers to see these documents. That entitlement will be determined in accordance with the ordinary practice of determining relevance of the matters being investigated in the suit. 40

I am accordingly of the view that the subpoena should be answered, but the documents to be produced in response to it can be produced in an envelope, and if and when inspection is sought, then I shall hear further argument prior to deciding which, if any, of the documents should be made available to Mr. Armstrong's legal advisers for inspection.

(Original subpoena m.f.i. 58). 50

(Mr. Gruzman produced to the court a bundle of documents falling within the subpoena).

(Mr. Bainton sought leave to inspect the documents produced at this stage. Application opposed by Mr. Gruzman. Documents produced perused by his Honour, who permitted Mr. Bainton to see some only of such documents).

(Minutes of Landmark Corporation of following dates tendered and marked Exhibit 56.

6th June, 1966; 16th June, 1966; annexure to minute of 8th July, 1966; 16th September, 1966, plus annexure being preliminary results; 28th October, 1966; 7th November, 1966; 8th November, 1966, plus annexure; 14th November, 1966, plus annexures; 17th November, 1966, plus annexure being document of 17th November, 1966; 30th November, 1966; 18th January, 1967, plus annexures; 19th January, 1967; 10th February 1967, plus annexure being summary of assets and liabilities; 17th February, 1967; 14th April, 1967; 16th May, 1967, plus annexure being Managing Director's Report, letter of 9th May, 1967, summary of assets and liabilities 20th April, 1967, and document headed Alibart Investments Pty. Ltd; 11th October, 1967, plus annexures). 10

(Minutes of Paradise Waters Limited, 16th September, 1966, 11.30 a.m. tendered; Minute of 1st November, 1966, tendered, objected to, admitted; Minute of 8th November, 1966, tendered objected to; admitted and Minute of 18th January, 1967, tendered. Above Minutes admitted and marked Exhibit 57). 20

(Minutes of Paradise Waters (Sales) Limited of 9th July, 1966, and 8th November, 1966, tendered and admitted. Minutes of 15th November, 1966, 24th November, 1966 and 7th December, 1966, tendered; objected to; admitted. Minutes of 14th December, 1966, tendered and admitted. Minutes of Extraordinary General Meeting of 7th December, 1966, tendered; objected to; admitted. Minutes of 18th January, 1967 and 14th April, 1967, tendered. Above Minutes admitted and marked Exhibit 58). 30

(Plaintiff's cheque butts 22313 and 22314 tendered and admitted as Exhibit 59.) 40

(m.f.i. 32 and m.f.i. 33 tendered; objected to by Mr. Gruzman and rejected at this stage).

FIRST-NAMED DEFENDANT.

On former oath:

HIS HONOUR: Q. You are still on your former oath, Mr. Armstrong? A. Yes, your Honour.

MR. STAFF: Q. (Approaching witness) Mr. Armstrong, I want to show you the petition in suit 1907 of 1962, in Armstrong v Armstrong in the Matrimonial Causes Court. Just look through it as I turn the pages over, if you would. Is that the petition originally filed - I am not sure whether it is; I don't want to make a mistake - yes, is that the petition without the amendments that appear in it in red ink which you believe was originally filed by your wife? A. It appears to be, yes, Mr. Staff. 50

Q. And you can see from the endorsement on it it

was amended in November, 1962, apparently? A. Yes, it was amended from a decree of judicial separation to a decree for dissolution of marriage.

Q. Will you look at the document which I show you in the same suit, being dated 28th June, 1962, described as an answer. Is that the answer which you filed to the petition for judicial separation?

Q. I believe it to be so, Mr. Staff.

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Q. Mr. Armstrong, I show you a document entitled "Application for Certificate of Means" dated 12th November, 1962. Do you recall such an application was made in the suit? A. Well, I don't know much about it, Mr. Staff. It probably was made. I don't recall much about the certificate of means in the matter.

Q. I want to show you a document dated 22nd January, 1963. Do you recognise Mr. Grant's signature to it - or is it Mr. Grant's signature?

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A. I think that is Mr. Grant's signature.

Q. That is a notice of change of solicitor?

A. Yes. I believe that is the one.

Q. I want to show you a certificate dated 24th May, 1963, to which is attached two letters, one of 3rd May 1963 from Lorton, Duke & Co., to the Registrar in Divorce and one of 1st May, 1963 from Dare, Reed Martin & Grant to the Registrar? A. What do you want to ask me?

Q. Have you any knowledge of these letters being written? A. I think so. It is a long time ago, but I do think I do recall those.

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(Extracts from Matrimonial Causes Jurisdiction File 1907 of 1962 tendered and marked Exhibit 60.)

Q. You recall I showed you a certificate - an application for a certificate of means? A. Yes, you did show me that.

Q. Do you recall whether such an application to your knowledge ever came on for hearing, or not?

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A. Not as far as I recollect.

Q. I show you a document, m.f.i. 39. Do you recall being cross-examined about that document?

A. Yes, I think I do.

Q. Or some parts of it? A. Yes.

Q. Most of it? A. Yes, I think I do recall that.

Q. Well then, I want to show you a copy of a document. Would you look at the document which I ask the officer to show you? Just have a look through it, will you? A. Yes, I have read that.

Q. Having looked at that document, Mr. Armstrong, have you any recollection of the circumstances in

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First-named
Defendant, xx

which the notes which are the other document, m.f.i. 39, came into existence? A. They were prepared by me when I was considering moving from Mr. Twigg to Mr. Grant as my solicitor.

Q. The other document - the typewritten one, which I asked you to look through - can you tell us, did you prepare that document? A. I think I prepared that document, and my secretary typed it. It was prepared - the second document appears to have been prepared from the other one.

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Q. Can you tell us what you did with the document - the typewritten document? A. I took that along on my first interview with Mr. Grant, I believe.

(M.f.i.'s 38 and 39 and accompanying notes tendered and admitted as Exhibit 61).

(Further hearing adjourned to 10 a.m. on Wednesday, 4th September, 1968).

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BARTON -v- ARMSTRONG & ORS.

THIRTY-FIRST DAY: WEDNESDAY, 4TH SEPTEMBER, 1968.

FIRST-NAMED DEFENDANT

On former oath:

HIS HONOUR: Q. You are still on your oath, Mr. Armstrong. A. Yes, your Honour.

MR. STAFF: Q. Mr. Armstrong, would you look at the card, Exhibit "W"? Do you recall being cross-examined about matters which are recorded on that card? A. Yes, I do, vaguely, Mr. Staff. 10

Q. About the gentleman, whose name is written there - you were cross-examined about the matters in relation to that? About matters in relation to the gentleman whose name was written on a piece of paper? A. Yes.

Q. And there is on the card, you will see, somewhere reference to a garage. I think it is under item 1. A. Yes, I see that. 20

Q. At p. 892 you were asked this question, a little below the middle of the page: "Q. Would you tell his Honour what you had in mind when you wrote those words in your own handwriting? A. I don't know. They were thoughts. Somebody said there was some rumour there was a robbery at his garage. I did not know whether it was the fact or not". You were asked some further questions about it, but, stopping there, were you aware - I am sorry. I will withdraw that for the moment. You spoke of "his garage", Mr. Armstrong? A. Yes. 30

Q. Will you tell us what you were referring to, what garage you were referring to? If you can will you tell us what garage you were referring to without mentioning the gentleman's name? A. This garage was owned and operated by him in Victoria Road, Rozelle.

Q. At about that time? A. Yes, it was at about that time and some time after. He also had another garage between - it is a bit hard to describe. It is between the Glebe Island Bridge and the traffic lights as you turn into Victoria Road, Rozelle, where there are a lot of timber yards on the left-hand side going out. He had two garages in the area. 40

Q. He had two garages? A. Yes.

Q. That is, service stations? A. Basically service stations. One was mainly a service station. The other one in Victoria Road, Rozelle, was both a service station and a repair shop.

Q. Now at p. 923, Mr. Armstrong, you had been asked some questions, and you were thereafter asked some questions - I am sorry, you had been asked some questions about a covenant obtained from Mr. Lamerton for the payment by one of the companies of £1,000 and the loan of £19,000 to one of his companies in return for a covenant. Do you recall that cross-examination? A. I do recall some of the vein of it, yes.

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Q. At p. 923, about 12 lines down the page, the question was put to you: "Q. I suggest to you that this was a way in which you used public money to secure the loyalty of Mr. Lamerton? A. Quite incorrect." You then said to his Honour "Can I make one explanation to your Honour on this matter, or not?" and his Honour told you that in due course you would be re-examined? A. Yes.

Q. What was the explanation which you wished to make about that, Mr. Armstrong? A. Well, the explanation which I wished to make about that, Mr. Staff, was this. For some time previous to the granting of this covenant, Mr. Lamerton had said that he had not received sufficient benefits for all the wonderful work he had done in both conceiving, managing and directing Australian Factors' phenomenal growth. I would say that was a definite complaint of Mr. Lamerton's probably over a year before, and he had voiced it to all members of the board. I don't say it had been minuted at board meetings, but he had voiced it. It should be recalled at this time that Australian United Corporation took up a lot of shareholding in Australian Factors in approximately April 1963. Then the A.M.P. took up a large shareholding and then the M.L.C. took up a large shareholding, so that I think it would be fair to say just before this covenant was granted that Mr. Lamerton was at the peak of his fame, so to speak, in Australian Factors. Then he chose to press this strongly upon me personally as Chairman, and also upon other members of the board.

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Before even consulting the board I spoke to a representative of Australian United Corporation, who was then the largest shareholder, and acquainted him of Mr. Lamerton's views. This gentleman stated that he thought it was a fair thing to tie Mr. Lamerton in this way in case he started off a further factoring company. It should also be noted that Mr. Eskell had commenced another factoring company at this time. I think my explanation - to make sense to your Honour - one has to take one's mind back to the fact that at that time there had been no factoring failures, and factoring was the glamour thing.

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The upshot of this was that after having the conversation with the representative of Australian United Corporation I brought the matter up at the board. I think, if my memory serves me right - and this is naturally recorded in the minutes - Mr. McCrossin, Mr. Roberts and I were present at the board meeting. Mr. Millar was away ski-ing at the Snowy,

but he knew about it. Professor Messel was overseas. When Mr. Millar returned the matter was mentioned to him and he was the man who actually advised us in the manner in which to do it - give him \$1,000 (sic) himself and let the company have the other \$19,000 (sic).

MR. GRUZMAN: Pounds.

WITNESS: I am sorry, pounds. Mr. Millar arranged that in a competent way to endeavour to save whatever taxation benefits he could for Mr. Lamerton.

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Shortly after that - and this is something I would like your Honour to consider - Mr. Millar by reason of something that may be revealed in the Inspector's report, was able to find out that there was some irregularity, and I can recall Mr. Millar coming to me and saying "Look, we have given this man this covenant and look what has happened", or words to that effect. I then - that is the explanation of the matter.

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MR. STAFF: Q. I simply asked you for the explanation.
A. All right.

Q. I don't want to open up other matters. Now, Mr. Armstrong, you will recall you were cross-examined about some advice which you said you obtained in relation to your diaries. Various suggestions were put to you about what advice you obtained. I think basically the questions I will remind you of are on p. 1018. At the top of the page it was said: "Q. By the way, on the subject of your diaries, you told us that you were advised by your senior counsel to destroy your diaries? A. If I didn't want them to be used or my personal information and opinion to be brought out in Court. That is what he stated."

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You were asked some further questions about the matter, and it was suggested to you, about half-way down the page, that the purpose of destroying the diaries was that they contained information which you did not wish to be disclosed. You were asked: "Q. But the purpose of destroying the diaries was that they contained information which you did not wish disclosed? A. No, that is not the case at all. Just private information. Nothing to do with this case. It was private information that I did not wish disclosed - nothing to do with this case."

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Then at p. 1019, eight questions from the bottom of the page, you were asked: "Q. Mr. Staff, you say, advised you on two occasions to destroy the diaries?". That was not proceeded with. You were then asked "Q. Did Mr. Staff advise you to destroy the diaries on the first occasion? A. No. He said he did not think there was anything wrong with the diaries at all. Q. I am only asking you one question. Did Mr. Staff that first time when you saw him on this subject matter advise you to destroy the diaries? A. No. He told me the consequences of keeping them", and then the matter goes on.

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Then at p. 1020, two-thirds of the way down, it was put to you that you destroyed the diaries, particularly the 1966 diary, because they contained evidence incriminating you in these proceedings. You denied that. And then again, at p. 1050, it was put to you, at the bottom of the page: "Q. And the advice was to destroy your diaries? A. No, it would not be completely that. The advice Mr. Staff gave was that my diaries were no longer privileged documents, and I didn't think they could be called, you see, because I had not had experience in these matters. Mr. Staff said 'Think about it. Don't hurry.' He said 'It all depends on actually the Judge - whether he lets the whole document go in, or portions of the document. You can't tell what will occur if your diaries are subpoenaed.'" 10

On the top of the next page - 1051 - the question was again put: "Q. I thought you told us previously that Mr. Staff advised you to destroy your diaries? A. No, not at that stage. I don't recall. Mr. Staff left it to me personally - to make my decision, which I did after I came back from overseas", and so on. 20

Now, Mr. Armstrong, I want you to look at the document which the officer will show you, and first of all tell me, do you recall receiving - I will put it this way: Do you recall being served with that document? A. No, I can't say that I recall being served with it, but it is quite possible I was, either at my home or Mr. Grant's. I don't know that. 30

Q. You told my friend in cross-examination any consultation or conference about the question of diaries first arose after you had been served with a subpoena. Is that the document to which you made reference? A. That is the document.

(Subpoena duces tecum, 12th April 1967, tendered and marked Exhibit 62). 40

Q. I want you now to tell us, having seen that subpoena, which bears date 12th April, can you tell us, as best you can recall, how soon after the receipt of that subpoena you had the conference in which you obtained the advice about which you have spoken? A. Very shortly after obtaining that subpoena I would say, Mr. Staff. Within a day or two.

Q. Where was the conference, do you recall? A. At your chambers, I think. 50

Q. And did you bring anything to that conference? A. Yes, I brought my 1966 diary and that diary there - my 1967 diary.

Q. What did you do with those diaries when you brought them to the conference? A. I showed them to you. I think I suggested that you only should read them, as they were in my view a personal document

which have remarks which I didn't want everyone to read, and you, I think said to leave them with you and you would read them.

Q. You told us, I think, in the course of your cross-examination the nature of the advice you were then given about the subject matter of production of the documents. Is there anything more you can recollect of the conversation which took place in which that advice was given to you on that occasion? 10

A. The advice you gave me on that occasion was that I should no longer consider - as I had done up to that date, that the diaries were privileged documents; they could be called for and they could be examined either in whole or in part by counsel at the direction of the Judge. Also I recall something about you having these documents - about you requiring a photostat - Mr. Grant to photostat certain parts of these diaries to assist you in the case which was then in progress. 20

Q. Mr. Armstrong do you recall whether there was anyone else, and, if so, who, present, at the time of that conversation? A. I think Mr. Grant was present.

Q. Have you any recollection of anyone else other than Mr. Grant, or not? I don't want you to guess about it? A. No. I can't recall anyone else but Mr. Grant and yourself.

Q. And I think, do you recall shortly after the conversation of which you have given evidence the proceedings in respect of which the subpoena had been issued were settled? A. Yes, I recall that. 30

Q. Now you have told us that subsequently, at a time you could not place precisely, you had a further conversation about the diaries. A. Yes, that would be after I returned from overseas., Mr. Staff.

Q. Do you recall where that was, or how that conversation took place, how that conversation came to take place? A. I think it was a brief discussion in your chambers with possibly Mr. Grant and myself there, a very brief discussion. 40

Q. Can you recall anything more of the circumstances out of which that discussion arose? A. No, not particularly. I think I just said that I had been thinking a bit more about these diaries and what I should do about them. I believe you said something to this effect: "Unless you want - they can be called at some later date in proceedings. If you don't want them called there is only one thing to do with them - destroy them." 50

Q. You have told us that subsequently you in fact destroyed your diaries, At or about the time of the destruction - the decision to destroy them - did you have any conversation with Mr. Grant? A. I can't recall that very clearly. I think Mr. Grant was

present at the other conversation. I can't recall very clearly, except that I may have mentioned something about these photostat copies, or not. I can't recall that very clearly.

Q. Now, Mr. Armstrong, you will recall that you were cross-examined on a number of documents, some of which were in your handwriting, and some typed. Perhaps I should show them to you. I will confine this, if I can, to hand-written documents. First of all, I will show you the documents, or the officer will show you the documents m.f.i. 32, 33, 35, 44, 45 and 48, all of which are handwritten documents, m.f.i. 33 being a photo copy. I just want you, as quickly as you can, to refresh your memory about the general nature of them. I don't think you will need to read them in detail, Mr. Armstrong? A. Yes, I have seen them, Mr. Staff. 10

Q. And would you look also - perhaps I can have them back - perhaps you can keep that bundle there. Would you look also at the documents, 37 and 34, one of which is typewritten. Do you recall being cross-examined about those? A. Yes, I see those two documents. 20

Q. Just keep those two separate from the other bundle for the moment, if you would. I would ask you to look at the eight documents or, rather, seven documents. A. Yes, Mr. Staff.

Q. Just look through those for the moment, will you? A. I will. We have here this one? 30

Q. You point to one - perhaps if I might have the one you pointed to back for the moment. A. Yes.

Q. In the bundle I have just given you there are six handwritten documents? A. This is the bundle headed "Notes Twigg"?

Q. That would be one of them? A. Yes, there are six documents.

Q. Now would you take - I think perhaps we can deal with the three bundles - now you have together - are the documents in the three bundles that are originals in your handwriting? Are they in your belief in the first place in your handwriting? A. They are, Mr. Staff. 40

+ Q. Can you recall where, to your knowledge, those documents last were - at the last point of time at which you can recall the place where they were kept? A. Yes. (Objected to ; allowed).

Q. Do you recall the question? A. I would like it read again. 50

(Question marked + read by Court Reporter.)

WITNESS: I can recall that most clearly.

MR. STAFF: Q. Where was it? A. In the bottom drawer of my own private file which was always kept in my own office in Landmark in Commercial Union House. That is the last time I can recall seeing them.

Q. When was that? A. That would be very shortly, after we moved into Commercial Union House some time, I think in 1965.

Q. From that time onwards, can you record any occasion on which you had occasion to go to these documents - any of these documents - to consult them? A. No, I certainly don't. I thought that matter was closed completely. 10

Q. You referred to a matter. I don't want you to be under any mis-apprehension. There are three bundles of documents there? A. Yes, that is right.

Q. If you would like to look at them in any more detail, please do. A. No, I think I have had a good look at them earlier in the proceedings. 20

Q. You are aware of the matters generally to which they relate? A. Yes.

Q. Now, where did the cabinet in which you say you last saw these papers - where did it remain, and for how long? In other words, can you tell us what its movements were to your knowledge? A. Do you want me to go right back from Phillip Street?

Q. From the time you last saw these documents in the cabinet. That is some time in 1965, you told us? A. From the last time I saw them in 1965 that document (sic) remained until approximately November 15th, 1966, when I moved out of my own office in Landmark on the first floor of Commercial Union House to other offices - and don't hold me to this - I think on the eighth floor of Commercial Union House. That document (sic) was then taken up - the whole file was taken up without any removal of documents by the removalists. That remained there in my small office that I had on the 8th floor of Commercial Union House, and it was then taken over to 70 Pitt Street, Sydney, after I moved from the small office in Commercial Union House. I would consider some time in February - and I still can't recall that completely - 1967; it could have been January or February I moved over into 70 Pitt Street. 30 40

Q. You spoke - you described something as that file was taken from the Landmark Office. How would you describe that file? A. That container of files would be correct. It was about 4' 6.

Q. Could you describe what you have now called the container? A. It is a locked sealed container with, I think, four sliding drawers that slide out, and with the old system of dropping files that you drop down in it. Since that time - 50

Q. Wait a minute. Can you give us an idea of

the size of the steel container? A. I would think it about be about 4'6 to 5' high, and about 18 inches to 2' long, and about one foot wide in front. The normal filing size for about this type of paper. What is it? Quarto? I am not quite clear of the correct term. The normal filing size.

Q. You spoke of it being locked. Can you describe the locking device, or what there was on it? A. On top of this file, which is still in existence, there is a small device which you press in, and it locks automatically. You need a key to open it. All you have to do to lock it is to press it in, and it snaps locked. 10

Q. And you say this file or container was moved bodily with its contents? A. Correct.

Q. From the Landmark Company's office on the Landmark premises up to the new offices which you occupied? A. Correct. 20

Q. I think whilst you were overseas in 1966 your secretary left your employment, did she not? A. She left about a week after I left for overseas.

Q. Who up to that point of time had had keys to the locker? A. Only my personal secretary Miss Clark, and myself.

Q. Did you have your keys with you whilst you were overseas? A. No, I think I left them locked at my home at Coolong Road. 30

Q. Do you recall when you returned receiving any keys from anyone? A. I cannot recall very clearly about the keys.

Q. I don't want you to guess? A. I could not guess on that.

Q. Just give us your recollection. Had you up till a couple of weeks ago, or two or three weeks ago, had any occasion to look for the particular documents of the character which are contained in the bundles before you? A. No, certainly no occasion whatsoever. 40

Q. Did you do anything in relation to the documents contained in this file or container shortly before or about the time this case commenced? A. I don't think I really looked at them until actually - I really looked at them only the other day, when I saw the documents. So far as I can recall I had no occasion. I did not think about them, quite frankly.

(M.f.i.'s 32, 33, 34, 35, 44, 45 and 48 tendered and admitted as Exhibit 63). 50

(Documents in first-named defendant's handwriting, being some of the documents produced in answer to Exhibit 65 tendered and admitted as Exhibit 64).

(Subpoena, m.f.i. 58, tendered and admitted as Exhibit 65).

Q. Now, Mr. Armstrong, will you look at the letter dated 8th September 1958 which the officer will show you? A. Yes.

Q. Do you recall - perhaps you ought to read down to the end of paragraph 2? A. Yes, I have read the first page, - skimmed through the first page.

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Q. Just have a look - have a glance at the other pages. Will you agree that is in your handwriting? A. I do.

Q. Is that a letter which you wrote to Mr. Carl Alders on or about the date it bears? A. Yes, that is right.

Q. Do you recall being asked some questions based upon the first and second paragraphs of that letter at p. 885? A. Yes, I do recall something about it.

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Q. You don't recall the page, but do you recall being asked some questions about that letter? A. Yes.

Q. You said you wrote that letter to Mr. Alders. I take it you mean by that you posted it, or caused it to be posted? A. Caused to be posted, yes.

(Letter to C.M. Alders, 8th September, 1968, tendered and admitted as Exhibit 66).

Q. Mr. Armstrong, I want you to look at the three pages - typewritten pages - which the officer will show you, m.f.i. 12. Will you have a look briefly at them? It would take some time to read through them carefully. You have not read them in full? A. No, I have not read the document in full.

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Q. Is the document familiar to you? A. Yes.

Q. I want you to look with some care - don't take any longer than necessary - look with some care at that part of it which relates to - perhaps I will approach, with his Honour's permission. Look at that part of it which appears under the heading "The Chairman" going over to p. 2, and finishing with para. No. 18. Will you just read that? A. All this?

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Q. Yes. Just read it through? A. Yes, I have read down to para. 18, Mr. Staff.

Q. Having read that, is that a copy of the document which was given to you at some point of time? A. Yes, I would say it was.

Q. Do you record approximately when it was given to you? (Objected to; allowed).

Q. The question, I think, was at what point of

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time approximately it came into your possession?

A. Fairly early in Landmark's affairs. I would say some time in 1962, to the best of my recollection, but I would not like to be held to it closely.

Q. Who gave it to you, Mr. Armstrong? A. I believe - and again this is a long time ago - this document was prepared by Mr. F.W. Millar.

HIS HONOUR: Q. By - ? A. F.W. Millar.

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MR. STAFF: Q. To your knowledge did copies of the documents go to other persons in Landmark Corporation? A. I would think that all directors of Landmark Corporation either got a copy of it or had easy access to a copy.

Q. Mr. Armstrong, at the time the copy came to you I think you were Chairman of Landmark Corporation? A. That would be correct.

Q. One final matter on that document. When you left for overseas in 1966 you told us you occupied, and had for some time prior to that, occupied an office in Landmark Corporation premises? A. That is correct.

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Q. In which your file or container which held your private documents was kept? A. Correct.

Q. And when you returned from overseas in that year, had any physical alterations to your office occurred during your absence? A. It had.

Q. What was the physical alteration? A. Before I left for overseas, and, indeed, from the time that we moved into Commercial Union House I had my own personal office which opened on to the large board room which had concertina-type doors between it and the board room. The board room, as well as being used for a board room, was used for consultations between Mr. Barton and myself with possibly architects and things like that. When I returned these concertina doors had been removed and a complete solid partition had been inserted. I might add this was done without approval or consultation.

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Q. You say a solid wall had been built there. Was it a bare wall, or was it painted, or papered?

A. A normal partition that is erected in Commercial Union House was put up - solid partition, with glass across the top.

Q. Had anything else been done physically in relation to the office? A. Not to my office, except that.

(Document listing responsibilities and duties, m.f.i. 12, tendered; objected to; admitted and marked Exhibit 67).

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Q. Mr. Armstrong, once you received that document

about which I asked you some questions a few moments ago did you thereafter, whilst you continued to be chairman of the company, endeavour to the best of your capacity to carry out the precepts or observe the precepts set out in it?

A. Yes. Mr. Staff.

(M.f.i. 54, a document initialled by Mr. Corne, tendered and admitted as Exhibit 68). 10

(Witness stood down.)

ON RESUMPTION.

HIS HONOUR: At the conclusion of the re-examination of Mr. Armstrong Mr. Gruzman sought leave to re-open the cross-examination to put to Mr. Armstrong specific challenges founded upon the terms of some documents tendered by Mr. Staff during the course of the re-examination, namely portion of Exhibit 61, and portion of Exhibit 64. The application to re-open the cross-examination was opposed, and I am of the view that I should not accede to it. The documents will speak for themselves. If there be matters contained in the document thought to be relevant to be developed in an argumentative fashion, that can be done at an appropriate stage when counsel are addressing. Mr. Armstrong has been cross-examined to some extent upon all of the matters that Mr. Gruzman has mentioned as being subjects that he wishes to re-open, and I do not think that in all of the circumstances I should depart from a strict application of the rules of procedure by granting to Mr. Gruzman the leave that he seeks. I accordingly decline to permit the cross-examination to be re-opened. 20 30

(Mr. Staff tendered m.f.i. 40, referring to p. 853 of the transcript. M.f.i. 40, being memorandum of fees, was marked Exhibit 69).

THOMAS NOEL MILES 40

Sworn, examined, deposed:

MR. BAINTON: Q. Is your full name Thomas Noel Miles? A. Yes.

Q. Do you live at 5/8 Garie Place, South Coogee? A. Yes.

Q. By occupation are you a master butcher? A. Yes.

Q. You have a shop at Double Bay, have you not? A. Yes.

Q. Do you also have a ski shack somewhere on the Hawkesbury River? A. Yes. 50

Q. Where is it? A. Lower Portland.

Q. How long have you had it? A. About 12 years.

Q. Do you go up there very often? A. Every weekend.

Q. For ski-ing, or other reasons? A. Ski-ing.

Q. You are a keen water ski-er are you? A. Yes.

Q. Are you able to tell us whether or not you were at your place at Lower Portland in the early weekends of last year? A. I am there every weekend. 10

Q. Do you recollect an occasion some time last year ski-ing behind Mr. Armstrong's Bertram?
A. Yes.

Q. I think you have known Mr. Armstrong both as a customer and as a water-skier for some years, have you not? A. Yes.

Q. Can you tell us what you recollect of the weekend you ski-ed behind the Bertram. How it came about and what people you saw there, and what you did? A. On the Saturday afternoon Alex came down to my beach, and I ski-ed with him on the Saturday afternoon up to Jack Murray's beach. 20

HIS HONOUR: Up to his beach? A. Yes, where his shack is. We call it a beach.

MR. BAINTON: Q. Sandy banks? A. Yes. Then Jack and I went for a ski behind Mr. Armstrong's Bertram, and we were ploughing around jumping the wash, and we came back, and then I went back to my own beach in my own boat. 30

Q. Was there anything remarkable about the wash of this boat? A. Yes, it was fantastically high.

Q. Does this have any effect on ski-ing behind it, or jumping? A. It makes it very difficult.

Q. Would you give us some idea of how high this wash was? A. I could not say exactly how high but it is very high, and you have to come at it very cautiously, and when you get it you have to hope for the best, once you hit it.

Q. Both you and Jack Murray had a go at it, did you? A. Yes. 40

Q. Had you ski-ed behind this boat before? A. Not behind the Bertram, no.

Q. Had you ever tried to jump the wash of the Bertram before? A. I have tried behind a Bertram with a chap named Carr.

Q. Behind Mr. Armstrong's Bertram? A. No.

Q. You had not? A. No.

Q. Can you recollect anything else of this particular afternoon? A. The Saturday afternoon?

Q. Yes. A. No, just that Jack and I had the ski, and I went back to my own beach, and I came up the following morning. We ski-ed up to Jack's beach again on the Sunday morning.

Q. What boat was used for that? A. Mine.

Q. Do you remember anything happening on the Sunday morning? A. No. When we ski-ed up Jack was playing some tapes on a tape recorder in his car, and he had a blonde girl there, and she was doing a go-go dance. After that I went back to my own beach. 10

Q. Do you recollect on either day of this weekend whether Mr. Murray's own boat was in use? A. No. I am not certain on it, but I do not think it was. When we went on the Sunday morning he had the seats all up on the deck, and I said to Jack "There is a lot of oil on the bottom there", and he was mucking around with a starter motor, I think it was. 20

Q. To the best of your recollection was his boat used or able to be used this weekend? A. No, I do not think so, because he was having a lot of trouble with it at that stage.

Q. Coming back to the Saturday, have you any recollection of the people who were at Mr. Murray's ski shack when you got there? A. There is usually a lot of people there. I did not take notice of everyone, but the one I took notice of the Sunday was the go-go dancer, because we were watching the dance. 30

Q. Had she been there the previous day? A. That I could not tell you. I don't think so. I did not see her.

Q. Were there other people there as well? A. I could not say for sure.

Q. What about on the Saturday? On either day, would you tell us who you can recollect having seen there? A. Mr. Murray and Miss Rosewell and the blonde girl. I just cannot recollect her name. Mrs. Larkin and Mr. Armstrong and myself. 40

(Miss Catt called into Court).

Q. Do you recognise that young lady? A. Yes.

(Miss Catt left the Court).

Q. Where have you seen her before? A. I just remember at Mr. Murray's beach on the Sunday morning.

Q. I am not quite sure what you mean by that.

A. I remember her dancing.

Q. She is the go-go dancer? A. Yes. 50

Q. Apart from this occasion when you did ski behind Mr. Armstrong's Bertram and were jumping the wash as you have told us, have you on any other time ski-ed on the Hawkesbury River behind Mr. Armstrong's Bertram? A. No, I don't think so. I have ski-ed with him at times. I have ski-ed at Rose Bay and that.

Q. But on the Hawkesbury? A. No, I don't think so.

Q. Are you able to tell us when this weekend was? A. No, I could not tell you exactly when it was, because every weekend is a weekend to me. I just look forward to the weekend coming. 10

Q. What time of the year was it? A. It was early in the year, but when, I could not put my finger on it.

Q. About how long ago? A. It is a fair while ago.

Q. This year? A. No, not this year. Last year.

Q. What season? A. What do you mean? 20

Q. Summer, winter, autumn, spring. A. Summer.

CROSS-EXAMINATION:

MR. GRUZMAN: Q. The position is that you do not really know when this occurred, is it? A. Not on a date. I could not say.

Q. You know it was some time last year, and you think it was early last year? A. It was early last year, because not long after I went to hospital and had a back operation.

Q. And you have ski-ed behind other Bertrams? 30
A. Yes.

Q. And you have ski-ed behind Mr. Armstrong's Bertram on more than one occasion? A. No, I have not, behind the Bertram. I have ski-ed behind his small boat in the Harbour.

RE-EXAMINATION:

MR. BAINTON: Q. Would you mind telling us when it was you went to the hospital? A. 25th February last year.

FURTHER CROSS-EXAMINATION: 40

MR. GRUZMAN: Q. You are familiar with this lady, Miss Rosewell, are you? A. I would not say familiar, I know them.

Q. I am not being rude, You are familiar with her, acquainted with her from seeing her at Mr. Murray's place, are you? A. Yes.

Q. She is a frequent visitor up there? A. She skis with Jack, yes.

Q. And Mrs. Larkin also skis with Jack? A. Yes.

Q. And each weekend when you are up there, there are a group of people at the shack? A. Yes.

Q. And you make it a practice to go up there, do you? A. Not every Sunday. If I feel like a nice quiet ski, I ski up or drive the boat up, and pay my respects, and come home again, or he may come to my place. 10

Q. You are a mate of Jack's? A friend of Mr. Murray's? A. Yes.

Q. What you said was if you do not go to see him he could easily come to see you, didn't you?
A. If he is ski-ing past he might drop in and have a cup of tea or a coke.

(Witness retired).

DOROTHY ELLEN ROSEWELL

Sworn, examined, deposed: 20

MR. BAINTON: Q. Is your full name Dorothy Ellen Rosewell? A. Yes.

Q. Where do you reside? A. Glenwood Avenue, Coogee.

Q. Are you by occupation a real estate agent?
A. Yes.

Q. Do you carry on business at D.E. Rosewell Real Estate, 5 Jersey Road, Woollahra? A. Yes.

Q. Do you have a staff of people working for you? A. I do. 30

Q. How many have you on your staff? A. At the moment there are four girls in the office. (Objected to - allowed).

Q. At the beginning of last year...(Objected to).

Q. In December 1966, January 1967, and February 1967, can you tell us how many people you had on your staff? A. At that time there would have been three. At the moment I have employed another person, since then. 40

Q. Three besides yourself since then? A. Yes.

Q. Do you know Mr. Jack Murray? A. Yes, I do.

Q. You have ski-ed with him, have you not?
A. I ski every weekend with Mr. Murray.

Q. How long have you been doing that? A. For the past ten years.

Q. Where is this ski-ing done? A. Mainly at Sackville, just near to the Sackville punt, through Windsor.

Q. Is there some place you go to? A. We have a hut, just more or less a tinshed, a place where we keep our skis and things we use. It is right on the river's edge.

Q. Near the Sackville punt? A. That is correct.

Q. Has it some name you usually give it? A. Yes, we usually call it the Sackville Hilton. 10

Q. Is this the place where you go to for ski-ing? A. Yes, it is. We have had the hut now approximately maybe five or six years. Unfortunately about 1961 the floods came and the hut was completely taken away by the floods, so each year we have just had to re-build it after a flood.

Q. Was it a lengthy operation, re-building this? A. It usually takes a couple of weeks, and a lot of hard work. 20

Q. I show you an album with some photographs on it. Can you identify the photographs? A. Most of them were taken by myself. I do not think I am in any of these. One.

Q. Will you tell us as best you can what the photographs are of, and when they were taken? A. This one here is of the actual hut itself. It was taken say - I do not know the exact year. At the moment we have a vine which has grown up here. (Right-hand side photograph indicated). 30

Q. Would you mark the photographs by number? A. Yes.

Q. Can we take it from what you have said, that was taken some years ago? A. Years ago, a few years ago.

Q. And the ones on the back of that? A. Those were taken after the last flood. These two last came up. Mr. Murray was at this time away on a trial. His son was also on that particular trial, and whilst they were away the flood actually came. I cannot remember the exact year, at this moment. These were actual photographs repairing the hut after the flood. We had to dig out. 40

Q. Re-building rather than repairing? A. Just about.

Q. Put a 2 on that page. A. Yes.

Q. And the others? A. This one here was after the hut had been completed. We took the trouble to paint the interior of the hut, and also bought some new tables and chairs and a dresser, and have since put in another unit here. We have a sink in this corner. 50

Q. You were pointing to round about the middle of the photograph on the right-hand end of that page. Would you put a 3 on that? A. Yes.

Q. The one next to that is again the interior of the hut, is it not? A. Yes. This is our ski boat.

Q. Those three photographs are on the one sheet of black paper. The figure 3 is on the right-hand side. A. Yes.

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Q. And the left-hand page of this? A. These are basically crowd scenes when the hut is open in the front.

Q. You are pointing to the two colour photographs on the top, are you? A. Yes.

Q. With the hut opened up, and quite a number of people around? A. Yes.

Q. When were they taken? A. Approximately three years ago. This would have been the year before; 1967.

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Q. Would you put the No. 4 against those?
A. Yes.

HIS HONOUR: Q. You say about three years ago, do you? A. Yes. On this particular occasion we had spent approximately a week over the Christmas period at the hut, and we had other friends who were staying in a caravan, and even Graham Kennedy from Melbourne came up and visited on this day with Bob and Dolly Dyer.

MR. BAINTON: Q. And the larger black and white photograph in the middle? A. We were sort of breaking up. One of the things that was said was that Jack Murray has given away ski-ing and started doing his lawns all the time. We wanted to make reference to the fact he was looking after his lawns there.

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Q. The two colour photographs on the bottom?

A. On this occasion we had the Ice Follies crowd come up, and on this particular day 40 people visited, and we had a picnic at the beach. These were some of 40 the crowd there.

Q. Were the facilities of the hut used for this picnic? A. We did have another table, and most of them picnicked on the grass around the hut itself.

Q. Will you put 5 on that? A. Yes.

Q. The colour photograph on the right hand side?

A. On this particular day we also had what is known as an aqua delta wing, which is a type of ski plane. You actually fly. It is tied to the boat and you fly above the water. You can usually go between 200 and 300 feet. On this particular day

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here, these are scenes showing burning off at the front, and there are scenes of the actual floods, and the delta itself, and people looking in the direction of it.

Q. There seem to have been a lot of people there that weekend. A. I think the most we had was 48 people. We had to write their names on a sheet so we would know who was who. We did not have little name tags.

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Q. Will you put 6 against those photographs? A. Yes.

Q. The ones on the right hand side all relate to events of the one day, do they? A. Yes, they do. In fact you will notice we have the same people in many of the photographs there.

Q. Did you have some photographs taken last weekend? A. Yes.

Q. Showing people, if not asleep... (Interrupted).
A. Yes, I think there was some discrepancy in the actual interior size of the hut, which is approximately 20 feet by 16 feet.

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Q. Were you told something about what had been said in evidence? A. Yes. I have not bothered to read the papers, quite frankly.

Q. You took some photographs? A. That is true.

Q. Dealing with these one at a time, and I will number them 1, 2 and 3, they were all taken last weekend, were they? A. Yes, they were.

Q. Do they all show the interior of Mr. Murray's ski hut? A. Yes, they do.

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Q. Taking the one numbered 1 for a start, there are a number of people on their backs on - what are these? A. Li-los or sun chairs.

Q. Were they at the hut? A. We have approximately nine of those at the hut. Two of them have arms, which I do not think are shown here, but there are nine actual sort of li-lo's in the hut.

Q. How long have they been there? A. We usually replenish them as they break up. This one is starting to break up a little. I would say they have been there for many years. We usually buy new ones at Christmas.

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Q. Was anything special done, or moved inside the hut to enable those li-lo's to be placed where they are shown in the photograph? A. No. If we arrive on a Sunday, this settee is actually placed there, and we also have... (interrupted).

Q. You are looking at photograph No. 3, and there is a settee on the right hand side. Is that right? A. Yes. There is also a day bed here, or a li-lo.

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Q. That is to the right? A. Yes. It is actually placed in front of the doorway of the hut. We normally come in by the front door, and open up the front of the hut, which gives us access for the rest of the day, and close the front door, and visitors as they arrive are able to place their belongings and bags and things of this nature in a neat array on this side,

HIS HONOUR: Q. That is the side where the front door is, is it? A. Yes. 10

MR. BAINTON: Q. Each of these photographs had one or two white lines down it. What are they? A. The actual bars holding the front of the hut.

Q. They hold the side which opens horizontally, do they? A. Yes. In this photograph there is one item that has been taken out; that is the round table, and we have six chairs in all, which are also normally housed in the hut.

Q. How big is this table? A. Approximately about 54 inches across. I bought a yard and a half of material to cover the top of it. 20

(Three recent photographs of Mr. Murray's ski shack tendered and marked Exhibit 70.)

(19 photographs on the sheets numbered by the witness tendered and marked Exhibit 71).

Q. Have there been any alterations to Mr. Murray's shack in the last month prior to the three photographs that were taken last weekend? A. Not to my knowledge, no. 30

Q. Would it be possible for anyone to make alterations without you knowing about it? A. I don't think so.

Q. What about the two years preceding the photographs? Have there been alterations in that period? A. Occasionally we have perhaps planted a few new trees around the hut, and added a few extra items in the interior in some way, but not a great deal.

Q. The hut itself is the same size and shape, is it? A. Yes, the same size and shape as it has been for many years. 40

A. Apart from bits and pieces you have added, it is similarly furnished now to what it has been over the last couple of years? A. Yes.

Q. And you did indicate you went up there every weekend? A. Yes.

Q. Do you mean that literally? During the winter too? A. Right through the winter too? 45

Q. I want to take you back to the new year 1966-67. (Objected to - allowed). I take it from what 50

you have told us you were there that weekend?

A. We did go up New Year's Eve, yes. In the afternoon.

Q. Were there any particular events which happened on that weekend which you can recollect?

A. Yes, I do remember very clearly having - we took up Ski No. 5, which is Mr. Murray's second boat. We were giving it a run through, and unfortunately it had been in the garage for some time, and of course we had a few mechanical faults with the boat. We put it in on the Saturday afternoon, which would have been New Year's Eve, and it went reasonably well. We took it out, and had some other friends arriving that evening, and we thought it would be right for the following morning. So we then took the boat out of the water. 10

Q. Are you still talking about the Saturday?

A. Yes, on the Saturday.

Q. Was there something on that Saturday night? That is New Year's Eve? A. Yes, there was a group of approximately six of us, and we had a New Year's Eve party, I suppose you would call it. We had dinner and stayed until the early hours of the morning. I think it was about one o'clock when the other people had left. 20

Q. Are you able to remember who those other people were? A. Yes, I do remember.

Q. Can you name the people who were at the party on the New Year's Eve? A. Yes. There were Mr. and Mrs. Alan Smith and also a Mr. Keith Whitehead and friend. 30

Q. And yourself? A. And myself and Mr. Murray.

Q. Was there anything that occurred on the day after which you can recollect? A. Yes. Mr. Whitehead arrived on the following morning, which would have been the Sunday, and we put the boat in, and we had a ski down the river. I can clearly remember being about one and a half miles from the actual hut itself when the boat was playing up. I happened to be ski-ing at the back of it, and there was a lot of smoke coming from the back of the boat. 40

Q. Which boat? A. Ski No. 5 Mr. Murray's boat. It had to be beached on to the side of the river, We stopped once on the right hand side. There is a little beach approximately one and a half to two miles from our actual ski hut. They had a look at it, and thought it might have been a weed in the motor or something like that. They cleared it and started it, and we thought we would ski back to the hut. Unfortunately it started to get worse, and we finished up on the left hand side of the river coming back, having turned around, but unfortunately by the time the boat had stopped it was also taking in water. So we had an old bucket there, and started taking the water out. I got out of the boat and walked along the bank to where there were some other people. 50

I did not know these people, but I asked them if they would give me a lift back to the hut, as I intended then getting the car and the trailer and going back to actually try and get the boat out, if we possibly could. There was a man, and I think he had a couple of children with him, and he offered me a lift back. As we were coming back just near the Sackville ramp, which is approximately a quarter of a mile from the punt itself, both Alex Armstrong and Mrs. Larkin were in Alex's cruiser, and they had just arrived. I explained the situation, and got out of the other boat. 10

Q. You said something to Mr. Armstrong and Mrs. Larkin did you? A. I told them..(interrupted).

Q. After you had this conversation, what did you do? A. It was not even a conversation. I said "Quick, we are in trouble down the river".

Q. What happened then? A. We went back to Mr. Murray and Mr. Whitehead in the boat, and we towed Ski 5 back to our beach. 20

Q. How did you get back? A. In Mr. Armstrong's cruiser.

Q. You have known Mr. Armstrong for some time, have you not? A. Yes, I have.

Q. Had you seen his boat previously? A. Yes, I had.

Q. Having gone back down in the boat, Mr. Armstrong's boat, what did you do? A. Mr. Murray then decided to take his boat out of the water, and it was put on to the ramp and actually brought back behind the hut where we have a little drive in, and it was parked there for the rest of the day. 30

Q. It was brought back from where it had been beached, was it? A. That is correct.

Q. Can you recollect anything else happening on this occasion? A. I remember there were many people visiting, particularly the New Year weekend. Quite a number of people stayed at various huts on the river, and most of them seemed to pull in even if only for a cup of coffee or even to say hello. 40

Q. Did anybody remain there that evening, or did everybody go away? A. Mr. Murray and myself stayed there that evening, and the following day was the holiday, being the Monday, and we stayed over until Monday night, and came back to Sydney.

Q. What happened to the boats that were up there? A. We did go down and saw Mr. McLaughlin on the Sunday. Mr. Murray requested, as Mr. Armstrong wanted to leave his cruiser up the river, tied up at the front - we considered it would be a good idea if somebody kept an eye on it in the coming week, and Mr. McLaughlin did go down several 50

~~times-to-look-after-the-actual-boat-itself~~ (Objected to - portion of answer struck out as indicated above).

Q. What happened to Mr. Armstrong's boat? A. It was tied up in front of the hut, and left there till the following weekend.

Q. How did Mr. Armstrong get home? A. On that particular day Mrs. Armstrong came up. Mrs. Armstrong came up on the Sunday.

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Q. By car? A. By car. They went home in the evening, on the Sunday.

Q. When were you next back to the hut? A. It would have been the following Saturday.

Q. Who went? A. Mr. Murray and I went back on the following Saturday. We had taken Ski 5 home with us during the week. Some repairs had been done, and then we took it back on the following Saturday.

Q. When you got there on the Saturday was anybody there? A. Yes, Mr. Fred Hume and Annette Catt, Mr. Armstrong and Mrs. Larkin. They were there.

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Q. Were there any boats there? A. Yes, Mr. Armstrong's cruiser was there.

Q. Are you able to give us any idea what time you got there on the following Saturday? A. It would have been perhaps mid-afternoon, presumably about 2, maybe 3 o'clock. I would not be exactly sure what time.

Q. Did you work on the Saturday? A. I did on the Saturday morning, yes.

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Q. Ordinary Saturday morning hours? A. Office hours on Saturday morning are from 9 to 11.30, but normally it is about 12 before I do manage to get away from the office.

Q. How did you get there? A. I came up in Mr. Murray's car, and we towed the boat behind.

Q. That is Ski 5? A. Yes.

Q. Will you tell us what you can recollect of the happenings of this day after you got there? A. I can remember sitting down and having dinner that night. I can remember both Annette and Fred Hume went on to the cruiser and slept that evening. We did sleep in the hut that night.

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Q. Before you get to the evening, during the day? A. We had a ski. I can remember. I am not too certain whether we had visitors that afternoon or not, quite frankly. Over a period of time going to the river so often, it is hard to recollect what happens each day, particularly with visitors, and things, but I consider we definitely skied. The boat went in and did not work again.

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Q. Which boat? A. Ski 5 once more. It had to be taken out. Mr. Murray worked on that on the Sunday.

Q. Ski 5 would not work. How were you able to ski? A. We did ski behind Mr. Armstrong's cruiser.

Q. Have you any recollection of who did ski behind the cruiser? A. I do remember both Mr. Murray and Mr. Miles. They were having a jumping exhibition behind the boat, and seeing who was the best jumper of the two. But I could not remember whether this was on the Saturday afternoon or perhaps on the Sunday morning. I could not be sure of that. 10

Q. Any other skiers that you can recollect? Did you ski? A. Yes, I was skiing that weekend.

Q. Anybody else? A. Mrs. Larkin was skiing and Mr. Armstrong probably skied. I would not know for sure, but as we were all there he could have been skiing. 20

Q. You mentioned two other people there when you arrived. Did either of them ski? A. Mr. Hume, it was his first attempt at skiing, and he went very well.

Q. He did ski? A. Yes. I cannot remember whether Annette skied or not.

Q. You have told us earlier that Mr. Hume and Miss Catt slept on the cruiser overnight. A. That is correct.

Q. How many other people were there overnight? A. Mr. Armstrong, Mrs. Larkin, myself and Mr. Murray. 30

Q. Do you recollect where Mr. Armstrong slept, and what he slept in? A. I do remember very clearly. He slept on a li-lo which was over towards - looking at the front of the hut - where the sink was.

Q. Could you show us on one of the photographs of Exhibit 70 where this li-lo was? A. Unfortunately these are not the best photographs to show it on, due to the fact they are cutting off the left hand side of the hut, and this is where Mr. Armstrong was actually sleeping, over in this vicinity here. It is almost out of the photograph, because this dresser goes across another fraction, and over here is a sideboard and a sink, and the round table was here, which is not actually showing in this photograph. 40

Q. You are pointing to the left hand edge of the photograph, are you? A. Looking into the photograph itself.

Q. Part of Exhibit 70, and the one numbered 2, is it not? A. 2. 50

Q. Do any of the other photographs on the folder

show this spot any better? A. No. 4. There are two photographs, and it does show the left hand side here. It would have been just at the rear part of the hut there. As you can see there is one of the chairs, and the table is in the front part of the hut, and the li-lo was put behind there.

Q. On the left hand side looking at the hut?

A. Yes.

Q. Shown in photograph No. 4 in Exhibit 71?

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A. Yes.

Q. Do you recollect any other happenings on the Saturday? A. I do remember that when Annette and Fred Hume had gone on to the boat there was some concern as to them finding the light on the cruiser, and it was a matter of perhaps chit chat between ourselves. I did not know where it was, and Alex Armstrong was talking to Fred, saying it was on the left hand side, and they had difficulties finding it.

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Q. Can you tell us how far it would be from the front of the hut where it opens up down to where the cruiser was moored? A. From here to that wall there, approximately (indicating Court). About 15 feet. 15 to 20 feet. No more than that.

Q. And the next day, can you tell us what went on? A. Yes, it was a normal type skiing day. We had breakfast in the morning, and then we sort of started skiing quite early. Noel Miles visited once again, and came down to our beach., and we may have skied down also to Noel Miles' beach. I cannot say for sure.

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Q. What boat was used on that day? A. We were using Alex Armstrong's cruiser.

Q. The Sunday? Who skied? A. I can remember skiing myself. I think Fred Hume may have had a second go on this particular day. Mr. Murray skied, and Mrs. Larkin skied, and I am sure Alex Armstrong skied. I cannot say I remember seeing him skiing, but I am sure he skied.

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Q. Apart from skiing was there any other event that sticks in your mind? A. Just normal lazing around in the sun and having lunch. We went out and bought chickens for lunch. Mr. Murray spent a great deal of time working on his boat, which had been brought back to the hut. There were other visitors on this day also.

Q. Do you remember who they were? A. Yes. Mr. Evan Green of the British Motor Corporation did come with his wife and family. Just visited. I don't know what time he arrived, but he was there for several hours during the Sunday.

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Q. Any other visitors you can remember? A. I believe Ray Leighton may have come. He has a hut also on the river. They are people who visit normally.

Q. Anybody else you can remember? A. No, I cannot remember anyone else.

Q. Do you remember any other events happening during the day? I can remember there was a new tape recorder which Mr. Murray had in his car, which caused a great deal of interest to Mr. Miles when he visited the beach.

HIS HONOUR: Q. The tape recorder did? A. Yes.

MR. BAINTON: Q. Did anything happen? A. I think Annette was a very good dancer and did do a demonstration of some dancing for us, and it was very good.

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Q. Did anything else happen during the day you can bring to mind? A. I can remember Joan and Alec did not stay too long that afternoon. I think about three or four o'clock or something like that they had left. In the afternoon.

Q. How did they go? A. They went by water.

Q. In Mr. Armstrong's boat? A. Yes, in Mr. Armstrong's boat. I remember the thought was not to leave it too late getting back to Sydney.

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Q. How did the other people there get away?
A. There were several cars parked at the top. Hume and Miss Catt both left on the Sunday and would be driving the cars home.

Q. Can you tell us whether or not, when you have been at Mr. Murray's shack, Mr. Armstrong's cruiser has been there on any subsequent occasion? A. Yes, it has been. I cannot remember the exact occasions, but once both Mr. and Mrs. Armstrong spent, I think, about a week staying at the hut, just for a nice rest and holiday.

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Q. That is two occasions? A. Yes.

Q. Can you remember any others? A. Yes, there have been other occasions when Mr. Armstrong has visited and had his cruiser up there.

Q. Before or after this weekend you have just described to us? A. I honestly could not say. I would be only guessing.

Q. On any occasion other than the one you have just described to us, have you seen Fred Hume or Miss Catt at Mr. Murray's weekend shack? A. No, I have not. Only at that time.

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CROSS-EXAMINATION:

MR. GRUZMAN: Q. How long have you known Mrs. Armstrong?
A. Approximately 10 to 12 years. When I first met her.

Q. What was she doing when you first met her? (Objected to - rejected at this stage).

Q. What were you doing at that time when you first met Mrs. Armstrong? (Objected to).

HIS HONOUR: Do you mean as to occupation?

MR. GRUZMAN: Yes.

(Question rejected at this stage).

Q. How did you come to meet Mrs. Armstrong? (Objected to - allowed) A. My first meeting with Mrs. Armstrong I believe could have been approximately 12 years ago, and it was in Centennial Park, and I said hello to her, as she had a new car and was driving in the park. I was with another friend of mine, Miss Anne Benson, who is overseas I believe at the present time, and at this stage I was in advertising, not real estate. I did not have my own advertising agency. It was just a chance meeting. I think it was many years after this before I actually had another association with Mrs. Armstrong. 10

Q. What was your next association with Mrs. Armstrong? (Objected to - allowed). A. I believe- I cannot remember the exact period, but I know Mrs. Armstrong was keen to learn to water ski, and on several occasions she had either been in touch with Mr. Murray or myself, in wanting to know what type of equipment and things of this nature, but I cannot remember the exact time to be quite honest with you. I cannot say it happened on a particular day or something like that. 20

Q. Is this what you are telling us, you happened to meet a person previously unknown to you in Centennial Park? A. Yes. 30

Q. And some years later she got in touch with you to find out how to water ski? A. No. Sydney is a very small town, and most of my associates seem to know most other people, and Mrs. Armstrong was certainly known to many other people within the Water Ski Association even. Everyone seems to know everyone else. It is a small city.

Q. Was Mrs. Armstrong to your knowledge a member of the Water Ski Association? A. Not at this stage, no. In fact at this stage she had not even learned to swim, and her main concern was whether or not she would be able to water ski. 40

Q. Is this what you tell us, there was no association between yourself and Mrs. Armstrong from the time you met her in Centennial Park until the time you met her about water skiing? (Objected to - allowed). A. Not to my knowledge. I don't remember.

Q. You don't remember? A. I was listening for the chit chat here. 50

Q. Is this what you say, there was no association whatever between yourself and Mrs. Armstrong from the time you met her in Centennial Park until the time she

asked you about water skiing? A. That is right.

Q. Have you ever been to Lodge 44? A. No, I have not.

Q. You have never been there? A. I have never been there.

Q. Have you and Mrs. Armstrong discussed Lodge 44? A. Never in my life. (Objected to) 100%.

HIS HONOUR: The answer can stand.

(Luncheon adjournment).

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ON RESUMPTION

HIS HONOUR: You are still on your oath to tell the truth.

MR. GRUZMAN: Q. You have a good memory, have you?
A. I have a reasonable memory, yes.

Q. Would you say something better than reasonable? A. Yes, in many of my business dealings, yes. I would say I have.

Q. What about social occasions? Do you have a better than usual memory for those? A. Not better than anyone else, I do not think.

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Q. A normal memory? A. Yes, I would say a normal memory.

Q. And the events of which you have told us took place more than 18 months ago? A. That is correct.

Q. When did you first start to recollect what had occurred over this period in January 1967? A. It would be approximately over 6 weeks ago someone asked me whether I remembered Fred Hume having been at the hut.

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Q. Who asked you? A. On that particular occasion I think it was general discussion. Mr. Armstrong may have mentioned it to me.

Q. Where did that discussion take place? A. It was by telephone.

Q. Mr. Armstrong telephoned you? A. Actually Mrs. Armstrong phoned me.

Q. Where were you then? A. At home, I believe.

Q. Did Mrs. Armstrong say where she was? A. I would say she was at home.

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Q. This was about 6 weeks ago? A. Approximately, yes.

Q. That would be going back somewhere towards the end of July? A. Just in mention, yes.

Q. That was the first time you had an occasion to remember these events of January 1967, was it?

A. No, we have often spoken of them up the river.

Q. This was the first occasion you have been requested to recall those events in connection with these proceedings, was it? A. Correct.

Q. What did Mrs. Armstrong say to you? A. I do not remember the exact wording.

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Q. But I thought you had a good memory. A. I have a reasonable memory. I do not remember the exact wording.

Q. You remembered the exact words you said to Mr. Armstrong 18 months or more ago, didn't you?

A. When you say the exact words, these are approximately what I said, yes.

Q. Tell us what did Mrs. Armstrong say to you 6 weeks ago on the telephone. A. It was mentioned very briefly, the occasion...(Interrupted).

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Q. What did she say? A. I could not tell you what was actually said, in words.

Q. Do your very best with your good memory. Don't you want to tell us. A. It is not a matter of not wanting to tell you, I would be telling you a lie if I decided to bring out of the air the very words said to me approximately 6 weeks ago.

Q. Your memory is not good enough for that?

A. Not to remember the exact wording, no.

Q. Now tell us as near as you can what Mrs. Armstrong said to you on the telephone 6 weeks ago.

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A. There was a mention did I remember Fred Hume and Annette being at the river. There was no mention of time. It was only just did I remember Annette and Fred Hume having been in our company at the Hawkesbury River, and I said I remembered very clearly Fred Hume having been in our company.

Q. Your memory is so good that you are able to tell his Honour that Mrs. Armstrong never indicated a time to you, is that right? A. There was no mention of time in any way whatsoever.

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Q. You can swear that, can you? A. I can swear that.

Q. You have a very clear recollection of the conversation insofar as you can swear that a time was never mentioned to you, is that right? A. That is correct.

Q. What else was said in this conversation? A. There was just a general conversation, and I do not remember any of the other parts.

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Q. But the most clear recollection you have

got is that a time was never suggested to you?

A. No time was suggested to me at all.

Q. And that is about the only thing that you are really certain of in the whole conversation, is it? A. On this first occasion. You have asked me the first occasion, this was mentioned.

Q. And what you have told us is that the only thing you are really certain of is no time was suggested? A. I am absolutely certain no time was suggested, otherwise I would have at least made other reference to find out the time, which I did not do on this occasion.

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Q. As a result of the telephone conversation between you and Mrs. Armstrong, was a date fixed?

A. No, there was no mention of it even, any further.

Q. Tell us what was said, again, your memory having been refreshed in the way it has been.

A. This was just a general phone call I received from Mrs. Armstrong. There was mention could I remember Fred Hume and Annette Catt being at the Hawkesbury River in our company, and this is all I can remember. There was no mention of the time.

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Q. And this was all the conversation? A. There were other things mentioned at the time. You asked me about this first occasion this was mentioned.

Q. How many times had you met Fred Hume? A. January 1967 was the first time.

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Q. How many times have you met him? A. The first time in January 1967, and I have met him several times. The last time was approximately, maybe four weeks ago.

Q. Where was that? A. Mr. and Mrs. Armstrong's residence.

Q. This was after the discussion with Mrs. Armstrong, was it? A. Yes, it was.

Q. You were invited to their home, were you?

A. Yes. I often play chess with Mr. Armstrong.

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Q. For how long has that continued? A. Perhaps over the past 18 months, or so.

Q. How frequently would you visit the Armstrong home? A. Well, I have not been there for approximately four weeks. That was my last occasion I have spoken to Mr. Armstrong. Previous to that, approximately once a month I might see them.

Q. What was the occasion you went to the Armstrong home and saw Fred Hume about four weeks ago? A. It was a Saturday afternoon, Saturday or Sunday afternoon, Mr. Murray I believe was away at the time, and I called and we had a game of chess. In fact I even had a game with Mr. Hume.

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Q. You just called by chance, did you? A. No, I was invited to call over on the afternoon. I cannot remember whether it was a Saturday or a Sunday, to be quite honest with you.

Q. Who else was there? A. Mrs. Armstrong. The girls may have been there. I cannot remember.

Q. By "the girls" you are referring to Mr. Armstrong's daughters, are you? A. Yes, I do.

Q. Anybody else? A. Not that I can remember. 10

Q. Were there other people there, even if you cannot remember their names? A. No, I do not think there were.

Q. Are you prepared to say there were or were not, or you do not know? A. I do not know.

Q. Was Mrs. Larkin there? A. No, Mrs. Larkin was not there.

Q. Was there some discussion about the weekend that you say took place on 7th January? A. There was no discussion whatsoever on that particular occasion. 20

Q. Weren't you interested to ask Mrs. Armstrong "What was the idea of ringing me up about Fred Hume?"

A. Under no circumstances whatsoever I was not invited there to meet Mr. Hume.

Q. Did any other discussions...(Interrupted)

A. I was invited to have a game of chess.

Q. You have told us about six weeks ago Mrs. Armstrong telephoned you and asked you did you remember a weekend or an occasion when Fred Hume was at Sackville. A. This was mentioned, yes. 30

Q. And about two weeks after that, I take it, you were invited over to play chess? A. That is correct.

Q. Had there been any other discussions with anybody about the weekend in January during that period of two weeks? A. I may have mentioned it to Mrs. Larkin but I do not think at that particular time it was of any importance to myself or anyone, and I do not believe I did discuss whether Fred Hume was or was not at our hut during that period of time. 40

Q. So the position was, when you arrived at the Armstrong's home four weeks ago there had been one brief discussion over the telephone with Mrs. Armstrong about Fred Hume and Sackville, and nothing further?

A. That is correct.

Q. Didn't you, when you saw Mrs. Armstrong, say to her "Why did you ring me up the other day and ask me about Fred Hume?" A. Mrs. Armstrong did not ring me specifically with that question in mind. 50

It was just mentioned in passing. This is the first occasion I have had to recall in the period of 6 weeks approximately when the subject first came to any thought.

Q. Do you swear that subject matter has never been discussed with anybody? A. It has been discussed with Mr. Murray and other people over the past - since last Thursday week it most certainly has been discussed, because so many people were involved, that were there, and actually saw Mr. Hume and Annette Catt. 10

Q. So you had discussions about when you first came to hear about it? A. Since then, that is true, but you did ask me when I first had any thoughts on this particular matter, and 6 weeks ago is when I first heard of it.

Q. It is a little adroit. What you told us in the witness box was that you had never previously, prior to me asking you the questions, had to consider when you were first asked to think about this. A. Correct. 20

Q. That was not true, was it? A. I don't understand your question.

Q. You understand it, don't you? A. I do not.

Q. You gave an untruthful answer, didn't you?
A. No, I have never given an untruthful answer in my life.

Q. You gave an untruthful answer, didn't you?
A. I have never given an untruthful answer in my whole life. 30

Q. The fact is at least from last Thursday week you have had to consider when you first were asked about this matter, haven't you? A. That is correct.

Q. And the answer you gave that you had not had to consider it before I asked you in the witness box, is untrue, isn't it? A. No, it is not. You asked me when I had thought of it, and when it first came into being. Six weeks ago was the first time I can remember it having been mentioned to me. That is true. 40

Q. You will persist? A. Yes.

Q. You did tell his Honour here in the witness box that the first time you had to consider the question when you were first asked about this matter was in the witness box, didn't you? -

HIS HONOUR: I am not sure. I understand that question.

WITNESS: I do not understand it myself.

HIS HONOUR: There is some ambiguity here. I think. There was a question about five minutes ago, when 50

you asked a question that did not seem to be understood by her.

MR. GRUZMAN: Q. What I am putting to you is this, didn't you regard it as an unusual question when Mrs. Armstrong telephoned you and asked "Do you remember a weekend with Fred Hume?" A. Mrs. Armstrong did not ask it in that way you have just said that.

Q. She certainly asked it in such a way that there remains in your memory a recollection of a conversation six weeks ago, where she asked on that subject, is that right? A. It was mentioned, yes. 10

Q. And the question was, did you remember Fred Hume and Annette being at the hut? A. Yes.

Q. And your recollection is clear that she never asked you or suggested to you the time? A. There was no time mentioned.

Q. So that question did stick in your mind? A. Yes, it did. 20

Q. And you are able to reproduce it now, six weeks later? A. That much of it, yes.

Q. What I am asking you is this, when you went to see Mrs. Armstrong two weeks later didn't you say to her "Why did you ask me about that matter?" A. No, I did not.

Q. Were you aware this case of Barton and Armstrong was proceeding? A. Yes. I was fully aware of it.

Q. Had you been reading the newspapers? A. No, very little. 30

Q. How had you become aware of it? A. I think it was general talk, and occasionally I think the headlines stated certain things, but I did not make a point of reading the whole of the proceedings.

Q. Weren't you interested? A. Perhaps a little interested, but not that interested, no.

Q. But both Mr. and Mrs. Armstrong were friends of yours, weren't they? A. I think each and every one of us have our own problems in life. 40

Q. Mr. and Mrs. Armstrong were friends of yours? A. They are friends.

Q. And you were visiting them from time to time all through this year, weren't you? A. Yes.

Q. And from the beginning of this year the general nature of the case has appeared from time to time in the press, has it not? A. Correct.

Q. Did you ever discuss it with Mr. and Mrs. Armstrong? A. No, I have not.

Q. Never? Have you any idea why you have been called to give evidence today? A. Yes, I believe that a certain phone call had been made on a certain day, and that is as much as I am aware of at the present time. I am not happy at being here, I can assure you.

Q. What phone call on what day? A. I do not know the details of the phone call, because I feel if I am a witness it is far better for me not to know the details of exactly what is what.

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Q. Who told you that? A. This is my own personal feeling about it, I have not any personal desire to come into the whole of the proceedings. This started I believe about January this year. I do not know if that is right or not.

Q. Do you mean to tell us that you have sort of deliberately tried to refrain from knowing what phone call at what time? A. Not the matter of refraining from knowing.

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Q. Haven't you got any natural curiosity as to why you have been subjected to the ordeal of giving evidence? A. As late as yesterday afternoon I asked Mr. Grant whether I should be here or not. Whether my being here..(Interrupted).

Q. Please kindly not force on me answers to questions which I am not asking you. Have you any natural curiosity as to the reason why you have been called to give evidence? A. I have some natural curiosity, yes.

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Q. How do you know that it is because of some phone call at some time? A. This was told to me by Mr. Grant.

Q. Did you ascertain from anybody what phone call or at what time? A. No, I do not know the exact time, nor the details of that phone call.

Q. Nobody has told you? A. Nobody has told me.

Q. And you have never asked anybody? A. I have never asked anybody.

Q. In your discussions with Mrs. Larkin, for example, you have never discussed it? A. No, I certainly have not.

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Q. You have discussed this matter with Mr. Armstrong, have you not? A. When you say discussed it with him, no, I have not. I have not even discussed the case with Mr. Armstrong.

Q. When did you see Mr. Armstrong last? A. Approximately four weeks ago.

Q. That was at his home? A. Yes.

Q. And you and Fred Hume were there? A. Fred Hume was there and Annette Catt, yes.

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Q. Mr. Armstrong, yourself and Fred Hume and Annette Catt? A. And - that is right.

Q. And Mrs. Armstrong? A. Yes.

Q. Are you seriously telling his Honour that you never inquired of anybody what was the reason for Mrs. Armstrong's phone call as to your recollection of Fred Hume at Sackville? A. I discussed the matter with Mr. Murray, naturally enough, but I certainly did not make a point of discussing it with either Mr. Armstrong or Mrs. Armstrong or any of the people dealing with this case. Nothing whatsoever.

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Q. When did you discuss it with Mr. Murray?

A. Within about the past week or ten days it has been discussed, and even as late as yesterday.

Q. You see Mr. Murray frequently, do you not?

A. I do.

Q. And after the discussion with Mrs. Armstrong on the telephone, didn't you discuss it with Mr. Murray? A. No, I did not. I had no reason to. It did not mean very much to me at the time.

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Q. Did it pass right out of your mind? A. Basically, yes. It had no reason to be otherwise.

Q. When was the first time then you actually had to recall the date? A. Approximately last Thursday week I was asked the question as to if I could remember the time when Fred Hume was here, and I may be needed as a witness for these particular proceedings for which I am here now.

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Q. Last Thursday week was 22nd August. Then for the first time you had to consider the date?

A. Yes.

Q. Since then with whom have you discussed the matter? A. Firstly I have discussed it with Mr. Murray.

Q. Before or after you were asked to recollect the date? A. After that time.

Q. How long after? A. Mr. Murray was in Perth up until the following Sunday, I think he came back. He was away the week before last. He was in Perth the whole week.

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Q. And he returned(Interrupted). A. In the latter part of that week. I think it was the Sunday.

Q. That would mean 10 days after 22nd August?

A. No, he was away when I actually received it. At the end of that week. I could not discuss it with him then, because he was away.

Q. It was approximately Sunday the 25th when you discussed it with Mr. Murray, was it? A. Yes.

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Q. Who asked you the first time on the Thursday?
A. Mr. Armstrong asked me.

Q. Where were you then? A. At home.

Q. Where was Mr. Armstrong? A. I guess he would have been at home.

Q. He telephoned you, did he? A. It was by telephone.

Q. What was that telephone conversation? A. It was a fairly brief one, just asking whether or not I had remembered any recollections of that particular New Year, and long weekend of the New Year, and the following weekend, when the cruiser had been left there.

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Q. Did he say anything else? A. No. He did ask that I may be called as a witness and would I be prepared to come as a witness.

Q. Did he not ask you what your recollection was? A. This was in discussion, yes.

Q. We are now dealing with a conversation of only a few days ago. Could you give us in detail what the conversation was? A. I was asked whether or not I remembered Fred Hume having been at the hut, the fact of visiting the hut, and Annette Catt, and Fred Hume, having been there for that particular weekend.

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Q. What particular weekend? A. This was the weekend after the New Year of 1967.

Q. That is what Mr. Armstrong asked you, is it? A. He did ask me, yes.

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Q. What did you say? A. I said I remembered it very clearly.

Q. Is that all you said? A. That is all I needed to say, yes.

Q. Then you discussed that with Mr. Murray on the following Sunday, did you? A. Yes, I did.

Q. What was your discussion with Mr. Murray?
A. Just more or less a recollection of exactly what had happened on the New Year weekend. For instance, the past couple of New Years we have always spent at the hut, and it is very easy for me to say what happened last year or this year or the year before, because Ski No. 5 had broken down, and certain things happened. For instance, every February we go away for the whole month on holidays, so that it is not difficult to recollect exactly what happened over the holiday period of that particular year.

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Q. The question was, what was the discussion between you and Mr. Murray. This is a discussion that took place only a few days ago. Please tell us that discussion in detail. A. We discussed ..(Interrupted).

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Q. Who said what? I suppose you said "Alec wants me to give evidence" A. No. Mr. Murray said he may be called too. He had not spoken to Mr. Armstrong.

Q. I did not get that. A. I believe Mr. Murray said he may be called to give evidence at the same time, but he had not spoken to Mr. Armstrong, to my knowledge.

Q. Then you both knew there was a possibility you were going to give evidence? A. At that stage, yes. This was at the beginning of last week. 10

Q. And the subject matter on which you were to give evidence was the presence of Hume at Sackville on the weekend following the New Year? A. That is correct.

Q. Then did you and Mr. Murray work out what had happened? A. We did not have to work it out. Unfortunately my own personal diary was not available due to it having been mislaid at the end of last year. This was for the year 1967. I have all my own diaries previous to that, to 1960, I believe. But the 1967 diary had been mislaid. It was just a general diary showing what happens and what food was being bought for the weekend, and things of this nature. I do have a day book in my office, and this particular one shows what basically happens. Other than that it definitely happened. 20

Q. So the position is that you had a 1967 diary, is it? A. Yes. It may not have shown anything. This particular diary, I do not know where it is now. 30

Q. The purpose of keeping your 1967 diary, amongst other things, was to show what you have done, I take it? A. Yes.

Q. And your anticipation was that if you only had your 1967 diary you would have been able to say positively what occurred on certain dates around that time? A. No, not necessarily, because it was a holiday period, and I do know my secretary was on holidays at that particular time.

Q. But you would have anticipated your diary would have confirmed ... (Interrupted). A. It may have shown just what happened, yes, that is true. 40

Q. But unfortunately your diary is missing?
A. It is, yes.

Q. When did it go missing? A. I could not tell you the exact time; towards the end of last year, and I visited my accountant, and the diary was mislaid on this particular occasion. This, believe it or not, I only remembered a few days ago, because I have had no reason to use my diary till now. 50

Q. A tragedy? A. Perhaps, but that is the truth.

Q. Approximately what date was it you visited your accountant? A. It would have been in November or December last year.

Q. Did you start another diary? A. No, I did not actually, although I had a diary, believe it or not. My 1968 diary was available, but I did not bother to keep great records, because we do have a day book which is quite up to date.

Q. So the position is that some time towards the end of 1967 you found that your 1967 diary was missing? A. Correct, yes.

Q. And you normally keep a diary, do you? 10

A. Yes, I do. Several.

Q. But for some reason which I have not quite followed, you did not start a new 1967 diary when you found the diary was missing? A. It was towards the end of the year. There was no need for me to.

Q. November or December was the date, you said?

A. Yes.

Q. November is two months from the end of the year, isn't it? A. Towards the end of November.

Q. What was the reason again that you did not start a new 1967 diary? A. There was no need for me to do so. I have a day book in my office, and basically all I wanted to do was keep appointments at a particular time. It is as simple as that. 20

Q. Why keep one anyway? A. I am a real estate agent.

Q. Weren't you a real estate agent in the latter part of 1967? A. Yes.

Q. Was there anything different between the latter part of 1967 and the early part? A. Unfortunately I did not have the normal 1967 diary available to me. It was unavailable. There was no need to buy a 1967 diary in November or December to finish off the year. 30

Q. I thought you said you did have one available?

A. I have a day book.

Q. You have started a 1968 diary, have you?

A. Yes.

Q. From 1st January 1968? A. Yes, but there were no entries in this until we virtually started back at work later. 40

Q. What have you done to trace this particular diary? A. I spoke to my accountant, because I thought it may have been left in his office. I also spoke to Morrie Bernhardt of L.J. Hookers, because his office was nearby, and I thought some of the boys might have been up to a bit of a lark, in the form of my listings and things of this nature, and this was an actual fact, but unfortunately it was missing.

Q. Are you aware Hume's diary went missing about the same time? A. No, I did not. I am unaware of that until you have just told me. 50

Q. Who told you? A. You just told me.

Q. That is the first you know of it? A. The first I have heard of it.

Q. Are you aware Mr. Armstrong had some problem with his diaries at some time during the year? (Objected to - not pressed).

Q. Who are the accountants? A. Mr. John Douglas.

Q. What is his firm? A. Of Randwick. John Douglas & Associates, I believe.

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Q. I suppose you were very annoyed with Mr. Douglas? A. No, I was not. I could hardly blame him for it.

Q. Didn't you leave it with him? A. No, it was in my car at the time. It was in the car or in his office or in the vicinity.

Q. In your car? Do you think somebody stole your diary from your car? A. I honestly do not know. I only know my diary was missing.

Q. You used the expression. Do you think somebody stole your diary from your car? You said it was in your car. Do I understand you to say it is a possibility in your mind somebody stole your diary from your car? (Objected to - allowed).

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Q. You believe it to be a possibility that your diary was stolen from your car, do you? A. Yes, quite possible.

Q. Could you suggest any reason to his Honour why anybody could have stolen your diary from your car? (Objected to). A. At the time it had no importance to me whatsoever.

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Q. As far as you knew, of no importance to anyone? A. I would think not, no.

Q. What I put to you is that you have transposed the dates of an occurrence at Sackville. Do you understand what I am putting to you? A. I believe I understand what you are putting to me.

Q. In other words it would be easy, wouldn't it, to make a mistake as to a date of an event which took place 18 months or more ago? A. It would be easy to make a mistake, yes.

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Q. Do I understand correctly that you fix this date by the unusual occurrence that Ski 5 broke down? A. And other things happening, yes.

Q. But primarily because Ski 5 broke down? That is right, is it not? A. This definitely happened, yes.

Q. Ski 5 breaks down from time to time? A. It has not been in the water, I don't think, hardly since then. It may have been used once since 1967, because this was only a secondary boat, and that

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is one reason why I can remember it so clearly. I - we were using the boat every weekend I am sure it would have been breaking down a lot more often. We had not used it, I think, up till that time, for anything up to 12 months prior to that.

Q. Mr. Murray has another boat which he uses regularly has he? A. Yes.

Q. What do you call that? A. Ski 1.

Q. Do I understand, and correct me if I am wrong, that Ski 5 is an old secondary boat which is only used occasionally? A. Yes, it would be approximately between 8 and 12 years old, I believe. 10

Q. How many times was it used over the period of the summer 1966-67? A. From memory that is the only time I can remember using Ski 5. It had been in the garage for anything up to 12 months prior to that time.

Q. Each time it was used it gave trouble, did it? A. No, it was just left in the garage. I don't know very much about the running of boats, but because of it having been left there, this is the whole reason, the boat expands and you put water in it approximately two weeks before it is used. Mr. Murray had filled it with water in order to contract the boat, so that it could be used over that particular weekend. 20

Q. Where was Ski 1 at this stage? A. In Mr. Murray's garage, I believe.

Q. What was the reason Ski 5 was used? A. I think he just wanted to give it a run. 30

Q. I suppose if it were unsatisfactory you would not want to run it again? A. I think the thought was to fix it, not to leave it in the condition it was. In fact we took it home for that week and brought it back the following week.

Q. That was a rather silly thing to do, wasn't it? A. No, we had another boat to use.

Q. Mr. Murray has a good boat, Ski 1, and what I will call for this purpose a bad boat, Ski 5, is that right? A. Hardly a bad boat. I like it. 40

Q. He has a good boat, Ski 1, and a secondary boat, Ski 5? A. Yes.

Q. Over the Christmas period he decided to give Ski 5 a run? A. Yes.

Q. Mr. Murray is a first class mechanic, is he not? A. Yes, he is.

Q. It is his business to repair boats, is it?
A. No, but he likes to look after his own boats. He does not repair boats for other people. 50

Q. Doesn't he sell boats? A. No, he does not..

There are several Jack Murrays, believe it or not.

Q. Is this the gentleman who is known as "Gelignite Jack"? A. That is correct.

Q. Is not his business associated with motor cars? A. No. He has a garage.

Q. Where they do mechanical repairs? A. Only on their own vehicles.

Q. If I understand you correctly, you took Ski 5 up for a run. A. Yes. 10

Q. I suppose there could be nothing worse than to go all the way up to Sackville and find the boat does not go? A. We thought it was going in the first place, and in fact it was on the Saturday and Sunday. The only way you can try a boat out is put it in the water and try it.

Q. Where is Mr. Murray's garage? A. Bondi.

Q. If you want to try a boat out you can go to Rose Bay and put it in there, can't you? A. Only if you want to put it into salt water. It is fresh water in the Hawkesbury. 20

Q. But there is nothing worse than to be up the river with a boat that does not go, is there? A. You can always swim.

Q. What happened was that you took the boat up there and it did not go, is that right? A. We put it in the water, and it was unsatisfactory.

Q. And it caused you a lot of bother? A. I think this is half the fun of skiing and having boats. 30

Q. Boats filling up with water? A. It was a lot of fun.

Q. Running it into the bank? A. Yes.

Q. And you walking one and a half miles or so? A. No, I did not walk one and a half miles, only a short distance till I got a lift.

Q. Then you had to go up and bring the boat back. Wouldn't you prefer to be water skiing? A. I ski every Sunday, almost, of every year, and I have been doing so for several years. I do enjoy other things, other than perhaps skiing all the time. 40

Q. Wouldn't you prefer to be water skiing rather than battling with a difficult boat? A. I do not think so, no. This was part and parcel of our day.

Q. Are you seriously telling his Honour that when you found that Ski 5 was unsatisfactory you deliberately brought the same boat up to Sackville again the following weekend? A. You might remember.... (Interrupted).

Q Are you telling his Honour that? A. Mr. Murray did work on the boat during that week, and it was considered to be satisfactory.

HIS HONOUR: Listen to the question and answer it.

MR. GRUZMAN: Q. Are you telling his Honour when Ski 5 was taken up the first weekend and proved unsatisfactory, it was again brought up the second weekend? A. Yes.

Q. And all that time Ski 1 was sitting in the garage, in perfect order? A. This would be so, yes. 10

Q. Mr. Murray did work on it during the week, did he? A. Yes, a lot of work.

Q. No matter how much work he did on it during the week, there was always a risk with Ski 5, wasn't there? A. With any boat. Ski 1 caught fire on one occasion.

