

REPORT OF THE INQUIRY

held under section 475 of the Crimes Act 1900

into the conviction of

JOHANN ERNST SIEGFRIED POHL

at Central Criminal Court Sydney

on 2 November 1973



May 1992

The Honourable Mr Justice McInerney

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TO: HIS EXCELLENCY THE GOVERNOR OF NEW SOUTH WALES REAR
ADMIRAL PETER ROSS SINCLAIR AO

MAY IT PLEASE YOUR EXCELLENCY:

1. On 2 November 1973 Johann Ernst Siegfried Pohl was found guilty by a jury and convicted in the Central Criminal Court, Sydney on a charge that he, on 9 March 1973, at Queanbeyan did feloniously and maliciously murder his wife Kum Yee Pohl. Following this conviction, he was sentenced to penal servitude for life.
2. Pursuant to the direction given to me and approved by Your Excellency dated 10 July 1991, I, Peter Aloysius McInerney, a Judge of the Supreme Court of New South Wales, was directed to inquire into doubts or questions as to the guilt of Johann Siegfried Ernst Pohl and to summon and examine on oath any person likely to give material information in the matter.
3. On 18 September 1991 I was appointed a Justice of the Peace for the State of New South Wales.
4. I have examined on oath certain persons and have received in evidence exhibits statements, documents, articles, photographs and video films which have been incorporated in the depositions as far as that has been practicable.
5. In accordance with the provisions of s475 of the Crimes Act, 1900 I have the honour to submit my report.

Dated the 1st day of May 1992


P.A. MCINERNEY

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1. Introduction

1.1 Events Which Prompted the Inquiry

On 2 November 1973, after a trial presided over by the late Mr Justice Begg and extending over five days, Johann Ernst Siegfried Pohl was convicted of the murder by strangulation of his wife Kum Yee Pohl, who was known as Joyce. He was sentenced to penal servitude for life. The murder had taken place at their home, Flat 2, 30 Booth Street, Queanbeyan on 9 March 1973.

Pohl appealed against his conviction. His appeal was heard in the Court of Criminal Appeal on 19 and 20 May 1974. The Court reserved its decision and on 2 August 1974 unanimously dismissed the appeal and confirmed his sentence.

He was imprisoned until 25 February 1983 when he was released on licence. He was discharged from licence on 24 February 1988.

The Crown case was circumstantial and from the time he was first spoken to by police Pohl denied any involvement with his wife's murder. He continued to assert his innocence whilst in prison and after his release.

At about 8.30pm on 8 September 1990 Roger Graham Bawden walked into the Queanbeyan Police Station, approached the Public Enquiry Counter, and asked to speak to the officer in charge. He was introduced to Detective Sergeant Pulsford and said:

"Sergeant, I killed a woman here in Queanbeyan sixteen or seventeen years ago. I've been living with it all this time and it's been hell. I have been having nightmares every night and I've come up from Melbourne to confess to the murder."

He continued, when asked the woman's name:

"Pohl (and spelt it P-O-H-L). She was Asian."

Over the next few days Bawden repeated and elaborated on his confession. The police in Queanbeyan sought the assistance of the Homicide Squad in Sydney and on Monday, 10 September 1990 Detective Sergeant Neville Smith assisted by Detective Senior Constable Andrew O'Reilly and Detective Constable Michael Plotecki commenced inquiries to further investigate the murder and to test Bawden's confession.

1.2 Procedure

Mr Mark Twohill, Solicitor with the State Crown Solicitor's Office, was appointed as the Solicitor Assisting the Inquiry. He also operated as a de facto Secretary to the Inquiry responsible for the placing of advertisements in a number of papers including the Sydney dailies, The Australian, The Canberra Times and The Queanbeyan Age. The advertisement was also placed in the staff notices circulated to prison officers. The text of the advertisement, the publications in which it appeared and the respective dates of publication are set out in Appendix "A".

No witnesses came forward in response to the advertisement prior to the commencement of the Inquiry. In the course of the Inquiry one witness approached Inquiry staff at Queanbeyan. I will deal with his evidence separately.

There was a preliminary hearing of the Inquiry on 16 December 1991 and the first day of hearing commenced as advertised, on Monday 10 February 1992 when I granted leave for the following to appear:

Mr Paul Menzies QC and Mr P E Blacket to assist me in the Inquiry.

Dr G D Woods QC for Pohl

Mr P Burgess, a Solicitor for the Commissioner of Police

Mr D Humphreys, Solicitor, Legal Services Commission for Bawden

Mr Humphreys appeared for Bawden only on those occasions when Bawden gave evidence at the Inquiry.

The procedure for the conduct of the Inquiry was suggested by Mr Menzies. There being no objection, the suggested procedure was adopted by me. A copy of this procedure was admitted as Exhibit 2 and it was generally followed during the Inquiry. In summary the procedure provided for all witnesses, except Johann Pohl and Roger Bawden, to be called by Counsel Assisting the Inquiry. The evidence of the witness ordinarily commenced with a tender of the statement or report by that witness, who was asked to swear to the truth of that document. The witness was then examined and cross examined by Counsel Assisting, then by other Counsel. In view of the nature of the Inquiry, latitude was extended by me to re-examine and recall witnesses if necessary to clarify points that emerged during the course of the evidence.

In a lengthy opening by Senior Counsel Assisting the opportunity was taken to tender most of the documentary evidence available as at the opening day of the Inquiry. Thereafter Bawden, his original confession having precipitated the Inquiry, was called to give evidence. He was called, examined and cross-examined firstly by Counsel Assisting. This

was not in accordance with the procedure that I had adopted which had assumed Bawden would be fully represented and called to give evidence by his legal representative. Legal aid provided to Bawden fell short of providing active representation. I would have preferred Bawden to have been fully represented as my procedure envisaged. However, that was not to be and the nature of his representation left no alternative but for me to adopt the procedure which did take place of he being called by Counsel Assisting, who then examined and cross-examined him.

Although Section 475 of the Crimes Act, the empowering section, gave me the power to enforce the attendance of witnesses and compel their examination, it did not, in my opinion, abrogate the Common Law right of a witness to claim privilege against self incrimination. At the commencement of his evidence Counsel Assisting specifically questioned Bawden as to his understanding of his right, pointed out to him the possibility of serious consequences flowing from self-incriminatory evidence and gave him the opportunity at that stage to remain silent. Bawden declined to exercise that right. I am confident that his interests were protected as far as they could be in the circumstances. At no stage did Bawden show anything other than a willingness to confess.

The evidence of as many witnesses as possible was taken before Pohl gave evidence. In accordance with the procedure set out in Exhibit 2 he was called by Dr Woods.

At the conclusion of the evidence Dr Woods addressed me. Counsel Assisting did not address me in view of his intention to assist me in the preparation of this report.

1.3 References

In this report, references to Inquiry transcript are shown as "T"; Inquiry exhibits as "Ex"; trial transcript as "TT"; and trial exhibits as "TX". References to any other transcript or exhibits are set out in full.

1.4 Acknowledgements

I wish to place on record the assistance the following gave me at the Inquiry:

Mr Paul Menzies of Queen's Counsel and Mr Paul Blacket, Counsel Assisting the Inquiry, for their painstakingly thorough collation and presentation of the evidence at this Inquiry and for their invaluable assistance during the compilation of this Report.

Mr M A Twohill, Solicitor Assisting the Inquiry from the State Crown Solicitors Office, for his organisation in setting up the Inquiry,

collection of the evidence presented before the Inquiry and general assistance always cheerfully given.

Dr G D Woods of Queen's Counsel, who appeared for Mr Pohl, for his co-operation and valuable assistance given to me.

Detective Sergeant Neville Smith, Detective Senior Constable Michael Plotecki and Detective Senior Constable Andrew O'Reilly whose conscientious, thorough and dedicated investigation enabled all aspects of the evidence before this Inquiry to be thoroughly and exhaustively investigated.

The Court Reporters, particularly Mr S Cadman, for their extremely efficient effort in the recording of the evidence and provision of daily transcripts to the Inquiry.

To all members of the staff of the Inquiry for their assistance during the Inquiry, particularly in the preparation of the draft Report.

Last but not least, my Associate, Miss B Price, and Tipstaff, Mr M O'Rourke, whose dedication and loyalty made my task so much easier.

2. The Nature of the Inquiry

Section 475 of the Crimes Act 1900 had its genesis in section 383 and 384 of the Criminal Law Amendment Act 1883 (46 Vic No 17). Whilst it was first subjected to judicial examination by the High Court of Australia in *White v The King* (1906) 4 CLR (Pt 1) 152 it does not appear to have been much used until comparatively recently. I have applied the section having regard to the following:

1. An inquiry under section 475 of the Crimes Act is not an appeal against conviction, but the object is to determine the effect and significance of the evidence in fact given at the trial against the background of the whole of the evidence given before the Inquiry.
2. There is no revival of the presumption of innocence on the part of the applicant or petitioner.
3. There is no onus on the Crown either to produce evidence to remove any doubt asserted or to re-establish guilt.
4. There is no onus on the applicant or petitioner to establish that the conviction was wrongly procured.
5. The task envisaged by section 475 requires the Justice to inquire into the "matters suggested", that is, the questions or the doubts.
6. In order to consider this, it is necessary to consider the evidence and the conduct of the trial in the light of the further evidence, together with any submissions received at the Inquiry, to determine whether the questions or doubts as to the guilt have been resolved or remain.
7. "Guilt" in the section means guilt beyond reasonable doubt.
8. The Section permits evidence to be called by the Crown or by the applicant. It contemplates that the Inquiry will receive all the additional evidence that is likely to materially affect the matter. It is difficult to conceive of such an inquiry being held without reception of the trial evidence. In fact, in this Inquiry, in addition to the trial evidence, I had before me statements of all witnesses whose statements were prepared in 1973 by police, the original police scientific officer's notes and reports in relation to the investigation of the case, the evidence taken at the committal, and fresh evidence that was adduced in the Court of Criminal Appeal. I also had before me a transcription of the Trial Judge's summing up, his report to the Court of Criminal Appeal, the written submissions of the parties to the Court of Criminal Appeal and the Judgment of that Court. The only significant documents which were destroyed were the records of the sheriff's office listing the jurors who were empanelled and the original indictment which would have had on it the names of the jurors.

Having regard to the evidence produced before me relating to his employment and activities at the time of the trial, I am satisfied that it is unlikely that Bawden was a member of the jury that convicted Pohl and the absence of that material is, therefore, of no significance.

9. Additionally, a large number of witnesses were interviewed and their statements and the results of police investigations have been incorporated as Inquiry exhibits before me. Copies of all statements and evidence that was to be adduced were, wherever possible, provided to the legal representatives of Pohl and Bawden in sufficient time for them to be considered before the witness was called or the material used.
10. The circumstance that gave rise to the Inquiry under section 475 was the confession of Roger Graham Bawden to Queanbeyan police in September 1990. That confession created the doubt or question for my consideration. I considered it was not necessary to recall all of the witnesses who had given evidence at the trial. Two of the important witnesses, Mr Walton the ambulance officer, and Mr Meyer who were called to the murder scene by Pohl, have since died.
11. I decided it was important and necessary that certain other key witnesses be recalled, including the police officers who originally investigated the crime, the accused's sister-in-law, Margaret Pohl, whose evidence was critical to the Crown case, and Dr Gillespie, the local medical officer, who performed the post-mortem and whose evidence was crucial as to the time of death. Pohl made an unsworn statement at his trial but gave evidence at the Inquiry. Despite the lapse of time since the events in question, the recollection of the witnesses called was remarkably preserved.
12. There were twenty-eight witnesses called before the Inquiry, the hearing of which occupied twelve days. I also viewed the premises at Queanbeyan where the murder was committed. There were one hundred and thirty-three exhibits and four hundred and eighteen pages of transcript.

3. Johann Ernst Siegfried Pohl— Biography

Johann Ernst Siegfried Pohl was born in Germany 2 April 1937. He was one of four children, having two married sisters living in Germany and a brother, Werner who came to Australia in 1951. From 1959, for a period of fourteen years, Werner operated a joinery business in Canberra.

Pohl's father died in 1947. His mother is still alive. In Germany he completed an apprenticeship as a carpenter/joiner/cabinet-maker and was fully employed up to the age of twenty when he resigned his employment to come to Australia. He had not come to the notice of the police in Germany.

In January 1958 Werner Pohl sponsored Johann's migration to Australia. Werner described his brother as an excellent cabinet maker. After arriving in Australia, Pohl worked initially for the same firm as his brother, namely, Donald & Hopkins in the ACT and thereafter for various persons as a carpenter and, finally, in his own business at the time of the murder.

There is no evidence to suggest that prior to his marriage to the deceased Pohl had any serious attachments. He had, however, corresponded with a number of overseas pen friends, including the deceased in Hong Kong. He travelled to Hong Kong, met the deceased and her family and then brought her back to Australia where they married on 1 November 1971.

