

IN THE PRIVY COUNCIL

ON APPEAL FROM THE COURT OF APPEAL OF NEW ZEALAND

No _____ of 1982

BETWEEN

BRIAN RONALD McDONALD

APPELLANT

AND

THE QUEEN

RESPONDENT

RECORDS OF TRIAL

APPELLANT'S SOLICITORS

WRAY SMITH & Co
] KINGS BENCH WALK
TEMPLE
LONDON

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PART ONE

(21st April 1980)

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R E G I N A

v.

BRIAN RONALD McDONALD

5

Hearing : 21 April 1980

Counsel : D. Morris and S. Grieve for Crown
B. Hart and Conway for Accused

10

NOTES OF EVIDENCE TAKEN BEFORE THE HON MR JUSTICE PRICHARD
AND JURY OF TWELVE

COVER DATE
MR HORTON OPENS AND CALLS

GARY KEITH O'CONNOR (Sworn)

15

I am single man living currently in Mt. Eden Prison. I've known
the accused McDonald for about 2 and half years. I also know
someone called Bruce Speck, I've known him for about the same
time.

Towards the end of Oct. 1978, did you renew your acquaintance
with McDonald? Yes.

And after that, from early 1979 onwards, how frequently did
you meet or see McDonald? We were staying at the same place
most of the time.

20

During 1979, in fact did the 2 of you make arrangements to
purchase a unit at Hunters Ave. in Auckland? Yes.

Coming to the night of 1st July last year, take the period say
2 to 2 mths prior to that, how freq. did you see McD. during
that period? Prior to early July? Every day.

25

As to the events of that particular evening, where were you
early in the evening? The night of Bell being shot? We arranged
for Wayne Graham to come over, to go out on the town.

You had arranged with Wayne and Graham? Yes.

To do what? Come over to our place and we were to go into town.
Wayne and Graham who? Bloor.

30

And are you referring to the place at Howard Hunter? Yes.

And so what happ. once that arrangement had been made? They
both came over in their car and we had couple of drunks and
smokes of cannabis and then we left there and went to Parnell.
to a pub down there somewhere.

35

There were 4 of you then wre there? Yes.

You and the two Bloor brothers and who else? Brian,
The accused? Yes.

1

Whattime did you leave go go to hotel? I cdnt be sure, btween
6 and 7 I suppose.

In whose veh. did you go in? Valiant, regd in my name.

Who drove? I cant remember, cant be sure.

Whathapp. at the hotel? After being there a while, Brian told me
to go out and get Bruce, see if he was at the White Horse Inn.
and bring him back.

5

Bruce who? Speck.

And so what did you do? I went and drove, me and Graham, went
out to White Horse Inn and Bruce was drinking in public bar
with girl called Meredith, and Cole, and couple of other people.

What was his attitude towards coming with you? He didnt really
want to come back with us.

10

And so did you leave with him or without him? Without him.

Where did you go then? Drove back to the pub where ~~the~~ Brian
and Wayne were still drinking.

When you arrived there did you speak to McD? He asked where
Bruce was and I sd he didnt want to come back and he started
going off at me about not bringing him bacj.

15

What was his manner at that time? He was pretty upset about
not bringing Bruce back.

Did he say why? No.

And so what did he do ?He asked for the keys to the car and
he sd that he was going to get him himself.

And did he leave then ?Yes.

20

How long was he away? About 3 quarters of an hr.

Then what happened? He ret'd ~~in~~ with Bruce.

What alcohol was being consumed by you and yr friends during
this time, what type? Small bottles of Steinlager.

And how many had you had to drink up to that pt. when McD. ret'd
with Speck ? I sdnt say.

So when he ret'd with Speck, there were then 5 in yr group? Yes.

25

How long did you remain in hotel at Parnell? Till clo'ing time.

And then where did you go? Grim Reapers pad across the road from
St. Lukes shopping centre, their club rooms.

Who drove the vehicle on that journey? I dont know.

How long did you stay there? About an hr and a half.

And where did you go from there? We left there and went down
towards the Foundry, pretty croweded, lots of people standing
outside to get in, we then drove up to Main St. to go in there.

30

Was there any change in the people in yr group from trip from
Grim Reapers down to town? No, same 5 of us.

35

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So you went up in the car to Main St. Cabaret? Yes.
Whathapp. there? Well we went in and Iwent up to pay for the
admittance for all of us, the bouncer came down and sd that
Bruce cdnt come in bec. he had old glothes on, pair of jeans,
and Bruce sd that they wre the only pair of jeans he had and
they were clean.

So there was some disc. bet. Speck and bouncer at that stage,
right? Yes.

Did any other people in yr group involve themselves in any way
in what wenf on bet. Speck and bouncer? Brian stafted to get
involved in that he was edging Bruce on to do something about
it, about not being allowed to get in.

How was he eging him on? Caelling him a weak mug.

Just getting athim I suppose.

Whathapp. then ?The bouncer sd yr not allowed in and moved back
up stairs and stood up in the doorway, I moved up towards the
bouncer and Brian started yelling out for me to punchhim. And
someone sd that the lady that was taking the money was ringing
the cops so we all left.

Where did you go to when you left the cabaret? We went and got
into the car.

Where was the car? The car was down, just down the road, parked
in the carpark there, by some hotel or motel.

Tax Retd to the car, what happ. then? We drove out to Harris Rd.

Who drove the vehicle on this trip? I think it was Brian.

Was there any discussion about why you were going to Harris Rd?
No.

Did you know the place at Harris Rd. yrself ? Yes.

So what happ. there? When we got there, Brian indicated to
go and get the gun from the house.

Did you know about a gun at that house prior to that? Yes

Tell us about that? Id taken the gun round there a mth or two
prev. and it was left there at the house in the spare room where
they had a lot of just junk and furniture and stuff.

What sort of gun was it? A 22 250.

Is that the one that has been prod. as exhibit in court? Yes.

So McD. told you to go and get the gun, right. Yes.

When did he tell you that? When we pulled up outside the place
at Harris Rd.

What did you do? I went and got it.

Wat of ammunition? The gun wrapped up in blanket and the
ammo was in the blanket with the gun.

Before leaving the house with the gun, did you check to see if
ammo there? No.

So what did you do with the gun when you got it? Took it out to
the car and put it on the front seat on laps.

Then what happened? Then we drove back towards Town.

Who was driving? Brian was.

1 Where did you go in the car? Drove down past Main Street and turned...

Down Queen St? Yes, and turned left down by the lights, halfway down Queen St., it goes over a bridge.

Mayoral Drive ?Yes, and then went left again up next street towards K'Rd, and turned into some side alley up there.

5 We drove down there and turned around.

Just hold on there a moment, I'll show you a ~~photo~~ photograph.

Look at the large photo. (Exb.4) now shown to you, recognise Queen St. there in the middle of the photo running downhill from right to left? Yes.

10 Look at the book of photographs (Exb.2) now shown to you, you've said having gone down Queen St. and turned left, turned left again towards K/Rd? Yes.

And you then made lefthand turn into an alleyway? Yes.

If you look at photo. No.5, think you wd be able to recognise the area from these photos? Yes.

On No.5, see where the area is that you went? Yes.

The stree that is curved on lefthand corner? Yes.

15 I comes down on lefthand side towards the middle of the photo? Yes

Whereabouts or what happ. when you got to the end of street? We turned round here.

To yr left, right? as you were driving? Yes.

Into that carpark area? Yes, turned round and pted back out again.

20 Then what happened? Brian got out of the car, firstly, I unwrapped the gun a bit and then he got out of the car, didnt see him for about 5 minutes, then he come back, and then we proceeded to drive out the same way we come in.

When you got to the entrance of this alleyway or street, which way did you turn then? Right, back down the way we came.

And where did you next go? We went down thro the lights, just thro the lights and down the side of the bridge.

25 Yes? And then down into Myers Park, and parked next to the toilet under the bridge.

Once you had parked down there, firstly, when you parked there, who was in the car? There was me in pass. door, Bruce in the middle and Brian was driving, and Wayne and Graham were in the back seat, the two Bloors.

30 So what happ at the bottome of Myers Park? Got out of the car, me and Bruce got out one side and Brian got out on the other, the Bloors were asleep, and Graham, Brian, grabbed the gun off our laps on front seat and got out the othe side, unwrapped it and put the blanket back in the car, he told me to go up Queen St to make sure no cops coming up.

And then me and Bruce started walking up thro Myers Park,
and when we got up towards this playground area, I went off
1 up towards Queen St.
Just pause there, you got out of the car, McD. had the rifle,
right? Yes.
Was anything sd about what was going to be done? No.
So you were just told to go out on to Queen St. to see if any
cops around, right? Yes.
And to get there you walked halfway up the hill thro Myers Park?
5 Yes.
While still in Mayers Park, where was everyone else while you
were walking up the hill? Bruce was with me and Brian was behind
us.
How far behind? Not far, just behind us somewhere.
Yes, so what happ. then, you walked up the hill? And then I turn
10 off just past the toilets in Myers Park, and ...
Where did you come out on Queen St? Just show the judge?
(witness indicates up line of trees)
So you got out on to Queen St., what did you do then? I went dow
Queen Street, looked down Queen St. and took off home.
Why did you do that? Because I didnt want to hang around.
Why not? I was a bit scared about what was happening.
15 Scared of what? I didnt know what was going on. So I decided to
take off home.
Where did you go to from there ? Turned into one of the streets,
walked up past these blgs and then cut across the next street up
and then I started jogging along, I dont know the names of the
streets.
20 Well, you cut across Queen street, in which direcct direction,
right or left? Went across Queen St. and went down.
And then did you go right or left? Right.
When did you - you told us you then started jogging to get home,
right? Yes.
How long did it take you to get back to the unit at H/Hunters Av
Nr and half.
25 Anyone there when you got back? No.
Did you see the accused at all again that night? They come home
later on, Id fallen asleep and I heard Brian and Bruce talking
and I come out, he asked me where I got to, and I sd that I
thought the cops were foll. me so I decided not to go back to the
car and jogged home.
30 When you next saw McD, was Speck there as well? Yes.
What happ. after they arr. back at the unit? Well Brian asked
Bruce to listen to the radio, the news, in the car bec. we didnt
have radio in the flat, they got back - I dont know the time,
I wdnt have a clue, it was daylight.

Be about 7 o'clock or something like that.

1

So you sd that Brian asked Speck to listen to the radio, what else was sd? Nothing -really.

Was anything sd to you by McD. about what you were to say if the police spoke to you abot events of that night? Later on, he sd thatif we got pickedup by the cops, not to say anything but to contact a laywer, that he made some stories up for us to say in court.

5

Were you seen by the police in fact? Yes, on the following Wednesday.

10

And what did you tell them? I told them that me and Brian had gone to Main St. and 3 islanders there, causing trouble at the door and we all got kicked out, bec. the bouncer thought we were with them, and that we had a fight in the car park with the Islanders, and that Id gone down Queen St. and got a ride home with some girl in a Jap car, and that he had gone home in the Valiant himself. And Bruce's story was to say that he stayed at the White Horse Inn.

How long after that was it thatyou were next seen by the Police? About couple of weeks later I suppose.

15

Ultimately when seen by the Police and did you at that stage tell the policewhat hadin fact happ. that night? No.

There was a pt. when you didnt tell the police? When picked up in New Plymouth.

Between the time when you -were first seen by the policeand when later seen by them in N/Plymouth, during that period, did you see McD. at all? From the time I left Auckland or from the time I got picked up?

20

How long, where, when did you first leave Auckland? The day after I got picked up for receivingwine.

Well now when was thatin rel.to when you first spoke to the Police? About 3 or 4 weeks before, after, I left Auckland I supposed. Once you had left Auck. and gone to N.Plymouth, at any stage during that time did you see or have any contact at all with Bruce Speck? No.

25

END MR. HART

Prior to the shooting of Bell, did you yrself have access to 3 firearms? Yes, Me and Brian both did.

You had possession of a 38 Smith and Weston revolver, right? Yes. And you yrself fired that weapon? Yes, once.

30

And thats an incident the police knew about, right? No, not at the time.

How many bullets did you have in thatgun? About 19 I think it was

Did you also have a combination 22 410 shotgun? Yes we did.
 And had you got that from a man called Roger Pitalli? No, me and
 1 Brian both went to get it.
 And in addition to that weapon, did you also have in yr possess-
 ion a 22 telescopic sight, the one thats been prod. before the
 court? That was mine and Brians.
 You had a 22 as well did you? No.
 If Mr Vitali was to give evid. that you talked about a rifle
 5 with telescopic sight you prod. from back seat of car prior to
 the Bell shooting, which rifle wd that be if that evid were
 given? Dont know.
 Yr answeres at Deps. sugg. you knew about it, have you since
 forgotten about it? About the 2250 in depts, whether I took it
 round to Vitali, I never took it round to him.
 You saying you never took any 22 250 rifle with telescopic
 10 sight around to his place, not specifically, but just in the
 back of yr car if you needed it? No I didnt take it round there.
 Is it yr evid. that you never ever used either the combination
 22 410, i.e. the sawn off shotgun, right? Yes.
 How long did you have it before the Bell shooting?
 (OBJECTION BY MR GRIEVE AS TO LINE OF CROSS-EXAMINATION)
 (OBJECTION ALLOWED)
 15 Is yr evidence that you went to Harris Rd. and uplifted the
 gun, is that what you say? Yes.
 And according to the occupants of that address you the only one
 that ever went there and uplifted the items from time to time,
 is that right? Yes, most of the time.
 Well you the one who had taken the 22 250 rifle to that address
 20 right? I was told to by Brian.
 Did you take it there yrself? Yes I did take it there.
 Yr not sugg. McD. went there to hold yr hand that day are you?
 No, but he gave me an order.
 So that when you pulled up outside that address in early hrs
 of the morning, you say you were told to go in and get a gun?
 Yes I was.
 25 What did you say when McD. sd to you about that? He sd, you
 know what to get, that was about the only thing around there
 at that time anyway.
 Those his exact words, you know what to get, and you knew you
 had to go and get the gun? Yes.
 Havent you sd prev. you were told to go and get that thing? I
 cant be sure.
 30 Well anyway you knew you had to go and get the rifle and you
 say that secluded in the rifle was some ammunition? Yes.

1 How did you know there was ammo inside the wrapping around the rifle? Bec. it was wrapped up with the gun there, at Beachlands. And you had wrapped it up had you? I cant remember who wrapped it up.

But after you had left Beachlands, & it had been in yr possession No it wasnt, it was in someone elses possession.

You had it with you when you took it to Hrris Rd? Yes.

5 How did you know it then had ammo in when you took it to Harris Rd? I dont know.

Thats the only way you knew it was in there? No.

Well you see youve given evid. on oath when fx in Myers park you ref. to ammo. being inside the wrapping? Yss

Follow from that -? I know that it was in there.

Bec. you had seen it in there? Yes.

10 When had you last seen the ammo. before events at Myers Park? I cant be sure, prob. at Beachlands.

When you firstobt. that rifle you got ammo. with it? I wasnt the one who obt. it, it was me and Brian, he paid for it.

You say you both had it but at one stage at least it was in yr poss. i.e you had access to it? Yes, so did Brian.

You had some ammo. for it didnt you? Yes we did.

15 How much ammo. did you have? for the 22 250 a box, dont know how many in the box.

That was the ammo. that was with the rifle when acquired, right? No, it was bought at Howick.

When you first got the rifle you say it didnt ahve ammo. with it at all? Yes, we had some ammo but misplaced it somewhere.

20 Is yr explanation for the ammo. that you misplaced that you had few practices with the rifle? No, never had any practices with the rifle, its never been fired since McD. and I had it in ~~my possession~~ our possession.

When you first came into poss. of the rifle, did you keep the ammo. with the rifle itself? No.

You say you lost this other ammo, is that yr evid? Yes.

25 Was there an incident where you found it necessary in the evening before the Bell shooting to punch someone in Auckland motel? Wasnt there some disturbance where you had argument and punched someone? No.

((Objection as to relevance))

Did you or didnt you punch someone in the morning? No.

30 Did you punch someone in a hotel, she was killed in the morning, the preceding evening? Yes

You know of that? Yes, now.

When you went to Main St. cabaret, you were the one that was abit unhappy with the events that have occurred bec. you were the one who pushed yrself forward and shaped up to employee? No I didnt shape up to him, just walked up to him to see what he wd do. whether he was playing bluff.

According to yr evidence, didnt you say the accused was the one encouraging you to hit him? He was encouraging everybody.
 Yr not sugg. that wd be uncommon for you to shape up to someone and punch him if you wanted to? Not if I wanted, Brian wanted me
 Yr not sugg. are you that McD. was the one who told you to move forward and have it out with him? He sugg. that one of us shd. And it was ofcourse Speck who was being told that his clothes not up to standard, right? Yes.

1

Nothing wrong with McD's clothes? No.

5

It was after that tht you left the Mainx St. Cabaret and thats when you went off to Harris Rd, thats right isnt it? Yes we did. You know where you were going after you left Harris Rd? No. And McD. driving the car at that time? Yes.

You knew there was rifle in car with the ammo didntyou? Yes. When you drove to top of town and the car was stopped, you know what was going on then? No.

10

Well why did you figure it was nec. for you to go and get the gun I dont know.

Did you get out of the car when it was stopped or did McD. get out of the car? I didnt get out of the car, I stayed in the car. Well, the car you then travl. in to Myers Park, 3 of you got out on that occasion, right? Yes.

15

And do you say that McD. was the one that got the gun out of the back of the car? No, off the laps, in front seat.

And do you say that you went inadvice of the other 2? No, me and Bruce walked up tog. and Brian just followed behind.

Well where did you think you were going at that stage? I was just stepping out of the place, getting out of the place.

20

You say that from the time you left Harris Rd. having trav. back into Auck.. up the top of town and back down to Myers Park you had no idea of what wd happen? I wasnt expecting anyone to get shot.

What did you think, perhaps few windows to be blown out by someone? Cd have been

25

Did you thinkthat? I dont know what I thought, just wanted to get out of it, thats all I know.

Do you say nothing was disc. about this at all, as you drove from place to place before turning up at Myers Park? Yes/

When do you say it was that you were able to call the rifle was taken by McD. from the car, down at Myers Park, when did you remember that part. event? I dont know.

30

You say bec. you were there and saw what hap. this is something youve always remembered as being important? I dont know.

Youve had long time to think about it, what Im asking you is this you were there, youve given evidence that this rifle taken out of the car by McD. and you saw it, right? Yes.

35

Has that always been yr recollection as to what happ. thatmornin.
At depts I didnt remember it untill you asked me in XxD.

1

Yr evid. in chief on p. 71 you sd you cdnt be sure if taken from
the car, Bruce and I didnt take it, that right? If it is down
there it must be.

Do we take it then that the time of yr taking yr evid. in chief
that was yr recollection of what occured i.e. that you cdnt
remember? I cdnt remember at the time.

5

How was it then that it suddenly occurred to yhou you cd remember
such an imp. event as the accused havinguplifted the rifle from
the car when you earlier hadnt mentioned it? Too scared to
mention it at first.

But you didnt say that in yr evid. did you, that you were too
scared to say it? You didnt ask me.

10

And do you say thatyou then hightailed if off, left the other 2,
and jogged home? Yes.

Well you got as far in yr evid. in chief to leading yr evid.
to crossing Queen St. and never got further, which basic directio
did you take? Ill show you if youve got a map.

The police have taken you back over the route? Yes, Ive gone over
the route again.

15

Tell us the rouge you took? Get a map and Ill show you, dont
remember the roads or their names, I know the route I took, Ive
driven over it lots of times.

20

You dont need a map to give us general area of route you took,
not asking you street by street/ I told you before that I went
down Quen St. turned right and then up to the next main Street,
going down, and then went down that street, getting towards the
Hotel Intercontinental place, and then I went right down that
street, right down this court.

Ran right past here did you? Yes, straight down the botoom, turn
left, ran up there to the right, ran up to Parnell.

25

Ran up from Parnell shopping centre? Yes, jogged upthere and
then walked and crossed over some lights at the top there,
and went left down there and took the next street on the right."
Which area are we in now? If you were foll. me youd know.

Brighton Rd? I dont know the name, foll. that street all the way
down until it comes out at Remuera Rd., did right turn, turned
left there and went straight down there, foll. it out until it
comes to roundabout, which goes to Collge Rd, itthen goes to
H/Hunter.

30

You actually had gone over this route with police? Yes, once ove
Wereat you doing running about this time, are you a jogger? Yes,
I was very fit at the time.

How long did this take you? About hr and a half.

35

You say that is the route you took home but I sugg. you stayed
 in the car and were there when gun thrown over the Panjure bridge
 1 that right? No /
 Im sugg. yr evid. is pack of lies from this pt., and it was you
 and Speck who went up, made yr way up and shot this girl, what
 do you say to that? Id say he is reversing everything.
 Thats strange you shd say that bec. that of course is the sugg.
 of the defence to you, that you reversed everything and putting
 5 the blame on the accused, youd agree that thats what you are now
 saying? That is what Im doing yes.
 When first seen by the police you say that the story that you
 gave was of the first version, that McD. had told you to tell
 them? Yes.
 And was part of that story that you had been at a fight with
 some islanders and you picked up by someone in a Japanese car?
 10 Yes.
 How much detail did you give the police about yr movements that
 night? Not much.
 Well, what did you tell them of where you had been thatnight?
 I cant remember exactly.
 Did you only tell them part of this story that you say McD. told
 you to tell them? Yes.
 15 Well, didnt you also say that he told you not to saying anything
 but to get a solr? Yes.
 Did you get hold of a solr? No, not at this pt.
 Did you ask for one? Yes.
 You say the police wdnt let you have one? They wdnt get one at
 the time.
 20 And what story do you say that McD. told you tht he wd tell in
 this drama? His was part of mine, wasnt it, it was obvious what
 it wd be.
 Was he to say exactly the same as you? Yes.
 That you went home in Jap. car? No, that he went back to the unit
 in the car, my story was to say he was there when I got back.
 25 COURT ADJ. AT 3.30
COURT RES. AT 3.45

30

35

1 Was the situation that the police actually as it were caught up with you before you could say you finally told them the truth? Was this the situation, they caught up with you, you didn't ring them to say you wanted to talk to them and retract what you said before? No.

Where were you at the time? In New Plymouth.

When had you gone to N/Plymouth? After I left Auckland.

5 What date was it you left Auckland? I don't know.

Had your car been involved in a collision and did the police have your car in their possession? Yes.

And was there a bullet hole in your car? Yes.

I suggest to you that you thought it best to leave Auckland because of that matter and because of the party you played in the Bell shooting? No I left Auckland because I smashed the car up and because I was scared of Brian.

10 Well how long had you been going out and living with McD. after the shooting of Bell? How long had you been assisted with him before you left Auckland? Just approximately? About a month.

And you had been with him justly about daily hadn't you? Yes. I was scared of him a long time before even the murder occurred. But you've already told us that you were no stranger to weapons?

15 No I haven't said that I'm stranger to weapons, you're the one who said I had them in my possession.

But that's your evidence isn't it? We both had them in our possession. And you were able to handle yourself in a fight? Yes I suppose I can.

Do you say you left Auckland not only because of the incident with your car but because you were scared of McD? Yes.

20 You say you've always been scared of him? In a way I have.

Bought the property together? Yes.

Lived together? Off and on.

You state that it was jointly owned with McD, the property at H/Hunter? Yes.

25 When the police located you in N/Plymouth, what were they after you for on that occasion? Receiving, skipped my bail.

How long had you been in N/Plymouth before the police caught up with you? About 3 weeks I think.

Do you agree that you were concerned about your situation apart from you being regarded as playing in the Bell homicide? Yes I suppose.

30 After all you had been the one who got the gun according to your evidence and put it in the car, that's true isn't it? Yes.

What was it that the police offered you in return for you giving evidence against McD? Offered me protection and that I wouldn't be prosecuted and if I didn't pull the trigger.

How many times had you been seen by the police after the first occasion which was about 3 days after the shooting, how many times? 3 times.

1

And you were on each occ. not only, primarily interviewed about Bell homicide on each occasion? Yes.

Over what period of time do you say that these separate i'views took place? About 3 or 4 weeks.

Were you ever offered any inducements at that stage, know what that is? No.

5

You offered anything in return for giving information, money or assistance or anything else? No.

Did you keep on repeating the story that you first told the police? I never sd anything at all after the first time.

Was there ever any sugg. by the police there wd be reward involve if you gave information? No.

10

Who were the police officers who first spoke to you in N/Pymotuh Hastings and Metcalfe.

They -were the 2 detectives involved in the Bell homicide, not re ceiving case, that true? Yes.

Where were you when they first spoke to you? In the house.

When they first spoke to me, at the police station.

At the house and then they arrested you there did they? Yes.

15

Hastings and Metcalfe? Yes

Was anything sd about what wd happen to you if yr not prepared to testify aganst McD? No they just sd they had some idea of who did it and they wd find out in the long run anyway.

Did they tell you they wd try and help you with a few matters you had 'standing at the time? No.

20

What of this receiving charge? I got 6 mths imprisonment for it.

Did they indicate you might get friendly nod in right direction ? No they didnt.

What of this accident with yr veh. the bullethole? I wasnt asked about it.

You ever charged in respect of firearm or revolver at that time? No.

25

Tell the police about that incident? Yes.

You say nothing happened as result of that? No.

How long were you with the police at P/North? New Plymouth.

Sony, before you were prepared to give evid. against the accused I dont know, about an hr or so I suppose.

Did you get an immunity there and then? Yes.

30

So you knew then that before you had act. sd anything that you got that assurance from police that no action wd be taken against you, is that so? Yes.

When had been the last time you had seen Speck prior to the police speaking to you in N/Plymouth? Wd be about 2 and half mth

35

Only about a week after the murder that I took off, that Bruce took off sorry.

1

Know where he had gone to? No.

Had he been in contact with any of yr friends? No.

How well did you and Bruce get on tog? Used to get on well.

And no doubt after the shooting you had had ample chance to talk about it with Bruce Speck hadnt you? No I didnt know where he was.

He was the type that used to come and go all the time.

5

You saying you only saw him on the occasion you say he and the accused came in and you hadnt seen him for mths after that? No he stuck around for about a week and half and then he took of, dont kno w where to.

You spoke to him during that period? We had spoken, all 3 of us, never act. spoke to him by myself.

10

That morning when you say that the accused and Speck came in, where were the Bloor brothers? I dont know, they were in bed.

Did you act. get out of bed at that stage? Yeah.

Did you ever get written form of immunity from the police? Yes. When was that? When I got arrested.

Who did it come from? Hastings.

15

Did you u'sand that prov. you were prepared to go so far as to give evid. against McD. there wd be no charges preferred against yrself in the Bell murder for any part you played? As long as I told the truth and didnt pull the trigger and didnt play a major part in it.

But you ustood it was nec. for you to act. give evid. on oath in the matter? I wasnt sure at the time.

20

Well what did you u'stand you had to do? Just say what happ., thats all.

Knew you wd have to give evid. on oath? Wasnt sure.

Was it eever sugg. if you didnt give evid. youcd be charged with being accessory bec. you supplied the gun? No bec. I didnt know anything about it, what part I played in it.

25

So you got the immunity first and then prepared to ~~talk~~ talk with the police? Yes.

If you hadnt got that you wdnt have sd anything to them? I prob. still wd have.

~~Thats~~ what you say now, but you hadnt been prepared to talk to them before? I was sick of running around.

And you were scared you wd ~~sk~~ be charged yrself? I was scared that I wd get it myself, wasnt the charges that worried me.

30

You knew you were staying in N/Plymouth, who knew this? No one. How were you going to get it down there at that stage? Quite easy to find people if you jnw who to ask.

Just like you knew where to find Speck? No, he used to go to Chch.

35

Did you give written statement to police on this occ. when being interviewed? Yes.

1 Did you retract anything you had sd before to the police, go back on what you told them before of the Jap. car and fight with the Islanders? I told them it wasnt the truth.

If you had got to the stage where you were prepared to tell them how did the question of immunity come up which was given to you before you spoke to them? When they questioned me they asked me if I wanted to talk to someone and I mentioned this woman I was staying with, she was talking to me for a while and she suggested it.

5 Had you made any admissions about your participation about the gun or anything else before you spoke to that current girlfriend? No. But that didnt make a difference once you had the interview, you were prepared to give the police an account of the events? Yes.

10

NO MORE

MR MORRIS CALLS

IAN FRANCIS HASTINGS (Sworn)

I am detective Sergeant, Det. Sen. Serg. attached to CIB at Auckland. On the first July 1979, I was placed as second in charge of the Bell homicide enquiry under D. Inspector Rowe. During this enquiry, it became necessary to interview the previous witness Gary Keith O'Connor.

15 As second in charge you were fam. with background to shooting and aware that O'Connor and others had been seen shortly after the shooting were you not? Yes.

20 You and Metcalfe went to New Plymouth, so if you come to that part, when you saw O'Connor? On Friday the 21st September 1979, I went with Metcalfe to N/Plymouth in order to try and locate the previous witness O'Connor. At 8.20 a.m. on Saturday morning the 22nd September, I went with Metcalfe to a house at 49 Young Street, New Plymouth, where we located O'Connor asleep on a sofa in the lounge. We took O'Connor back to New Plymouth Police Station and I commenced interviewing him at about 8.40 a.m.

25 in the presence of D.S. Metcalfe. I told O'Connor that we didnt believe the story that he had previously given regarding his movements on the night of the homicide and that he was telling lies. I told him that we wanted him to tell the truth about the matter. I told him that I was convinced that both him and McD. were involved in some way with the murder of Margaret Bell. I told him that no matter how long it took us we were going to find out the truth about the matter. I told him that he had to make a decision as to which side of the fence he was going to be on.

30

35

I told him further that we knew he had now made a breakaway from his associate McDonald and that he now had an opportunity to tell us the truth about what happened that night and that this could be the last chance that he could have of telling us the truth about what happened.

Between the time of homicide and this date, I take it that you were familiar with what was coming in as respects of police enquiries? Yes I was. And as part of those enquiries, had the police been making investigations into the registration of so on ~~xxxx~~ of firearms? Yes.

Did those enquiries lead you to look for this particular person? He had previously been spoken to but it was as a result of further information in respect to firearms that led us to want to ~~xxxx~~ speak to him again.

What was that information about the firearms? The information was that they, McD. and O'C. had been in possession of Remington 22 250 rifle. This was following up that? Yes. I told O'Connor further that I believed that he might be reluctant to tell us the truth because he maybe frightened of the consequences from his associate McDonald of telling us exactly what happened that night. I then endeavoured to convince O'Connor that if he told us the truth we could guarantee his protection from any other person. It was quite apparent to me that O'

Connor was not convinced that we could protect him. I further told O'Connor that if he had not played a major part in the murder and told us the truth today about what had happened that night, I could guarantee him that there would be no charges laid in respect to that homicide against him. After further speaking with him, I asked him if there was any person he knew who was not a police officer who he could speak to to try and get his head straightened out about what he should do in this matter. After some time he suggested a female named Wendy Hanham who he told me he had met while he was in N/Plymouth. As a result of this, I directed that D.S. Metcalfe to go out and try and locate this female. Eventually Metcalfe returned with this female. I then spoke to this lady person. I told her that I would like her to speak with O'Connor and I outlined the reason why we were speaking to him and I asked her to try and convince him to tell us the truth about what happened that night and also to convince him that we could protect him from any retaliation. As a result of this, I allowed Hanham to speak with O'Connor on their own, this conversation lasted about half an hour. I then went into the room and as a result of what they said to me, I then outlined more specifically to O'Connor how we would protect him from any retaliation. I then left the room again and after about 10 minutes the female Hanham came out and told me to come into the room. I went in and it was at this point in time that O'Connor told me that he would tell us the truth.

Did you give any u'taking in writing as to what wd be done? I gave
O'

1 Connor an u'taking in writing that provided he had not fired the
rifle that killed Margaret Bell and that provided he told us the
truth about the matter, he would not be charged with anything in
rel. to the murder.

Subse. to that did you receive statement from him taken down in
writing? I did and the previous mentioned Hanham was present
5 throughout this taking of the statement.

O'Connor then arrested on this other charge of breaching bail, that
right? He was arrested and faced two charges, one of breaching bail
and one on warrant to arrest for breach of probation.

Subs. when the matter was referred to the officers of the Crown
solr., was the matter of immunity taken up with Solr. Gen. in
Wellington, do you know? Yes, I u'stand this was done by the Crown
10 solrs. office.

And you are aware now, are you not, that such an indemnity was
forthcoming from the Solr Gen? Yes.

Was that given quite independent? Yes, I had no knowledge of it
until at the deposition hearing.

15 KXD MR HART

That u'takking, or immunity by Solr. Gen., was that given prior to
deps. or after?

When you went down to N/Plymouth, were the police in possession of
O'Connors car, a white valiant? When we were at N/Plymouth.

Were the police in poss. of his car? Yes.

And from observation of the car, did there appear to be a bullethole
20 in the car? Yes it did.

Did you ask O'C. questions of the origin of the bullethole? Not while
in N/Plymouth but I have since ret'd to N/Plymouth, I asked him in
Auckland about it and he made full statement abot the matter.

That was one of the matters that you had, one of the pieces of
evid. you wd have to ask O'C. about to assist his memory in the
Bell matter? I, from my know. at that time, I didnt believe
25 that the bullet in the car was connected in any way to the Bell
murder.

What Im trying to ask you is you didnt just go to N/Plymouth to
see O'C. to talk to him about receiving charge did you, you and
Metcalf didnt go there just to do that, right? As I prev. sd,
I was convinced that O'C. and McD. had been involved in some way
30 with the murder of Bell and thats why I went down there to see him
And anything that you knew, that was current about O'C., wd be
relevant to enquries wdnt it? Yes.

Yr not sugg. youwerent aware of this car which had been owned by O'C., with bullethote, it wasnt of interest to you at the time?
 1 Yes it was of interest to us, we had it at the Police Station, we had the door away at the DSIR and conducting tests to determine what the hole in the door was.

Well did it look like bullethole even tho you hadnt had the result from the dsir then? We bel. it was bullethole bec. we had informat in our poss. but the dsir scientist didnt think it was.

5 What Im asking you is, did you raise that matter with O'C. at all when you saw him on this occ. before coming bakk to Auckland? No I didnt.

Was O'C. ~~never~~ ever charged with anything in relation to that bullethole in the car? As far as I was conc. he hadnt committed an offence.

10 You know on how many occ. O'C. had been spoken to by the police about Bell homicide before he was finally arrested? yes.

How many occasions was that? 3, not counting the occasion in NP. And is it correct that O'C. didnt tell you anything useful in as much as yr enq. into the Bell case, which you had ultimately given him an assurance that he wd not be prosecuted? The story he gaveon the first occasion was useful because we were able to prove that cert. parts of it cdnt be correct, on second of the two
 15 occasions he didnt say anything.

At the time you spoke to O'C a rifel had not been located, right? I mean, the ~~rifel~~ rifle shd I say? Yes.

Was it as result of speaking to O'C and Speck that the rifle was lcoated? It was as a result of someone else speaking to Speck. Wd you agree officer that for some weeks after the death of Bell
 20 that the police had compounded theory as to how shooting had taken place?

(OBJECTION BY MR MORRIS AS TO RELEVANCE)

Do you agree that, accord. to the paper reports, that the police had compounded a theory that the matter was one of a drug related killing, that was the initial theory? That was one theory.

25 And wd you agree that without the story of whatever O'C and Speck told the police that there just wasnt a case against McD? At that time, prior to O'C and Speck making statements, in my mind there was insuff. to charge McD. to the charge relating to the murder. Did O'C. seem to be pretty worriedman when you saw him on this occ beforehe got the immunity? I wd describe him as extremely worried and more a frightened man.

30 You of couse yrself had quite a bit to do with O'C. since that occ. havent you? Yes, it has been my responsibility to ensure tha he is safe.

And to make sure he is avail. to give evid. in this case.

1 Where had you recd yr instructions from to offer the immunity to
O'C? I rang D/I. Rowe from the Np Police station and advised him of
my itanded course of action and he gave his approval.

NO REX

EVIDENCE FOR THE PROSECUTION

5 COURT ADJ. AT 4.30

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COURT RESUMED AT 10.00 on 22.4.80

MR MORRIS CALLS

BRUCE GRAHAM SPECK (Sworn)

1

I live at North Shore, labourer by occupation.

I know the accused McDonald, Ive known him for 12 or 13 years.
What about prev. witness O'Connor, know him? Yes. Ive known him
for couple of yars. years.

Was there a period beg. at the end of last year, thats December
1978 when the 3 of you spent a fair bit of time together? Yes.

5

I want to turn to the events beg. on Sat. 30th June, where were
you in early hours of that evening? Panmure hotel.

What time? Round 7 o'clock.

Where did you go to from there ?Walked to the Pakuranga Hotel.

How many of you were at the P. Hotel? 6 or 7, Pakuranga Hotel i.e.

Did you go anywhere else that night? To Parnell.

10

While at the Pakuranga Hotel, what happened? I was punched in the
jaw.

By whom? McDonald.

Earlier than that, visited by anyone at the hotel? Gary O'Connor,
and Graham Bloor.

What did they want? They wanted me to go into town.

Told why? That McD. wanted me to go into town.

15

What was yr attitude to that? I didnt really want to go.

And sothen what happened? They left.

Yes? I sat there in the public bar for a while with my brother
and few other guys, went into the lounge bar, we were drinking in
there, and someone mentioned that Mac, McD. had come in, I tried
to hide away from him, I just turned around and I was punched in
the jaw by McDonald.

20

So what happened then? Bit of a scuffle, ended up by the door of tl
hotel.

Did you go with McD? Yeah.

Where did you go to? Into Parnell.

Whereabouts in Parnell? Alexander Tavern.

What time didyou leave there? Closing time.

25

And where did you go from there? Grim Reapers.

How many of you were together at that stage? 5 of us.

Who were they? Myself, McDonald, O'Connor and the two Bloors.

So you then went to the Grim Reapers, where was that? St. Lukes.

After that where did you go? Into town to Main St. Cabaret.

What means of transport did you have? Valiant.

30

Who drove on these journeys? ~~McDonald~~ McDonald.

What happenedat the Main St. Cabaret? I was refused entry, because
of my dress, but the rest were told they cd go in bec. they were
well dressed.

What happ. as res. of refusal to let you in? I was quite happy to
go and get changed, McD. started to get excited.

1 He was telling me to deal with the bouncer, I didnt want to get him, was telling o'Connor to deal to him, I think the cashier sd something about calling the police and we still started moving out the door, we all starting moving out the door.

So what didyou do then? Well, McD. was pretty ~~up~~ excited, calling me weak mug and throwing his arms around, he told meto deal with him but I didnt want to. In the end I walkedback down to the car. From there I went to Mt. Wellington.

5 Whereabouts? Harris Rd.

Who was driving? McDonald.

Did you, had you been to this address in Harris Rd. before? Yeah I knew the add.

What was the reason for going there that night? I didnt know at the time but later on, it was for a gun.

10 At the time of that trip that night, didyou know that in fact there was a rifle kept there? No.

Was anything sd by McD. about why you were going to Harris Rd? No, he was just raving wild.

15 So what happ. at Harris Rd? I got out, I was sitting by the door in the front seat, I let Gary out, McD. sd to Gary, you knw where it is, somthing like that, I got out, Gary got out and disappeared for a while, and come back with long object wrapped in a quilt.

What happened to that? I think it wasput in the back seat on the floor.

And then what happ., where did you go from there? Went back into town. Then, down Queen Street, past the cabaret, we ended up in some park, dont know what its called.

20 After you drove down Queen St. past the cabaret, where did you drive tofrom there,? Dont know, ended up at the back of Queen St. Whathapp. there? McD. got out, I got out and had a piss, he disappeared by the fence, up by the fence there, I hopped back into the car, few mins. later he come back and hopped in the car and we drove off again.

Where to? To Myers Park.

25 Which part of Myers Park? Down the bottom end.

What happ. at the bottom of Myers Park? Well, McD. was under the front seat looking for something and then he says, lets go. The gun was taken from the floor at the back.

By whom? McDonald.

30 Who was in the car at that stage, who was there in yr group? 5 of us, the Bloors, myself O'Connor and McDonald.

Who got out? Myself, O'Connor and McDonald.

What happened to the Bloor brothers? Asleep.

So the 3 of you were out of the car and McDonald had got the rifle had he? Yes.

1 Where was the quilt left? I dont know.

At that time cd you see that it was a rifle? Yes.

So what happened then? McD. sd, lets go, didnt know where to.

He pted up towards the park. So we started going up to the park, got about half way up there, he told, he sd somthing to O'Connor, and O'Connor went off towards Queen Street.

5 What did you do? I went down with hm him, kept going towards the park.

This is you and McDonald? Yes.

Where did you go to? Up to, through a street, backstreet there, thro some courts, tennis courts I think they are. When he told me to wait, and he disappeared.

10 Pause there, wd you have a look please at photograph No.5 firstly, the large photograph, can you recognise the area just in general, the area shown in thatphotograph? Yes.

Firstly, can you see on thatphotograph the place where you first stopped after you drove down Quean Street past the Main Street having been to Harris Road, recognise the place where you first stopped? If you cant pt. it out say so? No I cant.

15 On that photograph, can you see the area of Myers Park? Yes.

Can you see the courts that you referred to? Yes.

Held it up and show the Judge, the courts? (witness does so).

Look at anotherphotograph now shown to you, No.6, again do you see the courts in thatphotograph? Yes.

Thatphotograph you will see is taken looking towards Main St. Cabare Yes it is.

20 How far across that court area did you go to, can you remember? Yes (witness indicates) up to the top left had corner as you look at the photograph.

What happened then? I was standing there, wondering what was going on and few minutes later, I saw a flash down the end of the alleyway there and a loud bang, so I just put my head down and ran.

25 Cd you see from where you were in this area here, cd you see any part of Queen St. yrself? Some lights, bright lights, at the end of the alleyway.

Able to tell if it was Queen St. or not? Yeah.

You have good eyesight? No.

30 Wd you look at photograph No.20 of the Exb.2 now shown to you, you will see to the left of that white brick tower object some wire netting, looks like some sort of courts, recognise that area? Yes.

Was that the alleyway you mentioned a minute ago where you saw the bright lights? Yes.

When you saw the flash and heard the sound, you turned and ran off?
Yeah, covered my head.

1 Where did you run to? Back to the court, back down the same way we had come up, down to Myers Park.

While - to the car? Yeah.

While you were running down there to the car, at any stage did you see McD? Yeah, he caught up to me. He was running down with me.

Did you see the rifle? Yeah, he still had it in his hand.

5 Did he say anything about what had happened? No.

So what did you do then? Got to the car, hopped in the car.

Were the Bloors still there? Yeah, still in the backseat asleep.

So you got to the car, you and McD. i.e.? Yes.

What of O'Connor, did you see him? No.

Where did you go in the car? Hopped in the front seat and Mac threw rifle in and I threw it over the back.

10 Mac jumped in the drivers side and we drove off.

Where did you drive to? To Panmure.

Whereabouts in Panmure? To the Panmure Bridge.

What happened there? He stopped in the middle of the bridge and he was taking his clothes and that off and he got the gun and told me to chuck it over.

Did you do that? Yes.

15 And what about his taking his clothes off, what happened to them? They were bundled and he told me to throw them too.

And did you do that? Yes.

Where did you go from there? To the end of the bridge and turned round, down to Glen Innes, down Hunters Avenue.

20 To the unit? Yes, we went inside, McD. told me to get my clothes off to change my clothes, so I did that, the Bloors, don't know if they had woken up, but they left.

They left from the unit at H/Hunter? Yes, and then we left too, a few mins. after, and went to Half Moon Bay.

Pause there, was there anyone else at the unit when you got back on this first time? No.

See O'Connor? No.

25 So you went to Half Moon Bay, what did you do there? Threw my clothes away and we left there, went back to H/Hunter again, I think O'Connor was there then, altho I didn't see him, heard McD. talking to him in the bedroom. It was mentioned, McD. sd, I think I've got the arsehole or words like that.

30 What was sd. if anything by McD. about what had happened? Well, he was still wild and sd it shd be my blue.

Did he mean yours, yr blue? Yeah, he left, I went to sleep on the couch.

What time of the morning was it that you ret'd back to H/Hunter after being to Half Moon Bay? I don't know what the time was, just about morning.

1 So McDonald left. Now at any stage during the next day or so, was there any discussion about what happened? Yeah, later on that same morning, McDonald come back and told me and O'Connor to go and listen to the radio in the car. We did that and heard that a 17 year old girl had been shot at Main Street. We went back and told Mac that and he sd, thats the breaks.

5 Was there any discussion between you as to what wd be done if you were seen by the police? Yeah. That we were to say we had gone to a fight in Pakuranga, me and a fallah, I had gone outside the phb with hm and had scuffle with him, these Maori blokes had broken it up and I had gone off with them.

Were you seen by the police, when were you seen by the police, were you seen by the police about this night? Yes.

What did you tell them? What I just sd.
How many days after the shooting were you seen? 2 or 3 days.

10 How long did you remain in Auckland after that? I went to court, morning after they interviewed me for another matter, I got fined, and I left that same week, day after or few days after that.

Where did you go to? Rotorua.
How many times were you seen by the police in Auckland before you went to Rotorua and asked about this particular night? Just the once.

15 When were you next seen by the police in connection with this matter In Rotorua, few mths later in Rotorua, October it was.

Between the time that you left Auckland and when you were seen next by the police at Rotorua, during that period at Rotorua, did you see or speak to or have any contact at all with O'Connor? None at all. Did you know where he was? No, thought he was still in Auckland with Mac.

20 And when you were seen by the police at Rotorua, did you ultimately tell them the truth about what had happened on the night in question? Thats right, yes.

What police officers involved in the Bell homicide investigation did you speak to? D/Gruger, I think the other one was Smith, not sure of his name.

25 And did you make a written statement? Yes. I gave a verbal one first. Were you, was anything sd to you about what wd happen to you as far as yr part in the matter was conc? The same morning I was picked up I was going to see a solr. I had his number and that, I wanted to see the cops anyway. I wanted to see a solr. bec. I wanted a few legal things tid up, wanted to find out how I cd be charged with murder or what because I was told that anyone in the car was guilty of murder too.

30 So you had planned to see a solr. anyway and the police picked you up? Yes.

1 Was anything sd to you about what wd happento you in connection with yr part? No, I asked them what exactly cd happen to me for what I knew.

And so what did they say? T still wdnt say anything to Gruger or Smith so they offered to get D/Rober to talk to me, I agreed to that.

5 So you spoke to D.Inspector Rowe? Yes, he explained to me if, if it was burglary and I didnt know exctly what was happening, if there was to be a burglary, that I wasnt guilty of anything.

He tried to explain to you the legal position regarding involvement in crime? Yeah. So thats when I agreed to give them verbal statemen
So you then told him verbally what had happened? Yes.

10 At that stage, was anything sd to you about what might happen in respect of charges, if any, to be brought against you? He explained burglaries and other crimes to me, he says as long as I didnt pull the trigger and told the truth, there was no way I cd be charged. And did you as a result of these conversations you told us about firstly tell the police verbally what happened and then did you make a written statement about it? yes.

15 At any stage between the time that you made that written statement and the time that you gave evidence in the Magistrates Court at Auckland just before Xmas last year, at any stage during that period, did you have anycontact at all with Mr O'Connor. Having spoken to the Police and the time between when you gave evid. in Mag. Court, during thatlast period did you have contact with O'Connor,? Saw him at the P/Station once, he was with 3 or 4 Detectives also there.

20 XXD MR BOFFIN

Youve lived in the Panmure area for some time? Yes.

Most of yr life? Yes.

In July of last year, were you living in Panmure? Off and on.

25 Well, at the end of June and beg. of July were you living in Panmure about the time of this incident? Not really living there, I was up and down from Ngaruawahia.

On thatparticular weekend you stayed at Panmure? Yes.

Youve been pretty good mates with McD. over the years? Yes.

Have you been in a few scraps together? Yes.

Youve backed each other up? Yes.

Do I take it that yr opinion wd be that McD. wd know how to handle himself in a scrap? Yes.

30 And I guess you wd say the same about yrself? Yes the average.

Youve told us about being at the Pakuranga Tavern, about how long were you there before O'Connor came? Hr and half, not sure.

You had been drinking during that and a half? Yeah.

And do we take it that O'Connor wanted you to come into town? Yeah,
 1 the words were, he said to me, that Mac wanted me to come into town.
 Did you owe McDonald some money at that time? Not that I know of.
 Well did you have money on you that night? Yes, couple of dollars or
 so.

You would have needed money to get into say the Foundry or Main St.
 cabaret? I didn't want to go into town.

Not at that stage no? At any stage I didn't.

5 You hadn't seen McD. all day that day had you? No.

And when O'Connor came out to get you on behalf of McDonald, McD.
 wouldn't have known in whose ~~company~~ company you were in at that time? No
 I don't think so.

Then McD. came a bit later in the evening? Yes.

About how much longer? I don't know, I can't tell you, 20 mins. to
 10 half an hr -

And you tried to avoid him? Avoid him, yeah.

Was that because you owed him money? No.

Was it because of the company you were in that night? No, because I
 didn't want to go into town and I knew he would insist.

Your evidence is he came and punched you on the jaw? That's right.

And there was a bit of a scuffle? Yes.

15 And you then went with him into town? That's right.

You drank with him in the Parnell Tavern? Yes.

Were you there with him until closing time? Yes.

Do I take it that there were no arguments or differences of opinion
 while in the Parnell Tavern? Between me and him?

Yes? No.

20 Just sitting there drinking together as you had on many previous
 occasions in the hotel? Not exactly the same no, on previous cases
 he had never punched me, I'd never been punched by him on previous
 occasions.

But you were there with him? Yes.

Were you drinking Steinlager? Yes I think so.

Who was buying them? I don't know.

25 You weren't? I wasn't, no.

How then did you leave the Parnell Tavern and go elsewhere in the car with
 McDonald? Yes.

You told us you weren't particularly happy about being punched in the
 jaw but you went with McD. to the Parnell Tavern? I didn't have much
 choice.

30 You didn't try to walk away from him at the P'anga Tavern? Not in the
 mood he was in.

He wasn't packing a gun on him at that stage was he? He always
 carried a knife.

He wasn't packing a gun on him at that stage? Not that I saw.

When you left the Parnell Tavern, you didnt try to leave at that stage did you? No.

1

You got into the car and went? Yes.

Did you go to the Grim Reapers place? Yes.

Did you drink there? Yeah I think we had some, not sure.

There was no question of a gun being there? No.

And fromthere you eventually arrived at Main St? Yes.

Do you recall going to the Foundry at any stage? No.

5

This wd have been in the early hours of the morning when you arrive at the Main St. Cabaret? Idont know what time it was.

Well can you remember about what time it was that you left the P'ranga Tavern in mcdonalds company? No I didnt know what the time was.

Was it early in theevening? Yeah.

10

So you had been with him @r some hrs at this stage? At what stage.

When you had got to the Main St. Cabaret? Yes.

And if I recall yr evid. correctly, you told the court that you were quite happy to go home and get changed and come back to the Main St. Cabaret?Yeah, or go somewhere else.

So that you were quite happy to go along with McD. at that stage? Id rather have gone home.

15

Yes but you wd agree, wdnt you, that you have given evid. you were quite happy to go home, get changed and come back, that so? Yes.

Youve told us that you didnt spend any money in the Parnell Tavern did you have sufficient money on you to pay for yrself to get ino into the Main St. Cabaret? I prob. wd have enough to get in but no to drink.

I thought you sd you had \$2? Yeah, couple of dollars.

20

Well when at the Main St. Cabaret, did you have problem about getting in, you wd have had sufficient to get a taxi, if you had wanted to leave ?Not really.

You dont think the \$2 wd have got you long way home? It wdnt have have got me far.

So you didnt try to leave at that stage? No.

25

You were the one who was refused entry? Yes.

Wd you agree it was O'Connor that went and spoke to this bouncer on the stairs? I think the 3 of us did.

3 of you did? One time or another.

What about the stairs inside? Yeah.

The 3 of you went up the stairs to speak to him ? Talking at once sort of.

30

Were the 3 of you there together? 5 of us there.

Im talking about the time when talking the bouncer? Mac at the back of me at the ticket office or wherever it is, Gary up front of me to my left, the bouncer was on the stairs.

You ever say to the bouncer, you better let me in for yr own good?
I dont think so.

1 Cant you recall? I dont think I sd it.

Recall having a discussion with O'Connor outside afterwards? No
I didnt have a discussion with him at all.

Was there general disc. about all of you outside when you moved off?
McD. was the only one who discussed it. No one else wd say anything.
Just McDonald? Thats right.

5 Did McD. want it settled there and then with fists? He was telling
me to deal to him.

Thats when he called you a weak mug? Thats right.

When he sd to you, go and deal with him, did you gather he meant
fist like ? I dont know what he meant.

10 Didnt know what he meant despite the fact you had known him for 12
years? Ive seen diff. ways he means of dealing with people so I didnt
know which way he meant or was talking about.

But you had been inside the cabaret at that stage? Not inside, just
in the foyer, yeah.

Wd you agree that at stage, inside the foyer, the suggestion was
a fist fight? No sugg. of a fist fight, of fists at all.

So you didnt know or have the faintest idea of what he meant by,
deal to him? No, except to hurt him maybe.

15 Went back to the car? Yes.

And then drove off? Yes.

You got out of the car at Glen Innes? No, we went to Mt Wellington.

You act. got out of the car at Mt. Well? Yes.

That to allow O'Connor to get out? Yes.

You immediately get back into the car? Yes.

20 So you were sitting in the middle? Yes.

You didnt attempt to leave the scene at Mt. Wellington? No.

As I u'stand yr evid. is that McD. used words to the effect to go
and get it? He sd, you know where it is.

You didnt know what it was that he was talking about at that stage?
No.

25 When he came back, at that time, you see the bundle he hd? Hem had
a quilt, it was a quilt.

See what was under it? I cd see it was long.

Did you have the faintest idea what it was? I guessed it I suppose.
So that when O'Connor got back into the car you guessed it was a gun?
Yeah.

Yr evid. is that the gun under the quilt was put into the backseat?
On the floor.

30 On the floor? Yes.

Were the Bloors lying down on the back seat or sitting up? Sitting
up I think.

Were they asleep? As far as I knew they were, looked like they were
alseep.

Sothe gun wd have to have been by their feet? Yes.

Youve told us that you had driven back thro the alleway at the bac
 1 of K'Rd? I dont know where it was, somewhere there.

And you got out of the car to relieve yrself? Yes.

And McDonald disappeared for some time? Yes.

About how long? 5 ~~mm~~ mins. or something like that.

You knew that there was a gun in the backseat? Thats right, I didnt
 know it was a gun, I guessed it was a gun.

5 Apart from relieving yrself, did you try to leave the scene? No.

You got back into the car? Thats right.

You on the outside or inside of the car, nearest the pass. seat?
 I was in the middle bec. Gary got out and had a piss to I think.

You then drove down to Myers Park? Yes.

Where was the gun at that stage? Still in the back as far as I kne
 It wasnt by any chance across yr laps in the front? Dont think so
 10 no.

Think about it then? No.

You say no? No.

There wd be 3 of you sitting in the front? Yes.

You were sitting in the middle? Yes.

You wd agree that if a 22 rifle was put across yr lap in the
 middle middle youd know about it? Yeah.

15 And you say it wasnt there? I dont recall, I cant recall a 22 rifl
 sitting on my lap.

Well, are you saying thatbecause it wasnt there or yr memory is
 not good enough to remember whether it was there? Id say it was in
 the back.

You wd agree you had had a fair bit to drink that night? Not that
 20 much.

Fairly sober were you? Yes.

When you got to Myers Park, who go tthe rifel out? Mc Donald.

Where did he get it out from? From the back.

He didnt get it off yr lap? No.

If Mr O'Connor gave evid. thatthe gun was on yr lap at that stage
 in Myers Park, what wd you say to that? What cd I say, as far as
 25 I know it was in the back on the floor, bec. he reached over and
 got it.

You told us you were fairly sober? Yes.

Did you see Mc Donald get the gun out of the back seat? Yeah.

I saw him lean over the back and next thing he had the gun so he
 must have got it from there.

30 He didnt get it off yr lap? I dont recall now.

Well I want you to think very carefully about it, you told us you
 were sober ?Thats right.

Youve told us that you wd recall if there was a gun a 22 rifle
 lying on yr lap while yousat in the front seat of the car? Yes I
 wd.

1 Yr evidence is that McDonald reached over the back and took this bundle from the back seat? Yeah.

Did he open the back door to do this or did he reach over? I think he reached over, Im not sure. I know he went over the back, he reached over and got the gun, because the gun was there.

If O'Connor says the gun was in yr laps at that stage when you stopped in Myers Park, according to yr evid. that is incorrect? Before we got out of the car, he got the gun from the back, so it cd be right that the gun was there on the lap before we got out of the car, but not when we first got to Myers Park. When we got to Myers Park it wasnt on my lap.

5 Yr evid. is that it might have got on to yr lap after this? Yes. You remember it being on yr lap after this? No, cant say I do.

When you got out of the car, did O'Connor get out first? McD. got out first I think because he sd, lets go.

10 Where was he going then - where was the gun then? In McD's hands. Who got out of the car next? Gary and me. Who was on the outside? Gary I think, I guess. When McD. got out of the car, did you see the rifle? Yes. You then walked away from the car? Yeah, McD. sd, lets go. So you tagged along? McD. pted up the rise, I stayed behind him. You stayed behind McD? No, McD. was behind me to my right.

15 You knew there was a gun there? Yeah. You had been in McD's company for some hrs at this stage? Yeah. From until about 3 o'clock in the morning? Ys. Been drinking together? Yes. There hadnt been any fights or arguments since the Parnell Tavern? Bet. you and McDonald? No.

20 And if I understand yr evid. correctly, - when McDonald got out of the car did he use any words? He sd, lets go. Say anything else? No I dont think so. You dont think so? No. What about while you were driving down towards Myers Park, did he use any words? No I dont think so, he never sd anything.

25 Recall giving evid. at the Deps. at the Auckland District Court? Yes. Yr evid. there was that he was using words like fucking cunt, asshole and things like that? Yeah, he was saying that all night, when we went to Harris Rd. and still saying that when we left there there was no conversaton. I dont know who he was directing those comments to.

Wasnt towards you tho? I dont know.

30 You dont know? No, it cd have been me. You still frightened of him at Harris Rd? Of course I was. You still quite prepared to go home and get changed? Just to please him.

And you walked up with him thro the park? Yes.

To the tennis courts? Yes.

It was raining at this time? Yes.

1 And he then left your company and went somewhere on his own? Yes.

You stood there and wait for him? I wasnt waiting, trying to figure out what he was doing.

You didnt try to leave the scene then? No, I didnt know where he was with the gun.

He was missing for some minutes? Yeah.

5 Youve told us that you started running away? when you heard this sound? Yes.

You were able to see yr way across the tennis courts? I just put my head down and ran.

Eventually arrive d back to the car in the company of McD? Yes.

Do I take it at this stage you gathered that the bang you heard was the rifle going off? Yes.

10 And that it was McD's rifle? Yes.

Youve told us that McD. threw the rifle to you, back in the car? Ye

And you then took that rifle and put it over to the back seat? Yes.

You went back to the Panmure area? Yes.

Did you go straight to the bridge? Yes.

Did McD. get undressed at the bridge? Top half.

15 Just the top half? Yeah.

What was he wearing that night? His, he was fairly well dressed,

he had a good shirt on, cant remember the colour, brown white ankle boots, good trou, not jeans or anything like that, jacket.

What did you throw in the river? His shirt and t-shirt and I think the jacket went too, not sure, he put it in a bundle.

20 (OBJECTION AS TO RELEVANCE)

(OBJECTION ALLOWED)

Youve told us that you were interviewed by the police a few days after the commission of the offence, where was that? At Central P/Station.

25 Were you picked up by the police and taken there? Yes.

Where from? Howard Hunter Avenue.

In those few days between the Main St. incident and being picked up by the police, were you in the company of O'Connor? Yes and McD.

And McDonald? Yes.

Were you and O'Connor due to come before the court that particular week? No, Id already been to court.

30 Youd been to court? Yes.

Had you been dealt with by the court? Yeah.

When did you leave Aucland? End of that same week.

Do you say on this first occasion you were interviewed you told this yarn? Yes.

1 How long were you with the police on that occasion? When I was locked up, you mean, how long was the interview?
How long were you in the com. of the police on the first occasion?
Couple of hrs, not sure.
Can you remember the exact date you left Auckland to go to Rotorua?
No.

5 Was it only a few days of being interviewed by the police? I went to court the next morning after being picked up, 3 to 4 days after that I suppose, not sure.
Did you see O'Connor during those 3 or 4 days? I saw both of them, yes.
When you went to Rotorua, did you remain in Rotorua and not come back to Auckland for the next few mths? Thats right, I stayed there.
10 You didnt return to Auckland? No.

Was the next thing you knew of the incident was when you were interviewed by the police? Yes.
Were you interviewed by the police at the Panmure Hotel at any time?
Yes, I wasnt i'viewed, they come in and they just pulled me out and sd, I cant remember what was sd, sd they wanted to speak to me anyway, they spoke to me and then they let me go again.

15 When was that? Day or two after I got out from court.
As far as I can remember.
It wasnt in August? I dont think so.
You dont think so? No.
You were in'viewed in Rotorua? Thats right.
Remember when that was? October I think.

20 Were you taken into the P/station and in'viewed by an officer? A few detectives.
How long were you in their company? All that day and that night and then they brought me back to Auckland.
Did you not tell them at first about yr part in this incident? No.
How long were you with them before you decided to tell them? A few hrs bec. I had to wait for Rowe to get down from Auckland.

25 Were they asking you questions during that time? Yeah and I was saying I had nothing to say until I had a solr.
When Rowe got there you decided you wd tell them the story? Yes.
Were you offered any inducement at that particular time? No.
He just explained the legal - where I actually stood - if I was involved in anything, the legal side of things, criminal side of it.

30 Was it ever suggested to you by Mr Rowe that O'Connor had given a statement? No.
Was O'Connor's name mentioned during the discussion? No.
Did Rowe outline to you what he considered he knew of the incident? He mentioned some parts of it, telling me the legal things about it.
Did he say he knew you were there? Yeah I think he did one part.

35 Did he say how he knew you were there. No.

COURT ADJ. AT 11.30

COURT RES. AT 11.45

1 You told us you were in'viewed by Rowe in Rotorua? Yes.
 How long did that in'view last? Couple of hrs or so.
 Was it in a question and answer form? Well he explained the legal
 things about criminal side of it.
 Can you remember the words he used? Not to do with - he was giving
 me examples of like a burglary or car conversion, and if I was
 5 there, what I was guilty of and what I wasnt guilty of sort of thing.
 Well, did he say to you, if yr present there at the scene of the
 crime, ~~that you~~ but you didnt do anything then we are in a position
 to grant immunity from prosecution? No.
 Im trying to find out what he did say, think carefully about it?
 Yeah, Im trying to explain it. I asked him if, Rowe, if I was in
 10 a car that had been in a burglary but I didnt know it had been in
 a burglary and the police picked up up, the car we were in. I still
 didnt know then it was stolen or before we were stopped, was I
 innocent or guilty of car conversion or hopping into a stolen car
 and he explained to me not in one sense, he sd if you didnt know
 a crime had taken place for a start, and therefore I cdnt be guilty
 of anything, bec. in my mind I didnt know the car was stolne.
 15 Had he at this stage explained to you what he knew of the Bell
 murder? No, he just asked me to tell him of the incident, he sd
 all he wanted was the truth.
 Did he say to you at that stage, we know that you were at the
 Pakuranga Hotel and the Parnell Tavern and later at Main St? No.
 Did he say that to you at a later stage? Yes I think he cd have.
 Was that before you gave him a verbal statement? No, it was after
 20 he explained the legal part of it, the car conversion thing, and
 I then gave him verbal statement.
 In other words, you told him what yr movementsz were? Yes.
 Well then, why wd he then say to you, we know were you at the
 P'ranga Hotel, the Parnel Tavern and the Main St. Cabaret? Bec.
 apparently he already knew that, I guess.
 25 Did he state to you before making verbal statement that he knew
 where you wer that night and what you were doing? I dont think so.
 You dont think so? No.
 In other words, you made this statement to him without him saying
 anything to you about the Bell murder? Thats right.
 He must have mentioned to you when he spoke to you that he wanted
 to talk to you about the Bell murder? Yes.
 30 You had been trying before this to get hold a solr/ I was on my way
 to geta solr. bec. I wanted to ask him where I stood concerning the
 law.

You wanted to know whether you wd be charged? Yes, in a legal sense.
You wanted to talk to yr solr? Yes.

I wanted him to come with me to the P=Station.

1

Had you made up yr mind before you went with them that you wanted to spill the beans? No, just to tell the true story.

And this was before Rowe int'viewed you? Yes, this was on the Sunday Igot interviewed on the Monday.

5

You didnt say anything to the officers who interviewed you in the first instance? No, I asked, sorry - I also asked Gruger the same thing, car conversion, and where I stood, but then I says I wanted to make a statement.

Well, was the situation that when you spoke to Rowe and askedhim about this car conversion business, that he said to you, if you didnt pull the trigger and told the truth, you wdnt be charged? Yes. It was then that you decidedto tell yr side of the story? No, that is when I was going to make a written statement.

10

Well, had you already made the verbal statement at that stage? He says to me, because we were sort of not arguing but trying to talk it out, I wanted to be sure in my mind that I cdnt get charged, by saying what Iwas going to say and he says if you tell the truth and if you didnt pull the trigger, you cant be charged, if you didnt know in yr own mind.

15

Was it at that time that you then gave him the verbal statement? Yes So that you gave the verbal statement solely on the basis that you wd not be chargedwith this murder? Yes thats right and bec. I wanted to get it out.

Were you given anything in writing at that stage before you mad ehte verbal statement? No, nothing in writing.

20

So that it was just the officers promise? Yes. After he explained it I believed him, explained the legal things.

Did you get it later in writing? No, well it was typed into the written statement, on the top of my written statement to the police.

When you were down in Rotorua, did you telephone O'Connor? No I didnt even know where he was.

Did you telephone anyone? No.

25

Did you phone any people that knew O'Connor and McD? Yes.

This was before you were int'viewed by the police? Thats right.

Who? This girl I was going with at the time, her parents, forget her name, works in massage parlour, forget her name.

What about after yr interview by the police and made this statement, did you phone anhone? Yes.

Who else? The same girl, Skelly is her name.

30

Anyone else? Barry Hart's office. I didnt speak to him, I spoke to a girl, dont know who she was.

Anyone else? No I dont think so.

NO REX

1 COURT

You ever seen this document now shown to you (immunity letter)? No.
Never seen it before? No.

Have you read it now? Yes.

Having read that do you believe now that there is any possibility of
you ever being charged of the offence of the killing of Bell? No.

5 You dont believe there is such a possibility of you ever being
charged with any offence connected with Margaret Bell? No.

You dont? No.

MR MORRIS CALLS

CEDRIC PAUL GRUGER (Sworn)

10 Currently employed as an assurance, insurance assessor. On 1.10.79
I was member of the CIB employed on the enquiry into the Margaret
Bell Homicide. On that date, I travelled to Rotorua where I located
and spoke to the witness Speck. I told Mr Speck that we had reason
to believe that he knew more about the Main St. ~~xxx~~ incident than
he had already told us. During a discussion with him, I told him
that we were aware he had been to Main St. Cabaret, that he had
15 met the accused McDonald at the White Horse Inn Pakuranga, that he
had been at the Alexander Tavern in Parnell, that he had travelled
to an address in St. Lukes where he and a group he was with had
been drinking, but I didnt elaborate any further on names or
particular addresses. I told the witness Mr Speck that we were
interested in ascertaining the name of the person who had pulled
the trigger at the time Margaret Bell was shot and that we were
20 also interested in locating firearms. During my discussions with the
witness, he appeared worried and concerned about his legal position.
As a result of my discussions with him, I obtained a piece of paper
from another person in the Rotorua P/Station on which were written
two names. My enquiries indicated that these names were of two local
Rotorua solicitors.

25 Did you discuss with him his legal position at all? I had a lengthy
discussion with the witness, during which I explained in some detail
using hypothetical cases the legal aspects of parties to an
offence and accessories.

30 Did you offer him any kind of guarantee at all if he wd discuss
the matter with you? There were a number of discussions that took
place during this interview and I made it quite clear to the witness
that I was in no position to guarantee that if he made a statement
he wd not be proecuted prosecuted. I told him that if he fitted int
the category as explained to him regarding parties and accessories,
and that if he was in fact telling the truth, I cd not see how he
cd be charged.

Eventually did Rowe come to the Rptorua P/Station? He flew to Rotorua as a result of my phone call and he further discussed the matter with the witness Speck for about half an hr.

1

During that period, his legal position was again explained and at 1.50 p.m. I commenced a statement from that witness. At no stage during any part of my discussion with Mr Speck was he shown any other persons statement with one exception which I will elaborate on later, nor was he told what any other person had sd to us. The exception I referred to was a paragraph in the statement of the witness O'Connor whcih was incorporated as paragraph 3 of Mr Specks statement and which in brief indicated that if Speck was in fact telling us the truth and that he had not in fact pulled the trigger he wd not be prosecuted.

5

XXD MR CONWAY

10

Will you, when you first interviewed Mr Speck, you told him about facts that had been established, wd that be so? I told him that we knew where he had been that night.

Did you also tell him in whose company he had been in? I mentioned the name of the accused at the White Horse Inn, I didnt elaborate on the names or addresses.

15

Are you saying you didnt mention any other names? I cant say for - I cant say with absolute certainty, I may have refered to a name or to two persons by the names of Bloor, I cant be certain.

But you were able to establish to him thatyou knew where he had bee on the night in question and what his movements were? Yes.

And did you put it to him at this stage that the police were taking the view that he was involved in the shooting incident? It was obvious that he was involved to some extent.

20

Well thats what Im asking you, did you put that to him? I dont quit follow the question.

Did you say to him look weve told you what yr movements were that night and we believe that you were involved in the shooting? Yes I wd have done.

25

What was his reaction to this? He was extremely nervous, concerned, but throughout the initial stages of the interview, he wdnt say anything until he had clarified his own legal position.

I will say that he made it quite apparent that he did not pull the trigger and that after my explanation of the parties and accessorie circumstances, he indicated that he wasnt involved to the extent of being a party, that he still wished to take some legaladvice if possible.

30

Did he indicate that he was there to you after you told him what his movements were? His words were, that he cd help us but he didnt wish to make statement at that stage.

You didnt tell him the source of yr information? Which information.
About his movements that night? No.

1

When was the first time that you showed him this piece in O'Connors
statement? At the pt. where he had finished speaking to Mf Rowe,
he was told that this type of statement wd be incorporated in his
statement so it was just prior to the commencement of his statement.
And was this the bit about the immunity, the part shown to you? The
part that was shown to him related to a suggestion that he wd not be
presecuted if he handt pulled the trigger and if he in fact told the
truth.

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NO REX

EVIDENCE FOR THE PROSECUTION ON THE VOIR DIRE

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COURT RESUMED AT 10.00 on 23.4.80

MR GRIEVE CALLS

RONALD FRANK BAKER (Sworn)

I am the Senior Surveyor with the Lands and Survey Department at Auckland.

On the 1st July last year, at the request of the police, did you go to the area of Queen St. in Auckland in the vicinity of the Main St. Cabaret? Yes.

In the foyer of the cabaret, did you take a number of measurements and also did you note the position of various items pointed out to you by the police? Yes.

And subsequently from those measurements and observations which you made did you prepare a plan which includes details of the inside of the foyer and also a locality plan of the Queen St. area outside the foyer? Yes.