Q. The fact is that Ski 5 proved true to form, you say, and did not go again the next week, is that right? A. I do not think it was true to form. It is not that bad. 20

Q. You had only used it once that summer, hadn't you? A. As far as I can remember, yes.

Q. And its form was, to use the expression, that it broke down? A. We were hoping it would go, and be satisfactory, but unfortunately it did not go. We could not take two boats on the Sunday. It was far better to try and repair the second boat.

Q. And take the risk of losing a second weekend's skiing? A. There was another boat there which we used for skiing. 30

Q. What I am putting to you is that on that first weekend when Ski 5 did not go, it was very fortuitous that Mr. Armstrong should happen along in his cruiser? A. He did not just happen along in his cruiser. We knew Mr. Armstrong was coming that particular weekend. We expected he would arrive. He did not just come up the river from Sydney and drive 100 miles for nothing. We knew he was expected to arrive on the Sunday.

Q. He was expected? A. On the Sunday, of course. 40

Q. I did not understand that. When had this arrangement been made? A. I could not tell you when the arrangement had been made, but probably a few days before this.

Q. What had been the arrangement? A. That the cruiser was coming up on that particular weekend. We had many visitors over the New Year weekend.

Q. When was he due to go back, on the arrangement? A. On that particular day. He brought the cruiser up, and intended leaving it for the week. 50

Q. Who made the arrangement? A. I would not be sure who phoned, on that particular occasion, to be quite honest with you.

Q. Is it possible you spoke to Mr. Armstrong?

A. I doubt it, I think possibly he may have spoken to Mr. Murray or something like this.

Q. Or Mrs. Armstrong may have spoken to Mr. Murray? A. Mrs. Larkins comes up skiing with us every weekend.

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Q. Is this your understanding of the arrangement, that Mr. Armstrong was to bring his cruiser up to Sackville on Sunday, 1st January? A. Yes, that is right.

Q. And then go home again the same day?

A. Yes.

Q. For what purpose? A. When you say "for what purpose", we ski, and the boat was used for ski-ing.

Q. What time did Mr. Armstrong arrive? A. I don't remember the exact time. It would have been early morning.

20

Q. But you have got a pretty clear recollection of the times in relation to Hume, haven't you?

A. When you say "in relation to Hume" that was the following week, and we are not discussing that at the moment.

Q. You know, don't you, that the important time in relation to Hume is 4 p.m., on the afternoon of Saturday, 6th January, you know that, don't you?

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A. Your Honour, that is the first time I have heard the time of 4 p.m. being mentioned as anything of importance.

Q. I put it to you that you are well aware of that? A. I have just been told by you, Mr. Gruzman.

Q. I put it to you, Madam, that that is why you gave your evidence that Hume was already there when you arrived on the Saturday? A. I did not fabricate any evidence, Mr. Gruzman, and I do not.

Q. Let us go back again. What time did Mr. Armstrong arrive on 1st January? A. To be exact as to the time would be difficult, but I do know that I ski-ed from our hut down the river, which would be approximately 1½ miles, during which time we had difficulties with the boat. Just over what period of time I could not say. I could not honestly say how much time was involved in trying to get it started. We had beached on the right-hand side because we were having difficulties with the rubbers. They fixed this and we started to come back. I guess it would be in the vicinity of ten o'clock. It may have been earlier. I don't know. We don't normally work to a clock when we get to the river there.

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Q. You had a New Year's Eve party the night before, didn't you? A. Yes, this is right.

Q. And it had gone until at least one o'clock in the morning, hadn't it? A. We sat around until one o'clock because we had to see the New Year in. In fact, it may have been over by 12.30.

Q. Does that help you to remember what time you got up next morning on New Year's Day? A. It would be in the vicinity of seven o'clock, I would say.

Q. Up by seven o'clock? A. Yes.

Q. And then you say - are you prepared to say that Mr. Armstrong arrived at about 10 o'clock?
A. In that vicinity, yes.

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Q. What time did he leave? A. I would not know the exact time, but late afternoon. Normally, we finished round about 6 or 6.30. Even as late as seven o'clock, we would leave the river.

Q. I am not asking about normally. You have given precise details of this weekend of 7th January, and I would like the same details about the preceding weekend. What time do you say Mr. Armstrong left on that day? A. Late afternoon I would say. I don't know the exact time.

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Q. Late afternoon could be anything from three o'clock to six o'clock. What time do you say he left? What time do you say Mr. Armstrong left?

A. I don't know the exact time, Mr. Gruzman.

Q. You see, Madam - by the way, do I understand you to say that Mrs. Armstrong came to pick him up? A. She came up the river that day by car.

Q. Who was with Mr. Armstrong? A. Mrs. Larkin.

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Q. Did Mrs. Larkin leave with Mr. and Mrs. Armstrong? A. I believe so.

Q. You are not sure of that one? A. No, I can't remember exactly who left for home with whom.

Q. You don't know who went home with whom?

A. No.

Q. Try and do a bit better. A. I have tried to remember this.

Q. I beg your pardon? A. I have tried to think that one out, because it is impossible for me to reconcile exactly who did go home in what car or what the situation was.

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Q. Because, you see, it never happened the way you said it did, I put to you. It never happened the way you said, did it? A. Mr. Gruzman, it did happen exactly the way that I have said it.

Q. You cannot reconcile it? A. It is not a matter of reconciliation, anyway. It is a matter of the truth, and I am here to tell the truth. I am here to tell the truth, and that is what I will do.

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Q. It is 100 miles round trip from Sydney to Sackville? Is that correct? A. It may be a bit more than that, I would say.

Q. More than that? A. Round trip to Sydney and back again?

Q. Yes. A. It would be more than that.

Q. How far would you say it would be? How far would you say? A. Probably about 120 miles.

Q. About 120 miles? A. Yes.

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Q. Do you tell his Honour that Mrs. Armstrong - ?
A. I am sorry, I may have made a mistake there. Were you considering by boat or by car?

Q. By car? A. By car it would be closer to 80 miles. 80 to 100 miles.

Q. 80 to 100 miles by car? A. Yes. By river it is more.

Q. About 120 miles by river? A. Approximately 120 miles, yes.

Q. We will take 80 to 100 for the moment, and we will call it 90, for the sake of convenience.
A. Right.

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Q. Do you say that Mrs. Armstrong drove 90 miles just to pick her husband up? A. To come and visit with us and to pick Mr. Armstrong up - to take Mr. Armstrong back, yes.

Q. When did she arrive? At what time did she arrive? A. I don't remember the exact time. Some time in the morning. It may have been in the vicinity of about 11 o'clock.

30

Q. You have told his Honour that the object of the exercise was to get the cruiser up to Sackville?
A. Yes.

Q. But not to use it there except for a few hours on the Sunday. Is that right? A. This was used, yes.

Q. Only for a few hours on Sunday? A. I believe we may have even used it on the Monday. Mr. Armstrong was not there, but the cruiser was definitely there for our use.

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Q. And this is over the holiday period. This is over the holiday period, isn't it? A. It was holiday time, yes.

Q. Look, the first week of January, do you tell his Honour that Mr. Armstrong went to all the trouble of bringing the cruiser up to Sackville and then going straight home again. Is that right? A. That is a very pleasant trip up there, yes.

Q. Would it be true to say that Mr. Armstrong

was at Sackville on the Monday? A. I don't believe that he was there on the Monday.

Q. Are not you sure? A. I would say that he went home on the Sunday.

Q. You used the expression "I would say". Are you positive or are you not positive? A. I could not be absolutely certain, but I am fairly certain that he went home on the Sunday.

Q. You are fairly certain that he went home on the Sunday? A. Yes. 10

Q. What does "fairly certain" mean? What does that mean? A. I can't remember on the Monday Mr. Armstrong having been there. Usually there is some little thing in your mind that you remember - something that happens - and on the Monday I don't remember him being there.

Q. Did Arnold Glass come up? A. Not that particular weekend that I know of.

Q. Which particular weekend did Arnold Glass come up? A. It is a good question, but I could not tell you the exact weekend Mr. Glass came up. 20

Q. If it is a good question, you answer it, Madam. Which weekend did Arnold Glass come up?
A. I don't remember, sir.

HIS HONOUR: Q. Why did you describe that as a good question, Miss Rosewell? A. Why?

Q. Yes. A. I honestly don't know, because I can't make any feelings out of this. I don't remember Arnold Glass being there on that particular weekend - unless it was perhaps the Christmas weekend, and not the New Year weekend. But I can't remember Arnold Glass having been there on that particular New Year weekend. He may have been there the previous weekend of the Christmas period, or something. I don't know. 30

MR. GRUZMAN: Q. You think Arnold Glass may have come up the Christmas weekend? A. Quite possible. Arnold has visited our beach, yes.

Q. But not often? A. Not very often. 40

Q. How many times would you say over the period December-January 66/67? A. I can't even remember him having been there over that particular period of 1966-67.

Q. But if he came, do you think it was probably the Christmas weekend? A. It was one occasion when Mr. Arnold Glass visited our beach that there were a number of other cruisers. I think altogether we had four cruisers tied up in front of the hut. I don't believe that was the particular occasion. I think it may have been the previous year. 50

Q. The previous weekend? A. I said the previous year, which goes back to about 1966.

Q. You know the Donzi, don't you? You know the Donzi? A. I think it is called "Moonraker". Is that what you mean?

Q. Is that the name of Arnold Glass' boat?

A. I believe it is the Moonraker. I would not be sure.

Q. Are you speaking about the name of the boat, or the make? What does "Donzi" mean to you? A. "Donzi" means to me a similar make to the Bertram.

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Q. So that the make of Arnold Glass' boat is a Donzi? A. Yes.

Q. And the name of this particular boat is "Moonraker"? A. I believe so, yes.

Q. Do you remember Arnold Glass' Donzi coming up to Sackville during December-January 1966/67?

A. No, I don't.

Q. Are you prepared to swear it didn't happen?

A. No, I am not prepared to swear it didn't happen, because I could not tell you one way or the other.

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Q. And I think you say it definitely did not occur at the Christmas - I will withdraw that. I think you say it definitely did not occur at the New Year weekend? A. Not to my knowledge, no.

Q. You would know, wouldn't you? A. I was there.

Q. But you think it may have happened the weekend before? A. It is possible, but I would not be sure of that, and I could not swear to it.

Q. By the way, was Mr. Armstrong there when Mr. Arnold Glass came up? A. I believe on one occasion we had - there was a Chris-craft and another boat which belonged to Mr. Laurie O'Neill. Mr. Armstrong's cruiser was there. I believe there were four boats altogether tied up in front of the hut, but the exact happening, or the time for that I could not tell you. I could not tell you the exact time of that.

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Q. Mr. O'Neill - that is O'Neill of Blue Metal & Gravel? A. Yes.

Q. You say he was there in his Chris-craft on one occasion? A. Yes.

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Q. Mr. Glass was there in his Donzi? A. Yes.

Q. Who else was there? A. There was another gentleman from Melbourne in a large boat but I can't even tell you the name of the particular boat, nor could I tell you the name of the person.

Q. That is three. Who was the fourth? A. Our own boat, and I believe Mr. Armstrong's boat was there on that particular occasion. But this, I

believe, is going back prior to any of these dealings. It is a thought - a happening - but exactly what time I would not be certain of.

Q. The one thing that is clear to your mind is that the Donzi did not come to Sackville on the 2nd or 3rd January 1967? A. I don't remember it being there.

Q. Well, you know very well it was not there, don't you? A. Well, I have made the statement that I don't remember it being there. On very many occasions we have had people there. Even last Sunday there were 24 people on our beach. Now, of these people I would say that sixteen I would know, or would be able to say they were there, but other people who arrived were friends of friends who drove up there, parked on the beach, had a picnic and left. They said hullo, but I would not know these people, nor would I know their names. 10

Q. Does Arnold Glass fall within that category to you? A. No, I would know Arnold. 20

Q. You have known Arnold Glass for years? A. I have known him for a number of years, and I have known his wife.

Q. You have given us a detailed account of what happened on the weekend - what happened on New Year's weekend, haven't you? A. Detailed, as far as I can remember.

Q. Boats breaking down, and things of that description? A. You can remember that. That is something you are involved in. 30

Q. Having trouble up the river? A. Yes.

Q. One thing that is clear - Mr. Armstrong leaving that evening in the car with his wife? A. Yes.

Q. And the boat remaining there? A. Yes.

Q. And Mr. Armstrong did not come back next day, did he? A. No.

Q. So I suppose it would be quite untrue to say that Mr. Armstrong spent the day - untrue to your knowledge that Mr. Armstrong spent the day of Monday, 2nd January, ski-ing, and that Arnold Glass brought his new Donzi up and they had a run in it? (Objected to by Mr. Bainton; rejected). 40

Q. First of all, it would be untrue to your knowledge that Mr. Armstrong spent the day ski-ing anywhere in the vicinity of your hut? (Objected to by Mr. Bainton).

Q. On the day of Monday, 2nd January, ski-ing anywhere in the vicinity of your hut? (Objected to by Mr. Bainton; rejected).

Q. Madam, it is not a fact to your knowledge that Mr. Armstrong spent the day on Monday, 2nd January, 50

ski-ing anywhere in the vicinity of your hut, is it? A. I don't remember the Monday, as I said before, and I understood he went back on the Sunday night.

Q. When you say you don't remember the Monday, do you remember it or not? A. No, I don't.

Q. You have no idea what happened on the Monday? A. No. I have sort of tried to think, but I can't remember exactly what happened on the Monday. 10

Q. Well, is it possible that your story about Mr. Armstrong going back on the Sunday is not true?

A. No, I believe that he did go back on the Sunday to the best of my knowledge, yes.

Q. Then you are able to say, aren't you, that he was not there on the Monday? A. I may have driven back. Not to my knowledge, though. I can't remember him being there.

Q. You realise, Madam, now that the evidence you are giving is of some importance, don't you? 20

A. I realise the evidence is important. Otherwise I would not be here.

Q. Would you tell his Honour, are you prepared to say positively one way or the other, whether Mr. Armstrong ski-ed in the vicinity of your hut, on Monday, 2nd January? A. I cannot truthfully answer that question, your Honour.

Q. You see, if you cannot truthfully answer that question it means that you cannot be positive that he went home on the Sunday, can you? A. That is true. 30

Q. Madam, your evidence about him going home on the Sunday is fabricated, isn't it? A. No, it is not fabricated.

Q. You swore it was true, not being certain whether it was true or false, didn't you? A. No, that is not true.

Q. You have already told us that you are not now certain whether he went home on Sunday, haven't you? A. Well, I believe that he did go on the Sunday. I don't remember Alex Armstrong being there on the Sunday evening at all, and I can't remember him being there on the Monday, so naturally if he was not there on the Monday I would assume that he definitely did go home on the Sunday. 40

Q. There is a lot of difference between an assumption based on lack of recollection of what he did on the Monday and a certainty of seeing him off on the Sunday, isn't there? A. There is a - 50

Q. There is a difference, in your mind? A. There is a difference, of course.

Q. And you swore in your earlier evidence that

he positively went on the Sunday, didn't you?
(Objected to).

Q. You swore that Mrs. Armstrong came on the Sunday, got Armstrong, and that they both returned on the Sunday evening? (Objected to by Mr. Bainton.)

Q. Did you intend to convey to this Court in your evidence in chief, that Mrs. Armstrong came on the Sunday and got Mr., Armstrong and they both returned on the Sunday evening? A. I believe this to be true, yes.

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Q. That is what you intended to convey in your evidence in chief, wasn't it? in answer to Mr. Bainton. That is what you intended to convey, in answer to Mr. Bainton? A. Yes, this is true.

Q. Now you tell his Honour that you are not certain whether Mr. Armstrong did in fact return on the Sunday? A. On the Monday, you mean?

Q. On the Sunday -

HIS HONOUR: Q. Return home. A. Return home? I see what you mean.

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MR. GRUZMAN: Q. You are not certain of that, are you? A. I believe he went home, yes.

Q. But you are not certain? A. I would feel very certain of it in my own thinking, yes.

Q. You have told us that he may have been there on the Monday? A. Well, it is very easy - it is not a long drive to come up on the Monday. I don't know whether Mr. Armstrong stayed on Sunday night. I don't believe that he did. I believe he went home on Sunday. That is true.

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Q. You have just told his Honour that he may have stayed on the Sunday night. You said that just now, didn't you? A. No, I didn't say he may have stayed on the Sunday night.

Q. I put it to you that you just said those words, that he may have stayed on the Sunday night?
A. It is quite possible, but to my knowledge he did not stay.

Q. You see, Madam, you have been prepared to swear to a story as to which you are at least uncertain, haven't you? A. No.

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Q. It has been put into your mind that these events occurred in the way you gave it in your evidence in chief, hasn't it? A. No, that is not right.

Q. And it has been discussed and re-discussed?
A. No.

Q. And the story has been built up and embellished, hasn't it? A. No, it has not been built up and embellished.

Q. You told us that it was a rare occurrence - you fixed this weekend by the fact that Ski-5 broke down? A. I remember these things happening. It was the New Year weekend.

Q. There was a New Year weekend - I am sure we will agree on that. But the Ski-5 according to you broke down not one weekend but two weekends running? A. It was a little unfortunate, but that did happen.

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Q. Which makes it not quite so certain as to which weekend was what, doesn't it? A. Not in my mind.

Q. According to you there was not one weekend when you ski-ed behind the Bertram, but two, weren't there? A. There were two weekends, yes.

Q. And had there been other weekends when you ski-ed behind the Bertram? A. Not a great many times, but several times, yes.

Q. On one occasion he had been there for the weekend, hadn't he? A. That is right, I was not there.

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Q. And there have been other occasions when he came up and you had ski-ed behind the Bertram?
A. That is right.

Q. So that you have really got no way of positively fixing this particular weekend of 7th January, have you? A. In my mind, I have, Mr. Gruzman.

Q. Madam, supposing we go a step further. Is it possible on your memory that Mr. Armstrong spent the Wednesday in the vicinity of your hut ski-ing?
A. Is it possible?

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Q. Yes. Is it possible that Mr. Armstrong spent the Wednesday in the vicinity of your hut ski-ing? A. It is quite possible.

Q. To your knowledge? A. Not to my knowledge. But it is quite possible. You have asked the question.

Q. You were there on the Wednesday, weren't you?
A. Which Wednesday?

Q. Wednesday, 3rd January? A. No, I was not. On 3rd January I was in my office.

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Q. On Tuesday, 3rd January? A. No, I would not be there. I was in my office.

Q. Well, on the Monday you were there? A. Monday I was there, yes.

Q. Well, when did you leave? A. Left on the Monday evening.

Q. How did you leave? By what means did you leave? A. Left by car.

Q. Who with? A. Mr. Murray.

Q. In Mr. Murray's car? A. Yes.

Q. Who was there when you left? A. To my knowledge I don't think anyone was there when we left. We locked up the hut.

Q. So that the one thing you know of your own knowledge is that Mr. Armstrong was not there on the Monday night? A. Correct.

Q. Do you remember whether Mrs. Armstrong was there for some days over this period? A. Not to my knowledge, no. 10

Q. Would it be true that Mrs. Armstrong came on the Sunday afternoon, and that - ? A. Sunday she came. I don't remember the exact time.

Q. But you say she left? A. I believe so, yes.

Q. Would it be true to say that Mr. Armstrong and Mrs. Armstrong stayed with - by the way, Mr. Murray is "Jack"? He is known as Jack? A. Yes.

Q. And you - if you don't mind - are Dorothy?
A. Yes, that is correct. 20

Q. Would it be true to say that Mr. Armstrong stayed with Jack and Dorothy in the evening of the Sunday? A. This is the 3rd January?

Q. Sunday, 1st January? A. Not to my knowledge. I can't remember that. I believe that they had left that evening. But I can't remember, as I said.

Q. You see, Madam, if, of course, it is true that what happened was that Mrs. Armstrong came on the Sunday and that Mr. and Mrs. Armstrong stayed there on the Sunday night, and ski-ed on the following day and Arnold Glass came up on the following day in the Donzi and they remained there until Tuesday and they returned home by car, your story must be quite wrong, mustn't it? A. If that is true, yes, I would be wrong because I certainly don't remember this having happened. 30

Q. And if that is true it means that somehow or other a false story has been put into your mind, hasn't it? (Objected to by Mr. Bainton; rejected). 40

Q. You said that if this is true, your story is wrong. If you are trying to give evidence to the best of your ability will you concede the possibility that you are mistaken? A. On the first count - the first weekend, or the second weekend?

Q. On the first weekend? A. No. The only mistake, possibly, that I could be making is the Sunday, as to when they went home - as to whether they stayed or not. But I do remember very clearly the Saturday having arrived there and being with our friends on the Saturday evening and also Sunday. I cannot positively say what happened on the Sunday night, nor the Monday. I cannot remember those things at this stage. 50

Q. You see, Madam, if your recollection that the Donzi came up on the Christmas weekend is right -?

A. I didn't say that it was there on the Christmas weekend. I can't remember what weekend it was.

Q. So far as you have any recollection of the Donzi being there, you would describe it as the Christmas weekend, if any? A. Another weekend. If the Donzi did come up - and I remember clearly when it did arrive that there were a number of young people on board - young John Murray and friends were on board it, the day that Arnold Glass visited our hut. I can't tell you exactly what day that was, though. 10

Q. You see, Madam, if in fact that was Monday, the 2nd and Mr. Armstrong was there and Mr. Armstrong went for a run in the Donzi that day, your recollection must be wrong, mustn't it? A. Yes, it would be. But some of it must be right, too.

Q. I think you concede the possibility that if someone was trying to build up an alibi they might try and mislead your recollection? (Objected to by Mr. Bainton: rejected). 20

Q. Of course, as at Saturday, 7th January, how many times had you met Fred Hume? A. I believe it was the first occasion that I actually met him.

Q. The first occasion you had met him? A. I believe it was the first occasion that I had actually met him.

Q. Well, had you any particular reason to remember him? A. On that particular occasion, do you mean? 30

Q. Yes. A. Well, I had spoken to Hume by 'phone on some occasions.

Q. Prior to that? A. Prior to it, yes.

Q. In what circumstances? In what circumstances had you spoken to him? A. Only in respect of some property which Mr. Hume had some tenants. He had some tenants for a particular property. They were the only dealings I had with him. 40

Q. But you had never met him before? A. I can't remember having met him before that time.

Q. Well, he did not sort of mean anything to you when you met him? A. No, not really, no.

Q. Well, how can you have such a clear recollection that Fred Hume was there on that particular Saturday at that particular time when you arrived? A. I think it was a very happy occasion. It was quite a good, pleasant weekend. I do remember clearly him ski-ing. We were also discussing such things as his playing tennis. Mr. Murray was quite interested to know what other sports he had been interested in, because when he did ski, he ski-ed particularly well. 50

Q. You told us you go every weekend, summer and winter, is that right? A. That is right. Possibly maybe several missings in the year.

Q. Over how many years? A. Approximately ten years.

Q. How many years? A. Ten years.

Q. So that we are dealing with some 500 ski-ing occasions in the last ten years, aren't we? A. Yes.

Q. And I suppose that with rare exceptions they would have all been happy occasions? A. I would say they were all very happy occasions. 10

Q. They were all happy occasions? A. I would say they were all happy occasions.

Q. But you have singled out out of 500 happy occasions one happy occasion, haven't you? A. That is what you are asking me to do. I can single out a lot more.

Q. On an average - you have told us how many people visit you - on an average how many visitors do you get in a weekend? A. Some weekends in the winter time there may be just ourselves. There is Mr. Murray, Mrs. Larkin myself, and usually just other friends which take in turns to come up each Sunday, so that usually there could be about six to eight people would be the normal ski-ing group for us up the river. 20

Q. Sometimes you have 48. That would be above the average by a bit? A. It certainly would. That does not happen too often, thank heavens! 30

Q. I suppose that really the average figure, can we take it, would be about 10? A. No, I would say that would be too high.

Q. Would you say six or eight? A. Yes, six or eight.

Q. That means in the last ten years, you have had 3,000 to 4,000 visitors up there, doesn't it? A. Yes.

Q. Do you still say when you first met for the first time a man who meant nothing to you you can remember every detail of that weekend? A. I don't remember every detail of that weekend. I only wish I could. 40

Q. You have given us a tremendous detail, haven't you? A. I don't consider I have, quite frankly, Mr. Gruzman.

Q. Even to the smoke flying out of the engine? A. Well I can remember that very clearly. I was at the back of the boat.

Q. And you remember the wash being jumped? A. Yes. They did have a competition, we will call it. 50

Q. Have you discussed that with anybody?

A. No. I can remember that very clearly.

Q. Isn't it part and parcel of normal ski-ing to jump the wash? A. It all depends how high they want to jump. Unfortunately, sometimes with two people who think they are better than each other they will have a little contest. Also, Mr. Armstrong's boat has a much higher wash than our own normal boat.

Q. You say that it happened at a time when Mr. Armstrong's boat was there? A. It happened on other occasions also. It has happened on other occasions, too. 10

Q. I suppose it happened on at least two weekends when Mr. Armstrong's boat was there in January?

A. I certainly didn't try to jump the wash.

Q. But other people did? A. Other people probably tried, yes.

Q. On both weekends? A. On both weekends, yes.

Q. Jumping the wash does not help you to single out which weekend, does it? A. No, other than the fact that Mr. Miles did definitely come down to the beach there. 20

Q. Mr. Miles came down to the beach? A. Yes.

Q. But he comes down practically every weekend, doesn't he? A. There are certain things you remember. He does not come down practically every weekend. When he is at the beach he comes down - when he is there he comes down.

Q. Isn't it a fact that he comes down to see you or Mr. Murray goes to see him each weekend? 30

A. Not every weekend.

Q. Practically every weekend isn't that what happens? A. It all depends on what you mean by "practically every weekend". A. Last weekend we did not.

Q. But it is a very frequent occurrence?

A. Yes.

Q. So that the fact of Mr. Miles coming down does not help you to single out the weekend, does it? A. I am only going on my memory of what I remember as being exact. 40

Q. It does not help you, does it? A. It does to this extent, because I can remember Noel being there and Annette being there and the record player in the car. Those things don't need to be told to me to be remembered.

Q. How well do you know Annette? How well do you know Annette Catts? A. I did not know Annette Catts, except on that occasion of meeting her. 50

Q. You did not know her other than that?
A. No.

Q. So that she meant nothing to you, either?
A. Not really, no.

Q. She would fall into the general description of a number of young persons who came to your hut?
A. Yes, this is true.

Q. So that there is nothing special about her; nothing special about Fred Hume; nothing special about Miles being there? None of these things were exceptional, were they? A. Well, I can certainly remember them, Mr. Gruzman. 10

Q. That is what you are telling us. But if these things had been put in your mind, you may be saying now you remember, and what you are really remembering is something that has been suggested. (Objected to by Mr. Bainton; rejected).

Q. Now I would just like to show you some photographs. Before I do that, you were present when some photographs were taken last weekend, weren't you? A. Last Sunday. 20

Q. Who went up on that weekend? A. Do I have to mention the name of every person who was there?

Q. Yes, please. A. This would be a bit complicated - (Objected to; question withdrawn).

Q. Was Mr. Armstrong there? A. When? Last Sunday?

Q. Yes. Was Mr. Armstrong there last Sunday?
A. No, he was not there last Sunday. 30

Q. Well, how did you know to take photographs?
A. How did I know?

A. Yes. A. As I explained to you, I was in conference with Mr. Grant last week, and also I understood from certain statements which were made about the shack, as it has been referred to - we usually call it the "Hut" - there were certain statements as to the discrepancy in size. Also on the previous Sunday we were told by the owner of the land there that a Mr. - I think the name was "Beeton", but they were not sure of the exact name - but Mr. Barton it turned out to be had visited our hut, posing as a very close personal friend of both Mr. Murray and myself, and in so doing obtained access to the grounds where the hut was in order to take photographs. How I knew that someone - 40

Q. That is all right. Have a look at these photographs, and tell me whether they are photographs of the hut? A. Yes, they are photographs of the hut.

Q. As it existed on the Sunday before last?
A. Yes. I would say so, yes. Normally these windows (indicating) were closed, but I understand they had been opened in order to take some photographs. I don't know. 50

HIS HONOUR: What exhibit was that?

MR. GRUZMAN: The witness indicated the louvre windows on Exhibit X3, and the whole photographs are in Exhibit "X".

Q. So that you understood - was there a professional photographer there? A. When? Last Sunday?

Q. Yes. A. Yes, there was.

Q. Who was that? A. Mr. Gordon Sinclair..

Q. Mr. - ? A. Gordon Sinclair.

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MR. GRUZMAN: Q. You might just identify who are the people in the photograph I show you? (Objected to).

(The names of people identified by witness were written on a sheet of paper by the witness which was m.f.i. 59).

Q. I understand that the purpose of this weekend was to go up there with the professional photographer to take photographs to illustrate the size of the hut, is that right? A. No, that is not right. The purpose of the weekend was to go for our normal skiing day. It just happened that Mr. Murray Jnr. was having some photographs taken of some new jacket which had just been approved by the Maritime Services Board, Gordon Sinclair wanted to take some photographs, and we requested of him would he mind taking a couple of other shots, and there was no purpose to it, other than that, Mr. Gruzman.

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Q. It was just pure coincidence that these photographs happened to be taken? A. If they were not taken by the professional photographer I intended taking some myself.

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Q. The purpose, as I understand it, of the photographs was to elicit the size of the hut, wasn't it? A. It was, yes.

Q. Well, would not the easiest way to your mind of doing that have been to measure it? A. 20 by 16.

Q. Well, did you draw a plan of it? A. I don't think that was necessary, seeing that the floor covering on it is in 12 inch squares.

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Q. Did you measure it yourself? A. I have on occasions, yes.

Q. Are you prepared to swear that the internal measurements of this hut are 20 by 16 feet? A. When you say square, I am always dubious. It may be a few inches --

Q. I won't hold you to a couple of inches. Approximately? A. There is also another ten-feet outside, which gives an overall measurement of approximately 30-feet. I stepped this out, and

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there are also 12 inch squares of floor covering there. I didn't get a tape measure and measure it.

Q. At any rate you say this, that you went up there for the purpose of taking - or, amongst other things, for the purpose of having photographs taken to elicit the size of the hut, and you never took a tape measure? A. I don't think it was necessary.

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Q. Will you agree that these photographs have been specially posed to illustrate a large size? A. That is correct, because it is a reasonable size. It is not a tiny hut.

Q. On the night of 7th January do you know whether the side of the hut was open? A. The front of the hut?

Q. Yes. Do you know whether it was open or not? A. Yes, it was.

Q. You say it was? A. I would say the front of the hut was open.

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Q. Do you swear you have a clear recollection of that? A. Yes.

Q. As to whether it rained, or didn't? A. I don't know whether it rained or did not, quite frankly.

Q. Was it windy, or not? A. I don't remember.

Q. Do you keep the side of the hut open when it is raining and windy? A. Yes, we do, unless there is a westerly blowing.

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Q. Do you know whether there was a westerly?
A. Not to my knowledge, no.

Q. You are only guessing? A. I am not guessing, no, I know that the front of the hut was open.

Q. On this particular night, 7th January, you say - on how many nights did it occur that you and Mr. Murray were in the double bed, and other people were in the hut? (Objected to by Mr. Bainton; rejected).

Q. I will put it this way. There were certain sleeping arrangements on the night of 7th January, weren't there? A. Yes.

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Q. Are these normal sleeping arrangements?
(Objected to by Mr. Bainton; rejected).

Q. Perhaps I might put it this way. Has Mr. Armstrong frequently slept in the hut when you and Mr. Murray were there? A. Not frequently.

Q. Not frequently? A. No.

Q. On how many occasions has Mr. Armstrong slept

in the hut when you and Mr. Murray was there?

A. Maybe two or three times.

Q. Two or three times? A. Yes.

Q. And on these occasions has he been - have there been other people present? A. Yes, there have been.

Q. On how many such occasions has Mrs. Larkin been present? A. Mrs. Larkin is normally present. She usually skis with us most times. I would say on these occasions she probably may have been there. 10

Q. Now, can you help us as to on how many occasions Mr. Murray has been present - I am sorry, on how many occasions has Mr. Armstrong slept in the hut? A. The exact number of times?

Q. Yes. A. It would be - when I was there?

Q. Yes, when you were there? A. Probably two or three times. I can't remember the exact number of times. 20

Q. Over what period? A. Over the whole time I have known him. The whole time. It would be over approximately say five years that we have been skiing from the hut - since the hut was established there.

Q. Take in December-January 1966/67. On how many occasions did Mr. Armstrong sleep in the hut? A. I don't remember whether he did sleep in the hut in 1966.

Q. Did he sleep in the hut in 1967? A. In 1967, yes.

Q. On how many occasions? A. To my knowledge, just the one night that I can very much remember. 30

Q. So that the position is that so far as these sleeping arrangements go, so far as you, Mr. Murray and Mrs. Larkin were concerned the night that you call the 7th January was the same as any other night? (Objected to by Mr. Bainton; rejected. Following on Mr. Bainton's objection to the next question which his Honour duly rejected, his Honour ruled that Mr. Gruzman could pursue this general line of questioning). 40

Q. The normal sleeping arrangements are for you and Mr. Murray to sleep in the double bed? (Objected to by Mr. Bainton; rejected).

HIS HONOUR: Despite your objection to the general question asked by Mr. Gruzman, Mr. Bainton, and which earlier rejected, I think it the preferable course if I permit Mr. Gruzman to pursue the subject in the general manner as foreshadowed by that question. I will allow Mr. Gruzman to ask questions along those general lines. 50

MR. GRUZMAN: Q. So far as the sleeping arrangements of yourself, Mr. Murray and Mrs. Larkin, the night

you call the 7th January was the same as any other night? A. Yes.

Q. There was nothing about this arrangement which made that night stick in your memory? A. I would say not, no.

Q. So that we are now trying to ascertain the night that Mr. Armstrong slept in the hut as well. That is right, isn't it? A. That is what I thought you were referring to then.

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Q. We are not at cross-purposes? A. I think it is correct that Mr. Armstrong and Mrs. Larkin, myself and Mr. Murray did sleep in the hut on the night of 7th January.

Q. You say you agree, or disagree? A. I agree.

Q. You agree? A. Yes.

Q. So far as you, Mr. Murray, and Mrs. Larkin was concerned, there was nothing - that was a normal thing - there were normally three of you slept in the hut? A. It is not normal because we don't often stay. But when we are there, yes.

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Q. And so far as Mr. Armstrong was concerned, you say he only slept there once during 1967? A. Well, on this particular night, yes. Yes, that is correct.

Q. Let us get it clear. Do you or do you not say that he only slept there once in 1967? A. I remember him being there on that particular night. It is possible that another time he may have been there, but I can't remember the exact time.

Q. You see, Madam, if there may have been more than one occasion when Mr. Armstrong slept there, how can you differentiate one from the other? A. Very easily, I think, depending on other people there and other things that happened.

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Q. Well, you say that there was more than one night when the four of you slept in the hut? A. I can only remember this particular night, really.

Q. But you don't dispute that there were others in 1967? A. Not with Mr. Armstrong, I can't remember Mr. Armstrong being there on another occasion.

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Q. Look, Madam, you told us only a few moments ago that he may have slept there other nights in 1967? A. It is quite possible, but I don't remember such an occasion.

Q. You see, perhaps we might just test your memory. On what other nights in 1967 did Mr. Armstrong sleep in the hut? A. That I can't remember.

Q. No recollection whatever? A. No recollection of Mr. Armstrong being there.

Q. He may have slept there, but you can't remember?
A. Quite possibly, yes, but I can't remember.

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Q. It is quite possible four of you slept in the hut on other nights in 1967, is it, but you can't remember that? A. I don't think there was any occasion but this sort of holiday weekend at that time of the year. I don't remember any other occasion.

Q. The occasion to remember this particular weekend only arose ten days ago, didn't it? A. To remember it?

Q. Yes, and the date of it? A. I could remember lots of other occasions if you asked me to. 10

Q. Tell us another occasion in 1967 when the four of you slept in the hut? A. I mean just general things happening, Mr. Gruzman.

Q. I want to put this to you. Do you think it is possible that Mr. Armstrong arrived with the boat on the Sunday and found that your boat was out of order? That is possible, isn't it? Indeed, you say that happened. A. That is right.

Q. Sunday the 1st, Mr. Armstrong arrived and found the boat was out of order? A. Yes. 20

Q. And it was therefore very desirable - I will withdraw that for the moment - I suppose there is nothing worse than being at Sackville prepared for a weekend of water-ski-ing over a holiday period without a boat. I suppose there is nothing worse than that, is there? A. It is surprising how many other friends who have boats that we have ski-ed behind. On that particular weekend there are as many as a thousand boats on the Hawkesbury River. 30

Q. Why did you use Mr. Armstrong's boat? A. Because he was with our particular crew. He was there, and the boat was parked in front of the hut.

Q. Doesn't everyone want to use their own boats that they have taken 100 miles up there? A. Most times. But there are occasions when we have given other people a ski who have not their own boats there on that occasion.

Q. I only want your answer to it. Wasn't it a very desirable situation that at the very time that your boat was out of order Mr. Armstrong turned up with a boat suitable for ski-ing behind? A. It was very handy on that particular occasion. We would have used his boat regardless. 40

Q. Were you aware that over this period Mr. Armstrong was teaching Mr. Hume to ski? A. Teaching him to ski?

Q. Yes. A. Well, he had a ski up the river that time, yes.

Q. And that was his first occasion? A. Yes. 50

Q. Do you think it is possible that when Mr. Armstrong arrived Sunday, 1st January, and you had no boat, that you asked him to stay the night with

you? This is the night of Sunday night? A. I don't remember asking him to stay with us, no.

Q. Well, you would not deny that that occurred, would you? A. How do you mean? That I asked him to stay?

Q. Well, you would not deny that because your boat was broken down you asked the Armstrongs to stay the night of the Sunday night so that you could all use their boat the next day? A. We would not need Mr. Armstrong to use his boat. On many occasions he just says "There is the boat" and Jack would look after it for him. 10

Q. But this was a holiday weekend when everyone wants to use their boat? A. I don't know what other people want to do.

Q. Are you seriously saying with your knowledge of water ski-ing over the years, that at New Year's Weekend, people don't want to use their boats? 20

A. I am sure that they do want to use their boats.

Q. What I am putting to you is that when Mr. Armstrong arrived and found that your boat was out of order, that it was very convenient for Mr. Armstrong to stay that night and sort of become one of your party? A. I don't remember that at all.

Q. I beg your pardon? A. I don't remember that happening. Definitely not.

Q. That is what I put to you exactly happening, that he did stay on that Sunday night? A. Well, I would not know whether he did or not. I can't remember him being there on the Sunday night. 30

Q. You are not prepared to swear that he was not? A. I could not swear that, because I can't remember it.

Q. And if you could not swear that he was not, and he only stayed there one night, you could not swear that he was there the following weekend, could you? A. I know that he did arrive the following weekend. I know he was there. 40

Q. He may have arrived the following Sunday, might he not? A. They were up the river when we arrived on the Saturday afternoon.

Q. You can understand the exercise, as a boating person yourself, of going all the way up to Sackville to bring the boat home to Rose Bay. You could understand that, couldn't you? A. I could understand it, yes.

Q. After the holidays you have to go and collect the equipment that is scattered around the countryside, haven't you? It does happen, doesn't it? A. When you say "equipment" how do you mean? 50

Q. If you do take the boat away somewhere for the holidays you do find when the holidays are over you have to collect it and bring it back, haven't you? A. This is true, yes.

Q. So that it would be perfectly logical that Mr. Armstrong go up on perhaps the Sunday, 8th January, to pick up the boat that he had been using during the holiday weekend? A. It would be quite possible, excepting that Mr. Murray and I arrived on the Saturday afternoon, and Mr. Armstrong was already at the hut when we arrived. 10

Q. You say that is your recollection? A. Mrs. Larkin has a key to the hut.

Q. Mrs. Larkin has got a key? A. Yes.

Q. This is a recollection that came to you ten days ago? A. It is not a matter of coming ten days ago. I think it has been with me all the time.

Q. Let me put it to you very clearly. I put it to you that on Sunday, 1st January, Joan Larkin and Mr. Armstrong, took the Bertram 25 up to Jack Murray's. That happened, didn't it? A. Yes. 20

Q. And that they arrived there at about 10.30?
A. In that vicinity, yes.

Q. And that Margaret - who is Margaret Armstrong - came in the afternoon, and they stayed with Kack and Dorothy - that is you and Mr. Murray - in the evening. Is that right? A. I don't remember them staying in the evening.

Q. I put it to you that on the following day - Monday, they spent the day ski-ing, and Arnold Glass brought his new Donzi up? A. I don't remember this. 30

Q. And they had quite a pleasant day and a run in the Donzi. That didn't happen? A. It could have happened, but I can't remember.

Q. If that happened, it would have meant that Mr. Armstrong spent that night in the hut? A. Yes.

Q. And that would have been the one and only night, wouldn't it, that he spent in the hut in January 1967? A. No, he was there the following week with Mrs. Larkin. 40

Q. One thing is clear in your mind - you have already sworn it - that he only spent one night in the hut - that is correct, isn't it, - in January 1967? A. To my knowledge I can't remember him being there another night. It is very difficult to estimate the exact time of anything that happened, but I can't remember him being there on another occasion.

Q. Having given detailed information about these weekends, you are satisfied he was only in the hut on the night of one - only in the hut on one night? 50

A. Yes. I know that Mrs. Larkin and Mrs. Armstrong -

Q. You are satisfied Mr. Armstrong slept in the hut on one of the nights of a weekend, which we call the New Year weekend or the following weekend, but not both of them? A. Possibly he may have slept on both, but I can't remember him sleeping on both. I honestly can't.

Q. You think he may have slept there two weekends now? A. I don't remember him sleeping there two weekends. I just don't remember this happening. 10

Q. That, of course, is entirely contrary to your earlier evidence, isn't it? A. No, I don't believe that it is. I remember him being there on the night of the 7th, because Mrs. Larkin was there, and they were actually there on the day we arrived up in the afternoon. This is fact. The previous week I could not tell you whether they went home that evening or whether they went home on the Monday. To the best of my knowledge I thought they went home on the Sunday. That is exactly how I put it to you. 20

Q. Is it possible they were there not only on the Sunday night to your knowledge, but the Monday night as well, on the preceding weekend? A. I don't remember them being there.

Q. You don't remember? A. No.

Q. You see, there is no doubt that on this weekend - that is over this period of the first two weeks of January 1967 - that Mr. Armstrong did not sleep on the boat? He slept in the hut with you - with the people who were there. You know I didn't mean that. He slept in the hut with the people who were in the hut, didn't it? A. Yes, this is correct. 30

Q. And I put it to you again that the night that he slept in the hut with you, Mr. Murray and Mrs. Larkin was the night of Sunday, 1st January? A. No, this is incorrect.

Q. And the Monday night, of course, you went home? A. Went home on the Monday night. They certainly didn't stay there on that particular night. 40

(Further hearing adjourned to 10 a.m. on Thursday, 5th September, 1968).

BARTON -v- ARMSTRONG & ORS.

THIRTY-SECOND DAY: THURSDAY, 5TH SEPTEMBER, 1968.

DOROTHY ELLEN ROSEWELL

On former oath:

HIS HONOUR: Q. Miss Rosewell, you are still on your former oath. A. Yes, your Honour.

MR. GRUZMAN: Q. Miss Rosewell, I just wanted to ask you some questions about your diary. That diary showed, amongst other things, the food that was to be bought at the weekends, didn't it? A. No, not every weekend, because most times it was bought at Sackville as we would go through. But sometimes I did purchase other things in the city before I went. 10

Q. Look, Madam, your description of the diary was that it was a diary showing what happens and what food was being bought for the weekend, and things of that nature? A. Yes. But not every weekend, sir. 20

Q. That was your description of the diary, wasn't it? A. The diary also has names of clients and things of that nature, where I may have an appointment or something of that nature at any time. I may have details of food and that sort of thing on different occasions but it would not be for every weekend. I would not have it for every weekend.

Q. Look, Madam, in your evidence, without any prompting from me, you said - the question I asked you was: "Q. Did you and Mr. Murray work out what had happened? A. We did not have to work it out. Unfortunately my own personal diary was not available due to it having been mislaid at the end of last year. This was for the year 1967. I have all my own diaries previous to that, to 1960, I believe. But the 1967 diary had been mislaid. It was just a general diary showing what happens and what food was being bought for the weekend, and things of this nature. I do have a day book in my office, and this particular one shows what basically happens. Other than that it definitely happened." 30 40

Now Madam, will you agree that your description of your diary was that it was a general diary, showing what happens and what food was being bought for the weekend? That was your description? A. It was a general diary.

Q. Will you answer that yes or no? (Objected to by Mr. Bainton; rejected).

Q. Is this your description of your 1967 diary: "It was just a general diary showing what happens and what food was being bought for the weekend and things of this nature."? A. It does show those, yes. 50

Q. That was your description of the diary, was it? A. Yes.

Q. And if that description was accurate it would certainly have indicated what you were doing on the weekend of 7th January, wouldn't it? A. No, it would not necessarily indicate that, Mr. Gruzman, at all, mainly because on that particular occasion it was holiday period, and I did even bother to have a look at my 1968 diary, and I did not have any records during this particular time. This is at my office now. You don't write down everything. I don't. But if I am going shopping and if I am perhaps buying food for the weekend I certainly do write just a few little number of things down so that I won't forget them. But other than that I normally don't write them down. 10

Q. If you were going for the weekend to Sackville you would write down the food you were going to buy? A. No, I would not. Not every weekend. In fact I will tell you exactly what I did last weekend, if you wish. 20

Q. I am not interested in what you did last weekend. If you were going to Sackville you would write down the food you were going to buy? A. Sometimes I write it on a piece of paper in the car to remind myself of how many people are going and how many chickens I would buy and things of that nature. I certainly don't have to write in my personal diary as to what I would buy for every weekend. 30

Q. That is what you said, didn't you? A. Occasionally, yes, because on the Friday I might do my shopping.

Q. And if we had a note of the food you bought, we would know how many people you were anticipating staying there? A. If I had actually written it down on that particular day - and on my God's honour I can't remember what I wrote down on that particular day, and I have no other reference to it.

Q. There is a passage in your evidence which I do not understand, but do you suggest that someone from L.J. Hooker's may have taken your diary in order to obtain your listings? A. No, it was not put in that way at all. Maurie Bernhardt, of L.J. Hooker's - I spoke to him. When I called to my accountant's office, at the rear of the property there is a small parking lot which is owned by Hooker's, and they actually park their cars there. I parked my car in this particular parking lot. When I came out of my accountant's office the car was actually in a small laneway. In other words, the car had been moved and my first assumption, in a very friendly way, was to 'phone Maurie Bernhardt and ask who had moved the car, and he said it had been moved and he did not know who exactly had moved it on that particular occasion, and I said to him, "Who took my diary?" in a laughing manner, because quite frankly, Mr. Gruzman, as you realise, that was towards the end of last year, and it was of no consequence to me whatever - the diary certainly didn't mean anything other than the 40 50

fact of knowing - it is the normal sort of diary that a person would use to write down - nine o'clock meet so-and-so 9.30, meet so-and-so, and the other appointments which you have, and things that you are going to do. It was as simple as that. It did not mean very much to me. He said no, that no one had taken the diary, and that was the only time I had spoken to him about it. There was no assumption that it had been stolen or taken by anyone whatsoever. There were other workmen in the laneway there as well. I may have on my own accord left it somewhere else. It is quite likely. I then spoke to my accountant to see whether or not it had been left in his office. I did this, and I thought "Right, well, it is gone. It is gone. There is nothing I can do about it", and it certainly was of no importance to me at that time, Mr. Gruzman. 10

Q. Didn't you suggest it was because of your listings - meaning your real estate listings - and the possibility that Mr. Bernhardt had your diary in connection with them that you spoke to Mr. Bernhardt. A. No, under no circumstances whatsoever. There may have been listings, and perhaps one person is not responsible for the people who could be around there. But I am quite positive in my heart that no one would be bothered - at round about that time I can give you another example of an actual happening which may clear the air in respect of that. 20

Q. If you think it will help you, tell us? A. Well, Mr. Reilly, who is with Mercantile Mutual, and his wife had a unit for sale which was in Coogee Bay Road. I went down with Mr. Reilly to inspect the unit, and in doing so there was an entire book of listings which were owned by Carter & Armour, and they had been left in the apartment there, and I said to Mr. Reilly that it was there, and we just joked about it in a normal sort of fashion, and I said "This will be good. I will take it back to Vince Carter and have a joke with him about it." That was actual fact, and I went back to him - Mr. Reilly was with me the whole time. - and I said "Thank you very much, Vince, here is your listing book". And that is exactly the nature of how it happened. I believe that the agents in our own area are very reputable agents. 30 40

HIS HONOUR: What is the page where that was dealt with, Mr. Gruzman?

MR. GRUZMAN: At p. 1100, seventh question from the top. 50

HIS HONOUR: When Miss Rosewell spoke of this yesterday she said "I thought some of the boys might have been up to a bit of a lark".

MR. GRUZMAN: That is right.

HIS HONOUR: I did not understand it to be suggested that the book had been taken to get the listings out of it. I thought it was more in the nature of a jocular remark; Miss Rosewell suspected someone was having a joke with her. I think that is as far as that aspect goes? That is so far as the Hooker aspect goes, isn't it?

MR. GRUZMAN: Q. What I am putting to you is this: that at the time you came out of the office you say you discovered this book was missing? A. Just about that time, yes. I can't remember whether it was right at that particular moment. It was not on the front seat of my car where I had left it. I believe at the time - I can't remember - I believe I went straight back into Mr. Douglas' office, I can't remember whether I went straight back into his office, or whether I 'phoned him when I got back to my office. I know I 'phoned Mr. Bernhardt when I got back to my office. 10

Q. What you thought was that some of the boys may have taken your diary? A. Yes, just for a lark.

Q. To Mr. Bernhardt, who was your opposition?
A. I would hardly call him opposition. I don't -

Q. Someone in opposition? A. I would not put it that way. We work together - many of the agents in that same area. 20

Q. That was the thought in your mind, that someone had taken your diary to an opposition firm, is that right? A. Not in this way.

Q. Whether for a joke or otherwise, that was the thought? A. It did go through my mind, yes.

Q. You say you did ring him about it? A. I did, yes.

Q. And he had not heard of the diary? A. He had not seen the diary. The car had been moved, and that was the other thing that I was interested in. 30

Q. You told us yesterday that you never discussed - I will give you the exact reference - you said, at p. 1097, "I have not even discussed the case with Mr. Armstrong." Is that true? A. At what stage? At what time?

Q. At any stage. At any stage. Is that true?
A. I have not discussed the case in any detail with Mr. Armstrong at any time.

Q. Well, Madam, that is not true, is it? A. It is true. 40

Q. Madam, it was Mr. Armstrong who asked you to give evidence in this case, wasn't it? A. Yes. But that didn't mean to say I had to discuss the entire case with him under any circumstances. I was asked whether or not Fred Hume had been at our hut on a particular weekend.

Q. What else was discussed with Mr. Armstrong?
A. Annette Catt - whether she was there. Her name was mentioned as well. There was no other discussion, Mr. Gruzman. 50

Q. Don't you regard that as discussion about the case? A. Not in that sense, no.

Q. Madam, I would like to take you back to the time that you arrived at the hut, on Saturday, 7th January? A. Yes.

Q. Would you tell his Honour what cars were there at that time? A. I believe there were two cars there, your Honour, and we also took our own car, which is Mr. Murray's car, and the boat was behind. From memory, I believe we also took the boat into the driveway and parked it just near to the hut. That is to the best of my knowledge. 10

Q. What cars were they that you saw when you arrived on Saturday, 7th January? A. Well, if I said I know Mr. Armstrong has a Valiant, and I know there was a sports car there I would be telling the truth. If I said I could actually remember precisely the exact colour of the sports car or something like that, I would be telling a lie. But I do know that they were there.

Q. What you say is that there were two cars there - Mr. Armstrong's Valiant and a sports car? A. Yes. 20

Q. At the time that you arrived at the hut on Saturday, 7th January? A. Yes.

Q. And you arrived there in mid-afternoon? A. Yes.

Q. From what you observed later, did you understand that the sports car belonged to Mr. Hume? A. Yes.

Q. So that so far as you know Mr. Hume came up in one car and Mr. Armstrong in another car on that Saturday? A. Yes. 30

Q. And what you say - tell me if I am wrong - was it your understanding that Mr. Armstrong and Mrs. Larkin came up together in the car? A. Yes, I believe so.

Q. And Mr. Hume and Miss Catt came up in the other car? A. Yes.

Q. And you understand that they came pursuant to an arrangement that they were going to stay the night? A. Yes. 40

Q. You know Mrs. Armstrong very well, and have known her over many years? A. When you say "very well" I don't know your inference, Mr. Gruzman, I know Mrs. Armstrong, yes.

Q. Don't you classify her as a friend of yours? A. As a friend, yes. Not just an acquaintance.

Q. A personal friend? A. Yes, I do.

Q. You are a visitor to her home? A. Yes. 50

Q. Do you tell his Honour that Mrs. Armstrong is

the sort of person who would agree to her husband and another lady spending the night in the hut with you and Mr. Murray? (Objected to by Mr. Bainton; rejected).

Q. On the Saturday - you see, you have given us detailed evidence of the names of people who were there on New Year's Eve, who were there on New Year's Day, and who were there on Sunday, 8th January? A. Mr. Gruzman, I don't consider that detailed evidence to that extent, because I am quite positive that there had been other people also who would have visited on that weekend. I can't remember their names.

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Q. But, Madam, you have not told us of anybody who visited the hut on the afternoon of Saturday, 7th January, have you? A. No, I have not, other than -

Q. You just tell us who visited the hut on Saturday, 7th January. A. It is likely that Mr. Miles may have visited.

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Q. But can you swear? A. I could not swear to the fact that Noel Miles did call down on Saturday afternoon. I could not swear to that. I remember him visiting the hut, but I cannot say it happened on that particular day at that particular hour.

Q. Well, Madam, of the four days involved - that is the New Year's Eve - you have told us in detail who was present, haven't you? A. In fact it is likely there were two other people, but I could not say they were there, because I cannot place whether it was that particular year (sic) or perhaps another time that they came to visit.

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Q. On Sunday, 2nd January you have told us who was there, haven't you? A. To the best of my knowledge, yes.

Q. And on the Sunday, 8th January you have told us who was there, haven't you? A. Yes. Did I mention Mr. Green as being there?

Q. That is the gentleman in B.M.C.? A. Yes. On thinking over, it could be Evan Green visited the hut, but I was not sure it was that particular day in my own thinking. I am not sure it was the 7th or the 8th.

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Q. You have an average of eight to ten people visiting the hut each day you are up there, haven't you? A. Yes.

Q. Name one person whom you will swear visited the hut on Saturday, 7th January, in the afternoon? A. I would say, and I would swear, that Fred Hume -

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Q. Apart from the persons whom you say spent the night there, name one person whom you will swear visited the hut on the afternoon of Saturday, 7th January? A. I could not swear to any other person.

Q. Had all your friends deserted you that afternoon? A. No, it was Saturday afternoon. There are not as many people there as perhaps on a Sunday. On Saturday afternoon there are not as many people as on Sunday.

Q. Fred Hume was not there on Saturday afternoon, was he? A. I am terribly sorry, Mr. Gruzman, but Fred Hume was there.

Q. Fred Hume did not spend the night there, did he? A. Mr. Fred Hume did spend the night there, Mr. Gruzman. 10

Q. The occasion that you told us that there were four boats at the hut - moored outside the hut - I am referring to that occasion - first of all, there was only one occasion, wasn't there, when Arnold Glass came up in the Donzi? A. He may have come up several times, I can't remember that.

Q. Well, Madam, I ask you to apply your recollection to the matter. Are you prepared to swear that Arnold Glass came up in the Donzi on more than one occasion? A. No, I am not prepared to swear that, but I can very clearly remember an occasion when Arnold Glass did visit. I know the young people by name who came up on the boat. They came from Sydney. 20

Q. He had eight or ten young people on the boat, didn't he, on the occasion that he came? A. Yes, there was quite a number of them. It was quite a surprise because they did arrive unexpectedly. 30

Q. On that occasion Mr. Laurie O'Neill was there in his small 29-foot Chris-craft? A. I don't know whether that was on that particular occasion, Mr. Gruzman.

Q. That is, you see, what I am putting to you? A. Yes.

Q. And there was another man, Reg Hunt, of Melbourne who was there in his large Chris-craft wasn't he? A. He has visited the place, yes. 40

Q. So that on one occasion over this period there were four boats, - the large Chris-craft belonging to Mr. Reg Hunt, the smaller Chris-craft belonging to Mr. Laurie O'Neill - is that right - and the Bertram, and your own boat? A. Yes. From memory I can't even - when you mention Arnold Glass - did you mention Arnold Glass' boat, or not?

Q. I am sorry. Arnold Glass' boat. A. That makes five boats, and I can't remember sort of to that extent, and I can't remember on that particular occasion the young people being there with the whole crowd, because when Mr. Reg Hunt came up from Melbourne, and Laurie O'Neill, we did stay at the hut on that particular occasion. But I could not say whether that was that particular weekend. I don't consider it was. 50

Q. Laurie O'Neill had his boat up there for some couple of weeks over that period, didn't he? On the river? A. Yes, he did.

Q. And he visited you on one day? A. Probably, yes. He stayed, yes. He may have been there for a couple of days.

Q. And Mr. Reg Hunt was in the same position, living on his boat with his family, and visiting you on one day? A. Well, the boat was tied up overnight, if that is what you mean. That is not sort of one day. They were definitely there.

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Q. And Mr. Arnold Glass came up in the morning - drove the boat up from Sydney in the morning and went back in the afternoon, didn't he? A. I can't honestly remember, Mr. Gruzman, as to whether this association of times or places is at the same time.

Q. But, Madam, you told us before, I think, if I am not mistaken, in part of your evidence that you remember four boats being tied up beside the hut? A. Yes, I did.

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Q. And at that time you said your boat was out of order and was on the bank, wasn't it?

A. No, I don't remember having said that.

HIS HONOUR: I don't recall that it was said to be out of order and on the bank.

MR. GRUZMAN: Q. At that time when the four boats were moored outside your house your boat was out of order and up on the bank, wasn't it? A. I don't believe it was. In fact, I believe that Ski-1 may have been there on that occasion.

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Q. You might tell us what you were referring to when you said you remembered four boats being anchored outside. What boats were you referring to?

A. The Chris-craft and other boats which you have mentioned were definitely at our hut on an occasion. The exact occasion or the date of the actual time I could not tell you, Mr. Gruzman.

Q. I will read your evidence to you. A. Thank you.

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Q. At p. 1008 you were asked: "Q. By the way, was Mr. Armstrong there when Mr. Arnold Glass came up? A. I believe on one occasion we had - there was a Chris-craft and another boat which belonged to Mr. Laurie O'Neill. Mr. Armstrong's cruiser was there. I believe there were four boats altogether tied up in front of the hut, but the exact happening, or the time for that I could not tell you. I could not tell you the exact time of that."

The question I asked you is what were the four boats to which you referred which were in front of the hut? A. I can remember Mr. Reg Hunt's boat and Mr. Laurie O'Neill's boat, another cruiser which may or may not have been Mr. Armstrong's, and also our own ski boat was there. It was quite an impressive

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array of boats, but I can't remember the exact number. But I do remember the other two because of the people that were there.

Q. I put it to you that was the time and the only time Mr. Arnold Glass was there at the same time as Mr. O'Neill, A. I can't for the life of me say to you that that is true.

Q. Or false? You just don't know? A. That is right.

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Q. Madam, would you just tell me this? The boat, Ski-1 - was that taken up to Sackville over the Christmas-New Year 1966/67 at all? A. It would have been, yes. I can't remember for sure actually ski-ing behind it, but I would imagine we did use the boat. Previous to this time we would have had the top of it being varnished, or something of this nature, mainly because we were going on holidays in February, and therefore the boat was being checked over.

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Q. Do you think possibly Ski-5 was used only on the one weekend while Ski-1 was being varnished?

A. No, I believe that it was taken up on two weekends.

Q. I think there is only one further question: You ski-ed behind the Bertram on a number of occasions, didn't you? A. I have, yes.

Q. I put it to you first of all that you have ski-ed behind other Bertrams besides Mr. Armstrong's?

A. I certainly have.

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Q. And secondly, that you have ski-ed behind Mr. Armstrong's Bertram on a number of occasions?

A. Yes, I have.

Q. And in the eight days from 1st to 8th January 1967 you skied behind Mr. Armstrong's Bertram on three occasions - three days, didn't you? A. I would have ski-ed behind the boat, It was there, yes. There may have been other days as well, but I can't remember it.

Q. I don't want to mislead you. Although you have given an answer there I want you to think about the answer. A. As to whether yes or no?

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Q. I want to be fair to you. You have given an answer there which I would accept, but perhaps you did not apply your mind to it. What I am putting to you is that between 1st and 8th January 1967, you ski-ed behind Mr. Armstrong's Bertram on three days. Think about it. A. On Sunday 1st, and on the following weekend, which would have been the Saturday and Sunday.

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Q. They are the three days that - ? A. That I can remember, yes.

Q. I put it to you that the three days were Saturday, the 1st - I am sorry, Sunday 1st, Monday

2nd, and Sunday the 8th? A. You may put it to me, Mr. Gruzman, but unfortunately I cannot agree with you.

RE-EXAMINATION:

MR. BAINTON: Q. Miss Rosewell, you told my friend a few moments ago that you ski-ed behind Mr. Armstrong's Bertram on a number of occasions?

A. I have, yes.

Q. Can you remember whereabouts you have ski-ed behind the boat? A. On the Harbour on several occasions and also at Shoal Bay, north of Newcastle. On a number of occasions we have ski-ed behind it there, and also on the Hawkesbury River.

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Q. Well now, you did say yesterday, I think, that on this day at Sackville was the first occasion that you had met Mr. Fred Hume, but you had spoken to him on the telephone previously. Is that correct?

A. Yes, that is correct.

Q. Will you tell us the general nature of the matters you discussed with him on the telephone?

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A. Yes, Mr. Armstrong had asked me to contact Mr. Hume as he considered that he had a number of people who may be interested in the purchase or letting possibilities of a block of flats at Rozelle.

Q. What is the name of that block of flats?

A. Vista Court.

Q. This was the matter you discussed with Mr. Hume? A. Yes, it was,

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Q. Can you tell me if you had ever known Mrs. Armstrong to go out through the Heads in a small boat? A. It would have to be an extremely calm day. I don't think - (Objected to).

HIS HONOUR: Q. Have you ever known Mrs. Armstrong go outside the Heads in a boat the size of the Bertram? A. No, I can't remember her going outside. Definitely not.

MR. BAINTON: Q. Have you been in Mr. Armstrong's Bertram on the Harbour while Mrs. Armstrong has been in it? A. Yes, I have.

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Q. Once or twice, or a number of times? A. I can remember the occasion when the Sydney-Newcastle race was on, and we watched the boats come in, but that was an extremely calm day. We went just to the Heads itself, and we were certainly not outside in rough water or anything of that nature.

(Witness retired).

JOHN ERIC MURRAY

Sworn, examined, deposed:

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TO MR. BAINTON: My full name is John Eric Murray.

Q. Where do you reside? A. 24 Darby Street, Vaucluse.

Q. Are you a garage proprietor? A. Yes.

Q. So that I may identify you with someone referred to earlier, have you acquired the nickname "Gelignite Jack"? A. They have given me names.

Q. Is that one of them? A. Yes.

Q. Do you know the defendant, Mr. Armstrong?
A. Yes.

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Q. Would you tell us how long you have known him and the circumstances in which you came to meet him? A. It would be approximately 10 or 12 years ago, and I met him on a flight back from Japan or America with Professor Messel, and we discussed water ski-ing, or got around to talking about water-ski-ing, and eventually I taught the Professor and the Senator to ski.

Q. When you say "the Senator" - ? A. I mean Mr. Armstrong.

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Q. Well then, since then, have you seen Mr. Armstrong from time to time, and in what circumstances? A. Yes, I have been to his home I would say in the past ten years two or three times for dinner. I have met him mostly water ski-ing.

Q. I think we have been told that you have a cottage or a shack, or how you may like to describe it at Sackville? A. Well, it is a tin hut held together with pipes. It would be about 16 feet by 20 feet.

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Q. How long have you had it? A. I have been there about ten years.

Q. How often do you personally go up to this hut? A. Well, I ski summer and winter, and I go there quite a lot.

Q. Has Mr. Armstrong been there? A. Yes.

Q. To your knowledge? A. Yes.

Q. When you have been there, or without you?
A. Yes, he has been there when I have been there and he has also been there when I have not been there. I gave him the key of the shack once, and Mr. Armstrong and his wife stayed there, it might have been a week, or something like that.

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Q. Well then, can you give us some idea of how frequently over the last few years Mr. Armstrong would have come up to Sackville? A. And ski-ed at the hut? It would be having a wild guess. I would say six or seven times. It could be more. It would be that at least.

Q. When he has come up has it been by arrangement, 50

or has he just arrived? A. As a matter of fact he never rings me. I think his wife rings Miss Rosewell and it is done between them as to who brings this and who brings that.

Q. On the occasions he has arrived when you have been there have you been expecting him, or have you been taken by surprise? A. No, Miss Rosewell will generally say "Mr. Armstrong might come up with Margaret today", and that is it.

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Q. Were you at the hut over the New Year period - not the last New Year period, but the year before? A. Would that be 1966/67?

Q. 1966/67. A. Yes.

Q. Well now, which days were you there over that period, can you tell us? A. Well, that would be the long weekend.

Q. Yes. A. I went there on the Saturday and I stayed Sunday and came home on Monday.

Q. Would you tell us your recollection of who was there on each of these days, where they came from, if you know, and whether they were there by arrangement or just called? A. I could not tell you everybody, because there are so many boats on the river and they call in and come and go. On New Year's Eve there was Keith Whitehead and a friend of his. There was Allan Smith, a detective from Rose Bay - he is now Security Officer at the Wentworth Hotel - and his wife. I think her name is Joan. And Miss Rosewell and myself.

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Q. That is what? During the day on Saturday, or in the evening? A. That was New Year's Eve.

Q. Do you mean in the evening or throughout the day? A. That was the Saturday, and that night was New Year's Eve.

Q. Well now, the following day who can you recall having been there? A. That was the Sunday?

Q. The Sunday. Who can you recall being there?

A. Well, why I recall that day was that the boat I normally use I was taking it to Shoal Bay, and I always have it varnished on the top before I take it, on account of the salt water.

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Q. Which boat is this? A. No. 1.

Q. Was this the boat you call Ski-1? A. Ski-1. That is right.

Q. Yes. A. I have another old boat that I have used for many years, No. 5, which I was going to sell, so I thought it would be a good opportunity to give it a run. I have not used it for about two years. So I had taken it up the river and was going to use it on the weekend. On the Sunday when I put the boat in I had two ski-ers behind it, and Keith Whitehead and myself. I was driving the boat and Keith was the observer. We drove it down the river

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but the planking had shrunk and I was taking in more water - they have two-inch holes at the back of the boat and as the boat moves forward at about 25 miles an hour the water pours out the back, and I was taking in more water than could get out, so we had to beach the boat and drop the ski-ers and we baled it out and took off again and then the boat got heated and started to smoke and the water pump was not operating. The two little rubber impellers had perished away and the pump was running around and not pumping. So I said to Miss Rosewell, "We will have to get one of the boys to tow us back." She said "All right." So her and the other girl got out and went along the bank. I believe they spoke to some chap in a boat and told him something about it. Alex Armstrong came down the river in the Bertram with Mrs. Larkin - Mrs. Joan Larkin.

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Q. Had you met her previously? A. Yes. She generally skis up the river with us on a Sunday, I said "This is the only time you have ever arrived when you are wanted."

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Q. Who did you say that to? A. I said that to Alex Armstrong. He said "What's the trouble?" I said, "Well, I can't get the water out of the boat quick enough, so I will turn the boat around and you just go past me and throw me a rope and I will grab it and hook it on the front and you can give me a tow." I told him to throw me a rope and I would tie it on the front of the boat and he could tow me to the ramp. So he towed me back to the ramp, and we went back to the hut.

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Q. Anything else you can remember of the events of the Sunday? A. We used Alex's boat to ski with then. From memory I don't think I had ever ski-ed behind it before, and I wanted to have a ski behind it. It had a very big wash behind it. Either that day or the next day, which would be the Monday, Noel Miles, who is a butcher down the river from us about six or seven miles, and we visited one another - Noel came up, and I said "Come and have a ski behind the Bertram with me." He is very good at wash jumping. It was either the Sunday or the Monday that Noel came up and I said, "Come for a ski with me behind Alec's boat." So away we went, and I got over the wash, but Noel had a bad fall and hit his ribs and he said "You can have that for mine." So I can remember that well.

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Q. Anything else you can recollect of that weekend? A. I beg your pardon?

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Q. Anything else you can recall of that weekend of people or events? A. There are people coming there all the time. There are a thousand boats on the river, and I would know about 500 or 600 of them, I would say. I have been there for 25 years.

Q. How long did you stay up there that weekend?
A. I went home on the Monday.

Q. What about other people to your recollection?
A. I beg your pardon?

Q. What about other people to your recollection?

A. I don't know about Mrs. Larkin, but I think Alex and his wife Margaret - I think they stayed at the hut that night. That would be the Monday night. They could have stayed there.

Q. You have not told us anything about Mrs. Armstrong up to this point of time? A. No, she never came up in the boat. She drove up in a car.

Q. When was that? A. That would be - wait a minute - Saturday - it would be either Saturday or Sunday. No, not Saturday. That is New Year's Eve. Sunday or Monday. It would be Sunday or Monday. 10

Q. Do you remember any other events of that weekend, or any other people arriving? A. No, I can't say that I do.

Q. Well, what was done with the boats that were up there? A. I beg your pardon?

Q. What was done with the boats that were up there that weekend? A. The boat I was using - the old No. 5 - I went down to the ramp and towed it back to the hut, and I was curious to know what had happened to it, so I took the water pump off it and that is when I found that the rubber impellers had collapsed - had perished, - and the hose had closed on it, and I was not getting the water through. They were only $\frac{3}{4}$ inch hoses so I bought new hoses. 20

Q. I am dealing with the first weekend at this stage. A. This is the first weekend. This is the long-weekend. 30

Q. I want to know what was done with the boats.
A. With my boat?

Q. With your boat for a start. A. Well, my boat, as I told you was taken out on the ramp, which is about three-quarters of a mile from the hut. I took it back to the hut so that I could work on it and see what had happened to it. The impellers had gone, and the hose was gone, and Alec's boat was tied up to the tree at the front and the rear was anchored about 30-feet out. 40

Q. Did you take your boat home with you? A. No, I did not take it home. I left it outside the hut.

Q. What about Mr. Armstrong? A. Alex was all concerned about leaving his boat there, and I said, "Well, the boat will be quite all right. The tide only comes in about three or four feet, and I will see Bill McLachlan" - he has the hotel-motel at Wilberforce - "and he can check on it and see if it is all right." It is a fibre glass boat, which has a little Jabsco pump that you can pump the water out. Bill said that he would check on it. 50

Q. I take it from that the boat was not taken home that weekend? A. No, it was not taken home.

HIS HONOUR: Q. I want to get this clear myself. Did you tow your boat to the ramp and take it to the hut? A. On the Sunday morning I went down and got it.

MR. BAINTON: Q. I think when you got it from there, after you got it there you took the water pump off and found the cause of the trouble? A. I replaced the pump and bits.

Q. When did you do that? A. The following weekend. 10

Q. Just tell us, when you came up on the following weekend, who came with you? A. I worked at the garage on the Saturday, and at lunch time - when I say "lunchtime", about one o'clock - I rang Miss Rosewell up and I picked her up at about one or half-past-one and we drove to Sackville in my car.

Q. When you say to Sackville, I take it that you mean - ? A. I drove to the hut.

Q. Tell me what you recollect of that Saturday?
A. When we got to the hut Mr. Armstrong was there and Joan and another chap - an athletic looking sort of guy by the name of Hume. I was introduced to him, and that was the name. 20

Q. Had you met him before? A. No, I had never met him before.

Q. Anyone else? A. Yes, a fairish girl. I just could not remember her name, but I would know her again if I saw her. I would know her if I saw her again.

Q. You referred to someone as Joan? A. I mean Mrs. Larkin. 30

Q. What do you remember of the events of that day?
A. Well, how do you mean?

Q. What happened, what people did, and if anyone came? A. Well, they were there when we got there.

Q. After you got there what happened? A. After we got there, the first thing we did was to have a ski.

Q. What did you use for that? A. Alex's boat.

Q. Who ski-ed, so far as you can recollect?
A. Alex is a skier and Mrs. Larkin is a ski-er, and Miss Rosewell is a ski-er, and I am a ski-er, and the other two people did not ski. That was Mr. Hume and this young lady with him. I entered into a discussion with Hume and I said to him "Have you ever ski-ed?" He said "No, but I would like to have a try." I said "I have a pair of old flat back skis. I don't think you could fall off those." I said, "What sport have you been in mostly?". He said "I represented in A-grade tennis in" - I just forget what country it was, but he named some country. I did see him swim in the river. I think he swam across the river. He was a pretty good swimmer. I said "If you just do as I tell you and keep your knees bent and your arms straight you will ski all right." 40 50

I am not sure whether it was the first time or the second, but he got it very well. He was really good.

Q. When did he first try? A. That would either be on the Saturday or the Sunday. Either of those two days. But I did teach him to ski. I am not sure if - yes, I think he had a couple of goes after that.

Q. How did he go? A. He was a good ski-er. He was a very athletic type of chap. 10

Q. Do you remember any other things that happened on the Saturday, for a start? Did any people come? A. Saturday? Yes, there were other - Saturday, I think it would be - yes - it would be the Saturday or the Sunday. It could have been Sunday. Mr. Evan Green, who is the manager of the Public Relations for the British Motor Corporation -

Q. What about him? A. Him, his mother and his wife, and I think he had two children. 20

Q. Yes. A. I mentioned to Mr. Green that Alec Armstrong was bringing his boat up, and if he was doing nothing to come up and have a look at the flying bridge, because we were going to do a trip around Australia in a motor boat or a motor cruiser, and there was going to be a photographer, and a navigator and myself.

Q. What has that got to do with the flying bridge of the Bertram? A. I wanted Evan to come up and see if it was suitable to mount a tripod camera on top of it. I had mentioned this in conversation with him. 30

Q. He did come up? A. Yes, he came up and took some pictures, and I saw him yesterday and he said - (Objected to).

Q. I don't want you to tell me what was said yesterday. A. I was finishing off a movie all day in the Beacon Hill area over Dee Why and I mentioned this case to him.

Q. Don't tell us what was said. Did you, as a result of your conversation, go with him, and did he get from his box of slides these ones? A. They are the slides, yes. 40

Q. Will you make sure of them? Make sure that you have the right ones please. There is a projector there. Look at each one through the projector and tell me if they are the four slides you picked up yesterday from Mr. Green? A. Yes.

Q. For a start, will you keep them there. Do you remember these slides being taken? A. I don't remember Evan standing and taking the pictures, no. 50

Q. I just want you to take them one at a time again, will you. I think they are Kodak slides. They have numbers on them.

Q. You have one now in your hand. What number is that? A. ~~This has got to be Jack Murray's shack~~ (Objected to; by direction answer struck out as indicated).

Q. There should be a number on that slide somewhere between 1 and 36. Perhaps I may be able to help. 34 is the first one on top; this one is 33, that one is 35, and that one is 32. I just want you to look at them in that order in the viewer?

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A. Who, me?

Q. Yes. I want you to look at them in the viewer. Tell me who the people are who are shown in these slides. A. This is upside down, but it is me.

Q. That is you? A. Yes, me.

Q. Whereabouts was that taken? A. It is taken at Sackville, just as you walk down from the hut. It is about 20-feet from the hut.

Q. And now the next one. A. That is the steps up to the bank, and there are two people in the water. I can't just tell you who they are. One has got his back to me, and the other one - there is the boat there, the Bertram. It looks like Alex standing behind the wheel of the Bertram.

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Q. Whose boat is that? A. That is Alex Armstrong's.

Q. That is his boat? A. Yes.

Q. Has it a registered number? A. It is "K.W." something. I can't see that.

Q. And the next photograph? A. That is Evan Green and his son, his wife holding another one, and another one in the water, and the boat is there. Wait until I get my glasses on; I can tell you exactly then.

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Q. You said a boat was there. Which boat do you mean? A. Alec Armstrong's cruiser. I can't pick the number on it. Well, that is the boat, anyway.

Q. And the last slide? A. I beg your pardon?

Q. There is still one to go. A. Yes. That is Evans' family sitting on the bank, and his mother is there.

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Q. On the bank? A. Right at the hut. Right at the hut. The hut is about six feet away from them. You can see the corner of the hut and a chair there behind the boy, and you can see this portion here. You can see quite a section of the hut in that one.

Q. Your hut? A. Yes.

(Four slides m.f.i. 60.)

Q. Mr. Murray, I think we got on to that matter because you recollected Mr. Green coming up? A. Yes.

Q. Would you tell us what you recollect of the events of this weekend, - the second weekend in January of last year? A. Yes.

Q. What else can you remember went on that weekend - people or events? A. Either the Saturday - wait on, when was it? Saturday, or Sunday?

Q. Mr. Murray, if you can't remember days tell me the events. If you can't remember days but events, tell me those for a start. A. It is hard to recollect with the people who come up there. Arnold Glass came up. When did he come up there? Funny, I had forgotten about this. One of the people in the boat was my own son; it was him that reminded me about it.

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Q. When was this, can you remember? A. It could be on the Sunday, I would not bet on it. But Arnold was there. He came up on the weekend.

Q. This weekend? A. Which weekend?

Q. That is what I would like to ask you? A. Well, you have got me. It was either one of the two weekends, because he ran into a rainstorm running back to Sydney - they all got into the cabin and shut the door and left him out in the rain, and he rang me up about it. I remember he had quite a trip back in the Donzi. We all had a run in the Donzi, as a matter of fact, up on the river.

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A. May I take it you cannot tell us which weekend that was precisely? A. No, I am not sure which day, it was. I know it was one of the two days - one of the two weekends.

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Q. Anything else you can recollect of the second weekend? Perhaps can I ask you this? You have told us of giving Mr. Hume some ski-ing lessons? A. Yes, I taught him to ski.

Q. Were there other people ski-ed that weekend as well? A. Yes, everybody. They ski all the time.

Q. What boat was used for ski-ing that weekend?
A. We only had Alec's boat.

Q. What happened to your boat? A. Well, I didn't put it back in again. I brought it home again on the Monday - on the Sunday.

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Q. You told me earlier that you did some work - ?
A. I got some pieces for it, and put them into it.

Q. You fixed it up? A. Yes.

Q. But you did not use it? A. No, I didn't use it.

Q. Any other events that you can recollect - people who came and things like that? People who came and things that were done. A. Such a lot of people come there. Maurie O'Neill could have been there, from Australian Blue Metal. Messel could have been there. They all come up and just park and say hullo, and away they go, and we do the same thing more or less.

50

Q. Well now, would you just do your best and tell us if there is anybody you can remember who did visit up there that weekend, and anything that was done? This is the second weekend in January?

A. Yes, I know. No, I just can't think of anybody else.

Q. When you were ski-ing was it just ordinary water ski-ing, or did anyone try anything? A. Jumping the wash. Noel Miles. But I mentioned that.

10

Q. Just tell us again what you can recollect.

A. I remember Noel came a buster and whacked his ribs, because it has got a very high wash behind the back.

Q. When was that? Which weekend was that? A. I have said that.

Q. What about events on shore? A. When Mr. Miles had a ski behind the boat - that was the weekend we are just talking about, when he fell and hurt his ribs.

20

Q. Just so that we know what you are telling us, which weekend do you mean by that? A. The weekend that I taught Mr. Hume to ski.

Q. Apart from ski-ing do you remember anything happening on land that weekend? A. Oh yes, yes. The girl that was with Mr. Hume - I think he mentioned it to me that she did the go-go, so I said "Will she give us an exhibition?", and he said "O.K.". He said "This part of the bank is too sloping. We will go up where the cars are parked." So we went up there, and she did the go-go and they all clapped her. She was good.

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Q. Was there a musical accompaniment to this?

A. I have got a tape player in the car. I have got a tape, and she could have done it to that. I could not swear to that.

Q. You say you don't recollect whether or not the tape was used? A. No, I would not. I know that this was right behind my car and it has got a tape player in it. It could have been played.

40

Q. Well now, I want you to come back to the Saturday evening now. Will you tell us how many people remained overnight? A. So far as I can recollect there was Mrs. Larkin -

Q. Yes? A. Miss Rosewell and Alex Armstrong and Hume and the girl with the fair hair - the go-go girl - and myself.

Q. Well now, who stayed where that night? A. Well, Fred Hume and the girl stayed on Alec's cruiser.

Q. Yes? A. And the Senator, Mr. Armstrong, and Miss Rosewell and Mrs. Larkin stayed in the hut (sic).

50

Q. Tell us, would you, what sleeping accommodation is available in that hut. How long have you had it there?

I want to know what sleeping accommodation there is, and how long it has been in the hut? A. There are these folding chairs - I think you call them li-lo's. There are about eight of those, and there is the settee.

Q. How long have you had these li-lo's and settees in the hut? A. Some of them have been taken by floods and things, and I have put others back.