For a short period prior to their marriage, the deceased occupied Flat 1, 30 Booth Street and upon their marriage she and Pohl occupied Flat 2. She commenced employment with Lumleys, insurance brokers in Civic, ACT and remained so employed up to her death. Pohl claims that the marriage of sixteen months duration was a happy one.

During his imprisonment Pohl undertook various courses in Engineering by correspondence and worked in various prison joinery shops. His talents as a cabinet-maker were quickly recognised and he was frequently deployed outside prison working on community projects. It appears that, other than his brother, he had few visitors during his time in gaol. He was regarded by the prison authorities as a model prisoner. At all times during his period of imprisonment he maintained his innocence.

On his release from prison he obtained employment as a cabinet-maker at Lake Furniture at Miranda, remaining with that company until 9 February 1987 and thereafter working casually as a cabinet-maker. He now lives in the southern suburbs of Sydney and has not remarried.

4. The Trial

4.1 The Murder Scene

Joyce and Johann Pohl lived in a modest flat which was one of three single storey buildings clustered together on the corner of Booth and Atkinson Streets, Queanbeyan. The three flats were built so that Flat 2 (the Pohls' flat) and Flat 3 were side by side in a straight line and Flat 1 was angled at about 60 degrees to Flat 2. They were in fact three separate buildings joined by shared laundries between Flat 2 and 3 and Flats 1 and 2. They had no common walls. Flats 2 and 3 faced Booth Street whilst Flat 1 was angled towards Atkinson Street.

A scale plan of the flat, prepared in 1973 by Detective Senior Constable Walsh of the Police Scientific Investigation Section, Goulburn is Appendix B. The flat contained a lounge room, a kitchen with a small table, a bedroom, a room used by Pohl as a study containing a drawing board, and a bathroom which also contained the toilet. The laundry was outside. The rooms were very small. The bedroom measured 3.4m x 3.6m, the study 2.4m x 3.6m, whilst the hall was 0.9m wide. The building was timber framed and clad with asbestos cement sheeting. A small garden was situated between Booth Street and the front door. A small concrete patio was situated outside the front door. The backdoor, the only other access to the flat, opened into the bedroom.

Pohl informed the police he had been home that morning at about 9.30 and observed his wife cleaning the kitchen stove. He informed them that on his return for lunch at about noon he observed the following:

1. There was a hole on the inside of the front door which was locked.
2. One corner of the blanket on the bed was "a little bit dented in".
3. His wife's panties were on the floor in the bedroom. They were wet.
4. The gas heater was connected.
5. The gas was "on" but not ignited and there was a slight smell of gas.
6. The study door was open.
7. The rotisserie motor in the oven was operating.
8. Parts of the stove were still in the kitchen (as if she had been interrupted in her work of cleaning the kitchen stove.)
9. The radio was on.

10. His wife's body was lying between the bed and the wall of the bedroom furthest from the bedroom door. He only noticed it when he picked up his wife's panties and pantyhose to put them on a chair which was in the bedroom near the end of the bed.
11. The body was lying full length, face up, its head at the bedhead end, the arms down by its sides, the legs straight and the dress hitched up, exposing the genitals. A shirt was knotted around the neck. He said the body was dressed in the same blouse that his wife had been wearing when he was there last at 9.30.
12. The backdoor was unlocked. The laundry door was open and the laundry was unoccupied.

Pohl informed the police officers that he lifted his wife's body up and placed it on the bed and undid the knotted shirt and removed it. Detective Sergeant Murray of the Queanbeyan Police attended the premises and saw, amongst other things, that the pants and pantyhose were intertwined, giving the appearance they had been pulled off in one movement. On picking them up from under the chair he noticed they were completely wet "as if they had been immersed in something" (TT119). He examined the floor at the spot where Pohl said they were found but felt no dampness. He observed the carpet runner in the hall was pushed back up past the entrance into the bedroom so that its end protruded partly into the hall cupboard, the door of which was ajar.

No witness at the trial testified to smelling gas in the premises. The state of the bed as shown in the photographs taken that afternoon by Detective Sergeant Walsh depicts the bed in a state of disarray, inconsistent with the description given by Pohl of the bed when he saw it at about noon. By that time the body had been examined by Mr Walton, an ambulance officer, who arrived at the premises at about 12.15pm, and then by Dr Gillespie, who arrived at the premises at about 12.45pm and who performed an examination of the body whilst it was on the bed.

The police observed, in the kitchen, a large number of empty soft drink bottles and, outside the premises, an "Esky" portable cooler upside down. The gas heater was in the study, the door of the electric stove was open and parts of the stove were in the sink. The police asked Pohl if anything was missing from the flat and he told them that he thought a container of 50 cent coins and one of his watches were missing. The Police observed that next to where Pohl said the fifty cent coins had been taken were other coins and jewellery and in a drawer below was more valuable jewellery. Pohl showed the police the place from where the watch had been taken. The police observed there, another watch.

4.2 Pohl's Account

Pohl informed the police that he had left for work at about 7.40am. He returned to the flat at about 9.30am to pick up some plans at which time his wife was cleaning the stove. He left again at about 9.40am and during the morning visited premises, including the Queanbeyan Council Offices, a car repairer and a factory where he was carrying on some building work. He returned a little before noon and he described looking for his wife for some fifteen or twenty minutes before discovering her body. After discovering the body he went outside, knocked on the door of Flat 3, and upon getting no response, went to the house of a neighbour, Mr Meyer, who accompanied him back into the bedroom, made a brief observation of the body, and then, at about 12.05pm, telephoned for an ambulance. The ambulance officer, Mr Walton, arrived at about 12.15pm.

Pohl told him that he thought his wife had just stopped breathing. Pohl first spoke to police at 12.35pm, when he was interviewed by Detective Sergeant Murray, telling him of his discovery upon arriving home and giving details of his movements on that day. Later police investigations confirmed the account he had given them of his movements. He confirmed to the police that the house, as observed by them, was in the same condition that he observed it when he returned just before noon, although, in a later record of interview, he could not recall the state of the hall carpet when he returned. Detective Sergeant Gay of Goulburn assumed control of the investigation at 1.30pm. Pohl told him that he had pulled his wife's skirt down, having found it pulled up when he found the body. He also turned off the rotisserie. Detective Sergeant Murray conducted a record of interview at 1.55pm that afternoon and Pohl repeated, with some further details, the account he had originally given. He said that the back door was unlocked. He picked the body up from the floor and he added it sounded as if she was breathing. He mentioned hearing the girl next door calling out for her dog.

The deceased's sister-in-law, Margaret Pohl, had visited the flat at about 11.30am on the day of the murder. She left after about five minutes, not having found the deceased and observing that the study door was closed. That night Pohl stayed with his brother and Margaret Pohl, they discussed his observations of the state of the flat when he came home and compared them with Margaret Pohl's observations when she was there. She raised the possibility that when she was there an intruder had been hiding behind the closed door of the study.

The following day Pohl spoke to Mrs Curtis, the wife of a local real estate agent for whom he was doing some work, and told her he thought there was something strange when he came home because his wife was a particularly fussy and clean person and never left anything around. He told her the bed was the same as when he had left in the morning and suggested the damage to the front door may have been caused by it being pushed against the back of a chair.

On Saturday 10 March, at about 3.15pm Pohl was interviewed by Detective Sergeant Tupman. What he told Sergeant Tupman was consistent with what he told the other police officers. He had a further discussion with Tupman at about 4pm on Monday, 12 March and on that occasion, for the first time, said he remembered having obtained an Esky from under Flat 1, that he had come back in through the back door and had forgotten to lock it and that he had taken the bottles out of the Esky and left it in the kitchen.

Margaret Pohl gave evidence (TT68) that, either on the Sunday or the Monday following the murder, Pohl said he now remembered that he did not bring the Esky from under the flat into the house for Joyce to wash out as the Esky had been cleaned out already. In the light of Tupman's evidence, this conversation probably took place on Monday, after the record of interview with Tupman.

Miss Warwick (now Mrs Ley) and her then fiancé, Mr Ley, said they had seen the Esky outside the premises for some weeks prior to the day of the murder. In an interview with Tupman, which was recorded the following Thursday, 15 March, Pohl repeated the account of getting the Esky out from under the house. He told Tupman that the only real difference in the appearance of the kitchen between when he was there at 9.30am and when he came back at about noon was that the Esky was no longer in the kitchen and a long grill plate was lying on the oven door. Further, he said that when he walked out of the study, the door of which was open, he nearly fell over the gas heater which was in the hallway, connected, with the gas on. When he left in the morning the heater was standing under the shelf of the room divider, near the fan in the hallway and was not connected. (Tupman Record of Interview, 5 March 1973, Q102). He smelt gas when bending to disconnect it from the bayonet point. He turned it off and put it in the study.

In a subsequent record of interview on 8 April 1973 he told Tupman that he had not smelt gas prior to bending down to disconnect the heater.

In the first record of interview, he said that, having heard his neighbour, Miss Warwick, calling out for the dog, he went to her door, knocked on it and went elsewhere when there was no answer.

He said the heater was not alight. He recognised the blouse which Mrs Reardon had identified and said that he did not take that blouse off his wife's body.

4.3 The Evidence of Margaret Pohl

Johann Pohl's sister-in-law, Margaret, was friendly with the deceased and on good terms with her brother-in-law. On the day of the murder Margaret Pohl had taken her son to hospital for surgery for appendicitis. Later in the morning she called to see the deceased

because her son and the deceased were fond of each other and she wanted to tell her what had happened. She said she arrived at the Booth Street premises at about 11.15am. This time estimate appears unreliable because she said she was only there for about five minutes and other witnesses saw her leaving the premises and were more accurately able to fix the time she left as shortly after 11.40.

She saw the garden had been watered and the clogs that the deceased wore were on the patio and were wet (TT67). The front door was closed. She knocked on it and, on receiving no answer, looked through the kitchen window; she saw dishes in the sink and heard the radio playing. She then went to the back of the building and entered the flat through the back door which was unlocked. She walked through the bedroom, into the hall and towards the front door, thinking that the deceased may have gone out the front door. She looked at the front door and into the kitchen.

In the kitchen sink she saw dishes or parts of the stove and noticed that the stove door was half open. She did not hear the rotisserie operating. She was adamant it was not on. She did hear the radio playing. If, contrary to her assertion, the rotisserie was operating, then the only explanation for her not hearing it is that its noise may have been masked by the radio. Contrary to this, Pohl said he heard it when he came into the flat.

If she made the observations she said she made, she would have had to have been not more than a metre from the front door. She saw no damage to the front door. When she was asked specifically about the hole in the front door she said:

Q. In the course of going through the place did you notice any marking inside the front door at all?

A. None.

Q. The front door, Exhibit K, might be turned over. Do you see the mark on the hole in the door there?

A. Yes.

Q. Can you say whether you noticed that or not?

A. I can say 99% it was not there because I particularly looked at the door, if it was open or not, because I thought she went out the front, and I would have noticed that hole for certain if it would have been there when I was there (TT63).

She said, in the hallway, covering part of the floor, was a small carpet runner. She said: "It was lying on the floor the way it should be, straight." She did not see any gas heater in the hallway, the bathroom door was open and the study door was closed.

She said she looked at the bed to see if the deceased was in it. The bed was covered with an eiderdown which tended to stay hollow if anything was laid upon it but she noticed the bed was "straight and

made." She saw no panties or pantyhose on the floor in the bedroom and was emphatic if they had been there she would have seen them. Joyce Pohl, she said, was normally very clean and tidy. She noticed no unusual odour. She did not see the body.

In answer to the Crown Prosecutor as to how long she was in the flat she said: "Could not be more than five minutes because I was more or less running all the time; I was in a hurry." (TT66.9)

In summary, she observed:

1. There was no hole on the inside of the front door.
2. The carpet was straight.
3. The bed was made.
4. There was no underwear on the floor.
5. She did not notice a gas heater in the hall.
6. There was no unusual odour in the flat.
7. The study door was closed.
8. She did not hear the rotisserie motor.
9. The back door was unlocked.
10. The radio was on.
11. The stove was in much the same condition as described by Pohl.

4.4 Laraine Edith Warwick

Laraine Edith Warwick (now Mrs Ley) lived in Flat 3, 30 Booth Street, the adjoining flat to that occupied by Mr and Mrs Pohl. She was living in a de facto relationship with James Arthur Ley, who was employed by Grazcos in Main Street, Queanbeyan. They had been occupying Flat 3 since July 1972. She was employed by Allen Curtis & Partners, real estate agents in Queanbeyan. Mrs Ley owned an Irish setter that was allowed to roam whilst she and her husband were at work.

She shared a common laundry and a clothes line with the occupants of Flat 2. On the morning of the murder she noticed a pale, blue-grey coloured shirt hanging on one of the gas cylinders at the rear of Flat No 2. She had observed it there for about two weeks. She left for work at about 8.35 that morning and saw Pohl at about 9.45am at the offices of Allen Curtis. He was there for about twenty minutes.

