

IN THE PRIVY COUNCIL

18 *of* 1963

ON APPEAL FROM HER MAJESTY'S
CRIMINAL COURT,
MALTA

BETWEEN

MALCOLM STEWART BROADHURST
(APPELLANT)

AND

HER MAJESTY THE QUEEN

R E C O R D O F P R O C E E D I N G S

I N D E X O F R E F E R E N C E S

NO.	DESCRIPTION	PAGE
I.	Proces-verbal of the proceedings	1
II.	Verdict of the Jury	9
III.	Sentence	9
IV.	Bill of Indictment	11

NO.	DESCRIPTION	PAGE
V.	<u>Evidence on 24th October, 1961</u>	
	1. Surgeon Commander Ronald W Tipple, Royal Navy.	13
	2. Surgeon Lieutenant Peter Clements, Royal Navy.	14
	3. Surgeon Commander James Watt, Royal Navy.	29
	4. Report on Post Mortem	34
	5. Dr. V. Camilleri, Dr. L. Manche' and Surgeon Commander Fuller, Royal Navy.	38
	6. Professor P. Farrugia	46
	7. Dr. Joseph Lewis Grech	47
	8. Dr. F. Pullicino	48
	9. Police Sergeant Zammit	49
	10. Police Sergeant Louis Vella	51
	11. Superintendent of Police Gregory Scicluna	63
	12. Superintendent of Police Alfred Lanzon	63
VI.	<u>Evidence on 25th October, 1961</u>	
	1. Inspector of Police Joseph Pace Bonello	71
	2. Brenda McKinnell	79

NO.	DESCRIPTION	PAGE
3.	Thomas John McKinnell	102
4.	Lieutenant George Reubens, Royal Navy.	105
5.	Lieutenant Commander John Townsend Walters, Royal Navy	107
6.	Thomas John McKinnell	110
7.	Brenda McKinnell (recalled)	131
8.	Doris Abraham	134
9.	Jack Abraham	135
10.	Charles Kenneth Wright	137
11.	Eric S. Hale	142
12.	Mary Gafa	144
13.	Colin F. Vinnicombe	147
VII.	<u>Evidence on 26th October, 1961</u>	
1.	Raymond Jackson	149
2.	John Barclay	160
3.	Allen Henry Brown	163
4.	Police Constable Joseph Stellini	165
5.	Police Sergeant Joseph Buttigieg	168
6.	Lieutenant Arthur White, Royal Navy	169

NO.	DESCRIPTION	PAGE
7.	Derrick Bentley	171
8.	Eric Edwards	173
9.	David James Reardon	175
10.	Malcolm Stewart Broadhurst	178
11.	Alfred Zarb	196
12.	Malcolm Stewart Broadhurst (contd.)	197
13.	Alfred Zarb (recalled)	205
14.	Malcolm Stewart Broadhurst (contd.)	206
15.	Mary Gafa (recalled)	221
16.	Surgeon Lieutenant Peter Wreford Clements, Royal Navy	222
17.	Giovanna Balzan	225
18.	Francesca Baldacchino	226
19.	John Mamo	227
20.	John Thomas McKinnell (recalled)	228
21.	John Mamo (contd.)	230
22.	Paul Dixon	232
23.	Michael Shepherd	233
24.	Leonard Henry Collecott	237

NO.	DESCRIPTION	PAGE
VIII.	<u>Evidence on 27th October, 1961</u>	
	1. Dr. Francis Pullincino (recalled)	240
	2. Geoffrey Foster	242
	3. Constance Collecott	246
	4. Donald G. Barker	247
	5. Sub Lieutenant Gerald Edward Loxton, Royal Navy	257
IX.	Summing up by His Honour the Chief Justice	260
X.	<u>In The Privy Council</u>	
	Order in Council granting special leave to appeal	283

HER MAJESTY'S CRIMINAL COURT
FOR THE ISLAND OF MALTA AND ITS DEPENDENCIES

- - - - -

Saturday, twenty eighth (28th) day of October, Nineteen
Hundred and Sixty One (1961).

Her Majesty The Queen

v.

Malcom Stewart Broadhurst,
twenty four years of age,
born in Manchester, England,
son of Harold.

10

JUDGES

His Honour Professor Sir Anthony J. Mamo, O.B.E., C.St.J.,
Q.C., B.A., LL.D., Chief Justice and President of the
Court of Appeal.

The Honourable Mr. Justice A.J. Montanaro Gauci, C.B.E.,
K.M., LL.D.

The Honourable Mr. Justice W. Harding, C.B.E., K.M.,
B.Litt., LL.D.

Prosecutor: Dr. Oliver J. Gulia, Crown Counsel.

20

Defence Counsel: Dr. Vincent Scerri, LL.D.,
Professor J.M. Ganado, B.A., Ph.D.(Lond.),
LL.D.

The Bill of Indictment was read out and no preliminary
plea was raised. To the question put by the Registrar in
terms of law the accused pleaded not guilty. The accused through
his Counsel Dr. V. Scerri asked permission to produce witnesses
and documents as listed in the applications dated October 18th
and October 23rd, 1961, respectively. The Prosecution

objected to the production of these witnesses and documents in terms of section 452 of the Criminal Code.

The Court,

After hearing the submissions of Counsel for the accused and the Crown Counsel;

Allowed the requests laid down in the two applications.

(Signed) Edward Cauchi,

D/Registrar.

No further exceptions on evidence were taken.

10 The Court,

Whereas it appears that the case is of such a nature as to require a long hearing;

Having seen section 604 (2) of the Criminal Code; Orders the drawing of three other names of jurors who shall be supplementary jurors and shall attend at this trial.

(Signed) Edward Cauchi,

D/Registrar.

20

The names of the jurors were read out and tickets were drawn by chance bearing the names of the following persons, i.e.

FOREMAN

Wilfred Castillo, Civil Servant.

COMMON JURORS

George Fabri, Civil Servant.

Joseph Attard, Clerk.

Joseph Farragia, B.Sc., B.E.& A., A.& C.E.

Joseph Barbara, A.& C.E.

Dr. Raphael Attard, B.Sc., M.D.

30

Dr. Edwin Aquilina, M.D.

Edward Vassallo, B.E.& A., A & C.E.

Carmel Scicluna, LL.D.

SUPPLEMENTARY JURORS

Godwin Drago, B.E. & A., A. & C.E.
 Joseph Mercieca, A. & C.E.
 Notary Antonio Carbonaro, LL.D.

The oath was administered to the jurors and the Bill of Indictment read out to them.

(Signed) Edward Cauchi,
 D/Registrar.

The Court,

10 Having seen the decree made on the 28th day of July, 1961, by the Court of Magistrates of Judicial Police as a Court of Criminal Inquiry whereby publication was prohibited of any writing relative to the offence to which the proceedings referred to the accused;

 Having seen section 510 (2) of the Criminal Code;
 Whereas the Court considers that at this stage of the proceedings the said decree is no longer necessary;

20 Revokes the said decree and directs that this order be posted up in accordance with the said provision of law.

(Signed) Edward Cauchi,
 D/Registrar.

The Prosecutor addressed the jury and produced the following witnesses who gave evidence on oath, after having read the proces verbal relating to the post-mortem examination on the body of Jean Brocchurst.

30 Surgeon Commander Ronald W. Tipple, Royal Navy.
 The medical certificate issued by Surgeon Commander Tipple, Royal Navy was read out.

 Surgeon Lieutenant Peter Wreford Clements, Royal Navy.

At 1.15 p.m. the Court adjourned the hearing of the case to 3.30 p.m., when the following witnesses were heard:

Surgeon Commander James Watt, Royal Navy.
Surgeon Commander Peter Septimus Fuller, Royal Navy.
Dr. Victor T. Camilleri, M.D.
Dr. Loris Manche', M.D.

The report of the post-mortem examination on the body of Jean Broadhurst was read out.

10

Professor Philip Farrugia, M.D.
Joseph L. Grech, M.D.
Dr. Francis Pullicino, M.D.

The report on the examination of blood found on several articles filed by Dr. Pullicino was read out.

Wilfred Flores.

The report filed by Wilfred Flores was read out.
Gaston Bianchi, A.& C.E.

20

The official interpreter, Joseph Camilleri Fava, swore that he will faithfully and with all honesty and exactness perform the duties of an interpreter to the best of his knowledge and ability.

(Signed) Edward Cauchi.

D/Registrar.

P.S. 68 Michael Zammit.
P.S. 177 Lewis Vella.

The medical certificate marked "Doc. AP" was read out.

Superintendent Gregory Scicluna.
Superintendent Alfred Lanzon.

30

At 7.15 p.m. the Court adjourned the case for continuation to Wednesday, 25th October, 1961, at 9.00 a.m.

(Signed) Edward Cauchi,

D/Registrar.

At 1.00 p.m. the Court adjourned the hearing of the case and ordered that it be continued after the 'in loco'.

At 5.00 p.m. the Court resumed the hearing of the case and the witness John Thomas McKinnell continued to give evidence in cross-examination.

Brenda McKinnell, recalled.

Doris Abraham

Jack Abraham

Charles Kenneth Wright

Dorothy Wright

Eric Stanley Hale

Mary Gafa'

Colin Frank Vinnicombe

10

At 7.00 p.m. the case was adjourned to 26th October, 1961, at 9 a.m. for continuation.

(Signed) Edward Cauchi.

D/Registrar.

Thursday, 26th October, 1961

Evidence:

20

Raymond Jackson

P.S. 281 Joseph Buttigieg, called by the Court for the purpose of identification by Raymond Jackson, and later gave evidence on oath in the presence of the said Raymond Jackson.

David John Barclay

Alan Henry Brown

P.C. 475 Joseph Stellini

P.S. 281 Joseph Buttigieg

Lieutenant Arthur White, Royal Navy

30

Derick Bentley

Victor John Carn

Eric Edwards

David James Reardon

The Prosecutor declared that he had no further evidence to produce.

The accused elected to give his evidence.

As the necessity arose to hear fresh evidence, the Court heard on oath Alfred Zarb, an employce at the Passport Office.

At 1.00 p.m. the Court suspended the hearing of the case to 3.30 p.m., and ordered that the cross-examination of the accused be continued after the lunch break.

10 The hearing of the case was resumed and the accused continued to give evidence in cross-examination.

The following witnesses were recalled.

Mary Gafa'

Surgeon Lieutenant Peter Wreford Clements, Royal Navy.

Dr. Vincent Scerri, LL.D., addressed the jury on behalf of the accused, and the following persons were produced as witnesses for the defence, i.e.

Francesca Saveria Baldacchino

Giovanna Balzan

20 John Mamo

John Thomas McKinnell, recalled by the Court to give evidence in the presence of John Mamo.

Paul Dixon

Michael Shepherd

Leonard Henry Collecott

At 7.30 p.m. the Court adjourned the case to Friday, 27 th October, 1961, at 10.00 a.m.

(Signed) Edward Cauchi,

D/Registrar.

30 Friday, 27th October, 1961.

The Court recalled the following witnesses:

Dr. Francis Pullicino, M.D.
 Wilfred Flores read out a part of his report.

Defence Counsel informed the Court that the person, i.e. Geoffrey Foster, mentioned by the accused in his evidence and who could not be traced has turned up this morning and asked to give evidence in defence.

The Court allowed the hearing of this witness.

(Signed) Edward Cauchi,

D/Registrar.

10

Geoffrey Foster gave evidence on oath.

Witnesses in defence gave evidence on oath, i.e.:

Constance Collecott
 Donald E. Barker
 Sub Lieutenant Gerald E. Loxton, Royal Navy

Counsel for the accused declared that there was no further evidence to produce.

The Prosecutor was allowed to reply.

20

At 1.20 p.m. the Court adjourned the hearing of the case to 4 p.m. when Dr. Scerri, for the accused, availed himself of the right to a rejoinder.

At 5.15 p.m. the Court adjourned the case to Saturday, 28th October, 1961, at 9.00 a.m. for continuation.

(Signed) Edward Cauchi,

D/Registrar.

Saturday, 28th day of October, 1961.

The Court summed up the case to the jury who gave the following verdict.

VERDICT

The Jury finds the accused unanimously not guilty of the crime as preferred against him in the Bill of Indictment, but by six votes against three finds the accused guilty of causing wilful grievous bodily harm from which death ensued as a natural consequence of this harm and within a period of forty days to be reckoned from midnight of the 22nd July, 1961.

(Signed) W. Castillo,
Foreman.

10 The Court,

Deplores that notification of the commission of the crime was not given earlier to the Police by the Naval personnel who were aware of it, to enable the Police to commence investigation and preserve evidence.

(Signed) Edward Cauchi,
D/Registrar.

S E N T E N C E

The Court,

Having seen Indictment No. 42/1961;

20

Having seen the verdict of the jury whereby they found the accused unanimously not guilty of the crime as preferred against him in the Indictment, but by six votes against three found him guilty of causing wilful grievous bodily harm from which death ensued as a natural consequence of this harm and within a period of forty days from midnight of the 22nd July, 1961;

Having seen sections 229, 230, 234 (1)(a) and 478 (4) of the Criminal Code;

Sentences the accused to the punishment of hard labour for a period of fifteen years.

(Signed) Edward Cauchi,

D/Registrar.

A True Copy

Edward Cauchi,

D/Registrar.

HER MAJESTY'S CRIMINAL COURT
FOR THE ISLAND OF MALTA AND ITS DEPENDENCIES

Indictment
No. 42/1961

HER MAJESTY THE QUEEN

versus

Malcolm Stewart Broadhurst, twenty four
years of age, born in Manchester, England,
son of Harold.

10 The Attorney-General in and for the Island of Malta
and its dependencies in the name of Her Majesty the Queen,
showeth:-

20 That on the night between the twenty second day and
the twenty third day of July, one thousand nine hundred and
sixty one, at, approximately, between twenty five minutes past
one and two o'clock, antemeridian (1.25 a.m. to 2. a.m.), of
the twenty third of July one thousand nine hundred and sixty
one, the said Malcolm Stewart Broadhurst, at his residence,
flat two (2) of the building known as "Granny", situate at
forty nine (49), St. Andrew Street, Brizebugia, following an
argument with his wife, Jean Peggy Broadhurst nee' FitzPatrick,
twenty years of age, did beat and violently throw down the
stairs of the said building, the said Jean Peggy Broadhurst,
maliciously, with intent to kill her or to put her life in
manifest jeopardy, thereby causing her death, which occurred
a few hours later as stated in the third paragraph of this bill
of indictment;

30 That the said Jean Peggy Broadhurst suffered a series
of injuries to several parts of her body, including:(1) a bruise,
2 centimetres by 3.5 centimetres, on the right side of the chest,
over the seventh and eighth rib, in the posterior axillary line;
(2) several abrasions on the lower part of the back on each side
of the vertebral column; (3) another abrasion on the skin in
the lumbar region extending towards the costal arch on the left
side; (4) a bruise 4.5 centimetres by 2 centimetres over the
outer malleolus of right leg, and (5) several injuries to the
head, skull and brain including a fissure fracture of the
right parietal bone, a contusion overlying the left mastoid
process, a large haematoma of the left occipital region, a
laceration above and behind the right ear in the posterior
40 part of the right parietal region and a contusion on the anterior
part of the right parietal region overlying the site of the

fracture - these injuries leading further to a flattening of the convolutions of the brain, extensive subdural hæmorrhage, practically over the whole brain, and most marked in the right frontal regions, the formation of a large clot in front and beneath the frontal lobes, lacerations in the left temporal lobe and in the left parietal, with extensive subdural and subarachnoid hæmorrhage, petechial hæmorrhages on the right side in the white matter, and intracerebral bleeding of the right frontal lobe;

10 That as a direct result of her injuries, caused as stated in the first paragraph of this bill of indictment, the said Jean Peggy Broadhurst died at the Royal Naval Hospital, Bighi at forty minutes past eleven antemeridian (11.40 a.m.) of the twenty third July, one thousand nine hundred and sixty one, in spite of surgical intervention in an attempt to save her life - the cause of death being laceration and contusion of the brain, subdural hæmorrhage and fracture of the vault of the skull.

20 That by so doing the said Malcolm Stewart Broadhurst has rendered himself guilty of wilful homicide, that is, of having, maliciously, with intent to kill another person or to put the life of such other person in manifest jeopardy, caused the death of such other person.

30 Wherefore the Attorney-General in the name aforesaid accuses the said Malcolm Stewart Broadhurst guilty of wilful homicide, that is, of having maliciously, with intent to kill another person or to put the life of such other person in manifest jeopardy, caused the death of such other person; demands that the said accused be proceeded against according to law and that he be sentenced to the punishment of death in accordance with the provisions of section 225 of the Criminal Code, or to any other punishment applicable according to the declaration of guilt of the said accused.

(Signed) Oliver J. Gulia

Crown Counsel.

EVIDENCE

FIRST WITNESS for the Prosecution.

Sworn evidence of Surgeon Commander Ronald W. Tipple, Royal Navy

Prosecution: You remember having issued this certificate.
Read it out to the gentlemen of the jury.

Witness: R.W. TIPPLE. July 23rd, 1961.

Broadhurst Jean aged 20 married

10

This is to certify that the above was admitted to this hospital at 03.40 to-day suffering from severe head injuries.

At 07.30 operation was deemed necessary because of deterioration in the patient's condition.

In spite of all efforts patient died at 11.40.

Injuries ascertained at operation:

- (1) Laceration of scalp.
- (2) Subdural Haemorrhage.
- (3) Severe contusion of brain.

20

(Signed) R.W. Tipple.
Surg. Cdr. R.N.
1200/23

Prosecution: That is all you know on this case?

Witness: Yes.

The Court: You knew nothing about this case before?

30

Witness: I was the officer on duty on that night. The deceased was unconscious all the time from the time of admission till her death. I admitted her and did what was necessary. The night sister looked after her while I went on my rounds and from the night sister I am assured that at no time did she recover consciousness.

SECOND WITNESS for the Prosecution.Sworn evidence of Surgeon Lieutenant Peter Clements, Royal Navy.

Prosecution: On the 23rd July, 1961 or better on the night of the 22nd July, 1961 at about a time which you will please indicate to the gentlemen of the jury were you stopped by some body?

10 Witness: At about 1.30 in the morning. I was being taken by a car from Birzebugia to Muller and on the way outside the Police Station of Birzebugia I was stopped by the Naval Patrol.

Prosecution: Could you tell us whether they had with them a naval rating who told you something?

Witness: With the Patrol was a naval rating who said that there had been some trouble in the house next to which he lived and asked me to go there.

Prosecution: Who was this naval rating?

Witness: I think it was the rating named McKinnell.

Prosecution: What happened after that?

20 Witness: I went with this naval rating in the van to Granny Flats, St. Andrew Street, Birzebugia. I was taken to the bed-room of the Broadhursts where I found a lady unconscious on the bed.

Prosecution: Did you know who that lady was?

Witness: Yes she was Miss Broadhurst. There was in the room also Mrs. McKinnell.

Prosecution: What did you do? You were called in in your capacity as a doctor?

30 Witness: Yes. I found this lady lying on the bed deeply unconscious. She had a head wound about two inches long on the back of her head. That was the one that struck me at the time. Going up the stairs I observed a pool of blood.

Prosecution: Just one pool of blood, or more?

Witness: I can only recollect one pool of blood.

Prosecution: Did you examine the pulse of the patient?

Witness: I did. I decided that her condition was serious and would have to remove her to the sick-berth at 11.15 for further treatment.

Prosecution: You proceeded to effect some transfusion?

Witness: At the sick-bay, yes to attempt to restore her condition to a satisfactory level to enable her to be removed to the Naval Hospital, Dighi.

10 Prosecution: Do you recollect whether Jean Broadhurst displayed any sign of vomiting?

Witness: She vomited at the sick-bay.

Prosecution: Do you remember the dress or the coat? When you went into that flat, can you explain how Jean Broadhurst was dressed?

Witness: She was wearing pants and brassiere. Mrs. McKinnell handed to me a lady's dressing gown which we put around the patient. In addition I used a towel for a compression dressing of the head wound.

20 Prosecution: The colour of the coat?

Witness: I don't remember.

Prosecution: If you were to see it now would you remember?

(Witness confirms exhibit R)

Witness: No, that is the one.

Prosecution: What other measures did you take with the patient?

Witness: Mrs. Broadhurst was kept at the sick-bay then she left in an ambulance at 2.15 a.m.

Prosecution: Did you see the patient after that?

Witness: No, I did not.

- Prosecution: I understand that you did see the accused at the sick-bay at Hal Far?
- Witness: That is correct.
- Prosecution: Did you see the accused at the "Granny" flats?
- Witness: I did not.
- Prosecution: So you say that you saw the accused at the sick-bay at Hal Far?
- Witness: No, Sir.
- 10 Prosecution: Of course you were attending to Jean Broadhurst but you were informed that the accused was present?
- Witness: Correct.
- Prosecution: Do you remember who informed you?
- Witness: No sir.
- Prosecution: Do you recollect whether the person informing you of the presence of the accused in the sitting room of the sick-bay passed any remarks to you on the condition of the accused?
- Witness: No, Sir.
- 20 Prosecution: What does that mean, that you do not remember or that you do not know at all?
- Witness: It means that I do not remember.
- Prosecution: Do you remember how you introduced yourself to the accused or how he introduced himself to you?
- Witness: No sir.
- Prosecution: Do you recollect where you saw him?
- Witness: I came out of the treatment room where I had been attending Mrs. Broadhurst, I saw the accused there. I had been told beforehand that the accused was there, but I could not remember by whom.
- 30

Prosecution: What is Petty Officer Raymond Jackson?

Witness: It may be that I was told by a member of the patrol.

Prosecution: You are stating that you came out of the room where Jean Broadhurst was and went straight to the accused?

Witness: I decided to assure myself that the accused was showing no signs of medical diseases.

Prosecution: Could you please tell the Gentlemen of the Jury what role you came to the decision and why you examined the accused?

10

Witness: It was on my own initiative.

Prosecution: Did anything prompt you to do so?

Witness: I can say nothing what prompted me.

Prosecution: And you did examine him?

Witness: That is correct.

Prosecution: What was the nature of your examination?

Witness: Superficial examination.

Prosecution: And what did this superficial examination consist of?

20 Witness: Do I have to answer in detail?

The Court: Yes please.

Witness: Is it permissible to use my notes?

The Court: You can so long as they are available to us.

Witness: May I be allowed to bring them from outside?

The Court: What was the question?

Prosecution: It was a preliminary question. The witness said that he made a superficial examination, I then asked him what was the nature of the examination in the sense whether he had made any test of a specified nature and what was the object and aim of this superficial examination?

30

The Court: You wer examining him to see whether he was sober or not?

Witness: Yes.

The Court: What made you think that it would be necessary to examine him?

Witness: Because he smelt of alcohol.

The Court: Did you connect him in any way with the incident?

Witness: I did.

10 Prosecution: You have already stated that your examination was to ascertain whether he had any medical disease?

Witness: Yes, but he had no signs of disease.

Prosecution: And you did make out your statement before the Court of Enquiry?

The Court: But how did you arrive at that conclusion?

Prosecution: You can tell us the findings of your examination?

The Court: What did he find?

20 Witness: I found that he smelt of alcohol, that he had nystagmus, that his co-ordination was impaired, that he walked a straight line swaying a little, that his speech was slurred and that there was a coarse tremor of his out stretched hand.

Prosecution: Did you make any other tests, please?

Witness: Romberg's sign, and it was negative.

Prosecution: Please explain to the jury what that means.

30 Witness: If a man puts his feet together and closes his eyes he falls if it is positive, on one side; and if it is negative he remains standing on his feet, and in this case he remained standing on his feet.

- Prosecution: Which shows what?
- Witness: As an isolated sign it has little significance; but in association with others it may be of importance.
- Prosecution: Will you take the indications one by one, please. Can you describe the degree of every isolated indication, for instance slight, fair, or marked. Let's take the smell of alcohol - could you give your opinion on that?
- Witness: Moderate.
- 10 Prosecution: If we take the nystagmus in the eyes?
- Witness: Moderate.
- Prosecution: About the tongue of the accused did you say anything?
- Witness: It was normal.
- Prosecution: So that it would be neither slight nor fair nor marked. It negatives drink as an isolated indication?
- Witness: I disagree.
- Prosecution: I mean if the tongue of the accused is clean would that be an indication that he has drunk, as an isolated fact?
- 20 Witness: No.
- Prosecution: Did you say that the tongue of the accused appeared clean?
- Witness: I have not written down here anything, but I made a tick (my own shorthand) which means normal.
- Prosecution: And if it appeared clean that would be an indication in favour or against drunkenness as an isolated indication, taken by itself?
- Witness: I do not think it indicates either way.
- 30 Prosecution: Would you agree that a tongue which is furred or having salivation is an indication that the man is drunk?
- Witness: No, I would not.

- Prosecution: The fact that the tongue appeared to be clean was a negative factor, and that means what?
- Witness: I should say that when the tongue appears to be clean means his skin is healthy.
- Prosecution: When you examined it supposing that he had been intoxicated, what would you have expected to find in his tongue?
- Witness: Either way.
- Prosecution: So it would be useless 'either way'!
- 10 Witness: Yes.
- Prosecution: Then why did you do it at all?
- Witness: It is just part of a routine examination, but in this instance it is useless.
- Prosecution: You did state that you examined him also on the finger and nose for co-ordination and picking up matches. What was the indication of that test?
- Witness: Slight.
- Prosecution: If I may go back to what you had stated in the Lower Courts "he walked a straight line swaying very little"; would that be slight, fair or marked?
- 20 Witness: Slight.
- Prosecution: What about the coarse tremor of his outstretched hands?
- Witness: Moderate.
- Prosecution: This question of the tremor of the outstretched hands could it be attributed to something else and not to drinks?
- Witness: Yes.
- 30 Prosecution: Would excitement produce that?
- Witness: It might well do.

- Prosecution: And the test for rombergism gave a negative sign?
- Witness: Yes.
- Prosecution: Could you please tell us frankly your opinion of the accused?
- Witness: My impression was that he had been under the influence of alcohol but he was sobering up at the time.
- 10 Prosecution: You did not consider it proper to have any other tests such as the blood or urine test?
- Witness: Not at the time.
- Prosecution: Do you agree that those are the positive tests which show the alcohol contents in the blood?
- Witness: Yes.
- Prosecution: What importance do you attach to the smelling of alcohol, just that?
- Witness: Only that some alcohol has been consumed.
- Prosecution: Just that?
- Witness: Yes.
- 20 Prosecution: It just shows that some alcohol had been drunk and not that he was under the influence of drink.
- Witness: Correct.
- Prosecution: In the course of your examination did you observe any irregularities in the behaviour on the part of the accused such as insolence and abusive language?
- Witness: No.
- Prosecution: Did you observe anything in the breathing?
- Witness: No.

Prosecution: Did you test his pulse?

Witness: I tested his pulse but I made no record.

Prosecution: Does it suggest that there was nothing abnormal?

Witness: Yes.

Prosecution: I do not suppose that you did examine him with regard to his handwriting.

Witness: No.

Prosecution: Did you question him as regards the time?

10 Witness: No, but I remember asking him if he knew the day and the date and he gave me the proper answer.

CROSS-EXAMINATION

Defence: When the accused was brought to Hal Far were you attending to his wife?

Witness: On his arrival, yes.

Defence: Now as regards the blood transfusion or the plasma transfusion given to his wife, is it a fact that first one pint was given and then another pint was given to her during the course of another hour?

Witness: Yes.

20 Defence: And while that dripper was operating you had to stand around.

Witness: Yes.

Defence: Now, was it during that period that someone told you that the accused was over there?

Witness: Yes.

Defence: I am not sure whether you mentioned more or less the time when you saw the accused?

Witness: I saw him about 0215 a.m.

- Defence: Is it possible that when they brought him over someone told you that they had brought him for the possibility of being examined?
- Witness: It is possible.
- Defence: Do you remember who told you so?
- Witness: No.
- Defence: When you had McKinnell in your car on your way to the Broadhurst flat, did he tell you anything?
- 10 Witness: As far as I can recollect he indicated that somebody had been hurt in the flat.
- Defence: What was the first thing you noticed when you saw the accused - a smell of drink?
- Witness: When I first saw him he was sitting down and when I approached him, then I smelt it.
- Defence: You said before the Magistrate that when you approached him, the accused was crying and that he had a very strong smell of alcohol.
- Witness: Yes. He was sobbing.
- Defence: Did you ask the accused what he had been doing?
- 20 Witness: I am sure I did but I cannot remember the conversation.
- Defence: As regards the signs you noticed, is it correct that you noticed a marked nystagmus in both horizontal, and vertical directions?
- Witness: Correct.
- Defence: Could you explain the nature of nystagmus and its significance?
- 30 Witness: Nystagmus is the name given to the abnormal movements of the eyes, which movements may take place in different planes: horizontal, vertical or rotary.

- Defence: Do you agree that the presence of nystagmus may be regarded as strongly indicative of alcoholic intoxication?
- Witness: Yes.
- The Court: Alone or in conjunction with others?
- Witness: As an isolated finding it has very little significance but in conjunction with others it does assume importance.
- Defence: Did you notice perspiration?
- Witness: No, that I cannot recollect.
- 10 Defence: Did you make a note: "Drunk but sobering up"?
- Witness: Correct.
- Defence: And that was your positive opinion when you examined him?
- Witness: If "drunk" is taken to mean showing the effects of alcohol, yes.
- Defence: At 2.15. The longer time passes the less is the effect of alcohol.
- The Court: That is based on an assumption. We do not yet know the time. What made you think that he was worse before he became better? Suppose he had drinks that would produce that state which you found?
- 20 Witness: It was the impression I gained, supported I felt by the awareness, general orientation and the patient's association with signs of intoxication.
- The Court: Suppose he had before you saw him taken just the amount of drink which brought about this state which you found. Was that possible?
- Witness: Possible.
- 30 Defence: Do you remember having told some members of the Naval Patrol he must have had a drink - to Petty Officer Raymond Jackson?

- The Court: Have you said it?
- Witness: I do not remember saying so but I may well have done so.
- Defence: That was your impression at the time? Was it not?
- Witness: Yes.
- The Court: The signs you described were either moderate or slight. On what did you base the impression that he had taken a great deal of alcohol?
- Witness: Staggeriness plus his impaired co-ordination.
- 10 The Court: You said moderate, slight, unsteadiness. Do those words suggest that a person must have had taken a very great amount of alcohol? All these taken together
- Witness: No.
- The Court: How then do you say that you formed the impression that he must have had a great deal of alcohol? You have said just now that your impression was that he must have drunk a lot. Now I am repeating the sort of answers you gave to the Counsel for the Prosecution. Can that impression be formed on the signs you found since they are either moderate or slight and some of them negligible or useless?
- 20 Witness: I think an impression can be formed.
- The Court: But it is supposed to be logical. Is that logical?
- Witness: The question is: Is it logical? Yes it is
- The Court: Assuming that by taking a lot of alcohol you mean a person was therefore very drunk.
- Witness: No.
- The Court: He was not very drunk?
- 30 Witness: It is impossible for me to say how he was.
- The Court: How can you say that he had taken a lot of alcohol?

- Witness: I cannot.
- The Court: Therefore why are you saying that that was the impression?
- Witness: There must be a misunderstanding.
- The Court: Do you remember the question?
- Defence: What his impression was? When you saw him, what was your impression? The degree? "He must must have had a skinful"?
- 10 Witness: I think that is too strong a term for what I intended if that is what I said. My impression is that he had been under the influence of alcohol, but was sobering up at the time.
- The Court: You agree that that impression does not agree with the tests you mentioned?
- Witness: It could well agree.
- The Court: You just stated the contrary about two minutes ago.
- Defence: As regards staggering?
- 20 Witness: Marked as it is easily seen but it was of a moderate degree.
- Defence: Is it a fact that being hit on the face has a sobering effect on a man?
- Witness: Yes.
- Defence: And do you agree that in the case of a man under the influence of drink facts which are accompanied by marked emotion are more likely to be remembered while those less emotional in character are not?
- Witness: Agreed.
- The Court: Do you remember those which are emotional in character rather than others?
- 30 Witness: Yes.

- The Court: So you will expect that a man who was under the influence of drink remembers best those acts which are emotional? Is that your answer?
- Defence: My first question was if he had detected shock on the accused and his answer was yes.
- The Court: Did you have any other talk with the accused? While you were carrying out all these tests, did you have any other conversation with the accused?
- Witness: I did not.
- 10 The Court: Carrying out these tests without talking to him?
- Witness: Yes, he was coherent.
- The Court: He was replying to your questions?
- Witness: Yes.
- The Court: Which is your right meaning was he under the influence of drink? You are not intending that he was in a bad state of mind?
- Witness: No.
- The Court: You saw him at 2.15 a.m.?
- Witness: Yes.
- 20 The Court: What was the time when you first saw the deceased at her flat?
- Witness: At 1.30 a.m.
- The Court: So the injuries were incurred beforehand?
- Witness: Yes.
- The Court: Supposing a man drank immediately after the incident occurred and between that time and the time you saw the accused would that drinking result in the state you found him in?

Witness: I cannot say.

The Court: But you are not saying that those signs must portend drinking two hours before?

Witness: It is impossible for me to fix any time relations.

The Court: If it were half an hour, or three quarters of an hour or two hours before?

Witness: I believe so.

10 The Court: You did not consider it as part of your duty, as a doctor, when you realised that the injuries sustained by the deceased were very serious, to inform the Malta Police? Do you not know that a doctor is obliged to do this?

Witness: I do know now.

The Court: You saw Mrs. Broadhurst at 1.30 a.m. and she was very seriously injured and was suffering from a concussion?

Witness: Yes.

The Court: And she left at 2.15 a.m. presumably at your instructions.

Witness: 2.45 a.m.

20 The Court: In a serious condition and you examined the accused, you told us, because in your mind you connected him with the incident?

Witness: Yes.

The Court: Did all this not suggest to you that it was necessary to inform the Police Station?

Witness: As I have said before, it did not occur to me that the Police needed further notifying when I was gathered from the Police Station.

THIRD WITNESS for the Prosecution

Sworn evidence of Surgeon Commander James Watt, Royal Navy.

- Prosecution: I understand you were called on the 23rd July, 1961, by Surgeon Commander Tipple, to examine a patient who had been admitted to the Naval Hospital at Bighi?
- Witness: Yes.
- Prosecution: Who was the patient?
- Witness: Jean Broadhurst.
- 10 Prosecution: Do you remember the time, please?
- Witness: The time was 7.30 a.m.
- Prosecution: Do you remember the state of the patient when you first saw Jean Broadhurst?
- Witness: Yes. She had stopped breathing and she was receiving artificial respiration.
- Prosecution: Was she conscious at any time?
- Witness: She was not.
- Prosecution: Could you describe her condition to the Jury?
- 20 Witness: She was suffering from a generalised paralysis which was flaccid in type. Her pupils were widely dilated and fixed. Her pulse at that time was between 70/80 a minute and her blood pressure was 98 systolic.
- Prosecution: Was there any deterioration in her condition at some stage?
- Witness: Yes. At 8.15 a.m. her blood pressure had gone down to 62 systolic and her pulse rate had risen to 130 and 140 beats per minute, and she had become much feebler.
- 30 Prosecution: Did you take any decision at that time?

- Witness: At 8.30 a.m. her blood pressure had risen slightly to 78 and at that time as I felt we were able to maintain the blood pressure successfully throughout an operation and there was evidence that her paralysis was of recent onset and that she was suffering from a clot of blood on the brain which might be relieved by an operation, I considered it justifiable to prepare for an operation. I considered the outlook was grave but that an operation offered the only prospect of saving her life.
- 10 Prosecution: I understand there was an x-ray taken of the skull?
- Witness: I took an x-ray of the skull before she went to the operating theatre and that revealed a fissure fracture of the right parietal bone, a transverse fracture roughly four inches in length.
- Prosecution: I understand that before the operation proper there was shaving of the head?
- Witness: Yes; her head was shaved.
- 20 Prosecution: Do you remember the injuries which became evident after the shaving of the head?
- Witness: After shaving of the head it was clear that she had a contusion overlying the left mastoid process.
- Prosecution: Could you please show the jury where these are?
- Witness: It is just behind the ear. She had a large haematoma of the left occipital region.
- Prosecution: Will you please tell the jury what is a haematoma of the occipital region?
- 30 Witness: A haematoma is a collection of blood under the surface of the skull and a contusion is blood in the soft tissues themselves. A haematoma is a collection of fluid blood. There was a laceration which had been sewn up previously above and behind the right ear in the posterior part of the right parietal region. There was also a contusion of the anterior part of the right parietal region overlying the site of the fracture.

- Prosecution: There were four obvious injuries of the skull: behind the left ear, one in the left occipital region, a laceration above and behind the right ear, and a contusion overlying the right parietal bone.
- Witness: Yes.
- Prosecution: Before taking any further steps regarding operating her did you ask for the consent of the accused?
- 10 Witness: Yes I saw the form of consent duly signed. I did not tell him to sign it, somebody else did.
- Prosecution: So the accused signified his consent for the operation?
- Witness: It was signed on the official form.
- Prosecution: There was a time when you definitely took the decision to operate.
- Witness: Yes, at 8.30 a.m., and in the then intervening time she was being prepared for operation and at 9.20 a.m. the operation was commenced.
- 20 Prosecution: I wonder if you could perhaps describe in general terms which would be understood by the gentlemen of the jury your action to have the operation carried out. What action was taken?
- The Court: What is your precise point?
- Prosecution: Actually to ensure ... but I may come to the very end of that. The point is that the patient finally succumbed.
- Witness: Yes.
- Prosecution: Do you remember the time?
- Witness: At 11.40 a.m.
- 30 Prosecution: I think that during the operation you did ascertain or suspect at least that there were several haemorrhages in various places?

