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SPECIAL INQUIRY

THE HONOURABLE ACTING JUSTICE ROBERT ALLAN HULME

5 SECOND DAY: TUESDAY 5 DECEMBER 2023

INQUIRY INTO THE CONVICTIONS OF THE CROATIAN SIX

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HIS HONOUR: Are we ready with Mr--

MCDONALD: Your Honour, there were some administrative matters to begin with.

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HIS HONOUR: Certainly. Ms Bashir.

BASHIR: Your Honour, I seek leave to appear on behalf of James Bennett.

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HIS HONOUR: Yes. Anyone wish to say anything about--

MCDONALD: No, your Honour.

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HIS HONOUR: No. I grant you leave.

MCDONALD: Your Honour, there are just some administrative matters that Ms Epstein will deal with.

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HIS HONOUR: Yes. All right.

EPSTEIN: Your Honour, a document has been prepared that summarises what I had read onto the record yesterday in respect of the tender bundle and that your Honour had asked to be marked for identification.

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MFI #4 OUTLINE OF DOCUMENTS TENDERED ON 04/12/23

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Your Honour, the other matter is that yesterday Exhibit 8, containing documents relevant to Joseph Stipich, were tendered into evidence, and during the course of opening, a number of photographs were shown. There are currently black and white photographs in the Exhibit folders before your Honour which were shown on screen yesterday. Since that time, colour photographs have been obtained, and I seek leave to uplift the black and white photographs and replace them. I can provide your Honour with a copy now for the purpose of the examination today, and then, at an appropriate time,

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HIS HONOUR: All right. That's fine. That's it. Okay.

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MCDONALD: Yes, your Honour.

<VJEKOSLAV BRAJKOVIC, RESWORN(10.02AM)

<EXAMINATION BY MS MCDONALD

5 Q. Please state your full name?
A. My name is Vjekoslav Brajkovic.

10 Q. If I can spell that, it's V-J-E-K-O-S-L-A-V B-R-A-J-K-O-V-I-C?
A. That's correct.

Q. You are currently retired?
A. I am retired, yes.

15 Q. Mr Brajkovic, you have prepared for this Inquiry a statement?
A. Yes.

MCDONALD: Your Honour, the statement is to be found at Tab 15.4.

20 Q. I'll hand you a copy of your statement. Have a look at the document. It's
11 pages in length, and right at the last page, there appears to be some
signatures. Have you gone to the last page; page 11?
A. Last - 14. Was that - yes.

25 Q. At the top of the page, is that your signature?
A. Yes.

30 Q. You had an opportunity to read through this statement before you signed
it?
A. Yes.

35 Q. As you said in your statement - and I wish you to confirm that now - it's true
and correct to the best of your knowledge and belief? The contents of the
statement--
A. Yes.

Q. --are true and correct to the best of your knowledge and belief?
A. There was some glitch, I believe.

40 Q. Do you remember what the glitch was?
A. Just a second, please. That's what I wrote this after. First, I saw a white
plastic bag which police claim they find in my front yard.

45 Q. Could you pause for a minute--
A. Pause.

Q. Which paragraph number?
A. Number 4.

50 Q. Number 4?
A. Yes. The - sentence 21.

HIS HONOUR: From my angle, it looks like he's looking at page 4.

MCDONALD

5 Q. Page 4 and?

A. 21.

Q. The paragraph that commences, "The first time"?

10 A. "First" - yes.

Q. Which is paragraph 21?

A. Yes.

Q. Was there something in that that you wished to correct?

15 A. Yeah, I said "first time I saw white plastic bag, which police claimed they find in my front yard, was at committal hearing in Low Court". Now, those words "find in my front yard", police didn't claim that one - they find in my front yard. They find - they claimed they find it outside on council's property in between large tree and a scrub tree. So it is outside the domain of my
20 premises.

Q. It was outside the boundaries of your premises or your house; is that correct?

25 A. The fence - portion of the property is the house, shed and surroundings. So beyond my boundary, outside, in between the - in the footpath that constitutes of that empty space or grass - there is grass interwoven with scrub tree.

30 Q. Mr Brajkovic, we might just come back to that in a minute. There was a photograph that I wanted to show you about that, so we'll come back to that in a minute, if that's all right?

A. Okay. Yes.

35 Q. In the meantime, can I ask you, in your statement you refer to giving evidence at your trial?

A. Yes.

Q. If you want to look in your statement; again, page 4, paragraph 23?

40 A. Page 4, paragraph?

Q. 23?

A. Yes.

45 Q. It commences, "My lawyers"?

A. Could I read this?

Q. I just want to ask you something about it. If you look at that paragraph, there is a table which sets out transcript references to the evidence that you gave at the trial?

50 A. Yes.

Q. Do you see that on that page?

A. Yes.

5 Q. In preparation of your statement, did you go back and read the transcript of the evidence that you gave at the trial?

A. Yes.

10 Q. With two exceptions, which I'll come to in a minute, the evidence that you gave at the trial is true and correct to the best of your recollection and belief at the moment?

A. Evidence that I give on the trial and voir dire, there was discrepancies toward my manner that I give evidence - I was excited and I was talking too fast, and transcription in between what I said and what was recorded, there is some.

15

Q. There are some gaps, are there?

A. There - yes.

20 Q. Your evidence that you gave in the voir dire, that is before his Honour in this Inquiry. It's part of the evidence that his Honour will take into account.

A. I don't understand this, please. Could I come near you or you come here?

Q. Can you hear me?

25 A. Could I come near you in front of you or - because just talk to me so I could understand.

Q. Are you having difficulties hearing me?

30 A. Yeah, I have lots of noise, same like yesterday but it's now different. Each time when I put a finger into my ear and separate it, there's something that's making noisy. When I put a finger like this and I pull back, it's nice.

Q. Do you think wearing the hearing loop--

A. No, this is very - it's annoying me with the noise.

35 Q. It's not helpful?

A. It's amplifying noise.

Q. That doesn't sound as if it's helpful?

40 A. It's diverting my mind onto things so I couldn't concentrate.

Q. I'll take you back. When you were in the Supreme Court back in the 1980s, do you remember that you gave evidence and, at times, it was described as being evidence on the voir dire?

45 A. I understand I did give evidence on voir dire.

Q. Also you gave evidence when the jury was there?

A. Yes, trial.

50 Q. You have read, when you were preparing this statement, all the transcript of your evidence in the Supreme Court; that's correct?

A. Yes. Everything that's - that was given to me and it was - it is contained in this, I read.

Q. In the table?

5 A. Yes.

Q. You've read?

A. Yes.

10 Q. If you go to paragraph 25 of your statement, that's at the bottom of page 5?

A. Yes.

Q. Do you see there that you make two corrections to the transcript of your evidence in the Supreme Court?

15 A. Yes.

Q. The correction is you confused some names of some detectives?

A. Yes.

20 Q. When did you realise that you'd made that mistake?

A. When I was reading the transcripts.

Q. In preparation for this?

A. Yes.

25

Q. Could we go back to that paragraph 21 that you drew my attention to?

A. Yes.

30 MCDONALD: Your Honour, there is an Exhibit from the trial that I wish to show the witness. It's in Volume 27, Tab 4.1-OO, so it would've been Exhibit OO at the trial. Exhibit OO from the trial, if that could be shown to the witness.

Q. Do you see that's a photocopy of a photo--

35 A. Yes.

Q. --that was in your trial? Do you recognise the house in the photo?

A. The - I recognise, yeah.

40 Q. That was your house?

A. Yes.

Q. Also there's some handwriting which has got, "Number 16 Restwell", and then also some handwriting with "Shed"; do you see that?

45 A. Yes. May I inform you that this house is - was not actually mine house. It was the Land and Environment Commission that I hire.

Q. But that's where you were living at the time?

A. Yeah.

50

Q. Looking at the photograph, when you were saying that the police claimed they found the plastic bag outside the boundaries of your property, or the property where you were living, can you give an indication where that was on this photograph or photocopy of a photograph?

5 A. Do you have a - could I borrow your pencil, please?

MCDONALD: Could your Honour excuse me?

10 HIS HONOUR: Yes.

MCDONALD: Your Honour will replace the original copy, and I'm just asking if anybody might have a red pen.

15 Q. I'll give you this red pen, and with a cross could you mark where--

A. It--

Q. --you recall being at the time when the police found you?

20 A. What the police said, it cannot be indicated here because in between this large trunk tree, and is but this is the scrub. There is the space about six - couple metres.

HIS HONOUR: Isn't there a photograph that looks side on at this same area and might show the gap between the bush and the tree?

25 MCDONALD: Your Honour, there's another colour photograph at Exhibit RR, so Exhibit 4.1-RR.

Q. Just while we're getting that, is your evidence with this photo that there's the large tree, and then there's some bush?

30 A. Yes.

Q. This is Exhibit RR from the trial, and you're just being handed a copy of it.

A. Thank you. Thank you.

35 Q. That photograph, which is from a different perspective, can you see the house is in the background towards the right?

A. Yes. This is the entrance here. This is very good photograph. I never - I didn't see it before. And this is, like, small driveway here leading, and you enter here.