Q. You put them back? A. No, we just bought new ones. The hut has been destroyed three times - semi-destroyed. The roof has been off, and the front has been off. 10

Q. Will you tell us, so far as your recollection takes you, what is the greatest number of people you have had sleeping overnight in this hut? A. I think we have often had six in it. Six inside and 20 outside. You could get more in it.

Q. How long did you remain at Sackville the second weekend? A. I went up on the Saturday and came back home on the Sunday afternoon. 20

Q. How did the people up there get home so far as you are aware? A. I remember that Mr. Armstrong was worried about having to go back to Rose Bay, because I think it would be 70 or 80 miles back to Rose Bay. I am not sure of the time. He had made good time coming up. He came up the previous Saturday in quite good time - 2 hours something to Sackville, which is an average, I think of 40 miles or 35 miles an hour. It is quite a good run. But he was worried about getting back, and we had the radio on for the weather report and it sounded quite O.K. I think he left about four o'clock. As a matter of fact, in one of these pictures, when the cruiser is out there, Evan Green said - (Objected to; rejected). 30

Q. Don't tell us that. A. I think they left about four o'clock in the Bertram.

Q. Who went with Mr. Armstrong? A. I think - I don't think, I am sure, Mrs. Larkin and Alex went in the boat - the ones that brought it up. 40

Q. Who was still at the hut at Sackville when the Bertram left? A. Myself and Dorothy Rosewell and Fred Hume and the other fairish girl. By the way, that chap had an M.G. Hume had an M.G.

(Miss Catt called into Court. Retired from Court.)

Q. Do you recognise that young lady? A. It looks like the girl.

Q. I beg your pardon? A. It looks like her.

Q. Looks like who? A. It looks like the girl with Mr. Hume. 50

Q. Apart from the occasion when you saw her at Sackville have you seen her again? A. No, never.

Q. Perhaps you might tell us how those who were still there when Mr. Armstrong left - how they went home? A. Well, I think the girl drove one car and Hume drove the other car.

Q. And yourself? A. I drove back in my car.

Q. Who went with you? A. Mrs.:. Rosewell.

HIS HONOUR: Q. I am not quite clear on that last answer. Will you say it again, Mr. Murray?

A. I drove back in my car with Miss Rosewell.

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Q. Yes? A. And Mr. Hume drove one of Mr. Armstrong's cars. I think his girl drove the M.G. I am not sure of that, but I think that is how they went. But I am sure of how I went.

CROSS-EXAMINATION:

MR. GRUZMAN: Q. I suppose, Mr. Murray, it is pretty hard to fix a date in your mind some time back? A. It is not so hard if something eventful happens, like sinking your boat and New Year's Eve.

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Q. New Year's Eve? A. Yes.

Q. That helps? A. Yes.

Q. And things like someone getting hurt is something that would help? A. Yes, I suppose it could.

Q. When were you first asked to think about this?

A. I beg your pardon?

Q. When were you first asked to sort of work this out - dates and times? A. Work what out?

Q. What date all this happened? A. I did not have to work it out.

30

Q. Well, when did you first think about it?

A. Well, why would I give it any thought?

Q. Well, when did you know you were going to give evidence? A. I was told that I might be called a couple of weeks ago.

Q. Who told you this? A. Mr. Grant.

Q. Mr. Grant? A. Yes. He said I might be called as a witness.

Q. He was the first one who ever spoke to you about this? A. I could say so.

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Q. Mr. Armstrong never spoke to you? A. No, I have not spoken to Alex Armstrong for quite a considerable time.

Q. Well, I suggest three months? A. A couple of months ago.

Q. Mrs. Armstrong never spoke to you? A. Not about the case.

Q. Well, is this the position, that nobody had spoken to you about this case or the possibility of your giving evidence until Mr. Grant spoke to you. Is that true? A. No, I have had it suggested to me "You could be in this case".

Q. Who suggested it? A. There are a lot of people come in the garage and they read the papers and when they mention staying at Sackville they said "You could be in this".

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Q. Of the people who you are closely associated with and who might possibly be witnesses themselves in this case - A. Yes.

Q. - had any of these people spoken to you about this ~~matter~~ before Mr. Grant spoke to you? A. No, I have never discussed it with anybody.

Q. You swear that? A. Well, I would say yes.

Q. Mr. Grant rang you at business, or at home?

A. I think the first 'phone call was at the garage.

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Q. He asked you to call and see him? A. He asked me would I call in and make a statement, which I did.

Q. When was that? How long ago was that? A. It would be a week or two ago.

Q. And that is the very first that you knew from anybody having any association with the case that you might be called to give evidence? A. Yes.

Q. And that is the first time that you ever had to recollect the dates and times of that New Year?

A. Yes.

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Q. Of course, that is not true, is it? A. I beg your pardon?

Q. That statement of yours is not true, is it?

A. Well, I will ask you why isn't it?

Q. Did Miss Rosewell discuss it with you? A. Miss Rosewell? No.

Q. You swear that? A. When you say "discuss it", we have talked about it.

Q. Does not "discuss it" mean talking about it?

A. If you like to put it that way, yes.

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Q. So that your answer that you have never discussed it with anybody associated with the case until Mr. Grant spoke to you was untrue, wasn't it? A. Was Miss Rosewell associated with the case?

Q. Didn't you think so? A. No more than I was.

Q. And you discussed it with her? A. I talked about it.

Q. Well, did you try and work out with her what happened over that period? A. Well, I might have. I don't remember.

Q. This is only ten days ago. Can't you remember?
A. You don't remember every conversation you have.

Q. But you have repeated in this Court conversations and details of events that took place 20 months ago, haven't you? A. They were events not conversations.

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Q. Didn't you repeat pieces of conversation which took place 20 months ago? A. I might have.

Q. Has someone put those in your mind? A. No. I can remember them myself.

Q. Do you realise that your evidence may be of importance in these proceedings? A. The only reason I am here -

Q. Look, sir - A. Am I going to answer, Yes or No?

Q. I would be glad if you would answer yes or no. Do you realise that your evidence may be of importance in these proceedings? Yes or No? A. Actually I don't know.

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Q. You don't know? A. No.

Q. You don't know why you are here? A. I know I am here to be questioned about what happened at Sackville or the hut on New Year's Eve 1966/67.

Q. And you don't know why? A. Something to do with money owing to Mr. Armstrong and a Mr. Barton.

Q. You don't know what particular significance the events at Sackville have in relation to this case? A. Well, I can say I don't. I am not interested in it actually, and I have never read all the case.

30

Q. You have told us that one of the matters which has helped you to fix an occasion in your mind would be if someone got hurt? A. You suggested that.

Q. And you agreed with me? A. Yes.

Q. Well, do you, or don't you? A. I said if a boat sank I would remember it, and if someone got hurt there I would remember that.

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Q. And the fact of someone getting hurt would be of assistance to you possibly in the way of fixing the date of the occurrence, wouldn't it? A. We won't say "hurt". We will say your boat sinking. I would remember that more than getting hurt - more than someone getting hurt.

Q. Well, you don't like to be out with friends when they suffer even minor injury, do you? A. No, I don't like to see anyone hurt.

Q. So that that is a thing that sticks in your mind, isn't it? A. Yes.

Q. And you told us you particularly remember Noel Miles trying to jump the wash? A. Yes.

Q. And hurting himself in the process? A. He whacked his ribs, yes.

Q. And he said that was enough for him, didn't he? A. "That is what you get when you water ski".

Q. You have also told us that you distinctly remember - correct me if I am wrong - that that was the same weekend that you taught Fred Hume to ski? A. Yes, that is right. 10

Q. And the weekend that Noel Miles hurt his ribs was the New Year's weekend, wasn't it? A. No, the second weekend.

Q. Sir, you swore in this Court not half an hour ago that the weekend that Noel Miles got hurt was the New Year's weekend, didn't you? A. I don't remember. I don't think so. 20

Q. It was not until your counsel - counsel who was leading your evidence - asked you again and there was some discussion in the Court about that weekend that you changed your evidence, didn't you? A. Of what?

Q. You changed your evidence, Mr. Murray, didn't you? A. I just don't understand you.

Q. Don't you? A. No.

Q. Well, look, do you remember when you were asked as to what happened on these two weekends by Mr. Bainton that you told us, when dealing with the events of the first weekend, that that was the weekend that Noel Miles tried to jump the wash and got hurt. You said that, didn't you? A. I just don't remember. If I did say it I don't remember. It was the second weekend. 30

Q. There was no room for error, was there? A. That is the way you have got it.

Q. You were asked by Mr. Bainton the chronological order of what happened and all the events of the first weekend, weren't you? A. Yes, If I could remember them. 40

Q. He asked you about New Year's Eve and asked you about various events that happened that weekend, didn't he? A. When?

Q. He asked you about New Year's Eve and the events that happened that weekend, didn't he? A. Yes.

Q. He was not unfair to you in his questioning, was he? A. No.

Q. You understood his questions? A. Yes, but - 50

Q. Just listen to me, please. A. Yes.

Q. And in respect of that weekend you said that was the weekend that Mr. Miles hurt his ribs didn't you? A. Well, if it is written there I said it.

Q. And then when he came to deal with the events of the second weekend - when dealing with the events of the second weekend you made no mention of Mr. Miles hurting his ribs on that weekend until after he had what his Honour indicated cross-examined you on it. That is the fact, isn't it? A. I know that Mr. Miles - 10

Q. That is the fact, isn't it, what I put to you? A. I just don't know.

Q. I will tell you again. A. Good.

Q. Mr. Bainton dealt with the events of the second weekend, and in the first instance you told of all the events of the second weekend and omitted any reference to Mr. Miles hurting his ribs, didn't you? (Objected to). 20

Q. By the way, did Mr. Hume come to the premises once, or more than once? A. I have only seen him there once.

Q. If he was there on the first weekend he was not there the second? A. He was not there the first weekend.

Q. If he was there on the first weekend, he was not there the second? That is so? A. He was there on the second weekend.

Q. Supposing you are wrong with your dates? A. I was not wrong. I never ever saw him - I only saw him once and he was there the second weekend when the go-go girl was there. 30

Q. Every time you have seen him, he has been with his go-go girl? A. I have only seen him once.

Q. So far as that weekend goes, whichever weekend it was, the fact that he had the go-go girl with him does not help you to identify the weekend, does it? A. Yes, it does, because Noel Miles came up and stood there when she did the go-go. And that was the second weekend. 40

Q. But Noel Miles comes up practically every weekend, doesn't he? A. Not every weekend. Occasionally I visit his place and he visits me. Not every weekend.

Q. How many times a year would Noel Miles visit your place? A. Well, he does not ski in the winter. Well, it would be debatable. I suppose he could come up a dozen times.

Q. A dozen times? A. It might be more, or less. 50

Q. Can't you see, assuming you are trying to

help the Court, that the fact of Mr. Miles coming up does not help to identify the precise weekend, does it? A. Well, I have told you what weekend it was. I told you it was the second weekend.

Q. Look, sir, if I told you that Mr. Miles he said he came up on the first weekend, would you then be satisfied that Hume was there the first weekend? (Objected to by Mr. Bainton; rejected).

Q. I want you to assume for the moment that Mr. Miles said he came up the first weekend? A. I would not remember. 10

Q. You would not remember? A. No. But I remember -

Q. You would not be prepared to deny it? A. Probably he was there the second weekend.

Q. Mr. Murray, you would not be prepared to deny that Mr. Miles was there the first weekend? A. I can't remember.

Q. But you could not deny it? A. He could have been, and he could not have been. I don't know. I don't remember. 20

Q. If he came up the first weekend and the second weekend, then that would not help you to know which weekend Mr. Hume was there, would it? (Objected to by Mr. Bainton; rejected).

Q. Mr. Murray, it is possible that Mr. Miles came up on the first weekend, isn't it? A. He could have.

Q. And if Mr. Miles came up on both weekends, then that would not help you to identify which weekend, would it? (Objected to; rejected). 30

Q. If he came up on both weekends, you could not tell which weekend Mr. Hume was there, could you? (Objected to; rejected).

(Short adjournment).

Q. How many times have you met Fred Hume? A. Once.

Q. Once? A. Yes.

Q. That was on that weekend, whenever it was?
A. That was the second weekend at the ski hut when he was there with the fair girl. 40

Q. And you will repeat that parrot-fashion as often as I care to ask you? A. I beg your pardon?

Q. You will repeat that parrot-fashion as often as I care to ask it -

HIS HONOUR: I think there is comment in that question, Mr. Gruzman.

MR. GRUZMAN: Q. You told us that of the thousand

boats on the river you know 500 or 600, is that right? A. I know most of them.

Q. Would it be true to say that 3,000 or 4,000 people would visit your hut in the course of a year?

A. How many?

Q. 3,000 or 4,000? A. No, not that many.

Q. You would not count them, would you? A. It would not be three or four thousand.

HIS HONOUR: You have gone back through the ten year period, Mr. Gruzman.

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MR. GRUZMAN: Q. You have been there for ten years?

A. Do you mean over ten years?

Q. Yes. A. Ten years?

Q. Over 10 years you would see three or four thousand people, wouldn't you? A. It would be a wild guess. It could be more; it could be less.

Q. Was there anything peculiar about Fred Hume that attracted your attention? A. Well, when I arrived he was in trunks and he is a well-built guy and that is the first thing I thought - "What does he do? Is he a wrestler? What does he do?"

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Q. You have had plenty of wrestlers up there, I suppose, have you? A. Yes. He had this girl with him. A very attractive girl.

Q. But your place abounds with attractive girls, doesn't it? A. It all depends on your taste.

Q. Some of the other young girls were attractive?

A. I would not say that.

Q. When Arnold Glass went up there he had eight or ten pretty young girls on board, didn't he? A. A couple rather nice.

30

Q. What I am asking you is, what was there special about Fred Hume that you can recollect him, his name, and everything that he did on this particular weekend, which occurred 20 months before you were asked to recollect it? A. Well, I was introduced to him for a start, and his name, Hume, I am in the habit of not remembering names. I have got a bad memory for names, and I related it to something else. I thought of Hume and Hovell, and I know his name is Hume.

40

Q. But you only saw him once? A. That is how I got his name - connected his name. His name is Fred Hume. He dived off the tree and dived into the river, and he is a very good swimmer.

Q. Lots of very good swimmers come up to see you, don't they? A. Not as good as him.

Q. He is not an Olympic champion? A. I didn't say that. I said that he was a good swimmer.

He is better than I am, and I have been swimming all my life.

Q. When did you first recollect his name? A. When I was introduced to him.

Q. That was one occasion? A. That was the only occasion.

Q. Up until you were asked in the witness box, or up until Mr. Grant asked you? A. I have only met him once. 10

Q. I understand that. But when was the next occasion that you had to recollect the name of this man? A. I can't remember that. It may have been when you asked me.

Q. It could have been when I asked you? A. Yes.

Q. And it flashed into your mind - Hume, of Hume and Hovell? A. Yes.

Q. You are not serious, are you? A. Yes, That is how I remember his name.

Q. This has all been suggested to you - this story about Hume, - hasn't it? A. Nothing at all. 20

Q. Has anyone ever told you the name of the fair-haired girl is Annette Catt? A. They might have said it.

Q. Why didn't you use that name, when you gave your evidence? A. Now that you have said "Annette", I remember it.

Q. Is that the first time that you have heard it?
A. I could have heard it before, but when you asked me I could give her name. That is why I said the "fair-haired girl." 30

Q. I suggest to you that you were pretending not to remember her name when you gave your evidence. You knew it very well? A. You can pretend as much as you like.

Q. Why did you remember Fred Hume's name, and not Annette Catt's name? A. I have already told you that.

Q. But you have said she was a very attractive girl? A. Yes. 40

Q. Why didn't you remember her name? A. That has got nothing to do with her name.

Q. Did you see the cars drive off on the Sunday night? A. I don't remember.

Q. You don't remember? A. No. They drove off before me, but I just don't know how they went. I was down at the hut and the cars were up back further. I could not see them, standing there.

Q. If you had your boat up at Sackville and you had to get it back you would try to arrange for someone to come up with you to drive your car back? A. My boat?

HIS HONOUR: Mr. Gruzman, you did not ask your question very audibly.

MR. GRUZMAN: Q. If you had a boat up the river which had to come back by sea, and you were down in Sydney and had to get the boat back you would want to take someone up with you to drive the car back, wouldn't you? A. You could not drive both of them. 10

Q. You could not drive back, so that you would have to take someone up to drive the car? A. If you wanted to, I suppose you would.

Q. If you had a couple coming up you would not take two cars so that the couple had to drive a car each back, would you? A. Why wouldn't you?

Q. Because it is not much fun driving back two cars with two people in separate cars, is it? A. Well, it is only 40 miles. 20

Q. How long does it take? A. To drive back?

Q. Yes, on Sunday afternoon? A. It all depends. If you leave at seven o'clock you can get a good run. If you leave at six o'clock it could take you a lot longer.

Q. About how long? A. About an hour and a half, or something like that.

Q. That is for you? A. No, just a normal driver. 30

Q. Well, Mr. Murray, I put it to you that Mr. Hume was never there on Saturday, 7th January? A. I am in this Court (answer interrupted)

HIS HONOUR: I think you should allow Mr. Murray to answer the question.

MR. GRUZMAN: Q. You may make your little speech. A. I am in this Court and I swore on that Bible that Mr. Hume was there. That was the day he was there. And I will still swear that on a stack of Bibles.

Q. And no matter - ? A. What you said, it would never shift that out of my head. It is true, and that is what I am here for. I am not interested in the case. I have just come here to tell the truth, and that is it, so help me, God. 40

Q. And it does not matter that you remember distinctly that it was the same weekend that this man got injured - Mr. Miles? A. He was not injured. He only hit his ribs. That is all. I didn't say he was injured. He had a spill and whacked his ribs, which you do every day. 50

Q. And he told you that he would not jump the wash again? A. He didn't like jumping the wash on that boat.

Q. I forget the expression he used, but it meant that he would not jump the wash any more? A. Yes.

Q. So that he jumped the wash once, had a spill, and did not jump it again? A. Not to my knowledge. That was on the second weekend - the day that the girl did the go-go.

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Q. You have told us that now several times, I just ask you once more, have you never discussed this with Mr. Armstrong? Never at all? A. I have not spoken to Alec for quite a considerable period, and he has never mentioned anything to me at all. Nothing.

Q. There has never been any discussion between you and Mr. Armstrong about this subject matter?
A. Never.

Q. Or between you and Mrs. Armstrong? A. Or between myself and Mrs. Armstrong.

20

Q. Or between you and Mrs. Larkin? A. Mrs. Larkin? I only saw her on Sunday. I don't talk to her.

Q. There has never been any discussion about this matter between you and Mrs. Larkin? A. Well, they pick up the paper and refer to it as Peyton Place. I said "How do you mean, Peyton Place?" and they say "It goes on for ever". I never read it myself.

Q. What discussion is that? Who is that with?
A. Anyone. There may be dozens. They sit around reading the paper, and they say "It is still on." I never read it myself.

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Q. You and Mrs. Larkin have discussed it, have you? A. I did not say that.

Q. What do you say? A. General discussion amongst people. I am not discussing it with them. They are reading bits out of the paper.

Q. I asked you have you discussed this matter with Mrs. Larkin? A. No.

Q. That is your full answer? A. Yes.

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Q. There is one further question I want to ask. On the Saturday - A. Which Saturday?

Q. 7th January. A. The second weekend?

Q. The second weekend. A. Yes.

Q. Who visited the hut? A. Who what?

Q. Who visited the hut? A. Well, there was Alex Armstrong.

Q. Apart from people who you say stayed the night?

A. What boats visited the hut? I could not remember all the boats that come there. God!

Q. You have named various people who visited the hut on various days at round about this time, haven't you? A. Yes.

Q. I want you to swear to the name of one person apart from those whom you say stayed the night who visited the hut on the afternoon of Saturday, 7th January? A. Will you read out the ones that I have named? 10

Q. Look, Mr. Murray, I want you to be very careful. You are in Court, you tell us you want to help, and you are on your oath. You have told us that. I want you to tell his Honour the name of any person apart from the people who stayed the night according to you in the hut, who visited the hut on the afternoon of 7th January 1967? (Objected to by Mr. Bainton; rejected). 20

Q. Mr. Murray, listen to the question very carefully. What I am going to ask you to do is to say on your oath the name of one person whom you will positively swear visited your hut on the afternoon of Saturday, 7th January, apart from Mr. Armstrong, Mrs. Larkin, Fred Hume, the girl Catt and yourself and Miss Rosewell? A. Well, tell me a name, and I will swear to it if he was there.

Q. I am asking you to - ? A. To remember?

Q. Yes. To say someone who you will positively swear visited the hut. A. I didn't say there was anybody else. 30

HIS HONOUR: Q. Mr. Murray, are you able to name anybody other than yourself and these other five people who visited you at the hut or, I suppose, down at the bank in front of the hut on that Saturday afternoon? Can you call to mind any name of any other person? That is the purport of what Mr. Gruzman is asking you. A. Yes. One you didn't name was the butcher, Noel Miles. 40

MR. GRUZMAN: Q. Are you prepared to swear that he visited the hut on that Saturday, 7th January? A. Not the Saturday. I think it was the Sunday.

Q. I repeat the question. A. It was the Saturday or Sunday. I will swear it was Saturday or Sunday he visited the hut.

Q. The question I am asking you is to swear to the name of one person who you will say positively visited the hut on Saturday afternoon or the Saturday night of 7th January apart from those people that you have referred to? A. I will swear Saturday or Sunday. 50

Q. No, stick to Saturday, on your oath. A. I can't think of anybody, only the one I have just named.

He was there on Saturday or Sunday. I could not swear.

MR. GRUZMAN: Q. Can you help us as to the weekend? Do you remember a weekend when you had four large boats tied up outside your hut around that period?

A. I have had four there, yes.

Q. Would they be Reg Hunt from Melbourne?

A. Yes, "Bambi".

Q. That is a big Chris-craft? A. Yes.

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Q. Laurie O'Neill and his Chris-craft? A. Yes.

Q. Arnold Glass and "Moonraker"? A. Yes.

Q. And Mr. Armstrong? A. Armstrong, yes. I think those four boats have been there. It might be a couple of others.

Q. Those four boats together at one time?

A. Yes.

Q. When was that? A. You have got me. I could not tell you. I would suggest it might have been one New Year's Eve.

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Q. Cannot you do any better than that? A. I am afraid I cannot.

Q. You are pretty good at working out when a man whom you had never met before was up there for one or two days. Tell us about this occasion when those four large boats were moored outside your hut? A. I know it was around New Year's Eve. I know it would be one Christmas. It might have been the one before.

Q. How long has Arnold Glass had the Donzi? A. I would not have a clue. I know he has had it over two years.

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Q. How many times has Arnold Glass come up and spent the day in the Donzi at your hut? A. The only thing I can remember is he has only been there once with the Donzi.

Q. How many times has it occurred that Laurie O'Neill Reg Hunt, Arnold Glass and Alex Armstrong have all been together with their boats outside your hut?

A. Once only, ever.

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Q. It would be a rare occasion when you would have four large vessels moored together outside your hut, would it not? A. Yes. We don't have that many big boats.

Q. In fact, can you remember any other occasion when there were four large vessels moored outside your hut? A. No, I cannot remember.

Q. That would be an occasion you should be able to fix pretty positively, would it not? A. You would remember four big boats.

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Q. You tell his Honour positively when that unique event occurred. A. I would not have one clue. I said it was Christmas and that was it. I don't know what Christmas it was when the boats were there and I will swear to that.

RE-EXAMINATION:

MR. BAINTON: Q. It has been suggested to you you have come along here to tell a full story. Apart from the ski-ing relationship you told us of with Mr. Armstrong, have you any other dealings or relationship with him at all? A. With Mr. Armstrong? 10

Q. Yes. A. No, nothing.

Q. You told us also you remember an occasion of a go-go dance demonstration? A. Yes.

Q. I think you said you went up to where your car was? A. Yes.

Q. Would you tell us your recollection of how many cars were parked around that spot on this occasion? A. There was my own car parked there and it would be one of Armstrong's cars, the M.G. that this Hume had. I am not sure if Mrs. Larkin's car was there. There would be four or five cars there. 20

Q. You told us earlier that Mr. Armstrong left in the Bertram? A. Yes the Bertram.

Q. I do not know whether you told us if anyone went with him? A. When he took it back to Sydney, yes, Mrs. Larkin went with him.

Q. After they had gone how many people were left at the hut and how many cars would still be there? A. When Hume and the fair girl went there would be only Miss Rosewell and myself. There would be only my car. 30

Q. Before they went how many cars were there? A. As I have said there were three or four there. They took two cars and mine was there. There would be only my car left there. I did mention Mrs. Larkin but she didn't have a car because she went back in the boat with Alex

(Witness retired). 40

MR. STAFF: Before I go to the next witness might I deal with one matter? Your Honour may recall during the course of the cross-examination of the witness Vojinovic, the matter was put by me of a specific conversation having occurred between him and Mr. Bailey, a solicitor from Brisbane.

HIS HONOUR: Yes.

MR. STAFF: In relation to what had occurred. We wish to either call Mr. Bailey, or to prove his account of what occurred on that occasion. We have taken the course of obtaining an affidavit from 50

Mr. Bailey, we really seek to get a ruling as to whether we may be permitted to prove the conversation in that fashion or whether it would be necessary to bring him from Brisbane. He can be called. There is no difficulty except the matter of expense.

HIS HONOUR: Mr. Gruzman, what do you say to this? This would not preclude you from cross-examination in accordance with the ordinary practice.

MR. STAFF: If my friend wants him, he will be called.

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MR. GRUZMAN: If we could see the affidavit we could give the matter consideration over the luncheon adjournment.

HIS HONOUR: I would be quite content with an affidavit if it will save both time and expense, and if there is nothing of substance to be put in cross-examination. It sounds a convenient course. I think it is not unreasonable for Mr. Gruzman to see the affidavit.

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MR. STAFF: No. It contains nothing more than the questions I put specifically to the witness in relation to the conversation.

HIS HONOUR: The matter may be referred to after the luncheon adjournment.

ANNETTE VERONICA CATT

Sworn, examined as under:

MR. BAINTON: Q. Is your full name Annette Veronica Catt, you reside at 131 Spurway Street, Ermington?

A. That is right.

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Q. I think you are employed by Mr. Frederick Hume as his secretary? A. That is right.

Q. I think you are also engaged to be married to Hume, are you not? A. That is right.

Q. Would you tell me when and where you first met Mr. Hume? A. I met Mr. Hume in August, approximately the middle of August 1966, in Surfer's Paradise.

Q. Have you at any time been with Mr. Hume to the Snowy Mountains area to stay? A. Yes.

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Q. Would you tell us when that was? A. It was approximately in November of 1966, and we were in Cooma, Jindabyne, and the Snowy River. We went to Thredbo afterwards.

Q. I want you to tell me what, so far as you could observe, Mr. Hume was doing? A. He was campaigning for the 19th elections? (Objected to),

Q. Tell me what you saw Mr. Hume actually doing while with him? A. He was speaking with a lot of the workers up in Jindabyne and in Cooma and collecting - we were not collecting, we were handing out How-to-vote cards.

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HIS HONOUR: Q. Speaking to a lot of workers in Cooma and Jindabyne and was handing out How-to-vote cards?

A. Yes.

MR. BAINTON: Q. What language were these discussions in? A. Mostly in the Croatian language. They were mostly Croatian and Yugoslavs.

Q. Do you speak Croatian? A. Just a few words.

Q. Was Mr. Hume speaking to people in English or some other language? A. He was speaking in English and in Croatian because he did speak to Australians. 10

Q. Would you tell me how many days so far as you can recollect you spent with him in this area on this occasion? A. I went up there on the Saturday round 12. I caught the train from Sydney to Cooma. Mr. Hume met me at Cooma. We were there in the whole area, in the Eden-Monaro area, until I think it was the Monday - until Monday, Saturday, Sunday, Monday, ~~but Mr. Hume was previously up there from the Thursday.~~ (Objected to. His Honour indicated the last part of the answer should be struck out.) 20

Q. After the Monday did you go back at all with Mr. Hume? A. Yes. We went back, drove directly back. At that time our office was situated in Balmain.

Q. Did you go back to the Snowy area again? A. Yes, we went about a week later, approximately the middle, about the 24th November. We went there on Friday. 30

Q. How long were you there on that occasion. A. Two days. Friday and Saturday. We came back Saturday night to Sydney.

Q. What was Mr. Hume doing this time? A. It was the day of the election on the Saturday. We arrived on the Friday and he also spent some time with the workers even on the Friday.

Q. What are all the places you recollect going to while you were there? A. Cooma, Adaminaby, Goulburn, Thredbo, Jindabyne and the Island Bend camps, and Berridale. 40

Q. Where did you stay? A. We stayed at the Jindabyne Motel on one occasion, we stayed the first time I was there, and the second time we stayed in Jindabyne also, and we stayed in Thredbo for two days. I think one night we spent in Thredbo and left on the Monday, we spent one night in Thredbo but we stayed two days. I think we arrived in the night time, we arrived in the afternoon.

HIS HONOUR: Q. Did you say you left on Monday or one day? A. On Monday. 50

MR. BAINTON: Q. Have you ever yourself water-skied? A. No, I have not ever water-skied.

Q. Have you ever been to Sackville on the Hawkesbury River. A. Yes, on one occasion.

Q. Would you tell me when that occasion was? What you can remember of who was there and what people did? A. It was after the New Year, the weekend after the New Year, I went home to my parents over the Christmas and New Year and returned on the Wednesday with my parents to 77 Riley St, East Sydney.

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Q. Which Wednesday do you mean? A. Wednesday after the New Year.

Q. Which New Year? A. 1967-1966.

Q. You talked about Christmas and New Year. What did you do on those two weekends this year? A. The Christmas and the New Year, I spent them with my parents and on the New Year's Eve I went to a party with Mr. Hume at Ermington where I lived.

Q. You were about to tell me what you recollected of the occasion when you went to Sackville. A. Yes. That was on the Wednesday which was the day Mr. Hume informed me we may be going to the River with Mr. Armstrong on the weekend. A few days after we arrived back to Riley Street, with my parents. It was not confirmed until the Saturday when Mr. Armstrong rang at approximately 8 o'clock in the morning and informed us he would be picking us up outside the Riley Street premises at approximately 10 o'clock.

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Q. What happened afterwards on this morning?

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A. Mr. Armstrong arrived a few minutes after 10 o'clock with a Mrs. Larkin, and they were in the Valiant station wagon and had skis in the back of the Valiant.

Q. Had you met either of these people before?

A. I had never met Mrs. Larkin before I was introduced to her. I previously met Mr. Armstrong when the Election was on. That was the first time, I had met him, when I went away the first time.

Q. Whereabouts was it you met Mr. Armstrong?

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A. I think over at his place Mr. Hume took me over there.

Q. In Sydney? A. Yes, just a day before we were working up at Cooma or Goulburn.

Q. This Valiant car turned up. What did you do from then on? A. We didn't know the way to the River. Mr. Armstrong suggested we should follow him? (Objected to). Mr. Armstrong suggested we should follow them in the Valiant. We went in the M.G. sports car.

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Q. Who is "we"? A. Mr. Hume and myself.

Q. Where did you go? A. We went up to Sackville.

Q. Tell me what you can recollect of the place

you went to at Sackville and what was there? A. It was like a little shack, it was not very large. The Hawkesbury River was just running along near the shack. When we arrived there, the four of us, there was no one there at the time and we opened up the shack.

Q. Who actually did the opening up, do you remember? A. Mrs. Larkin I believe, Mr. Hume and Mr. Armstrong.

Q. What was done after the shack was opened? 10
A. We all went water-ski-ing I cannot water-ski and Mr. Armstrong, Mr. Hume and Mrs. Larkin skied, the three of them.

A. What did you do. A. I stayed in the boat and helped with the skis.

Q. What sort of boat was this? A. It was the Bertram boat, the big Bertram.

Q. Can you remember what color it was? A. Blue and white.

Q. Did anybody say anything as to whose boat it was? 20
A. No. But I knew it was Mr. Armstrong's.

Q. Where did this boat come from? A. I don't know where it came from. It was there when we arrived. It was up there at the River.

Q. Where was it when you first saw it, do you recollect? A. It was tied on to the bank of the river.

Q. Tell us all you can remember of what happened on this day. A. We went water-ski-ing for a few hours and we came back to the shack and Dorothy Rosewell and Jack Murray arrived. They were there when we arrived back. Then we all went water-ski-ing again except Mr. Murray. He was working on his boat. It was broken or there was something wrong with it. I don't know. 30

We went up to Mr. Miles' caravan and had ice creams and a cup of tea. He had a very big dog. Mr. Miles and Mr. Murray - Mr. Murray didn't go that time. Two people skied back, it must have been Mr. Hume and Mr. Miles, skied back down the river. When we arrived back there were a number of other people there, a fellow from B.M.C. a Mr. Green it was who wrote a book about Mr. Murray, or previously was going to write a book about Mr. Murray. He was there with his mother and family and his wife also. 40

I believe we had dinner approximately at that time. Then Mr. Hume and Miss Rosewell played chess till about 8.30 and then we all retired.

Q. Would you tell us who was in the hut on that evening? A. Yes. Mrs. Larkin was in a stretcher, went to bed in a stretcher. She went to sleep first in a stretcher. She was the first to retire. 50

Mr. Hume and I went down to the boat, I am not quite sure. Mr. Armstrong and Dorothy Rosewell and Jack Murray were still up when I went down to the boat with Mr. Hume.

Q. What do you recollect as to what happened or the events of the following day? A. Sunday - I can remember Mr. Armstrong wanted breakfast about 5 o'clock. Everybody told - Mr. Armstrong was the first to rise and wanted to have breakfast at approximately 5 o'clock. Everybody told him to wait until 8 o'clock. We finally had breakfast about half past 8. Everyone went skiing except Mr. Murray, he mowed the lawns. 10

Q. Anything else you can recollect on that day? A. There were two girls and a young man there skiing and they came to the shack. I don't know their names. We had dinner about half past 12 and about 3 o'clock Mr. Armstrong and Mrs. Larkin left in the Bertram back to Sydney. We left at approximately half past 3. I was driving the M-G and Mr. Hume drove the Valiant and we drove straight to Vaucluse where Mr. Patterson was there; he was the gardener. 20

We went to the home of Mr. Armstrong and took out the little dinghy so when Armstrong came in the big Bertram from Sackville he would be able to get into shore in the little dinghy. That was approximately between 5 and 5.30. We left straight after. We did not wait for Mrs. Larkin and Mr. Armstrong to return. 30

Q. Coming back to the day at Sackville: before you left to come home, was there anything else happened you recollect? A. No. I know Dorothy Rosewell and Jack Murray had not left when we left. I cannot recollect anything else.

Q. Were you asked to do anything yourself at any stage over the weekend? A. Yes, they wanted me to do a go-go dance. I was dancing outside Mr. Murray's car. He had a tape recorder in the car. 40

Q. Who asked you to do that, do you recollect? A. All the men.

CROSS-EXAMINATION

MR. GRUZMAN: Q. There is a close association between you and Mr. Hume? A. Yes, I am engaged to him.

Q. A close personal association? A. Yes.

Q. And a close business association? A. Yes.

Q. Do you employ Mr. Hume? A. No.

Q. Have you ever not employed Mr. Hume. 50
A. Definitely not.

Q. Have you any knowledge that Mr. Hume's business was registered in your name? A. Yes.

Q. If you owned the business you were employing Mr. Hume were you not? A. No, I was not employing Mr. Hume.

Q. How does Mr. Hume's business come to be registered in your name? A. And another partner is also.

HIS HONOUR: Q. I didn't hear that. A. It is registered in another name also, not just my name.

MR. GRUZMAN: Q. Which is the other name?

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A. Anton Nevatich.

Q. Do you and Mr. Nevatich own the business?

A. No, I never owned the business, it was just in my name.

Q. Why was it in your name if you didn't own it?

A. It was transferred into my name.

Q. Did you pay any money for it? A. No, I didn't. I was still drawing the same wage.

Q. You were still drawing the same wage? A. Yes.

Q. Were you not paying Mr. Hume then? A. No, Mr. Hume was very rarely taking out money for expenses.

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Q. I didn't get that answer. A. I said Mr. Hume was very rarely taking out money for expenses.

Q. Would you explain to his Honour what was the transaction under which Hume's business was transferred to you? A. Because Mr. Hume was going overseas for a short time and he wanted the name changed into my name.

Q. Mr. Hume didn't go overseas, did he? A. No he didn't and now it is transferred back into his name.

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Q. Who is Mr. Nevatich? A. Mr. Nevatich is an uncle of Mr. Hume.

Q. Is he a private inquiry agent? A. No, he is not.

Q. What does he do for a living? A. He is in the dry-cleaning business.

Q. He has a dry-cleaning business? A. He has not got a dry-cleaning business; he works for a dry-cleaner.

Q. He is employed in a dry-cleaning business?

A. Yes.

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Q. Is not this the position, that at one stage you were employing Mr. Hume in this business? A. I suppose if you want to put it that way, yes.

Q. Do you keep the books of account of the business? A. No I don't.

Q. You are the secretary, are you not? A. That is right.

Q. What is your job as secretary with Mr. Hume?

A. I just supervise the staff and do most of the typing, send out accounts and statements for the month, and I also do a lot of outside work.

Q. What do you mean by outside work? A. I attend police stations and obtain S.A.R. reports, street accident reports. I make certain inquiries whether a person is still living at a place, normal investigations that have to be done in a private inquiry agent's business.

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Q. You are a sort of lady private investigator as well? A. You may call it that, yes.

Q. Part of your job is preparing accounts?

A. Just preparing invoices or sending out monthly statements.

Q. Have a look at this book. Does that contain any of your writing? A. No, none of this is my writing at all.

Q. This is not your writing? A. No.

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Q. What about this diary, does that contain any of your writing? A. Yes, quite a lot in here contains my writing. This is a message pad, a message book you might call it and a telephone book.

MR. GRUZMAN: They may be identified in this way, the large one may be identified as being a "recoindex" and the small one "Collins Diary 384".

Q. What goes in the Collins Diary? A. Mainly telephone messages and appointments.

Q. For example, if Mr. Armstrong rang you would note it in the book would you? A. Yes.

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Q. Have a look at the book. Tell me, is there any phone call from Mr. Armstrong in the first week of 1967? A. No phone calls.

Q. But Mr. Armstrong telephoned did he not? A. Yes. That was a Saturday. I would not record it on a Saturday - Mondays to Fridays.

Q. Why would you not record it on Saturday? A. Why should I? It was not a business call.

Q. Were you not there on Saturday? A. Yes, I was there Saturday.

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Q. Were you not in the office? A. Yes.

Q. Did not Mr. Armstrong ring Hume at the office? A. He rang Mr. Hume. Why would I record that if Mr. Hume spoke to him?

Q. Was there a similar book to this for the year 1966? A. No. I was not working with Mr. Hume in 1966, and I started the telephone message book.

Q. When did you start working there? A. Approximately February 1967.

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Q. February of 1967? A. Approximately. I started working. I was in the office but he was not paying me a wage until February 1967.

Q. I take it there is none of your writing until February 1967? A. There may be some of my writing in there, but I was not being paid. I probably was in the office I often helped him out.

Q. (Approaching and indicating) A. Yes, that is my writing.

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Q. So that all the writing in this book from the very beginning is in your handwriting? A. No, not all. This is my handwriting (indicating).

Q. Tell me what you are indicating - the first entry is dated 5th January? A. That is my writing.

Q. The 6th? A. My writing. Mr. Hume's writing on the 9th January.

Q. Partly yours and partly Mr. Hume's? A. Yes.

Q. And so on through the book? A. Probably, yes.

Q. You met Mr. Hume in August 1966. A. Yes, that is right.

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Q. When did you come down to Sydney? A. Approximately September 1966.

Q. When did you commence your close association with Mr. Hume? A. Really--

Q. From the beginning was it? A. Probably from the beginning, yes.

Q. When you came down to Sydney it was for the purpose of being with Hume? A. Yes, I wanted to come to Sydney, anyway.

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Q. From the time you came to Sydney in September 1966 you were closely associated with Mr. Hume?
A. Yes that is right.

Q. When did you start to live with Mr. Hume?
(Objected to).

Q. Do you live at 77 Riley Street? A. No, I live at 131 Spurway Street, Ermington.

Q. Did you live at 77 Riley Street? A. Yes.

Q. When did you commence to live there? A. Round the end of November 1966.

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Q. When did Mr. Hume commence to live there?
A. Possibly the same time.

Q. Prior to that where did Mr. Hume live. A. In Balmain, Dowling Street, Balmain.

Q. Did you live there also? A. No, I did not

live at Balmain. I spent a lot of time there with his mother.

HIS HONOUR: Q. I did not hear the beginning of the answer. I didn't live there.

MR. GRUZMAN: Q. When did you first start going to the office, Mr. Hume's office. A. I went there quite frequently but I was not working there.

Q. Was it from September 1966 when you went there frequently? A. In Balmain? That is while at Balmain. Which one are you referring to? 10

Q. How many offices did Mr. Hume have then?
A. One in Balmain only then.

Q. Did you work in the Balmain office. A. I just helped out, I was a friend. I was working and doing a few things there, Yes.

Q. Helping him in the office and so on? A. Yes that is right.

Q. And he moved to his Riley Street office.
A. Yes. 20

Q. And at that time you moved into the flat in Riley Street also? A. Yes.

Q. Were they the one, the flat and office combined.
A. That is right.

Q. So from November 1966 you were living there?
A. Yes, that is right.

Q. And doing all the office work. A. Yes, but I was doing little of the office work, not so much then.

Q. You were keeping the diary in the same way? 30
A. Yes. Not the same way, because there were not so many phone calls, anyway, because it was a new phone number and a new address and Mr. Hume lost a lot of his clients.

Q. Business was a bit slow at first? A. Yes.

Q. Whatever messages came in you recorded. A. If they were important.

Q. And recorded them in the diary? A. In the telephone message book.

Q. Where is that book, do you know? A. There. 40

Q. This is 1967. A. Yes.

Q. Where is the 1966 one. A. I don't know. It should be there. I don't know.

Q. You don't know? A. I don't know. There was not any in November, that is 1966.

Q. You told us you kept the book of the same kind in 1966 from November, did you not? (Objected to).

Q. What happened to the diary you were keeping in 1966? A. We didn't have one like that, we had sort of a very big foolscap one. I believe that was taken round about August. We had it kept in Riley Street and we had a robbery. We lost a lot of books then in August.

Q. What do you know about this robbery? A. We went away on Saturday to Katoomba because a friend of mine was singing at the Carrington Hotel. We went away for the weekend. On the Sunday Mr. Hume dropped me at my residential address in Ermington where my parents reside and he went on to Riley Street. About twenty minutes later he said there had been a robbery there. My brother took me out there straight away and it was in a dreadful state. Everything was taken, clothing, the television the radiogram and everything. They had broken in through the bathroom window and broken the door of the bathroom. 10
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Q. You mentioned the television and the radio. What else was taken? A. There were files torn up and books missing. We didn't know what books were missing until later on because we could not locate them.

Q. When did you find books were missing? A. I think we had a divorce said and the proceedings were coming on and I was looking for it because Mr. Hume had a divorce case written in there. I couldn't find it anywhere, and we came to the conclusion it must have gone in the robbery and so on in August. 30

Q. How long was that after the robbery? A. It was not very long. I think it was about three weeks. It may not have been 3 weeks; it may have been a week. We were gradually finding things missing which we previously could not find on the day of the robbery.

Q. Is this the position, that the radio was taken?
A. Yes.

Q. The television set? A. Yes.

Q. What else? A. I had a Mixmaster there and there were tape recorders taken, a lot of equipment which Mr. Hume had used for investigations, and all our files had been gone through and there were diaries missing and a few divorce papers missing too. 40

Q. Mr. Hume had quite a lot of valuable equipment there did he? A. Yes.

Q. That had all gone? A. Yes, that had all gone.

Q. Are you saying the diary went as well at the same time? A. It must have because we were looking for the diary I told you a week after for when the divorce case was coming on. 50

Q. Have you discussed that robbery with Mr. Hume?
Q. Of course we discussed the robbery. We were both involved in it really.

Q. Did you discuss the diary being missing?

A. Yes, we realised the diary had gone after we couldn't find it.

Q. Do you know whether Mr. Hume reported the loss of the diary to the police. A. He may not have because it was a week later or three weeks later. Why should he report it three weeks later when the police had been there on the day of the robbery and taken fingerprints and everything.

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Q. This is the position, that Mr. Hume reported the loss of valuable equipment to the police?

A. Yes.

Q. But never included in the list of equipment any diary? A. Yes, because we didn't know the diaries had disappeared until one week later.

Q. You can appreciate that a diary in your business could be a very valuable item could it not?

A. Why?

Q. It might have evidence about divorce raids and so on? A. We have still got a file on divorce raids.

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Q. It could be used for blackmail could it not?

A. Yes, it could possibly be used.

Q. Don't you think that should have been reported to the police. A. No I didn't.

Q. That diary was destroyed was it not? A. They could have destroyed it, whoever the thieves were. I suppose they would. It was not of value to them. I am not sure.

Q. Did you keep a personal diary as to your movements? A. No, I don't do that.

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Q. A social diary? A. No. Whatever I had to do I put in there. I think I have something there, I had to take the dog to the vet, or something.

Q. Have a look at this diary for 1967 including the 7th January and tell us does that help you to know what you were doing on the 7th January? A. There is nothing in here.

Q. Nothing in there for that day? A. No, I would not put it in unless I had to go to the dentist or take the dog to the vet.

40

Q. How many times have you been up to Sackville?

A. I have only been there once.

Q. You prepare the invoices you told us? A. Yes.

Q. Did you prepare an invoice in respect of this trip down to the Snowy? A. I typed the invoice, Yes.

Q. (Showing Exhibit "Y"). Is that the invoice you typed? A. Yes, that is right, definitely. I can tell by the typewriter.

Q. Where did you get the information on which to base that invoice? A. From Mr. Hume. He dictated it to me.

Q. He dictated it to you? A. Yes.

Q. On your observations where did he get the information from? A. We had previously been away campaigning.

Q. How long after you had been away did Mr. Hume dictate this to you? A. It could not have been very long. 10

Q. About how long? A. I would not really know, because sometimes it may be a week; it could be two weeks; it could be a day; it could be an hour. It all depends.

Q. You have given us some detailed information of what you did over that period. Tell his Honour how long was it after you returned from the trip that Mr. Hume dictated this invoice? A. I really cannot remember. I cannot remember when he dictated it to me. He dictates a lot of work to me. How can I remember one item. 20

Q. Did he dictate it from a book? A. No, I do not think he did. He could have. I can remember he had a map there and we were going over the miles etc, how many miles we travelled.

Q. Did he have any notes in front of him? A. No, I do not think he did. I cannot remember.

Q. Your recollection is he dictated the evidence from his mind with the help of a map? A. Yes, for mileage, that is right. 30

Q. In that case I suppose it must have been pretty soon after you came back? A. I don't know when it was. Mr. Hume may have a good memory. I don't know. I really cannot say when it was.

Q. Don't you know whether he has a good memory? A. No, I don't know whether I have a good memory or not.

Q. You are his secretary working for him all the time? A. That does not make any difference. 40

Q. You are not able to tell us if he has a good memory or not? A. No.

Q. For dates, times, places or people? A. He may have.

Q. He might have or he might not. A. That is right.

Q. Has Mr. Hume got a pricing scale on which he charges for work? A. No, it depends on how many hours he works etc.

Q. What is his source of income? A. I don't know.

Q. Would it be true to say that for the financial year 1966-1967 Mr. Armstrong was his main source of income? A. It might have been, I do not know. Between which years?

Q. The years 1966/1967, the financial year? A. I was only working for Mr. Hume for a few months. I would not know what happened in 1966.

Q. You were with him in Surfer's Paradise in August 1966. A. Yes, I was not working for him.

10

Q. You were working for him on and off from September 1966 and permanently from November 1966, were you not? A. No, not permanently in November 1966. I said February.

Q. Your entries in the diary are from January, from November. A. That does not make it permanent.

Q. I refer to the period from August 1966 to the 30th June 1967. Do you agree with me to your knowledge Mr. Armstrong comprised Mr. Hume's main source of income? A. No, I don't agree because I don't know.

20

Q. You know the work that was going on? A. Vaguely. I can remember this year more than that time. It is going back 12 months or so.

Q. Can you tell his Honour of any substantial jobs that Mr. Hume did apart from the work done for or in connection with Mr. Armstrong? (Objected to).

Q. (Approaching). This is the 1967 diary or book; was that kept by you during the whole of the year 1967? A. No, this is not a diary, it is a telephone book. Another girl may have been staying in the office there with me. If I had to go somewhere she would put notes in there. This is not just kept by me.

30

Q. Do you recognise that as the book showing, Mr. Hume's phone calls during 1967? A. Yes, this would be the book.

Q. That would be the book? A. Yes.

Q. And there recorded in this book are all business calls coming into the office. A. Probably; most business calls. Some calls I didn't put down. If Mr. Hume was there when someone rang I would tell him and not write that down the same as Mr. Hume sometimes answered the phone himself and he would not write it in there.

40

Q. If there were social messages for Mr. Hume would they be put in here too? A. They might be or might not be. It depends on what sort of social calls they were.

50

Q. If somebody rang for Mr. Hume and he had to ring back, or make an appointment whether it was social or business, it would appear in this book? A. Not necessarily, No.

Q. If Mr. Hume was not there it would? A. No, it would not. Sometimes I would just tell him.

Q. From approximately 1st June - take from exactly 1st June onwards, there is one entry, is that right? A. No.

Q. Whose writing is that? A. Mr. Hume's.

Q. 20th June "John Forsyth to pick up two rifles \$50". A. Yes. Mr. Forsyth was a photographer, he was not very financial at the time so Mr. Hume said he would lend him some money so he said, "I will give you the rifles". So he left two rifles down there. That was the only possession he had. 10

Q. As security for the \$50? A. Yes, they were left over in Dowling Street with Mr. Hume's father.

Q. Then there is an entry on Saturday, the 12th,
A. Yes.

HIS HONOUR: Is this some other name in this entry?

MR. GRUZMAN: No. These are the only entries I am putting. 20

HIS HONOUR: No doubt it will become clear later what the significance of it is?

MR. GRUZMAN: Yes.

Q. The entry of Saturday, 12th August 1967 is in these terms: "Office at Riley Street broken into between Saturday 12th and Sunday 13th." A. Yes. I wrote that in myself.

Q. That is in your writing? A. Yes, that is right.

Q. And then on the 14th August there is an entry about a post-mortem? A. Yes. 30

Q. Is that by you? A. That is my writing.

Q. On the 29th August the words "Court Hearing", appear. A. That may have been the time Mr. Hume had to go on the divorce case.

Q. I don't want the details. There is an entry of the 6th September? A. That is my writing.

Q. I don't want the details. One word "served", appears on the 7th September? A. Yes.

Q. Then on the 17th October there is the entry "Commenced work in Wollongong"? A. Yes. 40

Q. And on the 20th October there are two entries which I won't worry about. On the 25th and 26th there are two entries. A. Yes.

Q. And the 27th? A. Yes.

Q. On the 21st November there is an entry? A. Yes.

Q. On the 6th December there is an entry? A. Yes.

Q. On the 19th December "Pick up dress" A. Yes.

Q. On the 7th January "February 9th 1968, appearing in Court for Alexander Barton and A.D. Armstrong" and there are names of solicitors in the back?

A. Yes.

Q. Between 1st June 1967 and the end of the book those are the only entries that appear. A. I did not put them in regularly. They are only telephone messages in respect of certain appointments that have to be kept.

10

Q. This was the book that was being kept to record Mr. Hume's business phone calls in the way you have mentioned, during that year, was it not?

A. Most of the phone calls, not all of them.

(Luncheon Adjournment).

ON RESUMPTION at 2 P.M.

HIS HONOUR: You are still on your former oath.

20

MR. GRUZMAN: Q. Do you know Michael Novak? A. Yes, I know Michael Novak.

Q. His name is also Ziric? A. Yes.

Q. And also Mo Mo A. Yes,

Q. How well did you know him? A. Not very well.

Q. When did you see him last? (Objected to; question allowed).

Q. When did you last see Michael Novak. A. I cannot remember really.

Q. Come, Come. A. It could have been 12 months. It might have been before that. I know he went down to Victoria a long time ago and I have not seen him since.

30

Q. Have not seen him since Victoria? A. I cannot remember seeing him. I cannot remember seeing him if he came back from Victoria.

Q. You understand you are on your oath? A. Yes.

Q. When you swear on your oath you cannot remember that has got to be a true statement. A. I cannot remember seeing him.

40

Q. You have a pretty good memory for events around that time have you not? A. What time?

Q. The time about twelve months or so ago.

A. I cannot remember when I last seen him.

Q. When did Novak go to Melbourne to your knowledge?

A. I think it was about January or February 1967.

Q. As to that period you have got a detailed knowledge in your memory have you not? A. I remember it, Yes.

HIS HONOUR: Q. Is that right. A. What are you referring to?

MR. GRUZMAN: Q. Don't you know what I am referring to? A. No. You were talking about Mr. Novak.

Q. Is this the position, you have a selective memory, you only remember what you want to remember? A. I cannot remember Mr. Novak. I cannot remember when I last seen Mr. Novak. 10

Q. You have told us Mr. Novak went to Melbourne?
A. Yes.

Q. In January or February of 1967 did you not?
A. About that. It could have been about that time. I cannot remember when he went, really.

Q. You gave very detailed evidence this morning about certain things which occurred in the first two weeks of January 1967, did you not? A. Yes. 20

Q. And you had not been asked to recollect those events until a week or so ago had you? A. I had been what?

Q. Asked to recall those events only about a week or so ago? A. I could have been.

Q. That would be right, would it not? A. It could have been, Yes.

Q. It is the truth is it not? A. Yes, approximately.

Q. I beg your pardon? A. Approximately a week ago.

Q. Now I am asking you in exactly the same way to recall some other events which occurred at about the same time? A. Yes. 30

Q. Do you understand that? A. Yes.

Q. How do you know that Michael Novak went to Melbourne at about that time? A. I think that was the time when Detective Sergeant Hammond rang Sydney and said did Mr. Hume lend Mr. Novak a car because it had been stolen.

Q. You recollect that conversation do you? A. Yes, that was about that time I think. I am not sure. Round about January or it could have been February. 40

Q. Did Mr. Hume lend Novak a car at about that time? (Objected to; Question rejected).

Q. What car did Mr. Hume have at that time? A. The M-G-B.

Q. Did he have any other car? A. No, I don't think so.

Q. Perhaps have another think about that one?

A. No, must the M-G-B.

Q. Do you remember a Ford Falcon car? A. Yes, Oh, Yes.

Q. A bluey-grey Ford Falcon car. A. Yes,

Q. EBD-703? A. Yes.

Q. Did Mr. Hume lend that car to Novak? (Objected to; rejected).

Q. At about this time, Christmas-New Year 1966-1967, who normally drove the Falcon? (Objected to; rejected).

10

Q. At about that time you saw Novak driving the Falcon did you not? A. It could have been that time, Yes.

Q. Did you know where the Falcon was kept at that time? A. In Mr. Novak's possession.

Q. Do you know who owned the Falcon at that time?

A. It was Mr. Novak. I know Mr. Novak did own it before it was registered in his name at one stage.

20

Q. You understand that Mr. Hume transferred it to Mr. Novak? A. I think so, Yes.

Q. Do you understand also that Mr. Novak later transferred it back to Mr. Hume (Objected to; rejected).

Q. Being one of the investigators in the business yourself, and Mr. Hume's secretary, can you tell us how it came about that Mr. Novak had this car? (Objected to; rejected).

30

Q. Did Mr. Novak work for Mr. Hume? (Objected to).

Q. What did you observe of Novak's activities at about that time? (Objected to; question allowed)

A. I would not know what his activities were because he was very rarely there.

Q. I beg your pardon? A. I would not know what his activities were.

Q. You added "he was very rarely there"? A. In Riley Street. On one occasion or a few occasions.

40

HIS HONOUR: Q. Only on one occasion or two occasions? A. Only a few occasions. He was very rarely there. He had no reason to be there.

MR. GRUZMAN: Q. How do you know that? A. He has not got a licence to be an investigator, so why would he come there anyway?

Q. How do you know he had not got a licence?

A. I know he has not got a licence.

Q. Do you have a licence? A. No, I don't need a licence.

Q. You work for Mr. Hume? A. That does not make any difference. I don't have to have a licence.

Q. You said before you were sort of a lady investigator? A. I didn't say I was a lady investigator, you said I was.

Q. You agreed did you not? A. No, I didn't.

Q. Is it not true? A. You may call it that. I don't know how you phrase it, a lady investigator. I do make inquiries but I do not have a licence to make inquiries. I could send the boy next door to make inquiries. 10

Q. You could send Novak too could you not?
A. Why would we send Novak? I think we did send Novak to make inquiries I think of Croatians because he spoke the language.

Q. What sort of inquiries? (Objected to; rejected).

Q. You say "we did send Novak to make inquiries"?
A. Yes, it would have been Croatians because he spoke their language. 20

Q. How many times have you sent him to make inquiries? A. I sent him about once or twice because we were trying to locate one Croatian, a respondent in the divorce proceedings and we could not find him, so he helped us out on that one occasion.

Q. How did you get in touch with him? A. He came down there as I said on one or two occasions. 30

Q. Did it just happen they were the occasions you wanted to use him? A. No, his probation officer was just near Riley Street and he phoned Mr. Hume and knew Mr. Hume and Mr. Hume was looking after Mr. Novak so he would not get into trouble.

Q. How do you know that? A. Because Mr. Hume told me.

Q. Did you see Mr. Hume looking after Mr. Novak?
A. When I was looking after him, I meant he gave him one or two little inquiries so he could help him with his financial problems. 40

Q. What financial problems did Mr. Novak have? (Objected to; question rejected).

Q. Did Mr. Novak tell you about his financial problems? (Objected to; question rejected).

Q. It was your understanding that Mr. Hume was trying to help Mr. Novak financially was it? (Objected to; question rejected).

Q. Is it your understanding that Mr. Hume was trying to help Novak financially? A. He was trying to help him, Yes, financially. 50

Q. And that Mr. Hume was trying to do that by giving him work so that Novak could earn money?

A. Yes, that is right.

Q. I think you said he gave him a few little inquiries to do. A. That is right.

Q. You have mentioned looking for a Croatian who was the respondent in a divorce suit? A. Yes.

Q. That was one? A. Yes.

Q. What were some others? Don't mention names, but the types (Objected to). 10

Q. Are you aware of what sums of money were paid by Hume to Novak? (Objected to; the witness left the court during legal argument. A number of questions and answers were read commencing at the beginning of the witness' evidence. Question allowed).

Q. Are you aware that money was paid by the firm of Hume's Investigations to Novak? A. Yes.

Q. Would it be correct to say that the employees of the firm were basically Mr. Hume, Miss Catt, occasionally your brother, and Novak? (Objected to; rejected). 20

Q. Is this the position, that the people who worked in the firm and carried on the work of the firm were yourself, Mr. Hume, occasionally your brother, and Novak? (Objected to; rejected).

Q. Did Novak to your knowledge work for Mr. Hume doing investigation work? (Objected to; allowed). (Question read and further objected to). 30

Q. At any time? A. He made inquiries.

Q. Were those inquiries particularly made over the period from November 1966 into 1967? (Objected to; question rejected).

Q. To your knowledge was Novak employed for the purpose you have just mentioned, namely to make enquiries during November 1966 and the early part of 1967 (Objected to; question rejected).

Q. (Approaching). Is this document, the deduction sheets or any part of them in your handwriting? 40

A. I will just go through them and see. No.

Q. None of it is in your handwriting? A. No.

Q. Have you seen that document before? A. I could have seen it. I don't really know because Mr. Harasty does all the tax deduction sheets. I may have just signed my name on the Zions Wages Sheet.

Q. Who is Mr. Harasty? A. Mr. Hume's father.

Q. Who pays the wages for the business? A. Hume's Investigations.

Q. Who physically pays them? A. Do you mean signs the cheques?

Q. Yes. A. Mr. Hume.

Q. Have you got power to sign cheques? A. ~~I have not now~~? (Objected to; question rejected; answer struck out by direction).

Q. Have you paid money to Novak? (Objected to).
A. No.

Q. You say you have never paid any money to Novak. A. Never. Why would I pay Mr. Novak money? 10

Q. ~~Why would you pay Mr. Novak money? Since you asked the question because he was an employee of the firm would you not pay him?~~ A. ~~I didn't sign cheques~~ (Objected to; question and answer struck out by direction).

Q. If a person is employed in the firm who physically hands over the money to the employee?
A. We usually pay out in cheques. I always receive a cheque. 20

Q. You receive a cheque. A. Yes.

Q. If somebody has to be paid by the firm, say a small amount? A. Yes.

Q. \$8, \$5, \$10, such amounts who physically pays them? (Objected to; question allowed).

Q. Who physically pays over the money? (Objection pressed).

Q. Suppose we take a date of somewhere around December of 1966. Who would actually physically pay out money to someone who had done some work for the firm? A. Mr. Hume would by cheque. 30

Q. Are these moneys sometimes paid by cash?
A. Very, very rarely unless it is a dollar, \$2.

Q. If they are small amounts do you pay them?
A. No, why would I pay them.

Q. You are normally in the office are you not?
A. That is right.

Q. I am not suggesting you pay anybody out of your own pocket? A. You mean out of the petty cash?

Q. Yes, A. Just for stationery. 40

Q. What about if someone does a small job for the firm, would you on Mr. Hume's instructions pay them? A. Only a petrol expense for a filing expense.

Q. On Mr. Hume's instructions have you paid money to Novak? A. No.

Q. Are you sure? A. I have paid him out of petty cash.

Q. You have paid him out of petty cash?

A. Probably petrol. More than likely I would have paid it out of petty cash. I would not pay on Mr. Hume's instruction. This is normally done in an office, somebody buys something and gets a receipt and you give them money out of the petty cash.

Q. The position is if Novak came to you with a docket for petrol you would without any instruction pay it? A. Yes. (Objected to; question allowed). 10

Q. Why did you say to his Honour before words to the effect "Why should I know about Novak" when he was a man who if he came into the office with a docket you would pay him money out of petty cash? (Objected to; question rejected).

MR. GRUZMAN: I will put that question and answer next Monday. I cannot recollect the answers particularly.

Q. Is it within your knowledge that in the middle of 1967 Novak was paid certain moneys each week for seven succeeding weeks? (Objected to). 20

Q. Did you from the 7th April 1967 and for the seven succeeding weeks pay small sums of money each week to Novak (Objected to; question allowed)
A. No I didn't.

Q. Were you present during that period when such moneys were paid to Novak? (Objected to; question allowed).

Q. Were you present? A. I cannot remember. 30

Q. Novak was a regular visitor to the office was he not? A. No he was not regular.

Q. Did he come to the office to your knowledge for the seven weeks following the 7th July 1967. (Objected to ; question allowed).

Q. To your knowledge did Novak come to the office during each of the seven weeks succeeding the 7th July 1967? A. I cannot remember.

Q. The position is he might have or he might not have? A. I cannot remember. He has only been there on a few occasions so far as I know and I cannot remember. 40

Q. You told his Honour that it was within your knowledge that Novak had been employed by Hume on a few small investigations? A. As far as I know, small inquiries.

Q. Do you know of any work coming within that category which would have resulted in the payment of \$135 to Novak? (Objected to; question allowed).

Q. To your knowledge did Novak do work in the way of inquiries or or investigations as a result of which \$135 was paid to him in December 1966. (Objected 50

to; allowed). A. I really don't know. Honestly I don't know.

Q. Is this the position, you say that you never saw Novak doing work nor did you become aware of any work that Novak had done as a result of which a sum of money such as \$135 would have been paid to him in December 1966? (Objected to; question rejected).

Q. Have you ever become aware of the fact that it has been suggested that Mr. Hume employed Novak for the purpose of engaging someone to harm Mr. Barton? (Objected to; question allowed). A. No. 10

Q. You have never become aware of that? A. No.

Q. Nobody has ever discussed it with you? A. I have heard it from the newspapers and the allegations Mr. Barton has made, that is all.

Q. You never had any discussion with Mr. Hume about it? A. No, none whatsoever. Just about the case itself. 20

Q. When did you first discuss the case with Mr. Hume? A. When it began.

Q. When on your recollection did that occur?
A. At the beginning of this year, approximately January or February.

Q. January or February of this year? A. Yes.

Q. Prior to that had you heard anything about this matter? (Objected to; question withdrawn).

Q. Prior to January or February of this year had you heard it suggested by anybody that Mr. Hume had been engaged by Mr. Armstrong to employ somebody to kill Mr. Barton. A. No, I remember a phone call from the police who wanted to interview Mr. Hume regarding the matter. That is all I recall about it. 30

Q. When was that phone call? A. It could have been ultimately February 1967.

Q. February 1967? A. Yes.

Q. You remember that, do you, A. Yes, I can remember that. 40

Q. Who was the phone call from? A. I believe it was Det. Sergeant Wild.

Q. You spoke to him? A. Yes, I spoke to him and he asked for Mr. Hume, and said it was Detective Sergeant Wild and "May I speak to Mr. Hume?"

Q. What did you say and what did he say? A. Mr. Hume spoke to Mr. Wild.

Q. Mr. Hume was there at the time? A. Yes.

Q. What did you hear of the conversation?
(Objected to; question rejected).

Q. Did Mr. Hume subsequently discuss the matter with you? A. No.

Q. Did he tell you what Sergeant Wild had told him? A. He said there were allegations being made by Mr. Barton.

HIS HONOUR: I missed the last phrase. A. He said there were allegations being made by Mr. Barton. 10

MR. GRUZMAN: Q. Did he mention the name Vojinovic?
A. He could have but it is hard now to remember. He may have.

Q. Had you heard of Vojinovic before that?
A. Never. I never heard of him. (Objected to; allowed). I had not heard of Vojinovic.

Q. In what connection, in connection with what subject matter had you first heard of Vojinovic?
(Objected to).

Q. You have heard the name of Vojinovic? 20
A. Yes, I have heard it.

Q. In what connection did you first hear that name? (Objected to; question allowed).

Q. In connection with what subject matter did you first hear the name Vojinovic. A. I think the theft of a car.

Q. How did that come to your knowledge? A. Det. Sergeant Hammond phoned me. I spoke to him first of all on the phone from Melbourne and he asked me whether Mr. Hume had lent Mr. Novak a vehicle, it had been reported that Mr. Vojinovic had stolen it from Mr. Novak. 30

Q. What was the end of that conversation?
(Objected to; rejected).

Q. Have you heard the name Vojinovic in connection with any other subject matter? A. Only with this case when it began.

Q. You told us from your recollection this case began in January or February of 1968? A. Approximately, Yes. 40

Q. Prior to this year had you heard the name Vojinovic in connection with any subject matter other than the theft of the car in Melbourne.

A. Yes, I told you before in connection with when Sergeant Wild phoned, about the allegations Mr. Barton had made.

Q. Prior to that had you heard the name Vojinovic.
A. No, only about the car theft in Melbourne.

Q. Who takes phone calls? A. Whoever is present in the office.

Q. Who are the possible people who might have taken phone calls in your office in the early part of January 1967. A. Mr. Hume and myself.

Q. Anyone else? A. No, unless there was someone present.

Q. Did you mention earlier in your evidence a girl friend of yours. A. Yes, occasionally when I had a message to go up to one of the solicitors or something a girl friend of mine would stay there and answer the phone. 10

Q. So that if you were not there it is possible this girl could be there? A. Yes.

Q. You answered the rest of them? A. Yes.

Q. What is her name? A. Her name would be Eleanor Turnbull.

HIS HONOUR: In view of the misapprehension which Mr. Bainton claims to have entertained regarding some of the evidence of the witness Vojinovic, I shall have it noted at this point of Miss Catt's evidence, so that no misunderstanding can arise concerning her evidence, that I have allowed a series of questions to be put to her regarding her understanding of, in general terms, what Novak was doing in connection with Mr. Hume's Investigation Services. I have allowed these questions as relating directly to the credit of Miss Catt in that when the subject of Mr. Novak was first raised she, at an early point of her evidence on the topic, appeared to me to be attempting to disclaim knowledge, or at all events any close knowledge, of the man Novak. The questions and answers that I allowed have not been admitted as being evidence of the fact which might otherwise appear to be stated in the answers given by the witness - they have been allowed solely on this basis of credit. 20 30

MR. GRUZMAN: Q. You were telling us that this other young lady, Miss Turnbull, would sometimes take telephone calls? A. Yes.

Q. Did she sometimes take telephone calls during the first two weeks of January 1967? A. No, I don't think she would have. 40

Q. How can you tell? A. Because I did not know her then.

Q. I beg your pardon? A. I didn't know her then.

Q. When did you first know her? A. Approximately it would have been about September.

Q. Of 1967? A. Yes.

Q. So that is this the position, that during the first two weeks of January 1967 no other girl or woman other than yourself would have taken telephone calls on Mr. Hume's number? A. Correct. 50

Q. Is that right? A. Yes.

Q. Do you remember an occasion early in January 1967 - and if there were more than one of these occasions you can say so - when someone rang up during the afternoon to speak to Mr. Hume? A. Who is "someone"?

Q. There may have been many of them, I suppose?
A. There may have been. I can't remember. It is going back a long time. What date are you stating, or are you only stating the week? 10

Q. We will take it in the first week of 1967. Do you recall whether there were any phone calls for Mr. Hume over that period? A. Yes, on Saturday, 7th January.

Q. There was a phone call? A. Yes.

Q. Who was that from? A. Mr. Armstrong.

Q. Did you take the phone call? A. No, Mr. Hume answered the phone.

Q. What time was that? A. Approximately 8 a.m. in the morning. 20

Q. Well, just forgetting dates for the moment -
A. Yes.

Q. But thinking about the subject matter of the phone call - you know what I am getting at, don't you? A. No.

Q. Don't you know what I am going to ask you?
A. No.

Q. Don't you know I am going to suggest to you that Vojinovic spoke to you on the 7th January? 30
A. No.

Q. You knew that I was going to suggest that to you? A. No.

Q. Has Hume ever discussed with you the fact that a 'phone call was supposed to have come to the office on 7th January? A. No, I have read it in the papers.

Q. You knew what I was going to ask you about, didn't you? A. You just told me that.

Q. You read it about it in the newspapers? 40
A. Yes.

Q. You knew when I started this line of questioning - ? A. I didn't know. I didn't think about it.

Q. Just came in a blinding flash, did it? A. No, just came to me when you said it.

Q. You now know the subject matter of the questions,

don't you? A. I don't know what else you are going to ask me, if that is what you mean.

Q. When you read in the newspaper that Vojinovic had said that he had telephoned this office on that Saturday afternoon I suppose you gave the matter some thought, did you? A. Yes.

Q. When did you read that? A. I can't remember. The papers have been out practically from Tuesday to Thursday on this. I can't remember when I read it. 10

Q. Something like three months ago, wasn't it?
A. It may have been. After Vojinovic had given evidence.

Q. Who have you discussed that matter with since?
A. Since?

Q. Since you read that in the newspaper? A. I discussed it with Mr. Hume.

Q. Yes. A. With Mr. Grant.

Q. Yes. A. With Mr. Bainton. 20

Q. Did you compare notes with Mr. Hume as to what happened on that day? A. No, but we came to the conclusion that we were at a party on New Year's Eve and my parents then remembered driving me back on the Wednesday after New Year's Eve. I spent the Christmas and New Year's Eve with my parents. On New Year's Eve I went to a party with Mr. Hume in Ermington and went back to my residential address, and Mr. Hume returned to Riley Street and I returned with my parents on the Wednesday back to Riley Street, and there Mr. Hume informed my parents and myself that we might be going up to the river on Saturday and Sunday of the week - on the weekend. 30

Q. When did you have that discussion with Mr. Hume? A. With my parents on Wednesday, when my parents drove me back.

Q. The discussion you have just told us about when you said that - I think the term you used was that you agreed that these events had happened?
A. Yes. 40

Q. That occurred three months ago, did it? A. No, that didn't occur - that occurred after Vojinovic was in the box.

Q. Which is approximately, I think, three months ago? A. Yes, approximately.

Q. And then you worked out, did you, that Mr. Hume had been up the river on the Saturday? A. We didn't work it out.

Q. Well that is the conclusion you came to, wasn't it? A. We were both up there on the Saturday and the Sunday.

Q. Did you start to see if anyone else remembered that? A. Why should I start to see if anyone remembered that? I knew who was up there. It was the first time I had been there.

Q. You regarded the fact that Vojinovic had, so far as you knew, given false evidence as important, didn't you? A. Yes, of course.

Q. To your knowledge over that period from, say, the first seven months - say from July 1966 to January 1967, Mr. Armstrong to your knowledge paid Hume more money than all his other clients combined, didn't he? (Objected to by Mr. Bainton; rejected). 10

Q. You were aware of the business that Mr. Hume was doing, weren't you, from at least August 1966 to January, up to and including January 1967? A. No, I was not aware of it, because I did not start in the business until February 1967.

Q. You know, for example, I think you told us - ?
A. I said I was not aware of his books. I am not aware of his books. I didn't have his books. I didn't ever have his books. 20

Q. Not even when you owned the business? A. Not even when I owned - I didn't own the business.

Q. When you were a partner in the business?
A. Why would I want to look at the books? They had been left with Mr. Harasty.

Q. When you were a partner in the business, the same books had been kept as had been kept by Mr. Hume? A. Which book? 30

Q. The cash book? A. It could have been. I would not know. I never see that book.

Q. Have you never seen that book before? (Indicating Zion's book). A. I have seen it before to just glance at. I have not looked through it.

Q. You recognise that as a cash book of the business? A. Yes.

Q. In a private inquiry agent's office to your knowledge a diary is kept with details of work done, isn't it? (Objected to by Mr. Bainton; rejected). 40

Q. Do you at the present time keep on behalf of Mr. Hume a diary showing details of the work which he had done? (Objected to by Mr. Bainton; allowed). A. No, Mr. Hume writes up his own personal diary. I only take the telephone messages for the telephone message book.

Q. I show you this book, and tell me in whose handwriting is it? A. That is Mr. Hume's. That is definitely Mr. Hume's.

Q. I beg your pardon? A. Mr. Hume's.

Q. Mr. Hume's handwriting? A. Yes.

Q. And is this a book - you might just have a look at it - this is a diary showing each day's activities in detail, isn't it? (Objected to by Mr. Bainton; question withdrawn).

Q. In November and December of 1966, did you observe in Mr. Hume's office a diary similar to the book in front of you? A. Practically the same it was.

Q. Practically the same? A. Yes.

10

Q. And did you see Mr. Hume writing in it?
A. Yes,

Q. And to your knowledge, did Mr. Hume enter in that diary in detail his activities from day to day? (Objected to by Mr. Bainton; rejected).

Q. In your belief did the book which you saw in the office and which you saw Mr. Hume writing in in November-December 1966 record Mr. Hume's day-to-day activities during that period? (Objected to by Mr. Bainton; rejected).

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Q. You might just tell us what Mr. Hume's procedure was as to entering his diary during November-December 1966. (Objected to; rejected).

Q. Miss Catt, I think you have already told us, haven't you, that during November-December 1966 Mr. Hume kept a diary? A. Yes.

Q. And I think you also told us that it was, if I am not mistaken, the same as the book in front of you? A. No, I didn't. I said it was similar.

Q. Similar to the book in front of you? A. Yes.

30

Q. And what did Mr. Hume put in the diary? What sort of material? (Objected to; rejected).

Q. Did you see what Mr. Hume put in the book?
A. Yes.

Q. What sort of material went into it? (Objected to by Mr. Bainton; rejected).

Q. What sort of material went into the book?
A. Mr. Hume mostly noted in divorce proceedings, - divorce investigations, interpreting, and that sort of thing.

40

Q. Divorce proceedings and interpretations?
A. Interpreting.

Q. You said it was similar to this book? A. Similar to the book, but not similar to the literature.

Q. (Approaching witness with book). I will open it to Day 1, which is the financial year 1962/63 and I take the first entry, which happens to be Saturday, 27th October 1962, and it is a detailed statement - (Objected to).

Q. Read as many entries on as many pages in that book as you like. A. To myself?

Q. To yourself -

HIS HONOUR: Q. What you are going to be asked, Miss Catt, after you have had a look at it, is that the sort of material which was contained in the 1966 book. A. I understand.

Q. No one is going to ask you questions about the details of what is there. A. I know what this book is about. It is similar, but not in detail. 10

MR. GRUZMAN: Q. In other words, the diary in use at the end of 1966 - that diary contains similar material to the diary which is now before you?

A. He didn't do as much work.

Q. He didn't do as much work in that period?

A. No.

Q. But whatever work he did was recorded in the diary in the same way as that one? A. That is right. 20

Q. You might have a look at these cards. I show you three different types of cards. Were these cards in use by Mr. Hume in connection with his business during the period November 1966 to January 1967? (Objected to; allowed). A. This one I have never seen. That must have been one that Mr. Harasty got. I have never seen that one (indicating smaller white card). This one I have seen. We had quite a number of those that we used. 30

Q. That is the larger white card? A. Yes. We use a lot of those. And these were printed in November 1967.

Q. The yellow slip was printed in November 1967? A. Yes.

(Small white card m.f.i. 62).

(Larger white card m.f.i. 63).

Q. The question I got to, before I was diverted, was a question directed to your knowledge of the extent to which Mr. Hume did work for Mr. Armstrong over the period from the time you started working there up to the end of January 1967. That was the subject matter, do you remember? A. Yes. 40

Q. Of course, as the secretary, and the only secretary, you would have had a pretty fair idea of what work was going through the office. wouldn't you? (Objected to by Mr. Bainton; rejected).

Q. Miss Catt, you, up to three months ago were very closely associated with Mr. Hume, weren't you? A. What do you mean, up to three months ago. I still am very closely associated. 50

Q. And you still are? A. Yes.

Q. And anything that affected Mr. Hume you would regard as something which indirectly affected yourself? A. Yes.

Q. And you would regard it as proper that you should endeavour to protect Mr. Hume's interests as far as you could? A. Protect Mr. Hume's interests?

Q. Yes. A. In what way? 10

Q. In any proper way. A. Proper way, yes. I would protect his interests if they were proper.

Q. And in your belief it was in Mr. Hume's interests that the charges made by Mr. Barton should be disproved? A. They were false.

Q. They were false? A. Yes.

Q. And when you saw in the newspaper three months ago that Vojinovic had given evidence which in your belief - you say to your knowledge was false, what did you do about it? A. What did I do about it? I spoke to Mr. Hume about it. 20

Q. Spoke to Mr. Hume? A. Yes.

Q. And then you told us you had a discussion in which you came to agreement as to what had occurred over that relevant weekend? (Objected to by Mr. Bainton; rejected).

Q. You and Mr. Hume came to a conclusion as to what had occurred that weekend? A. After speaking to my parents, yes.

Q. What did you do then? A. I didn't do anything. I did not know what more I should do. 30

Q. Didn't you feel it your duty to get in touch with Mr. Armstrong and tell him about this? A. That was Mr. Hume's duty, I would imagine, because I am not involved in the case. At that time I was not.

Q. Did Mr. Hume tell you he had spoken to Mr. Armstrong? (Objected to; allowed).

Q. Did Mr. Hume tell you he had spoken to Mr. Armstrong? A. Yes, I think he did.

Q. About this subject matter? A. Yes. 40

Q. When did he tell you that? A. I can't really remember. I think when we played - we played tennis there one Sunday. I imagine it was in front of everybody. There were a number of people there, I imagine, because I was probably out in the kitchen. He told me he told him.

Q. When do you think it was you played tennis - that you and Mr. Hume played tennis at Mr. Armstrong's place, following Vojinovic's evidence? A. About two months ago. 50

Q. About two months ago? A. Yes.

Q. Who else was present? A. When we played tennis there was a lady named Leone Cross and Margaret and Mary Armstrong - the two daughters - and their boy friends, and Phillipa. I don't know her last name. There were a number of people there. There is always a large crowd there.

Q. And you know as a result of what Mr. Hume told you that on that occasion Mr. Hume discussed with Mr. Armstrong Vojinovic's evidence, and your knowledge about it? (Objected to by Mr. Bainton; rejected). 10

Q. Were you present at a conversation when Mr. Hume spoke to Mr. Armstrong about this matter?

A. No, I was not. I was not present. I was not present, because Mr. Hume told me he spoke to Mr. Armstrong, so I must not have been present.

Q. When did he tell you that? A. It would probably be soon afterwards. 20

Q. Soon afterwards? A. Probably the night afterwards.

Q. He told you then he had discussed with Mr. Armstrong what? A. That we were up the river on the 7th and 8th January.

HIS HONOUR: Q. I didn't hear that. A. That we were up the river on 7th and 8th January; therefore it would have been impossible for Mr. Vojinovic to phone.

Q. Therefore it would have been impossible - ? 30
A. For Vojinovic to phone.

MR. GRUZMAN: Q. You are pronouncing that word - ?
A. In Yugoslav.