Look at the plan now shown to you (Exb.1A), is that a copy of the plan you prepared? Yes it is.

Do you produce that as Exb.1A? Yes. (Exb.1A)

Subsequently on the 8th October last year, did you again go to the same area in Queen St. but in particular did you direct your attention to the area of the Latter Day Saints Church on the right hand side of Queen St. as you go up the street? Yes.

And did you on that day take number of measurements and again subsequently prepare a second plan showing the relationship of that Church with the Main St. Cabaret? Yes. I produce that second plan as Exb.1B (Exb.1B)

Could you scale off for us and give us the distance from the south eastern corner of the Church by the small tree and ⁱⁿ straightline across to the doors of the cabaret, inside a little way, where the lettering begins? (witness scales of distance). 47 metres. Almost 50 yards.

NO XXD

MR GRIEVE CALLS

ALEXANDER GREGORY McMANUS (Sworn)

I am P/Constable stationed at Auckland. I am employed as a photographer in photographic section of Auckland Central P/Station. On 1st July last year, I was summoned to the police team investigate the death of M. Bell. Between the 1st July and the 21st November last year, I took a number of photographs in relation to this enquiry. From the negatives of some of these photos. I have prepared photographic prints which I now produce to the court in booklet form. There is an index on inside of front cover and each of the prints is numbered.

1 Wd you go thro describing each photo? No.1 is view of the Main St. Cabaret in Queen St. taken from the opposite of Queen St. No.2 is a view of the entrance to the cabaret. No.3 is a view of the foyer and entrance to the cabaret taken from the inside of the foyer.

Presumably that photograph was taken on the morning of the killing shortly after the police had done preliminary invest. of the foyer evidenced by the markers? Yes that is right.

5 No.4 is a view of the deceased just inside the foyer. Nos. 5, 6 7, 8 and 9 are all of pieces of bone and tissue found in the foyer of the nightclub. No.10 is of a piece of hair and tissue on the ceiling just inside the foyer entrance. Im referring to the dark marks on the ceiling area of that white background, the actual hair piece is in the lefthand corner. No.11 is closer view of the hair and tissue in that corner of No.10. No.12 is further
10 view of tissue on the ceiling of the foyer. No.13

Pause there, I take it these photos. of the hair and tissue on the ceiling, if you look at No.3, are they on the ceiling beyond that pillar which can be seen on the lefthand wall? The piece of tissue off the top of the pillar on the right.

15 So that piece of wooden timber seen in corner of No.11 is part of that wall on the right hand side? Yes. No.13 is view of the notice board on the north side of the entrance in the foyer, again, on the panelling. No.14 is photo. of Mr Camden. He was a patron who was in the vicinity of Bell when she was shot, as I u'stand it. My purpose for taking the photo. bec. he had pieces of foreign matter on his forehead and head. No.15 is view of the righthand side of the entrance to the cabaret, I draw yr attention to marker
20 No. 7 at bottom of the doorway, No.16 is closer view of marker No.7, small piece of metal was found there.

Just pt. out to the jury that piece of metal? (witness does so). No.17 is view of the north side of the entrance foyer, the book on the floor is to indicate the part of the floor, No.18 is another small piece of metal that was found just at the pt. of the book in No.17.

25 So the pt. in the book nearest the wall - nearest the photographer within the circle is ptng to that piece of metal? Yes. No.19 is a view looking across Queen St. from entrance door to the nightclub. No.20 is a view of the Church almost directly opposite the nightclub, this was taken from the roof of the nightclub. No.21 is a view taken from the front of the Church in photo. 20 looking
30 across towards the entrance to the nightclub.

We have a plan of that area, Exb. 1B, just look at that please, you will see the plan showing the Latter Day Saints Church with the south eastern corner near which is marked "small tree", where were you when you took No.21 of Exb.2? The area on the left area of the photo. is act. that small tree.

The ~~shadows~~ shadowed area that is. No.22 is taken from the same position but taken during the late evening when it was dark. No.23 is taken from the same position to bring the entrance closer. What magnification did you use? 150 millimetre lens. Nos. 24 and 25 are views of telephone kiosk on east, sorry, west side of Queen St. slightly north of the nithclub, on the opposite side of the road going down and further down towards the park, just opposite what used to be the YWCA blg.No 26 is fire escape on north side of the blg. on end of Pointon St. 27 is view of room of No.21 Harris Rd. Mt. Wellington. No.28 is view of the Panmure Bridge. No.29 is a view taken from the bridge looking into the water. That ~~by~~ you seen in No.29 is the same one that can be seen towards the wooden piles in 28? Yes that is right. No.30 is view of a rifle with telescopic sight.

Is that the rifle prod. as Exb.17? Yes.

Did you on the 11th October 1979 take some areial photographs of the area in the vicinity of the Main St. Cabaret? I did. And from those aereial photographs that you took did you prepare booklet containing 4 of them? I did. I prod. that booklet as Exb.3. (Exb.3)

Have you also prepared enlargements of each of those, sorry, of 3 of the 4 photographs? I did.

Look at the enlargements shown to you, Nos.4, 5 and 6, Exb.no.4, the enlargement is enlargement of which photo. in Exb.3? No.3. No.5? Enlargement of No.2.

And No.5? Enlargement of No.4.

You havent got enlargment of No.1? No.

The very large photo. which you prod. as Exb.7 is enlargment of No.1 of Exb.3? Yes (Exb.7)

NO XND

COURT

Exb.No.21, sorry photo. 21 in the small book, you may have told us but it escaped me, tell us the date when that was taken? 1st July sorry the 5th October.

MR GRIEVE CALLS

MARGARET ELIZABETH BELL (Sworn)

I live at 25 Waimarie Rd, Whenuapai Village, I live there with my husband, I am employed as a nursing tutor at Carrington Hospital, Margaret was my daughter.

When was she born? 1st March 1962.

And did she live with you and yr hus. and rest of the family until about May of last year? Yes.

And had she attended the Massey High School? Yes.

She fin. there in 1978? Yes.

1 She passed her U.E. exam and obtained a bursary? Yes thats right.
And during 1979 did she go to the Tech. Institute at Carrington
to do secretarial course? Yes.

And was it in the May Holidays of that year that she left home
at Whenuapai so she cd gl flatting in Mt Eden? Yes she went
with some friends of hers.

Its more convenient for her to get to the college? Yes, bus service
very bad at Whenuapai.

5 How did yr daughter get on with her friends and other girls and
boys of her own age? She seemed to be very popular girl, she was
very happy sort of girl and very friendly, she had a lot of friends.
Did you know of any person from what she might have told you who
wd have any sort of grudge against her? No.

Did she have any regular boyfriend? No, no regular ones, she used
to go out mainly with a crowd of her school friends.

10 After she left school, what job did she have in addition to going
to her secretarial course? She worked at a plant nursery at the
w'ends where she did weaving and things with flowers, after that
she got job in chicken farm at Whenuapai, and she used to collect
eggs and things like that.

When did she go to work at the Main St. Cabaret? It was about, I
think, round abotu 3 weeks before she was killed.

15 And did she work there so that she cd have some income and ~~get~~
yet be free to work at her studies during the day? Yes bec. she sd
if she worked all day she was too tired to study at night so she
tought she wd get a job, she didnt need the money, make some moey
money of her own.

20 Before she went to work at the cabaret, did you discuss it with her?
I sd we didnt like her working there, she sd she wd look for a job
doing dishes, they put her on tables, she sd she wdnt be silly
and wdnt leave until a taxi had arrived.

NO XXD

MR GRIEVE CALLS

25 AROMA BLANCHE HUNDSON (Sworn)

I live at 15 Greenock Rd, Ranui, student at Teachers Training
College at Epsom -

THIS WITNESS IS OVERSEAS AND BY CONSENT HER DEPOSITIONS WERE
READ TO THE COURT.

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MR GRIEVE CALLSNEIL MAURICE CERVIN (Sworn)

- 1 I live at 40 Manukau Rd, Epsom, general hand by occupation.
In July 1979, were you living in a flat at 189 Landscape Rd. Mt. Eden? Yes.
- And were you flatting there with two girls, Margaret Bell and Aroha Hudson? Yes.
- And at that stage had you known Marg. for about 2 or 3 years having
5 been to the same school as her? Yes.
- And after some discussion between the 3 of you did you move into the flat round about June 1979? Yes, think that's right.
- Did you after you had been there for a while realise that M. was ~~attending~~ attending course at C'ton Tech. Institute? Yes.
- Did she appear to you to spend quite a bit of time studying for that course? Yes she did.
- 10 Were you aware that for a time before she was shot she worked at the Main St. Cabaret? Yes.
- When she worked there, what was her pattern of life as far as doing that and her studies? She worked mostly in w'ends and light night leaving at 6 until about 3 in morning, sleep most of the morning and wd study in the afternoon.
- 15 How did she get to work at the cabaret? Caught a bus there.
- As far as getting back home? She wd catch a taxi after work.
- Did she have any particular friends who called to see her while you stayed with her at the flat? Yes she did.
- Any particular boyfriends? An ex-boyfriend.
- Were you at the flat on the evening of Sat. 30th June 1979 when she left to go off to work at the nightclub? Yes, that was at
20 about 6 o'clock.
- From what you saw of her, was there anything to indicate to you she had any enemies? No.

NO XXXMR GRIEVE CALLS

25

LOUISE JANE LIPANOVICH (Sworn)

- I live at East Coast Rd, Silverdale, married woman, I am the licence holder for the Main St. Cabaret. I now live at Albany.
- In 1979, did you hold that licence in June/July 1979? Yes.
- And at that time, did your responsibilities include the hiring of staff for the cabaret? Yes.
- 30 In June 1979, did you employ Margaret Bell as a part time waitress? Yes I did.
- When was that, can you remember? Be about 8th June.

35

~~Stuxer~~

1 Did that involve usual waitressing duties of serving at tables and serving liquor to patrons? Yes.

Were her hours from bet. either 8 or 9 in evening until 2 or 3 a.m. the foll. morning? Yes.

On the Saturday, what time do the prem. cusomarily close? Bars close at 3 and clients usually to be out by 3.30.

5 From what you saw, did M. Bell normally take taxi home from work? As far as I know she always did so, usually with her flatmate. How did you find her to get on with? Very pleasant young lady and very nice.

Did you see anything to cause you to conclude she had trouble with customers there while working there? Not as far as I know, if they did have trouble they wd come to me and I wd sort it out.

10 She never came to you with that sort of problem? She never had any problems of anyone hassling her.

NO XID

COURT ADJ. AT 1.00

COURT RES. AT 2.15

MR GRIEVES CALLS

15 ALLAN PHILLIP MYERS (Sworn)

I live at 16 Glen Rd, Whangaparaoa, student teacher at the Teachers College at Epsom last year. I had part time job as doorman I am P/Constable with the Police at Auckland, I am at the college in Trentham. I had part time job as doorman at the Main St. cabaret I began working there in approx. June of last year. My duties at the cabaret was to screen patrons, their standard of dress and general behaviour before they ent. the cabaret.

20 How many people were engaged as doormen in that capacity? Usually only 2, myself and one other.

Were you working at the cabaret on the night of Sat. 30th June which was the night of the Bell shooting? Yes, I started work at approx. 8 o'clock that night.

25 And who was the second doorman that night? Nick Unkovich.

During the evening, did you have occasion to turn away any people bec. of problems of dress? Yes, normal we wd turn something like 20 to 30 during course of evening mainly thro standard of dress.

30 During the course of that night, was there any particular incident that arose involving this sort of procedure, of turning someone away bec. of their dress? Yes at 1.45 approx. on foll. morning, the Sunday morning, a group of 5 males ent. the cabaret, I was standing just above the entrance, just above the first two steps to the righthand side, and the door lowest, at lower end of Queen St. was open, they ~~me~~ walked into the foyer of the cabaret, then I approached the group and I sd that one of them was wearing fairly ragged scruffy faded jeans, none of the grups dress was particularly good, but his was unacceptable to club.

35

I sd I was sorry that I cdnt allow their friend to get in bec. of clothes he was wearing, the person I was referring to sd to me
 1 whats wrong with my clothes or words to that effect, and I sd, that we expected a high standard of dress in the cabaret and if he wished to enter he wd have to go and get better dressed up.

Pause there, subsequently, because of the shooting and the police investigation, did you at the request of the police go to the P/station on the afternoon of Wed. 4th July? Thats right.

5 And were you there taken by a detective into some rooms at the P/Station? Yes thats right.

While you were there, did you see any of the people, recog. any of the people who had been involved in this incident? Yes, I did, 2 of them, 2 of the people I saw I recog. straight away, no doubt they were the ones involved.

10 Were you told, having recog. them, the names of the people you recog? Not then, some later date I was shown a series of photos. 5 of them, I again ID those 2 people, and I was told that one of the names was Bruce Speck and the other was Gary O'Connor. Person who I declined entry to initially bec. of his dress was Bruce Speck, I ID him as Bruce Speck.

15 Just at this stage, having learnt their names in that way, lets go back to the events of the Sat. night and tell us what happ. when you sd that the man whose dress you objected to was Speck? Thats right. There was a sort of exchange, the group in general which started to come in and say, whats wrong with his clothes, or words like that, it was Speck and 2 others physically involved with the conversation. Youve sd that there were 5 males in this group, right? Yes.

And you subs. recog. 2 of them? Yes.

20 Cd you just give brief descriptions of the 5? Well, Bruce Speck wd be, he had a mow, moustache, slightly below average height, he had tattoos round his arms and on his chest, I think, not sure about that. What was his race? He was European, he looked as if he may have had some Maori in him. O'Connor was below average height, he also had a moustache, curly hair, wavy, he was wearing a light brown leather jacket, European.

25 The 3 others? I didnt, two of the others I have no idea other than that they were males and the other person wd be of similar characteristics as the person sitting over there (indicates accused) wearing the green overcoat, he wd be of similar description but cd not positively identify him.

30 Youve sd that of the group, there were 3 who were actively involved in the dispute you had about one of their numbers clothing, which of the 3? Speck himself initially and then O'Connor and one other person who I have attempted to describe.

Which one of the others? The one sim. in appearance to him (indicates accused)

Weve got to the pt. where you told us or sugg. Speck wd go home and change his clokhing, what happ. then? One of the members of the 3
 1 either than Speck, either O'Connor or the other man, sd you better let him in for yr own good, that comment was made 2 or 3 times, and I sd, words to the effect of, Im sorry but Im just doing my job, and if I allow people in dressed as he was Id loose it. So one of them either O'Connor or the other peerson sd, ye are going in anyway. And they proceeded to walk straight past the chashiers desk and towards the main steps, towards the back of the foyer. I was a bit quicker,
 5 and I headed them off, I went past them, I went up the two steps proceeding to the toilet, and turned round and faced the group. Pause there, wd you look at photo. No.2 of Exb.2 and firstly as you look into the foyer, as shown in thatphoto. on which side of the foyer is he cashiers area? This bit here (indicates sign giving cover charge) From my recollection of the Peter Pan days one turns right to go u'stair
 10 Yes, right to the bck, and turn right, 2 steps just toward the toilet. Bit of landing there and toilets go off there. I was about to describe something that goes on beyond this photograph. I was standing, you cant see it in the photo. I stood just above the two steps. I turned round to face the group, face out towards the foyer, and one of the members ofthe group, subsequently ID as O'Connor moved towards me. The rest of the group stayed back, which wd be just in an area above the flower pot
 15 shown in the photo there, and approx. at that time, another member or a barman who I know as Mark, came past me, I sd quick go and get Shane, who is the Manager of the cabaret, at the time, and then O'Conno asked if I minded coming down the steps, come down the stps, gradually he came closer, he sort of started eyeing me up and down," cdnt make any gestures with his hands or anything but I felt threatened, as well
 20 as him coming closer and there were comments being made in the background, then I clenched my fists and prepared myself in position like this (indicates clenched fists by sides) and then the cashier realised something was amiss, picked up the phone, her name is Judy, pretended the phone the police and the group turned straight round and went straight out of the cabaret and congregated at entrance outside the doors, and Iwent down, snapped the door closed and they were sort
 25 ofdiscussng something outside, dont know what, I didnt hear, they moved I presume down Queen Street, dont know where they went. You sd that while up on this landing area, there were mark remarks being made from the others apart from O'Connor, what sort of remarks? The only remark I can remember was someone was saying, it was either Speck or the other person I tried to ID, hit him, hit him.

30

XXD MR HART

The man that youve ID as O'Connor, was he shuffling very slowly towards you eyeing you up and down as it were? Yeah.

And was it the pt. when you thought he was getting dangerously close that you shaped up yrself? It was a distance I felt uncomf. at, dont kn ifhe cd have hit me without moving closer but it wasnt just that, but

35

also the comments, I felt threatened as a whole, not just by him. But it was O'C. who was at the front moving or shuffling slowly towards you, appearing to be eyeing you up and down that you were principally looking at? Yes thats right, except I sort of had the impression it was sort of uncomfomtable, maybe he didnt want to do it but was sort of doing it anyway.

But you were conc. bec. you thought he was going to assault you insome way? Yes he was front line man to speak, concerned with th gorup as a whole, not just with him.

But you wd agree wdnt you you were really shaping up to the man who was coming imm. towards you at that time? Yes.

And that man wore light brown leather jacket? Yes.

And did that appear to be a pretty good conditioned jacket, in good condition? Yes.

NO REX

X

MR GRIEVE CALLS

BRIAN JOHN METCALFE (Sworn)

I am Detective Sergeant attached to the Auckland Criminal Investigation Branch, I live at 71 Pilkington Road, Panmure/ On Sunday 1st July 1979, I was called to enquiries into the murder of Miss M.Bell, on Wed. 4th July 1979, I went with a party of other detectives to 71 Pilkington Road, Panmure and at that address we executed a search warrant. D/Hearn took possession of some property from thataddress which was occupied at the time by the accused Brian McDonald and his parents. Brian McD. is the youth in centre of court at the rear in light brown jacket (indicates accused) brown pollar neck jumper, at the cmpletion of the search, we reted to the AcukaInd Central P/Station, at the P/Station, I supervised the interviews of 3 persons, one being the accused McDonald, and the other two related to two men, a Bruce Speck and a Gary O'Connor. Both O'Connor and Speck have been reted to the same P/Station after a s/warrant had been executed at 53 Howard Hunter Avenue, Glen INnes. I spoke to the previous witness Allan Myers and I took him thro each one of the three separate interview rooms where the 3 named people were being spoken to, prior to entering the rooms the witness Myers requested to see if he sd ID any of those 3 people, at the comple-tion of that he was able to ID O'Connor and Speck, he was unable to ID the accused Mc Donald.

NO XXXD

NO REX

MR GRIEVE CALLSNICHOLAS DOMINIC UNKOVICH (Sworn)

1 I live at 45 McFadgen Drive, B'house Bay, student by occupation
In June last year, were you working part time at the Main St.
Cabaret as a doorman? Yes I was.

When did you first begin to work there? About 1 or 2 mths before
the Bell incident.

And were you on duty working there the night she was shot? Yes.

What time did you start work that night? 10 o'clock.

5 And were you working that night with another doorman, Mr Myers? Yes.
And did yr duties included turning away people who either for
reasons of dress or behaviour etc.were not desired as customers of
the cabaret? Yes.

During the course of that particular night, Sat. 30th June, did
you have occ. to turn any people away? Yes, I turned away about
10 a doz. people that night.

So that it wasnt an uncommon occurrence to have to do that? No.

Also, as well as keeping an eye on them, were you also required
to keep lookout u'stairs to see that all going as it shd? Yes.

Did you and Mr Myers take it in turns to do that? Yes.

While you were in fact u'stairs in the cabaret itself, did you hear
about an incident which occurred down in the foyer? Yes I did.

15 Which of the 2 of you, Myers or you, went off duty first that
evening? Mr Myers did.

What time was that? Approx. 2.30 a.m.

What happened after that, what time did people begin to leave
the cabaret? Main bunch started leaving bet. 2.45 and 3.15 a.m.

20 At some stage, towards the end of the evening, at the request of
the Manager, did you see some people who were about to leave? Well
I was told to go downstairs by the Manager to escort some people
out of the cabaret bec. it had closed.

What happ. after that? I was standing at the bottom of the foyer
at bottom of s'way talking to these people, and then the shot was
fired.

25 From where you stood, cd you see down to the front of the foyer?
No, I cant.

As best you can, what time did you hear this shot? Approx. 2.30.
What did you do? I walked thro the foyer where all the commotion
was.

Tell us as best you can how many people in the foyer? About a
dozen people.

30 And what else did you see? I saw Margaret lying on the carpet.
Look at Exb.2 please, photos. 2 and 3 and 4, do those photos.
show the position of Miss Bell as you recall it when you saw her?
Yes.

I want to ask you questions about the lighting, is it correct that there are large number of lights in the ceiling of the verandah over the footpath outside the cabaret? Yes

1 Can they be seen in photo. 1 of Exb.2? Yes.

Have a look just to make sure, they the ones? Yes.

Obviously there is lighting inside the foyer as well, right? Yes

Had you taken any steps as regards the lighting in the foyer or outside the foyer prior to shooting? I turned off outside lights over the footpath about 10 mins. before the shot.

5 And I take it you remained in the vicinity of the foyer until the police arrived? Yes.

NO XXD

NO REX

MR MORRIS CALLS

10 JUDITH ANNE WALSH (Sworn)

I live at Grafton, married woman, on the night of the killing I was employed as the cashier at the Main Street Cabaret.

How long had you worked there prior to that? Couple of mths.

At the pres. time, are you still working there? No.

I work in the operating theatre as a nurse, not at the moment.

15 ~~Qualified~~ nurse then? Yes.

Did yr present husband? My only one.

Was he working at the cabaret at the time? Yes, he is musician.

When did you start work that night? About 10 to 8

Go on until what time? Usually about 3.30, depends on the people

20 What were yr particular duties? I took the money off people as they came in, clock clocked the staff in, and anyone with complimentary passes I let them in.

Look at the book of photos now shown to you, look at No. 2, can you indicate on that with reference to the foyer area where abouts you wd be working? Actually a little sign that says \$3.50 and the cashiers box recessed into there.

25 How far up the foyer from the door is that? About a third, its a very long passage.

30 Weve heard that there were some doormen who worked that part. evening, were there such men working there that night? Yes, always at least one doorman, on Sat. nights usually two of them, Myers and Unckovich worked that night. Part of their duties as far as Im conc. to turn away people who werent properly dressed or looked as tho they might cause trouble, or if they appeared to be under age.

During this particular Sat. evening, did you see any person turned away? There were several.

I want to ask you about one particular incident that you can recall happened that night

Tell us what time this happened, the one you remember? About 2 or 2.30 or thereabouts.

1 What happened? 5 men came in and they started to cause a bit of trouble, scurffily dressed, making a lot of noise and generally making nuisance of themselves, Allan, the doorman only one d'stairs at the time time, told them they cdnt come in, they got quite nasty about it, they sort of staked themselves right out on the passageway.

5 When you say staked themselves, what do you mean? They sort of stood further apart and in a line.

Covered the area you ~~mean~~ mean? Yes.

What then happened? I got quite frightened, no one else arond around at the time to call for help, didnt know Allan cd handle it on his own.

10 See Allan doing anything? Standing on the stairs just opposite the office, one of them I think had taken a swing at him or was going to.

What made you think he cdnt handle them? He was outnumbered, a lot more of them.

So what did you do about it? I was pretty frightened by now, I lifted the phone and pretended to ring the police.

I didnt actually ring them, I thought that wd be enough.

15 What did you do, pick up the phone, what did you say? I dialled a phone number, I sd it was Main St. here, cd we have some assistance please.

What kind of tone did you use? I sd it loudly so everyone cd hear.

20 From what you saw of actions of this group of 5, did they get the message? Yes, one of them very angry about it, Ill never forg it as long as I live, it was really terrible, they sd, shes called the police, lets get out of here.

The one that looked at you, youve been asked to ID that person some mths ago? Yes.

Able to ID him again? Yes I cd.

25 Look around the court? In brown pollar neck jumper (indicates acc~~used~~).

Whereabouts in the foyer was he when he looked at you in this way and you able to see him? Practically opposite me.

Did that put him in the middle of the 5? Yes.

30 The other membrs members of his group, the other 4, can you tell us what race they were? They, I think 3 of them were lightly coloured Polynesians, the fourth and fifth were definitely Europeans.

3 darker skinned ones and two Europeans and one you ID as the accused? Yes.

Again, previously had you been asked to ID any of the other 4 people? Yes.

Able to do so? Yes.

They were the other Europeans.

1 Able to ID any of the dark skinned persons? No.

After that incident that you told us of, did you see where they went? They went out down Queen St., they just meandered out, they didnt scarper, they just wondered off down queen St.

I just carried on with my work.

5 What time did you finish that night? 2.30, I had to meet Mike and had cup of tea with him, he hadnt finished work when I fin. And then did you and he and couple of oher others come back d'stairs to foyer? Yes, we were going to get something to eat in the resturant but it was closed.

In any event, you came down into the foyer? Yes, we went into the rest. and walked out into the foyer.

10 Did you go out into Queen St? Yes it was raining very heavily, and bec. I started work before Mike we had two cars with us and I waited outside the pet shop while he went to get his car to drive me to my car.

Where was yr car parked? Scotia Place.

Look at photo. No.19 of Exb.2, is that the signpost for Scotia Place you see there? Yes.

15 Where was yr car act. parked? 5 spaces down diagonally, one side you can park on only, just by the Church there.

Mike, did he go across to get the car? He wasntparked there but somewhere else, he drove up - I had trouble with my leg at that time and he went to get his car, he came back to pick me up outside the cabaret, and he did a u-turn and went into Scotia Place to go to my car.

20 And then once you got into Scotia Place did you get out of his car and go off to get into yr own? Yes.

Did yr hus. start to move out? Ivegot Morris car, not reliable, and he waited until it started. He drove out towards Queen St. and parked in Queen St. I followed him and just as I got to the end of Scotia Place a I heard what I thought was car accident, a bang, I thought Mike had been hit by another car.

25 Did you look up and down Queen St. to see if anyone had had accident? Yes, that was my first reaction to see if anyone had been hit, looked up Queen St. firstly bec. thought that was the way Mike had gone, him being hurt was my first reaction, saw he wasnt involved in it, looked down Queen Street to see if anything had happened.

30 Were there any cars either to yr right or left? No.

Were thereany people about? Standing outside the carbaret, didnt take notice of them really.

Was there anhone in the area that particularly attracted yr attentio? Young boys outside the pet shop, I noticed that they were still there.

That was all, I just drove off after that.

1

NO XXD

NO REX

MR GRIEVE CALLS

MICHAEL FRANCIS WALSH (Sworn)

5

I live at 132 Grafton Road, Grafton, I am a musician, earlier this year I played with a band called "The Strange Brew" which was the resident band at the Main Street Cabaret since about May of last year. The previous witness Judith Walsh is my wife.

Are you still with the same band as you were last year? No.

In 1979 were you with a band ~~saxi~~ which was the resident band at the Main St. Cabaret? Yes.

10

You working there in thatband on the night of Sat. 30th June 1979? Yes I was.

What time did you finish finish work that night? Approx. 2.45.

Because you and yr wife started at the cabaret at different times, you each had a car parked? Yes.

And when it came time for you to leave, because it was raining heavily, did you tell yr wife that you wd go and get yr car first and then take her to her vehicle? Yes.

15

And did you do that? Yes I did.

Where was yr vehicle parked? I cant remember exactly, either in Rembrant carpark or space on Queen St. just further down from the Rembrant.

And having got to yr car, did you drive up Queen St. to collect yr wife from outside the cabaret? Yes I did.

20

And did you then haveing collected her do a u-turn and go down Queen St. short distance and turn into Scotia Place where she had parked her car? Yes.

Once you had dropped her at her vehicle, did you then turn around so you cd go out of Scotia Place? Went further down Scotia Place and did 3 pt. turn.

25

And which of yr two vehicles left Scotia place first? Mine.

When you turnedback into Queen St. which way did you go? Up.

So you then drove up Queen St. with Main St. cabaret on yr left?

Yes thats right.

Whathappened as you made the turn or shortly after that? From Scotia Place?

30

Yes? Just before making the turn, I saw Steve coming out of the road coming opposite City Rd, he was someone with whom I worked also at the cabaret, driving Karen's car, she was a person who worked there also, I saw him coming out of the street almost opposite.

35

Can you pick it out on the blow up at the back of you? (witness indicates Scotia Place and City Road on blow up).

1 As you coming in towards Queen St. you see Steve, what happened then? I let him go up Queen St. first and stopped just outside the cabaret on left hand side. Then I drove up and stopped just up the top end of the bus stop there.

The bus stop, where is that in relation to front entrance of the cabaret, above or below? Above, starts a few yards above.

5 What was your purpose in stopping there? To make sure wife got her car started and that she was coming out of the street. While I was there, I heard a loud noise, sounded like a car accident but there was no sound of glass, just a loud thump. No accident, did you take steps to look? Well I turned around and had a look outside the window and looked back down Queen Street. What happened next, heard this thump and then what happened? Well 10 I turned round to see if there was an accident, but no signs of anything like that, I just waited and shortly after saw the lights of wife's car, the Morris, waiting at the end of Scotia Pl. and coming out into Queen Street and as soon as I saw her turn I proceeded to go up Queen St. through the lights and left into K' Rd, she followed me.

NO XXX

15 NO REX

MR GRIEVE CALLS

RENÉE VERA SMITH (Sworn)

I live at Penonby, at the moment I am unemployed.

In June of last year, did you go regularly to the Main St. Cabaret?

20 Yes I did.

Was that because your boyfriend, Mr Learwood, was chef there? Yes.

Was - did you work there as well? No.

You there on Sat. 30th June last year, in the evening? Yes.

What time did you leave that evening? Just before 3.30 in morning, the Sunday morning.

And did you leave with Mr Learwood? Yes.

25 In fact does he work in the restaurant at the cabaret? Yes.

And to leave the restaurant is it necessary to walk down through the foyer?

Yes.

Did you know Margaret Bell? By sight yes I did.

When you left the cabaret that morning did you see her in the foyer?

Yes I did.

30 Whereabouts was she? She was at that time standing just at the top of the stairs.

And on which side of the stairs? As you leave on the left.

At that time, any other people in foyer that you remember? Yes I know there were other people there.

Recognise any of them as being other people who worked at the cabaret? Yes staff members.

1 Were there customers as well? Yes I think so, yes, cd be
What did you, how did you and Mr Learwood get to the cabaret that night? In my car.

And so what did you do about getting yr car when you left? I waited outside on the pavement while Shane went to get the car.

Why was that? Bec. it was raining really heavily.

5 What happened? I waited for him to arrive with the car, we got in, the car stalled, so we were a bit delayed in getting away, we did a u-turn down Queen St. and drove away.

And did you notice anything at all unusual that attracted yr attention that evening? No, nothing.

NO XCD

10

NO REX

MR MORRIS CALLS

LESLIE ALAN SHANE LEARWOOD (Sworn) (Affirmed)

I live at Freeman s Bay, restaurant proprietor.

When Bell was shot, you had lease of restaurant at Main St. Cabaret

Yes thats right.

15

Were you working at that rest. on the night she was killed? Yes/

When did y the restaurant close? About 3 oclock.

What did you then do after that? Close up the resturant, went u'stairs to see the proprietor of the cabaret to get some wine, came back down, locked up the restaurant and left.

20

When you left, wd you be good enough to look at Exb.2 photo.No.2, did you go out the main entrance onto Queen St? Yes I did

Looking at photo. 2, you see the glass doors at the front? Yes.

Across the entrance? Yes.

Were those doors closed, locked, open or what? Locked.

That is when you came down to go out? Thats right.

And obv. to get out you had to unlcok them? Yes.

25

How are they unlocked? With a key, it turns one way, you lock it again from the outside.

When you went thro the door, did you lock it? Yes.

At that time of the night, that door is it normally kept shut? Yes

Why? Only from 3 onwards, when the cabaret closes.

After 3, the door I take it is shut and locked to discourage late people wanting to get into the cabaret? Yes.

30

And for people like yrself who want to go home or come outfor any reason they had to go thro sameprocess? Not all of them, there are only 3 keys, they ahve to go and get the person in charge to unloc it.

Unlock it open it unlock it again? Yes. //

Talking about the door, look at photo.2, the glass on the door, is that the bit you ref. to as the door you open to allow people

35

1 out and in? There are two doors which can both be opened, I think I am referring firstly to the one we see in the photo. and the one along to the right. You can see the lock in the middle of the door.

You go thro this process and I take it you go out and did you go to yr car? Yes, it was parked right opposite.

I dont know the nameof it.

5 What did you do when you got to car? I got in and drove back to the front of Main St. where my girlfriend was standing waiting for me.

And did she get into the car and did you leave? Yes.

And leaving did you make u-turn and go down Queen St? Yes.

You notice anything unusal in that area when you left? No I didnt.

10 When you had left, what was the state of the front of the glass door? Closed and locked.

NO XKB

NO MEX

COURT ADJ. AT 3.30 AND RES. AT 3¼45

MR MORRIS CALLS

VECKI RUTH HAMILL (Sworn)

15 I live at Dominion Road, employed at the National Bank of New Zealand, Albert Street Branch as the head teller. I now live at 19 Renfew Ave, Mt. Albert. I still work at the National Bank. On evening of Sat. 30th June 1979, you working at the Main St. Cabaret? Yes.

20 What do you normally do there? I was employed as cashier but one night one of the ~~waitresses~~ waitresses was ill so I relieved her, I worked as cashier upstairs that night.

One of the other girls working with me was Margaret Bell? Yes.

Quite apart from Marg. and yrself, another one of yr friends there? Yes, flatmate, Natalie Dalzeil.

Had you come to work tog? Yes.

25 What, was it yr intention at the end of yr shift that you and she go home tog? Yes.

When did you finish work? Wd be about 3.15 by the time we fin. and balanced up, we both came downstairs to the foyer, I phoned for the taxi, while Nat. looked out for us both, that was at 3.19, clocked out.

Where did you do all this from? In about centre of the foyer.

30 Look at photo. No.2 of Exb.2, weve been shown the \$3.50 sign which is cashiers area ? Yes, up there, that is where we clock out.

And you rang for taxi, what did you do? We then went to foyer, to the righthand side of restaurant, just across from that sign.

Opposite the cashier area.

How long did you stay there? Few mins. I suppose.

1 Thats you and Natalie? Yes.

What about Margaret? She round there? No, during that time Renee and Shane came out of the restaurant and there was another girl with them, they were finished in the rest. for the night and were leaving. Shane went upstairs and then the girl moved forward in the foyer.

5 What about Margaret? Yes, she had come down and used the phone at the back of the foyer by the door there.

Show it to the Judge and jury? (witness indicates the office door and there is a phone on the door and that is where she phoned for a taxi that night). Just on the wall, on the other side of the foyer by the cashiers area but further up the back.

What was she using the phone for? Calling taxi to go home.

10 And then after she had rung the taxi what did she do? Well in that time, Renee and Shane had gone from the foyer, they had moved away, and they had left. Margaret Natalie and I then came and stood just across here (indicates where Margarets body is in No.2 photo). Thats the 3 of you? Yes, me Marg. and Nat. Marg. standing to my right.

15 What happ. then? 3 of us all standing there tog. and I sd to them again that we hadnt checked the cab rank across the road from the cabaret so with that, I stepped forward and came down the foyer stairs, the door at that time was open bec. few customers had walked out to go home.

Which door are you talking of? The open door.

20 How far open was it, can you remember, did you have to open it yourself? No, oen open far enough to walk thro, I stpped out on the footpath and looked up Queen St, no cab there, so with that I looked down Queen St. to see if cab there and coming, I was about to turn when there was a loud bang, I hadnt heard a gun go off before so I nat. thought it was car or truck backfiring. It deafened us for a few seconds, I pulled my hands to my ears with the pain, once ~~the numbness had gone~~ I turned round and went back into the cabaret.

25 What did you see? I saw Marg. laying on the ground, in pool of blood, I then realised then she had been shot, I looked at doors, no hole in any of them, realised the bullet must have gone above Nat. and myself, I then yelled to whoever standing at end of foyer by the phone to call the police and then Nat. and I just walked back over the foyer and went back upstairs and sat down.

When out on footpath, notice any vehicle? Nothing at all.

30

NO XXD

NO REX

35

MR MORRIS CALLSNATALIE THERESE DALZIEL (Sworn)

1 I live at F6/733 Dominion Road, Mt. Roskill, employed as draughting assistant with the Ministry of Works. On the night in question, I worked at the Main Street Cabaret as a cashier. I now live at Oaklands Rd. Mt. Eden.

On the night that Barg. Bell was shot did you work at the Main St. Cabaret as cashier? Yes I was.

How long had you been working there prior to that night? 3 weeks.

5 And had you known Margaret prior to this particular night? Yes I did know her.

I gather you started work on Sat evening at 8? Yes.

Was it a busy night that night? No it wasnt.

Before Margaret was shot, was there any incident in the cabaret that attracted yr attention? I believe...

10 No, did you see anything? No.

Nothing in the area where you worked? No.

Did you see anything of Margare that night? I saw her when she came to get a coke for the night and the meo money she had earned that night, she didnt seem upset or anything at this time.

I gather you had come to the cabaret with Vicki? Yes.

And was it yr intention to go home with her? Yes it was.

15 And I gather also that it was normal for you both to get a cab? Yes Weve heard from Vicki that she arranged, got down to the foyer, she arranged for a cab and were standing in the foyer, both of you waiting for it. Yes.

When down in foyer, did you see Marg? Yes, saw her come down the stairs and call cab.

20 After she called the cab where did she go? Came to the doors to stand with us.

Can you tell me what then happened after she joined you? We stood there for a few mins. and discussed trivial things, and it was commented on that one cab company better than the other, Marg. phoned one com. and we phoned the other and were arguing about which one was best, Marg. walked out thro the door to see if her cab was coming, came back in, Vicki walked out to see if our cab was coming, she was act. on f'path and I stood in doorway of the ~~shop~~ cabaret.

25 Look at the photo. of the front of the foyer, No.2 of Exb.2, See the glass door? Yes.

Which was the door used by people coming to and from? The one that was open that was used by these people at that time.

30 And was that one we see open, but was it left open at that time?

It was open when we went thro the front.

Where were you when Marg. was struck? Standing in the open door.

What position of the doors, was it like it is there or was it held or what? If you dont know, dont guess? It was as wide as it is the:

Apart from that opening there, there was no other door open.

1 What was the first you knew that anything had happen? The shot deafened me and Vicki started screaming.

Then I take it you saw what had happen. to Margaret? Yes I did.

Had you noticed looking - were you looking out thro the glass door

We had been watching for a cab.

See across the road ? No, the rain was pretty heavy that night.

I take it you saw no one behaving in any unusual sort of way at that stage? No.

5 How loud was that bang? Very loud, as I sd it deafened me.

NO XXX

COURT

What time did you finish work that night? 19 mins. past 3.

10 Sure of that, 19 mins. past 3? Yes.

That was when we clocked off.

How long after that did you hear the bang? About bet. 25 past 3 and half past 3.

MR MORRIS CALLS

JACK ALLEN (Sworn)

15 I live at Manurewa, freezing worker by occupation, I was at the Main Street Cabaret on the night of Saturday 30th June when Margaret Bell was shot. I now live at Glenfield, I am now working for the Ministry of Defence.

I gather you were at the Main St. cabaret on the night Marg. Bell was shot? Yes.

20 Had you gone there with a number of friends of yrs and got there shortly after midnight and did you stay there until it was time to go? Yes.

You go downstairs from the main area into that foyer that leads out into Queen St? Yes.

I take it you didnt know Margaret Bell at that time? I didnt.

Where were you when she was shot? Bout 4 and 5ft. away from her.

25 Had you been speaking to her prior to her being shot? No.

What was the, did you have any indication of what wd happen before you saw her lying on the ground? No.

You hear the shot? Yes.

How loud did it appear to you? Fairly loud.

Did you gain impression to tell us where that shot had come from?

Must have been close.

30 When you saw what had happened, did you cross the road to a group of people and ask them if they knew anything about the killing? Ye

After speaking to them did you come back to the cabaret and did yo stay there until the police arr. and then spoke to them? Yes/

You sd you were 4 or 5 ft. from the girl? Yes.

1 When she was shot, did anything hit you? Sprayed by something, by the mesh of something, it was from her.

NO XXD

NO REX

MR MORRIS CALLS

5 CHRISTOPHER CLIVE CAMDEN (Sworn)

I live at Gills Road, Albany, self-employed mechanic.

On the evening of Sat. 30th June 1979, early in evening, did you go to a party in D'port? Yes.

And then later on, did you and some other friends of yrs decide to go to the Main St. Cabaret? Thats right.

10 Did you have in addition to the people that went with you some other friends you met at the cabaret? Some friends foll. us over in their car, we arranged to meet there.

Were you allowed in? ~~By~~ One of the blokes who arr. with me and his girlfriend wasnt allowed in bec. she was in jandals, I went in.

What time did you go in that night? Roughly round 2 o'clock on the Sunday morning.

How long did you stay there? About an hr.

15 What happ. when you left? Speaking to couple of girls at the ticket ~~stand~~ stand before walking out towards the door, I didnt say much to them, I was more of a hurry than my friends were, pretty tired, and I went and stood by the door where Margaret Bell was, by Margaret Bell, by the main door out, by Margaret Bell.

20 At that time, did you know ~~shw~~ who she was? No, never seen or spoken to her before. While standing there, I sort of looking at the f'path mainly, I was very tired, the door opened in front of me and a couple of girls left, there was a bang behind ~~them~~^{me}, didnt occur to me at the time that it was a bullet, just thought someone was fooling around with crackers, or something.

The bang you heard, can you describe it in more detail, what did it sound like to you? Sort of crack, sudden thudding sort of noise.

25 What happened next? I didnt turn my head immediately when I heard the noise, friend behind me ...

What happened next, talk about yrself? I still hadnt turned my head hadnt paid any attention to the noise, didnt realise the girl had been shot until friend of mine went over to her sort of

30 Did you feel anything touch you? When door opened in front of you, it was about the same time I heard the noise, it was raining that night, though it was rain that had blown in ~~fast~~ from outside, but it was blood from the girl.

You see yr friend go over and kneel beside Margaret Bell and feel her ~~pr~~ pulse. His girlfriend went over there, then it occurred to r

Later on, were you photographed by the ~~police~~ police to show the material that had hit you? Yes thats right.

1 Look at photo. No.14 please now shown to you, is that photo. of you? Yes.

Theres material above yr right eye along yr forehead? Yes.

Now at the time of this noise that you now know to have been a ~~kn~~ shot, where were you standing in rel. to where Bell was? I was on thesame ground level as her, I was against the righthand wall looking out thro the windows, Id have been about a yard -to 6ft.
5 away.

Look at thesame photos, this time at No.3 (Exb.2), recognise that as a view showing the foyer looking down Queen St? Yes.

Using that photo. whereabouts were you standing when you heard this noise? Where the No.3 marker is.

10 What about Miss Bell, where was she standing when you last saw her before she was shot? She was just standing on the same level as me, right on the edge and more or less looking in the same direction, down towards Queen St.

But in relation to the foyer itself, tell us where she was standing? You told us - which side, middle to the side or where was she standing? Where her waist is that is where she wd be standing, more over to the left.

15 You mentioned a door opening, what can you tell us about that? There were some people leaving, and couple of girls leaving, dont know if they opened the door or if someone opened it for them, I didnt take much notice of that.

At the time of the noise, was the door being held open or was it open in a fixed position without anyone holding it there? I cant actually remember if someone was holding it or if it was fixed
20 there.

Now once you realised that this girl had been shot, what happened then, what did you do then? I went beside her, I knelt beside her and felt her wrist, there was no pulse, I looked out the window an saw some blokes walking up the road, the footpath who I had been drinking with inside the nightclub, I didnt know them but the
25 friends I was with, they were talking to them inside.

Apart from that, anything else going on outside that attracted yr attention? No there wasnt.

Did you stay there at the cabaret until the police arrived? I went out the door when I seen the blokes walking up the road, asked them if they had seen anyone, I think it was then that a policeman and a dog who yelled out to people, I was still sort of talking to
30 these blokes, and they mentioned something about a car...

You cant tell us that, but then a policeman and dog arrived? Yes.

NO XXD

NO REX

COURT ADJ. AT 4.25

COURT RESUMED AT 2.15 on 24.4.80

MR GRIEVE CALLS

- 1 KAREN KIRIWAI MARGARET MCKAY (Sworn)
 I live at 40 Islington St, P'by, still student at the North Shore Training College
 Last year did you have a part time job as waitress at Main St. cabaret? Yes.
 When did you first start working there? Not sure, think it was March, not sure now.
- 5 When did you finish up there? Finished the weekend of the shooting.
 I just want to ask questions about the procedure for opening and closing the glass doors ~~and~~ at the entry, know them? Yes.
 From yr exp. while you worked there, what time werethey customarily closed on Sat. night? I think usually at 3 o'clock.
 When that was done, is it the situation that there were gen. still
- 10 many patrons up in the cabaret, the idea being the doors wd be closed to prevent other late people coming in? I think so, usually had got the patrons out by 3 o'clock.
 Having closed the doors tho, there was still staff present? Some.
 When it came time for those staff still present to leave, how did you go about opening the doors which had been closed? Usually they are locked and the Mnager or bouncer wd open the door for you, usually.
- 15 Wd you look at photo. No.2 of Exb.2 You can see the open door there? Yes.
 And cd you just correct me if Im wrong, there does appear to be some form of handle on inside of the door just before the vicinity of the lock, can you recall handle such as that on the door? Yes.
 Looks like a curved metal one? Remember those being there? Yeah I think so.
- 20 If you cant answer these questions accurately say so? Im not sre
 When the doors are shut and locked, its pretty obv. the other door to be right of open one, to get in, someone wd need key? Yes.
 Is it poss. for those inside to open the doors without a key by using the handle shown on the photo? I dont think it was, I think you had to use a key.
- 25 Coming to the night of Sat. 30th June, were you working that night at the cabaret? Yes.
 What time did you start? I cant remember, prob. about 7 or bet. 7 and 8 o'clock, not sure.
 What time did you finish or due to finish? 2.30 I think I finished.
 After you fin. work, what did you do? I went round talking to people I knew, Iwas downstairs at one stage.
- 30 Where do you mean? In the restaurant with friends, had drinks with them, then I went u'stairsand sat with few peopel, it wd be a few mins. before I left. Then I went d'stairs.

Just prior to leaving= Yes.

What time was that? Approx. 3 o'clock.

1

What means of tnspt did you have to get you home? My own car.

When you went down to the foyer before leaving, who was down there, see anyone down there that you knew? Only few people, there was Karen K. the head waitress there and myself, there was an old man there at the time, he was speaking to her and myself at the time, there were peopple down the front, at the time I dont know if it was Margaret at the time, but then she was shot and then

5

I recognised her - it was her but at the time I didnt recognise her.

Where was she in the foyer? when you saw her? Standing at the top of the stairs, to the left of the doors.

What happened then? A, You were talking to Karen? Yeah and he was having Karen on, the old man, I spoke to him, Karen went away from us.

10

Where in the foyer were you by now? By the tickt box, I remained there, Karen went away, thats when Margaret was shot.

What did you hear and see? I heard a bang, I thought I saw glass shattering, and I thought I heard it,

Wait a minute, you sd you th mght you saw it, you heard it as well did you? Yes, and its all very confusing now, but then I..

15

Speak slowly now, go on ?I thought it was a car backfiring and I heard Karen scream, heard someone scream, I looked to my right, Karen was there, she screamed, shes shot in the head, I looked back to Margaret at this stage, saw her falling backwards, I stepped forward and I realised what had happ. and I just ran back to the stairs.

20

When you say you realised what had happ. what did you think had happ. at that stage? Well, that she had been shot.

Youve told us about what you thought you saw and heard namely the glasse shattering, can you be of assistance as to whether the door was open or closed,?No I cant remember.

And then did you go upstairs to the cabaret area? Yes.

25

Did you remain there until the police arrived? Yes.

Apart from Margaret Bell, Karen K. and the old man that youve mentioned and yrself, firstly, can you remember if any other people in the foyer? Yes, there were.

Can you remember where they were? Only vaguely, there were people down by the doors, possibly people moving in front and around us, and people behind us by the stairs.

30

NO XXX

NO REX

MR GRIEVE CALLSJOHN JOSEPH HORGAN (Sworn)

1

I live at 39 Riddell Rd, Glendowie, tracer by occupation.

On the evening of Sat. 30th June last year, did you go to the Main St. Cabaret? I did.

What time did you go there? About 1.30.

And in fact had you been to a party at D'port, was it, with other friends, Mr Camdem and the girl Sharp? Yes.

5

How long did you remain at the nightclub? Until it closed at about 3.30.

When that happ. what did you do? I was waiting in the foyer for my friends to catch up with me, they were still upstairs, there was a shooting.

10

Tell us about it, what you saw and heard? I was talking to one of the men who work there, bouncer, and a shot was fired and saw this girl fall, I rushed over to her and then I sent out on to the street.

Firstly, whereabouts in the foyer were you standing, talking, when you heard the shot? I was about midway between main doors and the stairway to the actual cabaret

In which direction were you facing? I was facing a wall, standing side on to the door.

15

And so youve sd you heard a shot fired, what did it sound like? Sounded like a car backfiring or fire cracker, something like that And when you heard that what did you do? I turned to the left and I saw the girl falling to the floor.

And so you then went to her assistance? Yes.

20

What did you do then? Nothing, I bent down and saw she was dead, and I just rushed out on to the street.

For what purpose? To see if anyone was around.

Now you are aware that the foyer to the cabaret has across the front series of glass doors? Yes.

Was it necessary for you to open any door to gain access to the street or not? No.

25

When you got outside, did you see anything that attracted yr attention? No as I got outside, a white taxi pulled up, people on the other side of the street, I crossed the street and asked them wd they go inside and wait.

Did you say a taxi pulled up, from which direction? From downtown direction.

30

When you heard the shot and went over to the girl and then went outside, can you remember what other people there were in the vicinity of the foyer? Chris my friend and Jack Allen were there, and about 4 other people Id say, one other female.

NO XMDNO REX

1

MR GRIEVE CALLSJENNIFER MARY MASLEN

(THIS WITNESS IS OVERSEAS AND BY CONSENT HER DEPOSITIONS WERE READ TO THE COURT).

5

MR GRIEVE CALLSSTEPHEN JOHN BOLTER (Sworn)

I live at 1 Pollen St. Grey Lynn, lighting technician.

During the mth of June and in particular on night of Sat. 30th June, did you work at the Main St. Cabaret in the city? Yes.

How long had you been working there at that night? From the day it opened, from about 23rd December.

10

About 6 mths then? Yeah.

Did you know Margaret Bell? Not very well, Id met her a few times. Youve spoken to her? Yes.

What time did you finish work that night? About 2.30.

Who did you leave the cabaret with? There were about 4 or 5 people we went down the stairs, and it was raining, so I went outside to get the car, there was Jean Maslam, Nigel, dont know his other name the base player, and Karent K. and Margaret Bell.

15

So they were going down the stairs were they? Yes.

Stairs from the cabaret to the foyer? Yes, sort of where the ticket office is.

Where did you go from there? Firstly I ran across the road to where car normally parked, back up City Rd. where we parked it, bec. other parks were full, I got the car, and drove

20

You made a mistake as to where it was parked? Yes.

You went down City Rd, on same side as the cabaret? Yes, running bec. it was pouring with rain.

Got to the car? Yes, and I started up and drove round Queen St.

In front of the doors was a car parked directly outside and I pulled into the space in front.

25

It was just slightly up a bit.

You able to find a parking space just above the entrance to the cabaret? Yes, I was just parking the car, pulling back, I heard the shot then, I turned, didnt turn engine off, I ran inside, the shot computed not as a shot but as a noise, I went across the road. The shot didnt compute as being a shot at the time but just a noise then what did you do? I looked across the road, just up from the massage parlour, people standing there. few people standing outside the cabaret too,

30

At that time did you realise what you heard was in fact a shot? No I thought about it tho, wondering. I got out of car, left engine and lights on, and ran inside to the downhill door which was open, and she was lying there in front of them.

35

Margaret Bell? Yes.

Who was in the foyer that you remember seeing at this stage? 3 guys
1 by the door, there was an old gentleman, about 50ish or 60.

Recognise him, know him? No, all the public, Karen K. had gone
upstairs at this stage, Jenny was on the phone and standing next to
her at the phone in the far corner, on lefthand side of the foyer,
right up by the office on wall, she calling the police, I cd hear
Shane screaming upstairs so I went up there. (Shane or Karen - not sur
Did you remain up there in the cabaret area until the Police arrived?

5 Yes.

XXD MR HART

What you first heard, did it sound like car backfiring or window
breaking? Both of them really, all the possibilities were going thro
my mind.

10 Wd you agree you didnt recog. it as a shot immediately did you? No.

NO REX

MR GRIEVE CALLS

NORA STEINLE MAJORS (Sworn)

I live at 162 Mt. Wellington Highway, receptionist by occupation.

15 During the early hours of the morning of Sunday 1st July 1979,
were you in the vicinity of the Main St. Cabaret? Yes I was.

Where had you been earlier that evening? I had been to work that
evening, I finished work at 2 o'clock and then I went, dropped one
of my employees off, then I went to the bottom of town and then I
went up to Main St.

20 Were you on foot or did you have some sort of veh? I had vehicle.
It was a rental car.

You went up to Main Stree, what happ. when you got there? I arrived
there at about 10 past 3, sitting outside listening to the radio in
the car,

25 Where was yr car parked in rel. to the cabaret? About 2 car spaces
down from the main front doors, so I cd see clearly into the foyer
and I sat there for about another 5 mins. 5 or 10 mins. and there was
a car beside me which was fac ing down Queen St. on the wrong side of
the road, a Valiant, and as I looked at the car and listening to the
radio, I heard a shot fired, I got out of the car and went into the
cabaret and that is when I was told I cdnt go in.

The windows of yr car, were they open or shut? Drivers window was
open.

30 From the noise you heard, gain impression of where the shot came from
No I didnt.

What did it sound like to you? Car backfiring.

1 What did you do when you heard sound? I looked imm. to the car beside me, the Valiant, that started up and took off, I looked to the front doors, heard someone screaming and saw a girl lying on the floor. You said the car started up and took off, see where it went to? It just went down Queen St. from left hand side of the road to the other side, sorry from the right hand side of the road to the left.

From direction it faced, it went from its right on correct side of the road left down Queen St, right? Yes?

5 Heard a lot of screaming? Yes I did. I just got out of the car and went to front door, the Manager was there by that time, he said you can't come in or someone had been shot or something like that. And so what did you do? I turned around, went back into my car and went home.

10 Was there anything that attracted your attention apart from the fact that it was parked on its incorrect side of the road, this Valiant? Just the paintwork, it was pretty scratchy paintwork.

What about when it left? It just seemed to, what I thought was a car backfiring, at that time I heard it backfiring and car take off, it was like looking both ways at what was going on, that is how it was.

XXD MR HART

15 How quickly did this car accelerate off? I don't know what you mean. Did it meander off down the road or roar off? It roared off, yes. You've described to the court that it went off in a hell of a hurry? Yes I have.

Before it moved off, did you see who was driving the car, a description of person? All I remember of driver was that he had long hair.

20 Was there anyone else in the car that you saw other than the driver? No.

And would you describe the Valiant as being an old one or fairly recent model? An old one.

Was it in fairly shabby condition? Yes it was.

25 NO REX
COURT

You told us that you parked on the left side of the road going up Queen St? Yes.

And that there was a car beside you facing down Queen St? Yes.

30 Was white Valiant there before you parked there or had it come after you parked there? As I pulled into the car space it came in the same time.

That would be some 5 or 10 mins. before the shot would it? Yes.

MR GRIEVE CALLSPETER GEORGE SHIPTON (Sworn)

- 1 I live at 29 Karaka St, Auckland 7, at the moment Imworking at Glen Eden.
- On the evening of Saturday 30th June last year, did you go to the Main St. Cabaret? Yes I did.
- What time in the evening did you first go there? Not too certain, but think it was just after pictures closed.
- 5 How long did you remain there? About an hr to hr and a half.
- Where did you go after that? Walked down Queen St. to His Fathers Moustache (Hour Fathers Moustache) You walk down Queen St. and it is down Fort St. I stayed there - I dont know how long I stayed there, quite a time, dont know in hrs and minutes.
- What time was it when you left Yr Fathers Moustache? Must have been sometime after 2 I think, on the Sunday morning.
- 10 Where did you go to then? Up to the White Lady, its a hamburger place.
- And then? I walked up Queen St. towards Main St. to see if they were still open.
- You intended going back there did you? Yes.
- Were you alone or did you have others with you? Well from when I left Yr Fathers M. I had friend with me but he stopped at the white
- 15 lady and got somthing to eat and I continued up.
- What happened then as you went up towards the Cabaret? It was raining, I was yalking towards this road, on yr lefthand side, the Rembrant Hotel is on yr left, I was crossing over that little road that goes up towards the hotel, I was walking up near the pet shop, just below the cabaret there and then I heard a sound like
- 20 a bang, like a paperbag or something had blown, I looked up and saw a car turn on its headlights, then I looked up, I made a u-turn and walked straight back down.
- You heard this bang, looked up and saw a car turn on its headlights Yes.
- Where was this car? Parked outside Main Street.
- Properly parked against the kerb? No.
- 25 Tell us where it was parked then? It was facing down Main Street, it was parked sort of like double parked in a way.
- About a car's width away from the kerb? Yes, facing the wrong way down.
- See what sort of car it was, cd you tell? Not too hot on cars, I think it cd be a Holden or something like, that, not too sure.
- 30 You say you saw the h'lights turned on? Yes.
- See anything else that attracted yr attention? There was, like a smoky haze, saw it coming near the car, coming from the car, smoky haze, something like that.
- Still raining at this time? I dont think so.

How heavily? I think it was quietening down a bit, I was soaked to the skin.

1 Had you anything at all to drink that night? Cokes, that was all. NO alcohol? No.

After the cars lights were turned on, what happ. to it, did you see I think it cd have gone down Queen St., not too sure, I wasnt reall. bothered with it.

5 When you heard this bang, did you form any conclusion as to what it in fact was that made the noise? Not really, not as if it was a gunshot or ~~sa~~ anything, I had had a hassal earlier on at Main St. ~~and~~ and I just didnt want to get involved.

Where did you go after you turned around and walked down Queen St I went up by the Remabrant Hotel, went behind the shops, down the next side street and then on to Queen St. again.

10 When - you turned off Queen St. by the Remabrant? Yes, and then I went behind the shops and down to the next side street and came back on to Queen St.

Around the black? Yes.

Why did you do that? At the time I thought it was the guys who had hassaled me earlier on.

15 Then where did you go? I went to the White Lady again to see if I cd find my friend but I cdnt and met up another friend when walking up Queen St., so he and I stayed at the Budget Hotel for the night. Where is that, in relation to the cabaret? Across the road, across from the Rembrant.

20 The following morning, did you when you left the budget hotel, go down Queen St. a little way? I walked out the doors, it was still raining, this time it was very heavy, walked down towards the phone box, and found that cartridge.

Is that the phone box that is just down the road from the Budget Hotel on lefthand side going down Queen St? Yes.

Look at No.24 and 25 of Exb.2, does that seem to you to be the phone box? Yes thats the one in question.

25 What did you find by the phone box/ I found a small cartridge, a purple cartridge for a shotgun or something like that, not too sure if for a shotgun.

Look at Exb.8, recognise that, is that the one you found? Yes, that the one.

What did you do with it? I put it in my pocket and took it home, after that D/Kruger and another constable came round to see me and I gave it to them. I prod. this as Exb.8 (Exb.8).

30 Where did you find that, using the photos. No.24 and 25, show us whereabouts it was? You will see the first photograph is a view looking towards the lefthand side of Queen St. going down, box is on high side, the other one shows the back of the phone box taken from the footpath.

It was No.24, the cartridge was on the concrete shelf thing, concrete apron thing, the base of the phone box .

1 And on the side facing the street? Yeah.

What was the state of the cartridge case when you found it? It was slippery and greasy like, it was wet.

And sometime later did you hand that to D/Kruger? Yes.

NO XED

COURT

5 You wre coming Up Queen St. and you heard somthing which you didnt think was a shot, rightr? Yes.

Didnt occur to you it was a shot? Yes.

Why turn round and come back? Earlier that evening I was inside Main St. and a couple of guys, think they were drunk, one of them wanted to fight me or something and I just didnt want to get
10 involved.

Had you suddenly thought ofthis? Yeah.

You are saying thatyr turning round was in no way connected with hearing this noise? I heard it, only reason I was act. going back to Main St. was to see if friends there so I cd get a lift home.

And then you turned around and went back the other way? Yes.

Why? Well, I just didnt want to fight that evening, couple of
15 times I been to Main St. and theres been guys who have been drunk andwant to fight me for some reason.

What made you suddenly think that these guys who might want to fiht fight you might be there? I dont know, just a reaction like.

What colour was the car that you saw? I think it cd have been blue
20 It was a shiny like colour, with the rain and that dropping.

MR. GRIEVE CALLS

IAN MURRAY BRIGHT (Sworn)

I am D/Constable attached to the cib at Auckland Central P/Statio:

On 1st July 1979, I was attached to the Bell homicide squad.

On 16th July 1979, I spoke to the prev. witness Shipton , he gave
25 to me a cartridge case, the one that is shown to me now and pred. to the court as Exb.8, which I handed on to D/C. Hickson who had by then been appted officer in charge of Exhibits.

NO XED

NO RDX

COURT ADJ. AT 3.30

30 COURT RES. AT 3.45

MR GRIEVE CALLSFRANCIS JOHN CAIRNS (Sworn)

1 I am duly qualified and registered medical practitioner, I am Associate Professor of Forensic Medicine in the University of Auckland, School of Medicine. I practice in Auckland as Pathologist. How long have you practised as pathologist in Auckland? About 35 years.

5 At approx. 4.40 a.m. on Sunday 1st July last year, did you examine the body of a young girl identified to you at the time as M. Bell? I did.

Did you conduct that initial examination at the Main St. Cabaret? I did.

Did you form the opinion as to how long she had been dead when you examined her? I was told she had been dead for approx. one hr. and the appearance were consistent with this time.

10 Tell us about yr examination at that stage? She was lying on her back on the carpet at the top of the entrance steps, her feet were facing towards Queen Street, there was a pool of blood about her head and the upper part of the body, I cd identify some fragments of brain tissue and some fragments of bone in this blood, there were other pieces of human tissue on the steps, on the floor and on the walls and ceiling of the entrance hall, she had a handbag in her lefthand, attached to the lefthand, and she had some money clasped in her lefthand. The body was then shifted to the mortuary and later the same morning at about 6.20, I conducted a full examination, I removed all her bloodstained clothing, she had a large wound on the rightside of her head, this exposed brain tissue and fractures of the skull, the appearances suggested an explosive type of injury just in front of her right ear and 20 seven centrimeters above it, thats about 3 inches, there was an entrance, gun shot wound radiating from this entrance there were splits in the skull, one forward to above the right eye, one upwar to the top of her head and one backwards and downwards to behind the right ear, beyond this the end of this latter split, there was a vertical split in the skull at the back of the head, suggesting 25 an exit wound, this was about 6 centrimeters in length and was prob. caused by fragments of bone. She showed fractures of the skull and the face of the skull had separation of the suture lines of the bones of the skull, there was extensive injury to the right side of the brain and brusing throughout the rest of the brain. I examined all her internal organs, I cd find no disease, I 30 was - I removed samples of blood and specimns of hair and handed them to the Police. From my examination I considered that her death was due to a gunshot wound of the head and the appearances were consistent with an injury caused by a high felocity bullet.

Use yr own head, pt. to the position of entrance of the wond wound?
Just in front of the right ear and about 3 inches above it.

1

(witness demonstrates)

Was there an exit wound as such? No there were some small framem
fragments of bullet recovered from inside of her head but the
split in the skull at the back of her head is not the appearance
of an exit wound by a bullet.

5

Was it the nature of the injuries youve described which led to yr
conclusion that the bullet was a high velocity one that caused
these injuries? Yes.

10

And is that because in yr experience ~~xx~~ of lower velocity injury
there is customarily a defined entry wound but in particularly
a better defined exit wound? This of course is not always so,
sometimes the b-ullet is recovered but my main reason for reaching
this conclusion was that there was no sign of a contact wound,
this was a bullet fired from a distance, i.e. say over 2ft. or more
from the skull and the amt. of energy released by the impact of
that bullet was related to a very high velocity, I think that the
bullet disintegrated on impact.

NO XXD

NO REX

15

MR GRIEVE CALLS

SASA PITA FIA (Sworn)

I live at 13 Huntley Ave, Grafton, I am machine operator by
occupation.

20

Do you remember the night of Saturday 30th June last year, the
night they had the telethon on t.v., remember that night? Yes.

Where did you go that evening? I went to the nightclub.

What was the name of the nightclub? Tangaroa.

Where is that? K'Rd.

What time did you leave that nightclub? 3 in the morning.

When you left, anyone else with you? Yes.

25

Whose that? My girlfriend.

Where did you go to when you left Tangaroas place? I went to wait
for the taxi.

Whereabouts did you go to wait for the taxi? Just down Queen St.

Did you know the Main Street Cabaret in Queen St? Yes.

Whereabouts is the taxi stand in relation to the Main St. Cabaret?
Just a bit further down on the other side.

30

Of the road? Yes.

What happened while you were waiting for the taxi? I just wait
for the taxi or cab there.

35

Something unusual happen that night while you were waiting?

I just know when I heard the sound.

1 What sound was it that you heard? It was a gun.

You know what time it was that you heard that sound? About 20 past 3.

And what happened then? I didnt think anybody was shot at that time

What what did you do? I just waited for a taxi.

5 Apart from you and yr girlfriend, any other people there round about waiting for a taxi? Yes.

About how many others? 8.

Was there a stage when you realised in fact that someone had been shot? Pardon?

Later on, did you, from what you saw happening, think or see that someone had been shot? No.

10 So youve told us you heard this sound, did you realise it was a gun when you heard it? Yes

How did you know that? ~~He~~ I had a gun before.

And so you continued to wait for a taxi? Yes.

What happened then? The cops come over to us and say for us to stop

And where did they take you? To the Police Station.

And was it then that you learnt, you were told, that someone had been shot? Yes.

15 While you were waiting for the txi, at the time you heard this shot, which way were you facing in Queen Street? Facing the side where the Main Street is.

Looking across to Main Street? Yes.

20 Cd you, were you able to tell in which direction the shot had come from, the noise I mean? On my left side, further down Queen St. on my left side.

NO END

NO BEX

MR GROUVE CALLS

25 KRAL CHRISTOPHER LAGAHETAU (Sworn)

I Live at 24 Dawson Rd, I am still at Tangaroa College.

You remember thenight of Sat. 30th June last year? Yes.

What did you do that night? I went downtown.

Where did you go? To a movie.

Who was with you? Couple of my cousins and my friends.

30 Where did you go after the movie had finished? We went up to Tangaroa Hut.

That the night club in K'Rd? Yeah.

What time did you stay there till? Till it closed down.

And where did you go after that? Down Queen St.

We were going to catch a taxi.

Where did you wait for a taxi? We were walking down Queen St. to catch a taxi there.

What happ. while you were walking down Queen St ? Heard a bang. What sort of bang? Like a car backfiring.

Whereabouts were you in Queen St. when you heard that noise? Just coming down from K'Rd.

How far down? Where the taxistand is.

What did you do when you heard this noise? Looked around.

Did you see anything that attracted yr attention? No, I just saw a car.

Where was the car? Outside the cabaret.

Which side of Queen St. were you walking down? Lefthand side

Which way, where was this car, was it moving or stationary? It started moving at slowly at first and then it accelerated up to K'Rd.

What sort of car was it, cd you tell? No.

When you heard this noise that sounded like a car backfiring, cd you tell from which direction the noise came? Sounded like it was coming from down further.

After you heard this noise, what happened then? A man came over to talk to us.

Yes, and what did he say to you? He asked if we saw anyone carrying a gun or a car speeding away or something.

And then what did you do? Carried on walking down Queen Street.

And then what happened? Somebody called us back.

Someone else came over? Yes, and told us to come back to the cabaret.

And did you do that? Yes.

Who was it that asked you to go back to the cabaret? Just a man.

And were you at the cabaret when the police arrived or were they already there? They were already there.

NO MORE

COUNT

Which side of Queen St. did you think the noise came from, towards left or righthand side as you came down? Not sure.

MR. GRIFFIN CALLS

ROBERT CRAIG HOWARD (Sworn)

I am an ambulance officer with the St. John's Ambulance situated in Pitt Street, Auckland.

(THIS WITNESS IS OVERSEAS AND BY CONSENT HIS DEPOSITIONS WERE READ TO THE JURY)

MR GRIEVE CALLSLARRY ROBERT HOOPER (Sworn)

1 I am Operational Police Dog Handler. Prior to the 1st October
1979, I was stationed at Auckland Central. At about 3.30 a.m.
on 1st July 1979, I was in the Police Operations Room at Auckland
Central when I observed a telephone call coming through. As a
result of what the telephone operator told me, I immediately left
the police operations room and proceeded to the Main St. Cabaret
in Queen Street in my police dog vehicle. My arrival there
5 coincided with that of the ambulance, this was at about 3.35
3.35 a.m. As a result of what two persons told me at the scene,
I went into the foyer of the Main St. Cabaret, on the top step
there was a female lying in a pool of blood. I felt the pulse
or for a pulse on her left hand and on finding none returned to
my police vehicle where I informed operations there was a deceased
10 female at the cabaret, and requested further police assistance.
Following this, I observed a group of persons walking down Queen
Street in the direction of the Town Hall on the opposite side of
the road, I called out to this group and then sent a person from
the scene to return them to the cabaret area. Further up the road
and on the opposite side again at a taxi rank I observed a
taxi and another group of persons. I approached this group and
15 informed them there had been a shooting at the cabaret and request
ed they stay at the rank. I then returned to the cabaret and was
talking to a group of persons there when I observed two males
get into the rear of the taxi at the taxi rank. I again returned to
the taxi rank and asked the driver and the males to remain there.
On returning to my vehicle, the night shift supervisor, Inspector
Harlot, had arrived at the scene and after speaking to him, I move
20 my police dog vehicle to the intersection of City Road and Queen
Street blocking Queen St. at this point. All persons that I had
seen in the vicinity of the cabaret were later returned to the Central
P/Station, so they could be interviewed.

NO XRD

25

NO REXMR GRIEVE CALLSGAY GLADYS GULLIVER (Sworn)

30 I am D/Constable attached to the Auckland Central Investigation
Branch (Criminal). Overnight on the 30th June or 1st July I was
working on night shift and attached to the crime squad. At 4 am.
on 1st July I was directed to attend at the Main St. Cabaret
in Queen St.

On my arrival and after speaking with D.S. Savage, I went to the cabaret area of the nightclub. I was accom. by 5 beat constables. There were approx. 30 people present in the cabaret area. I arranged for these people to be split into 2 groups, those who could assist in rel. to the shooting and those who could not. I requested the beat constables to take the names and add. of all the persons present in the cabaret, most of the people were in varying stages of drunkenness or intoxication. Some of them appeared to me to be under the influence of drugs. There were 16 witnesses who were able to assist so I arranged a bus to transport them back to Central. I accompanied the witnesses in the bus.

NO XXD

NO REX

10

MR GRIEVE CALLS

QUITRINUS JOSEPH VAN BEYNAN (Sworn)

I am D/Constable attached to the Criminal Investigation Branch at Auckland Central. At about 3.55 a.m. on morning of Sunday 1st July 1979, I went to the Min St. Cabaret in Queen St. Auckland. At the scene, I was appted officer in charge of the body in the Bell homicide enquiry. At the scene I noticed the deceased lying at the top of the stairs as indicated in No.2 of Exb.2.