40

Q. Can I just stop you? You're pointing to things, and we can't see what you're pointing to.

A. Yeah, yeah.

45 Q. Maybe if you, to begin with, hold up that copy. Yes. You pointed to the entrance.

A. This here - this - this here on the back, that's the fence. Fence of the premises that I was living. So immediately here, near that - the big tree, there is the fence behind. So you understood what I point here on my statement, that police did not claim that they find in front yard, but it was - claim was that

50

they are - find it here. About ten, 15 foot wide. Ten or 15. This is the fence, and this is the premises. House, shed.

HIS HONOUR

5

Q. Yes, but what you're saying is it was outside the front fence of--

A. It was - that's--

Q. --the property where you lived.

10

A. That's what I want to point. And that evidence - it was given in evidence on the two different spots, and one of the officers, the guy in charge of this operation, he's called Sergeant Turner. He said that police, after searching this premises, in the - searching this building, the police find the explosives.

15

HIS HONOUR: I don't understand what he just said then.

MCDONALD

20

Q. Mr Brajkovic, have a seat, and I'll just get you to confirm some things that you just spoke to his Honour and pointed out some things on the photograph. You spoke about a big tree, and you indicated the fence to the property where you were living. Do you remember that?

A. Yeah. Yeah.

25

Q. With a square, can you indicate the area that you pointed to his Honour where there was the tree just in front of the fence? Can you mark that for me?

A. That's the tree here.

Q. Can you, with the red pen, put a square?

30

A. Yeah, I'll just put a cross. This is the small cross here. This is the tree.

Q. You also started giving some evidence to his Honour. You spoke about the officer-in-charge, Sergeant Turner. Do you remember that?

A. Yes. Yes.

35

Q. Were you saying that Sergeant Turner, to your recollection, gave evidence about where the white plastic bag was found?

40

A. Not white. Not white plastic bag. But he said they're searching the premises, searching the building, this building. That's the building house. That's what he pointed. House. Searching the building, police find explosives, detonators, and all these things that you mentioned into back. He - that's the house. That's the house. Another police claim that they find it in this vicinity here.

45

Q. You're just pointing to something. This time, with a "Z", can you mark on that page where the other officer indicated the vicinity in which explosives were found. What have you marked that with? I can't see. Your Honour, could I just have a quick look, please?

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HIS HONOUR: Yes.

MCDONALD

Q. You marked that with a "Z" and then--

A. Yes.

5

Q. --an arrow going down. That indicates the vicinity.

A. Thank you.

Q. This other officer who gave evidence at the trial that he found explosives around that area that you've marked with a "Z"--

10 A. Who - which one is this? You want the names.

Q. Do you recall the name of the officer?

15 A. One of the particular that was putting accent of the finding, it was that Detective Helson from Special Branch.

Q. Was his evidence that it was found in the white plastic bag?

A. Yes.

20 Q. That's correct?

A. He said he noticed certain, and he said, "Look. Somebody look at it. What is that?" And that's how they said they find the white plastic bag.

25 Q. Can I just ask you about paragraph 21 in addition? You say that the first time you saw this white plastic bag was at your committal hearing in the Local Court?

A. That was presented at Local Court, yes.

30 Q. Were you shown the white plastic bag when you were taken back to CIB headquarters on that night?

A. No.

35 Q. When you were discovered in that area near the scrub on the night when the police arrived at your house, were you shown the white plastic bag then?

A. No. No.

40 Q. I'm just confirming, as you say in your statement, the first time you saw it was when it was tendered in evidence at your committal hearing.

A. Yes.

EXHIBIT #16 COPY OF EXHIBIT 4.1-RR WITH MARK UPS MADE BY
VJEKOSLAV BRAJKOVIC TENDERED, ADMITTED WITHOUT OBJECTION

45 MCDONALD: No further questions, your Honour. I think we might have to retrieve another page.

HIS HONOUR: That's the copy of Exhibit 4.1-OO.

50 MCDONALD: Yes. If that could be put back into the volume.

HIS HONOUR: I declined to have Exhibit 16 handed up to me, but could that be handed up to me? I should give it to my associate to mark.

<EXAMINATION BY MR BUCHANAN

5

Q. You talked about Sergeant Turner having said something about the white plastic bag being found.

10 A. No, he didn't say white plastic bag, but he said explosives and other stuff. And police find explosives - searching of the building, police find the explosives.

Q. In what sort of proceedings or Court was it that you heard Sergeant Turner say that?

15 A. That was my application for the bail. In front of that Yeldham J.

Q. Thinking of you saying that an officer from Special Branch had something to do with the claimed finding of the white plastic bag, I'm going to put a name to you and ask you whether you recognise that name. Helson.

20 A. Helson is the officer associated with the Special Branch.

HIS HONOUR: Sorry, Mr Buchanan. Didn't he name Officer Helson when he was talking about--

25 BUCHANAN: I didn't hear it in that case. I apologise.

HIS HONOUR: I thought he said Helson was the man who said it was found in the location that he has now marked on Exhibit 16.

30 BUCHANAN: I sit down. Thank you, your Honour.

HIS HONOUR: Yes. I'm at a loss as to what the appropriate order of examination or cross-examination, or whatever it might be called, should be. Do we have any arrangement amongst the parties?

35 MCDONALD: We were just going to suggest follow the room, your Honour.

<EXAMINATION BY DR WOODS

40 Q. Mr Brajkovic, in your statement, the most recent statement, you refer to being in custody at Long Bay.

A. Yes.

Q. And seeing Detective Wilson.

45 A. Sergeant Wilson.

Q. Yes. Detective Sergeant Wilson.

HIS HONOUR: Dr Woods, could you assist with whereabouts in the statement?

50

WOODS: It's at paragraphs 38 to 44, your Honour.

Q. You say, in paragraph 38, "On one occasion, Sergeant Wilson visited me in
gaol at Long Bay." You see that?

5 A. Which paragraph? That was page 7, is it?

HIS HONOUR: Page 9.

WOODS

10

Q. Page 9.

A. Page 9. What was paragraph?

Q. Paragraph 38.

15

A. 38.

Q. 3-8.

A. Yes.

20

Q. Then 39, 40, 41, down to 44. You see that?

A. Yes.

Q. I suggest to you, Mr Brajkovic, that that conversation did not happen at all.

25

A. How? How know - how you know that?

Q. What do you say to that?

A. I am saying that exactly what's written here, that it took place.

Q. Did you mention that at the trial?

30

A. I mention at the time of the trial to my lawyer.

Q. In any event, you recall that it was a prison strike.

A. What was that?

35

Q. You recall that this was a time when there was a prison officers strike.

A. Yes.

Q. Did you see Sergeant Wilson walking around the yard?

40

A. No.

Q. What, are you suggesting he came to visit you, did he?

A. No. He - they were distributed food.

45

Q. Did you write this down recently, the conversation that you're talking about
here?

A. Recent, no. That was conversation known to me for a long time. 40 years.

Q. You remember this from 40 years ago, do you?

50

A. I - there's - this is something like big one in the case.

Q. In any event, I put it to you that that conversation did not occur. You don't agree with that?

A. It did occur.

5 Q. You marked the photograph that's just been put into evidence, the photograph of Restwell Road; do you recall that?

A. Yes.

Q. You said it was a good photograph?

10 A. It is good photograph, yeah.

Q. You said you'd never seen that before?

A. No, I said now - I make observation now. It is good photograph. I never this - I never see it before like in that form.

15

Q. Had you seen it in some other form?

A. I have seen the exhibits but not at present to any kind of recollection, especially one exhibit or another one. There were exhibits and - that was shown on the Court trial.

20

Q. That house was some distance from any other houses, was it not?

A. Yes.

Q. There's hundreds of yards between that house and some other house?

25

A. It could be very well, yes.

Q. What the police claim they found was just on the edge of your boundary; was that right?

A. Yes.

30

Q. You say that you hadn't seen that bag until you got to court?

A. No.

Q. I put to you that that's false; do you agree with that--

35

A. What was that? What--

Q. I'm putting to you the proposition that you knew that bag because it was your bag?

A. No I don't, it is not my bag. I don't recognise it by anything.

40

Q. The contents in it were contents that you knew about at the time. What do you say to that?

A. I'm saying that's not true. It's incorrect.

45

WOODS: Your Honour, I take it from what your Honour said yesterday that there's no need for us to attempt to comply with every aspect of the rule in *Browne v Dunn*. Otherwise, I have no further questions for this witness.

NO EXAMINATION BY MS NEEDHAM

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HIS HONOUR: Ms Bashir?

5 BASHIR: Your Honour, on that basis just indicated that it's no need to comply with the rule in *Browne v Dunn*, and the evidence was given in the trial, your Honour, no questions.

NO EXAMINATION BY MS BASHIR AND MR BROWN

10 HIS HONOUR: Just to make clear, I think, given Mr Brajkovic gave evidence at the trial and was examined and cross-examined in detail, there's no point served by repeating all of that. I just wanted to make that clear.

<THE WITNESS WITHDREW

15

<JOSEPH STIPICH, SWORN(10.35AM)

<EXAMINATION BY MS MCDONALD

5 Q. Mr Stipich, could you state your full name?

A. My name is Joseph Stipich. Can everybody hear me?

Q. Yes, we can.

A. My name is Joseph Stipich.

10

Q. Mr Stipich, your occupation was a casual factory hand labourer?

A. Yes.

Q. Have you recently retired?

15

A. I am retired, yeah, since second half of August this year. I'm retired. Reached my 67 years of age and the work I was doing is pretty - was pretty physical, so I couldn't continue anymore. Yeah, I'm retired.