Q. What did Mr. Hume tell you about that exactly? A. What did he tell me?

Q. About that conversation? A. I think he said he had mentioned it to Mr. Armstrong.

Q. What did he tell you Mr. Armstrong had said?
A. He didn't say anything. I didn't ask him.

Q. Didn't you ask him? A. No. 40

Q. Did you then recollect who else had been present on that weekend? A. Did I recollect.

Q. Yes. A. The same crowd was always present. Every time we go there, there is the same crowd there.

Q. I am sorry, perhaps I have misled you. Do you mean at Mr. Armstrong's home? A. Yes, that is right.

Q. When you saw Vojinovic's evidence and you

subsequently came to this conclusion with Hume did you then recollect who had been up the river with you on that weekend? A. Yes, because I was there for the first time, and it was the first time I had met these people. I have mentioned that previously in my evidence, and that is how I recollect it.

Q. You remember all their names? A. Yes, I remember their names, because I had met Miss Rosewell on another occasion previously after we had been to the river.

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Q. Did you speak to Miss Rosewell about this?
A. No, I didn't speak to her. I may have mentioned it to her, but nothing out of the ordinary.

Q. When do you think you might have mentioned it to Miss Rosewell? A. Yesterday.

Q. Where was that? A. Outside.

Q. Outside? A. It may have been yesterday or the day before. I think it was yesterday.

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Q. You had a discussion with Miss Rosewell about the evidence here? A. No, not about evidence.

Q. Well, about what? A. Just about the river.

Q. And who was there? A. I think Mr. Grant was present at the time.

HIS HONOUR: Q. I am sorry, I didn't hear that. A. Mr. Grant was present at the time.

MR. GRUZMAN: Q. You, Miss Rosewell and Mr. Grant had a conversation about the river? A. Yes.

Q. And that was where? Outside the Court? A. Yes, that is right.

30

Q. You think the day before yesterday? A. Yes, about then, or yesterday.

Q. By the way, do you remember the Court adjourned, about an hour ago while some legal discussion took place in the Court, didn't it? A. For lunch?

Q. After lunch -

HIS HONOUR: I don't recall that.

MR. GRUZMAN: Q. You went outside the Court, didn't you? A. Yes.

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Q. While legal discussion took place in the Court? A. Yes.

Q. And you went and sat on a seat outside, didn't you? A. Yes.

Q. And Mr. Grant and Mr. Armstrong went out and sat beside you, didn't they? A. They were there when I went out.

Q. And you had a discussion with them then, didn't you? A. No, I didn't. They said, "Is the case finished?" and I said "No".

Q. Who asked you "Is the case finished?"
A. Mr. Grant.

Q. And that is your recollection of the conversation? A. Yes.

Q. And that is all that was said? A. Yes, that is all.

10

Q. And you are serious about that? A. Yes.

Q. To your knowledge did Mr. Hume speak to anyone else other than Mr. Armstrong? A. He spoke to Mr. Grant.

Q. This is three months ago? A. No.

Q. Well, when was that? (Objected to by Mr. Bainton; rejected).

Q. I am dealing now with the fact that you observed Vojinovic's evidence in the newspaper and had a discussion with Mr. Hume? A. Yes.

20

Q. You told us that that matter was subsequently discussed with Mr. Armstrong by Mr. Hume? A. That is right.

HIS HONOUR: That is not what the witness said. The witness has told you that Hume told her that he had discussed it with Mr. Armstrong.

MR. GRUZMAN: Q. To your knowledge, as a result of anything that Mr. Hume told you or otherwise, did Mr. Hume discuss that subject matter with anybody else about the same time? (Objected to by Mr. Bainton; rejected).

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Q. Did Mr. Hume tell you at the same time that he had discussed that subject matter with anybody else? (Objected to by Mr. Bainton; allowed).
A. No, he didn't.

Q. I beg your pardon? A. He didn't, no.

Q. He didn't tell you? A. No.

Q. Did you discuss it with anybody else? A. No.

Q. Did you happen to see Miss Rosewell? A. The first time I saw Miss Rosewell after - a few days ago.

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Q. The first time you saw her was a few days ago?
A. Yes.

Q. After Vojinovic gave his evidence? A. No, I saw her over at Armstrong's one afternoon when she was playing chess.

Q. That was after Vojinovic gave his evidence? A. Yes it would have been.

Q. How long ago was that? A. Approximately six or eight weeks ago.

Q. What discussion did you have with her on that occasion? (Objected to by Mr. Bainton; allowed).

Q. What was discussed between you and Miss Rosewell? A. I had a very bad cold that day, so I was only with Miss Rosewell for about an hour. We were all together in the same room, and they were not discussing anything in general (sic). 10

Q. You were with her for an hour, and you had realised that Mr. Hume's interests might be indirectly affected by false evidence that you had read in the newspapers? A. No.

Q. But you knew that at that time, didn't you? A. No.

Q. Miss Catt, you knew that at that time, didn't you? A. I knew what?

Q. You knew that Vojinovic had given evidence which you regarded as false? A. That is right, yes. 20

Q. And you knew that that false evidence indirectly affected Mr. Hume's interests didn't you? A. That is right, yes.

Q. And you knew that you could prove it was false, because you were up the river? A. Yes.

Q. And you knew that Miss Rosewell was another person who could remember it was false, because she was up the river? A. Yes. 30

Q. And do you tell his Honour you never said a word about it to her? A. No, I didn't. Everybody was talking about the case. I mean the whole public was talking about the case. But we didn't mention the case. Well, I didn't, anyway. I had a very bad cold. I can remember I was very sick.

Q. Look, you were at Armstrong's home? A. Yes.

Q. How long after Vojinovic had given evidence? A. Two months probably. 40

Q. Two weeks, wasn't it? A. It could be two weeks. Well, I can't remember.

Q. You keep on smiling and looking at Mr. Armstrong, when you give these answers, don't you? A. No.

Q. And pouting at him? A. I am not pouting at anyone.

Q. You were at Mr. Armstrong's home within two weeks after this evidence by Vojinovic was given? A. It would be six weeks, approximately.

Q. And Mr. Armstrong was there? A. Yes.

Q. And Mrs. Armstrong? A. Yes.

Q. Fred Hume? A. Yes.

Q. Miss Rosewell? A. Yes.

Q. And the newspapers were full of it at the time, weren't they? A. Could have been.

Q. And do you say that within an hour's discussion with Miss Rosewell and all the others present not a word was said about the case?

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A. Well, I don't know. I can't remember.

Q. Madam, that is not true, is it? A. It is true. If you can't remember something I can't remember whether it was discussed or not. I know I was very sick and wanted to go home.

Q. Why did you go in the first place? A. Because Mr. Hume wanted me to go. He likes me to go there.

Q. How often did you go to Mr. Armstrong's home? A. Every time Mr. Hume goes.

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Q. Every time? A. Yes.

Q. How frequently do you go? A. Once a month.

Q. You are a friend of Mr. Armstrong's too, aren't you? A. Yes, I am a friend.

Q. And Mrs. Armstrong? A. Yes.

Q. As a friend didn't you feel it was your duty to say - do you call him "Alec"? A. No, "Mr. Armstrong".

Q. You call him Mr. Armstrong? A. Yes.

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Q. "Look, Mr. Armstrong, this man has told a lie, and I know it, and I can prove it". Did you say that? A. Why should I say it?

Q. You didn't say it? A. No.

Q. You didn't say it to Mr. Armstrong? A. No.

Q. You didn't say it to Mrs. Armstrong? A. No.

Q. To Miss Rosewell? Did you say "Look Dorothy" - do you call her Dorothy? A. Yes, I call her Dorothy.

Q. Didn't you say "Look, this man has told a lie"? A. No.

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Q. "You know it is a lie"? A. No, I didn't say that.

Q. "You were there"? A. No.

Q. You didn't say that? A. No.

Q. Not a word? A. No.

Q. No discussion? A. No. It is not my place to say it.

Q. It could not be that that there was a little scheme worked out? A. Definitely not.

Q. To pretend that you and Hume were there, when you were not? A. No, definitely not.

Q. Nothing like that could possibly occur?

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A. No.

Q. Do you know - is it within your knowledge that Fred Hume gets the confidence of criminals to give them away to the Police? (Objected to by Mr. Bainton; rejected).

Q. Do you, as part of your work with Fred Hume, help to get the confidence of criminals? (Objected to by Mr. Bainton; rejected).

(Further hearing adjourned until 10 a.m. Tuesday, 10th September, 1968).

BARTON v. ARMSTRONG & ORS.

THIRTY THIRD DAY: TUESDAY, 10TH SEPTEMBER, 1968.

ANNETTE VERONICA CATT

On former oath:

MR. PURVIS: Before the evidence resumes, there are three matters in the transcript from last Thursday. On p. 1151, the third question from the bottom, the question reads "Did not Mr. Armstrong ring him at the office." "him" should be "Hume". 10

HIS HONOUR: Yes. That correction will be made.

MR. PURVIS: At p. 1166, the second question, the transcript shows "Has Novak ever discussed with you the fact that a phone call....." "Novak" should be "Hume".

HIS HONOUR: The Court Reporter states that he noted at the time the use of the word "Novak". The transcript will not be altered. 20

MR. PURVIS: On p. 1169, the second question, the transcript shows "Q. That is the larger white card? A. Yes. We use a lot of those. And these were printed in November 1967". It is my recollection that it was the yellow -

HIS HONOUR: That is the evidence given by the witness.

MR. PURVIS: It was the yellow card that was printed in November. I am concerned less there be any ambiguity -

HIS HONOUR: Any ambiguity is the result of lack of supervision of the witness by counsel. 30

MR. GRUZMAN: Q. Miss Catt, you appreciate that when you were last in Court I was suggesting to you that you had conspired to give false evidence about the alibi for Mr. Hume. That was the suggestion I was making, wasn't it? A. Yes, that is right.

Q. And in particular I was suggesting to you that it had been suggested to you by someone else that it was necessary to have this false evidence because Vojinovic had given evidence about a phone call. Do you remember that? A. Yes, that is right. 40

Q. And you said that that in effect was not true, because you had read about Vojinovic's phone call in the newspapers? A. That is right, yes. So far as I can remember, yes.

Q. Well, that is true, isn't it? A. That is what I said.

Q. That is what you said, and when you said it you knew you were on oath, didn't you? A. Yes, that is right.

Q. And I suppose it was true? A. Yes.

Q. So your knowledge about Vojinovic making a phone call came from the newspapers? A. So far as I can remember, yes.

Q. Look, you have not got any doubt about it, have you? A. No.

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Q. It would not be the case that perhaps at Mr. Armstrong's home that you were told "Now look, Vojinovic has given evidence about a phone call. We will have to work out an alibi for Fred."
A. Definitely not.

Q. What you say is that you read it in the newspapers? A. Yes, I believe that is where I read it.

Q. And having read it in the newspapers you spoke to Fred Hume about it? A. That is right.

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Q. Had he read it in the newspapers? A. He may have. I don't know.

Q. You certainly read it in the newspaper?
A. So far as I can remember I did.

Q. Was Fred Hume with you when you read the newspaper? A. No.

Q. Did you then go to him and say "I have read this in the newspaper. We must do something about it," or something like that? A. Probably something like that, yes.

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Q. What newspaper do you read? A. All the newspapers.

Q. All the newspapers? A. Yes.

Q. You told his Honour earlier that you read this in the newspaper. I think you said after Vojinovic gave his evidence? A. I can remember reading it. I don't know when it was. It could have been after Vojinovic gave his evidence. I can't remember when it was.

Q. You told his Honour that you read it in the newspaper after Vojinovic gave his evidence. Was that true, or false? A. You said "Was it after he gave his evidence?" and I said "It could have been, yes".

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Q. Have you any doubt that you read this in the newspaper after Vojinovic gave his evidence? A. I may not have read it - I don't know. I don't know when I read it, but I can remember reading it.

Q. Didn't you say, on p. 1166, in relation to the

time when you read it - you were asked: "Q. Something like three months ago, wasn't it? A. It may have been. After Vojinovic had given evidence." Was that a true answer? A. That is what I said.

Q. Was it true? A. What I can remember.

Q. So that the position is that you read that Vojinovic had made a phone call - you read in the newspaper that Vojinovic had made a phone call after Vojinovic had given his evidence? A. I could not remember. It could have been after -

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Q. You now say you can't remember? A. It could have been then. I can't remember roughly when it was.

Q. You did have the discussion with Mr. Hume after Vojinovic gave his evidence, didn't you? A. It could have been afterwards, yes.

Q. I would like you to be a little bit careful. Didn't I ask you these questions on Thursday, towards the bottom of p. 1166: "Q. The discussion you have just told us about when you said that - I think the term you used was that you agreed that these events had happened? A. Yes. Q. That occurred three months ago, did it? A. No, that didn't occur - that occurred after Vojinovic was in the box.

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Q. Which is approximately, I think, three months ago? A. Yes, approximately."

Q. Was that true? A. Yes.

Q. So that the position is that after Vojinovic had given evidence you had a discussion with Fred Hume about the events of that weekend? A. It could have been after, I remember reading it. I don't know when it was exactly.

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Q. Has your memory deteriorated since last Thursday? A. No, it has not deteriorated, but there have been so many news clippings about it that I can't remember when it was.

Q. So many news clippings? You can tell from the line of my questions that I am going to ask you about newspapers? A. Well, you are questioning me already.

40

Q. I put it to you that there never was in any newspaper after Vojinovic gave his evidence any statement that Vojinovic had made a phone call. (Objected to by Mr. Bainton; not pressed).

Q. I am now going to hand you all the newspapers published after Vojinovic gave his evidence. You can, if you like, accept my word for it - but you certainly don't have to - that I am handing you now copies of all the Sydney newspapers published after Vojinovic had given his evidence, and I am going to suggest to you that there is no statement in any one of these newspapers that Vojinovic had made a phone call to Hume (Objected to by Mr. Bainton; allowed).

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Q. Miss Catt, over this period were you taking any special interest in this case? A. Yes.

Q. You were? A. Yes.

Q. Do you have a newspaper delivered to your office? A. No, I bought the newspapers.

Q. You bought - A. I bought most of the papers. We don't have them delivered.

Q. You do buy most of the papers? A. Yes.

Q. What time of the day do you buy them? A. From 12 midday. Usually 12 o'clock and the 4 o'clock one and the evening papers. 10

Q. You buy all the editions, do you? A. Most of them, yes, when the case is on.

Q. Where do you get them from? A. From Wynyard.

Q. From Wynyard? A. Yes.

Q. Can I ask what you would be doing at Wynyard over that period? A. I don't buy them every day, but if I am in town at the time I will buy them.

HIS HONOUR: Q. I did not hear that answer. A. I am usually in the city every day between 12 and 3. 20

Q. Are you telling me you buy three editions of both evening papers each day? A. No, I don't. If I am in the city I buy them.

Q. Three editions of each evening paper? A. No, one of them. I could buy the 12 o'clock one day, and the 4 o'clock next day.

MR. GRUZMAN: Q. I am going to suggest to you that these are at least one edition of all the newspapers published in the city or containing any report of Vojinovic's evidence, and you can take my word, if you like, that my instructing solicitor has read all of these newspapers, and none of them contain any statement that Vojinovic made a phone call to Hume. Are you prepared to accept that, or would you like to check it yourself? A. No, I am prepared to accept it. 30

Q. You see, madam, I put it to you that you never saw in any newspaper a statement that Vojinovic had made a phone call to Hume. A. Yes I did, because I can remember reading it. 40

Q. You swear that positively? A. I can swear that.

Q. And you accept that in the newspapers presented to you here no such statement appears. (Objected to by Mr. Bainton.)

Q. Miss Catt, are you prepared to accept that my instructing solicitor, Mr. Fitzgerald, has read through

each of these newspapers and that there is no statement in any of them that Vojinovic made a phone call to Hume. (Objected to by Mr. Bainton)

(Copy of Daily Mirror, 4, 5th and 6th June 1968; copy of Australian, 5th, 6th and 7th June 1968; copy of Daily Telegraph, 5th, 6th and 7th June 1968, copy of Sun, 4th, 5th and 6th June 1968 and copy of Sydney Morning Herald, 5th, 6th and 7th June 1968 tendered; ruling on admissibility deferred until Mr. Bainton has had the opportunity to examine the newspapers).

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Q. I would just like to take you to this weekend?

A. Yes.

Q. - up the Hawkesbury. Did Mr. Hume ski prior to this weekend? A. Yes, he could ski, but not very well.

Q. So from the moment you arrived there the first time Mr. Hume started to ski? A. Yes. He was on both skis, but he was falling off quite a lot.

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Q. And I think what you tell us is that you arrived there before Mr. Murray and Miss Rosewell?

A. That is right.

Q. And Mr. Hume immediately started skiing?

A. Yes. Mr. Armstrong, Mrs. Larkin and Mr. Hume had it in turns skiing.

Q. And Mr. Hume was reasonably competent on his skis? A. Well, he was falling off quite a lot, but he was not too bad.

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Q. He improved? A. Yes.

Q. And I think that later on the party went down to Mr. Miles' caravan, is that right? A. That is right, yes.

Q. And Mr. Hume was one of two skiers who skied on the way back behind the boat? A. Yes, that is right. I think that was about the time. I don't think he skied back with Mr. Miles, but I think he was skiing later on when we were going down. I can't remember. I don't think he skied back with Mr. Miles.

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HIS HONOUR: Q. Did you say "from Mr. Miles'" or "with Mr. Miles"? A. He did not ski back with Mr. Miles, because Mr. Miles was skiing also.

Q. On his own? A. Yes.

MR. GRUZMAN: Q. Isn't this what you said, on p. 1149, half way down the page: "Two people skied back, it must have been Mr. Hume and Mr. Miles, skied back down the river." That is from Miles' place, is that right? A. I could have said that. He was skiing. I think he was skiing going back, but he would not have skied with Mr. Miles, because Mr. Miles is a very good skier.

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Q. I am only putting to you what you said. You have a very clear recollection of this, don't you?

A. Yes. I am quite clear what happened.

Q. Very clear - so clear that you even remember the ice creams that you had? A. Yes, that is right.

Q. You have a perfectly clear recollection of them? A. Yes. They were skiing a lot. I only had ice cream once, but they went skiing all the weekend. 10

Q. Mr. Hume was skiing all the weekend? A. Yes. Most of the weekend, yes.

Q. You never saw Mr. Murray skiing at all, did you? A. Mr. Murray could have skied a little, I think.

Q. You never saw him ski at all, did you? A. No, because I think when he went skiing I was sitting up in the hut on the Sunday afternoon.

Q. You never saw Mr. Murray ski at all, did you? 20
A. No, I don't think I did see Mr. Murray ski.

Q. But you saw Mr. Hume skiing almost on and off anyway, from the moment you arrived there? A. That is right, yes.

Q. And you have got a perfectly clear recollection of that? A. Yes.

Q. Is that right? A. Yes.

Q. Isn't this what you said: "We went up to Mr. Miles' caravan and had ice creams and a cup of tea. He had a very big dog. Mr. Miles and Mr. Murray - 30
Mr. Murray didn't go that time. Two people skied back, it must have been Mr. Hume and Mr. Miles, skied back down the river." Is that right? A. It could have happened.

Q. I beg your pardon? A. Well, I can't remember. They were skiing a lot - a lot of the weekend. He went skiing. Mr. Miles is a very good skier, so Mr. Hume would not have been skiing with Mr. Miles, so he could have skied back with Mrs. Larkin. I can't remember really. 40

Q. You now think that Mr. Hume and Mrs. Larkin skied back together? A. They could have. They were skiing together also that weekend.

Q. You appreciate the importance of this evidence, don't you? A. Yes.

Q. You do, don't you? A. Of course, yes.

Q. You appreciate the importance of your oath, don't you? A. Yes.

Q. Well, why did you tell his Honour "Two people

skied back, it must have been Mr. Hume and Mr. Miles, skied back down the river." Why did you say that? A. Because they could have skied back, but I can't remember. Mr. Miles was definitely skiing. I can remember him skiing, because he was a very good skier. He was jumping the wash.

Q. You remember that? A. Yes, I remember him jumping the wash.

Q. Do you say that Mr. Hume and Mr. Miles did not ski together? A. So far as I can remember, no. I don't think they did. 10

Q. You want to withdraw that statement that you made on Thursday? A. Yes, if I said that.

Q. You withdraw that? A. Yes.

Q. Now you say that Mr. Hume and Mrs. Larkin skied back? A. They were skiing together quite a lot, yes.

Q. We are talking now of the trip back from the caravan, and the ice creams? A. Yes. 20

Q. Right? A. Yes.

Q. Who skied together then? A. Mr. Hume and Mrs. Larkin.

Q. Mr. Hume and Mrs. Larkin? A. Yes.

Q. You are sure of that? A. Yes. But I think that Mr. Hume fell off half way back, or something, and Mr. Miles was skiing then, because Mr. Hume didn't go all the way back.

Q. This is another variation now. You say Mr. Hume skied half way back? A. Yes. 30

Q. So Mr. Hume skied half way back with Mrs. Larkin? A. Yes.

Q. And then what happened to the other half, A. Mr. Miles skied back with Mrs. Larkin.

Q. With whom? A. With Mrs. Larkin.

Q. Now Mr. Hume skied half way back with Mrs. Larkin? A. Mrs. Larkin.

Q. And the other half Mr. Miles skied with Mrs. Larkin? A. Yes.

Q. You remember that? A. Yes. 40

Q. That is right, is it? A. Yes.

Q. You have a clear recollection of this? A. I can't remember - they went skiing so many times that it must have been them.

Q. You remember the ice creams and the caravan?
A. Yes. I only had ice cream once up there.

Q. You only had ice cream once? A. Yes.

Q. This trip you are talking about - the time you went down and had the ice cream at the caravan and skied back - you have given us several different versions, haven't you - either that Mr. Hume and Mr. Miles skied back all the way, or Mr. Hume and Mrs. Larkin skied back all the way, or that Mr. Hume and Mr. Miles (sic) skied back half way and Mrs. Larkin and Mr. Miles skied back the other half. Which one do you say is right?

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A. Mr. Miles and Mrs. Larkin skied half way back, and Mr. Hume and Mrs. Larkin.

Q. You have got a perfectly clear recollection of this? A. So far as I can remember that is correct, yes.

Q. You have this in your mind? It is something you can picture? You are telling his Honour what you remember? A. Yes.

Q. That is right? A. Yes.

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Q. You never saw Mr. Murray teaching Mr. Hume to ski, did you? A. He could have been teaching -

Q. Answer my question? A. No, I didn't see it, no.

Q. Is it possible that what happened was that Mr. Armstrong asked you and Mr. Hume to come up on one day to drive his car back? A. I beg your pardon?

Q. Is it possible that Mr. Armstrong asked you and Mr. Hume to come up the river to drive his car back while he took the boat back? A. No.

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Q. Nothing like that happened? A. No.

Q. You knew when you left Sydney that Mr. Armstrong was going to bring the boat back, didn't you?
A. Yes.

Q. So that part at least of the object of the expedition was that Mr. Armstrong would take the boat back? A. That is right, yes.

Q. I beg your pardon? A. Yes, Mr. Armstrong would take the boat back.

Q. He was going to take the boat back? A. Yes.

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Q. And he was going to take the boat back with Mrs. Larkin? A. That is right, yes.

Q. And you knew before you left Sydney that somebody would have to drive Mr. Armstrong's car back?
A. No, I did not know someone would have to drive it back, because I didn't know what the arrangements were.

HIS HONOUR: Q. Because you didn't know - A. What the arrangement would be - who was going to drive it back.

MR. GRUZMAN: Q. You didn't know who was going to drive back? A. No.

Q. You knew before you left Sydney that you would have to drive Mr. Armstrong's car back if he was going back in the boat? A. Yes.

Q. Was there any discussion as to who would drive the boat (sic)? A. No, not before we left.

Q. It came as a complete surprise to you? A. We didn't talk very much before we left, because Mr. Armstrong came around about 10 o'clock and we just followed him up the river in the M.G. Mr. Hume and I followed up the river in the M.G. 10

Q. You knew before you left that one of the objects was for Mr. Armstrong to take the boat back? A. No, I didn't know that.

Q. You didn't know that? A. No.

Q. But you told us only two minutes ago that you did know that one of the objects of the expedition was for Mr. Armstrong to take his boat back, didn't you? A. Yes. When I got up there. 20

Q. Are you trying to help the Court? A. Yes.

Q. Or are you just saying the first thing that comes into your mind? A. No, I am telling the truth.

Q. You are telling the truth? A. Yes.

Q. What is the truth? Did you know before you left Sydney that one of the objects of the expedition was for Mr. Armstrong to bring his boat back to Sydney? A. No. 30

Q. You didn't know that? A. No.

Q. Didn't you know that one of the objects was that Mr. Armstrong with Mrs. Larkin would bring the boat back to Sydney? A. I did not.

Q. You didn't know that? A. No.

Q. And didn't you know that someone, whoever it might be, would have to drive Mr. Armstrong's car back? A. No, I didn't know.

Q. Never knew that? A. No.

Q. This is all true, isn't it? A. Very true. 40

Q. Very true? A. Yes.

Q. When did you first find out that Mr. Armstrong was going to come back in the boat? A. On the Sunday, I believe. On the Sunday.

Q. It came as a surprise to you? A. No.

Q. Not a surprise? A. No.

Q. Had it been spoken of before? A. No, I don't believe so, no.

Q. It had not been? A. The boat was there. I thought it was left there all the time, as a matter of fact. I didn't know.

Q. You didn't know the boat had to come back at all? A. No.

Q. This is all true, is it? A. Very true.

Q. Very true? A. Yes.

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Q. Well, I suppose it was a disappointment to you, was it, that you had to drive back without Mr. Hume? A. No. I like driving.

Q. You like driving? A. Yes.

Q. Who told you that Mr. Armstrong was going to bring the boat back? A. Mr. Hume. He said that I would have to drive the M.G., while he was driving the Valiant.

Q. And that was on the Sunday? A. Yes.

Q. What time do you think that was? A. What time did I find out -

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Q. What time did you find out? A. It must have been about an hour before we left.

Q. And up to that time you were looking forward, I suppose, to a pleasant drive back with Mr. Hume? A. Yes.

Q. Were you? A. Yes.

Q. Were not you disappointed then, to find that you would not be able to talk to him on the way back? A. No.

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Q. You didn't mind? A. No.

Q. When Mr. Armstrong - did Mr. Armstrong speak to you on the Wednesday? A. No he didn't, because I was not there. I was with my mother all day on Wednesday, and we did not return - my parents drove me back to Riley Street about half past 7 on Wednesday night.

Q. And left you there? A. Yes.

Q. Left you there with Mr. Hume? A. Yes.

Q. Then they went back to Ermington? A. Yes.

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Q. What did Mr. Hume tell you about it? A. Mr. Hume told my parents and myself that we would probably be going up to the river with Mr. Armstrong on the weekend.

Q. Didn't he tell you anything about the boat then? A. No, he did not mention the boat.

Q. You did not know you were going for certain at that time? A. No. That is right. He said Mr. Armstrong would ring later on in the week.

Q. So that the first time you knew for certain about this was on Saturday morning? A. That is right. Definitely, 8 o'clock, I think.

Q. 8 o'clock? A. Yes.

Q. Is not the office normally open on Saturday morning? A. No, not necessarily.

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Q. Not necessarily? It opens or closes? A. Yes, it opens and closes. That is right.

Q. Doesn't it normally open until about midday?
A. No, It depends if anyone calls, yes, we will open it, but if no one is calling it would not be open.

Q. At the time that Mr. Armstrong - when you first heard from Mr. Hume on the Wednesday about the trip you did not know just when you would be going up?

A. That is right.

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Q. It could have been Saturday or Sunday? A. No, because he said we would be going on the weekend.

Q. Well, "on the weekend" could mean for one day, or two, couldn't it? A. Well, it could have been. You would not go up there for one day, because it is a very long drive.

Q. It is too far to go for one day? A. It is not too far, but if you are going away skiing for the weekend you would not just go up for one day.

Q. You would not think it worthwhile to go for one day? A. That is right.

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Q. You sort of anticipated it was two days, did you? A. Well I assumed - yes, I assumed it would be two days.

Q. But you did not know specifically at all?

A. That is right.

Q. So that it could have been just one day as at the Wednesday? A. Yes.

Q. It could have been one day? A. Yes.

Q. Did you answer the phone on Saturday morning?

A. No I didn't. Mr. Hume did.

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Q. Mr. Hume answered? A. Yes.

Q. What did he tell you then after he had the phone call? A. He said that we were to meet Mrs. Larkin and Mr. Armstrong out the front of the premises round about 10 o'clock to go to the river.

Q. That was the first time you knew? A. For sure that we were going, yes.

Q. Did he tell you then how long you were going for? A. Yes. I said "When will we be coming back?" and he said "Tomorrow evening".

Q. Was anything said about food for the weekend?
A. Yes.

Q. Who said that? A. I think - well, I don't really know. Mr. Hume didn't tell me anything about food, but apparently Mr. Armstrong had told Mr. Hume -

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Q. Mr. Hume never told you anything about food?
A. No.

Q. There was no discussion between you and Mr. Hume about food? A. We passed a shop going up and bought some things on the way up.

Q. Bought some - A. Bought some things at a little shop on the way up.

Q. What did you buy? A. Milk and tins of food and normal things.

Q. Canned food? A. Yes.

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Q. Steak and tinned meats and things like that?
A. No, just some fruit. Just bought some fruit and I think they bought tins of cream.

Q. Tins of fruit? A. And tins of cream.

Q. And some milk? A. Yes.

Q. Madam, I put it to you that you never ever spent a night at the river? A. I definitely did spend it at the river. I can remember the boat - it was such a terrible boat; it swayed all night.

Q. What, in the river? A. No.

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Q. I put it to you that all that happened was that on one day Mr. Armstrong asked you and Mr. Hume to go up to the river to drive his car back while he brought the boat back? A. No.

Q. I put it to you that you have told a pack of lies to create this alibi? A. I am not lying, Mr. Gruzman. I am telling the truth.

Q. And I put it to you that this arrangement was come to following on a discussion with Mr. Armstrong and not as a result of anything written in any newspaper? A. Definitely not.

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Q. I put it to you that at Mr. Armstrong's home a few weeks after the Vojinovic evidence was given there was a discussion in which this conspiracy was agreed upon? A. No, definitely not.

Q. You have told us that Mr. Hume told you that he discussed the matter with Mr. Armstrong? A. Yes.

Q. What did Mr. Hume tell you about his discussion

with Mr. Armstrong at that weekend? A. He said they would look into it.

Q. That who would look into it? A. Mr. Armstrong's solicitor.

Q. Would look into what? A. As to whether or not Mr. Vojinovic had made a mistake, because we were definitely up the river that weekend.

Q. Apparently there had been a discussion between Mr. Armstrong and Mr. Hume in that weekend about this alibi? A. What weekend? 10

Q. I am speaking now of the tennis party which took place at Mr. Armstrong's home where you were present and Mr. Hume was present, Mrs. Larkin was present and other people were present? A. Yes.

Q. This tennis party took place about two weeks or so after the Vojinovic evidence, didn't it?
A. I am not quite sure of the exact time.

Q. And you were telling us that Mr. Hume told you about his discussion with Mr. Armstrong? A. That is right. 20

Q. Now would you tell us exactly what he told you about that discussion? A. He said the solicitor would look into it.

Q. Would look into what? A. He said we were definitely up the river that weekend, because we were there, and Mr. Vojinovic said that it was - that hespoke to Mr. Hume on the telephone. Mr. Hume has never been in on Saturdays as it is; he has always played handball. He is never there on Saturday. 30

Q. You say "we told Mr. Armstrong..."? A. Mr. Hume told Mr. Armstrong.

Q. You were present, weren't you? A. No, I was not present. I have never spoken to Mr. Armstrong about the case.

Q. Where did Mr. Armstrong and Mr. Hume talk together, did you see? A. No. Probably at his home. They played chess. They had a game of chess.

Q. Mr. Armstrong and Mr. Hume played chess together?
A. Yes. 40

Q. While the other people were playing tennis?
A. Yes. No, we were out having a cup of tea.

Q. On the lawn, at Mr. Armstrong's home?
A. No, in their sitting room.

Q. In the sitting room of Mr. Armstrong's home?
A. Yes.

Q. Where were Mr. Armstrong and Mr. Hume? A. They were in the room next to us.

Q. In another room? A. Yes.

Q. Was the door of that room open? A. No, I don't think so.

Q. You don't think so. And then did Mr. Hume come out of the room and have a conversation with you? A. No, he did not.

Q. Well, how long was Mr. Hume in the room with Mr. Armstrong? A. How long does a game of chess take? It depends how long a game of chess takes.

Q. A couple of hours? A. No, about half an hour. It may have been half an hour. 10

Q. They were together about half an hour? A. Yes.

Q. Well then, when did you talk with Mr. Hume after that? A. Later on in the evening.

Q. Still at Mr. Armstrong's place? A. No, at my place. My residential address.

Q. Which is - A. Ermington.

Q. Ermington? A. Yes.

Q. What did he tell you then? A. He said that Mr. Armstrong's solicitor - he would tell his solicitor about it. 20

Q. Just tell us what Mr. Hume said? A. I can't really recall. I think he said to see the solicitor about it - that Mr. Armstrong was going to see his solicitor.

Q. Prior to going to Mr. Armstrong's home had you and Mr. Hume discussed what Mr. Hume was going to tell Mr. Armstrong? A. No, we had not discussed it.

Q. You had come to the conclusion that you have spoken of before? A. Yes. 30

Q. Did you assume Mr. Hume would tell Mr. Armstrong - A. I really didn't assume anything. I thought he probably would tell Mr. Armstrong.

Q. You knew he probably would tell Mr. Armstrong? A. Yes.

Q. I would like you to put in your own words, what did Mr. Hume tell you about his conversation with Mr. Armstrong? A. He didn't tell me anything. He just said that Mr. Armstrong was going to see his solicitor about it. That is all. 40

Q. Didn't he say to you "Look, I have told Alec" - did he call him "Alec"? A. "Mr. Armstrong".

Q. "I have told Mr. Armstrong that you and I remember that I was up the river that weekend"? A. That is right.

Q. Did he tell you what Mr. Armstrong commented on that? A. No. He just said he was going to see his solicitor.

Q. Well, when did you see the solicitor? A. When did I see the solicitor?

Q. Yes. A. A few weeks ago.

Q. Vojinovic's evidence was given three months ago, so I suppose it would be what? At least two months after that conversation that you first saw the solicitor? A. He didn't say I was going to see the solicitor.

Q. I am asking you, though. It was at least two months after that conversation that you first saw Mr. Armstrong's solicitor? A. It could have been. It may not have been that long. I think it might have been only about a month. 10

Q. Did Mr. Hume come with you when you went?
A. No.

Q. When did Mr. Hume to your knowledge see the solicitor? A. He went a long time ago.

Q. You, of course, have been for a long time quite familiar with the allegations in this case, haven't you? A. I didn't know what it was really all about until recently. 20

Q. I beg your pardon? A. Yes, I have been familiar.

Q. Did Mr. Hume tell you that he had found out that it was not Mr. Armstrong who was trying to get Mr. Hume killed - I withdraw that - Mr. Barton killed, but that it was really Mr. Barton was trying to get Mr. Armstrong killed. (Objected to by Mr. Bainton; rejected).

Q. I would just like to ask you one or two more questions about the man Vojinovic? A. Vojinovic? 30

Q. You told his Honour - I might just refer you to it exactly - this, when I asked about Novak. When I asked in relation to Novak did you say this, on p. 1159, "I would not know what his activities were"? A. That is right.

Q. Was that true? A. Yes. (Objected to by Mr. Bainton).

HIS HONOUR: I think you ought to put the time, Mr. Gruzman. 40

MR. GRUZMAN: Q. I am dealing now with the period Christmas-New Year 1966/67? A. Yes.

HIS HONOUR: About eight lines down from the top. I will ask Mr. Gruzman to read from there down.

MR. BAINTON: I don't think it is necessary to read it, as long as the witness' attention is directed to what she is being asked.

HIS HONOUR: Mr. Gruzman had better read it.

MR. GRUZMAN: Q. I asked you questions in these terms, on p. 1159 of the transcript: "Q. At about this time, Christmas-New Year 1966-1967, who normally drove the Falcon". You were not required to answer that question. I then asked you "Q. At about that time you saw Novak driving the Falcon did you not? A. It could have been that time, yes. Q. Did you know where the Falcon was kept at that time? A. In Mr. Novak's possession. Q. Do you know who owned the Falcon at that time? A. It was Mr. Novak. I know Mr. Novak did own it before it was registered in his name at one stage."

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MR. GRUZMAN: I think that "before" should be "because". I would ask that that correction be made.

MR. STAFF: I have no recollection, and it seems to me -

HIS HONOUR: We will not alter the transcript.

MR. GRUZMAN: Q. You were asked "Do you know who owned the Falcon at that time? A. It was Mr. Novak. I know Mr. Novak did own it before it was registered in his name at one stage." Would that be correct? A. That would be correct.

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Q. In fact to your knowledge the car was registered in Mr. Novak's name at one time, wasn't it? A. Yes.

Q. That is E.B.D. 703, the Falcon? A. The Falcon, yes.

Q. I asked you "Q. You understand that Mr. Hume transferred it to Mr. Novak? A. I think so, yes.

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Q. Did you understand also that Mr. Novak later transferred it back to Mr. Hume." You were not obliged to answer that question. You were asked "What did you observe of Novak's activities at about that time? A. I would not know what his activities were because he was very rarely there. Q. I beg your pardon? A. I would not know what his activities were. A. You added 'he was very rarely there'?

A. In Riley Street. On one occasion or a few occasions. Q. Only on one occasion or two occasions? A. Only a few occasions. He was very rarely there. He had no reason to be there."

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Do you remember those questions and answers? A. Yes.

Q. Were the answers true? A. Yes.

Q. Now when you stated on that occasion in answer to a question - you were asked "You added 'he was very rarely there'" and you answered "In Riley Street. On one occasion or a few occasions, and in answer to his Honour you said, in answer to the question his Honour asked you: "Q. Only on one occasion or two occasions? A. Only a few occasions. He was very rarely there. He had no reason to be there." Did that apply only to the Christmas-New Year period, or

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did that apply to all the time you were at Riley Street? A. That applied - I was only there a little time between Christmas, because I did not start until February 1967.

Q. That applied to when? A. He was only there a few occasions before that, because I had never seen him there very often.

Q. I want to get it clear? A. You are referring to 1966-67?

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Q. I was originally, yes. What you say is that Novak was only there on a few occasions prior to you starting to work permanently in February 1967. Is that what you say (Objected to by Mr. Bainton).

Q. I asked you some questions which originally related to the Christmas-New Year period 1966-67?

A. Yes.

Q. And you said he was only at Riley Street on a few occasions. He was very rarely there. He had no reason to be there. The question which I now ask you is whether you meant that to apply to the Christmas-New Year period, or did that apply to the whole of the time that you were at Riley Street? A. Christmas-New Year period.

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Q. He was only there on a few occasions during the Christmas New-year period? A. That is right.

Q. Of course, it was part of your job to supervise the staff, wasn't it? A. That is correct.

Q. And Novak was one of the staff, wasn't he?

A. For a short time, yes. But I was not supervising staff until February 1967.

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Q. Well, over the period of Christmas-New Year 1966-67 did you supervise any jobs that Novak did?

A. No. I would not have, no.

Q. Well, were you working at the task of supervising jobs then? A. No.

Q. Were you acting as secretary then? A. Just temporary secretary.

Q. And did you subsequently supervise jobs that Novak did? A. During that time?

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Q. At any time? A. Well, just a few inquiries. I gave him a few inquiries. That is all.

Q. You have told us about the Croatian correspondent? A. Yes.

Q. Any others? A. Not so far as I can recall, no. Just a few inquiries. Mostly investigation inquiries. Probably finding out the addresses of some people; checking with the Transport Department, and very small inquiries.

Q. Didn't you supervise his activities in the

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middle of 1967? A. No, I did not supervise them. No, definitely not.

Q. Do you say that he was not a member of the staff during 1966- during the middle of 1967 (Objected to by Mr. Bainton).

Q. Was Novak working for Mr. Hume during the middle of 1967. (Objected to by Mr. Bainton; admitted).

Q. Was Novak working for Mr. Hume during the middle of 1967? A. He could have been yes, 10

Q. But you see, it was your job to supervise the staff, wasn't it? A. Well, not necessarily. I don't know in which way you mean "supervise".

Q. Did you swear to his Honour on Thursday that it was part of your job to supervise the staff?

A. Yes, but -

Q. And those were your words, weren't they?

A. That is right, yes.

Q. In the middle of 1967 was Novak working for Mr. Hume? A. He could have been, yes. 20

Q. What work to your knowledge was Novak doing for Mr. Hume in the middle of 1967? (Objected to; question withdrawn).

Q. Was Mr. Novak a member of Mr. Hume's staff. (Objected to by Mr. Bainton; allowed). A. Yes, for a short time.

Q. What work did Mr. Novak do for Mr. Hume? A. Just a few inquiries so far as I know. 30

Q. Over what period, to your knowledge? A. I really cannot recall. I can't remember. It would have been in 1967, naturally. Sometime in 1967. It could have been the middle. I think it would be in the middle of 1967.

Q. The middle of 1967? A. Yes.

Q. Well, it would not be true that the last time you saw Novak was when he went to Melbourne in January or February 1967, would it? A. I didn't say when he went to Melbourne in January or February 1967. 40

Q. Didn't you? A. No.

Q. While we turn that up, when did you last see Novak? A. I can't remember when I last saw Mr. Novak.

Q. I would like you to help us, madam. Did you see him in the last few weeks? A. No, I have not seen him in the last few weeks.

Q. Are you sure? A. Quite sure.

Q. Did you see him this year? A. Yes, probably would have seen him this year.

Q. Whereabouts? A. In a coffee lounge I would have seen him.

Q. Which coffee lounge? A. The Sonata.

Q. The Sonata? A. Yes.

Q. At Kings Cross? A. Yes.

Q. How did you come to see him there? A. He was sitting there with his girl friend.

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Q. Were you sitting with him? A. Yes.

Q. Who else? A. Mr. Hume.

Q. When was that, to the best of your recollection? A. It would have been - when did the case begin?

Q. The case began - A. About February, wasn't it?

Q. Something like that? A. It would have been sometime in February.

Q. Sometime after the case began? A. Yes, approximately.

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Q. Was there some discussion about the case?
A. Yes.

Q. What was the discussion (Objected to. Witness retired from Court. Argument ensued. Question rejected. Witness returned into Court).

Q. Was that meeting at the coffee lounge arranged?
A. No, it was just by accident - just saw them up there.

Q. It was purely by accident? A. Yes, purely by accident.

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Q. Was that just after there had been some newspaper publicity about this case? A. Yes, it would have been newspaper publicity, yes.

Q. Because you remember the meeting in relation to the commencement of the case? A. I remember seeing them there, yes.

Q. How long prior to that was it that you had seen him? A. I had not seen him for a while.

Q. Not for a while. What do you mean? A month or two? A few weeks? A. It could have been.

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Q. It could have been a few weeks, could it?
A. A month or two.

Q. It could have been a month or two? A. Yes.

- Q. Have you seen him since? A. No, I have not seen him since.
- Q. Do you give him any little jobs now? A. No, nothing at all.
- Q. No little jobs now? A. No.
- Q. Are you still working for Mr. Hume? A. Yes.
- Q. Where do you work? A. 33 Garling Street, Lane Cove.
- Q. Where do you live? A. 131 Spurway Street, Ermington. 10
- Q. You go from Ermington to Lane Cove every day, do you? A. Yes, that is right.
- Q. Don't you still own the business? A. No I don't.
- Q. (Approaching witness with document) Is that your signature? A. Yes, that is right.
- Q. Well, it is correct that on 23rd February 1968 the business was transferred to you, wasn't it? A. Does that mean transferred to me? 20
- Q. This is what you signed? A. Yes.
- Q. On 17th February 1968 Fred Hume ceased to trade under the name of Hume's Investigations?
A. That is right, yes.
- Q. And on 18th February 1968 Annette Veronica Mary Catt - that is you? A. Yes.
- Q. On 18th February 1968 Annette Veronica Mary Catt commenced to trade under the name of Hume's Investigations? A. Yes.
- Q. Without any partner? A. Mr. Anton Nestivich should be in there. I remember signing a form with Anton Nestivich. There must be two forms. 30
- Q. I will come to that. The first form you signed on 23rd February 1968, you were the sole owner of the business? A. Was I, I didn't know.
- Q. You didn't know? A. No.
- Q. And then on 27th February 1968 did you sign this form as well? A. That is right, yes.
- Q. Whereby you and Mr. Anton Nestivich, 29 Lake View St. Morisset Park became partners in the business? A. There were a few days difference. There was a few days difference, wasn't there? 40
- Q. Just a few days difference. Can you tell his Honour whether from that date onwards there has been any alteration? A. Yes, I signed exactly the same form as that approximately two months ago, I think it would have been.

Q. About two months ago you signed a form similar to the forms which I have shown you? A. Yes.

Q. What was the effect of that form? A. It would be Mr. Fred Hume would be the owner of Hume's Investigations.

Q. You signed the business back to Mr. Hume?
A. That is right.

Q. This is about two months ago? A. It would be about two months ago, yes. 10

Q. You say that Mr. Hume was proposing to go overseas when he transferred the business to you?
A. That is right, yes.

Q. But then he changed his mind? A. Yes.

Q. Why was he going overseas. (Objected to by Mr. Bainton; rejected).

(Documents upon which the witness was cross-examined regarding the ownership of the name "Hume's Investigations" m.f.i. 64).

Q. During 1966 I think you told us you were not employed by Mr. Hume? A. That is right. 20

Q. Where were you employed? A. I was not employed.

Q. You did not work at all? A. Only just a few little odd jobs for Mr. Hume.

Q. A few odd jobs for Mr. Hume? A. Yes.

Q. What jobs did you do for Mr. Hume? A. Typing.

Q. Typing? A. Yes.

Q. I am speaking now of 1966? A. Yes.

Q. You did typing? A. Yes. 30

Q. What else? A. That is about all.

Q. You are sure of that? A. In the line of office work, yes.

Q. You did typing and office work? A. Yes.

Q. And you were living at Mr. Hume's address?
A. That is right, yes.

Q. You were not paying board there? A. No.

Q. Well, were you paid for the type of office work you did? A. Yes. I think Mr. Hume gave me \$300 about - it would have been approximately in March the next year. 40

Q. \$300 in March next year. That is March 1967?
A. Yes, that is right.

Q. What was that for? A. That was for the election - when I went away in the election campaign, and also for the little office work that I had done previously.

Q. You got \$300 in March 1967 in respect of your campaigning work in the election, and the office work? A. That is right.

Q. How was that paid? Was that by cheque, or by cash? A. By cheque.

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Q. By cheque? A. Yes.

Q. During 1966 did you receive any money from Mr. Hume? A. No.

Q. You are sure of that? A. Yes.

Q. Do I understand you to say that you were campaigning during the election? A. Yes, I was helping Mr. Hume to hand out How-To-Vote cards.

Q. Did you get \$300 for that? A. And for the inquiries that I did and the office work that I did. It was \$300 Mr. Hume gave me.

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Q. But you had not done much office work had you? A. No. All I done was to help out answering the phone, etc.

Q. You might just tell his Honour exactly what you did in the election campaign, precisely?
A. Well, I was helping with the driving and I helped with handing out the How-to-Vote cards. That is all. I was there all day Saturday on the election day. That was about 24th or 25th November, and we spent the whole day there on the Saturday and returned on Saturday evening, and I think that is all I can remember. I did not do very much, but I was helping.

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Q. You did not do very much, but you were helping?
A. I was helping.

Q. Were you helping with the driving? A. Yes.

Q. Which car was that? A. I can't remember. It was the M.G. I think. I think it would be the M.G.

HIS HONOUR: Q. Where were the How to Vote cards being handed out? A. In Cooma.

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Q. In Cooma? A. Yes.

MR. GRUZMAN: Q. Well, there was no office work done in Sydney on election day, was there? A. No.

Q. What time did you get back to Sydney? A. It would be about 8 o'clock that night.

Q. About 8 o'clock that night? A. Yes.

Q. This is back to - A. To Riley Street.

Q. Riley Street? A. Yes.

HIS HONOUR: Q. This is on the day of the election?

A. That is right, yes.

MR. GRUZMAN: Q. And you handed out How to Vote cards in Cooma on that day? A. Yes.

Q. That was your contribution to the election that day? A. Yes.

Q. From Cooma you drove back to Sydney? A. That is right, yes. 10

Q. What time did you leave Cooma? A. Oh, round about in the afternoon about 5 o'clock I think it was.

Q. 5 o'clock? A. Yes.

Q. And drove from Cooma to Sydney between 5 o'clock and 8 o'clock? A. Yes. It would be about that, yes.

Q. That is about right, is it? A. An hour or so difference.

Q. And you were driving, were you? A. Yes, I was driving. 20

Q. You were driving? A. Yes.

Q. You drove from Cooma to Sydney between 5 p.m. and 8 p.m. on Saturday night? A. Yes.

Q. Do you know how far it is from Cooma to Sydney? A. No, I don't know.

Q. You don't know? A. No. About 300 I think. Isn't it about 150 miles, or something like that? Is it about 150 miles? I don't know. About 200 miles.

Q. 150 or 200 miles? A. Yes. 30

Q. Madam, do you realise that to do what you say you did would have to average somewhere between 80 and 100 miles? A. I said there would have been an hour difference - an hour or so difference. We might have got back at 8 o'clock or 9 o'clock. I know that we left about 5.

Q. Even to get home by 9 o'clock you would have to average something like 60 or 70 miles an hour, or more. You say that is what you did? A. I would not go 60 miles an hour. Just an average speed. 40

Q. What sort of speed do you drive at? A. It depends if there is very much traffic.

Q. You simply went down to spend a weekend in the Mountains with Fred Hume, didn't you? A. No, I definitely didn't.

Q. You might just tell us, what did you do on the Friday? A. Friday? We drove up in the morning and went to Goulburn.

Q. What time did you leave? A. About 9 o'clock in the morning.

Q. You went to Goulburn? A. Yes.

Q. What time did you get to Goulburn? A. It must have been close on lunch time.

Q. Lunch time at Goulburn? A. Yes.

Q. What did you do there? A. We had lunch and then we had to see -

Q. Where did you have lunch there? A. At the Travelodge. 10

Q. At the Travelodge at Goulburn? A. Yes. We went to the main street, and there was a little office there and there were a number of other people in there who had something to do with the elections.

Q. Yes. A. We stayed there for about half an hour.

Q. Yes. A. Then we went to Queanbeyan.

Q. Yes. What time did you get to Queanbeyan? 20
A. It must have been about two hours later.

Q. About two hours later? A. Yes.

Q. That would make it - you had lunch till 2 o'clock? A. About 1.30. 1 o'clock. About 1 o'clock.

Q. After you had finished lunch? A. Yes.

Q. Finished lunch at 1 o'clock? A. Yes.

Q. Got to Queanbeyan about 3 o'clock? A. It would have been about that, yes.

Q. And then what did you do in Queanbeyan? 30
A. Mr. Hume saw a number of people there.

Q. Who did he see there? A. I can't remember who he saw.

Q. I beg your pardon? A. I can't remember who he saw.

Q. Did you go in the car? A. Yes.

Q. Well, what happened? Tell his Honour what happened? A. We had to go to Queanbeyan, and stayed there for a short time.

Q. Just tell us what you saw happen in Queanbeyan? 40
A. He had to see some fellow in Queanbeyan.

Q. What fellow was that? A. I don't know who it was. It was to do with the election.

Q. I beg your pardon? A. It was to do with the election. He had to go and see which area they were

in and whether they had enough cards, because he had to pick cards up from the wireless station in Cooma.

Q. Who did he see, do you know? A. I don't know. I cannot remember.

Q. You were with him? A. Yes.

Q. You were helping him? A. Yes.

Q. Who did he see? A. I don't know. I did not go in the car (sic).

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Q. You did not go in the car? A. I stayed in the car.

Q. You stayed in the car? A. Yes.

Q. Where did you drive to? A. From there?

Q. Where did you drive to in the car when you stayed in the car? A. To Queanbeyan.

Q. Whereabouts in Queanbeyan? A. At the school. It was a school.

Q. You stayed in the car for how long? A. About 5 minutes.

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Q. Yes. Mr. Hume then came back, did he? A. Yes.

Q. Yes. And what happened then? A. Then we drove to Cooma.

Q. Then you drove to Cooma? A. Yes, that is right.

Q. What time did you get to Cooma? A. It was in the afternoon, about 5 o'clock.

Q. About 5 o'clock at Cooma? A. I think it was.

Q. Is that right? A. About 5 o'clock I think it would be.

Q. What happened at Cooma? A. He went up to the wireless station and he picked up some How-to-Vote cards, because that is where he was getting more cards.

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Q. You were with him, were you? A. Yes.

Q. How long were you there? First of all, how many cards were there that you had to pick up?
A. How many people.

Q. How many How To Vote cards? A. Quite a big bundle.

Q. Show us with your hands? A. About that high (demonstrating).

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Q. A single column that high, like one of these envelopes? A. No, larger than that.

Q. Lengthy ones, were they? Lengthy ones, and about 10 or 12" high? A. Two bundles.

Q. Two bundles? A. Yes.

Q. Where did you go from there? A. He had two names, and he had to go and trace two people.

Q. Had to trace two people? A. Yes.

Q. Who were they? A. I don't know who they were. I don't know their names. I can't remember. But they lived in Cooma, because we found it very difficult trying to find their homes because we didn't have a map or a street directory, so we asked a number of people and they showed us the way. They directed us.

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Q. You don't know who these people were? A. No, I can't remember their names.

Q. You had their address given to you? A. Yes.

Q. You knew their names and addresses? A. Yes.

Q. But it took a long time to find them because you didn't have a map? A. Yes.

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Q. Did you find them eventually? A. Yes. One fellow was not known. Fred spoke to another fellow. There were two men that he had to see. One fellow was not home, so he spoke to his wife, and he did speak to one of the gentlemen.

Q. Were you present then? A. I did not go inside.

Q. Were not you helping? A. Yes, I was helping, but Mr. Hume was speaking to them.

Q. In Croatian, or in English? A. In English.

Q. In English? A. They were Australian people.

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Q. What was he saying? A. I don't know, because I didn't go inside.

Q. You just stayed in the car? A. Yes.

Q. You were minding the car, were you? A. No. I had no reason to go inside.

Q. What time was it by the time you had found these two homes and spoken to the people you had spoken to? A. About a quarter past 6. Approximately a quarter past 6.

Q. About a quarter past 6. What did you do then? A. Then we drove to Jindabyne.

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Q. What time did you get to Jindabyne. A. Close to 7 o'clock I think it was.

Q. About 7 o'clock? A. Yes.

Q. You went to a motel there, did you? A. We

spoke to a number of people. It is a hotel-motel, and a lot of Croatians were in there, and he knew them from compensation cases and interpreting cases that he had done previously for them, and he was speaking to them for quite a while.

Q. It had not been arranged for them to be at the motel, had it? A. No.

Q. What motel was this? A. That was the Commodore.

Q. The Commodore Motel? A. Yes.

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Q. You were going to stay the night there?

A. Yes. We decided that we would stay there.

Mr. Hume also went and saw some men at Island Bend and Thredbo, and we returned there quite late, about 9 o'clock.

Q. You arrived at the Commodore Motel? A. Yes.

Q. And there happened to be some Croatians there that Fred Hume knew? A. Yes.

Q. And he had a talk to them? A. Yes.

Q. Were you present? A. I was present then.

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Q. Was he speaking in Croatian or English?

A. Croatian.

Q. You could not understand it? A. Just a few words. They spoke -

Q. What were the words you understood? A. "Hullo". Just "hullo". "Where are you from", and "How long have you been here for?" That is all they said.

Q. That is all they said? A. Yes.

Q. How long were you at the motel when you first arrived there? A. About an hour and a half.

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Q. About an hour and a half? A. Yes.

Q. And then what happened? A. Then we went up to the Island Bend Camp.

Q. How far was that? A. That was about half an hour's drive.

Q. Half an hour's drive? A. Yes.

Q. If you got there at 7 o'clock and you were there for an hour and a half, that is half past 8. By the time you got to Island Bend it would have been 9 o'clock? A. It could have been.

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Q. What did you do at Island Bend? A. Mr. Hume spoke to the workers there also.

Q. Where? A. In Island Bend.

Q. Whereabouts? Were they in a meeting? A. They have big houses. They are like little bungalows. Big

sheds, really. That is what they look like. The men were in these sheds, like a migrant camp, or very similar.

Q. Who did you see him speak to? A. I saw him speak to the workers. They all look the same - the Croatians. He spoke to a number of men. They all looked the same to me.

Q. All in Croatian? A. Yes.

Q. You never understood any more than you did about the last conversation? A. He was giving them cards all the time. 10

Q. And did he say anything that you understood, apart from what you told us that you heard in the previous conversation? A. No, just the same.

Q. How long were you there? A. Not very long.

Q. About how long? A. Half an hour.

Q. About half an hour? A. Yes.

Q. And then what did you do? A. Then we went to Thredbo. No, we did not go to Thredbo that day. We went to Perisher Valley. 20

Q. Went to Perisher Valley? A. We were told that there were some men there working.

Q. You were told that someone was there? A. Yes.

Q. And you went to Perisher Valley. How long did it take you to drive there? A. I could not recall the time, because it is very hard to remember the time, but I can remember when we went to Perisher Valley we had dinner.

Q. You had dinner in Perisher Valley? A. Yes. I think it would only have been about 8 o'clock when we went to Perisher Valley. 30

Q. We are up to half past 9? A. I said I might not be right with the times.

Q. You now think you got to Perisher Valley at 8 o'clock? A. I think it would have been about 8 o'clock. We had dinner there.

Q. Whereabouts at Perisher Valley? A. In the ski lodge. I can remember there was a triangular-shaped lodge that we had dinner in. 40

Q. How long did that take? A. Only about half an hour.

Q. Half an hour for dinner? A. Yes.

Q. Any workers having dinner there? A. No, there were no workers. They were in the hotel.

Q. The workers were in the hotel? A. Yes.

Q. You went to the hotel, did you? A. Yes.

Q. What happened there? A. They were playing billiards, and Mr. Hume spoke to them in Croatian and handed out cards.

Q. How many cards did he hand out? A. Quite a number of them.

Q. You did not understand any conversation, either? A. No.

Q. How long were you there? A. About half an hour. 10

Q. Half an hour? A. Yes.

Q. In the hotel. Then what happened? A. Then we drove back to Jindabyne.

Q. Then back to Jindabyne? A. Yes.

Q. And back to a well earned rest? A. Well earned sleep? A. We spoke to the manager of the hotel, and the workers were also at the night club in the hotel. 20

Q. The workers were at the night club? A. Yes.

Q. Did you hand out How-to-Vote cards at the night club? A. Yes we did.

Q. How long did you do that for? A. We were there until about half past 12.

Q. Half past 12? A. We were not handing out How to Vote cards all the time, though.

Q. When did you stop handing out How-to-Vote cards at the night club? A. Mr. Hume left them on the tables of men that he knew, and also he made new friends. 30

Q. Mr. Hume went to tables -

HIS HONOUR: "Mr. Hume left them at tables of men he knew, and also made new friends".

MR. GRUZMAN: Q. In the course of that evening? A. Yes.

HIS HONOUR: Q. Next day was the - A. Next day was election day.

Q. The day of the election? A. Yes.

Q. What you have been telling Mr. Gruzman about now was on the Friday before election day? A. That is right, yes. 40

(Short adjournment).

MR. GRUZMAN: Q. You told us, Miss Catt, what happened on the Friday? A. Yes.

Q. You have told us all that happened on that day, have you? A. Yes.

Q. Now on the Saturday - you stayed, of course, at the Commodore Motel at Jindabyne? A. Yes.

Q. What happened in the morning? A. At approximately 7.30 we went to the Jindabyne school and stayed there for an hour handing out the How to Vote cards and then -

Q. Did you hand them out too? A. Yes.

Q. Who was in charge there? A. I can't remember.

Q. You can't remember? A. No.

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Q. Did you report to the person in charge?
A. Mr. Hume did, yes, and I was there.

Q. You saw him reporting to the person in charge, did you not? A. Yes.

Q. Who was that? A. Man or a woman? A. A man.

Q. Could you describe him at all? A. Yes. He was a country man, and he had this big hat on.

Q. A country man, with a big hat? A. Yes, a country man with one of those big country hats.

Q. That is at the time you saw him? A. Yes, that is right.

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Q. What was he doing? A. He was trying to arrange a table, because they could not find a table. They wanted two tables. We tried to help them, but we could not help.

Q. You were there for an hour? A. Yes.

Q. Between what times? A. It would have been until about half past 9.

Q. Until about half past 9? A. Yes.

Q. And then what happened? A. Mr. Hume and I drove to Cooma.

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Q. And got there at what time? A. It must have been close to 10 o'clock. 10.30.

Q. Yes. What happened at Cooma? A. I stayed at Cooma and Mr. Hume drove to Queanbeyan. Not Queanbeyan to Adaminaby.

Q. You stayed at Cooma? A. Yes.

Q. And Mr. Hume went off somewhere? A. Yes.

Q. And told you he went to Adaminaby, did he?
A. Yes.

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Q. What did you do at Cooma? A. I was handing out cards all morning.

Q. Whereabouts? A. Outside the school.

- Q. Did you report to someone there? A. Yes.
- Q. Who was that? A. I can't remember his name now.
- Q. No name? A. No.
- Q. How long were you there? A. I was there all day.
- Q. You were there all day? A. Yes.
- Q. Until when? A. 3 o'clock.
- Q. Until 3 o'clock? A. Yes. 10
- Q. Mr. Hume was away all day? A. He came back at 12 o'clock, and we had lunch at 12.30.
- Q. And then? A. Later we drove to Queanbeyan.
- Q. At 12.30? A. No, at 3 o'clock.
- Q. What did Mr. Hume do after 12.30? A. He came up to the school also and met Mr. Pratten.
- Q. Mr. Pratten? A. Yes.
- Q. Who was he? A. He was the Country Party.
- Q. Mr. Pratten of the Country Party? A. Yes.
- Q. He was the organiser, was he? A. No. He was going to be voted. 20
- Q. He was the candidate? A. Yes.
- Q. You met him there? A. Yes.
- Q. When you met him what time was this? A. After lunch.
- Q. After lunch? A. Yes.
- Q. How long did you stay there after that?
A. Until 3 o'clock.
- Q. Until 3 o'clock? A. Yes.
- Q. You met him somewhere between 2 and 3? A. About 1 o'clock, when we came back from lunch. 30
- Q. You met him about 1 o'clock when you came back from lunch, and stayed until 3, and went in the car to Queanbeyan at 3 o'clock? A. Yes.
- Q. What time did you get to Queanbeyan? A. About half past 4.
- Q. About half past 4? A. Yes.
- Q. What did you do at Queanbeyan? A. Stayed outside the school there. No, it was the hospital. We stayed outside the hospital there, handing out How to Vote cards. 40

- Q. For how long? A. Only about half an hour.
- Q. Then what happened? A. Then we left straight-away. Then we left for Sydney.
- Q. What political party do you belong to?
A. I don't vote. I am not 21 yet.
- Q. How old are you? A. 20.
- Q. You are 20? A. Yes.
- Q. You were 18 when you met Mr. Hume? A. Yes.
Approximately 18, yes. 10
- Q. Prior to that I think you were employed as a Go-Go dancer at Surfers Paradise? A. No. I was employed as a model at Surfers Paradise.
- Q. Were not you employed at Digby's Place?
A. No, never.
- Q. Were not you employed as a Go-Go dancer at a place called Digby's place? A. Never.
- Q. You were employed as a model where? A. Judy Paris Modelling Agency.
- Q. Modelling what? A. Clothes. 20
- Q. In Surfers Paradise? A. Yes.
- Q. At what places? A. Surfers Paradise Hotel, Chevron Hilton Hotel, Broadbeach Hotel, Tiki Village, and all the different places.
- Q. And that is where you met Mr. Hume, and came back with him? A. Yes.
- Q. You have told us there was no office work done on that Saturday? That is Saturday, 26th November. You did not do any office work, did you? A. No.
- Q. Who writes out the cheques? A. Mr. Hume. 30
- Q. Mr. Hume? A. Yes.
- Q. And you were not paid any money in 1966, were you? A. No.
- Q. You were doing little inquiries for Mr. Hume then? A. Yes, I was doing inquiries, yes.
- Q. But you were not getting paid for them?
A. I was paid later on, in March.
- Q. I beg your pardon? A. In March 1967.
- Q. You got \$300 in March 1967, and that was the first money you got from Mr. Hume? A. Correct. 40
- Q. Look at this document which I show you. Is that in Mr. Hume's handwriting? A. Yes.
- Q. Did you on 26th November receive a cheque

from Mr. Hume for \$20? A. I may have received cash, I did not receive the cheque. It may have been a cash cheque for expenses, because I bought petrol, etc.

Q. I see. What you say is that if you received \$20 by a cheque dated 26th November - I will withdraw that. You say if you received \$20 it was by cash? A. Yes.

Q. Not by cheque? A. Yes. Probably cash.

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Q. Is that right? A. Yes.

Q. You never saw Mr. Hume write any cheque on 26th November, did you? A. No.

Q. And there was no office work done on that day, was there, to your knowledge? A. No, not so far as I know.

Q. It could not be done without your knowing, could it? A. No.

Q. And you say if there was \$20 it was a refund of petrol or similar out-of-pocket expenses? A. Yes, something like that.

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Q. Something that you had paid out, and for which you were being reimbursed? A. Yes.

Q. Not something you were being paid for some job you had done? A. No.

Q. You say you were not being paid for a job?
A. No. I was being paid later on, I think.

Q. You were being paid later on? A. Yes.

Q. But as at 26th November the only money you received was reimbursement of moneys that you had paid out? A. So far as I can recollect, yes.

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Q. Is that Mr. Hume's writing on the back of the document? A. Yes. That is right. No, it is not. I mean that is Mr. Harasty's writing.

Q. That is the accountant? A. Yes.

Q. I see. It says on there "Salaries and wages job work"? A. Yes. He probably thought it was for that.

Q. You say this is a mistake, do you? A. I am sure it would be a mistake, yes.

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Q. If it was reimbursement of moneys you had paid out for petrol you would expect it to be an odd figure, wouldn't you? A. Yes.

Q. This is exactly \$20, isn't it? A. It could have been \$20 that I paid out.

Q. You have a recollection of this, have you?
A. Yes.

Q. You remember this happening? A. Remember what happening?

Q. You paying out money for petrol? A. Yes, that is right.

Q. You remember that distinctly? A. Yes.

Q. How much did you pay for petrol? A. It all depends how long I had not been paid for. Usually if a cheque was made out for me it was also for petty cash too.

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Q. Was that a regular occurrence? A. Not necessarily, no, but it did happen.

Q. Are you suggesting you paid for petrol on this trip down over that weekend, or something like that? A. No I did not.

Q. That was all paid by Mr. Hume, was it?
A. Yes.

Q. Or by Mr. Armstrong? A. Mr. Hume.

Q. Was Mr. Armstrong with you that weekend?
A. Yes.

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Q. How did he get there? A. He drove up with us.

Q. In the car? A. Yes.

Q. Which car was that? A. It was in Mr. Armstrong's Valiant, I think.

Q. Not the M.G.? A. No.

Q. Three people could not fit in the M.G. could they? A. No.

Q. The evidence you gave about going down in the M.G. was untrue? A. I didn't know what car it was. I could not remember. You have recalled my memory.

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HIS HONOUR: Q. What was that? A. Mr. Gruzman has recalled it to my memory.

Q. Will you now withdraw the statement that you went down on this election weekend in the M.G.?
A. Yes, I do; it was a Valiant.

Q. I beg your pardon? A. It was in the Valiant.

Q. You now recollect that you went down with Mr. Armstrong in the Valiant? A. Yes, that is right.

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HIS HONOUR: Q. That is on the Friday before election day? A. Yes, your Honour.

MR. GRUZMAN: Q. Was Mr. Armstrong driving the car?
A. No, Mr. Hume was driving.

- Q. Mr. Hume was driving Mr. Armstrong's car?
A. The Valiant.
- Q. Mr. Hume was in the front, and Mr. Armstrong?
A. Yes, that is correct.
- Q. And you were in the back, were you? A. Yes.
- Q. You have not mentioned, in the whole of the evidence you have given about that weekend, anything about Mr. Armstrong, have you? A. No.
- Q. We will have to go over it now and find out what Mr. Armstrong did that weekend. Let us hear it again. What time did you leave Sydney? A. About 9 o'clock. 10
- Q. Did Mr. Armstrong pick you up? A. We met over at his place.
- Q. You went over to Mr. Armstrong's home?
A. That is right, yes.
- Q. On the Friday morning? A. Yes.
- Q. What, in the M.G.? A. That is correct.
- Q. You left the M.G. there? A. Yes. 20
- Q. You went down in the Valiant? A. Yes.
- Q. Where to? A. Goulburn. We stopped at Goulburn first.
- Q. Goulburn? A. Yes.
- Q. Did you go to Windradene? A. No. Yes, we drove - that is right, I remember now. We drove Mr. Armstrong to Windradene after we left Goulburn.
- Q. So you went to Goulburn? A. Yes.
- Q. What did you do in Goulburn? A. Had lunch in Goulburn. 30
- Q. Had lunch in Goulburn? A. And then we went and saw some of the other candidates. They were in the office in the main street.
- Q. You went, or Mr. Armstrong went? A. The three of us, Mr. Armstrong, Mr. Hume and myself.
- Q. The three of you went to interview some of the candidates? A. We went there and spoke to them. I did not interview them.
- Q. Did you have anything to say to them? A. Yes. I was introduced, that is all. Nothing else to say. 40
- Q. What did Mr. Hume have to say to the candidates?
A. He was introduced by Mr. Armstrong.
- Q. What, as his driver? A. No.
- Q. How did he introduce him? A. He introduced

Mr. Hume was helping his campaign in the area, because he knows a lot of the workers in the Eden-Monaro area, in the Snowy Mountains area.

Q. Who was that said to? A. I cannot remember who it was said to.

Q. You say it was said to candidates, what, Country Party or Liberal Party candidates? A. It would have been Country Party.

Q. Country Party. It would have been Country Party? A. I said it probably would have been - could have been. 10

Q. Could have been Country Party, you do not remember? A. No.

Q. Did you do this before you had lunch or after? A. After.

Q. This was after lunch? A. Yes.

Q. How long did that take? A. Only about an hour. We were an hour.

Q. An hour and a half? A. I said about an hour. 20

Q. About an hour. Then you drove to Windradene?
A. That is right.

Q. What happened at Windradene? A. We had a cup of tea.

Q. You had a cup of tea. Did you have a look round the property? A. Yes.

Q. What did you see, cows and things? A. No. I can remember walking across a little bridge, and it was swaying. 30

Q. A little bridge? A. A little bridge.

Q. A little swaying bridge? A. Yes.

Q. Did you see sheep? A. No, I did not see any sheep.

Q. Or lambs? A. No.

Q. Anyway, you had a look round the property?
A. That is correct.

Q. Did you have a cup of tea before or after you looked round the property? A. I cannot remember; probably before. 40

Q. Probably before. What time did you leave there? A. We were only there a short time, about half an hour, round about.

Q. What time did you leave Windradene? A. It must have been 2 o'clock, half past 2.

Q. 2 o'clock or half past 2? A. Yes.

Q. Where did you go then? A. Then we went to Queanbeyan, that is right.

Q. With Mr. Armstrong or without? A. No, he stayed at Windradene.

Q. When did you pick up Mr. Armstrong? A. We did not pick up Mr. Armstrong at all.

Q. Do you know how he got back to Sydney?

A. He had his other car up there, I believe, his Mercedes I think it was, because I saw him with his Mercedes.

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Q. Where was that? A. That was in Windradene.

Q. So you took Mr. Armstrong to Windradene?

A. Yes.

Q. Then you drove off for a weekend in the Snowy?

A. No, we went to Queanbeyan.

Q. And then down to Thredbo for the night?

A. No. Then we went to Cooma.

Q. For half an hour. Just let me get it right. You went to Queanbeyan for half an hour, is that right? A. That is right.

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Q. To Cooma for half an hour? A. About an hour we spent at Cooma.

Q. About an hour in Cooma? A. Yes.

Q. To Jindabyne for about an hour and a half at the bar, at the motel first of all, right? A. In the hotel.

Q. In the hotel? A. Yes.

Q. And then half an hour at Island Bend? A. About half an hour.

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Q. Dinner at Thredbo? A. Perisher Valley.

Q. Dinner at the Perisher Valley and what, an hour or so in the bar there, is that right? A. About an hour.

Q. About an hour in the bar there? A. That is where all the workers go. I am sorry, but they do go in the bar.

Q. And then back to the night club at the Commodore? A. That is correct.

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Q. Until half past 12? A. Approximately, yes.

Q. That was the electioneering for the Saturday?

A. For the Friday.

Q. That was the electioneering for the Friday?

A. Yes.

Q. And then Saturday, you left at 8? A. Half past 7.

Q. And you were back in Sydney at 8 o'clock that night? A. Pardon?

Q. Is that right? A. No. I thought you were talking about what time we began. I am sorry.

Q. You left at half past 7? A. No.

Q. Cooma. You were there most of the day?

A. Yes, that is correct.

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Q. And then what, another half an hour in Queanbeyan? A. We went to Jindabyne first of all and then we went to Cooma, and Mr. Hume went to Adaminaby. He was there for most of the morning, and returned about midday. We had lunch and then we returned to the school with Mr. Pratten and Mr. Hume. I think Mr. Hume previously had met Mr. Pratten somewhere else.

Q. You seem to know very well? A. Because I was there.

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Q. You remember it all in complete detail?

A. I remember it as my memory recalls.

Q. I have only to press the button, and out it will come? A. No.

Q. Madam, you see, you just repeated in precise detail the itinerary from Jindabyne back, without stopping, didn't you? A. Yes, as I remember. I just said it previously to you, not five minutes ago.

Q. Your memory is always like that, is it? A. No, it is not, but it is when I just said something.

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Q. You have not learnt this off, have you? A. Why would I learn it off if I was there?

Q. It could be lies, couldn't it? A. It is definitely not lying.

Q. Did you do a job of work in that week going on election day for which you got \$20? A. No, not as far as I know, I did not.

Q. You told his Honour that you have a recollection that you spent money for petrol and it was refunded?

A. Yes.

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Q. And that was \$20? A. Yes.

Q. Is that right? A. Yes.

Q. And no more? A. That is correct.

Q. Did you pay out any money in the next few days for Mr. Hume? A. I could have.

Q. What, perhaps another few dollars? A. Might

have been petty cash or I might have lent him some money for something he wanted, if he did not have

- - -

HIS HONOUR: Q. Would you try and keep your voice up? A. I am sorry.

HIS HONOUR: Just imagine, as I asked you last week, that you are talking to the far corner of the court room.

MR. GRUZMAN: Q. You certainly did not get paid for any jobs in the next few days? A. No. I cannot recall.

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Q. You have told his Honour before that you received no money for work done during 1966? A. That is right. That is correct.

Q. You got paid for the electioneering \$300 in March 1967 (objected to by Mr. Bainton).

Q. The electioneering and other work. You got paid for the electioneering and other work \$300 in March 1967? A. Yes.

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Q. (Approaching) Is this a cheque butt in Mr. Hume's handwriting? A. Yes, that is right.

Q. Did you receive \$60 on 1st December 1966?
A. I do not think I did.

Q. You do not think you did? A. I cannot remember what I would receive it for.

Q. Might be for some little inquiries that you did? A. No.

Q. Would this be refund of other moneys you paid out? A. It could have been.

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Q. It could have been? A. Yes.

Q. Have a look at the back. Do you recognise the handwriting? A. It is Mr. Harasty's.

Q. He acts as accountant for the business, doesn't he? A. That is correct.

Q. It says "Job of work" doesn't it? A. Yes.

Q. Another mistake is it? A. It is not a mistake, because I can remember - I cannot remember receiving money for work, because Mr. Hume - I had not done very much work.

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Q. You say it is a mistake? A. It could be a mistake. I cannot understand it because I have never seen these. I know it is Mr. Harasty's handwriting and Mr. Hume's handwriting, but I do not understand.

Q. So far as you are concerned, just another mistake? A. Well, you could put it that way.

(Document dated 26th November 1966 m.f.i. "65").

(Document dated 1st December 1965-66 m.f.i. "66").

Q. You did tell us that there was no office work done on that day didn't you? A. Yes.

Q. I suppose what happens, the cheque book is kept in the office, is it? A. Yes.

Q. When it comes to paying accounts, what, Mr. Hume sits down with the cheque book and the accounts? A. Yes.

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Q. And writes out the cheques? A. Yes.

Q. And what do you do, post them? A. Yes.

HIS HONOUR: I do not know whether the witness understands; whether you mean posting in the ordinary sense, or the accounting sense.

MR. GRUZMAN: Q. I am sorry. A. You mean mail them?

Q. Yes. A. Yes.

Q. I suppose what, as soon as they are written out you put them in the envelope and send them out is that right? A. Yes, yes.

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Q. (Approaching). Is that a cheque butt in Mr. Hume's handwriting? A. Yes.

Q. It looks as though on this Saturday 26th November, Mr. Hume wrote out a cheque for the rent doesn't it? A. That is right, Yes, because it is due on the 26th, so he makes them out on the 26th. He had to have the rent paid, and the rent is paid to the caretaker in the building

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Q. Did you pay it on the 26th? A. No, we did not. He would have got it on the Monday. It has to be made out on the 26th, because that is the day it is supposed to be paid.

Q. Did the money have to be paid to you on the 26th, the £20? A. No.

(Document dated 26th November m.f.i. "67").

Q. Did you pay the cheque to the caretaker, the rent? A. Yes.

Q. You did? A. Yes.

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Q. The rent was not paid until the Tuesday?
A. Wasn't it? I said it could have been the Monday or the Tuesday.

Q. (Shown m.f.i. "67"). Do you agree the rent - look at the back. That is the receipt for the rent?
A. Yes.

Q. Look at the back of the document? A. Yes.

Q. The rent was not actually paid until 29th, was it? A. No. They do not give us a receipt straight away. It has to go through head office for the receipt.

Q. You may have paid it on the Monday? A. Yes. When we pay the rent to the caretaker they automatically send it to head office, the office in Sydney, and then they post us a receipt.

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Q. So what you tell his Honour is that that cheque would have been made out on the 26th, because there was some special reason why it had to be made out on the 26th is that right? A. Yes.

Q. What you are inferring is that it may have been back-dated? A. Yes.

Q. It could be. You are suggesting it was not actually made out on that day, is that what you are saying? A. Yes.

Q. Are you prepared to swear that it was not?
A. Yes.

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Q. Because it could not have been if your story is right, could it? A. That is right.

Q. (Approaching). What about this one? Is that a cheque butt in Mr. Hume's handwriting? A. Yes.

Q. Was that another cheque made out on Saturday, 26th November? A. It would have been, Yes.

HIS HONOUR: Q. Do you say it could have been or it would have been? A. It would have been. It is dated 26th.

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MR. GRUZMAN: Q. Have a look at the documents there. Tell his Honour do you suggest there is some special reason why that cheque had to be made out on the 26th? A. Not necessarily.

Q. You see, it is an account from the Postmaster-General's Department and the account is only dated 26th November, isn't it? A. That is right, Yes.

Q. So it must have been received on the 26th November if it came through the post. A. Not necessarily. It could have been in the post, but we would not have seen it until the Monday.

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Q. But why would you make out a cheque dated Saturday? A. I suggest you ask Mr. Hume, because I would not know.

Q. You do not know? A. No.

Q. You see, Madam, you never saw Mr. Hume write out these cheques, did you? A. Mr. Hume writes the cheques and I post them. I can remember paying that, as a matter of fact.

Q. You can remember paying that? A. Yes.

Q. Just tell his Honour your recollection about paying this? A. I went up to the 7th floor or the 6th floor in Pitt Street, the Telephone Department.

Q. When was that? A. I remember going there, but if the cheque is dated 26th November, it would have been the week after.

Q. You see, Madam, it looks as though on Saturday 26th November Mr. Hume was sitting in his office doing office work doesn't it? A. But he was not, I can assure you. 10

Q. I have shown you now three cheques made out on Saturday, 26th November by Mr. Hume, haven't I? A. Yes.

MR. BAINTON: Q. They are certainly dated that date.

MR. GRUZMAN: Q. Three cheques dated 26th November made out by Mr. Hume, haven't I? A. That is correct.

Q. Are you suggesting to his Honour that all of those cheques were for some reason wrongly dated? A. No, I am not suggesting - it could have happened. Mr. Hume may not have known the right date. 20

Q. He what? A. He may not have known the right date.

(Document dated 26th November m.f.i. "68").

Q. You do go away for weekends with Mr. Hume, don't you? A. In which way do you mean?

Q. For social reasons? A. Yes.

Q. What you say is that you had two weekends away with Mr. Hume about this time. That is right, isn't it? A. That is right, Yes. 30

Q. How did the first weekend come about? A. I can remember. I was in Balmain at the time. Mr. Hume was not in the Riley Street office, his offices were in Balmain, and he left on the Friday and I was to meet him in Cooma. I caught the train up there and met him in Cooma.