15

Look at photos. Nos. 2, 3 and 4? Yes that's the position in No.2.

Yes? I noticed that the only apparent injury to her was to her head and there was large amt. of blood around, noticed there was money clutched in her left hand. At about 3 mins. past 4, the duty police doctor, Dryde, arrived and viewed the body. At about 43 mins. past

20

4, Professor Cairns arrived and made a perfunctory examination of the body, at 4.45 C/McManus photographed the scene and the body and at about 5 a.m. Cairns made more detailed examination of the body,

at about 7 mins. past 6, I supervised the removal of the body from the cabaret to the Auckland Public Hosp. mortuary by Wiers Funeral Directors, I remained with the body of the deceased while Cairns carried out his postmortem examination, I was pres. when he removed small metal fragments from her body and I recd those fragments from him.

25

Look at the metal fragments now shown to you, are they the fragments you recd? Yes they are. I prod. them as Exb.9 (Exb.9)

Did you also receive some blood samples from Cairns? Yes, 2 samples of blood which I later handed tog. with metal fragments to the office in charge of Exhibits.

30

35

MR GRIEVE CALLSMICHAEL STUART SAVAGE (Sworn)

1 I am D/Sergeant attached to the Criminal Investigation Branch
 at Auckland Central. On Saturday 31st June last year, I was rostered
 to work a night shift which commences at 11 p.m. and concludes the
 following morning at 7 a.m. On that day, I started work at 10 p.m.
 At that time, it was raining heavily and this heavy rain continued
 throughout the night. And at times was torrential. During the
 daylight hrs of 1st July, the weather could best be described as
 5 overcast with prolonged heavy showers. About 3.30 a.m. as a result
 of communications made to me, I went to the Main Street Cabaret
 situated at 506 Queen Street. On my arrival, I saw the body of the
 deceased lying on the top of some stairs in the foyer. She was
 clutching \$3.80 in her left hand and this was threaded through the
 straps of her handbag. There were 4 police officers and an ambulance
 10 officer already in attendance. I took charge of the scene and
 directed that Queen St. be closed off at the junction with K'Rd.
 and at its junction with City Rd. and Scotia Place. I directed that
 the remaining patrons of the cabaret be contained in the first floor
 cabaret room, thus isolating the whole of the homicide scene.
~~There was a light in the cabaret room which was on at the time it is illuminated~~
~~by a light switch which is controlled by a switch, I left~~
 15 ~~it in that position but later found that the remaining~~
~~lights were on due to the intensity of the~~
 lighting. Entrance to the cabaret foyer from Queen Street is gained
 through 5 glass doors, the glass door on the southern side, i.e. the
 K'Rd. side is in fact a fixed glass panel. The 4 remaining doors
 20 are hinged and are capable of being opened. On my arrival at the
 scene, only one door was open and that is the second door from the
 northern side. That is the door shown in photo. 2 of Exb.2 now shown
 to me, i.e. the one I found open.
 Does that photo. in fact show the position of the door as you found
 it on arrival? Yes.
 Could you help us, say so if you can, ask questions of the operation
 25 of the locking mechanism on the doors? I remember that the inside of
 the door has boomerang shaped catch which enables it to be unlocked
 from the inside, unaware of the external locking mechanism.
 You were going on to describe the doors, now it appears from the
 photos that there is some small floor area below the stairs, right?
 Yes that is right, on the inside of the glass doors, there is a
 30 small tiled area, there were then the stairs into the foyer proper,
 which is where the deceased was lying. Outside of the glass doors
 is another small tiled area and then two steps on to the footpath.

1 What about the lighting under the verandah over the footpath? There
 is a bank of approx. 30 bulbs set into a canopy over the footpath
 by the entrance. These were not illuminated on my arrival at the
 scene, the street outside of the cabaret runs in a north south
 direction and it contains two traffic lanes in each direction. There
 is ~~immed~~ metered parking spaces on both sides of the road and the
 footpath is approx. 2 metres wide, also on both sides of the road.
 Opposite the cabaret is a building which houses shops and business
 premises. On the northern - sorry - on the southern side of that
 5 blg. ~~is~~ i.e. the K'Rd. side is the Railton Hotel. On the northern
 side is the Church of Latter Day Saints which is a recessed blg.
 In front of it is a lawn planted with trees and shrubs. On the
 northern side of that is Scotia Place and then another block of
 blgs. This scene having been contained was guarded by uniform police
 personnel.

10 Regarding the scene as you found it that morning, the street lighting
 in the vicinity? The street lighting in Queen St. is a high density
 sodium street lighting.

At 4.15 did you arrange for the police photographer to photograph
 the deceased and take other photos. in the area? That is right.
 And at 6 a.m. was the body removed from the foyer? Yes that is right.
 At that stage, did you take the initial steps to begin a detailed
 15 search of the foyer? That's correct.

Tell us about that please? From the position of the body, for about
 7 meters back into the foyer, there was a considerable
 quantity of brain and skull matter splattered on the carpet. This
 human tissue was also splattered on the northern wall, on the
 western wall above the glass doors and on the ceiling above where
 20 the deceased had been lying. There was a large thick patch of blood
 which had come from an extensive head wound in the deceased and had
 passed in an irregular shape under her trunk and was about 60 to
 70 centimeters wide. Before commencing a search, 4 witnesses to the
 killing had been brought to the scene and they indicated to me where
 in their opinion they and the deceased had been standing at the time
 of her death. The 4 witnesses made these indications to me and I then
 25 chalked marked on the ground the position and later brought this to
 the attention of Mr Baker from the Dept. of Lands and Survey. The
 chalkmarks were as follows.

Look at a copy of this plan now shown to you, was the first witness
 who spoke to you a Miss Delzeil? Yes.

And did she indicate that she was standing at the point marked
 30 W1 on the plan which is outside the doors, isn't it? That's correct.
 And did she indicate that she thought Margaret Bell was standing
 where it is marked D1 on the plan? That's right.

Did you ask her to tell you where her friend, a Miss Hamill was standing? Yes.

And did she indicate a point marked W1/2? That is correct.

Also in front of the glass doorway? Yes.

Did you then speak to Miss Hamill? I did.

And did she also indicate a point marked B1 as being where she considered Margaret Bell was standing? That is correct.

And did she put her position as W2? She did, that is on the footpath

And did she give you the position of W21 as being where she thought

Miss Bell then was standing? Yes that is right.

Did you speak to a man named Allen? I did.

Did he tell you he thought Margaret Bell was standing at D3? Yes.

And he was at W3? Also right.

Did Mr Camdam tell you that he thought Miss Bell was at pt. D2? Yes.

And he considered that he was in the corner marked with a circle containing a cross bearing the notation "chalk mark"? Yes.

Can we assume that you spoke to each of these witnesses separately? Yes.

Did you have to assist you two other p/constables, D/C/Fletcher and C/Toroa? Yes, they were to assist with the search and C/Gibson was appted as officer in charge of exhibits.

Did the detailed search of foyer itself take 3 full working days to carry out? Yes it did.

Tell us firstly yr activities on the first day? On the first day, the whole of the floor area from the glass doors to the rear of the foyer was searched and all items considered foreign to the premises ceased seized as exhibits, 2 of these were metal particles, one of which was found by the planter box on the northern wall, that is on the lefthand wall, in the vicinity of the word "bone" at the top of the plan is where that particle was located.

That is not marked as such on the plan? It is not marked on the plan. The second article (particle) was found by the northern wall above the position of the planter box on the lefthand side as we look at the plan. It was almost opposite the doorway to the office which is on the righthand side of the plan. The first day search concluded at about 4.30 p.m. During that day, a search was being made of Queen Street by a team of police officers under the direction of S/S/ Mander. On the second day, a further search of the foyer was made and on this occasion, we searched each planter box and removed plants therefrom. The pebbles in the pebble garden shown on the righthand side of the plan were also removed, the entire floor area including that where the pebbles had been was vacuummed, the vacuum sweepings together with the pebbles were searched. On this day, two further metal particles were located.

The first of these two metal particles was found in the soil of a pot plant in the first planter box on the northern side, i.e. the planter box shown on the left of the plan. The second particle was found whilst vacuuming and was lodged between the wall and the carpet directly behind that same planter box. It sprung up as the vacuum nozzle passed over it.

Pause there, can you just go back to deal with the pieces of metal which were found on the first day, you've said that one piece was found in the vicinity of the word "bone" towards the back of foyer, who found that? D/C/Fletcher.

Was that given to Gibson, officer in charge of exhibits? It remained in its position and Gibson took possession of it from its position on the floor.

Look please at Exbs. 10, 11, 12 and 13? Exb.10 is the first particle referred to found by the word "bone" shown on the plan. I produced this as Exb.10 (Exb.10). Exb.11 was the second particle located on that first day, that was above the planter box on the northern side of the floor opposite the office doorway. I produced this as Exb.11 (Exb.11). Exb.12 was the particle located on the second day in the planter box shown on the left-hand side of the plan. I produced this as Exb.12 (Exb.12). Exb.13 is the second particle found on the second day which sprung up between the carpet and the wall by that same planter box when vacuuming. I produced this as Exb.13 (Exb.13).

On that second day, was all the human tissue you've referred to removed from the walls and ceiling? Yes.

On the third day, did you search the floor area again this time using a metal detector? Yes, the whole of the foyer was searched including the walls and ceiling, the carpet was lifted and folded inwards and conveyed to the police gymnasium, the floor from where the carpet had been removed was again vacuumed and the carpet was vacuumed in the police gymnasium, these vacuum sweepings were also searched, during this day metal particles were located in a notice board which is situated on the northern side of the foyer wall. Looking at photo. No.3 of Exb.2, that is the notice board to which I refer, above the marker "3" in photo. It also is shown in detail in photo. No.13, that is the notice board. That is the northern wall. That notice board is painted in matt black paint to give the impression of a blackboard, the metal particles were found in the upper region of the blackboard (indicates upper right-hand side of notice board).

Look now at Exb.14? Exb.14 which I now produce to the court are particles removed from that notice board. They were found by C/Taloo. (Exb.14).

Just finally, was the officer in charge of exhibits present during the searches you've described and did he take possession of various items found as they were located? Yes.

1 And just referring to these plans, the various items referred to on the plan were marked and referred to the surveyor, referred to the surveyor by you? Thats right.

NO XXD

NO REX

COURT

5 You know of any taxi stand in the vicinity of the Main St. Cabaret? Yes, it is situated on the opposite side of the road to the cabaret. And further towards K'Rd. I wd think possibly at an angle of 30 or 40 degrees to the entrance of the cabaret. Cd you show us on that photograph (indicates blow up)? (indicates to the left of the cabaret area looking at the plan).

10 COURT ADJ. AT 5.00

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COURT RESUMED AT 10.00 on 28.4.80

1

MR GRIEVE CALLS

NORMAN GEORGE CROSS (Sworn)

I live at 75 Norfolk St, Ponsonby, carpenter by occupation. I am also involved with the Latter Days Saints Church, Queen St. being responsible for the mtce of the premises there, that's the prem. at the corner of Queen St. and Scotia Place.

5

Can you tell us about the lighting at the front of the premises? There are 2 floodlights which are used to light up this place in evenings, switched on manually, operated inside the chapel proper, and the night, light, we are discussing, wd be, there was no function on at that chapel to necessitate the turning on of the lights, the lights are in the garden area, they light up the front of the chapel, the blg.

10

Is it the position that generally the lights only turned on if there is a function at the blg? This is not nec. the case either, the lights are gen. turned on by accident, do nt know of any occ. when they have been turned on for a purpose.

So as far as yr concerned, in the absence of any personal know. you wd be surprised if they wd be on for any reason on night of 30th June 1979? Yes.

15

NO XXD

NO REX

MR GRIEVE CALLS

ANTHONY REGINALD MANDER (Sworn)

20

I am Senior Sergeant of Police at Auckland Central. On 1st July Sunday 1979, I was in charge of crime control unit in Auckland, and was directed by D/I Rowe to utilise my staff to make an immediate search of the scene area outside the Main St. Cabaret in Queen St. The area was to include Queen St. down to Mayoral Drive and to include the grassed area on western side of Queen St. in front of the church of the Latter Day Saints. The whole area was searched

25

thoroughly with nothing of significance being found, weather extremely wet, most of gully traps and drains partially filled with water. With reference to grassed area outside the Church, this was thoroughly searched and ~~me~~ I am certain that if there had been a cartridge case there, it wd have been found.

30

NO XXD

NO REX

35

MR GRIEVE CALLSJOYCE WITHERFORD (Sworn)

- 1 I live at 86 Sturgess Rd, Henderson, I work at Martins Toy Shp in K'Rd. Those premises back on to Poynton Tce at top of Myers Park. What time do you gen. arrive at work in the morning? At the time in question it wd be about 8.30 or just after.
- How do you gain access to the premises? I drive into P. Tce, park my car, if I am first I have to go round and unlock the shop, if Im
- 5 second I walk up the fire escape and go thro the door there.
- On the morning of Monday ~~2nd~~ 2nd July, remember thatmorning r Cant remember the morning, but can remember date quite well.
- When you got to work and parked yr car thatmorning, what did you do? Hanson was there, his car in car park and back door open so I walked up fire escape andwent thro the back door and going up on the third flight of stairs, before the back door, I found a bullet.
- 10 I took it inside and showed it to Mr Hanson.
- Look at photos. Exb.2, no. 26 (Hanson should be Anderson I think) Recognise the blg. shown there? Yes.
- And is that the fire escape to which you referred? Yes.
- You sd you found bullet on third flight of stairs? Yes.
- Just using that photo. show the court where it was you found the bullet? (witness indicates stairs near the bottom window on right
- 15 hand side), it was on the third step from the bottom.
- When you say a bullet, you mean a complete bullet unfired? Yes.
- Look at the bullet now shown to you (Exb.15), does that appear to be the one you found? It does.
- And did you as youve sd, give it to Mr Anderson and subs. was it given to the police? Yes. I prod. this as Exb.15 (Exb.15).
- 20 Cd you just tell us something about how often this fire escape is used, who uses it during the day? Gen. me and Anderson, there are people who sublet part of the blg. They come up at about 9 o'clock, usually just Mrs Sylvia and her daughter, sometimes Mrs Sylvai comes in at about 10.
- You know personally most of the people who use it regularly? I do.
- Just casting yr mind back to the time previous to the Monday when yo
- 25 fund the bullet, to the last time you used the escape, when wd that be? The Friday before the weekend.
- Had the bullet been there then do you think you wd have found it or might you have missed it? I cdnt help but find it, it was right where Id put my feet.

30 NO XXDNO REX

MR GRIEVE CALLSJOHN GERARD ANDERSON (Sworn)

1 I am Shp Manager for Martins Tyos Toys Ltd situated at 155 K'Rd,
I live at Forrest Hill. I have been Manager since 2.7.79. I worked
there as Manager early in July last year.

Do you recall getting to work on morning of Monday 2nd July? Yes.
Who was first to arrive that day? First to arrive at shop, not an
employee of Martins, was the guy who owns the cafe underneath.

What about the first employee of Martins? I was.

5 You open up the premises? The man who owns the cafe opens the front
door of the shop, I went up to the basement level, unlocked the
door, went thro, climbed internal stairway to the ground floor or
K'Rd- level.

Was Mrs Witherford there when you got there? No she wasnt.

How long after yr arrival did she get there? I cant say exactly,
10 it wd be about 15 mins. Id say.

And what happ. when she arrived? She, when I came to the K'Rd. leve
I went out to the back, unlocked the door, she went up flight of
stairs when she arrived at work, and when she came in, she arrived
and handed me the bullet.

What did you do with it? I~~nt~~ took it from her, heard on radio
police after something like this and I handed it on to a Detective
15 who came to see me.

Look at Exb.15 now shown to you, does that appear to you to be the
bullet handed to you by Mrs R? I cant say for sure, but looks like
it yes.

NO XXD

20 NO REX

MR GRIEVE CALLSPAUL GERARD STEVENSON (Sworn)

I am D/Serg. attatched to CIB at Aucland. At about 9.08 a.m. on
Monday 2nd July 1979, as res. of information that I had recd,
I went to Martins Toy Stoze in K'Rd. Tjere I spoke to the two prev.
25 witnesses, Mrs W. and Mr Anderson, and I recd from Mr Anderson
a live .22/250 Remington bullet. Looking now at Exb.15 now shown
to me, that appears to be the bullet I recd from Mr Anderson.
The writing on front of the envelope is mine.

You took it back to Central and handed it to officer in charge of
exhibits? I did.

30 XXD MR HART

Know if that bullet checked for f'prints? I dont know, I simply
handed it to Gibson.

NO REX

MR GREIVE CALLSGARY KEITH O'CONNOR (Sworn)

- 1 How long have you known the accused Mc Donald? About 2 and half yrs.
And during that time how well dd did you get to know him? Oh pretty well.
- You know man called Bruce Speck? Yes.
How long have you known him? Same time.
Did you, was it at the end of 1978 and early in 1979 that you began
5 to see quite a bit of Mc D.? Yes.
- Where were you living then?'79, staying at Panorama Rd.
After that, did you go and live at Howard Hunter Ave. at Glen Innes
Yes.
- When was that? About March, middle of March 1979.
And with whom did you live there? I was staying there by myself,
most of the time, and Brian used to stay there sometimes.
- 10 In fact did you and McD. enter into an agmt. to buy the unit at
Howard Hunter Ave? Yes.
- Now how much money did you put down to pay for the unit? We put
down \$2000.
- Each or together? No, together.
- At this stage, did you know fellow called Mark Prendergast? Yes.
When did you first meet him? About Feb. sometime.
- 15 And what about Nicholas Deane, know him? Mark introduced him to us
in about March some time.
- Why were you introduced to Deane? Because Mark sd he had some
guns for sale.
- Were you interested in buying a gun? Brian and I were.
Where were you living at this time? H/Hunter Ave.
- 20 What sort of weapons were you looking for? Not really looking for
them but he sd he had a shot gun, 22.250 to sell, and he was asking
too much for shotgun so we asked him to come round with the 22.250.
Who told you he had weapons for sale? Mark Prendergast.
He had mentioned the shotgun and the 22 250? Yes.
And so x he told you the price was too high? Yes, for the shotgun.
Then what happ? Week later say, he bought Nicholas someone round
25 to H/Hunter Ave. and discussing the price of the .22 and he had
it in the car so he went out and got it and brought it back, he
was asking \$180 for it and in the end we agreed to pay \$180 and
Brian paid Nick for it.
- Who was present while you were looking at these weapons? Nicholas
Dean and Mark and Brian and myself.
- 30 Where did this take place? H/Hunter Ave.
So who decided to purchase the .22/250? We both did really.
And who paid for it? Brian did.

Whose money was it? Our money.

Jointly? Yes.

1 So did you consider you had a share in the rifle as well? Yes.
What happ. to the rifle after it was bought? Firstly, it was sugg.
we keep it under bed, under mattress in bedroom, week later Brian
told me to take it round to Harris Rd.

Can you remember when it was that the rifle was in fact bought by
you and McDonald? Late March, early April, somewhere there.

5 And wd you look at the weapon shown to you, Exb.17, is that the
one? It looks the same.

Did it have telescopic sight? Yes.

What about ammunition, any ammo bought for it at the time that the
rifle was bought? Not straightaway, he asked us to come round later
on and pick it up at Marks place.

10 Who suggested that? I think Nick did, he didnt have it on him at
the time.

What was done in fact about getting ammo for the gun. We went to
his place, Marks place, Nick there at the time, he gave us 3 boxes
of ammunition, they werent all loaded, most of them were empty
cartridges.

What live ammo was bought? Dont know, didnt check the boxes to see
how much was-in them.

15 This weapon in fact takes quite a large cartridge? Yes.

Look now at Exb.15 , is that the sort of shell that the weapon
fired? Yes.

Its a .22 bullet isnt it, the bullet is of a .22 calibre? I dont
know.

20 Was it necessary to pay any more money for the ammo that was bought?
No.

What happ. to the ammunition? Lost it somet time after, dont know
where its gone.

Take it in sequence, on the day you came into poss. of boxes of
ammunition, where did you take them after getting them from
Friend? Left in the Cortina, dont know where they went after that.

25 What Cortina is that? The Cortina we had.

Who took them out of the car? I cant remember.

You sd initially that the shotgun, a shotgun was discussed as well?
Yes.

Did you ever see that again after the rifle was bought? I nev er
seen the shotgun at all, just talked about.

30 You mentioned a property in Harris Rd. Who first mentioned that
prop. to you? Brian did.

What did he say about it? He used to store stuff round there in an
old lady's spare room, and so he thought that was the safest
place to p-ut it.

Had you been to this Harris Rd. house prior to buying the rifle yourself? Yes.

1 When was it you first went there? About January I suppose.
 Who first mentioned Harris Rd. to you, how did you know or first come to go there? Some friend of Brians, it was his mother's place. By the time the rifle was bought, had you met the people who lived at Harris Rd? Yes.
 How often had you been there? Quite a few times, cant be sure.
 5 So when it was suggested to you that the fifle be stored there, you knew where to go in fact? Yes.

Who first sugg. the weapon be stored there? Brian did.

And what happ. about that, what was done about it? I took it round there, when I got there knocked on the door, Mrs Smith came to the door, I put the gun to my side so she didnt see it, she went back inside and I just put the gun in the spare room while she was out i
 10 the other room.

Was it covered in any way? Yeah it had a blanket round it.

When was that that you took it round, remember? About a week after we first purchased it.

Still in March? I dont know, prob. April.

Apart from that weapon, the .22/250, did you have possession of any other firearms? Yes we had a 4/10 22 sawn-off shotgun.

15 When did you come into possession of that, firstly whose was it ? Roger Vitali's.

When did you get hold of it? About February early March, somewhere there.

Before or after the .22.50? Before that.

20 How did the acquiring of the shotgun comeabout, what happ. about that? Roger is friend of Brians and we went round to his place and he asked if he cd borrow it.

Explain who did what? Brian asked Roger if he cd borrow it, and Roger handed it ~~gm~~ to him with a box of 22 sheells and some few cartridges, shotgun cartridges. And then we took it away.

25 Where did you take it to? Used to have it in a sack bag, we used to put it sometimes in this and hide it at H/Hunter Ave and at times we put it under the house, or up by Winstones Quarry.
 So you had this shotgun and then you also acquired the 22/250? Yes.
 At the time that you took the 22/250 to Harris Rd. for storage, where was the shotgun kept ?At that time it cd have been up the ro:
 orunder the house.

You sd it was a 4/10 shotgun? Yes.

30 You know anything about the size of the ammo. that is used? Not beforehand, I know what it is now, after we purchased it, it is a small shotgun cartridge.

Look at this blue one now shown to you.

(Exb.8), youll see that the shotgun cartg.there is narrower than the usual one that people think about, wd that cart. case have fitted the 4/10 shotgun? Yes.

When you got possession of this weapon from Vitali, get some ammo with it? Yes, a box of 22 shells.

You mean the ord. 22 shells for a 22 rifle? Yes, ordinary ones. They had nothing to do with the shotgun as far as ammo for it goes? The shotgun 22 was an under and over, shotgun on top and 22 below. So it fired both? Yes.

So you got some 22 cartridges and what else? And some of those. (Exb.8).

Whathapp. to those or that ammo? They were wrapped up eventually with the 22/250, all the ammo was in the blanket.

Who did that? I cant remembr.

So, was that ammo you mentioned kept with the 22 at Harris Rd? Yes.

After you took the 22/250 to Harris Rd. did you have any occasion to go and collect the weapon from there? Yes, sometime in May.

Where were you going to take the weapon on that occ? Out to Beachlan

At that stage, did you have ammo for the 22/250? No.

Who decided that this weapon was req. at B'lands? Brian did.

And so what was done about it, who collected it? We all met at H/Hunter Ave. ~~at~~ about 6 of us.

Where were they? Brian myself Mark Prendegast, Mark Miller, sorry not Prendergast, but Mark someone, and Ross Gracie, and Shaun Kearney.

So you met at H/Hunter? Yes and Brian told me to go round and pick the gun up from Harris Rd. and when I went round, there was me Mark Miller, the other Mark and Ross Gracie and went round to pick it up, at that time we didnt have any ammo for it so we went into Panmure and I went into the sports shop there to get some ammo for it and when I got back to the car Mark Miller told me that I had the wrong ammo, and then we went out thro Howick and stopped at Howick and Mark went into the sports shop there and got the right ammunition.

Where did you go to from there? We went from there to B'lands.

Whathapp. to the weapon after B'Lands? Ross Gracie took it from B'lands and took it round to a friends place and he had it there for about a week and then I went round and picked it up and took it back to Harris Rd.

When you reted it to Harris Rd. what was the situation regarding ammo for it? We had one box of 22/250 shells and some 14 cartridges and the small 22's all wrapped up in the blanket.

Have you ever fired that weapon? No.

From what you told us about it, about yr involvement about picking up at Harris Rd and delivering it ehre and so on, in what condition was it in then? Looked alright.

Turning to the night of Sat. 30th June, you still living at HHunter then? Yes.

1 Who else was there then, living there? Brian off and on, and just m
What did you do that evening? Wayne and Graham Bloor, we invited them to come out on the town with us that night.

What time did they arrive? Well about 6 or 6.30, 7, something like that.

5 Who was at H/Hunter Ave. when they got there? Just Brian and me.
So what happened? Then we left H/Hunter Ave. and we went into Parnell and went to a pub there.

There were 4 of you then? Yes.

What transport did you have then? Valiant.

Whose vehicle was that? Mine

Who drove from the unit at HHunter Ave. into Parnell? I don't know.
You went to the hotel there, one of them? Yes.

10 Remember the name of it? No, as you go down the hill in Parnell it is on the left hand side.

Has it got an area outside where you can drink as well? Yes, tables

So what time did you arrive there? At about 7.30, 7 o'clock.

And prior to getting there, had you had anything to drink? I don't think so.

What about the accused Mc D? No.

15 What about at the hotel? Well we were there about an hour drinking small bottles of Steinlager and after about an hour Brian told me to go out to the White Horse Inn to see if Bruce Speck was there and to bring him back.

Why didn't he go out? I don't know, it was ~~xxxx~~ wet at the time, it had something to do with it I suppose.

20 Why should you go rather than Mc D, know why? No.

What did he tell you he wanted? To go and pick up Bruce.

During this period that you've been telling us about, early 1979 and so on, did you see very much of Speck then? First couple of months I did, he was with us most of the time but after that he took off, he left.

25 On this particular night, Sat. 30th June, prior to that, how long had it been since you last saw Speck? Couple of days.

When the accused asked you to go out to the White Horse Inn to get him, what did you do? I went to the White Horse Inn, ~~Graham~~ Graham Bloor came with me, Speck was in the public bar drinking with his girlfriend and a few other jokers with him.

30 So what did you do? I asked him if he wanted to come back to the other pub where we were.

Did you tell him why you wanted him to go there? Yes, I said that Brian wanted him to come back and to go into town.

And what was his attitude to that? He didnt want to come.

So what did you do? Me and Graham drove back to the pub in Parnell.

1 And when I got there, I walked back inside, when I got to the table
Brian went off at me for not bringing Bruce back and he sd he wd
go out and get ^{him} himself.

What do you mean that he went off at you? Yelling at me, he was
angry, he then asked for the keys, I gave them to him and he went
to the White Horse Inn.

5 How long was he away? About half an hr to three quarters of an hr.
And when he came back, what happened? He had Bruce with him when he
came back.

So then there were 5 of you? Yes.

Can you remember what time it wd have been when McD. ret'd to Parnell
pub with Speck? About 8 or 9.

So what did you do then ? I just stayed there until closing time.

10 How much did you have to drink? I wdnt know, fair bit.

Well, still drinking the small bottles of Steinlager? Yes.

How many bottles did you have? No I wdnt know.

Any trouble at the Parnell hotel? Yes.

What happ? Well I had a fight with some joker there.

What about? I dont know what it was over, he was just hassling me
when I was going to the bar. When I got back, I put the bottles
15 down, and I went up and punched him.

What did that result in? Nothing, just asked me what it was for,
I told him he knew what it was for and I went and sat down.

And then what happened? Then one of the jokers friends came to our
tabel, moaning about what I had done, and Graham then punched him,
it was Wane sorry not Graham. (Wayne.)

20 What was Mc D. doing during all this? Laughing.

Was any alcohol bought apart from the beer? When we left we went
to get bottle of gin, I bought that.

For whom was that intended? Brian.

What was sd about that, how did it come about that you bought it?
Brian feeling sick with drinking beer, I asked him if he wantedd a
bottle of gin, and he sd yes, so I bought it for him.

25 Where did you go to after you left the hotel at Parnell? We went
out to the Reapers club rooms at St.Lukes, the reapers are a
motor cycle gang.

How many of you were there in yr group at that time? 5 of us.

How long did you stay at the reapers club? Mill about 1.30.

What were you doing there? Playing pool and drinking.

30 What were you drinking at this stage? Beer I think.

See what Speck was drinking? We were drinking the same thing.
Beer as well.

Where did you go after you left the reapers club rooms? Drove down
into Town and down towards the Foundry.

Who was driving? Brain was. (Brian).

And what happened at the Foundry? There was a crowd there, lot of people waiting, dont know if we stopped or drove straight on,
 1 and we went up to Main Street and parked down the road from the Ma St. in the carpark and then we all got out and went up to Main St. What time was that? Not too sure.

So that all 5 of you went to Main St? Yes.

So what happ. when you went in there? We went in there, I went to pay the person to get in, and the bouncer came down and he sd that
 5 Bruce cdnt get in bec. he had scruffy clothes on.

So what happened then? Bruce was trying to explain to the joker that that was all he had, and it wd be alright, Brian was trying to get at him and trying to upset Bruce to do something about it. What was he doing that led you to that conclusion? Kept on calling Bruce a weak mug and sd he shd knock him to the ground.

10 So what happened then? Then the bouncer moved back u'stairs and stood just where the bottom of the stairs is, as you walk up the cabaret, I moved up and stood just in front of the bouncer, just to see whether he was meaning what he sd or not, and Brian was yelling out, hit him hit him and then someone sd that the lady at the cashiers desk was calling the cops so we all then left.

So where did you go after you left the cabaret? We went back into the car and then we drove out to Harris Rd.

15 When you got back to the car after having been to Main St. at the stage, who sat where, firstly who was driving? Brian was driving. Graham and Wayne were in the back seat, the Bloors, and I think I sat in the middle and Bruce by the passenger window in the front. So the accused drove out to Harris Rd? Yes.

Was anything sd about his intention to go there? No.

20 There wasnt anything sd.

What was being sd during the journey from Queen St. out to Harris Nothing, just all quiet in the car, all tense.

Any discussion at all about what had happ. at Main St? No, we just drove straight out there.

What happ. when you got there? He indicated to me to get out and get the gun.

25 Who did? Brian did.

Given any reason? No.

30 So what did you do? Bruce got out and I got out, knocked on the door at Harris Rd. and Trevor Smith came to the door and I just told him I was going to grab something in the spare room and I went in and grabbed the gun, it was still wrapped up in the blanket, took it out to the car, and we put it in the car, it was on our laps or the front seat and drove back into town.

What about the ammo? Still wrapped up.

1

Who was driving on the return trip to town? Brian was still driving
Was anything sd about the weapon at that stage? No.

Anything sd about where you were going having now got the weapon? No
Where did you go then? We drove back into town and drove down past
Main Street and then we turned left up this street thats just down
from Main St. where the lights are, you go across a bridge," and then
we turned left again to go thro the lights and drove up there to
5 where we come to some back alley or something.

You will see behind you an aerial photograph of the city, can you
recognise the area there? Yes.

Youve told us you went past Main Street down Queen St? Yes.

Which one did you turn left into? (witness indicates circular street)
And then we turned left again.

10

We know that area down the back as you call it is Poynton Tce, what
happ. when you got along there? We turned around and Brian got out
of the car and he was away for about 5 minutes.

What did the others in the car do? Wayne looked like he was asleep.
What was the weather like at the time? Raining off and on.

Did you see where Mc Donald went? No.

15

What about the rifle in the blanket, where was that when he left
the car? It was still sitting on our laps.

How long was he away? About 5 mins.

What happ. when you, he, got back? He got in the car and he drove
out the way we come in and we come back down and then went down the
side of the bridge into Myers Park.

See the way you went on that photo? Yes (indicates route taken -
beside the bridge)

20

When you got there which way did you go? Turned right, went under
the bridge and parked down by the toilets.

And what happened there? Then, when we got there, he told us to get
out of the car, me and Bruce got out of the passengers door.

What happ. to weapon? Brian got out the other side of the car with
the gun and he unwrapped it and put the blanket back on the front
25 seat and told me to go up into Queen St. to watch out for ■ for the
'pigs'

Where were you when you were told to do that? By the car down by the
toilets.

What about Sepck, where was he? He was down there too.

And the two Bloor brothers? Asleep in the backseat.

30

What happened then? I then, me and Bruce started walking up thro
Myers Park and Brian was behind us and when we walked up there,
there is a small shed and toilets there, just after a little pond,
I turned off there where the playground or kindy is, I turned off
to walk up towards Queen St.

Pause there, when you say you were walking up Myers Park with Spec
as youve sd, how far behind you was McD? I dont know.

35

I didnt act. turn round to see.

1 Cd you hear him behind you? Yeah.

So you turned off to the left towards Queen St. at that stage? Yes.
What did you do then? I then went out into Queen St. and crossed
the road and then went straight down Queen St. and went up another
street on my right.

5 Pause there, what did you u'stand by the instruction you had been
given by McD? Just to make sure there were no police round.

Did you do that? No.

Why not? I didnt want to get involved in anything.

Well, being involved in what? I didnt really know what, I just
felt something was going on.

Well had anything at all been sd by the accused to indicate to you
what might be going on? No.

10 So when you got to the Queen St. area, you crossed over and went
where? Went down Queen St. and turned up one of the streets off
Queen St., to the right and went right up the top until ~~me~~ I got
to the main road.

The other main road, the one in the foreground, thats Symond St,
that be the one yr talking about? Yeah.

15 In which direction? Went down Symonds St.

How far down? Until you come to that road just there.

Symonds street continues past the Court, you went down to the right
Yes.

Thats the winding road that goes down to the park on the left? Yes.

20 When you got to the bottom of that street where did you go? I went
right and along there and went towards Parnell, went stright up
thro Parnell, got right at the top to some lights, turned left
there and went down there for about 100 yds, another street on the
left that comes out at Remuera Rd., went straight along there,
turned left from Parnell lights, there is roundabout halfway along
go straight thro and keep on going and it comes out at the top of

25 ~~Remuera Rd.~~, turn left there and straight on up towards the top of
the roadk, right out along the end of Remuera Rd, there is traffic
island there.

Pause there, when you got there where did you go? I went down to
~~H/Hunter Ave.~~

How were, how did you make this journey, take a taxi? I was jogging
most of the way.

30 All the way or what? Not all the way. I jogged most of the way and
walkedup most of the hills.

What sort of condition were you in at the time, reasonably fit
or what? It took me about an hr and a half.

1 Since the events of this particular night yr now telling us about,
 have you been over that route with the police? Yes.

On how many occasions? Once.

And on that occasion, how did you u'take the journey, what did you
 do? I went the same as before, jogged, stopped, walked and then
 jogged again.

When you say you stopped, did you stop on the night we are talking
 5 about? I didnt act. stop, I was walking.

Did you break the journey any other way? No.

So you went over with the police in the same manner, jogging at the
 time were you? Yes.

What about traffic, much traffic on the road? That night?
 Yes? No, didnt see any cars.

10 Did the traffic worry you at all? A bit, didnt want anyone to see
 me.

Did you take steps about that? Only couple of cars, I just ducked
 in the bushes.

Just coming back to the beginning of this run that youve told me
 about, did you hear anything during the course of it earlier on that
 attracted yr attention? I heard something, that sounded like a car
 back firing, jut as I got to Symonds St.

15 How long after leaving Myers Park was that? 5 minutes.

What time was it that you got back to the unit at H/Hunter Ave?
 Just before light,
 Just before dawn? Yeah.

Was there anyone else there when you got back? No.

What did you do when you arrived there? I went to sleep on the bed.

20 Did you have a separate bedroom there, one of yr own? Yes.

Did you share it with anyone else? No.

How many bedrooms were there in the unit? 2, only one bed in it.

And where was that bedroom in rel. to the living quarters? Just
 off the living room.

You went to this bedroom when you got back? Yes.

25 What happ. then? I was waken a bit later when I heard some voices
 out in the living room, I got up and went out and Brian went off at
 me and asked me where the hell I got to.

What did you say to him? I sd I thought the cops were following me
 so I jogged home.

What happ. then, anyone else there then? Bruce was there.

Did you see the Bloor brothers? No.

30 Yes? Then he told ~~xxxxxx~~ Bruce to go and listen to the radio, to
 the news.

What did you do? I fell asleep on the couch, woke up at about 9,
 Bruce came in and sd someone hadgot shot.

Who was there when that was sd? There was Brian, me and Bruce .

1 So Speck came in and mentioned someone being shot, and then what was sd about that? Brian sd, those were the breaks, he sd to just listen to the radio.

What happ. next? That was about it.

Apart from what hou told us about it, was there any discussion involving the accused, abot what had happened earlier thatnight? No he ~~jutxx~~ just sd to forget about it.

5 Was there any further discussion later in the day of what happ.? Later on in the day, when all tog., Bruce and Brian, he sd we , he had made up stories for us if we got picked up by the cops and if we had to go to court for us to tell them, he told us to say nothing and call a solr. and he told me that I was to say that just he and I had gone to Main St. andgot kicked out bec. of 3 islanders that were there" we had a fight
10 with them in the carpark and that he had driven home to the unit and I ran down Queen St. and got a lift with some bird in a Jap car. And you were to tell the police if you were questiond? That is what I was to say when we came to court.

Was there a similar story for Speck? Bruce was to say that he wasnt even with us, that he stayed at the White Horse Inn, cant remembr the rest of it, somthing about having a fight with Mac that night.

15 What of the accused himself, did he have a story? His was the same as mine, he was with me.

Were you in fact seen by the police a few days after the events youve described to us? Yes, on the Wednesday after the shotoing.

Tell us about that? Bruce and I got picked up at H/Hunter Ave.

and taken into Central P/Station for questioning, and I told the police
20 the story that Mac had told me to tell them.

Pause there, when the police caemound on the Wed. you and Speck were at H/Hunter Ave ?Yes.

Where was MacDonald? He wasnt there, he was at his mothersplace at Pilkington Rd.

And when the police arrived at H/Hunter did they search the unit? Yes.

And then you and Speck went to the P/Station? Yes.

25 And did they tell you whey they wished to speak to you? I cant remember. You were asked to account for yr movements on night of Sat. 30th June and 1st June? Yez.

What did you tell them? I told them the story Mac told me to tell them. After you had told them that what happ. as far as yr conc? Later on we were all let out.

30 We were all, who is all? Bruce, Brian had been picked up too, and we were all released later on that day.

What happ. then, where did you go? I cant remember, Brian went off to tell the cops the story, he reckon I shd have waite duntil I got to court

- On that Wed 4th July when released, where did you go to from there?
 1 I think I went back to H/Hunter.
 Who went back there? I cant be sure, cant remember.
 At some stage after these events, did you leave Auckland? Yes.
 When was that, how long after this interview with the police? About
 a mth after.
 And where did you go from there? I went to Palmerston North and then
 5 to New Plymouth.
 Yousd it was about a mth after first police interview that you left
 Auckland? Yes.
 During this mth yr talking about, before you went off, did you see
 anything of Speck? After we got arrested on 4th, well he left and
 didnt see much of him after that, only saw him couple of times, he
 just disappeared until about a week later.
 10 On that - after you had been released did you see Speck on the 4th?
 Yes, he was released to.
 See him at all on any days after that? Hedidnt come round much, I
 seen him couple of times.
 Have any disc. about events of night of 30th June 1979 or 1st July
 1979? No.
 When you left Auckland and went to P/North, where did you then go?
 15 To New/Plymouth.
 And was it in New/P you were seen by the police? Yes, about 3 weeks
 later.
 Tell us about the circumstances in which police saw you there? I was
 arrested for skipping bail and I was taken into the N/P. P/Station
 and questioned about another event.
 20 First of all, what were you charged with that time, at that stage,
 what chargedwith earlier on? For receiving wine.
 You were on bail for that were you? Yes.
 You then left Auckland and didnt comply with the terms of yr bail,
 right? Yes.
 So the police saw you about that initially at N/Plymouth? Yes.
 When was that, can you remember? When they saw me?
 25 Yes? About 3 weeks after I left Auckland.
 Incidentally, you mentioned this question of wine charge, has that
 charge been dealt with? Yes.
 What was the result of it? I got 6 mths imprisonment, I was convicted
 on charge-of receiving wine.
 You now serving that term of 6 mths imprisonment? Yes.
 30 When you were, you were picked up by the Police in N/P? Yes.
 How did it come about you were questioned about the Bell homicide?
 The d's that arrested me were from the Bell Homicide squad.

1 Up to that pt. the only information you had given the police is what you told them on 4th July when interviewed by them, right? y
Were you prepared to tell the police what in fact happened when you were seen at N?P? I was in the end.

What about initially? Initially I just didnt say anything bec. I thought someone might get me.

5 How did it come about you spoke to them about what happ? They offered me immunity if I didnt pull the trigger and didnt lie, they offered me immunity.

When you say they off. you immunity who spoke to you about that? D/Hastings.

What did he say to you? What did he call it? I cant remember.

10 COURT ADJ. AT 11.30

COURT RES. AT 11.45

15 Youve sdthat D/S/S/ Hasings talked to you about immunity and youve told us that initially you werent too keen on talking to the police about what happ. Just tell us theevents that occurred which res. in you first telling the police what youve now told the court
First asked me if I wanted to talk to someone, I sd Id like to talk to this woman in N/P that I knew, she came up to the police station
Who was that? Wendy Hanham., I talked to her.

And then what happ.? And then Hastings come back in and sd that Id getimmunity if I didnt pull the trigger and didnt like and so I decided to tell them.

20 Having made that decision, what did you tell them? What I sd before
Was that just in speaking to them? No, took statements.

Were you given anything in writing by any police officer on this question of immunity? Yes.

What was that that you were given? Bit of paper signed by Hastings saing saying I wdnt be charged if I didnt pull the trigger or didnt lie.

25 You see him writing that out? Yes.

And was that given to you was it? Wendy had it.

And then did you make written statement to the police aboutthe matter? Yes.

I will get His Honour to show you a document, apart from in this court, have you seen that document before? NO.

30 Did you personally have anything at all to do wth arrangements for obtaining that document? No.

Apart from the fact that it contained an u'taking to you from the S'General relating to this matter, what was the first occasion on which you saw that document? This is first time Ive seen it.

XXD MR HART

1 Yr own counsel, Crown counsel, asked you quetions that apart from the
 weapon, the 22/250, did you have poss. of any other firearm, yr answer
 you gave was, yes, we had a 4/10 22 sawn off shotgun, remember being
 asked that? Yes.

What other firearms did you have other than that weapon you told the
 jury about? At that time thats all we had.

5 He asked you, what other firearms you had in yr possession, what other
 firearms have you had in yr poss? .38 revolver.

And you had some live bullets for that didnt you? Yes.

How many bullets did you have for that revolver? 19.

And you say you didnt fire the 22/250 or the combination shotgun
 is that right? Yes.

What about the revolver, ever fired that? Yes.

10 Wasnt that one of the reasons why you went to P/N and then on to N?P?
 No.

Come on to that later, but that is the time when the polieehad yr car?
 They didnt have it at first.

Did they have it at that time? I dont know, dont think so.

When you left Acu. Auckland to go to PN and then on to NP did you have
 yr car at the time? No in wreckers.

15 It had been involved in an incident? Yes.

Did that conc. you at the time or not? No, not really.

This revolver you spoke about that the jury know existed, did you
 used to carry it on yr person? Yes.

And sometimes did you leave it at the reapers place? Yes.

And at other times did you leave it round at the quarry? No.

20 So that there was at least a period when you had access to 3 firearms,
 is that right? Yes, we both had access to them.

Yr yrself had access to 3 firearms, that true or false? Its true.

And was one of these weapons a cut down combination 22 shotgun that
 you cd hold in one hand? Yes.

25 Is it yr evid. that you came into poss. of that piece of equipment
 prior to you getting hold of the 22/250 rifle? Yes we got it before
 we got the other one.

Thats a matter you wdnt be mistaken about? I cd be not sure.

Get it before or after? I think we got it before.

Thats yr evid. this morning wasnt it? Yes.

But havent you sd on another occ. and sd you got it after you got the
 22/250? I dont know.

You can see you maybe mistaken about it, is that yr evid? Yes.

30 You know the man Roger Vitali dont you? Yes.

And I sugg. to you tht it was you on yr own who got the sawn off
 shotgun if I can call it that from Vitali, that right? No.

Well is this another occ. that you say the accused McD. was with you when you got poss. of that weapon? Yes, he wanted to get it, he was the one, it was his friend he got it off.

You say he was with you at the time? Yes, I was with him at the time. Well if Mr V. gives evid. and says it was that came round and asked if you cd borrow his shotgun, wmd that be true or false, you by yrself? It wd be false.

You did get some ammo for it didnt you? We got that at the same time as we picked up the gun.

And youve already conceded that live cartridge that was found on the ledge of bottom part of phone box is the same type of ammo that you had handed over to you by Mr Vitali, that right? Same ones as the ones we got that day.

By looking at it youve sd that it seemed to be the same type, shape, thatwd fit the combination weapon, that right? It wd I think.

If evid. is given that when you handed the weapon, you started fiddling with it and handling it straightaway, the sawn off shotgun, is that correct if it is given? No it wdnt be.

Did you flick the lever on top and break the gun? No.

So if that evid. is given, that wd be incorrect you say? Yes.

Did you load the gun on that occasion? No.

Well doesnt it follow though that you admit you came into poss. of this gun and had some ammo, wdnt you see if the amo wd fit and see how itworked? Rhats not what yr trying to say.

Is that what you did? No.

You didnt do it? No.

Do we take it you wantedd the ammo so if nec. you cd fire the gun? I wdnt say I wanted the ammo. I wdnt say I wantedd the gun.

Yr sugg. to the jury that on this oec. you didnt want the ammo and it just happ. to be handed over? Im saying I just didnt say that.

You wapped all the ammo up in the 22/250, that for yr part you wanted the ammo, doesnt it follow? I sd it was wrapped up, doesnt say I wanted it though.

Why wrap it up at all if you didnt want it? Thats where we put it.

You put it there didnt you? Yes.

And it goes further than that bec. you had the 22/250 under yr bed, correct? My bed?

Yes? Only one bed there.

You slept in it? Yes.

Have you described it as yr bed? I suupose.so.

That is the evid. youve given on another occ, that you put it under yr bed, yes or no? Yes.

You were the one who took the rifle later to Harris Rd, that right? On Brians orders.

According to yr evidence and indeed you only one who ever went to Harr Rd, to uplift items? Not sure if Brians been there or not.

- When weapon to be obtained you extracted it from Harris Rd? Yes I was
 1 told to pick it up.
 You did it yrself? Yes, told to.
 Did you at some stage own a Cortina car? Yes.
 Was there another time when you went to see Mr Vitali and you had a
 rifle with telescopic sight on it in yr car which you took it and
 showed it to him? No.
- 5 Have you ever been round to Mr V's place apart from when you got the
 combination shotgun? Yeah, been there a few tmes.
 So if he described a rifle with telescopic sight in Cortina, wd you
 say his evid. is blantly false about that? Yes.
 And if he says that you told him that you had this part. rifle to shoot
 rabbits in b'lands area, is that correct? No, false.
 And if he says that you appeared to know something about firearms,
 10 is that correct or incorrect? False.
 When you first came into possession of the 22/250, within short time
 you had some ammo for it didnt you? Yeah.
 And you sd this morning when giving evid. that was some ammo. that was
 in yr car, the cortina? Yes.
 And it went missing accord. to yr evid. out of yr car? Yes.
 Did it go missing or had you been doing some practice and used all the
 15 shells up? No, never required it.
 These shells arent the sort of things you must mislay are they? No.
 You saying they were stolen, how did you come to loose them? Idont
 know, Brian had the car just as much as I did, he cd have lost them.
 Yr evid. is the last time you saw them they were act. in yr car? Yes.
 On the 30th June, youve already sd that you were at H/Hunter and
 20 decided to go out with the Bloors, rightr? Yes.
 How long had you know the Bloors for? About 6 mths I suppose.
 And do you say you went to a hotel in Parnell, that you then went off
 to White Horse Inn, that rightr? Yes.
 You drive the car that time? Yes.
 But you didnt used to drive the valiant very often did you? I used
 to drive it a bit.
 25 I sugg. to you tht McD. drove yr car bec. you didnt hold llicenxe at
 the time, right? Did you have current licence as at 30th June? No I
 didnt but I still drove.
 He used to discourage you from doing that didnt he? Not really.
 Youve spoken about an incident later that evening at the Parnell hotel
 and you punched someone there didnt you? Yes.
- 30 And was this the situation where someone upet upset you bec. they
 accidentally bumped you in the bar, you went back to where others
 seated, put down liquor and went and punched the person, that rightr?
 No, wasnt just a nudge.

Well this other person, had he punched you? No, he abused me in some ways.

1 What did he say to you? I cant remember.

But he hadnt physically struck you had he? 2 of them were abusing me in some way.

When you went back to the table, did the man have his back to you.

How did you punch this man? With my fist.

Did he retaliate in any way? No.

5 And was it then one of his friends came over and raving over the issue of what you did and one of the Bloors got up and punched him? He didnt get up.

He was standing up already was he? No he was sitting down when he did it.

That wasnt unusual that Sat. night? No.

10 And you were well able to handle yrself in this sit. as far as using yr fists are conc? I suppose so.

This punching incident, did you punch the person on the back of the head? No, on the jaw.

So if evid. were given you punched him from behind, on back of head, you say that wdnt be correct? No I hit him on the jaw.

Wat was the person doing when you struck him, looking towards you, or what? Talking to his mates.

15 Was he side on to you when you struck him? Yeah.

The person wdnt see the blow coming wd he? I dont know.

You threw the blow? He wd have seen it I suppose.

Give him any warning that you were going to strike him? No I dont think so.

20 What expect him to. You say that later on that it was decided to go to the reapers pad? Yes.

Just so we u'stand chronogy, how much had you had to drink up to the time you went to reapers pad? I wdnt know.

Well 5 bottles of beer or less than 5 bottles of beer? I wdnt know.

You know what you wd go thro on Sat. night when at the phb for an hr or so? We had been there for 4 or 5 hrs.

25 Tell us how much you had to drink? I wdnt know.

Wd it have been more than 5 bottles of beer? Yeah, possibly.

And you say some gin bought for the accused? Yes.

If evid. is given no gin bought, plenty of liquor at reapers pad, what wd you say to that? Gin was bought, I bought it.

Did you drink some of this gin that you say you bought? Yeah I think so.

30 How many drinks of gin did you have? I dont know, dont like gin much.

While at the reapers, did they have fire going on and music and so on? Yes.

1 And I sugg. to you that McD. didnt want to go with you to town,
that you and Speck were keen to go off to some nightclub? No.
What about this occasion, did you and Speck want to go into town
to a nightclub and did the accused not want to go? No.

He wanted to go.

Did you ask him? I dont know who bought up the subject of going into
town.

5 You dont know if he was keen or not? I dont even know if he wasthe
one who suggested it.

Did you actually get out and go into the foundry when you drove into
town? No.

You then went into Main St. Cabaret itself? Yes.

Its true isnt it there was the man Speck who was refused entry bec.
of his clothes? Yes.

10 He was the one with the group who was singled out by the boucner,
right? (bouncer)? Ys.

You had all gone there in a group hadnt you? Yes.

Did everyone seemed a bit conc. that one of yr friends not being
admitted into the cabaret? No, mostly Brian.

You were excited yrself? Whats there to get excitedd about.

Were you excited about what had occurred? No.

15 You were the one who ultimately went to the front and shuffled up
to the bouncer? I didnt shuffle up to him, I walked up to him/
The bouncer described you as shuffling towardfs him, did you do that
NO I walked up to them.

You inviting him to come off the stairs at that stage? Not sure.

But havent you sd on another occ. when giving evid. you didnt say
anything to the man? I dont think so.

20 Did you or didnt you say anything? Im not sure, dont ~~xx~~ think I did
You were the one trying to get him to come down off the steps, wd
that be right or not? I dont think so.

Accord. to yr evid. to the jury, you were just moving forward and
didnt have any part. interest in what was going on? I was going to
see if he was going to refuse us or not for sure, he was standing
25 in the road on the stiars.

You were trying to get him to come down off the stairs so you cd
punch him like you did the man at the Parnell hotel, what do you say
to that? Might have if he came down.

Bec. you werent happy about Speck being refused admittance? Just a
laugh.

30 But isnt that part of yr ~~xxxx~~ ^{code} as it were that one of yr friends
was put upon, and you get tog. and sort it up? Why dont you ask me
who made up the code.

Accord. to yr evid. you say it was accused who egging you on? He
was the one yelling his head off.

You didnt need any egging on, it wd be a bit of a laugh? It wd be
some fun for the evening? It wd have been if he came down.

1 You didnt need McD. to tell you to hit the man, yr quite capable ofmaking up yr mind to do it for bit of fun? He was screaming off his ~~h~~ nut.

Yr now saying that McD. telling you to do it, not that it wd be some fun if it had occurred? If it had occurred it wd hqave been a bit of fun for me.

How far ahead of the others were you when you moved forward to see what the bouncer was going to do? About, I dont know.

5 You were a few feet ahead of the others? Yes, Graham stadning up against the back wall, Brian was standing with Bruce in front of the cashier.

Anyway, there was some sugg. about police being called and did you all leave at that time? Yes.

I sugg. to you it was you who wanted to go to Harris Rd. then, what do you say to that? No.

10 But its true you were the one who got the rifle out of Harris Rd. Yes thats right.

And did that rifel have ammo. wrapped up in it? I think so, last time I saw the ammo it was.

Youve given evid. before on this, didnt you say the gun had wrapped up with it the ammo? Yes.

15 And as far as yr aware what ammo. wd that have been? 14 cartridges, 22/250 and some 22's/

So that wd be ammo that wd have fitted the 22/250? Yeah.

Ammo to fit the sawn off shotgun? Yes.

i.e. the 22 and the shotgun part? yes.

Was that sawn off shotgun also at Harris Rd? No.

How do you say it came about you went in and got the gun yrself?

20 Mac indicatedd to me to go and get the thing.

And there wasnt anything else round there at that time.

Well did he say go and get that thing or go and get the gun? I cant remember what he sd, but he didnt say straight out the gun, knew what he was talking about.

Some reluctance to talk about guns? Wasnt much sd at all that night.

25 You got the gun and broght it bak in and put in across yr laps in the front of thecar? Yes.

What did you think gun required for at that time? Wasnt sure.

Did you think someone going rabbit shooting then? No.

Well you got the gun, what did you think it wd be used for? To scare someone.

30 And who did you think the person was going to be that was going to be scared? The bouncer.

Had there been some disc.about that? No justthe way Bfian went on about it, thought it wd be.

In yr evid. in chief, you sd no disc. about what was going to happen that is what you sd? No, there wasnt any disc.

So do we take it then you assumed that the gun was being used to go and scare the bouncer in town? Yes.

1 This worry you at the time, bec. you had got the weapon? .Yeah.
Did you refuse to get it? Never refuse Brian.

You some sort of robot where he is conc? Copped a few beans from him
Copped a few beatings from him.

You say yr not able to handle yrself in fist fight with him? I can
with fist fights but not wen it comes to other things.

5 You hadnt only been friends with him but you had bought a flat
tog? Weve done lot of trans. in housing.

You sign a contract and put up some money? It was ours.

Was there strong armed tactics to force you to buy the house? I never
had much say in anything/

Always associates with him did everything he wanted with him?
I wdnt call it an association.

10 You then went into town and during the trip in the car, where was
the rifle? On our laps.

So that wd have been a cross yr lap and Specks lap? And Brians as
well.

Which way was the butt facing? I cant be sure.

You put the rifle in the vehicle didnt you? Yes.

15 Was the butt nearest you or furthest away from you? Cant remember
Im sugg. to you that you were the one sugg. that someone shd be
scared, what do you say to that and thats why you got the rifle? No
You end up then do you not at the area you know as Poynton Tce,
at the top of town off Greys Ave? I dont know where yr talking about
Where you and Speck got out of the car to see if you cd look at the
Main St. Cabaret? You mean where Brian got out.

20 Where you got out, what do you say to that? Where Brian got out.
Driving down P/Tce? Down the alley?

Yes? Accused driving the car? Yes.

Rifle across yr laps? Yes.

What do you say happ. there? Brian got out.

Did the car stop? Yes, turned around, the car pting out, Brian got
out of the car and was away for 5 mins.

25 Rifle left in the car? Yes.

What about Speck did he get out of the car? No.

You sd, if he sd he got out and went to the toilet, wd that be right
I wdnt be sure.

You were there, did he get out or not? I dont think so.

You wdnt have any cause to touch the rifle? No.

30 In fact you wdnt have touching it? I was touching it, it was on my
lap.

Put yr hand on it? No.

You had no cause to ~~xxx~~ do that did you? No.

1 Just turning back to when Speck got out, do we take it you were nearest the drivers door bec. you got out on the last occ. to get rifle? Yes.

Speck next to you? Yes.

And the accused ~~was driving~~? Yes.

If Speck got out of the car, wdnt you remember bec. wdnt you get out to let him out? Yeah, I think I wd have noticed. I got out the drivers door.

5 You say that the fifle left in the car across yr lap and Specks and you say accused got out of the car? Yes.

If evid. given you and Speck got out of the car, youd say that is incorrect? Yes.

You had no reason for touching that rifle apart from perhaps brushing it as you sat in the car accord. to yr evid, right? Yes.

10 Isnt it right youve given evid. on another acc. and sd you unwrapped it then? I dont know.

Think about it, it is imp. Have you given evid. on another occ. and sd at that time you unwrapped the rifle? I dont know, I didnt read evid. to say that.

You had no cause for doing that? No.

Know reason why you shd unwrap the rifle if yr evid. is right? Yes.

15 And there was no real reason for anyone to unwrap it was there? I dont think so.

No reason for anyone to unwrap it at that time? I dont know about reasons.

Was the rifle unwrapped then or not, yes or no? I dont know.

20 You see I sugg. to you, on prev. occ. when giving evid. you sd this, Brian got out of the car firstly I unwrapped the gun a bit and then you didnt see him for 5 mins, that is recordedd, you sd that on oath in this court? I unwrapped it.

It is recorded and that is what you sd, do you agree that is the cases? No.

You say you made mistaken when you gave evid? Anyone can make mistakes..

25 How cd you make mistake about saying that you unwrapped it a bit at that time, not the thing you make mistake baout? I dont think I sd it.

If recordedd you say now it cant be right? Things recordedd there are not exactly what I sd.

Yr not sugg. where it says I unwrapped the gun a bit? I dont think I sd it.

30 That is recorded when evid. being lead by you by Crown and no alteration maded to it, you accept that is what you sd? Not sure. Im just saying I dont remember saying that at all.

1 If you did yr now saying it is incorrect? Im saying I dont know.
Do you jaccept then the propo. that you may have unwrapped the
rifle at that time? I dont know, you keep asking me.
Youve already sd no one else unwrapped it bec. no reason to do so,
thats right isnt ut? Yeah.

It was peuring with rain then? I dont know about pouring, it was
drizzling.

5 The car then driven down to bottom of Myers Park, right? Yes.
Where do you say the gun was then? Still on laps I think.
If Speck had the gun in back of the car during this time, wd you
say he is right or wrng? I dont knw.
Yr vague abot this arent you? He might have made amistake.
You accept the gun may have been in the back or is yr evid. correct
and it was in the front? Ill say it was in the front.

10 Was it yr evid. that by the toilets, that- McD. told you to look
out for the pigs? Yes.

Where was Speck when that was sd to you? By the car.

He wd have heard that too wdnt he? I dont know, might not have.

Accord. to yr evid. that was last time you spke to accused before
you went off and accord. to yr evid. jogged home? Yeah.

15 How do you say that, how is it yr able to say accused was behind you
as you walkedup thro Myers Park? Bec. I cd hear him walking.

Cd you hear footsteps behind you? Yeah, it was wet.

Wet at the time? Drizzling Drizzling.

How far behind you wd he be? Not sure.

You say that McD. took the rifle out of the car and was it then tha
he sd to you about looking out for the pigs? yes.

Youve given evid. about this part. matter before havent you? Yes.

20 And in some evid. in chief taken at depts, did you say not sure if
rifle taken out of the car? Too scared to say it.

Did you say that? I did at first, but afterwards I told you truth.

In yr evid. in chief you sd you cdnt remember if rifle had been take
from the car? Yes but when asked later/.

When ~~XXX~~ did you say accused took it out? Yeah.

25 Is yr explanation for that diff. that you say notwithstanding you
had been off. police protection, too scared to say it? First time
I stood up in box before anyone before.

So first account when you went to say that you dont know if taken
out or not, that was lie on yr part for reasons you sd? What is
yr explanation, was it true or not? I told you at first I sd somethi
diff.

30 That was a lie wasnt it? I sd I didnt know did I, read what is
written out to me.

Did you say in evid. in chief on this particular pt.

(p.71)

1 "We arrived Bruce and I didnt take it"? Yeah, I sd cant be sue, you asked me later and I told you, I was sure then. So that is not a lie.

You were sure then, when you gave yr evid. in chief? What do you me by that.

Accord. to yr evid. you were sure that McD. took the rifle out of the car when you gave yr evid. in chief? Yeah.

5 You sd in yr evid. in chief now that youwerent sure and the reason being that you were frighten at the time, that so? Yah. Yeah.

You concede you not telling truth about the matter in yr evid. in chief? Im telling the truth in saying I cant remember.

I put it to you that it was you and Speck who went off with the rifl from Myers Prk, what do you say to that? I say it is wrong.

10 I put it to you it was McD. who stayed in the car, what do you say to that? Wrong.

This is not first time these matters put to you is it? No.

And I sugg. to you that you and Speck got yr heads tog. and both had been prepared to purjure yrself to save yr own skin? Nev3er had chance to talk to Speck.

Im putting it to you that, the accusedd took the magazine from the rifle off you down in the carf that right? Dont think so.

15 You had bullets in yr pocket, what do you say to that? No, he unwrapped the gun.

This is significant, about you having let it slip out that you unwrapped the gun, that is recorded in yr evid? Yr now saying you cant remember about that? No.

20 Waht Im putting to you is hat it was you and Speck that went up outside Main St. and eiter you or Spck shot the girl, that correct? No.

If you didnt shoot her you were the one who dropped the cartridge from combination 22 shotgun by the telephone box when you were keeping a lookout, is that so? No.

25 You see you say you had no chance to concoct story with Speck? Yes. Before you taken inby the police you and Speck were at HHunter tog? On Wed. yes.

I put it to you you had ample chance to get story sorted out to save yr own skin? I wdnt be running if I wantedd to do that, I wd have sd so then.

You werent offered immunity to start off were you or are you saying now you were on the first occ? No.

30 I put it to you that yr story about jogging home is tissue of lies what do you say to that? Its, yr lying.

Im not giving evid? I put it to you that you...? Itw what yr saying I put it to you you didnt jog hom, you went home with others in th veh, is that right? No.

You went with the others? No I jogged home
 If evid. is given it only took something round 50 mins. before
 1 there was arrival at H/Hunter, that means that yr veh. wd have been
 back at H/Hunter before you arrived? Cd have come back and gone again
~~and~~ you took about hr and half to jog home, get wet that night? Yes.
 Wet right thro? Not right thro.
 Bec. you had been drinking that night? Yes.
 You only had yr street shoes on? Training shoes as well.
 5 What sort were they? Swayed rubber soled shoes.
 They werent type of sandshoe were they? Yeah Id say they were, I use
 them for running and training.
 And are you saying you pretty fit that night and made yr way home in
 hr and half? Yeah, pretty fit.
 Smoking at the time? Dont know, might have bene.
 You do smoke dont you? Off and on at the time.
 10 Training with any part. person then? Ys.
 If evid. given you werent very fit, youd say that is wrong? I was
 fit.
 I put it to you you in yr veh. when rifle dumped and clothing dumped
 at Half Moon Bay, you say you know nothing abot that bec. you had
 run home away from the scene? Yeah.
 Accord. to yr evid. you in Auckl. at the end of August, that so? Some
 15 time in Aug. when I left, not sure.
 It was Sept. when police spoke to you in N/P? Not sure of dates.
 That is correct date, you left Auckl. about 3 weeks before that
 you sd that this morning? Stop blabbing on and listen, I left from
 the Friday after I been to court, Friday night I been to court for
 receiving wine, thats the night I left.
 20 21st Setp., that puts it to the end of August? I suupose so.
 Yr capable of working that out? You know it all.
 You say last time you saw Speck was when? About week after the
 shooting.
 About week after the shooting? Yes.
 I put it to you that Speck was in Auckland for a longer period than
 one week after the shooting, that so? I dont know, never seen himm,
 25 only there about a week, not too sure.
 As far as the issue conc. you not prepared to say anything until you
 had been told you not to be charged yrself? Not so much the immunity
 You knew you in diff. position even accord. to the evid. youve given
 isnt that so? I suppose so.
 Firstly yr car was used, that right? Yeah.
 30 You had gone and got the gun from an address that you frequented,
 that right? Yes.
 You knew that something was likely to be done bec. of the bouncer?
 I didnt think anyone wd get their head knocked off.
 Even in that case you cd be in diff. sit. accord. to the law? Yes.

Well, were you worried about that? No, not really.

1

Are you saying that this whole matter didnt conc. you at all? It concerned me alright.

You not worried about it? More worried about it physically than mentally.

Are you saying you were given a story to make up for when you had to go to court if you did? Yeah.

5

And you say it was the accused who told you to at some stage say you had been picked up by someone in a Jap car? Yes.

You of course must have provided that information for anything like that to be sd? No, why.

How was it that accused knew this if you didnt tell him? He told me bec. there was Jap car outside Main St. at the time.

10

I put it to you that you and Speck got yr heads tog. and figured out the first story you cd tell and later got yr heads tog. to wrk out how you cd get off the hook by falsely accusing McD, what do you say to that? Lies.

When you left Auckland, evid. has been read that you absconded on bail on receving charge? Yes.

Also the other man conc. with you bec. of the issue of yr car - No it didnt worry me.

15

Youve been asked about this before, do you agree, was one of the considerations that you took into account before leaving Auckland for P/N, was that one of them? One of reasons I took off cd have been I had no licence, lost my licence for 6 mths that day for driving while disqu., just smashed the car up with stolen wine in it as well, so that wd help.

20

One of the other matters that helped wd be the issue of a bullet hole in car? Didnt look like one.

Did you know of existence of this hole in yr car? Yeah.

How long were you in P/N for before the police approached you, that is the case that they approached you? Yeah, about 3 weeks I think.

And were the 2 D's who saw you persons who enquiring about Bell homicide? Yeah.

25

And who were they? Metcalfe and Hastings.

When did the first issue as to immunity come up? It was quite a while before it come up.

But do you agree that before you made statement as to yr alleged part in this whole affair that you had it explained to you that prov. yr prepared to give evid. and say you didnt fire the gun, you wd not be prosecuted? Yeah.

30

And did you then u'stand yr position to be prov. you gave evid. against McD. nothing wd happen to you? Cant be sure, never exactly trusted the law.

Regardless of what yr sit. was at the time youve now seen ltr. of imm. from s/general to say you wont be prosecuted or if you are that will be stayed, that right? The one I seen before first time I seen it.

35

1 You u'stand your present position is, to stop anything happening to you, it is necessary for you to actually give evidence? I suppose so.

Youve read the letter from the S/General havent you? No.

COURT ADJ. AT 1.00

COURT RES. AT 2.15

5 Prior to going to P/N, did you, had you been spoken to by the police on 5 or 6 occ. and asked questions about Bell homicide? Not 5 or 6, about 3 or 4.

On those occ. you had the chance if you wished to give them the account youve given in this court, agree with that? I cd have.

Did you give them account? No.

10 And do you agree the sit. was the police caught up with you, you didnt go to the police -and say you wanted to talk to them about smething did you? No.

You'd agree you/on yr own evid. you were on the run from the law at that time? Yeah.

You also have yr revolver with you then? Yes.

Hand that weapon into the police after getting immunity? No.

15 You now know the existenc e of ltr. from S/General? Yes.

(witness is referred to the ltr.)

(letter passed around the jury members)

The jury has had chance of reading the ltr, do you concede it is dated 12.12.79? Just look at it? Yeah.

20 And do you agree that that was obv. in existence prior to you giving evid., at the taking of deps. in the M/Court at Auckland? Yes.

Do you u'stand that doc. to mean that on the condition that you were prepared to give evid. in proceedings against the accused on charge of murdering Bell and that in course of giving that evid. you didnt refuse to answer questions on grounds of self/ⁱⁿcrimination and if proceddings taken by the police or member of community, those proceedings wd be stayed, i.e. there wd be barr to action taken

25 against yrself, you u'stand that to be the case? Ask me again.

Did you u'stand to simplify it that if you gave evid. in box, you wdnt stand trial yrself for anything you might have done in connection with Bell homicide? Thats right.

And thats what that ltr. frm the S/Gen. is all about isnt it? I suppose it is, ydah.

30 And when you made statement to the police, do you agree before you got on to the self ~~xxx~~ incriminating bits, it was written into that doc. that you wdnt be charged? No, this is dated 12th.

No, the statement you made to the police, not the ltr, going back to the events at NP when police spoke to you and after period you mae made statement? Yes.

1 In that document which was yr statement to the police, before you embarked upon any incriminating matters against yrself, the wording in the doc sd you wdnt be charged? No I told you what they sd before, I was only told if I didnt pull the trigger and didnt lie I wdnt be prosecuted, I even sd that in court then.

5 Listen to question, do you agree written into yr statement by the police words to the effect that if you didnt shoot the girl and prepared to give evid. the proceedings wdnt be taken against you? Yeah And thats what you u'sand yr pos. to be now as you stand in the box before the jury isnt it? Yeah.

In other words, you were being told then, correct me if Im wrong, that it didnt matter what you did, so long as you didnt pull trigger and give evid. you wdnt yrself be prosecuted, that right? No. Is it something different? If I didnt play any part.

10 Thats not what you sd before, didnt you say providing you didnt shoot the girl and told the truth, you wd not be prosecuted? Yes. Now theres nothing there that says anything about the part you played apart from yr pulling the trigger, right? Yeah.

Thats the sit. as far as the ltr. from the S/Gen. is concerned, thats reall what that means is it? I suppose so, yeah.

15 Who was it that sugg. to you that prov. you talked to the police you wdnt be charged, where did that come from? What do you mean? Did you say to the police, Ill talk if I dont get charged, or did the police offer it to you? They offered it.

Had you ever been offered that inducement before? No. On these 3 or 4 times you went to the P/Station, and told you wdnt be pros. if you didnt pull the trigger? The first time I never sd anything, they wdnt have bought it up if I wasnt going to talk about

20 But what Im asking you is, did the police ever say to you, so long as you didnt pull the trigger we wont charge you prior to event in NP? No they didnt.

Turning back to the morning of 1st July, when you say you made off up thro Myers Park and went down Queen St. and up Airdale St., was it raining raining at that time? No, dont think so.

25 Did you run up the hill or walk up the hill? Didnt start running until I came to Symonds Street.

How wet were you when you arrived back at the flat at H/Hunter? Wasnt wet thro my leather jacket, but my pants were wet.