Q. For the purposes of this Inquiry, you've prepared a statement?

20

A. What's that?

Q. For the purposes of this Inquiry, you've prepared a statement; that's correct?

A. That's correct, yes.

25

MCDONALD: Your Honour, the statement is to be found as Exhibit 8.5.

Q. Mr Stipich, I noticed you had an envelope and you've put onto the table in front of you a number of documents?

30

A. Yes.

Q. One of the documents, does that include a copy of your statement?

A. Yeah.

35

Q. Have you made any notes on your statement?

A. No.

Q. What we might do is put all that material to one side and I'll show you a copy of your statement that the Inquiry has; is that all right?

40

A. Yes. Yeah, that's fine. I don't need the statement in front of me. I know everything by heart. I remember.

Q. Why don't you put your documents to one side?

A. Yep.

45

Q. I'll give you that document. Have a look at it?

A. I would like, when somebody speaks with me, to speak to microphone. I have a hearing problems. My left ear is very - 80% can't hear, and the hearing aid doesn't work, and the right hearing - I can hear you but it has to be through the microphone to hear you nice and clear.

50

Q. If you can't hear me or anybody else, speak up immediately?

A. Yes, I will, thank you.

5 Q. I've given you a copy of your statement. Have a look at it. It's 15 pages long?

A. Yeah.

Q. Go right to the end, page 15?

10 A. Yes.

Q. You can see it's dated 15 September 2023?

A. That's correct, yes. I can see that.

Q. There's a signature on that page?

15 A. Shall I put my signature? I put my initials.

Q. You've put your initials on every page, have you?

A. Yes, I did, yes.

20 Q. The signature on the last page is the witness when you prepared your statement?

A. Yes. Yeah, that's correct, yes.

25 Q. The statement that you've prepared, you've had a chance to recently read through it?

A. I read it couple times. Once I prepare - once I done it and I read it a couple days ago when I was called to come here for - to give evidence. I read it twice. I have something missing, I didn't put there. I can add that.

30 Q. With what's written in your statement, when you read through it again, was there anything you wished to change?

A. No, I don't want to change anything.

Q. It's true and correct to the best of your knowledge and belief?

35 A. Yes, it is.

Q. I'll ask you some questions about certain parts of your statement. You speak about meeting and associating with certain people. I think originally you met the Kokotovic brothers; that's correct?

40 A. Yes.

Q. How did you meet them?

45 A. Kokotovic brothers, Ilija and Josip - Joseph - they were very informed about Croatian politics, about problems in Croatia, so in front of the - at the church, there was always discussion. He was a very eloquent speaker, Ilija, and I liked that. He was polite, he was logical. That's how I met Ilija and Joseph, and later on, Mile Nekic.

Q. The first people you met were the Kokotovic brothers?

50 A. Yes.

Q. That was primarily through your church?

A. Primarily in front of the church, yes, after the mass. Yeah, after the mass.

Q. Mr Nekic--

5 A. Yes.

Q. --did you meet him through the brothers?

10 A. I met him through the brothers but I knew him by face. He was also active in selling Croatian weekly magazine from Zagreb. During 1971, that was published. He was selling that type of paper from - published in Croatia during Croatian Spring. There was a time in Yugoslavia that was a democratisation. Yeah, I - but I didn't know him personally. I met him through - when he - in 1974, I got introduced to him through Ilija and Josip Kokotovic, yeah. Through Kokotovic brothers, yes. Because he got married with Ilija and Joseph's sister.

Q. He became part of their family?

A. That's right, yes.

20 Q. After meeting those three men, I think in your statement you said Ilija Kokotovic introduced you to Tony Zvirotic?

A. Yes.

25 Q. Where did you meet him? In what circumstances were you introduced to him?

A. Well, after mass one Sunday, they invited me to their place to meet his parents. I got introduced to Marko Kokotovic, his father, and Kaja Kokotovic, his mother. I got introduced to Josip. I knew Josip - his wife, Lydia, yes. 1974.

30

Q. What about Tony Zvirotic? When did you first meet him?

A. Tony Zvirotic, I think I met him sometimes in '76.

Q. Where did you meet him?

35 A. I met him for - Ilija introduced me to him in front of Croatian church, Catholic Church at the St Anthony of Padua at Summer Hill.

Q. Mr Brajkovic.

A. Yes.

40

Q. You met him as well during the 1970s.

45 A. Yeah. During 1975, I think earlier. He was a member of Croatian National Council. He was a sympathiser with Croatian Republican Party that were publishing Republika Hrvatska magazine that published every quarterly a year. And yeah, he, you know - Vjekoslav Brajkovic was also sympathiser, member of Croatian National Council Rakovica group, and I'm not sure was he a member of Croatian Republican Party. I know Ilija, Joseph, and Mile Nekic were members. I was sympathiser, and Rakovica group was a part of ANC Council - National - Croatian National Council. That had all the people who are supporting Croatian freedom and independence.

50

5 That doesn't mean they are members of Croatian Republican Party. Croatian Republican Party only accepted members that are well educated, responsible, and eloquent in expressing their ideas, and they were more concerned with problems in Croatia, not in local Australian community. So they were trying to so - help people in Croatia that were in gaol. Like, at that time, there was a lot of Croatians in gaol, so Yugoslav gaols, from intellectuals to political activists or authors, journalists, and generals who were - disgruntled communist party members.

10 So we gave them early - they had a voice through Croatian Republika - Croatian magazine, Republika Hrvatska. They had a platform there to express their views, their opinions, and their solutions to the problem.

15 Q. Can I just confirm, upon until February 1979 - I'm just concentrating until then.

A. Yes.

20 Q. You were a member of the Croatian National Council.

A. That's correct. The Croatian National Council Rakovica branch in Sydney.

25 Q. Your evidence is that it was more concerned with looking after Croatians who were living in Australia.

30 A. Not really, no. They were looking - we were helping people who were working in Croatia, giving them a platform to express their free views to the problems that Croatian people face in Yugoslavia at that time. So we're not that much concerned about local Australian people. We were trying to promote the awareness that we need as a free people in Australia of Croatian origin to help those people who are struggling, to give them a little moral support. Yeah, we were selling - selling their books..(not transcribable)..they got political asylum in Western Europe or America, USA. We were helping the - selling their books or Croatian authors that were Yugoslav gaol. They still managed to publish the books. We were selling those books to help them financially and morally.

35 Q. Can I ask you, how did the Croatian National Council differ from the Croatian Republican Party?

40 A. Croatian National Council, it's a worldwide organisation consisting of many or all political or most of the political - actively political forces in diaspora who were supporting Croatian freedom and independence. Croatian Republican Party was also - it was a founding member of the Croatian National Council with other organisations. And Croatian Republican Party was separate. They were not part of an activity or - they were supporting as - because they had their branches over ANC that were sympathisers with Croatian Republican Party. They had the branches here. All over the world. Australia, Western Europe, USA, Canada, South America.

45 Q. Again, just concentrating on up until February 1979.

A. Yes.

50 Q. Your evidence is that you weren't a member of the Croatian Republican

Party, but you were a sympathiser.

A. That's right.

Q. Is that correct?

5 A. That's correct. Yes.

Q. After February 1979, did you join the Croatian Republican Party?

10 A. Most leaders - leading members of the Croatian Republican Party in Sydney, like, Mile Nekic, Joseph Kokotovic, Ilija Kokotovic, Vjekoslav Brajkovic, they were gaol. They were together with me.

Q. No.

15 A. No. After - yeah, after I joined the Republican Party because I was a sympathiser. I agreed with their program, with their policies, their activity because it was all legal and proper.

Q. The answer--

A. But mostly, I joined the help people.

20 Q. No. Just please pause. Just pause. The answer to my question is after February 1979, you did join--

A. Yes.

Q. --the Croatian Republican Party.

25 A. Yes. Yes, I did. Yes.

EXHIBIT 8.1 SHOWN TO WITNESS

30 Q. Mr Stipich, this is a document that the Inquiry obtained from the Supreme Court records dealing with the trial of the Croatian Six, and can you see it's a document that refers to you, and at the top, "Brief antecedents relevant to Joseph Stipic?" Do you see that?

35 A. No. No. I can't see - I'm not sure what you're referring. I have got two pages here.

Q. I think it's the same document, and if you look at the top of the page, it should say, "Brief antecedents relevant to Joseph Stipic."

A. Yes, I can see that.

40 Q. "Born 15 August 1956."

A. Yes. I can see that.

Q. Do you see that?

45 A. Yes.

Q. Then do you see the next paragraph, it's got, "Confirmed member of HRS. Initials HRS refer to Croatian Republican Party."

A. Yes.

50 Q. "In April 1980."

A. Yes.

Q. Does that reflect the evidence that you've just given that after the arrest in February 1979, you joined the Croatian Republican Party?

5 A. That's correct, yes.

Q. If you go on, it says, "Information ex ASIO in April, 1980," and then it says, "Spoke at HRS meeting at Ukrainian Hall, Lidcombe, on 28 March 1980."