Q. He left on the Friday morning? A. Yes, it would be on Friday morning. 40

Q. This is the Friday before - A. The week before the election.

Q. What time did he leave? A. I think it might have been Friday night. He could have left about 5 o'clock on Friday night.

Q. When did you leave? A. I left on Saturday morning, about the 7 o'clock train I think it was in the morning, 7 a.m.

HIS HONOUR: Q. I would just like to get these dates straight. Assume the election was on Saturday, 26th? A. Yes.

Q. Which is the date of the Friday you are referring to now? A. The Friday previously - before.

Q. 25th is the day before the election. The preceding Friday was the 18th? A. Yes, that is right.

Q. You say he left on Friday, 18th. You left on the morning of Saturday, 19th? A. It would have been either that week, or it could have been the week before. I really cannot remember. I know it was either the week before the Election, or it could have been two weeks before. I cannot recall.

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MR. GRUZMAN: Q. You do not remember which is which? A. No.

Q. It could have been Friday, 18th or Friday, 11th. A. That is right, Yes.

Q. Apart from that, you have a clear recollection? A. Not a clear recollection but I can remember.

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Q. You do not know what week it was but you remember exactly what happened. A. Yes, because it was the first time I had ever been to Cooma and anywhere up there. That is how I remember.

Q. It was not the first time you had been away for a weekend with Mr. Hume, was it? (Objected to by Mr. Bainton; rejected).

Q. Anyway, a week or two weeks before the election you went away for the weekend with Mr. Hume? A. I went away, Yes, that is right.

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Q. You went away for a weekend with Mr. Hume, didn't you? A. No, I went away to help with the Elections, campaigning. That is the weekend we were campaigning.

Q. What, could have been three weeks or four weeks before? A. No, it was only about a week or two weeks, I can remember.

Q. Just tell us how that came about would you? A. Mr. Hume was up there previously; I think he was even up there on the Thursday, and he came back again and left on the Friday evening.

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Q. When you say he was "up there", where was he? A. He was up in Canberra.

Q. You remember this? A. Yes, because he told me he was at the - He saw the Prime Minister there.

Q. Mr. Hume? A. Yes.

Q. Did he tell you what the Prime Minister said to him? A. No, he did not.

Q. Did he tell you how he came to see the Prime Minister? A. Yes, he was speaking up there. The Prime Minister was speaking.

Q. The Prime Minister was speaking and he met Mr. Hume? A. I do not think he met Mr. Hume. He saw him there.

Q. You mean Mr. Hume just happened to notice the Prime Minister speak, is that right? A. That is correct.

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Q. That is what you meant to say, is it? A. Yes.

Q. You remember all this quite well? A. No, I am afraid I do not remember it quite well.

Q. He went up to Canberra, and he came back?
A. Yes.

Q. Did he tell you why he had gone to Canberra?
A. It was to do with the election.

Q. It was to do with the Election? A. Yes.

Q. Did he tell you what he was to do up there?
A. No.

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Q. Did he tell you was he electioneering in Canberra? A. No, he did not tell me.

Q. He did not tell you? A. No.

Q. Did he drive up? A. Yes, he drove up. That is right.

Q. Drove up to Canberra and drove back again to Sydney? A. I think he flew back. He drove up with Mr. Armstrong, and flew back, and then he drove up the following day in the Valiant, or one of the cars.

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Q. Drove Mr. Armstrong's car the following day?
A. That is right, Yes. That would have been on the Friday.

Q. And went up with Mr. Armstrong the following day? A. No, he went with Mr. Armstrong on the Thursday, and Mr. Armstrong stayed at Windradeen, I assume, and Mr. Hume flew back, and he went again on the Friday afternoon.

HIS HONOUR: Q. Friday afternoon? A. Yes. Approximately - I can remember it was about 5 o'clock, because I was going to the city, and Mr. Hume drove me in there before he left for the country.

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MR. GRUZMAN: Q. On the Friday you and Mr. Hume went in the Valiant? A. No I went on the Saturday morning by train.

Q. Mr. Hume drove the Valiant on the Friday afternoon? A. That is right.

Q. That is correct? A. Yes.

Q. Do you know why he took the Valiant down there?

A. No, I do not know. Probably because the rough conditions - the ski conditions, and the roads, I assume that would be the reason, because the M.G. is only a little car, where the Valiant is a bigger car.

Q. You met him at Cooma at what time? A. About one o'clock.

Q. Did Mr. Hume tell you where he stayed the night? A. No. He did not, No. I do not know where he stayed. 10

Q. You do not know? A. He could have stayed at Windradeen. He could have stayed with Mr. Armstrong. I do not know.

Q. You met him at Cooma, and what did you do? This is the first weekend. Do not get confused on it, the first weekend, You met him at Cooma.

A. Yes. We went to Jindabyne. That is right. We are starting off from the first weekend, aren't we? We went to Jindabyne, that is right, direct to Jindabyne that day. Cooma --- 20

Q. How long did you spend in Cooma? A. Only about half an hour.

Q. Where was that? A. In the main street, I think it was.

Q. Doing what? A. Mr. Hume was speaking to some fellow there; I do not know his name. It was near the radio station. They have a radio station, 2K something.

Q. He was speaking in Croatian? A. No, in English. 30

Q. What about? A. About the election.

Q. About the Election? A. That he was campaigning.

Q. You say campaigning. What was he saying, "Vote for Armstrong" or what? A. No, he - I really cannot remember what he was saying.

Q. You said that he was campaigning. What did he say? A. He could have said he was for Munro and Pratten.

Q. He was what? A. He was up there for Munro and Pratten. 40

Q. What did he say? A. I do not know what he said.

Q. But you were there? A. Yes, but I do not recall what he said.

Q. Who did he speak to? A. He spoke to a gentleman.

Q. What, a man in the street? A. No, I think he came down from the radio station. Mr. Hume must have been introduced to him previously when he was up there.

- Q. It was a man from the radio station? A. Yes.
- Q. What was he talking about? A. They were talking about the Elections, because apparently the radio station - they were going to have the "How to Vote" cards, and that is where they would be picked up from when the Election started.
- Q. He was not campaigning and he was not trying to persuade the radio announcer to vote for Mr. Armstrong, was he? A. No. He was not, No. 10
- Q. You say he had a conversation about the How to Vote cards with a man from the radio station?
A. Yes, that is correct.
- Q. Is that all that happened in Cooma? A. Yes.
- Q. Then where did you go? A. Then we went to Jindabyne.
- Q. Where did you stay there, at the old place, the Commodore? A. Yes. I think we stayed at the Commodore.
- Q. Some drinks in the bar when you got there? 20
A. I spoke to some friends there. (sic).
- Q. You spoke to some friends in the bar. A. Yes.
- Q. In Croatian? A. Yes. Most of the men are Croatian.
- Q. The same people as were there the following week? A. No, they were different people.
- Q. They were different people? A. Yes.
- Q. You had a drink too I suppose? A. No. I do not drink.
- Q. Mr. Hume had a drink with these fellows did he? A. Yes. 30
- Q. And then what, dinner? A. No. Then we went - we stayed there the night, that is right.
- Q. You stayed there the night, Did you have dinner? A. Yes, we did.
- Q. So you arrived at the motel, had some drinks and dinner, and stayed the night? A. Yes.
- Q. And next day? A. The next day Mr. Hume did all the camps, and we went to Thredbo.
- Q. Just slower, please. A. I am sorry. 40
- Q. The next day what time did you leave the motel? A. I think it was we had breakfast.
- Q. Breakfast in bed? A. No.
- Q. You came down for breakfast? Is that right?
A. Yes.

Q. You left the motel at what time? A. About half past nine, ten o'clock.

Q. Where to then? A. Then we went to Island Bend.

Q. What time did you get there? A. It would have been about 11 o'clock, 11.30. I cannot really remember.

Q. What did you see happen then? A. He was with men there also, talking to the Croatians. 10

Q. What did he do? Had he made an appointment to go there? A. No, just went there.

Q. Just tell us what he did, what you saw him do? A. I saw him talking to them.

Q. How did he meet them? A. He knew them.

Q. There were some men there that he knew?
A. Yes.

Q. Do you know any of those men? A. No, I have never met them before.

Q. But he knew them. How many did he know? 20

A. Quite a number of them, and then they introduced Mr. Hume to their friends, and that is how he met most of the camp.

Q. Was there a little meeting? A. No, but they were all in their big sheds.

Q. Did you go into the sheds? A. No, I did not.

Q. You do not know what happened? A. They were outside for a little while.

Q. How many? A. He was with about eight of them, and then they went inside. 30

Q. He was with about eight Croatians whom he seemed to you to know? A. Yes.

Q. He went into the shed? A. Yes.

Q. How long did he go in for? A. Not very long.

Q. About how long? A. About half an hour.

Q. And he came out again? A. Yes.

Q. What happened then? A. Then we drove to Perisher - No, Thredbo.

Q. Then you drove to Thredbo? A. Yes.

Q. What time did you get to Thredbo? A. About 4 o'clock, 5 o'clock. 40

Q. Four or five o'clock. After more drinks - A. No. What do we have so many drinks for?

Q. What did you do at Thredbo? A. When we arrived? We booked in, first of all.

- Q. Booked in, where? A. Into a very big place.
- Q. The Cantaloupe. Which one was it? A. I do not really know. If you name a few I could say.
- Q. Anyway, one of the nice places at Thredbo?
A. It was quite a nice place, Yes. They were all very nice.
- Q. You booked in there for the night. A. Yes.
- Q. Then what did you do, went to the bar I suppose? A. No. I do not drink, No. 10
- Q. Did Mr. Hume go to the bar? A. No. He did not.
- Q. Where did he find his workers. A. I cannot remember. I think we had dinner then.
- Q. Then you had dinner. So you arrived at the Lodge at Thredbo, booked in and had dinner? A. Yes.
- Q. And then what, went to bed? A. No. I do not think so. I cannot really recall.
- Q. You cannot recall? A. No.
- Q. You remember going to bed? A. Naturally, Everybody goes to sleep. 20
- Q. The next day what happened? A. The next day was a Monday, wasn't it?
- Q. Yes. A. We left about 11 o'clock for Sydney.
- Q. For Sydney? A. Yes.
- Q. Came straight back to Sydney? A. That is correct.
- Q. You cannot remember anything happening at Thredbo on the Monday morning? A. No.
- Q. Do you seriously tell his Honour that in those two weekends you considered that you were conducting, or assisting in the conduct of an electioneering campaign? A. Yes. 30
- Q. Do you seriously consider that with a little bit of other assistance you gave Mr. Hume you earned \$300 (Objected to by Mr. Bainton; question withdrawn).
- Q. How much do you think of the \$300 you earned in those two weekends? (Objected to by Mr. Bainton; rejected).
- Q. I want to make it quite clear that what I am putting to you is that you went for a couple of weekends with Mr. Hume, to put it mildly, for social reasons? A. No. 40
- Q. And no more? A. No, that is not correct.
- Q. And you did no work of any kind at all? A. No, that is definitely incorrect, I am sorry.

Q. I put it to you that to your knowledge Mr. Hume did no work as a result of which he should get paid by Mr. Armstrong? A. He did. He did definitely work.

Q. I put it to you that you are well aware that this is a false and fraudulent story, put up to cover the payment of more than \$1,000 by Mr. Armstrong? A. No, it is definitely the truth. I am telling the truth, your Honour. 10

Q. By the way, do you keep files on matters that occur in the office? A. What kind of files?

Q. Do you know what a file is? A. Yes.

Q. Do you keep files? A. Yes. Divorce files.

Q. I suppose you keep files on the various investigations that are done in the office. A. No, we do not.

Q. You do not? A. No.

Q. Don't you keep files of papers relating to work done in the office. A. That is usually on the account and invoices. 20

Q. You have to have something to work from to make out the invoice, haven't you? A. That is right.

Q. Aren't there any papers that are collected together about each matter. A. Oh, Yes, Yes. That also goes on to the invoice.

Q. Does that mean that when a matter comes into the office, a file is started? A. Yes.

Q. What do you keep your files in, manilla folders or envelopes? A. Concertina files. 30

Q. Do you have a system of numbering the files?
A. Yes.

Q. Do you have a register in which you put down the numbers that you allot? A. Yes.

Q. Where are those files kept? A. In Lane Cove.

Q. They are all over there now, are they? A. Yes, that is correct.

Q. I suppose that system has been in operation for quite a long time? A. No, only since I have started. I brought the system in. Mr. Hume did not have any system of book work. 40

Q. You started helping him at least in November 1966 didn't you? A. No, I did not, No.

Q. Didn't you? A. He did not have any filing system whatsoever.

Q. But the papers still existed, didn't they?

A. I assume they would, Yes, but they would be in Mr. Harasty's possession.

Q. Mr. Harasty would have the papers? A. Yes.

Q. It is within your knowledge isn't it that the \$1094 paid by Mr. Armstrong to Mr. Hume in January 1967 is the largest amount that Mr. Hume has ever received in the time that you have known him. (Objected to by Mr. Bainton; rejected).

Q. You are aware that Mr. Armstrong paid Mr. Hume \$1094 for this alleged electioneering and some other matters, aren't you? (Objected to by Mr. Bainton; question withdrawn). 10

Q. You are aware are you not that one of Mr. Armstrong's companies paid to Hume's Investigations \$1094 for some electioneering and other matters?
A. Yes, that is correct, because I can remember depositing the cheque.

Q. To your knowledge nobody else has paid Mr. Hume any sum of money as great as that? (Objected to by Mr. Bainton; question withdrawn). 20

Q. I suppose that the more important the matter is, the more necessary it is to keep a proper file?
A. No.

Q. Would not you agree with that? A. In my system, even if it is a little s.a.r. I keep a file.

Q. When you came to work for Mr. Hume you say his papers were in something of a mess. A. He did not have any system. 30

Q. You put his papers into a system, is that right? A. Well, I did not put any of his back into a system; I just did my papers, when I started.

Q. I suppose he must have had a lot of documents when you arrived? A. He did not have any.

Q. No documents? A. No.

Q. Wasn't he operating as a registered private inquiry agent? A. Yes.

Q. When you arrived? A. Yes.

Q. You say he had no documents at all? A. He did not have them where I could see them. They must have been in Lane Cove. 40

Q. You never saw any documents relating to his business? A. No, No.

Q. The only documents which came in to existence were those that came into existence while you were there? A. That is right. The ones, that I typed, etc.

Q. The ones that you typed. A. Yes.

Q. And apart from them there are no other documents, to your knowledge? A. That is right. There probably would be. Mr. Harasty may have some. You would have them there in your books, if there were any. So far as I know, I only had my documents.

Q. Just to get it right, then, you say you prepared this account? A. That is right. I typed the account.

Q. (Shown Exhibit "Y"). But you have never seen any documents relating to the subject matters of that account? A. No, because Mr. Hume dictated it. Mr. Hume dictated it to me. 10

Q. The account refers to investigations at Double Bay, about Mr. Hoffman, these various electioneering matters, interviewing employees at Surfers Paradise and contacting real estate agents. Is this what you tell his Honour that you have never seen any documents relating to any of those subject matters?

A. That is correct. Yes, that is correct. 20

Q. You never caused any file to come into existence? A. No.

Q. Because you never saw any documents relating to any of those matters? A. I never saw any, that is right.

Q. By the way, how did you know where to send that account? A. Mr. Hume gave me the address; he dictated it to me.

Q. Do you know a man called Caruga? Do you know Caruga? A. I have heard the name mentioned, but I do not know very much about it. Mr. Hume can help you with him. 30

Q. Mr. Hume what? A. He knows about Mr. Caruga.

Q. Have you met him? A. No, I have never met Mr. Caruga.

Q. He is a friend of Mr. Hume? A. Yes. (Objected to by Mr. Bainton; rejected).

Q. Have you met Sergeant Wild? A. No.

Q. Or Mr. Follington? A. Yes, I have met Detective Follington outside here one day of the case. But I have never seen him before. 40

HIS HONOUR: Q. I did not hear that answer. A. Outside Mena House, on the 12th Floor here, just near the lifts, around about 9th February. This is the first time I have met Mr. Follington.

MR. GRUZMAN: By the way, did Mr. Armstrong go to the flat at Riley Street. A. No.

Q. Never came there? A. No.

Q. Are you sure of that? A. Sure.

Q. Do you remember 20th January? A. 1967?

Q. 1967? A. No, I do not remember.

Q. Do you remember what day it was? A. On 20th January? No. What was it? What day was it?

Q. Let us suppose it is a Sunday. It was a Friday, 20th January. A. I probably would be in the office, or something like that.

Q. You were expecting Mr. Hume to be in the office, too? A. No, he is not there very often. He was not in the office very much.

10

Q. Does he work during the week? A. Yes.

Q. What, he would be out making inquiries, would he? A. That is correct, Yes.

Q. I understand that whenever Mr. Hume went to Mr. Armstrong's place you always went? A. Not always, but I was there most of the time. I did not meet Mr. Armstrong until November.

Q. Did not you tell his Honour the other day that whenever Mr. Hume went there - A. Yes, I said that.

20

Q. But it was not right? A. It was correct. But Mr. Hume knew Mr. Armstrong before I did, and Mr. Hume knew Mr. Armstrong before he knew me.

Q. I am sorry, I did not hear that. A. Mr. Hume knew Mr. Armstrong before he knew me.

Q. But from the time you knew Mr. Hume? A. Yes.

Q. Whenever Mr. Hume went to Mr. Armstrong's place, you also went. A. I beg your pardon? Would you repeat that?

Q. Let me get this right. From the time that you became acquainted with Mr. Hume you say that whenever Mr. Hume went to Mr. Armstrong's place, you also went there? A. No.

30

Q. That is not true? A. That is incorrect.

Q. That is incorrect? A. Yes.

Q. That is what you said the other day isn't it?
A. Did I say that?

Q. At page 1173 you were asked "How often did you go to Mr. Armstrong's home?" and you answered "Every time Mr. Hume goes". You were asked "Every time?" and you answered "Yes." Was that true or false?

40

A. Well, I thought you were referring to this year. I am very sorry. What time were you referring to?

Q. Are you seriously telling his Honour that there was something in those questions which made you think about this year? A. All your questions are confusing (Objected to by Mr. Bainton; rejected).

RE-EXAMINATION

MR. BAINTON: Q. There are two things I want to ask you about, and one is this ski-ing weekend. Would you just try and tell me if you can how many people you can remember ski-ing at that time over that weekend from Mr. Murray's hut? A. Yes.

Q. I do not want you necessarily to tell me the names, unless you can name them. I just want to know how many people were ski-ing from the hut? A. Six, Approximately six. 10

Q. Again, over the two days can you give us some idea of how many hours would have been spent altogether by those people ski-ing? Put another way, how many hours was the ski run working? A. It was running just about all the time; we were ski-ing practically all the time, except for luncheon breaks and dinner breaks and sleeping hours. That is about all. After breakfast - they went out immediately after breakfast and ski-ied and they came back for dinner and they went back again. 20

Q. How late were they ski-ing on Saturday night?
A. Saturday night would have been till about half past 4 or 5 o'clock.

Q. From where the hut is looking across the river, would you tell us whether you can see far up the river on your left-hand side and on your right-hand side? A. Standing from the hut - there are a lot of trees on the left, and you cannot see very clearly, but you can on the right. You can see across that way, because there is a big opening there, where the boat is. 30

Q. When these people ski from the hut, are they within sight of anybody who stays at the hut all the time, or do they get out of sight? A. No, they get out of sight. Definitely they get out of sight. They go right up the river.

Q. (Approaching). You were asked about that document? A. Yes.

Q. Which was said to have been the cheque butt in relation to paying his phone bill, and you said you think you can remember paying it? A. Yes. 40

Q. Would you mind looking at the date on the back of the receipt and tell us whether it gives you any assistance as to when you paid it? A. November 28th.

(Witness retired and excused).

(Telephone account and other documents (formerly m.f.i. "68") (tendered and marked Exhibit "BB").

ANTHONY JOHN PRATTEN

Sworn, examined, as under:

MR. BAINTON: Q. Is your full name Anthony John Pratten?
A. Yes.

Q. Are you by occupation a grazier, and you reside on the property Walgrove, near Yass.

A. Yes.

Q. I think you are at the present time the Secretary of the Yass Branch of the Country Party?

A. Yes.

Q. In November 1966 were you the endorsed Country Party candidate for the Federal Seat of Eden-Monaro?

A. I was.

10

Q. Do you know Mr. Alexander Ian Armstrong?

A. Yes.

Q. Would you tell us approximately how long you have known him and how often had you, or have you seen him? A. I have known him approximately 15 years. In that time I would not have seen him more than on approximately ten occasions.

Q. Was this a business social or political acquaintance? A. Sometimes socially, sometimes politically.

20

Q. Do you remember when you last saw Mr. Armstrong?
A. 26th November 1966.

Q. What enables you to fix that date? A. The Federal Election of that year.

Q. I just want to go back a little before that date. Did you see Mr. Armstrong, within we will say a month or so prior to that date? A. Yes, on two or three occasions.

Q. Would you tell us what you can recollect of those occasions, starting with the earliest one, where they were and what happened? A. I met Mr. Armstrong first on the 10th November 1966 at a Liberal Party Rally in Goulburn.

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Q. How are you able to fix that date? A. I can remember this date because I have it in my diary as a Liberal Party Meeting. It was a very big meeting, in which the late Prime Minister Mr. Holt, Mr. Fagan, the Country Party Member Mr. Brewer, Mr. Jack Beale, Mr. Armstrong, myself and Mr. Dougal Munro, the then Liberal Candidate, attended.

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Q. Did you have any discussion or speech with Mr. Armstrong on that occasion? A. Yes, Mr. Armstrong introduced Mr. Hume to me on this occasion and said that Mr. Hume was working for him, and he would make Mr. Hume available to work in the Electorate on my behalf at his expense.

Q. What if anything was done as a result of the conversation. A. ~~Mr. Hume worked in the Electorate~~ (Objected to by Mr. Gruzman; answer struck out by direction of his Honour).

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Q. Just go back to the conversation. You have just told us of something that Mr. Armstrong said to you.

Did you make any reply to him about it? A. Yes. I said Mr. Hume's help in the Electorate would be greatly appreciated.

Q. Did you discuss this offer of help with anybody else. A. Yes. It was discussed with the Country Party Campaign Committee (Objected to by Mr. Gruzman; rejected).

Q. After discussions you just told us with Mr. Armstrong, did you personally have a conversation with anybody else? A. I had a conversation with Mr. Hume as to the best way we could use him in the Electorate. 19

Q. What do you recollect having said to Mr. Hume? A. I pointed out that we needed somebody to distribute Government literature and somebody who could mix among the people and spread the word about my candidature. He suggested that he would be best in the area where there were migrants as he had a knowledge of the language and he had a knowledge of the people, and we agreed that this is where he could be best used. 20

Q. Did you ask him to do anything in particular or give him any instructions? A. Yes. We asked him to travel up in the Snowy Mountains region, visit the people in the smaller settlements there, and distribute literature.

Q. When did you next see Mr. Hume? A. I saw Mr. Hume next in Goulburn, at the Country Party Office, It was before the Election. I cannot fix the date exactly. 30

Q. Did you see him after that? A. Yes. I met Mr. Hume again on Election Day, outside the Polling Booths in Cooma.

Q. Did you have any conversation with him on either of those two occasions? A. Yes. I had a conversation with him in Goulburn, and he told me that he had visited the Greek Club in Queanbeyan and they were very favourable towards me, and that he had also been in the Snowy Area. On Election Day I also had a conversation with him, a very brief conversation. I cannot remember the subject matter. 40

(Luncheon adjournment).

Q. Before lunch you told us that you recollect having seen Mr. Hume in November 1966 on two occasions after this first one you spoke of, which I think was the time the Prime Minister addressed the meeting. I am not sure whether you were able to fix the times of these other two occasions. Are you able to do so?

A. The second occasion, No. The third occasion was on November 26th, at a Polling Booth in Cooma, 50

Q. Was there anything special about November 26th?

A. This was Federal Election Day.

Q. You did see him at a Poll in Cooma on Election Day? A. Yes.

Q. Did you have a discussion with him on that day when you saw him? A. Only a few remarks about how things were going.

Q. Did you do any campaigning yourself on your behalf for these Elections? A. Yes, three months of intensive campaigning.

Q. Did you go through the Snowy Mountains Area at all yourself? A. I went from Cooma to almost Jindabyne in this area that Mr. Hume was covering ~~I found evidence that he had been there~~ (Objected to by Mr. Gruzman; rejected; last sentence struck out by direction of his Honour). 10

Q. Tell us what you found? A. I found evidence that a Country Party - (Objected to by Mr. Gruzman).

Q. Do not please tell us you found evidence about something. Just tell us what you found (Objected to by Mr. Gruzman).

HIS HONOUR: There are technicalities of evidence here. I know this question - I do not understand it myself. I assume you do not also. As far as possible just try and answer each question specifically, without being too discursive. 20

Mr. Bainton when you ask Mr. Pratten to tell you what he found, are you suggesting some object, or that he obtained information? If it is the former you can have it; if it is the latter, you cannot.

MR. BAINTON: I think it may include both. I want to go to the objects. 30

HIS HONOUR: I suppose I will have to wait and see what the answer is Mr. Gruzman.

MR. BAINTON: Q. On your trip around did you see any physical objects or things that indicated anything to you? Perhaps I can narrow it, that anybody had been around before you? (Objected to by Mr. Gruzman; rejected).

Q. Are you aware of anybody having been asked or instructed to distribute How-to-Vote cards in this area you went through? A. Mr. Hume. 40

Q. Anybody else? A. No.

Q. When you went round yourself - I suppose I had better ask you direct - did you see any of your own How to Vote cards? A. Yes.

Q. In what sort of places did you find them?
A. On the bar of hotels, in some - (Objected to by Mr. Gruzman.)

Q. Tell us where you saw them.

MR. GRUZMAN: What was the date of this?

MR. BAINTON: It has not been given. 50

MR. GRUZMAN: I ask that the date be fixed.

HIS HONOUR: As far as possible, identify where and when?

MR. BAINTON: Tell us when you went round yourself through these areas. A. I went into this area myself the last week of the Election, which would have been from the 19th.

Q. Tell us where you can remember having seen these cards?

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MR. GRUZMAN: On which date, and in which places?

MR. BAINTON: Would you tell us where.

HIS HONOUR: It is not unreasonable to ask - Mr. Pratten may well not be able to furnish the information, but I think Mr. Gruzman is entitled to have you ask him to be specific.

MR. BAINTON: All I am seeking to get is the fact that they were at particular places.

HIS HONOUR: Unless you identify the time, I will rule it out as irrelevant.

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MR. BAINTON: It was some time during the last week, and any time during the last week is sufficient, I submit, for the purposes of my question.

HIS HONOUR: I will not allow it unless you ask Mr. Pratten if he is able to fix the date.

MR. BAINTON: Q. Can you tell us, if you are able to, when you went to particular places? A. No. I could not do this. I did not keep a definite record of this. I do not know.

Q. Would you tell us which places you remember going to and finding cards? A. Berridale. (Objected to by Mr. Gruzman as being a double question).

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HIS HONOUR: The only places that my attention is directed to, and assuming Mr. Pratten also, are where the cards were found. I think the question is intelligible.

WITNESS: Berridale, Jindabyne. These were two places.

MR. GRUZMAN: These are towns. The question was as to hotels. I ask that the hotels be given.

HIS HONOUR: Yes, Mr. Bainton.

40

MR. BAINTON: Q. Whereabouts in those two places did you see cards? A. In the hotel at Berridale.

Q. How many hotels are there in Berridale?
A. I think one.

Q. And the other place you mentioned? A. Jindabyne. I cannot remember where I saw them there.

Q. In your own campaigning did you talk to people in the area? A. Yes.

Q. Do not answer this for the moment. Did anybody say anything to you to indicate somebody else had been round before you? (Objected to by Mr. Gruzman; rejected).

Q. Since the Election Day at Cooma have you seen Mr. Hume at all? A. No.

Q. You also told me earlier that you had seen Mr. Armstrong on I think you said two or three occasions before Election Day. I take you back to the first of those occasions, which you told me was the Rally that the Prime Minister attended? A. Yes. 10

Q. Would you tell me now each of the other occasions on which you recollect having seen Mr. Armstrong? A. I saw Mr. Armstrong also on Election Day, November 26th, at Cooma, outside the Polling Booth. I also saw him in Goulburn between the 10th and the 26th. I do not recollect the date. 20

Q. You did say earlier you have not seen him since? A. Since Election Day.

HIS HONOUR: Q. Have or have not? A. Have not.

MR. BAINTON: Q. Perhaps I should not have said "or seen him". He is in Court at the moment. Have you met or had any discussion with him? A. No.

Q. On the occasions on which you told us you saw Mr. Hume, can you tell us whether he was by himself or in company with others? A. He was in company with Mr. Armstrong on the 10th, when I was introduced to him. On the other two occasions he was by himself. 30

CROSS-EXAMINATION

MR. GRUZMAN: Q. You were the endorsed Country Party Candidate for the Eden-Monaro Federal Elections in 1966. A. Yes.

Q. I suppose you put yourself before the Court as an honourable man? A. Yes.

Q. A man who fought a fair Election fight? A. Yes. 40

Q. And played by the rules? A. Yes.

Q. And did not cheat on other candidates by breaking the rules, did you? A. No.

Q. You are familiar with the rules, aren't you? A. Yes.

Q. For example, you are aware that under the Commonwealth Electoral Act it is an offence for a candidate or a person acting on behalf of or in the interests of a candidate to employ for reward any person as a canvasser or committeemen or in any 50

capacity in connection with an election unless the expense incurred could be lawfully incurred by the candidate under this part of the Act. Are you familiar with that? A. Would you read it again please?

Q. Yes. Section 149 (para.1) of the Commonwealth Electoral Act prescribes that a candidate or a person acting on behalf of or in the interests of a candidate shall not employ for reward any person as canvasser or committeeman or in any capacity in connection with an Election unless the expense incurred could be lawfully incurred by the candidate under this Part of the Act? A. Yes.

10

Q. You are familiar with that section? A. Yes.

Q. Are you familiar with Section 145, that a candidate shall not in respect of any candidature incur or authorise electoral expenses exceeding in the aggregate (a) in the case of a Senate Election \$500 or (b) in the case of a House of Representatives Election, \$250? A. Yes.

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Q. Are you familiar with that? A. Yes.

Q. You say you complied with that? A. Yes.

Q. Are you familiar also with Section 156, which, and I will omit certain of the words from it, prescribes that any person who promises or offers any recompense reward or benefit for or on account of any vote or any support of or opposition to any candidate or any promise of any vote or any support of or opposition to shall be guilty of bribery. Are you familiar with that? A. I would like you to read that again please.

30

Q. Section 156 of the Commonwealth Electoral Act prescribes -

Q. (shown copy of Act). You might be good enough to read Section 156A - read the whole of Section 156.
A. Yes.

Q. Read Section 157. A. Yes.

Q. You agree I suppose that under the Commonwealth Electoral Act any offer of money in connection with voting or support of a candidate is bribery (Objected to by Mr. Bainton; rejected).

40

Q. Will you agree that to offer to a voter money for his vote or to support a candidate is wrong? (Objected to by Mr. Bainton; allowed).

Q. You agree that it is wrong to offer money to a voter for a vote or to support a candidate, don't you? A. For a vote, yes.

Q. Or to support a candidate? A. In what capacity does he support the candidate?

Q. If someone went round and offered a couple of dollars to a man to support you at the Election, would that be right as far as you are concerned? A. If he is a paid organiser, Yes.

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Q. Is it proper, according to your standard, for a man to go around amongst the voters and offer them money to support you? (Objected to by Mr. Bainton).

Q. You might listen to this, Mr. Pratten. I am going to read to you Mr. Armstrong's evidence on certain matters at page 925.

"Q. Now would you mind telling his Honour about it. A. Well, you will recall at that time it was just before the Federal Elections and I was using Mr. Hume's services, and his secretary, to go down and interview a number of people around the Snowy Mountains, mainly Yugoslavs and people of that nationality, to assist in the Liberal-Country Party Campaign in that area, and that is what Mr. Hume was doing, and that is why it was not detailed out. I am not saying Mr. Hume might not have to make some payment to some of the men or distribute literature. Therefore I didn't ask for a complete report. He was down there. That could be checked with Mr. Pratten, the Country Party Candidate and Mr. Brewer. I saw him with his secretary at Goulburn. That is the reason for these expenses - Electioneering expenses. 10 20

Q. What payment did you think Mr. Hume would have to make to some of the men? 30
A. I would not know. He was doing an electioneering job. I would not know if he was making any payment. But these were his expenses for doing the job for which he was fitted. He understood their language and had dealt with many compensation cases for them. He had dealt with them in relation to compensation cases and they had some confidence in him". 40

Then a few questions further down:

"Q. What was he to do? To make speeches?
A. No, to talk to them about the merits of the Liberal Country Party candidates. To ask them to vote for them.

Q. To get their votes? A. That is right - the best way he thought he could.

Q. And to pay for their votes, if necessary?
A. I would not say to pay for the votes. I was paying Mr. Hume to do the best work he could in the electioneering. 50

Q. When you spoke of making small payments to some of the men that would be paying for their vote. A. I would not know. That is why I said I did not check Mr. Hume's accounts and ask him to put a docket in for everything he did."

MR. GRUZMAN: Your Honour, I propose to ask questions based on that evidence.

HIS HONOUR: Yes. What is the question you want to ask?

(Question marked +on previous page of transcript read. Objected to by Mr. Bainton; allowed).

MR. GRUZMAN: (Question marked +on previous page of transcript re-read). A. Not to vote for me, to support me? 10

Q. Yes. A. If they are doing an active job for the country party and for me, and if it is not a payment for a vote, Yes.

Q. In other words, you think it is quite all right that Mr. Hume should have paid a few dollars here and there to people to whom he spoke? A. No. (Objected to by Mr. Bainton; objection withdrawn),

Q. In other words, you thought it was quite all right for Mr. Hume to go and pay a few dollars here and there to people to whom he spoke? A. No. 20

Q. Is not that what you already told us? A. No.

Q. Did you think it was all right for Mr. Hume to offer drinks to people whose votes he was soliciting? A. No.

Q. You did not? That would be an offence to your knowledge, wouldn't it? A. Yes.

Q. And indeed, an offence of bribery under the Commonwealth Electoral Act (Objected to by Mr. Bainton; rejected). 30

Q. The position is then that you knew nothing, I take it, of any suggestion that Hume should provide either money for drink for persons whose votes he was soliciting - A. That is correct.

Q. Would this be true (Page 947).

"Q. And that, Mr. Pratten, being informed that you proposed to employ Hume for electioneering purposes, as agreed? A. That would be right."

Is that correct? A. Yes. 40

Q. "Did you tell them exactly how you proposed to employ Hume"? Just before I deal with Mr. Armstrong's answer to that question, were you told exactly how Mr. Armstrong proposed to employ Hume? A. In general.

Q. What were you told by Mr. Armstrong? A. That Mr. Hume was employed by him and that he would make him available for the Election campaign, and in Mr. Armstrong's opinion he would be best used in areas where there were migrants, as he had a knowledge of them.

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Q. Did Mr. Armstrong tell you in what capacity he employed Mr. Hume? A. No.

Q. I take it from what you have said that you understood that Mr. Hume was permanently employed by Mr. Armstrong (Objected to by Mr. Bainton; rejected).

Q. You are telling his Honour the impression created upon you by what Mr. Armstrong said, rather than repeating the precise words, is that right? 10

A. I am repeating Mr. Armstrong's words to me.

Q. I see. Mr. Armstrong's words to you were that he employed Mr. Hume; that Mr. Hume was employed by him. That is what Mr. Armstrong said to you wasn't it? A. Yes. He did not state the period.

Q. He said Hume was employed by him, Mr. Armstrong?

A. Yes.

Q. He said that he would make Hume available to you, to do electioneering work? A. For the Country Party, Yes. 20

Q. What else was said as to what he was to do?

A. That he was to canvass for me in these areas where there was a migrant population, as he would be best suited to these areas.

Q. What did you understand by canvassing? Was there any discussion, you might tell us, between you and Mr. Armstrong as to what precisely Mr. Hume was to do? A. Mainly handing out literature.

Q. This was the discussion, was it, or what you anticipated? A. This was the discussion. 30

Q. What? Who said what? A. I am afraid I cannot remember exactly.

Q. Is the substance of the discussion that it was agreed between you and Mr. Armstrong that Hume would hand out literature? A. Yes.

Q. Was Hume to do anything else? A. General campaigning, Yes.

Q. What does that mean? A. It means that he was to spread the word about the Country Party and the Candidate, hand out the literature. These are the main things. 40

Q. Did you have a discussion with Mr. Hume about you and the Country Party? A. Yes.

Q. You told him your attributes, did you? Did you give him the word, in other words? He was to spread the word, I understood you to say? A. Yes.

Q. Did you give him the word he was to spread?

A. I told him what I was and who I was and my general background, Yes.

Q. Where did this take place? A. In Goulburn, after the Liberal Party Meeting. 50

Q. How long did that take? A. Fifteen, 20 minutes.

Q. By the way, are you related to Mr. Graham Pratten? A. I am.

Q. It was Mr. Graham Pratten who proposed Mr. Armstrong for the Upper House wasn't it? (Objected to by Mr. Bainton; rejected).

Q. In the light of what you just told us I am going to read to you now some more of Mr. Armstrong's evidence at page 947, of his discussion with you. I will start again - (Objected to by Mr. Bainton). 10

HIS HONOUR: You cannot put it in those terms.

MR. GRUZMAN: Q. Mr. Pratten, is it a fact that it was your understanding that Mr. Hume was to go out and meet individuals and talk to them? A. Yes.

Q. And to buy them drinks? A. No.

Q. And to give them a few dollars? A. No.

Q. There is a \$500 maximum limit on your election expenses, isn't there? A. Yes. 20

Q. You have told us that you obey the rules?
A. Yes.

Q. You are aware that within that \$500 is included money spent in your interests? A. By whom?

Q. By anybody. In your interests as a candidate?
A. If the expenditure is authorised by me or my campaigning committee.

Q. So that we may take it that the sum total of the money which you or your campaign committee authorised expended for the 1966 campaign was \$500. (Objected to by Mr. Bainton; rejected). 30

Q. Mr. Pratten, do I understand you to have told his Honour that you authorised the expenditure of money to Hume or not? A. No.

Q. You did not? A. No.

Q. Was it your understanding that Hume was doing this on a voluntary basis? A. No.

Q. Was it your understanding that Hume was to be paid for electioneering? A. Yes.

Q. As a special sum or as part of his general employment by Mr. Armstrong? A. Probably - this question I cannot answer. 40

Q. You realise that in the context of this case it is a vital question. A. Perhaps it is, because this is beyond my knowledge.

Q. Are you finding difficulty with the question?
A. No. The sums involved I had nothing to do with. I just do not know.

Q. I put it to you that there never was any question in your mind that Hume was to be paid directly or indirectly for any electioneering work?

A. I find your putting it to me calling me a liar, and I find this objectionable.

Q. However you take it, I put it to you, and I will have an answer to the question please, that there never was any question in your mind that Hume was to be paid for electioneering work. Yes or No? 10

A. You are wrong; No.

HIS HONOUR: I am not sure you are putting that as an affirmative or a negative proposition.

MR. GRUZMAN: Q. The fact is you never had any belief that Hume was to be paid for electioneering work did you? A. I did.

Q. Was he to be paid, in your belief, by Mr. Armstrong as part of his general employment of Hume, or a special sum for electioneering? A. He was to be paid for his work in the Electorate; whether it was a special sum of part of his general work I do not know. 20

Q. You understood that he had some general work on behalf of Mr. Armstrong (Objected to by Mr. Bainton; allowed).

Q. (Above question read). A. Mr. Armstrong stated to me when he introduced him, that he was employed by him.

Q. And that the electioneering was just something that Hume was doing besides his general employment? 30
A. He did not say this.

Q. That is what you understood? (Objected to by Mr. Bainton; allowed).

Q. That is what you understood? A. Could I have that again?

Q. (Question marked + above read). A. Yes.

Q. Would it be consistent with your discussions with Mr. Armstrong that Hume was paid an amount in excess of \$700 for electioneering? (Objected to by Mr. Bainton; question read; question withdrawn). 40

Q. Did you authorise Mr. Armstrong to pay to Mr. Hume \$704.30 as an electoral expense incurred on your behalf? (Objected to by Mr. Bainton; allowed).

HIS HONOUR: Q. The question, Mr. Pratten was, did you authorise Mr. Armstrong to pay Mr. Hume, \$704.30 as an electoral expense incurred on your behalf?

A. No.

MR. GRUZMAN: Q. Did you authorise Mr. Armstrong to pay any sum of money to Mr. Hume as an electoral expense incurred on your behalf? A. I accepted the service - - - 50

Q. Did you, or not? I will ask you the question

again. Did you authorise Mr. Armstrong to pay Mr. Hume any amount as an electoral expense incurred on your behalf. A. I accepted his---

Q. Look, Sir, would you please answer the question. A. Indirectly.

Q. Indirectly? A. Yes.

Q. First of all, did you directly authorise Mr. Armstrong to pay to Mr. Hume any amount as an electoral expense incurred on your behalf? A. His wages. 10

Q. His wages? A. Yes.

Q. Do I take it then you understood that Hume was employed by Mr. Armstrong on wages (Objected to by Mr. Bainton; rejected).

Q. How many people would you have had assisting in your campaign at the time? A. Approximately 150.

Q. How many constituents would you have spoken to over that period? A. Personally?

Q. Yes? A. Approximaately two to three thousand. 20
What period is this you are referring to?

Q. We are speaking now of the general period of the 1966 Federal Elections? A. Yes.

Q. You said you campaigned for three months?
A. Yes.

Q. Culminating I suppose on Election Day?
A. Yes.

Q. So over that period you spoke to how many thousand, did you say, about 3000? A. Approximately 30
two to three thousand.

Q. Two to three thousand constituents, and you had about 150 people working for you in one way or another? A. Yes.

Q. Mr. Hume was a man whom you met on how many occasions altogether? Q. Three.

Q. Three occasions. Do you remember exactly?
A. Exactly.

Q. You must have an excellent memory Mr. Pratten? 40
A. Average.

Q. Only average? Out of 3,000 people that you met over that period you are able to tell his Honour on your oath that you met Mr. Hume three times exactly, no less and no more - is that right? A. Yes.

Q. When was the first time that you had to recollect meeting Mr. Hume? A. When Mr. --

Q. Point, if you are in doubt. You may point?

A. When Mr. Armstrong's solicitors rang me and asked me to recollect.

Q. When was that? A. Wednesday of this week. Wednesday of last week.

Q. Wednesday of last week. So we are now speaking of events which took place close on to two years ago? A. Yes.

Q. Is that right? A. Yes.

Q. Who telephoned you? A. A Miss Peacock.

10

Q. Where were you then? A. At my home.

Q. In Wagga, I take it. I am sorry, in Yass.
A. Walgrove, Yes.

Q. You might tell us what conversation there was? A. Miss Peacock asked me could I recollect meeting Mr. Hume in the Electorate. A. I said Yes.

Q. Did the name Mr. Hume mean something to you?
A. Yes.

Q. You remembered it all these years - for both of these years, I should say? A. Yes.

20

Q. A striking individual to you? A. Reasonably.

Q. An athletic type? That struck you about him.
A. Yes.

Q. A good swimmer? A. I never saw him swim.

Q. How did you know he was athletic? A. By his build, his appearance.

Q. He created quite an impression on you?
A. Reasonable impression.

Q. You remembered his name, too? A. Yes.

30

Q. Hume and Hovell, or some other way of recollecting it? A. No.

Q. Just knew it? A. Yes.

Q. Fred Hume? A. Yes.

Q. So Miss Peacock rang you and said "What did she say, again?" A. She said did I recollect meeting Mr. Hume in the Election Campaign.

Q. Did you say "What Election campaign?" How did the conversation go? A. I said Yes.

Q. You said Yes. A. Yes.

40

Q. What did she say? A. She said "Mr. Grant is now coming in, I would like you to speak to him".

Q. Did you speak to Mr. Grant? A. Yes.

Q. What did you say to him, or what did he say to you? A. He asked me the same question as Miss Peacock asked me, Did I recollect seeing Mr. Hume, and I said Yes.

Q. What else happened? What else was said? A. He asked me was I prepared to appear and say this?

Q. Didn't he ask you when you met him? A. He said he would ring me back when I had consulted my diary, to see if I could exactly recollect when I did meet him. 10

Q. How often does Mr. Hume's name appear in your diary? A. Mr. Hume's name does not appear in my diary.

Q. Not at all? Not at all? A. Not at all.

Q. How did your diary help you to recollect seeing Mr. Hume, apart from telling you general political activities over that time? A. The Liberal Party Rally in Goulburn was one of the biggest ever held in that area. It was attended by the Prime Minister that was, and many other important people, and I remember meeting Mr. Armstrong and Mr. Hume after this Rally. 20

Q. Did you meet Mr. Holt then? A. Yes.

Q. And many important people? A. No.

Q. Was not this an important occasion for you?
A. No, not particularly.

Q. Oh, come, Sir. You were the endorsed candidate, and here was this great rally, which was an opportunity for you to meet important people politically, wasn't it? A. No, not particularly. This rally was held more for Mr. Munro, the Liberal Candidate. 30

Q. Pardon me, how long was this held before the Elections? A. 10th November 1966.

Q. And the Elections were to be held 16 days later? A. 26th November 1966.

Q. It was a three-cornered election wasn't it?
A. Four-cornered.

Q. Liberal, Country Party, Labour and who else?
A. The D.L.P. 40

Q. A four-cornered election, and here you had at this meeting, I suppose most of the Liberal persons who would be supporting the Liberal candidate?
A. Some.

Q. It was the biggest rally that had ever been held wasn't it, A. In Goulburn.

Q. The most important? The most important?
A. In my opinion, Yes. The Prime Minister attended.

Q. Was that not an important occasion to you?

A. Not particularly.

Q. Are you serious, Mr. Pratten? A. Yes, I am.

Q. Was it not regarded by you as an opportunity to meet people who might be your colleagues after the Elections? A. Political colleagues?

Q. Yes. A. No. I had met almost all the political men who were there.

Q. Was it not regarded by you as an opportunity to advance your cause among the electors who may be there? A. Not to a great extent. 10

Q. Was Mr. Hume the most important person you met at this rally? A. No.

Q. How many people did you meet at the rally?

A. Not many, as most of the time I was on the platform.

Q. Was Mr. Hume on the platform? A. No.

Q. Was Mr. Armstrong? A. Yes.

Q. When did you meet Mr. Hume? A. After the rally. 20

Q. After the rally. Whereabouts? A. In the hall where the rally took place.

Q. What hall was that? A. The Lilac Time Hall in Goulburn.

Q. Is that a large hall? A. Yes.

Q. How many people were in it? A. I don't know.

Q. Are we speaking of hundreds or thousands?

A. I don't know.

Q. It was crammed full, was it? A. No.

Q. There was not much spare space, was there? 30

A. Some.

Q. I suppose you were going round shaking hands and meeting people all round the hall? A. No.

Q. Weren't you? A. No.

Q. Did you kiss any babies, or don't people do that these days? A. No.

Q. Do you remember who you met there that night?

A. Some of the people. Yes.

Q. How many would you have met? A. It is difficult to say.

Q. The one that sticks in your memory is Mr. Frederick Hume, is that right? A. Yes, because he was going to work for me. 40

Q. Were any of the other 150 workers there?

A. Some.

Q. They were going work for you too? A. Perhaps but Mr. Hume was introduced to me by Mr. Armstrong this particular night.

Q. But Mr. Armstrong meant nothing to you did he? Mr. Armstrong is a man who meant nothing to you? A. I did not say this.

Q. I thought you wanted to give the court that concept? A. They are your thoughts, not mine.

10

Q. Mr. Armstrong does mean something to you?

A. Yes.

Q. An important man, in your point of view.

A. No.

Q. A man whose support you would like to have?

A. At what?

Q. At whatever you are about? A. This is a difficult question. Mr. Armstrong's support I was glad to have in the political arena. He was the Country Party Member of the Legislative Assembly, and he was quite an expert on politics.

20

Q. Of all the people who were there, the man you remember most clearly I suppose was Frederick Hume? A. No.

Q. What about at Cooma? You have a recollection of seeing Mr. Hume there, have you? A. Yes.

Q. With Mr. Armstrong? A. No.

Q. Mr. Armstrong was at Cooma wasn't he? A. Yes.

Q. Where did you see Mr. Armstrong? A. I saw them separately.

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Q. You remember this clearly? A. Yes.

Q. Where did you see Mr. Armstrong? A. Outside the Polling Booth.

Q. What was he doing there? A. He was assisting in the polling day activities of the Party.

Q. What time of the day was that? A. Almost midday.

Q. What, five to 12? A. Approximately midday.

Q. It might be two minutes to 12? A. It might be.

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Q. When did you see Mr. Hume? By the way, Mr. Pratten, you cannot help smiling can you? You smiled then didn't you? You did smile then didn't you? A. Not that I was aware of.

Q. Can you get your face twisted like that without

smiling? A. I am not aware of my facial contortions. I cannot see them.

Q. You are smiling now, aren't you? You see, Sir, you have a terribly clear recollection of these events, haven't you? A. No. I have not. I stated that I met Mr. Hume in between these two events, and I cannot recall on what day I met him.

Q. You are very certain of that? A. Election Day was a very important day for me. A lot of the details I still remember. 10

Q. Come back to Cooma. When did you meet Mr. Hume? A. I met Mr. Hume a little while after Mr. Armstrong, outside the Polling Booth.

Q. About how long later? A. Five, ten minutes.

Q. What, about five past 12? A. Approximately.

Q. What, their paths must have just about crossed? A. Yes.

Q. You remember this? A. Yes.

Q. Nobody has suggested it to you? A. No. 20

Q. You have not discussed it with anybody? A. No.

Q. Do you remember it all as clear as crystal; is that right? A. I remember these particular events, Yes.

Q. Mr. Hume, to your knowledge did he have a car there? A. I do not know.

Q. Mr. Armstrong, did he have a car there? A. Yes

Q. What car was that? A. He had a Mercedes Benz Sports Coupe.

Q. You remember seeing it there in Cooma on that day? A. Yes. 30

Q. Did you have any discussion with Mr. Armstrong about Mr. Hume in Cooma on that day? A. No.

Q. No discussion? A. No.

Q. You said you met Hume again. When was that? A. Some time between November, 10th and November 26th, in Goulburn.

Q. What was he doing in Goulburn then. A. I am not sure, but I think he was picking up some Country Party literature. 40

Q. Whereabouts did you see him at Goulburn? A. In the Country Party rooms at Goulburn.

Q. Daytime or nighttime? A. Daytime.

Q. This is the position, is it, just to summarise -

let me see if I am correctly summarising what you say. You saw Mr. Hume on a total of three occasions? A. Yes.

Q. Over this Election period. The first time was at the Liberal Party Rally? A. After the Liberal Party Rally.

Q. And for how long did you speak to him, two minutes, or three? A. Approximately, 15 to 20.

Q. Fifteen to 20? A. Yes.

10

Q. What, in the crowded hall? A. No, the hall was emptying by then. It was not a very big crowd.

Q. You did not take him to your rooms or anything? A. Yes, he came back to the rooms later, but he did not talk to me any further, to any extent.

Q. You spoke to him for 15 to 20 minutes in the hall after the Liberal Party Rally. Then you met him on a second occasion, and this was just you saw him in the Liberal Party Rooms. A. No, the Country Party Rooms.

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Q. That was what, just a fleeting meeting? A. Yes.

Q. You saw him on a third occasion, outside the Polling Booth at Cooma and that again was what, just a fleeting meeting? A. Yes.

Q. So that to summarise your evidence, you would not have seen Hume in the Eden-Monaro district for more than twenty minutes throughout the Election campaign? A. I would say an hour. Some of the time I saw him I was not talking to him.

Q. On the basis of that acquaintance, or that knowledge of him, something like two years later you were able to give us all this detail about Frederick Hume? A. I haven't given you any detail about Frederick Hume. I have given you details about his movements.

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Q. And all of this came to you when Miss Peacock rang you up last Wednesday? A. Who?

Q. Miss Peacock rang you up? A. When I consulted my diary and recollected, Yes.

Q. But you immediately answered her like a flash over the telephone "Frederick Hume, Yes, I know him" Is that right. A. Yes. I try to remember the people who work for me.

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RE-EXAMINATION

MR. BAINTON: Q. Would you just tell us who decided where Mr. Hume was to go and what he was to do? (Objected to by Mr. Gruzman).

HIS HONOUR: What instructions were given, I take it you mean?

MR. BAINTON: I am at this stage asking who made the decision. (Question rejected).

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Q. Can you tell me who was the person who physically told Mr. Hume where he was to go and what he was to do while in the Eden-Monaro electorate (Objected to).

HIS HONOUR: Q. Mr. Pratten, did you give either in detail or in general terms instructions to Mr. Hume as to where he was to go or what he was to do? A. ~~My campaign-committee-did.~~

HIS HONOUR: That will be struck out.

10

Q. The question was, did you personally give him either general or particular directions? A. No.

Q. Did you refer him to anybody else? A. Yes.

MR. BAINTON: Q. Who did you refer him to. (Objected to; allowed).

Q. Do you remember what the question was? I think it was who did you refer Mr. Hume to for his instructions? A. Mr. Hume was referred to my campaign committee.

Q. How many people were on that campaign committee? 20

A. This was a loose committee consisting of myself, my campaign director -

HIS HONOUR: Q. Who was that? A. My campaign director, Mr. Alley. Mr. Ron Brewer, Mr. Armstrong, and we directed - we were guided by the thought that Mr. Hume would be -

MR. BAINTON: Q. Were you present when any of those people gave any instructions at all to Mr. Hume?

A. Yes.

Q. Would you just tell us which people in your recollection did give him instructions? A. We discussed this amongst ourselves, and he was given our instructions (Objected to). 30

Q. Do you remember who the person was who spoke to Mr. Hume about this? A. Several of us did.

Q. When you say "several of us", who are the "us"?

A. Several of the campaign committee.

(Witness retired).

MARY VERENA CATT

Sworn, examined, deposed:

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TO MR. BAINTON: My full name is Mary Verena Catt.

Q. Where do you reside? A. 131 Spurway St. Ermington.

Q. Are you the manageress of the St. Vincent De Paul's Society at West Ryde? A. Yes.

Q. I think you are also the mother of Annette Catt, who has previously given evidence in this case? A. Yes, that is right.

Q. Annette is your only daughter, isn't she?

A. Yes, that is right.

Q. You have another child - a son? A. Yes.

Q. I want to ask you what you can recall of the events of the not- immediately past Christmas, but the Christmas before that? A. Well, Annette, was home over Christmas and New Year, and on the Wednesday after the New Year her father and I drove her back to her work. 10

Q. Just let me interrupt you there. Would you mind going back to the beginning of that period, and tell us what you can recollect as to who was at your place and what they did then? A. Well -

Q. When did Annette come, for a start? A. Christmas Eve she came home.

Q. Yes. A. We spent Christmas at my parents' place, and then Annette and I just spent our time at home together as any mother and daughter I suppose would do. 20

Q. Did either of you go out to any particular places or have any particular visitors? A. No, I don't think so. We probably went shopping. But there would not be anything - you know, just staying at home and doing nothing particular, I suppose.

Q. Did you yourself do anything on New Year's Eve? A. Yes.

Q. What did you do? A. My husband and I went out? A. Yes.

Q. Where did you go? A. We went to a night out at the Carlingford Bowling Club which my husband plays bowls up there. My husband is a member. Annette and Fred went to a party themselves, and Fred didn't like it, so they came home. 30

Q. Whereabouts was this party? A. Locally. At Ermington, where we live. Locally. Fred didn't like it, so they came home. Fred brought Annette home.

Q. On New Year's Eve did anything particular occur? I think it was a Sunday that year? A. Yes, it probably was. New Year's Day. 40

Q. Yes. A. No, we stayed home all day.

Q. Who is "we"? A. Annette and I, because her father plays bowls. We just stayed home and did the ordinary things you would do at home.

Q. What about the few days after that? What did you do then? A. Oh, we were at home right up until she went back on the Wednesday. I don't recall us doing anything except sewing or ordinary things that you would do at home. I don't recall us doing anything in particular.

Q. Where did she go back to on the Wednesday?
A. When?

Q. Where? Where did she go back to on the Wednesday?
A. We went to Riley Street.

Q. Did you know the place at Riley Street?
A. Oh yes. I went down there a lot.

Q. Had you stayed there yourself before this time, or visited there?
A. Yes. When they first went there I went down with Annette, yes. And her father and brother - we all went down. 10

Q. How many times had you been there? Have you any idea?
A. I could not tell you that, no. Quite a lot.

Q. One or two?
A. A lot. Put it like that. Like, being the mother I went down a lot, and Annette has come home a lot. Annette came home a lot.

Q. Have you the telephone on at your place?
A. Yes I have.

Q. Did you very often speak to Annette on the phone?
A. Plenty of times. Plenty of calls. 20

Q. How did you get Annette back to Riley Street?
A. By car. Drove her down there.

Q. Was there anybody there when you arrived?
A. Yes. Fred was there, yes.

Q. Did you have any discussion with him?
A. We stayed there and talked with Fred. Fred just said "We may go down the river with Mr. Armstrong on the weekend, Annette," like that. And, of course, I had made arrangements for that weekend with Annette, so - 30

Q. That is what I would like you to tell us about. What arrangements had you made? What arrangements had you made with Annette about this weekend?
A. I was going down there.

Q. You were going down -
A. Down to Annette's.

Q. At Riley Street?
A. Yes.

Q. Was this for any particular reason?
A. Oh no. I often went down. You know, I often went down there with Annette.

Q. When you got down there and had this conversation did that have any effect on the arrangements you had made?
A. Yes. I said "If you go, give me a ring." You know, of course, to let me know. 40

Q. Did you hear from Annette about this?
A. Yes, Annette rang me down at St. Vincent de Paul's store on the Saturday morning.

Q. What part of the morning? Are you able to tell us the time?
A. Well, I think it would be just after 9 o'clock. Yes, it was early.

Q. What did Annette say to you? A. She just said "I can't talk, mum. I am going up the river with Mr. Armstrong and Fred." I said "You go, and have a nice time," like any mother would say. I said "Have a nice time and enjoy yourself, because I don't think you had a good time on your New Year's Eve party." That is all, I think.

Q. When did you next see Annette? A. She rang me when she came back.

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Q. She rang you when she came back? A. Yes.

Q. When was that? A. That was on the Sunday evening.

Q. Have you any idea of the time? A. No, not now. I could not remember.

CROSS EXAMINATION:

MR. GRUZMAN: Q. Did I understand you to say you were going to stay at the flat that weekend? A. The weekend that Annette was going away?

Q. Yes. A. Yes, I was going to Annette's place, but she rang me on the Saturday.

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Q. Did I understand you to say you were going there to stay the night? A. At Annette's?

Q. Yes. A. No, I would go down there. She rings me to let me know. I don't know what you mean.

Q. Were you going to stay the night at Riley Street? A. With Annette?

Q. Yes. A. No. I go down there. It is only 20 minutes run in the car.

Q. From Ermington to Riley Street? A. Yes.

30

Q. A pretty fast run, isn't it? A. It does not take that long. You know. I mean, you go through. There is not a lot of traffic. You can go through.

Q. Who drives? A. I do.

Q. You drive? A. Yes.

Q. In twenty minutes, from Ermington to Riley Street? A. Well it could be 20 to 25, But it doesn't take that long.

Q. You do that frequently? A. I have yes, a lot.

Q. Frequently? A. Yes, definitely.

40

Q. I didn't quite gather whether you were going to stay the night there on that weekend of the 7th?

A. No, I was not. Stay the night of the 7th?

Q. Yes. A. No, I was not staying the night. I had made arrangements to go down to Annette.

Q. Just to sit there for a while? A. Yes. We might go out for a walk.

Q. But the whole flat combined with office consists of one little room, doesn't it? Is not the flat and the office one room? A. Yes - the office at the end, but it was not a one-roomed flat.

Q. What floor is this flat on? A. It is on the ground floor.

Q. It is on the ground floor? A. Yes.

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Q. It has always been the same flat? A. Yes.

Q. And you visited there frequently? A. Yes I did.

Q. That is for what? For how long prior to this period in January had you visited frequently?

A. As long as they were there. I can't remember now.

Q. About the preceding three months? A. Longer than three months.

Q. Longer than three months? A. Oh yes.

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Q. For about how long prior to January 1967?

A. Oh, I would say I suppose it would be nearly 12 months. Like, I can't remember really. I mean, I don't know, to be honest.

HIS HONOUR: I don't think Mrs. Catt understood the question, Mr. Gruzman. Put it again.

MR. GRUZMAN: Q. You see, Mrs. Catt, you were going to visit your daughter on this weekend that you told us she went away up the river? A. Yes, because Annette was home with us over the Christmas and the New Year, and I made arrangements that I would go and see her the following - I explained to her coming home that I would come down and see her, but not stay the night.

30

Q. You said that you were a frequent visitor?

A. Yes I was.

Q. And for how long before that weekend were you a frequent visitor? A. Oh well, I mean if Annette never came home I went down. Put it that way.

Q. For how long? Over how many months, would you say? A. It is a long way back. I can't remember.

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Q. I won't hold you within a month? A. I am sorry. You know, I just can't remember. I am swearing to an oath, so I can't say something I can't remember.

Q. You have not got a very good memory? A. No, I have not.

Q. Do you think it could have been 12 months prior to January 1967, the weekend you have spoken of? A. Twelve months? Oh no.

Q. The question is how long you had been visiting this flat before? A. Before?

Q. Yes. A. It might be - whenever they moved in, a few months before. Look, I can't remember back. I don't know.

Q. Your memory is not too good? A. Not as far back like that, before.

Q. All the time you visited there it was this ground floor flat? A. Yes.

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Q. You see, madam, you never visited there at all, did you? A. My word I did. My word I did visit there, and so did my husband and my son.

Q. Do you remember the flat number? A. No I don't.

Q. Don't you know that over that period they lived in two different places - lived in two different flats in the same building? A. Yes, they lived in one, but they were only there for a little while.

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Q. Madam, you told us you always visited the same flat, didn't you? A. Yes, that is right. I only visited one flat.

Q. The one flat? A. Yes, and that was the one facing the front.

Q. And that is the one you visited on the Wednesday, you say 4th January? A. Yes.

Q. You could not have visited that flat very often, could you? A. Well, I visited there.

Q. You see, madam, they only moved into the flat sometime in December, didn't they? A. Into that one?

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Q. Yes. A. Well, I -

Q. You don't know. It leaves you speechless, I suppose? A. No, because I am just telling the truth, what I can remember.

Q. You see, what you told his Honour was that you frequently visited this flat. This same flat?
A. Yes. I did.

Q. And that is simply and plainly not true, Mrs. Catt, is it? A. I had visited that flat, yes.

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Q. With your bad memory how can you remember these details that you have told his Honour? A. Because I am Annette's mother, and I always went down and visited her.

Q. Did Annette remind you of what happened over that New Year? A. No, Annette was home.

Q. I see. Who first asked you to remember this?
A. Who first asked me? Nobody. I can remember it.

Q. Well, when did you first know you were going to give evidence here? When did you first know that? A. Only yesterday.

Q. Yesterday? A. Yes.

Q. And is that the first time that you have -
A. Definitely. The first time.

Q. And the first time you have had to recall what occurred? Do you understand what I mean? Is that the first time that anybody said to you what happened over the New Year 1967? A. Oh, I mean we always talked about that because of last New Year sort of thing - a better time, as you might put it - "We will have a good time this year." 10

Q. What I am trying to find out is who told you yesterday that you were going to give evidence here?
A. Mr. Grant asked me to come and see him.

Q. Is that the first time that any legal adviser had spoken to you about this matter? A. Yes, because I know no one else. 20

Q. Prior to that had you discussed the fact that you were going to give evidence with anybody connected with the case at all? A. No, I could not have. It was late yesterday afternoon.

Q. I see. Well, is this the position, that up until late yesterday afternoon there had never been any discussion with anybody about the events of Christmas-New Year and the week after, 1966-67?
A. Oh yes, I mean, we talked amongst ourselves at home, of course. Everyone has talked about the case. 30

Q. Who did you discuss it with? A. Just at home.

Q. Well, who with? A. My husband and son.

Q. Your husband? A. Yes.

Q. And your son? A. Yes, my son.

Q. Have you discussed it with Annette? A. Oh yes. But as a matter of fact Annette has not said a terrible lot about it.

Q. When did you discuss it with Annette? A. Last week or the week before, or you know when it was in the papers - anything about it. We talked about it. That is all. 40

Q. Was Annette at your place last week? A. Yes.

Q. And what did she tell you about you giving evidence? A. Nothing. Nothing, Nothing.

Q. Didn't say - did she tell you she was going to give evidence? Did she tell you she was giving evidence? A. That was when Annette - when it was in the paper, on the Thursday.

Q. That was when it was in the paper on Thursday?

A. Yes.

Q. She came to see you on the Thursday night, did she? A. No. Annette is living at home.

Q. On the Thursday night there was a discussion about the case, was there? A. Talk about it, like. Everyone talked about it.

Q. Up to that time - prior to that had Annette asked you whether you remembered the Christmas-New Year period? A. Oh no. We just talked about remembering what went on. 10

Q. And that was on Thursday night? Last Thursday? A. No, beforehand. She has often talked about the trip, because she enjoyed herself. That was the first time she went.

Q. She did some skiing, did she? A. No, she didn't ski at all. No, she cannot ski.

Q. Why did she enjoy the trip herself? Did she tell you? A. It was nice. I mean, it is nice to go on a trip that you have never been to. 20

Q. Sleeping in the boat with Fred? A. No. That is very wrong to say that. Very wrong indeed. (Objected to).

HIS HONOUR: Mr. Gruzman, I don't think that was a proper comment to make.

MR. GRUZMAN: Q. She didn't tell you what she particularly enjoyed about the trip? A. Of course. I mean, I didn't have to ask her anything about it. She said that it was very nice. 30

Q. Have you had any discussion with Fred Hume about this matter? A. Fred does not speak very much on anything at all to anybody.

Q. Has Fred been visiting Annette at your place? A. Yes.

Q. All the time? A. Yes, because they are engaged.

Q. How often would Fred have been coming to your flat in the last few months? A. Oh, quite often.

Q. Every night? A. Sometimes it all depends on what work he has to do himself. 40

Q. He is a very frequent visitor? A. Yes, and a welcome one.

Q. Does he have meals there? A. Yes, he will have meals.

Q. Has there been any discussion with Mr. Hume about this case? A. With us?

Q. Yes. A. I said before that Fred does not speak very much of his business or anything to us at all.

Q. Well, when is the first time that anybody said to you - anybody asked you to remember that weekend? A. No one asked me to remember it at all. No one has ever asked me to remember it.

Q. When was the first time that weekend came up in a discussion with you? A. Oh, quite a while back, I think.

Q. About how long ago? A. I think where the party was. That is how we happened to talk. We knew the people where the party was and we just talked about it, you know. The people where they had the New Year's Eve party live around there. I mean, there was nothing - that is how you remember things, don't you? You see people that live around near you. Little things happen. You know their family.

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Q. Who was there when this discussion took place? A. Well, my husband and myself and Annette - I probably told Annette I met the young girl down the road or something to that effect.

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Q. And Fred? A. I don't think Fred was there.

Q. You are not quite sure? A. No, I don't think he was there.

Q. How long ago did this discussion that you are speaking of take place? How long ago was that discussion? A. I don't know. I don't know how long ago. I mean, I live around there. You see the people frequently. It could be a couple of months; it could be three. I don't know. It could be only a month ago. I really don't know. I can't answer that.

30

Q. Take the best estimate. You have mentioned one month, two months, three months. Would the best estimate that you can make be something like two months ago? A. Oh, it could be, Yes, it could be.

Q. And there was a discussion then with Annette about that weekend? A. Yes, because I mentioned about meeting the girl, with the party she had.

Q. You mentioned about meeting which girl? A. With the party - the house - the home where they went to the party.

40

Q. That is the New Year's Eve party? A. Yes.

Q. You say that that is how the subject arose about two months ago? A. Yes, I would say that.

Q. What did Annette say about this weekend? A. She enjoyed herself at it.

Q. She told you that? A. Yes, she said it was very nice up the river. She told us it was very nice up the river. That is all.

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Q. Did you and Annette sort of work out what

happened over the Christmas-New Year? A. No, we did not have to, because I know.

Q. But you did have a discussion about it at that time, about two months ago? A. About the weekend?

Q. Yes. A. No, we didn't have a discussion at all about it.

Q. Well, what was the conversation? A. Because the young girl that had the party - I just talked about it, and spoke to Annette about her.

10

Q. What did you say to Annette? A. It was nothing. Just a family talk, about her family. There was nothing.

Q. But you remember it? A. Yes, because they live nearby. You remember people that live near you.

Q. When did Fred come again after that? A. After what?

Q. After this conversation? A. I don't know. I can't follow you, Mr. Gruzman, I am sorry. I don't know.

20

Q. I will withdraw that, and I will start again. After this conversation that you have spoken of when did Mr. Hume come to the house again? A. The conversation about -

Q. About New Year's Eve? A. He probably came the next night.

Q. Was there any discussion then about that New Year's Eve? A. No, because, as I said before, we did not discuss anything. Fred does not tell me any of his business and, I mean, I had no reason to tell Fred anything about it. It was Annette's friend - a family friend, Not Fred's.

30

Q. You read the newspapers, do you? A. Yes.

Q. And you have been reading about this case?
A. Yes.

Q. And as at that time two months ago I suppose you had read a lot of evidence about the allegations in this case? A. Yes.

Q. And you knew, amongst other things, that it was suggested that Fred Hume was involved in the matter in a serious way? A. Oh yes.

40

Q. And Mr. Hume is a welcome visitor in your home?
A. Yes, quite true.

Q. And he is your daughter's fiance? A. Yes.

Q. And I suppose you would like to do what you can to help him? A. Oh, he is a decent man. I mean to say, I can't see anything wrong in him. He is decent and respectful - respectable.

Q. I suppose you would like to do what you can to help him? A. I don't know what you mean about that.

Q. Don't you understand that? Are not you here to give evidence for the purpose of helping Mr. Hume?
A. No.

Q. What are you here for? A. I am here to say what we did on the weekend.

Q. You say you have never discussed that with Mr. Hume at all? A. Fred does not hardly mention it at all unless I ask him what anything means. That is all. Then he just tells me in a quiet way. It has never been a real big open discussion, because he does not discuss like that. 10

Q. Have you ever discussed any of the evidence in this case with Mr. Hume? Yes or No? A. Yes. I asked him about it - what does it mean, or something to that effect.

Q. Have you asked him anything about the weekend up the river? A. Oh no, because I knew about it. I mean, we have talked about it - about him skiing, and what they did. I mean that is just ordinary, isn't it - you talk like that. 20

Q. Is this the position? I don't want to put words into your mouth. You tell me is it right or wrong: have you ever discussed the weekend up the river with Fred Hume. Yes or No? A. Yes.

Q. You have? A. Yes.

Q. When did you discuss it last? A. Oh, I know. When Jack Murray brought it out about skiing, and we made fun, and I said "You are a champion skier as well as tennis player", just like that, and he laughed. 30

Q. Where was that? A. That was at home.

Q. And up to that stage you had no idea that you were going to give evidence in this case? A. No, I did not know until yesterday. No, definitely not.

Q. That was last Thursday night that you had this discussion with Mr. Hume? A. Yes. Talked about the skiing, yes. 40

Q. So Mr. Hume and your daughter were at your home last Thursday night? A. Yes, that is right. Annette lives at home.

Q. And there was a discussion about the weekend up the river? A. Oh yes, well, you would talk about that. If you went skiing that weekend you would talk about it, wouldn't you?

Q. And you knew then, of course, that your daughter had given evidence, didn't you? A. Yes. Everybody knew that by the paper. 50

Q. And up to that time had you been asked to

remember what had happened up the river? A. Well I didn't know anything - just that Annette had a good time and Fred skied up the river. I mean, I didn't probe into it to find out. They enjoyed themselves.

Q. Can you just tell his Honour in your own words what the discussion was at your home last Thursday night with Mr. Hume, your daughter and yourself?

A. It was just about the skiing. That is all it was. And he was just talking about Jack Murray skiing and, I mean, that is all we were talking about, and how he didn't think he would pick it up so quick. Just how you talk about anything like that. I mean, there was not anything about it.

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Q. He told you Jack Murray taught him to ski, did he? A. Yes.

Q. Did Annette tell you she had seen that?

A. What? Fred skiing?

Q. Yes. A. Yes.

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Q. And she saw Jack Murray teaching him, did she? Did she tell you that? A. No. She just told me Fred was taught skiing by Jack Murray. I mean, that is all. I never asked her did she see him, or anything like that. She just told me that Fred was taught skiing by Jack Murray. I didn't ask her anything more about it.

Q. Did anybody discuss what happened on New Year's Eve last Thursday night? That is, New Year's Eve 1967? A. Not last Thursday night, no.

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Q. Did anyone discuss the fact that you were going to come to Riley Street on the 4th? Did anyone discuss the fact that you came to Riley Street on 4th January last Thursday night? Did they discuss that last Thursday night - the fact that you came to Riley Street on 4th January? A. No, all we talked about was the skiing and that sort of thing. There was not anything about -

Q. Is this the position, that you deny there was a detailed discussion last Thursday night about the facts of Christmas-New Year up to 7th January 1967?

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A. No, there was not a big discussion at all.

Q. You deny there was any detailed discussion?

A. Big detail? No, there was not. No real big discussion at all. Just ordinary talk about what went on up at the weekend. That is all.

Q. Can you explain how Mr. Grant would know last night what evidence you could give? A. I don't think I could.

Q. Prior to speaking to Mr. Grant you had never told anybody the details of what evidence you could give about this matter, had you? A. No. No, why should I?

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Q. What did Mr. Grant say to you last night. (Objected to; objection withdrawn).

Q. What did Mr. Grant say to you last night?

A. He just asked me about the weekend, you know. About Christmas and New Year - where Annette was, and what we did.

Q. Was this on the telephone? A. No. I went in and saw Mr. Grant.

Q. What time was that? A. 5 o'clock last night.

Q. 5 o'clock last night? A. Yes.

Q. Who told you to go in? A. Mr. Grant asked me to come in. 10

Q. He telephoned you, did he? A. Yes.

Q. And up to that time you had never told anybody what evidence you were going to give? A. I didn't know. I didn't know I was to come and give evidence. I didn't know anything about it.

Q. And do I understand you to say that you told Mr. Grant last night the same sort of evidence as you have given today? A. Yes. I could not say anything else, because it is true, what I have told him. 20

Q. You did not require any prompting? A. No I did not.

Q. What did you do last Easter? A. What did I do last Easter? I would not know that. I suppose the same thing as I do anytime. I don't know what about last Easter.

Q. You would not really have a clue? A. Oh well, I mean, I work, so Easter I would be doing my housework, and I have only just lost my father, and I would go over to my mother's. It was nothing - there would be nothing exciting to that effect. I could not recall anything, you know. 30

RE-EXAMINATION

MR. BAINTON: Q. After you saw Mr. Grant last night did you talk to or see anybody else about the case?

A. Yes, I went to see you.

Q. Can you remember what you did last New Year's Day? The one immediately past? I am sorry, last New Year's Eve. (Objected to; rejected). 40

(Witness retired).

(Affidavit of Frank Clifford Bailey of 5th August 1968 filed in Court by Mr. Staff. His Honour released the affidavit to the custody of Mr. Gruzman over night)

(Further hearing adjourned to 10.0 a.m. on Wednesday, 11th September 1968.)

BARTON v. ARMSTRONG & ORS.

THIRTY-FOURTH DAY: WEDNESDAY, 11TH SEPTEMBER, 1968.

(Reading of affidavit of Frank Clifford
Bailey of 5th August, 1968 deferred.)

HIS HONOUR: I shall have this note made: Subject to the objection which Mr. Staff takes as to relevance, which objection I have not acceded to, it may be noted that it is agreed between the parties as follows:- The cash payments book of A.E. Armstrong Pty. Limited shows that on 10th April, 1962 by cheque 437 payment was made by A.E. Armstrong Pty. Limited to Palgrave Corporation of the sum of £51,250 in respect of the purchase of 100,000 Aust. Fact. Ltd. F.P. shares. 10

That agreement having been noted, it is no longer necessary to retain in Court the books produced on subpoena by A.E. Armstrong Pty. Limited and by George Armstrong & Son Pty. Limited. 20

FREDERICK HUME

Sworn, examined, deposed:

MR. STAFF: Q. What is your full name? A. Frederick Hume.

Q. You live at 33 Garling Street, Lane Cove?
A. Yes, that is right.

Q. You are a licensed inquiry agent? A. And licensed commercial agent also.

Q. Licensed commercial agent? A. Yes.

Q. And carrying on business from 33 Garling Street, Lane Cove? A. Yes. 30

Q. Where you have an office as well? A. Yes, I have an office in the front of the house.

Q. And I think you live there, do you, at Lane Cove with your parents? A. Yes. That is my residential address. I live with my parents.

Q. What age are you? A. Thirty-four.

Q. In what year did you arrive in Australia?
A. I arrived in Australia in 1949.

Q. Yes? A. In May. On a ship called "Mohadi". 40

Q. I think you were born in and spent the first 13 years of your life in Yugoslavia? A. I am sorry, I did not hear you.

Q. You were born in Yugoslavia? A. I was born in Croatia, which is a Federal Republic of Yugoslavia.

Q. I think you spent the first 13 years of your life in Croatia? A. Yes.

Q. You grew up there during those years with your parents, and in the latter portion of your time there with your mother. I think your father was interned? A. No, my father was not interned. He was interned later on in 1945, when the government changed.

Q. Your parents I think were what might be described as comfortably off in Yugoslavia until the family assets were confiscated? A. Very well off. 10

Q. I think you and some other members of your family left Yugoslavia when you were about 13½ years old? A. Yes. I left with my brother and my father, and later on my mother followed with my uncle.

Q. And I think you then went to Austria? A. I went to Austria, where I attended school. It was an art school. 20

Q. And then you came - you left Europe for Australia and arrived here during 1949? A. I arrived at Bonegilla in 1949.

Q. When you arrived you were about 15 years of age? A. Yes, I just turned 15. I did not have a passport at that time.

Q. It has been alleged in this Court that you had a criminal record in Europe for violence. Is that true? A. No, that is impossible.

Q. Now I want you to look at the documents which the officer will show you. I hand you two documents. The first one, I think, is in the Croation language? A. In Croation and in Latin, and it is my birth certificate. 30

Q. Your birth certificate? A. Yes.

Q. It shows in Latin particulars relating to your birth, doesn't it? A. Yes.

Q. As well as in the Croation language? A. Yes. It shows my father's name, his profession, my mother, the place where I was born, the chaplain's name and a number of other things. 40

Q. And the second document, if you will just look at it, is, I think, a certificate in respect of the time you spent in school in Austria? A. Yes, it is from the art school in Graz, which is a city, and I was enrolled there on 13.9.48 and attended until 12.2.49. I passed with good honours.

Q. It is in the Austrian language? A. It is in German. 50

Q. In German? A. Yes.

(Birth certificate and education certificate, F. Hume, tendered and admitted as Exhibit 72.)

Q. Now, your original given family names are Mirko Zelimir Draganovic-Harasty? A. That is right.

Q. Mr. Hume, is there a hyphen between Draganovic and Harasty? A. Yes there is. It is a hyphenated surname. 10

Q. After you arrived in Australia I think you went to a migrant camp at Bringella? A. No, Bonegilla.

Q. Bonegilla? A. Yes.

Q. You attended school at the Christian Brothers School at Albury? A. Yes, and later on at the high school.

Q. And you and your parents lived in Albury I think for about 1½ years, and then the family went to Melbourne? A. That is right. 20

Q. And you worked in Melbourne at the Australian Knitting Mills for about 1½ years, until the family came to Sydney? A. Yes.

Q. And then I think you worked for Dairy Farmers in Sydney for some time? A. Yes, for some time.

Q. And then you obtained a taxi-driver's licence? A. That is right.

Q. Now, in December 1959 did you change your name to Frederick Hume? A. Yes, by deed poll.

Q. The officer will show you a deed poll, together with a certified copy of this deed poll. Will you identify those as, first of all, the original deed poll, and secondly, a registered certified copy? A. That is the original deed poll, and that is the certified copy. 30

(Copy deed poll changing name tendered and admitted as Exhibit 73.)

Q. Well then, Mr. Hume, were you naturalised on 12th October, 1956? A. That is correct.

Q. I show you your naturalisation certificate, and ask you is that your certificate? A. Yes, that is my certificate. 40

HIS HONOUR: In preference to admitting the document as an exhibit, which I would do if it were necessary, I shall have it noted that there has been produced a certificate of naturalisation as an Australian citizen dated 15th August 1956 certifying that Zelimir Draganovic-Harasty has applied for a certificate of naturalisation, being the formal grant to him of that certificate, his address 50

being noted as 352 Darling Street, Balmain, occupation taxi-driver, birthplace and date as shown in Exhibit 72, he being described as single, height 6'2", eyes brown, hair fair, and the document bearing his specimen signature.