- Witness: We did an exploratory operation in the first instance. I made what is called a burr hole in the skull underlying the contusion that we found, because that was where we expected to find most of the clot and on opening the burr hole I found a very extensive surface clot which could not be removed through this small burr hole. So, four burr holes were made and I turned down the wide bone flap to expose the frontal lobes and part of the parietal lobe of the brain and evacuated a large amount of blood clot and some fluid blood from the surface of the brain.
- 10
- Prosecution: Did you ascertain that there was damage to the brain?
- Witness: There was considerable contusion of the brain substance and also laceration of the brain underlying the blood clot. In addition there was a good edema which could not be reduced satisfactorily by this one decompression operation in spite of giving the patient into the blood stream some chemical solutions which were designed to reduce the brain swell, and so a further exploratory burr hole was made on the left side and only a small collection of blood was removed from the surface of the brain.
- 20
- Prosecution: You are satisfied that all that could have been done was done.
- Witness: Yes.
- The Court: In view of what you found there was nothing to do after the exploratory operation and the removal of the blood clot?
- 30
- Witness: After the removal of the blood clot there was nothing further to be done.
- The Court: And it was all due to the injuries which the deceased had in her brain.
- Witness: Yes.
- The Court: Considering her state before the operation, would she have died if no operation was performed?
- Witness: Yes, and in fact it was only the artificial respiration that kept her alive.

The Court: And her husband was informed that his wife was going to be operated upon.

Witness: That was not done by myself, but I gave instructions to notify him. I do not know the person who actually informed the accused. I only asked for the consent to be obtained for me to do the operation.

FOURTH, FIFTH AND SIXTH WITNESSES FOR THE PROSECUTION
Sworn evidence of Dr. V. Camilleri, Dr. L. Manche' and
Surgeon Commander Fuller.

Dr. Camilleri read the report and was the spokesman
for the medical witnesses.

Mortuary Room,
R.N. Hospital,
Bighi.

24th July, 1961.

10 Report of a Post-mortem examination on the body of
Jean Broadhurst, aged 20, of "Granny" Flats, St. Andrew
Street, Birzebbugia, ordered by the Court presided by
the Magistrate Dr. J. Debono, LL.D., and carried out by
Surgeon Commander Peter S. Fuller, Royal Navy, Dr.
Victor T. Camilleri and Dr. Loris Manche'.

External Examination.

20 The body is that of a young woman of a slight built, 165 cms.
tall, in a good state of nutrition. Stiffness is present throughout
the whole body; hypostatic congestion is seen on the back; the
pupils are equal and moderately dilated. The head is bandaged, and
on removing the bandage the head is found to be shaved. It has the
following external lesions:-

A. ON THE TRUNK.

- 30
1. a bruise, 2 cm by 3.5 cm on the right side of the chest, over
the 7th and 8th rib, in the posterior axillary line;
 2. a series of abrasions on the lower part of the back.
Together they form a triangle whose apex is at the level of
the 1st lumbar vertebra, 121 cms above the level of the ground
and the base over the 5th lumbar vertebra, the height of the
triangle being 13 cms. These abrasions are covered by yellow
ish skin, parchment like in colour and consistence, and are
disposed in pairs, one on each side of the vertebral column.

/(i)

- 10
- (i) the uppermost, situated between the 12th dorsal and 1st lumbar vertebrae, are .6cm. wide and 1.5 cm. apart.
 - (ii) lower down, between the 1st and 2nd lumbar vertebrae, they are slightly larger (1.5 cm. and .6 cm) and 2.5 cm. apart.
 - (iii) the third set lie in a more oblique position, the left one being over the 3rd lumbar, whilst the right one is over the 4th lumbar vertebra. They are each 1.5 cm. in diameter, lie 2 cm. apart and are connected by a bridge of abraded skin.
 - (iv) a fourth pair are to be found at the level of the 5th lumbar vertebra that on the left being slightly larger (2cm against 1.5 cm.) they are 4 cm. apart.
 - (v) a fifth abrasion is present over the tip of the 5th lumbar vertebra.

20 5. Finally, in the lumbar region, commencing at the middle line at the level of the top of this triangle, and extending towards the costal arch on the left side, there is an L shaped area of abraded skin, whose arms are each 8 cms. long and 3 cms. wide.

B. ON THE LIMBS.

A bruise 4.5 cms. by 2cms. is present over the outer malleolus of the right leg; and over both forearms there is an oval bruise with a central punctured wound. These last two bruises are the result of venopuncture made for therapeutic purposes.

C. ON THE HEAD

The head is completely shaved. On the left side, over the tip of the mastoid process, there is a rectangular abrasion, 2.7 cm. by .7 cm. It is directed upwards and backwards. Somewhat further back, over the base of the occipital bone, there is a circular area of bruised and contused skin, 3.5 cms. in diameter, which has a centrally placed, more or less linear, area in which the scalp is thinned out and whose margins are very bruised. The direction of this central area is also upwards and slightly backwards. On the right side of the head, 9.5 cms. above the tip of the mastoid and somewhat behind it, the scalp has a 6 cms. long linear wound whose edges are bruised. This wound which is sutured, runs from in front backwards. Always on the right side in the parieto-frontal region there is an arched incision 9 cms. in diameter; it begins posteriorly over the ear, arches upwards and forwards and ends anteriorly immediately behind the right eye; this wound, which is also sutured is the result of a surgical intervention (fronto-parietal flap). Another linear incised wound is present over the vertex, just to the left of the middle line. It is 4 cms. in length and is sutured. On dissecting the scalp, extensive subaponeurotic infiltration is found under each one of these wounds, particularly in the left occipital region and in the whole parietal and fronto-parietal region on the right side.

SKULL AND BRAIN

A linear fissured fracture is present in the right parietal region. It starts 2 cms. in front of the scalp wound described above, and runs forwards for a distance of 10 cms. A burr hole is present underneath the incised wound on the vertex. Five other burr holes are to be found on the right side under the fronto-parietal flap, two at its base and three at the top part. The area of bone included between these burr holes is roughly triangular and is made up of a lower more or less rectangular bit of loose bone 3 cms. by 7.5 cms. whose lower margin corresponds to the line of the base of the skull and the upper margin to the line of the linear fracture already described, and an upper roughly triangular area, 7.5 cms long cm. 2 cms thick, which is composed of bone. This bit of missing bone was apparently removed during the operation. The dura mater underneath the fronto-parietal flap is cut through and the brain is exposed; it is oedematous, very badly bruised and torn. On removing the skull cap, the duro is seen to be under tension, more especially in the /frontal

10 frontal regions, where it is bulging and has a distinctly blue colour. Underneath it, the convolutions of the brain are flattened, there is extensive subdural haemorrhage, practically over the whole brain, but most marked in the frontal regions, and more so on the right than on the left. Here, a large clot is present in front and beneath the frontal lobes. This clot is attached to the tip of the anterior pole of the right frontal lobe which is badly torn and bruised, and from which it appears to be emerging; besides these brain injuries on the right side, there is also a laceration in the left temporal lobe and in the left parietal, with extensive subdural and subarchnoid haemorrhage. The white matter is full of petechial haemorrhages on the right side, and the right frontal lobe has also marked intracerebral bleeding. The ventricles are not dilated, and there is a slight degree of coning.

20 There are no lesions in the tongue, in the larynx or trachea, which is not obstructed. The lungs are oedematous. The heart is normal. No lesions were found in any of the abdominal organs. The spine was not injured. Two samples of blood were taken from the right side of the heart; one hundred cubic centimetres of a clear straw coloured urine were taken by syringe from the bladder, and the stomach was removed whole with its contents. These specimens are being exhibited
30 in Court for the required serological and chemical examinations. The cause of death is laceration and contusion of the brain, subdural haemorrhage and fracture of the vault of the skull.

- Prosecution: Could you express an opinion as to whether any one of the injuries on the head could be produced by a fall from one's own feet on a flat surface?
- Witness: Yes. Each one of these injuries could be produced by a fall as you describe.
- Prosecution: Could all the injuries be so produced?
- Witness: Not at the same time.
- 10 Prosecution: Have you anything to say on the lesions on the back of the body? Could they be produced by such a fall? You gave three alternatives.
- Witness: I confirm.
- Prosecution: As regards the abrasions on the back: 'We submit that these could have been produced:-
- (i) either by the body grazing sideways along the railing, intermittently, or
- (ii) by the body being passed over these railings supposing that resistance had been offered by the assailed person.
- 20 'These lesions could also be the result of the body rubbing over the edges of a step or steps'.
- Witness: Yes.
- Prosecution: Then you concluded: 'From all our observations we have found nothing incompatible with the possibility of the victim having been thrown down the stairs.'
- Witness: Yes.
- 30 The Court: Thrown down from the top; rolling downstairs....?
- Witness: Pushed down, or falling down the stairs. I don't think we can be more definite about that.

The Court: You said you found nothing incompatible with the possibility of her having been thrown downstairs.

Witness: That was a question which was put to us exactly in this manner and we could not say what was meant by the words "thrown down" and what is implied. We have not got the means to establish that she had been forcibly thrown down. It is consistent with the body falling down those stairs.

10 The Court: Thrown from the top to the bottom?

Witness: Not being thrown down as Your Lordship says, by being thrown down from the top landing to the place where the body is supposed to have been found. The body could not have been thrown down from the top to the lower landing where it was found.

Prosecution: Is there anything incompatible with the possibility of the victim having been thrown from the main landing?

20 Witness: We don't think that is possible. She could not have been thrown down to the place where she was found from the top landing.

Prosecution: Is there anything incompatible with the possibility of her having been thrown from the main landing to the first half-landing?

The Court: We will have a look at the premises ourselves and see whether that is physically possible.

30 Prosecution: Would it be incompatible with the possibility of the body having been thrown down from the main landing to the first half-landing? Whether the injuries are consistent with that.

Witness: It is possible, but most unlikely that she was thrown from the upper landing down to the lower landing. We do not consider it likely. From the lesions we have found there could be various possibilities; for example, in my personal opinion it is possible that she could have fallen backwards,

/grazed

grazed her back against the railings of the first flight of stairs; then hit the back of her head against the railing of the half landing and was stunned and then ?

The Court: How do you know this?

Prosecution: Would it be possible to say that she was thrown from the main landing to the first half-landing and then pushed with the feet to the place where she was found?

10 Witness: There is nothing against it.

Prosecution: To the second flight of stairs? There is nothing incompatible

Witness: No.

Prosecution: Have you any other remarks to make on the lesions on the back of the body? (This could not be produced by the fall?)

Witness: All the lesions in the back have been qualified as grazes.

20 Prosecution: You also stated that the grazes on the back could have been produced by the body being grazed against the railings? Could you enlarge on that please?

Witness: No sir.

CROSS EXAMINATION

30 Defence: As regards the injuries to the head, we have been informed that two surgical interventions were performed. Now from the post-mortem report only one is described as due to surgical intervention, (the one 9 cm in length) which is described as an incised wound. With regard to the surgical intervention on the other side could you state which one it is?

Witness: That one to the left is called an incised wound because it was done intentionally for surgical purposes.

- Defence: As regards the lesions to the back, they were all grazes, there were no bruises. Now if a body falls from a height or even six feet down, should not one expect some bruises?
- Witness: It depends on which part of the body was hit. In this case the head was hit.
- Defence: You said that it is most unlikely that there was a throwing down, could you elaborate please?
- 10 Witness: A fall could produce those grazes but as regards the fracture on the head, if the body had been thrown across the railings, one would expect the head injuries to be higher up.
- Defence: Is it not a fact that, apart from your Report the part of your evidence referred to by the Prosecutor was not a statement made by you but was merely a negative or affirmative reply to questions put to you?
- Witness: Yes.

RE-EXAMINATION

- 20 Prosecution: You did take a sample of the blood and urine from the body of the deceased?
- Witness: Yes, we did.
- Prosecution: Can you explain the purpose?
- Witness: One is to establish the category of the blood and the other to establish the amount of alcohol in the urine.
- Prosecution: Do you consider that this blood-test is necessary to establish alcoholic contents?

Witness: Not in this particular instance because several hours had passed since alcohol was taken and it was not expected to find any alcohol at that stage but we did it to be on the safe side.

Prosecution: Could you please indicate - I am asking general questions - as I would like your opinion as regards alcohol and drunkenness?

The Court: What is the point?

10 Prosecution: I was only going to ask what would be a positive test for drunkenness?

The Court: Well, you know that.

/ Witness Continued

The Court: I understand that there were three injuries in the skull, one behind the right ear and two behind the left ear?

Witness: Yes. There was an abrasion lower down, a contusion, a very badly torn wound in the central portion near the _____ and one other on the right side of the parietal.

10 The Court: They were on both sides of the head? Do you think it is possible that all these were made with one single impact?

Witness: No.

The Court: What was the relative importance of the wounds?

Witness: The most important wound was the fracture of the right parietal region.

The Court: Were the other wounds serious at all?

Witness: That was the most serious. The fracture of the right parietal region.

20 The Court: I was asking you about the left wound, was that serious at all?

Witness: No.

The Court: Was there a certain amount of impact to produce it?

Witness: Yes.

The Court: And you are saying that the four together, or three if you wish, were not caused by one single impact?

Witness: No.

The Court: Did you form any idea as to how the three injuries in the head had been produced, bearing in mind also the sort of spreading of all the other abrasions?

10 Witness: Well the way we reconstructed the accident is that she must have fallen backwards, that she must have grazed her back against the bannister or the iron railing in the first flight, then went on falling backwards and had hit the left side of the head on the other railing of the landing. That could have produced some amount of stunning enough to make her unstable and perhaps fall down. Those four lesions must have been produced in three or four different times at least.

The Court: Which ones?

Witness: The grazes in the back, the right hand and the right side of the head.

The Court: What do you mean by different times?

Witness: Different stages of the fall.

20 The Court: And it would take the whole, from the top landing up to the other landing?

Witness: To the rear landing, between the first flight and the small landing with a window in front, and there she could have hit her back again when she fell backwards.

The Court: From the top landing to where?

Witness: To the first landing and then from there she went on. This is only a possibility solely from the injuries.

30 The Court: With regard to the type of injuries on the back when you say falling backwards do you mean that she might have fallen head down?

Witness: We cannot exclude that possibility. There is nothing definite in any of those lesions.

The Court: Assuming that the deceased was standing on the top of the stairs and she was pushed and she fell head downwards is that more consistent with the injuries, especially in the head?

Witness: Oh yes. The injuries are consistent with her grazing on the iron railing but there is nothing in those injuries which makes us exclude absolutely the possibility that she was pushed over.

10 The Court: I think you mentioned, judging solely by the injuries sustained, a fall from the top to the first half landing. You have an idea of the place, have you not?

Witness: Yes, we have.

The Court: Would I be correct in saying that from the top to the first landing you are visualising fourteen steps, five plus nine?

20 Witness: No. In between those five and nine steps there is that half landing. What I mean by the top landing is that of the first five steps, and the second is that of the nine steps.

SEVENTH WITNESS FOR THE PROSECUTION
Sworn Evidence of Professor P. Farrugia.

Prosecution: You did examine samples of the blood and urine
and the whole stomach of the deceased?

Witness: Yes,

Prosecution: Did you find any traces of alcohol?

Witness: No.

Prosecution: And what kind of tests did you follow?

Witness: The classical nicloux tests.

SIXTH WITNESS

Sworn evidence of Dr. Joseph Lewis Grech.

Prosecution: Dr. Grech made an examination of various objects but as far as you are concerned the Prosecution is interested only in your examination of the deceased's coat and dressing gown.

(Witness Reads part of his report
and then both he and Professor
Ferraria withdraw.)

NINTH WITNESS FOR THE PROSECUTION
Sworn evidence of Dr. F. Fullicino.

Prosecution: Did you examine the sample of blood of the deceased?

Witness: Yes.

Prosecution: Did you establish the blood groupings?

Witness: Yes, they were AB.

Prosecution: Did you also examine a pair of black boots?

Witness: Yes.

Prosecution: And you found traces of blood on them?

Witness: Yes.

Prosecution: And the grouping of the blood was ?

10 Witness: May I see my report please? (Witness after seeing his report stated that the grouping was AB.)

TENTH WITNESS FOR THE PROSECUTION
Sworn Evidence of Police Sergeant Zammit. (Translation
 from the original in Maltese.)

Prosecution: Where are you stationed?

Witness: On that day I was stationed at Birzebbuga.
 On the 23rd July, 1961, I was on duty at Birzebbuga
 at about 9.30 in the morning and Lieutenant
 White called and reported that Broadhurst had
 beaten his wife and Surgeon Lieutenant Clements
 had examine his wife. I tried to contact the
 accused but did not succeed at that time and later
 I went to the doctor and asked him if he had examined
 a woman during the night. He told me that her
 condition was grave and he had sent her to Bighi.
 I then asked him to give me a certificate and
 took the certificate to the Zeitun Police Station,
 found Sergeant Louis Vella and informed him about
 the matter.

10

20

I asked for Mrs. Broadhurst and I was informed
 that I could not speak to her because she had
 been operated upon and was in no condition to
 speak. I asked whether I could speak to the
 accused but was told that I could not because
 there was an order to take the accused to Hal
 Far that evening and then I could interview him
 in the presence of his officer. Then I 'phoned
 Sergeant 177 at Zeitun Police Station asking
 him to come over. He came over. I carried
 out investigations and went to the place where
 the incident had happened in order to put the
 tenement under guard.

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The Court: At what time were you first informed?

Witness: At about 9.30 a.m.

The Court: Were you on duty during the night?

Witness: During the night I was at Zeitun. I went
 to Birzebbuga in the morning.

The Court: In the occurrence Book was there anything before
this. This is the first time?

Witness: Yes.

ELEVENTH WITNESSSworn Evidence of Police Sergeant Louis Vella.

Prosecution: Where are you stationed?

Witness: At Zeitun Police Station.

Prosecution: Do you recollect that you received a telephone call on the 23rd July?

Witness: On the 23rd July while I was on duty at Zeitun I received a telephone call at approximately 9.30 a.m. from Police Sergeant 58 Michael Zammit who was on duty at Birzebugga. Zammit told me that he had received a report that a Naval Officer called at Birzebugga Police Station and reported to him that a Serviceman had struck his wife causing her injuries. I instructed Police Sergeant Zammit to obtain a medical certificate covering the injuries and to interview the Serviceman concerned.

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About twenty minutes later Zammit came to Zeitun Police Station and he had in his possession a medical certificate concerning the injuries sustained by the Serviceman's wife. This certificate was signed by Surgeon Lieutenant Clements.

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Prosecution: What happened then?

Witness: On my instructions, Police Sergeant Zammit went to Bighi Hospital to interview Jean Broadhurst and later on 'phoned from Bighi Hospital to the effect that he was unable to contact either the patient or her husband. I immediately informed Inspector Pace Bonello of what happened and he ordered me to go to Bighi Hospital to carry out investigations myself. At 12 noon, we were at the gate and we waited there, while permission was sought to enter the hospital ward. At about 12.30 p.m. I saw Surgeon Commander Tipple arriving in his car at the gate. I spoke to him, asked him about the condition of the patient Jean Broadhurst and he told me that she was dead. I asked him to furnish me with a death certificate and he gave me this certificate. At about

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/12.45

Witness:
(Contd.)

12.45 p.m. I saw a naval transport leaving Bighi Hospital. I asked the officer in the van whether the accused was in the van. I told him to drop the accused at Zeitun Police Station or at Birzebugga Police Station. He told me that he had orders to take him to Hal Far. Thereupon, I told the officer to contact his superiors and tell them that the Police were insisting to have the accused at Birzebugga Police Station or at Zeitun Police Station. At the gate, I was informed that a Naval Officer would be coming from Hal Far, and in fact, this officer called at the station and arrangements were made to take the accused from Bighi Hospital to Zeitun Police Station.

TWELFTH WITNESS FOR THE PROSECUTION
Sworn Evidence of Superintendent of Police Gregory Scicluna.

Prosecution: Last July, on a day, which you will please state, you were informed that something happened to an English woman. Please explain to the Court what happened?

Witness: One Sunday, last July, at about 12.45 p.m. I was informed that an English lady had died at Bighi Hospital from head injuries. I immediately gave instructions for the commencement of investigations to ascertain how the dead woman died and where her body was. I came to know that her husband who might have been involved in the incident was at Bighi Hospital. I therefore gave orders that this man be brought to Birbebugga or Zeitun Police Station for questioning. I saw him at about 3.30 p.m. at Zeitun Police Station. I started by warning him that I was putting some questions to him and that if he considered that his answers might be to his detriment, he need not reply. He said that he could not say anything about the accident because he could not remember anything.

Prosecution: Did he tell you whether he had any instructions?

Witness: When I gave him the warning about the questions to be put to him, he said that it was desirable to have a solicitor present. I said to him that it was not customary for the Police to allow a solicitor at that point. He said that he would not reply. I said that I am going to ask him some questions and he need not answer. He said that he had been at the dance at Kalafra, then at a certain time his wife told him that she was not pleased with the dance because attendance was poor. He said that he had some drinks, he had beer and whisky and that his wife had long drinks. He continued to tell me that at about 11.30 p.m. or midnight, his wife wanted to go home but he did not want to go and let her go home alone and he remained at the dance till it was over. When it was over he said that he

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was more or less drunk and that when he came out he felt worse and he had a black-out and could not remember how he got home. He only remembered crossing Birzebugga Square, and he remembered that spot because there is the petrol pump and the wall behind it. He continued saying that just then, he suffered another black-out and found himself near his wife who was lying on the steps at his flat with her head downwards in a pool of blood. He said that he lifted her up and put her in bed and then called his next door neighbours, but he did not remember saying anything to his neighbours. He only remembered having been slapped on the face and having seen the sick bay attendant; that he had another black-out and when he came to his senses he found himself at the Guard Room in Lyster Barracks, Hal Far; that Lieutenant Clements took him down to Hal Far Sick Bay and told him that his wife had been injured. He remembered having been taken to Granny flats at Birzebugga, where he was given a cup of tea by his neighbour, and after that he went to bed. He was awakened at 7.30 a.m. and his neighbour brought him a cup of tea, he slept again and at 8.00 a.m. was awakened and told that he was required at Bighi Hospital. He went to Bighi Hospital and remembered having seen the nursing sister, that a declaration was required of him giving consent that his wife be operated upon. He did give this consent and he waited there, at Bighi Hospital, for the result of the operation. At about 11.30 a.m. he was told that his wife had died, and was informed that he was being taken to the Police Station, Beitun. In fact he was brought to the station and I saw him first at 3.30 p.m. When he had said all this I took him down to Birzebugga, to his flat, where he pointed out to me the spot where his wife was. I took him then to Birzebugga Police Station.

The Court: Where was the spot, where he saw his wife lying?

Witness: On the second flight of stairs. As you go up the first flight there is the landing and then the second flight.

The Court: At the bottom of the second flight of stairs?

Witness: There are three flights of steps, at the second flight.

10 Then I took him to Birzebugga Police Station for further questioning. He was asked to make a statement. He said that he preferred not to do so. Then I started investigating the witnesses. In the meantime Superintendent Lanzon of the C.I.D. came in. We examined some witnesses together and we again interviewed accused together. Superintendent Lanzon asked him to repeat what he had already stated to me. He wanted to know why and Superintendent Lanzon told him that he would like to hear the story from the horse's mouth and he repeated the story again, the story which I have already stated.

20 Subsequently I again interviewed the accused at Police Headquarters Floriana and Superintendent Lanzon read out to him the notes he had put down of the interview we had had at Birzebugga and asked him whether he would sign it. He replied that he had been instructed not to say anything before consulting a solicitor. Then Superintendent Lanzon repeated to him what we had learned from the McKinnells and he replied: "It might be, but I cannot remember". Then we asked him whether the McKinnells were his friends and his reply was "Yes, they are my friends".
30 We asked him whether he had any reason to doubt what they were saying and he said: "I have no reason to doubt them". Superintendent Lanzon asked him also whether he had experiences of these black-outs before and he said that on two other occasions he had other black-outs and the last one was in Christmas.

The Court: Did he say what happened when he had a black-out?

40 Witness: No. He just said that on two other occasions he had a black-out. One occasion was in Christmas but he never consulted a doctor about that.

The Court: Did you specify to him what the McKinnells heard?

Witness: Yes. That the McKinnells heard Mrs. Jean Broadhurst shouting: "No Male you will kill me", and

The Court: What was his answer?

Witness: His answer was "I cannot remember, it might be". We then told him that Brenda McKinnell had said that he told her that he had thrown Jean down the stairs.

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The Court: What did he say when you told him what Mrs. Brenda McKinnell had said?

Witness: "I cannot remember, it might be". Then I told him whether the McKinnells were his friends or whether he considered that they were lying and he said "No".

The Court: The words "or whether he considered that they were lying" made by you in reference to what?

Witness: To what the McKinnells had stated.

Prosecution: Did he speak about his relations with his wife?

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Witness: Yes. He was asked by Superintendent Lanzon whether he had any arguments with his wife and he said: "We had our differences but no arguments", but that they might have had one the day before, because he had found signs of having been bitten in the forearm and right shoulder.

Prosecution: Did he speak about any characteristic of his wife?

Witness: Yes, he said she was possessive.

The Court: Who said so?

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Witness: Himself, the accused. And I think he said she did not like him staying on the terrace because he had stayed there for some time and he said she did not like him there.

The Court: Have we got this in the record?

Prosecution: No. Because he is referring to the second interview with Superintendent Lanzon.

The Court: But you were there?

Witness: Yes.

The Court: I cannot find that you said that in the enquiry. Well anyway, what did you say? Will you repeat what you have stated about his wife.

10 Witness: That she was possessive and that she did not like him staying on the roof.

Prosecution: Did he say anything else?

Witness: Yes, that she wanted him near her, and in the afternoon she would not let him sleep but kept him awake.

Prosecution: Did you show him some photographs?

Witness: No, I don't think I did.

CROSS-EXAMINATION

Defence: At what time more or less did you speak to the McKinnells on the 23rd?

20 Witness: At about 4.30 p.m.

Defence: Was it at Zeitun or at Birzebugga?

Witness: At Birzebugga, at the Police Station there. We also interviewed them at their residence to show them the blood stains.

Defence: Was that before or after half past four?

Witness: After.

- Defence: Now, when you questioned accused, first you mentioned some conversation when an officer of his was present, and you are not sure whether it was his officer or the accused himself who mentioned that the accused should have the assistance of a solicitor.
- 10 Witness: I should say that the officer suggested to me that the presence of a solicitor was desirable, I told him it was not customary for the Police to interview people in the presence of solicitors at this stage.
- Defence: And then afterwards what questions did you put to him?
- Witness: Well, of course, the first thing I asked him was how did the accident happen and he said "I cannot remember". Then he told me: "I remember I had been at the dance together with my wife", and what I have already stated in my evidence.
- 20 Defence: Now, as regards the time that the accused mentioned that his wife had left, what was the time?
- Witness: If I am not mistaken, he said it was about 11.30 p.m. or midnight that his wife wanted to go home.
- Defence: Are you sure of that?
- Witness: I think he said that.
- Defence: Is it possible that he told you it was twelve or twelve-thirty?
- Witness: I am under the impression that he told me it was about half past eleven or midnight.
- 30 Defence: Now, after that, you interviewed him in the presence of Superintendent Lanzon?
- Witness: Superintendent Lanzon interviewed him in my presence.

Defence: You were there most of the time?

Witness: Yes.

Defence: Now was there a third interview at Floriana?

Witness: Yes.

Defence: And you were present there too?

Witness: Yes.

Defence: The statements which he made were they in agreement one with the other?

Witness: Yes, they were.

10 Defence: At which interview was he asked whether he wanted to sign a statement?

Witness: At the last one when Superintendent Lanzon had put down what he had heard.

Defence: Was it on that occasion that the accused said he was instructed not to say anything?

20 Witness: It was during the first interview when the officer was present. At a later interview the accused told Superintendent Lanzon that he had been instructed not to say anything before consulting a solicitor and when Superintendent Lanzon asked him who had given him those instructions he replied that he preferred not to disclose the name of the officer who had given him those instructions.

Defence: You mentioned that Superintendent Lanzon him what the McKinnells had said.

Witness: Yes.

30 Defence: Now you said that his reply was: "I cannot remember might be." I should now like to draw your attention to this point that before the Magistrate on one occasion you stated:

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Superintendent Lanzon put it to the accused that the McKinnells had said that when he went to their flat, he had told them: "I have thrown Jean down the stairs, come and see her, Brenda." To this the accused replied: "I cannot remember. Might be." When Superintendent Lanzon asked the accused if he remembered his wife saying: "No, Malc, you will kill me" as has already been stated by the McKinnells, the accused said "I do not remember." I then asked the accused

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Witness: Yes.

Defence: This might be that in reality it occurred only once?

Witness: No.

Defence: Do you remember that when you were giving evidence, more or less you were dictating from the statement you had prepared?

Witness: No - I did not prepare any statements.

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Defence: Do you remember that in the transcription of the evidence before the Magistrate on one occasion you used the expression "may be", and on another occasion "might be"?

Witness: I always said "it might be".

Defence: Do you remember that while you were giving evidence before the Magistrate you were making use of your notes?

Witness: I never made any reference to any notes, and I had no notes whatever while I was giving my evidence.

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Defence: Have you got a typewritten statement in your possession - or did you have a typewritten statement?

Witness: I had no typewritten statements before I gave my evidence.

Defence: But afterwards you had. Did you not?

Witness: Yes, I had a copy from the Court.

Defence: Did Superintendent Lanzon make a statement and you read it?

Witness: While I was giving evidence I made reference to no notes and to no statements.

10 Defence: Now as regards the expression "Possessive woman", did it arise out of conversation? For example, Superintendent Lanzon asked accused: "Was she a possessive woman?" and the accused said "Yes".

20 Witness: I could not say. I know to have heard that word from the accused. When the accused was asked whether there had been arguments between himself and his wife, he said: "We never had any arguments but differences", and he also said: "We might have had an argument yesterday because I had been bitten in the shoulder and the arm".

Defence: Before the question of "possessive woman" arose had you already interviewed the McKinnells?

Witness: We interviewed first the accused and then the McKinnells.

Defence: In the conversation in which the question of possessive woman arose, did that arise when Superintendent Lanzon was present?

Witness: Yes.

30 Defence: And Superintendent Lanzon had spoken to the accused after that the McKinnells had been interviewed.

Witness: Yes.

Defence: Do you remember that the words "possessive woman", were used by the McKinnells?

Witness: They were used by them as well.

Defence: Was the accused asked the question: "Was your wife possessive", and he replied yes?

Witness: I am not sure but I know that he said those words.

Defence: As regards the bite in his shoulder, do you remember that the accused made the movement to draw off his shirt and Superintendent Lanzon told him that there was no need?

10 Witness: I was asked this question before the Magistrate and I said that I never saw that. There were moments that during the interrogation I was away, and I might have been away after this particular incident took place. I never saw the bite but it was mentioned.

Defence: Did the accused tell you at all what he had drunk?

Witness: He mentioned beer and whisky.

Defence: Did he mention the quantity he had?

20 Witness: He only said that he had beer and whisky at the dance, from eight till he left.

The Court: That is all he said?

Witness: He did not specify the time nor the quantity he had.

Defence: Did you ask him?

Witness: No.

THIRTEENTH WITNESS FOR THE PROSECUTION

Sworn evidence of Superintendent of Police Alfred Lanzon

Witness: At about 5 p.m. on the 23rd July I interviewed the accused Broadhurst at Birzebbuga Police Station. When I opened the subject of his wife's death, he interrupted me and said that what he had to say he had already told Superintendent Scicluna. I asked him whether he minded going over the story again but he parried the question by enquiring about the reason for such a repetition. I then informed him that although I had been told the story I would rather hear it again from him. He then agreed to this and gave me the following account.

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The Court: Did you caution him at all?

Witness: No because I understood that it was done by Superintendent Scicluna before at Zeitun Police Station. He said that at about 8 p.m. on the 22nd July he and his wife had proceeded to a dance at the N.A.A.F.I. Club Kalafrena. He said that at the dance his wife was rather disappointed because the dance had not been well attended. He said that for himself he did not feel the same way as he hoped that more people would go in at a later hour. The accused said that he had a few dances with his wife and a few with the wives of friends amongst whom were Mr. and Mrs. Wright. He said that time passed on in dancing, talking and drinking the ladies limited themselves to long soft drinks while he himself partook of whisky and beer.

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At about 12.30 a.m., he said, his wife informed him that she would like to go home but as he desired to hand on there he had agreed to his wife going back home with Mr. and Mrs. Wright. He stayed at the dance, at the club, up to the termination of the dance, up to approximately 1 a.m. He was fairly drunk and when he went out of the club into the open air, the night air made him feel worse.

The Court: Was he making a continuous statement or was this in answer to questions put to him?

Witness:

In answer to questions. He then said that as a result of his drunken state he experienced a black-out and could not give an account of his movements up to the time when he arrived at Birzebbuga Square at which place he distinctly remembers having seen the petrol pump situated there and the wall behind it. He then averred that he lost his senses again and did not know how he eventually got home and what had occurred up to the time when he found his wife lying at the bottom of the two flights of stairs with her head drooping downwards in a pool of blood. He recollected lifting up his wife, carrying her to the flat and placing her on the bed in their bed-room. He added that he then went to the McKinnells' flat, his next-door neighbours, and recollected having said something to the McKinnells when they opened the door for him in answer to his call but could not remember what he told them. On being asked whether he remembered having told the McKinnells: "I threw Jean down the stairs" he replied that he did not remember but added that "probably" or "quite likely" he had done so.

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The accused then said that he went into the McKinnells' flat and began to cry. He could not say what went on in that flat but remembered having seen a sick bay attendant arriving after which he again experienced another black-out.

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When he came to his senses he said he found himself at the Lyster Barracks Guard-room, Hal Far talking to the duty officer but he could not say how he got there nor what he and the duty officer were talking about. He then said that Surgeon Lieutenant Clements entered the Guard-room and informed him that his wife was suffering from a fractured skull. He said that after that he was driven down to the sick-bay and he waited there for a while after which he was taken back home by car. He also said that on arriving at his residence he was taken to the McKinnells' flat and given a cup of tea after which he went to his

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own flat to sleep.

10 He woke at about 7.30 a.m. and after drinking a cup of tea brought to him by Mrs. McKinnell went back to sleep. At about 8 a.m. - he remembered - a sick bay attendant called at his flat and informed him that his presence was required at Bighi. He soon started for Bighi, arriving there about 8.45 a.m. At Bighi he met the nursing sister who informed him that his wife was being operated upon and requested him to go to the reception desk to sign the required form giving his permission for the operation to take place. He then said that he stayed at the Hospital to await the result of the operation and that at about twelve noon, he was informed that his wife had died. He said that he saw one of the divisional officers talking to the Police Sergeant, and, soon after that, was escorted to Zeitun Police Station.

20 He said that his wife was a rather possessive woman and did not like him to go out on his own.

The Court: This was in answer to a question. What was it?

30 Witness: Whether his wife was a possessive woman. He said, yes. He said that they had their differences but could not remember having had any arguments. He added that probably or likely they had one on that particular night, because he had been bitton on the right fore-arm and shoulder. He said that usually in the evenings he drinks a bottle of wine and a lemonade, but he had not done so on that night. I told him that Mrs. McKinnell was saying that she heard the words: "Malcolm stop or you will kill me" and further heard him saying: "That is the end of that", and that in answer to his call he told her: "I have thrown her down the stairs, come and see, Brenda". He said that he might have said so, the McKinnells are his friends and that he had no reason to doubt their word. When asked whether he had experienced this black-out before, he said that he had done so on two occasions, one of which last Christmas when he was drunk. When I asked him about whether he had consulted a doctor, he said no. I may add

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that he did not want to make a written statement and that he had been instructed not to talk unless consulted by a solicitor but did not mention the person who advised him accordingly.

The Court: Did you take any notes when investigating him?

Witness: Yes, I did. The notes I took were not made in the form of a statement, but they were simply written to refresh my memory.

10 The Court: As regards these notes, did you ask him to sign anything?

Witness: No, I do not think so; I only asked him if he wanted to make a written statement.

The Court: And he said that he did not want to sign anything?

Witness: That is correct.

CROSS-EXAMINATION

Defence: As regards the bite, what did he say about it?

20 Witness: I asked him about the relations with his wife and he said that they had had their differences but cannot say they had arguments. Probably or likely they had one last night or early that morning because he had been bitten on the forearm and his shoulder.

Defence: Did he show it to you?

Witness: No, he did not.

Defence: In your evidence you said that when the accused told you that he had been bitten, he pointed to the one on his shoulder or to the one on his forearm?

30 Witness: Yes, he did this and I told him there is no need to show it.

Defence: As regards the movement?

Witness: Yes, he moved. When I said showing, I might have used the wrong word, I should have said pointed.

The Court: What was he wearing, short sleeves?

Witness: Yes.

Defence: Did you look to see them?

Witness: No, I did not.

The Court: Did he ever ask to see a doctor?

Witness: He never asked to be medically attended.

10 Defence: When you were interviewing the accused, was Superintendent Scicluna always present?

Witness: I should think so.

Defence: You first saw the accused at Birzebbuga Police Station, then at Zeitun Police Station and then at Floriana?

Witness: That is correct.

Defence: And on both occasions he made the same statements?

Witness: Substantially yes.

Defence: Did you ask the accused to specify the quantities of his drinks?

20 Witness: I did not.

Defence: As regards the time of the end of the dance, is it correct to say that the accused said: "I am not quite sure at what time it ended"?

Witness: Correct. He was not quite sure but it was probably at 1 a.m.

Defence: Did he say that he was not sure?

Witness: He said that he was not sure of the time the dance ended but probably it was at one after midnight.

Defence: My question was: "Was the dance due to end at 1 a.m.?" Am I correct to say that the dance was due to end at 1 a.m. but he was not quite sure at what time it ended?

Witness: It may be.

Defence: Did he tell you that, in answer to your question whether he was drunk on the previous night?

Witness: I said that he said that he was fairly drunk.

Defence: To the question which you put he answered 'yes'?

10 Witness: He said that he was drunk.

Defence: Is it not correct to say that you were interrogating him by the system of question and answer?

Witness: Quite correct. I do not exclude the possibility that when I put a question to him and he answered, I then said to him "what happened then".

Defence: When you came to the stage in which you told him what the McKinnells had told you, could you say what the conversation was like?

20 Witness: I told him what the McKinnells had stated, that Brenda McKinnell stated that she heard Mrs. Broadhurst say "Malc stop it, you will kill me" and that he said "That's the end of that", and that further on, when Mrs. McKinnell had opened the door for him and answered his call he had told her: "I threw Jean down the stairs, go and see her Brenda". He said that he might have uttered those words. His explanation was that he had probably done so because the McKinnells were his friends and that he trusted them and he had no reason to doubt their word.

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Defence: Do you remember when he first used these words "I do not remember"?

Witness: When I said in the first part of my evidence that I had asked him that question before whether he remembered saying those words when Mrs. McKinnell opened the door he did not remember. He did not remember having said "I threw Jean down the stairs", but then he said: "probably I did so".