10 A. Yes, that's correct.

Q. Do you see that?

A. Yeah, yeah. I can see that. Yep.

Q. Then if you go down, it has that you, in 1977, had been charged at Central Police Station with possession of an offensive article.

15

A. Yeah, I can see that. Yeah.

Q. Do you recall what that was about?

20

A. I was charged for public nuisance, not possession of offensive article. I had a bunch of leaflets that I threw into the public at the concerts in Town Hall. So I didn't have any offensive possession material.

Q. That's referring to the distribution of the leaflets.

25

A. What's that?

Q. That is referring to the distribution of the leaflets.

A. Yes.

Q. Then it talks about in 1978, you were an active demonstrator.

30

A. Wait a minute. Wait a minute. In this 1977, that was 1974. I was arrested for hindering police in executing its duty in front of Yugoslav Consulate, Double Bay. I was only arrested twice, and in 1978, was an active demonstrator on - was arrested at demonstration on Knox Street, Double Bay. No, no, no. Okay. That's a first one, 1977, believe me that was for throwing leaflets.

35

Q. You refer to that in your statement, don't you?

A. Yes, yes. Yeah. Yeah.

Q. The next one, you've read it out, that you were arrested at a demonstration in Knox Street, Double Bay outside the Yugoslav Consulate or the Yugoslav Embassy, I'm sorry.

40

A. Yeah, that was in--

Q. Do you see that?

45

A. That was in 1974.

Q. You remember being arrested at such a demonstration, but your recollection is it occurred in 1974.

50

A. Yeah. It was - occurred in 1974, not 78. Yeah.

Q. When it described that, in 1978, you were an active demonstrator, do you agree with that description?

A. 1978. That's 1974.

5 Q. No, 1978. This isn't your document. I'm asking you whether where it states in 1978, you were an active demonstrator, whether you agree with that.

A. I don't agree.

10 Q. Then it says, do you see on the page, "In 1979, seen by members of Special Branch at various Croatian demonstrations?" Do you see that?

A. Yes, I can see that.

Q. In 1979, were you going to various Croatian demonstrations?

15 A. I didn't go to any Croatian demonstration in 1979. I was too shocked from that arrest. I was working. I had a pressure at my home from parents and work, from everybody. I just - I didn't do any demonstrations in 78. I was quite like a baby - like a fly.

Q. Did you talk at that meeting at the Ukrainian Hall in 1980?

20 A. Yes, I did. Yes. It was a member - it was a - basically, it was a Croatian Republican Party more and Croatian National Council Rakovica group, sympathisers. So not only members. There were not many members of us who were part of Croatian Republican Party, but it - there were members of Croatian National Council Rakovica group. Yeah. So it wasn't just a
25 republican party. It was a combined--

Q. Combined event.

A. Combined meeting, yes.

30 Q. If you can return that 8.1 document.

A. Yeah, thank you.

Q. Mr--

35 A. Sorry.

Q. That's all right. Mr Stipich, I want to turn to another topic which you refer to in your statement, and that's in February 1979 when you were at home. You'd gone to bed, and suddenly, some police officers arrived and had entered the house, and then had entered your bedroom.

40 A. Yes.

Q. In your statement, you speak about one of the officers suddenly producing, you described it as, some wires, some electric coil. Then you were asked to read what was written on the coil, and you read it and it was written,
45 "Detonator".

A. That's correct, yes.

Q. How many officers were in your room when they were conducting the search?

50 A. Probably, four, and couple - couple outside, in doorway, in the hallway.

Q. The officer who produced the wires and coil, did you see which part of your bedroom he was searching before he produced them?

5 A. I was in bed - I was sitting on my bed. I got up. I was nearly fall asleep when I was - got woken up. So I was sitting on my bed and they were all looking through my drawer cabinet - drawer cabinet that was near my bookshelf, and the clothes cabinet that was in the room. They were looking, yeah, searching.

10 Q. You recall one of the police officers actually produced wires and electric coil. Were there a number of them, or was there only--

A. Just one.

15 Q. Just one?

A. Yes.

Q. Do you remember if any of them were a particular colour?

A. I think there was - I don't know. I think it's some sort of a dark-greenish colour.

20 Q. Both the wire and the electric coil were a greenie colour?

A. I'm referring to coil. I'm not sure, the wire, what colour was the wire.

Q. So you're concentrating on the coil.

A. Yeah.

25

Q. Your recollection, it was a greenish colour?

A. Yeah, greenish, black-greenish colour, yes. Dark colour.

30 Q. Written on the coil, you read, "Detonator"?

A. Yes.

Q. How big was it?

A. It was about 1 inch - about 1 inch, yeah.

35

Q. About 1 inch?

A. Yeah.

Q. There was only one coil that was produced to you?

A. Yeah, that's correct.

40

Q. When the police officers were searching your room, did you see whether they had any other coils?

A. No, I didn't. I didn't see any.

45

Q. In your statement, you refer to the fact that you were charged and then you attended a committal hearing at the Local Court.

A. Yes.

50 Q. You were represented by a solicitor called Mr McCrudden?

A. Yeah. Mr James McCrudden, yes.

Q. At the committal hearing, Mr McCrudden tendered some photographs. Do you recall that?

A. Yes.

5 Q. Do you recall that, before the committal hearing, Mr McCrudden came over to your house, or your family home, and took some photographs?

A. Yes.

10 MCDONALD: Your Honour, in the tender bundle, commencing at Tab 8.2-1, are a number of photographs in black and white. We've managed to obtain colour photographs. I understand your Honour has got a colour copy.

HIS HONOUR: They were the ones handed up by Ms Epstein this morning.

15 MCDONALD: Yes. If I can hand a copy to the witness.

Q. Mr Stipich, I'm going to ask you some questions about the photographs. Could you go back to the first photograph? You might see, down the bottom of the page, there is a "3" in red?

20 A. Yes.

Q. Looking at that photograph, what's it a photograph of? Is that your bedroom?

25 A. No.

Q. What's that a photograph of?

A. This would be in our dining room - table and a corner, small bookshelf. Yeah, it will be in our dining room.

30 Q. On the right-hand bottom of the photograph, can you see what appears to be material?

A. On the right?

Q. I'll show you there. Right-hand corner.

35 A. Yeah.

Q. Do you remember what that was?

A. That looks like - I don't know what it is. Looks like a carpet, floor mat.

40 Q. It's a mat.

A. Yeah.

Q. Would you then go to the next photograph, which is, down the bottom, page 4?

45 A. Yes.

Q. The lighting isn't great on that photograph, but, doing your best, what's it a photograph of?

50 A. No, there is not a photograph from my bedroom.

Q. It's not a photograph of your bedroom?

A. No.

Q. Is it another room in the house?

5 A. Yeah, probably.

Q. Would you then go through to page 5? Again orientating you, there seems to be some kind of cupboard and to the right there seems to be a box full of some loaves of bread. Do you see that?

10 A. Yeah.

Q. That's a photograph of where?

A. Well, this is the photograph of the bookshelf that - or the drawer cabinet that was in my bedroom, yes. That's - that's my bedroom, yeah, but there was a bookshelf beside this drawer - the bookshelf.

15

Q. Can I just pause. Photograph number 5, your evidence is that's a photograph of your bedroom?

A. That was the - that drawer cabinet, the drawer - drawer chest was in my bedroom, yes. That's what - the police say that they produced detonator from one of those drawers.

20

Q. The drawers, they were in your bedroom on the night, I think it was 8 February, when the police arrived?

25 A. Yeah. That was in my bedroom, yes.

Q. You said that was where the police said that they obtained the wire and coils?

A. Yeah. That's correct, yes.

30

Q. When did they say that?

A. When?

Q. Yes.

35 A. That evening, when they - about ten minutes after searching through the bedroom, they told me, yeah.

Q. When they were in the bedroom and you were sitting on the bed--

A. Yeah.

40

Q. --one of the police officers told you that the wire and coil had been found in one of those drawers?

A. He showed me and asked me can I read what's written on it, so I read it, "Detonator".

45

Q. Would you then go to page 6? This, I think, is going to be a little bit impossible, but there seems to be a window.

A. Yeah, this looks like more - more like my bedroom. On the right side is a clothes cabinet and that's the window, it was there in the corner.

50

Q. You just spoke about a clothes cabinet.

A. Yeah.

Q. On the right-hand side of the photograph.

5 A. Yes.

Q. Would you go to page 7?

A. Yes.

10 Q. Is that a photograph of the clothes cabinet--

A. Yes. It is, yes.

Q. --that was in your bedroom?

A. Yes.

15

Q. In your statement, you refer to them finding, I think it was, your father's shotgun.

A. Yes. Yes, this was in the corner, in this cupboard. We put it there, away, so - from younger siblings or their friends, just so there's no accidents, but there were no ammunition in there; just a gun.

20

Q. Then, if you look at the final paragraph on page 8--

A. Yes.

25

Q. --again, it's poorly lit, but there seems to be either a cupboard or a table or a chest of drawers with some flowers on top?

A. Yes.

Q. Do you recall which room that was located in?

30

A. Well, it could be my room because that's a door on the left, and that looks like a drawer cabinet, with flowers on top, but - I don't know. This cabinet there, on the right side, that doesn't look - that's not my - part of my room. No, it's not in my bedroom.