Ive already put it to you - yhou in car left Myers Park and went to Half Moon Bay and then to Panmure Bridge, you say thats not true bec. you were walking and jogging home then, right? Yes.

30 So I put it to you there was an occ. when there were 5 of you at H/Hunter, two Bloor brothers and the accused and you and Speck, you lying in front of heater drying off yr jacket and clothes, what do you say to that? Not true.

That wd be completely inconsistent with version youve given to jury? What do you mean.

If it were correct? Its not correct tho.

1 Is it yr evid. that you ~~nt~~ say McD. had words to say to you later
 you having been at home and gone to bed, that so? Yeah, ^{living}
 Where were you when that conv. took place? Out in ~~the~~ room.
 Had you been in bed when woken up or awake still? I was in bed.
 How did it come about that the conv. took place in living room? I
 got out of bed when I heard them in living room. Speck was with
 Brian when this conv. took place.

5 Did the Bloors have holden car with them that night? Yeah I think
 Did you go out in morning in yr valiant car and come back round
 about 11 o'clock? Cant remember.
 What did you do in the morning? I dont know.
 You see I sugg. to you you and Speck had gone out that morning and
 came back and it was Speck who parrotted what had been on the radi
 what do you say about that? No, that was at about 9 or 10 o'clock
 10 thathe sd something about the girl getting shot.
 If evid. were given that it was indeed Speck who parrotted that
 out? What do you mean.
 Wd that be correct if it was Sepck who did this? No it wd be wrong
 Was there a joking disc. bet. you and Speck about his eyesight and
 firstly getting the wrong blg? No.
 Well its true that Speck hadnt got good eyesight? No he hasnt.
 15 You in habit of making joke about that hadnt you? No.
 You saying you never remarked at him about poor eyesight? Not sayi
 I never remarked about it, Im saying I just didnt then,
 I put it to you that you were telling the accused what, as it were
 had come over the news, that it was then that Speck touched the
 accused on the shoulder and sd, thats the breaks mate? Touched
 20 who.
 Speck touched the accused on shoulder and sd, thats the breaks
 mate? Nah, yve got it a bit twisted round.
 Thats whats being put to you not only today but on other occ.
 that youve twisted it round and that you and he wre resp. for
 shooting Margaret? Thats what you keep saying.
 I put it to you tahtyou and Speck got yr heads tog. to decide what
 25 you wd tell the police bec. you knew what you had been up to the
 preceding evening, that so? No.
 You of course wd have handled at least some of those small
 shotgun cartridges which is designed specially for the sawnoff
 gun that youd ref. to in yr evid, thats right? Not designed spec.
 for any sawn off gun, they are 4/10 cartirdges.
 30 Combination 22 4/10 gun is not to say the least common in this
 country, agree? Dont know, never seen one before.
 You agree that the make, the type of cart. is quite dissimilar to
 an ord. shotgun cart? I suppose. so.

(witness referred to the shotgun cartridge - blue one Exb'8).

1 You agree dont you that you wd have handled a shotgun cart. like that at some stage? Yeah.

Thats the cart. that can fit into the weapon that was shortened so you can hold it dn one hand, that so? Yeah.

You now know dont you that on the morning of 1st July, at about 7 a.m. someone picked that cartridge Exb.8 from ledge at the bottom of phone booth just down from where Bell was shot, you know that? N

5 What Im putting to you is that it was you and Speck who left the car in Myers Park with the gun, travelled up thro the park, thro the back darkened alleys, and made yr way to the position in the Church where Bell was shot, but before doing that, youd been sent down to act as lookout and dropped the cart., ~~you~~ in the course of yr lookout, what do you say to that? No.

10 Totally incorrect.

But you got pretty close to that ~~bullet~~^{gun} on yr own evid., when you unwrapped it at Poynton Tce? You asked me about it but I still reckon I didnt say it.

You knew didnt you that in covering of that gun was ammo that fitter sawnoff shotgun, right? Yeah.

I put it to you you had that piece of ammo on you that very nightr? NO.

REX MR GRIEVE

COURT

You put it to the witness he left the car and made his way to the church, which gun?

20 MR HART

I meant the rifle.

REX MR GRIEVE

Mr Hart asked you questions about what you sd in the M/Court and he pted out that when you first gave evidence, yr evidence in chief there, you were talking about what happ. at the bottom of Myers Park and he sugg. that at that stage you sd you dint know what happ. to the rifle, remember that? Yes.

25 Today when answering Mr Hart on that subject, you pted out that when he had XXD you in the M/Court, you told him whathappened, remember that? Yes.

30 While answering him today on thatquestion, you sd that you were too scared in the M/Court to refer to what was being done with this weapon, remember saying that? Yes.

What were you scared about when you gave evid. then? I was scared of the way things were going.

What sort of things? I was sort of giving evid. but not saying everything.

1 You were also asked about whether or not you and Speck got yr heads tog. after the events of 30th June before you were seen by the police, remember being asked that by Hart? Yes.

You've told us that the police first spoke to you and Speck on the 4th July at the unit at E/Hunter Ave, right? Yes, that was first time. On that particular day, before the police arrived, did you have any warning of their coming? No.

5 Was there anything that had occurred causing you to suspect they would come that morning? No.

Up to that stage, what arrangements did you have as to what would be said to the police? The first story that was told, about running home, I'd get picked up by a Japanese car on the trip.

And who had you talked to about that? What do you mean by that.

10 Who was involved in discussing that story with you? What, detective? When, when you were arranging the stories, before the police came, who was involved in these stories? Brian.

And having made or had this disc. with McD. about what to tell the police, on that morning, when they did arrive, what was the first the very first thing you knew about the fact they were there, the police i.e.? When they kicked in the door.

15 MR MORRIS RECALLS

LOUISE JANE LIPANOVICH (Sworn)

COURT

20 Did the female staff at the cabaret wear any sort of uniform? Yes, the girls upstairs wore them but they usually changed before going home, it is black t-shirt with longish sleeves black skirt and black stockings, that would apply to the waitresses, it would not apply to the cashier, she has no uniform.

MR MORRIS

25 Can you tell us how the door shuts and opens? The front doors have dead lock on them, someone opens them to go out and they close automatically but don't lock themselves, you lock the door when someone goes out the door.

How does a person from the outside then get in if locked from inside? The act. time you're talking about was after work, the cabaret was closed, door locked, anyone wanting to go out has to inform the doorman, myself or husband. We walk around unlock the door, let them out and lock the door again after them, waitress staff also walk to their cars unless in this case there is a taxi coming for them.

30 As far as keys conc. how does person get back inside? They are not meant to come back inside, there is doorbell that they can ring, but only I open it at that time of night. At that time there were 3 keys out, I had one, husband had one and Shane Bentley had one.

(photographs of deceased put in by consent)

1

MR MORRIS CALLS

BRUCE GRAHAM SPECK (Sworn)

I am living in Auckland at the pres. time, working as labourer at the present time. I know the accused McDonald, I've known him for a number of years, about 12 years in all.

5

That wd take you back to school days? Yes.

Mr O'Connor the chap who gave evid. few mins. ago, how long have you known him? 2 years.

I want to ask you about the events of the night Miss Bell was shot. The night of Sat. 30th June 1979? Yes.

Prior to that period, for some months, had you O'Connor and McD. gone around together? Yes.

10

On Saturday 30th June, did you to begin with early in evening to to the Panjure Hotel? Yes.

What time did you go there? About 7 o'clock.

Who were you with at that time? Meredith Nicol.

Were either O'Connor or either of the Bloor Brothers or Mc D. with you at that time? No.

15

From the Panmure Hotel did you move to another one? Yes we walked over to the P'ranga Hotel.

Again at that hotel, who were you with? When we walked in, my brother, Gary Cole, Graham Swindower and a few other people there we sat down with them.

How many in all in the group? About 6 or 7 I think.

Yr girlfriend Meredith Nicol with you that night was she? Yes.

20

Just to get it right in yr mind, the Bloor brothers, McD. or O'Connor, were they with you at this time in this hotel that night? No.

While you were there with yr friends, did you see anything of O'Connor McD. or either of the Bloor Brothers? Well Gary O'C and one of the Bloor brothers come in, Graham I think it was, they wanted me to go into town with them.

25

You happy about that or not? No I told them I didn't want to go. So what happ? So they left, I went into the other bar with the group of people I had just met.

With yr girlfriend Meredith Nicol? Yes, only there for a short while and then McD. come in, someone sd McD. was there, I tried to hide away from him, I turned around and was punched in the jaw by McDonald.

30

Prior to him punching you did he say anything to you? He started calling me a fucking asshole, cunt, started going off his head a bit.

35

Bit of a scuffle there.

1

What was the nature of the scuffle? I think he was still trying to punch me and I think I grabbed his arms and he sort of came back towards the main door of the hotel, and as we got to the door the bouncer come up and told him to leave me alone, and McD. told him to fuck off, I says to the bouncer, its alright, Ill handle him, the bouncer was a bit drunk and kept telling Mac to lave me alone and he told him to fuck off. McD. reached for a bottle on the cig. machine by the door and he threatened to use it, if I didnt come outside with him, I sd I would just so he wd put the bottle down, the bouncer kept interfering, I told him to leave it alone, MacD. says Ill do the both of you here if I didnt come outside with him, so I told the bouncer to go, it was alright, and then I went outside with him.

5

10

Did McD. give you any reason for this behaviour on his part, I mean youve known him for 12 years? I cant remember. Did he say why he was doing this that night? Maybe bec. I didnt go into town, bec. he sent O'Connor to come and get me or it cd have been bec. of the people I was drinking with. Why do you say that? He's always calling my brother and Gary Cole policemen.

15

As matter of fact are they policemen? No. No policemen in yr family? No.

20

Did you go outside the hotel, and where did you go to then? Mac was still carrying on, told me to go to the car, told me to get into the car, I got in, he hopped in, then I didnt know where we were going to, he started driving, we ended up in Parnell, down the road from the Alexander Hotel, it is in the main Street in Parnell. He parked the car down a side street down from the hotel, I asked him whats going to happen now, bec. I didnt know exactly what was going on.

25

Who had been with you and he in the car on the way back from P'anga into Parnell? No one, just us two. Just the 2 of you? Yeah.

Any talk between you as to what had happ. when you got to the Alexander Tavern? Still calling me a fucking cunt, kept asking why I was with those policemen, I was just a green whatever he was saying.

30

You get to the Alexander Tavern and who did you find there? Two Bloors and Gary O'Connor.

And did you and McD. join them? Yes.

Apart from the 2 Bloors and O'C, anyone else in the group? There was a girl, the one on the stage, I didnt know who she was, she just latched on to one of the Bloors.

What time wd it have been when you got to the Alex? Im sorry I cant tellyou.

35

What time did you leave? Just on closing time when we started to leave.

1 While in the hotel, that hotel, the Alexander, you notice any dispute or fight bet. any of yr party? Yes, a scuffle at the bar one part of it, didnt know exactly what happ. then.

Who was involved? O'Connor.

Anyone else get involved in it at all? O'Connor come back to the table we were sitting at, mumbled something about this guy being stropopy
5 at the bar, and then another guy comeup to our table, one of the Bloors hit him, told him to fuck off, and come back again and got hit again.

Did things quieten down after that? Yes.

So far this evening, was it a pretty well on a par for the course, was this normal for yr Sat. night? Yeah you cd say that.

10 Come closing time, did you take any liquor with you? Not that I know of, no, I didnt.

What of the others? I cant be sure, dont think so.

Where did you go? Well, he sd - McD. sent O'Conner down to get the car where it was parked bec. it was raining outside, O'C. come back with the car, we all hopped in, McD. took the wheel, down to Grim Reppers pad.

15 Where was that pad? In St. Lukes, at the shopping centre.

5 of you went round there? Yes.

What happ. at the reapers pad? Nothing much.

How long were you there? Dont think it was for very long, perhaps an hr or so.

How did you pass the time? Had couple of drinks and we just left there

Whre did you go to? Back into town.

20 How did you get there? In Valiant car, O'Connor's.

Who was driving? McDonald.

Where did you go? We went to the Main St. Cabaret.

Whose idea was it to go there? Not too sure. Cdnt say.

Know when the sugg. was first brought up to go into Main Street?

No I cant.

25 You come down to - where did you park? Just down the road, on side road, just down from Main St.

Then what happ? We walked up from the car to the cabaret, walked in the foyer there, bouncer come up and says to me I wasnt allowed in bec. of the way I was dressed, I sd, oh, something like I dont think we are going to be here that long, he says, sorry you cant go in but the rest of yr friends can go in bec. they were pretty decently dressed,

30 What reaction did that bring? Well McD. started getting off his had, getting upset, telling me to deal to him, calling this guy an arsehole, telling me to deal with him.

What does to deal to him mean? It cd mean a few things.

1 Coming from McD. it cd mean few things, it cd mean to hurt him
in some way, physically.

When you recd those instductions what did you do? I walked toward
the bouncer, I didnt want to hit him.

Why was that? I didnt see any reason to really, I suggested that
we go home, someone take me home and change and come back or go
somewhere else.

5 How long in all did you stay in that area, in the foyer of the
cabaret? For 10 mins, cdnt say.

What caused you to leave? Well, one, I wanted to get out of there
bec. I didnt want any tou trouble, covered in tatooes, I wd have
been the first guy the police wd have-been told about, if any
trouble occurred, it wd be me who was picked out bec. Im heavily
tatoeed, right up my arms, it wd have stuck in the bouncers
10 mind or anyone elses.

Any action taken by the cabaret staff that you saw? I think when
all the screaming was going on, I think I heard a woman mention
about ringing the police and we left soon after that.

You decided to scarper, right? Yeah.

What about the other fellows, did they leave? Yes, we all walked
15 out the door together. Mc.D. was yelling out I was weak mug for
not hitting this guy.

Where were you when he was saying this? Just out by the door.
OUT on the street? Yeah, by the foyer, he was calling me a weak
mug mug all the way out the door.

You remain the vicinity of the cabaret for long? No not eally,
couple of minutes Id say.

20 Then where did you go? Back down towards the car, got into the
car, McD. was driving, we left there, went to Mt. Wellington,
Weve been told you went to house at Harris Rd? Yes.

Was that all 5 of you that went there? Yes.

You remember where everyone seated in the car on the trip to
Harris Rd? McD. was driving, not sure, think I was in the middle
25 O'C. on the pass. side door and the 2 Bloors were in the back.

What happ. at Harris Rd? McD. says to O'Connor something like,
you know where it is, go and get it. I hopped out of the car,
O'C. hopped out and disappeared into this house and come back
a couple of minutes later.

Have anything with him when he came back? Yes, ~~was~~ an object
or something wrapped in a quilt.

30 Apart from something wrapped in quilt, what did it appear to
you from length or size? It was quite long.

Had you been aware that the rifle was stored at this house at
Harris Rd? No.

1 O'C. gets back to the car I take it, can you remember now where the object he had was put? I think it was put in the back on the floor. Who was in the back? The two Bloors, they were asleep by this time, I think they were, looked like it to me.

Where did you then go? Back towards town, to the City.

I take it McD. was still driving? Yes.

When you got back into town, which part of the city did you go to? Down K'Rd and down into Queen St., driving down towards the

5 Town Hall.

Did you go ~~back~~ past the cabaret? Yes, we went down past there. Once you had gone past the cabaret where did you go? Went to some street, I dont know the name of, it was a back street, pulled up there, Mc Donald got out, so I got out and Gary got out, I went to the toilet, hopped back in, McD. had disappeared by now, Gary got

10 back in, few mins. passed and then McD. came back.

This object in the quilt you saw, where was that at this stage? As far as I can recll still on the back of the floor.

Anyone take it out of the car then? No I dont think so.

After everyone had got back in, where did the car go? To Myers Park. Who drove? McDonald.

And whereabouts in Myers Park did McD. drive to? Down the bottom end, as you first drive into it.

15 What happened down there? Well Mc D. was under the seat, dont know what he was doing, he reached over the back, got the gun out from the back and sd, lets go. So we all got out of the car and ~~put~~ hopped up towards the park. Went up thro there, about halfway thro the park Who is we? Myself O'Connor and Mcdonald, the Bloors were asleep.

What happ. then? Halfway thro the park, McD. told us to stop, he

20 sd something to O'Connor, and pted towards Queen St. way and sd to me, come on lets go.

Where did you and he go? Well we kept going thro the park, up the back street, into some courts,

What kind of courts? Tennis courts. Got to one corner of the court and he told me to wait there, he disappeared, I was looking around

25 for him bec. I didnt know exactly what was going on, thought I was being set up, then I heard a bang, and a flash down the alleyway, and I just put my head down and ran back thro the court.

From where you were did you see Queen Street? I cd see lights at the end of the alleyway,

And the cabaret, cd you see that? No.

Have you been back to this area since? Yes.

30 I wonder if you can help us. Look at Exb.2, the photographs, youll see numbers at the bottom, look at Nos. 19, 20, 21, 22 and 23. Just look at them so you can familiarise yrself with the place.

Just looking at 20, see the courts yr talking about? Yes, they are over in the far corner.

1 Can you show us the area as best you can by looking at the photos where you stood when you saw this flash? Just here by a bit of shrub here are steps there.

Towards the end of the path going up the lefthand side of the photo? Yes.

Did you see the flash? Yes I saw it.

5 From what area did that come? I think it came - or I saw it in the alley, it lit everything up.

You see there is tree against church pillar and a bush there, see that in the photo, in relation to those approx. where did you see the flash? I cdnt say for sure, but just around this area here.

How long had McD. been away from you before you saw the flash? Cdnt say for sure, few minutes, 5 mins. maybe.

10 And had you seen anything of O'C since you left him behind? No.

What was the weather like? Raining heavily.

It was quite cold.

After McDonald left and before you heard the flash did you try to see where he had gone? Yeah I was looking around, I cant see too well, Ive got poor eyesight.

15 This area dark or lit, where you were stopped? In that alleyway it was quite dark, there was light behind me in the far corner, and the lights that I cd see on Queen St.

You told us you took off after you saw the flash, when did you first see McD. after running away? He come up behind me when I was still going thro the courts.

20 Let me go back a bit, when you got out of the car at the bottom of Myers Park, did you see who had the rifle? McDonald.

After you had run down back to the car, did you see who had the rifle then? McD. had it, I jumped in the passenger side door, he threw me the gun and I threw it over the back.

25 Where did the car go then? McD. hopped in the drivers side and drove out of Myers park up towards the University to the turn up near or before Symonds St, up to Symonds St. and along the motorway.

And you drove along the Motorway to where? To Panmure.

To the Bridge, the Panmure Bridge. We stopped the car in the middle of the bridge, or about the middle, McD. reached over and got the gun and told me to throw it over, I threw it over, the quilt and the clothes he started passing out to me were rolled up, just bundle wrapped up so I threw those too.

30 After you had thrown those over the bridge did you get back into the car and did you go on to Glen Innes? Yes we went to the end of the bridge, turned round and went on to Glen Innes.

When you got back to H/Hunter having disposed of those articles you mentioned, how many of you were in the car? Just the 4 of us.

1 You, accused and the two Bloor's? Yes.

Did you all go into H/Hunter unit? Yes.

Did the Bloor's remain there for a while or not? I think they got into their own car which was parked there and they went home, or they left the unit anyway.

O'Connor, from what you've told us, you hadn't seen him since you left him somewhere up the park? Yes.

5

Was he at home when you arrived back at H/Hunter at that time on that occasion? No I didn't see him at all.

COURT ADJ. AT 3.30

COURT RES. AT 3.45

10 Just prior to adjournment, you went back to H/Hunter, you mentioned O'C. wasn't there. Did you remain for any length of time there? I been there for while, McD. told me to change my clothes which I did, I couldn't say how long we were there, maybe 10 mins. or quarter of an hr. Then where did you go after you changed yr clothes? Went into the car, McD. we both left, McD. and I, went out to Half Moon Bay, I was told to throw my clothes away which I did, and then we come
15 back to H/Hunter.

How long in all do you think you had been away on that trip? From H/Hunter, dumping the clothes and back? Quarter of an hr to 10 mins, not sure.

When you got back had O'C. got back? I think he was back bec. McD. went into the room and I could hear them talking. I stayed in the lounge.

20

You stay up for the rest of the night or go to bed? I slept on the couch.

And what about McD. he stay the night? Just, he left after a while, don't know where he went.

Did he come back in the morning? Yeah later on he did.

What time? Round 9 or 10 I think, can't be too sure.

25

Think back, when did you first hear that a 17 year old girl had been shot? McD. come back later on in the morning, told O'C. and I to get out to the car and listen to the news on the radio.

Did you hear it over the radio? Yes.

What was yr reaction to that news? I was shocked.

30

Did you say anything to McD. about that? We both went into the unit, don't know if it was me or Gary, can't be sure, about the 17 year old girl being shot and he said something like, that's the breaks, or words to that effect, then he said to me, it should have been my blue, and started swearing and carrying on, didn't take much notice of him.

Know what he meant when he sd, it should have ~~xxx~~ been yr blue?
 1 NO, I thought he meant about the girl being shot.
 The Bloors were not there then were they? No, I saw them later on in
 the day I think, McD. told us to go over and see them and to say who
 was in the car was as guilty as the next person, that we were all
 guilty as the people in the car at the time.
 He toldyou or the Bloors that? He told me to tell the Bloors.
 5 What? That whoever was in the car is guilty of the shooting bec. we
 were all there.
 Was there any talk between you and McD.,you O'C. and McD., about
 the police possibly catching up with you? Yes, he sd if we got picked
 up first thing is to say nothing, tht we want a laywer, no comment,
 and if they knew that we were round any places, that night, to say
 well he hit me in the P'ranga and some Maori guys broke it up and I
 10 went with them and I didnt go with McD. or O'Connor, he was telling
 me this. Next thing was that if they still had more information
 about us to say there was a contract, that someone came into the
 pub and whoever got picked up fof it, to say there was a contract.
 You have a sister? I got 3 sisters.
 Any mention made of yr sister? This is when the Maoris ~~jd~~dropped me
 off, to say I went to my sister in laws, she wasnt home so I slept in
 15 hr garage all that night.
 Bid, were you present when any similar instructions given to O'C?
 I dont think so, cant remember.
 Few days after though the shooting, we were asleep, O'Connor and I
 in the unit, D'sc ame around and we got arrested for having possessio
 of cannabis. They took us to the P/Station, went to court in the
 20 morning, McD. was up the court, I pleaded guilty to it, sdit was
 mind, I got fined, we left the court with McD. and he asked us what
 the polie had sd to us, I told them about the Maori jokers, I went
 with them,O'C. mentioned that he went to a nightclub and then McD.
 knocked his head and called him a fucking mug, and ~~xxxx~~ swore at
 him, I gather this bec. they had made up a story that Gary wasnt
 supposed to say that or something.
 25 You wd no doubt have heard of the initial annoucement of this girl
 being shot, following subs. events in the paper? Yes I saw them.
 Did you ever speak to McD. about the police inquiries as they were
 being recorded in thePaper? Some mention of Valiant car that they
 were looking for that was seen outside the cabaret at the time of
 the shooting.
 30 Did you disc. that part. thing with McD? Yes cant remember who heard
 or saw it in the paper, we mentioned the Valiant car, and that was
 a completely diff. Valiant car to O'Connors and he wd laught about
 it.

How long after the shooting did you remain in Auckland? Not very long.

I was arrested on 4th for cannabis. It was just a few days after this

1 And then where did you go? To Rotorua.

And in Rotorua, were you picked up by the police? Yes.

What was the first warning you had that the police were going to pick you up? When they come round.

Round where? To where I stayed in Rotorua.

I was on my way to see a solr. myself when they came round.

5 Was their arrival unexpect-~~ted~~ as far as you were concerned? Yes.

You go with the police into Rotorua? Yes to the P/Station there.

Tell us what happ. there? Well, got to the P/Station, I think it was mentioned that they know what I was there for, I sd Ive got nothing to say, I wanted a solr., then asked why I wanted a solr. I replied because certain legal things I wanted to get sorted out before I sd anything to them.

10 Did you see a solr? No, D/Kruger explained to me different criminal things that I cd be charged with and ~~and~~ cdnt be charged with, like if I was in a car and didnt know it was converted and I was picked up in the car, I cdnt be charged with anything bec. I didnt know, it was out of mind that the car was stolen, I still wasnt sure if I shd say anything, he asked me if I wanted to speak to someone else, I sd, yeah, he sd, wd you speak to D/Rowe, I sd, yeah. So we waited until he got down from Auckland.

15 You knew from yr own know. that Rowe was the D/Inspector in charged of this homicide inquiry? Yeah.

He came down, he sd, explained about different things, more or less what Kruger had sd to me, I told him then a verbal statement about what had happened on that night, bec. in my mind I was quite happy baout that, he also sd to me if I didnt pull the trigger and told the truth there was no way anything cd happen to me.

20

And subsequently did you make written statement to the police ~~and~~ outlining the events? Yes, later on.

Did you come back to Auckland? Yes, with the police.

Did you show them the Myers Park area? Yes.

25

Did you also go out to the Panmure Bridge and show them where they found the rifle? Yes thats right.

Had you seen anything of O'Connor from the time you left Auckland? NO, up to when?

Up till the police saw you? No.

I saw him once just before the deps. at Central P/Station but he was with 3 or 4 or 4 or 5 police.

30

When you say deps. are you ~~ref~~ referring to lower court? Yes.

Apart from that occ. you see O'C from the time you left Auckland after you left Auckland up* until you gave evidence? No.

And prior to yr leaving Auckland after that cannab-is charge, if it were sugg. you and O'Conor had put yr heads tog. and jacked up this story about McDonald, what do you say about that? Not true.

1 Dont know if yr aware of this, but yr aware now theres been an indemnity given you from prosecution signed by the S/General? I believe so. (witness is referred to immunity ltr).

Have you had anything whatever to do with the obtaining of that indemnity? What do you mean.

You anything to do with obtaining that indemnity? none

When did you first see it? Last Tuesday.

5 XXD MR HART

Youve sd that you had known the accused for what, 12 or 13 years? Somthing like that yes.

And you had gone to the same school had you? Yes.

And you spoke of seeing the accused and O'C during a period in 1979, thats right isnt it? Yes thats right.

10 Did you regard yrself as being a good friend with McD. and O'C? Yes Wd you go out socially from time to time? I dont know about socially. Well going to the pubs is socially, wd you go out with them? Yeah. And wd you at times go round to the address at H/Hunter and visa versa? Yes thats right.

You have any tnspt ~~fm~~ of yr own? 100E one part of it that McD. had got for me.

15 Were you aware that the unit that O'C and McDonald had owned had been bought by them? Thats right.

What time did you start working on the 30th June? drinking? Just after 7 o'clock.

How much do you say you had to drink before ending up at the hotel in Parnell? 2 bottles I think.

20 Who do you say it was who approached you while with yr brother and girlfriend in the hotel when asked to go back to parnell, who asked you that? O'Connor and Graham Bloor.

They both came into the hotel did they? Thats right.

How much money did you have on you that part. night? \$2, not sure.

Well wd you say few dollars, what do you mean, \$5 \$3 or \$2, how much? \$3 or \$4 I suppose.

25 You owe McD. money for work he did on a car for you? I cant remember that, not that I know of.

I put it to you thats why you tried to sculk out of the way bec. when McD. turned up you didnt have the money to pay him? Not true. Got out of his way bec. I knw what he is like.

You only had \$3 on yr own admissi~~on~~? Yes.

30 So you cdnt have given McD. any money? I didnt think I owed him any money.

Did you know the bouncer who was on duty at the hotel that you were at, the White Horse Inn? I know him - I dont know him by name - I drink there quite often.

Did you tell the bouncer to leave it, Ill be able to handle it." meaning you can handle the sit. that had dev? I sd, Ill handle it.

1 Whatever reason, is that the evid. youve given to the court, i.e. you sd to the bouncer, leave it Ill be able to handle it? Yes.

So by that were you telling the bouncer that you didnt need assistance and that you wd settle it yrself? Yes

And you say that you grabbed hold of McD. at one stage, bit of scuffle and ended up outside, is that right? Yes.

5 And indeed you did really fix it up bec. you went in car with McD. to other hotel in Parnell? Only bec. he wd do me there and then if I didnt go with him, as he put it.

Are you sugg. to the jury are you that you didnt want the assistance of bouncer, you were inside the hotel, you were telling him you cd handle it yrself and then you say that you just had to go off with McD. not withstanding what bouncer sd to you? I saw McD. reach into

10

pocket, knew he hd knife, thats what I was worried about. I thought you sd you had McD. reaching and picking up bottle of a machine? Yes, and he put it back down and reached into his pocket. You were able to handle yrself werent you? I dont know, suppose I cd. As I recall evid. led from you it was par of course that you wd have punch up, receiving it or puching someone else, it was par for the course? Ive never been punched by him before in my life, it happ.

15

all beforehand. Listen to question, didnt you agree in answer to question led by the corn cornw crown solr. that punching peopke and being involved in ~~the~~ scuffles that you were used to on Sat. nights and you agreed to that? Yes.

So if you say youve never been punched by McD. before do we take it youve done yr share with punching and being in brawls around the town

20

In the past yes.
Thats yr evid? Yes.

You end up at the hotel in Parnell, did you act. see the incident bet O'C and some other person at the bar? No saw scuffle, didnt know what was happing and then O'C. came back from the bar.

25

How much did you have to drink at that particular hotel? 2 or 3 bottles. Wdnt be much more.

That was in addition to what you had at the other pub? Yes.

Did you then leave the hotel and go to grim reapers? Thats right.

Did you know the persons at the reapers pad? Yes I know few of them, couple of them.

30

Was there later a sugg. that you go on to a city nightclub and did you all head off for that? Yes, I just went along with them, they suggested it.

You have anything to drink at the reapers pad? Might have had bottle or 2, cant be sure.

What was O'C drinking at the parnell hotel? Dont know.

Beer or spirits? Cant remember.

1 Was any liquor bought at the hotel to take to the reapers? I dont remember, no.

Is the sit. at the reapers they have their own bar open there and you can go in and buy the liquor? Yeah.

And normally fairly well stocked up? I dont know.

Been there before? Been a few bottles at the bar, cdnt say how much,
5 spent a few dollars at the bar.

Finally ended up at the Main St. Cabaret? Yes.

And of course you were the one who was refused admittance? Yes.

NO sugg. that the other ones werent going to be able to get in? No.

And no doubt you were little excited about that, you had clean jeans accord. to yr evid. and you were told you cdnt get in? Nothing to get
10 excited about no.

Wd you describe yr demeanour as being calm and cool as a cucumber? Yea you cd put it that way.

We take it that this incident where you were being refused entry wasnt worrying you at all? No wasnt worrying me at all.

And do you say that it was accused who was getting excited about it? Yes thats right.

15 Wd you descibe the sit. as everyone getting excited? Well I wasnt getting excited.

Think about it? I am, I was more nervous, McD. getting excitedd, I cdnt say about the rest.

If I sugg. to you that you sd on a prev. occ. when giving evid. that everyone was getting excited? Not everyone, people were getting excited
20 yeah.

Everyone and that included yrself? Thats right.

I put it to you that if you sd that prev. that everyone was getting excited, wd you accept you sd that? I prob. did, cant remember.

Following on that from that, does it then appear you are now recoiling from that evid. from saying you didnt get excited and that everyone didnt get excited ? I was nervouse, McD. telling me to hit him,
25 the bouncer was getting excited, and everyone was yelling about getting the police, that is the excitement I was talking about.

Why did Speck on a prev. occ. when giving evid. (evid. in chief) wd you describe the sit. of everyone was getting excited, thats yr evid., why describe it like that? I dont know.

Do you accept that that was yr evid. or do you say you didnt say it (p.91 4th line)? Im not saying I didnt say it no.

30 But you agree whatyouve just sd is in conflict with it, yr now saying that everyone wasnt getting excited? Im not saying no one was excited, I just sd, people were getting excited prob. more from nervouss.

You described it properly when you sd everyone got excited including yrself? Nervouse yes.

35 Nervous and not excited?.Yeah I was nervous.

1 You say it was McDonald of course that was telling you to hit him, meaning the boucer? Yes.

Inthe course of Sat. night incidents which you agreedd to, that wdnt be out of the ordinary to punch someone? This is going back, you mean Ive bean doing it for couple of years, you just dont do it now, those were theold days.

5 In answer to question from Crown counsel you sd, well I suppose it was par for the course that someone got punched and you agreed with thatproposition? Yes.

Im now sugg. to you the proposition of punching the bouncer that night was nthng out of the ord, agree with that? I didnt punch him. It wasnt anything unusual if it was sugg. you punch the fellow? No. Did you hear O'C say anythingto the bouncer when he was on stairs? No cant say I did.

10 Wasnt O'C the one trying to egg on bouncer to comedown the stairs so he cd punch him? No saw him moving towards -the bouncer and M cd. behind me.

I put it to you that you were the one doing the egging, you involved in what was going on bec. you were conc. at being turned out? No that is wrong.

15 Did you try and stop O'C from going forward, he was leading the advance then? No .

You told the jury all you wanted to do was go home and change and come back again? Thats right.

20 That wd be a bit of nuisance for you, you tujrned up in the morning and then you had to go home and get changed before you cd get in? I jsut wanted to get away, didnt want to go into town first place, I was more or less forced to go into town.

Others forcinf you as well were they? No.

You say you were forced, you didnt have money to get in so obv. others buying drinks? Probabaly.

Who paid to get into nightclub? Someone had to bec. I cdnt. All I wanted was to hightail it home.

25 After you left the nightclub, did you then end up at Harris Rd? Yes. And you saw something brought out by O'C wrapped in quilt, a rifle or something? Thats right.

So you knew then that O'C had gone into the house and come out with what appeared to you to be a rifle ?Thats right.

Where do you say he put the rifle? Into the back as far as I know.

Did he put it in the back? I think so. Cant be sure.

30 Well if it had been in font seat you wd have seen it bec. you sat there Yes thats right.

Well was it in the front seat? No.

Mr O'C had the fifle across the 3 of yr knees on the front seat, whose evid. is right, yrs or O'C's on thatpt? I dont know, as far as I rememb and thats going back a while, it was on the back on the floor.

1 Youd agree you both codnt be right about it, it cdnt be in yr laps
in the front seat and in the back at the same time? I dont know what
O'C sd but as far as I know it was in the back.
If in the front seat you wd remember it, you cdnt miss that? Probabl
You later drove back into town, which part of car were you sitting
in in the front? I think I was in the middle, again I cdnt besure.
And you ended up in an area down a side streets~~s~~ speak called
Poynton Tce? I do now.
5 Did you get out of the car then? Yes I got out and wentto toilet.
O'Conner get out? I think he did.
You sd he did in yr evid. in chief? Yeah.

COURT ADJ. AT 4.30

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COURT RESUMEF AT 10.00 on 29.4.80

XXD MR HART CONTINUED

1

Yesterday we got to the stage where you were in Poynton Tce and had got out of the car to go to the toilet, right? Yes.

Which part of the car did you get out, drivers or pass's side? Pass engers side.

Being, you being ~~in~~ in centre of vehicle? Yes.

5

That wd mean that O'Connor wd nec. have to get out to let you out?

Thats right.

And youve given evid. to the jury that yr recollection was he got out ofthe car as well? Yes.

And for the reasons x put to you, that wd follow on, i.e. he had to get out to let you out? Yes, as far as my memory goes.

10

O'C. has given evid. and sd his recollection was that neither you nor he got out of the vehicle, what do you say to that, is that correct? He cd be right, bec. as far as I know in my mind I went out to go to the toilet and to let me out he wd have to get out too.

Is yr evid. correct? Id say my evidence is correct.

I put it to you that it was you and O'Connor who left the car to reconnoiter to see if you cd get view of the Main St. Cabaret, that right? No.

15

And I sugg. to you that when you came back, you sd to the accused who was still in the car, not having got out of the car that you cdnt get thro to Main St? No, McD. got out of the car and went away and not me or O'Conor.

When you got out of the veh. where do you say was the rifle that had come from Harris Rd? Still on the floor in the back.

20

Again, asking you about that, if the rifle had been across yr lap you wd have been aware of it when you got out to get to the toilet? Not sure I wd.

As far as yr evid. and that of "Connor, you say yr version is correct and O'C. is wrong? Not saying he is wrong, I must know what I know, that the gun was at the back on the floor.

25

The rifle cdnt have been in 2 places at onee, i.e. front seat across yr laps and in the back seat? Im not saying it was in 2 places at once.

Does it nec. follow then that one of you must be mistaken? Cd be mistaken yeah.

Well you accept you cd be mistaken when you say it was in the back and O'C. says it was in the front? It cd be but to my mind Im not.

30

You not too clear as to what went on thatnight? I know what went on alright.

Is it yr evid. that you really didnt know what had been obt. from Harris Rd. or did you know it was rifle when O'C. bought it out?

1 I guessed it was a rifle, didnt see it then.

I put it to you why you want rifle in back seat is bec. you yrself wanted to be as far away from the rifle as you wanted to be? I didnt want it put there, to my know. it was put on the floor in the back seat, Id rather not have it there at all, I didnt want it there.

5 Of course O'C's evid. is that it was across yr lap, you cdnt get much closer to the rifle if you wanted to, if his version is right?

Thats right.

Taking you back to the time when you left Harris Rd. I sugg. to you that when you left Harris Rd. there was some comment made about the vehicle not having suff. petrol, hear any comment about that? Not that I can recall.

10 Did O'C. suggest that you shd go back to H/Hunter to fuel up the car? Not that I can remember, no.

I put it to you that the veh. went back to H/Hunter and the veh. was filled up with petrol that was kept at the address, that right? I dont know.

Wellyou accept it may have happ. but yr not fairly clear on that? It may have happ. but I cant remember.

15 If evid. is given that the veh. was there for about 10 mins. and the Bloor brothers still in back of the car, remember that? Yeah they were in the back.

You accept they were in back of the car for most of the evening? Yes I put it to you you put clothes into the car from H/Hunter at that stage? I cant remember.

20 You may have done that altho you cant remembr? I dont remember putting ~~any~~ clothes in the car at all.

~~That~~ You def. didnt or you cant remember? I def. didnt.

Is it correct that on the way to, back to the city, there was a time when you made fist of right hand and punched it into the palm of yr left hand? No.

25 If evid. is given that that is what you did, is it correct/ Be mistaken bec. I didnt.

Thats not the sort of thing you ever do? No I dont whack my hand into my other hand.

Never done that before? Not that I remember no.

30 I put it to you you did that at a time when indicating to the accus not to say much bec. you didnt want the Bloors to be in on what you had in mind? As far as I was conc. they were also so I had no reason to do that.

I sugg. to you it was O'C. who directed the accused to the service lane, P/Tce? No, bec. no one doing much talking.

He was just driving, MCDonald that is.

1 I put it to you that having got into P/Tce after you cme back from the car you were soaking wet? I wasnt soaking wet, I was getting wet when I came back to toilet, and got back into the car.

You sd you didnt go off with O'C to sass out the situation? O'C. didnt leave either.

You then ended up in Myers Park, right? Yes.

5 And again I put it to you it was O'C giving directions at that time, what do you say to that? Wrong, no one was giving directions.

I put it to you having arr. at toilets at Myers Park, you and O'C got out of the car and sorted out what the 2 of you wd do, that right? Completely wrong.

10 When you cme back, I put it to you that O'C leaned over the back and pulled over the rifle? McD. leaned over the back and pulled over the rifle.

Of course thats the sort of thing you cdnt get wrong, is it, i.e. bec. it is subs. so important, i.e. you say it was McD. who took the rifle from the back seat? Yes, why it is so imp. bec. it was the first chance I got to know there was a rifle there.

15 Youve already sd you thought it was a rifle somewhere back at Harris Rd? No, when McD. pulled it out from the floor at the back, it wasnt covered then.

So as far as yr evid. is concerned on that pt. youve got ~~xx~~ clear picture, be sure of this, of McD. leaning over the back and taking rifle from the back, what unwrapping it? I dont know about unwrapping it, it was unwrapped when it come over.

Where was O'C. at this time? Still in the front.

20 I suppose you had gone over in yr mind many times this part. incident, being a forerunner of what occurred later? Dont know what you mean.

Youve thought about it so youve got clear picture that it was McD. piked picked the gun up from the back? I dont have to go thro it all the time.

25 I sugg. to you on prev. occ. of giving evid. on this subejct you sd, when we got to Myers Park the quilt was brought over from the back, Mac or Gary brought it over, I dont know but it wasnt me? It was McD. who brought it out.

You agree that thats the evid. you gave on oath on a prev. occ? Cd you read it again.

)p.92). When you say cd be, dont you remember giving it bec. it is diff. to what yr saying to the jury now, right? No.

30 Well, youve just sd it was McD. who you had clear picture of taking rifle from back seat? Yes.

If on a prev. occasion you sd Mac or Gary brought it over, I dont know but it wasnt me, that sugg. doesnt it you just didnt know, it was one or other of them? I know it was McD. now.

What Im sugg. to you Mr Speck is that you have changed yr evid. from what you sd before and bec. it suits you youve got accused
 1 taking rifle from back but prev. you didnt know whether it was he or O'C, agree with that? I know it was McD.

Do you agree youve changed yr evid? Yeah o.k.

Can you therefore explain to the jury how it now comes yr now so certain when mths ago when giving evid. you werent sure as to who brought the rifle from the back seat? I dont know, I know it was McD
 5 who did bring it over, in my mind.

When you tell the jury youve always had clear picture of McD bringing it over, that sttment by you is justnot true, agree? True to certain extent maybe, but its not lies either.

How can you poss. sy its always been true when you sd before at the depts? I didnt say it wasnt McD. did I.

You sd Mac or Gary brought it over? McD. def.did.

10 I dont know, but it wasnt me, you agree you sd there that at that time you just werent sure, yo u didnt know but it was one of them? I was sure.

Well if you were sure at the time, why did you say, Mac or Gary brought it over, I dont know but it wasnt me? Bec. when giving evid. then I was pretty frightened. I was frightened all the time, I sd that in evid. too.

15 When you gve evid. at depts. was that a situation when the evid. was being led by Crown Solr. Mr Grieve? I dont know who it was. After you had given yr evid. was it read over to you? Yes. Was it taken down on typewriter? Yes.

Did you have the chance to make any alterations or correctdons if you wanted to? I think so yeah.

20 So at that time, if you hd so wished you cd say, theres a mistake there? I didnt say it was mistake.

Did you have chance to change it if you wanted to? Yes.

Did you initial the bottom of each page and sign it at the end? Yes.

You agree those depts. were taken in December? Yes somewhere there.

Much closer to the event than the evid. youve given today? Yes.

25 And do you agree that in the course of yr evid. in chief you sd that on that occ. you saw the accused go off with rifle and you were up the alley and saw flash and so on? Thats right.

And you agree that that is evid. you gave in yr evid. in chief? Yes. Having given that evid. why do you say that you were scared to say he got the rifle when you later went on to say that you saw him carrying it and going up alleyway? Bec. he was inside and I was on the street
 30 stll, I know his mates, and what they can do.

You dont follow my proposition, ~~is~~ listen to this, you told the jury today as second approach you didnt tell the truth on first occ. about Mc D. and the rifle bec. you were frightened? I didnt say I lied.

It's incosnistent with what you sd today? Yeah.

You telling the jury you were frightened to tell truth about what occured? I was frighten the whole time, thats the main thing, when he

had the gun and did the shooting, tht cd have been me.

1 The pt. is what Im putting to you so you u'stand it, is this, are you telling the jury you were frightened to give evid. that Mx McD. got the rifle from back of the car, rightr? Yes. Yet in the same evid. taken at depts. you had McD. walking up thro the park with the rifle going up thro the alleay and you saw a flash and so on? Yes.

5 You not too frightened to give that evid? Course I was but still had to give it, in the car is not very imporan important to me. Not very imp. then why shd you be frightened? The whole thing that frightened me, the main part was when he went up the path with the gun, that was more imp. Thatwas what I remember. I put it to you youve lied in giving evid. to the jury and youve been caught out again lying? Im not lying.

10 Ive already put it to you that you and O'C went out of the car for about 15 mins, you say thats incorrect? Yes. You see if evid. is given that it was O'C who took the rifle from the back, wd you say that evid. wdnt be -right? Thats right yeah. Of course that goes back to the matter just discussed, you sd you werent sure if it was O'C or accused? I know now it was McD. who got the gun from the back, Iwasnt lying about it.

15 You werent lying about it? No. Thats a mtter for the jry, it was O'C. I put it to you, who leaned over the back, unwrapped the rifle from blanket and removed mag. from the gun, you see that occur? No. I put it to you that it was O'C who loaded the magazine with bullets from his leather jacket, took bullets from his pocket? I never ever saw a mag. I never heard of the mag.

20 At that stage, I sugg. to you that McD, sd, what the hells going on and you sd, I was just going to scare somebody? Thats a lot of bull. Thats what you intended to do initially, scare someone? No, I intended to go home to bed, I didnt intend to do anything. I put it to you it was then that accused Mc D. put the mag., took the mag. off O'C, right? I told you I didnt see any mag. at all, dont knowif the rifle has magazines, Im not fam. with rifles.

25 Im putting it to you a bit of tension dev. in the car bec. you two wanted to go off and do something? Tension in the car all night, when I first met them. You at that time with O'C went off with the rifle didnt you? no. Accord. to yr evid. what did you u'stand yr function was when you tell the jury you were walking up thro Myers Park, behind Mc D., what did you u'stand you were to do? I wasnt at the back of McD. he was to the side of me, I thought I was being set up.

30 For the whole time bet. the walk from the car up to the back of the church, thro the tennis courts, that you were in front of McD? Yes, till we got to the corner and he told me to wait, How did you know where to go? Bec. he was gesturing which way to go.

35

How cd he do this if he was behind you? He was to the side of me.

When did O'C. leave the scene? About half way thro the park.

1 Halfway thro the park when instructions given to O'C as to what he was to do? Yeah, Mc D. gestured to me, dont know exact words, but you go that way or something.

Again there is variation bet. yr evid. and O'C bec. he sd he was told to go and look out for the -igs back ~~and~~ at the car and didnt speak to Mc D. again? I dont know what he sd, saw McD. gesturing him to go
5 that way, away from us.

He was close to McD. at that stage wasnt he, O'C i.e. ? I dont know.

Accord. to yr evid. you end up round the side of the courts by the church, that so? At the ednd of the cours on the steps yeah.

No doubt youve been back to the scene havent you with the police? yes. Agree with proposition that distance to where you say where you were to Queen St. itself isnt very long? No not really.

10 Where you say you saw McD. last or sugg. he was on the corner of the church by the trees? I sd he went off that way, didntknow where he was, I didnt see him.

Well you agree you cd see some lights shining from Queen St? Yes, some bright lights.

And the area you were in was fairly dark aaea? Yes.

And wd you agree that from where you were you had a clear view out to
15 Queen St. than anyone wd looking back in? I dont know.

Doesnt it foll. with lights on in Queen St. and yr looking out, wdnt you agree with that? Suppose so, I dont know.

So at that time, accord. to yr evid. you cd have just left the scene? No bec. I didnt know wshere he was, to me I was getting set up that night by McD and O'C. I cant see very well, dont know where he went, dont know

20 where anyone was. Worried about myself.

You dreaming up this setting up as an explanation so you cdnt admit you were in the place you were? No, no dream.

Why didnt you just run off if you were scared? Bec. Mc D. had a rifle, he sd to stand there and I was standing there.

You had various chances to leave the group that night didnt you? Not
25 really.

Tr not sugg. McD. was standing over you when urinating back in P/Tce I cdnt see him, didnt know where he was.

But the gun was in the car? He carries a knife, didnt know where he was.

Yr so scared of the man that wherever he is, yr just petrified? Yes.

And This is a man youve been a friend with, accord. to yr evid. for 13 years? Yes.

30 I sugg. to you that this is what happ. that you firstly got out of the car with O'C and did reconnoiter to see where was best place to get view of Main St? Not true.

Spent about 15 mins from the car, came back, then O'C got the rifle fr back of the car, loaded up the mag, right? Untrue.

McD. took the mag. from O'C bec. he wanted no part of that? Untrue again.

Bit of an argument that you sd you were just going to scafe scare someone? All wrong.

You and O'C then went off with the rifle and made yr way up thro the route youve described up into the alleyway and that you took up a position opp. the main street cabaret? Thats all wrong, that the man over there who did the shooting not me (indicates accused
5 Either you or O'C fired the fatal shot? Untrue.

You' know dont you that a shotgun cartr. found at thebase of the phone box which just so happ. to be down the road from main st. cabaret? I heard it, dont know anything about it.

You know about it dont you? Not really.

10 Cd you look at Exb.8 now shown to you, that, evid. has been given that thats the type of shotgun cart. that wd fit a 22 combination 410 weapon that O'C admitted he had in his possession? I dont know nothing aboyt it sorry, about bullets or rifles.

You can see foryrself itis diff. from ord. shotgun cart? Suppose so. I know what a shotgun cart. looks like. It is bigger.

Evid. was given that was found on mornign of the shooting outside the phone box on a ledge ? I dont know.

15 I put it to you that it was prob. O'C who drpped that shotgun carg. when keeping lookout for you before youdid the shooting?

Wrong, dont know where McD. or O'C. was until he come in behind me.

Well can you give any explanatdon as to how that came to be found there that morning? I cant help you there sorry.

20 It was either you orO'C who dropped the 22/250 bullet on the fire escape at the back of Martins store off P/Ce? I dont know where it is.

Know anything of bullet being found there? No I dont.

No one has told you about it? No I dont think so.

Youve handled guns before yrself? Shotgun thats all.

Thats why you know the diff. bet. shotgun g cart. and the one
25 youve looked at? Yeah, I didnt even know it was shotgun cart.

Ever see O'C with combination 22 4/10 shotgun? No, dont know what it is.

You can hold it in one hand, see him with that? I seen McD and O'C with a sawn off, cut down, something - dont know what it is. Youve had pleantyof chance to get yr heads tog. with O'C to make up the story youve told the court? No

30 You havent? Thats right.

Firstly, when the police arrived on morning of 4th July you two were tog? Yes.

And you were later arrested by the police? Yes.

Share a cell tog. at the P/Station? No, sep. cells.

1 You had ample chance to talk to each other before appearing at the Mag Court? I dont think so, there were police line ups to go thro, O'C went thro them, I didnt, he disappeared and next time I saw him was on the truck.

You say that shortly after the 4th July you left Auckland and didnt come back and so you had no chance to talk to O'C? Yes.

5 If evid. is called that you were seen with O'C on 2 or 3 occasions well after the events that you speak of, is that incorrect? Id say they are mistaken or lying.

Not much room for doubt, either telling the truth or lying? Yeah. So of course if you were tog. then that wd mean that yr evid. wd be totally false when you say you hadnt ret'd to Auckland and spoken to O'C. ~~That's~~ Thats right.

10 I didnt come back until the police brought me back.

Is it yr evid. that you werent in Aucland and, if dates and places wer put to you youd say that is not correct bec. you and he not in Auckland during this period. I was in Rot. all the time Anyone who says you were in Auckland that wd be incorrect bec. you werent in Auckland at all? Thats right.

(Objection by Mr Morris)

15 Ive already just put to you it was either you or O'C who shot Bell and you say you didnt? Im saying its that guy there (indicates accused) Can I finish?

You sd it wasnt you? Thats right. Mc D. did the shooting, I didnt do the shooting, as far as I know O'C didnt do it.

20 I put it to you youve told tissue of ~~the~~ lies to save yr own skin, what do you say to tht? Untrue.

I put it to you you came back to the car, you were tense and excited? I was very tense.

Excited? Worried.

You told McD. to get out of there pretty quickly? I didnt say nothing, nothing sd.

25 O'C in the car then and directed the accused where to go? Wasnt even there.

Thats yr vession isnt it? Thats the true story.

Is it yr evid. that O'C wasnt with you after those events? Yes.

I put it to you there were 5 of you then that went to the Panmure Bridge where you dumped the rifle at yr own instigation? Not true. I dumped the rifle under McD's instructions.

30 Wiped, you wiped it down before throwing over the bridge? No I jut just threw it.

And that you then drove off to Half Moon Bay? No.

- It was then that O'C asked where the magazine was? O'C wasnt there.
 1 I put it to you that McD. indicated that it was on the top of the dash board and that O'C then wrapped bits and ~~bits~~ pieces tog. and you were changing yr clothes in back of the car? I just sd O'C wasnt there at all, its all wrong.
 But when you got to Half Moon Bay, obv. O'C then got rid of the clothing, you say he still wasnt there? Yes.
 You then went back to H=Hunter Ave? No.
- 5 Bloors still with you at the time? No.
 What happ. to the Bloors accord. to yr evid? yr talking about O'C in the car, thats all wrong bec. O'C wasnt in the car at all.
 What about the Bloors, they were there? Yes, after we dumped the rifle we went back to H/Hunter and the Bloors went home from there.
 You see them go home? I didnt see them act. leaving, saw them get
 10 out of the valiant and they werent there then.
 They stayed at H/Hunter for sometime before they went? How long is some time, they cd have stayed 10 mins. or 15 mins, not much longer than that.
 Agree that they came into the house? Cd have, I sd they were in the valiant car and then left.
 You just sd they cd have stayed 10 mins? Inside the car.
- 15 Didnt come into the house? Dont know, I didnt see them into the house. I put it to you they came into the house, stayed for a while and then they left? Cd have, I was told to get changed and was prob. changing then.
 Was there a time when O'C lying in front of hater on the floor with his good clothes on? Hewasnt there at all-/
 You knew he was home you sd bec. you heard him speaking with McD?
 20 That was later on.
 That is first you knew O'C was in the unit? When we got back from H/Moon Bay, yeah.
 Was the sit. you say that McD. went into the bedroom, O'C didnt come out? Yeah, they were talking, I was on the couch.
 You hopped on the couch? Yeah.
- 25 Well what is yr evid. you say he came out of the room or stayed there? I didnt see him come out of the room, he cd have.
 The conv. bet. he and McD. took place in bedroom? Yea.
 O'C says the conv. took place in the living room? Cd be but I didnt see them, I was on the couch asleep.
 I put it to you that McD. stayed, went to sleep at the house on the settee, correct? No. I was on there.
- 30 I put it to you that the next morning you came back with O'C in the valiant, you went out and came back again? He told us to go and see the Bloors, after he come back.
 You saw the Bloors later on? I dont know what you mean or the time.

I sugg. to you it was about 11 o'clock that you and O'C came into the
 1 room and that you repeated like in parrot like fashion the news
 that a 17 year old girl had been shot at main street at about
 3.30 that morning, did you say that to McD? McD. says to me and Gary
 to go out and listen to the news on the radio, we did that, and
 came back and told him a 17 year old girl shot at main st.
 Never any disc. about McD. telling you to go out and listen to the
 5 nes, you just came an and reported what had gone on the news,
 like a confession of what had happ? No, not right.
 You just stood there and came up to accused, touchedhim on shoulder
 and sd, thats the breaks mate? No, he sd that, he sd it shd have
 been my blue.
 I put it to you that while it shd have been yr blue, it was yr
 blue? Completely untrue.

10 Later I sugg. you sd you had better go and visit the Bloors? No,
 I went there on McD's instructions.
 Later you and O'C worked out yr alibi and McD sd he wanted to be
 left right out of that, what do you say to that? No.
 You got trouble with yr eyesight havent you? Yeah.
 Wear glasses? Now and again, when I can afford them.
 You had a bit of a joke about it that morning, aparently you got
 15 the wrong blg. to start off with, remember disc. that with O'C? No.
 So O'C. used to often laugh about yr eyesight? Everyone did, McD
 started it off tho.
 Also say you were going out with people to disc. something of a
 story with them? No, I went to sleep there that night, Terese,
 they are friends of mine.

20 You see I put it to you that you and O'C put tog. this story
 bec. you see it was obv. that there was someone who cd put O'C
 as being the man who uplifted the rifle from Harris Rd, the
 occupant? No, bec. it didnt happen that way.
 Well, as it turns out accord. to the evid. given, that the Smiths
 who lived at that add. were aware that night that a rifle had been
 taken from Harris Rd, follow that? I dont know nothing about it.

25 O'C knew he cd be ID by them as being the man who uplifted high
 powered rifle so he had to go with this story as far as uplifting
~~rifle~~ and going as far as he did and you madeup yr story about how
 far you went bec. you thought the Bloors wd be able to obv. confirm
 you tossed the rifle out over the Panmurw Bridge? No thats wrong.
 Both of you knew that there wadspowerful evid. pting to you respect
 one of you having got the rifle and the other one having disposed
 30 of it? Dont u'sand you.
 I put it to you that you had yrself falsely made up with Mc D. and
 going with hi==m, you knew that? I didnt make up any story.
 You knew evid. cd be given you threw the rifle over the bridge ? I
 admit doing it on his instductions, I admit that.

1 There wd be evid. showing that O'C got the rifle and you disposed
of it, just question of you 2 putting yr heads tog. and working
out what had occurred in bet. so you falsely accuse McD. to get
out of the case yrself? No, that is false.

5 You agree that it was only when the police offered you immunity
by saying if you didnt pull the trigger and shoot her you wdnt
be prosecuted and you gave them account of what happ? I had
already given statement, the word immunity wasnt even used at
that stage.

Was the situation that before you made written statement to the
police you knew that prov. you sd that you didnt shoot her, i.e.
pull trigger, you wdnt be charged? Told the truth, I didnt pull
the trigger and I cdnt be prosecuted.

10 After that time, you were - up to then you didnt want to say
anything to polce? I was going to speak to solr. and go to the
police that morning, I threw the rifle away, so as far as I was
conc. I must be involved, McD. sd we were all guilty if in the
car.

The police caught up with you, you didnt go to the station? I
was just leaving.

Just coincidence then? Yeah.

15 The police just happen to pick you up in Rotorua of all places?
Yes thats fight.

Youve been spoken to by the police on 4 or 5 occ. about the
Bell shooting? Twice or 3 times, maybe, cant be sure

20 But on each occasion the police int. in any part you played in
the Bell homicide, any part they thought you played? They asked
me about it and I was saying nothing.

These are the opportunities to tell them wht you ultimael
ultimately told them, if you wanted to? Yes, after I had a few
things explained.

25 When you were first spoken to by the police, the police officer
was telling y-ou about where you had been that night and sugg.
to you that obv. they were on to you knowing, as it were, where
you had been and what you had done that night? That wasnt until
I had given a verbal statement.

30 You saying you told them where you had been and they turned aroun
and told you where you had been, it wdnt make sense wd it? They
confirmed it, they sd we knew you had been there, after giving
verbal statement they had known about it even before they had
spoken to me according to them.

You knew the game was up and you decided to speak against McD?
NO, it wasnt planned at all, I wasnt arrested, I cd have got a
solr, I cd have walked out of the P/Station if I wanted to,
you know that.

At that stage you had been more or less told no way you cd be charged for any part you had played? Yes.

1 After I asked them yeah.

You satisfied that yr position alright and prepared to give the police a story? No I wanted to tell the truth before Ø went there, I wanted to know what I cd be or cdnt be charged with, bec. as far as I knew, McD. told us we were all guilty of murder bec. we were all in the car, bec. I had thrown the rifle away.

5 You had weeks and weeks -to take legal adv. you still didnt know what yr legal sit. was? Thats right.

You seen the ltr. of immunity from the S/Gen? Showed to me yest. (witness referred to ltr. of immunity from S/General).

That was a ltr. dated 12.12.79 and that ltr. was signed by the S/General and was avail. beforeyou gave evid. at the taking of depts? I dont know, saw it only last week.

10 You concede you didnt give evid. yrself until after the 12th Dec Cant remember the date.

It is a matter of record. You u'sand that doc. to mean that prov. you give evid. against the accused and prov. that whengfiving evid you dont refuse to answer Q's on self incriminating grounds, that in effect no acgion will be taken by the police against you? Yes. If any other person like prívate person shd charge you with murder of Bell, any action will be stayed, it will be lifted above, you u'stand that to be the case? Yes.

15

That is powerful inducement or character to give evid. against the accused? I seen this only last week, dont know nothing about it. That is powerful character to get you to give evid? If it was yeah but it wasnt.

20

You knew that you as it were told the police about yr part, if you told them yr part, you alleged that occured, they wdnt charge you? They sd if I told the truth and didnt pull trigger. There was statement to that effect in yr statement? Yes. First thing that was in the statement? Yes, I asked for it. You knew that youd be req. to give evid. in due course? Yeah. Quite willing to.

25

Police didnt just want to have friendly chat? No, I was quite willing to.

But youd agree that ltr. of imm. goes further, it means realy you had to give evid? I didnt know I had to.

I had already given evid. before I saw this so I didnt know I had to at all.

30

It happ. to be coincidence that doc. in existence prior to yr giving evid. in M/Court, that was signed and in poss. of police before you and O'C gave evid? Yeah, but I didnt see it.

You relied on assurance from the police you wdnt be charged? Yes. You had that assurance from officer in charge of case? Yes.

35

Hed came from Auckland to Rot? Yes, at my request.

1 Turning back to the events back at the F/Hunter unit what version do you say McD. told you to say if you were picked up by the police at sme stage? Couple different versions, first one was to say nothing, if picked up, to say nothing, you wanted a solr, no comment, second was he wasnt - half of that story was true being at P'ranga and punching meand then I went off with the Maoris who broke it up and the third was if we got pcked up and the police had enough evid.
5 there was to be a contract, a guy met me in the pub and there was a contract, it was drug related.

What I sugg. to you is that when you speak of this contract and it being drug related, thats the first time youve given evid. of that ~~topic~~ topic? Yeah.

You sd earlier on in yr evid. in chief about contract? Yes, same
10 thing I sd.

And that story was important one in the course of events? Dont know what you mean.

Matter of imp. if you got picked up and told the police? Yeah, McD told us to say that.

Did you give that part. piece of evid. ~~to~~ at the ~~police~~ depts. I cant really remember.

15 If I sugg. you didnt wd you accept it? I just cant remember.

Refresh yr memory about that.? I think it is in my initial statement to the police.

(witness referred to depts. at p.94 and halfway down p.95) (line 17)

Just look at the doc. now shown to you, just read it to yrself. read from there down to the end of p.95. Theres nothing there about
20 any contract and it being drug related? Yea I agree with that.

You say you told that to the police when you first spoke to them? Yes I think I did.

Give that vession to the police on these 3w or 4 times? No .

What about the first time you spoke to them? No thats the story I gave about the Maori guys who broke up the fight.

You were asked by my friend in evid. in chief about an incident
25 about discusssing a blue valiant car the police were describing in the papers? Yes.

And did you laugh about that, think it was bit of a joke? We all laughed, thought it was a bit of a joke.

Was that on the basis that they sd it was blue and O'C's car was white? Yeah I think so.

30 When you first went to Rotorua, where did you live down there? With a relation, of a girl I know, her uncles place.

Be more specific? Reeves Road.

When did you first go there? Not long after the shooting.

We know you were spoken to by the police on 4th July, the shooting occurred on 1st, how long after the 4th did you go to Rotorua? Perhaps a week, I dont know, cant be sure now, wasnt that long.

1 Cd it have been 2 weeks? Cd well have been, cant remember.
Cd it have been longer? Dont think so.

Who did you stay with on yr first arrival in Rotorua? Went to uncles place of this girls, Reeves Rd.
Reeves Rd Rotorua? Yes.
Got a number? 3.

5 Who was the person you stayed with? Bill Savage.
How many persons were living at the address? About 6 maybe 8.
Who owned the house? Bill Savage.
You stay with him the whole time you were there? No, I got a flat.
How long after staying with Savage did you get a flat? I cant be sure of the time.

10 Think about it? I cant be sure of the time, if I cant remember I cant remember.
Try harder, was it matter of days or weeks? Weeks.
How many weeks? I cant be sure, cd be 3 or 4.
Have a rent book when you took the flat over? Yes.
Who was yr landlord? or landlady? Mrs Maloney, something like that.
Did you stay at that flat until you came back to Auckland? Yes.

15 What was the add. of this flat? I cant remember the name now.
How much rent did you pay? \$30 I think it was.
Were you paying board when staing staying with Savage? No.
You any tnspt while there? The girl I was with, her car.
It was a viva.
Where were you when the police finally caught up with you in Rotorua? Justpacked my bags, just going out the door when I aaw them pull up so I walked out.

20 Packed yr bags, where wer3eyou going to? See the solr. and up to the P/Station.
Pack yr bags to go and see the solr? I didnt know exactly where I was going, knew I wd get pulled in somewhere so got clothes ready.
You were going to shoto shoot thro and get going again? No.

25 Just dreamed up this story about seeing solr. bec. police picked you up there and then? No, we had disc. it with the lady at the flat she was the one who gave me the solrs. name and phone number.
You had weeks to see a solr. tho hadnt you? Yeah.
Did you know the police were on to you? I heard they were looking for me yes.

30 How long before they turnedcup did you know they were on yr trail? I dont know, I just had it in my mind all the time they wd be lo@kin forme.
How long before they arr. did you kow know they were act. on yr trial trail? I dont know, in my mind all the time, knew they wanted to speak to me sooner or later.

You sugg. then that you didnt spec. know but gen. knew they were after you? Yeah.

1 And had you been in communication with yr friends in Auckland at all? No I dont think so.

What about Terese, ever rung her? I didnt say she was my friend, but yeah, I did ring her.

COURT ADJ. AT 11.30

COURT RES. AT 11.45

5

You told the jury that one of the versions you wd be giving the police involved you staying at yr sister in laws place and you sleeping in the garage? Yes thats right.

And that was bec. she wasnt home that night? No, she wasnt home, thats right.

10 Well McD. wdnt know she wasnt home that weekend? Yeah I told him. This story was yr own version, you were participating in it? Not really.

You just sd McD. didnt know about her being away, you must have told him? I did tell him

Yr saying tht McD. made up the stories? Yes, bec. I was going to sleep there anyway, trying to find place in P'rang, I had rung her.

15 Youve adm. to the jury now that you hadnt told McD. that before the story was madeup had you? No I dont think so, cant remember.

So therefore doesnt it foll. you at least to that extent must have assisted in the concoction of the story, that so? Cd be right yeah.

I asked you questions earlier on, the subject of Mr Morris' raising a matter, I want to put questions to you about you being in Auck.

20 on a spec. date, do you say that after you went to Auckland, which was a few days or a week after 4th July, that you stayed in Rot. and didnt come back to Auck. until with the police in Sept? Yes, when I got to Rot. I never left there.

So that anyone who cd testify to you being in Auck. during that period, wd you say that evid. wd have to be a pack of lies? or a mistake? Yes thats right.

25 You know someone called Christine Anne Koraine? Yes.

Thats the Korane you spoke of earlier today? Yes thats right.

And does she live at 17 M/Rd, Panmure? Dont think she is now, she was then.

Was she living there with Lesley Koraine? Yes, her husband,

30 If she were to give evid. that on 4th August 1979 she was at home and a babysitter also pres. with the children and someone came round to see her and it was Bruce Speck, wd that be you? Thats right, Im Bruce Speck.

On the basis that she was living then at this address in Panmure, cd you think of any reason why she had you on 4th Aug. visiting her at her add? She is mistaken about the dates, I was in Rot.

You know something of this incident, wasnt it then sugg. you had gone there to ask if you cd leave truck there reg. some wine?

35

I think that was in July as far as I remember.
 Youjsay you didnt go round there in connection with truck you
 watned to leave there, did you go there to make some enquiries
 1 about that? Yes, McD. wanted this not me.
 Was it a white bedford truck? I dont know.
 You u'stand O'C had hired that truck? Dont know where it come from
 they just asked me if I knew a plac e to put a truck.
 You then went round to the address of the Koranes to see if you
 cd leave the truck there? Thats right.
 5 And was the trfuck taken to the add. on the Sat? I dont know.
 You know more about this, what happ. about that? I dont know, I
 wasnt there when the truck was taken anywhere, I didnt see it.
 Can we take it the req. made to leave truck there bec. there was
 stuff on which was a bit hot? Yes, cd be right.
 So if she gives evid. about the truck that arrfved on the Sat.
 10 wd that be yr ustanding that was the truck you had adked to leave
 there? Yeah cd have been, didnt see it, I wasnt there.
 And if she speaks about someone else being with you, didnt know
 his name, but heard him called Gary, wd that be Gary O'Connor?
 That on the Sat. or when?
 Did you go there with Gary O'Connor? Thats right.
 I take it that wdnt be 4th July bec. you were arrested by the
 15 police that day? Thats right.
 When do you say you went round to the Koraines add. to arrange to
 leave that truck? Wasnt long after the 4th, cant be sure of the
 date, as far as I remember.
 No doubt you wd have seen the K's after this event? Dont think so.
 You know they went to court about that? No.
 20 Never spoken to them about their part in this wine? No.
 When did you last see them? Mths ago, cdnt be sure.
 I now they have shiftedd, been shifted for a while.
 Did you know the wine involved on the truck came from Cooks Wnes?
 Dont know where it came from
 You knew it was of suff. quantity that truck wd be req. to uplift
 them and leave around at this add? I probably did, didnt know
 25 how much it was or what it was, didnt have much to do with it.
 So wd you agree then that whenever it was that there was an
 aarrangement about leaving truck with wine at the add. that was the
 time you went there with Gary? It was the truck, didnt know of the
 wine. I/asked if they knew where a truck cd be put for a few
 dyas, they asked me this, I sd I might be able to help, and it
 was at the Koranes, I wasnt bothered about what was on the truck,
 30 I didnt know, didnt want to know anything about it.
 If evid. given by Mrs K. that it was round about 4th August, weeks
 after you were arrested, -obv. you were in Auckland? I dont think
 it was.
 After all the mths yr memory is not too good as to when it was
 you left Auck and went to Rot. and that it was towards end of July
 35 or Aug? Still think it was in Ju.y

I cant accept it bec. I dont really know, I just know that it was in July as far as I remember.

1 What part of July wd you fix it at? First 2 weeks I suppose. First couple of weeks, so at least on that occ. you were associating with O'C? With O'C and McD. until I left.

So really when you sugg. to jury you whipped off for Auckland few days after 4th July and didnt see O'C that is not correct, now I have you up to 2 weeks after 4th July still in Auckland, thats on yr own ad? Yes.

5 You had ample chance to get yr heads tog. and concoct story? No, bec. McD. was there too.

We didnt have to put our heads tog.

No sugg. that McD. went round to the Koraines about the truck when Obv. O'C. was there at the time? Yes, so were the K's/ Here was a chance to get yr heads tog? I suppose so.

10 COURT ADJ. AT 12.00

COURT RES. AT 12.05

You recall last year at about November at the request of the police being seen by a person about yr eyes? Yes I think I do. That was a fellow you went to see to get yr eyes checked to see how good or bad yr eyesight was? Yes thats right.

15 Was that man a Mr F.T. Hogden? I dont know his name.

Did you go to see him at an add. at 255 Symonds St? Yes

And were you seen on Nov. 15th last year by him? Dont know the date.

If evid. is given that that is the date youd accept it? Yes.

20 You gen. u'stand yr situation with yr eyesight to be you are miotic meaning shortsighted? Yeah.

You see objects less clearly when near? Yes.

Did he take you thro few tests, look at charts and so on while upthere? Thats right.

Have you hd yr eyes checked before? Yeah few times.

25 Have you ever been given the results? I been given glasses as a result.

Do you u'stand that yr colour perception is defective? Yes.

With diluted or pastel colours? I dont know what that means, cant tell bet. red brown greens and blues.

You have diff. in distinguishing bet. dark colours, red and brown especially in poor light? Yeah.

30 All depends on the shades, not just reds and browns, diff. shades of blue and purposes, get mixed up with blue and purple.

Wd it follow that accord.to yr evid. that you never touched that rifle, you never held or lookedthro it or had anything to do with it apart from seeing it? Yes.