Defence: Was he relying on what the McKinnells were saying?

Witness: I just put down what he said.

10 Defence: Do you remember if Superintendent Scicluna asked him if he doubted the McKinnells and if they were his friends? Do you remember that Superintendent Scicluna said that?

Witness: Yes.

Defence: As regards the sequence which you narrated, when you mentioned that Brenda McKinnell had told you, could you repeat what Brenda McKinnell told you?

20 Witness: I told the accused that Brenda McKinnell had said, that she had heard his wife shouting "Male stop it you will kill me" and the accused said "That's the end of that", and further on, when Mrs. McKinnell opened the door of her flat he told her "I threw Jean down the stairs, go and see her Brenda".

Defence: And after that, "that's the end of that"?

Witness: I should have said that she heard noises like packing cases being thrown down the stairs.

Defence: So these noises followed the words?

Witness: No, the words followed the noises.

Defence: As regards the black-out, did you ask details of that?

30 Witness: No, I did not. He told me he could not give account of his movements.

The Court: When he mentioned "black-out" did he say what happened during these black-outs?

Witness: No, Your Lordship.

RE-EXAMINATION

Prosecution: Was Superintendent Scicluna present all the time when you were interviewing the accused?

Witness: Yes. Possibly he might have gone out for a minute or so and come back again.

Prosecution: Was he there every single moment?

10 Witness: As far as I can remember he was.

The Court: Dr. Gulia, are you going to ask him about the locality now?

Prosecution: Yes, My Lord. We must have some reliable indication of the place.

The Court: I think that probably tomorrow the Court will feel it necessary to go to see the place together with the accused and the jurors and perhaps Superintendent Lanzon would be able to help us when we are on the spot.

FOURTEENTH WITNESS FOR THE PROSECUTION

Sworn Evidence of Inspector of Police Joseph Pace Bonello.

Witness: On the 24th July last about 5.30 a.m. I was informed by P.S. Vella from Zeitun that an English woman had been admitted in Bighi Hospital suffering from severe injuries. I detailed him to go to hospital and to inform me of the case later on. I was informed later that this lady was being operated upon and her husband was at the hospital and that no further information could be available. At 12.15 I was informed that this lady had died. I made arrangements with the Duty Commander at Hal Far to have the accused brought to the Zeitun Police station for interrogation. At the Zeitun police station Superintendent Scicluna warned the accused that some questions were going to be put to him and if he thought that any of the questions may incriminate him he was not to answer. The accused said that he had been instructed not to talk. I remarked: "instructed?", and he said: "as usual, you know!". Eventually he said that on the day in question he went to a dance with his wife at eight in the evening, and at some time during the dance his wife wished to leave, and in fact did so. He stayed there. He said that during the dance he had about seven or eight bottles of beer - hop loaf - and also some whisky.

Prosecution: Was this said in the presence of Superintendent Scicluna?

Witness: Yes, and also in the presence of the Divisional Officer, George Reuben.

I asked the accused if he had any differences with his wife or whether she was inclined to be slightly jealous, and he said "No."

From Zeitun Police Station we proceeded to his residence in St. Andrew's Street, Birzebbuga. The accused showed Superintendent Scicluna and me the spot where he had picked up his wife, and he explained that he found her on the second flight of steps leading to the flat, with her head on the second step and with her feet pointing upwards. He said that he picked her up and put her on the bed.

I was present at a later interrogation at the Police Headquarters with Superintendent Lanzon and Superintendent Scicluna, and the accused stated what I have already said. He also said that when he laid his wife on the bed he went to the McKinnells but he did not remember what he told them. He said that he remembered seeing the sick-bay attendant, and then experienced a black-out. I have forgotten to say that when the accused left the dance at 1 a.m. he said that he experienced a black-out and remembered finding himself in Birzebbuga square, and said he could not remember whether he walked to Birzebbuga or whether he had come by taxi or any other means of transportation. In Birzebbuga square he experienced another black-out and then he remembered finding his wife on the stairs leading to the flat in a pool of blood, and eventually he showed us where he found his wife. At a later interrogation at the Police Headquarters the accused said that he laid his wife on the bed, went to the McKinnells, his next door neighbours, and he did not remember what he told them. Eventually, he said that he remembered seeing the sick-bay attendant and then he experienced another black-out, and then he found himself at the Lyster Barracks guard room, where he remembered talking to the Officer of the Day, and also remembered Surgeon Lieutenant Clements saying to him that his wife had had a fractured skull. He remembered being driven by Lieutenant Clements from the Guard room to the sick-bay at Hal War and then to his residence. Then, he said he had a cup of tea and went to sleep. He slept until 7.30 a.m. when Mrs. McKinnell brought him a cup of tea, and then slept again, and at about eight he was awakened by the sick-bay attendant and taken to the hospital. At Bigli Hospital he signed the usual form giving his consent for his wife to be operated upon, and at mid-day he was informed that his wife had died. During the interrogation the accused was told that the McKinnells heard him saying the words: "That is the end of that", and the words: "I have thrown Jean down the stairs, will you go and see her Brenda, please?" The accused said that he may have uttered those words as he had no reason to doubt them because the McKinnells were his friends.

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The Court: Was this all said at the interview with Superintendent Scicluna or both?

Witness: This was said at the interview with Superintendent Lenzon and Superintendent Scicluna.

The Court: When they were together?

Witness: We all were together.

The Court: Were you with Superintendent Scicluna when he was interrogating the accused?

Witness: Yes.

10 The Court: The same thing was said then?

Witness: Not quite. It was not said that he had gone to the McKinnells water tower together with his wife on the bed and that he saw the sick-bay attendant and then found himself at Lister Barracks.

The Court: You definitely remember that he mentioned the quantity of drinks he had had in the evening?

Witness: I do.

The Court: Are you positive that he mentioned 7 or 8 bottles of beer and some whisky?

20 Witness: Yes. Throughout the whole evening. When we were in the flat I made a search and I have exhibited a number of articles

Prosecution: Did he mention anything in relation to his wife?

Witness: He said his relations with his wife were rather good. I think he said his wife was rather possessive but I am not sure whether one of the witnesses said it.

Prosecution: Did he mention any arguments or differences?

30 Witness: Yes. That was during the interview with Superintendent Scicluna and Superintendent Lenzon. When he was asked whether on that particular evening they had any argument he said he possibly had because he was bitten on the right shoulder and on the right arm.

Prosecution: Did he mention any other incident?

Witness: I cannot remember.

Prosecution: You mentioned some differences between his first statement and his second statement - the statement to Superintendent Scicluna and Superintendent Lanzon. You said that certain details came out. Which are they? You only mentioned one difference - details which came out of the second interview.

10 Witness: He said that he had been to the McKinnells' flat after putting his wife on the bed but did not remember what he said. This was in the second statement. He remembered seeing the sick-bay attendant and finding himself in Lyster Barracks, that possibly he had an argument with his wife because he was bitten on the right shoulder and on the right arm.

The Court: It was Superintendent Lanzon who told him what the McKinnells had told you?

Witness: Yes.

20 Witness then confirmed that the articles listed below were those exhibited by him:

Exhibit 'F' - Two toy pistols;
 Exhibit 'G' - Handkerchief with blood stains;
 Exhibit 'H' - A white straw hat;
 Exhibit 'I' - A pair of blue jeans;
 Exhibit 'J' - A fancy shirt;
 Exhibit 'K' - One pair of black boots;
 Exhibit 'L' - One pair of naval blue socks;
 Exhibit 'M' - Two green dance tickets.

30 The Court: Is there any point in showing these documents to the Jury? Is the Prosecution interested in any of these items?

Prosecution: I do not know what the Defence will have to say on that.

Defence: We are not interested.

Witness: May I be allowed to say that four of the exhibits were in the bath immersed in water, there were a pillow case, a baby napkin that were obviously stained with blood, so I lifted them out of the water.

The Court: At any rate, you have exhibited these?

Witness: Yes, I did.

The Court: What was the state of the water and its colour?

10 Witness: The water was stinking and I lifted these articles from the water with a wooden spoon and when the water was moved there was even a worse smell.

The Court: What was the colour of the water?

Witness: The colour was red.

The Court: Did you take a sample of the water?

Witness: I did not think it was necessary at the time as the stains were visible.

CROSS-EXAMINATION

20 Defence: As regards these articles in the bath, do you remember that in the bath there were quite a number of articles in the water?

Witness: Yes, including a lady's dress.

Defence: Do you remember that Dr. Pullicino did take a sample of the water?

Witness: I am not quite sure about it. I know that he took other samples of the blood from the stairs and bedroom and I believe even from the curtain.

Defence: Inside the bath, most of the articles were wet?

Witness: Yes, these articles were actually in the bath.

30 Defence: As regards the interviews of the accused, there were three interviews, two at Birnabbuga Police Station and one at Floriana?

Witness: No, one of them at Zeitun Police Station, there might have been one at Birzebbuga Police Station at which I was not present, I was present at the interview held at Zeitun Police Station, and again at Police Headquarters.

Defence: Do you remember that at Zeitun Police Station there was an officer present as well?

Witness: Yes, I have already said so.

10

Defence: Do you remember that this officer asked if the accused could have a solicitor?

Witness: Yes, and the reply was that it was not customary for the Police to do so during interviews and that he may have one later on.

Defence: Was Superintendent Lanzon putting questions and the accused answering them all?

Witness: He did not answer all the questions.

Defence: What was the method adopted? Was the accused asked to make a statement?

20

Witness: He was asked to make a statement. There were such questions such as: "Have you had any arguments?"

The Court: You need not repeat what you have already stated, just answer the question.

Defence: When Superintendent Lanzon mentioned what the McKinnells had said, do you remember that the accused said at first: "I do not remember"?

Witness: Possibly, he may have said that but I am not quite certain.

30

Defence: When the accused mentioned the black-out which he experienced and found himself in the guardroom, did he tell you what happened then?

Witness: I asked him if he remembered anything and he remembered that Lieutenant-Surgeon Clements told him that his wife had broken her skull and he also remembered that he was driven to the guardroom.

- Defence: Do you remember that he mentioned previous black-outs?
- Witness: Yes, he said that on two occasions he suffered blackouts and one of them was last Christmas.
- Defence: Did he mention any other occasion?
- Witness: Yes, he mentioned two other occasions - one last Christmas and another one before that.
- Defence: In the process verb I mention is made of a box of letters found in the bed-room - did you have occasion to see them?
- 10 Witness: Very few of them. They were in bundles placed in a cardboard box on the floor.
- Defence: Were they numbered?
- Witness: I don't remember they were numbered but I think they were placed in a sort of order as regards dates.
- Defence: Were they letters between Jean and the accused?
- Witness: I believe they were letters written by Mrs. Broadhurst when she was courting her husband.
- Defence: Were there any dated after their marriage?
- 20 Witness: I don't think so.
- Defence: Did you read many of them?
- Witness: I read about ten or fifteen of them.
- Defence: How many were there in the box?
- Witness: I do not know the exact number, but quite a few; I should think there were about sixty or eighty.
- Defence: When was it and at what time did you first hear about the incident?
- Witness: About 1030 a.m. on the 23rd July.
- 30 The Court: Was that the first occasion the Malta Police knew about this at all?

Witness: I believe so. It was reported to Birsebbuga Police Station perhaps a little bit earlier, certainly not much earlier than half past ten.

FIFTEENTH WITNESS FOR THE PROSECUTION
Sworn Evidence of Brenda McKinnell

Prosecution: I am sure you remember the various incidents on the Saturday of the 22nd July, 1961. Will you please explain to the Gentlemen of the Jury what occurred at the flats in the afternoon of Saturday the 22nd July.

Witness: On that Saturday afternoon I just went into the Broadhursts' flat, next door, to borrow a jelly mould and inside there were Mrs. Wright and her husband and I believe a Maltese lady, and I left and came back to my flat.

10

Prosecution: Did you see the Broadhursts going to the dance?

Witness: Yes, in the evening. I saw them from the roof of the flats. They were the accused and his wife.

Prosecution: When was that?

Witness: In the evening of the 22nd July.

Prosecution: Do you remember how they were dressed?

Witness: Yes, they were dressed in cowboy suits.

20

Prosecution: How did you see them again after that?

Witness: No, Sir, until the early hours of the morning.

Prosecution: At what time did you and your husband go to bed?

Witness: I don't know the exact time my husband and I went to bed but I believe it was before midnight. It was before midnight.

Prosecution: How soon did it happen some time after that?

Witness: Yes.

Prosecution: Now you have to be very precise on what happened, on what you're positive had happened. What do you think the time was then?

30

Witness: Between one o'clock and two o'clock my husband and I were awakened by noises on the stairs and also heard a lot of running about on the roof.

Prosecution: Please raise your voice and repeat your answer.

Witness: I heard a lot of running about on the roof and also lots of banging about on the stairs. I also heard Jean say: "Stop it, Malcolm or you will kill me!"

Prosecution: And the voice seemed to be coming from where?

10 Witness: From the stairs. And then there was more banging about and then Malcolm Broadhurst said: "That's the end of that."

Prosecution: And the voice of Malcolm Broadhurst: "That is the end of that", where did it come from?

Witness: From the stairs in the vicinity of my flat door.

Prosecution: Then there was a short interval and something happened.

20 Witness: About ten minutes later my door bell rang. I got out of bed and opened the door, and outside the door there was Malcolm who was wearing blue jeans and a pair of red flip flops, and he said: "Please go and see Jean because I have thrown her down the stairs". Then I brought him in and he sat in the chair, and then I went next door and had a look at Jean. I noticed that he was covered with blood - he had some blood on his feet, on his chest and his hands.

Prosecution: Before you went to see Jean did you hear him saying anything?

30 Witness: He said: "I am not drunk, I am not drunk, I am not drunk". He also said: "I do not know why I have done it because Jean did not do an thing to me".

Prosecution: And he said those words when you were still in your flat.

Witness: Before I went to Jean's Flat.

Prosecution: And then you went to Jean's flat?

Witness: Then I went to Jean's flat and found her lying on the bed and I noticed that she had a big cut across her head.

Prosecution: Did you notice any blood?

Witness: I cannot remember.

Prosecution: What happened after that?

10 Witness: I spoke to Jean but she did not answer; she just flicked her eyes up and down and then I left and went back to my husband and told him to get a doctor. My husband went out and I remained alone with Malcolm Broadhurst.

Prosecution: Was there any conversation in the interval that your husband went to fetch the doctor?

Witness: I cannot remember.

Prosecution: Did the doctor come along?

Witness: Yes.

Prosecution: Where was Malcolm Broadhurst when the Doctor came?

20 Witness: In my flat.

Prosecution: The Doctor decided on something - did Jean remain there?

Witness: The doctor looked at Jean and then he took her away.

Prosecution: What did you do then?

Witness: I asked Malcolm if he did like us to look after the baby, and he said yes, and then he picked up the baby and gave it to me.

30 Prosecution: And besides passing the baby to you, did he give you anything?

Witness: He gave me two tins of milk and four tins of baby food.

Prosecution: Did Malcolm answer you clearly about the food?

Witness: I did not ask him for the food - he just gave it to me.

Prosecution: As far as you know was he behaving correctly?

Witness: Yes, but he was crying.

Prosecution: Then, what happened ?

Witness: The accused left with the R.N. Patrol.

10 Prosecution: After the doctor had left?

Witness: Yes.

Prosecution: Then he returned again?

Witness: Yes.

Prosecution: Do you know at what time he returned?

Witness: He came about 3 a.m.

Prosecution: Did he go to his flat?

Witness: He came to our flat and I invited him for a cup of tea. He came in, went to our bed-room and sat on a chair. My husband was in bed and I made a cup of tea.

20

Prosecution: Was there any conversation at all at this time?

Witness: I asked him what had happened to Jean and he said Jean had fractured her skull.

Prosecution: What else did he tell you over the cup of tea? Did he give you an account of the dance, for instance?

Witness: I cannot remember.

Prosecution: He must have gone to his flat at some stage?

The Court: He told you she had fractured her skull. Did he mention anything about the dance?

Witness: He was given two hundred cigarettes for being the best dressed man and had some photographs taken.

The Court: Nothing else?

Witness: No.

Prosecution: He must have left for his flat. Did you hear anything?

10

Witness: Yes. Running water. It sounded that it came from the bath-room.

The Court: Who was in the bath-room at the time?

Witness: I was in my kitchen. When I was there I could hear the water in the next flat. Malcolm was in.

Prosecution: Before he left, did he tell you anything about next morning?

Witness: He asked me to wake him at an early hour.

Prosecution: You went to bed again but you woke up again apparently and what did you do?

20

Witness: I went to the balcony and saw Malcolm's keys on the front door and I collected them. I noticed on the stairs spots when I picked up those keys. The blood was on the last two steps of the first flight and on the first two steps of the second.

The Court: You saw blood on the first two steps?

Witness: The last two steps of the first flight walking up and on the landing after the five steps and also on the first two steps of the second landing.

The Court: Was there much blood?

Witness: Yes a pool of blood.

30

The Court: Was it one pool or spread out pools?

Witness: The first two steps of the second flight were a set of pools. On the last two steps of the second flight, there was a lot of blood.

Prosecution: Did you keep your promise to wake him up?

Witness: I woke him up in the morning and gave him a cup of tea.

Prosecution: Did he leave the premises?

Witness: I went shopping and when I came back my husband said that Broadhurst had gone.

10 Prosecution: You took it upon yourself to do something?

Witness: Yes I washed the spots. I washed the pool of blood on the stairs.

The Court: Did you try to wash up other blood stains?

Witness: Off the railings and on the wall, on the wall near the first flight, I washed my own flat door which had also blood stains - smears of blood. There were many of them.

20 The Court: The Court will come to the place and you will be able to show us the exact place where you washed the blood stains.

Witness: Yes, but not on the railings.

Prosecution: Do you remember anything about the conversation you had with Malcolm after the incident and before he left off in the morning?

Witness: I remember something but I am not sure whether I am mistaken.

The Court: What do you remember?

30 Witness: I said to Malcolm "Will you take a cup of tea? And I told him: "What have you done to Jean?" And he replied: "I have cut her head open, and I told him "No, you have fractured her skull", and I am sure he said those words.

The Court: I thought you said before that you are not quite sure whether you are mistaken in this regard? You do remember now that you told him something which you will tell us again and what he told you?

Witness: Yes, I gave the accused a cup of tea and said to him: "Come on, wake up, phone up the hospital and see how is Jean". He shut his eyes and went back to sleep again. I shook him again and said: "Come on Malcolm, do you realise what you have done to Jean?" and he said: "I have cut her head open", and then I told him "No, you have fractured her skull" and he answered: "It is the same thing".

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Prosecution: Now Look at these two photos which are exhibited in Court. Do you recognise them as Malcolm and Jean?

Witness: Yes, I do.

The Court: There is one photo of Malcolm and Jean and there is another photo in which you recognise only Malcolm with some other people?

Witness: That is correct.

20

Prosecution: You have known the Broadhursts for some time?

Witness: For about a year.

The Court: For the last year before this happened?

Witness: Yes, Sir.

Prosecution: Do you recollect whether they had any differences or incidents between them of which you overheard.

Witness: I know that the accused used to go to sleep in the afternoon and she did not like it and she used to throw water on him.

Prosecution: Did you use to hear anything about these incidents.

30

Witness: I know that Jean used to smack the baby very often.

Prosecution: Were there any other incidents which struck you during those twelve months?

Witness: Yes, I know that they had arguments.

Prosecution: You used to hear them at such times?

Witness: Yes, Sir.

The Court: Was it about the sleeping in the afternoon?

Witness: A lot of them were.

The Court: What about the other incidents?

Witness: I know that the accused used to go to the pictures alone to "El Far".

The Court: Did they ever become violent during these quarrels?

10 Witness: I remember one day when they had a quarrel and Jean threw something at him.

The Court: Had Jean any other objections in regard to Malcolm?

Witness: She did not like him going on the roof in the evenings.

The Court: Why?

20 Witness: I do not even know why. My husband used to go in the room on the roof to do carpentry and sometimes the accused used to be with him in that room.

Prosecution: Was Malcolm there only for a short time?

Witness: He was with my husband on the roof in the evening. I used to be downstairs, and Jean used to chase her husband, she used to go after him because she did not want him by himself.

Prosecution: Why, do you know?

Witness: My husband told me that Malcolm used to look through other people's bedroom windows.

Prosecution: You were told that by your husband?

- Witness: Yes, but once Malcolm was on the roof and as I was crossing on the roof the light of an opposite bedroom window lit up and my husband and I were talking but Malcolm did not hear us. I said good-night to him.
- Prosecution: You said he was looking at that bedroom window?
- Witness: Yes.
- Prosecution: Was there anybody being looked at?
- 10 Witness: There was the light but I don't know if there was anybody because I didn't look.
- Prosecution: Did Jean speak to you about her husband? Did she use to do that?
- Witness: Yes, she used to talk about him.
- Prosecution: What did she say about her husband?
- The Court: Just a moment, please. Close to this time you have just mentioned, was there any special conversation between Jean Broadhurst and her husband?
- 20 Witness: Well, on Saturday morning Jean came into my flat and asked me to look at her blouse. She asked me if it was all right and I said, no. I told her to take it off so that I could make it right for her. While I was doing it Jean said: "I don't want to go to this dance". I said "Why?" She said: "Just because I don't want to go," and I said to her "Don't go then." She said: "No, because if I don't go Malcolm would not take me any more."
- Prosecution: Did she tell you why she did not want to go?
- Witness: Just because she didn't want to go.
- 30 Prosecution: Did she give you any reason?
- Witness: No.

Prosecution: In that incident when she throw something at him, do you know what was the reason for the argument?

Witness: No.

Prosecution: Do you remember whether you washed the blood stains on Malcolm's flat door?

Witness: No, I did not.

CROSS-EXAMINATION

10 Defence: As regards that particular evening did you remain at home all the time?

Witness: Yes, Sir.

Defence: Was your husband all the time at home too?

Witness: Yes Sir.

Defence: So since up to what time did you stay at home?

Witness: I did not go out at all in the evening.

Defence: On that day at what time did your husband come back from work?

Witness: At a quarter-past-one; and all the evening we remained at home both of us.

20 Defence: Did you have any visitors?

Witness: No sir.

Defence: Since he came back from work was your husband all the time in your house?

Witness: The only time he went out was to ring up the doctor; otherwise he was with me all the time.

Defence: That evening, did you go on the roof?

Witness: Yes, we went on the roof as usual.

Defence: Was it the practice for your husband to drink wine on the roof?

Witness: Not my husband.

Defence: So he did not have Marsovin and lemonade with Malcolm on the roof?

Witness: He might have had once or twice before.

Defence: Does that mean that your husband does not drink?

Witness: Yes, he does.

10 Defence: But that evening he did not have any drinks at all?

Witness: No, Sir. He did not have.

Defence: In your house did you not have any drinks; did you not keep any bottles with drinks or anything like that?

Witness: No, Sir.

Defence: Now, there were some packing cases on the landing?

Witness: Yes, Sir.

20 Defence: I think there was a packing case on the first landing and there were two packing cases near the Broadhursts' door?

Witness: Yes.

Defence: How long had these packing cases been there?

Witness: My husband put ours there two or three days before.

Defence: I am referring to the packing cases belonging to Malcolm Broadhurst.

Witness: They were put there the same day, Saturday.

Defence: Now at what time more or less did you and your husband come down from the roof?

The Court: One moment, please. Were there any packing cases belonging to the accused near his flat?

Witness: Yes, two.

The Court: During ~~that~~night did they remain there?

Witness: Yes. My husband put them in the flat.

The Court: But otherwise they were near the door of the flat?

Witness: Yes.

Defence: Who put them in Malcolm's flat?

10 Witness: My husband.

The Court: On the night of the event, when you came out of your flat, did you see these packing cases outside the flat?

Witness: Yes, they were outside Malcolm's door.

Defence: And then your husband pulled them inside in order to give more space for the doctor to carry Jean?

Witness: Yes.

20 Defence: At what time more or less did you come down from the roof?

Witness: Between ten and eleven.

Defence: At midnight did you go to bed?

Witness: I went to bed about five or ten minutes after I came down.

Defence: While you were in bed did you hear any noises of people coming in or going out in the neighbouring flat?

Witness: No.

Defence: Are you aware that the practice of the Broadhursts was to leave the key of the flat in the door-lock?

Witness: Yes, and we also leave ours in the key hole.

Defence: And with regards to the street-door?

Witness: The street-door is always kept shut.

Defence: Do you agree that Malcolm used to buy Jean everything she wanted?

Witness: Yes.

Defence: And do you know that he brought her a sewing machine?

10 Witness: Yes.

BREAK

Defence: Are you aware that on Friday, that is the day before the incident on the 21st July, accused had given a present to his wife?

Witness: Yes. A frilly petty-coat.

Defence: Was the colour red and black?

Witness: Yes. I came to know about it because Jean came and showed it to me.

Defence: Did he also give her a Jewel Box?

20 Witness: Yes.

Defence: As regards material for making dresses? Is it a fact that she used to sew a lot and he used to get a lot of material for her?

Witness: Yes.

Defence: Did she prefer staying at home rather than going out?

Witness: Yes. She wanted to stay at home. She liked sewing very much.

The Court: I think that you said that she rather took it badly that her husband did not take her to the pictures?

Witness: To Hal Far pictures when he was on duty in the evenings on occasions

Defence: When he was on duty he would not be able to go, but she could have gone to Hal Far herself. Is she allowed to take the baby?

10 Witness: No. I used to baby-sit. He used to take her to Birzebuga pictures.

Defence: Is it not a fact that she preferred staying at home?

Witness: Sometimes yes but she preferred to go to the pictures at times.

Defence: To dances?

Witness: They never bothered to go.

Defence: As regards the house? Did Malcolm help her in the house, even taking care of the baby, washing clothes or hanging them on the roof?

20 Witness: Yes.

Defence: That particular afternoon, was everything normal in the flat and was there any argument going on at all?

Witness: No.

Defence: I read out to you the statement you made to the Magistrate. Is it a fact that it seemed to you that this was a normal couple that went along well together?

Witness: Yes.

30 Defence: Whenever you heard some argument or talk between them, was it not that she used to, perhaps, call him names and he did not react?

Witness: He did not always react. Occasionally he reacted. They used to quarrel.

Defence: When she used to call him names, is it a fact that he would seem to you not to be taking any notice of her?

Witness: Yes.

Defence: When you came down from the roof, do you remember whether you shut the door of the roof or not?

10

Witness: I shut the door. I and my husband came down together, but I am not sure that I locked the door.

Defence: When you saw Malcolm during the night do you remember that he was perspiring?

Witness: No I don't remember.

Defence: While you were in Jean's flat, do you remember that for some time you were in a faint yourself?

Witness: No I was not.

Defence: Therefore it is not true that you passed out.

Witness: It is not true.

20

Defence: Therefore it is not true what you said to the Magistrate. I read out of the evidence to the Magistrate: "I stayed with the doctor for a few minutes then I felt ill and I did not see the persons who carried Jean Broadhurst". Where was the place where you felt ill?

Witness: Upstairs in Jean's flat.

Defence: And is it not a fact that on account of the fact of your feeling ill then, you did not see the doctor carrying Jean away?

Witness: Yes, because I did not look, I was not watching him.

30

Defence: Your statement before the Magistrate was this: "I then felt ill and did not see the persons carrying Jean away myself"?

The Court: Ask her the question again.

Defence: Did you tell the Magistrate that you felt ill?

Witness: Yes I did.

Defence: What did you mean by that?

Witness: That I was upset. I just felt unwell.

Defence: Was it a faint?

Witness: No it was not.

Defence: But did you not explain to the Magistrate that you did not see the persons carrying Jean away?

10 Witness: Because I was not looking.

The Court: I think you are complicating what she said before and what she is saying now.

Defence: Now, when you heard the noises, did you awaken your husband?

Witness: Yes, I did.

Defence: At what stage did you awaken him?

Witness: When there was running on the roof and then he woke up.

Defence: Was there any conversation between you at the time?

20 Witness: I cannot remember. I know that I said: "What is this noise about?" and then I heard something like packing cases rolling down the stairs and then I told my husband to wake up and see what is happening and he said "alright", and a few minutes later he went out of the flat with me.

Defence: Did you at the time think of the packing cases which were outside?

- Witness: I thought of the packing cases which were near the accused's flat and even of the other packing cases which were further up.
- Defence: Did you find these packing cases in the same place they were before?
- Witness: Yes.
- Defence: You woke your husband to see what was happening. Who got out of bed first?
- 10 Witness: I got out of bed first, when I heard the door bell ringing.
- Defence: Is it not a fact that between the stairs and your bedroom there is the door of the flat and then the room which leads on to your bedroom?
- Witness: Yes.
- Defence: Is it easy to hear something from outside?
- Witness: No.
- Defence: Now the noises which you heard, you mixed them up with packing cases?
- The Court: Are you making a statement?
- 20 Defence: Did you mix them up with something else?
- The Court: What is the inference?
- Defence: Witness agreed that it is difficult to hear what the noises really were.
- The Court: She said it might have been something else. You thought Mrs. McKinnell, at the time, that they were packing cases and now you say that you thought they were something else?
- 30 Witness: Yes, because then I became aware that the packing cases were not moved.
- Defence: Were the voices loud?

- Witness: Yes.
- Defence: Were they screams?
- Witness: Not really.
- Defence: Like someone talking?
- Witness: Talking, but a bit loud.
- Defence: You said you had been asleep and just awakened at that moment, presumably you were still a bit dazed?
- Witness: No I was not.
- 10 Defence: As regards the words, it is difficult to hear a conversation, do you agree?
- The Court: Witness did not say that.
- Witness: Very often, my husband and the accused were on the roof and I and Jean were in my room and we used to hear them talking.
- Defence: At what period of the year?
- Witness: In winter.
- Defence: When you would be in the sitting room?
- Witness: Yes.
- 20 Defence: Apart from that, were you quite familiar with the voice of the accused?
- Witness: Yes, I was.
- The Court: Is the sitting room very large?
- Witness: Yes, it is rather large.
- The Court: Say the size of this room?
- Witness: Oh no.
- The Court: Did you notice anything particular about the accused's state in regard to drunkenness?

- Witness: The accused was not drunk.
- Defence: What did you see?
- Witness: Why, he was crying.
- Defence: Did he not say: "I am not drunk?"
- Witness: But I saw him drunk at other times, for example last Christmas, but on that particular evening he was not like that.
- Defence: In other words that day he was not dead drunk?
- Witness: No, he was not drunk on that day.
- 10 Defence: You expected him to be drunk as he was on that Christmas Day?
- Witness: He was not drunk on that night.
- Defence: Did your husband ask you whether you felt safe if left alone?
- Witness: Yes.
- Defence: And did you at some time see him passing from one flat to the other and he was staggering?
- Witness: The only time he went into the next door's flat was when the doctor left.
- 20 Defence: So I understand that your husband was more with him than you were?
- Witness: I was.
- Defence: You stated that Malcolm repeated the words "I am not drunk" several times.
- Witness: Three times.
- Defence: And as regards "I don't know why I did it, she did not do anything to me", he did not repeat that several times?
- Witness: No.

- Defence: Did he say this the first time when you were alone with him?
- Witness: Yes, I think he did.
- Defence: And did he not repeat it when your husband came?
- Witness: I don't know because I spent most of my time with Jean and my husband was with him.
- Defence: Now, when he knocked the door and you saw him, did you pull him inside the flat or pushed him in?
- Witness: I brought him in. I did not pull or push him.
- 10 Defence: In your evidence before the Magistrate you said "I pulled the accused into our flat". Now, which is the correct version, this one or what you have said just now? Did you pull him?
- Witness: I just caught him from his arm and brought him in.
- Defence: So you pulled him in. Now did you place him in the chair?
- Witness: I helped him to put him on our chair.
- The Court: I take it he was distressed at the time and it was not because he was drunk that you helped him on to your chair.
- 20 Witness: Yes, Sir.
- Defence: Did the quantity of food which he handed over to you not seem excessive to requirements for the baby?
- Witness: It was a bit too much for the evening. It would be enough for two, three days.
- Defence: As regards words which he spoke, do you remember hearing any mumbling words when you were in your flat which were unintelligible?
- Witness: He did not mumble at all.
- 30 Defence: Were you present when your husband hit him?

Witness: No.

Defence: As regards the washing of the blood, at what time more or less did you wash the blood?

Witness: About half-past-eight in the morning, just gone eight o'clock in the morning.

Defence: And had the Sick-Birth Attendant arrived at that time?

Witness: No.

10 Defence: So you washed the floor for blood before the Sick-Birth attendant had arrived?

Witness: Yes.

Defence: How long before?

Witness: Sorry. It was after the Sick-Birth Attendant arrived.

Defence: Now as regards the washing is it not true to say that you washed everything with the exception of the door of Broadhurst's flat? You washed the railings

Witness: No, I did not wash all the railings.

20 Defence: You washed your door but not that of the Broadhursts?

Witness: No.

Defence: Now is there any particular reason for the omission?

Witness: No.

Defence: Why did you leave it out?

Witness: Because I wanted to get rid of the biggest part because there were big stains downstairs and all the way and I just wanted to wash a couple of steps too.

Defence: You did not touch Broadhurst's door.

30 Witness: No.

Defence: Now did the Broadhursts continually kiss and cuddle each other quite affectionately?

Witness: Yes.

Defence: They were quite happy?

Witness: Yes.

Defence: They used to do that quite openly?

Witness: Yes.

Defence: Now do you remember an incident when your husband was beating you up and you called in Malcolm to help you?

10

Witness: I don't want to talk about my life!

The Court: What has this got to do with the case?

Defence Counsel asked leave of the Court to question witness Brenda McKinnell on the continual beatings she used to get from her husband and on her quarrels with her husband, which would reflect on her emotional background and therefore on her reliability as a witness especially in a case of this nature. Defence Counsel submitted that this point was most important, because the Prosecution was chiefly relying on some words during an alleged quarrel at night between a husband and his wife, which Brenda McKinnell said that she heard and of which her husband who was next to her did not hear anything at all.

20

The Court disallowed Defence Counsel's request.

Defence: Is it a fact that your husband told other people that he would like to see Malcolm hang?

Witness: I do not know.

Defence: Did you hear this statement being said?

Witness: I do not know.

Defence: Did he say those words or did he not do so?

Witness: I do not know - I never heard him.

10 Defence: Let me remind you that in your presence and in the presence of Mr. Barker and his wife this statement was made several times.

Witness: I cannot remember.

The Court: It is very unfair to run down the witness by mentioning other people of whom we have never even heard.

Defence: Only one witness can be heard at a time.

Counsel for the Defence again put the same question to the witness who broke down crying and yelling and was unable to continue giving evidence.

20 The Court: The Court will allow all relevant questions. We suspend the cross-examination of the witness and in the meantime hear her husband. There should be no contact between this witness and her husband.

Prosecution: I think that has been arranged because her husband is under close arrest.

The Court: By whom?

Prosecution: By the Naval Authorities.

SIXTEENTH WITNESS FOR THE PROSECUTION
Sworn Evidence of Thomas John McKinnell

- Prosecution: Are you under arrest?
- Witness: At the time yes.
- Prosecution: On a disciplinary charge?
- Witness: A Naval charge.
- Prosecution: Has it got anything to do with this case?
- Witness: In a way, yes - victimization through evidence that I gave.
- 10 Prosecution: Why do you say that?
- Witness: Before I gave evidence at the Law Courts I was on good terms with Lieutenant Reubens but after that
- Prosecution: What was the complaint against you?
- Witness: I was charged with behaving in contempt to Lieutenant Reubens and I have been tried and sentenced.
- Prosecution: And are you under arrest for that offence?
- Witness: Yes.
- 20 Defence: Lieutenant Reubens is here and he can give an elucidation.
- The Court: We are not going to open another enquiry to see whether the witness is correct or not.

Prosecution: I would like to put it to your Lordships whether perhaps it would be proper for the witness to give evidence in the presence of the Jury.

At this stage of the proceedings the Court asked the Jury to withdraw.

10 Prosecution: The witness has mentioned that there was an incident on a charge which was made by Lieutenant Reubens. Lieutenant Reubens is in Court. I am very sorry to say all these facts but it is my duty. He is the officer watching the case. It would be better if the witness says all he wants to say not in the presence of his superior officer.

The Court: What was the incident?

20 Witness: I was asked by a Petty Officer to take a request for leave to be signed by an officer. I was asked by Lieutenant Reubens to take it to the Master-at-Arms who could not sign the request. It needed an officer's signature and when I pointed this out he chose to lose his temper with me and then I with him. I was told to get out of the office.

The Court: Did Lieutenant Reubens have anything to do with this case when the case was brought before the Magistrate?

Witness: He was assisting the Defence when we were in the Law-Courts and it was in the Law-Courts that the Defence showed some sort of not liking something I said in the Law-Courts in regard to the accused.

The Court: When did this incident happen?

30 Witness: 34 days ago. It was the first time I had ever been in personal contact with Lieutenant Reubens after the Magistrate's hearing.

The Court: When you said "victimization", what were you referring to? Was it to this incident only or to other incidents?

Witness: There were other incidents. They are things which I did before and never was corrected, but since I gave evidence against Broadhurst it was then that I noticed people were beginning to bring against me things I never had before.

The Court: Did anyone mention your evidence?

Witness: It was always hovering in the background but not mentioned. This was the only incident I had with Lieutenant Reubens but there were a few cases where we tried to send our children to U.K. and to obtain help from the Naval Welfare. All this was refused. We got no assistance whatsoever and we had to rely on the help of Lt. Loxton who had to arrange for two Wrens to look after our children while we appeared in Court.

10

The Court: They did not like your evidence you said?

Witness: Yes.

The Court: Why did you say that?

Witness: When we were at the Magistrate's hearing there was a small argument between the Magistrate and the Defence about something that I said in relation to Broadhurst being a peeping Tom.

The Court: How did you connect this attitude with the fact that you gave this evidence before the Magistrate?

20

Witness: Before the hearing before the Magistrate requests used to be signed without question. Why did he not do it after the Magistrate's hearing?

SEVENTEENTH WITNESS FOR THE PROSECUTION
Sworn Evidence of Lieutenant George Reubens, Royal Navy

The Court: You heard McKinnell talk about this question.
Do you wish to offer an explanation?