At 11.20am she was told her dog was at the Grazcos office. She picked the dog up at about 11.30am and walked him back to Flat 3, arriving there at approximately 11.55am. The dog went to the front verandah of Flat No 2 and she had to grab the dog and bring it round the back where she locked it in the laundry leaving the door ajar. She then

entered Flat 3 and used the toilet. She said she was there for about five to seven minutes. On leaving, she noticed Pohl's green Valiant parked outside Flat 2 and that the front door of the flat was closed. She did not see Pohl. She could not say whether the Valiant had been there at the time of her arrival.

She observed the Pohls from day to day and described them as being "very quiet" and "normal". She had never heard any rows or quarrels between them.

4.5 Mrs McGann

Mrs McGann lived on the corner of Booth and High Streets. That day, at about 11.55am, she drove down Booth Street towards Atkinson Street. She saw a man, whom she later identified as Pohl, walking from the side of Flat 3 towards the trees at the front. She stopped her car because of a pothole and looked up at Pohl. He was staring at her and she stared back. She was quite certain he was walking not running.

4.6 Carl Meyer

Carl Meyer was a neighbour of the Pohls who lived in Atkinson Street and had a key to Flat 1. Pohl approached him and appeared to be upset and said "Something has happened to Joyce and I want a doctor or an ambulance." Meyer asked to see the deceased and on seeing her, noticed her face was discoloured. Meyer said "It seemed to me that her lips moved slightly . . . as though she was gasping for breath" (TT3) and when questioned further said "Well, just a very slight movement of the lips." When asked whether it was clear to him, he said "Well, I cannot say that it was very evident, it was just a fleeting impression that I had." He then made a telephone call for the ambulance from Flat 1. He was approached again by Pohl who said words to the effect "Joyce has stopped breathing." He then made a second call to the ambulance. The time of the first call was noted by the ambulance service as 12.05pm and the second as 12.11 (TT8).

4.7 Forensic Evidence

Dr Arthur Gillespie, who at the time had been a general practitioner in Queanbeyan for nineteen years and held the position of Government Medical Officer, examined Mrs Pohl's body at the premises at 12.45pm and performed a post mortem examination that evening. He gave evidence of the deceased's injuries and his opinion as to the probable time of death. Dr Gillespie's report to the Coroner (Committal Exhibit 7) is reproduced as Appendix "C".

The deceased's body, when first examined by him, was in the position on the bed as depicted in the trial photographs.

4.7.1 The Deceased's Injuries

The cause of death in his opinion was strangulation, carried out by means of a ligature of wide material, wrapped around the neck and tightened by a hand being placed between the neck and turned, thereby applying further pressure. Dr Gillespie observed bruising on the neck consistent with that manner of death. There was swelling in the regions of the larynx and the neck was fully swollen (TT40). The marks inside the neck indicated that "a great deal of force" (TT41) had been applied. Scratches on the jaw were consistent with attempts by the deceased to pull the ligature off. Dr Gillespie noted that although the sphincter was relaxed and there were faeces within the anus that "There was no smell of urine or faeces on the body in that region, no dirtying. Some part of the skirt was damp." (TT41) In his opinion she had probably passed some faeces and been cleaned up.

4.7.2 Time of Death

Dr Gillespie noticed rigor mortis in the jaws and facial muscles. He detected resistance in the abdominal muscles and chest walls which also indicated to him an early onset of rigor mortis. He believed those indications of rigor mortis in an asphyxiation or strangling would have occurred three to four hours after death.

He stated the matters to be taken into account in assessing the time of death included lividity of the body, the body temperature at the time of examination, the size of the body, the medium in which the body was (for example, water or air), whether it was clothed, the temperature of the room and the cause of death.

At the time of this examination the rectal temperature of the deceased was 35.9°C. He made arrangements to have temperature readings taken in the bedroom that afternoon. He checked the body temperature of the deceased at 2.45pm and found it to be 34.6°C.

Dr Gillespie thought death had occurred at approximately three hours from the time he first saw the body (my emphasis), placing the time of death at approximately 9.45am. He was then asked by saying "approximately" what margins or tolerance he would allow and he said, "I think an hour, about an hour, an hour more than that, may be a little earlier, it is only an estimate" (TT42).

The doctor then went on to say that he thought the most likely period of time was a minimum of three hours, possibly up to four from the time he saw the body.

He was then asked:

"Did it appear to you that the time of the death could have been substantially (my emphasis) later than 9.45? A. I think that unlikely."

He thought that in the circumstances it would be unlikely to be longer than four hours and most likely to be about three hours, saying:

"Principally on the early signs of rigor mortis, the significant degree of temperature fall, the circumstances of the clothing and the room, my own experiences of these surroundings, I thought it was probably about three hours." (My emphasis).

Dr Gillespie consequently did not believe there could have been any sign of life at around about 12 noon.

Dr Gillespie in cross-examination at the trial agreed that assessing the time of death by reference to rectal temperature is only approximate and that although various formulae had been devised none had proved reliable. He agreed conclusions based on the cooling of the body can be sadly misleading. He agreed also it could be that rigor mortis could come on earlier, sometimes immediately after death or within an hour or two of it, but that that was unusual. He stated that the rate of loss of temperature after death is very variable, there being no valid formula, and at best it can only be a rough estimate. He further agreed there was no such thing as a "normal" temperature (TT48).

He agreed (TT46) that there was no constant or fixed order of onset of rigor mortis. He was asked:

"You do not disagree that at best, taking into account all things that you consider relevant, that at best it is a very approximate thing, ascertaining the time of death? A. I agree."

The cross-examination of Dr Gillespie was lengthy, but at no stage was he shaken in his opinion as to the time of the deceased's death.

Mr Walton, the ambulance officer, had experience in dealing with bodies both as an ambulance officer and as an employee of undertakers. He noticed ". . . A rigor in the face. The body was quite cold but there was no sign of any rigor mortis in the arms" (TT11). He was further asked whether he meant by "rigor", the stiffness that follows death and he replied "Yes, in the chin" (TT11). His evidence was consistent with that of Dr Gillespie.

No evidence was called by the defence to contradict Dr Gillespie. In my opinion this was the most important evidence against Pohl bearing in mind he admitted he was in the premises between 9.30 and 9.40am.

4.7.3 Scientific Evidence

Detective Sergeant Walsh took careful measurements of the house and all of its contents and drew a scale plan (TX W) which is reproduced here at Appendix B. He took photographs of the exterior and the interior of the house and of the body of the deceased. The photographs of the body were taken of it both lying on the bed in the position it was found when the ambulance officer arrived and on the floor

between the bed and the wall, in the position that Pohl said it was when he found it. He also photographed the bed with the body beside it (see photo TX M1). The body cannot be seen in that photograph and it is apparent that a body hidden in that way would not be obvious to a person walking through the room. He found a number of long, dark hairs on the floor inside the front door and close to the doorstep. He also gathered similar hairs from the floor in the vicinity of the foot of the bed. Some hairs were also taken from the head of the deceased for the purposes of comparison. The deceased had long, dark hair.

The hair samples were sent to the Division of Forensic Medicine in Glebe and were examined by the then Senior Forensic Biologist, Mr Horton, who stated that the samples of hair from Mrs Pohl's head were similar to those found by Detective Sergeant Walsh.

He also said that spermatozoa were detected on a vaginal smear of the deceased and on her panties. Pohl told police he had intercourse with his wife that morning.

4.8 The Letter

On 8 April Detective Sergeant Tupman interviewed Pohl about a letter dated 27 February (ten days before the murder), which Pohl identified as having been written by his wife. The letter revealed that the deceased was unhappy in her marriage and was considering returning to Hong Kong. It was tendered as evidence to show unhappiness in the marriage, contrary to his statements they were happy together. It could have provided, in the jury's mind, some evidence of motive. The letter is reproduced here as Appendix "D".

4.9 The Gas

Pohl, as I have mentioned elsewhere, told police that he had smelt gas when he bent down to disconnect the gas heater in the hallway. Ian George Snelling, the District Manager for the Canberra District of Liquefied Petroleum Gas Limited, was called at the trial and gave evidence that he had tested the gas heater and found no fault in it. He also tested the gas cylinders on the outside wall of the flat and found them to be operating properly and to contain gas. He said that liquefied petroleum gas, the product in the cylinders, had a very noticeable odour apparent in very small concentrations. He said that the gas was heavier than air and tended to flow to the lowest point in the building. Margaret Pohl noticed no odour of gas.

4.10 The Crown Case

The Crown case, viewed nineteen years later, discloses a very strong circumstantial case against Pohl. The Crown evidence, in the main, went uncontradicted and no evidence was called on his behalf. His

only contribution to the trial was a brief unsworn statement which made no attempt to deal with the Crown case or explain his conduct on that day. For example, he could have explained, as he did at this Inquiry, the reason he drove to Mr Meyer's place was, in the event of Mr Meyer not being home, he could then have driven to the phone box in the next street. He made no attempt to deal with the evidence of Mrs McGann. Unexplained as it was, the conduct of Pohl in the circumstances was strange and could properly have been treated with suspicion by the jury.

In summary, the Crown case was that at some time between 9.30am and 9.45am on Friday, 9 March 1973 Pohl strangled his wife in their flat. He then hid the body on the premises, left the house and went about his normal business activities so as to set up an alibi. He returned to the house sometime before noon and, after re-arranging the body to suggest a sexual attack, and the house to simulate the work of an intruder, he then "found" the body.

The initial police investigators were joined by Detective Sergeant HD Tupman and Detective Senior Constable D Gilligan CIB Sydney, who then carried out a careful and thorough investigation. The matters that were significant in causing Detective Sergeant Tupman to arrest Pohl are set out in a minute to the Superintendent-in-Charge of the CIB dated 28 March 1974. This minute (Inquiry Exhibit 33) is reproduced in its entirety at Appendix "E".

From that minute the evidence of the time of death and the evidence of Margaret Pohl taken together can be seen to have been central to the Crown case.

4.10.1 The Significance of the Evidence of the Time of Death

A neighbour, Mrs Reardon, had seen the deceased outside her flat at about 9.25am. She was able to fix the time with a degree of accuracy because when she saw Mrs Pohl she was returning from taking her child to school. The range of estimated times of death of three to four hours before 12.45pm given by Dr Gillespie was thereby narrowed to 9.25 to 9.45am. An acceptance by the jury of this range was critical to the Crown case, and there was no reason why the jury should not have accepted that time range. It was critical for a number of reasons:

1. Pohl had, on his own admission, returned to the flat at about 9.30am and remained there for about ten minutes. Clearly, therefore, he had the opportunity to commit the crime.
2. His statements to the ambulance officer, Mr Walton, and to Mr Meyer suggesting that his wife had just stopped breathing at about noon, could have been considered by the jury to be lies or prevarication.
3. He was observed by a neighbour, Mrs McGann, to be walking in an unhurried fashion outside the premises at about noon. His

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manner could well have been regarded by the jury as consistent with someone who knew there was no need for haste. It was also inconsistent with the evidence of his activities on finding the body. Part of the Crown case was that it was only when he realised he had been seen that he commenced procedures to have the ambulance called to attend the residence.

4. His unsuccessful attempt to attract the attention of Miss Warwick, whom he thought was in the next door flat, could have been viewed by the jury as half-hearted and consistent with someone who well knew that his wife was beyond help.

The evidence as to the time of death was emphasised in Mr Justice Begg's Summing-Up to the jury. He reminded the jury the Crown case was that she had been strangled at 9.45am. The trial Judge referred to the observations by police as to the state of the stove and the fact that she had been last seen by Pohl cleaning the stove. His Honour reminded the jury that, although it was a matter for them, it appeared she had not got far with this activity.

There were a number of references in His Honour's summing-up to the time of death and to Dr Gillespie's assessment. He reminded the jury that, whilst Dr Gillespie thought the time of death was about 9.45am, he emphasised Dr Gillespie said he could not be certain as it was not a mathematical science. His Honour pointed out, however, that Dr Gillespie, despite this concession, was of the opinion the time of death was about 9.45am. The evidence as to the time of death was in my view the single most important evidence against Pohl.

4.10.2 The Significance of the Conflict Between the Evidence of Margaret Pohl and Johann Pohl's Accounts

Margaret Pohl's observations of the flat when she was there at about 11.40am were quite different to the observations reported by Pohl at about 11.55am and the observations of the police. If she were accepted by the jury, they could well have concluded that, after her visit to the flat, someone had:

1. Made a hole in the front door.
2. Disturbed the carpet in the hallway.
3. Disturbed the bed clothes on the bed.
4. Placed the deceased's underwear, completely wet on the bedroom floor or on a chair in the bedroom.
5. Placed the gas heater in the hallway.
6. Opened the study door.
7. Turned the gas heater on.
8. Turned on the rotisserie.