Ive already put prep. to you about you going up thro the parf
 in the middle of the night up thro tennis courts along the alle~~g~~
 and taking up pos. and firing the shot, and you sd it wasnt you
 and that McD. was the man, right? Yes.

If evid. is given that that rifle was checked by the man called
 Hogden, when given to him by the police and the setting for the
 telescopic sight -is set for a short sighted person? I dont know
 about that sorry, dont know anything about t/sights.

While in the box, yr not sugg. the accused is s/sighted? Idont
 know.

You are? Yes.

I put it to you that that aspect of circumstantial evidence ...

(OBJECTION BY MR MORRIS)

All this is matter for the jury but you see what Im really putting
 toyou is this; that the man checked at the req. of the police
 the t/sight and he was shown it, and he u'stood the eye piece
 st in the position it was found, it was pulled out of the river,
 described it as being "screwed right in" this position wd be
 clearest for person who was s/sighted altho ... reasonably sharp
 at pts other than settinf for the normal vision? Dont u'stand what
 that means .

From evid. if given is simply that the setting of rifle was in the
 pos. most favourable for a person who is s/sighted what you just
 happen to be? I know nothing about it, no ~~km~~ nothing about
 t/scopic sights, how to set them.

You ahd no exp. with shotguns? Not with t/sights.

I put it to you that not only did you set up yrself in pos. with
 perha-s O'C down the road having dropped his cart. to look thro
 the t/sight and adjust it to pos. most favourable to you and then
 you shot Bell in cold blood, what do you say to that? It is
 completely wrong.

REX MR MORRIS

Youve given evid. in lower court? Yes.

That rifle was prod. in the lower court? Yes.

Youve given evid. here have you nt? Yes.

~~Until this stage~~ of the trial, has that last question ever been
 put to you about t/sights ?No I dont think so.

~~One~~ other matter, on the Sat. evening until you got a punch in the
 jaw from McD. what were yr plans for Sat. night? I had girl with
 me, looking for a place to crash for the night, both of us .

Any talk of going to cabaret? No, didnt want to go into town.

Youve been asked or XXD by Mr Hart about who took the rifle from
 the car at the bottom of Myers Park? Yes I remmber.

Recall being in'viewed by the police at Rotorua? Yes.

Dont think there is argument of the dte, was it 1st Oxtober? Yes/

1 You made a written statement did you nt telling the police about what had happ. on the Sat. night? Thats right.

Look please at the documents now being shown to you, the last page particularly, is that yr signature there? Yes.

That the statement you made on 1st Oxtober? Yes.

5 Look at ~~pxzk~~ p.7 and I direct you particularly to the first para. commencing at the top of the page, just read that to yrself. In that part Ivr asked you about, did you tell the police about who took the rifle from the car at the bottom of Myers Park? Yes, McD. Is what you sd in that statement about who took the rifle out of the car, that is McD. in any way diff. from what you told the jury today? No.

10 In relation to yr movements after the shooting of Margaret Bell, youve told us that you went to Rotorua and stayed at some place there? Yes.

Did you go directly to Rotorua or was there any other area you went to? Cd have been Ngaruawahiaon the way to Rotorua, bec. the girl I was with her parents live there.

Ever at Ngaruawahia, if there how long did you stay there? I dont think it was long.

15 When you were at Ngaruawahia as distinct from when at Rotorua, how long - dont guess? I cant be sure.

MR MORRIS CALLS

TERENCE EDWARD DOBSON (Sworn)

I am Detective Sergeant in CIB at Auckland.

20 On 4th July were you on duty? Yes.

And were you involved in any matter regarding O'Connor and Speck? I was.

25 Tell us about that? I was in charge of a scene of approx. 5 D's who executed a s/warrant at about 7 a.m. that morning at Unit No.1 53 E/Hunter Ave. Glen Innes. The purpose was to locate the accused McDonald and the witness O'Connor. I went to the rear door of the unit.

30 At that stage, were you at all int. in locating Speck? No, I went to the rear door of the ujnit and Count it to be insecure, we burst inside and surprised occupants, thisturned out to be witness O'C and Speck. they were both asleep on the floor of the lounge each wrapped in a blanket. They were imm. separated and each was guarded closely, a search of the flat was then commenced. A short while later, I removed the 2 of them to the Auckland Central P/S where they were taken to sep. ofices. During the time they wer in my com. they were not allowed to communicate with each other and nor did they attempt to try. At the station I spoke to the witness

O'Connor and later they were both arrested for poss. of cannabis at that address.

1 You have anything to do with taking them down to the M/Court? No.

NO XXD

MR MORRIS CALLS

IAN FRANCIS HASTINGS (Sworn)

5 I am Detective Sen. Sergeant attached to the CIB at Auckland.
Have you been associated with the Bell Homicide enquiry. Yes, since
1st July Ive been second in charged of the Bell Homicide enquiry.
Did you at any time interview either of the witnesses O'Connor or
Speck? Yes, on the 21st September 1979, I went with D.S. Metcalfe
to New Plymouth.

10 He has already given evidence to the jury? I went to NP with Metcalfe
The purpose of going there was to try and locate the previous witness
O'Connor as we had information that he was in this area. We carried
out enquiries in NP and on the Sat. morning the 22nd I went with
Metcalfe to add. at 49 Young St. NP where we located O'Connor asleep
on the couch.

15 Why were you looking for O'C. then? The main reason was because altho
he had prev. been spoken to on 3 occasions during the enquiry, On
each of these occasions Mc D. had also been present ~~at~~ at the station
We now knew that O'C. was not with McD. and we wanted to speak to him
again underthes e circumstances and also because we had recd
information regarding both these person having had in their possessio
a Remington 22/250rifle.

20 Altho you didnt have a rifle had you had the report of Margaret's
death? Yes.

In the light of that information was a 22/250 in the list of priorit
and the people who might own it on list of priorities? That calibre
of rifle consistent with having caused the injuries on Bell.
What did you do down there? We took O'Connoer back to the NP P/Statio
Give any warning of yr being there before you arrived? He had no
25 knowledge of our arrival whatsoever.

On arrival back at the station, I spoke to O'Connor in the presente
of Metcalfe, I told O'Connor that we didnt believe his story that he
had prev. given to us about his movements on the night of the murder,
I told him that I was convinced that both he and McDonald were
involved with the murder of Margaret Bell altho I did not know to
what degree, I told him that no ~~in~~ matter how long it took us we
30 were going to get to the bottom of this matter and find out the truth
I told him that he now had an opportunity to decide which side of the
fence he was going to be on, I also told him that we knew he had made
a breakaway from his associate McDonald and this could be his best
or last opportunity in which to tell us the truth.

1 I then discussed with O'Connor the fact that we believed he maybe
 frightened of telling us the truth and I outlined to him what steps
 we cd take for his own protection if he was prepared to tell us the
 truth. I then informed O'Connor that provided he didnt fire the rifle
 that killed Margaret Bell and told me the truth about the matter today
 that I cd guarantee that he wd not be charged with any crime in
 relation to the murder of Margaret Bell.

Thereafter did he tell you wht he has told the jury? Not immediately.
 5 I gained the impression that he was frightened and I asked him if he
 wd like to speak to any person, some peasson who wasnt a police officer
 to try and get his head straight. He suggested the name of a female
 named Wendy Hanham and on obtaining her address from him, I arranged
 for Metcalfe to go and pick her up from an address in NP. On his return
 I spoke to the female and asked her to speak to O'Connor and try and
 get him to tell us the truth. Hanham then spoke with O'Connor without
 10 anyone else being present for a period of about 30 minutes. She then
 came out and after speaking with me I went in and spoke again to
 O'Connor and tried to convince him that we cd protect him if he told
 us the truth. I then let the female Hanham speak to him again and
 on her own, and about 10 mins. later, she came out and on speaking to
 O'Conor, he then told me a story which I later took down on a
 typewriter in statement form.

15 We know that Mr O'C. is serving sentence of imprisonment? Yes I know
 that.

And the matterfis unrelated to this? Yes.

As matter of int. what steps did you take to protect him? O'Connor
 was kept in the police cells at NP after being charged on a warrant
 for failing to appear on the wine charges, on the Monday morning he
 20 appearedd at the NP M/Court and was remanded to appear at Auckland
 in a weeks time and I arranged for a specific req. to be made to
 the Magistrate that the remand be in police custody and not in a
 prison. This remand was granted and O'Connor over the next 3 weeks
 was kept in the police cells in NP, Auckland and then back in NP.
 Subsequent to that 3 weeks? After that, O'Connor was granted bail
 25 and I then arranged for him to return to his parents address in
 Matamata where he lived for a period of time, during this time,
 I had police officers in Matamata keeping daily contact with O'Connor
 and at a later date I arranged for O'Connor to be relocated at an
 address in Tauranga and a Detective in Tauranga was also required to
 keep daily contact with him and this continued right up until the
 time that O'C convicted in the S/Court on the receiving of the wine
 30 charge.

You aware that immunity from prosecution been granted by the S/Gen?
 Yes I am.

Was the consideration of that matter a matter for the law office of the Crown as distinct from the police? Yes.

1 In any way have you tried to e.g. step into that prosecution resulting in conviction? I specifically told O'Connor that in no way could we do anything for him on any other matters not related to the Bell murder.

XXD MR HART

5 When you went down to NP, did the police have in their possession O'C's valiant car a white one? Yes.

Ask him questions about a hole that was in that car when you went to NP? No, not when I went to NP.

Were you aware that O'Connor had a 38 revolver with him in NP?

Not when I went down there, but he told us about it down there.

10 And I suppose you would have charged him with that, having unlawful weapon on him? The weapon has never been recovered and I only have O'Connors statement that he had it in his possession in NP.

15 Isn't it true that you not very concerned with that, if you discovered anything else he had been up to you weren't going to charge him with that? I was concerned with all things, main concern was going to NP to solve the Bell murder, I discussed a large number of other things with O'C on our return to Auckland and I obtained some 12 statements from him relating to other events which had occurred, bet. McD. and O'C while the 2 have been together.

Long and short of it that he hasn't been charged with anything else apart from what was outstanding when he absconded from Auckland? Not been charged with any other offence.

20 As a matter of interest, what was the date when O'C was alleged to have recd the wine and jury convicted him, what date did he receive the wine? I don't know exact date, but it was after the Bell murder.

25 Was it somewhere round the beg. of August that there was an allegation that he recd the wine? You were at the trial? Yes I was at the trial. You'd agree wouldn't you officer that in effect you gave an assurance to O'C that he wouldn't be charged with anything in connection to Bell murder so long as he didn't pull the trigger before you had statement from him giving his account? Yes that was my evidence.

30 And did - you get your instructions from Rowe about offering of the immunity from prosecution? After having spoken to O'C for some time at NP P/Station, the impression I gained from his answers, I decided to ring D/I/Rowe and inform him of the action I proposed to take, regarding the offering of immunity. D/I/Rowe gave his approval for me to take this action.

And do the police have some rule of thumb as to how they decide to give immunity as opposed to the S/Gen? Every case has to be looked at in its own perspective.

And there are many difficulties, not impossibilities, in trying to get an immunity from the Attorney/Gen. at the time yr interviewing a person, when you need it right at that moment.

1 But you wd have madedit quite clear to O'C that Inspector Rowe was confirming that you were able to say, if you didnt pull the trigger you wont be charged, in effect? I told O'Connor that provided he didnt pull trigger~~and~~ provd. he told us the truth about the matter^{FA} today, he wd not be charged with anything in relation to Bell Murder

5 How long did you speak to him for before seeking approval from Rowe to give him immunity? About one hour.

How many occasions had O'Conner been spoken to by the police in Auckland prior to yr visit to NP about the Bell murder? Both O'C and McD. had been spoken to on 3 occasions, I can ~~give~~ you dates, What were they? 4th July, 10th July and 10th August.

10 Of course those persons wd have been spoken to separately at the P/Staton, dont make habit of lining them up and asking them question together? Yes, they were spoken to separately.

REX MR MORRIS

You were asked why you didnt take some action - how long you been in the police force? 18 years.

Your present ranking? Det. Sen. Sergeant, been that for 5 years.

15 Over those years, I take it that youve had exp. in interviewing large number of possible witnesses and accused persons who subs. are charged? Yes I have.

Was there any doubt in yr mind as to the importance between poss. possession of revolve and the bell homicide? yes, great deal of difference, solving of the Bell murder was by far the more important matter and to reach a conclusion.

20

MR MORRIS CALLS

CEDRIC PAUL KRUGER (Sworn)

I live in Mairangi Bay.

In july/August of last year, were you an officer of the police force? Yes, I was a detective.

25 Wre you engaged on the Bell murder enquiry? Yes.

In connection with that enquiry, did you have occasion to see the witness Speck? Yes I did.

Tell us about that please? On the 1st October 1979 I was in Rotorua, and I located the prev. witness Bruce Speck at a flat in Rotorua. I had a discussion with him in which I told him that I believed he knew more abot the Bell shooting at Main Street than what he had

30 already told us. I told him that we were aware that he had been to the Main Street cabaret on the night of the shooting.

That he had seen the accused McDonald at the Piranga hotel, that he had been with a group of people at the Alexandra Tavern, had later gone to an address ~~xxx~~ near St. Lukes where he and the group he was with had been drinking. I didnt go into any further detail. I told Mr Speck that our concern was to find the person who had pulled the trigger in the shooting and that we were also interested in recovering the firearm. Mr Speck appeared concerned about his legal position and after a further discussion with him, I saw another person at the Rotorua Police Station from whom I obtained a piece of paper on which were written two names. My enquiries indicated that these names were of two local Rotorua solrs. I continued my discussion with Speck who was still concerned about his own legal position and I tried to explain to him hypothetical cases illustrating liability of parties to an offence or accessories. We also had a discussion about some warrants for non payment of fines which were then in existence for him. I told him that there was no way we wd waive the payment of the fines but that arrnagement cd be made for them to be paid in Rotorua rather than in Auckland. I told Mr Speck that I was in no position to offer him any guarantee that he wd not be prosecuted but I then had a further discussion with him about the liability of parties and accessories and told him that if he had not pulled the trigger and that if his actions did not render him a party to the offence, I cd not see how he cd be charged. After further discussion, I contacted D/I/Rowe by phone in Auckland and he arrived at Rotorua at approx. 12.20. He spoke with the witness Speck and at the conclusion of his interview, I commenced taking a statement from Mr Speck at 1.50 p.m.

Were you pres. during Rowes discussion with the witness? Yes.

That evening, I retd with the witness Speck to Auckland.

Were you aware that at the -time you were speaking to Speck the prev. witness O'Connor had already been seen by the police? Yes I was aware that O'Connor had been interviewed and that a statement had been taken from him. During my discussions and interview with Speck, there was no stage when any information from any other persons statement both written and verbal with one exception was shown to him. The exception relates to a paragraph incorporated in both the statement of O'Connor and Speck, the part from O'C's statement being shown to Bruce Speck which basically says that if the witness did not pull the trigger, of the shot that killed Miss Bell, and providing that his statement and what he had told the police was the full truth, then he wd not be prosecuted.

So that when you spoke to Speck, you showed him that portion of O'Connors statement which contained that u'taking? Yes.

And can we assume that at least Speck knew that O'Connor had been seen by the police? Yes.

1 Youve sd you went back with Speck to Auckland on the following day, on 2nd October, with other officers, did you go with Speck to various locations in the city including Poynton Tce? Yes.

Myers Park? Yes.

The old Panmure bridge? Yes.

And Half Moon Bay? Yes.

5 And did you also go with him behind some blgs. on the western side of Queen St. opposite the Main St. Cabaret? Yes.

Thats in the Poynton Tce area? Thats behind Poynton Tce, its actually off Queen St.

XXD MR CONWAY

10 You go round to the premises where Speck was at in Rotorua? Yes. You have cause to inspect these premises? Do you mean were they searched?

Yes? We went inside yes.

Have suti suitcases there? I cant remember.

Cant recall if he was packed up? We got there, I recall he had to get dressed, he didnt bring anything with him to the P/Station, I cant recall any travelling gear or bags.

15 What time of the morning did you go there? I cant be too definite, wd have to estimate it at approx. 9 a.m.

You say he had to get up, was he in pyjamas? I was second inside the flat, when I went in he was getting dressed.

Sitting on edge of bed? No, on chair in lounge when I walked in.

I take it that you were with him going back to the Roto P/Station.?

20 Yes.

Was it back at the Rot. P/Station that the first disc. about a solr. was raised? Yes.

And did you or some other officer supply him with a list with two names on? No.

25 Who did that? He told me that Savage had piece of paper on which were written the names of a solr. or solrs. Katie Savage had also ret'd with us to the P/S but in sep. office. I left Speck and obtained from Miss Savage this piece of paper on which were two names which I est. were local solrs.

Was this lady Savage present at his home add. when you went to pick him up? Thats right.

30 NO REX
COURT

When you obtained statement from Speck, had you mentioned to him that round of ammo found on the fire escape? No, I cant be sure, prior to taking statement that sort of detail wd not have been divulted to me, I think during one of our many interfvies with him this fact wd have been mentioned bec. we wished to obtain clarifica

35

tion of the parties.

1

When you say one of the many interviews, was that one before the statement was made? No subsequent.

COURT ADJ. AT 1.00

COUR T RES. AT 2.15

MR GRIEVE CALLS

5

WENDY DIANNE HANHAM

(EVIDENCE READ TO JURY BY CONSENT)

MR GRIEVE CALLS

NICHOLAS JOHN DEANE (Sworn)

I live at -

10

MR GRIEVE CALLS

TREVOR WILLIAM SMITH (Sworn)

I live at 21 Harris Rd. Mt. Wellington, sub contractor by occupation

I know the accused McDonald, known him about 10 mths.

What about a Bruce Speck, know him? Yes, known him for about 8 yrs.

And Gary O'Connor? Yes, known him - met him last Xmas.

15

How did you come to meet accused and O'Connor? Thro Bruce Speck.

When you say last Xmas, the one past or the one before? One before, 1978.

How long you been living at Harris Rd? On and off since I was about 11 years old, that is my family home.

Some time in 1979, were you involved in making an arrangement where some people cd use a room at Harris Rd. to store things? Yes.

20

Firstly with whom was that arrangement made and when was that?

Not sure when it was but it was made with Brian.

Brian who? Brian McDonald.

And where was the arrangement made, tell us about that? The arrangement was Brian living at Panorama Rd. Penrose at the time and it was made there, at Panorama Rd.

25

What did he ask, what did he want? Just a place he wanted for storing certain things, there was spare room at my house and we made the arrangement.

And did you agree that the house or room in the house cd be used by him to store things? Yes.

Yr aware arent you that Margaret Bell was killed on the 1st July 1979? Yes.

30

How long prior to that was it that you made this arrangement with accused whereby he cd store things at yr house, how many nights? At least 4 mths.

35

Once the arrangement had been agreed to, did he in fact take you up on yr offer? Yes.

1 How frequently did you see him in connection with using the room for storing things? Round about 2 mths, 3 mths.
My question was, how often? In - he never used to come to the house, Gary O'Connor came to the house, stored the stuff and take it away, but I seen Brian quite frequently then.

Did you ever see any of the items stored in the room? Yes.

5 On the night of Sat.30th June 1979, whereabouts were you? I was at home.

What happened that night? I was watching telethon that night" at about 2 in morning Gary O'C came into the house, knocked on the door, answered by sister not me, he sd he just come to pick up some stuff, didnt tell me what it was, he went into spare room came wout with blanket in arms, and in the blacket was rifle, saw the stock
10 of it, I didnt know it was there, asked him what it was doing there, he sd, it had just been stored and that they were taking it away, that was the last I saw of it.

Did you see how he had got to yr house? Yes, they had come by car. You mentioned that Gary O'Conor used to come and pick things up and so on from this room, and you sd at the same time you were seeing the accused McD. on and off, right? Yes.

15 At any time when you saw McD. ever had a discussion with him about what was being stored in the spare room at yr house? The only thing to be stored there was cannabis, we kept that in the room, nothing about firearms or anything.

So the first you knew about this weapon here was when you saw a weapon on that part. night when O'Connor arrived? Yes thats right.

20

XXD MR HART

How often wd O'Connor come around to the address? Once a week on average.

And did he ever give money to yr mother for keeping things there? Not sure.

25

Did he ever give her any money that you know of? I think he did yes.
And was that in connection with the use of the room? Use of the room
yes.

How often wd he go to the address and uplift things that you knew about? On average about once a week.

Is it right that accused had never even been inside the house at all as far as you know? Correct.

30

You say that O'C. on other hand was quite fam. with the house, nt all the house? He was fam. with the front drawer in the room.
And did you tell O'C not to bring the rifle back? Yes.

35

1 Was the situation that the blanket didnt cover the whole rifle
 bec. of its length or what? Badly wrapped I think.
 So it was obv. to you from where you were that it was gun he had
 and he was taking it from the house? Yes.

REX MR GRIEVE

Who was it who made arrangement for use of the room as storeroom?
 Brian and myself.
 5 When that arrangement was made was O'Connor present? I dont think so.
 Ive known McDonald more than 10 mths, I first met him in Xmas 1978
 and thats when I first met him, so I made a mistake before.

MR GRIEVE CALLS

NICHOLAS JOHN DEANE (Sworn)

10 I live at 22 Rd. Grey Lynn, linesman for the post office by
 occupation. In july of 1976 I purchased from a firm in Auckland
 named Sportsways Firm a 22/250 Remington Rifle.
 You seen the rifle that is in court before, look at it (Exb.17)?
 is that the one you purchased? Yes.
 When you bought it did it have the t/sight? No I bought it separately
 when I bought the rifle, I bought the t/sght in Hamilton, about
 15 2 or 3 mths after this.
 Is the weapon designed to have a magazine which fits in underneath?
 Yeah.
 Can it be fired without the mag? Yes it can be fired without the mag
 with one round in the barrel.
 So that altho the mag isnt fitted now, it cd be loaded with the
 right ammo and a shot fired? One shot only.
 20 How many shots did the mag. hold? 3 rounds, plus one for the chamber
 And was it the situation that with the mag. upon ejecting a fired
 cartridge, another one automatically springs into position and
 pulled forward by the bolt?. Yes that is the case.
 When you purchased the weapon did you also otai obtain thro the
 police a cert. of regn. under the Arms Act? Yes.
 25 Is that the cert. of regn. you obtained? Yes it is. I prod. that
 as Exb.16 (Exb.16).
 Subsequently did you sell the weapon? I sold the weapon after it
 was regd yeah.
 How many years did you have it for? For approx. 2 to 3 years.
 To whom did you sell it? Im not sure I sold it in the presence of
 two people, Brian McDonald and I dont know what the other guys name
 30 is.his last name.
~~REX~~ You know the other guys name? Gary, dont know his last name.
 How did it come about you ~~REX~~ sold the weapon in this way? I learned
 from mark Prendergast, I was short of money, planning to go to Aust.
 and the money situation wasnt too good.

How did Prendergast come into it? He knew these guys who might be int. in buying a rifle.

1 So having spoken to Prendergast, what did you do about it? I told Mark that I'd like to meet these guys and arranged a meeting to see if they were interested in buying it.

And did you meet them? I did eventually yes.

Whereabouts? This was in 56 or 54 H/Hunter Ave. in Glen Innes.

How did you get round there? Car.

With whom? With Mark Prendergast.

5 When you went round there, who was there? Both Gary and Brian were present.

What happened? We talked a bit, I asked the questions, are you guys int. in buying a rifle and they sd they might be so I gave them description of the rifle, what it was used for etc. and they sd they wd like to see it at a later date.

10 What did you say about the rifle to them? I just sd it was high velocity rifle mainly used for goat shooting.

It was, I sd it was equipped with t/sight and it was virtually brand new, not many rounds had been fired thro the barrel.

Is it the situation you didnt have the weapon with you on that first meeting? We just talked and discussed and described the rifle.

15 ~~What~~ what happened then? We arranged to meet another time and we or eventually I bought the rifle the second time to them, just when Gary and Brian were home.

How long after yr first visit was it that you took the weapon round to show to them? It wasnt that long, less than a mth.

Where were - where did you take it to on this occ? Same place, H/Hunter By yrself this time? Still with Prendergast.

20 What happened on that occasion? On that occasion, Gary and Brian viewed the rifle, I didnt bring it into the blg, had coffee in the flt, told them it was in the car and wd they loke to see it, they sd they were int. so I bought the rifle into the flat.

After they had seen it? After they saw it, they handled it and discussed its merits,

25 Who handled it? Both, not sure which party was more interested in the actual buying, I cdnt name a particular person, I know they both viewed it and were both interest.

Then what happend? They asked me if I wanted to sell it, I says yes I'd like to sell it for \$180.

What price was agreed on? \$180 was agreed on.

30 And what happ. about payment? Payment of the rifle was made ; I cannot remember who paid it over but know it was in \$20 notes, cant say whether Gary or Brian paid me the money, I cannot remember.

So you were handed this money, then what happened? I was handed the money, rifle left in their poss. and we leeft H/Hunter Ave.

Was yr friend Mr Prendergast present when the money was handed over? Yeah he was.

1 Did you hand over the cert. of reng. which you have prod. when you recd the money and handed over the rifle? No I kept the reng. of the rifle (regn) mainly bec. I didnt have it on me at that particular time, I wanted the reng. anyway in case the police checked up to see if I still had the rifle in my possession.

Well, later on, did you receive enquiries about the regn. certificate? Yeah, I rec - Constable Eserah came round to make enquiries, he wanted to see the regn. of all my rifles.

5 What about either McDonald or Gary, did they enquire of you as to whereabouts of the cert. for the rifle they bought from you? Gary and Brian, or one of them asked me second time, the third time actually, if they cd have the regn and I still cdnt find my wallet, I had lost my wallet, bec. the regn. was in my wallet.

10 What about ammunition for the weapon, any discussion between you and accused and Gary about ammunition? The ammunition, that discussion came up between Gary Brian and I and I sd I had some ammo at home and some cases which they cd poss. get later on, empty cases which they cd reload and I gave the ammo over the third time I met them. So far youve told us about meeting them twice? Yes.

15 When was the third time? The third time was at M. Prendergast place at Orakei, Takitimu St.

How long after you had paid, had been paid, for the rifle was this third occasion? I cant say accurately, it was a fair while, I cant say how long.

In relation to the Bell murder, bfore or after that? Before, before the enquiries began.

20 Did you meet them again? Together, after the third time?

Yes? No I didnt meet them tog. I met them separately, at H/Hunter Ave. I thought at the time it was - I wanted to see Gary but it turned out to be Brian.

25 Tell us about that? Well I - sorry I got it all wrong there, when they were asking about the regn certs. Mark and I went -to flat in H/Hunter Ave. to see if they were enquiring about it bec. I wanted to take it to the police station.

Yr talking about a fourth occasion on which you met the accused McDonald, right? No. I just sd I met McD - I didnt say I had met him, I was on the way to the flat.

30 Just a minute ago, you sd you went to the flat wanting to see Gary but Brian was there? Yes, but I started again and I sd that Mark and I going to the flat in H/Hunter Ave. and on getting there no one was there.

Well what happened? I was getting pretty desperate by then, I sd to Constable E. that I wd give them the name of the person supposed to be fixing rifel, that was an abibi for absence of rifle.

These events that yr now telling us about, were they before or after the Bell homicide? They were after.

1 You have mentioned a Constable E. coming round to enquire about weapons and their regn? Yes.

When he first came to see you was that before or after the Bell homicide? After.

And was he enquiring about the weherabouts of this .22/250 rifle regd. in yr name? They were enquiring about every person who ever owned a 22/250 gun.

5 As far as yr conc. he was enquiring about this weapon? He was enquirn about that weapon.

From police records, he knew that you had weapon like that regd in yr name? I had the regn. for that weapn.

Was he anxious to see where the weapon was? He wanted to view the rifle to make sure I had it in my possessison hea.

10 When he came and made that enquiry of you, what did you tell him about whereabouts of weapon? I told him I didnt have it, I was - friend of mine doing stock modifcations to the rifle. I told him that I wd give the name and add. of the person and hand it into the P/Station.

So ineffect you gave him an explanation as to why weapon not in yr possesson at that time, right? Yes.

15 And the explanation involved you in locating the weapon and handing it to the police? Yeah.

What did you do then about finding the weapon, you knowing of course you had sold it to accused and Gary? Well I had to - the police at the P/Station had to view it, thats when I went with Mark P. and went to H/Hunter and no one was there.

20 Then what did you do? I went back, after that, approx. a week later after I found no one home, went back there with M. Prendergast Back to H/Hunter Ave@ Yes. Mark wasnt in the car at the time I arr. atthe flat, I dropped him at the shops to get cigs.

Who was at the flat? I was after Gary, I called Gary by name, nbec. I knew him, I didnt know him that well and got him mixed up" knew Brian was staying at the flat.

25 So the accused was there, right? Yeah.

So what happ. then, when you spoke to him? We had brief discussion outside in driveway, explained my circum. and asked whether he still had the rifle.

30 Whenyou say youexplained circum., tell us what you told him? I told him police enquiring about the Bell homcide and wanted to view my 22/250 rifle, I told him that - who I thought was gary but was Brian that I needed to know, I gave, I wanted his address so the police cd check up and see that Gary had the rifle in his poss. as an alibi.

1 What did McD. say to you after saying this to him? Firstly he didnt recog. me at first, after discussion we went inside and I, we tried to figure out a way to get over the problem bec. the rifle wasnt in the flat.

Well, how did you figure it out? We had to fabricate a story saying that, using an address in Mt. Eden, Edenvale Road, saying that the rifle was in a certain flat and that it was stolen from the flat. I was to give the add. of the flat in Mt. Eden to Constable E. So this solution that you worked out involved you ingoing back to the P/Contable and giving him false story? No, he came back - he didnt hear from me for a period of days and he came back a second time, Constable E.

Whether you went to him or he came back, it involved you giving him a false story? Yes.

10 Firstly, when you went to the flat, were you anxious to find the rifle itself if you cd? I was.

Had it been there what wd you hvedone with it? Taken it to the P.Stat: if Gary wd allow me the rifle, I wd let the police view it and then hand it back to the sd parties.

It wd have solved it all? Yes it wd have.

Did you ask McDonald where the weapon was? He just sd the weapon wasnt in the premises.

15 Youve sd that you fabricated this story about the flat in Mt. Eden being burgled and the rifle was gone, right? Yes.

Who sugg. that, who made tha suggestion? Brian gave me the address of the flat.

What was the address? 35 Edenvale Tce or Rd.

20 But who thought up the story about thws ficticious add. and burglary, whose idea was that, yrs or McDonald's? Well after, while we had a discussion to fabricate a story, we cdnt come up, I cdnt come up with any reasonable story so Brian mentioned, gave me a few ideas about this flat.

25 Was the occupant of this flat, was he named? No, it was just a friend a girlfriend or something that Brian or Gary once knew and she had stayed there, the guy was supposed to - worry it was Gary Larson, a ficticious non de plume.

Who sugg. that name? Brian suggested we make up name like Gary Lason or somebody.

30 Was any further arrangement made between you and McD. to contact each other again after you had seen him at H/Hunter? When making up the story, I gave Brian my phone number and he was to ring to see how I got on when I reported therifle stolen.

At whose sugg. did you do that? That I givemy number to Brian? Yes? I cant say, I dont remember.

In any event, after you had been to the flat and disc. the matters with the accused did you speak to Constable E. again?

No. After he came the second time to my home, I didnt see him again. After youd been to H/Hunter and discussed this false story with McD. did you see the police constable again? Yeah I did sorry, I did see
1 hm again.

What did you tell him when he asked you to account for the weapon? I just sd the person who was in the flat, he checked up the add. he went to the flat in Edenvale Rd. or somewhere and he found no one there matching description I gave of Gary Larson, he came back and sd that the person Gary Lason is not there.

5 You gave him the story of Edenvale Rd. and Gary Larson, did you tell him of the burglary and the weapon being stolen too? Yes I did. So the constable went away and checked it up? Its partx of his duty. Then he came back and talked to you again? Second time is it, yeah! Apart from Constable E. before you gave evid. in the M/Court at the deposition hearing, in this matter, did any other people or persons
10 ring you up making enquiries about this weapon? Policeman did ring me up, the police did, I knew about the Bell homicide by now and I was contacted by the police concerning the rifle.

I think I sd, apart from the police,? Yeah, Mr Hart rang me up. Mr Hart rang did he? When was that? After I knew that my rifle involved in the homicide.

Waht did he want? To talk to me.

15 Tell you what about? Just about Brian and a case in general. Did he go into other detail about what he wanted to speak to you about? No, he just wanted to know if he cd see me at some particular time.

Any mention of the weapon? I cannot say. I cant remember that either.

XXD MR HART

20 When you realised police enquiring into this, did you want to go round to this address to see Gary? Thats what I sd in my statement. Im just asking you, you were going to H/Hunter to get hold of Gary ? I was - I only met them 2 or 3 times prev. and Im sure of the names, which names were for which person.

25 Thats what you sd in yr evid. in chief, he was the one you wanted to talk to, right? Thats what I sd first yeah.

Was that because you thought he was the man who was in possession of the rifle? I thought that he was the party who was more interested You wd have got that impression from dealing with him with the rifle thatyouve told us about, that so? Yeah.

Youve spoken about speaking to the accused round at H/Hunter, and you sd he didnt redcog. recogn. you at first? Yea.

30 I suppose you were getting littæe anxious about yr pos. that you ~~sd~~ had sold the rifle without going thro legal formalities? It amted to that.

not
You had sold the rifle and/handed over the papers, permit had not been procured? From Gary or Brian no.

The Police were wanting to act. physically sight the firearm? Yes.
 And the accused told you Gary wasnt there that day, when you sd you
 1 wanted to see him? Yes.

And you then explained to accused that you were worried about yr
 position as far as the police conc. in relation to the firearm? Yes.
 And did you tell him you were anxios to get the rifle back so you
 cd physically hand it over to the police?Thats what I sd.

Did accused explain to you O'C. wasnt avail. then, i.e. Gary wasnt
 5 around just at that time? Brian told me that there was trouble with
 a wine burgaary ro something and Gary wasnt there bec. of that.

And is it right you then outlined to Brian McD. the position you were
 in so far as the police and enquiries they wre making were conc? I did.
 And when it appeared to you that you cdnt get rifle back, did you try
 to work out what you od do to sort the sit. out? Yes, thats true.

And in discussing the matter bet. the 2 of you, did it come out that
 10 it cd be sugg. you cdnt get hold of the fellowu~~y~~ u had given the rifle
 to, in course of discussing things, was it thrown around you cdnt
 get it back from person you first gave it to and you wd say this to
 the police? I cdnt see why I cdnt get the rifle to the police.
 But when you u'stood youcdnt get it back as it were there and then
 you were anxious to work out some sort ofstoryyou knew you wdhave
 to tell the police about in due course? Yeah.

15 Was this ~~xi~~ the sit. where you both sat down over cup of tea and
 suggested what cou~~ld~~ occur? Tossed a few ideas around yes.

Both of you? Yes.

Youve already sd that Gary was the man who seemed to be more int.
 in the rifle, did you say that in yr evid., he was more int. in the
 rifle, this man Gary? Bothparties were , I cdnt say which was more
 20 interested than the other.

Havent you already sd in yr evid. thatyou went to see Gary but accord.
 to you he was the more interested in the firearm? He was the only pesor
 there, only person I cd talk to.

When you had yr initial disc. about selling the firearm, he is the
 one who appeared to be more interedsted? Yes thats true.

He stuck in yr mind? True.

25

REX MR GRIEVE

When Constable E. came round and asked you about where the weapon was,
 why didnt you just tell him the truth? Why?

Yes? I didnt know - didnt tell the truth bec. it is unlawful for perso
 to havejurisd. of rifle without the regd owners permission etc.

30 I panicked, lets just put it that way, just cdnt tell the truth bec.
 I thought there wd be complications.

COURT

Youve had fair bit to do with rifles have you? I know something of the
 Yr interested in them and had a few at the time? Yes.

When you sell a regd firearm are you supposed to do something? Bueyer
 35 ~~supposed to get permit from P/Station.~~

You supposed to notify the police when you sell the rifle? Yes.
 When you sold this rifle to these 2 men, did you think there
 1 was anything dubious about it? Didn't think anything wrong with
 it, just 2 people who wanted to buy rifle.

Did you tell the police you sold it? Not until the enquiries were
 made.

You used the rifle at all? It was mine, I have sighted a few
 times with it.

5 Was it accurate? Prov. t/sights aligned with barrel it was
 accurate, any minor bumps wd throw it out of align.

When you handed it over to these 2 men was the sight alligned
 with the barrel? Roughly, in transit anything cd happen.
 Just have a look at the rifle now, is that stock adjustable to
 the eyesight of person using them? For the magnification,
 from 3 power to 9 power.

10 Can you alter it to suit the eyesight of person using it, say if
 he was long sighted or short sighted? That wd work in same
 manner, prov. you only adjust it to small degree.

You make small adjustment? If long sighted, it wdnt really
 matter bec. you might have, see things slightly diff. to the
 natural persons eyesight and it wdnt change things that much.

We know that that rifle has been under water for a period? Yes.

15 Just wonder if you wd look thro the t/scope and see if it was
 in the same sort of repair as it was when you handed it over?
 The t/sights are sealed, gassed, and I cant say it wd be the
 same condition as when I did have it, it has to be spotlessly
 clean for shooting.

Is it as clear now as when you handed it over? It wdnt be as clear
 20 Finally, is that a sight you can use at night? At night time
 it is a sight you can use at dusk, across here is slightly
 illuminated, infra red, you can see better at dusk than you wd
 with ordinary black lights.

Wd it be worse than or better than open sight at night time? Id
 say it wd be worse.

25 Whether the target was illuminated or not? No, it wd apply with
 good illumination, possum shooting at night with powerful
 spotlight you cd see target clearly.

As long as target is illuminated? Yes.

MR GRIEVE CALLS

MARK JOSEPH PRENDERGAST (Sworn)

30 I live at 11 Takitimu Street, Orakei.

I am unemployed carpenter. I know the prev. witness Deane.
Did you know him last year? Yes.

1 From yr acquaintance with him, did you know he was the owner of
some firearms and in particular a .22/250 rifle? I did.
Had you seen that weapon yrself? I had before yes.
Look at the one now shown to you, is that the one youve seen?
Yeah thats it.

5 In June of last year, did you know the accused McDonald? I did.
How long hadyou known him at that time? For about 3 mths I suppos
or prob. a bit less.

And a man named Gary O'Connor, know him back in June? Yes
How long had you known him? About the same time.
How did you first come to meet them? Thro a friend of theirs
called Stevens.

10 Were you involved in introducing Nicholas Deane to those two
people, McD. and O'Connor? I was.

Just tell us how it came about? I did some carpentry work for
Brian and Gary round at their flat and Gary mentioned to me he
was int. in buying firearm, I sd I knew someone who had a firearm
and from there I introduced Deane to Brian and Gary, on Monday
or Tuesday night at 7 p.m.

15 ~~Hi~~ Were you present when Deane met the accused and O'Connor? Iwa
When was that first occasion? Wd have been about March I think,
in March of that year. Notpretty sure when.

What was discussed? Just the price of firearm, thats all.
Who was pres. while this weapon discussed? Brian Gary and Nick.
Was the weapon there on this first occasion? It was only the time
when I went in, introduced Nick to Gary and Brian, the weapon was
in the car that time .

20

Was it referred to during this discussion? yes.

After talking about it what happ? Nick went to the ~~ex~~ car, got
the rifle and bought it in and showed it to them, they just
had a look at it, Gary sighted the sights, Brian had a look at it
and then they started discussing the price.

25

You say the accused had a small look, what does that mean? Gary
showed more interest in it than Brain did at the time. Then they
both, Gary asked how much it was, and Nick sd \$200, Brian got
~~him~~ down - they started haggling as to the price of the weapon.
Both of them were haggling, Gary and Brian.

Then what happ? Dropped it down to \$180 and they accepted it at
that.

30

And rhen what happened? Brian pulled \$20 bills out of his jacket
poclet and paid Nick for it.

Whathapp. then? Tthat was it, not too sure, that was the end of
the transaction and we just left.

1 When you left what happ. to weapon/ It was put into one of the bedrooms.

Later on, did you ever go round to that add. again with Deane? Yes, but I didnt go inside.

What did you do? I went to the shop.

When was that, can you remember? That wd have been just after the murder itself. About week or so after.

5

XXD MR HART

During course of negotiations, was it sugg. by someone the rifle shd be put into someone elses name? No. That was sugg. after when I went to the flat afterwards.

Did you go round on subsequent occasion with Deane? No, not with Deane. By myself.

10

Was there an occ. when O'C. told you not to come round to the flat atall? Yes.

When was that, that before or after the Bell murder? Just before. How long before? Not too sure.

Who sd it was O'C who first expressed int. in getting firearm? Yes.

He looked thro the t/scope didnt he? Yes.

15

What sort of jacket was the money taken out of? It had pockets, green. Just a fabric jacket. Not leather.

If I sugg. to you that O'C. handed over the money what wd you say to that? Id say he didnt.

Sure of that? Im very sure, I dont mistake someone taking out a wad of \$20 out of the back of jacket.

20

Somewhat irregular about this transac-tion, having introduced the parties concerned, did you think it irregular? Not really.

Did you u'stand from nature of discssions that legal owner wd be handing over the documents and purchser wd be duly registering the firearm with the police? At one pt. of time yes.

But did you learn subs. that that didnt appear to be the case?

Yes, neither of the 2 of them had permit.

25

Deane anxious to dispose of his rifle? Oh yes, suppose so.

What do you say accused wearing that day, the first time when the issue of money came up? Green jacket, just jeans with soled shoes on.

You say the money came from some other jacket? No I sd from the green jacket, same one he had on.

30

What was O'C wearing? I think he was wearing a white jacket - no, not white, cant remember. He had jacket on too.

Did you see him hand over payment for this rifle? No.

NO REX

COURT ADJ. AT 3.30

COURT RES. AT 3.45

35

MR GREIVE CALLS

1 MARK JEFFREY MILLER (Sworn)

I am at the moment an inmate serving term of imprisonment.

In Jan. last year, were you living in B'head? Yes.

Do you know the accused McDonald? I do.

How long have you known him? Approx. from Jan. last ydar.

What about Gary O'Connor/ Him also, round about the same time

5 After meeting them how much did you see of them? Gradually got more as I got to know them, prob. 2 or 3 times a week.

You have any knowledge of firearms? Yes I do.

What is yr background there? National Service, tour overseas.

Things like 3 mths commercial deer hunting in S/Island, just gen. game hutning in normal life.

10 In the course of yr getting to know the accused and O'Connor, did you visit a unit at Howard Hunter Ave? Yes.

And did you meet O'C. and McD. there on an occasion? Yes.

Did you see any ~~fix~~ firearms there? Yes I did on sev. occasions.

What sort did you see? a 4/10, .22 over and under shotgun, that was cut down to be able to be held by one hand, looks sim. to old dualing pistol.

When did you first see that? I think round about mid May.

15 Were you familiar with the sort of ammo that wd fit the shotgun part of it? Yes.

You see any ammunition there? Yes, the shotgun ammo, it was long think and maybe blue cart. case and for the 22 part of it, just 22 ammunition, standard 22 issue.

20 Who first showed you that weapon? That was shown to me, well it was just sitting on the table in the unit.

Did you see any other weapons there? No I didnt.

Was there a time when the accused and O'Connor with some others including yrself went to B'lands in Auckland? Thats right yes.

When was that? That wd be late May, yeah late May of 1979.

25 How did it come about you went out to B'lands and what happ? The accused picked me up from my add. in B'head, from there we went over to H/Hunter Ave, his address.

Who else was there? Mah by the name of Ross Gracie, Shaun Kernie myself and Mark Henderson. We arrived there and Gary was away at

the time, however, ~~he was away at the time and from memory I told him to~~
~~go to B'lands a short~~
~~time~~

30 And so what happ. then? The defendant and Kernie drove off in the one of the other cars, Corolla I think, and Gary and myself and Gracie and Henderson in valiant, we proceeded round to an add. in Mt. Well. 21 Harris Street, and there Gary went inside and came out with a blanket, rifle covered by blanket.

Therifle was shown to me and with arms know. I recog. it was Remington 22/250, it was printed on the bottom of the magazine. There was no
 1 ammo for it so we went into Panmure where Gary went in and bought some ammunition, when he ret'd, I cd obv. tell by just looking at what he bought was the wrong one, he bought normal .22 ammunition.

What was required for this weapon? 22/250 ammunition, it is quite a bit larger.

First of all, whereabouts did you first have a chance to see the
 5 weapon that was collected from Harris Rd? In the car.

And did you examine it closely? Yeah, reasonably close.

What sort of condition was the rifle in? Good condition, very good condition. It looked like it had been used but it was well looked after. You mentioned a magazine, you see that? Yes, it was in the rifle itself. In position? .Yes.

The weapon you saw, had it any other extras? Yes, it also had t/sight.
 10 Fairly common make but cant remember it from memory.

Wd you look at the weapon produced in court, now shown to you, how does that compare with the one you saw in the car outside Harris Rd? Its slightly in worse condition but exactly the same.

The magazine, none there.

~~xxxxx~~ Does it appear to be the same one? Yes it does.

You sd that the standard 22 calibre ammo wd not fit that? No its too
 15 small.

Look at another shell that is now shown to you (Exb. ~~15~~ 15), that a 22/250 round? Yes it is.

So at Panmure O'C. came back with the wrong ammo, what happ. then? We then proceeded to Howick where I sd Id go in and buy the correct ammunition, we stopped, Gary gave me some money, from memory I think
 20 price of shells was \$9, proceeded into the Howick gun shop, I myself went into the shop and purchased the correct ammunition, it was in a green box 3in. wide by about 7in. long, the bullets on polystirine tray. Did you load the weapon? Yeah, I sort of proved to Gary that the bullet did it, and that it was the correct ammo.

Then what did you do? We then went out towards B'lands.

When you got to B'lands, where exactly did you go to? To an address
 25 in B'lands, not familiar with the street now.

Who was there? The defendant, Kennie, myself, Henderson and Gracie.

What happ. to the firearm out there? When we got there, we hopped out of the cars, ~~Mr. [redacted] was sitting in the car which was no [redacted] own, I [redacted] who [redacted] about us being late, not physical.~~

30 I went in and put the rifle on the floor, in the lounge.

What happ. then? Any other weapon there? The 4/10 shotgun was there al
~~x~~ that is all from memory.

1 Look at p.117 of the deps. to refresh yr memory. (bottom of 116
and top of p.117) So I did.
And was that evid. you gave at the taking of deps. some mths ago/
Yes.
Was that evid. taken down on typewriter? Yes.
And was it read over to you after you had given it? Yes.
And you were then given chance to make alterations and corrections
Yes.

5 And when you had been given that opp. did you sign yr name as
being true and correct? Thats right I did.
So yr now conceding that on that occ. you sd they were pleased
to see me? That is figure of speech, they were glad to see us
but at the same time they were annoyed that we had been so late.
(OBJECTON BY ~~MR~~ MR GRIEVE)

10 What Im sugg. to you is you never sd anything there about him
gong going off his head at you or O'C then did you, nothing about
that? No not at the time but upon thinking yes.
More than that, you sd they were pleased to see me and then sd
Brian wanted to know where Id been and what had taken so long?
What are you trying to prove.
Mouve changed yr story, thats what Im saying?

15 You say being pleased to see you and then just enquiring about
where you had been and why it took so long amounts to total
displeasure to you? Lets say he wasnt too pleased ~~xxx~~ at being
late.
You didnt say that at deps. that he went off his head at me? No
figure of speech, but he was very displeased.
You didnt say it at all? No, not in those terms.

20 You saying you did at deps say he went out of his head? No I didnt
Did you know whether or not there was a permit in existence for
O'C. to have that rifle in his possession, whether he had it
lawfully or not? No I dont.
Who sugg. you go off and buy the ammo? Gary doesnt know much about
rigles or guns in gen. as far as I know, he aptly demonstrated
that to me when he bought the wrong ammo. Maybe he wantedd to go
25 hunting,
Think he mentioned that to you as reason for havingthe gun? No
that is suppostion.
That particualr bullet is capable of doing some damage, quite
some daamage if they strike an object? That is what they are for,
for the purpose of killing animals.

30 COURT ADJ. AT 4.20

COURT RESUMED AT 4.30

1

I was asking you questions about O'C and the rifle, did you just see the rifle when uplifted from Harris Rd? On the car or as O'C approached.

Did you see him bring it out of the house and put it into the car? Yes it was under a blanket, didnt see the rifle.

5

Before taking off, did you see it then or later on? I looked at it then, Gary was driving so the guys in the back seat Gracie Henderson, Just Henderson and Gracie in back seat and myself and Gary in front seat.

Was blanket right round rifle when you saw it? Yes.

Obv. to you it was rifle even tho it was wrapped up? Yes.

You were asked Q. about seeing some ammunition at H/Hunter? Yes.

10

What sort of ammo did you see there? The 4/10 ammo and the 22 ammo. 22 ammo, is that the same as 22 normal. There is slight diff. The Hornet ammo. has faster velocity.

Does the ord. 22 have a 22 lead? Yes.

Does the 22 hornet have slightly bigger cart? Yes.

So the 22/250 that is larger version but the same calibre projectile? Yes.

15

You say you saw some 22 calibre hornet ammo at H/Hunter? Yes.

Wd you look at Exb.8, is that the type of cart. that fits one of these combination 4/10 22, combination shotgun rifle? Yes.

You ever fired one of those yrself? Yes I have.

And the one you saw, was that cut down was it? Yes, barrel and stock.

20

Just explain to the jury how long it wd have been when cut down?

Bet. 16 and 18 inches. Wld like so, about 16 to 18 inc.

Sort of weapon you can hold in one hand like pistol? I wdnt like to fire it with one hand, but yes.

REX MR GRIEVE

25

After you finished at B'lands that day, where did you take the .22/250 weapon? Back to the Glen Innes area, I wdnt have a clue of the add. as it was dark when we got back there, but it was a house on corner, Gracie deposited the rifle inside with some one who lived there, I dont know who lived there.

That was somewhere diff. from the Harris Rd. add? Yes.

30

You were asked about or describe the 4/10 weapon that was cut down, Ill show you a photograph here/^{not}of the same weapon. Just look at this please, does that, how does that compare with the cut down weapon you saw? Very similar.

35

1 And was the weapon in that form when it was out that house, what
 in yr exp. is the effect oc cutting down a weapon like that? It
 basically increases velocity of shot but over long range it
 decreases, it basically is short range weapon, good for hiding
 under yr coat or whatever, in bag, something like that you know.
 What effect does cutting it down have on the spread when the shotgun
 is fired? Well, the spread occurs lot earlier than if it was with
 the long barrel, spreads over greater area faster, in so many feet,
 5 basically just a short range weapon in that form
 How lethal is it within that short range? Very lethal.
 I prod. that photograph.

COURT

Did you have a good look at that rifle? Yes.

Look thro the sights? I did.

10 How did you find the sights? The sights were obv. been in water,
 the cross had swollen with water intake, they were not like that
 when I saw it on the B'lands excursion.

Did you have good look thro it at B'Lands? Yes I did.

You say that now the sights are diff. from what they were then?
 Not different, just a little more battered round which is to be
 expected bec. they had been in the sea, in salt water for time.

15 They are now swollen you say, the cross? yes.

Any difference in vision thro the telescope? Have another look
 at it if you want? Yes I will, there is no diff. in vision thro
 the sight itself. Cross slightly swollen, not much but I wd notice
 something like that.

20 The difference bet. the ordinary 22 calibre cartridge and the one
 we have here, the high velocity weapon, is that one is
 and the other is centre fired cart? Yes.

Wd person who didnt know anything about firearms mistake one for
 the other just looking at it? If they didnt know anything about guns
 no I dont think they wd, maybe the smaller the ordinary 22, the
 diff. bet. the hornet and the 22/250 bullet, altho it is different,
 25 some people/I assume wd notknow the difference.

MR GRIEVE CALLS

CAROLINE JEAN RAPANA (Sworn)

I live at 2 Chorlton Cres, Glen Innes.

Were you livng there in May 1979? Yes.

Do you have a brother? Yes.

30 Whats his name? Peter Kovich.

In 1979, did you meet a friend of yr brothers named Gracie? Yes, he
 been friend for years, his christian name is Ross.

Where were they living early in 1979, brother and Cracie? With me.

You recall an occ. when Gracie arr. home one night in May very late? Yes.

1 What time was it he got home? I think about 4, dont know, I just was awake anyway.

He have anything with him? Yes he had a bundle.

What sort of bundle? A long one.

Bundle of what? I dont know, just wrapped up in a rug.

5 What was it that was long? I dont know, I didnt ask, just asked hi to take it out.

What did he do when you asked him to take it out? He went into his room and went to bed, I went back to bed.

What did he do in his room? I went back to bed and he went.

Did you see this bundle again at all? No,.

10 How long did h_e continue staying at yr house after that occ? Not very long bec. I think he got arrested after that.

NO XXD

NO REX

MR GRIEVE CALLS

MEREDITH NICOL (Sworn)

15 I live at 18 B. Rd, clerk by occupation.

Do you know man named Bruce Speck? Yes.

How long have you known him? For about a year and a half.

You remember the night of Sat. 30th June last year? Yes.

Where were you that night? Well we started off at rugby league game, then we walked up, got a lift to Panmure, walked to the Panmure hotel.

20 Pause there, when you say we, who were you with? Bruce Speck my friend and we left the Panmure hotel and walked down to the White Horse Inn.

25 What time didyou arrive there? About 7 o'clock. We were in the public bar first, with some of bruces other friends, I went into lounge to talk to one of my friends there, we stayed in public bar for about an hr, and then we all went into the lounge bar, and we wd have been there for about three quarters of an hr or half an hr and someone came up to Bruce and sd something, I dont know what it was, I didnt hear it properly, I thought I heard something about McDoald, and then some guy came to Bruce and hit him in the face, and ...

30 You sd someone came up to him, Bruce, and you thought you heard mention of the word McD? Before the person hit Bruce, Bruce was talking to one of the other guys with hs, thought I heard someone say McD. I didnt hear properly what was sd.

Then you jd someone came up and hit bruce, that right? Yes.

Howmuch time was there bet. those two incidents? About 10 second at the most.

1 So what was Bruce doing when he was hit? We were just standing there like a long sort of table thing, we were all standing there, he tried to, I saw him talking to Graham and he moved back towards me, this is BruCED I mean, and then the guy hit him.

And then what happ? The guy hit him on the side of the face and Bruce turned round and sd hi to this person first and then he got hit, he told Bruce to get outside.

5 Pause there, had you seen this person that hit Bruce before? I heard mention - must have been when I first met Bruce, Ive met him once.

You see that person in court today? Yes.

Where is he? (indicates accused) with white coat on.

Youve mentioned going outside, who sd that? That guy that hit Bruce

10 The accused, what happened then? Well he was pushing Bruce and went outside with him, I cdnt see bec. lot of people there, Bruce didnt come back and I asked one of the other guys with him to go outside to see him.

You didnt see him again thatnight? No I didnt.

What timewas it that you last saw Bruce that night? Prob. be about 9 oclcok or bit after.

15 What had you planned to do? When in Panmure we went to a girls place he knows, we were to stay the night there, she wasnt there so we went to the P'ranga, ~~REXHEE~~

XXD MR HART

NO questions.

NO REX

20 COURT ADJ. AT 5.00

25

30

35

COURT RESUMED AT 10.00 on 30.4.80

1 MR MORRIS CALLS

RORY SHANAHAN (Sworn)

I ~~was~~^{have} Master of Science degree from Auckland, University, scientist on the staff of chemistry division of the DSIR at Auckland.

Have you over the past decade been assted with the police in the investigations of violence, deaths, which have req. assessment of balistics etc? Yes.

5 The 1st July last year, did you go to Main St. Cabaret? Yes.

Tell us when you got there, what you did? (permission given to refer to notes made at the time) I arrived at the cabaret at about 10 o'clock on 1.7.79, on the carpet on top of the steps inside the or by the entrance to the cabaret there was a heavy extensive deposit of blood, I noticed blood stains and body tissue on the ceiling above this blood stained capet, on the west wall which is on the Queen St. side of the entrance and on the north wall just inside entrance which is wall looking down Queen St. two marks were shown to me on the carpet, marked as D1 and D2.

10

Look at the plan we have prod. as Exb.1A

On the right hand side of this pãan is shown plan of entrance foyer of the Main St. Cabaret and just by that silhouette of body on the

15

floor you can see D2 and D3 marked as well as D1 which I will not be discussing. And the north wall I refer to is the wall on the left

hand side of that plan. I found that D2 was 2.25 meters from that north wall and D3 was 1.27 meters from the north wall. I placed a

stand on these positions, one at a time, I marked a height from the stand of 1.575 meters, this was the height that I calculated from

20

information given to me of the wound in the head of the deceased when she was standing up. I placed another stand outside in Queen

Stret and put a mark on this stand of 1.14 meters above the steps of the road, between the marks on these two stands I stretched

a string, I positioned the stand on position D2 and adjusted the stand out on Queen St. so that the string was just touching the

25

north side of the door frame, now this is the frame Im referring to on the plan - on the plan is written "doors and glass" showing

how the door swings out, Im referring to where the two meet, that is the door frame Im talking about. So with the string stretched

bet. the 2 stands and just touching the north frame of the entrance door and with the string projected to meet the far kerb

of Queen St. it met the kerb of Queen St. 4 meters above Scotia Place which is a small street across the road from the cabaret

30

and down Queen St. a little. With the stand now placed on position ~~D2~~ D3, and the string just touching the door opened out at right

angles to the entrance, the string projected across to the far kerb of Queen St. met the kerb 34 meters above Scotia Place.

35

1 This evidence Ive given in rel. to the last string is slightly different to what I gave in depositions, In the deps. I sd that the string touched the south frame of the door. It shd have read it touched the door fully opened out.

The importance of strings is what? I found that the, for other measurements I took and calculated later, I found that the strings intersected at an angle of 50 degrees and that if the deceased was standing between positions D2 and D3, and if the projectile that struck her came from outside the blg, the pft of this proj. wd have lain within that sector.

5 Look at No.19 of Exb.2?It doesnt demonstrate it very well but it shows on righthand side of No.19 a string is stretching across Queen Street.

10 That the string we see from, coming up almost the parking line on the righthand side on righthand bottom? Yes that is right. That is consistent with a string attached to a stand when position on D2 and just touching south side of the door frame of the entrance of the cabaret.

15 Just looking at that area of the church in the photo. there, is it yr conclusion, is it consistent with shot having been fired from the church grounds shown there? The sector I told you of includes all the church grounds.

If we come back to the road map for a minute, plan Exb.1A, cd you just mark for us on that exhibit copy if you can the range, the limits, and then show it to the jury? Cd you give the lower and upper regions? I can give an estimate (witness marks plan) Have you recd various material from the police in relation to the homicide quite apart from anything you yrself saw or picked up from the scene? Yes.

20 Ill get you to refer to them as we go along. Just tell us what you got particularly on 2nd July when you got items from Gibson? I recd a blood sample, several - 3 pieces of metal fragments, another piece of metal.

25 Give him Exbs. 9, 13, 11 and 10. Cd you check and make sure these are the right ones as yr numbers are different from the court numbers? Those are the 4 metal fragments I just referred to that I recd.

30 Did you also receive from Gibson what we know as Exb.50? Yes sir. And did you also receive what we know as Exbs. 14 and 12? I did receive them but finding it difficult to find my notes on them. Yes I have them now.

Did you also receive what we know as Exb.18? Yes.

Did you also receive the rifle which we have here, Exb.17? Yes.

Dealing, tell us what each exhibit was, some were metal fragments?
 Exbs. 9, 13 and 11 were metal fragments, firstly dealing with No.9
 1 Exb.9 contained 5 metal fragments, they weighed 119 milligrams.
 They were consistent in appearance with coming from a bullet,
 from bullet lead, and one of these fragments was consistent in
 appearance with being part of a bullet jacket. I cd not determine
 whether or not the bullet jacket fragment had been fired bec.
 there were no rifle marks or landing marks present on this.
 5 The bullet jacket fragment weighed 12 milligrams. Exb.13 contained
 1 metal fragment that weighed 142 milligrams and it was consistent
 in app. from coming from bullet lead. Exb.11 was one metal fragment
 weighing 91 milligrams and consistent in appearance with being
 part of a bullet jacket, no land marks or rifle marks were present
 on this piece of jacket. Exb.10 contained one metal fragment
 and it weighed 111 milligrams. It was consistent in app. with being
 10 part of a bullet jacket and the fragment was badly damaged and
 distorted. Part of the fragment had folded on itself and beneath
 this fold cd be seen part of a bullet cannellure, a groove running
 round the bullet and also in this groove were some ridges running
 across the cannellure, I cd see two ridges. I opened up the fold
 by filing along the back of the crease and I cd see then all the
 cannellure present on this fragment and a total of 6 ridges running
 15 across this cannellure. There are some photographs there.
 You taken photos. of this and thro a comparison microscope? Yes.
 Whats the importance, what were you looking for in the cannellure,
 land marks and so on? Ill carry on further before describing the
 photographs. When I opened up the damaged fragment, I cd also see
 damaged land marks present and this showed that the jacket was
 20 part of a fired bullet. At this stage I cd describe it. Referring
 to photo. 1 of this booklet of photos, Nos. 1 and 2 shows both
 sides of the metal fragment before I opened it, i.e. the fragment
 as it was when I recd it. On these photos, it is shown clearly on
 No.2, on lefthand side of picture you can see these two marks, the
 marks are 5 millimeters apart, havent worked out the magnification.
 It wd be of the order of approx. 15 times Id estimate. In fact
 25 the ledge at the back, on the back cover is a piece of paper which
 shows the magnification of approx. 18 times. (ledger). Photo. No.1
 shows the inside of that jacket after I had opened it and this
 mark running across here is the, where the crease from which the
 jacket folded is. And looking at this photo. now you can clearly
 see the bullet cannellure, and running across it in this direction
 30 are 6 ridges which I referred to. Also on No.3 there are land
 marks which I referred to, there is one in this area here and
 at the top, there is one there (witness demonstrates)

1 What are these land marks? Rifles have in their barrels spiral grooves cut so that when a bullet is fired, the bullet rips into the grooves and it imparts a spin to the bullet which stabilises the bullet in flight after it has left the barrel. When the bullet rips into these grooves, corresponding marks are left on the bullet. The raised parts remaining in the barrel after these have been cut are called the lands and these lands impart to the bullet grooves which we call the land marks on the bullet.

5 What assists you in determining or linking up or excluding a part. rifle firing a part. bullet or remains of bullet found in body on scene of homicide? The number of lands cut into a barrel varies and also the width of the land varies so that by examining land marks left on a fired bullet, I can narrow down the weapon which might have fired the bullet and if within the land marks on the bullet, there are a lot of fine scratches, these scratches can characterise a part. rifle as firing the bullet to the exclusion of all other weapons and this is how land marks assist in deciding the weapon that may have fired the bullet and sometimes to only weapon which cd have fired the bullet.

10 It maybe poss. from land marks to totally exclude a rifle? Yes, that also happens of course, land marks cd exclude rifles or weapons.

15 Lets just carry on with the photo. You were looking at Photo. No.3. Just carry on from there? Referring to No.3 again, by observing that bullet cannellure and the ridges in the cannellure and measuring cannellure width and other features about the ridges, and comparing these observations and measurements with bullets, jacketed bullets from various gun shops in Auckland, I came to the conclusion that this fragment cd have come from the bullet contained in a cartridge a rifle cart. called a 22/250 Remington manufactured by Remington.

20 Then examining the land marks on this fragment there were 2 land marks, they had a righthand twist, rifling in barrels can have a righthand twist when you look up the barrel or spirall in clockwise direction or lefthand twist, or when you look up the barrel in antic close wise direction, so they had righthand twist.

25 I compared these land marks with those on damaged jacket fragments recovered from bullets I testfired in the rifle before the court. These examinations showed that this jacket cd have been fired from that rifle but because there was lack of fine detail within the land marks on the recovered bullets, I cd not exclude the possibility that this bullet fragment, Exb.10, cd have been fired in other rifles with similar rifling in the barrel. Going to Photo. No.4, this shows a comparison conducted thro an instrumnt called a comparison microscope, on the bottom half of the picture, I think you can see a horizontal line running across approx. the middle of that photo.

30

The bottom half shows the 2 land marks on Exb.10 and the top half shows two land marks on the fragment of a bullet jacket from a bullet fired in the rifle before the court. This showed the agmt. between the land marks on Exb.10 and those on the test fired fragments above it.

Yr investigations and examinations consisting ~~of~~ with pieces of bullets youve looked at coming from a 22/250 rifle? Yes.

That bullet having been fired from a cart? Yes it cd have been fired thro that rifle.

I want you to now look at Exb.15, where did you get that from? I recd this from D/C/ Gibson.

What is it? Exb.15 is a rifle cartridge, it had a head stand(stamp) 22/250 Rem. R/P, this indicates that the c'ridge is a 22/250 Remington c'ridge and that it is manufactured by the Remington company.

I want you to look now at Exb.20, you havent told us about this one yet, is that a fired c'ridge case? Yes.

I want you to tell the jury where you got that from? I got this fired c'ridge case from the rifle before the court when I first examined it, when I worked the bolt mechanism this c'ridge case was ejected from the chamber of the rifle.

What is the nature of that c'ridge case? The c'ridge case Exb.20 is a fired c'ridge case, it is a 22/250 Remington fired c'ridge case and it is manufactured by Remington.

Were pieces of bullet you find consistent with having come from that c'ridge? Well it cd have come in that this is taken before the rifle before the court but Ive no way of saying so definitely.

How does Exb.20 compare with Exb.17? If it had been in its complete state i.e.? I examined the, well firstly the head stamp wd be the same, on Exb.20, the fired c'ridge case. It is the same as that of the cartridge Exb.15. I also examined the primer, this is the separate portion on the head of the c'ridge case, that part which is stuck by firing pin initiating - ignites the pellet when fired. From other 22/250 Rem. c'ridges, manufactured by Remington, I found that the primer size or diameter varied, I found that the primer dia. - on Exb.20 and that on the c'ridge Exb.15 - were in agmt.

in their size and appearance. I also examined the fire from the 250 on the head stamp and found there was agmt. in the appearance between that on this fired c'ridge case and the c'ridge, as opposed to other c'ridges I had examined, similar c'ridges manufactured by Remington, I concluded that the fired c'ridge case taken from the rifle before the court and the c'ridge Exb.15 cd have come from the same batch.

Taken photos of this? Yes, if you refer to the booklet of photos. on No.5 it shows the, again taken with comparison microscope, and these photos. were, we are comparing always 2 things, looking at 2 objects side by side. No.5 and No.6 photos. show the primers, that on bottom portion of each photo. is the primer on the fired c'ridge case taken from the rifle before the court.

And that on the top part of the photo. is that on Exb.15 which is the complete c'ridge. Now photo. No.5 when I talk about appearance of a primer, the primer is this circle part here, that is what I'm comparing, the, you can see that the second part of primer is flat and rounds off at the shoulder shown by lighter part, this is where diff. in app. to other c'ridges manuf. by Remington and size or diameter of primer illustrated in Photo. 6, you can see that the diameters of the 2 primers are the same or there is no significant difference in them.

5

COURT

Explain why the lower one looks like a poached egg? The lower one had diff. appearance of course bec. this is a fired c'ridge case and this is the firing pin impression yr looking at in the primer.

MORRIS

I want to ask you about Exb.20, the fired c'ridge case from this rifle. Did you examine that? Yes I did. I examined Exb.20, a separate examination of the firing pin impression, and I also examined for what we call breech face marks which are sometimes pres. on heads of c'ridge cases fired from rifles, the purpose was to show that it had been fired in rifle before the court, compared firing pin impressions and the ~~xx~~ taken from the rifle with sim. marks on fired c'ridge cases that I test fired from the rifle before the court. My conclusion was that Exb.20 had indeed been fired from the rifle before the court. Turning to Nos. 9 and 10, again in No.9 you have the 2 primers, each has a firing pin impression and the breech face marks I ref. to are the concentric circles you can see on the primer and also on the c'ridge case here, they are much clearer in top part of the photo. of No.9.

15

20

I want you now to turn and examine Exb.17, the rifle, tell us the condition, state, and so on. Give us the general description of the rifle and what it fires and so on and then the state it was in when you got it and what you did to it? Firstly the ~~fx~~ rifle is a Remington model 788 rifle, the serial no. is 6189258, this rifle is chambered to fire the 22/250 Remington c'ridge. When I first examined the rifle, it was consistent with having been in sea water. There was tidal mud on various parts of the rifle, the smell of ~~xxx~~ tidal mud and some marine growth. The safety catch which is this lever on the side, was forward in the firing position, when the safety catch is moved back, you cannot fire the rifle. I extracted from the chamber of the rifle the fired c'ridge case Exb.20.

25

30

I stripped the rifle down and also the t'scopic sight you can see on it and cleaned them before I cd reassemble the rifle to be functioning a part had to be replaced bec. it had corroded away bec. of immersion in sea water, it was alloid com. around the trigger mechanism.

After I had cleaned the t'scopic sight, taken it apart and reassembled it, I reassembled it to its original settings. I test fired the rifle over a range of 23 meters which is 25 yds and found that the bullets were hitting the target 1.7 inches to the right and 5.5 inches high. Because I had pulled the t'scopic sight apart and reassembled it, and also in the process I had broken the cross wires and had to insert another set of cross wires I cannot say whether or not the rifle was firing in this manner before I recd it. Im referring only to where the bullets stright strike a target at 25 yds.

Assuming that it was fired that way, slightly high and to the right yr aware Bell struck in right temple area? Yes.

Where wd the aiming pt. have been? The aiming pt. wd have been 5.5 inches below the wound in the temple below it and to the left. which wd be in this direction (indicates chin) That wd be at a range of 25 yds, wd be 5.5 inches low and 1.7 inches in towards the chin, or face.

Apart from testing in that range, did you fire at any other ranges? Yes, I fired at ranges of up to 400 yds, to try and recover bullets in tact, this type of rifle fires a bullet at a very high velocity and normal method of trapping the bullet fails to catch or trap any significant part of a bullet, completely fragments, so part of the testing of firing up to 400 yds was so that the bullet velocity wd have drfopped significantly before hitting a trap and I hoped then to gain more complete bullets.

On each of those firings and the other test firing to which you ref. earlier, did you fire the rifle using the t'scopic sight? Yes What was the setting of the sights.? I believe the setting when I fired the rifle using the sights, the setting was not significantly diff. to when I recd it.

You have any trouble sighting thro that t'scopic sight at the time? No.

Anything wrong with yr eyes? I dont believe so.

I might add here that a policeman, Smeath, also took part in these test firings, if that assists you.

I asked you moments ago about the aiming pt. at 25 yds. We are conc. with little further than that, approx twice that distance. Can you give us idea of what the aiming pt. wd be for that fange? Im not certain, I think at that range the bullet wd be in the rising part of its flight and it might be higher still at a range of 50 yds but I didnt check that pt. out, when you are below that you allow for a significant fall.

XXD MR HART

Yr familiar with the scene of the shooting arent you in that you took measurements? Yes.

1 Look at the photograph which shows the area of the church, No.20, just presupposing the shot was fired somewhere in the vicinity of the base of the spire to the church, how many yds wd you say approx wd it be from there to where Bell was standing when she was struck down that morning? Well Miss, this position marked D2 and D2 were approx. 27 meters from the far kerb of Queen Street which wd prob. be about 28 yds I suppose so ~~that~~ distance from this kerb wd be approaching somewhere in the vicinity of 50 yds.