Witness: I can. McKinnell was put on a charge. There was
a suspended sentence. This was awarded to him by
the Commanding Officer of the Naval Air Station at
Hal Far on a charge which had no relation to the one
I put against him. McKinnell came to my office and
when he arrived he was given an order by me to take
10 a leave request to the Master-at-Arms. He did not
realise that I was carrying out the duties of
another officer who was on leave and I had been
instructed to see the Commander before any leave
request had been authorised. I told him three times
to take the request back and I was then authorised
by the First Lieutenant who is the superior officer
in my office to put that man on a charge. Having
received the order, the man was put on a charge and
was subsequently awarded punishment by the Commanding
20 Officer of his Naval Air Station, Hal Far.

The Court: Was the procedure a normal one?

Witness: The procedure is the same as in the case of any
other naval charge. During investigations in con-
nection with this charge McKinnell ran away from the
Naval Air Station, he resisted arrest and was
eventually arrested and put under close arrest. All
this was taken into consideration and I am certain
the punishment he is undergoing at the moment is
30 less than the normal punishment another man would
have got. The Captain took into consideration that
he had all this trouble in connection with this
case; my words can be confirmed.

The Court: Where is the Court Martial? Who is that man looking
through the door?

Witness: My words can be confirmed if you wish. His Divisional
Officer was present watching the case and has acted
as divisional officer and he has no reason to treat
McKinnell differently.

The Court: When was he put under close-arrest?

Witness: The same day that the incident occurred.

The Court: How many days ago?

Witness: That was before he was given fifty-six days detention.

The Court: When was the sentence given?

Witness: Thirty-four or thirty-five days ago.

The Court: And he was sentenced to fifty-six days?

Witness: Yes. I would like to add that he had a suspended sentence already which was taken into consideration.

10 The Court: When was this suspended sentence, during these enquiries?

Witness: Yes, during these enquiries.

The Court: Had he any previous sentence before these enquiries?

Witness: Yes, My Lord.

Prosecution: The question now is whether Thomas McKinnell should give evidence in the presence of Lieutenant Reubens.

20 Defence: We have here another officer, Lieutenant Commander Walters who may give useful information to the Court. As regards the presence of Lieutenant Reubens, if told to keep away from the Court, the Jury might think that he had committed something incorrect and it might convey a bad impression on the members of the Jury.

The Court: (addressing Lieutenant Commander Walters, Royal Navy) But you have been present in Court and was present even yesterday afternoon in mufti?

Lt. Cdr.
Walters I was.

The Court: It would have been prudent for Lieutenant Commander Walters to go out when the Officer watching the case was giving evidence, he certainly knew.

30 Defence: Once this incident was brought before the jury

Sworn Evidence of Lieutenant Commander John Townsend Walters,
Royal Navy.

The Court: What questions would you like to be put?
Commander Walters should now be sworn.

(Witness was sworn)

The Court: Do you know anything about compassionate leave on
the part of McKinnell?

10 Witness: Yes, I do. The McKinnells asked the Flag Officer,
Malta, on whose staff I am as Legal Secretary to
take their child to the United Kingdom as they were
worried leaving it alone during the trial. The
decision of the Flag Officer and the Commander-
in-Chief was that it was not justified to pay for
their passage to take the child to the United Kingdom
and they were offered alternative arrangements which
were being made at Hal Far for the child to be looked
after properly or to have arrangements made for
the child to be taken home by a lady leaving for the
20 United Kingdom and the McKinnells this refused to
accept.

Defence: Were there cases in which more or less these facilities
were given in comparable circumstances?

30 Witness: This was a unique application. In fact in the two
years I have been here I do not think I have had
similar applications. Perhaps I may help the
Court a little further I think. The suggestion has
been made that the Naval Authorities have been
prejudiced against McKinnell. If a Commanding
Officer of an Air Station awards a sentence for the
detention of a member of the crew that sentence has
to go to the Flag Officer for approval and I have
to advise him on it. Since the Magistrate's
inquiry, McKinnell committed certain offences and
he was given a suspended sentence of 23 days detention.
That sentence I can truly say was suspended purely
because he was a witness in this case, and it was
realised he was under a certain strain. Then on
another charge he was sentenced to a further 20 days
40 detention making a total of 56 days. The case was
considered very carefully by the Flag Officer, Malta,

/ and

and consideration was given to the strain under which he was acting; the Naval Authorities had to be more lenient with McKinnell because of his being a witness. I can confirm that there is no question of victimisation on him. .

The Court: Who is the immediate Commanding Officer of McKinnell?

Witness: Captain Sutton, Air Station, Hal Far.

The Court: And who is the officer who is supposed to watch the case?

10 Witness: Each rating has a divisional Officer. A ship's company is divided up into small divisions and one officer is responsible for the welfare and looking after the men of a division. Broadhurst was in the division of Lieutenant Rubens and therefore it was Lieutenant Rubens' duty to help Broadhurst as much as possible in the difficulties in which he finds himself in this trial.

20 The Court: The application by McKinnell to send his children to the United Kingdom was it submitted to the Flag Officer, Malta?

Witness: Yes, and the reply to the McKinnells was that whether or not the children would be allowed to leave Malta to go home was a matter for the parents and not for the Naval Authorities. On the question of the Navy paying their passage home and back it was not felt to be justified and we made alternative arrangements.

30 The Court: In the normal course of events would the officer watching the case in this trial be the one who is actually watching the case?

Witness: Yes. It is the normal duty of the divisional officer to watch the case. I am not with the Naval Air Station, Hal Far, but I am also here because as it is a murder charge against a naval rating I am to keep the Commander-in-Chief and Flag Officer, Malta, informed of the case. If it were an ordinary case I would not have been here. I am the Legal Adviser to both the Flag Officer, Malta and to the Commander-in-Chief.

(The Jurors were again called back in the Hall).

The Court: Gentlemen of the Jury, I asked you to withdraw for a moment because Counsel for the Prosecution was raising a point of procedure for us of the Court to deal with. He was asking that the Officer watching the case for the accused should be asked to retire while McKinnell was giving evidence. You heard the witness say that he felt he was being victimised because of the evidence he had given before the Magistrate. We ourselves have now heard two officers who have given us full explanations and we feel that there is no evidence to justify or support the impression which had been given. For all I know witness might have been genuine but it is one thing to form an impression and it is quite another to prove it by evidence.

SIXTEENTH WITNESS FOR THE PROSECUTION
 Sworn evidence of Thomas John Lockinell.

 Prosecution: Do you remember that you were at home on Saturday,
 23rd July, 1971.

Witness: Yes. I was at home at approximately 12.30 p.m.
 and I remained there the rest of the day.

Prosecution: Did you notice the Broadhursts; whether they were
 leaving or staying at home?

10 Witness: They were getting ready to go to a dance but I
 did not take much notice. I just had a glance
 at them from the roof as they were leaving.

Prosecution: And, do you know what they were wearing?

Witness: They were in fancy dress.

Prosecution: Do you recall the time when you retired to
 sleep?

Witness: It was approximately 10.30 p.m.

Prosecution: And then something happened?

20 Witness: I was awakened by shouting and the running of
 foot-steps across the roof, and then by loud banging
 noises in the stairway. Shortly afterwards there
 was the ringing of the door-bell of my flat and my
 wife answered the

Prosecution: What did you hear before that?

30 Witness: I heard the banging as if boxing cases were thrown
 down the stairs, at which time my wife remarked
 to me that they were throwing boxing cases. My
 wife was out first from the bed and she answered
 the door. I was right behind her at the door, and
 at the door appeared Leola Broadhurst. He was
 just dressed in a pair of jeans, red flip flops,
 and his chest and feet were covered with blood.
 He said: "I have thrown Joan down the stairs;
 I do not know why I have done it".

Prosecution: Are you positive of those words?

Witness: He said: "I have thrown Jean down the stairs, please come and see her", and then he said: "I do not know why I have done it". Then my wife went into the flat to see Jean. Malcolm was still standing outside the door, and then he came into the sitting room and sat down in the chair. I was sure that my wife was all right and then I ran down to the police station.

10 Prosecution: Before you went to the Police station did your wife report anything to you?

Witness: I asked her would she be all right with Broadhurst and she told me to run down and get the police or the doctor, and those were the only words she said. Then I went to the Police Station and told the Naval shore patrol that there had been an accident and told them to telephone a doctor, and then when I was coming out of the Police station, the doctor came round the corner and I went with him to the flat. As I went to the top of the stairs Broadhurst tried to follow the doctor in the flat. He was in a hysterical state and I kept him in an armchair in my sitting room. He then started shouting and wanted to go in, and he said a lot of things that I could not understand at the time, and I had to strike him to restrain him from going in his own flat.

20

Prosecution: And then what happened?

Witness: The doctor decided to take Mrs. Broadhurst away to Hal Far. The Patrol moved the boxes from outside the next door flat and put them into the sitting room of Broadhurst's flat, and then they carried Jean Broadhurst down the stairs and into the van. There were members of the Naval shore patrol but they did not bother with Broadhurst at all. We then told Malcolm Broadhurst that we would like to take care of the baby for him and he said yes. We took the baby out of the flat and he gave us the food and the measure mug, and then he went downstairs - I believe he went to Hal Far with the doctor and the Patrol.

30

40

Prosecution: At some time in the morning did the accused return?

Witness: Yes, Sir.

Prosecution: Did he go in his flat?

Witness: He had no keys. He rang the door bell; my wife was dressed and let him in our flat. My wife then made some tea and he sat down drinking tea. He told us then that his wife had a fracture in her skull, and that was the only reference made to the incident.

10 Prosecution: Did he say anything else?

Witness: He told me about the dance and that he had been standing at the bar drinking with some friends, and then his wife came and told him that she was going home with P.O. Wright and his wife, and that his wife left the dance and he remained there drinking with his friends. He then said that he left the dance at about 1 o'clock or when the dance ended and walked as far as the R.I.C. Quarters. His toy pistol broke off but after that he could not remember anything.

20

Prosecution: Were you awakened by your wife, or did you wake up together?

Witness: She woke up before me and the first thing I heard was the running across the roof, but I heard no shouting. My wife asked me to go out and see what was happening. Before this I heard the banging of packing cases. It was just like a box being rolled down the stairs or thrown. Then the door bell rang. My wife ran to the door-way. I was putting on my trousers at the time. Malcolm was then standing at the door. I am positive on the words spoken by him.

30

The Court: You heard: "I have thrown Jean down the stairs, come and see"?

Witness: Yes.

Prosecution: Who was nearest to the door?

Witness: My wife opened the door. I was at the time half way across the sitting room when he started to speak.

Prosecution: How long have you known the Broadhursts?

Witness: It is only as long as they have been living in the flat next door - around ten months because she was still expecting the baby when they came. During these ten months I heard arguments among the couple but no striking.

10 Prosecution: Were these frequent?

Witness: Usually on the Sunday when I am at home, if he comes on the roof to hang the washing, after that there would be words spoken about having to do most of the housework.

Prosecution: Do you know anything about the question of sleeping in the afternoon? Was there any objection on the part of Mrs. Broadhurst?

20 Witness: She objected to his going on the roof at night time. Almost every night he stayed on the roof with a bottle of wine to drink and his wife objected to his staying there too long.

Prosecution: Any other objections on the part of Mrs. Broadhurst?

Witness: There were quite a few things that he always wanted to do that she objected to. She always seemed to want him to be by her side and he could never stay on his own.

Prosecution: You sometimes did go on the roof too?

Witness: I went to the roof to work at my work-bench.

Prosecution: Any particular feature which struck you?

30 Witness: A few months before he said to me that "you could have a good time on the roof if you knew where to look". I knew of his reputation as a peeping-Tom from somebody else. He had a telescope with which he used to look into other people's bedrooms or rooms.

Prosecution: Did he go on somebody else's roof?

Witness: He used to climb on other roofs. I never climbed myself.

CROSS EXAMINATION

Defence: On the landing near the flats, were there some large packing cases?

10 Witness: Near the accused's sitting room door there were two packing cases which were removed inside the flat as the doctor told the patrol to remove those boxes as they could not get Mrs. Broadhurst out of the flat.

Defence: Did **those** boxes block half of the door in the position they were?

Witness: Yes.

The Court: That **is** the door leading to the flat occupied by the accused?

Witness: Yes, Sir.

Defence: How as regards the afternoon, at what time did you go home?

20 Witness: At about 12.30 p.m.

Defence: Did you stay at home all the afternoon and evening?

Witness: I may have gone out for about five minutes during the afternoon for some shopping and went straight back again.

Defence: Did you have any visitors all that afternoon?

Witness: I spent most of my time at my work bench or on the roof.

Defence: Now, was it a custom to go on the roof?

Witness: No, practically I do not go on the roof but on the landing of the roof.

Defence: Did you have any conversation and discussion that evening?

Witness: No, I always sit at my work-bench.

Defence: Did the Broadhursts use to stay there as well?

Witness: Sometimes for a time and then the accused used to go on the roof.

10

Defence: At what time on that date did you go down to the flat?

Witness: At about ten or quarter to ten.

Defence: Did your wife stay with you?

Witness: No, she was at the flat, probably she came up for about half an hour, but I could not remember now. I know that she went on the roof for some specific purpose.

Defence: Were you alone before coming down?

Witness: Yes, I was.

Defence: How long earlier did your wife come down?

20

Witness: As I have already stated, she did not stay with me.

Defence: At ten thirty?

Witness: At that time she was not with me.

Defence: Did you lock the roof door?

Witness: No, I left it open.

Defence: When you came down, was your wife already in bed?

Witness: No, I think she was sitting in the sitting-room knitting, but I cannot remember.

- Defence: At what time did you go to bed?
- Witness: At ten thirty approximately.
- Defence: Did you hear, that evening, any noises of people coming up or going down in the flats?
- Witness: I did not hear anybody.
- Defence: After you went to bed?
- Witness: I did not hear anything or anybody until I was awakened.
- Defence: When you were awakened and went downstairs did you find the door open?
- Witness: I could not be certain on that point, but I do not think I did and I am not certain whether I did or not.
- Defence: Was there anyone outside in the street?
- Witness: No, sir.
- Defence: Now, were you friendly with the Broadhursts?
- Witness: We were on speaking terms, we were friends as neighbours but we did not bother with them that much.
- Defence: Did you observe that the accused and Jean used to kiss and hug each other quite frequently.
- Witness: When we were alone, we always noticed that if anyone was watching they did but when people were not watching them, they were always quarrelling by words.
- Defence: When you saw them, did you frequently see them kissing each other?
- Witness: Yes.
- Defence: Is it not a fact that they used to skylark a lot at each other or biting each other to leave a mark and this in your presence.
- Witness: Yes.
- Defence: Did they hit each other?

Witness: Yes.

Defence: Tell us what sort of hitting?

Witness: Mrs. Broadhurst used to try to thump the accused to try to catch him on the muscle on his arm or leg and when she did this he struck her back again.

Defence: Did they always do it, so much so that you became used to it?

Witness: Yes.

10

Defence: And did you ever take part in the fun as it was in a playful mood?

Witness: It was not more than twice, on the roof. We used to play with a ball on the roof but that was only on a couple of occasions.

Defence: And the Broadhursts between themselves?

Witness: Oh, Yes, they were always chasing each other and fooling around in general.

Defence: Now this thing of thumping, was it because Jean wanted to show how strong she was?

20

Witness: Well, to me it was just stupidity to do that. I cannot see how she wanted to show how strong she was.

Defence: In playfulness?

Witness: I couldn't say. She was always trying to mark him. She would at times bite him. But I cannot give any reason for it.

Defence: In playfulness?

Witness: Well I could not say that it was in playfulness.

30

Defence: You said that when there are people around they did this sort of thing but as soon as they were alone they bickered. How would you know that, if when they bickered they were alone?

Witness: Because when the windows are open one can hear what is being said by neighbours.

Defence: On the occasions you said they skylarked together, you were there.

Witness: When nobody was about they were always skylarking.

Defence: But you stated that only when there were spectators that they skylarked, otherwise they would have arguments between them.

10 Witness: They were not arguing all the time they were alone. It was just on odd days. They also sometimes argued in front of me and my wife, and sometimes while they were going down stairs and then stop it.

Defence: Now, as regards skylarking, this thumping, as you put it, did it not happen when they were in their own flat?

Witness: Yes, also. They sometimes did chase each other in their own flat.

Defence: Now will you agree that Malcolm bought his wife everything she wanted?

Witness: Yes.

20 Defence: And did you have several occasions in which to observe or perhaps you were told as to the objects that he had bought her?

Witness: If Jean had anything brought to her by her husband she always brought it in my flat to show it to my wife.

Defence: Do you know of any sewing machine he bought her?

30 Witness: I don't know of that. It was usually small printings, small things such as cloth and materials. She was always buying new material for dresses which she never used to wear. She just accumulated them.

Defence: Did she like sewing?

Witness: Yes.

Defence: And did she prefer sewing to going out?

Witness: I couldn't answer that. I don't know.

Defence: Now during the night how did you awake? Was it because of the noises?

Witness: Well, I was awakened first of all by my wife, but I awoke fairly quickly when I heard the noises and running and shouting on the roof.

Defence: So first your wife awakened you and then you heard the noises on the roof and when you heard the running and the shouting you awakened fairly quickly?

10

Witness: Yes.

Defence: Was it playful shouting or was it angry?

Witness: I could not say.

The Court: When you said "playing on the roof" it could not be night time?

Witness: Not in the middle of the night.

Defence: When they went on the roof was it not usual for them to stay on the roof until the early hours of the morning?

20

Witness: His wife used to go to bed at approximately ten o'clock, half past ten, and he used to stay there on the roof after that. I do remember that once his wife said that she left him on the roof and the next thing that she knew was that he got into his own flat through the balcony.

Defence: Did she not stay late on the roof?

Witness: If she did I don't know. I used to go down by half past ten, so I cannot say if she had been there after that time.

30

Defence: And then after the shouting and running, the next thing you heard was the noise, the banging of the packing cases and the next thing you heard was the door bell ringing?

Witness. Yes.

Defence. How did your wife push Malcolm at your door?

Witness. As she opened the door the bell was still ringing.

Defence. I see, so he was still more or less leaning on the door?

Witness. Yes. His hand was still on the door-bell. After my wife spoke to him she pushed past him to go into the flat next door. He did not follow her into the next flat but moved into our sitting-room.

10 Defence. So she did not or did she place him, help him onto the chair in your room?

Witness. No. I helped him on to the chair.

Defence. So your wife did not help him on to the chair and you did?

Witness. I couldn't be certain whether I helped him or not. I know he sat in the chair but whether I helped him on to it or my wife did I cannot remember.

Defence. Was the accused hysterical at the time?

20 Witness. He was sobbing and crying. He was mumbling and I could not understand what he was saying.

Defence. May I remind you that before the magistrate you said that he was hysterical and sobbing and that he uttered unintelligible words.

Witness. When he first came to our flat he was crying and sobbing; later he became hysterical when the doctor came.

Defence. As regards the mumbling of words, do you remember using the words, before the magistrate, "nothing intelligent coming out?"

30 Witness. Yes. He was trying to say something but he was not making any sense to me, and then again I was not paying much attention to what he was saying, and I was more interested in what was going on next door. That was when he was sitting down.

Defence. You asked your wife whether you could leave her alone with him - whether she felt safe - and then you went out?

Witness. Yes.

Defence. How as regards blood on the stairs, what did you notice?

10 Witness. There was blood on the second stair from the bottom flight of stairs and also on the last three stairs of the first bottom flight of stairs. There was also blood on the top two stairs and also a big foot-mark on the bottom flight of the stairs. This foot-mark was in the pool of blood itself.

Defence. There is the first flight of five steps, and there is the second flight of nine steps. How was there any blood on the landing itself between these two flights?

Witness. There were drops of blood and a splatter of blood that went underneath the boxes which were on the landing. I noticed this when the boxes were removed.

20 Defence. Which quantity of blood was larger: that at the bottom of the nine steps or that at the beginning of the five steps?

Witness. I should think that on the five steps, but I would not be certain.

Defence. What distance would there be between the two pools of blood?

30 Witness. The one on the flight of five steps was inside towards the wall, and there was also a big smear on the wall, and the one on the flight of nine steps was in the middle.

Defence. Is it the practice of the Broadhursts to leave the key of the flat in the door-lock?

Witness. Yes. They took this habit from us. We never locked the door but the street door is always shut.

Defence. Did you notice that the accused was perspiring profusely?

Witness. I did not notice anything. He was not out of breath or perspiring, or anything like that. He was just normal except for the blood covering him.

Defence. When you tried to restrain him what did you do?

Witness. First of all I told him to stay where he was, sitting in the chair. He leaned back again and then he started to get up again, and when I asked him to stay where he was and leave the doctor alone he seemed to insist, and then I just lost my temper and struck him on the mouth and the nose.

10

Defence. When you struck him did his condition improve?

Witness. He quietened down and he just sat there and he seemed to collect his senses and stopped sobbing, and you could speak to him then - it stopped the hysterics.

Defence. Did you get the impression that he did not know what he had done?

Witness. He knew what he had done because he told us when he came to our door.

20

Defence. I remind you that before the Magistrate you said that he was hysterical and from the way he spoke you got the impression that he did not know what he had done.

Witness. He knew what he had done but he did not know what damage he caused.

Defence. Before the Magistrate you said that the impression you formed was that he did not know what he had done?

30

Witness. Probably the way I meant it is that he did not know what damage he caused and he wanted to go with the doctor to find out what he had done.

Defence. But at the time he was still hysterical and when you hit him the hysterics stopped?

Witness. Then he realized what he had done.

Defence. Before hitting him, he was not in his senses?

Witness. Yes.

The Court. Would it be fair to put it that way? You were under the impression that he did not know the extent of the damage he had done?

Witness. Yes.

Defence. Did he say, repeatedly, "I am not drunk"?

Witness. Not repeatedly, he did say it a couple of times, but he did not keep on saying it.

10 Defence. Did he say the words: "I do not know why I did it, she did not do anything"?

Witness. Yes he said that more than once.

Defence. At one stage he did try to get up from the chair, did you see him stagger while he was going to his flat?

Witness. When he woke up from the chair he staggered slightly, but then he went straight to his flat.

Defence. At what stage did you notice that he was staggering?

20 Witness. When he got up from the chair he staggered slightly towards the door, after that he seemed to walk normally. It was not permanently, he just seemed weary, he might have been tired. He was not staggering like a drunken man.

Defence. Where were you at the moment when he stood up from the chair?

Witness. I stood just in front of him.

Defence. When Malcolm Broadhurst went into his flat had the packing cases already been moved?

Witness. Yes.

30 Defence. And had Jean Broadhurst already been carried downstairs?

Witness. Yes.

Defence. When he stood up and staggered, as you say, where were you at that moment?

Witness. I was standing in the middle of our own sitting room.

Defence. And then?

Witness. I followed him into his own flat.

Defence. So that is what you meant when before the Magistrate you said that he staggered into his flat?

The Court. He has already explained what he meant by "staggering".

10

Defence. I would like to know whether it is correct to say that he staggered in the room and he did not stagger into his flat?

Witness. When he stood up from the chair he staggered slightly, then he walked from my sitting room to his sitting room. He was not leaning towards the wall. He seemed to walk normally. It was an occasional staggering.

Defence. Was this after the doctor had been in?

Witness. Mrs. Broadhurst had already been taken.

Defence. Where did Malcolm then go?

20

Witness. Into his flat, got the cot and the baby's food, gave those to me and I passed them to my wife and moved the baby into my flat.

Defence. He gave you the baby's food?

Witness. He gave me two tins of food.

Defence. Did he not give you two tins of milk and four tins of food?

Witness. I was referring only to the milk. I did not remember about the solid food.

Defence. Was there any food apart from the milk?

Witness. Yes.

30

Defence. When he came back what time was it more or less?

Witness. Approximately 4.30.

Defence. And it was then that he told you what Joan had?

Witness. Yes.

Defence. I think you mentioned that he told you that he remembered having walked from the W.R.H.S. Quarters where he had broken the butt of his toy pistol?

10 Witness. When he came back at about 4.30 p.m. he came to our flat and my wife made tea and while my wife was making tea he said he lost his toy pistol near the W.R.H.S. Quarters. After that he did not remember anything at all.

The Court. Did he tell you that he walked from the place of the dance to the W.R.H.S. Quarters?

Witness. Yes.

Defence. Did you go to his flat at about 7.30 a.m.?

Witness. My wife woke him up at 7 o'clock and gave him a cup of tea. Then there was a ring. It was a nurse from Isl Far.

20 Defence. When the nurse came had your wife already washed the stairs?

Witness. No we were expecting Malcolm to do the stairs himself but when he left to go to Bighi I decided to do them.

Defence. Were the blood stains still there when the nurse came?

Witness. Yes. My wife washed them at about 8.30 or 9.

Defence. As regards work in the house, did not the accused help his wife in the house-work?

Witness. He did about 99% of the house work.

Defence. Did you torment him about that?

30 Witness. I used to make fun of him. On a Sunday, at 11 a.m. he used to go and hang the washing and I used to torment him about it. It was only a joke.

The Court. Did he ever complain that he had to do the house work and look after the baby?

Witness. No. I don't think so.

Defence. You remember on one occasion your wife called Malcolm Broadhurst and told him to hit you?

Witness. No.

Defence. May I remind you of an incident when you were hitting your wife and your wife called him and he came in and stopped you?

10 Witness. I am not prepared to answer questions about my personal life, my wife's arguments, or my arguments.

The Court. You have to answer this question. Did your wife at any time call the accused to hit you because you were beating your wife?

Witness. Not to my knowledge.

Defence. What objection did you have before to reply?

The Court. Now he gave his answer.

20 Defence. About six or seven months ago, three months before July the words your wife said to Malcolm were to fill you in

Witness. I don't remember this question at all.

Defence. At the time when Malcolm told you that you that you can see quite a lot from the roof, is it not a fact that it happened on occasions that you or your wife stayed naked at home?

Witness. Not running around the flat. To our bath, yes.

The Court. What are you trying to prove?

Defence. The statement which he misinterpreted was an advice to him and his wife to be careful how to appear.

30 Witness. At the time when Malcolm told me that you could have a good time on the roof, I remember that was one of the few nights he was sitting by the work-bench. We both had a bottle of wine and we were talking.

Defence. In point of fact, you or your wife occasionally stood naked at home?

Witness. Well, somebody has to undress some time or other.

The Court. What counsel for the Defence is asking you is that the accused once told you that you can have a good time on the roof?

Witness. Yes, he did.

The Court. Was it that he warned you of being naked?

Witness. No, Sir, he wanted to know whether I would go on the roof with him.

10

Defence. On occasions you used to be naked

The Court. Has that anything to do with the case? What is it you want to prove? The Court disallows the question.

Defence. Did you lock your wife out

The Court. What do you want to prove? Is it his bad character?

Defence. No, not his bad character.

The Court. Is it to attack his credibility?

Defence. The object is to attack the reliability of the evidence of the McKinnolls. There was a long history of quarrels and trouble between them. I have already submitted that this matter can have an important bearing on the case

20

The Court. This is all you wish to ask witness: whether he beat his wife?

Defence. Yes.

The Court. I do not know what would be the answer. The Court disallows this question.

Defence. Do you know that the accused bought his wife everything she wanted?

Witness. Yes.

Defence. Do you remember that you went to one of the shopkeepers and told him that the accused would soon be leaving the Island and that he had said that he was not going to pay him?

Witness. I was once asked by John Lamo when accused would be leaving the Island and I told him an approximate date.

Defence. So it is not true that you told John Lamo that the accused was not going to pay him?

Witness. No it is not true.

10 The Court. When was it that Lamo asked you about this?

Witness. About two months before the incident took place.

Defence. Have you made statements to the effect that you wished the accused to be hanged?

Witness. No, I have not.

Defence. Under no circumstances whatsoever did you tell anyone this?

Witness. No, Sir.

Defence. So it is not true that you told Mr. Barker this?

Witness. No.

20 Defence. Is it not true that you told Mr. Barker that if they do not find anyone to hang the accused you would be willing to hang him yourself?

Witness. No, sir.

Defence. Is it not a fact that you visited the Barkers' home?

Witness. Yes, I did. We have been asked quite a few questions by various people and the main one seems to have been what do you think he will get, but I never said that he could be hanged.

30 Defence. Let me remind you that you said this: I hope he will be hanged and your wife was present.

- The Court. Dr. Ganado, you have a habit of saying "let me remind you what you said", you should ask witness first whether he had said so.
- Defence. And did you say to Barker: "I hope he would be hanged"?
- Witness. No, sir.
- Defence. A couple of days after the incident did you not ask Barker whether he had heard of any good murders lately?
- Witness. Yes, and it was meant as a joke.
- 10 Defence. And even on other occasions later on, did you put such questions to Barker?
- Witness. No, Sir.
- Defence. Did you call Broadhurst while he was passing through the corridor a rude word starting with "b" yesterday afternoon?
- Witness. No sir.
- The Court. Are you proposing to produce evidence that he did?
- Defence: Yes, My Lord.
- Defence: So that is not true?
- 20 Witness. No Sir.
- Defence. As regards questions about the beatings I understood they were disallowed? Because Dr. Scerri is in doubt about that.
- The Court. They were disallowed.

RE-EXAMINATION

- Prosecution: My Lord, before putting any questions to witness I should like to explain the nature of the question I want to ask him. My aim is simply the credibility of the witness. I am asking him now, with your permission, how long has he not seen his wife.
- 30

The Court: It's not clear to me.

Prosecution: What I want to say is this: is he living at home now and for how long has he not been at home?

The Court: (addressing the witness) You have not been at home for the last six weeks?

Witness: for 34 days, Sir.

The Court: And during that time have you not seen your wife?

Witness: I have seen her one hour each Sunday for the last three weeks.

10 The Court: Your wife gave accused a cup of tea, you said. Just in case it might have happened, do you remember that you or your wife or anyone in your presence gave any drinks to accused? When you saw him in distress upstairs did you or any one give him anything else to drink except tea, say whisky or brandy?

Witness: No My Lord.

The Court: Or any tranquilisers to calm him down?

Witness: No, sir.

Resumption of sworn evidence of Brenda McKinnell

Defence: As regards the door of the flat of the Broadhursts is it not a fact that when it opens it bangs on the wall?

Witness: Yes.

Defence: So that if you either pull it or push it it makes a noise?

Witness: Yes.

The Court: Which door is that?

10 Defence: The door of the Broadhursts' my Lord. In view of the Court's previous ruling on I to take it that I must not make any questions as regards incidents between witness and her husband?

The Court: The Court is not assuming that those incidents have happened although that is what you are suggesting to the Jury. Your remarks tend to give witness a bad reputation for truth, and you know it!

Defence: The last question this morning was whether your husband in your presence said: "I hope he hangs".

20 Witness: Yes, he did say "I would like Malcolm to hang".

Defence: Did he say that to you?

Witness: He said that not to me but to other people.

Defence: Didn't he say also that he would do everything that Malcolm would hang?

Witness: No.

Defence: Did he not say these words in the presence of Mr. Barker?

Witness: I don't know.

Defence: In your presence?

Witness: I was not always with Mr. Barker and my husband.

Defence: Mr. Barker was a friend of yours and he lives a few doors away from your flat and you used to go to their house and they used to come to yours.

Witness: Yes.

Defence: How did not your husband say: "I'd do everything I can so that Malcolm would hang"?

Witness: If he did, I don't remember.

Defence: Did he not say that if they could not find someone to hang him he would do it himself?

10

Witness: I never heard that either.

Defence: When he said "I would like Malcolm to hang" did you not reply "I hope so, too"?

Witness: No.

RE-EXAMINATION

Prosecution: As regards meeting the Barkers, did your husband make it as a joke when he mentioned whether there were any new hangings?

Witness: He said it just as something to say.

Prosecution: To whom did he say it?

Witness: To the Barkers.

Prosecution: In what way?

Witness: Jokingly.

Prosecution: What were the words which you heard him saying?

Witness: "I would like to see Malcolm hang".

Prosecution: But apart from that did he say such words:
"Any new hangings or murders".

Witness: No.

Prosecution: At the time he was saying those words was he
complaining with his friends?

Witness: When my husband did say those words I myself was
sick, my baby was sick, and my husband got into
trouble. That is why he said it.

10 Prosecution: How long have you not seen your husband now- is
he living with you?

Witness: No.

The Court: You gave Malcolm tea that night?

Witness: Yes

The Court: It was tea only?

Witness: Yes.

The Court: You did not give him any alcohol?

Witness: No.

The Court: or sleeping pills?

Witness: No.

20 The Court: or anything like that?

Witness: No sir.

EIGHTEENTH WITNESS FOR THE PROSECUTION

Sworn evidence of Doris Abraham.

Witness: I live at Pirzebuga, "Auntie House", St. Andrew's Street, next door to the "Granny flats". One night last summer - I am not quite sure of the date - I was awakened as I heard banging of doors being opened and then foot-steps running down-stairs.

Prosecution: Where did you think they came from?

10 Witness: I thought that they came from the "Granny" flats which are next door to where I live.

Prosecution: Did you awaken your husband?

Witness: I did not bother about the foot-steps very much but the banging of the door frightened me.

Prosecution: What time was it?

Witness: I am not quite sure of the time but it was about two in the morning. I did not have my glasses on and therefore I could not see the clock.

20 Prosecution: That is on the night between the 21st/22nd July?

Witness: Yes.

CROSS-EXAMINATION

Defence: As regards the clock, is it a large one?

Witness: A small alarm clock.

Defence: Could you please tell us whether your husband looked at the clock?

Witness: Yes, my husband is a heavy sleeper and when I did wake him up I asked him what was the time as I had no glasses on.

NINETEENTH WITNESS FOR THE PROSECUTION
Sworn evidence of Jack Abraham

Prosecution: You live at St. Andrew's Street, Birzebbuga?

Witness: I do.

Prosecution: You live next door to Granny Flats?

Witness: Yes.

Prosecution: Something happened on one occasion last summer, do you remember the time and date?

Witness: I do not remember the date and time.

10 Prosecution: You remember some incident about your wife doing something?

Witness: I do.

Prosecution: What did she do?

Witness: Tried to wake me up.

Prosecution: And did she wake you up?

Witness: Yes. She thought that there was someone on the roof.

Prosecution: You did not hear anything?

Witness: I did not hear anything.

20 The Court: At what time?

Witness: Round about 2 a.m.

CROSS EXAMINATION

Defence: Did you look at the clock?

Witness: No, as far as I remember.

Defence: To the Magistrate you said that you looked at the clock because your wife wanted to know what was the time?

Witness: I may have said that, I forget now.

The Court: Do you remember it now?

Witness: I may have done so.

The Court: Do you or don't you remember that you looked at the clock and to the best of your knowledge it was 2 a.m.

Witness: Yes sir.

TWENTIETH WITNESS FOR THE PROSECUTION
Sworn evidence of Charles Kenneth Wright.

Prosecution: Are you a Radio Operator?

Witness: I am a Radio Operator, previously I was a Radio Supervisor.

Prosecution: When were you demoted?

Witness: On the 2nd September.

Prosecution: You know the Broadhursts?

Witness: Yes.

10 Prosecution: You were friends to the Broadhursts?

Witness: Yes.

Prosecution: And you remember one day last summer, in July, you went together to a dance?

Witness: I do.

Prosecution: And you made some plans, some arrangements, what were these arrangements?

Witness: We arranged to share the same baby sitter so that we can go to the dance.

20 Prosecution: Your son went to the house of the Broadhursts and used the same baby sitter?

Witness: That is correct.

Prosecution: You remember the time when you called for the Broadhursts?

Witness: Between six and seven.

Prosecution: At some time whilst you were at the Broadhurst's flat you left the flat to bring something?

Witness: I left the Broadhurst's flat to purchase some fancy dress and left my wife with the Broadhursts.

Prosecution: You arrived at the N.A.W.F.I. club at what time?

Witness: At 8.30 p.m.

Prosecution: You were the four together?

Witness: Yes.

Prosecution: Were you there in any capacity?

Witness: I was Marshall of Ceremonies and I was also a member of the club committee at the time.

Prosecution: Now at the beginning of the dance was it very lively?

10 Witness: No there were very few people then.

Prosecution: There was a competition, do you remember that stage?

Witness: Yes at 9.45.p.m.. There were two prizes for the best dressed gentleman and woman of that evening.

Prosecution: Who won the prize for the gentleman?

Witness: Malcolm Broadhurst.

Prosecution: Do you remember who won the ladies' prize?

20 Witness: Two Wrens were judged to be equal for the first prize and they both received a prize as they were equal.

Prosecution: Was Mrs. Broadhurst pleased with regard to her husband getting the first prize?

Witness: Yes .

Prosecution: At some stage or other you got permission to leave the dance.

30 Witness: The dance was not a very great success and approximately at about 11.30 p.m. I asked the Chairman of the Committee if it would be in order to relieve me of my duties and with my wife to go home. It was by mutual consent of my wife. Jean was on the table with us.

Prosecution: It was a common decision.

Witness: As far as I was concerned, I would include Jean in the decision.

Prosecution: You took steps to inform her husband?

Witness: We went to the bottom of the Hall where Jean had a conversation with her husband relative to leaving the dance I presume, but I observed the keys of the flat being handed to Jean, then I was delayed and by the time I rejoined my wife to go into the taxi Jean had left.

10

Prosecution: Did you intend to go together?

Witness: Jean left prior to my wife and I. I went out to see where she was and observed then a woman across the slip-way to Kalafrana. I shouted and asked her if she was coming, she said she was alright and I then returned to my wife to pick the taxi.

Prosecution: You said something to your wife?

Witness: I just said that I saw Jean down the slip-way and that she said she was alright.

20

Prosecution: Did you catch up with Jean?

Witness: Eventually we got the taxi and near the W.R.N.S. Quarters she got into the taxi with us and we went down to "The White Horse" in Birzebbuga for a drink. This bar is to be found at a place nearly out of Birzebbuga and away from the sea-front. I entered the bar, the friend who had been with us and Jean who had the prize her husband had won. I ordered some drinks but she would not have any and she stayed in the doorway and then said she wanted to go home. I said I would go with her and then return to "The White Horse". I returned, finished my drink and then we decided to return and my friend changed his clothes to go on board.

30

Prosecution: You observed husband and wife talking before you left and she left with you?

Witness: I saw them talking together at the bar. I did not hear any part of their conversation.

Prosecution: Do you remember that you said this before the Court of Enquiry. Did she not say "You are not coming?"