This evidence was the other critical feature of the Crown case. When taken together with the time of death, the finger of suspicion pointed directly at Pohl. In a passage now ironic, McClemens C J at C L and Lee J sitting in the Court of Criminal Appeal said:

“Once it is seen that the death took place at a time when the appellant, on his own admission, could have been at the house, then the convincing evidence that someone altered the condition of the house after Mrs Pohl visited it later on in the morning, leads inevitably to a conclusion that the possibility of a casual intruder being the killer is rationally not open.” (Joint judgment p1).

If a casual intruder was excluded then the only other possible murderer was Pohl.

In essence, the evidence of Margaret Pohl was uncontradicted and the jury in those circumstances would have been clearly entitled to accept her and then to draw the inference adverse to Pohl. And why would the jury not have accepted her?

1. She was not antagonistic towards her brother-in-law. Her evidence was she got on quite well with her brother-in-law and the deceased and that her son was fond of the deceased and she of him.
2. Very shortly after the event her attention was directed to what she had observed that day and how her observations differed from those of Pohl. Pohl stayed with her and her husband for about four weeks after the murder and although she did not talk much to him about his wife's death they did discuss the state of the flat as she found it compared with the way he found it on his return. The fact that she saw the study door closed led her to believe that the killer might have been in the study when she was in the flat. (TT71A)
3. She was not shaken in cross examination.

4.11 Conclusions

Although the learned trial judge in his report to the Court of Criminal Appeal expressed some surprise at the conviction, there is no doubt that it was clearly open to the jury to convict Pohl on the evidence presented. The Court of Criminal Appeal was not presented with any grounds which could have resulted in the jury's decision being overturned. Further, an examination of the leading judgment delivered by the late Mr Justice Isaacs reveals a careful and detailed examination of all relevant evidence including evidence which was admitted by leave on the appeal. Further, I am satisfied that the Crown case was presented fairly to the jury. There is no suggestion of any impropriety by any of the police officers in their investigation or in the evidence that they gave, nor is there any suggestion that the lay witnesses gave their evidence other than to the best of their recollection. Looking at

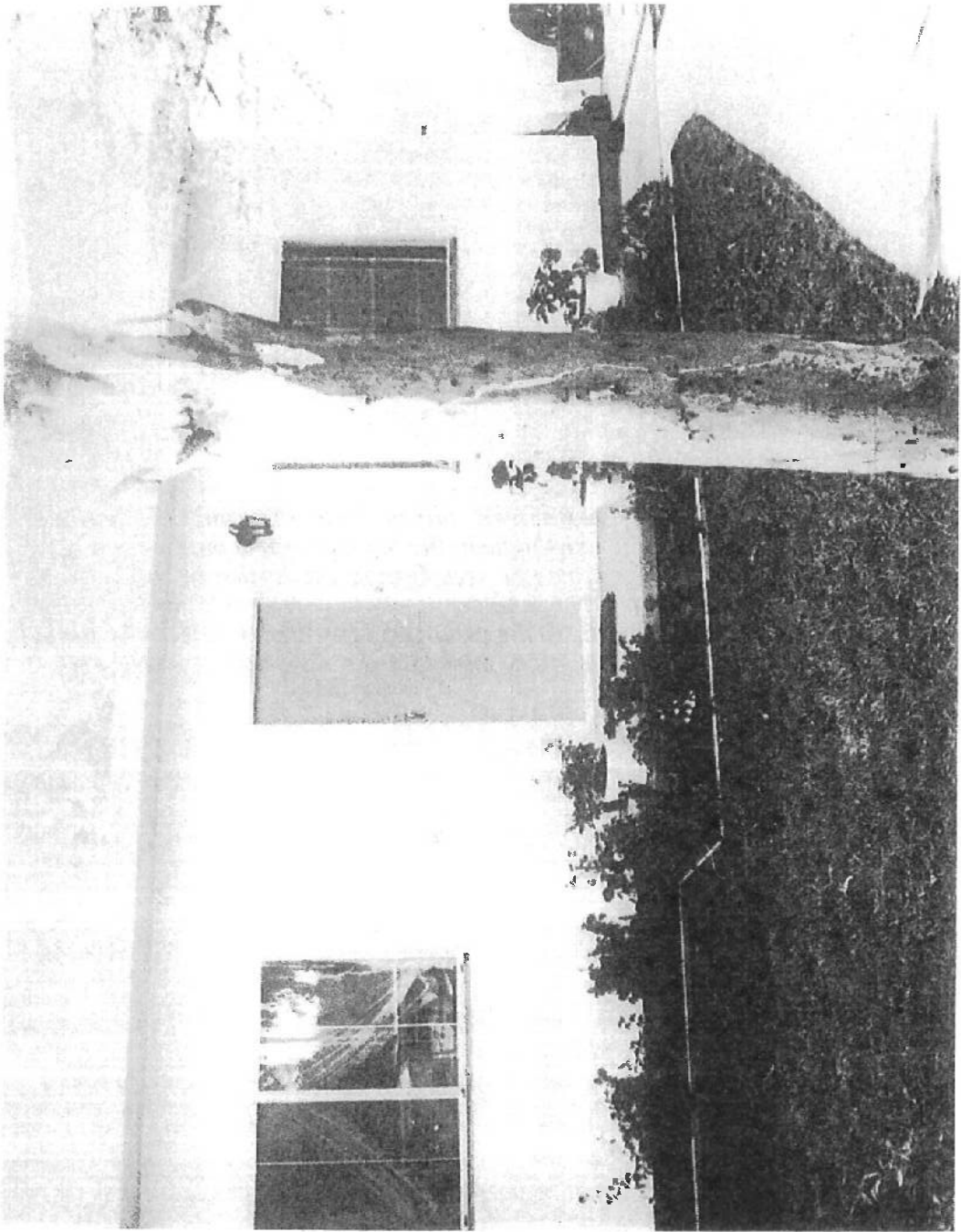
the whole of the circumstances as they appeared at the trial, no criticism can be levelled at the trial process, the decision of the jury, nor the decision of the Court of Criminal Appeal.

In addition to the matters that I have already referred to, the following facts could have influenced the jury's decision:

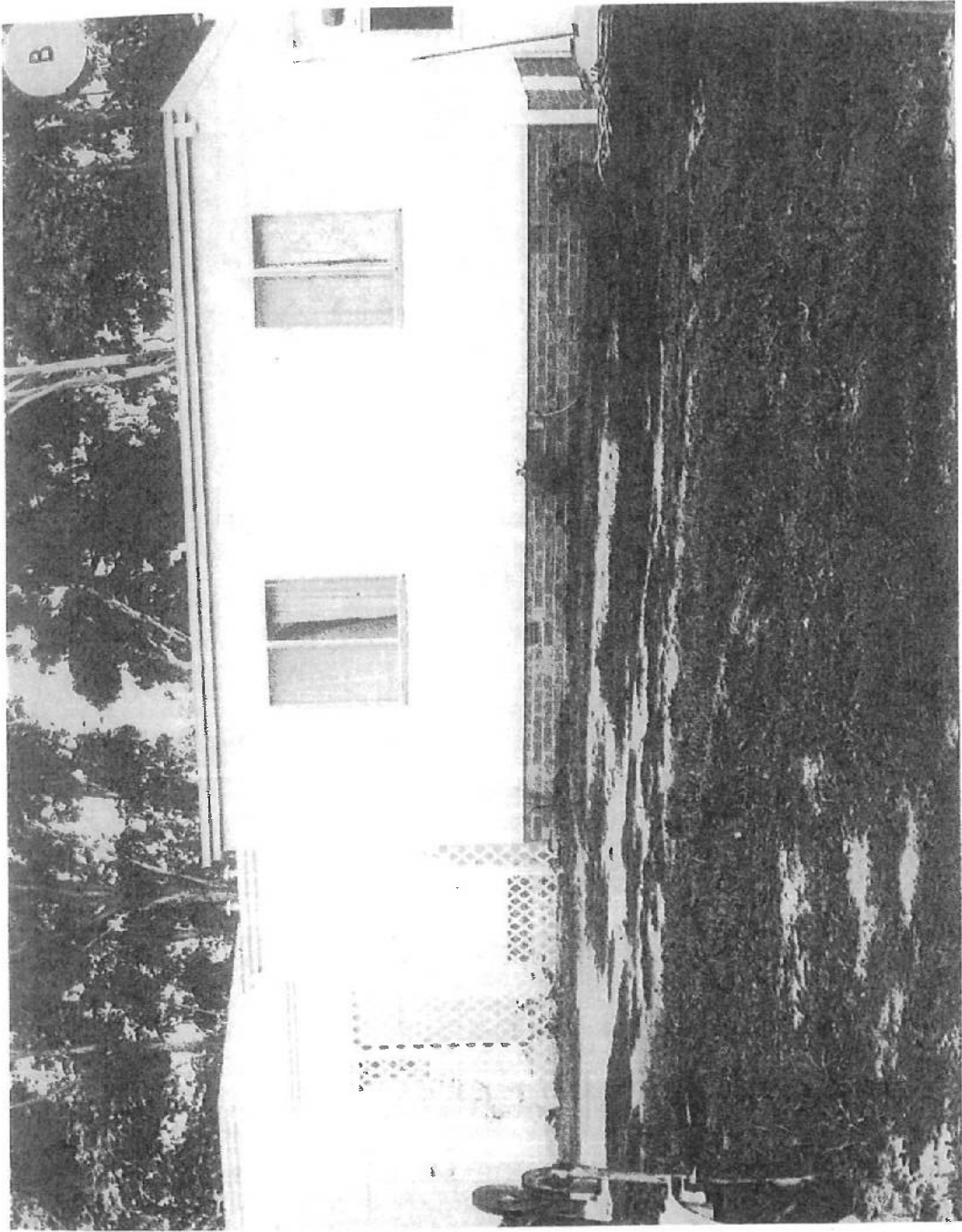
1. The evidence of gas smelt by Pohl but not by any others.
2. The inconsistencies in his account to the police, and to Margaret Pohl particularly about the cleaning of the Esky, as she was not challenged as to what he told her on the Monday.
3. The letter to the relatives in Hong Kong which could tend to cast doubt on his assertion that the marriage was happy.
4. Pohl's statement that he was in the house fifteen or twenty minutes prior to discovering his wife's body, given the size of the house, could support the available inference from the evidence of Margaret Pohl that he had set up the house in order to establish there had been an intruder.
5. The evidence of Detective Sergeant Murray that the deceased's underwear was thoroughly wet, when taken together with the evidence of Dr Gillespie that the body had been "cleaned up", could suggest that it was Pohl who had done this.
6. Pohl's statement that he had pulled his wife's skirt down to cover her exposed genitals could well have been construed as another attempt to suggest a sexual attack by an intruder.
7. The suggestion by Pohl of items missing from the house could have been construed as a fabrication by himself to again suggest an intruder in the premises.

4.12 Photographs

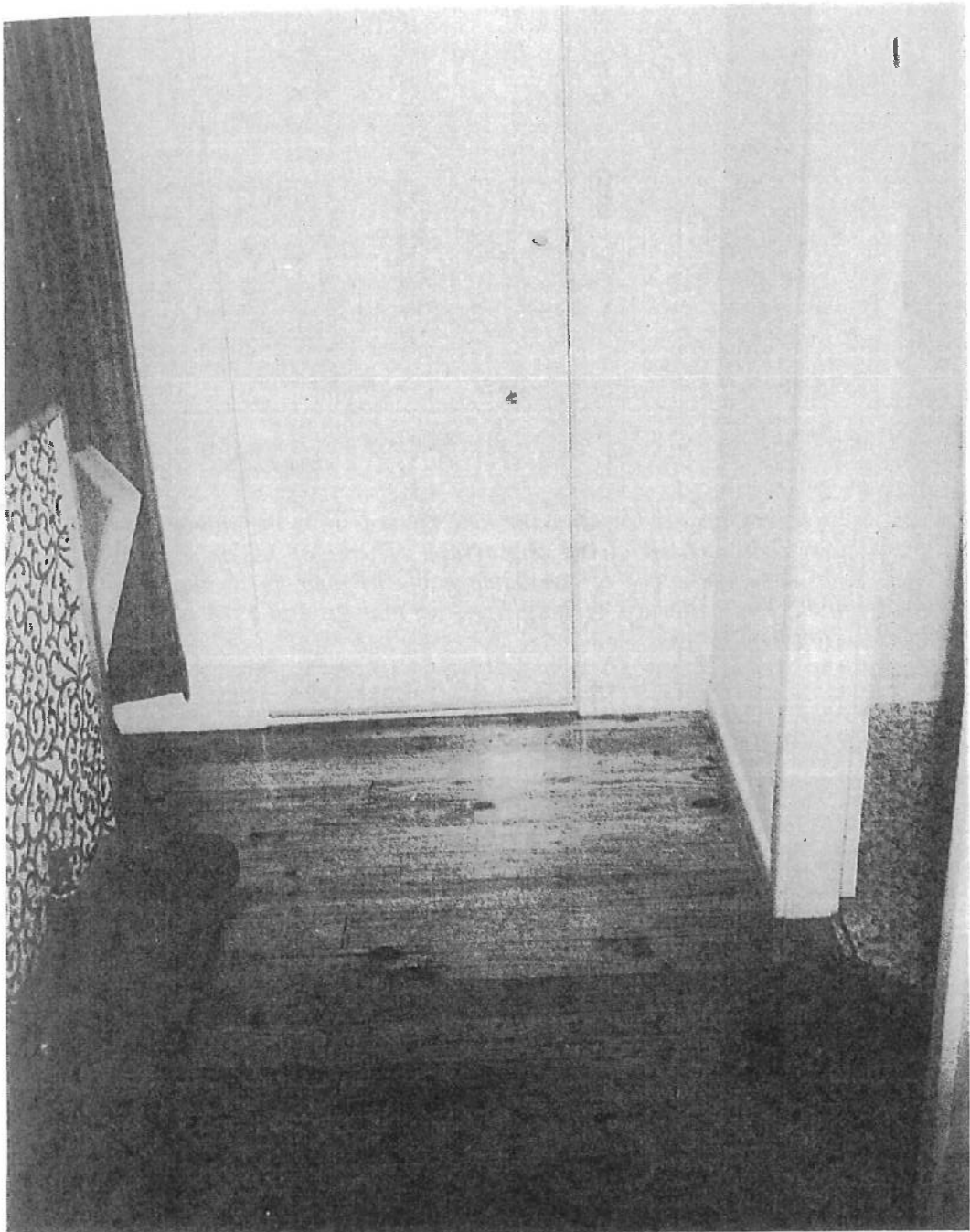
The exterior of the premises Flat 2/30, Booth Street, Queanbeyan, viewed from the front. (Trial Exhibit E1, part of the Inquiry Exhibit 17.)