5 Does this mean that when you speak of the way in which the rifle was firing a little to the right, that so? Yes. And somewhat higher? Yes.

Do you say you didnt act. check that position from 50 yds away, what the result of firing the rifle from 50 yds wd be in other words? Yes, Id anticipate at 50 yds it wd move more to right, the aiming pt. but cdnt express clear view of whether the bullet wd still be rising at that time.

10 Wd that be a relative significant diff. bet. the two positions? I think it wd be significant on how far it was firing to the right but I cannot assess, without referring to other tables, of the significance of the height, whether there wd be any significant difference. Put another way, there wd be a difference but not sure which way it wd go.

15 Follows that if 2 people standing close to each other, one person cd aim at the other and the other cd get shot? I dont think it wd be wide enough for that bec. we are talking of someone standing beside you, we are talking now of the aiming pt. being so much to the right for 25 yds, over 50 yds, the same thing wd probably double, so actually it moves more intowards Bell actually.

20 If someone standing closer than person firing, cd the person behind have been hit? Oh certainly.

To be accurate abot that, you have to know exactly where people are standing to come to a firm conclusion about that? Yes I wd.

Youve told us the condition of the rifle when taken out of the Panmure Estury, did you u'stand that the rifle was in the condition it was in when taken out of the sea, it was taken out and handed to you and in the condition when pulledout? I got request to go to the P/station, they had just found the rifle, I u'stood it was taken from the tide somewhere then, so they wanted me to view it before it was changed, I went to the P/Station bet. 8.15 and 9.15 of the evening of 4th October, that was my first viewing of the rifle.

25 Did you u'sand that was the condition it had been in when taken from the sea? I asked them not to play with it until I arrived, it wasnt touched when I arr. at the station.

30 Wd you therefore have before you, before you pulled it apart, noted the various position e.g. the bolt was in? Yes I did.

The fact that when you opened the bolt, the c'ridge ejected? Yes.
The position about the safety catch, i.e. that it was in firing
position? Yes.

1

And did you also note the position regarding the scope and so on? Yes
when I say, in that position, it was attached to the rifle, and
heavily - it had growth attached to it, no close examination, that
was later.

5

Before you pulled it apart wd you notice where the settings of the
rifle were before you pulled it apart? Nothing to note on the rifle
really.

The scope has settings on it? With the scope, I realised that to
use that scope, it wd have to be stripped down and cleaned and so
I noted settings on it before I took it apart.

And do yr notes disclose what the setting of the scope was prior
to yr pulling it apart? Yes they do.

10

Cd you refer to yr notes and tell us what they disclose? The only
really, one relevant setting really, and that is the setting on the
focusing lens at the back of the scape, there is a similar one in
court. This is the same type of t'scopic lens that is on this
rifle, firstly it has a zoom lens, in other words, the magnificatio
varies when looking thro the sight, this is marked on this part
here going from 3 up to 9, so firstly, when I first examined the
rifle, this zoom setting set on 3 times magn. which is the lowest
setting this t'scopic sight gives. But I dont think this is imp.

15

to yr question. This rear part which is called a focusing elements,
the focusing lens in this tube and you focus the sight by just
screwing this round, when you come to the setting you want it
this is the locking ring and you lock it in the pos. that suits
however you want it, you lock it in there. When I first examined
the sight, this locking mech. was in such a position that if you
moved it, outwards, you can quite clearly see how far its exact
pos. bec. of the corrosion and other matter from the sea water,
I had to take this off to clean it, it comes right away, it is
easy to mark exact pos. of locking ring, if you had a your
focusing elements back in same position.

20

The eye piece was set in pos. and then screwed as far as it cd go
Yes ~~me~~ up to the locking ring, that was not operative.

25

When I take this focusing arrangement apart, the lens elements
~~the~~ inside are in fixed position so you cannot alter that, the
only other variable is the lens element in the front part, this is,
there is a ring which holds it in place inside here and that can
vary so I measured how far down that was so Id have the correct
setting for this part.

30

The internal zoom part, lens inside here, which moves up and down
the tube when you turn this sleeve, had no effect, bec. I c dnt
get at it.

35

As far as the zoom lens is conc. were you able to say what position the zoom lens were in when you first viewed it? Yes, it was set at 3 which is 3 times ~~max~~ magnification when you view it thro the sights, that is when I first viewed the rifle.

Take it from the position of firstly 25 ydd, what effect if any wd that have? 3 times magnification, it means that everything you see is 3 times its apparent size, if you view a lft. rule on the desk there, it will appear 3 times longer at 25 yds, but it also has of course, it allows you to see it from shadows, this is its big adv. They are binoculars for looking in the shadows.

COURT

Will you set it at 3 times? Yes it is set there now.

I want the jury to look at it.

HART

Wd it make diff. bet. 25 yds and 50 yds when at 3 times its magnification? Yes, all the time, it is 3 times its size.

Was that the max. magnification you can get from that scope? No, the max. magnification is 9.

Does that mean that ^{the} further away you are from something, the greater magnification you need? You cd use it this way yes.

I shd pt. out that those t'scopic sights the jury has doesnt have the cross wires in, I used them to replace the ones I broke on the scope of the rifle before the court.

When you were at the DSIR, were you there with a Mr , the optomitrist and looked at the rifle in pres. of police officer? Yes. When was that? Yes, on 22.11.79.

If he gave evid. that the position, the eye piece was set in, wd be clearest for person who was short sighted, you know anything about that? I cdnt comment on that, I cdnt even say what happ. that day.

He did some tests in yr presence? Yes.

He came into my laboratory with two policemen who were present and what he did was he used the rifle and the scope before the court and we pted it at a brick wall outside the blg. and he placed various lens behind the, between our eyes and the t'scopic sights. I cannot talk for the lens as to what they were, but when I viewed thro the sights, there was no significant diff. to what I saw thro the sights, put another way, the brick wall on blg. about 30 yds away, if I wanted to hit a part. brick on that blg. I wd have no trouble with hitting it the way they were.

This rifle is alleged to have been fired at 3.30 a.m. in darkness and the tests you did were in daylight? Yes, but I ustand that altho in darkness then which it must have been, the target area well lit, and with t'scopic sight it wd make no diff.

Youve no know. yrself as to the effect that sit. wd have on short sighted person? No.

I prob. had my eyes tested about 10 years ago. But I think a person who views the sight on the rifle now, they cd see themselves
 1 What is the position of the t'scopic sight now, what is the setting
~~before~~^{of} the scope now before the court? The setting is now at 3 time magnification on the zoom part and the back part on the focusing lens, you see me turning it, I cannot comment on that setting, when I used that, that was hard up against the locking pin, it is not hard up there now. (puts it to hard up position) It is prob. now
 5 a millimeter away from this order, but from experiments I did there is no significant diff. to what you see.

This is on basis that youve got normal vision? Yds.
 And youd agree you didnt do experiements testing either the rifle and scope at night time in the obv. conditions that prevailed at 3.30 on morning of 1st July? There was a test fired at night time from church grounds there but that is all, dont think it wd help
 10 you very much, test firing carried out at night.
 Do you concede that that scope illuminated hairs or cross pèces? It doesnt have those, it has cross - when you view it you can see cross hairs, but more imp. you have illuminated target.
 A witness sd something cd be illuminated? No use have illuminating cross if yr target cannot be seen
 If cross pieces are illuminated you can focus them? No, this cert.
 15 is not. Just cross wires.

COURT ADJ. AT 11.30

COURT RES. AT 11.45

I was asking you before, you had - youve got a t'sight before
 20 you, what range of scope has that? It is a Japanese Elliott made in Japan, Eliot.
 You sd that when you came to pull apart the scope on the rifle before the court that you damaged both crosses or none? Very fine, they were both broken I believe.
 Did you put ~~it~~ in exactly the same crosses as before? You cant do that, I transferred the one from this demonstration one and replace
 25 those in the sight on the rifle before the cour.
 Is it possible to get a scope such as the one before the court, the type of cross hairs that are illuminated at night? I cant answe that question, I dont know.
 Does it foll. from that you cant be sure whether or not the cross hairs in the rifle was illuminated in any way for the night shootir
 30 Thats right I cant be sure.
 I was asking you questions about how long it had been since yr eyes were tested, how old are you? 38 next birthday.
 And is the pos. that at no time you were asked to go thro and look t'sight on the rifle in the position opp. the main street cabaret
 Thats right.

At night time? Thats right.

1 I havent looked thro the scope before you, do we take it there are
no cross hairs on that scope? Thats right yes.

NO REX

COURT

5 When, the cross wires in this particular t'sight, are they actual
hairs or maked on piece of glass? Very fine wires, they are, if you
imagine a circular ring, two diameters on that ring, and this ring
unscrews from one.

10 Having removed the original cross wires, the broken ones, and replaced
them with new ones wd you have to resight the rifle to get it accurate
I wdnt be surprised, there are 2 steps which I havent carried out test
but Iwdnt be surprised if replacing the cross wires and also taking
the s/scopic sight off the rifle whether this wd upset the aiming pt.
This is why I dont know how it was fired before I recd it.

15 In other words, the fact that the rifle was firing high and to the
right when you tested it, does not necessarily mean it was firing
high and to the right before it went into the water? ~~xxx~~ Thats right.
This rifle fires which differs substantiall from the ord. .22
or pee rifle, any idea of the muzle velocity of this rifle? It is about
3900 ft. per second, to put that into perspective, yr 22 rifle used
for shooting rabbits with has muzzel vel. of about 1030 ft. per second
at lower range but you can get new c'ridges on the market which are
up to 1507 ft. per second, this is high velocity bullet.

20 Same rifle as the pee rifle? It is the same, the diameter is almost
the same but bullet is diff. It has diff. weight, heavier, and
jacket bullet, the jacket is harder metaland the jacket is a nickle
alloy, pretty hard, so the bullet will rip and get the spin, if you
tried an ordinary lead bullet it wd just spin in the barrel, it wd
rip the bullet.

25 You told us that you test fired it at 400 yds or fired into a trap
at 400 yds, wd this weapon be accurate up to 400 yds? Yes, but rememb
I was handicapped in tests in that I didnt have t'sights when I recd
it so I had to make adj. to fall of the bullet over a range. Once you
set this into any given range you can fire it very very accurately.
Is that t'sight then adjustable for range? Yes, on the top of these
sights you have a fine, you can hear it clicking, you wind it, this
says up if I want to raise the sights, you turn it in anti clockwise
direction, if lower you burn it the other way, so they are adjustable,
What you do is you go to range, select whatever range you want to sig
30 therifle at, say 100yds, you simply fire away - you adjust it
acordingly.

Suppose you wanted to shoot tart 400 yds away, is there any setting
on that sight to set it for 400 yds? No.

I wanted to ask about the noise this rifle makes when discharged, is it comparable with the 22 p. rifle? Much louder, more comparable
 1 to 303 rifle which most people know of, all these rifles lie in the range of what I'd call high powered rifle whereas 22 is not high powered rifle.

Very hard to describe sound and loudness, but you wd compare it in loudness with ? Yes, without taking into account the subtlety of shortness of duration or sharpness, it has a very sharp crack to it where as the 303 tends to have a slightly longer noise, but
 5 in intent it is approx the same.

Wd it be so intense as to almost hurt ones ears if fired close to one? I find it depends if yr the shooter or the person standing beside you, when Im shooting weapon I dont notice it, but if standi
 10 beside a person I usually cover my ear, you dont notice it when yr firing it, when this was being fired, I was blocking my ear closest to the weapon, when test fired by other persons.

Does the bullet itself, the sort of vel. youve been describing, make a ~~xxx~~ noise of some sort? These bullets travel faster than speed of sound, about 1100 ft. per second, this is what Ive read. This travels at about 3900 and accomp. part of the bullet, you get crack as it passes you and I believe I did experience this when I was in the range years ago, marking targets at 100 yds behind the
 15 gun but when 303's ~~being~~ being fired, it is given in the books as being well known phenomenon with high vel. guns. Youve not had the experience of this sound then? Its not a position I get into v ery often.

MR MORRIS CALLS

20 NICHOLAS ADRIAN PRAAT (Sworn)

I am member of the New Zealand Police Diving Squad based at Wellington.

On Thursday 4th October 1979, were you req. to go to Auckland? We were req. on the Wed. before, we arr. that night and comm. the next morning.

25 Did you go to the area of the Panmure Est. in the vicinity of Panamure Bridge? Yes..

Look at Photo. No.28 of Exb.2, as result of information youd been given did you comm. search of the est. for a rifle, bullets and some male clothing? Yes.

30 Give us idea of how you do a search of this nature? The Est. is a tidal one, in order to do search of this, we lay a grid pack, that being ropes with weights on each end, laid on the floor of th est. and a team of 4 or 5 divers go down and follow the ropes. Once that pattern has been done, the rope is simply moved out and the same thing is done again.

When searching in tidal est. like this, any particular problems?
 Yes unfort. we ran up against tidal problems it being there about
 1 5 knots, cdnt maintain our station bec. it was too swift, being
 swept out.

How did you get on? We started at 0800 hrs on Thurs. 4, by ropes
 being lain parallel to the bridge on the seaward side. On No.28
 the side yr looking at is the seaward side. We laid the ropes and
 comm. to dive, we did I think 3 patterns directly below the middle
 5 span of the bridge. That took us about 2 and a half hrs, or 2 and
 a quarter hrs, by then the tide had turned and starting to get too
 swift for us to maintain stations on the rope so until the tide was
 slackened we had to stop. About 1700 the same day, we commenced
 searching again on a slack tide, we had done 2 patterns I think and
 on third one coming back I located a rifle with t'sight .

Give us idea of what the light was under the water, was it clear?

10 No visibility whatsoever, it was black as night with no stars, pitch
 black, we did it by touch alone, i.e. the first search, groping
 along the bottom very close tog. The search we did at 1700 hrs we
 required I think 4 or 5 lights which gave us about 5 to 6 inches
 visibility. The depth there is about 35ft. at low tide and about
 45 at high tide.

15 Look please at the rifle now shown to you (Exb.17) is that the
 one you found? Yes thats the one.

And if we look at photos. and in particular 29 can we see the area
 that you obtained that rifle? Yes, bouy marking the spot where I
 came up when I found the rifle, it wd be in the vicinity of 5ft.
 of the float at the time.

15 If we flick back to No.28 can we see the bouy also in that photo.
 20 to the right? Yes thats the one.

The condition of the rifle when I found it, it was covered in a fine
 layer of silt, I noticed that there was algie starting to form on the
 wood stock of the rifle.

25 You able to form opinion yrself from this as to how long it might
 have been down there? Id say longer than 2 mths, and it wdnt be
 any more than a year, very hard to tell bec. of the growth in the
 area.

30 Tell us what you did with it? I found it on the bottom, my coll.
 finished pattern off, I brought the rifle back up to our tender boat
 which we have above us, I there brought it back to shore, placed it
 in police car and travelled with it to Auckland Central Station.
 I took it out of the car, took it up to the 4th floor of homicide
 room, and then I took it down to the photography section where
 McManus photographed the rifle, took it back up to the homicide room
 and formally handed it over to Mr Shanahan of the DSIR.

You done this part. police work for long? Yes, 4 years.

How did you place yr chances of finding anyhthing? Well we pride
 1 ourselves with the fact that if it is there we will find it.
 Once the rifle was found, I finished, my friends finished off that
 pattern and continued searching for 2 days when fide permitted,
 but we didnt find anything.

With the current flowing, did that surprise you, making yr find?
 No, the current, well it depends when the rifle and bullets were
 5 thrown over, just how far it went from that spot, it wdnt really
 affect the bullets or the rifle, it wd affect the clothing though.

NO XXD

NO REX

MR GRIEVE CALLS

10 RUSSELL MURRAY GIBSON (Sworn)

I am Detective Constable attached to the Auckland Criminal Investigati
 Branch. On Sunday 1st July 1979, I commenced duty on the Margaret Bell
 hom. investigation, on that date I was appted officer in charge of the
 exhibits, this duty included the recording of each exhibit, the
 movement of that exhibit, the storing and safety of it. For this I
 compiled an Exb. register. I made this from a loose leaf folder with
 15 each exhibit being given one page which was numbered.

On that page you can record the movements of each exhibit after you
 had recd it and when e.g. an exhibit was given to the DSIR for
 examination? Yes.

I thinkin totak youve recorded 204 exhibits in the register? Yes.
 You of course wd have been pres. at the cabaret on the morning of
 20 Sunday 1st July and on the next 2 days when the scene there was
 thoroughly searched, that right? Yes.

And weve heard some description from prev. witness about how that was
 done , you divided the area, I think, into groups with some string
 and each group was thoroughly searched by yrself and other officess?
 Yes.

As items were found was there (their) position noted and marked and
 25 then did you record the item in the register? I did yes.

And do you confirm that various items came into yr possession and then
 passed on to Shanahan of the DSIR for his examination? Yes.

And if necessary yr register showed what happ. to any part. exhibit? Ye

NO XXD

30 NO REX

MR GRIEVE CALLSDAVID OWEN BEDDOE (Sworn)

1 I am Detective attached to the Auckland Criminal Investigation Branch. At 7 a.m. on the 4th July Wednesday, 1979, I went with other detectives to 71 Pilkington Rd. Panmure to execute a search warrant.

COURT ADJ. AT 12.40

5

COURT RES. AT 2.00

at that address. At the address I spoke to the accused Brian Ronald McD. (indicates accused) with brown pullover, at that time accused was still in bed and I took him from his bedroom to the lounge where he sat down. I then asked the accused a series of questions and I noted his replies. A short time later, I recorded these into my notebook and I now seek permission from the court to refer to these notes for the purpose of refreshing my memory (permission granted)

10 I sd, can you tell me where you were on Sat. night. The accused, I dont want to say anything, I know I dont have to say anything, I wd rather remain silent, I know it is my right. I sd, that is fair enough but surely if you were not involved and were not involved or in Queen Street when the girl was shot then you may as well tell us where you were. That wd save us a lot of time and yrselvf. The accused, the only way I will tell you anything is with my solr. if I need one. I sd, fair enough, what sort of work have you been doing? Accused sd, just fixing cars and trying to make a few bob, Im working for myself. I sd, is the Valiant O'Connor's car? Accused, yes. I sd, how come that you have it? Accused, I usually drive it. I sd, why is that? Hasnt he got a licence? Accused, no. I sd, when did you last drive it? The accused made no reply. I sd, well did you drive it yesterday? The accused sd, I dont want to say anything. I sd, what do you think of the situation of the killing of the girl? The accused sd, I dont know her, I sd, you must have some ideas. Accused, no I havent, I wdnt have a clue, it must be something. Following this conversation I left with the accused and other detectives

15 and went to the 6th floor at Auckland Central P/Station arriving there at 8.20 a.m. I sd to the accused, you are a suspect for the murder of Margaret Bell of the Main St. Cabaret on Sunday, do you understand that? Accused, if you say so. I told you before I have the right to remain silent. I sd, that is true, however, all Im asking from you is to tell me yr movements on Sat. 30th June and on the

20 early hrs of the 1st July. Accused, no comment, Im not going to say anything until my solr. arrives. I sd, all I want to know is where you were on Sunday morning at about 3 a.m. Accused made no reply.

25

30

35

1 Foll. these questions I sat with the accused until the arrival of his solr. His solr. a Mr Brown arrived at x. 2.30 p.m. and spoke to the accused and I wasnt present during this conversation. Following the conversation I again spoke to the accused, and I sd, you have spoken to Mr Brown yr solr. Accused, yes, and Im not going to say anything at all.

XXD MR HART

- 5 You had been at the P.Station about, what 5 hrs before his solr. turned up? The accused arr. at central at 8.20 a.m.
And the solr. accord to yr evid. turned up at 2.30? Yes.
From yr evid. in chief does it appear that accused asked for a solr. shortly after 8.2-0 on arr. at station? He didnt make a specific request for a solr.
- 10 But doesnt it follow that accord. to yr evid. at 8.20 you spoke to the accused at the P/Station? Yes.
And accord. to yr evid. you say the accused sd, no comment to a question Im not going to say anything until my solr. foll? Yes.
He must have made a request then otherwise how is solr. to turn up?
I communicated with superiors and made arr. for them to contact a solr. bec. I wanted to clear the matter up.
- 15 What time did you contact yr superiors and say that they shd get solr. for accused? Dont recall exactly what time. It wd not be long after I arrived at central bearing in mind that it was fairly early in the morning at that stage.
Did you actually try and ring Mr Brown yrself from the central station? NO I didnt.
- 20 Plenty of phones there? Plenty at central.
I made no effort at all to contact a solr.
Do you knw why it took so long for Brown to arr? I cant comment, I u'stand there was a delay on Browns behalf, for what reason I dont know
And during this period, you still asking questions of the accused or did you just sit tog. for hrs waiting for solr. to arr? As can be seen by my evid. he didnt wish to answer my questions, obv. I didnt sit there
25 for 3 or 4 hrs and say nothing, we disc. matters in gen. not relevant to this inquiry.
Yd agree that accused was exercising his legal right not to say anything
Yea.
And made it clear to you at one stage he wasnt saying anything to you until he had a solr. pres? At one time accused sd he wd make statement
30 outlining his movements on arr. of solr, that is what I was interested in, and as far as I was conc. the sooner that cd take place the better.
Did you make enquiries during this time you chatted with accused to see when solr. coming? I u'stood there was some diff. either on behalf of the police in contacting Brown, if not that he was for some reason dealayed, not aware of reason.

In any case he had the chance to take legal adv. from solr. and after this he wasn't saying anything to you, right? Yes.

1

NO REX

MR MORRIS CALLS

HAROLD VALENTINE COOP (Sworn)

I am duly qualified regd. med. practitioner, I am eye specialist. I am fellow of royal college of surgeons in England.

5

Diplome of ? I am consulting eye specialist at Aucland Hospital. I've been specialising in this field for about 14 years.

Did you examine Bruce Speck? I did.

Was that done at the request of the police? Yes.

When was that? Few weeks ago, can I refer to my notes? My examination was on 4th February.

10

On examination what did you find? He had a mild degree of short sighting. This was more so in the left eye than in the right.

The right eye saw little over 3 lines out of 7 on the eye chart, without glasses. But with glasses, he saw the normal bottom line with each eye. He was also colour blind to a fairly high degree.

Is that serious disability? Not for most purposes, he wd see colours like red or green but not any finer shades.

15

Are you able to produce by means of lens the disability of which Speck was suffering? Yes I can. I can make myself short sighted to the same degree that he is, so that I can see the same number of ltrs. on the eye chart, this is done by placing a lens in front of my eye, that is recognised procedure.

You were aware, were you not, that the police were interested in the firing of the shot allegedly from the area of the church at the top of upper queen street towards cabaret on other side?

20

I was.

Did you vist that area? I did.

Was that in the company of D.S. Hastings? Correkt.

When was that? (witness refers to notes) This was on the evening of Tues. 25th March.

25

What time of the evening? About 9 p.m.

Was it dusk, dark or what? It was dark.

And was the area that you went to - look at Exb.2 the book of photographs, No.20 in particular - can you see the area that that you visited? Yes.

Which area was it? I stood on the path on left of picture, at the level of the church.

30

And from there were you able to see across to the cabaret that you see in the next photo? I was.

35

Incidentally the lights were turned on for us that night, the lights of the cabaret.

1 And were you supplied with a t'scopic sight the Japanese Eliot model, was it sim. to the one there on the desk? (demonstration t'scope) Correct.

What was the purpose of that visit that night? The purpose was to see what level of vision could be obtained of the well lit foyer across the road, and especially to see whether the eye defect which Speck had wd materially affect the view thro that t'scopic sight.

5 You went out there, did you carry out test using the lens procedure to simulate Speck's eyesight? I did.

And having done that, did you come to any conclusion as to whether Speck cd see across using that t'scopic sight? Yes, I came to the conclusion that the amt. of short sight he had wd not materially affect the view thro that t'scopic sight.

10 Does that t'scopic sight have various degrees of magnification? It does.

And what is the purpose of that? The purpose is to increase or decrease the size of the object which is the target but conversely it decreases or increases the area of view.

15 Is there any material difference that you can make by movement of the various pieces of the lens? There are minor, apart from the inward size as just described, magnification, also minor adjustments which maybe made for a persons error of focus, long or short sighted .

What is the significant difference in those 2 ranges? It is very little.

20 How do you mean very little? I think it wd not materially affect the view for most purposes whichever way it was adjusted.

Have you yrself tried it out? I have tried out the various adjustments both with my own vision and mimicking Speck's vision

And none of these changes made any material difference in my view

25 Just looking at the t'scopic sight, the Jap. one, can you show us by using that the adj. for the long and for the short sight that is required? The eye piece may be screwed forwards or back but as you can see, a fair number of turns are made to make the adjustment, it is not something which one just does quickly.

It wd tend to be set and then locked by a locking ring.

At a range extending to on the night you visited the upper queen street area in March, did these varying ranges make any diff.

30 at all in yr opinion? No I thought they were really immaterial.

XXD MR HART

Whereabouts do you say you stood when you looked thro the scope, looking now at No.20 of the photos and just indicate where you say you stood in respect of the church there?

I stood at the path at the level of the church.

Was it raining that night? No.

1

As far as the visibility was concerned, the weather conditions wd make some difference wdnt they? Yes, but not a great deal unless it was really raining.

Well when you say that, you mean pelting down? Yes.

On the basis that the scope has that end piece to look thro turned as hard as you can to the right wd you agree that wd be the most favourable position for a short sighted person? It wd be a little better.

5

You agree that it is not easy to duplicate the exact weather conditions that of course - the condition of the person conc. such as if you had alcohol cd be another influence? Yes.

What about the situation of as it were, looking thro the scope in an area of darkness out from an area of lightness, wd that make diff. as far as the eyes concerned? Not really.

10

So youve sd that wd be turning the scope as far in as possible wd be optimum sit. for shortsighted person. Which wd be the reverse?

Turning it in opposite direction, a peso person who was even long or short sighted with it, cd see well thro it in either direction.

Yr basic opinion must of course be coloured by the conditions which prevailed when you saw it and looked thro it, in other words, it wasnt raining at the time, right? They do not colour my opinion about the change of the adjustment depending on the eyesight of the peson. They only change or qualify my opinion about what can be seen thro the scope.

15

Ive already sugg. to you that if person had been drinking that can affect the persons vision generally to lesser or greater degree?

20

Yes it can affect him in cons. number of ways, but does not alter his focus of the eye.

But of course if someone who was shortsighted wanted the optimum visibility thro the scope, turning it hard to the right wd be the best position to put it in? That is right.

25

On the basis that it was pelting down at the time, that in itself wd be another factor i.e. the issue of the rain against the background of the light and so on? Rain cd make for difficulty in several ways it wd make the view less clear, it cd also - rain cd get on the t'scopic sight.

Cd that have the apparent effect of changing yr focus in any way? Not materially.

What yr saying is that it generally lessens visibility? Yes.

30

Was the purpose of yr checking Specks eyesight and then going on to this area in Queen St. to be able to ascertain whether or not bec. of his eyesight he was cpable of having, as it were, wound up the rifle and having it fired from that positioon? Yes.

And youve already told the jury that bec. of his shortsightedness that wdnt prev. him from looking thro the scope and using the rifle
1 from that position? That is true.

Wd it be correct to say that his shortsightedness is, what, mild, or moderate or, how wd you describe it? It is mild.

Thinking back to the area where you stood that night, looking at No.20 of the photos, there is alleyway running just down behind the church, and you prob. noted it that night you were there? Yes.

5 Just if you can imagine this situation, you have a person with s/sightedness of Speck and he is standing at the end of stps at the end of that alleyway he having walked up with someone else who preceeded him and that other person is somewhere in the alleyway perhaps where you were standing, wd you agree that mans s/sightedness wd not be suff. to stop that person being seen? He wd certainly see someone else standing somewhre on that path.

10 Is it correct tht Speck also has stigmatism, one eye stronge r or weaker than the other? Yes.

What about that aspect, wd that affec-t issue of focus? Not materially. Does this mean that looking thro the t'scopic sight with one eye- one eye wd be -stronger than the other? Hardly any diff. bec. it makes such huge magnification that minor degrees of error are of very little significance.

15 And what about the issue of colour blindness, what effect if any wd that have on the subject matter bearing in mind that it was a dark area, looking thro a lighted up area? I do not think that wd have any materal effect bec. it has no effec-t on the definition, only on the colour. The definition across the road with the lights on was very clear and I think wd have been very clear for a person either long or short sighted.

20 And as far as the issue of alcohol is conc. is that subject matter that comes under some other specialist as to the effect that wd have on a mans ability to gen. see depending on how much he had to drink? Yes, a level of alchol alcohol wd have to be high to materialy affect the actual vision, its what the mind does with the alcohol afterwards which is more effective.

25

NO REX

COURT

Yr eyes quite normal? Im slightly long sighted, the opp. way fro m Speck.

30 Did you look thro that t'scope with the focusing device turned as far as it cd go to the right for a short sighted person? I did.

Did you use any other lens? I did.

And in those circum. what sort of view did you get thro that t'scope into lighted foyer? I still got a good view.

MR HART

1 Do I take it you didnt actually look yrself thro the t'scopic sight on the ~~xxxx~~ rifle in court. you used another one? Correct.

MR MORRIS CALLS

GAVIN ROSS JONES (Sworn)

5 I am Detective in the Auckland CIB. I am currently stationed at Newmarket. At aboutk 10.30 p.m. on the evening of Friday 10th August 1979 I spoke to the accused Brian Ronald McDonald (indicates accused) in brown pullover next to prison officer. I had the following conversationwith the accused. I sd, Brian, you wdnt be here now - sorry - I sd, Brian, if you had told us where you weere on the evening of the telthon you wdnt be here now. The accused made no comment. I sd, we are not going to let the matter rest here Again the accused made no comment. I sd, listen Brian, one way or 10 the other we are going to be able to account for yr movements on the night of the telthon. telethon. The accused made no comment.

On Friday 28th December, on instructions of Hastings, did you accompany the witness O'Connor on foot from Myers Park in city to 53 Howard Hunter Ave. Glen Innés? Yes.

15 You bit of an athlete? I keep reasonably fit, I did this to reconstruct his movements on the morning of Sunday 1st July 1979, I was going to run the route that he took and time it.

Did you travel from Myers Park to the corner of Airdale and Symonds Street? Yesx

How long did that take? Haveyou got yr notes there? No, that took 10 mins. and 12 seconds.

Then did you go on to 53 H/Hunter Ave. Glen Innes? Yes.

20 Go along Gracfton Rd, Parnell, Dryden, Shore, Orakei, Remuera and Johns Roads? Yes.

How long did that take? 1 hr and 14 mins.

How fit was O'Connor? He was not particularly fit, he was running in fits and starts, by that I mean he wd jog or sprint 200 mtrs and then walk and then jog again.

25

XXD MR CONWAY

You told us your fairly fit yrself, that right? Yes.

Go out jogging yrself? Yes.

30 Do I take it that you adjusted yrself to Mr O'Connors pace? Yes. And do I also take it that you came to the conclusion that he was not particularly fit bec. you had to run a bit slower? No, he was running at his best capacity for a distance which is roughly 2/300 meters and then stopped bec. he was out of wind.

Number of hills on this route arent there? Yes.

Very steep ones? Yes.

Did he run up these hills? Most of the steep hills he walked up.
Run up some of the other hills? Yes.

1 Were you running - what type of clothing were you in? Track suit
and t-shirt.

What about O'Connor? He was in shorts, pair of casual shoes and a
t-shirt.

When you say casual shoes, you look at them yourself? Yes.

5 What sort of shoes were they, leather, suede? Known as D-jays,
self soled casual shoe.

This run was taken on at 10 a.m.? 10.15, not at night.

It wasn't raining? No.

I take it that O'C hadn't been taken out by the police and got drunk
first? No.

And I understand it took almost one and a half hrs, the whole course?
Yes.

10 You recall jogging along Remuera Rd? I recall walking along Remuera
Road.

Running some parts and jogging others? Yes.

Just to duplicate the run, was there a stage where you jumped
behind some bushes? No, however there were times when we stopped
where he himself thought he may have stopped on the evening in
question, we didn't actually jump behind the bushes this time.

15 How long were these stops for? Just for a short period, a period
which was determined by him, he was setting the pace.

How often did this happen in Remuera Rd? It wouldn't have been too often
along Rem. Rd. bec. as I recall Rem. Rd. joins with St. Johns Rd.
shortly after Orakei Rd. and the distance isn't too great.
St. Johns Rd. starts at M'bank? Right.

20 It would be about 3 miles of roadway? No, I don't think so.

How far would you say it was then? Approx. one mile.

A mile? At a guess.

Whereabouts in Remuera Rd. did you stop, can you recall? No.

Were these just ord. stops bec. he ran out of breath? Yes.

25 How many occasions did he do that? I can't give you an accurate
number but he was running spells of 2 or 300 meters at a time,
so over the 6 mile distance this would work out to be quite a number
I suppose.

Now whether he smoked before or after running the course? I know
that he does smoke.

Was he fairly tired at the end of the run? Yes.

30 NO REX

COURT

You did both arrive at the same time? Yes.

MR MORRIS CALLSBRYAN JOHN ROWE (Sworn)

- 1 I am Detective Inspector in the Auckland CIB.
 On the 1st July 1979, I was instructed by my superiors to take charge
 of inquiries into the death of Margaret Bell who had been shot dead
 at the Main St. Cabaret at about 3.30 a.m. that morning. I subsequently
 directed all police enquiries into her death. On the 20th September
 1979, 20th, I instructed D.S.S. Hastings and D.S. Metcalfe to travel
 5 to NP with a view to locating and interviewing the previous witness
 Gary Keith O'Connor. At that stage, of the enquiry, I was aware that
 the accused Brian Ronald McDonald seated in court (indicates accused)
 and O'Connor had, prior to the murder, possession of 2 firearms,
 a 22/250 rifle and a 4/10 under and over gun which is a combination
 shotgun and 22 rifle. Of course I was also aware at that stage that
 10 a live 22/250 bullet had been found on the stairs at the rear of
 Martins Toy shop and also that a live 4/10 cartridge had been found
 in the telephone box in Queen Street down from the cabaret. Both
 of these types of ammunition are in themselves unusual and a combination
 of them thoroughly unusual. On the 22nd September, I recd a telephone
 call from Hastings and as a result of a discussion with him, I
 instructed him that he could tell O'Connor that as long as he didn't
 shoot Margaret Bell and as long as he told the truth, he would not be
 15 prosecuted for any offence in relation to her death. On the 24th
 September, i.e. 2 days later, I interviewed the accused Brian Ronald
 McDonald at the Auckland Central P/Station. I cautioned him.
 Pause there, you said the 20 or 22nd? He was seen on the 22nd at NP.
 Now telling us about the 24th? Yes. what did s
 Between that date, those two dates, you were aware of/O'Connor?
 20 Yes, prior to interviewing McD. I had read a 5 page closed typed
 McD. acknow. during the interview knowing O'Connor, the previous witness
 Speck, the Bloor brothers and the previous witness Trevor Smith. I put
 to the accused...
- Did you tell him you wanted to speak to him about the murder of
 Margaret Bell? Yes, and I put to him series of questions based on the
 25 allegations made by O'Connor
 Concerning his movements at the time Bell was shot? Yes. To all of
 these questions the accused said, no comment and he indicated that he
 would not answer any of these questions until he had spoken to his
 counsel Mr Hart.
- At that stage you had in your possession a statement of O'Connor and all the
 other material from police enquiries? Yes.
- 30 Nothing from McDonald, correct? Yes.
 Did you at that time explain to McD. that you had located Speck? No.
 But no doubt as a result of what O'Connor told you you were anxious to
 get in touch with Speck? Yes I was anxious to do a few things after
 hearing what O'Connor had to say, one was to put allegations to the
 accused and the other to put on to find Speck and to see what he had
 35 to say.

about his movements on the night of the murder.

1 Did you then cause enquiries to be made in respect of Speck? Yes, throughout NZ to locate Speck and that resulted in my sending the prev. witnesses Kruger, who was then Det. Kruger and Det. Jones to Rotorua to locate and interview Speck.

5 On the 1st October as a result of a t'phone call from Kruger from Rotorua, I travelled to Rotorua and spoke to Mr Speck at the Rotorua P/Station. I explained to him the basics of crimianl offendin and the various categories of offenders. As a result of that, he then indicated he was prepared to tell us what he knew about the murder of Margaret Bell. I did offer him a solr. of his choiee if he wanted to check on what I had sd, but he declined that offer. He then gave a verbal account of the movements of himself and Mc Donald and O'Connor on the night of the murder, he then agreed to make a written statement about this, prior to him doing so, I told him that included
10 in his statement wd be a paragraph identical to that included in a statement by O'Connor namely that if he didnt shoot Margaret Bell and was telling the truth he wd not be prosecuted for any offence in relation to her death. I then left Mr Speck with D.Kruger and I ret'd to Auckland.

How long have you been in the force? 18 years.

D/Inspector fo how long? 3 years.

15 I take it youve been in that period of time in the force involved in some fairly serious investigations in connection with this case? Yes, I have, been detective for 16 of those 18 years, Ive worked on numerous enquiries, many homicides and Ive also in recent years been in charge of a number of homicide enquiries.

Its a pretty serious step to give an u'taking to Speck and O'Connor?
20 Yes onestarts these type of enquiries with object of finding suff. evid. to ID and prosecute all persons criminally involved, sometimes that is not always possible and one has to modify that objective and settle for perhaps only the prncipal offender.

And in yr opinion why did you decide on this part. course in this case?

25 Subsequently were you aware an indem. given by S/General not to prosecute? Yes.

Was that handled by yrself or by officers of the Crown? Law offices of the Crown, quite independent of the Police.

We had evidence of steps taken by the police to protect O'Connoer subsequent to his making statemnt to you, any sim. u'taking given to Speck? Yes, Specks whereabouts were kept a secret and on any occasion
30 thatit was nec. to bring him to Auckland he was kept under police protection. In fact I think if you read the deps youll find he didnt disclose his current add. at the lower=court, dont know if he did in this court.

Subsequent to yr ~~ex~~ obtaining the statement off Speck did you again speak to McDonald? Yes.

1 Was he then arrested? Yes. That was on 2nd October.

On the 4th October, did you take poss. of t'sight from the exhibit rifle? Yes I did this at Auckland central after the exhibit rifle had been brought there by the previous witness Constable Praat. I kept that scope in my possession and had it examined for f'prints by the senior f'print technician at Auckland, Mr D. There were no f'prints impressons found on it, the rest of the rifle considered totally
5 unsuitable for f'printing. On 8th October I delivered the scope to the prev. witness Mr Shanahan.

Have you made any tests as to timing and so on involving movements of Speck and O'C? Yes I instructed that a timing exercising be carried out with the prev. witness O'Connor. This was done quite some time before the lower court hearing. The purpose was to get some idea of
10 the time involved in his movements and the time he wd have reached H/Hunter Ave.

What about Speck? Yes, because of certain matters raised by the defence at the lower court hearing, mainly an allegation that O:C didnt run home, I did a timing exercise with the previous witness Speck on the night of the 3rd February 1980. This was a Sunday night, the exercise commenced with a sprint from the Latter Day Saints Church
15 down thro Myers Park to the bottom where it had been indicated the vehicle involved was parked, on the night -of the murder. That run took one minute and 30 seconds. I then drove a police car on a route described to me by Speck and at a speed indicated to me by Speck, this being the route alleged by him to have been traversed after the murder. This route went from Myers Park on to Mayoral Drive, left down Queen
20 Street, thro Rutland St. on to Wellesley St. k right up Wellesley St. into Princes Street, a u-turn from Princes Street and then up on to Symonds St. along Symonds St. to the turn off on the southern motorwah along the sthern motorway to the Eilerslie/Panmure turnoff and then along the Eilerslie/Panmure Highway to the old bridge over the Tamaki Estuary. This was a Sunday night I commenced that trip at 11.29 p.m. and traffic was minimum, almost zero. That time was chosen as ~~best~~
25 best possible to coincide with anticipated traffic movement on the night of the murder, the timing for that journey (refers to notes made at the time) was 16 minutes. The next step was to travel to the end of that bridge, a u-turn and then back to H/Hunter Ave. via in the main Tripoli Rd. and Merton Rd. , in fact the route taken ~~xxxx~~ was that taken by the bus on Tuesday morning from the flats in H/Hunter Ave. to the bridge, that trip took a further 6 mins. The next trip was
30 from the flats at H/Hunter Ave. to Half Moon Bay, that took 15 mins. And then there was the return journey back to the units at H/Hunter Ave, which took a further 14 mins.

1 This gave a total travel time in the police car of 51 minutes and the run thro Myers Park added on a further 1 and a half mins. giving total of 52 and a half mins. Travel time only.

In reproducing these movements of Speck, did you make any note of the time spent on the Panamure bridge or time spent at H/Hunter or time spent at Half Moon Bay? No allowance made for that, it was actual travel time only.

5 Yr aware of the photos. the jury have seen of the church? Yes. Yr aware they visited there prior to the trial. Can you tell us is there any material diff. in the vegetation growth around the church compared to what it was at the time in question? Yes the is slightly more growth there now than what there was at the time of the shooting which was virtually mid winter.

10 I take it during the course of the police enquiries there were in addition to the witness been called numerous other peson persons interviewed by the police? Yes, there were many 100's interviewed.

Have you made available to the defence names and address of persons who were at the scene and who were not called? Yes, the persons who were thought maybe of some assistance to the defence, their names and addresses were supplied.

15 Did that include names and address of the Bloor brothers? Yes.

XXD MR HART

20 On that last pt. were the name of a man called Francis Hogbson an opt. who saw Speck on the 22nd, sorry, 15th November, was that a name supplied to the defence at any time prior to commencement of this trial? No and I dont really see there was any pt. quite frankly in supplying his name.

I u'stood you to say anything that might be relevant to the defence was supplied, you didnt see that to be relevant in shape or form to the defence? Yes andnll explain why. I had those experiements carried out by Mr H. with a view to seeing if there was any possibility of excluding the possibility of Speck having

25 fired the murder weapon on the settings as found by Shanahan.

I took part in experiments with Mr H. These involved the use of a lens so as to give a person with normal sight the sight of Mr Speck. I found and so did Kruger that there was a wide range of various settings on the t'scopic sight where Speck's vision wd have been ample if he ~~an~~ had wanted to use the weapon and indded the same observaton applied to my own eyesight and that

30 of Kruger and Shanahan. However, in addition, there was the obvious factor that no one was in a position to say exactly the setting of the scope at the time of the shooting and in addition there were the complicating factors of the inclement weather at the time

- for example rain coming over the scope, the effect of tiredness
 1 because I think there is ample evid. before the court that the shooting
 took place at 3.30 a.m. and also the effect of the consumption of
 alcohol which the accused Speck and O'C. had obv. consumed that night.
 All in all in my opinion the matter was so complicated that I dont
 think it wd have been poss. to illiminate any person from having used
 therifle.
- 5 You made yr mind up that this wd be of no assistance to the defence
 or are you saying you passed it over to the Crown? That was my
 opinion and the document relating to Mr H's examinations and tests
 was placed on the police file.
 At what stage was that handed to the Crown solr. for his consideration
 The ~~xxx~~ crown solr. wd have seen the file prior to the lower court
 hearing.
- 10 You were aware that part of subject matter of his reportk that
 he sd the "DSIR short sighted" you knew about that? Yes, cd
 you read the rest of it.
 Well you knew about that? Be fair, read the rest of it.
 You knew about that piece? Yes.
 It goes on to say "although for normal vision"? Yes the concluding
 piece "although the cross other than normal vision" which is
 15 I think what I've sd.
 Did you also u'stand it to mean that obv. the setting was at optimum
 position for someone who was s/sighted? That was Mr H's opinion, I
 based my actions on my own observaton s and those of others who also
 tested the scope.
 Leaving aside Mr H., we turn to Mr Harold Coop, he saw Mr Speck on
 20 25th March at yr instagation? Yes.

COURT ADJ. AT 3.30

COURT RES. AT 3.45

- 25 Its correct isnt it that Mr H. saw Bruce Speck on Nov. 15th and
 then communicated with member of yr team on the 29th November ~~196~~
 1979? Yes.
 And youd agree both those dates preceeded the taking of the deps? Yes
 Do you agree that at the very taking of the deps it was made clear
 no obligation on Speck, that either he or O'C. had fired the fatal
 shot? I wasnt aware of that until I had in fact read the deps.
 sometime early this year.
- 30 Having read the deps. at least at that stage you still say it didnt
 occur to you or anyone else that the subject mattef of the report mig
 be material to the defence in view of the allegations put? Yes I stil
 mtained that the whole issue is so much without solid foundation, the
 only foundation you can have in this matter is a guarantee of the
 exact pos. the scope was in at the time of the shooting and we dont
 35 have that evid.

That is besides all the other matters Ive mentioned.

1 But didnt you consider that that might be matter that accuseds
advisors might like to consider, as to what use if any they cd
make of it, if any tests shd be carried out as result of these
factors? I bel. Speck gave evid. at deps. of this s/sightedness,
the weapon is always avail. to the defence to carry out tests
if you so desire, you know that.

5 What Im sugg. is you took it upon yrself to hold back this
information preferring to act as yr own jury so to speak, what
do you say to that? I say no Mr Hart.

And do you agree that when matter further explored by you,
when Speck seen By Coop, who is an eye specialist, that any of
the information recd from him was again not made avail. to the
defence until the last minute? What specific information are
you ref. to?

10 You can see there was indeed a ltr. written to you following
Speck being examined on the 25th March which (25th) which is
foll. by report dated 26th March, just over a mth ago? From my
recollection, I dont think Coop added anything to what Mr H.
had added, the purpose of having Coop examine Speck was that
it had been decided to call evid. at the trial that there wd
be evid. from a specialist who was independent completely of
15 the police, Mr H. is employed by a firm and part of their work
is to examine police officers periodically.

So what yr saying is, when its led from the crown solr. that
names and add. of anyone who they cons. might be of assistance,
what that means that any information that the police or crown
considers important he makes the decision and that is the
20 inforamtion handed over, is that right? As I u'stand the law
and I think you are very well aware of it, thats pretty near
exactly what P/Council laid down, onus of the prosec^sutor after
deps. to supply to the defence those particular names, what has
been done is in acco@d. with that decision as I see it, someone
has to make the decision.

25 Foll. on then wd you go on to say yo u wd supply any information
to the defence? Im not surprised, it doesnt conc. me that the
information has been made avail. to you bec. I dont see it takes
us anywhere at all.

30 Dosnt take the prosecution anywhere? I didnt say that.
You spoke in some detail about the t'scopic scope being checked
for f'prints, thats so isntit? I mentioned it had been checked
for f'prints.

Was the blue c'ridge Exb.8, was that checked for f'prints do
you know?

1 No to the best of my recollection no, this type of surface
 wd be unsuitable for f'printing and the brass part has an
 indentation/s on it and altho Im not f'print expert, I think
 I know enough about them to say you wdnt get an identifyable
 print off that and bearing in mind the history of that particula
 c'ridge, it had been found outside on a night of torrential
 rain and it had been in the possession of Mr Shipton some days
 before it was handed to the police, it had certainly been well
 handled by him.

5 But wdnt it be fair to say that you went so far as to check
 the scope when in tide for mths, no harm wd be done if you check
 the c'ridge to see if there were f'pringimpressions on it? If
 surface is unsuitable yr wasitng yr time.

10 The other exhibit, the bullet found in that area down in Poynton
 Tce, on fire escape, was it checked for f'prints? To the best
 of my know. again, no, not sure, if you want exact answer Id
 have to check the file for that, but again that had been handled
 by at least 2 civilians, Mrs Witherford and Mr Anderson I think
 are their names.

15 On the issue of the steps you took to, as it were, reenact the
 alleged course that Speck took in the vehicle, you have given
 an account of the movements of the man from the area by the
 church down to the car and you told the jury just how long that
 took? Yes.

20 Is the position of course that when that, whatever time that
 was started from, that O'C. was already well on his way before
 as it were there was any shot fired? No, I think with the evid.
 of D Jones you will find he did a timing of O:C from a position
 in Queen St. to the position here, (indicates on map) at the
 top of Airdale St. and from then another timing and from there
 until into H/Hunter Ave., that time as I u;stand it was one hr
 and 14 mins, so my timing exercise was built to coincide with
 the timing exercise of O'Connors, i.e. when he left Airdale St.
 allegedly, and I left the latter day saints church.

25 Yr saying you worked it on the basis that as faras O'Connors
 time is conc. from the time he heard the bang, from then onward:
 Yes.

You know how long it wd have taken to walk or jog off from
 Quen St. up to the top of Airdale St. where it joins with S.
 Street? For the matter to be of any relevance, O'C.'s saying
 of the time ittook him to do it is of no relevance.

30 REX MR MORRIS

Had accused explained - He has always had no comment to that
 part. night.

Accused every

(OBJECTION AS TO LEADING)

35 Has accused ever claimed that O'Connor fired the rifle which
 shot Miss Bell? No.

1

Has the accused ever claimed to you that Speck fired the rifle that shot Miss Bell - has he or has he not claimed that Speck fired the rifle? The answer to both questions is no.

5

With your knowledge of this overall investigation from the time this lass was shot, has it ever been part of the crown's case that Speck, because of an eye defect could not have fired the rifle? No

EVIDENCE FOR THE CROWN
COURT ADJ. AT 4.10

10

15

20

25

30

35

COURT RESUMED AT 2. p.m. on 1.5.80

1

MR HART OPENS AND CALLS
BRIAN RONALD SR McDONALD (Sworn)

Where were you formerly living? 71 G. Rd. Panmure, Pilkington Rd
it is my parents address. I had financial interest in block of
units at H/Hunter Ave. with Mr O'Connor.

5

When did you and O'Connor buy them? I think about March
1979.

What was the situation, you ever live in one? I stay there
occasionally but I didn't act. live there.

We know there were 2 units, what happened to the other? Given to
the person who rented it before we bought them. Rented to him.
You've spoken of O'Connor, you've known him for sometime? Yes I
met him in August ~~197~~ 1976.

10

After first meeting him did you and he become friends? Yes, very
good friends.

You also know Bruce Speck? Yes. I met Speck first when at
intermediate school 17 years ago.

You also good friend of his? Yes.

15

In 1979, how often would you see Speck? Once a week or what? Yes,
prob. about once or twice a week, for part of 1979 he lived in
Chch and he returned to Auckland in about June.

In June 1979, you see him about once a week? More frequently,
prob. 3 or 4 times a week.

What about O'Connor, how often did you see him? About the same,
when Speck came back from Chch he lived at the unit with O'C

20

How long did Speck stay at the unit for? If you can't remember
say so? A matter of weeks.

How did Speck and O'C get on together? Very well, orig. when I met
O'C I was introduced to him by Speck.

So apart from seeing him from time to time would you go out socially
with O'C. and Speck? Yes, frequently.

25

What sort of place did you go to? Hotels generally, night clubs,
Gary O'C. and I often played football and we were in a boxing
club together as well.

Yr saying that Speck was living with O'C., did you used to go
to their place which was really yr place? Yes.

At about June 1979, did O'C. own a car? Yes, a 1969 white Valian
4 door model.

30

Did he also at some time own a cortina vehicle? Yes., it was
about a 1964 model, blue car.

Did you have transport of yr own then? No, not then,

What about Speck, how was he off for transport? He had a car but he
had written it off in an accident.

35

1 Did you ever drive the white valiant that belonged to O'C? Yes
I drove it frequently.

Any part. reason why you shd drive it freq? Gary didnt have a
licence at that time.

Did you also about this time know 2 persons called the Bloor
brothers? Yes, I mt ~~xx~~ them in Dec. 1978.

Were you still friendly with them in 1979? Yes.

Did they ever go out with you Speck and O'C? Yes.

5 About June 1979, what sort of work were you doing? I was working
on cars, half employed.

Doing alright at that? Yes, Im auto electrician by trade.

What about the Bloor brothers, they have car of their own? Wayne
B. had mark 4 zephyr, off the road, Graham had 1964 EH Holden.

Was there a time when it was decided that you and Gary O'C
10 and the two Bloor brothers wd go out one night? Yes, it was one
day, Sat. 30th June when Gary O'C and I ret'd from B'lands,
called in to see Bloors and arranted to see them later that
evening at H/Hunter Ave.

Where were you planning to go that night? To a hotel first and
then around to St. Lukes Rd.

Did the Bloor brothers come around to H/Hunter Ave address? Yes
15 they arrived at about 7 o'clock.

What had you done earlier that day? Earlier that day I had come
thro from B'lands and called in to see the Bloors, and then
it was later that night that we met them.

You had anything to drink before the Bloors turned up? Not then.

What time did the Bloors arrive at H/Hunter? About 7 p.m.

20 Were you and Gary there then? Yes I was in the shower at the time
So after you got out of the shower, who did you speak with?
I got changed in bedroom, I came out into the lounge, Gary talk-
ing to the Bloors, I was wering near leather jacket I bought
few days before and pr. of new leather dress boots and there
was some joking amongst the 4 of us about my new clothes.

~~xx~~ What of O'C? He had a new jacket he bought at the same time.

25 Where had you bought the brown leather jacket from? Shop in
Queen Street.

So joking about new clothes, did you then leave and go to the
Alex. Tav. Hotel in Parnell? Yes we did.

Did you go in Garys car, the white Valiant? Yes, the 4 of us
went in his car and I drove.

30 Take it the Bloor brothers were with you as well I take it? Yes
What did you do once you got to hotel? Drinking for half an hr
or an hr and then there wad disc. about Spck and that he cd be
at the P'ranga Hotel, during this discussion it was sugg. the
4 of us go to the P'ranga hotel, but bec. of Bloor brothers
drinking there and Wayne Bloor had knee injured in league that
afternoon, and he had diff. walking

35

1 Did you know where Speck was that evening? No I didnt.
 Well did Gary O'Connor and one of the Bloor brothers go to the
 White Horse Inn to try and find him? Yes, Graham and Gary.
 Was that a place that Speck wd often frequent? Yes, he frequents
 that hotel and the Panmure Hotel.
 How did it come about that those 2 went off to see if they cd
 find Speck? Just the general decision amongst the 4 of us,
 Wayne Bloor didnt want to go.
 5 What sortof alcohol were you drinking at that stage? Steinlager

COURT ADJ. AT 3.30

COURT RES. AT 3.45

10 How many steinlagers did you have ~~up~~ to that stage? Prob.
 about 2.
 Youve sd that both O'C and ~~the~~ one Bloor Brothers went to
 whit horse inn, did they come back? Yes.
 Did they indicate if Speck was there? When they arr. back in
 the bar, I was up at the bar buying round of drinks, when I got
 back to the table, thats when I found Speck hadnt come back
 with them.
 15 Did you ultimately yrself go and speak to Speck? Yes I did.
 How did that come about? I took the car keys and drove to the
 P'ranga Hotel.
 By yrself? Yes, by myself.
 So you arr. at the P'ranga hotel, see Speck there? Yes, standing
 adjacent to the bar in the lounge.
 20 Was there anything you wanted with Speck? Yes I was interested
 in getting some money off him. He owed me some money.
 How much money did he owe you ?\$45.
 What was that for? Car repairs, car parts.
 So you arr. at the hotel, saw Speck, then what did you say to
 him? I toldhim to come outside, there was a punch thrown, I
 threw punch at him in the bar and I told him to come outside.
 25 Did he come outside ?Yes hedid.
 Did anything else happen before going out? Yes, as we going out
 the door, large islander and doorman there, grabbed hold~~of~~
 of me and pushed me up against one of the walls.
 You fighting with him? No I wasnt fighting with him, he just
 had his hands on me, Speck was telling him it was o.k. that he
 cd handle it.
 30 You heard the evid. of Speck who talked about you going and
 picking bottle up, did that occur? No.
 How strong is Speck himself? Quite physically strong person.

As far as yr conc. is he able to handle himself? He is well able to handle himself.

- 1 You were talking about this fellow grabbing hold of you, any disc. bet. you and Speck about that? No there wasnt. Did this man appear to have been drinking? He was quite drunk, appeared to be spoiling for a fight, I didnt particularly want to fight with him. Talk about this money, you say anything to Speck about the money? Yes he told ~~me~~ me he didnt have it.
- 5 Did Speck then go off with you in the car? Yes. Was that the white valiant? Yes. How did it come about that he went off with you? Well when we were outside the hotel, I asked him about the money, he told me he didnt have it, I sd he cd have avoided the sit. that had happ. if he had met me the prev. night like we had arranged.
- 10 Had there been some prev. arr. to meet him? Yes. What was it about, money? Yes it was. What had the prev. arr. been? I was to meet him at 6 on Friday night at the Panmure tavern but he didnt show up. How did it come about that Speck went off with you in the car? When I told him I was leaving he sd he was going to come to bec. he wd feel a fool at going back into the bar after what had just happened.
- 15 So you headed off in the car, what was yr relationship at that stage? It was back to normal. Did you then arrive back at the Parnell hotel? Yes. Was that the Alexandra? Yes it was. Who was there when you arrived? The two Bloor brothers and Gary O'C. Where was O'C. when you arrived back at that particular hotel?
- 20 Still sitting at the same table, they were. Did you see any incident occurring bet. O'C and someone else there? Yes. What did you see happen? O'C at the bar getting a round of drinks, and he ret'd to the table we were drinking at and put bottles on the table, he then turned and walked away and walked back to the corner of the bar when 2 men were standing there. He punched one of
- 25 the men. What sort of punch was it he threw at this other man? It was a blind hit. What position was this other man in in relation to O'C when he threw the blind punch? Side on. Did O'C then come back to the table? Yes he did.
- 30 Tell you what it was about? He sd the guy made him feel small. Did he say why? Apparently bec. he hadnt got out of the way when O'C was carrying the drinks back to the tabel.

What about O'C himself, is he able to handle himself in a fight? Yes he is.

1 So O'C involved in this incident, did someone else approach the group? Yes another man came and approached Wayne Bloor. And what happ. then? He was wanting Wayne to come outside with him. Inviting Wayne to come outside with him? Yés.

What did Wayne do? He punched him.

Was there any retaliation? The guy was knocked back a few feet and retd and had the same conv. again and Wayne punched him again.

5 So he punched him twice? Yes.

Did you stay there until closing time? Yes we did.

You sd you were drinking steinlager, what about now, what did you drnk? Still drinking steinlager, we were.

You mean Bloor brothers and Gary O'C? Yes, the group of 5 of us.

10 How many steinlagers wd you have consumed after you retd and before leaving the hotel? Prob. 2 or 3 more.

How was everyone getting on then, thats bet. the 5 of you? Getting on quite well.

Did you leave the bar at closing time? Yes we left at 11 o'clock.

What time do you say approx. wd you yrself have left to go to the white horse inn? About 8.30 I think.

How long had you been away before returning? Prob. half an hr.

15 When you left the hotel, where were you planning to go to? St. Lukes R Know the people who live there? Yes, the grim reapers.

Are they some sort of motor cycle group? Yes, motor cycle club.

Did you know some of the members there? Yes I did.

What about the others in group, they know them? Yes, we all knew a few of the grimreapers.

20 Before you left the hotel what were the weather conditions? When we left the hotel it was raining very heavily.

Had it been raining earlier in the evening? Yes, but dont think it had been raining that heavily.

Who went off to get the car? Gary O'C. did.

Who drove? I did.

And did you then go out to St. Lukes to grim reapers place? Yes we di

25 You heard the evid. of Gary O'C. who sd something about buying bottle of gin for you, bec. you unhappy, did that happen? No, no reason bec. they have a bar at the grim reapers which is always open and you can buy it there.

30 Just going back to hotel in parnell, you able to say personally what, if anything, Bruce Speck had to drink while he was there, you sd you had 2 steinlagers? Each time someone wd buy round it wd be a round of 5 bottles, so we wd be drinking roughly the same. What about when you arr. at grimreapers? We drank larger bottles of beer.

Any disc. about who shd drive the car, before getting to reapers? Yes, I got trapped into driving the car.

What was going on? Doorman saying the others in group cd come in but that Speck cdnt bec. of his clothing.

1

And what was the reaction to that? Firstly Speck started telling him that his clothes were o.k. and started describing the doormans clothes, not being very suitable either.

Was there a time when you moved frm one area right up to the area where you turn right and go u'stairs? Yes.

5

How did that come about? As I recall it, the doorman sd, if thats yr attitude Im going to call in the heavies and Ear y sd, well we are going anyway.

Whefe was O'C in relationship to doormen then? He had walked past him up toward the stairs.

What was Speck doing while O'C was speaking to the doorman? Standing there or saying anything? Yes he was saying something, up by the stairs or where?

10

He had moved up the stairs by now? Yes..

Before that, where do you say the initial disc. took place, tell us in yr own words and before you moved forward? Within 10 yds of the glass doors and going in towards the cabaret on the righthand side, the side the cashier box is on, somewhere near where it is situated.

15

Was the movement towards the stairs on the right? Yes.

Youve spoken about Speck debating or arguing with bouncer about his clothes, did Speck have anything to say when the grup moved forward? No I wdnt think so.

You heard the evid. of Speck who says that you were the one that was obstructing O'C. (instructing) and urging hm on to hit the bouncer, is that right? No it is not correct.

20

Had you wanted to go to main street thatnight? No I hadnt.

You heard the evid. of O'C and Speck who put you as the one who wasurging the others on, is that corrext? No it isnt.

Either Speck and O'C. the type to need anyone to urge their mnds on when they had made up their minds about something? No not at all

25

You see what O'C doing while he was below and bouncer upstairs? He was shuffling towards the boucer, I thought he did throw a punch, as O'C walked up towards the stairs, bouncer overtook him, walked past him and went towards the stairs, I thought something had gone on then.

You talked about some boxing earlier on in yr evid. you ever done boxing with O'C ? Yes.

30

What kind of boxing was that? Sparring, been in the same boxing club tog.

Where is that club?Howick.

Was there an occasion when something sd about the police being called? Yes.

What occurred then? Speck and O'C. left very quickly, Floors and myself went out slowly after them.

35

You recall the evid. of Walsh, the cashier who sd that -
 whats yr recollection of where you were when the cashier speaks
 of seeing the 5 of you together? Im not exactly sure where the
 1 cashiers box is from memory but I was up fairly close to the stairs,
 tht is the ones leading up to the cabaret.

At this time, can you explain to the jury what you wore that night
 and what Gary O'C. wore thatnight? I wore brown leather jacket
 and blue and red striped shirt, dress jeans, pr of casual shoes.
 I had earlier been wearing boots but as they were new they were
 5 quite uncomfortable and when I drove out to white horse inn I change
 into shoes.

What about Gary O'C., what did he wear? He was wearing brown leather
 jacket, the same type as mine, not sure what sort of trousers he
 was wearing but he had on casual shoes.

Did any of the others in the group have brown leather jackets? I
 think Graham Bloor was wearing a brown leather jacket but of a
 10 different type.

As far as yr physical character is concerned, did O'C have a beard
 or moustach? Yes, we both had similar hairstyles and both had small
 beards.

Before you left the cabarethat night, you give any particular look
 to he cashier that you recall? No I dont even recall having seen the
 cashier until the deps. hearing.

15 You saying you dont recall having seen her before prior to her givin
 evid. at the deps? Yes thats right.

So if you left the main street - you left then did you? Yes.

Did you all then go off in the car? Yes.

Just the 5 of you? Yes.

Who was driving at that time? I was driving.

20 Were the Bloor brothers still there? Yes, they were in the car.

Did you travel from where you parked yr car ultimately to Harris Rd?
 Yes we did.

~~What did he say about travelling there? We were act. travelling to
 the [redacted] where we were the motorway [redacted] we
 go [redacted] Smiths place to see if anybody was up.~~

25 So you went to Smiths place, and what happened there? The lights
 were on and the house lights were on.

What time wd it be by then? Prob. shortly after 2, not later than
 2.15.

Did O'C go into the house? Yes he did.

30 At whose instigation was that? At his own.

As far as the veh., were you driving? Yes.

Where was Speck? He was sitting in the front on the pass. door.

- O'Connor was sitting in the middle.
- Bloor brothers still in the back? Yes.
- 1 So he went into the house, did he have anything with him when he came back? Yes he did.
- What was it? The rifle wrapped in a blanket.
- Is that the rifle that has been produced to the court? Yes I think so.
- In what way was it wrapped up in the blanket? Its hard to describe, the rifle was - had been laying across the blanket when open and
- 5 just rolled up in the blanket. Id seen it before.
- When was last time you saw it prior to this night? At B'lands.
- When O'C brought it out in blanket, did you see it was a rifle? Yes.
- Did you say anything to him about it then? O'C got back into the car and put the rifle in the back seat, I asked him why he had the rifle.
- What did he say about that? He sd B'lands.
- 10 What did you u'stand him to mean by that? We had been there earlier that day, intending to return there and I know on other occ. he has tken the rifle out to B'lands, I just presumed that was what he was going to do.
- Just on this issue of the rifle, you sd you had seen it at B'lands, as far as you were concerned, whose rifle was that? Gary O'Connor's/
- 15 Do you know how he came into possession of that rifle? Yes I do.
- Can you tell the jury the circumstances surrounding the acquisition of the rifle? Early in 1979, about March I believe, when we first bought the unit, we met a chap by the name of Mark Prendergast, he was puting a petition in the lounge of the unit, Gary has an interest in firearms and it came up in conversation that Prendergast knew someone selling a firearm.
- 20 Did he make an arrangement for the owner of a firearm to come around and talk to who? Talk to Gary about it.
- Did he come around with the firearm? Yes he came on a Monday or Tuesday night.
- What sort of firearm did he have with him? The firearm before the court.
- 25 Well did he sell the firearm? Yes, sold for \$180.
- Who bought the firearm as far as you were conc? Gary bought the firearm as far as I was conc.
- Who paid for it? Gary O'Connor.
- You heard Prendergast who sd when money was handed over it came out of the tokp pocket of yr jacket, that right? No.
- He sd - O'C. has interest in firearm you sd, what other interest in
- 30 fireamrs did he have? He had the 4/10 over and under combination shotgun.
- Was that combination 22 4/10 shotgun? Yes.

You know where he got that particular wearpon from? Porrowed it from Roger Vitali.

1 Did O'C. have any ammunition for the weapon? Yes.

Did you know where he kept this weapon? Orig. he kept the 22/250 under his bed.

Is that the bed at F/Hunter? Yes.

And what about the other combination weapon, where was that kept? Im not sure, but believe it was kept at Harris Rd.

5 You mentioned those 2, know if he had any other weapons? He had a revolver I belive.

You knw if he had ammuniton for that? Yes I think he did have.

Did O'C. appear to know anything about firearms in gen? Well he professed to know about them

Why do you say that? Quite often he spoke to people about them, I remember the night that Nicholas Deane bought the 22/250 around they had talked about firearms for some time.

10 We now go back to the situation where the rifle had been obtained, you were still in the car I take it? Yes.

Whathapp. to the rifle? It went into the back seat on to the floor. Still in its blanket? Yes.

And were the 2 Bloor brothers in the back? Yes they were.

15 And who was driving the car at that stage? I was still driving the car.

Did you make any comment to the others at about that time? Yes I sd that we may need some petrol.

Was the car short of petrol at that stage? Yes. We continued on to H/Hunter Ave.

20 For what reason? Orig. it had been for Speck to get some clothes, and then I noticed when in Mt. Well. we didnt have much petrol so the reasons were 2-fold.

There was petrol at H/Hunter? Yes we stored it in 4 gall' tins.

What did you do at H/Hunter? I backed the car up the drive, Speck and O'C. went into the unit, I tried to syphon some of the petrol from the 4 gall. drums into the car, I got a mouthfull of petrol.

25 What happ. then? I explained to Gary that I cdnt get the petrol under the car without getting m'fuls so he took over the job.

What about the Bloor broters, were were they at this time? At the back of the car and Speck was inside the unit at this time.

Did he bring anything out from the unit? Yes bundle of clothes.

What did he do with them? When he got into the car he put them on the dashboard on the passengers side.

30 While you were trying unsuccessfully to get some petrol, where was Speck and O'C. at that stage? Inside the unit.

How ~~was~~ cd you tell? Id seen them walk in, door to the unit was open and you can see right thro the lognge into kitchen.

Speck put clothes in the car, what about O:C? They got in at the same time, O'C. sat in middle next to me and Speck by pass. door.

Any sugg. made as to where you shd go at that time? By the clothes, by the trip to H/Hunter for the clothes, it was decided we were going to go back into town to the night club, bec. Speck had to change

1 his clothes, I was driving the car at that stage.

Did you then drive into town? Yes we did.

What occurred when you were in the vicinity of the Main St. cabaret?

I drove down Queen Street and I intended to turn right into the same parking place down from main street.

Same place you parked before? Yes, I parked O'C. nudged me to drive

5 me to drive ~~me to drive~~
O' ~~me to drive~~ to you then ~~me to drive~~ yes, I asked why and it was the ~~me to drive~~ Speck made a fist with his right hand and punched his left hand ~~me to drive~~

Explain to us just how that was done? (demonstrated punching fist of one hand into the other)

10 So where did you drive off to then? To the service lane behind K'Rd.

From what route did you get to go there? Left into Mayoral Drive and then left into Greays Ave. and then into the service lane, it was O'Connors idea to drive up there.

So you drove down the service lane did you? Yes.

15 What were the weather conditions like firstly from Harris Rd. to H/Hunter? I dont believe it stopped raining, it was continuous all the time, still raining when we pulled the car up in the service land, Poynton Tce. I wasnt familiar with that area.

So did you drive down P/Tce and stop? I turned the car around and stopped.

Did someone get out of the car then? Yes both Speck and O'C left the car.

Take anything with them? Not that I recall.

20 And was it still raining then? Yes, still raining heavily.

How long were they away for? About 10 mins.

And when they ret'd to the car, what did they look like? They were absolutely soaked.

Was anything sd to you on their return? Yes, there was comment made that they had not been able to get thro.

25 And where were you then directed to go? Down Myers Park.

Still driving the car then? Yes I was.

Did you drive the car down Greays Ave. down under the underpass into Myers Park and stop by some toilets there? Yes, when I first drove in I drove the car straight in so that it was, the front of the car was facing towards Queen Street.

Drove in, turned around and faced back out again? Not at that stage.

30 Did you get out of the car then? No I didnt.

What of Speck and O'C., what did they do? They left the car and were away for about 15 mins.

So you were in the car, that right? Yes.

Speck and O'C. had left? Yes.

1 And what about the 2 Floor brothers? Still in the car they were.
Did O'C and Speck come back? Yes they did.

How long had they been away for you say? About 15 mins.

Did they get back into the car? As they came back, I heard them coming=before I act. saw them, they were talking among themselves and they came in and Speck sat in the middle, O'C. got into the car
5 but left the passengers door open.

Was it still raining then? Yes.

What did O'C. do? Reached over into the back and took the rifle out from the back seat and placed it between his legs.

What did he do with the rifle then? Unwrapped it and removed the magazine and then started to load the magazine and bullets from his
10 leather jacket pocket.

What did you say to him when he was loading up the mag. with bullets?
I asked him what the hell was going on.

Did anyone reply to that? Speck made a reply, he sd, we are just going to scare somebody.

What did you then do? I asked why O'C. was loading the rifle.

And? And I told him to give me the magazine, when I asked why O'C was loading the rifle, Speck made a signal to be quiet and pted to the
15 back seat again.

Did you act. get the magazine from O'C.? Yes, there was a short period of tension in the car and then O'C threw the mag. on to the floor of the car.

What did you do with it? I didnt handle it at that stage. O'C. and Speck both left the car.

20 Why did you insist on getting the mag. so to speak? Well, just what Ive always beentaught about firearms.

When they left the car, the magazine was there, did you know there were bullets still in the gun? No I didnt.

What did you do with the magazine and the bullets on the floor? I picked it up from floor and put it on d'board, had piece of white cloth
25 used to wipe windows down in the car, I jammed the magazine in with the piece of cloth so it wdnt move around.