Witness: She did ascertain the fact that he was not going to accompany her home. This private conversation took about two or three minutes but I did not follow up this conversation completely to the very end.

CROSS-EXAMINATION

10 Defence: As regards the prize won by Malcolm did you have occasion to speak to Jean about it to see whether she was pleased or not.

Witness: Later I did go to the table and words to the effect: "well done" were uttered. She appeared to be quite pleased.

Defence: Was there anything wrong with her when you picked her up?

Witness: She seemed normal.

Defence: Did you not exchange pleasantries on the way?

Witness: Yes we did.

20 The Court: As long as you were there at the Club, was the accused drinking?

Witness: Yes. The first drink was a Hop Leaf. Then later in the evening when I was at table he took another beer, but I did not stay at the table for a long time.

The Court: When did you leave the dance?

Witness: Quarter to twelve.

The Court: At that time you saw Malcolm?

Witness: He was standing at the bar.

The Court: Are you saying now that you noticed nothing abnormal?

Witness: I did not pay any particular attention.

The Court: Before the Magistrate you said that when you saw the accused talking before Jean left the dance he was standing up and "I noticed nothing abnormal in his behaviour."

Witness: I confirm that.

TWENTY-FIRST WITNESS FOR THE PROSECUTION
Sworn Evidence of Eric S. Hale

Prosecution: Did Malcolm Broadhurst behave well during the dance?

Witness: Yes.

Prosecution: Were you at the same table with him?

Witness: I was at the next table.

Prosecution: Are you friendly with him in the sense that you go out together?

10 Witness: No, Sir. We just happened to be together at the dance.

Prosecution: When you gave him permission to kiss your wife how did he go about it? What happened?

20 Witness: As he was the only male winner someone at the table behind me said that the male winner had dipped out because he had no one to kiss. So I went to the accused and told him that he had my permission to kiss my wife who was presenting the prizes. The accused said: "No, no." He seemed a bit shy. He was not awfully keen to do that in front of 250 people.

Prosecution: At what time was the prize giving?

Witness: As far as I can recollect it was round about half past ten. I am not quite certain about that.

Prosecution: Did you see Broadhurst after the prize giving ceremony?

Witness: Yes, Sir, in the club. I left at about 11 p.m. and he was still there then.

Prosecution: You mentioned 11.30 p.m. before?

Witness: That is possible.

30 Prosecution: But you said that up to the last time you saw him he was well behaved?

Witness: I had no occasion to correct him for any
misbehaviour.

TWENTY SECOND WITNESS FOR THE PROSECUTION
 Sworn evidence of Mary Gafa

Prosecution: You were the baby-sitter on that occasion?

Witness: Yes.

Prosecution: You remember when Mrs. Broadhurst returned home after the dance?

Witness: Yes.

Prosecution: What time was it?

Witness: At half past twelve.

10 Prosecution: You stayed on with Mrs. Broadhurst till when?

Witness: Till one o'clock. Then I left.

CROSS-EXAMINATION

Defence: You were employed by Jean Broadhurst as a baby-sitter for how many times more or less?

Witness: Four, five, six times.

Defence: And this was during how many weeks before she died?

Witness: About a month.

Defence: Before the Magistrate you mentioned "in the last three weeks"?

20 Witness: Yes, that's right.

Defence: At what time did you go there, the last time?

Witness: Between quarter to seven and seven o'clock.

Defence: On the occasions you were there did you notice whether they got on well together?

Witness: Yes, they got on well together.

Defence: Did he kiss her for example affectionately while you were there?

Witness: I did not notice.

Defence: On one particular incident was there something which you noticed in the flat of the McKinnells that is in the opposite flat; whether Mr. McKinnell was properly dressed or not?

The Court: What is the connection with the case?

10

Defence: It is in reference to the question I put to Mr. McKinnell.

The Court: What is the relevance of whether she had seen across the window Mr. McKinnell improperly dressed? It has nothing to do with the case.

Defence: Because Mr. McKinnell denied it.

The Court: He said that some time or other you have to undress in order to dress. That question is disallowed.

Defence: When Jean returned from the dance what did she tell you?

20

Witness: She came in, sat down, and asked me how the babies were. She sat down, she started knitting and I was sitting near her.

Defence: Did she tell you about the prize which her husband had won?

Witness: Yes.

Defence: Was she happy?

Witness: Yes, she was very happy.

Defence: Was she in a happy mood that evening?

Witness: Yes.

Defence: And did she tell you where Malcolm Broadhurst was?

30

Witness: Yes, she said she left him at the dance.

Defence: Were you present when the rights came in for the baby?

Witness: Yes.

Defence: And did you hear them speak about going out the next day?

Witness: No.

Defence: And then how long did you stay there?

Witness: Until one o'clock.

Defence: And then you left?

10 Witness: Yes.

TWENTY THIRD WITNESS FOR THE PROSECUTION

Sworn evidence of Colin E. Vinnicombe

Witness: On the night of 22/25 July I was a member of the Naval Shore Patrol at Birsebbu. At about 1.15/1.30 a.m. I was inside the Police Station and a man came along and asked the Petty Officer of the Patrol if he would ring the sick bay at Hal Far as there had been an accident. Petty Officer Jackson rang the sick bay and when he got through he put McKinnell on the phone. Then Petty Officer Jackson went to see the two policemen but they did not seem very interested in what he told them because they shrugged their shoulders. Then Petty Officer Jackson told us to go to the flat with him until the Medical Officer came up. We went to the flat and when the Medical Officer came he told us to go below. After a few minutes he called two members of the Patrol, and a few minutes later he called me up and just as I went to the top they were carrying Mrs. Broadhurst downstairs, and I was told to look after the accused. When I saw the accused I saw him sitting on the chair in the flat. At one stage he came out and went into the next room, and after that we went to the Birsebbu police station waiting for the transport to take him to Hal Far. The accused came with us walking to the police station. He asked for a cigarette and he had one. He smoked another cigarette when he was waiting for the transport at the police station.

10

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Prosecution: Do you remember what happened at the sick bay?

Witness: Broadhurst called a dog while we were in the waiting room but it did not come in. There was Dorely sitting near Broadhurst and said that the dog was frightened, and then Broadhurst said: "I could not blame him".

Prosecution: Throughout the time you saw the accused, was he walking properly?

Witness: Yes.

CROSS-EXAMINATION

- Defence: Is it correct to say that he walked reasonably properly without any help from anybody?
- Witness: Yes.
- Defence: Apart from yourself at that time was there any other member of the Patrol?
- Witness: Petty Officer Jackson and myself accompanied the accused to the Police Station.

TWENTY FOURTH WITNESS FOR THE PROSECUTION
Sworn Evidence of Raymond Jackson

Prosecution: You are a Petty Officer?

Witness: Yes.

Prosecution: You know that something happened on the 22nd July of this year?

Witness: I do.

10 Prosecution: You remember that at the time you were in charge of the Shore Patrol?

Witness: I do.

Prosecution: You remember John Thomas McKinnell?

Witness: I do.

Prosecution: Where were you at the time, please?

Witness: Inside the Arzoblanco Police Station.

Prosecution: And McKinnell came along?

Witness: That is correct.

20 Prosecution: Now will you please tell us what McKinnell told you?

Witness: McKinnell asked for my assistance because a woman had been injured and she required medical assistance. I immediately rang to the Mal Far Exchange and got the sick boy and asked McKinnell to pass the message himself.

Prosecution: Did McKinnell give you any detail of what had happened?

30 Witness: After he finished phoning I asked him what was it all about and he told me that there was a dispute and Mr. Broadhurst received head injuries.

Prosecution: After you put on McKinnell to the sick bay, what did you do?

Witness: McKinnell, after phoning to the sick bay just related briefly more or less what happened and I said I would better go and see for myself. At that time the patrol were smoking and I told them to put out the cigarettes and briefed my men to go along with me.

Prosecution: Who was at the Police Station at the time?

Witness: The Police Constable.

10 The Court: You remember his name?

Witness: I do not my Lord.

The Court: So you briefed your men to go along with you?

Witness: Yes my Lord. The Patrol, who were in the annexe of the Police Station, then left.

The Court: And where was the constable?

Witness: He was in the office of the Police Station.

The Court: The Police Constable was not hearing what was happening?

Witness: No my Lord.

20 The Court: You said you were in the annexe, by "annexe" what do you mean?

Witness: As you go up the parapet and pass over the lobby, at the end of which, to the left, there is the actual Police Office, we were in the lobby.

The Court: And the Police Constable was in the other room?

Witness: Yes.

Prosecution: He must have heard you?

The Court: He said no.

Prosecution: You told the patrol to go along to the flat, now, please, carry on with your account?

Witness: They put off the cigarettes, put on their belts and then left the Police Station to see what it was all about. I told the Police Constable that there had been an incident, a woman had been injured, and asked him if he wanted to come with us but he did not say either yes or no. I assumed that the matter was of some urgency, as somebody had been injured, and wanted to get there as soon as possible to render first aid. At the time I had rung up Mel Har for a tilley or a vehicle as we had finished our patrol. I told the Police Constable to inform the Naval vehicle to wait for us until we came back.

Prosecution: Was the Constable the only officer in the Station?

Witness: Yes at the time, that is the only one I saw there. I went out of the Police Station rather quickly and as soon as I left I saw a Naval tilley coming from Vellotte and I stopped it. The Medical Officer was in the tilley and I related briefly to him what had happened. Myself and Electrician Brown got into the tilley and went to the flat and the others followed by foot.

Prosecution: When you talked with the Police Constable where were the other members of the Shore Patrol?

Witness: They were either outside the Police Station or on the parapet, I could not honestly say in what position they were at the time.

Prosecution: When did you go to Granny Flats?

Witness: We arrived at Granny Flats, I knocked on the door, and McKinnell asked me to come up, I went up the stairs into the flat and as I went up the stairs there were two doors facing me and in the room on the right I saw Malcolm Broadhurst.

The Court: Going up the stairs did you notice any blood?

Witness: Yes.

The Court: Was this blood on the first landing as you go up?

Witness: I was aware that there was blood actually on the stairs. I did not notice anything on the landing. It was half-way up.

The Court: You were shown the plan when you gave the evidence before the Magistrate and you showed the spot where you saw the blood.

Witness: Yes.

The Court: Can you tell us more clearly where you saw the blood?

10 Witness: There was blood on the stairs but there was one obvious place and as far as I can recollect it was half-way up the stairs. It is not very clear in my mind where the blot was. It was one or two steps before you come to the landing.

The Court: Where was blood all along?

Witness: I did notice spots of blood.

Prosecution: You did go up to the flat to see what happened?

20 Witness: I saw Malcolm sitting in the flat on the right of the landing and he was perspiring profusely, shaking and sobbing. I stood more or less in the door-way to the bed-room. I heard movements and saw Dr. Clements giving first aid to Mrs. Broadhurst. I asked him if he required an ambulance but he said he would manage with the tilly but would need assistance down-stairs. So I called the patrol up and I said to the lady "Keep an eye on Broadhurst" and I had the packing cases which were adjacent to the Broadhurst door moved to the Broadhurst flat. Then Mrs. Broadhurst was brought out of the bed-room and we
30 took her down-stairs and put her into the tilly and Dr. Clements left for Dal Far with Mrs. Broadhurst. I then went up the stairs and as I went up Malcolm Broadhurst was either going to his flat, or just got into his flat.

Prosecution: You told him to put on some clothing and to go along with you.

Witness: He was naked to the waist. I said: "Put your shirt on. I want you to come to Hal Far with me" and he complied with the request that he should put his shirt on. While in the process of putting on the shirt he was still excited, sobbing and crying and I tried to pacify him. I said "You must try and control yourself" and told him that the doctor took his wife to the sick-bay and probably would be back there tomorrow. He replied that he did not think so. He was still sobbing. I told him: "put your shirt on, come on" and more or less directed him.

10

Prosecution: You made some arrangements about the baby?

Witness: I don't know whether it was Mrs. McKinnell who said something about the baby. We went into an adjoining room. There was a baby in a cot. Malcolm was with us. He bent down to pick the baby out of the cot and because I did not trust him I put my hands round it as well. He said something affectionate to it and it seemed to have a sobering effect on him; he seemed to control himself. The baby was handed to Mrs. McKinnell and I think she said that she needed food for the baby and the accused started to take out things from a food-cabinet and had to be told that it was quite sufficient. Then I left the flat. I sent the apprentice to the Police Station to see whether the tilly had arrived because I preferred to take Malcolm Broadhurst on the tilly to the Police Station rather than by walk.

20

30 Prosecution: On approaching the Police Station, was there some conversation with the accused?

Witness: I did not speak to him then, until I arrived at the Police Station. On arrival I found that the Police Station was locked and there was no policeman there and found also that the tilly had not arrived. We stayed on the parapet and the accused went up the steps on the parapet and then a Police Sergeant and constable arrived and at that stage I said to the accused that if the Police asked questions, you had better not answer until you have the presence of an officer.

40

The Court: Why did you think it proper to do so?

Witness: At that time, I did not consider the consequences. In fact, I did not know that she was seriously injured. In fact, when the doctor said that he would use the tilly and not the ambulance, that made me think that there was nothing serious. At the sick bay, I saw Mrs. Broadhurst bandaged and learned that plasma would be given her.

The Court: Why did you not report the matter to the Police?

10 Witness: I said to the doctor: I do not think the Police realise how serious it is.

The Court: Did you tell them after this?

Witness: No, Sir.

The Court: How could you say then that you did not report the matter to the Police because you have just stated you gave that advice, that it was a serious matter. You were saying what was your own opinion?

Witness: When I arrived at the sick-bay I realised then that it was serious.

20 The Court: And you did not do anything about it? You still failed to inform the Malta Police?

Witness: But I said to the doctor that I think that the Police do not realise it is so serious.

The Court: Why did you not tell the Police that it was serious?

Witness: I said so to the doctor as I have already stated.

The Court: In referring to the members of the Malta Police, what did you tell them?

20 Witness: The Police Sergeant said to me: "What is the matter?" I replied that the accused had been drinking, that the woman was injured and had been taken to the sick-bay at Hal Far.

The Court: Who was the sergeant?

Witness: I do not know his name.

The Court: Will you recognise him if he is called here?

At this stage, the Court called No. 261 Sergeant Buttigieg who was duly sworn:

The Court: Is that the Sergeant?

Witness: Yes, My Lord.

The Court to Sergeant Buttigieg: Witness is saying that he told you sometime during the night that a woman had been injured. Did he tell you this?

Sergeant Buttigieg: No, Sir.

10 The Court: He did not tell you anything at all?

Sergeant Buttigieg: Nothing at all.

The Court to Witness: Did you tell this sergeant anything?

Witness: I did, My Lord.

The Court to Sergeant Buttigieg: Did you know that a woman had been injured and that she had been taken to the sick-bay at Hal Par?

20 Sergeant Buttigieg: No, Sir, Nobody told me, no one told me that a woman had been injured in a flat at Birzebbuga or that she had been taken to the sick bay.

The Court: Jackson did not tell you?

Sergeant Buttigieg: No, sir.

SERGEANT BUTTIGIEG WTS DRAW

The Court: What did the accused tell you when you advised him not to speak to the Police?

Witness: He said: "What can I say".

The Court: Why did you advise him not to talk wo the Police?

Witness: I did not realise at the time the consequences. I am not a naval policeman and had never had any training in police matters, we are only told to keep order, and give assistance.

The Court: Apart from giving assistance to people in trouble and to ensure that naval personnel do not create trouble and commit disgraceful things to the Service, what else?

10 Witness: It might be that a Serviceman had committed something disgraceful.

The Court: And you had no instructions that if something of this type happens, you were to report it immediately to the Police?

Witness: No my Lord.

Prosecution: You did take Malcolm Broadhurst to the sick bay?

Witness: Yes.

Prosecution: When did you leave him?

Witness: I left him in the tilley.

Prosecution: That was the last you saw of him?

20 Witness: No. I went to Lieutenant White, my superior, to give him an account of the facts as I then knew them to be. I then went back to the sick-bay and the doctor examined Broadhurst.

Prosecution: Were you there when the doctor started the medical examination?

Witness: Yes.

Prosecution: You do recollect how this examination started. Did you introduce Malcolm Broadhurst to the doctor?

30 Witness: I said to the doctor: "This is Malcolm Broadhurst", and he said: "Sit down, Broadhurst". He said: "What's all this about?" Broadhurst related to the doctor some incidents; that he had been to a dance at the Falcon Club, Kalafrana and that

/ after

after the dance he remembers passing the gate of the W.M.S. quarters but he did not recollect anything after that. The doctor then gave him a test for drunkenness I presume. That was finished with. I asked the doctor: "How is Mrs. Broadhurst"; I was concerned about her. He said that she was in rather a poor state. Then I took Broadhurst from the sick-bay to Lyster Barracks Guard Room at Hal Far, handed him over there and left. I secured the patrol and went home.

10

Prosecution: During the journey to the sick-bay did you talk to the accused?

Witness: He asked me whether he could see his wife and I said that that would be up to the medical officer to decide.

Prosecution: Did he smoke some cigarettes?

Witness: Yes, he was smoking.

Prosecution: Did he walk unaided?

20

Witness: He did walk unaided when I took him from the flat to the police station at Birzebbuga but at one point he did stagger and I held him by the arm as he staggered. He was walking unaided but I do not think he was walking properly. He was in a great mental anguish all the time. I had never seen any man in such a state before. I have never seen a man cry and sob like that.

CROSS-EXAMINATION

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Defence: As regards the spot where you saw the blood you said you were in some difficulty to recollect the exact position of the stains. Did you see it while going up or coming down?

Witness: I can't remember.

Defence: Do you remember whether it was at the bottom of the second flight of stairs. Can you remember the locality?

Witness: If I look at the plan again it might help me.

(Witness looked at the plans but said he could not remember)

Defence: When you saw Broadhurst in his flat did you notice any smell on him?

Witness: I could smell drink on him.

Defence: As regards his movements did you observe anything in particular?

10 Witness: He was vague and rather sloppy in his movements and I came to the conclusion that he was under the influence of drink.

Defence: What do you mean exactly by "sloppy"?

Witness: Well, he was not smart, he was not decisive in what he did, in the way he moved about. Mine was just a general assumption, and I came to the conclusion that he had been drinking.

Defence: Was he normal?

20 Witness: He was sobbing and covering his face with his hands. As I said, I never saw a man like that before.

The Court: But in your life you had seen a man that had been shocked?

Witness: I have seen people receiving a shock but I had never seen a person like that. It is hard for me to describe - it is more like a woman would behave rather than a man.

Defence: You said that he was not in a fit state to make a statement to anybody?

30 Witness: Yes, I did not consider him so because he was not in possession of his normal faculties. He was not a normal man and I thought that he should see the doctor first; - in fact by all rules and regulations I should have taken him to see the officer of the day before the medical officer, but for some reason I decided to call the doctor

The Court: But after that you sent him home.

Witness: I handed him into the custody of the Officer of the Day, Lieutenant White, and I told him what had happened and what I knew to be the truth of the matter, and then I went home.

The Court: While you were talking to the accused was he following your questions and answering the proper answers?

Witness: I talked to him very little.

10 The Court: Whatever you talked, that very little, did he give a proper answer to your questions?

Witness: He complied with everything I told him to do.

The Court: For instance, you told him: "I advise you not to talk to the Police Officer", and he said to you: "What can I say?".

Witness: That is correct.

TWENTY FIFTH WITNESS FOR THE PROSECUTION
Sworn Evidence of John Barclay.

Prosecution: On the night in question were you a member of the Naval shore patrol at Birzebbuga?

Witness: Yes.

Prosecution: Do you remember the time when a man came along in the vicinity of the Birzebbuga Police Station?

Witness: I think it was about twenty past one.

Prosecution: Do you remember the man?

10 Witness: I do not know his name.

Prosecution: What happened?

Witness: We were waiting outside the Police Station and a man came running along and asked if he could 'phone from the police station for a doctor because there had been some trouble in his house. This man talked to the Petty Officer in charge. Then I believe the Petty Officer went to 'phone up and he asked him if there is anything he can do, and the man said yes, and we went up to the Granny Flats.

20 Prosecution: Did you notice anything on the stairs?

Witness: There were, I think, two pools of blood - one was on the fourth step of the first flight and the other on the second flight.

Prosecution: Did you notice any blood on the railings?

Witness: I did not notice any blood on the railings?

Prosecution: What else do you know?

Witness: The doctor came before us. I assisted the doctor and together with another member of the patrol we carried Jean Broadhurst downstairs and put her into the van which was waiting outside.

30

Prosecution: Did you move the packing cases?

Witness: I did not move the packing cases.

Prosecution: And then what happened?

Witness: After she was taken away I proceeded towards the police station at Drzebbuga to make arrangements for more transport to take accused to the sick-bay. I was waiting by the Police Station for the transport and I saw the accused coming along with the rest of the patrol.

10 Prosecution: How was he walking?

Witness: He seemed to be walking quite normally. He had his face resting down a little and sometimes he had his hands on his face.

Prosecution: Did he ask you to smoke?

Witness: He smoked one of his own cigarettes.

Prosecution: Was there any conversation between you?

Witness: Not that I remember.

Prosecution: Did you take him to the sick-bay?

Witness: Yes.

20 Prosecution: Was there some incident about a dog?

Witness: I was sitting next to him in the waiting room and a small dog came into the waiting room. The accused spoke to the dog and he came over to him. The accused patted the dog on his back and then the dog went away. I told him: "It seemed scared", and he said to me: "It is not surprising, is it?"

Prosecution: Did you have any other conversation with the accused?

Witness: He asked me whether he could speak to his wife.

Prosecution: Did he smoke another cigarette?

30 Witness: Yes.

CROSS EXAMINATION

Defence: When you went to the flat did you observe any keys outside?

Witness: No.

Defence: I mean on the door step?

Witness: No.

Defence: When you came down, did you carry her down on the stretcher or on your hands?

Witness: On our hands.

10 Defence: How how was the accused - he had his hands on his chin - how did he look?

Witness: Very distressed and sobbing.

Defence: Did you notice his eyes?

Witness: Yes, filled with tears.

TWENTY SIXTH WITNESS FOR THE PROSECUTION
Sworn Evidence of Allan Henry Brown.

Prosecution: Were you a member of the Naval Shore Patrol on the night in question?

Witness: I was.

Prosecution: You were with Petty Officer Jackson. Now at a time somebody came running along?

Witness: Yes.

Prosecution: You remember who he was?

10 Witness: McKinnell.

Prosecution: At the time where were you?

Witness: Outside Mirrabugga Police Station.

Prosecution: What happened then?

20 Witness: McKinnell came to the Police Station and said he wanted to ring Mal War for the doctor. He went into the Police Station and rang the doctor. He then went outside the Police Station and waited for the Petty Officer to come. He then came and we went to the flat. He then went to the flat and waited outside.

Prosecution: Did you go in?

Witness: Yes.

Prosecution: Going up the stairs did you notice anything?

Witness: Yes, blood stains?

The Court: Were they pools or stains?

Witness: There was one pool.

Prosecution: And what happened then?

Witness: We finally took the accused to the sick bay.

Prosecution: Did you talk to the accused?

Witness: No.

Prosecution: What was his behaviour?

Witness: When he was in the flat he was crying and seemed very distressed.

Prosecution: On the way to the sick bay did you talk to him?

Witness: I did not.

TWENTY SEVENTH WITNESS FOR THE PROSECUTION
Sworn Evidence of Police Constable Joseph Stellini.

Prosecution: On the day of the incident were you at the
Birzebbuga Police Station?

Witness: Yes.

Prosecution: What time was it?

Witness: At about 1.15 a.m.

Prosecution: What happened?

10

Witness: At about 1.15 a.m. an Englishman came to 'phone up
the sick bay.

Prosecution: Where were you?

Witness: I was on the steps near the Police Station.

Prosecution: And then?

Witness: After about 3 minutes the chief of the patrol came
down and he went up with the English civilian
who had called to phone. After phoning, the
chief of the patrol came out and told me to tell
the van driver (when he returns) to wait for him.

Prosecution: Did he tell you anything else?

20

Witness: No.

Prosecution: And then?

Witness: Immediately after the Sergeant came and told me to
go on patrol. I told the Sergeant to tell the
patrol van driver when he comes to wait there.
Immediately the patrol van arrived, they spoke to
the driver and went in the direction of the
Church; then we locked the station and went on
patrol.

Prosecution: At what time does the Naval Patrol usually come?

30

Witness: They come at about 5 or 6.

Prosecution: Then?

Witness: When we were returning to the station from our patrol, we noticed the members of the Naval Patrol near the Station. We went to the station and found an English civilian sitting on the ledge of the Station parapet. I went inside and as I was going out I noticed that this Englishman had tears in his eyes.

Prosecution: Who was that Englishman?

10 Witness: The accused.

Prosecution: And then?

Witness: Then the Sergeant asked the patrol chief what had happened to that man and he replied, "nothing has happened to him, he is upset about his wife".

The Court: Did he use the word: "Nothing"?

20 Witness: He said: Nothing is wrong with him, he is upset about his wife." Immediately the Englishmen went down the steps, crossed over to the sea-shore and stayed waiting there, and then 3 or 4 members of the Patrol went down near him. On the following day, I was on duty from noon to 8 p.m. and when I reported for duty the Sergeant told me that he was in communication with Dighi as a woman was dying. Some time afterwards, I received a message to go to the flat. When I went up at about 5 p.m. with the accused, Superintendent Lanson and Superintendent Scicluna, I noticed that the clothes the Englishman had been wearing on the day when he came to the Station had stains which at the time I noticed were blood, but when
30 he was at the station, I could not recognise them.

Prosecution: Was the first time that you saw the Petty Officer at 1.20 a.m.?

Witness: At about 1.15 a.m.

Prosecution: And he phoned from the station?

Witness: The first one who came to phone up was that Englishman. The Petty Officer went with the English Civilian and returned about 3 minutes later.

Prosecution: About 3 minutes later?

Witness: Yes.

The Court: Did he tell you anything about the case?

Witness: He did not say anything.

The Court: Any then did you tell Sergeant Buttigieg?

10 Witness: I told him to tell the van driver to wait for them there.

Prosecution: You told us that when the accused saw you coming, he went down from the ledge. Where did he go?

Witness: He went down the steps and proceeded opposite near the sea and the Patrol members went with him.

TWENTY EIGHTH WITNESS FOR THE PROSECUTION

Sworn evidence of Police Sergeant Joseph Buttigieg.

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Prosecution: On the night in question you were on duty at Birzebbuga Police Station. At one time you went to make the normal tour of bars.

10 Witness: With P.O. Stellini and the shore patrol men and then we returned to Birzebbuga Police Station where I saw the accused sitting on the parapet facing the Police Station. At the time when I opened the door of the Station I saw him weeping. Then I asked P.O. Jackson "what is wrong with this man". He told me : "Nothing wrong but he is upset about his wife".

The Court: No member of the patrol mentioned that there was a woman seriously injured or that that man might be related to the case?

Witness: Nothing at all.

Prosecution: How did the accused behave?

20 Witness: He never spoke to me but when I spoke to the P.O. he walked downstairs and went near the sea-front walking properly and in the meantime the van came and took them most probably to Hal Far.

CROSS-EXAMINATION

Defence: Is the sea opposite the station?

Witness: The width of the road is about 25 feet.

TWENTY NINTH WITNESS FOR THE PROSECUTION
Sworn evidence of Lieutenant Arthur White, Royal Navy

Prosecution: Do you remember the night in question?

Witness: Yes I do.

Prosecution: Somebody brought a man to the sick-bay?

Witness: Correct.

Prosecution: Later he was brought to the Guardroom at Hal Far?

Witness: Yes I saw the accused.

Prosecution: Did you watch him in the Guardroom?

10 Witness: Yes he was standing up.

Prosecution: You finally took some decision about whether he should go home or otherwise and had a discussion with your superior officer?

Witness: Yes with Lieutenant Commander Norman.

Prosecution: You finally decided that he should go home?

Witness: Yes and we watched him walking out of the Guard-room. He was walking quite normally.

Prosecution: Did he make any statement to you about his movements?

20 Witness: I did not question the accused. He merely made to me a voluntary statement that he could not remember anything from the time between his walking near the A.R.M.S. Quarters and seeing his wife on the ground or picking her up.

CROSS-EXAMINATION

Defence: Are you aware that before he was brought to the Guard room he had been seen by the doctor and had been at the sick bay previously?

Witness: I was aware of that.

- The Court: Was it clear to you at any time that this was a serious matter.
- Witness: I knew it was somewhat.
- The Court: Did you not feel it was part of your duty to inform the Police ?
- Witness: I was given to understand that the Police had knowledge of this domestic upheaval,
- The Court: Did you know that the Police did not know of the case before the next morning?
- 10 Witness: I never found that the Police were not aware of it. I went on instructions to give the name and address of the duty doctor at Hal Far.
- The Court: When you sent this man home, were you already aware that the woman was very seriously injured?
- Witness: I only knew that she was injured but I did not know the extent of her injuries.
- The Court: What did Clements tell you about her state?
- Witness: That she was injured and was being sent to Bighi. He did not tell me that she was unconscious.
- 20 The Court: You sent him back home?
- Witness: I was under the impression that the Police were aware. I got the impression from P.O. Jackson.

THIRTIETH WITNESS FOR THE PROSECUTION
Sworn Evidence of Derrick Bentley.

Prosecution: On the night in question you were on duty at the sick-bay at Hal Far?

Witness: Yes, Sir.

Prosecution: Now, you did mix up the plasma for the deceased?

Witness: Yes, I did.

Prosecution: Did you see the accused that night?

10 Witness: Yes, I did.

Prosecution: Did you ask him some questions?

Witness: Yes, and he gave me some particulars. He gave me his official number, his wife's surname or christian name, how long they have been in Malta, age, religion and I think that is the lot.

The Court: He always had the correct answer?

Witness: Yes, Sir.

The Court: What time was it roughly?

20 Witness: Approximately 2 a.m.

Prosecution: Later on, you had some conversation with him about certain things belonging to his wife?

Witness: Yes, approximately at 3 a.m. and I gave him a towel and a brassiere and told him to take them home with him.

Prosecution: In the morning, did you go along to collect the accused?

Witness: On Sunday morning, I went to the flat, entered, he was in bed, told him to get up and get dressed as the doctor at Bighi wanted to talk to him and I called for him five minutes later and took him to the sick-bay with me at Bighi. He finished speaking to the doctor and seemed rather worried and asked him if he wanted to see his wife. He said yes. He seemed rather worried but went with my transport.

10

CROSS EXAMINATION

Defence: What did you notice at the flat?

Witness: When I went up the steps, there was a lot of blood, on the first and second step, and there was a big pool of blood and there was blood everywhere.

Defence: The form you filled up and the answers given you by the accused, how do you know that they were correct?

Witness: As far as I know, yes.

20

Defence: In other words, you did not check?

The Court: Are you going to prove that any of them is incorrect?

THIRTY FIRST WITNESS FOR THE PROSECUTION
Sworn Evidence of Eric Edwards

Prosecution: You did go at the dance at Kalafrana Falcon Club?

Witness: Yes, I did.

Prosecution: You remember seeing the accused and his wife?

Witness: I saw the accused but not his wife.

Prosecution: Do you remember he won first prize?

Witness: Yes, for fancy dress.

10 Prosecution: After the dance, you did go by a private bus from the navy club?

Witness: Yes, and the bus proceeded on its course from Birzebugia and turned Kalafrana corner towards Hal Far.

Prosecution: Did you see the accused near the Wrens' Quarters?

Witness: Yes, and from there he boarded the bus at the Wrens' quarters and was on the running-board until Kalafrana Corner and then he jumped off.

20

The Court: While the bus was still moving?

Witness: Yes.

The Court: Let me remind you what you said before the magistrate.

(The Court reads to the witness the following extract from his evidence given before the lower Courts).

Prosecution: "The Accused travelled in the bus standing in the door and got off at Kalafrana corner by jumping down while the bus was still moving."

Witness: That is correct.

Prosecution: You saw him picking up something from the ground?

Witness: Yes, I looked down and saw him picking up something.

Prosecution: Have you any idea about the time?

Witness: Sometime between twenty past one and 1.30 a.m.

CROSS EXAMINATION

10 Defence: What happened when the bus arrived at Kalafrana Corner?

Witness: As the bus was moving slowly he seemed to have lost his balance; then I saw him bending down, picking up something and then went away.

Defence: Did he fall to the ground?

Witness: No, Sir.

Juror: May we know where the bus would be going after Hal Far?

Witness: The bus was carrying people going to Pawla.

20 Defence: When he jumped off the bus did he hit the wall?

Witness: I believe he hit the wall.

THIRTY SECOND WITNESS FOR THE PROSECUTION

Sworn evidence of David James Reardon

Prosecution: You were at the N.A.A.F.I. Club, Kalamazoo, on the night in question?

Witness: Yes.

Prosecution: You saw there accused and his wife?

Witness: Yes.

Prosecution: Were you in their company actually?

Witness: I sat at their table.

10 Prosecution: Do you recollect whether they had any drinks together?

Witness: Yes, they had drinks together. To the best of my knowledge the accused had two to three Hop Leafs and she drank some bitter lemon and some short drink while I was there.

Prosecution: That was up to what time?

Witness: The last I saw Mrs. Broadhurst was at half past eleven.

20 Prosecution: Up to half past eleven you saw the accused taking two to three Hop Leafs?

Witness: Approximately about three.

Prosecution: Do you remember there were the Wights too?

Witness: Yes.

Prosecution: Did you stay on till the very end?

Witness: Till the end of the dance.

Prosecution: Did you go back by walk?

Witness: I walked back towards the 'WREN'S' quarters across the south-slip at Kalafrana.

Prosecution: Did you see Malcolm Broadhurst then?

Witness: Yes, just after one o'clock he passed me on the south slip. He was walking by himself.

Prosecution; Did you notice how he was walking?

Witness: He did not seem to be staggering; he seemed to me to be walking normally.

10

CROSS EXAMINATION

Defence: Do you remember in which part of the south-slip he passed you?

Witness: Yes.

Defence: What is the distance from there to the 'WRENS' quarters?

Witness: About half way along.

Defence: Where was he when you saw him after the dance?

Witness: In the middle of the south-slip.

Defence: What is the length of the slip?

20 Witness: About two hundred yards.

Defence: During the dance is it correct to say that after half past eleven you did not see the accused again at the dance?

Witness: Yes, that is true.

Defence: Do you recollect that during the dance he left the table on and off?

Witness: Yes, he did.

Defence: After he passed you by, did you walk behind him for some distance?

Witness: Oh, yes, he was going towards the runway and I was going that way too.

The Court: And you had some opportunity of seeing how he was walking?

Witness: Yes, but I did not make it a point to see exactly how he was walking.

The Court: But you said you noticed he was not staggering?

10 Witness: That is correct.

Defence: Was it dark on the south slip?

Witness: No. One could see quite clearly.

Defence: Along the whole slip were there small lamps?

Witness: Yes.

The Court: There was enough light for you to see he was not staggering?

Witness: Yes.

Defence: The accused elects to give his evidence.

Sworn evidence of Malcolm Stewart Broadhurst

Defence: When did you come to Malta?

Accused: On the 22nd April, 1959.

Defence: And then, in which date did you get married?

Accused: On August, 1959.

Defence: In this interval of time did you and your wife correspond with each other?

Accused: Yes.

10 Defence: What did you do with the letters which you received from your wife?

Accused: I numbered them and put them with the other letters.

Defence: Where are they?

Accused: They are in the flat.

Defence: When were you due to go back to England?

Accused: On the 1st October, 1961.

Defence: And, did you take any steps about it?

20 Accused: We started packing quite a lot of things to take home.

Defence: As regards packing had you done anything about it?

Accused: I packed one case and began on the second.

The Court: There were packing cases outside your door; whose packing cases were they?

Accused: They were mine.

- The Court: Was it in those two cases that you were packing?
- Accused: Yes.
- Defence: When did you go the Passport Office to make arrangements for the baby about the passage?
- Accused: Sometime in late June or early July I went to the Passport Office to have the baby put on my wife's passport.
- 10 Defence: Your Lordships, could he be shown the passport because in it there is an application form.
- (Accused shown the passport)
- Defence: What is this form?
- Accused: That is a form which I filled up to have my son put on my wife's passport.
- Defence: Could you indicate the date when this form was filled up?
- Accused: On the 20th July, 1961.
- 20 The Court: This was never in fact presented to the Passport Office?
- Accused: It was filled up at the Passport Office but there was something else to be put in.
- The Court: At the bottom there is a signature; is it yours?
- Accused: Yes.
- The Court: And you are telling the Court that you filled this form on the 20th July?
- Accused: Yes.

- The Court: And what was the reason that you did not give it to the Passport Office?
- Accused: I had left my wife's passport in the flat and when I filled in the form they wanted my wife's passport.
- The Court: This is three days before the incident?
- Accused: Yes.
- The Court: Right at the bottom against the printed word "address", whose signature is that?
- 10 Accused: No idea, my Lord.
- The Court: You have no idea?
- Accused: No my Lord.
- The Court: Is that your wife's signature?
- Accused: Mine my Lord.
- The Court: Is it yours?
- Accused: My signature is higher up on the form.
- The Court: And the other signature?
- Accused: I have no idea my Lord. I think it was signed by the clerk at the Passport Office.
- 20 The Court: But you said you never presented it to the clerk at the Passport Office?
- Accused: The clerk told us that we have to produce the passport.
- The Court: And you say that that signature can be the signature of the clerk at the Passport Office?
- Accused: It might be
- The Court: Was that signed on the same day you filled in the form?

Accused: Yes.

The Court: Can we have that form shown to the Officer of the Passport Office to see if it is the signature of any one there?

Prosecution: Can we call the Passport Officer my Lord?

The Court: Yes.

The Court: What did you do with the form afterwards?

10 Accused: I took it back to the flat. We were to take it back on the next occasion we entered Valletta with the passport.

The Court: So on that occasion when you signed that form at the Passport Office you did not take the passport with you?

Accused: No my Lord. We went to the Passport Office to obtain a form so that we could have the particulars of the child being put on the passport.

20 The Court: Was your wife coming with you? What arrangements for the trip had been made, if any?

Accused: The arrangements were for the Navy. The three of us were travelling together.

The Court: Was there any conversation about the passport between you and your wife after the filling of that form?

Accused: Only that we have to remember to take with us the passport next time we enter Valletta.