35

Q. You don't think it's in your bedroom?

A. No.

Q. Can I take you back to the photograph on page 5?

A. Yes.

40

Q. Do you recall your evidence which - and I'll describe it as the kind of chest of drawers--

A. Yes.

45

Q. Is that a fair way of describing it?

A. Yeah, chest of drawers.

Q. Can you see, immediately in the forefront of the photo, there looks like a bedspread?

50

A. Yes.

Q. Is that a bedspread?

A. Yeah. That's my - that's my bed.

5 Q. Looking at the pattern on the bedspread, and if you go back to the photograph on page 3, the first one we looked at--

A. Yes.

10 Q. No, the first page.

A. Page 3, yes.

15 Q. The material that I asked you about, and you thought it could have been a rug, looking at it, could it have been a bedspread? It seems to be a similar pattern to the pattern---

A. Yes, yes, yes.

20 Q. --on the photo on page 5.

A. Yes, it does look - there is a - next door to mine, there is exactly the same bedroom, that's for my younger sister, Roza, was sleeping in, and I think that looks like her bedroom.

25 Q. Are you still on page 3, the photograph on page 3, Mr Stipich?

A. Yeah. I'm looking at page 3, yes.

30 Q. Do you remember, at the committal hearing, police officers gave evidence and Mr McCrudden cross-examined them?

A. Yes, I do.

35 Q. Do you remember that a lot of the questions that he asked the police officers were about the desk that you had in your bedroom?

A. Yes.

40 Q. Do you recall that?

A. Yes, I recall that.

45 Q. Do you remember what questions he was asking the police officers about the desk in your bedroom?

A. I don't remember much about what he's asking questions - all I remember is that he was asking about the drawer chest and desk, but there was no desk. There's only drawer - there was only drawer chest in my bedroom. I had no desk in my bedroom.

50 Q. There was no desk in your bedroom?

A. No.

55 Q. Could I suggest that the photograph on page 3 is a photograph in your bedroom of a desk in your bedroom?

A. No, that - page 3, photos - that's not my bedroom. That's - looks like my sister's bedroom next to mine.

60 Q. Your recollection is that's a photograph from your sister's bedroom--

A. Yeah, next bedroom to my bedroom, yes.

Q. --who was in the adjoining room?

A. Yes, adjoining room, yeah.

5

Q. I know it's a number of years ago. Your recollection is that in your bedroom, you didn't have a desk?

A. No, I didn't have a desk, sorry. Sorry for yelling.

10

Q. That's okay, but you did have the clothes cabinet that you described?

A. Yeah, that's the cabinet that was on page--

Q. Page 7?

A. Page 7, that's correct, yes.

15

Q. On page 5, you also had, I think you've described it as a chest of drawers?

A. Yeah, that's it, chest of drawer, yes.

Q. Which is the one to the left of the box with the loaves of bread in it?

20

A. Sorry, I didn't hear you properly. Sorry.

Q. When you look at the photograph, you can see the loaves of bread?

A. Yes.

25

Q. The cabinet or drawers to the left, which I think have got some flowers and some other things at the top--

A. Yeah.

Q. --that's what you've described as the chest of drawers?

30

A. Yes.

Q. Which was in your--

A. Bedroom.

35

Q. --bedroom?

A. Yes. And in that chest drawer there was a - they - you can pull that out, one of these from the top drawer - the gap in between. You pull that out and that's - I use for the writing desk. Yeah.

40

Q. If you look at that, there seems to be a hollow space and you might have a bag there?

A. Yeah, probably is - it's - I didn't use it that year. That year I wasn't - I was working. I didn't use it. I was living for two years before - '77 and '78, I was living in Redfern, boarding at - while attending Sydney University courses. So I wasn't using my bedroom. I don't know what's happened with that drawer but I was going to high school. I was using that board to write my essays or whatever, do homework, studies.

45

Q. That second, very large drawer would pull out and you could use it as a desk?

50

5 A. No, on top of that empty - there was a drawer there but that if - front was broken so I think they removed it. But in that small gap in here, if you can see here, in there, that was a - like, you pull it out and use it. We bought it while we were in Villawood Hostel. They had a disposal sale. That's what we use in hostel for eating food, lunch, pick it up from container and bring it to shed.

MCDONALD: Your Honour, if the colour photographs can be returned, and I have no further questions.

10 HIS HONOUR

Q. Mr Stipich, can I ask you something about those photographs?

A. Yes, you sure can.

15 Q. Look at the photograph on page 5?

A. Yes.

Q. Look at the items on top of the drawer cabinet. It looks like some photographs and--

20 A. Photo of Mother Mary, yes.

Q. There looks like perhaps some flowers; is that right?

A. Pardon?

25 Q. Some flowers?

A. Flowers? Yeah a vase with flowers, yeah.

Q. Can you go to the photograph on page 8?

A. Yep.

30

Q. Can you see on top of the furniture item there, there appears to be--

A. Yes.

Q. Do you think that might be some flowers as well?

35 A. No, your Honour. We had flowers and photos of Mother Mary and - nearly on every cabinet in the house.

Q. Just compare the two photographs, if you would; the one on page 5 and the one on page 8?

40 A. 8 - page 8, yeah, that's not in my bedroom, yeah.

Q. No, listen to me, please. Can you look at the photograph on page 5 and compare it to the one on page 8?

A. Yes.

45

Q. I'm just wondering whether that's the same item of furniture with the same things on top?

A. Same flowers you mean? Same vase?

50 Q. Yes. What do you think?

A. They look same. We had - sometimes we bought - we mostly bought by fresh flowers in vase but sometimes they buy it on markets, the plastic ones, and they buy more than one same.

5 Q. I'm just interested in your evidence about the photograph on page 8 where initially you said it could be your room and then later you said, no, you did not think it was your bedroom?

A. Sorry, your Honour, I can't hear you properly.

10 Q. I'll try again, Mr Stipich. In relation to the photograph on page 8, you said initially that it could be your room but then later you said you did not think it was your room. I'm wondering now, by comparing the photograph on page 8 with the one on page 5, which you say is in your room, whether the one on page 8 also might be in your room?

15 A. Well, the flowers look same - similar, but the height of that cabinet, the stand is - looks smaller - different. The height.

MCDONALD: Your Honour, I did fail to ask one question.

20 Q. I asked you some questions when the police came into your bedroom and one of the officers produced the wire and coil. On the coil was written, "Detonator." I asked you, when you were in your bedroom, whether any other coils or wire were discovered by the police and shown to you, and your recollection was no?

25 A. No.

Q. When you attended the Local Court for your committal hearing, do you remember the police producing that wire and coil and tendering it in evidence at the trial?

30 A. I don't remember.

Q. I'll ask you this. You probably won't remember, but were there a number of coils or wires at the Local Court hearing, or do you just have no recollection of that?

35 A. I don't have any recollection. I don't remember. I don't think they did - they produced anything. They were just a verbal explanations of it - answering questions. I'm not sure, I don't know.

40 NO EXAMINATION BY MR BUCHANAN

HIS HONOUR: Dr Woods?

45 WOODS: Your Honour, we've only recently had these coloured photographs and the evidence is somewhat confusing. Rather than ask questions now, may I ask your Honour to not excuse the witness. I'm not sure we'll have any questions at all, but it's recent, and since the scope of the Inquiry suggests that this material might be used in some way adverse, as it were, quasi similar fact evidence, I'd like the opportunity of considering whether, at some later point in the second half of the Inquiry, I might ask some questions of the witness, but
50 I'm not certain at this stage.

HIS HONOUR: You're not just asking to take up the opportunity later today but at some later time perhaps?

5 WOODS: Perhaps we could do that, your Honour, yes. I'd need an opportunity consulting.

HIS HONOUR: I'm happy to allow you the opportunity. I just wanted to know how long.

10 WOODS: Not terribly long.

NO EXAMINATION BY MS NEEDHAM, MS BASHIR AND MR BROWN

15 HIS HONOUR: I'll just stand the witness down. Is there any difficulty with him returning at some stage if required?

20 MCDONALD: Your Honour, I've just noticed the time. Would it be convenient to take the morning tea break? I understand from my learned friend they can consider their position. They might be able to deal with the witness or it might be an application for Mr Stipich to return next year.

HIS HONOUR: I'll allow a bit longer for the morning break to try and have the matter resolved today, if possible. Mr Stipich, we are going to take a break for morning tea.

25 WITNESS: Thank you, your Honour.

HIS HONOUR: You can step down now, but don't go away, you might be required to come back.

30 WITNESS: What about these photos, you want to take them back?

HIS HONOUR: Leave them there.

35 SHORT ADJOURNMENT

HIS HONOUR: Dr Woods?

40 WOODS: I've got a few more questions, your Honour. I'll only be five or ten minutes.

HIS HONOUR: You're ready to proceed with your questions now?