MR. STAFF: Q. Now, Mr. Hume, in your earlier days I think you became a somewhat accomplished tennis player, did you not? A. Yes.

Q. And did you - and tell me the years, if you would - did you spend about two years overseas playing tennis? A. From 1959 till somewhere at the end of 1961. 10

Q. And I think you were playing in tournaments? A. Yes.

Q. More or less all over the world? A. Europe and the Middle East mainly.

Q. Whilst you were away you explored the possibilities of establishing an export-import business, did you not? A. Yes. I was exporting some sporting articles while I was there. Mainly tennis things. Tennis gut. 20

Q. In the end nothing came of that? Nothing successful, anyway? A. Well, there was a period in 1961 when there was a sort of recession.

Q. Recession? A. Yes, and the bank would not finance, only on 30 days.

Q. Then after you returned to Australia I think you applied to join the New South Wales Police Force, did you? A. Yes. 30

Q. Do you recall when that was, Mr. Hume? A. I think it was not in the New South Wales Police Force. I think it was the Northern Territory - the Commonwealth.

Q. Do you recall when that was, approximately? A. Approximately a few months after I arrived from overseas - after I returned from overseas.

Q. After you returned from overseas? A. Yes.

Q. That was in 1961, was it? A. That is right.

Q. Or 1962? A. 1961 or 1962. I am not sure. 40

Q. And did you subsequently also apply to join the New South Wales Police Force? A. I did.

Q. Approximately when was that, Mr. Hume? A. 1962, I think. I am not sure exactly as to the date. I made a number of tests there. Arithmetic tests and spelling tests.

Q. And that sort of thing? A. That sort of thing. Medical checks and fingerprints. And that is about all I remember.

Q. And each of those applications was unsuccessful? A. Well, I didn't persevere with the second one. I failed on the test - the spelling test - for the New South Wales Police Force, and I was supposed to go again and I failed again and I was supposed to go again, and I didn't go.

Q. And was it after that that you decided to seek a private inquiry agent or private investigator's licence? A. It was during that time that I met a friend of mine who was a private inquiry agent and he told me "Why do you want to join the Police Force when most of the policemen are going from the Police Force into private inquiry agents?" 10

Q. You then made an application for a private inquiry agent licence? A. Yes.

Q. And obtained that? A. Yes.

Q. Now, Mr. Hume, we have had in this Court a considerable number of allegations made against you and against your character. I am going to put these to you one by one in a few minutes, but because of them I will ask you these questions first of all. You have already referred to having been fingerprinted and your having had fingerprints taken in relation to your applications to join the Police Forces? A. Also on another occasion - on two other occasions. It was in 1956 for being at a baccarat club. 20

Q. Yes? A. And in ---

Q. Before you leave that one, will you tell us the circumstances in which that occurred? A. I was driving a taxi at that time. 30

Q. Yes? A. At that time the baccarat clubs were moving around Sydney from area to area to stop the police from raiding them, and there was a friend of mine who was also a taxi-driver and he asked me whether I knew where the game was being held that particular night, and in his company was another man who was a newspaper man. I didn't know that at the time. He was writing stories on baccarat games. Not knowing them (sic) I took them to a baccarat club which was - a baccarat game which was held at that time at the Markets. 40

Q. Yes? A. We arrived there, and about 10 minutes after the place was raided.

Q. Yes. You and all the others were arrested? A. In fact, yes, we were all arrested, including the newspaper reporter. He was put in a private car. The difference was that he was put in a private car, and I was thrown in a truck. I didn't want to go, but they told me "There is no such thing as don't want to go". 50

Q. You were taken to a police station and your fingerprints were taken? A. Yes, I was taken to the Regent Street Police Station.

Q. What happened there, Mr. Hume? A. By this time we all knew there was a newspaper man there, and everyone was giving different names and I gave the name of Barry John Smith. My friend gave the name of Ashton - Dane Ashton. I don't know what name the newspaper fellow gave, because I didn't know him.

Q. Dane Ashton? A. Dane Ashton. I don't know his spelling of it. That is his Christian name and surname. Dane was the Christian name and Ashton the surname. 10

Q. Subsequently I think you did not appear in Court, and your bail was forfeited? A. No I didn't appear in Court. Bail was paid by the club.

Q. Well now, you referred earlier to a further occasion that you were going to tell us about I think in 1959? A. Yes. In 1959 I was arrested for speeding and driving in a manner dangerous. This was on Parramatta Road, Five Dock. That was the place where the offence was. That was the place where I committed the offence. 20

Q. Well, what happened on that occasion? A. Well, I had a very new sports car. It was a Healy 3,000, I think it is called, and there was also another brown American sedan at a set of lights, and he sort of took off and tried to beat me off the mark, and I had a girl with me, and I thought "Well ---"

Q. You had a go, too? A. Yes, and about 400 yards down the street the police car passed me and pulled him up away down the street, as he was well in front of me, and I didn't know that they wanted to stop me, too, and I just proceeded, and then I came to Balmain and they were waiting there for me, and they arrested me. 30

Q. And I think at that stage you had some altercation - some argument - about the matter with the police? A. I did, because when I got out of the car and was ready to put the car into the back yard the police - two uniformed police jumped from both ends and I sort of became worried. I said, "What do you want me for? I am not Simmonds". At that time they were looking for Simmonds. I didn't know they would arrest you for traffic offences. 40

Q. At any rate, I think shortly after that you went overseas? A. Yes, it was shortly afterwards I went overseas.

Q. I think that on the driving charges you were subsequently convicted, then, were you? A. Yes. I was represented in Court. I was not in Court. I was fined and convicted, yes. 50

Q. Will you tell us when you first met Mr. Armstrong? A. I first met Mr. Armstrong - I don't know the exact date, but it was somewhere at the

beginning of 1966. I met him through a friend of mine, a Dr. Byrne, with whom I had been playing tennis for about eight years or 10 years - between 8 and 10 years. I was taken by Dr. Byrne to the Armstrong residence in Coolong Road. They wanted another player for a four - for a fourth, for doubles - and Dr. Byrne invited me, and I played tennis there. From then on I was invited there on numerous occasions.

10

Q. Can you recall when that was? You said in 1966, I think? A. Very early. Round about the beginning of 1966 or late 1965. Around Christmas or New Year, or something like that.

Q. Tell me, Mr. Hume, these games of tennis you played with Mr. Hume - what is the general standard of tennis that is played? A. Quite high, because they sometimes get another player who is pretty well equal to me.

Q. And Mr. Armstrong plays a fair game of tennis? A. Yes, he plays a fair game, and so does Dr. Byrne. They would be A Grade players.

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Q. Now I want to take you to an occasion in which you were asked to go to Surfer's Paradise to carry out some work for Landmark Corporation or its subsidiary - (Objected to.)

Q. Do you recall such an occasion? A. Yes, I recall such an occasion. I believe it was on 29th July 1966. It was a Friday.

Q. Tell me who asked you? A. I received a telephone call from Surfer's Paradise.

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Q. Yes. You were in Sydney, were you? A. I was in Darling Street, Balmain at that time.

Q. Yes. Who was on the other end of the telephone? A. On the other end of the telephone was Mr. Armstrong.

Q. And up to this point of time had you ever - would you tell us what sort of contact you had had with Mr. Armstrong? A. At this point of time I had only played tennis with Mr. Armstrong about eight or nine times. It would be only on a Sunday over at his place.

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Q. And that is the only contact you had had with him by that time? A. That was the only contact I have had.

Q. At this point of time also were you registered as an inquiry agent and investigator? A. Yes I was. I was registered in Southport also.

Q. In respect of what address? A. Palm Avenue, No. 8. I had no one there. I had a secretarial service that was taking messages for me. They were in the main road there. I don't know the name of it.

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Q. They were in the main road there? A. It was a lady taking messages for me. She runs a secretarial service.

Q. Would you tell us what you recall, if you recall anything, of this telephone conversation between you and Mr. Armstrong? A. Mr. Armstrong asked me on the telephone whether I was still working up at Surfer's Paradise, and I said yes, I was still working up there, but I did not have any jobs up there at the moment, so he asked me if I would like to go up to Surfer's on the mid-day plane and do some repossession work up there, and before I would get up there I am to pick up some documents from a solicitor's firm in Sydney. 10

Q. Do you remember who the solicitors were? A. Dare, Reed, Martin & Grant, in Macquarie Street.

Q. Do you recall saying anything or having any further conversation on that occasion? That is over the telephone? A. Yes, I was supposed to go to the Chevron Hilton Hotel in Surfer's and go to the suite of Mr. Alexander Barton. 20

Q. Anything more you remember about that telephone call, or was that the lot? A. I was to meet Mr. Barton there, and Mr. Armstrong would be there at 5 o'clock in the afternoon.

Q. Well now, did you then catch an aircraft and go to Surfer's Paradise? A. I did. I caught an aircraft and went to Surfer's Paradise.

Q. Before that did you go to the solicitors and pick up the documents? A. I did. I picked up some documents from Dare, Reed, Martin & Grant, solicitors. 30

Q. And did you take them with you? A. I took them with me.

Q. Now, when you arrived did you go to the Chevron Hotel at about 5 o'clock? A. I did.

Q. Who do you recall being present when you got there? A. When I got there - I believe it was Suite 300, on the first floor. I am not sure of the number, but it was on the first floor, and in the suite was Mr. Armstrong, Mrs. Armstrong, the younger daughter, a real estate man called Mort Cansdale, I think, and a man called Barton - Alexander Barton, who is sitting here in the Court. 40

Q. And whilst you were there did all of these people stay there? Did anyone else arrive, or what happened, do you recall? A. The agent went out and someone else came in. I didn't know who it was. There were people coming in and out most of the time. There were a number of telephone calls and there was conversation going on between Mr. Barton and Mr. Armstrong. 50

Q. How long were you in the suite on this

occasion, do you recall? A. I was there for about two hours. There was a man called Fraser that came in at a later stage.

Q. Whilst you were still there? A. Whilst I was still there. I heard a conversation between Mr. Barton and this man Fraser.

Q. When you arrived I supposed you were introduced to the people, were you? A. Yes, I was introduced by Mr. Armstrong to Mr. Barton. 10

Q. Yes. And the others who were present there?
A. Others who were present there, yes.

Q. And at some stage while you were there did you have a conversation about what you were to do in Surfer's Paradise? A. That is right.

Q. With whom did you have that conversation, and what was said, Mr. Hume? A. Well, the conversation was actually between three people - Mr. Barton, Mr. Armstrong and myself.

Q. What was the conversation? A. The conversation was that I was supposed to repossess some machinery. 20

Q. Yes? A. And Mr. Barton was going to be in charge and I was to take instructions specifically from Mr. Barton ---

Q. You have told us some things. Do you recall who told you those things? A. Mr. Armstrong told me these things, and then Mr. Barton said that I am also to protect him from a man called Hopgood.

HIS HONOUR: Q. Mr. Hume, if you can give the conversation in the words used, if you are able to recollect them? A. Mr. Barton said I am to protect him. 30

Q. "You are ..."? A. "You are to protect me", to see that no harm would come to him.

Q. "You are to protect me .."? Do you understand what I mean by direct words? A. Yes, I understand.

MR. STAFF: Q. If you can, Mr. Hume, I want you to recount it as if you were Mr. Barton talking to you, if you are able to put it that way. Do you think you can do that for us? A. Mr. Barton said, "You are to see that no harm comes to me from a man called Hopgood and his partner Volp", whom he considered were dangerous men, and he feared them. 40

Q. Did he say this? A. Yes, he said it. He said, "I fear them".

Q. Will you tell us what he said about that? Tell us how he said it to you? A. He said that Hopgood --- 50

Q. Just recount it as if you are him talking.
A. "Hopgood is a very violent man".

Q. Yes? A. "And Volp is a very big man" - which he was. Later on I noticed that.

Q. Anything else did he say to you? A. No. This conversation drifted on to some other things. He mentioned that he was of Hungarian origin.

Q. You had some chat about - some talk about history? A. Yes. Mainly the conversation was going between Mr. Armstrong and Mr. Barton, and I was just listening in, because ... (not completed.) 10

Q. I don't think we need take up time with the history. Do you recall anything more that Mr. Barton or Mr. Armstrong told you by way of instructions as to what you were to do? Was there any more discussion that evening as to what you were to do? A. What I was to do? I was to wait there until a man named Fraser ... (Objected to.)

Q. Do you recall who told you this? A. Who told me?

Q. What you were to do. Do you recall who told you what you were to do? A. Mr. Barton told me to wait until Mr. Fraser arrived. (Objected to; rejected.) 20

Q. Mr. Hume, I want you to tell us again, as if you were Mr. Barton talking to you. Put it as if you were Mr. Barton sitting or standing there, telling you what he wants you to do. A. From the beginning?

Q. No, just where you got up to. You were about to tell us something about Mr. Fraser. Just put it, if you can, in the words in which Mr. Barton said it to you, as if you were Mr. Barton. A. "You are to wait here until a Mr. Fraser arrives, and he is going to be the man that will take over this project." 30

Q. Yes? A. "And he will assist you in repossessing the machinery."

Q. Yes? Well now, did you then wait in the suite for some time? A. I waited in the suite until Mr. Fraser arrived. 40

Q. Well now, I suppose someone introduced you to Mr. Fraser, did they? A. Mr. Barton introduced me, because Mr. Armstrong and Mrs. Armstrong and the daughter had left by then.

Q. Did Mr. Barton say anything to you when he introduced - say anything to you or to Fraser when he introduced you two men? A. Yes he did.

Q. He said something. What did he say? A. "Mr. Hume, meet Mr. Fraser. He is going to work with you." 50

Q. Anything else, or was that about the lot? A. No. Then I just listened to the conversation. That is all.

Q. And there was discussion then, was there, between Mr. Barton and Mr. Fraser? A. Yes, there was discussion between Mr. Barton and Mr. Fraser.

Q. Will you tell us what Mr. Fraser said to Mr. Barton that you can recollect, and again, if you can, give it as if - now you have to translate yourself into Mr. Fraser, if you can. A. Mr. Fraser said that he will have to think over the proposition. (Objected to.)

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Q. He said, "I suppose ..."? A. I beg your pardon?

Q. Try and put it as if you were Mr. Fraser speaking to Mr. Barton, Mr. Hume? A. "Those people are friends of mine" - by this he implied Hopgood and Volp - "and I have to think over whether I am going to take on the job, or not", and Mr. Barton replied, "You have not got long to think. It is only until tomorrow. Otherwise I will have to get somebody else."

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Q. Now, after that evening did you see Mr. Barton again in Surfers Paradise? A. I rang him.

Q. You rang him? A. Yes.

Q. Where were you when you rang him, Mr. Hume?
A. It was late at night. It was 1 o'clock, and it was Sunday night. It was actually 1 o'clock Monday morning, 1 a.m.

Q. Yes. Whereabouts were you in Surfer's Paradise? Were you in Surfer's Paradise? A. Yes, I was in Surfer's Paradise.

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Q. Whereabouts were you in Surfer's Paradise?
A. I came back to the Chevron Hotel, and I was going to wake up Mr. Barton.

Q. You rang from the Chevron to Mr. Barton's suite? A. Yes.

Q. Did Mr. Barton answer the telephone? A. He answered the telephone.

Q. Will you tell us as best you can, imagining - tell us what you said, in the words you used, if you can, and what he said. You have to imagine yourself as Mr. Barton, and reply as if he was talking. A. First of all I said to Mr. Barton, "Your man, Mr. Fraser, didn't remove the dog, and I have not seen him at the compound." That is at the compound where the machinery was. This was the area where the machinery was being kept.

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Q. What did Mr. Barton say to you? A. He said to me, "Well, what are you going to do? Are you going to remove the dog?" I said that I will wait until the morning when the foreman will come over there and remove him.

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Q. Did he say anything more to you? A. He said, "You had better remove the dog. Do anything."

Kill him if you have to. Poison him, as long as you get him out of there." I said, "I will not do that", and then he said, "Well, if you won't do that I won't be there in the morning to address the men. You had better go and get Mr. Armstrong."

Q. Did you say anything more to him? A. He said to me, "but don't ring me up again this time of night, whatever you do".

Q. Was anything more said in that conversation, or was that the whole of it? A. That was the whole of the conversation. 10

Q. Well now, did you then have a conversation with Mr. Armstrong? A. Not then. In the morning.

Q. In the morning? A. I had to locate Mr. Armstrong, who was at that time staying in a unit on the beachfront.

Q. Before you spoke to Mr. Armstrong next morning, earlier did you go back to the compound? A. I went to the compound and I spoke to the foreman. 20

Q. Yes? A. Who tied up the dog to a pole not far from the compound, and then I went and got Mr. Armstrong.

Q. You then went and got Mr. Armstrong. What happened then? A. Then Mr. Armstrong went with me and he addressed the men.

Q. These were the workmen - the contractors, were they? A. They were the workmen.

Q. Some time after this - some little time after this did some or all of these men start to work for Landmark? A. Yes they did. 30

Q. And did you do anything in relation to that work? A. I took the role of a temporary manager.

Q. For how long were you up there? A. I was there for a week, until they got paid. I paid them. I did a number of jobs. I bought parts for the mechanic - which the mechanic needed - and I went around with him, and he was giving me ideas what had to be done. He was the man that was helping me. His name was Mr. Hawthorne. Keith Hawthorne. 40

Q. After these men started to work at Landmark and you were temporary manager or supervisor did you see Mr. Fraser at all? A. No, I have never seen Mr. Fraser.

Q. Not since that night that you met him in Mr. Barton's suite? A. I saw him next day.

Q. Yes? A. Next day Mr. Fraser was hesitant of saying Yes or No if he was going to take on this job. He helped me with a large sign, which was the Landmark Corporation's sign, that I had to take over to the compound, and I put up that sign 50

and removed the "H. & V." sign of the previous contractors.

Q. The H. & V. sign? A. That is Hopgood and Volp.

Q. "H. & V. Developments"? A. Yes, something like that.

Q. And you replaced that with the Landmark sign?
A. Replaced it with the Landmark sign, and also painted all the other H. & V. signs over with paint. 10

Q. Well now --- A. I didn't do that all on my own.

Q. Who did that work? A. That work was done by me and by a man called Novak - Michael Novak - whom I hired at Surfer's Paradise. He was working there as a waiter, and this was a part time job apart from being a waiter.

Q. Painting over the signs? A. Yes, painting over the signs, and helping me put the big sign there. 20

Q. Whilst you were at Surfer's Paradise did you ever meet or see Mr. Barton at the point or the place - did you ever see him at the compound or the place where the men were? A. No, I have never seen him there whilst I was there, and there were stories going around - (Objected to; rejected.)

Q. Don't tell us that. Mr. Gruzman might ask you about those. I think you left Surfer's Paradise about 6th August, 1966? A. Yes, I think it would be the 6th. I am not sure of the date. I believe it was a Saturday. I don't know what date it was. The workers were paid, and I left. 30

Q. And subsequently did you see Mr. Barton in Sydney? A. Yes. I went over to an office. I think it was in Pitt Street. Landmark Company, I think it was. There I saw Mr. Barton, who paid me a cheque - who handed me a cheque for \$300 and something. I don't know what the exact amount was.

Q. Do you recall any conversation that you had with Mr. Barton on that occasion? A. Yes. Mr. Barton --- 40

Q. Will you tell us again, if you can, imagining you are Mr. Barton when you are telling us about what he said? A. Mr. Barton previously told me that he had big jobs for me waiting. He had a number of big jobs.

Q. You had better stop for a moment. A. Only on this occasion - this occasion Mr. Barton told me if I was interested ---

Q. Wait a minute. Imagine you are Mr. Barton again, talking to you? A. He said, "Do you want to do another job for me?" 50

Q. Yes? A. I said, "No, I am not interested".

Q. Anything further on that occasion? A. No.

Q. Well now, you mentioned that you had some previous conversation with Mr. Barton about the same subject matter. When and where was that? A. That was in the Chevron suite at Mr. Barton's.

Q. On the first night that you got there? A. The first time when I got there, and when I met Mr. Barton. He told me ---

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Q. Wait a minute. You have to do this imagining trick again, as if you are Mr. Barton.

HIS HONOUR: Mr. Staff, it is a recognised rule of evidence, and I do not think it proper that you should joke about it.

MR. STAFF: I am only seeking to assist the witness.

WITNESS: "If you are successful with this job I have got a number of others for you." This was in his suite the first time I met Mr. Barton.

MR. STAFF: Q. Mr. Hume, were you subsequently, or did you subsequently go to Surfer's Paradise at the request of Mr. Armstrong? A. I did.

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Q. Will you tell us when that was, approximately? A. Approximately early November, I think, 1966. Early November or late September (sic).

Q. Will you tell us what you did in Surfer's Paradise on that occasion? A. On that occasion I was to find out ---

Q. Don't tell us what the conversation was. I am not asking for the conversation at all. Just tell us what you did - the sort of thing you did up there? A. I went and saw the workers.

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Q. Yes. The workers where? A. On the project.

Q. What project? A. The project on the island, called McIntosh Island.

Q. What work was going on when you were there? A. They were to dredge this island, and that was the work that was being done, with dredges.

Q. There were dredges working there? A. The dredges were working there. The workers were maintaining the dredges, and also doing other jobs. Labouring jobs.

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HIS HONOUR: Q. "also doing other ---"? A. Labouring jobs.

MR. STAFF: Q. You observed what was going on, did you, first of all Mr. Hume? A. I observed what was going on, but, not being an expert, I had to ask for professional opinion, so I ---

Q. You asked various people about various matters? A. Various people yes. They were all workers, the people that I was asking.

Q. Was there anything else, apart from asking people about various matters and looking and seeing what was going on? Did you do anything else while you were there? A. Yes. I gave Mr. Keith Hawthorne \$100. That was just before I left for Sydney.

Q. Don't tell us what for, or what you said to him, Mr. Hume, but you gave him \$100? A. Yes, I did. I gave him \$100. 10

Q. Did you at another time do anything at Mr. Armstrong's request in relation to in or about Double Bay? A. Yes.

Q. Do you recall when that was? A. Late in the year it was.

HIS HONOUR: Q. What is your best recollection of the date? A. Your Honour, I would not know. It was an unimportant incident for me. I would not have taken much notice of the date. 20

MR. STAFF: Q. You said late 1966? A. Late 1966, yes.

Q. Can you place it in relation to anything else that you did for Mr. Armstrong or anybody else? A. I was doing a number of things at that time - trying to see if I could get some agents interested in buying or in selling units over at Glebe Island. Actually Rozelle. It comes under a Rozelle address.

Q. What is the name of these units, do you remember? A. I don't remember the name of the units, but they are huge units, and I went down there a number of times and got a number of Croatians - it was a Croation agency over at Burwood that I got interested in those units, and also I was introduced to a Miss Dorothy Rosewell who was the managing agent of these units, I think. 30

Q. You say it was at about the same time, was it, of the Double Bay matter? A. It was about the same time, but the Double Bay matter was a different matter altogether. It was someone was - (Objected to.) 40

Q. Don't tell us any conversation. What did you in fact do? A. In fact what I had to do ---

Q. Don't tell us what you had to do. What did you in fact do? A. Well, I had to do - I had to find out - (Objected to.)

Q. Just tell us what you did, will you? A. I kept an employee of the premises under observation.

Q. And the premises were what? What sort of premises were they? A. It was a dress shop. 50

Q. Whereabouts was the dress shop? A. As you

are going down to Double Bay on the left hand side from the city.

Q. Well now, can you recall any other time doing anything else - professionally, that is - at Mr. Armstrong's request? A. On another occasion I went to Surfer's Paradise again and he asked me - as I was going there on my business ---

Q. Again please don't tell us what he said to you, but just what you did up there. You went to Surfer's Paradise? A. I had a look how was the work progressing up there, and there was not any progress. Everything was practically stopped. 10

Q. That was at Paradise Waters - McIntosh Island? A. McIntosh Island. Everyone later on called it 007 Island.

Q. Do you recall anything else that you ever did at Mr. Armstrong's request? A. I was asked by Mr. Armstrong -

Q. Again I don't want you, for the moment, to give us any conversation. A. Well, I went --- 20

Q. Tell us where you went? A. I went to the Eden-Monaro area.

Q. Yes? A. ~~I did electioneering work.~~ (Objected to; by direction answer struck out as indicated.)

Q. Mr. Hume, can you recall - first of all, can you recall on what occasions you went down to Eden-Monaro area in relation to this matter? A. I think it was 10th or 11th November 1966.

Q. Yes? A. I went down there with Mr. Armstrong. 30

Q. Where did you leave from? A. And his daughter. His elder daughter. I drove his car down there. Mr. Armstrong was sitting in the back and I drove the car. His daughter was sitting in the front.

Q. Where did you set out from? A. Set out from Mr. Armstrong's residence at Coolong Road, Vacluse.

Q. Yes? A. We drove to Goulburn.

Q. Yes? A. In fact I drove to Goulburn. They were passengers.

Q. When you got to Goulburn what did you do? 40
A. When we got to Goulburn we first went to the Country Party's office in the main street there, and then we went for a meal in a motel on the opposite side of the street further down, on the left hand side. There Mr. Armstrong was introducing me to a number of people connected with electioneering work. He was ----

Q. Can you recall the names of any of these people whom you were introduced to on that occasion? A. On that occasion in that motel? 50

Q. Yes. A. No, I don't know the names. They were mainly ladies from some political ---

Q. They were ladies? A. They were ladies, yes.

Q. Did you say you had a meal at the motel? A. We had a meal at the motel.

Q. Still with Mr. Armstrong and his daughter?
A. Still with Mr. Armstrong and his daughter. Then the same evening ---

Q. Let me interrupt you for the moment. Which daughter was this? Mr. Armstrong has two daughters. Which daughter was it? A. The elder daughter. 10

Q. The elder daughter? A. Yes.

Q. After you had had the meal and met these ladies what did you do? A. I went in the company of Mr. Armstrong and the elder daughter to a club, on again the opposite side of the main street. Some back street. I don't know the name. It was a large club, and there was the late Prime Minister holding a speech, and there was a man called Brewer also holding a speech, and Munro. And there was a Minister. I think his name was Beale. He was also there. 20

Q. Yes. Will you tell us --- A. There were a number of other people there. I remember the Prime Minister's bodyguard. There was a Commonwealth policeman that I had met on a previous occasion. He was there. His name is West. He was the Prime Minister's bodyguard.

Q. Anyway, of course, there were a number of speeches this evening? A. Yes, there were a number of speeches, and there was a rowdy man who from time to time got up and abused the speakers and the Commonwealth police told him to be a bit quieter. 30

Q. Anyway, you were there whilst the meeting was on, were you? A. Yes, I was there whilst the meeting was on, and later on I was introduced to a number of people in a hallway outside the main room where the speeches had been held.

Q. Was this after the meeting was over? A. This was after the speeches were over. 40

Q. Do you recall who the people you were introduced to were, or some of them? A. Mr. Brewer, Mr. Tony Pratten, and a number of other people.

Q. Who introduced you to these people? A. Mr. Armstrong.

HIS HONOUR: Q. Do you remember the Commonwealth police having some part in keeping order there?
A. Yes, I do.

(Short adjournment.) 50

MR. STAFF: Q. Mr. Hume, just before we adjourned I think you had just told us about meeting some people after a political meeting or political rally at Goulburn? A. Yes.

Q. You have got back in your mind the subject we were talking about, have you? You just told us you had met a number of people outside, and had been introduced to them by Mr. Armstrong. I am sorry, not outside, but after the speeches? A. In the hall at the club. 10

Q. Yes? A. Then we went to the Country Party's room in the main street again.

Q. Yes? A. I was introduced there to some more people.

Q. Yes? A. I was shown a lot of material there, how to vote cards, and had a cup of tea.

Q. And after that where did you go or what did you do? A. Then Mr. Armstrong drove his car, with his elder daughter sitting in the front seat and I was sitting in the back seat, to his property. 20

Q. Winderadeen? A. Winderadeen, yes.

Q. What time was it roughly when you reached Winderadeen? A. I would not know.

Q. Was it daylight? A. Oh no, it was night time. It was - it could be after midnight, I think.

Q. I see. What did you do then? Did you sleep at Winderadeen? A. I slept the night, and in the morning I was taken to Canberra Airport by Armstrong's - Mr. Armstrong's elder daughter. 30

Q. Yes. When you got to Canberra Airport what did you do? A. I caught a plane to Sydney.

Q. Do you remember what day of the week that was? A. It was the end of the week. I think it was. I don't remember the day of the week. But there would be a record of the ticket I bought.

Q. Anyway, you say you flew back from Canberra to Sydney? A. I flew back from Canberra to Sydney. I went to Armstrong's residence and I picked up a Valiant station sedan. 40

Q. Yes. What did you do then? A. I drove back - I drove back to Goulburn.

Q. Yes? A. And got some how to vote cards.

Q. Yes? A. Electoral rolls, and a number of names of people whom I would have to see in Queanbeyan, Cooma - at the Cooma Radio Station also.

Q. Then what did you do? What did you do next? A. I picked up some more how to vote cards at Queanbeyan. 50

Q. Yes? A. I started in Queanbeyan my campaign.

Q. What were you doing, when you say you started?

A. I went and I saw a number of people in clubs and hotels that I had seen during the work that I was doing up at the Snowy previously for years when I was working with Carl Melvey as an investigator of accident cases industrial accident cases - at Island Bend and Beuna Vista and Jindabyne and the Monier project down there near Jindabyne. 10

Q. Yes? A. So I started by speaking ---

Q. You saw some of these people in and around Goulburn, did you? A. No, I didn't do any electioneering work in Goulburn. I had a different area. I had an area closer to the camps. Queanbeyan.

Q. You went to Queanbeyan? A. Yes.

Q. And saw some of these people in Queanbeyan? 20

A. Yes. I knew a lot of people in Queanbeyan, because there is quite a large Croatian community down there, and I was previously in Canberra when Tomaslav Lescic - he was the man blown up over at Petersham - I was his bodyguard at Canberra. He was there on some political thing. So I met a number of people there on previous occasions.

Q. Anyway, you saw people in Queanbeyan? A. Yes.

Q. Did you do anything while you were in Queanbeyan with any of this material you say you picked up? A. Yes, I passed it around. ~~I told them in my opinion who they should vote for~~ --- (Objected to; by direction portion indicated struck out.) 30

Q. Don't tell us what you said to the people on this occasion, Mr. Hume. Did you do anything with the literature you said you picked up? A. I passed it around. I gave it to them, and they passed it to more of their friends. I could not see all of their friends, so they were doing some of the work for me. 40

Q. You told us about going to Queanbeyan and doing this. What did you do next? And, again, just tell me what you did, not what you said. A. From Queanbeyan I went to Cooma.

Q. Yes. What did you do in Cooma? A. I picked up my secretary, who was coming on the train from Sydney - Miss Annette Catt - and then we went to all these places that I had to go to. 50

Q. Where did you go to? Just tell us where you went, if you would, so far as you can recollect. A. I had to go to the radio station. (Objected to.)

Q. Leave out the "had", and tell us where you went, will you, Mr. Hume? A. I went to the radio station and picked up some more material there. I was starting to run out of material, because I passed a lot of it out.

Q. What sort of material did you pick up? A. How to vote cards again, and also some more electoral roll books, and I went to the restaurants in Cooma and hotels.

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Q. Yes? A. I spoke to the people that I knew, and even if I didn't know them I spoke to them.

Q. Yes? A. Had a few drinks with them.

Q. Can you tell us in what language you spoke? In what language did you speak to these people? A. Well, I spoke to a number in English, but mainly it was Croatian.

Q. Did you speak any other languages to them? To some of them, I mean? A. Yes. If they were Germans I spoke to them in German.

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Q. What languages do you speak, Mr. Hume? A. I speak Russian, German, Croatian, I understand a bit of Polish, and I speak a bit of English.

Q. Well now, after Cooma where did you go? A. After Cooma I went to Jindabyne.

Q. Yes. What did you do in Jindabyne, do you recall? A. In Jindabyne I went to the main hotel there at Jindabyne.

Q. Yes? A. Where a lot of workers from the nearby Monier project congregated. They go there for drinks.

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Q. You said the Monier project. How do you spell that? A. I don't know. It is a French company. I had drinks with them, and gave them cards - how to vote cards - and general conversation. I told them what in my opinion ----

Q. Don't tell us what you told them at the moment. You say you met a few people and had a few drinks? A. Quite a few drinks.

Q. Can you give us any idea of how many people you met, say, in Jindabyne? A. In Jindabyne in that hotel 30 or 40. There were more in there, but I sort of concentrated more on the Croation community as they knew me better than the others knew me. Others knew me, too.

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MR. STAFF: Q. And the people to whom you spoke, had you met them before? Some of them, or all of them? A. They knew me better than I knew them because they have seen me around and they know me from the time I used to go up to the camps and take photographs, go into the mines, and interview people and sometimes take statements.

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Q. You said you had a few drinks with people like this. Who paid for the drinks? A. I paid and they paid. When my turn came I paid.

Q. They bought you a drink occasionally too? A. Yes I think they bought me more drinks than I bought them because they all like me up there.

Q. From Jindabyne where did you go? A. From Jindabyne I went to Island Bend.

Q. Did you do the same sort of thing up there? 10
A. No, there is no hotel there.

Q. What did you do in Island Bend? A. I went from barrack to barrack and I went first of all into - it's like a store where everyone buys goods and it has also an espresso coffee lounge in the store itself in Island Bend. From there I went to the barracks, the barracks for Island Bend camp there.

Q. And hand out some more literature? A. Hand out some more literature, yes. 20

Q. From Island Bend where did you go? A. From Island Bend I went up - I think it is called The Man of Snowy, on the right, I show this to Miss Catt because she has never been up the mountains. I think I went touring a little bit and show her around that area, you go to all those hotels and pass out more how to vote cards there.

Q. And from there where did you go? A. From there back to Jindabyne.

Q. What did you do in Jindabyne? A. Saw the workers again. By that time they were all in the nightclub. I told them I would be meeting them in the nightclub, to spread the word around I would be down there so to get as many as possible down to the nightclub in Jindabyne. 30

Q. You spent some time in the nightclub? A. In that nightclub, yes. I even had a small speech in the club. I think I asked Miss Catt to do a go-go dance and there was a competition up there and I think she either won it or ran second, and somebody was saying I am the person that Ann Deveson made this documentary on the T.V. and they wanted me to describe what was it like making this documentary and I got up and gave them some instances. I gave them some instances of taking shots, you know, the T.V. shots and how long it takes and how really it is hard work and it is not as easy as it seems. 40

Q. And from the nightclub? A. By that time it was very late already. I think it was 2 or 3 in the morning, and stayed there. 50

Q. The next day what did you do? A. The next day I went to the camp again.

Q. Whereabouts? A. Jindabyne Camp. It is a

large camp the Jindabyne Camp, went into the kitchen there and saw the cook. He was also a Croation and I gave him some more how to vote cards and told him to pass them around and I went from barrack to barrack again, the same thing and just passed the cards around.

Q. When you had finished with there what did you do next? A. I think back on the way through to Cooma called in at Berridale, garage stations, petrol stations. The same thing. 10

Q. You ultimately got back to Cooma? A. Yes, and from Cooma after completing the restaurants and all the places I thought would be useful to go I went to Queanbeyan again. In fact I did this for a number of days and then returned back to Sydney in four or five days, I don't know how many days.

Q. Later in the month did you go back to this area? A. Yes, I did. That was an important time to go because it was the time of the election. 20

Q. Do you remember what day of the week you left Sydney? A. It could have been the 24th. I think it was the 24th.

Q. Do you remember what day of the week that was, Sunday or Monday? A. It was not Sunday. It would have been Thursday I think.

Q. Where did you go, do you recall? A. That is right, Thursday, to the best of my recollection it is Thursday.

Q. Where did you go, do you recall? A. I went to Mr. Armstrong's residence, left my sports car there and got into his Valiant, accompanied by Miss Catt and then Mr. Armstrong went with us to Goulburn and then finally to his property at Winderadeen. I proceeded then on the same tour again with Miss Catt to Queanbeyan, from Queanbeyan to Cooma, from Cooma to Jindabyne, Island Bend back to Jindabyne and I stayed at Jindabyne again. 30

Q. What did you do the next day? A. The next day as soon as I got up I went to the school, Jindabyne School and I assisted at the polling booth. 40

Q. When you say you assisted, what did you do at the polling booth? A. I spoke to the fellows when they were going to vote.

Q. Did you stay there all day? A. No I didn't, I stayed there for about two hours and from there I went to Berridale and as I was going from Berridale towards Cooma Armstrong stopped me on the road. He was coming towards Jindabyne and he was travelling in the little sports car and he wanted to ask me how I was going and whether I wanted some help there and he told me what areas I should go and see whether they needed some help. Miss Catt then transferred into Mr. Armstrong's car and 50

they went towards Cooma. He wanted her to help him at the Cooma School. And I went to Adaminaby. Yes, I think it was Adaminaby. It is the turnoff to the left from the main road.

Q. You went off to Adaminaby and stayed there for a while? A. I stayed there for a while and they did not need any assistance there. There was not that much going on around there and from there I went to Cooma and then I stayed for quite some time at the Cooma School. There I saw Mr. Pratten and his wife. 10

Q. Did you see anybody else you knew in Cooma? A. I saw Mr. Armstrong there, he was there too. And Mr. Fraser who was a Labour candidate, he was there too.

Q. Do you recall how long you stayed in Cooma? A short time or long time? A. Not a long time I stayed there. From there I was told to go, was asked - (Interrupted.) 20

Q. Do not tell us what you were told to do. A. From there I went to Queanbeyan North, I think there is a hospital there at Queanbeyan. It was very difficult to find and they wanted some assistance there. There I stayed until the end of the polling, and I even voted at that hospital, it was an absentee vote.

Q. From Queanbeyan, after the polling had finished, where did you go? A. I went to Winderadeen. I had to pick up some - (Interrupted.) 30

Q. Do not tell us what you had to do. A. I picked up some things that I took to Sydney. They were for Mrs. Armstrong's sister. I delivered them in Maroubra and also I went to Mr. Armstrong's residence at Coolong Road, where I left his Valiant and got into my M.G. with Miss Catt and went back.

Q. Miss Catt came back to Sydney with you? A. Yes she came back with me, that is right.

Q. How many trips do you recall making into the Eden-Monaro area in connection with these matters you have described? A. Three. 40

Q. Subsequently, did you give or send to Southern Tablelands Finance Company Pty. Limited a bill covering that work? A. I did.

Q. And your expenses? A. I did.

Q. And some other matters? A. Yes.

Q. And you subsequently got paid? A. Yes, subsequently.

Q. It has been alleged by Mr. Gruzman here you never did anything by way of electioneering in the Eden-Monaro district in that point of time. What do you say about that? A. Well, what could I say? 50

Q. Is it true? A. What could I say? Is it true I have never done any work there?

Q. Yes. A. It is not true. It is far from truth.

Q. And it has been alleged also by Mr. Gruzman you went down there and did some work and paid people to vote for the candidate. What do you say about that? A. Mr. Gruzman is not aware those people have probably voted for the first time in a free election and would not under any circumstances accept any money from anybody. They would have buried me in the sand there if I had given them any money. 10

Q. Mr. Gruzman, apparently on instructions, previously asked a question of a witness whether they knew you were a member of the Communist Party. Are you a member of that party? A. Sir, I can prove it I am not a member of the Communist Party. I can prove it without any doubt. 20

Q. Do not worry. I just thought in fairness you should have the opportunity. A. I have got proof - (Interrupted.)

Q. No, I do not want any more. A. If I was a member of the Communist Party they would not have confiscated my house in Yugoslavia.

Q. I want to take you to another matter. Have you met a Mr. Jack Murray? A. Yes I met Mr. Jack Murray.

Q. When did you first meet Mr. Murray? A. I met Mr. Jack Murray only on one occasion. 30

Q. Where was that? A. That was at not far from Windsor. There is a river there, the Hawkesbury River I believe it is called, and you go through Windsor and you take a side road and you go up towards a punt.

Q. Do you remember the name of the punt? A. No I don't remember the name of the punt but when you get to the punt you turn to the right, before you get to the punt, and then you turn to the left and then go through a little road which is very high and very rough and I noticed that particularly because I was driving in my little M.G. and it is very low and it kept on bumping. 40

Q. The bottom? A. Yes the bottom. As a matter of fact I did not know whether to leave the car before I got on to this little road, on the main road, or whether to proceed to the shack. Actually I could have never found that place but I was following Mr. Armstrong and Mrs. John Larkin. 50

Q. Did you have anyone with you in the M.G.? A. Yes, I had Miss Annette Catt with me in the M.G. Do you want me to explain how I met Mr. Murray?

Q. Yes, if you would. Tell me in your own words

how you met Mr. Murray and where it was as far as you can describe, and what happened? A. When I finally got to this little shack I parked on the left of the shack and the shack is a bit down, as you go downhill towards the water. I parked on the left of the shack and left my M.G. there, and Mr. Armstrong I believe went to the right and he left his Valiant, the white Valiant he had, he left it there and then Mrs. Larkin and Mr. Armstrong went out and I approached them and Miss Catt followed and we went to this shack. It was a sort of shack, it was very small but when you open the front it expanded, it became bigger. There were a number of things outside the shack, sort of fridges, sort of cooling boxes for ice and a lot of other things; petrol cans and various other things and Mr. Armstrong's boat. This was a sort of cruiser you could call it, it is a speedboat, a large speedboat, it was tied up or moored down in front of the shack.

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Q. Had you seen this boat before? A. Yes I had seen this boat before.

Q. Where? A. It was usually moored at Double Bay. I have seen it there, and also in front of Mr. Armstrong's residence in Coolong Road.

Q. You were telling us it was tied up there, moored there? A. Yes, tied up there. And then I remember it so clearly because of a horn blowing, like a dozen different horns were blowing, a car was coming and the car was making all those noises with a dozen of its horns blowing and everyone said, "Oh that's Jack Murray". And then I met Mr. Jack Murray for the first time in my life.

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Q. A car arrived? A. Yes.

Q. A man got out? A. Yes he got out.

Q. Was this man alone? A. No, he was with a young woman.

Q. Do you recall her name? A. Oh yes, her name is Dorothy Rosewell.

Q. Had you ever met her before or spoken to her?

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A. Have I ever met Miss Rosewell before?

Q. Yes, before or after? A. Yes, I have met her after on a number of occasions, yes.

Q. Do you recall whether you had ever met her before this occasion or had you ever spoken to her before? A. I could have. I would not like to make a positive answer on that whether it was before or after. Yes, I have met her after and I have met her before, in connection with the flats.

Q. Those are the flats you mentioned earlier?

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A. Those were the flats at Rozelle, and also she rang me up, I think somebody was stealing from those flats downstairs, from the parked cars underneath the building.

Q. You met these two people on this occasion?

A. Yes. I was very impressed with Mr. Murray because this was the first time I met Mr. Murray and I was very interested in car racing.

Q. You heard of him in that connection before?

A. Yes, I have.

Q. What day of the week was this? A. That was a Saturday.

Q. Can you remember what the date was? A. Yes, I remember even the day because it was the first week after New Year. 10

Q. Do you recall where and how you had spent the New Year? A. Yes, I recall that. I was invited by Miss Catt to a party over at Ermington, or I think the area is closer to West Ryde, and I had a terrible time at this party, I did not like it, I did not enjoy it at all and I was complaining and Miss Catt told me, "You never take me anywhere better", and then I said, "Well, next time when I go water-skiing or somewhere I will take you". 20

Q. How did the visit up to the shack come about? You told us earlier you did not know where it was and you followed Mr. Armstrong there. How did that happen? Did you have a conversation with somebody about it? A. Mr. Armstrong rang up early. Actually not Mr. Armstrong but Mrs. Armstrong always rings and Mr. Armstrong gets on the phone.

Q. Did you have a conversation about it which led to it, with Mr. Armstrong? A. I think it was around eight o'clock in the morning and Mr. Armstrong told me to be ready about ten and that he is going to come with Mrs. Larkin and have a look at the ski, adjust the ski. They wanted to adjust the ski. 30

HIS HONOUR: Q. Adjust the ski or adjust the gear?
A. The ski. They were not my skis but I was having a lend of somebody else's skis and they wanted to adjust the ski and then I was to follow them to this place.

Q. This is what Mr. Armstrong told you on the telephone? A. Yes, on the telephone, to be ready so I would follow them. And I was waiting outside the building with Miss Catt and Mr. Armstrong and Mrs. Larkin arrived and they were adjusting the ski for me and then they finally said Jack Murray would fix it up as he knows more about it than any of them. 40

Q. That he knows more about it? A. Than any of them, and Mr. Armstrong also promised me Mr. Murray would help me get on to one ski as I could never get up on one ski. He was an expert skier. This was all before we got - (Interrupted.) 50

Q. Before you left Riley Street? A. Yes, before we left Riley Street.

(Mr. Gruzman asked that the date be stated.)

WITNESS: It was a Saturday and it was the 7th.

MR. STAFF: Q. What sort of water-skiing had you done before this occasion? A. I had a few attempts in the harbour, again with the help of Mrs. Larkin and Mr. Armstrong but I was falling off constantly and since in the harbour it is a danger of sharks I didn't like it very much.

Q. That was the water-skiing you had done before this weekend, or this day? A. That's right. 10

Q. You went up, and did you do some water-skiing while up there? A. Yes, I did quite a bit of water-skiing and I played chess with Miss Rosewell and Mr. Armstrong and on the first day I did most of the water-skiing but I could not get up on one ski. I couldn't get up, Mr. Murray tried.

Q. But did not have any success? A. Didn't have any success and then finally, I don't know whose suggestion it was, that we go all the way down the river, it was about seven miles down the river and pick up some other skier. I believe his name was - I don't really know his name but I know he is a butcher in Double Bay and he has got a big Great Dane and I skied from the shack down to this man's place. I remember that very well because Mr. Armstrong clipped the rope, that is the rope from the punt. I saw the punt coming across, it was going to cross and I saw Mr. Armstrong driving towards it and the rope, the iron rope to the punt was going higher and higher and higher and it made an impression in my mind because I thought if he missed it with the boat I am going to hit it, and he did miss it with the boat but I missed it with the ski, because he clipped it with the propeller as I found out later on because when he was trying to rev up the motor it would not get the full speed. Then I was very successful, I went all the distance down to this man's shack. It was also a small shack, sort of a caravan it was. I kept down near the boat. They all went up to this caravan, I had to keep an eye on the boat because there was nowhere to tie the boat. So I was keeping an eye on the boat and there was also another fellow down there, I took more notice of him because he was Chinese or Indonesian and I was trying to work out whether he was Chinese or Indonesian. He was a friend of this butcher from Double Bay, And then the butcher from Double Bay and Mr. Murray skied back to Mr. Murray's shack and they were jumping the wash, showing an exhibition of how it is really done and it was most enjoyable and then when they got up to Mr. Murray's shack this Chinese or Indonesian boy came with the speedboat and picked up the butcher from Double Bay and they went away and I stayed there and we locked the boat and played chess with Miss Rosewall and Mr. Armstrong was helping her and I won. 40

Q. On that day did anybody else ski? A. Everybody skied; everybody except Miss Catt. 50

Q. She did not ski? A. She did not ski and 60

besides she was being badly burnt, she has got very fair skin and she wore this huge hat and she was still burnt, terribly burnt, she was hidden inside the boat most of the time.

Q. How long did you stay up there that day? A. I stayed there all the time, I stayed there two days.

Q. What did you do overnight? A. I slept on the boat with Miss Catt. Miss Catt was in great pain and Mrs. Larkin was putting all sorts of --- (Interrupted.) 10

Q. Sunburn cream or lotion? A. Cream over her and later on at night we had a meal and I had to do the dishes and there was a terrible lot of mosquitoes and we had to spray each other with this mosquito - some sort of fluid.

Q. Was it successful for keeping mosquitoes away? A. No, it was not successful. We went on the boat and the rest of them slept in the shack and when I woke up in the morning already everyone was up and the breakfast was being cooked. I was very hot and I went for a swim, a swim across the river. And a man arrived with kids, and his wife, and I think the other woman - I don't know who that woman was, it could have been his mother or her mother. This man was very interested in Mr. Armstrong's boat. He was a friend of Mr. Murray or an acquaintance. I don't know. This man wanted Mr. Armstrong to take him around for a drive in this boat and I went with Mr. Armstrong and got some petrol which we got from - as you get out of the shack you go to the right and you get some petrol there. Then we came back and Mr. Armstrong took this man and Mr. Murray and demonstrated the capabilities of the boat, but the boat was not performing too well because of this propeller mishap that happened the day before. Then at about 3 o'clock in the afternoon Mr. Armstrong left by boat first with Mrs. Larkin and we were told to drive back his car. So I drove back Mr. Armstrong's Valiant and Miss Catt drove back my M.G. 20 30 40

Q. And you came back to Sydney? A. Yes, we came back to Sydney and we went to Mr. Armstrong's residence. There I had to go out and collect them in a dinghy.

Q. Who is "they"? A. Mr. Armstrong and Mrs. Larkin. There was the caretaker over there at the residence when we arrived there and I got the dinghy out and when Mr. Armstrong and Mrs. Larkin arrived I started rowing towards them and as there were huge waves and I am not very good at rowing Mr. Armstrong was complaining, shouting and said, "You have been rowing for ten minutes and you are still in the same spot". At the end I finally gave them the boat and I swam back. 50

Q. Have you ever been to this place on the river since? A. Never, never, no. I am not a good enough skier.

Q. This was then the only time you have ever been there? A. Yes.

Q. It has been suggested by Mr. Gruzman that Mr. Armstrong, Miss Catt and you have all put your heads together to tell a story about this weekend which you have mentioned, it is completely false?

A. Completely false, your Honour.

Q. Have you discussed the details of this weekend, your recollection of what happened, with Mr. Armstrong? A. No. 10

Q. Have you discussed the details of your recollection of this weekend with Miss Catt? A. I have told Miss Catt after I have spoken to Mr. Bainton, that was some time ago, but I didn't go into the details of this trip. I have told Miss Catt - (Interrupted.)

Q. Well you have told her something? A. Yes.

Q. Tell us your recollection of what you told Miss Catt? A. I have told Miss Catt that a man called Vojinovic is claiming he spoke to me that week, he claims he spoke to me on that weekend. 20

Q. Anything else? A. Nothing. I thought it was very funny but I didn't take - besides, Miss Catt didn't take that much notice.

Q. Have you discussed your recollection of this weekend with Mr. Murray? A. I have never seen Mr. Murray since that day, never before or after.

Q. Have you discussed your recollection of the weekend with Miss Rosewell? A. Miss Rosewell, I have never discussed with her. I have only seen Miss Rosewall recently when we had a game of chess and she beat me this time. 30

Q. Have you discussed your recollection of this weekend with the butcher from Double Bay? A. No, sir, I haven't seen that butcher since that occasion.

Q. Have you discussed your recollection with any of the people who arrived up and travelled on the boat, the man or woman who arrived with the children you have mentioned? A. I wouldn't know who those people are. I wouldn't even know where to find them. 40

Q. You have not seen them since that week? A. No, I haven't seen them since that week.

Q. By the way, you know Mr. Barton's allegation in this case is that you were engaged, employed, or somehow persuaded by or for Mr. Armstrong, to threaten Barton; you know that, do you not? A. Yes, I know. I have read this in the papers. 50

Q. Or engaged people to threaten him, you are aware of that? A. I am aware of that, I read this in the papers.

Q. Is there any truth in it? A. None whatsoever. I was interviewed by the police in reference to this matter, too.

Q. Did you ever ask Novak to see if he could find somebody to kill Mr. Barton? A. No.

Q. Did you ever ask anybody Novak, anybody else?
A. Nobody else.

Q. - to talk to Mr. Vojinovic about such a matter?
A. Would you mind repeating that? 10

Q. Did you ever ask Novak or anyone else to see if they could get Mr. Vojinovic to threaten to kill Mr. Barton? A. I didn't know a Mr. Vojinovic.

Q. Did you ever go over and stand outside Mr. Barton's house at Castlecrag for hours on end watching it? A. No, your Honour. I have never been in front of Mr. Barton's place standing outside or watching the place or doing any of those things that were alleged according to what I read in the papers.

Q. Have you ever stood outside Landmark House for hours on end watching for Mr. Barton or watching his office? A. No, I have not. 20

Q. Have you ever followed Mr. Barton about? A. No, I have never followed Mr. Barton but after this case came out in the newspaper an inquiry agent rang me up.

Q. You had better not tell us what he said to you, I think you had better leave that one alone, Mr. Hume; there will be an objection otherwise.

MR. GRUZMAN: Lead it and see what happens; I am not objecting. 30

WITNESS: Would you like me to proceed?

MR. STAFF: No, I think we will leave that one, for the moment. Have you ever driven a blue Falcon about following Mr. Barton? A. Have I ever driven a blue Falcon following Mr. Barton?

Q. Yes? A. I have not driven a blue Falcon since September, early in September.

Q. Which year? A. 1966, when it was smashed up. 40

Q. Did you ever use that blue Falcon, such a blue Falcon, or any blue Falcon to follow Mr. Barton? A. I have never used that blue Falcon or any other blue Falcon and have never followed Mr. Barton in any car.

Q. Or a red two-ton truck? A. I have never driven a truck in my life.

Q. Have you ever engaged, or arranged with anybody else, to follow Mr. Barton in any sort of vehicle? A. I have not made any arrangements, I 50

have never spoken to anybody about following Mr. Barton. No one has ever spoken to me about following Mr. Barton, I have never been given a job of following Mr. Barton, by anyone. Not only by Mr. Armstrong, by anyone. The only job that I did which was against Mr. Barton was to lend a tape recorder to a man.

Q. Tell us about that. A. It was a Mr. Hoggett.

Q. You lent a tape recorder to him? A. I lent a tape recorder to him and prepared a bag for this tape recorder, knocked the bottom of the bag out and I put the tape recorder in. It was a Phillips cassette small tape recorder. He wanted it for - (Interrupted.) 10

Q. Do not tell us what he told you. You put a tape recorder and fitted it into a bag? A. Yes.

Q. For Mr. Hoggett? A. Yes.

Q. He took it away? A. He took it away and brought it back minus the tape. He paid me for the tape. 20

Q. You are aware also are you not it has been alleged on behalf of the plaintiff in this case that you signed a record of interview which was taken by Detective Sergeant Wild of the C.I.B. in January 1967? A. Yes.

Q. You are aware of that? A. I am aware of that.

Q. Did you in January 1967 sign such a document? A. There was no document in January 1967, signed or typed. 30

Q. Did you go to the C.I.B. and speak to the Detective Sergeant Wild during January 1967? A. I did.

That was following a telephone call from a Constable Follington who rang me up on the 18th day of January.

Q. When did you see Sergeant Wild of the C.I.B.? A. About an hour afterwards.

Q. Had you seen Detective Sergeant Wild on any previous occasion? A. I have never seen Detective Sergeant Wild, I had to be led to Detective Sergeant Wild as the offices where he was stationed are very difficult to sort of get to. There are a number of doors and partitions, and what do you call it, a safe squad at the C.I.B. I believe; Safe and Arson or Safe Squad, I think. That was where I was supposed to go and see a Sergeant Wild. 40

Q. You say the 18th January 1967 was the first time you had ever seen Detective Sergeant Wild? A. The first time I seen Detective Sergeant Wild. 50

Q. You had a discussion with Detective Sergeant

Wild on that occasion? A. I did. I had a discussion with Detective Sergeant Wild.

Q. Did that relate to Mr. Barton? A. That related to Mr. Barton.

Q. I do not want you to tell me the details of it, but it related to Mr. Barton? A. Yes.

Q. I think you know Mr. Michael Novak? A. Yes, I know Mr. Novak. I have known him for a number of years.

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Q. When did you first come to know him? A. The first I got to know Mr. Novak was four or five years ago.

Q. Where? A. That was in the King's Cross area. He was pointed out to me and he was going around in a pullover and jeans and was carrying a Linhoff camera, selling around the place. He was subsequently picked up by the police on a charge of stealing this camera.

Q. That was the first time you had any knowledge of him? A. That was the first time I have met Mr. Novak.

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Q. And subsequently did you see him again? A. Yes.

Q. When was that? A. Between the time he went to prison. He was taken by another private inquiry agent to Darlinghurst Police Station.

Q. Approximately how long ago was this? A. Four or five years. And he escaped from there at the police station and I got a phone call from another man around The Cross that told me about what happened and said Mr. Novak was claiming he was not at fault with these cameras, that it was his friend that actually stole them and was already in the custody of police. And then I went to see Mr. Novak and I went with Mr. Novak to the C.I.B. where he was interviewed by Detectives and he gave them his version of the story. They let him go and I believe two days later he was picked up by the Darlinghurst detectives for the same offence. They didn't believe his story as the other man was already in their custody, and his story was completely different to Mr. Novak's.

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Q. After that when did you meet him again?

A. After that a Mr. Gibbons, an Adult Probation Officer, called at my parents' residence over at Darling Street, Balmain, which was also my residence, it was their property but they were not living there, and he asked me if I would keep an eye on Mr. Novak as in his opinion he was a good boy and he needed some help.

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Q. How old does Novak appear to you to be? A. 28; at that time?

Q. Yes? A. 24. I don't know his age, I am sorry. I haven't asked him.

Q. You were telling us Mr. Gibbons spoke to you about him? A. Yes, he came over to Balmain and spoke to me about it and said Mr. Novak will be released very soon and would I mind keeping an eye on him.

Q. When was this? A. That would be also about four or five years ago. I would not know the exact time. You could ask Mr. Gibbons, he would know.

Q. After that did you see Novak? A. Yes, more than saw him. I at first let Mr. Novak occupy a room in Darling Street, Balmain, until he found himself a job, which he did very smartly because he is a trained waiter and he stayed there for a while and then he went away and from then on he was working all over the place. He went to Surfers' Paradise I think after that and he worked there. That is where I met him again when I was on the island.

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Q. You told us about that earlier this morning?
A. Yes.

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Q. You gave him some part-time work up there?
A. Yes.

Q. After that when did you see him again? A. Every time when he came to Sydney I saw Mr. Novak. He was nearly always short of money and he used to come down and ask me if I had something for him to do, some little jobs and I would give him a few little jobs to do, like going around and checking up whether the people are there and sometimes if the inquiries were unimportant I even let him go and observe the premises, if I was suspicious of circumstances, suspicious of circumstances alleged by the client.

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Q. During what period did you give him jobs of this character? A. Two years I suppose.

Q. When did you last see him? A. I last saw Novak in March, February or March of this year.

Q. I think I did ask you, I will ask you again. In or about November/December 1966, January 1967, did you employ him to threaten harm or make any arrangements for somebody else to threaten harm to Mr. Barton? A. I did not.

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Q. You told us at one stage you had a blue Falcon? A. Yes.

Q. That was registered No. EBD-? A. EBD-703. It was registered in March, the third month it was registered. The model was a '66 model.

Q. You bought it new? A. Well, I paid a deposit and I bought it new from Broadway Motors, yes.

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Q. Your arrangement was a hire purchase arrangement. A. Yes, it was a hire purchase arrangement and I kept on paying for the car until it was smashed up in September. I think it was the 24th or 22nd September the same year.

Q. Was it repaired after the smash? A. Oh yes, but it took a long time. It was repaired and I picked it up in December, the 20th or 22nd December and I picked up the car from York Panelbeaters, I think, over at Alexandria, or Mascot.

Q. Whilst it was off the road did you have any other vehicle? A. Yes, my father bought an M.G. for me and he also paid a deposit on that car and I also paid that off. The registered number of that is EFD-705, registered in my father's name because it was actually his car. It was my father's car but he bought it for me. My father paid a deposit for the car and it was bought for me, sort of, so that I had something to use because I had no other car when the Valiant - when the Ford was smashed, I had no other car so I had to have something to do my work. 10

Q. Who was driving the vehicle when it was smashed up? A. I think it was Mr. Novak driving it at the time. 20

Q. What was he doing at that stage, working for you? A. No, I used to lend him the car sometimes. As a matter of fact he smashed up nearly every car that I lent him except the M.G., I didn't lend him that one.

Q. After you picked up the repaired Falcon what did you do with it or about it? A. Well Novak wanted a car and he said he was going to keep up with the payments. So as I didn't like the car any more because it was so badly repaired, it was not suitable for the type of work that I do and I considered it too dangerous because it was hit from the front end and it was most unstable at any speed on the road so Novak asked me if I would let him have the car and he would make payments to me, he would pay me for the rates which I did and he subsequently brought a lot of parking tickets. He used to park the vehicle just about anywhere and he used to get so many tickets and I said, "You had better register it in your name" which he did and then the car was later on stolen from him in Victoria by this man Vojinovic and when it was recovered and brought back to Sydney I said to Novak - because he didn't even have the car insured. 30 40

Q. Did he pay the instalments? A. Sometimes he used to, sometimes he used to be a bit behind, but he used to pay instalments and I said to him, "Look, you haven't even insured the car and if anything happens to it I am responsible to the finance company". And he said, "I will insure it, I will insure it", but he didn't and I finally said to him, "Look, I will have to give back this car to the people", and what I did was I got the car off him and since I could not sell it, it was in a very bad condition, your Honour, I was owing a lot more money on the car than I could get for it so what I did was I traded it in on a brand new Holden and that is how I sort of got out of it a bit better, it was a better arrangement. And then I sold the brand new Holden later on. 50 60

(Luncheon adjournment.)

ON RESUMPTION:

(Barry James Woolf, Solicitor, in answer to a subpoena, served on the Commodore Hotel/Motel Jindabyne, produced documents together with relevant subpoena; documents made available to counsel.)

MR. STAFF: Q. The officer will show you a couple of entries, one under date 11th November, 1966 in a book labelled "Guest Register", the first point in the book which has a piece of paper in it, and then under date 25th November, 1966, again with a piece of paper in the book. I want you to look at some pencil crosses. Looking at the first, you see the pencil mark? A. Yes. (Shown to witness.) 10

Q. I think there is a signature? A. Yes, that is my signature and that is my address, too.

Q. Your signature, "F. Hume" against the address? A. 33 Garling Street, Lane Cove. 20

Q. That is under date of the 10th, back on the previous page? A. Yes, I think it is under the 10th, Thursday, 10/11/66.

Q. Would you look at the other place where there is a piece of paper? A. That was on 25/11/66, my signature and my address.

Q. Your signature appears there, and your address? A. Yes, Garling Street, Lane Cove.

Q. Did you sign that register in two places where you say your signature appears? A. Yes, I did. 30

Q. And you were at the Commodore Motel at Jindabyne when you signed that? A. Oh yes, I paid for it.

Q. I want you to take a booking register called Daily Accommodation Summary, and would you look at an entry which has got a pencil mark against it on a sheet headed, "Saturday, 12th November, 1966". (Witness shown further book.) You had better take this other one which you looked at before as well? A. Yes, that is my signature. What am I supposed to see? 40

Q. Would you look at the entry where you previously identified your signature and you said it appeared to be under date of 11th November? A. This one is under date of the 10th, this one up here in this book. (Indicating.) And the one here is under Saturday the 12th, the second one is under Saturday, 12/11/66. (Indicating.) The one up here is under the 11th - the 10th. 50

MR. STAFF: The one first shown is labelled "Guest Register". Mr. Hume pointed to a heading on the left-hand page, about seven lines from the top, "Thursday, 10/11/66".

Q. I want to direct your attention to the following one, a heading a little lower down that page, "Friday, 11/11/66". On the right-hand side of the page is the entry you identified as being in your handwriting? A. That is right.

Q. "F. Hume, 33 Garling Street, Lane Cove"? A. Yes.

Q. And the room number appears to be "18"? A. Yes.

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Q. The next item in the book appears to be Monday, 14th November in the middle of the right-hand page; you see that? A. That's right.

Q. Looking at that, do you recall on which date you signed the name "F. Hume"? A. No.

Q. In the accommodation summary register you are looking at a carbon copy of an entry in respect of room 18? A. Yes.

Q. Is that your signature? A. Similar to my signature but it is - I could not say.

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Q. In what name? A. It is my name.

MR. STAFF: "Mr. Hume" it appears to me.

MR. GRUZMAN: I will not object to this but if my friend takes this course of examining on hotel records, I do not mind, but I will be doing the same.

MR. STAFF: Q. That is under item Saturday 12th November? A. Yes.

(Abovementioned entries tendered; objected to by Mr. Gruzman.)

HIS HONOUR: There has been produced to the Court on subpoena a document described as the Guest Register of the Commodore Hotel/Motel at Jindabyne. Mr. Hume has stated in evidence that the signature "F. Hume" appearing in two places in that book was his signature together with his address and that he wrote those signatures and addresses into the book at Jindabyne.

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Mr. Staff tenders the two entries in the book that have been identified by Mr. Hume in this way. Mr. Gruzman objects on the basis that the book does not prove itself nor does it provide of itself any evidence of the date when Mr. Hume signed it.

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I am of the view that the document does not prove itself and that it is not admissible as being a guest register, containing signatures by Mr. Hume, nor is it any evidence of the date upon which he placed these signatures in it. I consider, however, that the two particular entries that Mr. Staff tenders are admissible merely as being an objective act that Mr. Hume swears in the witness box he carried out when at Jindabyne. The dates upon which he carried out those objective acts, namely signing

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his name and writing his address, are not established by the document or the context in which those two entries appear. I consider, however, I should admit the two entries themselves. Whether they later have significance in a temporal sense will depend on other evidence as will, of course, the identity of the book in which they appear.

(Two signatures of Mr. Hume with his address admitted and marked Exhibit 74.) 10

MR. STAFF: Q. You have identified two signatures in the book. You recall the first signature that was there? A. Yes, I do.

Q. On the pages to which I directed your attention, with some dates? A. Yes.

Q. Without identifying the date on which you put your signature there, can you tell us the occasion by reference to any of the evidence you have given this morning? A. Yes, it would be the occasion when Miss Catt was in the nightclub there. The nightclub belongs to the same hotel and she was going the dance. 20

Q. Whereabouts in the motel/hotel were you, in the premises, when you signed that document? A. The front of the building is where the office is. The nightclub is at the side of that building and the small lodging or rooms are on the other side, where you park the car in front. I can draw if necessary.

Q. Perhaps without going to that trouble, where was the book physically when you signed it? A. In the office. 30

Q. What were the circumstances in which you put your signature to it? A. When they gave me the key and I paid them for the room, that is when I signed it.

Q. Was anything said at the time you signed it, by you or anyone else, or just before you signed it? A. Nothing - Pardon?

Q. Whereabouts in the office was the book? A. On the desk. It was kept by the manager of the Hotel/Motel Commodore. 40

Q. (Witness shown Exhibit 74.) You see on that page on which your signature appears there are a lot of names both before and after your signature? A. Yes.

Q. When you signed the book what was the physical appearance of the page? Was there any other writing on the page? A. Yes, there was quite a lot of writing on the page.

Q. Can you indicate what writing appeared on that page? On what part of the page was there writing just before you signed your name? A. There is No. 18, which says, under "beds", D. & S. and then there is 18 and there is my signature and there is my address. 50

Q. What other writing do you recall being on that page when you put your name there? Do you recall how the page looked, that is what I am asking you? A. Well there was nothing at the bottom of the page. (Indicating.)

Q. You pointed to something. What do you describe as the bottom? A. The lower part of the page. There were no names but there were names above my signature and my address.

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Q. There were some names above yours, you then put your signature in there, your name in there? A. That is right.

Q. And there was nothing underneath? A. Nothing underneath.

Q. Why did you write your name there? (Objected to by Mr. Gruzman; rejected.)

Q. Just before you wrote your name did anybody say anything to you about that book? A. "Would you sign the register?" (Question objected to; Mr. Gruzman then stated he admitted it was the guest register.)

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HIS HONOUR: The description of Exhibit 74 will be expanded so as to read "two signatures of Mr. Hume with his address in the guest register of the Commodore-Hotel/Motel, Jindabyne".

MR. STAFF: Q. The second entry in the register was made there by you? A. Yes.

Q. On what occasion? A. On the second occasion we were over at the Jindabyne Hotel/Motel.

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Q. Of which you told us this morning? A. Yes.

Q. I want to take you to an occasion on which you came to this Court in the early part of this year to answer a subpoena that had been served on you to produce some documents, and on which, I think, in the first place you went to the wrong floor in this building? A. That is right.

Q. Do you remember such an occasion? A. Yes, that was on 9th February when I arrived from Wollongong and the time would have been about 11.45 a.m.

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Q. You came up in the lift and went to the wrong floor? A. I did.

Q. What occurred on that occasion, that you remember, apart from producing documents? Do you recall anything occurring? A. I think it was before that. (Objected to; allowed.) It was before that I was sitting outside the Court near the partition and I heard a conversation, it was a heated conversation, between a detective constable Follington and Mr. Alexander Barton.

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Q. Was there anybody else about at the time? A. There were a few people around. Mr. Gruzman was coming and out near the lift.

Q. Anyway, you say you heard some conversation between Mr. Barton and Constable Follington? A. Yes.

HIS HONOUR: What was the date of this?

MR. STAFF: 9th February.

WITNESS: 9th February, the time was around 11.45 a.m., I had just arrived from Wollongong and my secretary was parking the car downstairs, she was a few minutes late arriving.

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MR. STAFF: Q. Putting it in direct speech as well as you can, reproducing Mr. Barton's words as if you were Mr. Barton speaking them as far as you are able, and tell us what you heard him say and what you heard Constable Follington say? A. I didn't hear Constable Follington say anything but I could hear Mr. Barton say, "I stand to lose a lot of money, if you don't say I will say that you have told me that Armstrong deals in stolen jewellery".

Q. Anything else? A. Not a thing. Constable Follington noticed me sitting at the side of the partition and he was very red in the face and he walked away and he walked towards me and then there was a conversation that went on between me and him. I asked him what was all this about and Constable - (Interrupted.)

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Q. Do not tell us what he said to you. You say Mr. Barton walked away? A. He, Mr. Barton walked away. He noticed me, too.

Q. I want to put to you a number of matters which are really descriptions of you that have been used by my learned friend in the course of this case and I ask you whether these are true or not. The first is he said that you are a police informer. Is that true? A. That is false. I have been helping police but actively and I am too well known to be a police informer as I am probably better known than most police officers around the King's Cross area so I would make a very bad informer.

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Q. And you have been described as a police pimp. What do you say about that? A. That is completely false.

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Q. And then he suggested you made a practice of gaining the confidence of criminals and then telling the police about them. Is that true or not? A. That is false. As from all those cases I have helped the police it is quite easily to prove that I hardly knew those people.

Q. He has also described you as an associate of criminals; is that true or false? A. I don't associate with criminals, and apart from Mr. Novak I have only been asked to look after two other men by Mr. Gibbons, but after I have attempted to find them jobs and I noticed they were not really interested in it I have not done any more about any of the people Mr. Gibbons would send to me.

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Q. It was also said or suggested that your flat is a haunt of criminals; what do you say about that? A. That is false, and it is quite easy to prove why, as in my premises the police would be frequently visiting. There was security police - this is a special branch - the Commonwealth Police and also the C.I.B.; plus the caretaker is a very good friend of a Detective Sergeant Col. Mackie who used to make frequent visits down there so if there were any criminals down there they would not last very long in those premises of mine, if they were congregating there. 10

Q. Whilst you had the office at Riley Street, the flat at Riley Street, what was your residence? In other words, where were you normally and usually living? A. I was living there.

CROSS-EXAMINATION:

MR. GRUZMAN: Q. Do I understand from your last answers you say you are an honest man? A. Yes. 20

Q. And an honourable man? A. Yes.

Q. A man who tells the truth? A. Yes.

Q. Always? A. Always.

Q. I suppose in the early months of this year you knew that it was being alleged against you that you had been party to a conspiracy to murder? A. The early month of?

Q. This year? A. This year?

Q. Yes, February? A. It was alleged in the early months of last year. 30

Q. You had known it from then? A. Well I was interviewed by the members of the C.I.B. on 18th day of January 1967.

Q. And you were then told that there was an allegation that you had been involved in a conspiracy to murder Mr. Barton? A. I was then told that the man called Vojinovic and a man called Alexander Barton were making allegations to this effect.

Q. And the allegation was that you were involved in a conspiracy to murder Mr. Barton, was it not? A. The allegation was I was involved in it, yes. 40

Q. In a conspiracy to murder Mr. Barton? A. I don't know whether the word conspiracy was mentioned.

Q. Were you told that the allegation was that you had been party to employing somebody who would kill Mr. Barton? A. Yes, I believe this is what I was told, yes.

Q. In February of this year you were aware that certain proceedings were started in this Court, were you not? A. I was aware when I received a 50

subpoena. Actually I did not receive the subpoena, it was served on my uncle over at Garling Street, Lane Cove, and I was at that time in Wollongong.

Q. You were interviewed by the police in February of this year, were you not? A. I was interviewed by police in February of this year, yes, and a statement was taken from me in February of this year by a Detective Sergeant Butler and typed by a Constable Follington.

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Q. The same Constable Follington you had seen before? A. The same Constable Follington that I have seen before and after.

Q. The same one you saw in January 1967? A. The same one I saw in January 1967, on the 18th, after the interview was completed with Sergeant Wild. This Constable was present at the end of the interview. He just arrived. That was Constable Follington.

Q. When you were interviewed by Detective Sergeant Butler in February of this year did you tell him the truth? A. Yes.

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Q. You always tell the truth, don't you? A. I always tell the truth.

Q. Were you asked by Sergeant Butler whether you knew Mr. Alexander Armstrong? A. Yes.

Q. What did you tell him? A. I told him I knew Mr. Alexander Armstrong.

Q. Did he ask how you knew him? A. Yes, he asked me how I knew him. I told him.

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Q. What did you tell him? A. I told him I knew him socially, Mr. Alexander Armstrong, I played tennis with him and I go to his house.

Q. Were you asked by Sergeant Butler whether you had any business association with Mr. Armstrong?
A. Yes, I was asked.

Q. What did you tell him? Did you tell him the truth? A. Yes. I did tell him the truth.

Q. The truth is that you had been asked by Mr. Armstrong to do a number of jobs of work had you not? A. Well, it was --- (Interrupted.)

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Q. Is that true or false, that you prior to that date in February 1968 had been asked by Mr. Armstrong to do a number of jobs of work? A. The question was whether I had any business association with Mr. --- (Interrupted.)

Q. Will you answer the question please; prior to the date of the interview in February 1968 had you been asked by Mr. Armstrong to do a number of jobs of work for him? A. Not for him; on his behalf.

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Q. You regard that as different? A. Oh certainly. Mr. Armstrong was not standing for the election in the Eden-Monaro area.

Q. Well who were you working for in the Eden-Monaro area? A. As far as I knew I was helping the Country Party and the Liberal Party at the request of Mr. Armstrong. Who was going to pay me for the work there was of no importance to me.

Q. Did you give evidence in this Court today that you were requested by Mr. Armstrong to do this work? 10
A. Yes, I did.

Q. Was that true? A. Yes, I was requested by Mr. Armstrong.

Q. Did you expect that Mr. Armstrong would pay you for the work you did? A. I did not know who was going to pay me for the work or how was I going to get paid. I knew somebody would pay me Mr. Armstrong told me I would get compensated.

Q. I beg your pardon? A. Mr. Armstrong told me I would get compensated for all the time I would lose there on that. 20

Q. When did he tell you that? A. At the time when he asked me to go and help in the electioneering.

Q. What were his words? A. I would not remember that.

Q. "You will get paid". Or "You will get compensated". Or "I will pay you", or "Mr. Pratten will pay you"? A. He did not say "I will pay you". He said, I should at the end of the campaign make out a bill of my expenses and the work that I did and that he will see that I get paid. 30

Q. Having completed the campaign did you prepare an account? A. I did.

Q. To whom did you give it? A. Mr. Armstrong, only after he told me to give it to him and to address it to some company.

Q. One of Mr. Armstrong's companies? A. I don't know whose company it is. I am not the Registrar General of the department. I don't know whose company it was. Mr. Armstrong does not discuss his business with me. 40

Q. You did not know it was one of Mr. Armstrong's companies? A. How would I know? I don't keep Mr. Armstrong's books.

Q. Why did you think this company would pay you for work you had done electioneering? A. What do I know who is paying for the electioneering work?

Q. You had no idea? A. No idea whatsoever. How would I know things like that? 50

Q. It has got nothing to do with you? A. Nothing to do with me who is paying for the electioneering work.

Q. For the biggest job of your whole life? A. Oh that is in your opinion, not mine.

Q. Name a job, one job that you did in respect of which your account was larger than this electioneering job? A. You are talking about Sydney, or where?

Q. Let us stick to Sydney for the moment. Can you name one? A. In Sydney? 10

Q. Yes? Where your account was larger than your account for this electioneering work? A. How much was the account for the electioneering?

Q. Do you not know? A. No.

Q. Any idea? A. According to the paper it was \$1000 but that is incorrect.

Q. What is your estimate of what you were worth for your electioneering work? A. I did a lot of work and I was charging the normal inquiry agent's fees which are around \$5 an hour, it would have worked out, with expenses, and for Miss Catt, about 6-700 dollars; probably \$800. 20

Q. Can you name one account that you have sent out in Sydney for work that you have done of the order of \$600, \$700 or \$800, apart from this one? A. Well, I had a divorce raid that was round about \$800, or even more.

Q. When was that? When was that? A. I think it was the Baldick case. 30

Q. When was that? A. I would not know when it was. It was Baldick v. Baldick.

Q. When was that, roughly? A. I would not know when it was.

Q. Well, what year was it? Which year was it? A. I don't know what year it was. I could tell you the solicitors who were handling it, and you can ask them. I don't know.

Q. Which year was it? A. I can't tell you which year it was. It is of no great importance. When I do a divorce case I present all my documents I sent in my statement, and I send the pictures. I don't know when it was. I think it is some years ago. 40

Q. You think it was some years ago? A. Yes.

Q. Well, approximately how many years ago? A. I would only be guessing.

Q. Haven't you got a very good memory? A. I have got a good memory, but I do not consider that

an important case. I did not consider that important. I have a good memory for important things, but with things that are not important - I have done dozens of divorce jobs - dozens and dozens of divorce jobs.

Q. You are a very small time private investigator, aren't you? A. Yes, but that still does not mean that I don't make divorce raids.

Q. Tell us when you sent out an account of the order of \$600, \$700 or \$800. Tell us one, and give us the approximate year. A. Well, from Mr. Baldick I got \$800. I think you can go and ask him about it. 10

Q. When? A. When I did his raid. When I did the first raid.

Q. But you see, have you got a good memory for dates? A. No, not for a date like that. It is of no importance, when I did this raid. You can check it up with the solicitor handling it. Check it up with the solicitors, they will tell you that. 20

Q. But it is the biggest divorce raid you ever did in your life, isn't it? A. No. There have been others - more exciting divorce raids.

Q. But moneywise it was the most important divorce raid that you did in your life? A. Do you think it makes a difference if I get \$50 or \$60 more on a raid? There were more interesting ones than that. A more interesting one was the Miller one. I remember that the Miller one was a very interesting one, because it was a policeman who was involved in it. He was the co-re, and no one wanted to raid him. 30

Q. When was that? A. That was at the beginning of my career as an investigator.

Q. How long ago was that? A. I think somewhere in 1963. I think you probably will find it in my divorce book or diary.

Q. Divorce book? A. I would call it more or less the court case book. Only the court case evidence is entered in it. 40

Q. In the Miller case were the other people frightened to do the raid? A. Were they frightened? I don't know whether they were frightened. But some people don't like raiding police officers.

Q. Why? Because they carry guns? A. There is more to it than actually guns. They think if you raid a police officer the police will always be haunting you. That is the sort of idea most investigators have got. 50

Q. But you were not frightened? A. No, I wasn't frightened. I knew this man was doing something which in my opinion was very wrong, and he

was making a miserable life for this man Miller, and I did raid him.

Q. Do you carry a gun, by the way? A. Very seldom.

Q. You have not got one now? A. No, I have not got one now.

Q. Let us go back. Do you still say you don't know who was going to pay you for your electioneering? A. No, I don't know. I made out the bill. Mr. Armstrong told me to make the bill out to this company. I made the bill out, and sent it to Mr. Armstrong. 10

Q. You expected Mr. Armstrong to get you paid? A. I expected Mr. Armstrong to get it paid?

Q. Yes. A. If he asked me to send the bill I suppose he was going to forward the bill to someone and I would get paid, and if I didn't get paid I would not have complained, either, because I never did complain when I never got paid. Carl Melvey owes me \$4,000, and I did not complain about that. 20

Q. Do you tell us that if this account for \$1,094 had not been paid you would not have complained? Do you seriously tell the Court if this account had not been paid you would not have complained? A. No, I would not complain. I never have complained. I used to burn the bills when they were not paid the first time. When they were not paid I used to burn them and said that I would not do any more work for that person, and Miss Catt came in and said it was not the right way to do business, and she kept sending bills out and out again - kept sending them out and out, and I got a bad name because I always chased my money all the time. This is the position, and this is the truth, Mr. Gruzman. 30

Q. Is this what you are telling his Honour, that if you had not been paid this amount of \$1,094 you would not have complained to anyone? Do you seriously tell his Honour that? A. Who would I complain to? To Mr. Tony Pratten? To Mr. Munro? 40

Q. Do you think Mr. Tony Pratten had some obligations to you about it? A. I didn't know that Tony Pratten would have had some obligation to me. He was probably backed by a number of people in that area.