30 The Defence: Could you inform the Court and the Gentlemen of the Jury as regards life with your wife, for example about house work, what can you say?

- Accused: It was a joint task, both of us used to take part of it.
- The Defence: As regards washing of clothes for example?
- Accused: I used to do the majority of it.
- The Defence: And other chores?
- Accused: I used to help with most things.
- The Defence: What did your wife do, what was the normal routine every day?
- 10 Accused: It depended whether I was on watch or off watch. After doing the chores of the house my wife probably would do some sewing.
- The Defence: As regards sewing did you do something about it? Did you give her any presents?
- Accused: I used to buy her a lot of material to make dresses for herself and the child, and other articles.
- The Defence: Did you buy her something else with regard to sewing?
- 20 Accused: I bought her a sewing machine.
- The Defence: When was that?
- Accused: In early 1960 I believe.
- The Defence: As regards other things which you bought for your wife can you mention a few?
- Accused: A pair of slacks, blouses, etc. and various other things.
- The Defence: Apart from wearing apparel did you buy her anything?

- Accused: I bought her a jewel box, shop basket which she particularly wanted, but mostly she used to have clothes.
- The Defence: And did she give you anything?
- Accused: Yes, on our wedding anniversary she bought me a wrist watch a Rolex Oyster.
- The Defence: As regards the routine of your life at home, what can you say? Did you go out frequently?
- 10 Accused: Only when we went swimming which is our main form of enjoyment in summer. At other times we went to picnics - quite a lot.
- The Defence: As for other things?
- Accused: Most nights we did not go to the cinema but I helped my wife with some sewing. She would sew and I would probably sit down and talk to her, or read, or make a model.
- 20 The Defence: As regards quarrels with your wife, can you state what happened?
- Accused: There is only one bad quarrel I can think of. It was about six or seven months ago. I accused my wife of not changing the baby's nappy. She said she had done so. We had an argument and she threw a couple of glasses. I slapped her face and told her to stop acting foolish. A little later she admitted she had not changed the nappy and she asked me to forgive her. Apart from that we only had small differences mainly about sleeping in the afternoon when I was off-watch.
- 30 The Defence: What would you do?
- Accused: When I went to bed she would wake me up every few minutes. She just said that I wasn't much company. That is why she did not want me to sleep. Sometimes my wife

Accused: just acted normally after a quarrel.
 (Cont'd) Sometimes she would not speak to me.
 Sometimes this lasted an hour and a half,
 sometimes two days. I was normally the
 one who got round to apologise. Then she
 would start speaking again and then we went
 on with life as if nothing had happened.

The Defence: As regards films. To which place, to which
 Cinema at Hal Far did you go?

10 Accused: To Hal Far cinema, on those nights when I was
 on night duty, if there was no night
 flying, and I was not required. I usually
 knew before whether there was going to be
 any night flying and I used to tell my wife
 and she used to come on the eight o'clock
 transport to Hal Far and we used to go to
 the cinema together. When there was night
 flying, I used to work at the wireless
 office and my wife stayed at home.

20 The Defence: Did you have a conversation on whether
 you could or could not go to the film?

Accused: Each day there was a flying programme
 brought to the wireless office and from
 there I got the knowledge as to whether
 there would be any night flying or not.

The Defence: Did you inform your wife?

Accused: Yes Sir.

The Defence: Did she ever tell you anything about not
 going to the Hal Far cinema? Was there
 ever any complaint?

30

Accused: No. She looked upon it as quite an outing.

The Defence: Did you go to parties or dances?

Accused: Very rarely because my wife was rather shy.
 She did not like meeting a lot of people.
 She preferred to go to the pictures.

- The Defence: In the evening, when you remained at home, did you remain downstairs?
- Accused: Most evenings my wife would come with me on the roof and later in the evening I would drink a mixture of wine and lemonade. My wife would go down by nine and I would stay up to 10.30 or 11 and then go downstairs.
- 10 The Defence: Were there occasions when other persons were there?
- Accused: Mr. and Mrs. McKinnell were often there.
- The Defence: As regards your behaviour with your wife whether in front or not in front of people, what can you say about it?
- Accused: On the whole we were very happy together. We used to do a lot of sky-larking on the roof, in the flat and on the beach.
- The Defence: What sort of sky-larking was it?
- 20 Accused: My wife sometimes bit my shoulder and sometimes she would bruise or thump me. There was no malice in it. It was only fun. This sky-larking took place mostly on the roof and in the flat.
- The Defence: Did your friends join in as well?
- Accused: On occasions the McKinnells did.
- The Defence: Do you remember one instance of sky-larking when Mr. and Mrs. Collecott were present?
- 30 Accused: Yes, my wife and I went round to Mr. and Mrs. Collecott, we had sky-larking there and we had sky-larking in our flat. During the sky-larking my wife hit him and she seemed to have hurt him. I believe it was in my flat.

- The Defence: In the afternoon, from two o'clock onwards, what happened on that particular Saturday?
- Accused: We went on a "banyan" - it is like a picnic.
- The Court: You went on a picnic together with your wife?
- Accused: Yes Sir. We started from Hal Far at 1.30 p.m. to Island Bay on one of the aircraft lighters. Then we returned back to the slip at Hal Far at about 5.30 p.m.
- 10 The Defence: What did you drink during this picnic?
- Accused: I was drinking hopleaf beer.
- The Defence: Can you specify as regards the quantity?
- Accused: I had five bottles.
- The Defence: Was Jean there with the baby?
- Accused: Yes.
- The Defence: At what time did you come ashore?
- Accused: As soon as the lighter came alongside and arrived home at about 6 p.m. or 5.45 p.m.
- 20 The Defence: When you got home, what did you do?
- Accused: We began to prepare for the dance which was scheduled to start at 7.30 p.m.
- The Defence: Did you have any visitors during that time?
- Accused: Yes, Mr. and Mrs. Wright, a baby-sitter and a male friend of Mr. and Mrs. Wright.
- The Defence: At what time did they go?
- Accused: They left before us because they had to go first to their flat. We left our house at 7.45 p.m.
- 30

The Defence: Did you then go to the dance?

Accused: Yes, at the beginning, the dance was very dull.

The Defence: What did your wife say?

10 Accused: She was not very pleased with the attendance and even with our being in fancy dress as there were only a few in fancy dress. However, the dance, later on, became livelier and more people arrived in Western costumes. We all sat on the same table, had some drinks until the dance became livelier. I had some dances with my wife and then I wandered about talking with some people. Then I went and sat down with my wife and sat down talking together.

The Defence: While your group was at the table during the dance, were you sitting at the table all the time?

20 Accused: No, Sir. I wandered about, sometimes I went to one bar and sometimes to the other bar at the dance. I was drinking at first Hopleaf Beer and later on whisky.

The Defence: Was there a competition at the dance?

Accused: Yes Sir. It was a fancy dress competition and I won first prize for being the best dressed male.

The Defence: What about the time?

30 Accused: At midnight, my wife came up to me and told me that we are going home". At the time, I was drinking at the bar and talking.

The Defence: What were you drinking at the time?

Accused: It was either Hopleaf Beer or Whisky. She said that "we are going home", I said that I did not want to leave the dance at the time. She asked me for the keys, I said: "alright" and then she left.

- The Defence: As regards the keys, was there a key of the outside door and a key of the flat-door?
- Accused: I had a bunch of keys, a key to the flat-door, a key to the front-door and two other keys. I gave this bunch of keys to my wife. The key of the flat-door was always left at the door.
- 10 The Court: About this key being left at the key-hole? That night, you had the bunch of keys with you, where were all the keys you mentioned?
- Accused: My wife had also a key to the outer-door.
- The Court: And that night, when you left the dance, was that particular key left in the door?
- Accused: Yes, Sir.
- The Court: There was another key of the outer-door what about that?
- Accused: She gave it to the baby-sitter.
- 20 The Defence: At the time your wife said that she wanted to leave, what quantity of drinks had you had?
- Accused: Seven or eight hopleaf beer and two or three whiskies.
- The Defence: And after she left?
- Accused: I am not quite certain of the amount I had; still, after my wife left, somewhere in the region of three or four hopleaf beer and three whiskies, but I am not sure of this.
- The Defence: What happened afterwards?
- 30 Accused: I remained at the dance, then I left for home when the dance finished. When I came out in the open, the cold made me feel worse and then I found myself in the square.

The Defence: Do you not remember the way you followed?

Accused: I remember the handle of one of the pistols I was carrying fell off and as I stopped to pick it up, I caught sight of the petrol-pump and the wall behind it, then the next thing I remember was seeing my wife in a pool of blood.

The Defence: Where was your wife?

10 Accused: At the bottom of the second flight of stairs.

The Defence: What was the relative position between her body and her head?

20 Accused: Her body was lying downwards and her feet upwards on the stairs. I carried her to the bedroom. Then the next thing I did was that I went to the next door flat and rang the bell, I believe. Then I said something although I have no idea what it was. The door bell was answered and the next thing I remember was Mr. McKinnel slapping me across the face.

The Defence: Do you know why he slapped you?

Accused: No I don't.

The Defence: And then what happened?

Accused: Then I found myself at Lyster Barracks, in the guard-room with the Officer of the watch.

The Defence: Was there any conversation going on?

Accused: I don't think so.

The Defence: Did you see anyone there?

30 Accused: Surgeon Lieutenant Clements arrived; he told me my wife had a fractured skull and he drove me back to the sick-bay, and then I got back to the flat, I went into Mr. and Mrs. McKinnell's flat, I was given a cup of tea and then.....

The Defence: Was there any conversation with the McKinnells then?

Accused: Yes, I believe so. Mr. McKinnell told me something about borrowing some cigarettes. I told him Jean had a fractured skull. I believe that's all. Then I went to sleep.

The Defence: Were you woken up then and if so by whom?

Accused: Later that morning I was awakened by Mrs. McKinnell who gave me a cup of tea.

10 The Defence: And then what happened?

Accused: I believe I went back to sleep.

The Defence: Did any conversation take place?

Accused: Not as far as I remember.

The Defence: What happened then?

20 Accused: Then the S.B.A. arrived. He told me I was required at Biggi and that he would call for me in about five or ten minutes. I got up, had a quick wash and got dressed. Then I went to Hal Far sick-bay and I was given a lift to Biggi where I remained for most of that day.

The Defence: Did you see any Sister at Biggi?

30 Accused: Yes. I was told to go and see the Sister in one of the wards. I went over to the ward, saw the Sister and she told me that my wife had some pressure building up in her skull which had to be relieved and that they needed my consent for an operation to be performed. I then went to the Officer's room and signed the form of consent. I then went out to the reception room and at half past eleven I was told that my wife had died. Then I received a 'phone call from the Padre at Hal Far who told me not to say anything unless I had an officer present.

The Defence: Then?

Accused: Then Lieutenant Reubens ... Oh no. Before that I was put into a tiller and an attempt was made for me to go to Hal Far. We were stopped at the gate and I was taken back inside Bighi again. I returned to the reception room and shortly afterwards Lieutenant Reubens arrived.

The Defence: And ultimately where did you go?

10 Accused: To the Zejtun Police Station and there I spoke to Supt. Scicluna.

The Defence: What did he ask you and what did you tell him?

20 Accused: He asked for an account of my movements on the previous night and to the best of my knowledge I gave it to him. I was then taken to Birzebbuga Police Station and I was asked to make my statement again to Supt. Lanzon. I did not see any reason why I should repeat it and I asked him why he wanted me to repeat it and he said: "I want it from the horse's mouth, so to speak". So I gave him my statement again and then I believe we went to the flat. There I indicated the clothing to Supt. Scicluna and then the photographer arrived. Later on I was taken to the Police Headquarters at Floriana and I was asked a series of questions more or less as my statement - which I answered to the best of my knowledge. Then I went back to the lock-up.

The Defence: Now, during the conversation when you were asked whether you had arguments with your wife, what did you say?

30 Accused: I said we had our differences.

The Defence: What else?

Accused: I was asked if we had an argument on the previous night. I said we might have had, as I had a bite on my right shoulder and a bite on my forearm. I made an attempt to show these bites to the Superintendent, but I was stopped.

The Defence: When did you notice those bites?

Accused: Between the time I was taken from the flat and the time I was interviewed again at the Police Headquarters I was taken to a small cell in Valletta where I took off my shirt and noticed those bites. That is where I began to notice them.

10 The Court: Was that immediately before you were taken to the Police Headquarters in Floriana? You said you were taken in a cell at Valletta....

Accused: From Zejtun I was taken to the lock-up at Birzebbuga and from there I was later on during the night told that I was required at the Police Headquarters and was taken to the lock-up in Valletta. The following day the inquest began.

20 The Court: You are saying that the first time you noticed the bites was when you were in a cell in Valletta after you had taken off your shirt there. Now, what I am asking you is this: was that after you had been interviewed at Birzebbuga and Zejtun and before you were taken to the Police Headquarters in Floriana?

Accused: Yes, my Lord.

The Defence: Were you taken in another cell before?

Accused: I was put in a room at the Birzebbuga Police Station - it was not a cell:

The Defence: Did you remove your shirt in that case?

Accused: No.

30 The Defence: As regards any injuries which you may have sustained - could you mention any injury?

Accused: I was once knocked out while I was playing hockey during training when I first joined the Navy, and on another occasion I split my head in the swimming bath.

The Court: When was that?

Accused: In Stratford, Manchester about ten or twelve years ago.

The Court: And as regards the other injury?

Accused: That was during 1955.

The Defence: And when you knocked your head what happened?

Accused: I remained unconscious for a short length of time.

10 The Defence: You were asked by the Police as regards any previous blackouts, now could you make your statement as to what happened to you during these blackouts?

Accused: I told them that on a previous occasion I blacked out once on last Christmas, and on another occasion before I went home to get married.

The Defence: Now, about the incident before you went home to get married, could you briefly state what happened?

20 Accused: I was ashore in Birzebbugia with a friend of mine and we had a few drinks. I was drinking hop-leaf.....

The Defence: What quantity?

30 Accused: I have no idea how much I drank. Later on we decided to go swimming and, as I left my swimming costume at a friend's flat, Leonard Collecott, and I knew he had one himself which I hoped to borrow for my friend, we went to his flat. When we arrived, we found that there was a party in progress, and when Leonard Collecott found out who it was he gave us a glass each which contained some mixture of drink - I have no idea what it was - and then we were admitted in the

.....

Accused: flat and he gave us another glass of this mixture. After I drank it I blacked out and the next morning I was found on the slipway and I was taken before the Commander and Captain and charged.

The Defence: Did you speak to Collocott about this afterwards?

Accused: Not until after I came back from leave after getting married. He told me that I walked along a narrow wall and fell from it, missing a green-house. He told me also that someone tried to thump me and that I used pretty bad language to the WRENS.

10

The Defence: And what about the damage?

Accused: He also told me that I kicked the cupboard door and that a few plates were broken.

The Defence: Did you find any injuries on you?

Accused: I found a large bruise on my left cheek and another on my chin, and a large cut on my foot.

The Defence: You had another blackout in Christmas. Could you state what happened on this occasion?

Accused: It was decided in the Wireless Office that we would buy a bottle of Whisky out of the funds, and as I had a large pay I decided to buy a bottle as well. A naval airman took me to the bar and I bought two bottles of whisky. The first bottle was split between the members of the Communications Staff and the other bottle was shared between four other people besides myself. Later on Petty Officer Colinson invited us to his house to have more drinks. We all went down in his car, had some more drinks; I was asked to go for some dry ginger; I left the house and do not remember a thing after that.

20

The Defence: Did you speak to your wife after this incident - the following day?

30

Accused: She told me that I had been brought home by another rating and that I was picked up somewhere in Mirzabuggia. She told me also that I was taken to the Police Station, where my money which I had in the wallet was counted, and then I was taken home.

The Defence: Do you know anything about this?

Accused: I cannot remember a thing, except that my wife pointed out to me the rating that brought me home.

10

The Defence: Do you know him? Do you know his name?

Accused: I have seen him, but I do not know him to speak to.

The Court: Was he in your party?

Accused: No.

The Court: Is he in Malta?

Accused: As far as I know, yes.

The Court: Is he a witness?

Accused: I could recognise him if I see him again. I do not know in what part of Hal Far he is working, and I have no idea what is his name.

20

THE COURT CALLED ALFRED ZARB TO GIVE EVIDENCE

ALFRED ZARB on oath stated:-

The Court: Can you look at that form please? There are initials down at the bottom, are those yours?

Witness: Yes, they are.

The Court: Is the word written there yours?

Witness: Yes, Sir.

The Court: Can you tell us the date on which you signed that form, whether you can tell apart from the date on it?

10

Witness: NO.

The Court: Do you remember signing that form?

Witness: According to the hand-writing it is mine.

The Court: Did you initial the form before or after it is filled?

Witness: After it is filled.

The Court: Would you not keep a record of a form being initialled?

Witness: We keep a record when we endorse the form on a passport.

20

The Court: Do you remember having seen that form before?

Witness: I see so many forms.

The Court: Do you remember seeing the accused at all?

Witness: I do not remember.

EVIDENCE OF MALCOLM BROADHURST (Continued)

- The Defence: Did the Superintendent of police mention to you any words spoken or anything about what was being said, by the McKinnells?
- The Court: Which Superintendent?
- The Defence: Well either.
- Accused: I was told that I had said something that I do not remember.
- The Defence: Can you give an account of what they told you?
- 10 Accused: Superintendent Lanzon told me that the McKinnells had said that I opened the door and told them that I had thrown Jean down the stairs and the words "come and see her Brenda, please"? that they (the McKinnells) heard my wife saying: "Do not Malcolm you will kill me" and then that I said "that is the end of that".
- The Defence: What was your reply?
- Accused: That I do not remember. They asked me if it was possible that I had said them and I said I may have done.
- 20 The Defence: Did they ask you anything else?
- Accused: They also asked me if the McKinnells were my friends and I said I have no reason to doubt them. I told them that the McKinnells were my friends and I had no reason to doubt them.
- The Defence: If I put the same question to you now what would you say?
- Accused: after hearing the evidence which they gave they do not appear to be my friends at the moment.
- 30 The Defence: Have you had any conversation with the McKinnells during this trial?

Accused: Yes on two occasions he spoke to me.

The Defence: What did he tell you?

Accused: He expressed doubt upon my parentage. Mr. McKinnel the day before, on Tuesday afternoon, as he went past the door, as I was standing, he said to me "you bastard".

The Defence: As regards the peeping tom business could you make your statement on this matter?

10 Accused: I was on the roof almost every night when I was off watch sometimes with a bottle of Harsovin and sometimes without one and Mr. McKinnel used to appear from different sides of his flat. When I was on the roof and heard foot-steps and thought that my wife was coming up, I used to appear and then at times found it was not my wife.

The Defence: Why did you do it?

Accused: I used to just hide from her.

The Court: You mean in joke?

Accused: Yes my Lord.

20 The Defence: You heard Mr. McKinnell giving his evidence, what can you say about this peeping tom business?

Accused: I hinted to Mr. McKinnell to close his windows at night when he goes to bed...

The Defence: Why?

30 Accused: Because if any of us were in the kitchen we could see them because the window of my kitchen and the window of their kitchen are opposite each other. They were in the habit of running in the flat naked. I told him that if you happen to be near the window and know where to look you see quite a lot from here.

The Defence: What did you tell him?

Accused: I cannot remember the exact words but it was something like: if you know where to look you see quite a lot from here.

The Defence: Did he reply in any way?

Accused: No, as far as I remember.

The Defence: How did you have any conversation with Mr. McKinnell about a shopkeeper with the name of Mamo?

10 Accused: Yes. Mr. McKinnell told me that Mamo had someone who informed him of all the drafts when people were due home.

The Defence: Did Mr. Mamo tell you anything at any time about your bill?

Accused: That I have to pay it before I go back home.

The Defence: Was that all you spoke to Mr. Mamo?

20 Accused: I received a demand from Mr. Mamo regarding the rate I was making to pay the goods I purchased before we left the Island. We went to see Mr. Mamo and made a larger payment and my wife and I decided to sell the sewing machine and buy one at home.

The Defence: Did you have a conversation with Mr. McKinnell as regards washing clothes?

The Court: What was the approximate date of this Mamo incident?

Accused: Somewhere in the region of about six months ago.

The Defence: How much before your wife died?

Accused: Between two or three months before that.

30 The Defence: Any conversation with Mr. McKinnell about the washing or hanging of clothes?

Accused: I often took the clothes on the roof to hang them and he used to make fun of me about it.

The Defence: What is your feeling about it, about the washing?

Accused: Since I joined the Navy I always did my own washing. My wife did not like washing and so I did the washing and she did the ironing. I used to tell Joan that McKinnell used to make fun of me when I took the washing up.

10

The Defence: Were there any quarrels about it?

Accused: No as far as I can remember.

CROSS EXAMINATION

Prosecution: You remember the interviews with the Superintendents of Police?

Accused: Yes, all three interviews.

Prosecution: You remember that you agreed with them that your wife was a rather possessive woman?

Accused: Yes.

20

Prosecution: You agreed that she objected to your going alone.

Accused: On the infrequent cases when I did go alone out she objected.

Prosecution: You remember that you had some frequent troubles about sleeping in the afternoon?

Accused: Not frequent. She used to wake me up if I went to sleep in the afternoon.

Prosecution: Did you mention to them that she objected?

Accused: She did not like it.

Prosecution: As regards the McKinnells, you said they were your friends, but they are not now?

Accused: Yes.

10 Prosecution: Was there anything substantial you heard them stating in Court that is different from what they told the Police? They told the Police that they heard you say: "I have thrown Jean down the stairs". They said it now. They also said that they heard you saying: "That's the end of that". They also said in evidence that you had some troubles about sleeping in the afternoon, your wife did not like you going on the roof, your wife was a rather possessive woman who liked your company very much. Did they say anything else which makes you change your opinion about them?

Accused: They accused me of being a peeping tom which I was not.

Prosecution: Is that your only objection?

20 Accused: I objected to what Mrs. McKinnell said about my wife striking the child.

Prosecution: The incident at the Granny Flats?

Accused: There is no incident that I know.

Prosecution: You know what they said to the Police and you have listened to them and they have not added or subtracted anything? Do you agree with that?

Accused: I cannot agree with that.

Prosecution: You remember talking to Dr. Clements at the Sick-bay?

30 Accused: Since Dr. Clements gave his evidence I now remember the finger-nose test.

Prosecution: Do you recollect that you told Dr. Clements that you remember that you passed by the "Fronnery"?

Accused: I cannot remember saying that.

Prosecution: I will take you over the journey from Kalafrana to Birzebbuga. You do agree with the statements made by the three Police Officers that you mentioned three black-outs?

Accused: Yes.

Prosecution: You had your first black-out from the time when you came out of the dance hall up to the time you found yourself in Birzebbuga Square?

10 Accused: Yes.

Prosecution: Then another black-out up to the moment when you found yourself near your wife who was in a pool of blood?

Accused: Yes.

Prosecution: Then you had another black-out until you saw the sick-bay attendant?

Accused: Till I found myself in Lister Barracks.

20 Prosecution: You said that the second black-out took place up to when you found yourself near your wife in a pool of blood. You also said that you took up your wife and went to your flat?

Accused: I believe I took my wife to the flat. I carried her.

Prosecution: I should say you had a lucid interval there and the black-out ended? Immediately you found yourself near your wife on the stairs.....

Accused: I carried my wife up the stairs into the flat.

Prosecution: You remember ringing the door bell?

Accused: Yes.

Prosecution: Do you remember anything you said to the McKinnells as soon as they opened the door?

Accused: I know I said something but I cannot remember what it was.

Prosecution: You just remember ringing the door bell and that is all?

Prosecution: Now you have heard what has been stated in evidence by Jackson and the member of the shore-patrol?

10 Accused: Yes, Sir.

Prosecution: Have you recalled any incident after hearing the evidence of those witnesses?

Accused: Not one.

Prosecution: Not even Jackson telling you not to tell the Police?

Accused: No sir.

Prosecution: Not even being near the Police Station?

Accused: No sir.

20 The Court: Were you given any drinks at all during that night or the day after?

Accused: No, Sir.

The Court: Have you been to a psychiatrist?

Accused: No, Sir.

Prosecution: You mentioned two previous occasions, one before going to England to get married and the other occasion before Christmas and you remember what you did on the first occasion, that you went on a narrow wall, falling on something and kicked some cupboards open and you did also something else?

30

Accused: During the first black-out, I fell off a wall, I was seen by another rating, I was told that I kicked a cupboard door and caused some damage and used abusive language towards two wrens.

Prosecution: In the second black-out, you did something too. According to what your friends stated, people brought you home?

Accused: Yes, Sir.

10 Prosecution: After hearing the evidence here, do you agree that in this incident, no one carried you home and no one stated that you were walking without knowing where and using abusive language, do you agree to that?

Accused: Yes Sir.

The Court: You agree that no one took you home?

Accused: As far as their evidence is concerned.

The Court: Leave the evidence alone.

Accused: I cannot remember whether anyone took me home.

THE COURT RECALLED ALFRED ZARBAlfred Zarb's evidence

The Court: If they want an endorsement for a child on a passport would you require this form together with the passport?

Witness: Yes, and the child's birth certificate.

The Court: You sign this, or countersign it, presumably after it has been properly filled?

Witness: Yes.

10 The Court: But if you discover that the passport is not with the form, do you give it back to the applicant and tell him to come again when he has the passport?

Witness: I believe so.

The Court: The passport number is filled in. Was it filled by the applicant?

Witness: Yes.

(Form was shown to Jurors)

MALCOLM BROADHURST CONTINUES HIS EVIDENCE

- Prosecution: You mentioned skylarking with your wife?
- Accused: Yes Sir.
- Prosecution: You said that you bit each other?
- Accused: It was a frequent occurrence.
- Prosecution: Do you think that it is possible that on the night of the 22/23 July you got bitten that way?
- Accused: It is possible.
- 10 Prosecution: Was it a habit of yours to have this skylarking at 2 a.m.?
- Accused: We have never been up till 2 am.
- Prosecution: But you said that in this case it is possible?
- Accused: Yes, it is possible.
- Prosecution: You were at a dance at Kalafrana and your wife wanted to leave at a certain time.....
- Accused: Yes Sir.
- Prosecution: and you wanted to stay on.
- Accused: Yes Sir.
- 20 Prosecution: Any particular attraction for you to stay on?
- Accused: No, not really.
- Prosecution: You did agree that your wife did not like to be alone?
- Accused: Not particularly.

- Prosecution: Why did you stay on knowing her opinion on these things?
- Accused: I often asked her if she minded my going on my own. Sometimes she said yes and sometimes she gave an excuse for me to stay home.
- Prosecution: And in this case?
- Accused: In this case she accepted without any arguments that I should stay at the dance.
- 10 Prosecution: But personally did you think that she liked it?
- Accused: I have no idea. She knew that I was enjoying myself, and it was one of the rare occasions that we went out.
- Prosecution: But you said you had often gone together to the pictures?
- Accused: Yes, but a dance or a party was a rare occasion.
- Prosecution: She gave you the key of the outer door of the building?
- Accused: I gave her the key.
- 20 Prosecution: Would that mean that someone had to open the door for you when you returned?
- Accused: Unless my wife left it open.
- Prosecution: Would it be customary for you to leave the door open at 1 a.m.?
- Accused: I have no idea what she thought.
- Prosecution: I am asking you if it is customary?
- Accused: As I said before we are usually in bed at that time.

Prosecution: You mentioned that you used to go on the roof when you were not on duty at the station?

Accused: Yes.

Prosecution: Now, you sometimes appeared on different parts of the roof.....

Accused: Yes.

Prosecution: But you said this morning that your wife did not like you going on the roof?

10 Accused: She was not at all pleased about it.

Prosecution: And did she fancy a lot playing hide and seek on the roof?

Accused: Just skylarking.

Prosecution: And you would appear from different places expecting your wife?

Accused: Yes.

Prosecution: Where would you be playing hide and seek on the roof?

20 Accused: It depends where I was. There is a small wall running alongside the McKinnells flat and another one at the back of our flat. There is also the roof over the stairs.

Prosecution: Therefore whenever you came out from different parts of the roof, even from those of other flats, there was also your wife?

Accused: If it was my wife who came on the roof I returned just as she came.

Prosecution: So your wife was up on the roof with you frequently?

30 Accused: Yes.

Prosecution: You said that you had some drinks when you were at the dance?

Accused: First I took from seven to eight hop-leaf and maybe two or three whiskies, and after my wife had left I took two or three hop-leaf and maybe two or three whiskies.

Prosecution: Now you remember Reardon, the person who saw you at the slipway, and who said that he was with you at the dance until 11.45 p.m. Was he with you?

10 Accused: He sat at our table.

Prosecution: And in his evidence he said that it is possible that you had from three to four beers?

Accused: I often went to the bar.

Prosecution: Now, Reardon has said that he saw you on the slip, he overtook you, and he also said that you were walking quite steadily. Do you remember this occurrence?

20 Accused: No.

Prosecution: What do you exactly mean when you say "black-out"?

Accused: That I do not remember anything.

Prosecution: Now you remember the two previous occasions when you had a black-out?

Accused: Yes Sir.

Prosecution: Could you please indicate the first occasion, tell us what happened on that occasion? Did you have any beer on the first occasion, you remember?

30

Accused: Yes Sir. Fredman and myself had a few drinks in one of the bars at Birzebbuga, then we went up to the Collicott's flat and had more drinks there.

Prosecution: Do you remember what kind of drinks you had?

Accused: Whisky and marsovin all things mixed up together.

Prosecution: A kind of cocktail. Would you consider it a powerful drink?

10 Accused: Yes.

Prosecution: How many drinks did you have on that occasion?

Accused: Two as far as I remember.

Prosecution: But you had some other kind of drink you said?

Accused: Yes I had some beer before I went to the flat of the Collicotts.

Prosecution: Do you remember the quantity you inbibed?

Accused: No Sir.

20 Prosecution: What about the Christmas occasion?

Accused: On that occasion we drank a considerable amount of whisky.

Prosecution: You remember the quantity, roughly?

Accused: I should imagine half of the bottle I bought myself, plus a sixth of the bottle bought by the Communications Department, plus some other drink which Petty Officer Collins had.

Prosecution: Now on the first occasion your friend told you what you had done, what did you do?

Accused: That I walked along a narrow wall, narrowly missed the green house, tumbled down into another courtyard, that I kicked a cupboard and caused some plates to break and also used rather strong language to some Wrens present.

10 Prosecution: Now on the Christmas occasion the result was what?

Accused: I was picked up somewhere in Birzebbuga, taken to the Police Station and then taken home.

20 Prosecution: Now these were, on the evidence heard, the result of those drinks. You suffered a complete loss of memory on these facts which I am going to relate to you: the passing through the slip way, getting on to a bus, jumping again off the bus at Hal Far corner, picking up a piece of the butt of the toy pistol, ringing the bell, saying something to the McKinnells, which you cannot remember - an intermittent black-out if you call it that way. You forgot the words you said to the McKinnells....

Accused: Yes Sir.

30 Prosecution: And then you heard the witnesses the Shore Patrol, Jackson, Willcox and Bradley they all spoke to you and gave you some cigarettes, then Jackson told you: "Do not tell anything to the Police", you cannot remember all this?

The Court: Can you?

Accused: No Sir.

Prosecution: Enquired about the injuries of your wife and you told

The Court: We are not getting anywhere like that.

Prosecution: What I want to ask him My Lord is whether he remembers some incident.

Do you remember, on the evidence you heard, that you approached Bradley at the sick bay?

Accused: No Sir.

Prosecution: And you gave him particulars of your wife?

Accused: Not the slightest idea.

10 Prosecution: On the first occasion did you take more than on the second occasion? You mentioned two occasions, one before you got married and one just before Christmas. When you mixed those drinks was it rather a powerful drink?

Accused: Yes.

The Court: If I am not mistaken this morning you said that your blackout stopped when you went home, when you found your wife lying on the stairs, is that right?

20 Accused: Yes Sir. I remember picking my wife and carrying her to the flat and going to the next door. After that I had another blackout.

The Court: You remember that circumstance but you do not remember what happened afterwards?

Accused: No Sir.

The Court: Up to what time?

Accused: When I was leaving Lister Barracks.

The Court: After that you are completely clear?

Accused: Not completely clear.

- The Court: At eight in the morning, or thereabout, did you tell Mrs. McKinnell that your wife had her head cut open or words to that effect?
- Accused: No, not to my knowledge. All I remember is that I spoke to Mrs. McKinnell when she brought the tea. I remember saying: "thank you Brenda" and went to sleep again.
- 10 The Court: On an ordinary day, when you drink, when you go to a bar to drink, how many bottles of beer do you have?
- Accused: I normally drink "Marsovin" not beer. I drink beer only on special occasions and on those occasions I have no idea how much I normally drink. Sometimes I drink Spirits and sometimes I drink "Hop-Leaf".
- The Court: Apart from "Marsovin", what do you drink?
- Accused: "Hop-Leaf".
- The Court: Sometimes you take three, four bottles....
- 20 Accused: Not more. Apart from parties, the only time when I drink "Hop-Leaf" was when I used to go to the Birzebbuga cinema. I used to drink then only one bottle.
- The Court: You have no opportunity to discover the name of the rating who took you home on the Christmas occasion?
- Accused: I never knew him.
- The Court: Could you do anything to help us.
- 30 Accused: I can ask to see where he lives and works. I have seen him around Birzebbuga.
- The Court: Have you tried to do anything to try and find this man?
- Accused: No.

The Defence: He has been under arrest since the 23rd July.

The Court: Who helped you on the first occasion?

Accused: I don't believe I had any help on the first occasion.

The Court: Did you not say that somebody took you home?

Accused: No, I was found the following morning on the slip-way by some rating who was going to work. I believe the Patrol sent for me and I was taken to Lyster Barracks.

10

The Court: Who told you what you did when you had that black-out?

Accused: Mr. Collecott. He is a witness.

The Court: Apart from what you told us you did on those two occasions, so far as you found out afterwards, there was no violence on your part against any person.

Accused: No.

20

The Court: Are you periodically medically examined in the Service?

Accused: Only as far as X-Rays and inoculations.

The Court: Are you examined by a psychiatrist from time to time?

Accused: No but I have a general medical test every five years.

The Court: Did you have a medical test in the last year or so?

30

Accused: I believe I had one at the beginning of last year.

The Court: Was that after the occasion when you had the black-out?

Accused: Yes.

The Court: Was it reported to the doctor?

Accused: I put it down to excessive drink.

The Court: When you had it again on the second occasion, in Christmas, did you tell the doctor about it or any of your superior officers?

Accused: No.

The Court: When you saw your wife lying on the floor, on the stairs, did you say you took her upstairs?

10

Accused: Yes and put her on the bed. After that I went to the McInnells, as far as I can remember. After that I cannot remember what I did. The McInnells opened the door for me but I cannot remember whether I went in.

The Court: Did you drink tea then?

Accused: I have no idea.

The Court: Did you go to see your wife?

Accused: I could not.....

The Court: When you picked her up, did she have blood?

20

Accused: Blood around her head.

The Court: Did you look to see what she had?

Accused: No.

The Court: Were you surprised to find her there?

Accused: Yes.

The Court: What did you think about it?

Accused: I have no idea.

The Court: Did you think that somebody must have done her anything?

Accused: I have no idea what went through my mind. I did not think anything. I just picked her.....

The Court: Did you think somebody else had done it?

Accused: I have no idea, My Lord.

The Court: Did you realise that you stained your clothes with blood?

10 Accused: I realised at Lyster Barracks when they told me.

The Court: Why did you change your clothes?

Accused: I don't believe I did change my clothes.

The Court: What were you wearing then?

Accused: I was wearing the same jeans and shirt which I had when I was at the dance.

The Court: What have you done with the blouse you had at the dance?

20 Accused: I still wore them. I don't know what I was wearing when I took my wife up.

The Court: You know you picked something in Birzebbuga Square?

Accused: The piece that had fallen from one of the toy pistols I was wearing. I have no idea what I did with those pistols later, but I do remember my wife lying on the stairs.

The Court: You remember how you got into the house?

Accused: No.

The Court: Do you remember being slapped on the face by McKinnell?

Accused: Yes.

The Court: Do you remember giving food to the McKinnells for the baby?

Accused: No.

The Court: When did you join the Service?

Accused: In 1955.

The Court: That is, you were about 18 years of age.

10 Accused: Yes.

The Court: And you had suffered your first blackout the one that happened about ten or twelve years ago.

Accused: It was not just a blackout.

The Court: When you joined the Service you went through the usual medical examinations?

Accused: Yes.

The Court: Did you tell the doctor who examined you that you had had that blackout?

20 Accused: I cannot remember, but I believe we were asked whether we had any scars or marks.

The Court: You joined the Service six years ago; so it must have been four or six years before you joined that you had your first blackout. Did you mention it at all to the doctor who examined you?

Accused: I don't think so.

The Court: Is it because you did not attach any importance to it?

Accused: Probably.

The Court: And they found you all right during the medical examination?

Accused: Yes.

The Court: Actually you are a radio operator?

Accused: Yes.

10 The Court: And you never reported to your superiors in the Service that you had a blackout?

Accused: No.

The Court: You realise that as a radio operator, at a critical moment, it may be prejudicial to the Service?

Accused: As I had blackouts only at times when I had been drinking I put it down that it was because I had an excessive amount of alcohol.

20 The Court: Now when you found your wife lying in a pool of blood on the stairs did it cross your mind at all to try to imagine whether she had fallen down or been thrown down, or whether she had thrown herself down? Did you even try to imagine that? You went back from a dance, found your wife in a pool of blood and you just picked her up, took her on to the bed and did not try to imagine what had happened to her! Why is that?

Accused: I believe I was shocked.

The Court: Did you think about that at all?

Accused: I don't know.

30 The Court: Don't you know whether you thought anything at all?

Accused: I don't know.

- The Court: But you had no blackout at that moment because you remember having picked her up and carried her to bed?
- Accused: That's right.
- The Court: But it is only natural that you should have tried to imagine what might have happened to her: has she been thrown down, has she thrown herself down, or has she fallen accidentally...?
- 10 Accused: I was too upset to think of anything like that.
- The Court: You were upset when you were under a blackout, as you said!
- Accused: I have no idea of what I might have thought.
- The Court: I think you told us that you did most of the house-work - is that correct?
- Accused: Yes.
- 20 The Court: And your wife used to ask you when you were going to be off duty to tell you to do
- Accused: My wife knew when I was on duty.
- The Court: At any rate, she used to tell you when you were off duty to do house-work?
- Accused: She didn't tell me to do it; she would ask me.
- The Court: You also said that she didn't let you sleep in the afternoon, or tried to wake you up....?
- 30 Accused: Sometimes.
- The Court: And the McKinnells used to make fun of you when you did housework?
- Accused: Sometimes.