45 WOODS: Yes.

<EXAMINATION BY DR WOODS

Q. Mr Stipich, do you have those photographs in front of you?

A. Yes, I have.

50

Q. Could I ask you to look at the first photograph, which is, I think, 3 on the bottom of the page?

A. On bottom of page 3?

5 Q. Yes, 3?

A. Yeah.

Q. I think you told us that looks like your sister's bedroom; is that right?

10 A. Yes, that's correct, yes.

Q. The next one, which is photograph number 4, you said that's not of your bedroom?

A. Yeah, that's not my bedroom, no.

15 Q. How many people were living in the house at that time; can you recall?

A. My mum, dad, my granddad, my little sister, Matilda; brother, Marinko; brother, Steven; brother, Ivan; sister, Roza. Eight of us. And brother, Mato, but he wasn't at that - that night, he wasn't home. He was on soccer training. So nine. Nine of us. And myself. Ten.

20

Q. There were three brothers?

A. I got four brothers and three sisters. And sister Maria, she got married in January that year so she wasn't at home at that time. Sister Matilda, I didn't put her in the statement. She was at home. She was - she got married two weeks after, in February, so she was at home.

25

Q. If you go to photograph number 5, you see on the top of the picture, the religious photograph and the flowers. You told us that you had a similar arrangement to that in other cabinets in the house?

30 A. I don't think we had same cabinet - any other cabinets like that. Maybe we did. I'm not sure.

Q. No, the flowers and the photograph of the Virgin Mary.

A. Yeah, yeah. We had a holy photographs of Mary and Jesus everywhere.

35

Q. You told us that photograph 5, that's from your bedroom.

A. It looks like my bedroom, but I had a bookshelf next to that drawer chest, and bookshelf is not there. I don't know. Maybe could - maybe this - yeah. Yeah.

40

Q. You told us that--

A. Maybe bookshelf was moved closer to the window.

Q. But the chest of drawers in the middle with the empty space in it, that was in your bedroom.

45

A. What was that?

Q. That was in your bedroom.

A. Yeah, yeah. That was in my bedroom. Yes.

50

Q. I think you told us that it could be pulled out and used for studies as a writing desk.

A. Yes. Yes.

5 Q. In photograph 6, you think that may be of your bedroom, but you're not sure.

A. Yeah. Looks like my bedroom. The cupboard there, window is there. It could be my sister's bedroom. An adjacent bedroom.

10 Q. Number seven is a clothes cabinet. That's in your bedroom.

A. Yeah, that was definitely my room. Yes.

Q. Was that where your father's shotgun was kept--

A. Yes.

15

Q. --to safety?

A. Yes.

Q. I apologise for asking you this question, but is your father still alive?

20 A. My dad passed on 19 April 2017.

Q. Do you know who actually took these photographs?

A. I don't know. I believe it was taken by solicitor, James McCrudden, but I have been told by my brother that also police came in and took a - photos.

25

Q. Right.

A. Yeah. So I don't know. I wasn't there when the photos were taken.

30 Q. Just one other thing. Apart from your own interest in Croatian politics, was there anybody else in the house who was a member of any of the parties?

A. Yes. My dad was member of Croatian Peasant Party as democratic party, mainstream party in Croatian national politics in Croatia and overseas. They had branches all over the world, same like Croatian Republican Party. Yeah, my dad was a - that's how I became involved in politics because I was interested.

35

Q. Just another couple of questions. I won't be terribly long. But was there one party which supported the King?

40 A. The King.

Q. The King.

A. King.

45 Q. King.

A. No.

Q. The Republican Party didn't support--

50 A. It was before - it was known Croatian Republican Peasant Party, and then because of the dictatorial regime of King, they were forced to make a

5 compromise and kick out that "republican" name out of their name. But they never supported King anyway. They were for Croatian independence and freedom, but by force, they were - to make things easier to democratise, they made the compromise to take the "republican" name out of the Croatian Republican Peasant Party.

Q. In the household with many people, ten people living there, did you lock the door to your bedroom?

10 A. I never locked my bedroom. I think there was a lock on some of the rooms. Yeah, but not on mine. I never locked my bedroom.

WOODS: Thank you. Nothing further, your Honour.

15 HIS HONOUR: Thank you, Dr Woods. Has any other party had a change of heart. Anything from you?

MCDONALD: No, thank you, your Honour.

20 HIS HONOUR: Mr Stipich, that's the end of your evidence and you are free to leave.

WITNESS: Finished?

25 HIS HONOUR: Yes.

30 WITNESS: Thank you very much, your Honour. Thank you very much everybody. I am always available if you have any questions. To the Inquiry, I have full trust in the Australian judiciary system and Australian Police Force and the Australian way of life. Thank you very much, your Honour.

<THE WITNESS WITHDREW

HIS HONOUR: Ms McDonald.

35 MCDONALD: Your Honour, may I deal with some other matters?

HIS HONOUR: Yes.

40 MCDONALD: The first matter, your Honour, is to answer some questions that your Honour asked during the opening yesterday, and it follows on from Mr Stipich's evidence about whether the police who attended his home on 8 February also attended the briefing. Your Honour, there is evidence in the brief from the transcript of the trial from Inspector Morey that there was a meeting of a number of detectives, maybe about 30 or 40, on the night, and
45 that they were divided into four teams. The briefing of those officers was concerning the duties they had to perform that night when they attended the premises, and the premises were identified as being at Ashfield, Burwood, Bossley Park, and Mount Druitt, and Mr Stipich's home, of course, was at Mount Druitt. That evidence of designation of four teams during this briefing
50 was corroborated by evidence of, I think it was, Howard.

5 The evidence of statements that were before the magistrate in the committal hearing, the really only one that touches upon this issue was that of Wick who spoke about being told something around 9.30 on 8 February, and then arranging with two other detectives to go out to Mount Druitt. But he didn't, in his statement, specifically refer to attending a briefing, let alone what was discussed at the briefing.

10 HIS HONOUR: The jury didn't hear as to what occurred at Mount Druitt or what might've happened in relation to any proceedings concerning Mr Stipich, I think; is that right?

15 MCDONALD: That's only to the extent, your Honour, that Mr Stipich did give evidence about injuries that he observed on, I think, two of the Croatian Six. There was a voir dire about the raid on his premises, and what occurred at the committal, but that wasn't admitted into evidence.

20 HIS HONOUR: Yes. Absent the availability, as I understand it, of transcript of Mr Stipich's committal hearing, judgment of the magistrate, and the brief of evidence concerning Mr Stipich, it seems to be extremely difficult to draw much from what occurred in relation to him in comparing it to what occurred in relation to the six. Is that a fair assessment?

25 MCDONALD: Probably a fair assessment, your Honour. The evidence that we do have from the Local Court are the statements of the various police officers which were tendered, and there is also an exhibit list which refers to the defence tendering the photos that Mr Stipich was taken to, and also, your Honour, a tendering of, I think it was, nine coils. If your Honour can just excuse me. Yes, your Honour. The exhibits register appears before 8.2-7. Nine electric detonators, which appear to be the coils, and a length of blue wire.

HIS HONOUR: That's the exhibit register, meaning the list of exhibits.

35 MCDONALD: Yes, your Honour.

HIS HONOUR: But the actual police statements, are they available?

40 MCDONALD: Yes, your Honour. They're in evidence, your Honour. Commencing at 8.3-1 are the statements of Detective Senior Constable Harvey, then Detective Sergeant Peter Wick, and he's the one who refers to it. "About 9.30pm on 8 February, as a result of something I was told, I left the CIB with Detective Myers and other police and drove to Mount Druitt Police Station." Then there was the statement of Detective Senior Constable Myers, and then Detective Senior Constable Donald.

45 HIS HONOUR: All right. There's some clue as to the gamut of the police case in respect of Mr Stipich, at least insofar as we have those statements.

50 MCDONALD: Yes, your Honour. Your Honour, there is a statement and a statutory declaration by Mr McCrudden, who was the solicitor who represented

Mr Stipich. In the statement, or in the material, he does state that he was the one who took the photographs, that he attended the home and took the photographs. The matter that we wish to raise with your Honour at the moment was in the statutory declaration, which is behind Tab 8.6, at paragraph 5 of his statutory declaration:

"[After saying that he was briefed by Mr Stipic, he] was struck by the fact that the charge against Stipic was near to being on all fours with the Croatian Six insofar as explosives were alleged. However, it was made clear by the police and emphasised by them a number of times that the Stipic matter has nothing to do with the Croatian six. At the Local Court, the police went to some lengths to repeat this point. To the best of my recollection, there were no allegations of any intent to do anything with the explosives."

That may go to some answer to the question your Honour asked yesterday about if Mr Stipich had been committed to stand trial, wouldn't he have been the Croatian Seven in the trial, and that answer, or the statutory declaration by Mr McCrudden would suggest otherwise.

HIS HONOUR: Yes. But there seems to be potentially something of significance in relation to the police who went to Mount Druitt, having come from a gathering of others, who went to the other addresses.

MCDONALD: Yes.

HIS HONOUR: All right. Thank you.

MCDONALD: Your Honour, I have an application to make to amend the scope of the Inquiry. If I may hand up, your Honour, a proposed amendment, which appears on p 2, in tracked changes. Your Honour will see, it refers to the alleged use of violence. The amendment proposes to include Mr Bebic and Mr Joseph Kokotovic. Your Honour, that would appear from the opening, yesterday, when references were made to the evidence at the trial.

HIS HONOUR: Yes. I think that's appropriate, that that be formally recognised in the description of the scope of the Inquiry, and that amendment will be made.