Q. Did you speak to Mr. Tony Pratten about the money? A. No. He was telling me how to electioneer, and telling me that it was the best place for me to electioneer where there were a lot of migrant people I knew. He did not send me in areas where there were Australians, because there were better people to do that - he wanted me to use my influence and language with the migrants. That was the only thing Mr. Tony Pratten was discussing with me - no financial arrangements, or whether I was going to get paid or not. I don't know if he knew I was going to get paid for it. 50

Q. Did you have any financial discussions with Mr. Munro? A. No.

Q. In connection with the whole of this electioneering did you have any financial discussions with anybody except Mr. Armstrong? A. Even with Mr. Armstrong I didn't have any financial discussion. I presented him the bill, and he said, "Address it to this company", and I did that. He said to address it to this company and send it to him, and I did that. 10

Q. And this happened after the election? After the job was finished? A. Yes, after. Probably if they had lost I would not have got paid, anyhow.

Q. Who were you working for? A. Who was I working for?

Q. Yes. A. Myself.

Q. On behalf of which party were you electioneering? A. On behalf of which party? Actually for both. For the Country Party and for the Liberal Party. It was easy to get votes for the Liberal Party, because most of the Croations only vote Liberal. They don't vote Labour. 20

Q. The Country Party lost? A. Well, they are joint.

Q. You are telling his Honour, if I understand you correctly, that you would never have complained to Mr. Armstrong if you had not been paid? A. No, I would not have complained to Mr. Armstrong. The next time when Mr. Armstrong would ask me to do something I would say, "No, thank you. You can send someone else to do the job, or ask someone else." Your Honour, I always did that. 30

Q. And you would not work further for Mr. Armstrong because you would have felt he had broken his word to you? A. He didn't give me his word. He didn't say he was going to pay me.

Q. He never said that at any time? A. No.

Q. You swear that? A. Yes, I swear that. He said, "I will see you get paid. Send a bill to that company." 40

Q. Why would you tell him that you would never work for him again if you hadn't got paid? A. Because he said to do something and he would forward the bill to someone and it would get paid. The same as with a solicitor. If I did a job for a solicitor and I did not get paid who would I blame? If I did a job for a client and I did not get paid by the solicitor who would I blame? Not the client. 50

Q. You found difficulty with this problem, didn't you? A. What problem?

Q. The problem of whether Mr. Armstrong was to pay you or not. A. Why should I find difficulty?

Q. Because you told a lie to the police, didn't you? A. I told a lie to the police? I have never told a lie to the police in the whole of my life, and I would not tell a lie to the police. They are the only things that protect you and keep you alive.

Q. Keep you alive? Protect you? Stop you from getting shot? A. They protect you.

Q. Who might shoot? A. I think you are doing a good job of getting things in the paper that might get me shot, things like being a police informer, in a case like this. There is a strong chance of my getting shot. 10

Q. You are a tough man, aren't you? A. No, I am not tough. I am just not scared. I am not a coward, but I am not tough. Who did I ever hit? Everyone used to hit me first before I hit them back - and then it was most of the time too late. I can prove all these things, Mr. Gruzman. If you just bring one person that I stood over or hit - one person in the whole of the country? 20

Q. You are a recognised bodyguard, aren't you? A. A bodyguard is not a person who goes around hitting people. A bodyguard is someone who protects people.

Q. And the value of a bodyguard is that people fear them, isn't it? A. No.

Q. People fear you, don't they? A. Nobody fears me. If you went around the Cross they think I am a clown. When they read the papers they said, "If anyone says I am a strong-arm man they are false pretences". 30

Q. They think you are a clown because you got caught? A. What did I get caught in, Mr. Gruzman?

Q. Let us go back to telling lies to the police, Mr. Hume - back to the question I asked you five minutes ago. A. I have never told a lie to the police, and I don't intend to start telling lies to the police.

Q. Did Sgt. Butler, in relation to Mr. Armstrong, ask this question, "Do you have any business association with him"? And did you answer "None whatsoever". A. That is quite correct. I have no business association with Mr. Armstrong. 40

Q. Were you asked, "Have you ever been commissioned by Mr. Armstrong to carry out any work in the nature of private investigator?" A. That is right, and I said, "No". I have never been commissioned to carry out any work of the nature of private investigator. I don't consider the work of electioneering a private investigator's work. 50

Q. You understood that Sgt. Butler was trying to find out from you what was the nature of your association with Mr. Armstrong? A. Yes. Sgt. Butler was trying to find that out. I told him.

Q. And you say that you fairly disclosed to Sgt. Butler the nature of your association with Mr. Armstrong? A. Yes.

Q. You see, you were asked another question. Tell me, were you asked, "You will also see that Mr. Munro was alleged to have said you were working for Mr. Armstrong as a private investigator". Do you remember what your answer was to that? A. What my answer was to that? 10

Q. Yes. A. My answer to that was "No". Why would I be doing work for Mr. Armstrong as a private investigator? A private investigator does divorce raids; does security work, does night-watchman's jobs. What would I be doing for Mr. Armstrong? Watching him? What would I be doing? He is a happily married man. Who would I be following for him? What sort of work would Mr. Armstrong need me for as a private investigator? If you can explain that to me, Mr. Gruzman? 20

Q. Would it be true to say that your only relationship with Mr. Armstrong was social? A. Yes. My only relationship with Mr. Armstrong is social. I play tennis. I enjoy playing tennis with Mr. Armstrong. I have been invited by Mr. Armstrong to go on the boat a number of times. He has tried to teach me to be more able on the boat, which I am not. He has tried to get me more interested in politics, which I am not, and that is all.

Q. That is all? So that you still maintain, do you, sitting here in this Court, that your only relationship with Mr. Armstrong has been social? A. Social. 30

Q. Nothing of a business nature? A. Nothing of a business nature, no.

Q. You say nothing of a business nature? A. No. Through Mr. Armstrong I had been asked to do a number of jobs - but I do that all the time. For instances, a doctor could recommend me to someone and I get a job that way. We still only play tennis. And what has that got to do with business association? 40

Q. Then can we assume that any work you did by way of electioneering was done socially and as part of your friendship for Mr. Armstrong? A. I think I did the electioneering because Mr. Armstrong asked me would I like to do that.

Q. You didn't expect to get paid? A. He said I would get paid.

Q. But you said he didn't? A. He said that he would see that I got paid. 50

Q. But you would not have complained if you had not been paid? A. No, I would not. I have never complained to anyone before.

Q. You say the position is this, that so far as

you were concerned any electioneering assistance that you gave Mr. Armstrong was purely social, wasn't it? A. Purely social, yes.

Q. And that is why it was that when you spoke in a formal interview to Det. Sgt. Butler and you were asked different questions about your business relationships with Mr. Armstrong you said they were purely social? A. There is no business relationship with Mr. Armstrong.

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Q. Thank you. And this account for \$1,000 was to cover a payment made to you for something else, wasn't it? A. It was to cover a payment made to me ---?

Q. Made to you for something else other than shown in the invoice? A. No.

Q. The invoice is a fraud, isn't it? A. Mr. Gruzman I have been here now ----

Q. Will you answer the question? A. No, it is not a fraud.

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Q. It is a fraud, isn't it? A. It is not a fraud.

Q. Why did you wait for nearly a month to write it out? A. I always wait at least a month. They say it is good etiquette to wait.

Q. You told us before that Mr. Armstrong said, "As soon as the campaign is over send out the account"? A. By "soon" he didn't mean the next day.

Q. Did you keep some notes, by the way, of what you did? A. Yes. Notes and by memory, yes.

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Q. Where did you keep the notes? A. Where did I keep the notes?

Q. Yes. Of what you did? A. In my book - in my pocket. I just scribbled down how much money I spent on what day, and so on.

Q. Didn't you keep a diary? A. Of what? That is not a court. I only keep a diary of the cases that I am going to give evidence in court. How am I going to give evidence of an electioneering campaign?

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Q. Well you are now, aren't you? A. Well, who was to expect that?

Q. Don't private investigators carry notebooks? A. Yes, for court purposes they do. Divorce raids are all put in there, and all things that they give court evidence about, yes.

Q. And you regard yourself as a very extraordinary private investigator, don't you? A. Yes, I am more of an interpreter than a private investigator, to be honest.

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Q. But are you known as "The Hammer"? A. Yes. After Uli Schmetzer wrote an article I was known as "The Hammer". Actually I got "The Hammer" bit when I got hit on the head with a bar. Before that I was "Rip Kirby" and then I became "The Hammer".

Q. You got hit? A. Just here. (Indicating.)

Q. That is on the left side of the temple? A. Yes. And this one here (indicating) was from a bottle.

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Q. The scar in the middle of the forehead on the top was with a bottle? A. Yes.

Q. Who hit you with the bottle? A. Well, I have a picture here in a newspaper article.

Q. This is your scrapbook you have in Court? A. Yes.

Q. What you have produced and shown us is a newspaper cutting? A. Yes.

Q. In which you were a taxi-driver? A. That is right. I was a taxi-driver there, yes.

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Q. You were bashed on the head with a beer bottle? A. Yes.

Q. And you chased and caught the man? A. Yes.

Q. And the man was then charged? A. Yes.

Q. Is that right? A. Yes, that is right.

Q. That is the beer bottle? A. Yes, that is right.

Q. That is the scar in the middle of your forehead? A. It is more inside, actually.

Q. You were showing it right in the middle of the forehead, weren't you? A. There. (Indicating.)

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Q. Have a look at the photograph. It is nowhere near the middle. The scar caused by the bottle is nowhere near the middle of your forehead, is it? A. That is a band-aid that was put on the side of the head. But there was glass all over my head, because, you see, a beer bottle makes plenty of splinters.

Q. You were hit over the right eye? A. Actually it was more to the centre of the head. You can see this, underneath here. (Indicating.) The hair is hiding it. And this here, also on the side. This is more visible.

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Q. But the mark you were pointing out is a circular raised scar in the middle of your upper forehead, isn't it? A. This one here? (Indicating.)

Q. Yes. A. That is from another occasion.

- Q. From another occasion? A. Yes.
- Q. What was that from? A. Someone else hit me.
- Q. Someone else hit you? A. Yes.
- Q. What for? A. I think it was something to do with politics.
- Q. Electioneering, perhaps? A. No, it was not electioneering.
- Q. What was it, Mr. Hume? A. Actually I was defending the American stand in Vietnam, and the fellow got a bit hostile. 10
- Q. Where was this? A. It was at Kings Cross.
- Q. At Kings Cross? A. Yes. They have not found the fellow yet.
- Q. I beg your pardon? A. They have never found him.
- Q. What did he hit you with? A. What did he hit me with?
- Q. What did he hit you with? A. I don't know. I didn't see it, really. It was what they call the "king hit". 20
- Q. And it was a fairly severe injury to leave that permanent mark? A. No, I don't know whether it was severe.
- Q. Did it knock you unconscious? A. No. If I was knocked unconscious it would have been worse, but I was knocked over the car and I kept on sort of swaying and dodging and got away.
- Q. You got away? A. Yes.
- Q. Didn't you catch him? A. Are you kidding? 30
- Q. I beg your pardon? A. No, I didn't look for him.
- Q. You didn't get him? A. No, I didn't.
- Q. Who hit you with the iron bar? A. I didn't get him, either.
- Q. Well, he got you? A. Yes, I'm afraid he did.
- Q. Why did he hit you with an iron bar? A. I don't know.
- Q. Do people often hit you, and you don't know why? A. Well, I suppose someone said that I was responsible probably for his arrest, or something, and I got hit on the head with an iron bar. 40
- Q. But what for? A. I don't know.

Q. Who did it? A. I don't know.

Q. But if you think it is because it was as a result of your assistance to the police you must have some idea who it was? A. No. I have assisted the police in so many cases it would be very difficult for me to know who it was.

Q. How did the incident come about? A. How did the incident come about?

Q. Yes. How did it come about? Did the man just walk up to you in the street and hit you with an iron bar? A. No. He was running behind me, and he said, "I want to talk to you", and I turned around, and that was it - he hit me. I was carrying a parcel of things, and yoghurt, and everything went flying - they all went flying; everything I had. They were looking for the fellow, but they never found him. 10

Q. When was that? How long ago was that? A. I don't know how long ago it was. It would be all at the Darlinghurst Police Station. 20

Q. How long ago? A. A couple of years.

Q. A couple of years ago? A. Something like that.

Q. About 1966? A. Yes. I think it was about the time when Miss Deveson was making a documentary, and it came in very handy - the black eye came in very handy.

Q. What documentary was this? A. A documentary on the life of a private eye. I think it was on Channel 7. 30

Q. The Life of a Private Eye? A. Yes.

Q. You were the Private Eye? A. Yes.

Q. As the private eye with the black eye. What did you do in the film? A. Well, I was climbing in and out of a window and nearly fell down eight floors. It was at Elizabeth Bay. You can ask Miss Deveson. On another occasion I was trying to climb up a drainpipe, which was not very successful. I think you can see it in the film. 40

Q. And you were performing in this for money? Were you being paid? A. Yes I was.

Q. And you were sort of demonstrating your prowess as a private inquiry agent? A. Yes. They were not really - it was more a comedy, I think, the way it came out.

Q. You mean it was not intended that way? A. Well, the way Miss Deveson presented it it was more or less a comedy.

Q. But you took it seriously? A. Not really. I would not have worn a new suit when climbing up the drainpipe otherwise. 50

Q. You think you are a very intelligent man, don't you? A. Not really.

Q. By the way, the name, "The Hammer" you say came as a result of the iron bar incident, is that right? A. I think so.

Q. How long have you had the name "The Hammer"?
A. For a long time now.

Q. For how many years? A. I don't know. I didn't name myself. Someone else named me, and they didn't tell me when they named me that, either. 10

Q. How long would it be? Eight or 10 years? A. It would not be eight or 10 years. I have not been an inquiry agent for a long time.

Q. You think more or less since you became a private inquiry agent? A. Yes.

Q. The last five years you have been known as "The Hammer"? A. I could not really say.

Q. More or less correct? A. Well, it would be only guesswork. How would I know when someone is calling me "The Hammer" or someone is calling me "Rip Kirby" or someone is calling me whatever they call me? 20

Q. You see, Mr. Hume, if the iron bar incident took place in 1966 there must have been some other reason why you are known as "The Hammer" mustn't there? A. I can't think of any other incident except using my head for something.

Q. It is because you are known as a tough, cold-blooded individual, isn't it? A. Well, I would like you to just bring one person that I have hit. 30

Q. Look, if a man is feared he does not have to hit very much, does he? A. I think to be feared you have to show some sort of reputation, or something. You have to do something before you are feared. They just don't fear you because ... (not completed.)

Q. You cannot offer any explanation as --- A. Why I am called "The Hammer"?

Q. Yes. A. None whatsoever. 40

Q. Hammers are used to hit people, aren't they?
A. Who said hammers are used to hit people?

Q. You can offer no explanation? A. No.

Q. Did you give an interview to this Uli Schmetzer? A. Yes.

Q. Does it go like this: "In the deck chair alongside his Elizabeth Bay rooftop swimming pool -" (Objected to; rejected.) A. I didn't write the article.

Q. Were you --- A. If you go further along you will find that I am describing how I hit a door and nothing happened; how I hit the door again and nothing happened; and the client said "Are you a private eye, or not?" You should continue reading, Mr. Gruzman. You can continue reading.

Q. Did this interview take place while you were in a deck chair alongside your Elizabeth Bay rooftop swimming pool? (Objected to; rejected.)

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Q. Well, you did give an interview about your activities as a private inquiry agent? A. Yes, I did give an interview. I have given a number of interviews.

Q. And at the time you told the interviewer that you were known as "The Hammer" didn't you? A. I didn't tell him that. Someone else must have told him.

Q. Someone else must have told him that? A. Yes. That is why he came to me. I didn't go looking for him; he came to me.

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Q. Where did he find you? A. Elizabeth Bay, Unit No. - I think it was the eighth floor. I don't know what unit it was.

Q. Did you have a miniature two-way radio with you? (Objected to; allowed.)

Q. You had a two-way radio at the interview? A. Yes.

Q. Did you have a secretary at that time? A. Yes and no. There were a lot of girls coming in and, you know, sort of helping me out from time to time. No real secretary. I mean, they were not employees. They used to come and visit me there.

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Q. Well then, you told him how you had tried to break a door down? A. Yes, and nothing happened.

Q. Well, didn't you say that you took four steps back and with a lot more vigour and respect charged at the door, only to bounce back again? A. Yes.

Q. And did your client say, "Are you a private eye, or aren't you?" A. Yes.

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Q. And did you then say, "I took 10 steps back and cannoned into the door, which came apart all right, but so did its framework, half the roof, and an avalanche of bricks and cement"? A. I think I must have hit the house very hard if it all fell down on me.

Q. Did you tell lies to the interviewer? A. No they sort of glamorised it a bit, Mr. Gruzman. I think sometimes you do that, too.

Q. Did you tell the interviewer this, or not? If this is not true, tell me so. Did you tell the interviewer, "I took 10 steps back and cannoned

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into the door. It came apart all right, but so did its framework, half the roof, and an avalanche of bricks and cement." Did you say that? A. No, I didn't tell him that.

Q. Or anything like it? A. Nothing like it. He sort of made it, you know, more interesting.

Q. Is it true or not that on the occasion you are speaking of you cannoned into the door and smashed it in? Is that true, or false? A. That I smashed the door in, or that all the bricks and remnants of the house tumbled down on me? The door cracked, yes. 10

Q. You smashed it down? A. No I didn't. It was a plastic thing, and it bent and we walked in. You know the plastic thing inside the lock.

Q. The rest of it --- A. The rest of it he dramatised.

Q. Dramatised? A. Gave it a bit of colour. Otherwise the article would be no good, if he told them that I twisted half an inch of plastic. 20

Q. Did you tell the interviewer, "My aching shoulder put me off divorce raids for six months"? A. I think he also glamorised that a little.

Q. Was it true, that you had an aching shoulder? A. Yes.

Q. You told him something about that? A. Yes, I did say that I had an aching shoulder, yes.

Q. You deliberately create the impression that you are a tough man, don't you? A. No, far from it. I would be at Long Bay if I was tough. They are either dead or in Long Bay. I can show you by the records all of these standover men are usually full of bullets. 30

Q. Does much of that go on around the Cross? A. Yes, a bit. There was one shot dead only a few weeks ago, yes. He was tough.

Q. Was he shot because he was standing over people? A. I think so. I don't know. But this is what I feel. This is the sort of thing I pick up around the place. 40

Q. You feel someone may have wanted him out of the road? A. Not really. I think people don't like people standing over them. You know, they don't like that at all.

Q. How would he have come to have got shot? A. Well I suppose - (Objected to; allowed.)

Q. Was this man in your belief shot by the man who wanted to get rid of him, or someone else? (Objected to; allowed.) 50

Q. Is it your belief that the man was killed

by the person who wanted to get rid of him, or by someone else? (Objected to; allowed.) A. Do I believe?

Q. That the man was killed --- A. There was no man killed.

Q. He was just shot? A. Yes. I suppose he is walking around now.

Q. Do you believe he was shot by the person he had stood over, or by someone else? A. I don't know. 10

Q. Is it possible to arrange for someone to be -
A. Look, if I knew I would have gone to the C.I.B., and the person would have been arrested who shot him.

Q. Is it possible to arrange at the Cross for someone to be shot? (Objected to; rejected.)

Q. Mr. Hume, do you know gunmen around the Cross? (Objected to; allowed.)

Q. Do you know any gunmen at Kings Cross? A. No, gunmen don't go around saying they are gunmen. 20

Q. But you would know? A. How would I know? Look, if I would know about gunmen I would be dead, because gunmen usually kill witnesses.

Q. Have you had experience of that? A. No. What, playing tennis I have had experience of gunmen?

Q. Is this what you say, that you have no knowledge at all? A. No knowledge?

Q. No knowledge at all of any person who would shoot in a criminal way? A. No knowledge of any person who would shoot? 30

Q. Shoot in a criminal way? A. Would you mind putting this question so that I can answer it?

Q. Yes. Is this what you say, that to your knowledge you don't know any person who would use a gun in a criminal activity? A. No, I don't know any person.

Q. And you have never known any such person?
A. No. You read about them in the newspapers. Sometimes in the Daily Mirror they give you even names. There was an article covering all these characters until quite recently. But then, of course, that is only newspaper stories. Who is to say that these people actually are gunmen, because if they are gunmen the police know. The police know more than other people do. I can assure you of that. They are very well informed. 40

Q. You were employed as a bodyguard for this man Lesic? A. Yes, he speaks the same language, and I was his bodyguard and his interpreter in Canberra. 50

Q. You say this man was blown up? A. Yes, that is what he says.

Q. Was he blown up before or after you were employed? A. Well, I would not have been a very good bodyguard if he was blown up while I was guarding him.

Q. Does that mean he was blown up before you were employed? A. Yes, he was blown up before I was guarding him. He was already in a wheelchair when I was guarding him. 10

Q. For how long did you act as his bodyguard? A. I think as long as the strike lasted. It was a sort of hunger strike that he was on. For as long as the strike lasted.

Q. How long was that, approximately? A. I have got some clippings from the paper. I think they might help. I think it was, let us see - that was on the fourth day.

Q. (Approaching witness.) You are looking at a newspaper cutting? A. Yes, from Canberra. I am afraid I could not work it out from this. It could be five or six days he was on a hunger strike. 20

HIS HONOUR: Q. I can't hear this? A. Five or six days I think he was on this hunger strike. Of course, then he was taken to the police cells. I was not bodyguarding him there, but I used to come in there from time to time and have interviews with him.

MR. GRUZMAN: Q. Is there a date on this? This happened on 18th August, 1966, apparently, according to the newspapers? A. Yes. 30

Q. And you are mentioned in the newspaper as a private investigator, and you also acted as interpreter in the court proceedings? A. Yes.

Q. And he was a man who had every reason to fear that another attempt would be made on his life? A. I believe so.

Q. How did he come to get in touch with you? A. Well, I am very well known in the Croation community, and he would not have to ask anybody about me, because they all know me. 40

Q. They all know you as a tough man? A. No, they don't know me as a tough man, but they know me now, since you have made it look that way.

Q. But this was in 1966? A. Yes.

Q. Who paid you? A. Tomaslav Lesic paid me.

Q. Can you tell his Honour why everybody in the Croation community knew you in 1966 as suitable for that job? A. In fact I am the only one in Sydney from Croatia who is a private inquiry agent. 50

Q. That is your only qualification, is it? A. Apart from this I used to interpret for them in accidents and take statements from them and take them to solicitors.

Q. But that would not be much use if someone was shooting at him, would it? A. No, that would not be much use if someone was shooting at him.

Q. You were known as "The Hammer" then, weren't you? A. I don't know that he would have known me as "The Hammer" because he does not read English, and he is practically blind since the bomb explosion. He needed someone that would look after him there. 10

Q. And protect him from further attempts on his life? A. Yes, that is right.

Q. Were not you Mr. Armstrong's bodyguard? A. No, What would Mr. Armstrong need a bodyguard for?

Q. Well, didn't he need a bodyguard? A. No.

Q. Well, take the July incident at Surfer's Paradise - July 1966, just before this incident with Lesic. Didn't Mr. Armstrong need a bodyguard then? A. Why would Mr. Armstrong need a bodyguard in the July incident? 20

Q. In 1966 there was an attempt being made to take possession of valuable machinery from two men, Hopgood and Volp? A. Yes.

Q. And you understood then that these two men might resist, didn't you? A. Yes, but also that their employees were more than willing to work for the company that I was taking over as temporary manager. 30

Q. That would only make Hopgood and Volp all the more angry, wouldn't it? A. Yes, but what could they really do? And besides, Hopgood and Volp are not as violent as Mr. Barton claims they are.

Q. Didn't you regard them as men who could be difficult? A. No.

Q. Didn't you think Volp was a big man? A. Yes, he is a big man, but he was not a violent man. He knew before I started taking over the machinery. He knew, because he was standing next to me when I was discussing it with the workers there. He was drinking in the same hotel. It was the Southport Hotel. He heard me speaking to the mechanics down there that I was going to take over the machinery. 40

Q. Were not you frightened of him? A. I was not frightened of him. I didn't know he was there. He was pointed out to me later on.

Q. Mr. Hume, you have given some detailed evidence about these events at Surfer's Paradise, haven't you? A. Not really. 50

Q. You have told us precisely days, dates and

times and conversations, haven't you? A. Yes, but there is a lot more.

Q. There is a lot more, is there? A. Yes.

Q. Well, just let us confine ourselves for the moment to one conversation. Do you remember the conversation when you spoke to Mr. Barton and Mr. Barton said, "Poison the dog or get rid of it". Do you remember that? A. That was at 1 o'clock in the morning when I rang him. 10

Q. That, I suppose, was a conversation that really impressed itself on your mind? A. That is right, because I would not do that.

Q. You would not do that? A. No, I certainly would not.

Q. It is contrary to your principles? A. It certainly is. I do a lot of divorce raids with a lot of dogs in a lot of places, and I have never killed a dog in my life.

Q. You would regard it as disgusting? A. Yes, I would. I have two dogs of my own. 20

Q. I suppose you would regard a person who suggested that you should kill a dog is a disgusting person? A. I would not say a disgusting person. I would say he is the sort of person - well, it is not a nice thing to do.

Q. You certainly would not have anything further to do with a man who suggested to you that you should poison a dog, would you? A. That is right.

Q. You would regard him as a person that you could no longer associate with? A. I have never associated with the person who told me to kill the dog. 30

Q. You see, you say Mr. Barton told you to kill the dog? A. Yes, but I did not associate with him. I was introduced to him, and he was my superior. My boss, in fact.

Q. And was it because of the dog incident that you told Mr. Barton you did not want to work for him any more? A. A number of things. One of the things in my mind was that the workers were asking me before the takeover - they were asking me "Are we going to get paid for the holiday pay? Are we going to get paid for" some other things? I asked Mr. Barton, "Are they going to get paid for the holiday pay", and so on, and Mr. Barton replied "Promise them anything". 40

Q. And then they were paid? A. I don't know. They were not paid while I was there. They only got paid for the week's work that I was with them. 50

Q. You don't know they were not paid? A. No, I don't know.

Q. That was not the reason you said you would not work for Mr. Barton? A. Well, it was the reason, because I think that when a man says, "Promise them anything" he is not a genuine man in my opinion, because he can't promise anyone anything.

Q. Was the dog incident something that really stuck in your mind? A. It was this "promise them anything". That is what really stuck in my mind.

Q. Mr. Barton told you to poison the dog, and that was a thing that was contrary to your principles? A. Yes. 10

Q. You have a distinct and clear recollection that it was Mr. Barton who told you that? A. Definitely, because I rang him up, and it was his voice on the telephone. I know Mr. Armstrong's (sic) voice. And besides, Mr. Armstrong did not stay in the Chevron Hilton Hotel so that it could not have been anyone else.

Q. You know that? A. Do I know that? It was his room that I rang, and the people over at the desk gave me the connection. Who else could it be? 20

Q. You rang at 1 o'clock in the morning? A. 1 o'clock in the morning, yes.

Q. This is on Saturday, 29th July? A. No, the Sunday.

Q. Sunday? A. Sunday, because it was the take-over. You see, we had to take over on the Monday. It had to be taken over so that on Monday morning the workers would start working under my control. 30

Q. Well, what was the date? A. I beg your pardon?

Q. What date did this occur? A. It was on Sunday. I don't know the date.

Q. Sunday? A. Yes.

Q. Well, can you help us fix the date? A. Well I think I can. I arrived there on Friday.

Q. Yes? A. Which was the 29th.

Q. Yes? A. Saturday was the 30th, and if that month has got 31 days it must have been Sunday, 31st. 40

Q. That is, the early morning of Sunday, 31st?
A. The early morning of Monday.

Q. The early morning of Monday? A. Yes. I am.

Q. You are quite sure of this now? A. Am I quite sure?

Q. Are you quite sure? A. Oh definitely. There is no question about it, because I had to then go and get Mr. Armstrong to go and address the men in the morning.

Q. And Mr. Armstrong then was living in the unit?

A. Mr. Armstrong was living on the beachfront in a unit. I still rang up Mr. Barton in the morning next day, and he still would not go, so I rang Mr. Armstrong. No, I didn't ring Mr. Armstrong, because I don't think he had a phone. But he had the unit. I found the unit only through this, that there was his big Mercedes parked underneath there, which is a very rare car.

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Q. He had his big Mercedes? A. Yes.

Q. Just to get it clear now, at this time both Mr. Armstrong and Mr. Barton were at Surfer's Paradise? A. Yes. And so was Mrs. Armstrong and their young daughter.

Q. At 1 o'clock in the morning of 1st August or the night of 31st July - 1st September or 31st August ---

HIS HONOUR: You are a month ahead, Mr. Gruzman. 31st July.

20

MR. GRUZMAN: Q. 31st July - 1st August you rang Mr. Barton in his hotel suite at the Chevron Hilton Hotel? A. Yes.

Q. And had a conversation? A. Yes.

Q. You say that Mr. Armstrong never stayed at the Chevron Hilton Hotel. That is what you said, isn't it? A. I think there is something wrong there. Mr. Barton stayed at the Chevron Hilton Hotel. Mr. Armstrong did not stay at the Chevron Hilton Hotel.

Q. I put it to you that you have told a complete and deliberate untruth? A. Your Honour, I have told nothing but the truth.

30

Q. You were pretty good at identifying hotel registers before. Just have a look at this, and don't say anything. Don't say anything. First of all, have a look at the signature. Have you had a good look at that? A. Yes. I am looking at it.

Q. Did Mr. Armstrong stay at the Chevron Hilton Hotel over the period towards the end of July 1966? (Objected to; allowed.) A. Well, when I went to ---

40

Q. Yes or no? A. How would I know whether he stayed there?

Q. You don't know? A. At the Chevron?

Q. Yes. A. He definitely did not stay. I went to the unit for him. I could even find out the name of the unit.

Q. You have read the document that is before you? A. I see a document here. It does not make - to me, that is a document.

50

Q. I see. Do you recognise the signature on the document? A. I don't know Mr. Armstrong's signature.

Q. That is what you are looking at, isn't it?

A. Well it says here A.E.A., and "m". I don't know Mr. Armstrong's signature, so it is no good asking me whether Mr. Armstrong signed it. I would not know. It could be anybody's.

Q. I ask you now, having looked at that document, are you still prepared to swear that Mr. Armstrong did not stay at the Chevron Paradise Hotel - to be precise - towards the end of July 1967 - 1966? A. I am saying that when I went to find Mr. Armstrong I did not go to the Chevron; I went to the unit, and his car was parked underneath it.

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Q. What you said in the clearest possible terms was that Mr. Armstrong did not stay at the Chevron Hotel over that period? (Objected to; rejected.)

WITNESS: I don't know whether Mr. Armstrong stayed a night or two nights before. On that particular day he stayed in the unit, when his Mercedes was underneath it and his wife was having difficulty in getting the car out. I remember that very well.

20

MR. GRUZMAN: Q. Hand that back to the Court Officer, and have a look at this other document. Have a good look at that one which the Court Officer will show you? A. I am having a very good look at it. I see a page ---

HIS HONOUR: Just a moment. Wait for the question to be asked. All you are asked at the moment is to look at it and when you have looked at it Mr. Gruzman will ask a question.

30

MR. GRUZMAN: Q. Will you agree with me that Mr. Barton left the Chevron Paradise Hotel on 24th July? A. I will not agree with that. As I am not a person that is in the hotel to be able to say when he left, Mr. Gruzman, I am not going to say something that I don't know.

Q. Look, sir -- A. I have got here a document, if you call it a document. There could be a million books like this. You have not even got a signature here, and you want me to say when Mr. Barton left - I am sorry, I can't possibly say anything else on this document.

40

Q. Mr. Hume, you told a lie when you said that you rang Mr. Barton at the Chevron Paradise Hotel on the night of 31st July, didn't you? A. I have not told a lie.

(First document shown to witness m.f.i. 69.)

(Second document shown to witness m.f.i. 70.)

(Further hearing adjourned to 10 a.m. on Thursday, 12th September, 1968.)

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FREDERICK HUME

On former oath:

HIS HONOUR: Q. You are still on oath, Mr. Hume?

A. Yes your Honour.

MR. STAFF: Before my friend resumes, there are a couple of matters in the transcript. One towards the foot of p.1242 - four questions from the end - the long answer. It is in the sentence starting in the third last line. I don't know what the answer was. It is the sentence after the sentence "He was writing stories on baccarat games". 10

HIS HONOUR: The court reporter states that he noted that answer at the time. The transcript will not be altered.

MR. STAFF: At p.1250, in answer to the third question - I am sorry, in answer to the second question on that page, it is recorded as "late in July it was". I think it should be "Late in the year it was". 20

HIS HONOUR: The word "July" will be altered to "year".

MR. STAFF: On page 1251 in the answer to the third last question on the page there is a name mentioned there. I am not sure whether that was the full name, or not. The first syllable is there, but I thought the name had some additional ending to it. 30

HIS HONOUR: I will ask a question in regard to that.

MR. STAFF: There is a matter which appears in the transcript at the foot of p.263/64, in respect of which I omitted to ask a specific question. Would your Honour permit me to ask a question in regard to that?

HIS HONOUR: Yes.

Q. Mr. Hume, at p.1251 you stated the name of the Prime Minister's bodyguard? A. Percy West. He is a Sergeant in the Commonwealth Police Force, and there was a Sgt. George, who is also a sergeant from Canberra. 40

MR. GRUZMAN: Your Honour will remember that in the cross-examination of Miss Catt there was a challenge in respect of what appeared in the newspapers, and the course was taken of handing the newspapers to my friends. They have been handed back to us without any statement as to whether they accept the position that no statement about this phone call appeared in the press, or not. I am 50

prepared merely to tender the newspapers or to accept such statement as Mr. Staff may make on the matter.

MR. STAFF: We would agree that there is nothing in these copies of these newspapers which my friend produced to us.

HIS HONOUR: Mr. Gruzman, if you have a note made of the dates of the newspapers, and, so far as it can be worked out, between the late final extra and the ultimate edition and the final ultimate edition. 10
Make out some such description as that. A document can be run out during the day.

MR. GRUZMAN: I can read it on to the transcript: Daily Telegraph, final edition, 5th June. Daily Telegraph - it has no entry as to what edition it is, but it has a stop press. It has not got a statement of what edition it is, but it is the 6th June. Daily Telegraph, final edition of 7th June. The Sun, late final extra for 4th June, 5th June and 6th 20
June. The Australian has not got any statement as to edition on it, but it is of the 5th, 6th and 7th June. The Daily Mirror, Tuesday 4th June late final extra; Wednesday 5th June, last race, and Thursday, 6th June, late final extra. Sydney Morning Herald, late edition, 5th, 6th and 7th June.

HIS HONOUR: Those being the papers that were referred to in the evidence on p.1178, it is agreed that there is not contained in any of them a statement to the effect that Vojinovic made a telephone call to Mr. Hume. 30

Does that correctly record it, Mr. Staff?

MR. STAFF: I think so.

HIS HONOUR: That having been recorded, the tender of the documents is no longer pressed and the admission will serve for the purpose of all that is relevant in the newspapers.

MR. STAFF: (With permission.) Q. Mr. Hume, I want you to take your mind back to the date about which you told us you went up to Sackville. You said it was 7th January? A. That is right. 40

Q. 1966? A. 1967.

Q. 1967, I am sorry. A. Yes.

Q. At any time during that day did you have a telephone conversation with Mr. Vojinovic? A. No. There is no telephone at Jack Murray's hut, and Mr. Armstrong has not got a telephone on the boat.

Q. Did you speak to him on the telephone at your Riley St. premises at any time on that day? A. I have never spoken to that man on the telephone, in person, or in any other way. Not even by telephone. 50

MR. GRUZMAN: Q. Just before we proceed on to general matters, do you remember you gave some evidence that your father had bought for you an M.G. motor car? A. That is right. He bought it from P. & R. Williams in Wentworth Avenue, and the salesman there - I don't know the name of the man, but he would be able to assist you there. The car was sold later on by me to a car yard in Fivedock. It is called the Sports World, and it is run by R.J. Phillips. The car was bought in September - the ninth month - and it was sold by me to R.J. Phillips in - would you bear with me for a second, I have to think of that-- in July - in June or July the next year. That is right. I had the car about nine months. That is all I had it.

10

Q. And it was your father's money which bought the car? A. That is right. I made the payments for it later on. You have got records in the cheque butts there.

20

Q. Did you ever pay your father back? A. Did I ever pay my father back?

Q. Did you ever pay your father back? A. I owe my father quite a bit of money, and I pay him from time to time. He is not really pressing for it.

Q. He is in a comfortable position financially? A. He is not in a very comfortable position, but he can afford it.

Q. He could afford to buy you the M.G.? A. Yes, he could. He only paid the deposit. He did not buy the M.G. I was paying for it.

30

Q. How much was the deposit? A. I think the minimum deposit. Somewhere about £375, or something like that.

Q. And your father paid that out of his own money? A. Yes he did. I think you can check that up by the company that sold me the car - by the salesman that sold the car, and demonstrated the car. You can check that by the company that sold the car, and demonstrated it.

40

Q. This morning someone from the solicitor's office went to 33 Garling Street, Lane Cove to serve a subpoena on your father? A. That is right.

Q. And you spoke to the person who came? A. I did.

Q. You said your father had gone away for a holiday for a week? A. My father has gone on a holiday. I don't know for how long. For a week, or more. You can get all these documents from the finance company. My father is a very sick man. He has just come out of hospital for a coronary. You can check up with the hospital.

50

Q. And the subpoena was for your father to produce his financial records relating to this motor car, wasn't it? A. No, the subpoena was in regard

to this motor car, and I told the young man that I have no records of that motor car as I had sold it. It was given to R.J. Phillips, and the finance company was paid out by them, and I received a cheque from Phillips, and that was it.

Q. You told him you destroyed the documents? A. I never told him I destroyed the documents. Why would I destroy the documents? Your Honour, I think this is ridiculous, in my opinion. Why should I destroy documents which have no importance? 10

HIS HONOUR: Mr. Hume, will you just listen to the questions and answer them?

MR. GRUZMAN: Q. (Indicating person brought into Court.) Is that the young man? The young man with glasses? A. That is the young man, yes.

Q. Did you tell him that after the car was sold there was no need to keep the documents and they were destroyed? A. I did not tell him that. I said, "I have no more documents. The car was finished, and I left them with Phillips". That was all. Why should I destroy something which is of no importance? You can have the records at the finance company. Do you want me now to give you some documents which are of no importance - what do you think I carry around? Do you think I carry a bundle of documents in my pocket? 20

Q. I suppose you would regard it as disgraceful to tell the police about a man who regarded you as his friend, wouldn't you? A. A man who regarded me as a friend? 30

Q. You would regard it as disgraceful to do that, wouldn't you? A. If a man regards me as a friend that does not mean I regard him as a friend, and if a man is a type of man that gets in trouble with the law I don't really regard these people as friends, Mr. Gruzman.

Q. Does that mean that you are prepared to tell the police about people who regard you as friends? A. I am prepared to tell the police about people who break the law. But I am not saying that those people are my friends. That is what you are implying, Mr. Gruzman. 40

Q. The question I asked you was whether you would regard it as disgraceful to tell the police about a person who you regarded as a friend? A. Who I regarded as a friend?

Q. Yes. A. If I know someone is breaking the law I am going to tell the police, whether you like it or not or whether they like it or not, Mr. Gruzman. 50

Q. If you did your duty as you saw it, and told the police --- A. Yes.

Q. - would you regard it as disgraceful to pretend that you had not done so? A. Would you put that again?

HIS HONOUR: I don't know what you are leading up to, Mr. Gruzman.

MR. GRUZMAN: A point directly in issue.

HIS HONOUR: I think I should say this, Mr. Gruzman, that if you are suggesting there is anything disgraceful in informing the police of the identity or activities of a criminal or a wrongdoer, so far as I am concerned it is quite the contrary - it would be doing no more than one's duty as a citizen. 10
(Discussion ensued.)

I have indicated my views. If you press it I will not stop you, provided you do not seek to lead it to putting the proposition that there is anything discreditable in disclosing the identity or activities of a criminal.

MR. GRUZMAN: Q. It would be useful to you in your work to have a man whom you could control, wouldn't it? A. No, it would not. I don't need any man to control. How do you mean to control? 20

Q. Isn't it of assistance to you to be able to call on men who will do what you want them to do? A. Your Honour, I hardly ever ask anyone for assistance, and they are always licensed inquiry agents who do divorce raids with me.

Q. Was Novak a licensed inquiry agent? A. He has never done a divorce raid.

Q. But he has done work for you, hasn't he? A. Yes, but they were unimportant little things like going and finding out if someone is living at that address. 30

Q. You told us yesterday that you first got to know Mr. Novak - at p.1263 - that you first got to know Mr. Novak about four or five years ago? A. That is right to the best of my recollection, yes.

Q. And that was in the Kings Cross area? A. Yes.

Q. And he was pointed out to you, and he was going around in a pullover and jeans? A. Yes.

Q. And he was carrying a Linhoff camera, selling around the place? A. Yes. 40

Q. He was subsequently picked up by the police on a charge of stealing this camera? A. Yes.

Q. And that was the first time you had met Mr. Novak? A. Yes.

Q. And he was taken by another private inquiry agent to Darlington Police Station? A. That is right. He sold him the camera. He sold to the private inquiry agent the camera, and he found out that it was stolen, and he took him to the police, and he got away. 50

Q. He escaped from the police station? A. Yes.

Q. You got a phone call from another man? A. Yes.

Q. You got a phone call from another man around the Cross, who told you what happened? A. Yes.

Q. And he told you that Novak was not at fault with the cameras? A. Yes.

Q. And that it was his friend that actually sold them? A. Yes. 10

Q. And you went to see Mr. Novak? A. Yes. I went with Mr. Novak to the C.I.B.

Q. And you tried to help Mr. Novak? A. I believed his story.

Q. You believed his story? A. They didn't.

Q. You tried to help him with the police? A. I believed his story, and he gave the story to the police, and they said, "We will check into it, and see how far it is going to go". In the meantime they found out that he was a participant in this robbery, and they arrested him in Darlinghurst and charged him, and he was convicted for it. 20

Q. Not so fast. After he escaped from the police you found him? A. After he escaped from the police I found him, yes. I was rung by this man, and he said that Novak was innocent. He told me he is innocent - and asked would I come and listen to the story, and I did.

Q. You then took him to the C.I.B., where he was interviewed by detectives? A. Yes. 30

Q. And the object of that was that you were going to try and get him free? A. No, it was not the object. The object was whether they would believe he was innocent, as I believed him. That was the object. If it was not so - if he was not innocent - he should be charged, which he was.

Q. You told the police in your view he was innocent, and ought to be released? A. That is right. But they had a different opinion.

Q. So that the position as you give it is that Novak was a man who in your opinion was wrongly charged with an offence, and you did your best to assist him? A. On the contrary, sir. The other man who was charged with him, who was arrested before Novak, proved that Novak took part in this. 40

Q. I am asking you whether this is the version of your participation in the matter - just a moment, Mr. Hume - that your opinion was that Novak was a man wrongly accused of an offence; you found out where he was after he escaped from the police, and you took him to the police to try and help. Is that right, or wrong. (Objected to; 50

allowed.) A. Well, I don't know whether he was guilty or not, because I have not spoken to him at this stage. You see, after I spoke to him then I believed him. He said that he did not have any participation - that it was the other man.

Q. Is this what you are telling us as to your participation in the matter, that after Novak escaped from the police you found out where he was and believed that he was innocent and took him to the police by way of assisting him. Is that true, or false? A. I told him to come with me --- 10

Q. Just listen to me. I will ask you again. Is this what you say was your part in the matter, that after Novak escaped from the police - A. He did not escape from the police. He escaped from the private inquiry agent. You have got that wrong, for a start.

Q. After he escaped from the Darlinghurst Police Station, is that right? A. He was not in the hands of the police. It was outside the police station where he escaped. 20

Q. So that he was not in Darlinghurst Police Station? A. It was outside the Police Station. I was not there. It was somewhere at the station. He was not inside. He did not escape from the police. Once they have got their hands on you that is the end - he did not escape from the police. Once they have got their hands on you that is it. 30

Q. You have had experience of that, have you?
A. Yes, I have. I was convicted of playing baccarat, and I didn't get away.

Q. Did you try to get away? A. No, but I didn't like to go, and they told me, "Well, you have got to go".

Q. Was this man taken to the Darlinghurst Police Station? A. According to what I was told, yes.

Q. According to what you were told did he escape from the person who took him to the Darlinghurst Police Station? A. That is right. There were two persons. 40

Q. Did that occur at Darlinghurst Police Station?
A. That is what I was told.

Q. And then did you find out where he was? A. I didn't find out. I got a phone call from this other fellow.

Q. Why would somebody ring you as to the whereabouts of a man who had escaped from some custody? (Objected to; rejected.) 50

Q. Do you know why anyone would have rung you with the whereabouts of the man Novak who had escaped from someone's custody? (Objected to; rejected.)

Q. Had you any association with Novak at the time? A. No.

Q. Or with stolen goods? A. None.

Q. Were you perhaps an investigator searching for these particular stolen goods? A. No.

Q. Well, what was your connection with the stolen goods? A. None whatsoever.

Q. What was your connection with Novak? A. None whatsoever.

10

Q. Well, can you tell the Court any reason to your knowledge why you should get a phone call with Novak's address? A. This other man knew him.

Q. Who knew him? A. This other man who rang me up.

Q. Who was that? A. That was Novosel.

Q. Novosel? A. Yes.

Q. Novosel rang you up and told you where Novak was? A. That is right, and that Novak says that he is innocent, and what should he do?

20

Q. Do you know why Novosel happened to pick on you to ring? (Objected to; allowed.) A. Because I was his friend.

Q. Because you were Novosel's friend? A. Yes.

Q. How long have you known Novosel? A. About two years before that.

Q. Had you and Novosel discussed your activities with the police? (Objected to; rejected.)

Q. You got a phone call from Novosel with Novak's whereabouts? A. No. Wrong. I was asked to come over to the Cross and speak to them to see whether I would believe that story.

30

Q. This was a meeting arranged at the Cross?

A. He asked me to come to the Cross, yes.

Q. And you met him somewhere? A. No, I went up to the Cross. I went up to the Cross and I spoke to him and said he should go to the C.I.B. and give himself up.

Q. There was a meeting place arranged at Kings Cross? A. Yes it was. Well, we had to go somewhere. Where were we going to meet?

40

Q. Where did you meet at the Cross? A. I don't know. One of the coffee lounges.

Q. And you had a talk to him? A. Yes.

Q. And then you were convinced he was innocent?

A. Well, he told me such a good story I was convinced, yes.

Q. You were convinced he was innocent? A. Yes.

Q. And you took him to the police? A. Yes.

Q. And you told the police you were convinced he was innocent? A. Yes, but they sort of said that he had shifty eyes, and they didn't like it.

Q. But so far as you were concerned he was innocent? A. Yes. But I can be wrong. I have been wrong before.

Q. And what you did was by way of assisting Novak? A. No. Also assisting the police, because that was - they would have to look for him. This way he came to them. I was also assisting the police; otherwise they would have had to look for him, and this way he came to them. 10

Q. Look, was not your original evidence that you were assisting Novak in this matter? A. Yes, and the police.

Q. And the police? A. Yes, and the police.

Q. You see, you know that you have told an entirely different story to Sgt. Butler in your statement in February this year, don't you? A. Sgt. Butler never asked me about stolen cameras. 20

Q. Didn't he? You see, on your evidence in chief it is impossible that you could have informed on Novak, isn't it? A. Well, you can take it both ways, because by taking him there Novak felt that I informed on him, because he didn't get away from it, you see, and it created the illusion in his mind that I was responsible for him being convicted in the court. 30

Q. You went to the police? A. Yes, I went to the police.

Q. Which police did you see? A. At the C.I.B.

Q. Which one? A. I don't know.

Q. It must have been someone who knew you, wasn't it? A. Well, it could have been someone that knew me.

Q. And you must have known him? A. There are hundreds of police at the C.I.B. 40

Q. Who did you see? A. I have been on many cases. I could not tell you exactly.

Q. Only one with Novak. Who did you see? A. I can't recollect. It may have been Ray Phillips.

Q. It may have been? A. Yes.

Q. This is a serious matter. Don't say a name unless it is true. A. Your Honour, I can't swear who it was, because I have been to the police two or three dozen or four dozen times at least on these cases, and I have seen many detectives. 50

Q. Two or three or four dozen cases where you have given information to the police? A. No, not given information. Sometimes I actively go on a job. I don't really just give information as you consider. I think you have got the wrong sort of idea, Mr. Gruzman. I don't just sort of ring up and say, "There is a fellow there". The man that I helped the police against knows very well that I have given assistance to the police. There is nothing secretive about it. He knows that I have given assistance to the police. 10

Q. And that is what has happened in two or three or four dozen cases? A. I would not know how many cases. I never write that down, because it is all unimportant. I don't get anything for it. I don't get any thanks. I only get trouble, as it works out - as appears to be happening now.

Q. It may be as many as what? 50 cases? A. It could be more, with all the Police Force in Australia. It could be more with different things, yes. 20

Q. And it was on the strength of your assistance to the police that you tried to get into the Police Force, didn't you? A. No, actually this all happened afterwards.

Q. After you had made a practice of giving information to the police you sought on that basis to get admitted to the Police Force, didn't you? A. No. I was already a private inquiry agent - I was doing better than if I was in the Police Force. 30

HIS HONOUR: Mr. Gruzman, I will not have it put to the witness as an objective generalisation that there is anything discreditable in his assisting the police. I have indicated in clear terms that I regard it as quite the contrary. If you are going to pursue some question of personal gain or pursue the Novak incident those are concrete matters but the generalisation that has been suggested on more than one occasion is totally unacceptable. 40

MR. GRUZMAN: Q. Let us come back to Novak. You will agree that you tried to give this Court the impression that you had simply helped Novak in connection with the matter you referred to in your evidence in chief. That is the fact, isn't it? A. I am sorry, I don't quite understand that.

Q. You have told us how Novak was hiding. You found out where he was, and took him to the police and tried to help him. That is what you told us, wasn't it? A. He was not hiding. He was in a restaurant at the Cross, where I met him. 50

Q. Wasn't he hiding? A. No, he was with another man. He was with this other man.

Q. Was not anyone looking for him? A. I don't know whether anyone was looking for him.

Q. Didn't you know he escaped from someone's

custody? A. Who was the man whose custody he escaped from? It was not a police officer.

Q. Wasn't it your understanding that the police were looking for Novak? You are taking a long time to answer this question? A. It has been a long time ago, and ---

Q. Was it your understanding at the time you saw Novak that the police were looking for him? A. Yes, I believe after I was told the story, yes. 10

Q. Yes or no? A. I believe they would have been looking for him, yes.

Q. You told the police - first of all, you believed the police were looking for him? A. Yes.

Q. You took him down to the C.I.B.? A. Yes.

Q. And introduced him to the police down there? A. Yes.

Q. Told the police you thought he was innocent? A. I am sorry, but the police did not ask me "In your opinion is he innocent or not?" They questioned him, and then they came to their own conclusion. They don't ask me for my opinion. They are much wiser men than I am. 20

Q. Didn't these police let Novak go? A. Yes, they let him go because they didn't have any proof - not because I have got a nice face.

Q. And he was released and went back to where he had come from, is that right? A. Yes, he went back to the Cross.

Q. And then he was subsequently arrested by different police some days later? A. He was arrested by the police handling the case, as it works out in all these proceedings. There are certain detectives that take on cases in certain areas. But you know that. There is no need for me to go into details. 30

Q. The position is that you took him to the C.I.B. He was interviewed by two police, they heard his story, they let him go, and he was not arrested until some days later by different police. A. Very soon later. I think it was the next day. 40

Q. Next day? A. Yes.

Q. I think you said two days later? A. I don't know whether it was one or two days later. I didn't keep a record of when he was arrested.

Q. Look, sir, on that story it is inconceivable that you could have been an informer on Novak in respect of the theft of this camera, isn't it? (Objected to; rejected.)

Q. Is not this the position - by the way, will you now admit that you gave information to the police as a result of which Momo was arrested? A. Would you repeat the question please? 50

Q. Will you now admit that you gave information to the police as a result of which Momo was arrested? A. Well, it was quite complex. I did find out later on I was wrong, and I did pass information on to the police. Yes, I did that, yes.

Q. This is the position - A. But they had more solid proof than that. They had the other fellow who was with him, and he was arrested already three or four days.

10

Q. What you told Sgt. Butler was that Momo -

HIS HONOUR: Mr. Gruzman, I don't want the nickname unless it is taken out of the document.

MR. GRUZMAN: Q. You were asked this question by Sgt. Butler "Q. Have you ever had any misunderstanding with Momo that would lead him to say anything like this about you?" Do you remember being asked that question? A. Yes.

Q. And you answered - I am only going to read the first part of your answer at this stage - you answered, "I know that Momo is aware that I gave certain information to police officers, and that this information was probably responsible for his having been charged with the theft of some cameras". A. Yes.

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Q. That was true, wasn't it? A. Yes, that is true.

Q. The position is that, having got Momo's confidence, you then informed on him? A. No, no, I did not get his confidence. I got just as much his confidence as the police officers did. I found out other things. I found out the name of the other man. I found out the job. I found out how they did the job, and I found out everything about it. When I found this out I passed the information to the police, and I said that I was wrong.

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Q. Mr. Hume, according to your standards is it disgraceful to have got Momo's confidence and then to have told the police on him. (Objected to; rejected.)

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Q. Did you ever tell - by the way, the man we have referred to as "Momo" in the last 15 or 20 questions is the man Michael Novak? A. Yes.

Q. Did you ever tell Novak that you had informed on him to the police? A. He knew that, yes.

Q. You told him? A. Yes I did, and he knew that. I went with him to the police. He knew that.

Q. They were different police, weren't they?
A. What's the difference. They arrest you just the same.

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Q. These police did not know where he was going, did they? A. Who?

Q. The police that arrested him didn't know where --- A. Neither did the others. But they knew where to find him.

Q. And that was information you gave, wasn't it?
A. What information?

Q. Where to find him? A. Anyone knew they could find him at the Cross. I didn't know his address.

Q. The question I am asking you is very simply did you tell Novak that you had informed on him to the Darlinghurst Police? A. I did not inform on him to the Darlinghurst Police. 10

Q. To which police did you give the information?
A. I told the same detectives that were interviewing him the day before, and I said "I am sorry, I was wrong, but according to what I was told from another man Novak did take part in this".

Q. And did you tell Novak that you told that to the police? A. Yes. He knew that. 20

Q. Please answer the question. Did you tell Novak that you had made that statement to the police? A. Yes.

Q. You told him? A. Yes. He was well aware of that.

Q. When did you tell him that? A. Later on when he came out of gaol, I suppose.

Q. What term of imprisonment did he get for that, do you know? (Objected to; rejected.)

Q. How much later was it that you next saw Novak? A. I remember there was a parole officer, Mr. Gibbons, came over to my place at Darling Street, Balmain, and said that in his opinion Novak was a good boy and that he needed some help, and that Novak said to Mr. Gibbons that what I told him was the right thing to do, and he agreed that if he had got away from the police he would have had a much larger sentence, and by coming to the police with me they came to the court and said he was actually not as bad as he would have been otherwise; there was a chance that this boy would change his ways of life. 30 40

Q. That was his third conviction? A. I would not know which conviction it was. I don't keep a record of him. I only just met him ---

Q. His third gaol sentence, wasn't it? A. How would I know?

Q. Don't you know that? A. No. If he told me that would I have believed him then? What do you take me for? 50

HIS HONOUR: Mr. Hume, just control your manner in giving your evidence. It does you no good to be

carried away and to express yourself with such force.

MR. GRUZMAN: Q. At that conversation with Mr. Gibbons was Novak present? A. No, Novak was still in gaol.

Q. Can you tell us how it came about that Mr. Gibbons came to see you, of all people? A. Mr. Novak asked him to.

Q. Mr. Novak asked him to? A. Yes. 10

Q. And you say at that time?- it was not until Novak came out of gaol that you told him you had informed on him? A. Yes. But he still knew what I did was the right thing.

Q. So that at the time Mr. Gibbons saw you at Novak's request Novak was unaware that you had informed on him? A. Not really, because I went to the police, and he knew I must be in some way responsible for it, you see. Besides, the police had told him, I think, at the time he was in court. 20

Q. The police told him who the informer was? That is your idea? Is that your belief? Is it your belief that the police tell who the informer is?

A. In some cases they do, I suppose. They chatter along. There was nothing secretive about that, Mr. Gruzman.

Q. It is your belief, is it, Mr. Hume that police inform the criminal of the identity of the person who informs on him? Is that right? Please answer the question. Is it your belief that the police inform criminals of the identify of the person who informs on them? A. As I am not an informer I don't know what they do. I went there with him. Informers operate in a different manner altogether, Mr. Gruzman. They are undercover. They operate just by ringing up the police, and so the informer is never a person who is known, because that loses all his values as an informer. 30

Q. Is it your belief that the police disclose to criminals the identity of the persons who inform on them? A. No, I don't believe they do disclose the identity. I would not know. 40

Q. At the time that Novak asked the parole officer to see you to your knowledge he had no idea that you had informed on him, had he? (Objected to; rejected.)

Q. Of course, when the parole officer asked you to keep an eye on him it put you in a position of some power with Novak, didn't it? A. None whatsoever. What power would I have over Novak? 50

Q. If a man is parolled that parole can be revoked unless he complies with the requirements of the Adult Probation Service. You know that, don't you? A. I didn't become Novak's keeper. He just said to me, "Look after him. Look after him. Give him advice."

Q. And you did more than that. You took him in-
to your home? A. Well, he had no money and no
place to stay.

Q. And if you had made an adverse report about
his conduct to Mr. Gibbons he could go back to gaol?

A. I don't believe they work like that.

Q. Isn't that your belief? A. No.

Q. Isn't it your belief that if you had told Mr.
Gibbons that Novak, for example, was associating
with criminals or otherwise misbehaving himself
that he may have had his parole revoked? A. No, I
don't think so. Mr. Gibbons is an elderly gentle-
man. He is an elderly gentleman, who would want to
have a lot more than just someone's word that Mr.
Novak was doing something wrong before his parole
would be revoked. Quite a lot more than that. He
would not just go on someone's word.

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Q. The object of your keeping an eye on him was
to observe his conduct and to assist him in his con-
duct, wasn't it? A. No, the object was probably
to give him some financial assistance - give him a
room until he found a job. That was the only object.

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Q. We won't waste time on it. Do you tell his
Honour that it is not your belief that if you had
made an adverse report about Novak that Novak's
parole might have been endangered? A. No, that is
not my belief, that if I had made an adverse report
that would have happened. I mean, Mr. Gibbons
would not just take my word for revoking his parole,
your Honour. Definitely not.

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Q. How long was the parole for? A. I would not
know.

Q. Did Mr. Gibbons tell you? A. No.

Q. When was it that Mr. Gibbons saw you? Can
you give us the time? A. I could not do that.

Q. Just do your best? A. I would not even
known the year. Mr. Gibbons would have records of
that.

Q. But you have got a good memory for 7th
January 1967, haven't you? A. That was only re-
cently.

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Q. You even remember the sunburn cream, don't
you? A. I would not know. It was Miss Catt that
was burnt.

Q. Miss Catt was burnt? A. Yes.

Q. Now, will you tell us when it was that Mr.
Gibbons saw you about Novak? A. I would not know.

Q. Can you say the year? Give us the year? A.
I don't know.

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Q. Within five years? A. Well, it would have

been the same year that he was arrested. About five years ago, I suppose.

Q. Five years ago? A. This was not a very important thing that happened to me in my life - for Mr. Gibbons to arrive there and tell me about Mr. Novak. That was not a very important thing in my life, Mr. Gruzman. I can assure you of that.

Q. Novak is known to you by the term "three-time loser", isn't he? A. No. He was not known to me as that. No one told me that he was a three-time loser. Otherwise I would not have made a fool of myself to the police, by going to them and saying I felt he was innocent. No one told me that. 10

Q. You took him in your home? A. I took him after Mr. Gibbons asked me to take him in to my home, yes.

Q. How often had you taken a man such as Novak into your home? (Objected to; rejected.)

Q. Well, having this event in your mind, can you tell us the year when you took Novak into your home? A. The year? 20

Q. Yes. Give us within a period of 12 months? A. That was the same year that he was arrested and released, and Mr. Gibbons came. I don't really know what year it was.

Q. You don't know? A. No. It could have been about five years ago, approximately.

Q. How many times to your knowledge has Novak been parolled? (Objected to; rejected.) 30

Q. Could it be that on 9th February 1966 Novak was bound over to be of good behaviour and to place himself under the supervision of the Adult Probation Service officers? (Objected to; allowed.)

Q. Did you believe that on 9th February 1966 Novak was bound over to be of good behaviour for a period of five years, to place himself under the supervision and guidance of the Adult Probation Service officers? A. Would I believe?

Q. Yes. That on that date, 9th February 1966, he was bound over to be of good behaviour for a period of five years and to place himself under the supervision and guidance of the Adult Probation Service officers? A. Yes, I believe so. 40

Q. You believe so? A. Yes.

Q. So that would it have been about that time that Mr. Gibbons saw you? A. No, it was well before that.

Q. Well before that? A. Well before that.

Q. You have looked after Novak for some time, then? A. Yes, from when Mr. Gibbons told me to 50

look after him I have looked after him. I have given him money many times. He was always short of money. When he was hungry I gave him money. I did not want him to go stealing again.

Q. Did he disappear from time to time? A. Yes. He is always travelling around Australia. He is a competent waiter, and he loves spear fishing, and he was an abalone diver, and he likes chasing sharks, and that type of thing.

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Q. If I suggest the date of 31st August 1962 to you --- A. 31st August?

Q. When he was first bound over to be of good behaviour for five years, on a charge of stealing in a dwelling? (Objected to; rejected.)

Q. Was it on or shortly after 31st August 1962 that Mr. Gibbons saw you? A. I don't know.

Q. You don't know? A. No, I don't know. I don't recollect.

Q. Well, was it on 17th April, 1963? A. I don't recollect. I would not know. If you find when he was charged with stealing cameras then I will tell you.

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Q. You see, you have got very little idea of dates, haven't you? A. I have said to you - I have said in evidence yesterday, Mr. Gruzman, that if it is important things in my life that happen I remember them, but if it is whether Novak gets charged or is on a bond, that is so unimportant, Mr. Gruzman, to me, that I would not give it a second thought.

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Q. You see, what I am putting to you is that the man who you say was a good boy was, to your knowledge, not quite so good? A. On the contrary, according to what Mr. Gibbons said he was a good boy, and I believed him.

Q. In February 1963, say shortly after - I will withdraw that. Shortly before 15th February 1963 did Novak disappear? A. How would I know?

Q. But he was living in your home, wasn't he?
A. I don't know. I didn't say that was the time when he was living in my home, did I?

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Q. You don't know anything about it? A. I most certainly don't. I have never said that.

Q. That a warrant was issued for his arrest then? A. How do I know? Do you think I have to sign the warrant, or something?

Q. Well for example, on 30th September, 1964, did he disappear to your knowledge? A. Your Honour, I would not know whether he disappeared or not. How would I know if he disappeared. I don't keep a record of Novak's activities or where he goes or what he does. When he is in Sydney and when he is short of money he comes to me and asks

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me for money and I always give him some money so that he won't steal. I am not his keeper. Counsel is asking me things that it is impossible for me to answer. He is not my girl friend. I don't even know about her.

HIS HONOUR: Just listen to each question as it comes, and see if you can answer it. You need not trouble with where you think it may be leading. If you can answer it, do so. 10

If you can answer the question, do so; if you cannot, you are quite at liberty to say that you can't.

MR. GRUZMAN: Q. Are you aware that on 30th September, 1964 a warrant was issued for Novak's arrest? A. I am not aware.

Q. Well, do these suggestions I have put to you help you to know whether it was 9th February 1966 or shortly thereafter that Mr. Gibbons saw you? A. I would not know. 20

Q. During the year 1966 were you keeping an eye on Novak? A. Well, if you can call it keeping an eye on him. When he came to me for money I gave him money, and so far as I know he never was in any trouble. If that is keeping an eye on him, I was keeping an eye on him.

Q. How often would you see him during that year? A. I don't know. He used to come to see him. I did not come to him.

Q. He was always short of money? A. Pretty well always. He always changed jobs, and when he is out of a job he is always short of money, and then he comes to me. Only small sums, but still! He used to come to me for money for something to eat. 30

Q. He needed money to eat? A. Mostly to eat, yes.

Q. And for clothes? A. He had clothes, but he was always short of little things, like rent and food and things like that.

Q. Where was he living during 1966 to your knowledge? A. I would not know. From time to time when he could not pay for the rent he used to come over to Balmain, and I would still let him use that room. But he did not like it there; it was too far away from the Cross. So when he got a job he used to go back to the Cross and get into a place there - a private hotel, or somewhere. I don't know where. He lived all over the place. At one stage I think he lived in the Appin Hotel. But I never knew his address. That was the only time. 40

Q. How often did he use the room during 1966? A. I would not know. I would not know how many times he used the room. 50

Q. On and off? A. Yes, on and off. If he was

short of money and he did not have a place to stay he would ask if he could stay there, and I would let him stay there. That is all.

Q. Can you give us an idea of how many times during 1966? Fifteen or 20 times would he have used the room? A. I could not say 15 or 20 times.

Q. It may have been more; it may have been less?
A. It may be more; it may be less, yes.

Q. And for how long at a time? A. I suppose all-in-all he would have stayed there about 20 days, or something like that. 10

Q. And did that continue until he went to Melbourne? A. I beg your pardon?

Q. Did that sort of on-and-off use of the room continue until he went to Melbourne? A. Well, when did he go to Melbourne?

Q. Don't you know? A. No.

Q. You have no idea when he went to Melbourne?
A. No. 20

Q. No idea whatsoever? A. Well, he has probably gone to Melbourne dozens of times.

Q. Do you know of any occasion on which Novak went to Melbourne? A. Yes, but I don't know - I don't remember exact dates. I can't help you there.

Q. What is the best you can tell us about when Novak went to Melbourne by way of date? A. What year?

Q. Well, can you tell me a year? A. No. I know that he went to Melbourne in 1967. I know he went to Melbourne in 1968, and I know that he was fishing for abalone for quite a long time. 30

Q. Can you tell us the date when he went to Melbourne in 1967? A. It would be guessing.

Q. It would be guessing? A. Yes.

Q. Or in 1966? A. No.

Q. You have no idea at all? A. No, I could not tell you the exact date. It is just guesswork. I am not going to say I know the date. That is impossible. 40

Q. It is very hard to remember dates from 1967, isn't it? A. Unimportant things like that, yes. It is an unimportant thing to me, what date he went to Melbourne. What has it got to do with me?

Q. If he went with your car would that have anything to do with you? A. I am sorry, I have already said that the car at that time was Mr. Novak's car, and Mr. Novak was making payments to me, and it didn't matter to me where he was going with the car as long as he was making payments on the car. 50

Q. If he went to Melbourne in the car that had nothing to do with you? A. Nothing whatsoever, as long as he paid for it.

Q. You are the one who sold the car? A. I beg your pardon?

Q. You are the one who sold the car? A. I was the one.

Q. You were the one that sold that same car that Novak took to Melbourne? A. Correct. That was after he was making payments, and he did not insure it, and I was responsible to the finance company. 10

Q. You are quite unable to suggest any date when Novak went to Melbourne in the Falcon, EBD-703, is that right? A. Roughly I could say.

Q. What is the best you can do? A. I can say it was in the month of January.

Q. Is that the closest you could put it? A. Yes. Somewhere around the middle of the month of January.

Q. On 7th January 1967 your memory is as clear as crystal, isn't it? A. There is a big difference between being on a river with Mr. Murray, and with Mr. Novak. Mr. Murray is a very important person in my opinion, and Mr. Novak is of no importance, because Mr. Murray is a famous sportsman. He was teaching me to water ski, whereas Mr. Novak's trip to Melbourne was of no interest whatsoever. 20

Q. You remember yesterday Mr. Staff showed you a book - daily accommodation summary - from the Commodore Motel at Jindabyne? A. Yes he did. I remember that. 30

Q. And you remember that he showed you an entry on the page dated 12th November 1966 against room 18, and you said you thought it was your signature? A. It looks similar to my signature, yes,

Q. And you said that because you thought that would help your case? A. No, it does look like my signature.

Q. Even though it says, "Mr. Hume"? A. The surname is my signature. It is very much the same as my signature. 40

Q. What is written there is "Mr. Hume" isn't it? A. Yes, but the "Hume" appears to be similar to my signature. Someone could have put "Mr." and I put my signature there.

Q. Anyway, you are prepared to say - when it was shown to you by your counsel you were prepared to say that it looks like your signature? A. Even now it looks like my signature.

Q. But yesterday I showed you some hotel accounts, didn't I? A. Yes. They appeared to be hotel accounts, yes. 50

Q. And you said, "They could be all sorts of things. They mean nothing to me"? A. Nothing to me at all. They could be any sort of document.

Q. You see, Mr. Hume, you are prepared to make statements which will assist your case whether you really believe them to be true or false, aren't you?
A. That is not true.

Q. And if documents are put before you you are not prepared to give the Court your true opinion on them, are you? A. I am. 10

Q. You have sworn here that you left Sydney on 29th July 1966 to go to Surfers' Paradise? A. I remember saying it was a Friday.

Q. I withdraw that question. Did you leave Sydney on 29th July 1966 to go to Surfers' Paradise?
A. I remember saying it was a Friday. I was not sure what date it was. Anyway, you would have it in the account, because Mr. Barton paid the account.

Q. Mr. Hume, overnight have you decided that you were wrong in your evidence yesterday? A. I have not decided that. 20

Q. Yesterday you said that you left Sydney on a date which you believed to be 29th July 1966? A. I am still saying that, your Honour.

Q. And I put to you certain hotel accounts, didn't I? A. You showed me some accounts, yes.

Q. Just let us get it clear. What you say happened is that you left Sydney on 29th July, which was a Friday? A. It was a Friday I believe to be 29th July. 30

Q. And you got to Surfers' Paradise on the same day? A. The same day, at 5 o'clock. I met Mr. Barton in the Chevron Hotel on the first floor. It was, I believe, room 300. I can't be positive, but I think it was room 300. I was introduced to Mr. Barton by Mr. Armstrong.

Q. Not so fast. Go through it? A. There was Mr. Armstrong in the room, and also the younger daughter of Mr. Armstrong, and a real estate agent called Mort Cansdale. 40

Q. Yes. A. Yes, well what? Do you want me to continue?

Q. Yes, keep on? A. Mr. Armstrong introduced me to a man, and said, "This is Mr. Barton", and then there was the conversation. There was a conversation between them and a number of telephone calls.

Q. All right, that happened on the Friday, and you gave in your evidence in chief the whole of the conversation on the Friday, did you? A. I would not have given the whole of the conversation, because I was there for quite some time. 50

Q. I see. Well you had better tell us again what took place, according to you, on the Friday?

A. Mr. Fraser came in later on. But before that, while still Mr. Armstrong or Mr. and Mrs. Armstrong and all the other people were there Mr. Armstrong told me, if I am going to take on this job, that Mr. Barton was going to be my boss - my superior; he was going to be in charge, and I was to take orders from him. Then Mr. Barton told me what he wanted me to do. He said he wanted me to take over this machinery that was near the Island in a compound, and that a man called Fraser was going to be the man I was going to assist. He was going to be the man who was really taking it over. He was going to be in control of the men, and everything, and Mr. Barton then said that I am to see that no harm comes to him through a man called Hopgood, who is a violent man, and another man called Volp, who is a very big man, which he was. I mean, which he still is.

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Q. Yes. Carry on? A. As he feared them. Do you want me to go through the whole of the conversation? All that was going on there?

Q. That is what I asked you? A. Then Mr. Armstrong and Mr. Barton were talking, and I was listening, and Mr. Barton was saying something about some architect or an interior decorator that was doing some jobs for him, and he was saying how he complained to the man that he didn't do a proper job, and he complained to him three times and the man came back and always started repairing the job that he had done, and Mr. Barton kept on insisting the job was not done properly and finally the man got fed up and Mr. Barton said that the job was not properly done, and he only had to pay him half or threequarters of what it was, and he said how good he came out of it - it was a very good move on his part. He thought it was very clever, and Mr. Armstrong was laughing over that.

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Q. Having got that off your chest, will you continue? A. After that the young lady, young Miss Armstrong, left, and then Mrs. Armstrong was left there and Mr. Armstrong and all this discussion was going on while I was present. I didn't butt in. I didn't know the people very well, so it would be - I mean, I could not even join in the conversation because I didn't know what it was all about. And then Mr. Armstrong said that Mr. Barton was of Hungarian origin, and that his name was Alexander Bucchalter. Actually I think Mr. Barton said the name, but Mr. Armstrong started saying it. Then he was saying that he was in business in Hungary, and he had some difficulties first with the Germans and then later on with the Hungarian authorities, and he said that with the Germans you could do a bit of business, but with the Hungarians none at all, when they took over later on. By this he meant the Communist Hungarian authorities. He said, "I suppose you had a similar sort of experience, as you have come from Yugoslavia".

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HIS HONOUR: How much of this conversation do you want, Mr. Gruzman?

MR. GRUZMAN: Q. Will you in recounting this conversation tell us those matters which have something to do with this case and not matters which do not have anything to do with the case. (Objected to.)

Q. I want you to come up to the time Mr. Fraser arrived, what time did he appear? A. Mr. Armstrong and Mrs. Armstrong had already left when Mr. Fraser arrived.

Q. You had some conversation with Mr. Fraser? 10

A. Between Mr. Fraser and Mr. Barton I was again a spectator.

Q. What time did Mr. Fraser leave? A. Mr. Fraser left me with him. I remember Mr. Fraser so well because he is cross-eyed and you never know whether he is looking at you or what he is looking at; he is such an unusual type of person.

Q. What time of day was that? A. Still day time.

Q. What was the next thing that happened? A. I went to Mr. Fraser and had a drink. 20

Q. And then? A. We had a number of drinks.

Q. And after that? A. He was giving me all the information of what I had to do and what had to be done and he was saying that he was not very sure whether he was going to take on this job. He was friendly with the people we had to take machinery from.

Q. What time did you leave? A. We stayed for a long long time and then we went to another hotel - we went to the hotel where all the workers were drinking that were on this project, and that was over at Southport not very far from the police station, one block from the police station. 30

Q. What time did you finish at that hotel? A. 10 o'clock at night, when it closed.

Q. What was the next thing that happened? A. You mean after I left the hotel?

Q. Yes. A. I left Fraser too. I became very friendly with the workers there in the hotel during the time we were drinking. 40

Q. Cannot you answer a simple question; what happened after you left the hotel? A. Mr. Fraser went his way, I went my way.

Q. Which way was your way? A. I think I went to see a girl.

Q. Did you stay somewhere at Surfers Paradise that night? A. I could have stayed with her.

Q. The following day. This is the night of Friday 29th July? A. Yes. 50

Q. The following day what did you do, that is the Saturday? A. I could have booked into a hotel first of all.

Q. Do you remember what hotel? A. I do not remember it, but it is a very nice hotel and is right down near the water.

Q. This was Saturday 30th July. I do not want a detailed account of what you did during the day, but did you do some work in connection with this matter during the day? A. Yes, I did. I had to get a truck from somebody so that we could take the big sign over to the compound where all the machinery was being kept. That was a big Landmark sign. 10

Q. The arrangement was, as I understand it, that you would take over possession on the Monday morning? A. No. The arrangement was that I was going to take over possession by Monday morning, not on Monday morning. I had to do a lot of work previously to that. 20

Q. The idea was that when the doors opened on Monday morning you would be in possession? A. The idea was when the workers started on Monday morning everything would already be under our control and that Fraser was going to be the man that would take charge of the project because I did not know anything about dredging or anything like that.

Q. The arrangement was, as far as you were concerned, that by 8 o'clock on Monday morning Landmark would be in control? A. That is right, that is what Mr. Barton said but Mr. Fraser has not given his O.K. yet that he was going to be on the job. 30

Q. And the takeover would have to occur on the Sunday night so that by Monday morning it was finished? A. No, you are wrong Mr. Gruzman; the takeover, gradually you do a takeover, first of all we had to get the sign over and had to repaint the other signs that were on machinery.

Q. I only want to get it quite clear that it was on the Sunday night that you were going to go into the compound, make arrangements so that on Monday morning when the men arrived Landmark would be in control, is that right or wrong? A. Yes, but I still had --- 40

Q. Is that right or wrong? A. Would you mind repeating the question because you have omitted a number of things there.

Q. What I am putting to you is that it was on the Sunday night that you were going to go into the compound and have things finally arranged so that on the Monday morning when the men arrived Landmark was in control; that is correct, isn't it? A. Yes. 50

Q. So it was on the Sunday night or the Monday morning at 1 o'clock that you say you had this telephone conversation with Mr. Barton? A. Yes, to the best of my recollection, yes it was.

Q. There cannot be any doubt about it, can there?
A. There could be. Obviously there must be otherwise you would not be asking me these questions.

Q. Because it is a complete lie and you know it?
A. It is not.

Q. At the time you made up this story? A. I have not.

Q. At the time you made up this story you had Mr. Barton's affidavit? A. Pardon? 10

Q. At the time you made up this story about this midnight phone call to Mr. Barton you knew that Mr. Barton had made an affidavit? A. First of all it was not a midnight telephone call. The counsel is putting wrong times in. (Question rejected.)

Q. You saw Mr. Barton's affidavit early this year? A. I have never seen Mr. Barton's affidavit; where would I see Mr. Barton's affidavit?

Q. You swear you have never seen it? A. I swear so help me God I have never seen Mr. Barton's affidavit. Nobody has ever shown it to me. The police have never shown it to me. Who would have shown it to me? 20

Q. You have never had any discussion with Mr. Armstrong about Mr. Barton's affidavit? A. No, I have not.

Q. Or with Mr. Armstrong's legal advisers? A. No, I have not.

Q. You have never discussed with anybody in your whole life Mr. Barton's affidavit? A. No. I have not discussed it with anybody, Mr. Barton's affidavit. I was not asked anything about Mr. Barton's affidavit. 30

Q. You have never seen a copy of Mr. Barton's affidavit? A. Definitely not, never in my life.

Q. You have no idea to this moment whether Mr. Barton made an affidavit or not? A. I have not, I do not know whether he made an affidavit.

Q. Why did you --- A. I made an affidavit.

Q. Why did you make an affidavit? A. Because when I was at the police station with Mr. Butler, or Det. Sgt. Butler, and he took the statement from me on the 5th February 1968, they would ask me questions and I would give them answers, but that is not a full story of what happened because the police are not interested in other things around this project which I was employed to do. They are only interested in the things that they wanted to know. I have made then a full affidavit of all the things which to my knowledge may be not important to them but they were important to me because that is what happened, and then I had given this affidavit to the police. 40 50

Q. You made an affidavit on the 10th February 1968? A. That is right, and I was interviewed on the 5th February 1968.

Q. Were you aware on the 4th January 1968 Mr. Barton had made an affidavit? A. I was not.

Q. Were you aware that proceedings were started in this Court? A. I was not.

Q. Did nobody tell you that? A. Nobody. The police never told me that.

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Q. As at the 10th February 1968 you say you were completely unaware that any court proceedings had been started? A. Completely unaware. The police never mentioned anything about any court proceeding. They just wanted to take a statement from me because Sgt. Wild did not take a statement from me, and they said that is the reason why they are calling me in again and that is why they are taking a statement from me now.

HIS HONOUR: Q. The question was whether when you saw the police on 5th February 1968 you knew that Mr. Barton had started these or any court proceedings? A. I do not know; they had never mentioned it.

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MR. GRUZMAN: Q. Constable Follington was one of the police present at the interview with Sgt. Butler on 5th February? A. He was but he never said a word, he was only the typist.

Q. He never said one word? A. Not one word.

Q. What you are swearing is that at the time of this police interview on 5th February 1968 you had not become aware of any court proceedings in relation to this matter? A. Yes, I can swear to that, I have not.

30

Q. When did you first become aware of court proceedings? A. I think when I was subpoenaed.

Q. When was that? A. Somebody left the subpoena with my uncle in Lane Cove.

Q. Can you give us an idea as to when that was? A. It was in February of this year.

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Q. What date was that, do you know? A. The date that he left the subpoena?

Q. Yes. A. 9th February I think it was because I received a telephone call in Wollongong. On the same day they rang me up from Sydney that there is a subpoena for me at the Lane Cove address, and I came straight down from Wollongong by car and came straight to the court room.

Q. When you prepared the affidavit on 10th February 1968 you knew there were court proceedings?

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A. Repeat that question again?

Q. You told a lie when you said you did not know that there were court proceedings when you prepared the affidavit on 10th February, didn't you? A. I do not think I told a lie, I just made an affidavit I did not know at the time whether I was going to be involved in this thing or not.

Q. At the 10th February 1968 when you prepared this affidavit you knew there were court proceedings, didn't you? A. No, I do not think so. I knew there were court proceedings - no, I was subpoenaed but I did not know that I was going to be in any way involved in it. 10

Q. You knew, if for no other reason, that the police have told you so? A. The police have never told me there was going to be court proceedings. I do not think the police even knew there was going to be court proceedings.