So at that time, as far as you were conc. was that the rifle - when O'C. and Speck went off was the rifle in a position to be fired?
No.

So how long were you in the car for - did they return? Yes, about another 15 mins. after, this time they came running back to the car.
30 You were in the car and the other 2 had gone off, what had happ. to the Floor brothers? They were still in the car yes, both - Speck and O'C. when they were away the second time I turned the car around so that the back of it was facing Queen St.

What were the 2 Bloor brothers doing in the back while you in the back? Graham B. was asleep.

1 What about the other one, what was he doing? I had made comment to him about the weather as I was backing the car.

Just how much was it raining at that time? Really heavily.

You sd about 15 mins. - a further 15 mins. went by, see Speck and O'C then? Yes, they came running back to the car, they opened the passengers door, the rifle was - Speck - O'C. got into the car first and rifle passed over the back seat and it went on the floor again.

5 Did they say anything when they came back? They were urging me to drive off.

How did the 2 of them appear to be to you, firstly were they wet? They were soaked, breathing very heavily and very tense and excited, their movements were really quick.

Anything sd as to where you shd go then, any directions given? Not initially, drove out of there and went to turn left into Mayoral Drive back towards Queen St.

I just wanted to go back, youve heard the evid. of both Speck and O'Connor, thats right isnt it? Yes.

And both of them have sd that it was yr idea to firstly drive up to this alleyway in P/Tce? No it wasnt my idea. Yes that is what they have sd.

15 Was it yr idea? No it wasnt my idea.

You heard both of them say that you were the one that got out of the car in that alleyway and that they remained behind? Its not so.

Is it true? No its not.

You further heard them say it was yr idea to drive down to Myers Park? Thats not true.

20 And that in Myers Park you got the rifle and that you directed O'C to go out and look for the pigs? That isnt true.

Did you get out of the car at all in Myers Park? No I didnt get out of the car at all.

You heard the evid. of O'C who says that he went off up towards Queen St. and then made his way off, so he sd he didnt come back to the car, is he correct about that? No he is not correct.

25 Further heard the evid. of Speck who says that you went with them thro the park and directed him to stand in alleyway and then he says there was a bang and a flash and you came running back and caught him up, is that true? No that is not true.

Did you shoot Margaret Bell? No I did not.

30 When you left in the car, who do you say was in that car when it left Myers Park? The same 5 people, myself, the 2 Bloors, Speck and O'C. O'C. sd that he jogged and ran and so on back to HHunter, is his evid. correct/ No it is not correct.

- What do you say about the evid. of Speck when he says you were the one that shot Margaret Bell? It is all lies.
- 1 When you left Myers Park which route did you take thereafter? We got on the motorway, in the city, I think it is Cook St. entrance, You know where you were going at that stage? No.
- Where did you travel from there? Drove down the southern motorway, and again left the motorway at Ellerslie.
- Did you travel along the motorway? Yes.
- 5 Where did you go from there? To the Panmure Bridge from the Mt. Well/ Ellerslie Highway.
- At this stage did you know anyone had been shot? No I didn't.
- What occurred when you got to the bridge? As we drove past the panmure basin, Speck took the rifle from the back of the car.
- Was it still in the back of the car then? Yes.
- 10 Carry on? He started to wipe it down using the wrapping.
- What did he do with it? As I drove across the Panmure bridge, Speck indicated to me to slow down and then as we neared the P' ranga side of the bridge he told me to stop.
- You stopped the car, did he get out? Yes.
- Did he have the rifle with him at that time? Yes he did.
- Did you see what he did with the rifle? No I only saw him take it from the car.
- 15 Did he then get back into the car? Yes.
- How did he do that? He was running, he ran back to the car and got back into the car and we drove out to Half Moon Bay.
- O'C. in the car then? Yes right next to me. Not familiar with that area, out that way, it is all built up now.
- Did you then drive to an area known as Half Moon Bay? Yes I did.
- 20 What did O'C. say to you then, did he enquire anything of you? He asked me where the magazine was, it was still on the d'board held with the piece of rag then.
- What did O'C. do with that? Placed the rag on his lap, placed the magazine inside the rag and then started taking bullets from his jacket pocket and placing them in a rag and making a bundle of it and tying up the edges.
- 25 Did you notice what Speck was doing then? Yes he was changing his clothes to the ones that were on top of the d'board.
- You then reached Half Moon Bay? Yes.
- Is there a marina at Half Moon Bay? Yes there is.
- Is there some sort of carpark there? Yes.
- Did you stop there? Yes I stopped in the carpark and again Speck left the car taking the clothes.
- 30 How long was he away for? About 5 mins.
- What about O'C., what had happen. to the bundle he wrapped up? He had passed it to Speck.

So Speck came back to the cr, where did you drive to then? Back to H/Hunter to the unit.

- 1 While all this was going on, what about the Floors, they still in the back of the car? Yes they were.
Did you then arrive at H/Hunter? Yes.
Went inside? Yes, we all went inside.
You O'C. Speck and the 2 Bloor brothers? Yes.
How long did they stay at the unit for? For about 3 quarters of an hr
What about O'C., know what he did back at the unit? Yes, after a while
5 he lay on the floor in the lounge in front of the heater.
What about the new jacket that you had spoken of earlier, what happened to that? It was ruined.
What condition was yrs in? The same condition as when I bought it.
What about the rest of O'C's clothing? He was completely soaked through
What did you do after the Bloors had gone? I fell asleep on couch.
10 What time did you wake up? About 10 or 11 the next morning.
You mentioned the weather conditions up till the time you were at Myers Park, pretty much the same from there from Panmurebridge to Half Moon Bay? Yes.
Pretty miserable night was it? Yes.
You fell asleep on the couch, what time did you wake up next morning? About 10 or 11 o'clock.
15 When you woke up was Speck and O'C. there? No they weren't in the unit
When did you first see them the next morning? Shortly after I woke up, I was in the kitchen making a cup of tea and heard the valiant in the drive, and Speck and O'C. came inside to talk to me.
Did you actually see the valiant arrive or did you just hear it? Yes you can see from the kitchen itself.
20 Did Speck and O'C. come into the room where you were? Yes they did.
Did Speck have something to say to you then? Yes.
What did he say? He said at 3.30 a.m. this morning, a 17 year old girl was shot and died instantly.
What did you feel about that? I was completely shocked.
Did you say anything at that stage? No I didn't say anything at all.
Till that time did you have any inclination or feeling that anyone
25 had been shot at main street? No, not at all.
What did Speck then do to you? He touched me on the shoulder, this is after maybe 2 mins, all been staring at each other, I'm not sure but it appeared they were watching me for a reaction. (staring)
What did he say to you? That's the breaks mate.
What did you feel about that? I just couldn't comprehend what was
30 happening at all, I went into the lounge.

COUPT ADJ. AT 5.00

COURT RESUMED AT 10.00 on 2.5.80

BRIAN ROANLD McDONALD (Resworn)

EVIDENCE-IN-CHIEF CONTINUED

1

Last evening we got to the stage where Speck had sd to you, thats the breaks mate, and I asked you how you felt at the time and you sd that you just cdnt comprehend what was happ. at all and then you went into the lounge? Yes.

5

How were you feeling gen. at that time? Feeling very confused and very shocked.

How did the other 2- appear to you, i.e. Speck and O'Connor? They appeared to be quite worried.

What did you do after that? Later that afternoon, we dropped - O'C. and I dropped Speck off in Panmure.

10

Did either of those two discuss what they were proposing to do or say about the events? Yes that afternoon, they both sitting in the lounge at dining room table going over the stories that they were going to give to the police.

Were you involved in those stories that they were going to give to the police? No I wasnt.

15

You heard the evid. of Speck and O'C. who sd that you were the one that was allegedly providing them with the sort of story that they were going to tell at some later stage? No that is not correct.

What did you say to them at the time when they were concocting up some stories to tell? When they began to involve me in these stories, I told them to leave me out of it. I also told them that rather than lie, they wd be better to contact a solr.

20

Did you want to be involved in what they had been involved in so to speak? No I didnt.

You of course had driven the car hadnt you? Yes I had.

And were you conc. also about yr own position? Yes I was.

25

You heard the evid. of Speck who sd that you sugg. that he go round and talk to the Bloor brothers because all wd be involved, so to speak, is that right/ No that is not correct, I did make a comment that they wd end up getting us all in the cart at one stage.

Youve already sd that you drove the car and the others were in the car, i.e. the Bloors, that so? Yes.

30

The story that O'C sd he was proposing to tell he sd involved a Japanese car, you say anything to O'C. about the presence or otherwise at any time of a Jap. car that he got lift in, got dropped of and then made his way home? Sometime after he gave that story to the police there was an adv. in the paper conc. Jap. car, I asked him about it then and he sd there had been one there.

His evid. was that you discussed that matter with him prior to his being seen by the police, is that correct? No it is not.

35

Were you later seen by the police on 4th July? Yes I was.

1 And it is correct you werent prepared to say anything to them unless a solr. was pres? Yes.

What time was it that the police turned up to see you on the morning of 4th July? 7 a.m. in the morning.

What address were you at that morning? 71 Pilkington Rd. Panjure, my parents home.

Were you taken to the police station? Yes.

5 What time did you arrive at the P/Station? After 8 o'clock.

Did you ultimately get the opportunity to speak to a solr., Mr Brown? Yes I did.

Was that some time after 2 o'clock? Yes it was.

Did you make a request to see a solr. at some stage? Yes.

When was that first made? Fairly early in the morning.

10 And as a result of that, did you make no further comment to the police at that stage? Yes, I made no further comment.

And that - only after taking legal advice on the matter? Yes.

Were you also seen by the police on other occ. that the jury have been told about? Yes, seen on 4 or 5 other occasions.

And on each occasion, did you tell the police you not prepared to say anything? Yes I did.

15 Did you want to have a solr. present on those occasions? .Yes I did.

And finally were you spoken to at some stage Inspector Rowe? Yes.

And was the similar situation prevailing there? Yes it was.

And finally do you - were you charged with the murder of M. Bell? Ye I was.

20 Youve heard the evid. of both Speck and O'Connor, firstly from Speck, when he sd that he left Auckland, first he sd a matter of days and then prepared to concede it may be 10 days or so after 4th July, taking it to the 14th or middle of July, and he says that he left Auckland and went to Rotorua and didnt come back to Auckland until he was brought back by the police, sometime towards the end of September, you heard that evidence? Yes I did.

25 And he further went on to say that during that period he didnt see associate with or in any way converse with O'Connor/ That is not correct.

You say that is not correct, why do you say that? On the 8th July O'C. and I took Speck to a farm in Ngaruawahia, we left phone No. for one of us to contact him, when we didnt contact him he came to Auckland and from then he stayed in Auckland until the 9th August.

30 How can you fix the date as being 9th Aug? Bec. on 10th August I was interviewed by the police about my movements and it wd be the day before that I saw him.

During that period yr talking about, where was Speck staying and with him? Mostly at H/Hunter Ave. with O'C

Were there times then tht you say O'C. and Speck were tog. when you werent pres. during this time? Yes, quite a lot of times. What do you say then about the truth of ~~Mx~~ their respective evid. when they say on oath they never had the chance to get their heads tog. apart from the earlier stages bec. they were physically separated? That is completely untrue.

From the 1st July to the 4th July, the date that Speck and O'C. were also taken in by the police, where was Speck living then? On the Sunday night he stayed at an add. in Panmure, the peoples name are Koraine, on the Mon. and Tues. night he stayed at the unit at H/Hunter Ave. with O'Connor.

And what about after the 4th July, the date that he and O'C and yrself were taken in by the police, where and who was Speck staying with during thattime? With O'C. at the unit. I was living at my parents address at Pilkington Road.

I stayed with my girlfriend as well.

Just how friendly were O'C/ and Speck firstly up till the mornin of 1st July, how friendly were they together? Best of friends. Up till that time, did they spend any time together when you werent there? Yes.

Youve already mentioned them being tog. after the events? Yes. The shooting? Yes that is right.

Often see them tog? Yes.

So did you see them tog. on more than one occ. say after the 4th July to 9th August? Yes, many times they were together. And youve sd that during that period Speck lived for most of the time at H/Hunter with O'Connor? Yes.

Youve heard the evidence of both Speck and O'Connor who say that you were the one that organised things on the evening of the shooting and morning of shooting and they gave a diff. account as to what happ. compared to the evid. youve given on oath in this court, that is true isnt it? Yes that is true.

Whose evid. is correct? My evidence is correct.

And as far as yr concerned, what have they done in giving evid. against you, what or how - what have they done about their evid? They are trying to sve their own skins.

The police ever offered you any form of immunity if yr prepared to give evid? No sir.

XXD MR MORRIS

How old are you? 27 years.

Just before I go on to other matters, just want to ask you these questions. Turn to p.291 of the notes, you remember yesterday afternoon telling the court that it wasnt until round about 11 o'clock on the morning, Sunday morning, that you had any inclination of being near Main Street? Yes.

1

You stick by that do you? Yes I do.

And did you glean that information from what Speck sd to you? at that time? What information is that?

That someone had been shot at main street? Yes I first knew when Speck told me.

Pardon? I first knew when Speck told me.

That someone had been shot at Main Street? Yes.

5

Do you recall what you told the jury yest. in answer to question from counsel as to what Speck told you? Yes I do.

What did he say to you? Words to the effect that a 17 year old girl had been shot and killed at 3.30 a.m. that morning at Main Street.

10

The record we have of yesterday's matter made no mention of him saying anything about Main Street. I'm going to ask you again, when he spoke to you, at 11 o'clock on the Sunday morning, do you now tell the jury that he used the words "at main street" Yes I do.

So yesterday did you get it wrong when you (1.22) "he sd at 3.30 a.m. this morning a 17 year old girl was shot and died instantly" was that wrong? It wasn't complete.

15

Bec. of course if he hadn't made that mention of main street, then you wd have known about it all along to come to the conclusion you did, if he made no mention of main street at 11 a.m. you wd have known what he was talking about wdnt you? I dont really u'stand you.

I want to ask you some preliminary matters. I'm going to ask you about things others have sd and just get yr comment, u'stand?

20

Yes.

I want to ask you first about the P'ranga incident. You know the evid. of all the witnesses was taken down, it is taken down on the typewriter? Yes.

Remember Meredith Nicol giving evid? Yws.

She told us about the incident at P'ranga involving you and Speck? Yes thats right.

25

I refer to notes p.173 He was asked what happ. and she sd this: "the guy hit him and then he got hit"

Is that or is that not an accurate account of what happ. at P'ranga? Whether s hit Speck or not?

30

What she sd there namely "the guy hit him on the side of the face and then he got hit", is that or is that not an accurate account? It is accurate that I hit Speck on the side of the face.

Is it correct that you hit him after he turned round and sd Hi? I dont recall him saying hi.

35

You will remember Speck told us about that incident didnt he? Yes.
 And he told us of a sudden smack in the face from you? Yes.
 1 Without warning from you, that not correct? I dont know if he sd
 it was without warning.

What warning did you give him? I touched him on shoulder and he
 turend around and as res. of wat happ. I punched him'
 You had come from the hotel in Parnell? Yes.

And that had been from a group comprising yrself O'Connor and the
 5 2 Bloor brothers, right? Yes.

And there had been no sugg. that Speck was to make up the 5 at that
 stage, initially? At the Alex. hotel there had been that sugg.

When the 4 of you went along there, what - it wasnt intended that
 Speck wd join you? No, not until his name came up in conv.

When his name came up in conversation, did you arrange for O'C
 and one of the Bloor brothers to go and ask him to join you? No
 10 I didnt arrange for that.

They just happ. to go? It was gen. decision, at first we were all
 going to go to the P'ranga hotel.

And were you conc. that Speck wd come back or not? I was interested
 inseeing him about the money.

Were you int. in him coming back? Yes I was.

15 Tehse 2 went out, got the mess. from Speck he didnt want ~~me~~ to
 come back and they come back and tell you, right? Yes.

How did you feel about that? I asked O'C. if Speck had given him
 anything for me.

How did you feel about it, he was a man you had asked to join you
 and he didnt come? I felt indifferent about that.

20 Endiff. enough to go out on this wet night to drive to the hotel
 and smack fellow in face without warning? That is concerning the
 money.

You sd few moments ago you were indiff. about him coming to the
 hotel in parnell? To join us socially but I was int. in getting the
 money off him.

25 Is that why you went out in the rain on yr own after you had been
 tld he wasnt coming walked into other hotel and smacked him in the
 face? Not without warning, I went there to get the money.

Before you hit him, you say you gave himw arning? He was turned
 around fully facing me.

What excuse did that give you to hit a man drinking with his
 friends in the face? Just as a result of what happ. I threw a punch.

30 What Im going to sugg. to you is that you were pretty annoyed that
 Speck wdnt come back to see you at the hotel, is that or is that
 not correct= No it is not correct.

You see O'Connor (p.89) sd this "I walked back inside get
 him himself"... went to thewhite horse inn", I ask you again,
 went you displeased at him not coming? Thatevid. is not true.

1 Speck he referred to the incident as well (p.114) he sd "you called him a fucking arsehole head a bit" in other words you were pretty annoyed about it, is that or is that not right? Not correct. When you are not annoyed, can we take it you see nothing unusual in hitting a fellow without warning? I didnt hit him without warning. Can we take it then that when yr perfectly calm yr still prepared to hit people? No that is not true.

5 Pretty even tempered kind of fellow? Reasonably.
This was a friend of yrs of pretty long standing, this man you hit, wasnt he? Yes.

Friends since almost childhood? Yes.

Ef a fellow who is not friend of yrs, what kind of things do you do to him? I dont know wat you mean.

10 Lets take the doorman, the boucer at the cabaret, were you upst at all at the fact you cdnt get into the cabaret? Yes I was upset with Speck and O'C.

Upset with Speck and O'C ? Yes.

Werent upset at the bouncer? No, not particularly.

15 When you say not particularly, what do you mean? Everyone was little annoyed about it but my annoyance mainly centered on O'C bec it was his idea to go there and he had indicated we cd get in. I want to ask you about evid. of the witness Walsh, the cashier, remember her ?Yes I do.

Youve never seen her before that night? I dont think Id seen her before deys.

20 So far as yr conc. she had no reason to come along when yr facing charge of murder and make things up about what happ.? No not at all/ She says this at p.50 "5 men came in and they started of themselves", is that description, correct one, of the 5 of you? Yes. Agree you were causing some trouble when you arr. there? No, not really, not initially.

Do you agree with her description, "started to cause bit of trouble" Yes we did.

25 Allan the doorman "told them they cdnt come in and they got quite nasty about it", were you involved in that nastiness? No I dont think I was.

Any reason why she shd sugg. all 5 of you, and standing by doing nothing? I bel. it was Speck who was told he cdnt come in.

She has got it wrong when she says all 5 got nasty about it? No I wdnt say so.

30 I wonder what were you doing to have made her feel that all 5 were getting quite nasty, what wd you be doing? At what stage is that?

"5 men came in and they started to causebit nuisance of themselves, Allen the doorman nasty about it", earlier on I wd sugg? Never sugg. I cdnt enter the cabaret, only person refuse adm. was Speck.

"They sort of staked themselves passage way" she was asked what she meant and she sd "...They covered the area, yes", did you
 1 in fact join in thatstaking out so as you covered the area? I wdnt act. call it staking out, but we were spaced out, Speck and O'C. toward the front and me and Bloors further down passageway-.

Speck and O'C by the stairs and you futher down fróm-that? Yes. Bloors where? Standing with me I think.

Then there was the incident with the bouncer, now a police officer,
 5 and as result you had to go, didnt you, you and yr mates? Well, I dont really think we had to get out.

Didnt stick around when you got the mess. the police called? Firstly when sugg. police coming, Speck left quickly, O'C. foll. him and the Bloors and me confused as to what was going on, we meandered out slowly after them.

You will remember, I take it from that you wd have been in that foyer
 10 after Speck and O'C. had gone? Well, no I wdnt say so, Id say they walked out and we foll. them out.

Mrs Walsh you see has sd that one of them (p.50) was very angry about it, Ill never forget it as long as I live, it was really terrible, and -she identied you as being really angry about this thing, were you in fact angry about it? No sir.

Were you annoyed about it? Yes.

15 Annoyed about being turned away? Annoyed about Speck and O'Connor.

You mean that having left the hot burning log fire back at the reapers pad and going all the way into queen st. on this wet night you were/^{not}annoyed, not annoyed, at the man for turning you away? Speck had been turned away, not me.

Why didnt you go in then? When there was mention of police, Speck and
 20 O'C. left and me and the Bloors followed.

You say this Walsh has got it all wrong that you wre the fellow who was very angry? I justthink she made a mistake sir.

You see the evid. of Mr Byers, the doormanwas also recorded? Yes.

I remember him

And he (p.45) sd that there were 3 of the 5 who were actively
 25 involved, remember that? Yes I remember him saying that.

Picked out Speck and O'C, remember that? Yes.

You were the third of that lot? Earlier he described the third person as being short and fairly thin.

His evid. is "Ive no idea ...over there" and he indicated you, remember that? Yes.

You say he is like the girl, the cashier, wrong in IDing youas
 30 taking active part in this incident= I dont believe he ID me.

That is the effect of his evid., do you say that he like the cashier is entirely wrong? No sir I dont say that.

I dont say that the cashier is entirely wrong.

1

Can I take it then that you did give to the cashier a look of tremendous annoyance? No sir.

Can I take it then that you now concede you were involved in the disc. with the bouncer? Id say we were all involved.

All 5 of you? Yes.

So in other words from the stake out position, had all ~~the~~ 5 of you grouped around the bouncer ? No sir.

5

The sequence of events after leaving the cabaret on that occasion, was out to Harris Rd? yes.

Pick up firearm? Yes thats right.

And back eventually into town? After returning to H/Hunter yes

And then back to town? Yes thats right.

You did all the driving of the car? Yes I did.

10

And you were aware certainly after leaving Harris Rd there was a 22/250 t'scopic rifle with ammo. in back of car? I knew there was rifle in the car, didnt know about ammo.

Yr not sugg. that O'C. was going to take out rifle that he had gone out to Harris Rd. to get and there wasnt to be any ammo. are you? Not sugg. anything, only that I didnt know there was ammo there.

15

You see this B'lands was the place that Mr Miller went to? Yes it is the same area.

That was an area which accord. to Miller you had gone out to? Yes, it wd be in about late May.

Group of 6 of you? Yes I think it was 6.

In 2 cars? Yes 2 cass.

20

With that rifle we have here, the 22/250? Yes that was taken in one car, yes.

That was taken in the car which Miller travelled in? Yes.

Taking also this shotgun, the shotgun, shortened barrel shotgun, is that right? Repeat that.

Was the cut down shotgun also on that expedition? Yes it was.

That was in the car in which you travelled in? Yes thats right.

25

That rifle that we have here had been picked up from Harris Rd. on that occasion by O'C? I believe so.

Well, we heard from Mr Miller that this expedition was under yr charge, remember him saying that? I remember him saying that

You say that he has told the jury an untruth in that regard? I think he must be little confused about it.

30

If you werent in charge who was? I dont bel. anyone was.

Just happ. 2 cars had firearm in each veh. and group of 6t men happ. to go to an add. in B'lands having all gathered tog. at H/Hunter Ave. before leaving, that right? It was organised.

Who organised it? Just gen. organisation among the people present.
Varies people wd have made diff. arrangements.

1

Are you aware that Miller got the impression that you were in charge of it? How did he get that feeling? I cant tell you.
I did pick him up.

When was that arr. made that you wd pick him up? The day before I believe. The arr. wasnt that I wd pick him up but that O'C. wd pick him up.

But you did pick him up? Yes.

5

He sd you then went over to H/Hunter Ave? Yes thats right.
And he told us that when he got there with -you Gary O'C. wasnt there, that right? No he wasnt there.

Was he supposed to be there when you got there? We had arr. to meet him there, I think we arr. for the whole group to meet there.

10

Miller told us that you went off at him bec. he was late in getting there, at O'C? No that is not true, easy to say to go off at somebody but I wd say that I did ask him where he had been and why he was late, there is a complete diff. bet. that. Kind of request that the leader of group wd make, where the hell have you been and why are you late? Not really sir.
You see he told us that, (p.166) you sd to him "look yr suppose

15

... short time ago", is that correct? I sd probably that we were all supposed to be at B'lands.

And then later on when you got to B'lands, you had got there first in yr car with shotgun and the other car arrived bit late, right? Yes.

Accord. to Miller, you went crazy again at Gary for being late, is that or is that not correct? No that is not correct.

20

And so - remember he was asked about rel. bet. you and O'C and he sd, if you sd, jump O'C. O'C. wd jump, is that fair assessment of yr rel. with O'C? I wdnt agree with that.

So this witness also is incorrect on the number of items which Ive just put to you, his evidence is incorrect? Yes.

Can you tell the court why he shd be wrong in all those particulars? No I cant.

25

They are only minor particulars, different manner of speaking. Why do you say they are minor particulars when you did or did not go off at a man who was late? Asking a person why he is late and someone else describing it as having gone off at him are 2 diff. things.

30

This is quite apart from Speck and O'C. I want to turn now to another young man and just ask you about some of the things he sd. and Im referring now to the facts surrounding the purchase of this rifle. Are you endeavouring to give to the court the impression that you didnt have much to do with buying it? I wd agree with the 2 witnesses pres. beside O'Connor.

229

1 But really it was a matter of complete indiff. to you whether
this 22/250 was bought by yr friend O'C. or by you and O'C?
Complete indifference.

Were you interested to know something about these rifles?
After O'C. had bought it ~~was~~ I was.

5 You see we have heard from one young man that you helped him
cook up a story to the police? I suggested an address that he
cd use, I think he had already cooked the story up when he
arrived there.

You mean he came round to see you to make sure you wd go along
with his story? No he came round looking for O'Connor.

Well lets look and say what these 2 young men had to say.
One of them, Mr Prendergast sd, you paid for the rifle,
remember that? Yes I do.

10 This flat at H/Hunter, is not a big place is it? I dont know.
You sitting in the lounge? No I dont think I was.

Where was the transaction done? In the lounge.

Its not a big lounge is it? No.

You didnt lose sight of anything in there? Not at all.

Has told us that you paid for the rifle, is that or is that
not correct? Is it correct that I paid for the rifle?

15 He sd you paid for the rifle, you paid him for the rifle? I
didnt -pay him for the rifle.

He told us and I read it to you (p.164 and 165) there was
some disc. about the price, the haggling "dropped it down
... they accepted it at that", did you accept that price?
O'C. accepted that price.

20 You happy about the price? I wasnt purchasing the gun sir.

You didnt care less if he paid \$200 or \$500 for it, that
the story? That I didnt care less what he paid?

Yes? No I dont really think I wd have cared.

And he sd this "Brian pulled paid Nick for it", you
say that he is quite wrong? Yes I do.

25 Rec. you see he sd this, (p.165) "Im very sure out of the
back of jacket", remember him saying that? Yes I do.

You say he is quite mistaken on that? Yes.

Are you in the habit of having large sums of cash on yr person?
Yes.

In wads of \$20 notes? Occasionally.

How about O'Connor, he a wealthy man, wad of \$20 notes? Yes
occasionally.

30 You see we have heard not only from Prendergast but we also
heard from you will remember the other young man called Deane.
And he sd you both appeared interested in the "purchase" you
say that is incorrect? Id say I showed an interest.

Handle the rifle? Not then.

You know much about rifles yrself? No sir.
Ive learnt prob. wee bits during this trial.

1 Prior to trial you didnt know much about them? No just safety precautions and things like that.

Not how to wokk the mechanism efficiently? No.

Know how to load that rifle? I think I cd load it now.

I take it from that answer you wdnt know much about t'scopic sights? on rifles? Just what anyone wd know I guess.

5 Have you had occasion to use t'scopic sights in rifles? No but Ive looked thro this one.

Since this case? Not since this case, when Gary purchased a rifle.

I take it you wd be fully fam. with mech. of a rifle? No.

Mech. of t'scopic sight? No.

You wdnt know how to adjust it for eyesight? I wd now.

At that time? No.

10 When you looked in the t'scopic sight, get a good picture? Only in the unit, it was very distorted so I didnt see much at all.

I want to move on to yr movements after you left the cabaret on the 1st July, remember that? Yes.

I want to ask you particularly about what you knew of what was going on, understand that? Yes.

15 By the time you drove down queen street and drove past the cabaret where you or were you not aware that a rifle was in the car? Yes I was aware.

Were you or were you not aware at that time that the rifle was in working order? I wasnt really aware of that.

Even tho it had been to B'lands prev? Yes but Id never operated it.

20 You seriously telling the jury you werent aware if that rifle was in working order when taken from Harris Rd. on this particularnight? Was I not aware?

Yes? Sir? I just didnt know.

Were you aware there was ammo in the car? Not at that stage.

And at that stage you went past - when you went past you were intending to park in the vicinity of the cabaret? Yes in the same carpark I parked in earlier.

25 On the night of yr group - what does a sign like you claim Speck made mean? A fight sir.

It means yr going to get somebody doesnt it? It means he is going to have a fight sir.

By fight you mean with fists or what? Yes.

30 Well thatnight as you drove down there with the rifle and poss. with c'ridges and b-ullets and saw this sign being made, and you had gone past where you were going to go, what did you think was on? I thought there was going to be a fight.

Happ to go along with that? I was indifferent.

231

1 Well did you voice yr indiff. to the others in the car? When they explained to me what was happening, there wasnt anything more sd at that stage, when they guessed it as to what was happening, apart from moving from there to another area, there was nothing else sd. You mean there was no disc. at all at this stage as to where the fight was going to be or what wd happ? When we stopped to turn right into carpark thats when the disc. was held.

Just past the cabaret? Yes.

5 Thats when the disc. took place? Yes. Bet. the 3 of us.

What was sd there? Well, the gist is that O'C. ~~was~~ made, and then my question, then...

Yr question? Yes, as to why we were turning right, why he wanted me to continue down the street and not to turn right. I asked ...

What did you ask? Asked why we werent going into the carpark.

10 I follow that, but what - did he tell you where you were going and what was going to happen? No sir.

You tell us that he sd nothing? Only about the car number plates.

What about the car number plates? Wd you like me to give the conv. as it happ.

15 I want to know what happ? I went to turn right into carpark, O-C noddged me and indicated down queen street, when I asked why Speck made indication with his fist and pted back to the cabaret. He also made a sign indicating that I shd keep quiet.

Lets get this right, he makes a sign which you know is going to cause trouble for someone? Fight yes.

And he pts back to the cabaret? Yes.

20 I sugg. Mc D., knowing yr friends, you knew that someone in the cabaret was going to get it? Get into a fight yes.

You cd have driven home, that so? Yes I cd have.

Cd have got out of the car at that stage? Yes I cd have.

Or you cd have tried to get into the cabaret bec. you proer properly dressed? We cd all have.

I take it from the fact you didnt do any of these things you were quite happy to go along with it? With a fight yes.

25 Now do you agree you then drove that car up into this area behind the toy shop? Yes.

You say you stayed in the car waiting there while the other 2 headed off in their directions? Yes.

Not exactly the place to go for a punch up, better places than that? Yes sir, I asked them why.

30 What did they say to you? O'C. sd the car was regd in his name. The car was regd in his name? Yes

Is that why you were going so far away from the cabaret? Number plates.

you thought fight still on? Ys.

232

You quite happy to let them go on and carry on with the fight? Y

1 Did you drive back down to the bottom of Myers Park? Yes after we turned the car, I asked what happ. and they sd they hadnt been able to get thro.

Down at Myers Park at some time you became aware of the fact that it wasnt just a fight that was on? I became concerned sir.

5 Im putting it to you that even on yr story, you knew perfectly well at one stage at bottom of Myers Park that more than a fight wasinvolved? I just began conc. when they began to load the firearm.

Did that indicate a good deal more than a fight? To my mind it d So that even if we accept yr story, you are down there sitting in the car with yr mates, and a firearm fitted with sight is being loaded up, that right? Magazine had been loaded.

10 The mag. was obv. to go into the rifle? Yes.

Just to get it right, you well aware at the bottom of Myers Park that there was going to be trouble at the cabaret involving a member of the staff there= No I just became conc. when they began to load the magazine.

15 Lets go back. You told me that when you were back coming down queen street, got the stgn and pted to cabaret and you knew there was to be trouble at the cabaret? The indication was there was to be a fight.

The object of that fight was obv., someone in the cabaret was going to get it? Yes.

Who did you think it was? I presumed it was going to be the doorman.

20 At the bottom of Myers Park, there had been no alteration to the sugg. that the plan be altered? The plan hadnt been act. discussed, it was just an indication.

As far as you were conc. the doorman at the cabaret was still going to get in when you were in Myers Park? No that is not correct.

25 What had happened, what had O'C. or Sopcck sd that made you change yr mind to think... ? Nothing at all, the indication was there was going to be a fight.

Down at the bottom of Myers Park you were aware were you not even accepting what you say that there was trouble in store for the doorm at the cabaret? It was going to be a fight yes. And at that stage, this rifle was being loaded? Yes.

30 A magaxine.

For putting into the rifle? Yes.

You dont use that kind of a rifle with loaded mag. in a fight do you? No.

35 Im putting it bluntly to you that then, down in Myers Park, wen accepting what you say, you knew that the rifle and bullets were to be used in some way or another on a staff member at the cabaret? No I was conc. and thats why I took the mag.

You claim to have taken this magazine? I asked for it and it was thrown on the floor of the car.

1 But you tell us do you not these other 2 went away for a while from the car and came back 10 or 15 mins. later? Yes, 15 minutes later. Down to Myers Park ? Yes.

When they came back did you ask how the punch bp had gone? They were arguing the first time they came back.

Did you ask them how the punch up had gone? Not then.

5 Werent you interested to know whether the object of what you tell us was carriedout? Yes, but as events happ. it was quickly that they wee back in the car, rifle back in backseat andmag. loaded. Had youturned the car in direction to get away by now? No I hadnt. What did you say to them, what do you claim to say to them when they lift the car with rifle? I didnt get chance to say anything.

10 You had already smacked one of them in the face earlier that night, do you tell us you sd nothing to them at all when they left with that rifle? Before they left with the rifle I did sir.

And in fact after they left with rifle, did you turn the car round? Yes I did.

Pting in the direction you have to go to get away from the scen? Just turning the ca r round.

15 Pting in direction you wd have to go to get away? Pting towards the exist.

So that if there was trouble up there, there wdnt be hassal about turning the car round when they came back? If there wasnt trouble there wd still be no trouble in turning it around.

Why go to all the toruble ofturning it around? It was easier for whewere going to leave.

20 Accord. to yr story, they came back some time later? This is econd time?

Yes? Yes.

You had heard nothing? Noting at all.

Not a shot- or anything like that? No.

Accord. to yr story, they came back and you drove them all the way up the street? Yes thats correct.

25 And do you, on yr oath, tell this court that you made no enquiry of them as to what had happened at the cabaret? I asked sev. times what hadhappened.

I see, how many times? Prob. 3 or 4 times.

What did you say? what did they say? They didnt want to tak about it, mostly conc. about my driving and getting away from that area.

30 Conc. about yr driving, I dont u'stand that, why were they conc. about yr driving? When I drove out from thatpart. area Iwent to turn left into May. Drive and O'C. grabbed at the wheel and sd, dont go that way, and to go to Cook St. at the m'way entrance there. At this stage I had asked them what had happ. and finally the answer was just keep cool mate.

Just keep cool, when the rifle was disposed of over the bridge?
Yes.

1 Are you really saying to us that you saw or heard nothing that night that was at all out of the ordinary? No I'm not saying that at all.

When these 2 fellows refused to tell you what had happened, over a matter where you had really gone against your wishes, driving around town? No sir, it wasn't against my wishes really.

5 I thought you wanted to stay by the log fire? You mean originally going to main street, yes I didn't want to go.

Quite happy to go back that second time though were you? Yes.

When that rifle got thrown over the bridge, did you ask them about what happened? At that stage tension and excitement in the car was thick and when Speck threw the rifle down, I then thought they must have used it to hit someone.

10 When you say that, in what way are you using the word "hit"? As with a piece of wood sir.

You telling this court that you thought that they threw away this weapon which had cost \$180, just under \$200, because they might have used it to hit someone as like with a piece of wood or something? Yes.

15 When you were seen by the police on the 4th July, did you know that Speck and O'C. had been seen by the police? Yes I did.

And at that stage, according to you, you were aware they were cooking up some story? No I wasn't aware at that stage.

You told us you were shocked by the girl's death? Yes.

Were you shocked by the fact that a 17 year old had been killed? Yes I was.

20 Were you anxious to assist in the catching and punishing of the murderer? That was part of the confusion I was feeling that day. That was at 11 a.m. on the Sunday, by the time you saw the police, you would still be shocked by the news of her death? No.

25 But you would be anxious would you that the murderer should be brought to justice? That was the part that was playing heavily on my mind, and it was a decision I had to make, and in making that decision I had to consider all the years I'd know those 2 men.

How does that compare with this 17 year old being shot? I just decided I wouldn't say anything at all.

I wouldn't help them in any way.

30 In September, when you were seen by the police, they told you that they had spoken to O'Connor did they not? I'm not sure if they told me that but I was seen by them in Sept.

You were aware of it? Not really sir.

So can I take it then from what you've told us that you would prefer to keep quiet even at the initial stages of the police enquiries when you asked simple question to tell of your movements on that night? What I decided to do was to seek legal advice, but I'd also decided

1 Not to support the stories that Speck and O'Connor had told the police, I didnt intend to lie for them.

COURT ADJ. AT 11.30

COURT RES. AT 11.45

5 Ive asked you about witnesses, remember the witness ~~Max~~ Smith? Yes
Is it correct that he sd you were the person that made the arr.
conc. the hiring of the room at Harris Rd? Yes.

Prior to the adj. I had asked you about yr interview with the
police on 24th September (p.197) the one you had with Rowe? Yes.
This is the interview and you remember I asked you if they told
you or if you knew what the allegations that O'C was making? Yes.
At that interview, was it made plain to you by the police that
10 O'Connor was, or had told them, what generally he told the jury
the other day? It may have been dont recall, but what O'C. has
told the jury was put to me.

At that stage you knew, you realised, did you not, that what yr
saying to us in fact was O'C. was setting you up? I think so sir.
Back on the 4th July, when you were seen by the police you told us
you weighed up loyalty of friends against helping the police to
15 find Margarets killer? Yes.

When you were speaking to Rowe, it was plain to you want it,
that one of these friends who you say you were protecting, was
in fact putting the blame on to you for a killing of which you
were part of? Yes that is correct.

20 And is it correct that Rowe says to all of the questions you simp
sd no comment and didnt want to say anything until yr solr. there?
Yes, correct, until I had legal advice.

And you knew you were perfectly entitled to do that if you so
wished didnt you? Yes I did, very serious allegations, I felt
I needed to have legal advice.

You knew you were perf. entitled to say nothing and to make not
comment if you dec. to do that, yr aware of that? Repeat that.
25 You were aware you cd say nothing or no comment if you wanted
to? Yes I was.

Also aware you cd have told them what you tell the jury? If I was
legally avi advised to do so yes. All I was doing was requiring
legal advice.

There has been mention of a phrase "thats the breaks mate".

30 You say one of the others used it and they say you used it? Yes
thats right.

Is that a phrase you use? I think we wd all use it quite frequentl
The 2 Bloor brothers in the back of the car, how long have you
known them? About 7 mths, at that time.

How old are they? In their 20's I believe.

1 We have from O'C. and Speck that they were both asleep at the time,
is that yr impression? Yes, most of the time.

In the drive back from Myers Park to the bridge, was it yr impression
they were asleep? Yes I wd believe so.

Speck was quite concerned not to wake them up.

You see what yr sugg. is that O'C. didnt run all the way home arent
you? Im not sugg. that, I know that he didnt run all the way home.

5 Of course if one of these brothers happened to be awake, he cd blow
O'C. story sky high cdnt he? I suppose so yes.

So really pretty silly sugg. for O'C. to make, not telling the truth.
Very silly to not tellthe truth sir.

Yr aware that yr solrs. have got their names and address? Yes I
think so.

10 REX MR HART

You know whether or not the crown or Solr. General gave immunity
to Bloor Brothers? No they werent given immunity, nor was I, not at
all.

Was it offered to you by the police? No.

COURT

15 Before the 1st July you used to go out a lot with Spck and O'C
and the Bllor Brother? Not as freq. with Bloors but with Speck and
O'C. yes.

And in their com. did you get into a few fights? Ocassinally yes.

20 And I u'stand from yr evid. that you had a mongst you an accepted
signal that there was to be a fight? I want to make an e.g., at the
cabaret, O'C. was approaching the doorman, that wd be known by the
rest of us there wd be a fight.

This gesture with the fist, that was signal for fight? Yes, perhas
perhaps in game of football, there was a part. player on the other
side who needed to be sorted out, that sign wd be made.

And he wd be sorted out? Ys/

25 By giving him a hiding? Not nec. EWemight tackle him very hard.

So that when you drove down to P/Tce, when you drove them to P/Tce,
yr ustanding was there was going to be a fight? Yes.

And the fight was going to be at the main street cabaret? Yes.

So thatsomeone at the main street cabaret was going to get beaten
up? Or going to be involved in a fight.

30 Why didnt you go up with yr mates to help them? Because I sugg. that
- ~~they~~^I sugg. I go up but they told me to wait in the car.

You offered to go up? Yes, at P/Tce.

Youve done some boxing? Yes.

So had one of the other fellow too? Yes.

And you say you off. to go up but theydidnt want you to come? Yes,
they sd they cd handle it.

1

And then when they came back w-th the rifle and got into the car, you drove them away, was it yr belief that they had used the rifle at the club? Not then, not until it was thrown away. And it had been wiped.

5

Was it yr u'standing they hadnt used the rifle at all? I wasnt sure what had act. happ. but it was my u'standing they hadnt used the rifle at all, until it was actually thrown from the bridge. And then you thought it had been used as a club? Yes, when it was wiped, I thought they were wiping it for blood stains or something

MR CONWAY CALLS

TERESA MARGARET SKELLY (Sworn)

I live at 80a Franklyn Rd, Freemans Bay, I know the accused Mc Don
I also know Gary O'Connor and Bruce Speck.

10

Cast yr mind back to the mth of July 1979? Yes.
Yr aware of the events at the main street cabaret? Yes.
Had you been seen these 3 men at about this time? Yes.
Were you good friends with them before 1st July? ~~Yes~~ No.
What about after 1st July? Yes.

15

Did you see any of them after 1st July? Yes I saw the 3 of them.
Did you see them individually or tog., any 2 of them or 3 of them?
Yes.
For how long did you see them in a situation where 2 or 3 of them were together? From when I met them, right thro until about 2nd week in August.

20

Can you recall an occurrence in respect of yr motor vehicle about the first week in August? Yes.
Was there something wrong with yr vehicle at that time? It had been borrowed and the back window had been broken,.
Who had borrowed it? It was just taken, it was a communal vehicle.
Where were you living at that time? 53 Howard Hunter Ave.
Who else was living there? Gary O'Connor, Brian used to stay occasionally and Bruce was staying there quite a bit of the time, from July and August.

25

What sort of car do you have? A Mitzubitzi Galant.
Can you recall one evening in particular when that vehicle was used? Yes, borrowed by the boys, the 3 of them, and one other.
One other person? Yes.
Know who that other person is? Yes.
Whats his name? John Richardson.

30

Can you recall when yr motor vehicle was borrowed? I think it was taken out once in the evening and then later at about 1.30 to 2 the next morning.
On the first occasion who borrowed it, the first occasion in the evening? I think Gary went out on it just to the shop and it took longer.

Did he go out alone? When he left the unit i.e.? From memory I think so, yes.

1 What about when he retd, have anyone with him? Thats when he brought Bruce, I think, came back with him.

What about later in the evening? He went out again, but it wasnt my car.

5 Youve told us the events about the particular evening, can you remember when this was? On the night of 31st July and the morning of 1st August.

How do you relate that particular event to that particular event the foll morning? My mother came up to stay with me and I had to pick her up in my car.

When the car or when the fellows that were there later in the evening, whose car did they use then? Valiant, Gary's valiant.

10 Who went out in it? I think only Gary but Im not sure, Bruce and Brian stayed at home I think.

When was the next time you saw these fellows after they left?

An hr later they came back with John and stayed. the rest of the evening thro.

Did they stay the night? Yes they did.

15 What about the next morning, did they go out? They woke at about 1.30 and went out, at about 2 they had something to eat.

What did they have to eat? Tea and toast, I made it for them.

Did you see any of these fellows leave the house on this occ. or did you go to bed? I didnt go to bed, I just played cards while they were sleeping.

And who left when they left, who actually left the house? Gary, Bruce, John and Brian.

20 4 of them left? Yes.

Youve told us yr mother came to visit you shortly after, you seen any of these men on subsequent occasions during August? My mother came for a couple of days, she went back, I saw them quite feegular Bruce borrowed my car before I sold it, I sold it in August, they did their rounds staying at the unit, I took him to work a few times.

25 You know where he worked at that time? I took him once out to Half Moon Bay, I ednt tell you exactly where, he had a bricklaying job there, I knew he had an interview one day.

Where did you take him to to that interview? Out to the bricklayers place at Half Moon Bay, I stayed in the car and waited for him.

30 So you dont know what name of man who interviewed him? No.

XXD MR MORRIS

I want to ask if you can assist us in giving us any help as to McDonalds knowledge of firearms.

You know a man called Graham Williams? Yes I do.

And had you actually been living with him for some time? Yes.

1 Was that at an address in Milford? Yes.

Mr Williams have an interest in firearms? Yes he did.

How many firearms in all did he own? 2.

What nature were they? One was a shotgun and one was a rifle.

The rifle, how did it compare in size generally speaking with the exhibit rifle here in court? Yes.

5 About the same size? Yes.

Was it a full length shotgun? Yes.

When you were with Mr Williams staying at his place, can you recall any occasion when McDonald came over and there was some talk about guns? Gary and Brian came over actually, yes I can.

And were they both interested in having a look at these shotguns?

They didnt bring up the conversation. I brought them out.

10 Unusual for lady to bring out firearms? They had mentioned the firearm as you cd see it from the bedoom, I showed in the end both of them to both of them.

Can you tell me when that was in relation to the night Bell was shot? in July, beginning of July? It was about 2nd week in July/ Quite apart from that occasion, have you been at H/Hunter Ave. when there have been some firearms there? Yes.

15 And when wd that have been in relation to the beginning of July? It was more into August.

At that stage had you moved out of Mr Williams house to someone elses? I had yes.

Who were you living with then? I was living at H/Hunter with Gary O'Conor.

20 Did you ever see a small looking firearm like a revolver? Not in full no,

Not in full view? No.

What part of a revolver did you see? Just the end part, the butt., the hand part.

Who had it, when you saw it? No one had it, it was hidden under a jacket.

25 Whose was the jacket? Well it was Gary - not really quite sure - I thought it was Brian, Brian wore it occasionally.

During the course of police investigation into Miss Bells shooting did you make statement to the police? Yes.

Wd you look and see the 4 pages Im showing you here, have they got yr name and signature on the bottom of each page? Yes.

30 Wd you look please at the second para. on p. 2, just read it to yrself and Ill ask you about it.

I did say "under the jacket"

What do you say you saw there? A butt, the handle.

1 You say you saw butt of small gun sticking out of brians jacket pocket which you had thrown on the couch? Yes.

Is that in fact what you saw? I did say, I remember saying to the police it was under brians jacket.

Not sticking out? Sticking out but underneath.

Pocket? No.

5 Yr 23 arent you? Yeah.

Been manageress of playboy mansion sauna and massage parlour? Yes. Youve been around a bit havent you? No not really, yes I suppose so call it around.

You read this thro after the police had made it? I was in a hurry, the police wanted me to stay around for 5 hrs, I was in hurry, it took them half an hr to get it back to me, my girlfriend waiting forme there.

10

Move on to another part of the statement, have you ever been in a car with Gary and Mac when they went to the reapers pad, there some sugg. about going in and getting a firearm then? Yes.

Look at the bottom fo p.2 of yr statement and then Ill ask you about who was involved. See the bit about ending up at grim reapers pad?

15

Did you - thats a week night in early August is it not firstly? Yes. I dont know, is it.

Well just look at the beg. of the para. "I remember an incident", thinking back on it, is this something that happ. in early August? Dates Im not sure of, prob. be middle of August.

Did you tell the police on the way to grim reapers pad not far from there Gary leaned over the front seat to speak to Brian, sd something. lie, are you going to go and get it and Mac replied yes, is that what happ? Ys.

20

We stopped outside the pad, gary went in cdnt get the 38 there was only the long one left, did gary say that? Yes.

What did you ustand them to be talking about by a 38? A gun.

And the long one, another gun? Yes .

25

A rifle? I didnt think about it, I was scared.

And then you say "Brian sd, go back and get that,", that right?

I cant see it at the moment.

Seed it there now? Yes.

Is that what Brian sd? Yeah well he sd, get that yeah.

Did Gary then go back as res. of that order, come back to the car and say, Ive got the 38? Yes.

30

Having got that 38, that was a small revolver kind of thing? I dont know, never saw it.

Did you go out and put the wind in the car that night? Yes we did.

And did you pick up a man called Wally? Yes.

Was Wally in bit of trouble with Mac and Gary? Yes.

1 The sugg. being that Wally had somehow or other ripped them off, taken some money? I imagine, yes.

Were Gary and Mac pretty annoyed about that? Yes I suppose so.

And to punish Wally did Mac and Gary start playing a game of russian roulette using the 38 revolver? Yes they did.

5 And did this kind of thing - was this kind of thing sd - Brian wd say, little lie or big lie, znd then Gary wd have to hit Wally or pull the trigger? Yes, sort of right, Gary wd have to guess if big or little lie.

Depending on whether it was a big or little lie...

(OBJECTION BY MR HART AS TO WARNING GIVEN TO WITNESS WITNESS)

(WARNING OF SELF INCRIMINATION GIVEN TO WITNESS)

Yr quite happy to answer the quest~~ions~~ and help us? No.

10 I want to ask you about yr relationship with Mac, and Gary, how they got on tog? They were o.k., good, they were friends.

Who was the boss? There was no boss - as in boss.

Gary stand up to Brian when told to do something he didnt want to do? It wasnt in his personality, hd wd chuck things about, take it out on the wall or his head.

15 ~~Did you recall the relationship between Gary and Brian?~~
~~Was there any time when Gary was dominant and Brian was not?~~
~~Was there any time when Brian was dominant and Gary was not?~~
~~Was there any time when Gary was dominant and Brian was not?~~
~~Was there any time when Brian was dominant and Gary was not?~~
~~Was there any time when Gary was dominant and Brian was not?~~
~~Was there any time when Brian was dominant and Gary was not?~~
~~Was there any time when Gary was dominant and Brian was not?~~
~~Was there any time when Brian was dominant and Gary was not?~~
I didnt do.

20 But Brian, I put it this way, all the while Brian was the more dominant was it? Brian was dominant and he knew someone wanted an... never used to push anyone around.

You sd "Gary wd neverway around"? Yeah, thats true.

NO REEX

MR HART CALLS

ROGER VITALI (Sworn)

25 I live at 15 Valley Rd, Browns Bay, fitter by occupation.

You know the accused McDonald? Yes I do.

You know someone called Gary O'Connor? Yes I do.

In May 1979, did Gary O'Connor call round to see you? Yes.

And what was the purpose of his visit to see you? He knew that I had a sawn off shotgun and he asked if he cd borrow it^{22/420}

30 Canyou descfribes this weapon, was it combination 4/10/shotgun, it had shortened barrel and stock? Yes.

Have ammo. with it? I gave him box of 4/10 and a box of 22 for the rifle.

Where were you when you gave O'C. the weapon? I was at my add. in Onehunga, he called rou-d to see me, asked if he cd borrow it.

By himself at the time? Yes.

When you gave Gary this weapon, what did he do with it? I gave it to him,
1 he took it out to the car, he foled it down, put a cartridge in, he
broke it open, loaded it with 4/10 and 22, he closed it again, put
it up, got the feel of it.

Sighted thro it did he? Yes.

What else did he do with it? Then he broke it open again, took the
c'ridges out, pulled back the hammer, and felt the trigger, just got
5 the gen. feel of the gun.

Did he do anyt~~ing~~ with the shells he put into the weapon? Yes he
reloaded them.

Did that part. shotgun have a trigger on it? Yes.

It gets the pin going? Yes.

Did he do anytying with the grigger at all? He squeezed it, there is
little knob on the side changing it from 22 to shotgun, he moved it
10 up and down, he played with it and got the fe~~el~~ of the whole gun.

This was yr gun wasnt it? Yes.

And from what you saw did O'C. appear to know what he was doing when
handling it? He broken it open and got the firing thing going, he
knew what he was doing.

Did he pay for it? No I lent it to him.

Was this during the day? Early evening, just on dusk.

15 What sort of car did he have when he came round? Valiant, no, no,
Id say a blue cortina at that time.

Was he there long? No, he just picked the gun ~~xx~~ up and left.

He seemed to be in a hurry.

Did you ever get the gun back? No I asked for it back, but he sd it
was hot, in hid~~ing~~ at the time and he wd bring it back to me when he co

20 When he told you it was hot what did you u'stand that to mean? That
someone was looking for that gun in relation to something, that he
was in a bad place and he didnt want to be seen with the gun.

Was there another time when you saw O'C. ~~xx~~ again, he came to see you
about something? Yes, this was early June when it happened, and he
had something for me, it was in the car, I went out to the car to pick
it up.

25 Pause there, was O'C. on his own this time? Yes.

And in the course of you seeing him there, did he show you anything?
I went to the car, I noticed on the back seat an objectwrapped in a
blanket, I imm. knew what it was.

Quite evident was it? Yes, I sd, give us a look mate, can you show us
the rifle, he sd sure, so I opendd the back door of the car, and pulled
30 itout, it was wrapped up in old blanket, I unraveled up, also wrapped
up in sheet with oiled sheet to keep the gun in good condition.

In what condition was this gun that you speak of? Good condition, well
oiled.

Wha~~y~~ sort of sights did it have? Telescopic.

Did O'C. tell you what he used it for? Shooting rabbits.

1 Say where he used to shoto rabbits? Howick, B'lands area.
Give you indication of what it was like to fire? Yes he sd it
was pretty accurate.

Indicate whose gun it was? He sd it was his.

He was by himself on that occ.? Yes.

Was this old or new gun? It eas a modern gun.

Did you ever look thro the gun yrself? Yes I handled it, I looked
thro the scope.

5 What was it like? Seemed quite a nice gun to handle.

Wd you look at the rifle now shown to you - it has been inthe tide
for couple of mths - how wd that rifle before you compare in size
and scope and so on? Its the same gun, same strap.

He say where he got the gun from? No.

Whose gun did he say itwas? His.

10 Did you ever see the accused and O'C. out tog. on occasions? Yes.
Ever see them socially? Yes.

How wd you yrself describe the rel. bet. the 2 of them? They wee
were good friends.

If it was sugg. to you that O'C. - that McD. was the leader, what
wd yr comment be to that, someone is the general and the other
is the leitenant, what wd you say to that? No, they were friends,
they did things tog.

15 And in situations that you saw, did O'C. appear to handle himself?
He was very good with his fists, he used to like fights.

As far as firearms are conc. what impression did you get fromspeakin
to O'C. as to his part. interest in firearms? O'C., he liked
firearms. He was, he had quite an obsession with guns.

20 How did you come to that conclusion that he had ~~an~~ an obsecession
with guns? On the 2 times I saw him with firearms, he went into
great detail explaining things to me, he used to like to talk about
shooting and shooting experiences.

As far as the gun thathe showed you and you say it is same as the
one in court, did he indicated to you that he had used the rifle?
Yes, he used to tell me about when he was shooting rabbits.

25 What was that in ref. to, with which gun? With the 22.

What did he say about that? One time there, the time I saw the gun
there, he went into great detail about how he used to shoot rabbits
in P'sonby, one thing that got me, sometimes when you get a good
head shot, he used to like to see the rabbits head explode, I thoug
it was a bit funny.

30 You know anyone called Bruce Speck? Not very well. I knew of him.
You know about the Bell shooting that took place on 1st Jul y
did you know O'C. and MacD. prior to then? Yes.

The two had gone out tog. you say, how often wd you see the 2 of
them or been in contact with them prior to that? On aveage once
a mth.

On social occasions, we used to have drinks tog.

1 What about after, still see each other then? Yes.

How often? About the same I think, sometimes saw them twice, after the shooting, 2 or 3 times.

On the occasions that you saw O'C. after the shooting, how did O'C. appear to be to you compared with how you saw him beforehand. He seemed jumpy, on edge, nervous, always looking around.

Youve been in trouble with the police havent you? Yes.

5 And have you been to jail for a period? Yes.

How long was that for? 6 years.

And have you been in trouble for other matters as well? Yes.

Have you paid yr debt to society by going to jail? Yes.

XXD MR MORRIS

10 I take it you were shocked by the shooting of this young girl. Yes. During the course of the police enquiries did they come to see you? Yes they did.

They want written statement from you? No.

Want some information from you? Well, the police came to see me concerning the sawn off gun.

You prepared to give them written statement about that? No.

15 They sd that I maybe charged with possession of the gun but if I was to give evid. I wd not be charged.

And you not prepared to give them written statement? No.

Youve been asked about yr conviction and you told us you been to jail for number of years? I was sentenced to 6 years and spent 4 years in jail.

20 That arise over an incident when you in the main burst into a persons house armed with butcher and crowbar? We were mtorcycle gang members

Did you break into their house with knife and crowbar? Yes.

You took to this person while he was in bed? That person had a 22 rifle right down there and he pulled it up.

25 Took to him while he was in his bed? No out of his bed and he picked up the rifle.

In the result did, was he quite badly injured? Yes.

That was 6 years ago was it? Yes.

1974? Correct.

Do I take it ~~if~~ if you did 4 years you wd come out in 1978? Yes.

In 1978 were you involved in another incident? Yes.

30 And in addition to that assault were you charged with carrying an offensive weapon? Not to that assault.

No, another matter altog? Yes.

Charged with off. weapon? Yes, pocket knife.

That is within the category of off. weapon? Yes, I pleaded not guilty.

1 Did you go to jail for that? No sentenced to 6 mths P.D.
And if we move up to 1979, you were again involved in some sort of charge? Stealing this time wasn't it? Yes.
How long have you know MacDonald the accused? 5, 6, 7 years, something like that.

5 REX MR HART

The matters that Morris seemed to be interested in, were these matters arising out of assaults and acts of violence on yr part? Yes.

Was that opposed to any charges for dishonesty so to speak? Yes. How long ago were those? Close on 18 mths.

10 You told the truth in this case? Yes I have told the truth.

COURT

You ever go out to B'lands with O'C. to shoot rabbits? No. You don't know where he shot the rabbits? He told me he did.

COURT ADJ. AT 1.00

15 COURT RES. AT 2.15

MR HART CALLS

FRANCIS HOGSTON (Sworn)

I am an optometrist by occupation, I live at 20 Tawa Rd, Te Atatu. I've been in practice as optometrist in firm of Messrs Martin & Co. who operate from 255 Symonds Street, been partner in that firm for some time.

20 You had a total of 29 years exp. as optometrist? Yes.

Can you briefly explain to the jury what yr occupation as opt. involves? We examine eyes, measure - if eye is out of ~~normal~~ focus, prescribing lens and spectacles.

Yr principally conc. with correct errors for those people who don't have normal sight? Yes.

25 You examine someone and make cert. recommendations for glasses? That's right.

On 15th November last year, at the request of the police, D/Kruger did you examine a man by the name of Bruce Speck at the Auckland Central P/Station? At my rooms.

And that was at Symonds St? Yes.

30 You there carried out the normal test to ascertain the visual capabilities of the man? Yes.

Did you first test eyes by shining light in both eyes? Yes.

And from that test can an exp. person tell quite quickly and clearly when a person is shortsighted? Yes.

And from that initial examination, did it appear that Bruce Speck was s/sighted? Yes.

1 Did you then u'take series of tests using diff. lens to ultimately determine the normal sight? Yes.

Was this done by completely tests involving reading of series of ltrs. on charts? Yes.

Are they the normal charts used for testing eyesight? Yes.

That known as the ltr. vision? Yes.

5 And wd the results of those tests, did they show that Specks unaided vision in right eye was 6/21 plus? Thats right.

And in his left eye 6./21? Yes.

What exactly does that mean? It means that he requires at that distance about 20ft. ltrs. a little over 3 times as large as would be readable for person with normal sight, bec. of the blur, a little larger to be able to be read by him, about 3 times larger.

10 What else can you tell the court of tests you did, about Specks eyesight? As well as the vision test and the fraction which is measuring strength of lens req. for max. vision I also did colour tests,

Carried out the normal tests and did some colour tests did you? Yes.

15 Just before that, is the situation that from ltr. chart that you put up for Speck, cd he read the first few lines and 2 ltrs of the 4th line. Yes.

What was the sit. about colour test? He can pick coloured lights, spectrum colour lights quite readily, some hesitation with some colors, with pastel colours he tended to confuse reds and greens.

20 So having done all these tests, normal and colour tests, what conclusion did you come to? He was s/sighted moderately, slight colour defect, his vision was such that in the normal day like circum. he wasnt too badly handicapped, his vision was such that he wd really be better driving with spectacles to bring him to normal standard.

Any specific requirement when you get licence as to how good yr eyesight is? Yes.

25 How was his unaided vision, how did it comply with normal standard requirements? Just outside, he wdnt get his licence without glasses, or he shdnt get it.

I take it you havent had dealings with Speck before? Id made him glasses some years before.

But, the request that was made came as res. of enq. the police made/ Yes.

30 Yr firm, quite often as it were did opinions for the police or do tests for them? Yes, visual tests for recruits and for the medical visual examination.

On 22nd November, did you go to the DSIR? and were you shown a rifle with t'scopic sight fitted with the eyepiece in the position which you u;stood was the position it was found in? Yes.

35 Just tell us what you saw when you arrived there?

I was presented with a rifle on which was mounted a t'scopic sight, the rear eye piece was mounted on a slow thread which was also locked with locking ring, this and the eye piece were forward, screwed right in as far as they cd do.

Wd that position be in the optimum or best position for s/sighted person? Yes.

Did you do a test using a lens with the approx. vision of Speck? Yes.

5 And what did you find? The lens over the eyepiece, the image quality was improved.

Meaning what? That the vision thro the sight is set, it was quite sharp over the range, but the vision improved slightly by putting the lens over the eyepiece,

The test you did was carried out during the daylight? Yes.

10 So that any of yr dealings relates to testing during the daylight and not during the hrs of darkness? As far as the sight goes.

As far as you were concerned, what assignment were you being asked to do by the police, what was yr basic function as you u'stood it to be? To determine the type of vision that Speck had and to give some opinion about the setting of the sight.

15 By that do you mean check Specks eyesight and see whether bec. of his sight defect he wd be able to look thro the rifle and fire it, that the position? True yes.

And again during the daylight testing what did you find? That the sight as set wd be quite suitable fora person who was s/sighted and for anyone under about 35 really.

When you say someone under 35, what range is that - is 35 normal? I mean 35 years.

20 Were you ever asked to carry out a test at night time? No.

And when you look thro the t'scopic sight itself, do you see thro the sight on the rifle yrself, during the day? Yes, quite clearly. No difficulties there? No, none

25 A person who was l/sighed wd the reverse procedure be correct, i.e. wd the pos. most favourable to l/sighted person be screwed right in as opposed to be screwed right in? Yes, go thro the trouble of unlocking thering and moving the lens out.

With Specks vision, I put this to you, assuming Speck was with someone, it is night time, early hrs of the morning, travelled up thro Myers Park, they come to the end of that alleyway which you are fam. with at the church, you know the alleyway or path by the cburch? It is a street yes.

30 Look at photo. 20 of Exb.2, in lefthand portion of photo. 20, you can see a path running down the side of the church cant you? Yes.

Try and visualise in yr mind a situation when it is dark, say the early hrs of the morning, a man standing at the end of that alleyway or path and hes got - he as s/sighted like Speck without glasses, now the person was somewhere on that path, light on other side of the road, wd Specks vision be so bad that he wdnt see that other

35 person? I think not. one can judge stars and blqs.

As far as seeing at night time with his degree of s/sightedness, what degree of disability wd he be under compared with any one else? Fine details wd be more blurred, he wdnt be able to distinguish fine details.

1

As far as looking thro the t'scopic sight at night time is concern wd there be a greater blur looking thro the scope in its position most favourable to s/sighted person, at night time itself? I wd expect so, the nearest pupil being larger.

It is larger at night time? Yes, generally.

5

So in short, do you concede that any testings you did were on the basis of daylight and not during the hours of darkness, so you qualify yr comments to that extent? As far as the sight goes.

XXD MR MORRIS

10

Weve had another scope prod. here, the rather new one (Exb.28), just look at that, we have been told it is the same as the one on the rifle, haveyou had a chance of considering the mechanism of that scope (Exb.28)? It appears to be similar to the one on the rifle, it is in different condition of course.

15

And is that one you can make movements with various pieces of the lens? Few adjustments, one for magnification, it is a zoom sight, the magnification can be varied, it has numbers on, the rear eye piece is ~~th~~ adjustable so it can be set up to suit different visions, to some extent.

So far as the ranges are concerned, either got it right in, the back piece or right back? Any pt. in between.

We have heard from Coop previously, he known to you? Yes.

20

And he was asked what was the significant diff. in ranges and he sd there was very little, you agree with that? Yes, bec. it is a fairly fine adjustment.

And then he was asked how did he mean very little and he sd "I think it wd not mat. affect the view for most purposes whichever way it was turned" agree with that? Yes, bec. considerable magnification is involved.

25

He was asked "Have you prself tried it out" and he sd "Ive tried the various ... Speck's vision", you done that? Yes.

He sd, "And none of these changes made any mat. diff. in his view" wd you agree with that conclusion? There are differences but not gross differences.

He says "no material diff" you agree with that? Yes, used as a t'scopic sight.

30

Im interrsted in a comment you made concerning - what were you getting at? Well, person under the age of 35 wd have suff. accomm. i.e. focusing vision to be able to see quite clearly for a sight set as it was found.

35

Correct me if I'm wrong on that aspect, all of us have got muscles
and so in in the eye? Yes.

And thro all the ages whether child or an adult, you can get
s/sightedness or l/sightedness? Yes.

And there are prob. some of us walking around today who have
got s/sightedness that Speck had? Yes, quite well be.

As we grow older, like other parts of the body, muscles in the eye
arent quite so ready to operate, is that the situation? Yes.

So that are you saying that up until about say 35, the muscles of
a persons eye are automatically offsetting any minor defects?

Yes, but the light emerging from t'sight as set was slightly
divergant which is exactly the same as light coming off object
2 feet away, anyone under 35 can see clearly that distance.

Bec. eyes are automatically adjusting and allowing for what a
doctor may describe as a mild defect? Yes.

You havent had the priv. of examining McDonalds eyesight? I have
not.

Coming back to the test you did on that scope, I want to get this
right, by using these various lens, are you able to obtain similar
sightings to a person whoses eyes you are presently considering?
Yes.

And I take it that quite apart from the lens that you had to
enable you to see the same vision as Speck, you wd have had
in yr set of lens lens for persons who may have had a slight
long sight defect? Yes that wd be so.

Youve told us you used yr lens that gave you the same s/sightednes
as Speck, as matter of interest, had you/^{under}taken any testing using
a lens on the l/sightedness test? No.

REX MR HART

Yr evid. relates simply to tests carried out during daylight hrs?
As far as the sights are conc. yes.

Did that tend to be pretty much the optimum amt. of light that
came into the sight that you looked into? Yes, I examined the
sight in DSIR room and it wdnt be as bright as outdoors but it
was daylight.

You sd you never looked thro the t'scopic sight in darkness or
during the evening? No.

COURT ADJ. AT 2.50

COURT RES. AT 3.45

COURT RESUMED AT 4.05

1

MR HART CALLS

ANTHONY TREVOR MORRIS (Sworn)

I live at 1 Seaview Rd, Remuera, duly qualified and regd medical practitioner, specialising as eye specialist.

5

Tell the court yr qualifications? Qualified in 1966, been engaged in the field of specialist in eyes since 1968, been in private prac. since 1976.

Apart from ord. qualificat-on any special one? Fellow ~~of~~ Royal College of London and Australasia, been qualified for 13 years in private prac. as eye specialist for 5 years and 8 years been associated with this field.

10

At the request of the police on behalf of the accused, the defence did you examine McDonald in cells at Court yesterday at 2 o'clock? Yes (prmission given to refer to notes)

15

What did you do and what were yr finding? At the time of examination the vision that McDonald cd see was 6/6 in each eye which I wd regard as normal, able to get this vision even when I put plus lens in front of ~~his~~ his eyes, he was still able to achieve 6/6, this indicated to me he was 1/sighted, I also checked this finding by doing a refraction, using a ~~retina~~ retina scope and this also confirmed that he was long sighted, the degree of longsightedness - being a mild long sight and he wd not need glasses to see in normal daylight.

20

Being longsighted what wd this mean when looking into distance? Have to focus slightly more than the ord. person. He wd also have to focus more than the average person.

25

Are you aware as to the degree of s/sightedness of man called Speck? I am in disc. with colleague Mr Coop ~~whom~~ has given evid. and he informed me that Speck wa s ~~with~~ mildly s/sighted. Further at the request of the defence did you last evening at about 7.30 go to the main stredt cabaret in queen St? Yes I did. And did you there look at a rifle with t'scopic sight and did you also look at a t'scopic sight identical to the one on the rifle before the court? Yes.

30

Look at the rifle now shown to you, is that the rifle that was initially in the custody of the registrar of the court and were you able to handle it and look thro the sights? Yes I was.

Did you look at the newer scope now shown to you, was that the other one you were able to look thro last evening? Yes.

Id like you to look at photos. No.20 and 21, firstly looking at No.20, do you recog. that area as being an area where there is a church which is opp. the main street cabaret? Yes.

35

1 Before taking up position by that church had you further down queen st. had further look at scopes thro the rifle and also on the newer scope? Yes I did.

Did you then take up a position thats to the left of the spire in phto. No.20? Yes, in that area.

And from there cd you get a view that is similar to the photo. and view shown in No.21? Yes that is right.

5 At 7.30 last evening, was it dark? .Yes it was dark, and slightly raining.

When you first took up yr position to do yr tests, was the lighting in front of main street, the outside ones, the lights on the verandah, were they on at that time? They were on.

Did you then generally look firstly thro the t'scopic sight on the rifle? Yes.

10 What sort of view cd you get thro the t'scopic sight? Hazy view of the front of the blg.

Abble for instance to pick out individuals who had been standing in the foyer? It wd havebeen possible but with great difficulty.

Did you also look thro the other t'scopic sight again genrally to see what sort of view you cd get from thatposition? Yes.

15 Did you do any tests with lights on in thatposition, the lights on under the verandah? Yes I did.

Cd you tell the court just what you were able to observe with the lighting in that condition? When I adjusted the eyepice by winding itback and forwards to the optimum pos. I was able to get a fairly clear view of the ~~xxxx~~ sfiting on notice board to the right of the main doors on main street, by optimum position is got from turning it backa nd ~~wa~~ forwards. I have normal correct vision.

20 At this time, were you looking thro the t'scopic sight on the rifle? On the duplicate t'scope.

Carr yon? After this, I turned the adjustment forward to where a person who is s/sighted wd have set it and the view obtained thro it was blurred but objects still recognisable and it wd be poss. to see a person thro the t'scopic sight, at this time the magnification set at 3 and 4, between 3 and 4.