The Court: Do you resent all this?

Accused: No.

The Court: And you never complained about it?

Accused: No.

The Court: Did you find your wife at the bottom of the staircase in that position injured on your coming straight from the dance?

Accused: I have no idea.

10

The Court: You said when you went home you found your wife there?

Accused: I said the next thing I remember is having seen my wife in a pool of blood.

The Court: Was that on your return home?

Accused: I had to return home, hadn't I.?

The Court: But you had an idea of returning home?

Accused: I have no idea whether I had or not.

The Court: It is very easy to answer that way!

Accused: I just cannot remember going up or coming down the house before I saw my wife in that position.

20

JUROR: When you came to, on finding your wife lying in a pool of blood on the staircase, do you remember whether there was anybody with you then?

Accused: I did not see anybody.

Sworn evidence of Mary Gafa - recalled

The Court: When you went home after Mrs. Broadhurst returned from the dance, did she come down the stairs with you?

Witness: Yes.

The Court: Who closed the outside door?

Witness: Mrs. Broadhurst.

The Court: Do you know whether there was the key in the key-hole of the street door?

10 Witness: I do not know.

The Court: But you know that Mrs. Broadhurst closed the door after you went out?

Witness: Yes.

The Court: Was it usual for the Broadhursts to leave the key in the street door?

Witness: No, they never left it.

Sworn Evidence of
Surgeon Lieutenant Peter Wreford Clements, Royal Navy.

The Court: On your report you wrote "...this lady was involved in a fracas with her husband". How did it come to you to write those words? Did you receive the information from somebody?

Witness: By conjecture.

The Court: Was it the accused who told you so?

Witness: No.

10 The Court: It is rather extraordinary.

Witness: No, Sir.

The Court? Why not?

Witness: Because as far as I know there were only two people in the house.

The Court: And you just jumped to this conclusion!

Witness: Yes sir.

The Court: So it was not the accused who told you to write those words?

Witness: No.

20 The Court: Did you talk to the accused when you saw him first in the flat?

Witness: No.

The Court: But you talked to him when he came to the sickbay?

Witness: Yes.

The Court: As a doctor you said that he gave you the impression that he had been drunk but was sobering up?

Witness: Now I changed that to "had been drinking and was sobering".

The Court: Did you also form the impression that he was under a blackout at that moment?

Witness: I cannot answer that question in those terms.

The Court: Answer it the way you think it proper.

Witness: I can only say that he said that he remembered nothing about his doings since passing the W.A.M.S. Quarters Sickbay.

The Court: Was he remembering something?

10 Witness: I could not say.

The Court: Why?

Witness: Because I do not know.

The Court: But you asked him certain questions.

Witness: And he replied that he could remember nothing about his doings since walking near the W.A.M.S. quarters.

The Court: But that concerns up to what time that he did not remember anything after passing the W.A.M.S. Headquarters. Up to that time did he remember anything?

20 Witness: I did not establish that.

The Court: But at the exact moment you were with him was he then under a blackout?

Witness: No.

The Court: As regards the words "the lady was involved in a fracas..." you wrote that from a conjecture?

Witness: Correct.

The Court: Do you realise now that writing that line might involve a serious charge against her husband while she was seriously injured?

Witness: No, I did not realise that.

The Court: Do you realise it now?

Witness: It is possible.

The Court: Somebody rang you up later that night to ask you if there were any reasons to detain the accused?

10 Witness: Lieutenant White spoke to me. I do not think that he telephoned. I think that we spoke about this whether we should detain him, and I said I had no reason myself to detain him.

The Court: And at that time you were already aware that Mrs. Broadhurst was in a rather poor condition.

Witness: Yes.

The Court: You admit that you had written those words that that lady was involved in a fracas with her husband?

20 Witness: Yes.

The Court: And you thought that you had no reason to detain that man.

Witness: I had no medical reasons to detain him.

FIRST WITNESS FOR THE DEFENCE

Sworn evidence of Giovanni Balzan.

(Translation of Evidence from Maltose original) - - - - -

Defence: Have you got a shop at No. 111, Pretty Bay, Birzebbuga?

Witness: Yes.

Defence: Were the Broadhursts your customers?

10 Witness: Yes. They used to come to my shop and he used to buy whatever she wanted. Three days before the incident he bought her a skirt to give it to her as a surprise.

Defence: What was their behaviour when they used to come to your shop?

20 Witness: They seemed to love each other and he used to buy her what she liked. If she wanted "jeans" he bought them and a week before the incident he bought her a lot of things. They had been buying things from me for about 9 months. All told I calculated that he spent about £22 - 10s and still owes me 12.

SECOND WITNESS FOR THE DEFENCE
Sworn Evidence of Francesca Baldacchino

- Defence: Where do you live?
- Witness: In St. Andrew's Street opposite the flat of the Broadhursts'.
- Defence: For how long have you lived there?
- Witness: Thirteen years.
- Defence: Did you use to see the Broadhursts in their balcony?
- 10 Witness: Yes.
- Defence: When they used to pass in front of your house, what did you use to see them doing?
- Witness: They used to play about with each other, always happy, and I never saw them quarrelling - they always acted properly and they used to go out together.
- Defence: What do you mean by the words: "play about"?
- Witness: He used to hit her and she used to hit back jokingly.
- 20 The Court: Are you married?
- Witness: Yes, I am a widow.
- The Court: Did you occasionally quarrel with your husband?
- Witness: Yes.
- The Court: When you quarrelled you used to be indoors and not in the balcony?
- Witness: In the House.

THIRD WITNESS FOR THE DEFENCE
Sworn evidence of John Mamo

Defence: Have you got a shop in Mirzobloga?

Witness: Yes.

Defence: What sort of shop is it?

Witness: It is a general store.

Defence: Have you known the accused?

Witness: I have known him since the very first day he started an account with me - since May, 1960.

10 Defence: And did you know his wife?

Witness: Yes I did.

Defence: Did they come to your shop frequently?

Witness: Yes.

Defence: Could you say how frequently?

Witness: About twice a week.

Defence: What quantity of articles did he buy from you?

Witness: According to the accounts he purchased \$159 worth of goods.

20 Defence: When they used to come over to your shop, what was the behaviour of the accused?

Witness: He was very very nice to Mrs. Broadhurst and although he used to buy something for himself, a lot of money was spent on her. If she wanted something he used to buy it for her.

Defence: Did you have any conversation with Mr. McKinnell with regard to Broadhurst?

30 Witness: Yes this actually happened this last Christmas. I told him that Mr. Broadhurst is taking a very long time to pay, that Mr. McKinnell told me that Broadhurst was going away.

Defence: How long ago from to-day?

Witness: This was in December, 1959. After sometime Mr. McKinnell came again to my shop and wanted to see a transistor radio and wanted to see one like the one Broadhurst had bought. During the conversation John McKinnell told me that Mr. Broadhurst did not intend to pay me, that he was going away from Malta without paying me. After that I wrote a letter to Mr. Broadhurst telling him that he had a big balance left.

10

Defence: This conversation, when Mr. McKinnell told you that Broadhurst was not going to pay you, took place when, how long ago from to-day?

Witness: I would say it was something round five weeks before the case.

The Court: Mr. McKinnell says that what he told you was that Broadhurst is leaving the island shortly after you mentioned to him that you were worried about people going, leaving the island without paying you.

20

Defence: This resulted from the accused's evidence.

The Court: Let us call Mr. McKinnell.

John Thomas McKinnell duly sworn says:

The Court: Mr. McKinnell, yesterday you were telling us in your evidence that there was some conversation between you and Mr. John Kamo about Mr. Broadhurst going away without paying him. Do you remember?

McKinnell: Not about the accused going away without paying him but that Broadhurst was returning to the United Kingdom.

30

The Court: And what was your reply?

McKinnell: I told Mr. Kamo I understood that Broadhurst was returning to the United Kingdom.

The Court: That was roughly how long before Mrs. Broadhurst died?

McKinnell: I think it was about two months before she died.

The Court: And that was the only time you spoke to Lamo about the accused? Was there another occasion when you went to his shop to buy a transistor radio?

McKinnell: Yes I did buy a transistor radio.

The Court: Similar to the one bought by the accused? Did you want one like the accused's?

McKinnell: No.

The Court: You never saw the one which the accused bought? You did not tell Mr. Lamo when the accused was leaving the island?

10

McKinnell: No.

The Court: (Addressing Mr. Lamo): Did he tell you when the accused is leaving the island?

Witness: Yes, My Lord.

The Court: You told us that Mr. McKinnell came on his own initiative and told you that the accused was going away without paying you. You still stick to that?

Witness: Yes.

20 The Court: (Addressing Mr. McKinnell): You heard that? What do you say?

McKinnell: It is not the way it happened. I was asked by Mr. Lamo when Broadhurst would be returning to the United Kingdom.

The Court: Was any question of payment raised?

McKinnell: No, My Lord.

JOHN MCKINNELL WITNESS

- The Court: Now the accused still owes you some money?
- Witness: Yes he has still got a balance of £21 but in the present circumstances
- The Court: Do the McKinnells owe you some money, are they difficult?
- Witness: Yes.
- The Court: The accused and his wife were very much better customers?
- 10 Witness: As I said before they were always prompt with their payment. There was only that occasion when I wrote to Broadhurst asking him to come and pay owing to the fact that he was intending to go to the United Kingdom without paying me.
- Defence: When I interviewed you initially did you mention this thing to me about the McKinnells?
- Witness: No.
- Defence: Then what did you do about it, did you speak to someone else?
- The Court: Put a leading question to him.
- 20 Defence: I want to know whether you saw Dr. Cassar Galea and asked for his advice?
- Witness: Yes, I had asked Dr. Cassar Galea's advice about it and asked him whether this has anything to do with the case.
- The Court: I suppose you have several Service clients?
- Witness: Yes.
- The Court: And naturally you are very careful to see that they settle their debts before they leave the island?
- 30 Witness: Yes.

The Court: So in pursuance of that is it your practice to be informed when a client who owes you money will be leaving the island?

Witness: There is no way of my being informed, but if I manage to get to know it would be a help to me. I generally come to know because several people come to me about renting a flat before being actually vacated.

10 The Court: But if you had a big sum of money owed to you by some Service people would it not be an advantage to you to seek information as to when that person would be leaving the island?

Witness: I do ask people some times.

FOURTH WITNESS FOR THE DEFENCE
Sworn evidence of Paul Dixon,

Defence: On the 22nd July, in the afternoon, where were you?

Witness: On the banyan.

Defence: What is a banyan?

Witness: It is a kind of picnic boat going round the island with passengers singing, drinking and so on.

10

Defence: Was the accused there?

Witness: Yes, with his wife and baby.

Defence: As regards drinks, what sort of drinks were served on the boat?

Witness: Hopleaf, Blue, Coca-cola, lemonade and things like that. We drink as much as we want and pay for them later.

Defence: How long did this banyan trip last?

Witness: From 1.30 p.m. to 5.30 p.m.

20 Defence: I presume passengers on board talked with one another?

Witness: Oh yes.

Defence: Did you speak to Mrs. Broadhurst?

Witness: Yes.

Defence: How was her mood?

Witness: Normal.

Defence: As regards the accused did you see him drink?

Witness: I cannot actually remember seeing him drinking.

FIFTH WITNESS FOR THE DEFENCE
Sworn evidence of Michael Shepherd

Defence: On the 22nd July were you on board a banyan?

Witness: Yes.

Defence: Was the accused there?

Witness: Yes.

Defence: Was Mrs. Broadhurst there?

Witness: Yes.

Defence: Did you speak to Mrs. Broadhurst.

10 Witness: Yes.

Defence: What sort of mood was she in?

Witness: A happy mood.

Defence: For how long did you see the accused there?

Witness: All the time I was there.

Defence: Could you say anything on the type of drinks he had on the banyan?

Witness: He had about five beers.

CROSS-EXAMINATION:

Prosecution: Did you particularly notice him?

20 Witness: Yes, I was mostly drinking with him.

Prosecution: Was there anyone else with you?

Witness: Yes.

Prosecution: Could you mention any friend whom you noticed drinking?

Witness: Yes, Paul Dixon.

Prosecution: Do you know how many drinks he bought?

Witness: No.

Prosecution: Did you visit Broadhurst in prison by any chance?

Witness: No.

Prosecution: When was the banyan affair?

Witness: About two and a half months ago.

10 Prosecution: And you said you still remember the number of beers he had.

Witness: I remember that he had about five beers because he had approximately as much as I had and we paid for the beers together.

Prosecution: Where were you yesterday?

Witness: In court.

Prosecution: Were you in any particular place where you had some drinks recently with friends?

Witness: Yes, at Birzebuga.

20 Prosecution: Do you remember the friends you were with?

Witness: Yes.

Prosecution: Have you any idea of the amount of drinks they bought?

Witness: Yes, roughly.

Prosecution: In the case of Malcolm Broadhurst, you remember perfectly it was five?

Witness: I remember.

Prosecution: Who paid the bill?

Witness: We paid afterwards. I just paid for mine.

The Court: Were you particularly interested in seeing how many beers Malcolm took?

Witness: No.

The Court: What made you notice it?

Witness: When they came round to ask

The Court: You kept remembering for two months, three months? It didn't interest you how many bottles he took?

Witness: No.

10 The Court: Where were you?

Witness: With the accused.

Defence: When you paid the bill, where was Malcolm?

Witness: We paid afterwards and when they asked us how many beers we had had he was by my side when he paid.

The Court: You yourself had five?

Witness: Yes.

The Court: When did you get back?

20 Witness: We got back at about 5.30 - about 5 to 5.30. I myself had drunk five bottles.

The Court: Were you any the worse off?

Witness: No.

The Court: How many more could you take - take another half-dozen?

Witness: Yes; feeling happy but not drunk.

The Court: That applies to lots of your friends?

Witness: Yes.

The Court: I mean ten bottles over an afternoon are not a great deal?

Witness: Ten bottles would certainly make you happy and then if you drink at night it would make you worse.

The Court: Did you drink again that night?

Witness: Yes again beer but no whisky.

The Court: Did you sometimes have whisky with the beer?

Witness: Yes.

The Court: Does it make you happy?

10 Witness: If you mix it with beer, yes.

The Court: Must you have a great deal before you get drunk?

Witness: If I mix I get drunk quicker. Of course I must have a great deal.

SIXTH WITNESS FOR THE DEFENCE
Sworn Evidence of Leonard Henry Collecott.

Defence: You will recall that you had a party in your flat and at some stage or other Malcolm Broadhurst came in. Initially for what did he come?

Witness: For his swimming gear on the 21st August, 1959, a week exactly before my wife came to Malta. It was approximately 9 o'clock. He stayed at the party.

10 Defence: What happened?

Witness: He came about 9 o'clock on the pretence of getting some swimming gear for himself and another person M.L.L. Hyden. The other people in the flat knew that he was going home to get married and so he was persuaded to stay and have a few drinks before leaving to get married. He never left the flat but stayed there all night.

Defence: Did any incident happen before night came?

20 Witness: About midnight the accused said he was tired and would like to go to sleep. Some people at the party did not want to stop but wanted to carry on drinking and be merry - more or less. He objected and started to get insolent. We restrained him. He objected again violently and started acting in a violent mood. He kicked the dressing-table and knocked down some saucers and cups. He tried to pick the table up but eventually we made him go to sleep in the bath with the mattress rolled under him. He got up about 5 o'clock the following morning still rather under the influence of drink and said that he had to go on board ship as he was duty that day at 8 o'clock. In the morning before he went, he dressed himself and said: "I am going now". We said: "We will get you a taxi to take you to FALCON. He said: "It is alright, I will get the bus". The next thing we knew was that he was in the back garden on a high wall, walking along the wall, falling into the garden in a place alongside the Police station. He climbed back to the wall, came back to the flat and eventually we got him out of the flat to New street and he went back to the

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/ship

ship. I went to the ship at about 11 o'clock. I took over the afternoon watch and found Broadhurst under close arrest. He had been absent from place of duty - the radio room at FALCON. He had been found asleep at South slip, Kalafrana.

Defence: Did you have any conversation with him about the incident?

10 Witness: Twenty-four hours after he had been charged with being adrift, he was in the mess with me and we were talking and he did not know what had happened on the night of the 21st. I told him what damages he had caused. At first, the accused did not believe me but later on he came to the flat and I showed him the crockery he had broken and he paid me ten shillings for those damages.

Defence: Sometime before Jean Broadhurst died are you aware of any other incident that happened?

20 Witness: On another occasion, the Broadhursts were in my flat at Valley Road, the flat to where we had moved and we were spending the evening together. This was about six weeks before she died. We were sitting down to play a game of scrabble whereupon Mrs. Broadhurst said that she would be using a dictionary and I said that she could not do so as that would be cheating. She then said that if I said it again she would thump me. She said: "If you do that I will hit you", whereupon she turned round when I was approaching her, thumped me and threw me on the floor.

30

Defence: Did you meet the accused regularly or irregularly?

Witness: I met the accused every morning.

Defence: On occasions, when you met the Broadhursts, what was their behaviour?

Witness: Nice behaviour for a married couple.

Defence: What can you say as regards their behaviour?

Witness: They were very lovable, they were always sky-larking a lot, they were only just playing for fun.

CROSS-EXAMINATION

Prosecution: Did anyone of you, at the party you mentioned get hurt?

Witness: The accused did get hurt at that party through the plates and saucers he throw on the floor; he got himself lacerated.

Prosecution: On that occasion, did he hit anyone?

Witness: He did not hit me.

10

Prosecution: During your evidence, you mentioned a punch, when was it?

Witness: That was six weeks ago.

Prosecution: On the second occasion you mentioned to-day, were there any drinks partaken?

Witness: No, Sir.

The Court: You remember on the first occasion what the accused had drank?

Witness: It was a bottle party and therefore drinks were mixed.

The Court: Did the accused on that occasion drink a lot?

20

Witness: Not more than anybody else.

The Court: What was this walking on a wall or climbing over a wall?

Witness: The accused climbed a wall of a garden from where he fell down.

The Court: This was in the morning about ten hours after?

Witness: Six hours after he went to sleep.

The Court: Besides drinks, did you have anything else?

Witness: Some snacks, yes.

Sworn evidence of
Dr. Francis Pullicino - recalled by order of the Court

The Court: Dr. Gulia, would you show Dr. Pullicino the report again, please?

The Court: Do you remember whether the shirt (Doc. J) was given to you?

10 Witness: It was amongst the clothes in the room but I examined it in the room and thought that there was no object in testing it because there was nothing of interest in it. As far as I can remember there was no blood at all on it.

The Court: Suppose you were to put it against the light to see whether there are any stains.

(Dr. Pullicino examines the shirt (Doc. J))

Witness: I do not think that there is anything that gives a positive result of the blood.

The Court: And you saw it on the same day or on another day?

Witness: I examined it on the 24th and at that time I did not think that there was anything on it.

20 The Court: Could you please have a look at these jeans (Doc I). Did you find blood of that?

Witness: Yes, there is a fair amount of blood on it - mainly a large patch of blood in the bottom part of the trousers.

The Court: What is the blood group of the stains of blood you found on the jeans?

Witness: They are of blood group "AB".

The Court: You had taken a specimen of the blood of Jean Broadhurst?

30 Witness: Yes.

The Court: And what was its group?

Witness: It was of a similar group, "AB".

The Court: So that the blood stains on the jeans are of the same group as Jean Broadhurst?

Witness: Yes.

The Court: Does that apply to the boots too?

Witness: Yes. These are the boots which I examined.

SEVENTH WITNESS FOR THE DEFENCE
Sworn Evidence of Geoffrey Foster,

Defence: Sometime last year you saw the accused. How could you make your statement?

Witness: I was looking out of the window in my house in Pretty Bay, Barzebuga, when I noticed a person lying down. I noticed that it was an Englishman and so I went down to see. He seemed to be asleep, lying in a coma. It was in the afternoon, it was just before Christmas.

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The Court: Christmas time when?

Witness: Just before Christmas.

The Court: What year?

Witness: 1960. I took the man in a taxi to his home.

Defence: Before doing so, did you do anything?

Witness: There was an R.A.F. Sergeant who helped me, we took his money and with that money took him in a taxi to his house.

Defence: Were there any other persons in the house?

20

Witness: Yes, I have seen them this morning outside.

The Court: To whom are you referring?

Witness: The McKinnells were in the house. We left him with his wife and with McKinnell and his wife.

Defence: What was his condition?

Witness: Seemed to be in a deep sleep.

Defence: How did you come to know about this?

Witness: I was reading in the press the trial this morning and was reading that part of that man taking the accused home on that day.

30

The Court: Did he smell of drinks?

Witness: I could not say, it was a long time ago.

The Court: Were you looking from the window?

Witness: Yes, from the kitchen.

The Court: You noticed the man from the window of this kitchen, it was sixty or fifty feet high and you noticed his behaviour from that height?

Witness: Yes, I did.

The Court: At what time?

Witness: It was in the afternoon.

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CROSS-EXAMINATION

Prosecution: Was there anyone else?

Witness: Yes, there was a crowd of people.

Prosecution: No, no. before you saw him lying down?

Witness: Yes, there were some Maltese people.

The Court: Sometime later, did you again meet the accused and tell him what you had found?

Witness: I did not tell him, I think his wife told him and he said good-morning to me later on and asked what time it was.

20 The Court: But did you not tell him what you did for him?

Witness: No, I did not.

The Court: Did he recognise you?

Witness: Yes, I had been pointed out to him.

The Court: How long after?

Witness: About one or two months after.

The Court: You had not met him before?

Witness: No, I met his wife.

The Court: It was the first time you saw him since you saw him on that occasion?

Witness: I said: "Hello, how are you?"

The Court: Was this in the street or in his house?

Witness: In the street.

The Court: He did not say to you "I do not know you"?

Witness: No.

10 Defence: Witness said that he was pointed out to the accused.

The Court: By whom?

Witness: I don't know.

The Court: Why did you say you were pointed out to him?

Witness: Because that was the only way I could have been made known to him.

The Court: Is that a guess?

20 Witness: No, it is not a guess; or rather it must be a guess because he could not have come to know me in any other way.

The Court: You saw him and said "Hello", and he said "Hello" back to you?

Witness: Yes.

The Court: You asked him how he was and he did not say to you "I don't know you at all, who are you"?

Witness: No.

The Court: Could you say that simply because you told him "How are you?" and he told you "all right" and walked on therefore he recognised you?

Witness: No, he might not have recognised me at all.

RE-EXAMINATION

Defence: Did you see the Broadhursts in the street or somewhere else at any time later?

Witness: Yes, I have probably seen them shopping.

Defence: When you took Broadhurst to his house what did he do?

Witness: We carried him in a taxi, then up the stairs of the flat to the top landing and left him there.

10 Defence: Did you speak to anyone?

Witness: We just asked Mrs. Broadhurst: "Is this your husband?" and she said "Yes".

Defence: How long did you stay there?

Witness: We were in the house for about two minutes. We asked Mrs. Broadhurst when she came down if he was her husband and she said, yes. We then took him upstairs.

The Court: What time did you read the local paper to-day?

Witness: It must be between eight and half past eight.

EIGHTH WITNESS FOR THE DEFENCE
Sworn evidence of Constance Collecot

Defence: Did you know Mrs. Broadhurst before she died:

Witness: Yes.

Defence: For what length of time?

Witness: Well, for about two years.

Defence: Could you mention some incident while you were playing a game of scrabble and say what happened?

10 Witness: We were playing scrabble at their flat and my husband was teasing Jean because she was using a dictionary. He kept annoying her on this and then she told him: "Wither you leave me quiet or I will hit you!" However, my husband continued teasing her and she did hit him and knocked him flat.

Defence: How did Jean and her husband use to behave themselves before you?

20 Witness: Male would sometimes tease her and then they would start knocking at each other just for fun, nothing serious although quite often she used to hurt Malcolm. Once he told her that she ought to have become a boxer as she would stand up well against any man.

CROSS-EXAMINATION

Prosecution: You knew Mrs. Broadhurst very well?

Witness: Yes.

Prosecution: Did she ever complain about her husband?

Witness: Never.

30 Prosecution: Did she ever mention to you his going out on the roof?

Witness: No.

NINTH WITNESS FOR THE DEFENCE

Sworn evidence of Donald G. Barker

Defence: Do you know Mr. and Mrs. McKinnell?

Witness: We did not know them well until about

Defence: When did you know them first?

Witness: About April or previously. We know Brenda more than her husband at the time, but after the incident on which the accused is being charged we got to know her husband better because he used to come to our house with his wife whereas previously he hardly came at all.

10

Defence: Where is your flat situated?

Witness: A few doors up the street from the house of the accused.

Defence: As regards the Broadhursts, did you know them?

Witness: We did not know them very well but we used to see them in the street and on the roof because our roof is slightly higher than theirs.

Defence: During these meetings when the McKinnells used to come to your house, what sort of conversation was there?

20

Witness: When they used to come to our house - this was after the preliminary hearing of the case - Mr. McKinnell used to say: "Have you heard of any good hangings or murders lately!" in a very joking manner, and they would sit down and my wife make a cup of tea for them and they would talk about the case. Once, in the presence of his wife, he said: "I hope he hangs", and then his wife said: "I hope so too", and he would go on saying: "I am going to do all that I can to see that he hangs". He said that at least on one occasion. On several occasions he said: "I hope he will hang", and he said: "If they cannot find anybody to hang him I will hang him myself".

30

Defence: Did you ask him about the case?

Witness: I never asked him about the case at all.
What I heard from him was voluntarily said and
I never prompted him about it.

Defence: What did you do about this?

10 Witness: I did not say anything about it because my
wife was very friendly with Brenda and she seemed
to be a nice woman, and for her sake I never said
anything because it would have caused a row.
I was fed up of hearing these things so often and
I said to my wife that if he comes and says these
things I am going to kick him out, but for Brenda's
sake I kept quiet.

Defence: Do you know whether McKinnell used to drink?

20 Witness: He used to drink a great deal and he used to come
from the bar and kick or punch his wife. He also
used to kick his little girls on the floor and
there was one occasion that we had to look after
his children until he calmed down. There was
one time when my wife and I were walking down the
road and passing their house and Brenda appeared
in the lower front door, and she had a piece of
plaster across her chin, and my wife asked what
happened to her and she replied: "Mac (i.e. McKinnell)
and I had a row and he pushed me downstairs".

Defence: You said that your roof is slightly higher than that
of the Broadhursts. Do you see the roof of the
Broadhursts and the McKinnells?

30 Witness: Yes. We could see down on their roof and I remember
that there was one occasion when Jean Broadhurst
was hanging out the washing on the line and her husband
came from behind her, put his arms around her and
kissed her on the cheek.

Defence: How long was that before the incident?

Witness: A matter of a few weeks before her death. He
was always very affectionate to her.

Defence: What steps did you take about these conversations with McKinnell?

Witness: He repeated them so often after the preliminary hearing that I realised that he seemed very vindictive to the accused although he gave me no reason of being so. So I went to ask the advice of my Divisional Officer and he advised me to see Lieutenant Reubens and give him all the information which I knew about.

CROSS-EXAMINATION

10 Prosecution: Do you know any other facts about the McKinnells?

Witness: At several periods they never seemed happy together.

Prosecution: Did John McKinnell ever complain about Service difficulties?

Witness: Not to my knowledge.

Prosecution: Do you know that he is serving a period of detention?

Witness: Yes.

Prosecution: And that he has been detained for a disciplinary offence against Lieutenant Reubens?

20 Witness: I do not know. I was told - this is hearsay - that he had been detained for an offence against the Master at Arms.

Prosecution: When did you approach Lieutenant Reubens and tell him about the McKinnells?

Witness: It would have been approximately from four to six weeks ago.

Prosecution: And when was he put under detention?

Witness: During that period - I am not sure.

The Court: You said, if I understood you correctly, that for a long time you decided to keep this matter quiet, you did not wish to offend Brenda and then you decided to mention it?

Witness: Yes.

The Court: What made you change your mind?

10 Witness: It was mainly because he was repeating it so many times, he was just bragging about these things and joking so many times I kept thinking about it. It might be vindictive, there might be some reason, a bearing on the case.

The Court: You knew of course that there was the preliminary inquiry before the magistrate, you were aware that it took quite a long time?

Witness: Yes.

The Court: And all that time you knew what Mcinnell had said?

Witness: He said it afterwards.

The Court: He said that after the preliminary inquiry?

Witness: Yes.

20 The Court: The preliminary inquiry had already been completed when he said those words?

Witness: I do not think so. I am sure now that the preliminary inquiry was in the closing stage.

The Court: It must have been. And he had already said these words?

Witness: Yes.

The Court: And you did not mention this fact before?

30 Witness: Not at the moment, because he said it once or twice, and when Brenda became more friendly, he came into our house with her often.

The Court: And to whom did you mention this fact the first time?

Witness: To my Divisional Officer, Lieutenant Sylvester.

The Court: That was about six weeks ago?

Witness: I am not really positive but it was about that time.

The Court: You told us that before this event happened you knew the McKinnells. I am not quite clear for how long?
 Witness: We had only known them for quite some time approximately 18 months.

10

The Court: When did you become friendly?

Witness: Say April of this year.

The Court: And they came to your house or you went to their house quite frequently?

Witness: Yes.

The Court: At that time did you ever hear anything else, did the McKinnells say anything else against the Broadhursts?

Witness: Yes, I did. Mr. McKinnell said that he was a peeping Tom.

20

The Court: Anything else?

Witness: I hope he hangs.

The Court: When was that? I am asking you now before Mrs. Broadhurst died.

Witness: They said that they kept several cats and that Jean and Malcolm let them mess on the stairs, that he had two little dogs and a budgerigar and that they were stupid to have all these animals in the house.

The Court: What else?

30

Witness: I cannot remember.

The Court: What was up to the death of Mrs. Broadhurst?

Witness: Before. That he was a peeping Tom, that he kept several cats and that they were stupid to keep all these animals in the house. Brenda just agreed with him.

The Court: About what she agreed with him? You came here to swear the truth and not to defend the accused.

Witness: I am saying the truth.

10 The Court: I am asking you to stop arguing. I have made it clear to you that for the moment I am asking you about the time before Mrs. Broadhurst died and you told us that Mr. McKinnell said that the accused was a peeping Tom, that he had several cats, a budgerigar, and that he was stupid to keep the budgerigar and the animals, I ask you now whether Mrs. McKinnell ever said anything against the Broadhursts and I want an answer to that?

Witness: The only thing she said at that time was about the mess on the stairs.

The Court: That was before the time Mrs. Broadhurst died?

20 Witness: Yes, Sir.

The Court: What was all that Mrs. McKinnell ever said about the Broadhursts?

Witness: Yes, Sir.

The Court: And I think you said that she is a nice decent woman?

Witness: Yes, I did say that.

The Court: Have you continued to be friends after Mrs. Broadhurst died?

Witness: Yes, we did, we became more friendly because she was upset about the whole thing.

30 The Court: And are you still of the same opinion that Mrs. McKinnell is a nice decent woman?

Witness: I still believe she is, especially when the influence of her husband is not around her.

The Court: From what you know, you know her rather well, would you believe she is the type of woman to send a man to the gallows?

Witness: I would not believe it, I would not believe she would do it on purpose if she knew all the facts. Would you please repeat the question?

10 The Court: I said: From what you know of her and having known her for several months and you are also a very great friend and you described her as a very good sort of woman, would you believe that she would swear falsely ?

Witness: I do not think she would if she realizes the importance of the oath.

The Court: After Mrs. Broadhurst died, was there anything Mrs. Hollimell said against the accused?

Witness: Only that she expressed the hope that the accused would hang?

The Court: How long after Mrs. Broadhurst died?

Witness: I could not say exactly.

The Court: Did you know Mrs. Broadhurst?

20 Witness: Only by sight.

The Court: Was she in the neighbourhood considered to be a very lovable person?

Witness: Yes, she was considered to be a very affectionate person.

The Court: Were you sorry when she died?

Witness: I could not say that I was, because I did not know her very much.

The Court: As a human being?

Witness: As a human being yes.

The Court: Do you know that the people were angry at her death?

Witness: I could not say.

The Court: Did it surprise you that Mrs. McKinnell was terribly distressed by Mrs. Broadhurst's death?

Witness: No, it would not surprise me.

The Court: May we again have this made clear if you can help the Court. Can you remember the first time that Mr. McKinnell expressed with you and I think you said "have you heard about any new murders lately", was that said jokingly by him?

10 Witness: It seemed to be said jokingly as if he did not realize the importance of what had happened.

The Court: I was asking you to try to help us when did all this joking about murders start?

Witness: It started after the incident and it must have started before the preliminary investigation finished.

The Court: Why did he not tell you that after the preliminary inquiry was finished?

Witness: Because he said that it happened the day before in Court.

20 The Court: Are you a Naval Rating?

Witness: Yes, correct.

The Court: Do you belong to the same company?

Witness: No, I do not.

The Court: Your Divisional Officer is the same person?

Witness: No.

The Court: To whom did you report first?

Witness: I reported to my Divisional Officer, Lieutenant Sylvester.

The Court: And he told you to report to Lieutenant Reubens?

- Witness: Yes, he did.
- The Court: Why did he send you to Lieutenant Reubens?
- Witness: Because he know that Lieutenant Reubens was helping the accused to get the witnesses, then Lieutenant Sylvester went to him and came back to me to tell me to go to Lieutenant Reubens.
- The Court: What is your rank?
- Witness: A mechanic in the lighting ordinance.
- 10 The Court: When the McKinnells said that they would like the accused to be hanged, did they show any reason?
- Witness: They never gave, at any time, any reason at all.
- The Court: Do you know any reason yourself why they never gave any reason for that?
- Witness: I am giving it as my own opinion that it was just for pure jealousy on the McKinnells' part for the Broadhursts.
- The Court: When the McKinnells came to your house you were friendly but was it usual to discuss between you the Broadhurst incident?
- 20 Witness: Not discuss between us.
- The Court: Did you talk about it?
- Witness: They talked about it.
- The Court: Did you join in the conversation?
- Witness: I used to go quietly in the benchair, and say nothing.
- The Court: What time were you here in Court to-day?
- Witness: At ten o'clock.
- Juror: When Mr. McKinnell used to go to the Lower Court and come to you the next day did you use to ask him what had happened yesterday?

Witness: No.

Juror: Or he brought up the subject himself?

Witness: Yes.

TENTH WITNESS FOR THE DEFENCE

Sworn Evidence of Sub Lieutenant Gerald Edward Loxton, Royal Navy

Defence: Are you the Divisional Officer of John T. McKinnell?

Witness: I am, Sir.

Defence: How long have you known him for?

Witness: Since September, 1959.

Defence: Do you know his wife?

Witness: Yes, I do.

Defence: How long have you known her?

10 Witness: Since August, 1960.

Defence: Can you mention in what connection you came to know them and particularly on questions referring to your assessment as to their reliability, on what they told you?

Prosecution: I object, My Lord.

The Court: They are irrelevant.

Defence: Do you know anything about the McKinnells in relation to the accused or his wife?

Witness: No sir.

20 Defence: You have known Mrs. McKinnell since 1960?

Witness: Yes.

Defence: How many times have you met her roughly since then?

Witness: About fifty times.

Defence: Will you say if she is a trustable person?

The Court: What is her general reputation as to truth if you know it?

Prosecution: It is his opinion.

The Court: Will you say if she is a trustable person for speaking the truth?

Witness: Not always. I have had several instances in which she did not tell me the truth, on several matters in the main they were family matters.

The Court: What sort of matters?

10 Witness: In the main rifts between the McKinnells as a married couple, and the troubles which Mr. McKinnell brought to me as his Divisional Officer have not been substantiated by his wife.

The Court: Which means she might have been telling the truth?

Witness: She might have been.

The Court: Would you consider her a trustworthy person for speaking the truth?

Witness: Not in every instance, no.

The Court: Do you speak the truth in every instance, even in your own private matters?

20 Witness: I should have the habit to do so.

The Court: Have you never not even in a single matter told a lie?

Witness: Yes, I have.

The Court: So may have other people done in matters of not so much importance? Is that the sort of thing you are now talking about the McKinnells?

30 Witness: No sir, the versions that I gathered from either of them incidentally hardly ever tallied. They did not agree in their versions.

The Court: They did not agree?

Witness: No sir.

The Court: Could you ascertain who of them was telling the truth?

Witness: On occasions they both lied to me.

The Court: But may I ask you again about what?

Witness: On domestic matters.

The Court: And probably they were talking to you confidentially?

Witness: Quite correct, Sir.

SUMMING UP BY HIS HONOUR THE CHIEF JUSTICE

Gentlemen of the Jury,

10 The charge which the Prosecution makes against the accused is that of wilful homicide. It alleges that during the night between the 22nd and the 23rd July of this year at about half past one or two in the early morning, in the premises known as "Granny" at Birzebbuga, the accused beat his wife and threw her down the stairs causing her injuries in several parts of the body as a result of which she died the same day.

20 Before I try to explain to you what is necessary to constitute this crime I would like to remind you of one or two principles to which your attention has already been directed by both learned Counsel for the Prosecution and learned Counsel for the Defence. This first one is this: that you are to address your minds only to what has taken place before you in the course of this trial. You must try to rid your minds completely of anything you may have heard or read about this case before you came here and took your oath and make up your mind and come to your conclusion only after considering what has been produced before you as evidence and considering the submissions made to you by learned Counsel and such directions as the Court will give you on matters of law. The second thing is, and I have no doubt that you have it very much in mind, that you must decide this case fairly, without any bias or prejudice, according to your conscience and to your intimate conviction, with firmness and impartiality in accordance with your duty so that you may be worthy of the oath which you have taken.

30 There is then, an important principle on which considerable stress has been laid quite rightly by learned Counsel for the Defence and which has also been mentioned to you very loyally and properly by learned Counsel for the Prosecution, and that regards what we call the burden of proof.