MCDONALD: Your Honour, there's one matter that we wish to raise, which is proposed short minutes of order for the progression of the Inquiry. The other matter, that my learned friend may wish to raise now, was foreshadowed, an application to include, in the material before your Honour, some additional material that was provided to the solicitors to the Inquiry, concerning the topic of police fabrication of evidence. I'm in your Honour's hands. Would your Honour wish to hear that application?

HIS HONOUR: Is that something you want to deal with now, Mr Buchanan?

BUCHANAN: It's an application which has some degree of content, which

would take a little while, your Honour. I'm in a position to make the application at the Inquiry's convenience. Certainly, it would seem, there might be time today.

5 HIS HONOUR: There is.

BUCHANAN: I can embark upon it now.

10 HIS HONOUR: I don't want to call upon you at an inconvenient point--

BUCHANAN: You don't inconvenience me, your Honour. I do have--

15 HIS HONOUR: --or when you're not anticipating being called on. If you would like some time, I will allow that.

BUCHANAN: I can embark upon it now. I won't, necessarily, finish the application by lunch, but there's time this afternoon.

20 HIS HONOUR: All right.

BUCHANAN: Your Honour, we've reduced the submissions we propose to make to writing. We have 12 copies. Accordingly, it will be possible, all at the same time I hand your Honour a written copy, for the parties to also be given a copy, if that's a convenient course to take.

25 HIS HONOUR: Yes.

30 MCDONALD: Could I just interrupt my learned friend, your Honour, just to note that the other parties haven't received notice of the proposed material that my learned friend would wish to put before the Inquiry.

HIS HONOUR: Thank you.

35 BUCHANAN: But we have got the table of contents of the USB containing the electronic material, which can be passed around and to which reference will be made in the application. The only other thing is a newspaper article, which doesn't, probably, need to be in front of the parties or your Honour, because another copy of it is already in the tender bundle. I'm being a bit obscure; I do apologise. I can hand up these documents to your Honour.

40 Your Honour should have a set of written submissions, together with a document comprising six pages, headed, "Electronic materials on the phenomenon of police fabrication of evidence in the period centring on 1979 to 1981, assembled on behalf of the petitioners". It takes the form of a table of contents.

45 HIS HONOUR: Mr Buchanan, can I just ask you about this, before you develop it in detail. Is this a topic that is controversial?

50 BUCHANAN: I don't know.

HIS HONOUR: I apprehend that within the material that will be, or possibly is already, before this Inquiry are relevant aspects of the report of the Wood Royal Commission.

5 BUCHANAN: Yes, your Honour.

10 HIS HONOUR: There's one or possibly two interviews of Mr Rogerson. I think this was referred to in opening yesterday. I'm not sure whether that's the complete extent of it, but it's material that goes to indicate that there was behaviour by police officers, in the relevant period, which involved fabricating confessions, and planting evidence, and malpractices of that nature.

BUCHANAN: Yes, your Honour.

15 HIS HONOUR: Are you trying to make the point that I've just referred to?

20 BUCHANAN: We're trying to make the point that your Honour has just referred to, although it has a little bit more complexity, inasmuch as we seek to make the point that there was not only a culture of police fabrication of evidence in the NSW Police Force at this time, but that police fabricated evidence as teams - whole teams of police would fabricate evidence.

25 Our problem, your Honour, is that - when I say, "our", the accused faced, as was pointed out to the jury by his Honour Maxwell J, the problem that, to find the accused not guilty, it was necessary to consider the other side of the coin, that is to say that 39 police must have all fabricated evidence, and this was a big ask.

30 HIS HONOUR: Yes. I'm not a jury of lay people. I'm a judicial officer, with some experience in the criminal law, and for some period of time, which extends back to the relevant time, and I have had the advantage of having lived through all of the news and the reporting that occurred through the course of the Wood Royal Commission. I don't think I'm going to be hearing, from any party, a submission along the lines of what Maxwell J put to the jury, 35 a number of times, as I understand it, that it's just, implicitly, incomprehensible that police would conduct themselves in this way. I just don't see this being an area of controversy that needs further material placed before me to convince me of something that is just beyond dispute.

40 BUCHANAN: Your Honour, in that case, we can narrow the scope of the application. As your Honour will see, on the first page of the written submissions, there's a reference against the number 2 to a report to the Police Integrity Commission, of June 2004, entitled, "Report to Parliament - Operation Florida Volume 1". We provided this to the solicitor assisting the Inquiry last 45 month. We've reduced to a single sheet, double-sided, what we hope is a helpful set of extracts.

50 The first point to be made, your Honour, is that the Police Integrity Commission's report was released in 2004, and I'm looking at page 5 of our written submissions at this point, and concerned events and conduct in the

period 1995 to 1996, and subsequently, we submit that the nature and character of the misconduct the subject of the Operation Florida Report is almost identical to that in the Wood Royal Commission, and in statements attributed in the media attributed to former Detective Sergeant Rogerson.

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A difference is that the report presents a picture of mass fabrication of evidence by teams of detectives, on multiple occasions. But, in particular, there is a segment of that report, called "Guns Segment". It provides very useful detail as to how whole squads of NSW Police kept stashes of firearms to be used, euphemistically, as prospective exhibits, to be produced as evidence that defendants had them in their possession, and occasionally, even, literally, to plant them at a scene where there was good evidence that the suspect was, or had been, present. There is also useful material in the report about how multiple police officers got together and fabricated evidence that defendants had made verbal admissions, such as notebook confessions.

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It's also useful, your Honour, because the Police Integrity Commission took the matter a step further than the Wood Royal Commission by identifying the words "verbal" and "load up", and their variants as terms of art in the field of investigation of police malpractice. I'll stand corrected if I'm wrong, but this is not something that the Wood Royal Commission had gone so far as to do. We submit that there is, once reviewed, sufficient identity in the nature and character of the police misconduct the subject of the Operation Florida Report with the nature and character of the police conduct in this matter to make the contents of the report - particularly the guns segment - very useful.

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Whilst former Detective Sergeant Rogerson went to the media in 1991 and said, "There was a practice we would give crims half sticks of gelignite or a weapon for the purpose of incriminating them in criminal proceedings," the guns segment of the Operation Florida Report provides a great deal of detail as to exactly how police went around doing this. It sort of follows in a way, although Detective Sergeant Rogerson never actually said this, that there must have been stashes of - drawing from the Operation Florida Report - firearms kept by police that were moved around as the teams moved wherever they happened to work from, that were regarded by members of these squads as sufficiently incriminating of them and their colleagues if found to warrant their secret disposal; in this case, in the particular instance under consideration, in the Hawkesbury River.

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In our submission, this provides assistance to the Inquiry to understand how it could be that officers of the police force, sworn to uphold the law, could, in so many instances, and using somewhat different techniques - notebook verbals, unsigned records of interview; I'm referring now to the case under consideration in the Inquiry - that it was at the time and would still be to many people, I would respectfully submit, difficult to credit that, sworn to uphold the law as they were, they nevertheless went around fabricating evidence to lock people up where there was no evidence that those people had committed crimes.

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50 HIS HONOUR: Mr Buchanan, you've heard me say some things and you've

then confined yourself to focus upon the Operation Florida Report. Is there any other?

5 BUCHANAN: Yes, your Honour; the report of former Wood J into the convictions of Anderson, Alister and Dunn of 1985. Your Honour, it is a particular passage in that report that we'd rely on, although your Honour needs to take into account the whole of the report to understand its significance. The particular passage is where Wood J, in his conclusion, is summing-up the categories of evidence that there were, that Anderson, Alister and Dunn had committed the offence of which they were convicted, which was essentially a conspiracy to blow up explosives at a place in Yagoona, thus it was often called the Yagoona Bombing Conspiracy, for political purposes. The passage, your Honour, is at page 7 of the written submissions, second paragraph, where his Honour indicated that he treated police evidence of oral admissions having been made by the accused in that case as taking a form of evidence which had "reservations that must attach to it by its very nature." Your Honour, that approach would be very different, of course, from the approach that Maxwell J took during the trial to the evidence of oral admissions that was given in that trial.

20 HIS HONOUR: Mr Buchanan, the reservations expressed by Wood J in 1985 has been overtaken by a statutory regime whereby the evidence of confessions is not received by trial courts unless certain preconditions are met, such as electronic recording. That's the very reason for those steps having been taken, because there are reservations attaching to such evidence.

25 BUCHANAN: That's right, your Honour, but unless your Honour can take judicial notice of the fact that Wood J expressed those reservations in that case - that's to say, at that stage, his Honour, conducting an inquiry under then s 475 of the *Crimes Act 1900* (NSW), took the view that that category of evidence tended to indicate that the petitions had committed the offence of which they were convicted, comprising oral admissions was not one that had sufficient weight for his Honour to really take it into account, it would be simply put to one side and the rest of the evidence like the informer, Seary, and other evidence was considered in far more detail. There was a solid block of oral admissions in that case. Wood J disposed of it in one paragraph, so light in weight did his Honour consider it. We submit that your Honour should take the same approach in this case. If your Honour can take judicial notice of the fact that that's what Wood J did in 1985, then there's no need for me to press the tender of the report that contains those words.