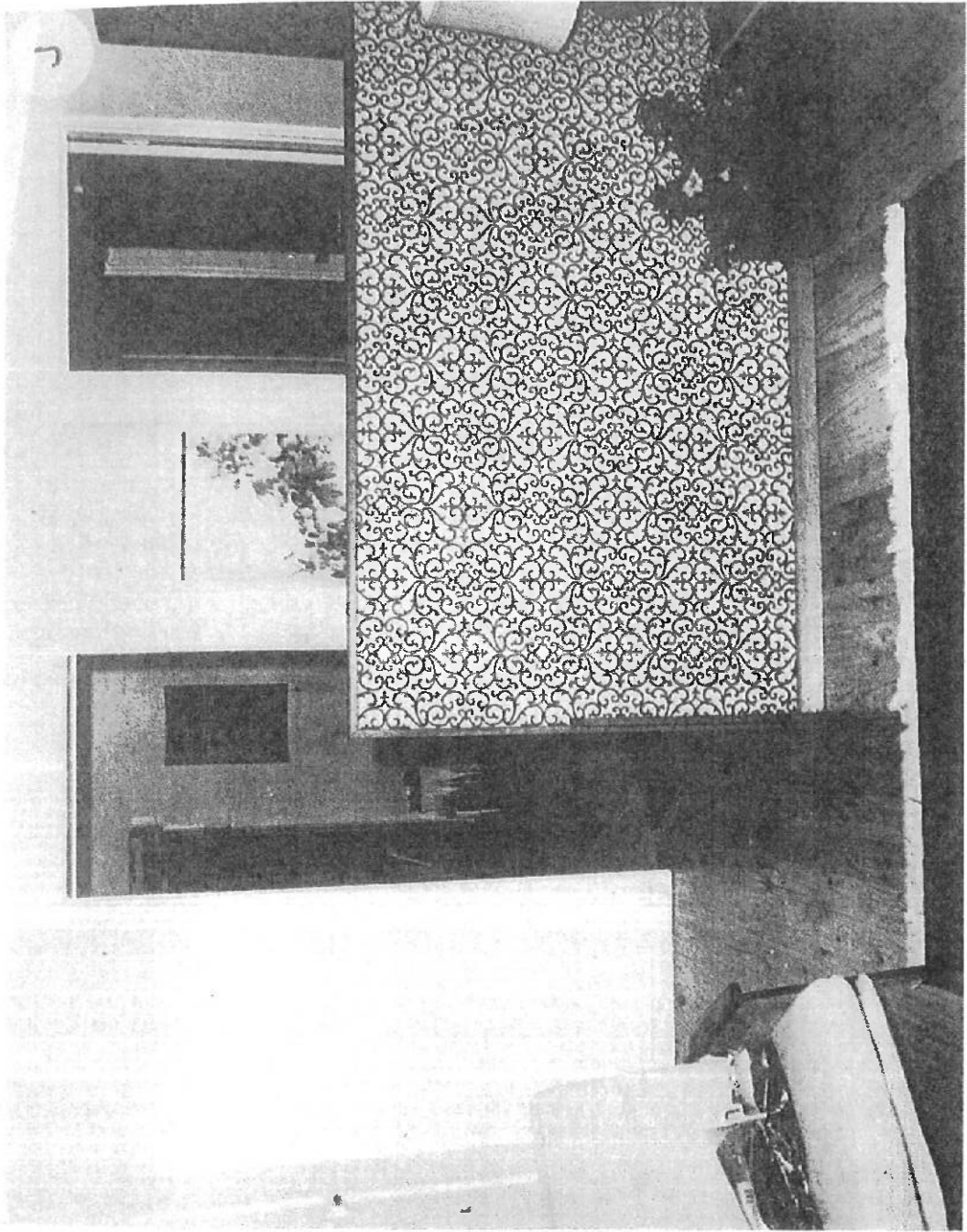
Flat 2/30, Booth Street, Queanbeyan, viewed from the rear. The bedroom window is on the left in the photograph, the study window on the right. The cylinder for the gas supply may be seen behind the lattice in the left mid ground of the photograph. The cylinder is on the right side of the lattice. The back door cannot be seen in the photograph. It was situated next to the gas cylinder and on a wall at right angles to the rear wall.



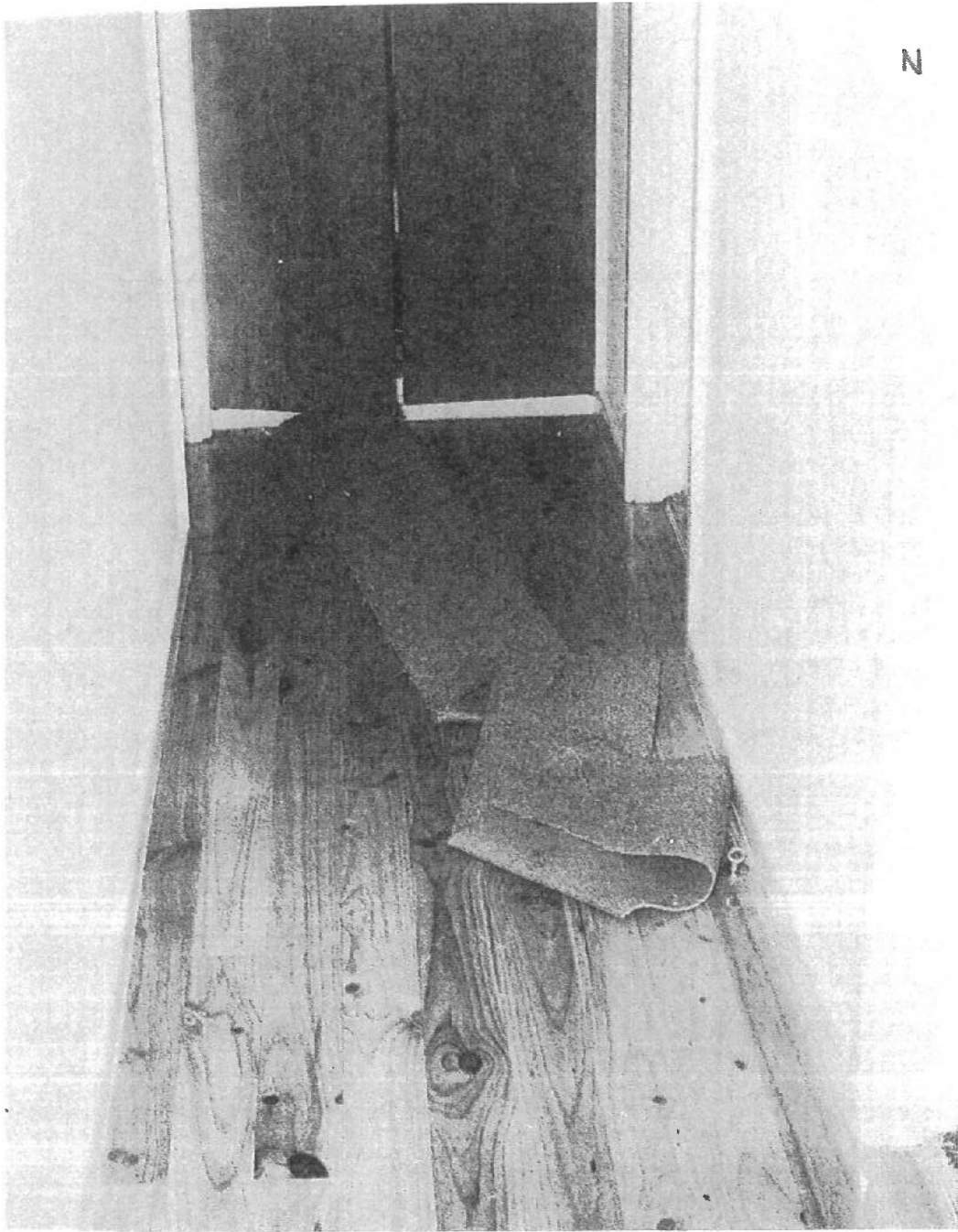
The front door of the premises viewed from the interior. Damage to the door may be seen at approximately 45cm below the lock on the right hand side of the door. (Trial Exhibit F1, part of Inquiry Exhibit 17.)



The entrance to the kitchen and the hall viewed from the living room. The front door is on the left of the photograph. The chair which Pohl thought may have been the cause of the damage of the door is in the left of the photograph. The patterned rectangle in the mid ground is a room divider. (Trial Exhibit G.)



The hall viewed from the lounge room end. The doorway to the bathroom is on the left, the doorway to the study is on the right background, the doorway to the bedroom is on the right foreground. The bayonet fitting for the gas supply is depicted in the mid ground of the photograph on the right of the hall between the entrance to the two rooms and between the skirting board and the carpet runner. (Trial Exhibit J.)



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The kitchen viewed from the kitchen door. The kitchen window is on the left of the photograph, the stove on the right. (Trial Exhibit L.)



The deceased in the position she was in when the police arrived. The shirt is depicted at the top of the bed, and to the right of the deceased. (Trial Exhibit A2.)



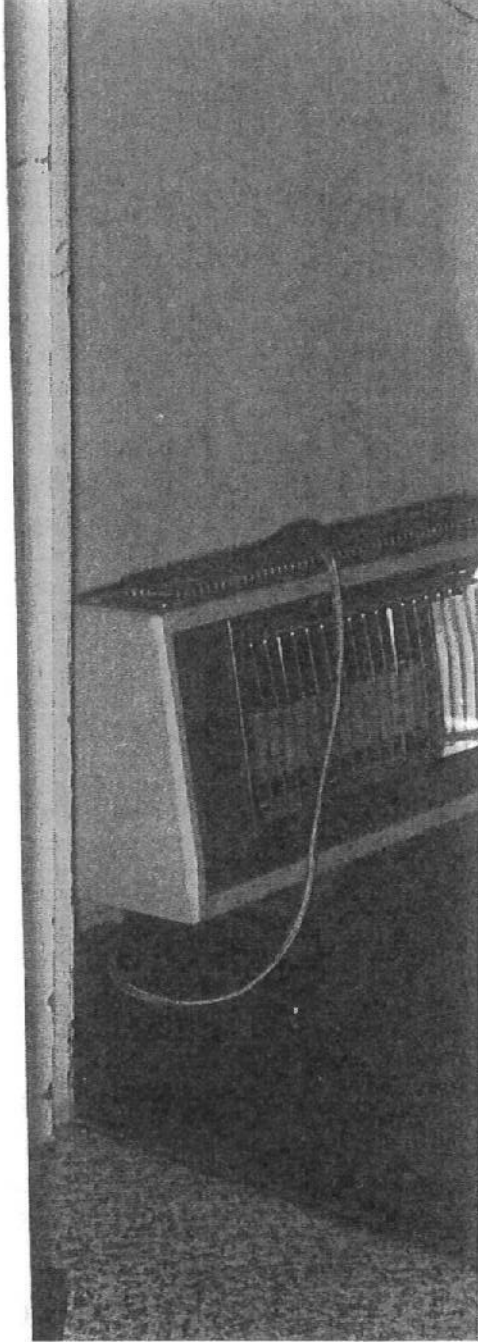
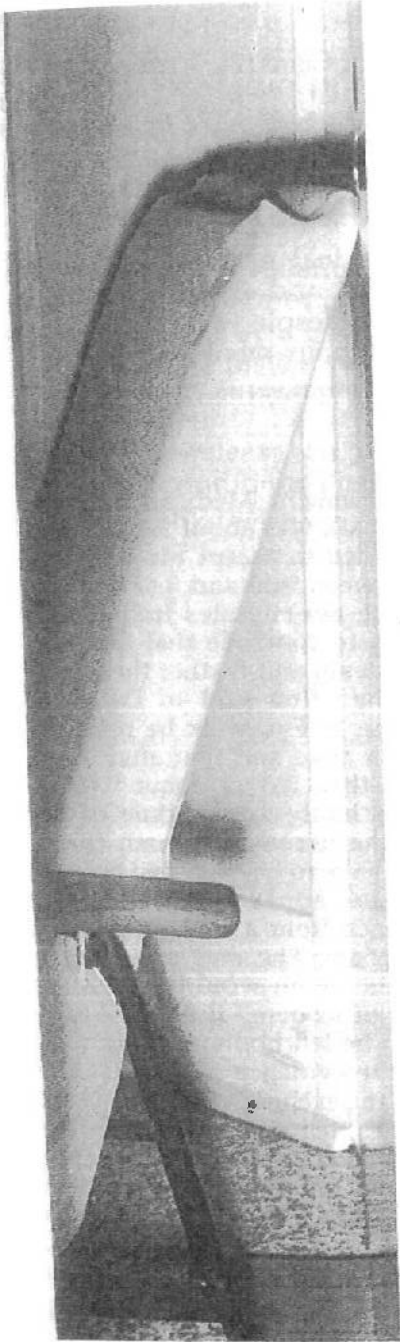
The bed viewed from the bedroom door after the body had been removed by police and placed between the bed and the bedroom wall. The back door was on the right but does not appear in the photograph. (Trial Exhibit M.)