40 The Charge is made by the Prosecution and it is for the Prosecution to prove the charge to you beyond reasonable doubt. It is not for the accused to prove his innocence. It is for the Prosecution to drive the charge home against him to a moral certainty so as in other words not to leave in your minds any reasonable doubt. You will notice that I have not said "to an absolute certainty" because absolute certainty does not happen in human affairs, but to a moral certainty. The Prosecution is bound to prove the case if you are to find the
/accused

accused guilty. And when I say to a moral certainty I mean to such a very great conviction as to exclude from your minds any reasonable doubt. Here again I am not saying "so as to exclude any doubt"; I am saying so as to exclude, not to leave, a reasonable doubt. This must not be, and I am sure you will not even be tempted to do it, an invitation to take shelter from shouldering full responsibility of your decision. Your doubt must not be that of a capricious mind or of any frivolous hypothetical possibility. It must be a doubt of some substance, a serious doubt, such a doubt as would prevent you to come to a decision in your own important affairs. If the Prosecution does prove the case to you beyond reasonable doubt then of course you know what your duty is. It will be to find the accused guilty. If the Prosecution fails to discharge this burden which lies upon it throughout the whole trial until the very end then, of course, you also know what your duty is, and it is to acquit the accused. Should you come to the conclusion that the Prosecution has in fact honoured this charge, this burden, then you will come to your conclusion without troubling yourself at all as to the consequences of your decision. A jury can sometimes be, quite unwittingly, sidetracked, however conscientious they are, if they address their minds to what happens in certain eventualities. The task of a jury is sufficiently responsible and grave enough in all conscience without their having to saddle themselves with circumstances that are really irrelevant. I, therefore, advise you to address yourselves only to the issues and to the evidence and have no regard whatsoever to the consequences that would flow from your verdict one way or the other.

I think now that, having cleared the ground on these important matters of principle, we can try and see what constitutes the crime charged against the accused. As I told you, it is the crime of wilful homicide, and the law says that a person is guilty of this crime if, with intent to kill or to put the life of another person in manifest jeopardy, he causes the death of such person. It will be clear to you from this definition that, before you can find the accused guilty of wilful homicide, you must be satisfied as to four essential ingredients or elements: you must be satisfied that the wife of the accused in fact died; then, that she died by the act or omission of the accused; in the third place, you must be satisfied that the act or omission of the accused causing the death was done maliciously, and lastly, that the act or omission was perpetrated with the intent on the part of the accused . . .

/to cause

to cause the death of his wife or, at any rate, to expose her life to manifest peril. Each of these four elements necessary to constitute the crime of wilful homicide must be proved by the Prosecution to your satisfaction as I told you. Now you may think that the first element - the death of the wife of the accused - is a relatively simple matter indeed. It is common ground that Jean Broadhurst died on the 23rd July. It is also common ground that roughly at the time stated by the Prosecution she was found lying on the stairs of the flat in a pool of blood with serious head injuries, apart from other injuries spread over several parts of her body. In the afternoon of the 22nd July she had been to a picnic together with the accused and her baby and they returned home at about 5.30 p.m. The accused in his evidence told you this and it is confirmed by two witnesses for the Defence; that they went on a barge for a picnic roughly at 1.30 p.m. until about 5.30 p.m. Later in the evening the deceased and the accused went together to a dance at the N.A.A.F.I. Club, Falcon. They arrived there at about 8 p.m. The deceased left at about 11.30 p.m. She was given the keys of the flat by her husband; she walked part of the way then she was overtaken by Mr. and Mrs. Wright in a taxi: they went together to the White Horse Bar for a nightcap: the deceased did not have any drinks; then she was seen home to the door of the flats by Mr. Wright. This was roughly at about 12.30 a.m. Now the last person who saw her before she was found lying very seriously injured on the stairs appears to be witness Mary Gafa. You will remember that this is the person who has acted as a baby-sitter for the baby of the accused and for that of the Wrights. She had gone to the house of the accused at about 7.30 p.m.; she collected the two babies and took them to her own house. Later in the evening, about eleven or so, she went back to the flat occupied by the accused; she was there when Jean Broadhurst returned to the flat; they talked together until 1 a.m. when Mary Gafa left and went home. She was seen to the door, if you remember, by Jean Broadhurst, who closed the door after Mary Gafa had gone out. The accused returned home some time after the dance had finished, which was at 1 a.m. Now, as I said, Jean Broadhurst was lying very grievously injured on the stairs of the flat. I think this is a convenient place to mention a circumstance, which, you may think, may have very considerable importance in the assessment of the evidence, especially that given by the accused. Although he does not say so in so many words, /yet the

says that she looked perfectly normal and happy; and the very nature of the injuries probably will suggest to you, at once, that there can be no question whatsoever that Jean Broadhurst inflicted those injuries upon herself. But there has been some suggestion made that these injuries were caused accidentally and one explanation, as to how these injuries could have happened accidentally, mentioned to you by the learned Counsel for the Defence, was by slipping. You remember, I am sure, that the doctors told us that although each one of the head injuries could possibly have been caused by a fall from the feet on a flat surface, altogether they could not have been so produced. The lesions on the back could not be produced by such a fall; they could only have been produced, the doctors said, by contact with some rough surface or an edge of some sort, and in reply to some questions put to them by the Inquiring Magistrate the doctors said that the back injuries could have been produced by someone passing the back of the victim over the iron handrail or by the body grazing sideways along the railings intermittently or, finally, as a result of the body rubbing over the edges of the steps. They, the doctors, found nothing incompatible with the possibility of the deceased having been thrown down the stairs.

Now then, if you take the view that these injuries could not have been self-inflicted, nor could be the result of an accident like slipping, you may find it easy to accept that the deceased suffered her injuries and, therefore, her death at the hands of some other person.

We then come to the second enquiry. So far we have established, if you take that view, that Jean Broadhurst was killed. Now the second point is: was she killed by the act of the accused? To prove this second ingredient the Prosecution relies mainly on the evidence of Brenda McKinnell and her husband, John McKinnell. Concerning these two witnesses, learned Counsel for the Defence said you must not believe them, firstly because their story is unlikely, secondly because they are biased. He told you: "Their evidence is tainted by hostility or animosity towards the accused".

Before I deal in some detail with these objections, let us see what these two witnesses said. Brenda McKinnell said that she lives in the flat next door. She had gone to the flat of the accused just before they went out to the dance, to borrow a jelly-bowl. At that time there
/were

were also in the flat Mr. and Mrs. Wright. Later on, this witness saw the accused and his wife dressed in fancy costume going to the dance. She describes what they were wearing. Then she says that she did not see them again until about 2.a.m. She had gone to bed at about 11 p.m., her husband joining her later. At about 2 a.m. she heard a lot of running about on the roof and woke her husband. Then there was a lot of banging which seemed like packing cases coming down the stairs. At that time she heard the deceased say: "Stop it Malcolm, you will kill me".

10 After a short interval she heard the accused say: "that is the end of that". She is sure it was the accused who said those words, as she is very familiar with his voice and it seemed to her that the voice was coming from somewhere near their flat door. A few minutes after she had heard the accused say "that is the end of that", the flat door of the accused slammed shut, then she heard the door-bell of their own flat and she got out of bed in a hurry, put some clothes around her and opened the door. The accused was outside wearing the blue jeans and a pair of flip-flops:

20 he was covered with blood, over his chest, his hands and probably also his left foot. He was crying and asked her to "go and see Jean as he had thrown her down the stairs". Later on, when her husband had gone out to fetch a doctor, and she was alone with the accused in her flat, the accused told her: "I do not know why I did it, she didn't do anything to me". When the morning came, she went to wake him up and she told him: "Do you realise what you have done to Jean?" He answered: "I have cut her head open". She said: "You have fractured her skull" to which he replied: "It is the same thing".

30 Of course as you know, this witness, Brenda McKinnell, says a lot more in her evidence. Later on I may refer to some other bits of her evidence, in the appropriate contexts. For the moment I am dealing only with the question whether the injuries sustained by Jean Broadhurst were caused by the accused.

What does Brenda's husband say about this? He too saw the accused and his wife going to the dance. At about ten thirty he went to bed: then at about 2.15 a.m. he was awakened by shouts of running on the roof. He heard what he thought the banging of packing cases on the stairs. The next thing he heard was the door-bell to his flat. His wife opened the door and there was the accused wearing jeans and flip-flops and with blood on his arm, face and chest. The accused spoke to McKinnell's wife saying:

40 /"I have

"I have thrown Jean down the stairs, please come and see her". There were other words spoken like: "I do not know why I have done it."

Now if you believe these two witnesses you will probably have no difficulty at all in coming to the conclusion that it was the accused who materially caused the injuries to his wife.

10 Assuming that you do believe them, I do not think that you will have any doubt that it was the accused who materially inflicted the injuries on his wife and so the second element with which we are now dealing, would also be discharged. But learned Counsel for the defence tells you that you should not believe them because, he says, they are hostile to the accused. In order to substantiate this, he has, in the first place, produced before you
20 witness John Mamo. This man runs a general store at Birzebbuga. Both the accused and his wife as well as the McKinnells were his customers but, as he says, the accused and his wife were much better customers. Mamo says that some four or five weeks before the event with which we are concerned John McKinnell informed him that the accused was about to leave the island without settling his account.

30 Another witness produced by the Defence is Donald Barker. This man was a friend of the McKinnells. He says that on several occasions John McKinnell used to tell him, when they met together as friends: 'Have you heard of any good hangings or any good murders lately?' The witness says that John McKinnell also used to tell him: 'I hope the accused hangs'; 'I am going to do all I can to see that he hangs' also 'If they cannot find someone else to hang him, I will do it myself'. The witness first said that all these conversations took place after the event and after John McKinnell had already given his evidence before the Magistrate: later, you may remember, after not a little thought on the part of the witness, he said that the enquiry had not yet terminated. Then the witness also told you that before the death of Jean Broadhurst, before the event
40 at all, John McKinnell had told him that the accused was a peeping Tom, that the accused kept several cats and that it was stupid having so many budgerigars. The witness thought all this was due to jealousy but, you may think, he did not give us any clear explanation as to what this

/jealousy.....

jealousy was of. He seemed to suggest that it probably arose out of the fact that the accused and his wife appeared to be a happier couple.

10 Now what does this witness say against Brenda McKinnell? All he says is that, before the event she, once or perhaps more than once, said that the cats kept by the accused made a mess of the stairs. That was all before the event. After the event, all that Brenda McKinnell is alleged to have done is to have agreed once, or possibly more than once - I don't know - with what her husband was saying that he wished to see the accused hang.

These are all the circumstances of hostility or animosity on the strength of which Counsel for Defence invites you to disbelieve the McKinnells.

20 Now, in the first place, as regards John Mamo - John McKinnell, you remember, gives a different explanation of the incident. He says it was John Mamo himself who asked him whether the accused was about to leave the Island. This is a matter entirely for you but you may think that this explanation of McKinnell, in the circumstances of a trader who had outstanding debts due to him may not be all that unlikely.

30 As regards Barker, John McKinnell denies having told him he wished the accused to hang or that he would hang him himself. He admits that he asked Barker jokingly whether he had heard of any hangings or murders recently and Barker himself admits that all this type of talk had started jokingly. I don't know how witness Barker struck you but it rather seemed to me - for what my impression may be worth - that if there was one witness in the whole of this trial who showed any animosity in giving his evidence, it was Barker against McKinnell.

But assuming that you accept as a fact that John McKinnell did say to John Barker all that Donald Barker says, do you think there might not be a rather simple explanation? If the McKinnells are speaking the truth, then a young woman who was their friend was done to death by her husband and in circumstances which, as it appears, have, or at any rate so the McKinnells feel, caused themselves considerable personal

/trouble.....

trouble and worries. One may perhaps not approve of the expression of such sentiments: but in such circumstances, is it all that surprising, or unnatural that the McKinnells should wish the person responsible to suffer the penalty for his deed? The evidence of hostility previous to the event alleged by this witness Barker, the John Mamo incident and the question of the cats and the budgetigars, is, you may think, too ridiculously trivial, even if believed, to found on it a conclusion that John and Brenda McKinnell have deliberately plotted together to fabricate evidence of this most serious charge against the accused.

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Is there anything, you will all yourselves, in the relations of the McKinnells with the accused and his wife, either before or at the time of the event to suggest hostility or animosity? They were next door neighbours, may be not very intimate friends, but certainly good neighbours. They were often on the roof together. The accused himself said McKinnell often teased him, made fun of him jokingly. That night, as the accused himself says, went to their flat; they gave him tea, they soothed and comforted him; John ran out for the doctor, they took charge of the baby, and so on. Does any of all this suggest to your mind any hatred or animus against the accused? But apart from hostility, learned Counsel for the Defence tells you that you are not to believe the McKinnells because according to Sub.Lt. Dexton they sometimes lied to him about their own domestic matters. You remember that this Officer, responsible I think for the welfare of the ship's Company to which McKinnell belongs, had had dealings with John McKinnell and also his wife about these domestic matters which they divulged to him in confidence. We do not know what these domestic matters were nor what type of untruths the witness is alleging. In any event his evidence falls very far short of proving the general bad reputation for truth which the law requires in order to impeach the credibility of a witness on this score.

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It is said in the third place that you are to disbelieve the McKinnells because their evidence does not tally in every respect. In particular learned Counsel for the Defence drew your attention to the fact that while Brenda McKinnell says she heard the deceased say the words 'Stop

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/McLcolm.....

Malcolm, you are going to kill me', and the accused say 'That's the end of that', John McKinnell does not say he heard those words. Now, in the first place, according to the evidence of Brenda McKinnell it was she who woke up first after hearing the noises on the roof and on the stairs. They had been asleep and you may think it quite possible that one heard and the other did not. Secondly, if, as you are told, these two people are hostile and are conspiring together to swear falsely against the accused, would not you rather expect that they would have concocted and created a story which tallies in every particular so that each one confirms the other? To create a common version, especially on a matter, the most important item in the whole of their evidence, a matter of such vital importance against the accused? What I mean to say, and I am sure you have already understood what I mean, is that, if it were true that these people are plotting together to harm the accused, what you would expect is that they would not differ in what they say, that one of them would not omit a circumstance of the utmost importance said by the other, but rather that they would learn a story together and stick to it. If John McKinnell was out to harm the accused in collusion with his wife he would hardly have left out this most damaging piece of evidence.

Was it possible for Brenda McKinnell to have heard those words as she said she did? You have seen the place. It is a very small and compact place. The first room is divided from the bed-room only by a single wall. It was summer and for all I know the window may have been open. It all happened in the stillness of the night. Brenda McKinnell says that the voices were loud: not shrieks but quite loud. I do not know, it is for you to say whether it was so difficult or much less, impossible to hear those voices in those circumstances, from that distance.

Exception is also taken to Brenda McKinnell's evidence because on one circumstance she said that she did not know and that she did not remember and then she admitted that she knew. I am sure you remember the circumstances in which this happened. Brenda McKinnell was being asked whether her husband had told Barker that he wished the accused would hang. For reasons which you may understand,

/Brenda.....

Brenda McKinnell was reluctant to answer that question and she said: 'I don't know'; but as soon as the Court told her that she was bound to answer, she admitted at once that in fact, her husband had said those words to John Barker and to other people as well in her presence.

10 I think that these are all the criticisms which have been made by learned Counsel for the Defence against these witnesses and their evidence. Quite apart from what we have been saying, the law itself mentions certain other
15 criteria for assessing the credibility of witnesses, and these are, apart from the character and the conduct of the witness to which I have already referred, the demeanour of the witness and the probability and consistency of his statement. Now, from what you saw before you, was there anything in their demeanour, in the way they responded to questions, in the way they replied, was there anything to suggest to you that they were lying? As to consistency, from the very beginning, from the enquiries started by the Police, through the proceedings before the Magistrate to
20 the trial in this Court, these witnesses have consistently told the same story. And in the version which they gave is there anything which you think is inherently unlikely or inherently impossible or inconsistent with the other facts and the proved circumstances of the case? As to probability, in many details - though of course, not on the crucial words, concerning which the accused says simply 'I don't remember', in many of the details of their evidence, they are confirmed by other witnesses and by the factual evidence, even by the
25 evidence of the accused himself. As to the noises alleged to have been heard by the McKinnells round about the time, you also have - though it may not be a circumstance of very great importance - the evidence of Doris Abraham. This woman lives in a house at ground level adjacent to 'Granny' Flats. She said that about 2 a.m. on the 23rd July, she and her husband were awakened by a very loud banging of what she thought was a door. After that, she heard running foot-steps on the stairs. In her opinion the banging and the running foot-steps were coming from 'Granny' Flats. Her husband, did not like, it seems even now, having been awakened by
30 his wife. He did not actually hear the noises, but he said he looked at the clock on being asked the time by his wife

/and as.....

and as far as he remembers it was about 2 a.m. Now as regards the circumstance mentioned by this witness, of the loud banging of a door, you may, if you think so, connect it with the expert evidence of Wilfred Flores, who told you yesterday that on one of the flaps of the door leading to the flat of the accused there were marks which corresponded precisely and absolutely certainly with one of the boots which had been worn that day by the accused. There were traces of paint on the boot and Wilfred Flores after making the necessary experiments and applying his technique had no difficulty in saying that the marking on the two things completely tally.

Now then, if you believe the McKinnells you have it that the accused himself admitted he had inflicted the injuries on his wife: "I have thrown her down the stairs; I do not know why I have done it; she did nothing to me". Does the accused deny this? You will recall that according to the evidence of Inspector Pace Bonello, Superintendent Scicluna and Superintendent Lanson, when the accused was being interrogated by Superintendent Lanson he was told what the McKinnells had said he had told them. The accused said he did not remember but he might have said those words and probably he had done so as the McKinnells were his friends and he trusted them and had no reason to doubt their word. When the accused gave evidence before you, he did not deny this. All he said again concerning those words was that he did not remember.

Now after we had said all this, suppose that you are not satisfied that the accused was in fact the person who physically caused the injuries to his wife, that he had nothing at all to do with it, not even merely physically materially - nothing: in that case, of course, your enquiry stops there - the case for the Prosecution would fall through: your enquiry will not need to be pursued any further; the case is just finished. But suppose you do take the other view, you do accept the evidence of the McKinnells because you find, as I have tried to explain to you, that the objections brought forward against their evidence are not such to induce you to disbelieve them; then we would have that Jean Broadhurst was killed and that she was killed by the act of her husband. That would dispose of the first two elements of the offence, but it would not by any means be

/the end.....

the end of your troubles. In that case you have to push your inquiry very much further. We thus come to the third and fourth inquiries, which for convenience we can take together. This is the most important and I am sure, also the most difficult of your tasks. I told you already that in order to bring the charge home to the accused the Prosecution must prove beyond reasonable doubt not only that the accused caused the death of his wife, but must similarly prove that he did it maliciously and with intent to kill her or, at any rate, to put her life in manifest peril. The Prosecution infers this intent from the act itself and from the circumstances in which it was done. Of course, so that in a crime of wilful homicide there may be the required intent it is not necessary that there should be premeditation. I know that you are paying attention to what I am saying to you and I wish to be as clear as possible on this point. Intent is not the same thing as premeditation. While intent is necessary, premeditation is not. Sometimes premeditation takes place, say in a case of armed robbery or in cases of poisoning where the crime is planned and thought out in advance: but intent to kill or to injure a person so as to expose his life to manifest peril can be formed on the spur of the moment, as happens almost always in all crimes of passion. The malice, the intent which is required for wilful homicide need not be aforethought except only in the sense that naturally every desire or intent or foresight comes before the external act. The theory of the Prosecution, as you know, is that on the night in question there was an argument between the accused and his wife and the accused in a fit of temper ran after his wife, beat her and threw her down the stairs. In so doing, the Prosecution says, the accused must have intended to kill her or, at least, having regard to the gravity of the head injuries caused, to cause her such serious bodily harm that death must have appeared to him to be the natural and necessary consequence of his action.

The Prosecution suggests, as I understand it, that the argument probably arose in this way. On returning home from the dance, the Prosecution alleges, the accused went up to the roof - there is no direct evidence at all on this: it is only a reconstruction which the Prosecution thinks is

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reasonable and is submitted to you as arising from the evidence produced - to do tom-peeping. About this business of tom-peeping I want to tell you something quite clearly. A very great deal has been heard about this business. You must in no way hold this against the accused even if you accept as a fact that the accused was a peeping tom. It is not intended as evidence of bad character. If it has any relevance at all it is simply and solely because the Prosecution thinks that this was the incident out of which originated this very serious crime; but that is all. The accused denied that he was a peeping tom. In any event I repeat that it has got no value at all as evidence of the crime charged and has no relevance except in the context which I am telling you. Now there is some evidence that the deceased objected or did not like her husband going on the roof by himself. I think the accused himself said that his wife was not pleased about his going on the roof and he admitted this also to the Police. If the argument started in that way (as I said, this is merely a piece of reconstruction done by the Prosecution) then it is easy to explain the noises of running on the roof and the banging down on the stairs. Questioned by the Police whether there had been an argument, you remember that the accused said that he did not remember, but added that it was quite possible, indeed probable, or likely, and he said this because he himself had two bites, one on his shoulder and one on his forearm. But the Defence has suggested another explanation of these bites. Learned Counsel said that they might have been caused as part of the sort of skylarking the accused and his wife used to indulge in for fun. Some evidence was produced to show that they used to chase each other on the roof and amuse themselves together in that way. The object of this evidence of skylarking is, as I understand it, to suggest to you that the events of that night were merely an incident of this fun without any malice whatsoever. Counsel suggested to you, or asked you to imagine, that the wife could have fallen down the stairs as the accused was chasing her in fun and, therefore, this was a case of pure accident. I do not know, but I do not think you will find very great difficulty in disposing of that suggestion. The circumstances appear to be hardly consistent with that explanation. To accept it would be to reject the whole of the evidence of the McKinnells and to

/disregard.....

disregard also the nature of the injuries, while it is a mere conjecture on the part of the accused if, as he says, he does not remember.

10 Although this skylarking business was thrown, left with you as a suggestion, the real substantial defence of the accused is exactly in those words 'I do not remember'. You may think that, as was once said by another Judge, this answer 'I do not remember' is easy to advance and difficult to refute or challenge; it offers a means of defence, perhaps even a refuge to a person who finds himself in a position of great difficulty or danger, and, of course, the greater the danger, the greater the motive for making an assertion of this kind. But easy though it may be to put forward such an assertion, I am afraid your duty is to examine it with scrupulous care and determination to do justice. The accused says that at the time of the alleged facts he was so drunk that he had, what has been called 'a black out' as a result of which he does not remember most of the events. Now, 20 Gentlemen of the Jury, properly speaking, what we are really concerned with in this enquiry is the intent of the accused; we are not really concerned with what the accused remembered consequently, after the event; what we are really concerned with is what his state of mind was at the time he did the act, assuming that he did it. But although subsequent remembrance or forgetfulness is not, strictly speaking, the object of our concern, let us see what the alleged amnesia amounts to. The accused says that there were two previous occasions when, after a bout of drinking, things happened to him which subsequently he did not remember. The first, I am 30 sure you know, was the occasion some days before he got married when he went to a party at the Collecott's. It was on the 21st August, 1959. He drank cocktails, we do not know the quantity but it would appear to have been a very large amount and then he started getting wild and started kicking cups and saucers. They put him to sleep. In the morning he got up to go to work and in order to go to work, he had to take a bus, but instead of boarding a bus, he climbed up a wall walked on it and fell off it and subsequently did not remember what had happened.

40 The second occasion was in Christmas 1960. On this occasion he drank a large amount of whisky, some two-thirds of a bottle, and afterwards was found lying asleep or in a stupor in the street by Jeffrey Foster who turned up yesterday after reading a paper. The accused on this occasion was picked up by this man, put in a taxi and taken home where Foster left him with his wife and the accused again does not remember what happened.

Now what have we got in the present case? Even on the evidence of the accused himself, the amnesia here is so patchy that the Public Prosecutor tells you it must obviously be faked. In fact the accused remembers a very large number of things in detail, indeed he remembers most of the details. He does not he says remember how he got from the dance up to Birzebbuga Square; but he remembers dropping the toy pistol there, picking it up, and seeing the petrol pump against the wall. Then again, he says, he does not remember how he got home from there: but he remembers looking down at his wife lying in a pool of blood on the stairs and describes in detail how and where she was lying; he remembers carrying her up to their bedroom, going to the next door flat, ringing the bell, saying something to Mrs. McKinnell, though he does not remember what. He remembers the door opening, remembers Mr. McKinnell slapping him on his face. Then he has a blank, but again he remembers seeing Lieut. Surgeon Clements treating his wife and telling him that his wife had a fractured skull. He remembers going back to the McKinnells flat being given a cup of tea and his telling them his wife had a fractured skull. He remembers going to sleep and being awakened in the morning by Mrs. McKinnell and given another cup of tea. After that he remembers everything. Now perhaps, you may think it strange that the real matter of importance which is skipped in the memory of the accused is how he caused the injuries to his wife, assuming you hold that it was he who caused them, and what he told the McKinnells about it. Eventually it is only these important matters that he does not remember. This then is his answer: he does not remember. But as I have already told you, the question really is not what the accused remembered or did not remember, subsequently to the fact, but what his state of mind was at the time of the deed.

The plea put forward by learned Counsel for the Defence is that the accused was so drunk that he did not and could not form the intent alleged by the Prosecution or indeed any other intent at all.

Now, I think, there cannot be any possible doubt that on the 22nd July the accused did have a number of drinks. He himself tells us in the afternoon he went with his wife and child to a picnic and drank five bottles of beer. This is confirmed by witness for the Defence Michael Shepherd.

/That was.....

10 That was before 8.30 p.m. There was then an interval of some three hours and again in the evening, the accused and his wife went to the dance. Accused says he drank in all some nine or ten bottles of beer and some four to six whiskies. You may remember that according to Superintendent Pace Bonello, the accused told him that he had drunk seven or eight bottles of beer. That does not matter very much looking at it as a whole. You may perhaps consider that this amount of alcohol is not small, is not inconsiderable. But as learned Counsel for the Defence told you, the effects of drinks, of alcohol, naturally vary with different people; the same quantity, that can make one person quite drunk, taken by another person, can have much less effect. Sailors and seamen are sometimes known to take very great amounts of beer without feeling much the worse for it, but it depends on the person, on the particular disposition on the particular day and on so many other circumstances; whether you mix the drinks or whether you take one type of drink all along, and so on.

20 Now according to our law, the basic rule is that intoxication, drunkenness, is not an excuse, not a defence, to any criminal charge. That is the rule and that is the point from which you have to start. Intoxication when it is voluntarily induced, when a person drinks because he wants to, is not per se accepted as a defence and there is no reason why it should. For quite obvious reasons intoxication per se, merely in itself is not an excuse for wrong doing. But then the law, after laying down this rule, also lays down certain exceptions.

30 There are two exceptions: when intoxication produces insanity and when intoxication is induced by the negligence or malice of some other person. These two exceptions, however, do not concern us at all in this case. They have not been pleaded by the Defence. But the law goes on to say: 'Intoxication shall be taken into account for the purpose of determining whether the person charged had formed any intention, specific or otherwise, in the absence of which he would not be guilty of the offence'. Most clearly this does not mean that because an accused person had, before committing the act, had a few drinks, or may be many drinks, therefore he is ipso facto excused. For the clearest

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possible reasons the law cannot be that. There is absolutely no presumption that because a person has had drinks, therefore he is incapable of committing crime. There is no such presumption whatsoever. If that were so nothing could be simpler to escape responsibility for even the most serious crime. All that the law means is simply this: that intoxication, if it exists, is a circumstance to be taken into consideration together with all the circumstances of the case for the purpose of determining whether the accused had, in doing the act, in perpetrating the deed, the requisite guilty mind. If it appears that he was so drunk that he was incapable of forming the intent required, then of course he cannot be convicted of the crime which is only committed when the intent is proved. But again this does not mean that drunkenness in itself is an excuse for the crime. It means only that the state of drunkenness may be incompatible with the intent and therefore the actual crime charged is excluded or negated by the presence of this incapacity. I am sorry I am taking so long about this explanation, but it is vital in this case and I would ask you to bear with me if I emphasise what the legal position really is. Therefore evidence of intoxication falling short of a proved incapacity in the accused to form the intent necessary to constitute the crime and merely showing that his mind was affected by drink so that the accused more readily gave way to some violent passion does not rebut the presumption that a man intends the natural consequences of his acts.

Now, having stated as fully as I can - I hope correctly - what the law says on intoxication, does the evidence show that the accused was so incapable? In favour of the accused there is the evidence that he was in great mental anguish. He cried and sobbed and shook. But you may think that this is not surprising at all. Indeed in the circumstances it would have been surprising and you would probably have required an explanation if it had not been so.

/There was.....

There was his wife who was injured to death. That there should be remorse or shock after the event may be perfectly consistent with the fact and is not necessarily related to the drunkenness. In fact you may think that perhaps the state of anguish may have some little weight to show that he was not all that incapacitated by the drunkenness to form appreciating the situation and realizing what had happened. The point is that all the sobbing, all the crying, all the shaking does not for one moment show any loss of consciousness. As I say, indeed, probably it shows the contrary and, I say again, in any event is not necessarily related to the drunkenness at all. But on the drunkenness itself, one or two witnesses, Lieut. Clements and Jackson, say that the accused smelt of drink. Jackson says that the accused was vague and rather sloppy and he came to the conclusion that the accused was under the influence of drink. Clements carried out what he described as a superficial test and his last conclusion when he came here before you was that he was not prepared to say that the accused was drunk and was sobering up; he was only prepared to say that the accused had been drinking and was sobering up. That is all Lieut. Clements says.

It will be observed, and I think I am perfectly right in saying it, that not even these two witnesses say that the mind of the accused was in any way blurred or offuscated. From all or at any rate from most of the other witnesses we have it that the accused was normal, that he walked steadily, that he answered questions appropriately even detailed questions like for instance those asked by Derick Bentley for the purpose of drawing up the form for admission to Hospital. So far as it appears the accused found his way back home unaided, boarded a moving bus, alighted while the bus was still moving and it is not surprising that he was going to fall, picked up something which he had dropped, spoke coherently to Mrs. McKinnell, to the patrol men and to Lieut. Clements, and he could remember, as I have already told you, most of the things. Now do you think that this is the picture of a man who had lost his capacity to think, his consciousness and his understanding so that he was incapable of appreciating what he was doing and the nature both physical and moral of the consequences

/of his.....

of his actions? This is what learned Counsel for the Defence is inviting you to say. If your answer is no, in other words if, in accordance with the evidence, if you accept it, you take the view that the accused was not by reason of intoxication incapable or forming the requisite intent you will proceed to enquire whether, capable though he was, he in fact formed it.

10 The evidence seems to leave no doubt that the accused and his wife were an affectionate couple. It seems indeed that the accused rather pampered his wife. They had their differences but I do not think that according to the evidence there was anything serious. Mostly these differences arose because the wife seems to have been rather possessive, as the accused himself said; and exacting. Now, on the evening of the 22nd July they went together, the accused and his wife, to the ball and they appeared to witnesses as normal. The wife it seems was not wholly enjoying the entertainment though it is not clear why, and she left before the accused. When she was last seen by Mary Gafa she appeared 20 to be happy that her husband had won the first prize in the competition. This is all so. But, Gentlemen of the Jury, I must tell you that nothing, in all this necessarily excludes the formation of the intent. I have told you already that intent does not mean premeditation and it can be formed instantaneously. Malice in the crime of wilful homicide does not mean previous hatred or spite. If a sudden incident 30 arose when the accused returned home and in a passionate rage he assaulted his wife and threw her down the stairs meaning to kill her or at any rate meaning to put her life in manifest danger, that is to say meaning to cause her such injuries that the probability of death following must have presented itself to his mind, then he is guilty of the crime charged against him in the indictment. In forming your conclusion you will naturally give proper weight to the words which, according to the evidence of Brenda McKinnell were said by the deceased at the time of the aggression, if you believe that those words 40 were said; the words said by the deceased at the time of the aggression were: 'Malcolm, stop it; you are going to kill me' together with the words of the accused himself 'That's the end of that'.

Now, if you find that this intent was formed in either of its two alternatives, either to kill or to cause

/previous.....

grievous bodily harm, so grievous indeed as to expose the life of the victim to manifest danger, and, of course, if you accept the evidence that it was the accused who did the act, then there is nothing else that you can do in accordance with your oath but to find the accused guilty according to the indictment.

10 But suppose you take the view that the Prosecution has not proved to your satisfaction, that is to say as I told you, beyond reasonable doubt, that the accused was in fact capable of forming the intent and in fact formed it, then of course you cannot find the accused guilty of the crime which is charged against him. But in that event your labours will not have been quite exhausted yet. In other words if you take the view that the specific intent of wilful homicide is not proved and you acquit the accused of that charge, that does not mean the end of your enquiries. Every-
 20 one knows that the impairment of the mental faculties induced by drink can be of varying degrees. It may well be that a person who has drunk and who by reason of intoxication is incapable of forming the intent required by one particular crime, may yet be perfectly capable and sober enough to form the intent required by some other crime: it depends on the kind of intent which is required.

30 Now, what I am coming to is already known to you: it is a submission which has been made to you by learned Counsel for the Defence. Of course he told you that in this case the accused was so completely drunk that he was incapable of forming any intent at all. But then he also told you that if you exclude the intent of homicide you may consider whether there was the intent of the lesser crime of grievous bodily harm followed by death, although he wished you to exclude that also. The difference is this. In wilful homicide the law requires - because that crime is the most serious of all - a rather elaborate intent. We call it a specific intent. The co-er must want, must intend to kill or, if not positively and directly to kill, to bring the victim, so to say, to the very brink of death. That is wilful homicide. But for the crime of bodily harm, of whatever gravity, the law does
 40 not require a specific intent. It is satisfied if the person who causes the bodily harm, however serious, had the generic

/intent.....

intent to cause any harm, if he acted in a hostile manner to
 the victim intending to hurt. Now, quite apart from this
 case, in principle you may think it obvious that a person may
 have in mind this generic intent although he may be under the
 influence of drink. While his state of drunkenness may so
 befuddle his mind as to disable him to form the intent of
 wilful homicide, his mind may yet be clear enough for him
 to realise that the act he is doing is going to cause harm
 of some kind. In the present case if you exclude the charge
 10 of wilful homicide as regards the accused, you must consider
 whether there cannot be against him the crime of bodily harm
 from which death ensued. Jean Broadhurst received injuries
 as a natural consequence of which she died. If it was the
 accused who inflicted these injuries, and if when he did so
 he had the intent to hurt her it does not matter in what
 degree - and you will bear in mind those words 'Stop Malcolm,
 you are going to kill me' - then you can find him guilty of
 the crime of causing bodily harm from which death ensued.
 As I say, you should undertake this further inquiry in the
 20 hypothesis that you exclude the charge of wilful homicide,
 because you find that the specific intent of that crime has
 not been proved to your satisfaction by the Prosecution.
 In that case, I repeat, you will consider, if the accused
 did the act, whether he did it with an intent to hurt, and
 if you so find then you can find him guilty of the crime of
 wilful bodily harm from which death ensued as a result of
 the nature and natural consequences of the offence.

I have about finished, Gentlemen of the Jury, but
 simply because learned Counsel for the Defence has also
 30 made reference to another kind of crime which conceivably,
 in his view, might be considered as fitting the circumstances
 of the case, I am going to just mention it to you. He
 suggested that at the utmost what you could find the accused
 guilty of was involuntary homicide, and he said that you
 should consider this if, as he hoped, you accepted the sub-
 mission that the accused was, on account of drunkenness,
 incapable of forming any intent at all. The crime of invol-
 untary homicide, unlike wilful homicide and also unlike wilful
 bodily harm from which death ensues, does not require any
 40 intent, it is committed by mere negligence on the part of
 the accused. I do not know precisely what learned Counsel

/meant by.....

meant by negligence in the present context whether he makes it consist in the skylarking as he called it, or in the very act of the taking of the drinks. Well, there it is: but as I said, you need not trouble yourself with this third hypothesis unless you have first excluded not only the crime of wilful homicide but also that of bodily harm.

10 Gentlemen of the Jury, you will observe that I have not mentioned every particular circumstance which has come out in the evidence given by the various witnesses. I have dealt only with those parts which I thought in the name of the Court it was necessary to direct your attention particularly, because they have importance concerning the matters about which I have talked to you; but the fact that I have omitted to mention them does not mean for a single moment that I want to shut out from you any part of the evidence at all. The evidence is all there before us. You have heard the witnesses both for the Prosecution and for the Defence. You have heard the evidence given by the accused himself. You will consider all this evidence; you will take into consideration the submissions made to you by the Prosecution and the Defence, bearing in mind also what I have told you, and then you will give such verdict as you will think right according to your conscience.

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At the Court at Buckingham Palace

L.S. The 30th day of May, 1963

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

LORD PRESIDENT	MR. RIPPON
EARL OF DUNDEE	MR. CARR.
MR. SECRETARY PROFUMO	

10 WHEREAS there was this day read at the Board a Report
from the Judicial Committee of the Privy Council dated
the 15th day of May, 1963, in the words following, viz.:-

20 "WHEREAS by virtue of His late Majesty King
Edward the Seventh's Order in Council of the 18th
day of October 1909 there was referred unto this
Committee a humble Petition of Malcolm Stewart
Broadhurst in the matter of an Appeal from the
Criminal Court of Malta between the Petitioner and
Your Majesty Respondent setting forth that the
Petitioner seeks special leave to appeal in forma
pauperis from the decision of the Criminal Court
of Malta dated 28th October 1961 whereby he was
acquitted of murdering his wife Jean Peggy Broad-
hurst but was found guilty of causing grievous
bodily harm from which her death ensued and was
sentenced to fifteen years imprisonment with
hard labour: And humbly praying Your Majesty in
Council to grant to the Petitioner special leave
to appeal in forma pauperis to Your Majesty in
Council from the Order of the Criminal Court of
Malta dated the 28th October 1961 and for further
30 or other relief:

"THE LORDS OF THE COMMITTEE in obedience to
His late Majesty's said Order in Council have
taken the humble Petition into consideration and
having heard Counsel in support thereof and in
opposition thereto Their Lordships do this day
agree humbly to report to Your Majesty as their
opinion that leave ought to be granted to the
Petitioner to enter and prosecute his Appeal in
forma pauperis against the Order of the Criminal

Court of Malta dated the 28th day of October 1961:

"And Their Lordships do further report to Your Majesty that the proper officer of the said Criminal Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal."

10 HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to Order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor and Commander-in-Chief or Officer administering the Government of Malta, G.C., for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

W.G.AGNEW.