30 HIS HONOUR: Mr Buchanan, one doesn't only have what Wood J said in 1985. One has a number of High Court judgments that imply, if not directly convey, the same message, and there is the Wood Royal Commission Report which makes the point, with many examples, abundantly clear. I don't think I would be assisted by the 475 Inquiry Report.

35 BUCHANAN: Very good, your Honour. Having regard to what's fallen from your Honour, it would appear that there's no need for me to press the application.

HIS HONOUR: In relation to Operation Florida Report, I was somewhat attracted to what you've said about that, on the basis that it does truly add to what I might otherwise derive from the Royal Commission Report.

5 BUCHANAN: It certainly does, in the "Guns Segment", albeit we would ask your Honour to take into account perhaps the executive summary as well to provide sufficient context to appreciate what the Integrity Commission was saying in the "Guns Segment".

10 HIS HONOUR: What I've said is subject to my hearing from others, and I'll raise that shortly, but is that all you want to say now?

BUCHANAN: It is, your Honour.

15 HIS HONOUR: Ms McDonald, I'll ask you something shortly, but I just want to make sure that I have correctly understood what I said before to Mr Buchanan, that I see this topic as relatively free of controversy amongst us in 2023. It might've been a controversy in 1980 but it doesn't seem to be a matter of great controversy or open too much dispute at this time in history. Does anyone see
20 it differently?

WOODS: Your Honour, we don't see it differently in a historical sense. We're concerned that this not become, as it were, a Royal Commission. It's uncontroversial that the Wood report of 1995-1997 is highly relevant. As your
25 Honour points out, the legislative changes and the different regime of accepting and dealing with oral admissions is very significant. We will be making the point that whatever is uncontroversial about historical police failings appropriately attracts the analogy of other areas of public misbehaviour such as the well-known historical tendency of solicitors to dip into their client's
30 trust funds. If one goes back historically, it's been happening for 100 years. In the particular case, the generalisation can't be allowed to be unduly influential. That's all we want to say at this stage, your Honour.

35 HIS HONOUR: Ms McDonald, am I correct in my initial thinking that, based upon what Mr Buchanan has said, there is additional material in the Operation Florida Report that could be of use?

MCDONALD: Your Honour, the Operation Florida Report is long; it's, I think, over 300 pages. We did review it when it was forwarded by our learned
40 friend's solicitors. The matter that struck us was that it's quite case study specific. It's of conduct during the 1990s, usually concentrating around Northern Beaches or around that area. My recollection is none of the officers who were involved in any of the conduct that your Honour is examining were involved in that report. There might've been a footnote referring to
45 Mr Rogerson but that was about it. Your Honour, now that we have an extract of certain parts dealing with the "Guns Segment", we haven't had a chance to review those. It may be, as my learned friend has submitted, adds to the material that's already before your Honour; in particular, the extracts from the Wood Royal Commission. I think to assist your Honour further with that, we
50 would like an opportunity just to review the extracts that my learned friend has

provided on these two pages just to ascertain that it does reflect the findings of the report and to confirm their utility to your Honour in this Inquiry. Your Honour, as I flagged, other interested parties haven't had an opportunity to have a look as well. They might wish to make particular submissions on the Florida Report.

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HIS HONOUR: All right. I'll defer on this. I've indicated my inclination, but I'm prepared to hear further on it if need be. Can we deal with this before the end of the week?

MCDONALD: Yes.

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HIS HONOUR: I'd like to wrap it up. We needn't reconvene, but I'll hear what you say. I'll indicate my tentative decision on the point. That can be communicated to the parties, and if anyone wants to make any further submission in relation to it, I'll deal with that if need be.

MCDONALD: Yes, your Honour.

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WOODS: Your Honour, if I may.

HIS HONOUR: Yes, Dr Woods.

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WOODS: Just briefly. In relation to the point that we've reached now, that your Honour will defer it for the moment until Counsel Assisting further considers it, may we say that I need to make an observation about Mr Buchanan's reference to stashes? The relevance of the Operation Florida involving guns is a question. But if it be suggested that there was some stash of gelignite which the people I represent were able to call upon for the purpose of loading people up, we say that's frankly absurd, and your Honour would not consider it.

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HIS HONOUR: I think it probably will be a relevant matter for me to consider, Dr Woods, in due course.

WOODS: Very well.

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HIS HONOUR: The extent to which it's explored remains to be seen. I just want to make the point as well, this is blatantly in the area of generalisations, and I anticipate that Mr Buchanan would accept this. It's to foreclose on any thinking that this is just too much to think could possibly happen. It can happen, Mr Buchanan would submit, I apprehend. But the more critical point is did it happen in this particular case, and of course, that's the ultimate questions that is before the Inquiry. All right. Anything else we can deal with?

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MCDONALD: Final matter, your Honour. We have circulated, a short time ago, proposed short minutes of order to progress the matter in preparation for next year's three weeks of hearing.

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HIS HONOUR: Yes.

MCDONALD: Was your Honour provided with short minutes?

HIS HONOUR: I looked at a copy. I don't have it with me. Yes.

5 MCDONALD: Your Honour, as set out, and it reflected the previous minutes
your Honour has made, provides for proposed witness list to be provided,
further evidence, and as we flagged yesterday, there are still some notices to
10 produce material that are outstanding, so we do anticipate there will be some
new material. Then, again, if parties wish to place written evidence or for a
witness to be called, dates for that to be notified, and then just confirming the
second hearing block commencing on 25 March for an estimate of three
weeks.

15 HIS HONOUR: Yes. Anyone want to say something about
that? Mr Buchanan does, by the look of it.

20 BUCHANAN: I apologise to my learned friend because I haven't had a chance
to take all of this in and give notice of this. But I'm wondering whether Counsel
Assisting would consider providing the parties with a provisional witness list a
good week before 9 February so that we don't have to go through the entire
cast of characters in this case and pull them all out and say, "Here. We think
you ought to call this selection of them." If we could have an idea of who
Counsel Assisting has in mind to start with, that will make the task of the
parties placing written evidence before the solicitor assisting a lot easier.

25 HIS HONOUR: All right.

MCDONALD: I'm sorry, your Honour. If you could just excuse me.

30 HIS HONOUR: Yes. Just a minute.

35 MCDONALD: Your Honour, I note my friend has requested a provisional
witness list. I don't know if this would assist him in the tasks he has to
undertake, but we would propose a week later than 9 February. We could
circulate a provisional witness list by 16 February, and then confirm that the
next week with the proposed date of the 23rd.

HIS HONOUR: Does that meet your concern, Mr Buchanan?

40 BUCHANAN: The only matter that concerns me, your Honour, is that the
parties are required to place any written evidence that they propose to place
before the Inquiry for the second hearing block before seeing the provisional
witness list, and it will just help to know if the parties are to provide written
evidence from such witnesses that they contemplate by 9 February, whether
45 the people in contemplation are people whom it was intended that Counsel
Assisting call anyway; that is to say who might already have been proofed. It's
not an overwhelming obstacle, your Honour. It's just trying to narrow down the
scope of the task that confronts the parties under order 3.

50 HIS HONOUR: Yes.

5 MCDONALD: Your Honour, I'm sorry for the delay. If I can indicate, we can accommodate my learned friend's comment, but it has a flow-on effect with some of the other dates. Your Honour, it has a flow-on effect with some of the dates, which we're just trying to work out. Rather than holding everybody up, could we propose it could be a matter that your Honour could deal with in chambers, and then if your Honour would make the orders, we'll notify all the parties? If I can indicate that we can accommodate the issues my learned friend has raised.

10 HIS HONOUR: Yes. Errors can be made if things are rushed, so I think that's a better course. Is there anything else? Mr Buchanan.

15 BUCHANAN: I do apologise, your Honour, but a final matter, and that is the second hearing block includes a third week commencing 8 April. My instructing solicitor and learned counsel assisting me are not available in that week. Mr De Brennan has been in this matter since 2012. Both of them are doing this matter pro bono. I would ask that the particular assistance that is looked for from the petitioners gives some weight over and above the exigencies of the diaries of the legal representatives of other parties, and we
20 would ask whether some accommodation can be made to perhaps find the third week later than the week commencing 8 April.

HIS HONOUR: Yes.

25 NEEDHAM: Your Honour, if I can interpolate there. I also have some applications about the short minutes, but in relation to the hearing date, as I think my learned friend, Mr Coffey, indicated on the last occasion, none of the Commissioner's counsel nor solicitor are available in that third week.

30 HIS HONOUR: Yes. I recall that.

NEEDHAM: We would support that application.

35 HIS HONOUR: All right. If your people, Ms Needham, can liaise with Counsel Assisting in relation to the proposed short minutes, that'll be settled, and I'll deal with that in chambers.

NEEDHAM: Please the Court.

40 HIS HONOUR: I think the only thing I can do in relation to the problems with the third week of the proposed hearing in March/April - I must say, I am sympathetic to your situation on behalf of the petitioners, particular with the length of time of involvement. I might be less sympathetic in relation to some other parties. But I think I might just ask the parties to liaise with Counsel
45 Assisting as to availability, and we'll try and work out the impossible hopefully in chambers and advise you.

ADJOURNED PART HEARD TO MONDAY 25 MARCH 2024