The deceased placed by police in the position that Pohl said that he found her in except that Pohl said her arms were down by her side and her dress was hitched up. (Trial Exhibit M1.)



A reconstruction by the police of the relative positions of the lounge chair and the front door. Note that the front door has been raised for the reconstruction and has been placed upon a book. The gas heater appears on the right of the photograph.



5. The Appeal

Mr Justice Begg, in his report to the Court of Criminal Appeal, thought it proper to indicate to the Court that whilst he was of the opinion there was evidence before the jury upon which they could convict, he personally did not regard the Crown case as being a strong one. Indeed, he felt surprised at the jury's verdict but emphasised he had not come to any firm conclusions of fact himself.

The leading Judgment in the Court of Criminal Appeal was delivered by Mr Justice Isaacs, who in a lengthy and carefully reasoned Judgment, referred to the evidence of Dr Gillespie which put the time of death between 8.45 and 9.45am. His Honour went on to say:

"There was no medical evidence to the contrary of Dr Gillespie's opinion."

His Honour said:

"In the light of the fact that the Government Medical Officer's evidence and opinion as to the time of death was about 9.45am and being uncontradicted, the jury were entitled to accept his evidence and to fix the time of death as being between 9.30 and 9.45am, and accepting his evidence that it would take five minutes from attack commencing with strangulation to death to conclude that the time of the attack was within five minutes of death and further they were entitled to accept what the appellant had first said to Detective Sergeant Murray, namely, that after going to Fyshwick he returned home at about 9.30am, his wife was then alive and that after being in the house for about ten minutes he then left at about 9.40am. That, of course, would put him in the house at the time of her strangulation and death. Any time of the deceased's death earlier than the period 9.30am to 9.45am would have to be excluded because there were not only the statements of the appellant that she was alive at 9.30 but there was other evidence from a Mrs Reardon of her being alive between 9.15am and 9.25am. The doctor's estimate of three to four hours from time of examination would include the period from 8.45am to 9.45am, but, of course, the appellant's admissions that she was still alive when he left home at 7.30am and when he arrived home at 9.30am, and the evidence of Mrs Reardon having seen her between 9.15 and 9.25am exclude consideration of that period of 8.45 to 9.45am and confines the time of death to three hours approximately prior to 12.45pm when Dr Gillespie commenced his examination. This alone was strong, cogent and convincing evidence for the jury and there is no practical or other reason as to why it should not have been accepted by them."
Judgment p17.

Additional reasons were advanced in Mr Justice Isaacs Judgment to clearly justify the jury's verdict. The other two members of the court concurred. Had Roger Bawden not confessed in September 1990 there would have been no rational basis for ever questioning the conviction of Pohl. Indeed, counsel for Pohl at the Inquiry specifically eschewed any suggestion of improper conduct by any persons that might have led to the conviction.

6. Johann Pohl—Gaol Sentence

Following his conviction, Pohl was imprisoned at Long Bay Gaol. Following the dismissal of his appeal by the Court of Criminal Appeal on 2 August 1974, he sought advice as to whether he should seek special leave to appeal against his conviction to the High Court of Australia. He was advised not to appeal and did not do so, although, at all times during his period of custody he maintained his innocence.

His continuous protestations of innocence were regarded initially by probation and parole officers as a factor inhibiting his rehabilitation. He was described by a probation and parole officer in 1981 as having "little faith in the justice system. He does not seem actively bitter, but rather resigned to the fact that he was charged, as he says, falsely".

Following his release on licence on 25 February 1983, he strictly observed the conditions of the licence. He has not subsequently been convicted of any offence.

7. The Inquiry

7.1 General

The central issue to be determined in this Inquiry is the authenticity of Bawden's confession. That, therefore, involves a close examination of the circumstances surrounding the confession to the police by Bawden on 8 and 9 September 1990 and his adherence to it over a period of eighteen months. Despite his extensive questioning by police officers, by senior counsel assisting the Inquiry and by Dr Woods representing Pohl, Bawden has refused to resile from his confession.

There is no evidence, other than his confession, that he was in fact the person who murdered Mrs Pohl and it is necessary therefore to examine closely whether there is credible corroboration of his confession.

I have given consideration as to whether Bawden had the opportunity to commit the offence. That requires a consideration of two matters: the likely time of death and whether Bawden could have been present at that time. I have also inquired as to whether Bawden was a person likely to have committed a murder and whether his personality predisposed him to making a false confession. I have considered the possible sources of his knowledge and closely analysed the various accounts of his confessions.

7.2 Biography of Roger Graham Bawden

Roger Graham Bawden was born in Weymouth, Dorset on 14 April 1950 and arrived in Australia with his family on 12 December 1962. He has two siblings, an elder brother and a younger sister. His father described his son as scholastically very bright whilst he was in England but had difficulty adjusting to school life in Australia. In 1965 he completed the School Certificate at Arthur Phillip High School and commenced employment as an apprentice photolitho plate maker for Symonds Limited in Parramatta Road, Glebe. He left that employment in July 1969 without completing his apprenticeship. He then worked in various jobs prior to his marriage to Judith Margaret Flaherty at Wangaratta, Victoria on 13 June 1970. They lived in Melbourne and, during this period, he worked for the Melbourne Tramways Board and for the Chamber of Manufacturers. After a brief time in Melbourne he moved to Sydney and in 1971 joined the RAAF as a cook. In approximately August 1972 he was posted to the RAAF base at Fairbairn. He and his wife initially lived in flats in Henderson Street and then McQuoid Street, Queanbeyan. They remained there until about February 1983 when they moved to Cook A C T.

He applied for discharge from the RAAF in October 1976 because of alleged increasing financial problems, concern about his wife's health, depression and problems with his marriage. This application was rejected. Mrs Bawden says that his depression was the cause of the marital problems, he attributing it to dissatisfaction with service in the RAAF (Ex 57, p75). He was discharged on 7 April 1977.

He was then employed at the State Bank Training Complex, at Baxter, Victoria for approximately ten months. During this time he separated from his wife, Judith. She divorced him in 1979 or 1980. There were two children of the marriage, both of whom, since separation, have lived with their mother. In January 1982 Bawden met his second wife, Anne-Marie, whilst he was in Cooperoo, Queensland. He married her in December 1983 and separated about Christmas 1986. There were two children of that marriage, the younger of whom was not born at the time of Bawden's separation from his second wife. From 1980 until his admission to the Gresswell Rehabilitation Centre at Mont Park, Victoria in August 1989 for an alcohol detoxification program, he worked principally in Queensland but also in Victoria, New South Wales, Thursday Island and the Northern Territory. Corroboration for these periods of employment is provided by his wife and ex-wife, his family and friends and the record of his admissions to hospitals and institutions in Queensland and Victoria.

In the history given by Bawden to the psychologist at the Gresswell Centre Men's Unit on his admission he alleges that he had an unhappy childhood and a poor relationship with his father who was a strict disciplinarian. He experimented with amphetamines and from time to time indulged in other recreational drugs. He alleged he attempted suicide on a number of occasions, the first at the age of thirteen. There is evidence to suggest he attempted to commit suicide on 10 March 1974 when he was involved in a motor vehicle accident on Mt Ainsley, Canberra. Prior to his admission to Gresswell he had been admitted to hospitals at Blackwater and Rockhampton, apparently as a result of a failed suicide attempt. On that occasion Bawden was found unconscious at a cemetery on the outskirts of Blackwater. He had been missing from home for two days. A diagnosis of alcoholic psychosis was made.

He also alleged that once, whilst he was working in Sydney, he took an overdose of drugs.

His history at Gresswell discloses a number of convictions in different states for drink driving offences. He gave a twenty year history of alcohol dependency. After his discharge from Gresswell and until September 1990 he lived in a private hotel in Hawthorn, Victoria and for part of that time, until retrenched, he was employed at Kew Cottage assisting handicapped children.

Since his confession to the Queanbeyan Police he has remained in Queanbeyan.

7.3 Bawden's Confession—A Summary

Generally, Bawden has given a reasonably consistent account from the time of his first conversations with police through various records of interview, television appearances, videotaped admissions and evidence before me. He asserted that on the day of the murder he had left his home in Cook to go to work at the Fairbairn RAAF base. He was anxious and depressed, mainly because of a need to obtain money. At some time that morning he formed an intention to break into a house and commit a robbery. He went to Booth Street, Queanbeyan, not knowing why, and, whilst driving past, saw the deceased in the garden. His accounts of the time that he was in the vicinity vary between 9 to 10.30am. He parked his car around the corner in Atkinson Street, alighted from his car and, on a pretext, spoke to the deceased. He returned to his car, waited for a short period and then went back to the house but the deceased was not in sight. He went to the front door, knocked and, when she answered, forced his way in. She screamed and he attacked her in the lounge room. At the same time he slammed the door shut having noticed a dog barking and bounding across the road towards the front door. His struggles with the woman continued. He forced her to the floor of the lounge room and, using a shirt, he strangled her by twisting it around her throat. He then dragged her, still struggling, along the hall into the bathroom. He dragged or carried her body into the bedroom where he dropped it on the bed. He then placed the body of the deceased on the floor in the bedroom between the bedroom wall and the bed for the purpose of concealment. He said he tried to push the body half under the bed. He was feeling panicky and desperate and made what appears to have been a fairly desultory search for valuables, taking a container of fifty cent coins from a cupboard and what he described as a woman's watch from a shelf on a wall divider at the end of the hall. He said he turned the gas on as he left the premises.

7.4 Bawden—Admissions to Spence

Bawden's approach to the police at Queanbeyan was not the first time that he had spoken about the events of that night. For many years Bawden has been a confirmed alcoholic. Whilst at the Gresswell Rehabilitation Centre he became friendly with another inmate, George Spence. Spence was interviewed by the police (Record of Interview 10 October 1990, Ex66).

After being treated they both obtained positions at Kew Cottages, Melbourne working with handicapped children. Bawden apparently had been retrenched in August 1990 because of lack of funding for the institution. This upset him. Spence related to police a problem that arose when Bawden forgot to visit his elder daughter, Cassandra, on her birthday. This resulted in her rejecting him.

Spence says in January or February 1990 at Gresswell Bawden had "cracked up", telling Spence he did not want to go on living. By that Spence meant he broke down weeping. The discussion between them got around to guilt. Bawden said to him, "I've got more guilt in me than you will ever have." Bawden said, "I think I killed her" and he kept repeating this. Spence then asked him who he thought he had killed and he said "A lady" but did not give a name or any further details. Spence then said, "was she still breathing?" and he answered, "I don't know". Spence asked, "How do you know you killed her for sure?" Bawden said, "I just think I killed her" and Spence said he kept repeating this.

Spence said he was not sure whether Bawden had told him where this had happened but he thought it must have been at her home. He believed Bawden told him that he had strangled her and that it happened a long time ago. Bawden told Spence that he had told no one else.

Spence said Bawden did not mention the matter again but on a subsequent occasion became upset and when Spence asked him what was wrong Bawden replied "You know".