25 Was that as it were looking thro the rifle in position that wd be for s/sighted person? Yes.

30 What otherposition did you test it at ? Also placed small powered minus lens in front of the scope to see what efect it wd have for a l/sighted this person and this made the sight more blurred, so that a l/sightedperson wd have had to focus more when looking thro the scope at my setting and much more when looking thro the scope as set with the adjustment wound forward.

What wd be the pos. then for l/sighted person looking thro the t'scop in otp. position for s/isghted person? Picture seen slightly blurred but objects wd be recognisable, also adj. magnification to increase to the max. which is about 9 and this blew the picture up considerabl

35 altho had the disadvantage of decreasing the view.

1 Was the position you viewing the cabaret from about 50 yds from the cabaret itself? Yes it was.

At this stage you've told us your examination you did was with the lights full on, were arrangements then made to turn off the front lights and to ~~arrange for the lights to be turned off and~~ ~~the light bulbs removed from the chandeliers on~~ ~~the ceiling.~~

5 At that time would there be neon lights in the vicinity? Yes, there were 3 others of fairly good intensity, one to the right of the cabaret and 2 across the street, one illuminating sauna parlour and the other a hotel.

From enquiries of the proprietor, was it understood they were not on that morning? Yes.

10 On the basis of carrying out your tests, they were on nevertheless? Yes. Did you then, having as it were, arranged for the conditions as near as possible that would have prevailed at 3.30 on 1st July, did you then go back across the road to the previous position in which you had been? I did.

15 Can you tell the court then your findings at that stage? The foyer of the main street was in a shadow and through the telescopic view the duplicate one, set to the optimum vision for my vision, I was able to see a figure of a man standing in the foyer and distinguish his shape of his hair, the shape of his nose, the profile and quite definitely distinguish his head from his chest from his legs. I then reset the telescope by winding it forward to where I thought it was best for a sighted person, and I found that the view of the person standing in the foyer was reduced. The 20 blur was such that it would have been difficult for me to have described the person, the nose, the nose was not clearly identifiable, it would not have been possible for instance to say whether or not he had a moustache, but in spite of this the head was still distinguishable from the body although the whole image was blurred as seen with an out of focus photograph or t.v. screen, my inclination while watching the person through viewer was to adjust the eyepiece, try and bring the 25 person back into clarity.

Did you check both the position for a sighted and a sighted person? Yes we also put lens in front of instrument again and this made if anything, the position worse.

30 So then what would be your evidence for a sighted person looking through in the conditions you've described a telescope set in the optimum position for a sighted person? ~~That I could see the image of a person with a~~ ~~telescope and not distinguish the features.~~ This again all took place at a magnification of between 3 and 4.

1 Wd the prson be aware they were not seeing clearly? In my view, yes, very much so.

What effect does the question of the zoom or enlargement have? It increases the size of the person so that only their head fits into the viewer and it was still a blurred imagen of the head, prob. I wd have been able to recog. person at this time but inclination wd be to clear the picture as you wd adjust a t.v. set, to clear the picture.

5 You sd earlier that it rained last evening, was it heavily? Light drizzle on and off.

What effect wd heavy rain have on gen. aspect of visibility? I think heavy rain wd have further made recognition diff. bec. of presence of water on the lens, and also decreased visibility one has on a dark night when raining.

10 Did you have difficulty yrself making the adjustment? Not mcuh difficulty at all, Im not familiar with guns.

As far as the lighting is concerned, wd you say the effect of the lighting was quite considerable? This was definitely my impression/ If Evid. given about view you can have in daylight, any tests carried out in daylight wd bear no resemblance to the position in darkness compared to yr findings? This wd be my opinion, considerable ediff. 15 bet. view before lights turned off and after turned off.

In daylight there wd be a greater diff? I think it wd be about the same really bec. before lights turned off the blurring - when person standing in bright lights, it wd be sim. to daylight conditions. Distinguishing - the lights on or off under the foyer wd have made the diff? Yes, a big difference.

20

QAD MR MORRIS

I want to ask you questions about the ability of the accused McD. to see a person in the foyer of the cabaret from across in the approx. position that you were setting yr sights from, u'stand? Yes. Do u'stand that as a res. of yr using lens, weve heard a bit about that, you were able to get the picture of that cabaret foyer 25 that he wd have got? Yes.

Thats the picture that he wd have got using thro a scope in good condition such as this (new one shown to witness)? Yes.

As I u'stand yr evid., correct me if Im wrong, he wd not get a picture that was totally unrecognisable? In what position was the scope in that we are discussing now?

30

The position that the DSIR have told us about namely the position for s/sighted person? As Ive sd to you, in the condition that wd be mentioned, he wd have quite good view of objects, he wd see and distinguish nose from eyes, and beware of what sort of haircut they had.

35

1 Take the foreman and the lady next to him, wd he be able to distinguish that one was male and the other female? Yes.
 Wd he be able to recog. whether or not the foreman had moustache or not? In position with lights on I belive so.
 Wd he be able e.g. to line up for a head shot? Yes.
 Im not sure what that means.
 Line it up? Yes.

5 And wd he be able to aim up for a chest shot? Yes.
 And he wd now be able to tell if it was lady or man that was there? Yes.
 Youve told us about how you tried to get a not so good light positio
 I want to ask you whathe wd have been able to see then, follow me?
 Yes I do.

10 Wd he be able to see that he was firing or aiming at a man? If the it depends on the dress the individual wearing, not poss. from feathr featur's to dëstinguish if it was man.
 But he wd be able to see their head? Yes he wd see blurred outline of the head.
 He wd be able to see the outline round here and look at it? Yes.
 And aim at it? Yes,
 And he wd be able to line up a chest shot? Yes.

15 Depending on the dress, he may or may not have been able to distinguish sh if it was male or female? Yes.
 And I think what yr saying certainly wd be diff. for him to dist. between the lady in front row, her facial features and the lady behind her, correct/ Yes.
 So that really if he was aiming at one girl aiming to hit one particular girl whose face he cd recognise or body he cd reg. he might have been mistaken as to her true identity? Yes, cd well have-been.

20 Did - I asked you about the scope in good condition. Did you do at the same time experiments and tests with the actual gun? yes. It obv. had been in water for some menths and wd not be in as good condition as the other one? Correct.

25 Looking thro it however even after it had been in water and so on and so forth, and adjusting it, to the setting as before, and using the lens to put yrself in McD's eye position, were you still able to identify the person you were looking at? You cd/^{not}see the person standing at the door, that was bec. of the state of the scope. One other matter, youve been good enough to tell us that McD. ~~is~~ 1/sightedness is relatively minor? True.

30 I u'stand the evid. about this that depending on yr age the muscles ofyr eyes react quicker to offset efficiency? Id like to rephrase that, the lens in the eye changes shape less gradually.
 A man of 45 as compared to say a man in his 20's, the lens in the eye doesnt change as much? Right.

McD. is in his 20's I gather? Yes.

That is the age group where the lens of the eye changes fairly readily? More readily than it does for a person of 45.

When you examined McD. did he tell you about suffering a blurring or anything of that nature? Yes.

Wd that sugg. his eye muscles are compensating virtually all the time for this defect? Yes, that is the position.

Muscles are alive for that defect? Yes.

5 REX MR HART

On this issue of comensation, is hatnatural process that goes on? Yes. Does that issue affect yr observations? No it doesnt, it wd mean that I am 36 years, 10 years older, and the difference bet. a person in 30's and 20's is not very great.

Id like to believe that at least.

10 You were asked about the issue of what a l/sighted person cd see in opt. position for s/sighted person and asked if a person - one girl cd be mistaken for another? Yes.

From yr obs. what was the inclination you had when looking thro the t'scope with the blurring you described to the jury? I think I felt that if he wanted to alter the focus to make best detail of the face, maybe Im used to using instruments, this is def. something, when you

15 sit a watch t.v. when not in focus you get up and change it, this is definitely the feeling I had, you want to get every detail you can bec. under those levels, the details were indistinct.

Did that mean you were straining when looking thro them in thatpos?

Yes you were having to work quite hard to see the features of a person across the road even with the t'scope set in its opt. position for my

20 eyesight.

So a l/sighted person looking ghro t'scope set in pos. for s/sighted person cd turn it around and get it to the best position for that part. person? Yes.

You were able to do that? Yes I was.

COURT

25 We know that the t'scope on the rifle was in water for about 2 mths, looking thro the one on the rifle and comparing it with he new one, did you see any difference in the colour of the image? Yes, the one on the rifle was green/yellow colour.

Did that make it more indistinct than the new one? Much more.

30 And wd that green/yellow colour be something that cd result from being in water? Not expert on that, but from exp. of binoculars, I wd say yes.

IN THE HIGH COURT OF NEW ZEALAND T. 281/79
AUCKLAND REGISTRY

R E G I N A

v.

BRIAN RONALD McDONALD

Hearing : 21, 22 April 1980

Counsel : D Morris & S Grieve for Crown
 B Hart & Conway for Accused

(ORAL) RULING OF PRICHARD J

Defence counsel have raised a preliminary objection to the admission of the evidence of the witnesses Gary Keith O'Connor and Bruce Graham Speck. The grounds of the objection are firstly that these two are properly to be regarded as primary parties to the commission of the offence charged and that for this reason, the Solicitor-General does not have the power to grant them immunity from prosecution. Secondly, and alternatively, if immunity is effectively given, then there are special circumstances in this case which ought to move me in the exercise of my discretion to exclude their evidence in order to ensure a fair trial.

It was suggested, initially, that there was no evidence of a formal indemnity having been granted by the Solicitor-General, the immunity consisting only of assurances given by police officers that there would be no prosecution if they gave evidence. This matter has been resolved by the production of a formal undertaking by the Solicitor-General in respect of each of these persons to the effect that any prosecution arising out of the homicide of Margaret Bell will be stayed. The documents are dated 12th December 1979.

Having heard at considerable length the evidence of both Speck and O'Connor, I am left with no doubt that, for the purposes of this inquiry, I must regard

- 2 -

both Speck and O'Connor as principal parties to the offence on which McDonald is indicted. Indeed, it appears that the substantial issue in this trial may resolve to a question whether the crime was perpetrated by two persons - namely Speck and O'Connor - or whether there was a third person equally involved, and, if so, whether or not that third person was the accused McDonald. The position in those circumstances is quite clear. It would be most irregular and improper to permit either of these men to give evidence against the accused if at the time when their evidence is given it can be said that they can derive a substantial advantage to themselves from so doing.

For many years it has been the practice of the Courts to insist that before witnesses in that sort of situation can be called to give evidence, the prospect of their being able thereby to gain an advantage for themselves must be eliminated. This can be done in a variety of ways, as mentioned in Archibold, 40th Edition, p.251. These include the offering of no evidence against the prospective witness so that he is acquitted before his evidence is given, the taking of a plea of guilty from the witness followed by his being sentenced before he gives evidence, and the entering of a nolle prosequi - again prior to his giving evidence. On a parity with those precautions is the granting by the Crown of what is generally referred to as an immunity against prosecution.

In the present case, such an immunity was granted, the documents, as I have said, being dated 12th December 1979 - which was the day on which O'Connor gave his evidence on the taking of depositions and the day before Speck gave his evidence at the preliminary inquiry. I have no doubt that the Solicitor-General, as the representative of the Crown, has a complete discretion in this matter. Through the Solicitor-General the Crown has elected to grant these men immunity from prosecution and the Court cannot go behind this or question in any way the power of the Solicitor-General to act in this way. I must take it that the Solicitor-General was persuaded that this distasteful course was in the public interest and that in taking it he had in mind the strictures which were made in Turner's case, (1975) 61 Cr. App.R. 67, at 80.

As well as the requirement that there be a fair trial, I have to consider as well the requirements of public interest. I believe that should there be a real conflict between those two considerations - the requirement of a fair trial and the requirement of the public interest - then I should resolve the matter in favour of the accused.

I am invited by Mr Hart to go beyond the fact of the immunity. He says, as I understand him, that there ought to be considerations weighing upon this Court which would not necessarily be given the same weight by the Solicitor-General. I accept that this is so. It is my duty to see that the accused has a fair trial and this may, in this situation, be more important than the expediency of serving the public interest, which is that criminals should be brought to justice.

The normal requirements antecedent to the calling of an accomplice as a Crown witness having been complied with, I am left with the proposition that, in the interests of securing a fair trial for the accused, it is my duty to exclude the evidence of these two men. I believe that any right thinking person will recoil from the prospect of a man being put on trial on evidence coming from accomplices who, on their own admission, were not mere accomplices or secondary parties to the offence charged but were so implicated that in law, should their evidence be believed, they have to be regarded as equally guilty with the accused of the offence charged.

The issue, as I see it, is whether or not there is at the present time any improper inducement remaining for these two witnesses to falsely implicate a third person. As was said by the English Court of Appeal in Turner's case (at page 79) of the report:-

"It is necessary however to consider Small's position at the time when he gave evidence."

There may indeed have been a powerful inducement to a witness to give the police information about his partners in crime but if that inducement no longer operates because in one way or another all the charges which could possibly be brought against him have been disposed of or terminated, then the earlier inducement is spent and is irrelevant. In virtually the same circumstances as we have here, Lord Justice Lawton said in the Turner case:

"These facts ... would have justified the Judge in refusing to exercise his discretion to exclude Small's evidence had he been asked to do so which he was not."

I have reached the conclusion that there was no impropriety in the means by which these two men were persuaded that they should give evidence, that there is now no

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prospect of either of them deriving any advantage from so doing, and no reason now why they should seek to ingratiate themselves with the Court. That being so, the objection taken by the defence really amounts to a submission that because of the character and their complicity in the crime, their evidence ought not to be relied upon by the jury. Those are matters which will be canvassed to their fullest throughout the trial and during the summing-up, and the dangers inherent in acting on such evidence will be stressed not only by counsel but by me. I have not been referred to any decision in which the Court has exercised a discretion to exclude such evidence when, as in this case, the necessary foundation has been laid for accomplices to give evidence by removing all prospect of inducement prior to the time when they gave their evidence.

Accordingly, it is my view that the jury is entitled to hear this evidence, whatever it may be worth, and that these two are in fact competent witnesses for the Crown. I have considered the evidence in respect of each of them individually and can see no reason to make any distinction between them in regard to the matters I have referred to.

I hold, therefore, that the evidence of both witnesses is admissible subject, of course, to all that may be said at the trial as to the worth of their evidence. Subject to that, I hold that their evidence is admissible and that they may be called as witnesses for the Crown.

"PRICHARD J"

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

T.281/79

REGINA

v.

BRIAN RONALD McDONALD

Hearing: 21,22,23,24,28,29,30.4.80,
1,2,5, & 6.5.80

Counsel: D Morris and S Grieve for Crown
B Hart and Conway for Accused

SUMMING UP OF PRICHARD J

Mr Foreman and members of the jury, it is now my function to sum-up this case which means that I have to remind you of some of the significant portions of the evidence, obviously not all the evidence, and to give you directions about the law which applies in a case like this. I have to cover ground which has been covered by counsel during their addresses because these matters all have to be part of the record so you may find me telling you things which you will already have heard from counsel about the law. You must bear with me and be patient because I have to do this.

Let me say at once that you are the sole judges of fact in this case. The verdict has to be yours and yours alone. In the course of what I say, I will necessarily have to refer to the evidence and occasionally you may think, from what I say, that I have some opinion of my own about the evidence one way or the other; about some question of fact. But you must clearly understand that as regards questions of fact, you are completely free to disregard anything I say. The facts are your responsibility. They are not mine. Whenever there is a question of fact to be decided, you are the only judges. It is otherwise as regards questions of law. If I am wrong, there are ways in which this can be put right but it is not your concern to question anything I say about the law. I am here to help you about the law and you are to accept what I say about it as being correct. I do not think there is any problem in knowing the

difference between a question of law and a question of fact, at any rate, in the context of this case. Questions of fact are questions as to what happened, what people did, what the circumstances were. Questions of law are questions as to the legal consequences which flow from those happenings, those circumstances and those actions. Of course there is another type of question of law, and that is the type of question dealing with what evidence is admissible and what is not admissible; questions of what the burden of proof has to be in a case of this kind. Well, it is the facts that you are concerned with and in that area you are the sole judges and any views I may hold about those matters are not to influence you.

The next thing I have to say to you is that you must exclude from your considerations all extraneous matters and you must deal with this case only on the basis of the evidence that you have heard within the four walls of this Court. You are not to allow yourselves to be influenced by sympathy for Margaret Bell's family or prejudice, if you have any, against the accused. As you know, the manner in which Margaret Bell met her death has been the subject of a great deal of publicity and that has included some guesswork and speculation as to what happened and the reasons for it. Anything you might have heard or read from any other source outside this Court you must shut out entirely and completely and look only at the evidence you have heard. That does not mean that you are to abandon your commonsense or your ability to reason and put 2 and 2 together. You see, the reason juries are called on to make the final decision under our system of administering justice is because the members of the jury, with their varying backgrounds - ways of earning a living and so forth - represent a cross-section of the community. So that, between them, the members of the jury are bringing to the administration of justice an immense fund of practical experience of life and day-to-day living. You are not asked to leave all your commonsense and experience of life at home when you come to the Court; the important thing is that you should bring it with you and use it. So it is for you, as judges of fact, to make your own assessment of the witnesses, to decide which is to be believed, which is to be distrusted. And you can base that, if you like, on the impression that a witness may give you in the witness box of his demeanour, or the way he answered questions, and you should bear in mind, to, that a person may well tell the truth about one thing and lie about another. I think we have all probably done that to some extent. But, of course, if a person does lie to you about one thing then you will think twice about accepting what he says about something else. And by the same token, by using your commonsense, the powers of deduction and reasoning which you have, you are free to make proper inferences and deductions from the evidence.

You know what a deduction is. You know what an inference is. But you must not confuse logical deductions and inferences with conjecture, speculation and guesswork. There is no room for those things in a matter as serious as this one is. And if a particular piece of evidence or several pieces of evidence, considered together, leave you with two equally possible inferences or deductions, then as you have been told, it is the one favourable to the accused which is the one you must use. And that, of course, is because of the rule we have as to the onus of proof in criminal cases. And that is the next matter to which I must refer.

In every Court case, it is important to know which party has the burden of proving each fact which is in issue, which is in dispute. If one party wishes to rely on a particular fact, then he has the burden - the onus - of proving that fact. And if he fails to do it, his case must fail and it is not for the opposite party to prove or disprove that particular fact in any way at all. That can have far-reaching consequences in a Court case. In a criminal trial, the rule is always that the onus of proof is on the prosecution. There are a few exceptions to that but they are not exceptions which come into this case. That simply means that every ingredient or element of the offence charged has to be proved by the prosecution. The accused is never called upon to prove anything, to disprove anything. If he can point to any failure on the part of the Crown to establish some fact which has to be established as one of the elements or ingredients of the offence with which he is charged, if he can do that successfully, he is entitled to be acquitted.

Now closely related to that question of onus of proof is the question of standard of proof required. And here again, the rule is clear and you have heard it from counsel on both sides. Not only is the onus of proof always on the prosecution but the standard of proof required, which the law demands, is proof beyond reasonable doubt. Now the expression "beyond reasonable doubt" is really self-explanatory. Attempts to expand or explain it have been made and they all seem to go round in a circle and finish up with the same proposition - proof beyond reasonable doubt. Now that is not to say proof with absolute mathematical precision. It does not mean that. There cannot be mathematical certainty and precision in most of the affairs of men, but what it does mean is that before a man can be convicted of a crime, the court has to be satisfied of his guilt - of every element which is comprised in the offence - to such a degree that there is no room left for reasonable doubt. If there is room for such a doubt, then the accused must be given the benefit of that doubt and must be acquitted. We are speaking, of course, of reasonable doubt. That does not mean any

frivolous or fanciful doubt that might occur to you or which might be suggested to you. You have to be satisfied on the whole of the evidence to the same degree of sureness as you would want to be before making an important decision in a serious matter in your own lives, and the accused is entitled to be acquitted unless you are satisfied to that degree of sureness - and it is a high degree of sureness.

In this same connection, dealing with the onus of proof and standard of proof, there is one other matter that I have to mention, and that is the fact that in this case, the accused has elected to give evidence. That does not happen in every criminal prosecution. In fact I would say it happens in a minority of criminal prosecutions. As you have heard, he is under no obligation to give evidence and to face up, as he did, to cross-examination. He is perfectly entitled to sit there and point to the deficiencies, if he can, in the Crown case and say he is entitled to be acquitted. And if the deficiencies are there, if the elements or ingredients of the offence are not established, he would be right in so doing. And that, in many cases, is what happens. But McDonald has elected of his own free will to give evidence. The point I want to make about that is that the burden is in no way altered by the fact that the accused has given evidence and called witnesses. That burden remains as always on the Crown. In other words, the accused, by giving evidence does not assume the responsibility of proving himself innocent. It would be quite wrong for you to approach this matter on the basis that if the accused sets out to prove his own innocence, and that if you should think that he failed to do that, therefore he has to be convicted. All it means is that the accused, by his own evidence and that of his witnesses, has added something to the sum total of the evidence which you have to take into account in reaching your verdict. You still have to be satisfied on the sum total of that evidence and, beyond reasonable doubt, that the accused is guilty before you can convict him. I hope I have made that clear. If you were to take say the analogy of the scales of justice, the evidence of the accused and his witnesses has to go into those scales to be weighed along with all the other evidence. Some of his evidence may tell in his favour and some may possibly even tell against him. But that is your province and not mine - to decide what evidence you believe - what weight you will give or attach to any piece of evidence. But always remember this: that the burden of proof does not shift on to the accused when he elects to give evidence. The question for you is whether, on the whole of the evidence - and that includes the evidence of the accused and his witnesses as well as the evidence called by the Crown - you are satisfied beyond reasonable doubt that he is guilty. If you are not so satisfied, he must be acquitted. And that means, of course, that if, in the face of the prosecution evidence you find

that you believe the accused's account of the matter, and if that account clears him of the crime, then he is entitled to be acquitted. That is obvious. It goes further than that. If, in the face of the prosecution evidence you think that the evidence of the accused might be true, although you are not sure, and if being true it would clear him of this crime, then too he is entitled to be acquitted because if you think it might be true, then you have a reasonable doubt and when you are in that state of mind, he is entitled to the benefit of that doubt.

A moment ago I used the analogy of the scales of justice and the necessity of weighing all the evidence, from whichever source it comes. Do not take that analogy too far. It is not a case of saying whether the scales are evenly balanced: to see whether they tip slightly one way or the other. That is not the way to look at it at all. The way to look at it is the way I put it originally. The question is whether you are satisfied by the whole of the evidence beyond reasonable doubt that the accused is guilty. Please think of it that way and remember that if you are left with a doubt, McDonald gets the benefit of it.

I want to say a few words about statements made to the police. There has been some evidence of interviews between police officers and the accused. As you would expect, if any damaging admissions are made by an accused person on such an occasion, then provided the admission was not forced out of him by brow-beating or something of that sort, those admissions are available as evidence against him but that is where it begins and ends. What a police officer says and puts to a person who is later accused of a crime is not evidence at all; it is proof of nothing unless the person to whom the statement is put admits the truth of it. Nor is anything really to be taken from the fact that he may decline to answer questions. That is his right. It is the right of every person in this country, in all countries where the English system of justice pertains. And it is not unreasonable for a person who knows he is suspected of a crime, whether he be guilty or innocent, to decline to say anything. If he can later be criticised for exercising that right, then the right is really effectively destroyed. So you must pay no heed to any suggestion or statement which you have heard as being put to McDonald by any police officer unless he has admitted the truth of it to the police officer, and you must not make any inference against him from the fact that he exercised his right to refrain from answering certain questions put to him for the purpose of discovering whether he committed the crime or not. As a matter of fact, there are no assertions of any material significance which were made in the present case or which were admitted by the accused except, I think, only that the car was

O'Connor's and that he often drove it, and that he knew Speck and O'Connor - and that is not in dispute. In fact I direct you, as a matter of law, that you put out of your minds - because they prove nothing - the various matters which were put to McDonald by the police in the course of their investigations and that you draw no particular inference against the accused from the fact that he declined, in exercising his legal right, to answer certain question.

Still, in this area of proof and evidence, I must deal with the question of the evidence of the accomplices. A great deal of the evidence in this trial has come from persons who, on their own admissions, were deeply implicated in the events of the early hours of the morning of 1st July last year and I am referring, of course, to Speck and O'Connor. Now they received an undertaking from the Crown that no matter what, they will not be prosecuted for any part they played in this affair. So they come to the Court as witnesses who ostensibly have nothing to gain or lose by their evidence. In fact it goes beyond that. It is not that they ostensibly have nothing to gain or lose - they in fact have nothing to gain or lose by their evidence at this stage. They could have gone into the witness box and said "Yes, we did it, McDonald didn't do it". They could have said that and nothing would have happened. Still, there is a well recognised danger in coming to the conclusion that an accused person is guilty on the reliance of an accomplice. The danger lies in the fact that a person who is an accomplice, who himself took part in the commission of the crime, knows exactly what took place and so is able, with that knowledge, to give an account of what happened in which he minimises his own role and exaggerates the part played by the accused. Indeed he may go further and incriminate some completely innocent person by identifying that person with the part which was actually played by the witness himself. Now that is a very real danger. I am bound to warn you of that danger and I now do so. The fact that these witnesses have received what is often called "immunity against prosecution" and so can gain nothing by their evidence at this stage does not eliminate the danger. An accomplice may well have given a false account at the beginning or in the first place in order to "save his own skin". Having once given a false account, such a witness is likely to stick to it. Of course the position will be quite different if the evidence of the accomplice is corroborated and does not stand by itself but is supported by evidence from another and independent source. That does not mean just general support, but evidence which goes to show that the identity of the innocent person has not been substituted for that of the criminal. Now that is what is meant by corroboration in this context and the warning I give you is that it is dangerous to convict on the uncorroborated evidence of an accomplice. But to understand what is

required by way of corroboration, you really only have to remember where the danger lies. It is a possibility that the accomplice has substituted some other person in place of himself. There is no need for evidence corroborating the whole of the evidence of the suspect witness. That would be absurd because you would not then need the evidence of the suspect witness at all. But if there is some piece of evidence which shows that an innocent person has not been placed in a position which the witness was really in, that is the sort of corroboration that is looked for. Now in this regard, you must understand also that the evidence of one accomplice cannot be relied upon as corroborating the evidence of another. The reason for that is obvious. If one accomplice is going to implicate the wrong person, then he is likely to enlist the help of any other accomplice who is in the same position as himself and to present a collusive story which will clear them both. So the evidence of several accomplices needs no less corroboration than the evidence of one. Corroboration should really confirm both the commission of the crime and the identity of the person who is the perpetrator. There is no problem in this case about the commission of the crime. It does come down to this; is there evidence of some fact which is proved independently altogether of the evidence of Speck and O'Connor and which, taken by itself, leads to the inference that McDonald was the actual perpetrator of this crime? Then if that be so, that is corroboration. In my view, there is no such evidence in this case and it is my duty to tell you that. Because of the difficulty in determining what is corroboration, you must accept it from me that there is no evidence you can consider properly as corroborating the evidence of Speck and O'Connor when they identified McDonald as the gunman.

The last thing I want to say to you about accomplices and corroboration is that even though there be nothing but the evidence of accomplices to connect the accused with the offence and, even though there is a total lack of corroboration as there is here, it is nevertheless open to you, and it is your duty if you are fully convinced by the evidence that McDonald was a principal party in the commission of this offence, to convict him. You are free to do this even if there is no corroboration but you should bear in mind the warning I have given you and it is only if, bearing that warning in mind, you remain convinced of McDonald's guilt, that you should convict. You are not to go hunting through the evidence looking for corroboration. You are to take it from me that in fact there is an absence here of corroboration in the sense I am referring to.

A few words about circumstantial evidence, and I am not going to say much

about that. This case depends really on circumstantial evidence. There are two kinds of evidence; direct evidence and circumstantial evidence. Direct evidence is the evidence of an eye witness who can say he saw, or perhaps heard, what happened. Circumstantial evidence is any other kind of evidence. We have e.g. direct evidence that Margaret Bell was shot, but there is no witness who claims to have seen the person who fired the shot at the moment when he fired it so we are dealing with circumstantial evidence when it comes to identifying the gunman in this case. There is nothing suspect or second-rate about circumstantial evidence. Direct evidence depends on the honesty, the powers of observation and recollection of the witness who is or claims to be an eye witness. When you get evidence from a variety of sources, there may be a number of facts which, together, lead to a conclusion which you cannot escape. You are on safer ground than by placing reliance on the direct evidence of an eye witness. It is really, as Mr Hart said to you, just a matter of applying commonsense to the facts that are proved and finding what inferences, if any, can safely be drawn from those facts. Sometimes these facts are thought of as a link in a chain, each piece of evidence being a link so that if one link fails, the whole chain must collapse. But that is not a good comparison. It is more like a rope than a chain and a number of strands which, taken together, lead firmly to a certain conclusion though each strand in itself may have little strength. You should therefore look at this matter and see whether there are facts which lead to any inference and if it be an inference of guilt, then, is it so strong an inference that you can safely say that you are satisfied beyond reasonable doubt? One of you may follow different reasoning from another; attach more importance to one strand of the rope than another. That does not matter. It is the overall result which matters; whether, on the whole of the evidence, you are collectively satisfied beyond reasonable doubt of McDonald's guilt. That is all I have to say to you Mr Foreman and ladies and gentlemen about evidence, onus of proof, standard of proof, what you can look at and how you are to apply yourselves to the problems.

It is necessary for me to deal with the definition of "murder". For the purposes of this case, you must take it that it is murder to kill a person by an unlawful act if the person who did that unlawful act intended to kill, to cause the death of the person killed or, to cause that person any bodily injury which the offender knows is likely to cause death and is reckless whether death ensues or not. And it is also murder if the offender, by mistake or accident, kills a person he did not mean to hurt, provided of course, that he had the intention I have described of either killing another person or causing him bodily injury which he knows is likely to cause death and is

reckless whether death ensues or not. So if it was someone killed in mistake for someone else, that makes no difference. The difference between murder and manslaughter is simply a question of the state of mind or intention of the offender. In both cases, i.e. both murder and manslaughter, there has to be a killing by an unlawful act. For the offence to be murder, there has to be an additional ingredient and that is an intention either to kill or to cause bodily harm of the kind which I have described. Now it is an unlawful act to point a loaded rifle at someone. It is an unlawful act to fire a rifle in Queen Street. So you can take it that the death of Margaret Bell was certainly either murder or manslaughter. The unlawful act is established and whether it is murder or manslaughter would depend on the intention of the man who pulled the trigger. Now there have been cases in which a murderer has announced his intention to kill or to cause bodily harm. But in most cases, it has to be a matter of inference. It has to be inferred from the circumstances. It would, I think, be impossible in this case to say how the intention of the killer in this case could be other than to cause death. The use of a high velocity rifle of this kind fitted with that telescopic sight is not consistent with anything less than an intention to kill or, at the very least, to cause the kind of bodily injury that I have described, and when you couple that with the circumstances, the stealthy approach by night, the getaway set-up, I think you must infer that the intent was there. But I have told you the definition and it is a matter for you. If you are satisfied that McDonald was the gunman and you are satisfied that he meant to cause somebody's death, then you should find him guilty of murder.

That is the definition of "murder". I have dealt with the mental element which is so important; the intent. I have said that on the facts it would be impossible really to get any other result than that the intent was to kill.

There is another related matter and that is the question of motive. Intention is not at all the same thing as motive. Motive is the reason which induces a person to act in a certain way. A person might e.g. kill his wife for a variety of reasons; he might wish to save her a lot of pain and suffering or he might not wish to go into the expense and delay of divorce proceedings. In either case, his intention is to kill. His offence is murder but his motive is totally different. Motive is not one of the ingredients of crime and there is no requirement that it be proved by the prosecution. But, of course, if motive does exist, it does go towards showing that the allegation - in this case an allegation of murder - is likely to be true. Conversely, if no motive is apparent, this is something to which the defence can point, and can

rightly point, as militating against the probabilities of the case for the prosecution. Provided the intention to kill is there, it is not at all necessary for the prosecution to prove motive to establish the ingredients of the offence. And it is one of the submissions to you in this case by the defence that because of the apparent inadequacy of the motive - as a motive for killing or forming an intention to kill - that that is something you should take into account in considering the case as a whole. And so it is. But you should not assume, I think, that we all have the same mental processes. That is very far from being the truth. A motive which might strike one as being totally inadequate as a reason to commit murder might operate very differently to a person accustomed to gaining his needs by violent means or perhaps who does not value human life as I would hope you and I do. We have to share this world with people, a minority of people, whose mental processes; whose reactions; whose instinct of retaliation, are so different from ours that it would be incongruous to substitute our sort of reasoning for the reasoning of such people. I just repeat that although motive or the apparent absence of motive can have a bearing on the probabilities of the case, it is not incumbent on the prosecution to discover or prove motive. It is not an element amongst the ingredients of the offence charged in this case.

As far as I have gone in dealing with the various legal points which I believe to be involved in this case, I do not think I have said anything which you will find any difficulty in following.

The next matter that I must refer to is rather more complex. But in the context of this case, it is vital that you understand it. I refer now to the situation in which people may be parties to an offence. Now you must realise at the outset that it frequently happens that a crime is committed by more than one person. To take a simple example, a burglary may be committed by one person or by three or four acting together. One might e.g. open the safe, one might keep watch for the police and one might drive the getaway car and be waiting outside ready to move off. And you will readily understand, I think, that as far as the law is concerned, that burglary, carried out by those three or four people, would be an offence committed by all of them. They are what we lawyers call "principal parties to the offence" and they are all equally guilty. The same principle applies to all criminal cases and the law has to provide rules for such cases. Now, the first rule about that is that no distinction is made in the wording of the charge. That is to say, taking my burglary example, the charge brought against the driver of the getaway car would simply be burglary and he would be convicted as a burglar although in fact it was not he but another member of

the gang who actually opened the safe; who burgled the building. Someone else performed the physical act of breaking and entering. But the driver of the car or the man who watched for the police is charged and can be convicted as a principal party without any distinction being made at all in the charge or the conviction. The rules for this are set out in s.66 of the Crimes Act and I will read that section to you because it does set out, in reasonably simple language, the rules which the law has evolved as to who are to be treated as principal parties to criminal offences and I now read it:-

- 66. "Parties to offences - (1) Every one is a party to and guilty of an offence who -
 - (a) Actually commits the offence; or
 - (b) Does or omits an act for the purpose of aiding any person to commit the offence; or
 - (c) Abets any person in the commission of the offence; or
 - (d) Incites, counsels, or procures any person to commit the offence.
- (2) Where two or more persons form a common intention to prosecute any unlawful purpose and to assist each other therein, each of them is a party to every offence committed by any one of them in the prosecution of the common purpose if the commission of that offence was known to be a probable consequence of the prosecution of the common purpose."

The first thing to notice about that is that there are two subsections and the first one refers to the case where the offence which was planned or intended by the parties is the offence which was actually committed. The second subsection deals with the rather special case where they set out on some unlawful purpose and, in the course of doing that, another offence is committed which was not part of their original purpose but was committed in the course of carrying out that purpose. That is what is sometimes called a collateral offence. So, going back to my burglars, if I may. Their common purpose was burglary. But if they took a sawn-off shotgun with them and they all knew that the shotgun was there in the possession of one of them, and

someone was shot in the course of the carrying out of the burglary or resisting the police or something of that sort, they would all know that a probable consequence of carrying out a burglary armed with an offensive weapon is that something just like that would happen. They would, therefore - because they were all parties to the plot and knew what was going to happen and because this was something which they would know was likely to happen - be involved in the shooting which could, of course, be a murder. So, they set-out to commit a burglary and they finish up by being convicted, rightly, of murder. That is the second type of case covered by s.66.

Dealing with the first part of that section, i.e. the usual case where the particular offence intended to be committed is the one actually committed. The effect of that subsection is to bring in aiders and abettors, as we call them. They are all declared by the subsection to be principal offenders. What are aiders and abettors? To "aid" means simply to "help". It means "to help or assist". Some form of help or assistance involve direct participation in the commission of the offence. There are other ways of helping or assisting in the commission of an offence such as by giving advice or by actively supporting the person who pulls the trigger, or whatever the case may be. So the section uses these words, "aids, abets, counsels and procures" to extend the meaning to cover those other forms of advice, assistance or encouragement. That encouragement e.g. could consist of being there, present when the offence is committed, ready to help if need be and lending moral support to the principal actor in what was done. Of course it would not apply to a person who happens to be there as a mere spectator. It would only apply to someone who was there knowing what was going to be done and lending his support and encouragement to the enterprise. In this case you will not need to be worried about those more remote or tenuous kinds of abetting. The case here is that McDonald, on his own admission, drove the car which transported the gunman, whoever he was, and the rifle and the ammunition to the scene. And the case here, of his own admission, was that he drove the car which was used as a getaway car after the crime. And if he knew that it was intended to kill somebody and that that was the purpose of the expedition, then his assistance is direct, active assistance. You would not need to be concerned in that event with whether his presence was encouragement or an incitement or something of that sort.

There are a few points about this aiding and abetting business that I must explain here. The first one is that the sort of aiding or abetting covered by that section I have read to you has to be something done prior to or contemporaneously

with the actual commission of the offence; not something done afterwards. Taking my burglary example again, the driver of the getaway car would be aiding and abetting in the commission of the offence because he would be there waiting in the getaway car possibly with the engine running. But a person who came into it only after the burglary and was persuaded to give the burglar a lift home would not be within that sphere even though he knew exactly what they had been up to and was helping them. He would be, what we call, an accessory after the fact but he would not be a principal party to the commission of the offence. You see the difference. It has to be something done either before or contemporaneously with the commission of the offence.

Now in the case we are considering, this offence was completed the moment Margaret Bell died; that is when the offence was completed. Well, suppose e.g. that McDonald knew nothing of what was going on until after her death and, only then, after that he realised what had happened and with that knowledge he helped the others to escape. That would not make him guilty as a principal offender if he only came into it knowingly after the bullet had been fired.

The second point is this; we are talking about someone who is helping in the commission of the crime. Now it follows logically that if the man who pulled the trigger did not have the necessary state of mind or intention to constitute the crime, which is a necessary ingredient of the offence of murder, then there is no offence; there was no offence and nobody can be a party to a non-offence. I think I have put that simply enough. It does not really come into it very much because in this case, as I have said, the intent is established by the circumstances.

The third point is that there has to be guilty knowledge on the part of the person who is said to be aiding and abetting. He has to know that a crime is about to be committed or is being committed. And he has to know the general nature of the crime. That does not mean that he has to know all the details of just exactly how or when it is going to be carried out or even necessarily who the victim is. But he has to know that someone was to be murdered even though he might not know the precise details. There has to be that guilty knowledge before a person can be an aider or an abettor and so a principal party in the commission of the offence.

And the fourth point is that a person who was originally aiding and abetting can pull out of the enterprise before the offence is actually committed and if he does

that and if he makes it known to the person who is going to pull the trigger that he is backing out and wants no more of it, then that takes him out of the ambit of the aiding and abetting provision. I do not say that that can have any application in this case but it is my duty to outline the whole situation to you.

You will see that on one possible view of the facts of this case, what I have just said about guilty knowledge will be the very crux of the matter. If you are not satisfied beyond reasonable doubt that McDonald pulled the trigger, then that other matter, whether there was guilty knowledge on his part when he was giving assistance to the others, is exactly what you will have to consider in this case. You see, McDonald admits he was present when this offence was committed; not up at the Church but sitting - he says - in the car. He admits too that he drove them out to collect the rifle. So if at the time when he did these things he had the necessary knowledge of what was going to be done i.e. that someone was going to be shot, then he was clearly in the position of an aider and abettor provided all those requirements that I have mentioned are satisfied. It is so important that I am going to go over them again. The person who pulled the trigger must have had the intention to kill or cause bodily harm likely to result in death and is reckless as to whether that consequence ensued, otherwise there was a non-crime and McDonald could not be a party to it. Secondly, McDonald must have known what was intended, not in precise detail, but at least that it was intended to shoot someone and he must have known that before the shot was fired otherwise anything he did to assist would not make him a party to the offence. It would only make him an accessory after the fact and not a principal party. Thirdly, he must have continued his assistance right up to the time the shot was fired. Now those are the requirements you are to be satisfied about beyond reasonable doubt before you find him guilty as a party to this offence.

It is McDonald's defence firstly that he was not the gunman. Secondly, that those requirements of guilt which would make him a party to the offence if they were established are not satisfied. That should be put more accurately than that, because of the onus of proof. It is his defence that the evidence does not show beyond reasonable doubt that those requirements or conditions were present. More particularly he says that throughout this enterprise he was ignorant of the intentions of the others; that he was really a spectator and any help he gave was in ignorance of what the others planned to do. I must tell you that if that is what happened, that is a complete defence to this charge. I will come back to that when I refer to the evidence. At the moment, I am really just looking at the law.

The law, I believe, is always based on commonsense and justice. The rules might seem complicated because they have to be formulated with great precision and they have to anticipate so many different circumstances. I think you will agree that those rules about parties to the commission of an offence are commonsense and are just. They fix sensible and realistic limits to the circumstances in which a person may be found guilty if he is one of a number of people taking part knowingly in the commission of a crime. If you are satisfied beyond reasonable doubt that McDonald fired the shot, there is no problem at all as to whether he was a party. But if you are not so satisfied, then you have to consider his position under the rules I have just described and you must be careful, before deciding to convict, that he is covered fairly and squarely by those rules.

One point that might be worrying you is that it seems probable, or you might think that it seems probable, that Margaret Bell was shot in mistake for someone else. Well, that need not concern you. If McDonald was the gunman, his position is covered by the definition of murder which I have already given you. I gave it to you in general terms. I will read the section itself so that we are clear about it. The section is Clause (c) of s.167 of the Crimes Act. It says:-

167. "Murder defined - Culpable homicide is murder in each of the following cases:-

and then Clause (c) reads:-

"If the offender means to cause death, or, being so reckless as aforesaid, means to cause such bodily injury as aforesaid to one person, and by accident or mistake kills another person, though he does not mean to hurt the person killed."

That is the statutory definition of "murder". So if McDonald was the gunman, no problem at all arises out of the fact that he may have shot a person he did not intend to shoot but shot someone in mistake for the person he intended to shoot. If McDonald was not the gunman but was knowingly assisting in a murderous undertaking in which the wrong person was killed by mistake, his position would still be covered by s.66 which I have already read to you. I will just read the second part of s.66 again:-

"Where two or more persons form a common intention to prosecute any unlawful purpose, and to assist each other therein, each of them is a party to every offence committed by any

one of them in the prosecution of the common purpose if the commission of that offence was known to be a probable consequence of the prosecution of the common purpose."

Now, if the common purpose shared by these men or by any two of them, including McDonald, was to fire a rifle at someone in the foyer of the cabaret, then I think you must conclude that all who shared that purpose must have known that it was probable that some person other than the intended victim would be killed. It is a matter for you but if that is your conclusion, then it is quite clear that as regards the guilt or innocence of all those who shared in this common enterprise, it is quite immaterial that the wrong person, Margaret Bell, was killed in mistake for someone else. If that be your view of the facts - and I remind you again that you are the judges of the facts - then you come back to the real question of whether you are satisfied beyond reasonable doubt that McDonald was knowingly a party to what was done and when I say a party - I have been over the ground - you must remember the conditions under which he can be a party. That is enough law for today.

Before I depart entirely from that subject of the law and evidence, I have just received a written question from the jury and I will read it to counsel:-

"Judge said:

""Speck & O'Connor cannot be charged in any circumstances, even if they said, under oath, ""we did it"".

"My understanding of S.G's letter is that it "granted immunity only if they did not pull the "trigger.""

I propose to answer that right now by saying that the immunity given to them is total as far as that letter is concerned. It may have been said to them initially by the police that they would have immunity if they did not pull the trigger, but that is not what the letter from the Solicitor-General says. The only condition attached to that letter is that they do not claim privilege when they give evidence. So they could, as I have said at the beginning, have gone into the witness box and said "we did it, he didn't do it" and they could not be touched. I hope I have made that point clear.

(Counsel were asked if they agreed with the answer given to the jury and both agreed

that this was so).

So I will come to the facts. Now in referring to the facts, I am not going to repeat continually and tiresomely what I have already said and that is that you are completely free to disregard any opinion which you might think I hold about any question of fact. Everything I say is subject to that statement.

There are a number of matters about which you will, I think, possibly make up your minds without much trouble. It might be best to deal with those first. We have these facts then:-

- (1) At about 3.30 in the morning of Sunday 1st July last year, Margaret Bell was shot with a high powered rifle while she was standing in the doorway of the Main Street Cabaret.

For that you have the evidence of a number of people who were standing near her at the time, including you will remember, Jack Allen who was so close that his face was sprayed with human tissue from the explosive effect of that high velocity bullet;

- (2) The rifle used to fire that shot was the 22/250 Remington later found in the water under the Panmure Bridge (Exb.17).

For that you have the scientific evidence of Mr Shanahan, you have the evidence of Professor Cairns who said that the injuries were due to a high velocity bullet and you have the evidence as to how this rifle came to be found where it was, under the Panmure Bridge. That was the rifle:

- (3) That rifle was one which was purchased some months before the killing by the accused and his friend O'Connor. I lump them together without distinction.

For that you have the evidence of Deane who sold them the rifle and the evidence of Prendergast who was present at Howard Hunter Avenue when the purchase was made. You will recall that when the police were trying to trace this rifle after the shooting, it was McDonald who suggested to Deane that the two of them should tell a story designed to put the police "off the scent";

- (4) About three hours before the shooting, at about 1.45 a.m., there was trouble in the Main Street Cabaret where a party of five men staged a confrontation with the doorman and left hurriedly when the cashier pretended to telephone the police. McDonald was one of those men, and Speck and O'Connor were two of the others.

For that you have the evidence of the doorman, Myers, who could only identify Speck and O'Connor positively, and the evidence of Judith Walsh, the cashier, who identified McDonald. Mr Hart suggested on behalf of the accused that she was mistaken and that is one of the questions of fact for you to think about. You might think it is not likely that she was mistaken. You will remember that she said something about the way he looked at her. She identified him and she said:-

"I'll never forget it as long as I live, it was really terrible".

And it was significant, I suggest, that Judith Walsh was not cross-examined about that by counsel for the defence. So that her evidence of that incident and that identification went unchallenged at the time when she gave her evidence.

You will notice that as far as I have gone, I have been speaking of what I suggest you might feel to be established facts which do not depend for proof on the evidence of Speck and O'Connor. And if you are satisfied about those facts, they may at least give you a bit of firm ground from which you can look at the rest of the evidence. Whether you go any further and attach to the bare circumstances that I have described any significance as regards connecting McDonald with the killing is entirely a matter for you. You have the evidence that McDonald was in company with Speck and O'Connor; that he went to the Main Street Cabaret and was involved with the incident with the doorman; that he displayed anger and ill-feeling towards the cashier and that the rifle used in the shooting was one with which he had some connection. But that was the incident at the Main Street Cabaret at 1.45 a.m., fairly remote in time from the shooting at 3.30. Mr Hart has submitted that being refused admittance does seem to be an inadequate reason perhaps for murdering anyone and also McDonald was not the only person who knew where that rifle was. So far as I have gone at any rate, it would, I suggest, be wrong for you to jump to any conclusion simply on those facts.

But thanks to the evidence of Speck and O'Connor, and McDonald himself,

we now have what I do suggest must be quite an accurate and detailed account of how this crime was perpetrated. Accurate as to how it was done but not necessarily, of course, as to the part played by each of the three. It is an account, let me remind you, which is consistent with all the facts, i.e. established, by the evidence of the other witnesses. The direction of the shot, the use of this rifle, the finding of the round of 22/250 ammunition on the fire escape, the finding of the rifle under the bridge, all those are consistent with the account we have had and it can hardly be doubted because it comes not only from Speck and O'Connor but from McDonald himself. But, of course, there is a conflict on the crucial question of what part, if any, McDonald played himself and that clearly is the crux of the matter. That is what we lawyers call, "the live issue" in this case. I propose to go directly to that point. I do not think there is need for me to recount all the activities of these men in the dark, in the rain on that early Sunday morning, 1st July last year. That is a story that must still be fresh in your minds. You know the blind poet Milton who died over three hundred years ago wrote these lines:-

"... When night darkens the streets, then
wander forth the sons of Belial, flown with
insolence and wine."

It is not a bad description three hundred years ago of this expedition in the early hours of this Sunday morning.

Some discrepancies are to be expected when witnesses recall minor incidents especially if they were in a state of tension or excitement when the events happened. Total agreement about small incidental matters is often a pointer to collusion rather than otherwise. It is a matter for you whether you think there are discrepancies in this case in the evidence of Speck and O'Connor indicating that they were lying. Mr Hart has very properly and very forcefully drawn your attention to a number of discrepancies and some of them are quite serious discrepancies in the evidence of Speck and O'Connor. I will mention some of them. There is the discrepancy as to whether or not Speck went to the toilet - it could be important. As to whether the rifle was in the backseat of the car on the floor or in the front sitting on their laps; as to whether a certain conversation took place in the bedroom or the living room at Howard Hunter Avenue. Those are examples and these are matters that you must take into account. They might indeed suggest to you that Speck and O'Connor are, at the very least, minimising their share in the activities of that night. Well, it is a matter for you, and if they were not telling the whole truth, does that

mean, as Mr Hart suggests, that they were substituting McDonald for what they did themselves or, is it perhaps just that they were trying to get away from their own part in what was done that night? It does not necessarily follow that because they attempted to minimise their own part one of them was actually the sniper. But either Speck or O'Connor may have taken a bigger hand in it than they admit now and still not have been the gunman. They are some matters for you to consider and evaluate and they may or may not assist you in a decision about the first question which is, "Was McDonald the gunman?". But are you satisfied that he was, beyond reasonable doubt? In that context, Mr Hart has referred you to a number of circumstances which you ought to consider. He says they are circumstances consistent with his client's story and inconsistent with the prosecution's submission as to what happened. He refers to the fact that the magazine of this rifle has never been found. He refers to the probabilities and improbabilities of that run home. I do not know, Mr Foreman and ladies and gentlemen, whether any of you have been really frightened. I would not suggest to you that it is impossible at all that a frightened man could have made that run. However, quite rightly, Mr Hart draws attention to the time of that run as compared with the timing of the car which had to make the journey, as you know, to the Panmure Bridge to dispose of the rifle and later down to Half Moon Bay to dispose of certain other items. Well you have to weigh that up and you have to decide whether you feel that those matters to which Mr Hart has rightly pointed detract so much from the reliability of Speck and O'Connor on the crucial question as to whether McDonald was the gunman and it is a matter for you.

But that only brings you to Question 2 which, put very broadly, is "Was McDonald implicated as a party to the offence?" and I just ask you to look at it from the point of view of - Question 1, whether he was the gunman. Question 2; if you are not satisfied beyond reasonable doubt that he was the gunman, then, was he implicated as a party to this offence?

I have said that by his own evidence he has put himself there; he says he was there in the passive role of a spectator who did not know what was going on. The strictures which Mr Hart has applied to the evidence of Speck and O'Connor, the circumstances to which he was pointed out as detracting from that evidence, do not actually get McDonald out of that situation. He was there and he drove the car that brought them there and brought the rifle to the scene. He turned the car around which could have made it ready for a quick getaway; he was there. Was it possible that he was ignorant of what was being done, and that what he did and what he admits

to doing was not by way of assistance to a plan to shoot someone, not necessarily Margaret Bell, but someone? That is something you have to decide on the whole of the evidence. I can only refer you to two matters to which I have not alluded and which you may think significant.

I did mention some of the circumstances which Mr Hart rightly told you should lead you to think that you were not getting the whole truth from Speck and O'Connor. I did mention the one which Mr Hart put to you as being perhaps the most significant of them all. So that is the first of those matters that I propose to refer to in any detail at all, and that is the business about the focus of the telescopic sight. Mr Hart incidentally referred in the course of his address to the fact that that information about the telescopic sight and about Speck's eyesight supplied to him by the prosecution was a "blatant piece of unfairness". Now, I suggest that you forget that particular comment. It was perhaps made in the heat of the moment by Mr Hart but the real position is, of course, that that information was information which the prosecution had and which they did make available to the defence to be used and which the defence did use and had every opportunity of using. The comment about "blatant unfairness" on the part of the prosecution is not really warranted. We will now go back to the business about the focus of the telescopic sight.

It is the contention of the defence that that is a pointer towards Speck as being the actual gunman. The sight was focused to suit a shortsighted person when it was first examined by Mr Shanahan. Well, you must take that into account and attach to it whatever importance you think it deserves. You may think it highly suggestive of the fact that Speck used the rifle. On the other hand, you might think it of little significance. I suggest that you could not really find it to be conclusive either way. You have heard three expert witnesses about this sight and the focusing and the eyesight of various people. There was Dr Coop who was called by the prosecution. There was Dr Hogston and Dr Morris. You will remember that Dr Hogston was the only one who tested Speck's eyesight and found him moderately shortsighted. Dr Morris was the only one who tested McDonald's eyesight and found him mildly longsighted. It seems, however, that the focusing of the telescopic eyepiece may not have made such a vast difference after all to its usefulness. I think I should read to you what Dr Coop at p.192 of my Notes said:-

"Is there any material difference that you can make by movement of the various pieces

of the lens? These are minor, apart from the image size as just described, magnification, also minor adjustments which may be made for a persons error of focus, long or short sighted.

What is the significant difference in those 2 ranges? It is very little.

How do you mean very little? I think it would not materially affect the view for most purposes whichever way it was adjusted.

Have you yourself tried it out? I have tried out the various adjustments both with my own vision and mimicking Speck's vision. And none of these changes made any material difference in my view."

That is what Dr Coop had to say about the focusing eyepiece on this sight. If we assume that the focus of the eyepiece on the rifle when it was fired was the same as when it was recovered some two months later out of the tide and then examined by Mr Shanahan of the Department of Scientific and Industrial Research, then what do the experts really have to say? I have read what Dr Coop said. Mr Hogston said that from trials carried out in daylight, the sight set that way - that is to say screwed right in - was quite suitable for a person who was shortsighted and really for anyone under 35. And he explains that that was because of the ability of a young person to accommodate to different situations by adjusting the focus of his eyes which is something we all do automatically. He explained that with the eyepiece focused in that position - that is screwed right in - the light emerging from the telescope was slightly divergent and exactly the same as light coming off an object 2 feet away which he said anyone under 35 could see clearly. I do not know how far you have to hold a paper away from you to read it but it tends to get further away as one gets older. That is what he is talking about. Mr Hart is critical of that evidence because the telescope was tested in daylight. He had experiments carried out by Dr Morris at night from about the position where the shot was fired and that experiment is of value because Dr Morris was able to duplicate McDonald's eye condition of mild long-sightedness and also to approximate the lighting conditions at the time of the shooting. Remember the dimmer switch and the two bulbs were removed from the chandelier and the lights under the verandah turned off. Dr Morris' evidence was that a longsighted person using the telescopic sight with the eyepiece screwed right in and in those lighting conditions would be able to line up his target and select his aiming point although he would not be able to recognise features or safely identify the victim. That

is what his evidence boiled down to. It is Mr Hart's suggestion to you, for you to consider, that the setting of the focus adjustments was made by Speck to suit his own eyesight sometime shortly before he, Speck, took aim and fired. That is what Mr Hart is putting to you. It is entirely a matter for you to decide. I suggest that you might find it difficult to picture Speck, or anyone else, trying to make an adjustment to the focusing of that eyepiece in the prevailing conditions and up at the Church corner and in the dark and rain and in a state of tension and excitement. You might think it more likely that whoever used that rifle used it with the sight set just as he found it, and the evidence shows that it was perfectly capable, with the eyepiece screwed right in, of being used to line up the target by a young person, short or longsighted.

Just before I leave that, you might think that a person who was not an expert in these matters - who was not a real expert in firearms or who was not an optician - it might seem to that person that the normal or proper setting for that eyepiece would be that it should be screwed right in. It could well be that a person not knowing these matters would think that that is how it was meant to be; screwed right in. And you have heard that in daylight, with the normal young person's eyesight or even a longsighted person, it was perfectly adequate in the screwed right in position. Just think about that and just ponder whether this sight was really focused by anybody in particular on the occasion of the shooting. There is no evidence that Speck had anything much to do with that rifle prior to the night of the shooting. It seems likely enough that the rifle was collected from Harris Road with the sight set in the position in which it had been last used by either of the owners, O'Connor and McDonald. That is to say that it was not ever deliberately set for a shortsighted person. It was a setting which could be used, and for a person who did not know much about these things, it would seem to be right, screwed into place. McDonald you might recall told you he knew very little about rifles. In fact he said he knew nothing about them except for the safety precautions that had to be observed. O'Connor we have heard, was very interested in firearms and no doubt he was too but whether he was a small arms expert is another matter. He didn't even know what ammunition to buy for this rifle when he went into the shop. Well, I have referred to all this at some length because it has been emphasised by Mr Hart as an indication that it was Speck who used the rifle and you must give a lot of thought to that proposition. I merely point out to you that it is a long way from being conclusive and you will have to give it what weight you think it is entitled to. That is one of the two matters that I wish to refer to coming out of the evidence and having a bearing on the "live issues" in this trial.

There is another matter which you might think would have a bearing on this question, not so much on the identity of the gunman, but this time on the part which you believe McDonald played in the incidents leading up to the firing of the shot. It is McDonald's evidence - it is the basis of the defence - that McDonald was only an innocent spectator to what was done; that he just went "along for the ride", if you like, and took no more part and had no more knowledge of what was going on than did apparently that somnolent pair the Bloor brothers. It would seem as regards them that either July was the hibernating season for them or they were too drunk to stand up. Joking aside, perhaps they were more like the three monkeys we have heard about - the three wise monkeys - who saw no evil, heard no evil, spoke no evil. In other words, they are apparently not in a position - willing or able - to give evidence for either the prosecution or the defence in this matter. And it seems to be common ground, anyhow, that there is little that they did. I do not think you will imagine they were taken along as a ballast.

Nevertheless, it is McDonald's case that he knew no more and took no more part really than did the Bloor brothers. Now, that is pre-eminently a matter for you. You have had the advantage of seeing and hearing all three of them; McDonald, Speck and O'Connor, and you heard a few sidelines on the situation from other witnesses. You may even have made an assessment of the comparative intelligence of these three people.

When McDonald gave his evidence, it appeared that all decisions made by this party were a matter of mutual agreement. He certainly gave no orders or directions to the others, even in the most minor matters. Referring to the evidence and referring to minor matters, you will recall that when it came to getting Speck from the White Horse Inn, that was not McDonald's decision. He said it was "just a general decision amongst the four of us". Mind you, getting Speck from the White Horse Inn meant going out in the rain and driving from Parnell to Pakuranga, and somehow O'Connor and Graham Bloor got themselves elected for that job. And when it came to getting the car to take them from the Parnell Hotel to the Reapers' place, who went out in the rain to get the car? It was O'Connor although McDonald drove it once it had been brought around to the hotel. McDonald you will remember, said it was raining very heavily when they came out of the Alexander Hotel at closing time. "The four of us", he said, "were just standing outside yawning and each suggested reasons why someone else should get the car. After 10 minutes of this, he says, "we struck-up a deal with Gary that he would get the car". So O'Connor got the car in the

rain -but it was a mutual thing agreed by all three. That is another unimportant incident, you might think, but nevertheless an indication coming from McDonald that this little bank of friends observed always the principles of democracy. It was the same when they decided to go from the Grim Reapers' place to the Main Street Cabaret. Remember McDonald said it was just "a general acceptance of all that we were going". In fact he, McDonald, did not want to go at all. He liked the log fire that was burning and was having a good conversation with a friend and it was a wet night and one o'clock in the morning. In fact he says it was O'Connor who suggested it and he went along with that suggestion. The next move was at Smith's place in Harris Road:-

"Question : You know whose idea it was to go there?

Answer : Gary O'Connor's ... O'Connor suggested we go to Smiths place to see if anybody was up.

Question : Did he say why?

Answer : No, he didn't say why".

So they drove off. Once again, McDonald is just acquiescing in the decisions made by the others in driving them where they wanted to go. These are unimportant incidents. And so it goes on, and so it went on when they got back to Queen Street with the rifle in the car. McDonald though they were just going back to the cabaret - although it must have been close to closing time for the cabaret then - and when O'Connor told him to drive around to Poynton Terrace and indicated that a fight was planned, McDonald just went along with the idea and drove them where they wanted to go. It didn't occur to him, one gathers, that the rifle in the back of the car had anything to do with the proposed fight, and as far as any decision-making was concerned, he was not involved.

That is one side of the coin, a party of good friends where all decisions were made on democratic lines and McDonald went along with the others and O'Connor seemed to have most of the ideas.

The other side of the coin is a little different. You will remember the evidence given by Speck and O'Connor. I am not going to refer to them in detail but you may have thought - I do not know - that it came out quite spontaneously that McDonald made the decisions and they carried them out. You will recall the man

Miller who was serving a prison sentence and who went on the Beachlands expedition. Remember him? There is no doubt in his mind as to who was in charge:-

"Question : Who was in charge of this expedition to Beachlands?

Answer : Brian McDonald.

Question : What was the relationship between O'Connor and the accused from what you could see?

Answer : The defendant dominated the scene entirely, anything that he said or wanted done was done by Gary or - I've never seen him do it to Bruce, but when he said jump, you know they jumped, he was the boss and that was it, they were the underdogs, I think O'Connor was scared of the accused".

And, of course, it was Miller who tells us that when O'Connor turned up late to the Beachlands expedition, "Mac went off at him for being late" and when they got to Beachlands, "Mac once again went crazy at Gary for being late which was no fault of our own ... He was very verbal about us being late, not physical."

You might think there is something emerging from this evidence which is not quite the democracy I referred to a while ago. Again, the evidence of Teresa Margaret Skelly, she was the lady who had been around a bit - she said she had anyway - she was called as a witness for the defence. She said:-

"Gary got sick of being pushed around and treated like a bum. Gary would never stand up to Brian. He didn't have the guts to, he really didn't."

"Question : But can I put it this way, of the 2, Brian was the more dominant wasn't he?

Answer : Brian was clever and he knew answers if anyone wanted answers, dominant I don't know.

Maybe she doesn't know that the word "dominant" means, but that is what she said.

There are two sides of the coin. I wonder if I could give you a hint from my own experience and it is this; sometimes it is possible to look too closely at a

picture or painting. You become confused by the details of the brush strokes. Sometimes it is best to stand back a bit. The picture falls into place, the perspective comes right. You may find it helpful to think about this that way.

I am getting near the end to what I have to say Mr Foreman. You have heard what I have said about burden of proof and what I have said about the standard of proof required, what I have said about the danger of relying on the evidence of accomplices and you couldn't have two more implicated accomplices than these two. What I have said about the difference between drawing an inference from proven facts on the one hand and guesswork or speculation on the other. If, bearing all these in mind you are satisfied, and as I have said not necessarily with absolute mathematical certainty, but at the very least to the point where you can see no room for any reasonable doubt in the matter that all these three were implicated in the way I have described and defined, or at any rate two of them including McDonald, and you are satisfied that McDonald was assisting knowingly in what was done, then you should convict him. And that would be so even though you do not know for certain who actually fired the shot and even though you think that the person who was killed was not the intended victim.

There is one aspect which I feel will trouble you - if you find yourselves in that situation - and it is something which must not trouble you. That is the fact that on that sort of view, i.e. to say that McDonald was not the gunman but that he was implicated in the way I have defined for you, then either Speck or O'Connor may have fired the rifle and both of them are going scot-free. Both are as guilty as or more guilty than the accused, and you may feel that there is a strong element of injustice in such a situation - as I would. All I can say to you about that sharing your view, is that this is not a trial of either Speck or O'Connor. What happens to them is not our concern today. It would, if you like, be unjust that two guilty men should go free while the third is convicted. It would not improve the situatiion really if the third guilty man also went free. They say that "two wrongs don't make a right". If the accused McDonald was in fact a party to the offence - and I have endeavoured to define that for you with some precision - a party either as being the gunman or as implicated in the way I have described, you would not be acting in accordance with your oath - the oath you have taken - if you would allow a consideration of the fact that Speck and O'Connor have escaped justice to deter you from bringing in a proper verdict in respect of McDonald.

As you probably know, it is possible in some circumstances on a charge of murder to bring in a verdict of manslaughter. In this case, firstly if McDonald was the gunman, there is really no room at all for this to be manslaughter. When Mr Morris opened his case, he referred to the circumstances from which that has really to be inferred - the use of the lethal weapon, the stealthy approach, the deliberate ambush - that would lead you to only one inference; an intent to kill. I repeat - it is a matter for you but that seems inescapable. If McDonald was not the gunman but was knowingly a party to an enterprise which had as its purpose a deliberate homicide, and if he took part in that and assisted in that, then he is guilty of murder. Again, if McDonald did not pull the trigger and if he was merely a passive spectator who believed that there was no more afoot say than a beating-up or a fight and that the rifle was unloaded and was to be used as a bludgeon, then the use of the rifle in the way it was used went so far beyond what he contemplated that it would be wrong to regard him as a party to it at all and he ought to be acquitted, and that is his case.

There might conceivably be a fourth alternative, and that is that if McDonald did not pull the trigger and if he believed that here was no deliberate killing planned but there was some sort of affray intended such as a confrontation with the doorman or possibly even the shooting out of some lights or windows to frighten people which involved taking a loaded rifle to the scene which might be used and which/well be fired in the general excitement of such an affray, then conceivably he could be a party to manslaughter. However, no-one has suggested that that is what happened or that that was what was in mind. I have warned you that you are not here to guess or speculate in the absence of any evidence; it is for you to say whether there is any evidence that that fourth alternative applies, though it appears in the absence of that in this case, it would be murder or nothing. I repeat; these matters are matters of fact. They are matters for your determination but you must not speculate or guess. There is no evidence; no suggestion of that manslaughter situation where a loaded rifle was taken but was not intended really to be used except possibly to frighten someone or shoot out windows. That has not been suggested. Both sides have put this to you as a case of murder or nothing. You should not speculate about other possibilities.

Mr Foreman and members of the jury, I do not think there is anything more I can help you with; you have taken an oath to return a true verdict according to the evidence and I know that you are going to do that conscientiously, whatever the verdict may be. It has to be a unanimous verdict. You will not be asked for the

reasons for your verdict. It is entirely your affair. Your duty, however, is not just as individuals. It is a collective duty so that although as Mr Hart rightly said to you you must not be false to the oath you have taken and so give way weakly to the views of others, although you must not be false to that oath, there must necessarily be some discussion and possibly argument and a certain amount of give and take and adjustment of views within the scope of your own consciences and the oath you have taken. You will realise that great public inconvenience and expense can be entailed if jurors cannot agree owing to the unwillingness of one of their number to listen to the arguments of the rest and I say no more than that. But if you are unable to agree, if one of you is unable to agree, then according to his conscience he must say so. Mr Foreman and ladies and gentlemen, as soon as the constables have been sworn, I will ask you to retire and consider your verdict.

COURT ADJOURNED AT 11.25 and RESUMED AT 12.15 p.m.

Mr Foreman and members of the jury, Mr Hart has pointed out one matter which he considers I did not stress sufficiently in the summing-up which you have just heard. One of the circumstances mentioned by Mr Hart as relevant to McDonald's participation, if any, was McDonald's own evidence that he took the magazine from O'Connor at the park. I will read you what Mr McDonald said:-

- "Question : What did you say to him when he was loading up the magazine with bullets?
- Answer : I asked him what the hell was going on.
- Question : Did anyone reply to that?
- Answer : Speck made a reply, he said, we are just going to scare somebody.
- Question : And what did you then do?
- Answer : I asked why O'Connor was loading the rifle.
- Question : And?
- Answer : I told him to give me the magazine, when I asked why O'Connor was loading the rifle, Speck made a signal to be quiet and pointed to the back seat again.
- Question : Did you actually get the magazine from O'Connor?

Answer : Yes, there was a short period of tension in the car and then O'Connor threw the magazine on to the floor of the car.

Question : What did you do with it?

Answer : I didn't handle it at that stage ..."

And then later he said, as you will recall, he wrapped it up in a piece of cloth and jammed it in the dashboard somewhere.

Now that, of course, is relevant not only to the question whether McDonald was the gunman. If you believe it - it is relevant also to the question of McDonald's state of mind which is important as regards this aspect of whether he was a party to the offence and it is relevant because by doing that - if he did it - he may have thought that the rifle was no longer able to be fired. Of course in fact it could be fired without the magazine. In other words what he was saying in effect was that he had converted this rifle, or thought he had, into no more than a blunt instrument capable of being used as a club, but not as a rifle. If so that would bear out the defence that he did not know that a killing was planned. That is the matter that Mr Hart has asked me to put to you. In the course of the summing-up I did mention the fact that the magazine was missing as being one of the circumstances which Mr Hart had mentioned as being relevant to McDonald's state of knowledge. However, I did not make it quite as clear perhaps as I should have, so I have asked you to come back and I hope now I have cleared up that particular point.

While you are here, I would like to say this to you as I may have omitted to say it before, that you are free to look at any of the exhibits that have been produced. You have only to ask for them and they will be supplied to you. The other point is that if there are any matters on which you require assistance and on which you wish to ask questions you may do so, and that means coming back into Court and dealing with it in open Court.

COURT ADJOURNED AT 12.20 p.m.

PART TWO



DOMINION OF NEW ZEALAND

Solicitor-General's Office,

WELLINGTON.

I, RICHARD CHRISTOPHER SAVAGE, Her Majesty's Solicitor-General for New Zealand, hereby let it be known that, subject to the condition set out below, in the event of any prosecution being commenced after this date against KEITH O'CONNOR of Auckland charging him

- (a) as a party to any offence involving the culpable homicide of Margaret Bell on or about the 1st day of July 1979 at Auckland; or
- (b) as a party to any conspiracy involving the culpable homicide of the said Margaret Bell; or
- (c) as an accessory after the fact in respect of any offence involving the culpable homicide of the said Margaret Bell

I will direct that such proceedings be stayed.

The only condition of this undertaking is that the said KEITH O'CONNOR gives evidence in proceedings against Brian Ross McDonald of Auckland on a charge of murdering the said Margaret Bell, and that when giving evidence he does not refuse to answer any questions on the ground of self-incrimination in respect of the above-recited matters.

DATED at Wellington this 12th day of December 1979.

Solicitor-General



DOMINION OF NEW ZEALAND

2.

Solicitor-General's Office,

WELLINGTON.

I, RICHARD CHRISTOPHER SAVAGE, Her Majesty's Solicitor-General for New Zealand, hereby let it be known that, subject to the condition set out below, in the event of any prosecution being commenced after this date against BRUCE GRAHAM SPECK of Auckland charging him

- (a) as a party to any offence involving the culpable homicide of Margaret Bell on or about the 1st day of July 1979 at Auckland; or
- (b) as a party to any conspiracy involving the culpable homicide of the said Margaret Bell; or
- (c) as an accessory after the fact in respect of any offence involving the culpable homicide of the said Margaret Bell

I will direct that such proceedings be stayed.

The only condition of this undertaking is that the said BRUCE GRAHAM SPECK gives evidence in proceedings against Brian Ross McDonald of Auckland on a charge of murdering the said Margaret Bell, and that when giving evidence he does not refuse to answer any questions on the ground of self-incrimination in respect of the above-recited matters.

DATED at Wellington this 12th day of December 1979.

Solicitor-General

· IN THE HIGH COURT AT AUCKLAND

Section 172
Crimes Act 1961

1. THE CROWN SOLICITOR AT AUCKLAND
charges that BRIAN RONALD McDONALD on the
1st day of July 1979 at Auckland did murder
MARGARET HINUREWA NGAHIWI BELL.