Q. Were you told by the police on 5th February that there was a complaint involving an allegation that you had conspired to commit murder? A. Your Honour --- 20

Q. Were you told that? A. I was told that but that was already a year before that interview.

Q. So you knew that? A. I knew that the first time already when Sgt. Wild interviewed me on 28th January 1968.

Q. Didn't you ask, "What has brought this matter to light; why am I being interviewed now"? A. They just told me because the statement was never taken and they wanted to have a statement from me. 30

Q. Didn't you say, "Why do you want a statement now a year later"? A. I did not say I did not ask them. They wanted a statement and I gave them a statement.

Q. Were you warned when you made the statement that the questions and answers might be used in evidence in court? A. Yes.

Q. You knew then that you might be involved, didn't you? A. Yes, I knew that there might be some court proceedings. 40

Q. That was on 5th February? A. Yes.

Q. Didn't you want to find out what court proceedings? A. No, I did not want to find out, I was not very interested in whether there were any court proceedings or not - I did not want to find out. They wanted a statement; I gave them a statement.

Q. You were quite disinterested? A. Of course I was quite disinterested. They wanted a statement and I was giving them a statement. 50

Q. Even when you were subpoenaed you were disinterested? A. Once I was subpoenaed I was not so disinterested, as you would say.

Q. Did not you want to see what Mr. Barton had to say against you? A. Nobody told me what Mr. Barton had to say against me. I got it from the newspapers what Mr. Barton had to say against me. I got it the first time the newspapers came out. It was on the back of the Daily Mirror's Stop Press - "\$10,000 fee for murder" and that was the first time I saw it was what Mr. Barton had to say about me.

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Q. Did you make your affidavit before or after you saw that? A. I made my affidavit on the 10th; I was interviewed on the 5th.

Q. Would you answer the question now please? A. And that came out - I cannot say whether that came out. The first day I was subpoenaed, or whether it came out at a later date. I cannot say for positive what date it came out. It was in the Stop Press. I can get you the newspaper and we can check it back. I am not going to say something I am not sure of.

20

Q. Because it can be proved by dates? A. I am not going to say it was that particular date when I am not sure. If I have a look at the newspapers --

Q. Did you make your affidavit knowing what Mr. Barton was alleging or not knowing what he was alleging? A. I have made this affidavit not knowing what Mr. Barton was alleging.

Q. Having no idea whatsoever? A. Having no idea as nobody has shown me up till now Mr. Barton's affidavit.

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Q. Nobody ever told you that Mr. Barton alleged that there was a conversation about the shooting of a dog; nobody has ever told you that? A. That was in the newspaper also, something about what Mr. Barton was saying about shooting a dog. In fact he said something about two dogs, but he is wrong because one dog was taken away beforehand and by Mr. Volp and one stayed there. One was a pet dog of Mr. Volp's and that was taken away and one was left there which was tied up by the foreman the next day.

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Q. You knew what Mr. Barton was saying about the dogs before you prepared your affidavit, didn't you? A. No.

Q. You have told us that you knew it some time? A. I read it in the papers. I do not know when I read it in the papers. It was in the papers something about shooting of a dog, yes.

Q. How can you swear that it was after you prepared your affidavit if you do not know when you saw it? A. I do not know when I saw it in the papers, but I have got the papers and I read it.

50

Q. I am asking you for an answer to this question: Did you know Mr. Barton's allegations about the dog before you prepared your affidavit, yes or no? A. Your Honour, I cannot recollect that, I

cannot possibly recollect that. I read it in the papers and I do not know what date it came out. I still have the papers at home; I take all the clippings out. I think it was in the "Herald". I am not sure but I have got the newspapers.

Q. The position is you might have known what Mr. Barton was alleging about the dog before you prepared your affidavit? A. Definitely not, nobody had told me anything about it. 10

Q. But you might have read it? A. In the papers?

Q. Yes. A. I do not know the date when the papers came out.

Q. We realise your problem. A. I have no problem here. I am not stating that there is a date when this paper came out. I do not know the date.

Q. What I am asking you to swear to one way or the other, or "I don't know" - did you know Mr. Barton's allegations about the dog before you prepared your affidavit? Yes, No, or I don't know? 20
A. I knew Mr. Barton's allegation only from the newspapers. Nobody has shown me anything else.

Q. I know you have said that; you have said it probably seven times. What I am asking you is this: When you prepared your affidavit did you know Mr. Barton's allegations about the dog. Would you answer yes, no, or I don't know. A. It is a hard answer because I would be guessing there.

Q. What is your best answer? A. No, it is not. No, as the papers came out after that definitely, your Honour, no. 30

Q. Because your recollection now is of the date of the newspaper, that is right, isn't it? A. No definitely did not.

Q. Your recollection is now that the newspapers came out after the hearing in the Court on the 9th February? A. I read from the papers about the allegations from Mr. Barton and I know that it must be some time in March or something like that I read it. I could not say exactly whether it was March. I could not even go as close as saying the month. 40

Q. All that you are doing is trying to work out in your mind the date of the newspaper, and if you can only think of that then you will say that was the time you first knew about it; that is right, is not it? A. That is not right.

Q. You are not prepared to swear that you never knew of the allegation when you prepared the affidavit unless you can work out the date of the newspaper? A. No, I am prepared to swear that I never knew of the allegation, that no one has told me and no one has shown me Mr. Barton's affidavit. 50

Q. Where did you get the words "vicious dog" from? A. The first time I got to Surfers and

when I was introduced to Mr. Barton by Mr. Armstrong that was the word used by Mr. Barton describing those dogs.

Q. I take it you are not aware that Mr. Barton on the 4th January has used the term "vicious dogs"?

A. He used that term when I was in Surfers in that suite of his. That was part of my job to remove the vicious dogs, but he did not know that there was only one as Mr. Volp has previously taken one away. 10

Q. Did you say, "Don't worry as I carry a revolver and I can shoot the dogs or even poison them"?

A. That is completely false as I do not carry a revolver and I would never say this expression of the revolver because I have a pistol and there is a big difference between the two. The revolver has a drum and the pistol has a magazine and I have never had a revolver in my life.

Q. Did Mr. Armstrong say, "Well, go ahead and blast them"? A. No, nobody said, "Go ahead and blast them". 20

Q. Did Mr. Barton say, "This is a commercial matter and I do not want you to use any force at all. I do not want you to kill the dogs. On behalf of the company you can only act in a commercial manner"?

A. No.

Q. Or anything like that? A. Nothing like it; never was any mention of that. Mr. Barton was saying if I was successful with this job he had a number of other big jobs for me. That is the only thing that Mr. Barton said. 30

Q. Did Mr. Armstrong say to Mr. Barton, "You are too weak-willed"? A. No.

Q. I suggest to you that this conversation took place when you arrived up there? A. Yes, that is right, the same day. Five o'clock I came with those documents from the solicitors, Dare, Reed, Martin and Grant and I brought some documents up for Mr. Barton. According to the conversation that I had with Mr. Armstrong the same day I believe it was at 9 o'clock in the morning that he rang me. 40

Q. I am suggesting to you the conversation about shooting dogs took place in the daytime, not at night time? A. Well, you are very wrong. I was there, there was no mention of shooting dogs at all.

I will prove it to you now, because at that time Mr. Fraser was going to take over and not me, and Mr. Fraser was going to be in charge of the men and Mr. Fraser was going to be the man working for Mr. Barton. I was only going to help him repossess the machinery. Furthermore Mr. Fraser could handle the dogs as if they were little pussies because he used to be with them every day, so there was no question about any shooting of the 50

dogs as it was only later on that Mr. Fraser refused this job and I had to go on it on my own. So there could not have been any shooting of the dogs mentioned.

Q. Did you say, "Don't worry because I carry a pistol"? A. I did not because I do not carry a pistol up in Queensland.

Q. You do not carry a pistol up in Queensland or a revolver? A. Not in Queensland; here I do. 10

Q. You are not licensed up there to carry a gun? A. No, I am not. There is another thing. In Queensland I do not wear a coat, I go around in an open-neck shirt and shorts and you cannot have a gun on you with shorts and an open-neck shirt because where would you put it, and if you saw my gun - it is about that size (indicating) - so where would I put it?

Q. You indicated a size about 16 inches long? A. Yes. Do you know how a Walther PPK looks? 20

Q. Yes. How many millimetres is it? A. Nine millimetres.

Q. Not a very big gun, is it? A. It is a very big gun, it is one of the biggest and probably the most powerful. I will bring it for you.

Q. Probably 16 inches long? A. What is the inch distance in this? (Indicating).

Q. That is 11 inches. A. That is about the size of the gun and it is also very wide and it is impossible to have it on you unless you have a coat and even then it would be bulging, which it does. 30

Q. Why do you carry such a powerful gun? A. Why?

Q. Yes. A. If you are going to carry a pistol you might as well carry the best. You are not going to buy a pistol - you might as well not have a pistol if you do not buy something good; that is my opinion on carrying pistols.

Q. That would be a bigger and more powerful pistol than the police carry? A. Their opinion is that theirs is better than mine, and mine is that mine is better than theirs. 40

Q. If you shot a man with that gun you would kill him? A. It all depends from what distance.

Q. That is the idea of having a big and powerful pistol, if you shoot him you would kill him? A. No.

Q. Why else would you carry a 9 millimetre pistol? A. Why would you carry a 9 millimetre pistol? I do not say particularly 9, it is a 9 millimetre - even the 22's --- 50

Q. You would describe your gun as a very lethal weapon, wouldn't you? A. I think most of the guns are lethal weapons, it all depends from what distance you use them.

Q. Yours is effective from a long distance, is it? A. I think you will have to get a firearms expert on this.

Q. You bought the gun, didn't you? A. Yes, I did.

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Q. Is it a gun which is in your opinion effective from a long distance? A. I do not think that is a fair question as I have never tried it out on a long distance or short distance. I sometimes go target shooting but I am not very interested in it; I go once maybe every two years. I do not know what distance it would be.

Q. Is there any reason why you bought such a big and powerful weapon? A. I bought it because I know it is very good and I know it does not jam. The German factory that makes them claim that they do not jam and they are about the best hand weapon that there is.

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Q. It is a weapon that would not be very effective for defence would it? A. Yes, all those weapons are defensive.

Q. Also? A. Yes.

Q. Mainly for shooting someone at a distance? A. It is used a lot for target shooting, it is a very accurate pistol. All pistol shooting sportsmen have this type of gun.

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Q. You say the conversation did not take place in the daytime but it took place about one o'clock on the Monday morning? A. That is right. I have already explained to you why because it was impossible because Mr. Fraser was still working for Mr. Barton at this time.

Q. You have told us a thousand reasons why you must be right? A. I am right; why don't you ask Mr. Fraser?

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Q. You were not in Surfers Paradise on the Monday morning following 29th July, were you? A. Who repossessed that island I would like to know.

Q. You say you were? A. I must have been there if I took over the island. I think I was the man that took over that island.

Q. You say you arrived there on the afternoon of the 29th July? A. It was a Friday, I could be wrong with the date but I was the man that repossessed the island. You have an unfair advantage over me; you have my invoice there, the account which I have sent you. I have got nothing - I have to go on memory.

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Q. Just have a look at this document. Is that your signature at the bottom? (Showing document.)

A. Yes it is.

Q. Does that show that you hired a car on the 23rd July? (Objected to.) A. It does; 23/7/66 and the date of return was 25/7/66.

Q. At Surfers Paradise? A. It says here ---

Q. What is the local address shown about one-third of the way down from the top? A. Local address was 25 Enderly Avenue, Surfers Paradise. 10

Q. What is the address Enderly Avenue? A. 25.

Q. What is that, is that a unit or a flat? A. It would have been probably the place where I was staying; it would have been a motel.

Q. There is no name for the motel there, is there? A. No, it does not state here.

Q. All the time that you were in Surfers Paradise you had a car? A. Yes. I had a car brought up from Sydney. 20

Q. A car brought up from Sydney? A. Yes.

Q. Which car was that? A. A man called Bob Booth, a private inquiry agent.

Q. Brought a car from Sydney? A. He brought my car up from Sydney as I did not have a car up there.

Q. What car did he bring up? A. The car I had in Sydney at that time.

Q. What is your recollection? A. The car was EBD-703, Falcon Sedan, blue.

Q. Your previous car had just been repossessed, had it not? A. The previous car, No; the previous car was traded in on this car, that was a Dodge, I believe. 30

Q. Was not your previous car repossessed during June by the finance company? A. Yes, I lent it to a friend of mine and he said he was going to keep up the payments, which he did not. His name was John Carter.

Q. He has four names, hasn't he? A. I would not know how many names he had. 40

Q. This is another like Novak? A. We went to the company but I was still responsible for the car. We went to the finance company and he signed that he was going to pay for the payments of the car and then he didn't. Later on the company denied that he had any claim to the car, that I was responsible because I was the first hirer they called it. So I just kept on paying for the car, even so I lost it. I still pay for that car, not very regularly. 50

Q. Not very regularly? A. No.

Q. That car was repossessed by the finance company? A. Yes, it was.

Q. It was not traded in? A. Which one?

Q. The Holden you are speaking about? A. You are on a different car altogether now; that is a green 1964 model Holden.

Q. That is the one we are speaking about? A. That is the one you are now speaking about that I gave to John Carter. 10

Q. That was repossessed by the finance company in June 1966 from Balmain? A. Yes.

Q. You had this car for two days and then did you get another car, a Volkswagen, for a further three days? (Objected to.)

WITNESS: Mr. Gruzman is a very clever man. I had two cars from Kay's Rent-a-Car and afterwards my car was brought from Sydney and I did not know that they had to change the car because they said they wanted this particular car back. Kay's Rent-a-Car when they hire a car you tell them for how many days you want it, and then you tell them, "I want it for a few days", I did not know how long it would take me up there and after two days they hire the car to somebody else already by prior arrangement and then they ask you for that same car back and they give you another one because they have the car rented out, and this is what they did. So, I had to take another car and then Bob Booth brought back my car. 20 30

Q. They both have got your signature on those documents? A. Yes.

Q. The first one shows that you got a Holden car for two days from the 23rd to the 25th; you were charged for two days? A. 23.7.66 to 25.7.66, and the other is from the 25.7.66 to the 28.7.66.

Q. On that one you are charged for three days? A. Because I got my own car and I charged for my own car too. I was not going to do it for nothing. 40

Q. Your own car was brought up from Sydney. This is the Falcon EBD-703? A. Yes, by Mr. Bob Booth, the agent.

Q. How long did you stay in Surfers Paradise after your car arrived? A. One or two days I think.

Q. One or two days? A. Yes.

Q. Your car arrived on the 28th, one or two days only takes you to the 30th, doesn't it? A. That is right. I did not know how long I was going to stay up there; I was the temporary manager 50

of the project at that time. I could have stayed there for a month or six months. That is why I had my car brought up.

Q. So you left Surfers Paradise on the 30th July?

A. Yes, because by this time we have found another man who would take my place.

Q. You left Surfers Paradise on the 30th July?

A. I would not know the exact dates.

Q. If Friday was the 29th July you must have left Surfers' Paradise on Saturday, the 30th. Correct? 10

A. Wait a minute - I was there for a week.

Q. If Friday is the 29th July and you left on the 30th you must have left Surfers Paradise on Saturday, 30th, correct? A. All I can say is that I have got the wrong dates and I was there a week before.

Q. You might just have a look at these two dockets. Did you stay at the Fabulous Flamingo Motel, and did you depart from that motel and pay the balance of the account on the 30th July? A. That is right. 20

Q. So you certainly did not speak to Mr. Barton in his hotel suite at one o'clock on the Monday following the 29th, did you? A. Not according to the dates; it must have been the week before then.

Q. You now think it must have been a week before?

A. That is right, I am quite sure it was.

Q. Now you are quite sure? A. Yes.

Q. What would have been the date; let us see if we can work it out when you now say you spoke to him? A. It would still have been the Monday morning. 30

Q. At one o'clock, only a week before? A. That is right.

Q. The 25th July. You are a private inquiry agent aren't you? A. You know that.

Q. You are used to looking at hotel accounts?

A. I am not used to - I do not look at hotel accounts. 40

Q. You are prepared to identify your signature?

A. Because it looks like my signature.

Q. In the hotel book because it suited you? A. No, not because it suited me; it looks like my signature.

Q. I now put to you two documents.

MR. GRUZMAN: This is on credit, your Honour. I am not seeking to prove the fact.

Q. They are two hotel accounts from the Chevron

Hotel at Surfers Paradise? (Shown documents.)
(Objected to; allowed.) A. Yes.

Q. They are hotel accounts, one for Mr. Barton
and one for Mr. Armstrong? (Objected to.)

Q. Would you just read those accounts very care-
fully and look at the signatures on each one and
look at every entry on it. A. I am looking at it
but I am not seeing anything.

Q. You just have a careful look and take as long 10
as you like? A. Yes, I have looked at it.

Q. Would you agree with me that Mr. Barton was
not staying at the Chevron Hotel on the night of
Sunday, 24th, Monday 25th July; I will take you
further and ask you a second question you can think
about. A. Would you mind asking the first ques-
tion again?

Q. The first question is: Would you agree with 20
me that Mr. Barton was not staying at the Chevron
Hotel on the night of Sunday, 24th, Monday 25th July
1966? A. He was not?

Q. Yes. A. Why has he paid for it then?

Q. What is he paying for? A. The 24th July it
says here so he must be paying for something.

Q. Breakfast on the 24th July; if you leave on
the 24th July the account would be made up to the
24th July in the morning? A. You have got an ad-
vantage over me; you have the dates, I have not.

Q. You have everything in front of you, I have 30
not. A. No, I have not; all I want is my bill
that I sent - from there you can see.

Q. (Shown Exhibit "S".) I hand you Exhibit "S"
the bill. A. Yes.

Q. Will you now agree with me that Mr. Barton
was not staying at the Chevron Paradise Hotel on
the night of Sunday 24th, Monday 25th July, 1966?
A. I won't agree with that. I know I had this
conversation with him; I rang up his room and
that is it. I won't agree with you at all. I
could have the dates wrong but that is all. 40

Q. Could it be a different day to the
Monday/Sunday night now? A. It could be.

Q. Would you agree with me that on the night of
Sunday 24th, Monday 25th July 1966 Mr. Armstrong
was staying at the Chevron Paradise Hotel? A.
Yes but ---

Q. Will you agree with that? A. According to
this document. Mr. Armstrong was staying at the
Chevron Paradise Hotel on what day?

Q. 24th July, 25th July 1966. A. No, sir, you 50
are wrong.

Q. Just have a good look? A. That is the 28th, 29th, 27th.

Q. Will you admit that you never spoke to Mr. Barton on the telephone at the Chevron Paradise Hotel or elsewhere about killing a dog? A. I did, your Honour; I did, so help me God I spoke to him. I am willing to go under any lie detector in this world I spoke to that man.

Q. When? A. I do not know now.

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Q. You do not know now? A. I spoke to that man when Mr. Fraser said he was not going to take over this project. I had to take over this project and Fraser did not come and remove the dog, and then I went and I spoke to Mr. Barton on the telephone. I came to the hotel and rang up.

Q. When did Fraser promise to remove the dog? A. That particular day when I met him he said he would do that; that was part of his job.

Q. You have sworn that Fraser was undecided at that time as to whether or not he would come over to your side or not? A. That is right, he said he would remove the dog; that was part of his job to remove the dog.

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Q. But he had never agreed to do the job? A. He did not give a definite answer but he was going to do that, anyhow.

Q. He was going to assist you to get possession of the machinery although he was going to remain faithful to his employers? A. I am sorry, they are not really his employers - he was working for somebody else at the time; he was not employed by Hopgood and Volp; I believe he was employed by some other company.

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Q. When you spoke to him he never said that he would help you against Hopgood & Volp? A. He did say he would help; he said he would remove the dog.

Q. He told you and you have sworn it in your evidence that he was going to think it over; that is right, isn't it? A. Yes, but he was going to remove the dog as a favour for me. We were drinking there - that is the only problem I had, was removing the dog, because I had to remove the dog.

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Q. Once the dog was removed the way was open?
A. Naturally.

Q. And what you wanted from Fraser was that he would remove the dog? A. Yes.

Q. That is what Fraser refused to do? A. No, contrary; he said he would do it and then he did not. That is when I rang up Mr. Barton, that is right.

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Q. Fraser never agreed to go over to your side, did he? A. He did; he said he would remove the dog.

Q. When did Fraser agree to work on your side? A. He said he would remove the dog. He did not agree he was going to take over the project but he helped me put up the signs on the truck. He was the man that was helping me at the time. He was the man that helped me put the big sign on the back of the truck and he was the man that drove the truck. I do not know how to drive a truck; I have never driven a truck in my life and I have not a truck driver's licence. 10

Q. You told a deliberate lie about that conversation? A. I did not your Honour.

Q. You told a lie because you knew that Mr. Barton had made an allegation about the dog? A. I did not, your Honour.

Q. And you set out to concoct a story to put Mr. Barton in a bad light? A. I did not, your Honour.

Q. Do you offer any reason why in your affidavit of 5½ pages you devote about more than half a page to the vicious dog? A. That was the thing that was playing so much on everybody's mind was the dog. If it was not for the dog we did not need Fraser at all. 20

Q. Where were you when you phoned Mr. Barton? A. In the Chevron itself.

Q. You came to the hotel? A. Yes, I came to the hotel.

Q. There is no doubt as to where you were? A. No, no, no. There is a telephone downstairs where I was ringing from. 30

(Luncheon adjournment.)

ON RESUMPTION:

HIS HONOUR: You are still on your oath.

MR. GRUZMAN: Q. In connection with the Surfers Paradise matter you employed Novak? A. Yes.

Q. Did you know he was up at Surfers Paradise when you went there? A. No. I saw him in the Chevron-Hilton Hotel; he was a waiter there.

Q. You just happened to meet him? A. He was serving drinks. 40

Q. It was a pure coincidence you met him there?
A. Yes.

Q. You immediately employed him the same night?
A. I said, "Would you mind doing a spare-time job apart from the job you are doing here?"

Q. You asked him if he would do a small job?
A. Yes, mainly at night and early in the morning.

Q. When did you see Mr. Novak again after that?
A. How do you mean, after that? 50

Q. After the July incident at Surfers Paradise when did you next see Novak? A. Up at Surfers again; I went up there on a number of occasions.

Q. Did you employ him on those occasions? A. No.

Q. How did you come to see him? A. When I went up there he was still working as a waiter at Chevron, and so on.

Q. How many times did you see him at Surfers Paradise? A. Two or three times, I suppose, I went up there. 10

Q. When was that? A. I would not know the exact date; you can check it back by TAA or ANA, I paid by cheque.

Q. Approximately when? A. In that year.

Q. Your memory of dates is not good enough to be more specific than that? A. I am no computer, I cannot remember those dates. It was no big occasion for me to see Mr. Novak up at Surfers in a place where he is working as a waiter. 20

Q. Did you see him at Surfers Paradise each time you went to Surfers Paradise? A. I do not even know that because I went there quite a number of times.

Q. When did you see him in Sydney after July of 1966? A. I presume it would have been late November.

Q. Late November? A. Yes.

Q. In what circumstances? A. He came to my place and he was asking me for some money again like he usually does; he could not find a job immediately in Sydney and he was a bit short of money and he sought if I could give him a spare-time job to give him a few bob just to keep him in pocket money. 30

Q. Did you ask him how he came to leave the job in Surfers Paradise? A. I think he resigned, he told me something about that. He said he left; I do not think he was fired. I think he left of his own accord. 40

Q. Do you know how he came to leave a job working as a waiter at the Chevron at Surfers Paradise of his own accord and then come to Sydney to ask you for money? A. I did not say he asked me for money immediately after he left the job; I said he asked me for money when he came down to my place in Sydney, but I do not know how long after he left the job he asked me for money. I do not even know when he left the job. I cannot give you any precise dates when he left the job. 50

Q. Was it by arrangement with you that he came to Sydney? A. No, it was not.

Q. It was a complete surprise when he turned up?

A. No, just to come and go every year about ten or fifteen times; he changes jobs like I change shirts. He never keeps a job for very long. He has worked everywhere in Sydney already as a waiter that I know of; I could start naming the places.

Q. To your observation had he worked for some time at the Chevron as a waiter? A. Yes, I was amazed at that but he liked the place because he could go underwater diving, aqualung diving.

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Q. When he came to you in Sydney did he tell you how long he had been out of a job? A. No; he could not have been very long out of a job.

Q. It looks as though, to the best of your recollection he left the Chevron and came more or less directly to you doesn't it? (Objected to; rejected.)

Q. To your knowledge that is what he did, isn't it; he left the Chevron and came more or less directly to you? (Objected to; allowed.) A. I cannot answer that as I do not know what day he left Chevron; I do not know what day he arrived at my place.

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Q. Can you fix the date a little more precisely for the Court? A. No.

Q. The best you can tell us is November 1966?

A. I do not even know whether it was that day, he asked me for money, but that was probably the time I saw him.

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Q. But you saw him where? A. He came over to my place or I saw him at the Cross; they were the only places I ever saw Mr. Novak.

Q. When you say your place, where do you mean?

A. November would have been in Riley Street. If it was early November it could have also been Balmain because at that time my father had just sold the property; it could have been either Balmain or Riley Street. In November I think I moved from Balmain to Riley Street.

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Q. Do you know a man called Hajidkis? A. No, not by any name; if you have a photograph maybe I know him.

Q. Is there a man called Hajidkis operating as a private inquiry agent from your address in Balmain?

A. Not that I know of; he has got nothing to do with me. The property was sold and I think some Greek people bought it. I believe there is a grocer's shop there.

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Q. I am going to break into your train of thought, and I do not want to confuse you, and I am going to come back to some questions which I asked you this morning. Do you remember I asked you this morning whether you were prepared to swear that you had no

knowledge that Mr. Barton had made a statement about a vicious dog at the time you prepared the affidavit on the 10th February? Do you remember swearing that? (Objected to; question rephrased.)

Q. Will you agree with me that at the time you swore your affidavit on the 10th February 1968 you were aware that Mr. Barton had made a statement about a vicious dog? A. No, I do not think I was aware.

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Q. Are not you sure now? A. No, I am sure I was not aware. To my knowledge I was not aware that Mr. Barton made a statement about a vicious dog.

Q. What I put to you was that you prepared the affidavit on the 10th February 1968 with knowledge of what Mr. Barton was saying about, among other things, a dog at Surfers Paradise? A. That is wrong.

Q. I put it to you that you concocted a story to answer Mr. Barton's allegation? A. That is wrong, your Honour; that is definitely wrong.

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Q. And you say that that is impossible because you never knew of Mr. Barton's allegation on this matter when you prepared the affidavit on the 10th February. That is what you said wasn't it? You heard Mr. Staff say audibly, "He did not say that". (Objected to.)

Q. You remember I put to you this morning that you prepared this affidavit of yours as an answer to what Mr. Barton had said; is that true or false? A. That is wrong and I answered to you that I have first time heard of Mr. Barton's allegation from the newspapers.

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Q. And you also stated that you never had knowledge of Mr. Barton's allegations from any source prior to preparing the affidavit, is that correct? A. I have stated that I have never seen Mr. Barton's affidavit. I have never been told about Mr. Barton's affidavit; nobody has ever mentioned anything to me and when I was interviewed by Sergeant Butler he never mentioned anything about any affidavit and any court proceedings, and I have stated that to you this morning.

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Q. What you say is you had no knowledge from any source of Mr. Barton's allegations at the time you prepared the affidavit on 10th February 1968; is that true? A. Would you mind repeating that?

Q. I will repeat it and it is an important question and if you do not understand it then I will repeat it again. Are you saying that at the time you prepared your affidavit on the 10th February 1968 you had no knowledge from any source of Mr. Barton's allegations? A. You are wrong there; I was at the police station being interviewed on the 5th.

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Q. Perhaps you will make it more specific? A. That is right.

Q. Do you say that at the time you prepared your affidavit on the 10th February 1968 you had no knowledge from any source that Mr. Barton had made a statement about a vicious dog? A. No knowledge.

Q. None at all? A. None at all.

Q. Do you say that you got knowledge of that statement by Mr. Barton from the newspapers? A. Yes, since the police did not mention any vicious dog at all when we were down at the C.I.B. 10

Q. And you say the first time you got that knowledge of a statement about a vicious dog was after you prepared the affidavit? A. That is right.

Q. I suppose you were reading the papers about that time, were you? A. Yes.

Q. I suppose you read the "Sydney Morning Herald"? A. No, I read the Telegraph and I read the Mirror and sometimes I read "The Sun". 20

Q. You never read the Herald? A. Sometimes I read the Herald, yes.

Q. Just tell me whether you remember reading this in the Sydney Morning Herald on the 1st February, 1968: "Barton said that the next morning he was introduced to Frederick Hume, a powerful man of Yugoslav origin. Hume later said he had served the notice of dismissal on the contractor but when he started to take possession of the machinery he struck difficulty because of two vicious dogs in the yard. Hume said, 'But don't worry, I carry a revolver'". A. That is wrong, again there was one dog and I do not carry a revolver, so both things are wrong. 30

Q. I am reading you something: "Hume said, 'But don't worry I carry a revolver and I can shoot the dogs or even poison them'. Armstrong said, 'Well, go ahead and blast them'. Barton said he then told Armstrong, 'This is a commercial matter and I do not want you to use any force at all; I don't want you to kill the dogs and on behalf of the company you can only act in a commercial manner'". Did you read that in a newspaper on about the 1st February 1968? A. I cannot answer that one, your Honour, whether I read it or not. I don't know whether I read that story or some other story; I have been reading these stories for a long time now. 40

Q. Do you still say that at the time you were interviewed by the police on the 5th February 1968 that you had no knowledge of any proceedings between Barton and Armstrong? A. I would not be interviewed (sic) in anything that was going on between Barton and Armstrong; I never expected to be involved in it. 50

Q. At or about the 1st February 1968 did you read

a newspaper article entitled in large letters, "Director alleges M.L.C. made threats on life. A company director claimed in the Equity Court yesterday that he had signed an agreement to buy shares held by Mr. A.E. Armstrong M.L.C. because he 'feared for his life and the safety of his family'". Did you read that in any newspaper on or about 1st February 1968? A. That is a very hard question to answer; I do not know whether I read it or not. 10

Q. Of course you read it, didn't you? A. You are telling me I read it and I do not know myself if I read it.

Q. Are you prepared to swear here that when interviewed by the police on the 5th February 1968 you had any knowledge of any court proceedings between Barton and Armstrong? A. I had no knowledge and the police never mentioned it.

Q. You still swear that? A. I still swear that; the police never mentioned I was going to be called in any court action. They said they were taking a statement because the first time Sergeant Wild did not take a statement from me about it. 20

Q. Do you still swear that when you were interviewed by the police on the 5th February 1968 you had no knowledge of any court proceedings between Barton and Armstrong? A. No, I had no knowledge and they had not said anything about it.

Q. Did you swear that on the 10th February 1968 when you prepared the affidavit you had no knowledge of any court proceedings between Barton and Armstrong? A. On the 9th February 1968 I have been served with a subpoena - in fact I was not served but the subpoena was left with the uncle and I came down from Wollongong. 30

Q. And you came to the court? A. Naturally.

Q. Who did you see at court? A. I overheard Mr. Barton and Follington outside the partition.

Q. Who else did you see? A. Who else did I see? 40

Q. Yes. A. A number of people around here; I saw you.

Q. Did you see Mr. Grant? A. I do not remember seeing Mr. Grant.

Q. Or Mr. Staff? A. Yes, I think Mr. Staff was here

Q. Mr. Bainton? A. I think Mr. Bainton was here.

Q. And Mr. Bruce, was he here? A. I would not remember because I did not speak to him at any other time. I would not have taken any more notice - you are a very noticeable person and I noticed you and besides you were all the time around the partition. 50

Q. What about Mr. Armstrong, did you see him?

A. No, I do not think so.

Q. When you received the subpoena, the subpoena said, to your understanding, that you were required to go to the Equity Court to give evidence in a matter in which Alexander Barton was the plaintiff, and A.E. Armstrong & Ors. were the defendants, do you remember that? A. Actually I did not receive the subpoena. I just came here. As I told you before the subpoena was served in Lane Cove and I was in Wollongong, so I did not get the subpoena. I came here because I was told to come here over the telephone. Over the telephone my uncle read me the subpoena. He said, "You are subpoenaed to go the Equity Court, No. 12 or No. 11" - I do not know which number, I made a mistake and went to the wrong floor.

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Q. Did he tell you what the case was? A. He said it was in the Armstrong's case.

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Q. And you understood that to be Barton and Armstrong did you? A. It had to be Barton and Armstrong's case, yes.

Q. Why did it have to be? A. Why did it have to be?

Q. Yes. A. I did not know of any other case going on.

Q. But you knew that case was going on, Barton & Armstrong, didn't you? A. He read "Armstrong's case" and I came to the Court.

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Q. Didn't you know it was Barton & Armstrong; come on, Mr. Hume. A. It would have to be Barton and Armstrong's case.

Q. You had read about it days before? A. I was in Wollongong before.

Q. When you prepared that affidavit on the 10th February you had already spent part of a day in Court in these court proceedings, had not you? A. I did not spend any time in court; I was outside there.

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Q. Weren't you called? A. If I was called, I do not even remember if I was called, but if I was called I would have only been called for a minute - somebody wanted some books or something.

Q. Did you ask anybody what the case was about? A. Oh, yes, I found out - it was Armstrong and Barton's case.

Q. Who told you that? A. It is written outside there on the piece of paper.

Q. That is what you looked at; now we will start again. Did you ask anybody what the case was about? A. I do not think anybody was really interested in talking to me at all. I do not think

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Mr. Grant even gave me a subpoena until quite some time after that.

Q. Is this the position you are asking us to believe that you came from Wollongong and you arrived at this Court and you never asked anybody what the case was about? A. No, I would have asked somebody what the case was about, definitely.

Q. Who did you ask? A. I would have asked Armstrong later on. 10

Q. When did you ask Armstrong? A. I cannot remember the exact date I asked him.

Q. This is not very long ago, it is only this year? A. The date I asked him about the case, I could not remember that.

Q. Where were you when you asked him about it? A. I would have been at the tennis courts.

Q. Which ones are they? A. Cooper Park I believe.

Q. Do you go there frequently? A. Very frequently, quite a lot. 20

Q. Do you often meet Mr. Armstrong there? A. Yes.

Q. Tell us in relation to being called to court, if you like, when you spoke to Mr. Armstrong about this case for the first time? A. I could not tell you the exact date.

Q. Within a month or two? A. It would have been around that time.

Q. Around that time? A. Yes.

Q. Was he at the court here on the --- A. I do not remember seeing him on that particular date, the 9th. 30

Q. Are you prepared to swear that you have never discussed these allegations with Mr. Armstrong prior to seeing him at Cooper Park tennis courts? A. I have never discussed this allegation - would you repeat the question again?

Q. You remember it? A. Prior to the time I was subpoenaed to Court?

Q. Yes. A. I have never discussed it prior to the time I was subpoenaed to Court. 40

Q. There had been no discussion between you and Mr. Armstrong about this prior to the time you were subpoenaed to the court on the 9th February 1968? A. That is right, and I think "discussion" is the wrong word because there has never been any discussion between Mr. Armstrong and myself; Mr. Armstrong always says "I have got a firm of solicitors I am paying for and they are handling this case; if you have anything to say about this case go and see Mr. Grant." 50

Q. When did that discussion that you have just mentioned take place with Mr. Armstrong? A. At the tennis courts.

Q. That was the first time any discussion of that kind took place between you and Mr. Armstrong? A. Yes, that would have been the first one but there have been a number - for instance, in a chat he would say to me, "Have you been reading about it, have you been reading in the paper, do you follow it?" and then I would say "Yes". I would say, "These things are terrible, I am going to see Mr. Grant" and I went to see Mr. Grant on half a dozen occasions and then I was asked to go and see Mr. Staff and then I went to Mr. Staff and then to Mr. Bainton and I have not been to see Mr. Bruce. 10

Q. When you spoke to Mr. Armstrong at Cooper Park tennis courts some time after 9th February 1968 that was your first conversation with Mr. Armstrong in which there was any mention of the allegations in this case? A. That was the first discussion with Mr. Armstrong, yes. 20

Q. In which anything like this was discussed - in which there was any discussion about the allegations in this case of any kind? A. Yes, between Mr. Armstrong and myself.

Q. That is what we are asking you about. On that occasion all he told you in effect was to go to the solicitors; is that right if you wanted to discuss something? A. Yes, but you see when we --- 30

Q. On that occasion all Mr. Armstrong told you in effect was if you wanted to discuss it go to the solicitors. Correct or not? A. That is right.

Q. Have you ever had a detailed discussion about the allegations with Mr. Armstrong? A. No.

Q. The tennis courts at Cooper Park, are you in a club there? A. No, they are public courts, everybody plays there - just Dr. Byrne, Rudy and Fred we are the same regulars; Mr. Armstrong does not come as often as we do. Practically every day, I think it is every day, until the proceedings, recently the last three weeks, and then I have stopped playing. 40

Q. During the early months of 1968 how often would you see Mr. Armstrong at Cooper Park tennis courts? A. Very seldom.

Q. Did it just happen that at some time after the 9th February 1968 you happened to meet Mr. Armstrong there? A. No, Mrs. Armstrong rings up when Mr. Armstrong is going to come to the court - this is a pre-arrangement to see whether we are all therefor if we need another, or if we have four - it is no good if he turns up because one is sitting around and that is not a very good arrangement. 50

Q. Do you have a recollection of Mrs. Armstrong

telephoning you to come to Cooper Park tennis courts at some time after the 9th February 1968? A. Do I have one particular recollection? There must have been a dozen times, at least a dozen times.

Q. That is after the 9th February 1968? A. Yes, and before also.

Q. On which of those occasions after the 9th February 1968 do you say was the occasion when Mr. Armstrong first spoke to you about this case? A. 10
Your Honour, I cannot possibly --- Do you want me to pinpoint the date?

Q. I want you to say whether it was the first occasion, the second or the tenth? A. I think it would have been the first occasion because I was more than interested in the thing.

Q. If you were interested why didn't you ask the solicitors when you were subpoenaed to the court on the 9th February 1968 what the case was all about? A. 20
They were too busy; the solicitors had never bothered with me in this case; I was their last concern.

Q. But you never asked them, did you? A. No, I did not ask them. I think I would have had to make an appointment and wait for a week before I could see them. They are not my solicitors, Mr. Gruzman.

Q. We just want to get it quite clear. You saw in a newspaper on the 1st February these allegations publicly made that you were involved in a conspiracy to murder? A. I would have gone straight over to 30
my solicitor.

Q. Have you got a solicitor? A. A number of them, yes.

Q. A number of them? A. I work for them from time to time.

Q. Have you ever gone to your solicitor about it? A. Yes.

Q. Which solicitor is that? A. That was Mr. Marks.

Q. Of which firm? A. Over in Pitt Street, 302 40
Pitt Street; he is up on the 4th floor.

Q. Did anyone advise you to prepare the affidavit? A. No.

Q. This is just your own idea? A. My own idea.

Q. I am not going to ask you any more questions about it - are you still prepared to say that when you swore the affidavit you had no idea that Mr. Barton had made any allegations about a vicious dog? A. Yes, I am still prepared to swear it.

Q. What did you do with the affidavit? A. I 50
gave it to the police.

Q. Which police did you give it to? A. I think I left it at the reception desk for Butler or Follington, one of the two.

Q. You are quite sure of that? A. Oh, yes, I am sure of that.

Q. When did you do that? A. The same day that I finished it.

Q. On the 10th February 1968 you left the original of an affidavit in relation to the Barton and Armstrong matter at the reception desk for Sgt. Butler or Constable Follington? A. That is correct. 10

Q. Did you give a copy of it to anybody else?
A. I kept the copies at my place and then later on I was asked for a copy from my solicitor first, and he got in touch with Mr. Armstrong's solicitors and then I had to give a copy to Mr. Armstrong's solicitors, too.

Q. When did you first know Vojinovic? A. Mr. Gruzman, I have told you I do not know Vojinovic. I have never known Vojinovic. 20

Q. Did you ever get to know that a man called Vojinovic existed? A. By that name?

Q. Yes. A. Yes, that is right, on the 17th day of January a senior Constable Hammond from the Motor Squad of the Victorian Police - I think it is called the Motor squad - rang my office at Elizabeth Bay at that time - not Elizabeth Bay, at Riley Street - and he spoke to me and he said there was a man in his office called Novak who claims that the Falcon EBD-703 was stolen from him and he said, "What's going on there because Novak says that you are paying for the car, yet the car is registered in his name?" Then I explained the position. 30

Q. You tell us what you told him? A. I told him that I was responsible for the car to the finance company but Mr. Novak was from time to time paying for these payments, and I would be forwarding them on or if he did not sometimes make the payment I would pay instead of him, but I was regularly sending the cheque for the payments. So I told him actually that the car is in fact Mr. Novak's, and in fact it is from the finance company that Mr. Novak is the registered owner; therefore all that I have to do with the car is between him and the finance company, that is all. 40

Q. Was something said about Vojinovic? A. Yes, it was.

Q. What did he say? A. He said that Mr. Novak claims that Vojinovic had taken the car from him and that he was there at the station, he had no money, Vojinovic has taken all his clothes and left him there with an unpaid hotel bill or something - this is what Novak told me - and that was all. 50

Q. That was all, was it? A. Then Mr. Novak got on the phone then.

Q. What did he say? A. He said that Novak told him that he was wanted by a policeman in Russell Street, or that a policeman stopped him and he told him that he wants to speak to Michael Novak and if he knows where Michael Novak is that he should tell him that he should come and see him, so he went to the police station and they told him nobody wanted to see him, and when he came back there was no car, no clothes and an unpaid bill. 10

Q. Did you ask Novak who Vojinovic was? A. Did I ask Novak who Vojinovic was?

Q. Yes? A. Yes, I did ask him.

Q. What did he say? A. He said, "He is the fellow who went with me to Melbourne, he paid for the petrol down to Melbourne".

Q. What else did he tell you about him? A. I do not think the conversation lasted much longer - that lasted for about four or five minutes and that is it, and then he came back. 20

Q. You understood from the conversation that the man Vojinovic had stolen a car which belonged to you didn't it? A. In fact it belonged to the finance company but I was paying for it, yes.

Q. Do not you call that your car in your own language? A. In fact I was very worried because it was not insured.

Q. Please answer the question. Did not you regard the car as a car belonging to you? A. I regarded the car as belonging to Novak. 30

Q. That is a lie, isn't it? A. No, that is the truth; it did belong to him; he was making payments.

Q. Did you say this in your interview with Sgt. Butler, referring to this matter and to Vojinovic: "He has in fact stolen a car which belongs to me in Melbourne"; did you say that? A. Yes, I think I would have said that.

Q. Why did you tell a lie and say that you regarded the car as belonging to Vojinovic? A. As belonging to Vojinovic? 40

Q. As belonging to Novak? A. It is not a lie, it belongs to me and it belongs in fact to the finance company; that is not a lie. You see he is responsible for the payment.

Q. Were not you interested to know something about the man who had stolen the car which you regarded as your car? A. That is wrong. I did not regard it as my car, I regard it as the finance company's car, the car that I am responsible for making the payments; that is all. 50

Q. Weren't you interested to know something about the man who had stolen a car for which you bore financial responsibility? A. Yes, I was interested.

Q. You found out that he paid for petrol down to Melbourne? A. Yes.

Q. Did you ask any further questions? A. No, because he hung up.

Q. Were you in the middle of asking a question?

A. No, I was not asking any more questions. He just said, "I got to go" and that was it.

Q. Vojinovic at that time was well known to you wasn't he? A. No, he was not; he most certainly was not known to me at all. 10

Q. You knew a great deal about Vojinovic on the date of the 17th January 1967? A. I did not, I learned it all when Michael came back from Victoria.

HIS HONOUR: Q. Did he come and see you when he came back from Victoria? A. Oh, yes, he came back and saw me.

Q. Was that when he told you about it? A. That is when he started talking about Vojinovic, yes.

Q. I thought you said a moment ago that he hung up? A. That was on the 17th, but that was later on when he came back to Sydney from Victoria. 20

Q. Who hung up? A. That was Michael; he spoke after this Senior Constable Hammond.

MR. GRUZMAN: Q. There was no arrangement made on the telephone for him to see you? A. No.

Q. He came back to Sydney? A. Most certainly. He had no money and nothing.

Q. How long after the telephone call did Novak come back to Sydney? A. I think it was one or two days after that. 30

Q. What did he tell you about Vojinovic? A. He told me in detail what happened.

Q. You just tell us what he said? A. He said that the man told him that he wants to go to Melbourne and that he was going to pay for his petrol bill and that Michael wanted to go diving for abalone and he took him down there because the man was going to pay for the petrol because he had some money. When they got to Melbourne they booked into a motel and the next day, or the day after, I am not sure on what day it was, this Vojinovic got up early in the morning and then he came back to the motel and he told him that he spoke to a policeman who was asking him about Michael Novak and if he sees Michael Novak to tell him to go and see him, and then he went to the police station. When he got there he said, "My name is Michael Novak, is anybody looking for me?" And they said, "Nobody is looking for you". He went back to the hotel where they were staying, it was not a hotel, it was a sort of a motel or something where they were staying, and when he got there there was no 40 50

car, there were no clothes, there was nothing, no money, and the man had left and did not pay the hotel bill.

Q. Is that all he told you? A. That is all he told me.

Q. I put it to you that you had a great deal of knowledge about Vojinovic? A. That is false, I did not.

Q. Is it true that to your knowledge he is an associate of criminals - to your knowledge? A. Yes. 10

Q. That is true? A. That is right.

Q. What criminals does he associate with? (Objected to; question rephrased.)

Q. What is your knowledge about his association with criminals? (Objected to; question rephrased.)

Q. What was your knowledge of the association of Vojinovic with criminals in January of 1967? A. I did not see him in January 1967. 20

Q. I asked you what was your knowledge then as to his association with criminals? A. Very vague.

Q. What was it? A. Some time, I suppose in 1966, I had seen him around with some of the small time criminals around the Cross.

Q. You might just enlarge on that a little bit; I do not want you to mention the names of the other small-time criminals, but tell his Honour something about the circumstances in which you saw him? A. I cannot possibly go into details, your Honour, but I was sitting, I think it was, in the Sonata Coffee Lounge and I noticed a very skinny little sort of man coming in, and he was in a coat all rolled up near his ears, and he was carrying a transistor radio in a crumpled bit of newspapers, and I was sitting with some boys that are frequenting the Cross that are well known around the area but have not any criminal record, and I asked them, "Who is this new addition to the Cross"? And I was laughing because it was so obvious that this transistor was stolen because he carried it in a crumpled bit of newspaper, and to me that was so funny; it was very funny that somebody would be so stupid to go carrying around a transistor in a crumpled bit of newspaper, and that is what stuck in my mind, and they said, "He is one of the new starters, he is mixing around with a safe cracker or a Yugoslav chap that was doing some safes". He was attempting to blow safes, I think he was attempting to blow them, but he was not doing a very good job because he burnt down a store they told me. 30 40 50

Q. What else did you find out about him? A. What else?

Q. Yes? A. Nothing else. They did not know

any more about him and I just let it go at that. Nobody asked me anything about him and I did not find out anything about him.

Q. Did you ask his name? A. No. They go by various nicknames, Alec, Joe, Momo, and Caruga. This is why on many occasions the police get in touch with me when they are looking for somebody. They have a name but they have a name from a passport or a photograph and they cannot possibly find this person because if they asked for somebody under that name they would never be able to find him because these people do not go under their names, they all go under their nicknames. This is where they come up against a very hard problem. That is when they call on me and ask me "Could you solve us the problem?" And "Who is this man Joe, Caruga or Momo"? There used to be hundreds of them but the police have cleared them all up; since I explained them the names they have got rid of them. 10 20

MR. GRUZMAN: Q. How often would you have seen Vojinovic around the Cross after that. That is before January 1967 --- A. I would not have taken any notice of when I saw him. I don't think I would have seen him any more than once or twice. Three times at the most around there.

Q. Now then, Mr. Hume, you would not say that a man whom you had only seen two or three times was a person who frequents Kings Cross, would you? A. Your Honour, I don't go up and down the Cross all day. I have got other things to do. Mostly I am playing handball and tennis, and that keeps me busy, and at night I watch television and go out, so that you don't think I was there going every day up and down. 30

Q. I think you missed the point of the question. If you had only seen a man two or three times at Kings Cross you would not describe him as a man who frequents Kings Cross, would you? A. Yes, I would describe him as a man who frequents Kings Cross, because he would be there when I was not there and, knowing he was Yugoslav, I was very sure he was at the Cross, because they are either at the Cross or at St. Kilda in Melbourne, or Surfers' Paradise or Brisbane. Those are the areas that they congregate at. 40

Q. What did you understand when you were told that Vojinovic was a starter. What did you understand by that? A. What did I understand?

Q. What does that mean - 50

HIS HONOUR: "New starter" was the expression used.

MR. GRUZMAN: Q. What does that mean? What does "new starter" mean? A. That means someone who is starting doing criminal jobs and that sort of thing.

Q. A man who is just making his way in the criminal world? A. I don't know whether you would call it the criminal world. Making his way in crime, I suppose.

Q. A man building up to bigger and better jobs?

A. Well, I think from a transistor radio you would have to go a long way, Mr. Gruzman.

Q. You would regard safe breaking as fairly big time, wouldn't you? (Objected to; rejected.)

Q. The expression that was used - "making his way in crime". I want to take that. You said that he would have a long way to go from transistor radios?

A. Yes, if he was making his way in crime he would have a long way to go from transistor radios. 10

Q. If you knew that he had already done some safe breaking, even if unsuccessful, you would regard him as a man further advanced in the field of crime, wouldn't you? (Objected to; rejected.)

Q. Now, when you met - when this man whom you now know to be Vojinovic was pointed out to you at the Sonata, was Novak there? A. No, he was not.

Q. He was not there? A. No.

Q. You remember that clearly, do you? A. Yes, I remember that clearly. 20

Q. You can name the people who were there, can you? A. Yes, I think I could name the people who were there.

Q. You would be sure that Novak was not there? A. Yes, I would be sure that he was not there.

Q. Can you tell us when in 1966 this meeting took place in the Sonata? A. Meeting? I never said that there was a meeting there. I was there sitting, and the man walked in. 30

Q. You met your friends there, didn't you? A. Yes, I met my friends there. We were sitting there. We were there for a long time before the man walked in, and he certainly didn't come over to our table, because he probably heard about me before.

Q. Why do you think that Vojinovic would not have come to your table? (Objected to; allowed.)

Q. Why do you think that Vojinovic would not have come to your table? A. Why?

Q. Yes. A. Because he thinks that if he came over to our table I would ask him, "Whose radio are you carrying there?" and he would probably feel I would have grabbed him and the police would have got him then. That is why he didn't come to our table, Mr. Gruzman. They all know me around there. 40

Q. You are known as a fairly important man? A. No, not an important man, but they say I co-operate with the police.

Q. And the small-time criminals are frightened of you? A. No, they're not frightened of me. They are just not friendly with me. Put it that way. 50

Q. And I suppose they would be glad to earn your favour? A. No, I don't think they would be glad, because that would make them sort of to be in bad with the others, you see. That is the way it works. Even if they talk to me they are in trouble, you see.

Q. But with your protection a small-time criminal would be safe? A. With my protection?

Q. Yes. A. He would be safe?

Q. Yes. A. With my protection he would be in Long Bay. 10

Q. You see, you tried to help Novak with the police, didn't you? A. That is where he finished - in Long Bay.

Q. That is because you subsequently informed on him? (Objected to; rejected.)

Q. What I am putting to you is that it is within your knowledge that a small criminal would wish to work with you if it were possible? A. No. That is wrong, your Honour, because ... (answer not completed.) 20

Q. You say that is wrong? A. That is wrong, because no one would wish to work for me. The criminal element would not want to even be seen with me - not to work for me. What would he be doing working with me?

Q. Tell me, did you tell anybody that Vojinovic was a man who frequents Kings Cross? A. Yes. That was, I believe, Sgt. Butler.

Q. And that was because before January 1967 you had frequently seen him at Kings Cross? A. No, not because I had frequently seen him. I knew that he would be frequenting the Cross, because they all do. 30

Q. Well, did you have any special knowledge of Vojinovic apart from the fact that he was interested in safes, transistor radios, and frequented the Cross? A. No special knowledge.

Q. Didn't you believe that Vojinovic blamed you because a friend of his got arrested? A. Yes. I do believe that, yes. I do believe that. I still claim that, yes. 40

Q. And the man's name - that man's name was Vladimir Familic. Were you responsible for the arrest of Vladimir Familic? A. No, I was not. I was not responsible for his arrest. This happened in Newcastle, and I have not been there for a long time.

Q. Why did you believe that Vojinovic blamed you for that? A. Because probably some of the other Yugoslavs would have told him. They probably would have told him, "Well, you know who put him in. It was that" 50

Q. Slowly, please? A. "It was probably that private eye, Fred Hume."

Q. What would make you tell anybody that Vojinovic would carry such a thought about you? A. Because they all have. He is not the only one. Ask anyone. They all have, your Honour. If any one of these Yugoslav criminals around the Cross were asked, they all think, when they are arrested, that I am to blame, even if I am not.

10

Q. How did you know that Vladimir Familic was a friend of Vojinovic? A. They are all friends. All these Yugoslavs doing those jobs around the Cross are all very close.

Q. What do you mean by "all those Yugoslavs who are doing those jobs"? A. Well, I mean those jobs. I mean those criminal things like stealing transistor radios, breaking into cars, and breaking into flats. They all know each other. They are all very friendly.

20

Q. Did you believe that Vojinovic thought that a man called Cici had been arrested as a result of your activities? A. Yes, I believe so.

Q. How did you know that Cici was a friend of Vojinovic? A. Because I told you that all of these Yugoslavs are all friendly. They are always together. They all know what is going on. Everyone knows everyone else's business. They all know who steals where, what, and from whom.

Q. Was Cici involved in a false claim for damages for £15,000? A. Yes, that is right. He was involved in a false claim for damages, and I stopped it.

30

Q. And you stopped it? A. Yes. And then I was framed by Cici and four other Yugoslavs. Your Honour, this is on record. I have even got newspaper clippings of what happened on this particular occasion.

HIS HONOUR: Do we want what happened, Mr. Gruzman?

MR. GRUZMAN: My friend might want it. I am prepared to let the witness say it, if it will help.

40

Q. You say that you were framed by four other Yugoslavs? A. By Cici and four other Yugoslavs.

Q. Framed by Cici and four other Yugoslavs? A. Yes.

Q. On what charge? A. There was finally no charge. Actually what they did was - after I stopped this claim by Cici, when I found out that it was a fraud ---

Q. I don't want a long answer? A. Well, it is a very complex thing, and it will have to be a long answer.

50

Q. Well, we won't worry about it then? A. Because this is very important, because the same detective who is a friend - who Vojinovic claims is also a friend - is the one who was involved that particular time when I was taken to Darlinghurst Police Station. So it may be of importance.

Q. Who was the detective? A. Det. Col. Mackie.

Q. Det. Col. Mackie? A. Yes.

HIS HONOUR: Q. Are you saying Col. Mackie? A. Col Mackie. 10

MR. GRUZMAN: Q. He arrested you, did he? A. Well, it was not quite like an arrest, but he told me "Would you mind accompanying me" - he told me would I mind accompanying him to the Police Station.

Q. Why do you say that has significance to this case? A. Why?

Q. Yes. A. Because Vojinovic claims also that he is friendly with Col Mackie.

Q. And you think that Vojinovic may have been party to the framing of you and using Col Mackie? A. I don't think Col Mackie was a party to it. 20

Q. Did you think that Vojinovic was? A. Yes, I think Vojinovic was.

Q. Why do you think Vojinovic was a party to that frame? A. He hates me. He has stated that to the detectives.

HIS HONOUR: Q. What was that? I did not hear that? A. He has stated it to the detectives. He has stated to the detectives he hates me for putting his friends in. That is the way I think he told them. He even put that in his statement to the detectives. He said he has never spoken to me and he hates me, because I put his friends in. That is in the statement. I read that statement. Det. Sgt. Wild - 30

MR. GRUZMAN: Q. Slowly? A. - showed me his picture, and then Det. Sgt. Butler showed me the statement later on.

Q. You told us Det. Sgt. Wild showed you the statement, didn't you? A. I didn't. I didn't. 40

Q. Is not that what you were in the middle of saying? A. No, I was not.

Q. And then you corrected yourself? A. I was not.

Q. You were talking about Det. Sgt. Wild, and what was in Vojinovic's statement? A. Det. Sgt. Wild never showed me the statement. It was Det. Sgt. Butler that showed me the statement.

Q. You started to tell his Honour what was in 50

Vojinovic's statement, and you mentioned Det. Sgt. Wild? A. Where he showed me the photograph so I could identify the man.

Q. Mr. Hume, don't shout me down. Mr. Hume, you started telling his Honour what was in Vojinovic's statement. You then mentioned the name of Det. Sgt. Wild, didn't you? Yes or no. (Objected to.)

Q. That was the order of events, wasn't it? (Objected to.) 10

Q. What you were about to say, and I had to interrupt you to slow you down, was that Det. Sgt. Wild showed you the statement? A. That is false. Det. Sgt. Wild never showed me anything except the picture. I was only there for about ten minutes that day. I had another appointment.

Q. Didn't you make a statement to Det. Sgt. Wild? A. A very verbal statement. It was just a conversation. He asked me questions. He asked me all sorts of questions and I gave him answers. He never took anything down. He just jotted something in his book. I gave him an address and also gave him the name of the man from Victoria that rang me - Senior Det. Hammond - and he jotted those things down. And then Det. Const. Follington came in at the end of this interview, or the verbal statement, as you would say, and Det. Sgt. Wild said to Const. Follington "Do you have any questions to add to Mr. Hume?" and then he asked me a number of questions. He said to me, "Do you know that Mr. Barton is staying at the Wentworth Hotel?" or something like that. That is what he said. I said, "No, I didn't know that." He asked me another question, "How friendly are you with Mr. Armstrong?" These were the only two questions that Const. Follington asked me. This was at the time when I was already ready to go. But Det. Sgt. Wild asked me quite a lot of questions. 20 30

Q. Did Const. Follington make any notes? A. No, no notes at all.

Q. Mr. Hume, did you read at any time what was in Sgt. Wild's note book about your interview with him? A. No. Your Honour, Detectives don't give you their note books to read them. 40

Q. Just tell us again what Sgt. Wild put in his note book when he interviewed you? A. I mentioned the name of Snr. Const. Hammond, and he was jotting something down. I presume he put that name down.

Q. Yes. Anything else? A. Not that I remember. He was fiddling around with the pencil and jotting things down. 50

Q. Don't you remember something else that he wrote? A. No I don't.

Q. Are you sure of that? A. Yes. I mentioned Detective - Senior Det. Hammond, and that he rang me up in reference to the car in Victoria. That is all.

Q. Is this the position, that although you were asked many questions you are able to tell his Honour that all that Det. Sgt. Wild wrote down was about Mr. Hammond from Victoria? (Objected to; rejected.)

Q. You have a recollection of Sgt. Wild writing down the address of a man in Victoria, and something about Sgt. Hammond - Snr. Const. Hammond? A. I presume this. I have not seen it. I didn't see it when he wrote it down. I presume that is what he put down. 10

Q. You have carried that recollection with you over the past going on now for two years? A. You can say that ---

Q. As to what was written in Sgt. Wild's book? A. As to what was written in Sgt. Wild's book? I don't know what was written in Sgt. Wild's book. But so far as recollection of that particular day, I know very well, because there were serious accusations being made at me that day, and I don't forget them easily. I don't forget that easily. 20

Q. You regarded it as a very serious matter, did you? A. No, I don't regard it as a serious matter, but the accusations were serious.

Q. They were serious accusations, taken seriously by you? A. They were serious accusations against me. That is what I said, Mr. Gruzman.

Q. And what steps did you take when those accusations were made against you? A. No steps, your Honour. There were no steps I could take. What could I do? 30

Q. Did you go and see a solicitor? A. Did I go and see a solicitor?

Q. Did you go and see your solicitor? A. No, I could not. What would I tell a solicitor?

Q. Did you go and see Mr. Armstrong? A. No I did not.

Q. Did you see Mr. Armstrong's solicitor? A. No. How would I go and see Mr. Armstrong's solicitor if I didn't go and see my own solicitor? I would go and see my own solicitor before I went to see Mr. Armstrong's. 40

Q. Did you tell Mr. Armstrong that serious allegations had been made against you? A. Not that I can remember.

Q. Well, could you have told him that, and have forgotten? A. Well, I mean, I would not have told Mr. Armstrong much about it, because I didn't think it concerned him very much. It was my matter. I was the one that the allegations were being made against, and, so far as I was concerned, they were not made against Mr. Armstrong; they were made against me. 50

Q. So that you never thought that the allegations in this matter concerned Mr. Armstrong? Is that true? A. Yes. I was the man that was the man that Vojinovic was saying ... (answer not completed).

Q. Did you ever tell anybody that you gave Sgt. Wild a statement, and he took some notes? A. Did I ever tell anybody that I gave Sgt. Wild -?

Q. Did you ever tell anyone that you gave Sgt. Wild a statement and he took some notes? A. I have told the Court this now. 10

Q. You have told the Court? A. Yes, and I also told this probably - I think I would have told it to Sgt. Butler, because when they were asking me for a statement I would have told them that I had already been spoken to by Sgt. Wild - "Why do you want to take another one?"

Q. Would you have told him - did you tell Sgt. Butler that you had already made a statement to Sgt. Wild? A. It was not a statement. It was only a verbal statement. It was not a statement. A statement is something when there is a date and a policeman takes it down and you sign it later on. 20

Q. In other words, Mr. Hume, if someone took a statement - made a statement - and a policeman typed it? A. That is what I would call a statement - a written statement, that had to be signed.

Q. You would say about that, "I gave a statement", wouldn't you? A. I would say, "I gave a written statement and I signed it". I would say, "I gave a written statement which I signed". That is what I would say to that. 30

Q. If you just said, "I gave a statement" that is how you described a moment ago a written statement, wasn't it? A. No. A written statement is a written statement.

Q. Look, sir, you made an affidavit? A. But that was not a statement. That was an affidavit.

Q. And in the affidavit you said, "I gave Sgt. Wild a statement, and he took some notes". You said that in the affidavit? A. Yes, that is right. 40

Q. And you meant by that a written statement, didn't you? A. Your Honour, I have already answered this question.

Q. You deny it? A. I have never given him a written statement in my life. I was there for 10 minutes. He was the only one there. Who was going to type it? And it took three hours the second time I was there. The first time I was only 10 minutes. It would have been a very fast statement, Mr. Gruzman. 50

Q. Could not Const. Follington have typed it the first time? A. No, because he was not there. He only arrived the last minute, when I was ready to go.

Q. Const. Follington was there in the room, wasn't he? A. No. He arrived there as I was ready to go.

Q. So on your own recollection of the matter Sgt. Wild, Const. Follington and yourself were in the room when you were first interviewed by Sgt. Wild? (Objected to; allowed.)

HIS HONOUR: Q. What is your answer, Mr. Hume? A. Would you mind saying it again? 10

MR. GRUZMAN: Q. There was a certain period of time - for a certain period of time when you were first interviewed by Sgt. Wild, Sgt. Wild, Const. Follington and yourself were in the room together? A. No. I will have to explain. Your Honour, this is a large room, with partitions, and there are about three or four dozen partitions in this Safe Breaking Squad, and I was all ready going out of the room and Const. Follington was coming in. I was standing up, and Const. Follington came over and Sgt. Wild said to him, "Have you got any other questions you would like to ask? Have you got any other questions from the ones I have been asking?" 20

HIS HONOUR: Q. He said that to Follington? A. Yes. He said "Have you got any questions to ask him?"

MR. GRUZMAN: Q. And Const. Follington had some questions? A. Yes, he did. He had two questions that he asked me.

Q. He asked you two questions? A. Yes.

Q. So that there was a period of time during the first interview when Sgt. Wild, Const. Follington and yourself were together in Sgt. Wild's room? That is correct, isn't it? A. The period would have been only about two minutes at the most. A minute or two. 30

Q. By the way, what you have told us is that Sgt. Wild asked Const. Follington, "Do you want to ask him any other questions?" You said that, didn't you? A. That is right.

Q. Well, how would Const. Follington know what other questions, if he had not hear the first questions? A. He may have been listening, for all I know. There are a lot of partitions. He may have been listening when he came into the room. 40

Q. The three of you were together for the whole interview, weren't you? A. No, we were not together for the whole interview. Only for two minutes.

Q. And Follington typed that interview, didn't he? A. There was no typing. I was there for 10 minutes. 50

Q. You have told us that on 17th January 1967 Const. Hammond telephoned you? A. That is right.

Q. When you made your affidavit did you say this - I am leaving out parts, and I am putting in order of events as I suggest you put them in your affidavit. Did you say this, that you were interviewed by Sgt. Wild? A. Yes.

Q. And did you then say, "A few days later over the telephone I was told by Snr. Det. Hammond attached to the Car Squad about the Vojinovic matter"?

A. No, that is wrong, because you have got my diary there, where it says it was before. It was one day before that. 10

Q. We have got a diary with some entries in it that suit you, have we? A. I am sorry, but this was all written out before I even knew I was going to be called to Court, and before I knew my diaries were going to be even called for. How could I know beforehand what you were going to ask me?

Q. So this is the position, that you want to tell us you have a diary with some entries that suit you? 20

A. That is not right. They don't suit me at all. Why should they suit me?

Q. You are maintaining that the interview with Wild took place on 18th January? A. That is when it took place.

Q. You say there is an entry in your diary which supports you? A. Yes, that is right.

Q. Where is your diary for the preceding year?
A. Preceding?

Q. Where is your diary for the preceding year? 30
A. Where is it?

Q. Yes. A. Well you know where it is, don't you, Mr. Gruzman? I have told you that already.

Q. Just tell us again? A. There was a robbery in August. I believe you have got all those documents. That is when the things were taken - that is when the diaries were taken, and a lot of other documents.

HIS HONOUR: Q. In August? A. 1967, I think, when the diary and all the other things were taken. A lot of other things were destroyed. 40

MR. GRUZMAN: Q. I will come back to that in a moment. Is it true, or false, that a few days after you were interviewed by Sgt. Wild Snr. Det. Hammond telephoned you? A. That is false.

Q. That is false? A. That is wrong.

Q. Did you swear an affidavit in which you swore that was true? A. Yes I could have, but I could have made a mistake. That is wrong. Snr. Const. Hammond rang a day before I was interviewed. There is an entry in the telephone book there. 50

Q. There is an entry in the telephone book?
A. Yes, diary-telephone book.

Q. That is the diary you want to keep on thrusting forward, don't you? A. I am not thrusting it forward. It is a fact. You have it in front of you somewhere.

Q. You have volunteered on two occasions that there is this entry in your diary which supports you, is that right? A. Yes.

Q. Did you ever have any doubt about what day you put the various entries in this diary? A. 10
Have I got any doubt?

Q. Yes. A. Because the book is next to the telephone, you see, and when I am talking on the telephone I am just jotting it down, and sometimes I have to transfer it into the right spacing in the book, because sometimes when someone is talking on the telephone you just jot it down - it is more or less a telephone-diary book.

Q. Are you telling us that it is even possible that this diary which you have produced might have some wrong entries in it? This has got some wrong entries in it? A. That it is possible it has some wrong entries? Yes, of course. 20

Q. Could it even be possible that there could be some wrong entries in this diary about this matter? A. No, well, if there are wrong entries I would usually cross them over. If someone rings me up and I am talking on the telephone I just open the book and start jotting down, and if that does not come in the right date I cross it over and put it under the right date. It was not a large space near the telephone and this little booklet at Riley Street; I didn't have enough room for a lot of other papers, and the telephone was a bit high, near the window. 30

Q. So that the position is that we cannot even be certain, if we look at the entries in this book, whether they refer to entries made on the date under which they appear, or not? A. I would be certain. Otherwise I would cross them out. 40

Q. When did you go through it and cross out?
A. I beg your pardon?

Q. When did you go through it and cross out?
A. Immediately. Immediately as I hung up.

Q. Well, why did you write it in the wrong place first? A. Because after I have the telephone conversation I see where I have put it down, and see that it is not in the right place, and cross it out and put it under the right day.

Q. We will have a look, and see. You see, we have here - let us look at the 18th first? A. 50
Yes. That was my appointment with Mr. Hazelwood.

Q. Who wrote that in? A. That is my secretary. She wrote that, and she also wrote the other thing there (indicating). That is all her handwriting.

That is right. That is Miss Catt's handwriting here.

Q. You are referring to the entry "B. Follington (Safe Squad)"? A. Yes.

Q. I will read it out. "B. Follington (Safe Squad) 219-3170"? A. Yes.

Q. "Det. Sgt. Wild. 20966 ext. 3169. \$4.00 Bob." A. Yes.

Q. What is that? A. That is Bob Booth, the private inquiry agent. Bob Booth, the private inquiry agent, that I mentioned previously. That is the same man I mentioned previously who brought the car up to Surfers. 10

Q. And above that? Above that is that your writing, or is that written by Miss Catt? A. All of this looks like to be written by Miss Catt.

Q. And above that on the same day is written "11.30 a.m."? A. Yes.

Q. "Hazelwood" and there is a dash, "Mato Maslac". A. Yes. I was to interpret there. 20

Q. Can you explain why Miss Catt used two different pens on the same day? A. Well you see, it is simple, because a long time beforehand we know that I have to go and interpret, and Miss Catt puts that in - otherwise I would go to handball and forget all about it. And this message must have come in the same day, so she put that in. That is why it is two different pens.

Q. Let us look at the date before? A. Yes. 30

Q. That is Tuesday, 17th? A. Yes.

Q. We are looking at Tuesday 17th? A. Yes. There was "Rosemary" which is crossed out. That is her girl friend. And then I put "Snr. Det. Car Squad Hammond", and there is an appointment at 1 o'clock with Mr. ---

Q. At 1 o'clock is it, or 10 o'clock? A. An appointment with Herkoc.

Q. There is a phone number? A. Yes.

Q. At the Croation Club? A. Yes. 40

Q. And then this appears "E.B.D.703 reported stolen in Melbourne". A. Yes.

Q. "By Alex Vojinovic"? A. Yes.

Q. "- Traders Finance Corp. Ltd."? A. Yes. They are the people who owned the car.

Q. "124 Phillip Street"? A. Yes. There is in red underneath it another name of some other fellow I had to interpret for.

Q. A man whose name is spelt Zrno? A. Yes.

Q. By a coincidence, will you agree - by the way, did Miss Catt make entries on the 17th? Did you tell me that? A. No I didn't.

Q. On the 17th. This here? A. Yes, there is a part she put in.

Q. You say the written one is by Miss Catt? A. No. This part here is by me, and that part by her. That is different handwriting. That is by Miss Catt. 10

Q. I will have to ask you. "Snr. Det. Car Squad Hammond" - who wrote that? A. That is written by me.

Q. Written by you? A. Yes.

Q. "EBD-703" who is that written by? A. That is written by me.

Q. The words "reported stolen in Melbourne". Who are they written by? A. They are written by me.

Q. "- by Alex Vojinovic - Traders Finance Corp. Ltd." Who is that written by? A. That is written by me. 20

Q. "124 Phillip Street." Is that written by you? A. Yes, written by me.

Q. By a coincidence would you agree that the same pen that wrote those words appears to have written the entry about Follington and Wild on the 18th? A. Wait a minute. The same pen?

Q. Yes. A. Which pen on this are you talking about? One appears to be fountain pen, and the other appears to be a biro. 30

Q. Would you agree that the same biro appears to have written the entries of the 17th with respect to Hammond and the entries on the 18th with respect to Follington and Wild? A. Well, I can't say for sure, because there are dozens of pens there. I could not say that. It appears to be similar, yes.

Q. It looks as if it is the same pen, doesn't it? A. I don't know if it is the same pen. We don't have only one pen. We are small time investigators - but we are not that small. 40

Q. Let us look at the entry on the 19th? A. Yes.

Q. Someone appears to have scratched something out? A. I did that, because I put - I got it probably when I was receiving a telephone message. I was scribbling along there. That is why I rubbed it out. It is not even very legible. I was scribbling it.

Q. Tell us what you originally wrote in on the 50

19th? A. On the 19th, in my handwriting, it says, "Senior Detective Car Squad Hammond", and then below that I have got an entry that someone was breaking and entering somewhere.

Q. "Today breaking entering and stealing Alex." Is that right? A. Something like that, yes.

Q. You knew Alex by his first name, didn't you? A. Well, I should know him by the first name according to the interview, shouldn't I? And besides, Alex was the man I saw at the coffee lounge, didn't i? 10

Q. When you saw the man in the coffee lounge you knew him as Alex? A. Yes. Nickname. Everyone has some sort of nickname.

Q. At the time you spoke to Det. Const. Hammond you knew him by "Alex", because of your interview with Wild? A. No. No.

Q. Look, that is what you said, wasn't it? You said, "Why shouldn't I know him by Alex, because of the interview". That is what you said, wasn't it? A. And also from previously. 20

Q. So that at the time that Hammond rang you - at the time Hammond rang you you had already had your interview with Wild, hadn't you? A. I had not.

Q. And that is exactly what you swore in your own affidavit, after referring to the interview with Wild - that a few days later over the telephone you were told by Hammond - A. That is there, but that is a mistake. 30

Q. That is a mistake? A. Yes.

Q. And you swore a mistake? A. I didn't know it was a mistake. I swore it, yes. I have made many mistakes on dates. It is nothing new for me to make a mistake on a date.

Q. It would not be new for you if you made a mistake on 7th January, would it? A. No, there were too many people there to make a mistake. If it was up to me I would probably make a mistake.

Q. The position is, Mr. Hume, that you say your affidavit, which says that a few days after your interview with Wild you received a phone call from Hammond is wrong? A. Definitely. It would have to be wrong, because I have told Wild about the stolen car in Victoria. So that it would have to be wrong. It has to be wrong. 40

Q. With respect to this date, 7th January, Mr. Hume, I think when you mentioned it - when I mentioned it to you before, you said that it could be wrong or you could have been wrong, but there were so many people there that in this instance you could not be wrong. Is that right? A. It was such a big occasion to go there, and it was the first week after the New Year, so there is little chance of that. In fact, no chance. 50

Q. Is this what you meant to convey, that with so many people there they could not all be wrong? A. To a point they could not all be wrong. That is right.

Q. How do you know what the others said? A. I read it in the newspaper. Big stories about it.

Q. That is why you have become sure of the date?
A. No, I know for other reasons why it was this date.

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Q. That is one of the reasons that you are sure of the date, because of what you read in the newspapers? A. No, not because of that.

Q. But that is what you have said, isn't it? A. No.

Q. You said - A. I said, "That is what I read in the newspapers - what the others were saying." But not because I read in the paper I am sure of the date. I did not say that.

Q. Were you over at Mr. Armstrong's house a couple of months ago? A. Was I over at Mr. Armstrong's? I have been there a number of times. A couple of months ago? Yes, I would have been there.

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Q. How many times have you been to Mr. Armstrong's home since January 1967? A. I could not answer that. We go there mainly on Sundays. We play tennis. I don't know how many times. Sometimes we don't; sometimes we do.

Q. What is your best estimate? Twenty times? Thirty times? A. Since?

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Q. Since January 1967, taking the whole of 1967 and nine months of 1968 - or eight months and a bit?
A. Twenty times. I suppose about twenty times.

Q. About twenty times? A. Yes.

Q. And on how many of these occasions, if any, have you discussed this case with Mr. Armstrong?
A. No discussion.

Q. Never discussed it? A. Never been any discussion.

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Q. You were at his home two months ago at a tennis party, were you? Were you at his home at a tennis party two months ago? A. Tennis party? There has never been a tennis party. You mean did we have a game there? Yes.

Q. And do you remember going into a room with Mr. Armstrong separate from the others? A. The only time when I went into a room with Mr. Armstrong is when we played chess.

Q. Did that occur on an occasion about two months ago? A. Well, we have played chess a number of

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times. I don't know whether it happened two months ago or $2\frac{1}{2}$ months or three months ago. I don't really know what date, exactly.

Q. But that could have happened about two months ago? A. Yes, it could have. It could have happened that we played chess two months ago, yes.

Q. On that occasion did you have any discussion with Mr. Armstrong about this case? (Objected to; rejected.) 10

Q. On any occasion such as the one I have put to you did you go into a room with Mr. Armstrong and play chess? A. Yes, I went many times to play chess with Mr. Armstrong. We always go into the same room with the same table and the same chess board, and sometimes - on one occasion there was a woman, Miss Dorothy - Miss Rosewell. She watched us play. She was also playing with me. And then on another occasion there was a young man that was there watching us play. 20

Q. This occasion when Miss Rosewell was there was about two months ago? Was that about two months ago? A. Yes, I think that would have been about two months ago.

Q. And during part of that day were you alone with Mr. Armstrong in a room playing chess? A. No, that was at night. It was after tennis.

Q. After 10 o'clock at night? A. No, it was after tennis. About 6 o'clock. Something like that. 30

Q. And on that occasion was there any discussion at all about the case? A. No. He was trying to beat me. He tried always to beat me at chess; he has been beating me quite lately a lot; he has beaten me a lot lately.

Q. After you left - by the way, was Miss Catt there? A. Yes.

Q. Miss Catt? A. Yes. Miss Catt is about two rooms further down, and she sits near the bar and the television set, and there are a number of other members of the family there, and we play chess about two rooms further along. 40

Q. Miss Catt was there on this occasion about two months ago? A. I would not know that. Miss Catt has been there on a number of occasions. But not always when I am playing tennis she is there.

Q. Not always? A. No, definitely not. She has only been there a few times.

Q. What? Three or four times since January 1967? A. It would have been more than three or four times. 50

Q. About how many times? A. It is only guesswork. I suppose eight.

Q. About eight times? A. Yes.

Q. And after this occasion about two months ago did you have a discussion with Miss Catt about the case? A. Well no, I have not had a discussion with Miss Catt. I just told her certain things I saw in the paper - all the stories. She is too disinterested. Miss Catt does not take much notice of me at all. She is a very - I don't know - she is disinterested in anything. She likes other things. She is not interested in cases, or what is going on. 10

Q. So I take it you did not, after going to Mr. Armstrong's home on that occasion when Miss Rosewell was there two months ago, have any discussion with Miss Catt about the case? A. If you say by discussing the case when I am reading about it and pointing it out to her, I have had discussions.

Q. Apart from reading the paper and pointing it out to her you say after that occasion you had no discussion with her about the case?--- 20

HIS HONOUR: I am not sure that "after that occasion" is not ambiguous, Mr. Gruzman. Do you mean on that night, after that day's tennis, or at any subsequent point of time?

MR. GRUZMAN: Q. On the night after you had been there to play tennis, when Miss Rosewall was there - do you remember that occasion? The occasion when you were there and played tennis, and Miss Rosewell was there, two months ago approximately. Do you remember that occasion? A. Yes I think I do. Vaguely, but I remember it. 30

Q. That night did you have any discussion with Miss Catt about the case? A. That night?

Q. Yes. A. Over at Mr. Armstrong's place?

Q. No. After you left there? A. No. No particular reason to.

Q. I want to ask you two other questions before we go for the day. First of all, what is the name of the repairers where you say the Holden car - the Falcon car - was repaired that you picked up on 20th or 22nd December, 1966? (Objected to; allowed.) 40

Q. What is the correct name of the panel beaters? What is the address? A. York Motors, I believe. Just off Botany Road near a big yard there.

HIS HONOUR: Q. Zetland? A. Yes, Zetland, I think. It comes under Zetland or Mascot or Alexandria.

MR. GRUZMAN: Q. York Motors at Zetland - the people who repair Rolls Royces? A. No, no, no. It is a small panel beating place. There is a new Holden or Ford dealer - a large dealer - and you driving through, and there is a little place there. Some Italian is running it. 50

Q. Y-o-r-k? A. Yes, York.

Q. Have you got any docket for when you picked up the car? A. No, no docket. I signed - they don't give you a docket. I signed, and they get back from the insurance company. That is all.

Q. You say you did not pick it up until 22nd December, 1966? A. 196 ---

Q. 1966? A. I think that would have been the date, yes. I am not going into any more dates with you, because I am always too much in trouble. 10

Q. And it had been there since the previous September? A. I beg your pardon?

Q. It had been there since the previous September? A. Well, it was taken there ---

Q. Is that the position? A. It was taken from the place where it was smashed up. I don't know what date it was. I don't want to go into dates.

Q. Just one more question. Did you pay Miss Catt \$300 in March 1967? A. Yes. I would have, yes. 20

Q. By cheque or by cash? A. Always paid by cash - by cheque.

Q. By cheque? A. Yes, by cheque.

Q. And you would have recorded that in your cash book? A. Where?

Q. In your book? A. Well, it would be in the cheque book, of course. It is recorded there; it goes through for income tax.

Q. The Healy you mentioned - Healy 3000, or whatever it was - what was the number of that? A. You have got me beat there. It is a long time ago. The police would have the record of that, when I was charged with driving at excessive speed. 30

(Further hearing adjourned till 10.00 a.m., on Tuesday, 17th September, 1968.)