In late August 1990 Bawden again spoke about not wanting to go on living, indicating to Spence that Spence knew what he had done. Spence said Bawden gave no indication to him that he was thinking about giving himself up.

On 8 September 1990, apparently with the intention of giving himself up, Bawden, using Spence's motor vehicle, left Melbourne to drive to Queanbeyan. He was involved in an accident near Albury and had to proceed to Canberra by bus and thence by taxi to Queanbeyan. He left a note for Spence (Ex 42) in which he informed Spence that he was going to Queanbeyan to give himself up and indicated he expected to be imprisoned.

Spence gave evidence that the treatment at Gresswell for alcoholism started with detoxification, followed by individual and group therapy sessions. In the individual sessions the patient was encouraged to discuss with his counsellor what was troubling him and was urged to take a good look at himself, face his problems and lift his self-esteem.

This evidence corroborates the fact that for some time Bawden had guilty feelings, causing him to be depressed and probably at least partly responsible for his alcoholism. Spence's evidence is consistent with Bawden's expressed reasons for giving himself up to the police. He told Sergeant Pulsford that it had not been easy and that he had finally worked up courage to come to Queanbeyan. He stated that it had been playing on his mind all this time and when he heard that the deceased's husband had gone to gaol he could not live with it. He told Pulsford of the rehabilitation treatment which enabled him to finally get a grip on himself and come to terms with himself.

He repeated to other police his feelings of guilt and relief at having confessed. The same evening when spoken to by Sergeant Bowtell he said he was glad it was all over and that (since the murder) he had had nothing but bad luck. Sergeant Bowtell observed that Bawden appeared to be relieved.

To Detective Sergeant Dean he said he came to the Queanbeyan Police Station because he wanted to confess to the murder of Mrs Pohl. On being shown a photograph of the deceased he identified her and began to cry. He also stated that he had been thinking about this crime in recent weeks more so than usual.

He mentioned to Detective Sergeant Dean his friendship with Spence and said he had told Spence he had killed a woman. He said the subject of the killing came up with Spence three or four times.

He also told Detective Sergeant Dean he had a feeling that he could no longer cope with life "primarily because of the guilt I have had inside me in relation to this."

Later he told Detective Sergeant Dean he felt relieved but was disgusted and ashamed of himself and he felt he had what was coming to him. His feeling was even worse because he had found out that Pohl had spent ten years in gaol.

7.5 Bawden's First Contact and Confession to Police

His first contact with Queanbeyan police on 8 September 1990 is significant because these police to whom he spoke at the time knew nothing of the events of 1973 and could therefore neither provide Bawden with any information concerning the murder nor influence his account in any way. More importantly, on the evidence before me, Bawden did not have an opportunity to inspect the interior of the flat where the murder took place. After arriving in Queanbeyan he told the police he had visited the Leagues Club and consumed some liquor before attending the police station.

When spoken to by Sergeant Pulsford he observed that Bawden was "shaking noticeably", appeared "very nervous" and would not look him in the face but looked downwards onto the counter and, contrary to other police observations, appeared to Pulsford to be sober.

The conversation between Bawden and Pulsford was recorded by Pulsford as follows:

I said "Well, I'm Sergeant Pulsford and for the time being I'm the most senior Officer present. Just come through that doorway and I'll see you on the other side."

Bawden was then taken to the Sergeant's Office and given a seat.

I said, "What do you want to tell me?"

He said, "Sergeant, I killed a woman here in Queanbeyan sixteen or seventeen years ago. I've been living with it all this time and it's been hell. I've been having nightmares every night, and I've come up from Melbourne to confess to the murder."

I said, "What was the name of the woman you say you murdered?"
He said, "POHL" (and spelt it phonetically P-0-H-L) "She was Asian".

"I said 'Did you know this woman?'

He said, 'Never met her before that day.'

I said, 'How did you know her surname?'

He said, 'It was in the papers the next few days.'

I said, 'What was her Christian name?'

He said, 'I don't know.'

and later the Sergeant said: 'When you committed the murder can you remember the date or the time of the year?'

He said, 'No, not really. I was into my second year at Fairbairn. I was a cook with the RAAF. My service number was 227223. I was married to my first wife at the time. We used to live in a flat in Macquoid Street, but we had moved over to Cook in Canberra at the time of the murder.'

I said, 'Can you remember whether it was winter or summer? Was it a warm day or cold?'

He said, 'I don't remember?'

I said, 'What time of the day did this happen?'

He said, 'Around 9 or 10 in the morning.'

I said, 'Where did this happen?'

He said, 'A white house in a street that runs parallel to the main road over near the Golf Club. I could take you there if you like.'

I said, 'What was your motive for killing this woman?'

He said, 'Sergeant, I was heavily into gambling at the time and I decided I was going to do a bust as I was desperate. I remember I parked my car around the corner and when I first saw the woman, she was in the garden. I spoke to her and said I was with the Labor Party and was making certain inquiries in the area. I went on up the street, or around the block, I can't really remember. When I came back, she wasn't there, so I went into the house thinking that there was no-one there, but I came upon her in the kitchen. She screamed, and I grabbed her. There was a pretty big struggle. I remember there was a dog which ran at the door from outside. It was barking and I kicked the door shut. I eventually overpowered her and choked her around the throat. I think I used a bit of cloth, a tea towel or something.'

I said, 'Did you know that you had killed her before you left the house?'

He said, 'Yes, she was dead.'

I said, 'What, if anything, did you do with her body?'

He said, 'I sort of dragged her to the bedroom and tried to push her body under the bed, but I could only get her half under.'

I said, 'Did you do anything else in the house?'

He said, 'I stole her watch which I pawned at a pawnshop in Canberra sometime later, and I found some coins on the sideboard. I then went back to my car. I clocked on for work at the Base that afternoon' "(X86).

Police inquiries confirmed the accuracy of all of the personal details which Bawden gave to Pulsford in that conversation. Bawden then had a conversation with Sergeant Bowtell and at Bowtell's request drew a sketch of the dwelling, marking correctly the position of the body as Pohl said he found it reproduced at Appendix "F".

He repeated to Sergeant Bowtell the information which he had conveyed to Sergeant Pulsford and accompanied Sergeants Bowtell and Pulsford to the correct house. Whilst indicating the house, he said "A dog ran across the road" and then "there was one of those boards in the house on an angle you draw on like an architect." He told them of stealing a watch and some money from the house. Upon their return to the police station Sergeant Bowtell conducted an interview which was recorded in his notebook and signed by Bawden. Immediately prior to signing the notes of the interview Bawden said "I left a note for my friend telling him I am going to Queanbeyan to hand myself in" and "I turned the gas on in the lounge room and left it on."

Whilst some of the information provided by Bawden could have been obtained from a careful perusal of the contemporaneous newspaper reports, the information that:

1. The dog approached the front door
2. The gas had been turned on
3. The room contained a drawing board
4. The body was in the particular position shown on the sketch Bawden drew

was information which so far as I can see was never published.

The sketch reasonably accurately portrayed the floor plan of the premises.

7.6 Time of Death

Dr Gillespie's evidence at the trial put the deceased's time of death at approximately three to four hours before his examination of the deceased's body at 12.45pm, namely, approximately between 8.45 and 9.45am.

Dr Gillespie's evidence before this Inquiry stated that he now knows that rigor mortis could come on within two and a half hours of the time of death. That would mean that death could have occurred as late as approximately 10.15am. Despite this concession, Dr Gillespie still adhered to his testimony at the trial of an estimate of three to four hours from the time of his examination of the body. I accept this estimate as an approximate time of death. I accept in the circumstances Dr Gillespie is in the best position of all the witnesses to determine the time of death. An examination of his evidence at the trial creates the picture of a careful, knowledgeable professional witness, competent and painstaking in his observations and examination of the deceased.

In order to test the conclusions of Dr Gillespie, a report was obtained from Professor Hilton (Ex93), the Associate Professor of Pathology at Sydney University and Director of the New South Wales Institute of Forensic Medicine. He reported, assuming rectal temperature at 12.45pm to be 35.9°C and assuming rectal temperature of 37°C, then adopting a general rule of thumb "that the human body may lose approximately 1°C of temperature per hour following death with the initiation of the fall perhaps being delayed for an hour after death," death could have taken place one to two hours prior to 12.45pm or approximately 10.45 to 11.45am.

Professor Hilton was at pains to point out that those simple assumptions were not without danger because of individual variations, particularly related to the menstrual cycle, physical activity and disease states. He thought it unlikely that death occurred within an hour of Dr Gillespie's first examination and that reliable eye witness evidence as to when she was last seen alive and when she was found dead is "safer than evidence derived from temperature readings in defining the limits of the time envelope in which death took place" (Ex93).

Dr Oettle, the Deputy Director of the New South Wales Institute of Forensic Medicine, on the other hand, having regard to the rectal temperature of 35.9°C at 12.45pm, estimated the time of death as approximately two to four hours from the taking of that temperature. This opinion is consistent with Dr Gillespie's view. Dr Oettle emphasised, as did indeed Dr Gillespie, that it was a very approximate estimate.

Further, he was asked if, at 12.15pm, rigor mortis had been noticed in the face of the deceased, would that affect his opinion. Dr Oettle said that that would tend to make the time of death rather more than less, that is three to four hours, which again confirms Dr Gillespie's opinion.

In addition to the expert evidence, there is lay evidence that supports the fact that the murder took place within that approximate time frame. Bawden says that when he first drove past he noticed Mrs Pohl

in the garden at the front of the flat. Mrs Reardon saw her at about 9.25am on the front porch of the flat, bending down with a banister brush in one hand and a watering can or a bucket in the other. Mrs Reardon said although she had never spoken to the deceased they had exchanged waves on previous occasions when she had driven past the flat. Pohl said he was home between 9.30am and 9.40am and his wife was alive. Accepting that evidence, she was murdered some time after 9.40am.

Pohl informed Detective Sergeant Murray when interviewed on 9 March 1973 that when he returned home at about 9.30am he opened the front door with a key and his wife was in the kitchen starting to take the shelves out to clean the stove. He noticed water in the sink bowl and he stayed about ten minutes and left at 9.40am.

If, as Pohl alleges, the deceased was starting to clean the stove when he left at about 9.40am, it is a rational inference from the state of the kitchen when seen by the police that the deceased was probably interrupted during that activity. This can be seen from the photographs of the kitchen particularly the state of the stove and shelves.

Pohl also noticed that when he returned home at about noon the rotisserie motor on the stove was operating. The likely reason for that would be it had been turned on by the deceased for cleaning purposes.

It has not been established by the material at the trial or at this Inquiry that Bawden saw the deceased in the front garden at about the same time as she was seen by Mrs Reardon, although it is possible. Margaret Pohl noticed when she arrived at the flat that the garden appeared to have been watered and she noticed a pair of wet clogs belonging to the deceased on the front porch. It is possible that the deceased returned to water the garden after her husband left the premises and was then seen by Bawden. Some support is lent to this suggestion by the fact that Bawden said he did not see Pohl arrive or leave the premises that morning.

It is not possible to determine the time of death with any degree of accuracy. However, an examination and an evaluation of the material on this subject leads me to conclude that the likely time of death was probably no later than about 10.15am.

7.7 Could Bawden Have Been Present at the Time of Mrs Pohl's Death?

At the time of the murder Bawden was stationed at the Royal Australian Air Force Fairbairn Air Base in the Australian Capital Territory as a cook. The area of Booth Street was not unfamiliar to him. Booth Street runs along a boundary of the Queanbeyan Golf Club, which Bawden had visited from time to time. He also claims to have been to Booth Street for a party after the Federal election in 1972. He

had lived in McQuoid Street, only two streets away towards the main shopping area of Queanbeyan.

The RAAF Base is within the area of the civilian airport but has a separate entrance on the Queanbeyan side. The most direct route to the Base from Cook is along Fairbairn Avenue and past the civilian airport. The route is one of the main roads from ACT to Queanbeyan and Bawden could have driven past the Fairbairn Air Force Base to Queanbeyan. He informed Detective Sergeant Smith that Booth Street was only five to ten minutes drive from the Base (Ex36, Q & A.251). This is a reasonably reliable estimate of time.

Detective Sergeant Smith carried out extensive enquiries with Air Force personnel who were serving on the base at the time, including former Flight Sergeant Chef Stirling. Those personnel made statements which were tendered before me. I am satisfied on the evidence before me that:

1. Three shifts were being worked during that period, the early shift from 5am to 2pm, the afternoon shift in the Airmen's and Sergeants' Mess commencing at 10am and the afternoon shift in the Officers' Mess commencing at 10.30am.
2. Some lateness was tolerated. Periods of lateness up to about twenty minutes were required to be made up and no record of late attendance was made unless it exceeded that time.

Bawden's evidence was that, on the day of the murder, he was working in the Officers' Mess which was also the recollection of Stirling. The RAAF produced Bawden's personnel and medical file (Ex56 and 57). The records do not include anything in the nature of an attendance sheet, which might have proved his presence on the Base on the day of the murder, or when he reported at work that day. Given the passage of time, it is not surprising that those documents have not been retained. The records, however, do reveal the following:

1. Initially, Bawden was a keen member of the Service, anxious to progress. His attitude gradually changed for the worse during the period of his employment so that when he left he was regarded as being "below average". His annual "confidential report" dated 2 August 1972 describes his duties as "Shift Work Officers' and Sergeants' Mess" (Ex56, p43). He is described by his Commanding Officer as "A capable cook and keen to produce good results" (p2). His next annual report dated 18 July 1973 describes his duties as "Shift Cook Officers' Kitchen" and describes him as "an average airman." His Section Commander described him as "not very mature at this stage" (page 38). His next report of 3 July 1974 describes his duties as "Cook in Sergeant and Airmen's Messes" and his Commanding Officer described him as "a just average airman". His Section Commander described him as "unreliable unless strictly supervised." His report of 1 July 1975 describes his duties as "a

shift worker in airmen's kitchen". His Commanding Officer noted "the member has been transferred to another mess and is showing signs of improvement. Needs closer supervision than should be necessary. Below average."

2. He suffered from anxiety problems which were in existence prior to the murder but which gradually worsened during the period of his service. He sought discharge and gave as the reason money problems caused by his gambling habit, all of which was consistent with the evidence he has given and the psychiatrist's perception of his personality.
3. He was serving at the Fairbairn Base on the day of the murder but there was nothing to indicate whether or not he was in fact rostered to work on that particular day.
4. He was not shown as being on recreation, sick or absent without leave on the day of the murder, the committal, the trial or the appeal. He was admonished for being absent without leave on two occasions only, both of them well after the date of the murder.
5. In as much as he was on a promotional rather than a demotional path in his early years, the inference that I draw from the statement in his report of 2 August 1972 that he was working in the officers' and sergeants' mess, and his next report of 18 July 1973 that he was working in the officers' mess, is that sometime before the date of that first report he had transferred from the sergeants' to the officers' mess and that from the period August 1972 to 19 July 1973 he was in the officers' mess. Well after 1973 he was transferred from one mess to another because of the deterioration in his performance and the need for him to be more closely supervised. His annual reports broadly confirm the evidence of Mr Stirling.

From all of the foregoing I conclude that he was probably employed in the Officers' mess on the day of the murder and therefore was due to start at 10.30am or some time shortly afterwards and accordingly he could have been at the scene of the murder at the relevant time.

7.8 Miss Warwick (now Mrs Ley)—Evidence at the Inquiry

Mrs Ley, who lived at 3/30 Booth Street, Queanbeyan and who gave evidence at the Trial and the Inquiry, owned an Irish setter at the time of the murder and I have previously referred to her evidence of the behaviour of her dog on the day.

At the trial this evidence was only significant insofar as it was a reason for Mrs Ley to be in her premises at about the time Pohl discovered the body and is said to have knocked on her door.

However, since the revelations by Bawden, the actions of her dog have become important. In this Inquiry she described the dog as an "Irish setter", that it was commonly known as a "red setter" and that it was big and all red. She said it was an intelligent dog. This was the only occasion that it had found its way to her husband's place of work. Indeed they had gone to lengths to prevent it from discovering where they worked.

Normally he was a very loyal dog and did exactly as he was told to do, but on this occasion he had acted quite strangely. He sat down and planted his paws into the ground and would not move and she had to rouse on him and try to drag him away (T101).

On returning from work that evening she released him. He ran to Flat No 2, stood on his back legs and sniffed the door and then followed the path back to where Pohl's car was normally parked. The dog appeared agitated. This was unusual behaviour which frightened Mrs Ley.

The deceased was friendly with the dog; she would feed him rice and he often sat on her front verandah. The dog was very protective of people he liked and Mrs Ley had seen examples of his aggressive barking and growling when protecting her.

The facts that the dog was present in the area at the time, was friendly with Mrs Pohl and had a protective nature are corroborative of Bawden's statement that a red setter dog rushed towards the door when he attacked Mrs Pohl.

7.9 Margaret Pohl—The Effect of Bawden's Evidence

Margaret Pohl's evidence at the trial was a significant part of the Crown case. If she was accepted by the jury, they could have inferred that Pohl had set the scene, after he had murdered his wife, to establish that the murder was the act of an intruder and thus divert suspicion from himself.

Margaret Pohl's evidence also poses significant problems as far as this Inquiry is concerned because it casts doubt on Bawden's account of what occurred. As almost nineteen years have passed since the murder, it is impossible for this Inquiry to determine the reliability of Mrs Pohl's recollection. It must be borne in mind, however, that at the trial her evidence was not watered down in any material way by cross-examination. On the other hand, human observation is notoriously unreliable and even a most careful and confident witness can, and has often proved to be in error, particularly when recalling observations of a happening.

As stated earlier, that morning Margaret Pohl had been through a worrying time. Her son had been rushed to hospital for emergency

surgery. She had remained at hospital whilst her son had been operated on. She left the hospital and was on her way to see her husband to inform him of the condition of the boy and called in to see the deceased to tell her what had happened. She said she hurried through the flat and was there less than five minutes.

In these circumstances, it is possible she could be mistaken in her observations, or, if accurate, there are other explanations. For example, she said she did not hear the rotisserie motor in the stove. It may be the noise of the radio masked the sound of the rotisserie and it would not be something she would necessarily have heard. She heard the rotisserie operating when the police later attempted a re-creation of her visit. However, it is impossible to say whether or not the re-creation was accurate and, in any event, the circumstances during the re-creation were quite different to those existing when she visited the flat on that morning. Further, there does not seem to be any reason why Pohl would claim the rotisserie was on if it was not.

There is no evidence as to the state of the carpet runner in the hallway at the time Pohl discovered the deceased's body. If Margaret Pohl's observations are correct as to the state of the carpet runner, then two possible explanations are:

Firstly, Bawden, who went to the trouble of concealing the body, may have straightened the carpet so as to make the house appear undisturbed, or, secondly, the carpet could have been disturbed by persons moving quickly in the flat after the body was discovered. These include Pohl, Mr Meyer and the ambulance officer. It was only a small strip of carpet placed on polished floor boards, not attached to the floor in any way and probably it would not have taken much to disturb it.

A similar explanation is available to explain the apparent conflict between Margaret Pohl's observations of the state of the bed and its state as depicted in the police photographs. Pohl's description of the bed was that it was "a little bit dented in" in one corner. Mrs Pohl said she had looked at the bed and it was "straight and made". The photographs taken by the police show it to be considerably disarranged. By the time those photographs had been taken, the body had been placed on the bed by Pohl, examined by two people and then removed and placed on the floor to recreate the scene that Pohl said he was confronted with when he found the body. The disarray to the bed could well have occurred after the body was discovered by Pohl and first placed on the bed. Margaret Pohl's failure to see the gas heater is explicable if in fact it was in the hallway at the time she visited the flat. She was in a hurry looking for the deceased and her observations would not have been focused on objects such as a gas heater. After all, it is a common household appliance.

The hallway was three feet wide and the appliance approximately seven and a half inches wide. There is no evidence as to its precise

position in the hallway. The only evidence is that Pohl said he nearly tripped over it as he came out of the doorway of the study. If it was flush against the wall it may not have registered in her memory and would not have necessarily impeded her walking down the hall.

Her evidence at the trial (T63), despite persistent questioning by the Crown Prosecutor, was that she did not see it, not that it was not there. Furthermore, why would Pohl claim the gas heater was in that position if it was not?

Margaret Pohl's evidence at the trial was that she looked at the front door to determine if the deceased had gone through it and her attention, she said, was directed at the lock of the door which appears to be at least thirty centimetres above the hole. The damage itself as viewed in trial photograph "F1" is not such that would draw attention to it unless one looked directly at it.

Furthermore, if one examines all the circumstances, even though Pohl may have interfered with the body of the deceased in an attempt to divert suspicion from himself and establish the deceased had been sexually attacked by an intruder, it is extremely unlikely he would have conceived the idea of smashing a hole on the inside of the front door. Further, the hole in the front door is some corroboration of Bawden's version. The door was of flimsy construction and the damage could have occurred when he pushed the door inwards causing it to strike the nearby chair.

Alternatively, the damage could have occurred when he kicked the door shut with his foot when the dog rushed at the door. The possibility cannot be discounted that the damage to the door existed at the time of her visit and she just did not notice it.

Margaret Pohl did not smell any gas in the premises, although Bawden said he turned the gas on but did not ignite it when he left and Pohl says he smelt gas when he bent down to disconnect the gas heater from its bayonet fitting. The resolution of this apparent conflict may be found in the properties of liquefied petroleum gas which Mr Snelling, who gave evidence before me as well as at the trial, said is heavier than air and behaves in a manner similar to water. Dr Anthony Green, a gas and explosives expert, employed by WorkCover, gave evidence to the Inquiry that in the appropriate conditions, namely a fairly still environment without significant convection currents, the gas, upon release into the atmosphere, would lay as a thin blanket at ground level. He thought such an environment could have been present in the flat on the day of the murder so that the gas simply lay at floor level. He calculated, adopting Mr Snelling's evidence as to the volume of gas likely to have been released, that if it was not disturbed it would make a blanket only 6mm to 8mm thick above floor level. He further said that if there were gaps in the flooring, the walls or the doors, the gas could well pour out of the premises. In either of those circumstances, the gas would not rise to a level where it could

be detected by a person walking through the premises. If that be so, the evidence that Bawden turned the gas on, that Margaret Pohl did not smell it in the premises, and that Pohl smelt it only when he bent down to disconnect the gas heater, is all consistent.

The evidence of Bawden as to how he turned the gas on cannot be reconciled with Pohl's account that when he left the flat that morning the heater was not connected and was next to the room divider in the lounge room. If Pohl's evidence is to be accepted then Bawden could not have "just turned the gas on". In any event, the gas could not be turned on by turning on a gas tap or a flipper switch, as he described his actions. Despite being pressed about this matter by Mr Menzies he was unable to elaborate further on how he turned the gas on.

If Pohl's evidence is accepted, Bawden must have removed the heater from the partition, placed it in the hallway near the study door, connected it to the bayonet point and then turned the gas on at the appliance.

If Pohl was mistaken and the gas was connected to the appliance before he left that morning, then all that was required to turn the gas on was to turn it on at the appliance. It is also possible, but unlikely, that the deceased connected the gas heater to the bayonet point after Pohl left the premises. Whilst that is a possibility, I believe it is unlikely because it was found by Pohl near the study door in circumstances where it would not be likely to affect the temperature in the kitchen. In any event, if the deceased turned the gas heater on, it would have been ignited.

Another explanation is that the gas was not on and that Bawden and Pohl are in collusion about the matter. There is no evidence, other than this material, to suggest any collusion between them and no reason on the part of Bawden for him to collude with Pohl. In the circumstances I am satisfied there is no collusion between them about this matter.

Alternatively, Bawden by some means was aware Pohl had told the police when he entered the premises that he had found the gas on and that Bawden told the police he had turned the gas on so as to accord with Pohl's version to convince the police that his confession was genuine. As I have indicated elsewhere, despite the most careful inquiries, I have found no evidence that Bawden became aware of what Pohl told the police.

The evidence on this matter has been a matter of concern to me. Bawden has been unable to give this Inquiry any reason why he turned the gas on. It could not be for the purpose of convincing investigators the deceased's death was caused by gas inhalation, bearing in mind she was strangled and he said he left the body with the shirt still knotted around the deceased's neck.

Another possible explanation is that Bawden turned the gas on in the expectation of a gas explosion in the flat resulting in evidence being destroyed. Indeed, he was asked about this by both Mr Menzies and myself and he continued to maintain he did not know why he did it (T214).

There is no discernible reason why Pohl would have fabricated this evidence in 1973 by stating the gas was on when it was not. It would not go to establish that an intruder had entered the flat and committed the crime. If I exclude collusion, as I do, and accept Pohl and Bawden, then Bawden probably did turn the gas on in some manner unexplained, but I am unable to determine his motive.

Having excluded collusion, not without some hesitation, I accept the evidence that Bawden turned the gas on in some manner and this is further material going to the genuineness of Bawden's confession.

I accept Margaret Pohl was likely to be accurate when she said she did not see the deceased's underwear on the floor of the bedroom, a very small room. She was looking particularly at the bed to see if the deceased was in bed. She entered and left by this room.

Pohl told Detective Sergeant Murray he found the underwear (TT116) between the bed and the wardrobe and that he picked the underwear up and put it on the basket from where it apparently fell to the floor because it was there when observed by Detective Sergeant Murray. When Detective Sergeant Murray examined the items he found "they were wet, completely wet, the whole garment" and his impression was that they had been "immersed in something." He said their tangled condition gave him the impression that both items had been pulled off in one movement and left inside out (TT119). He also made an examination of the carpet under the chair where Pohl alleged he had found the underwear and found both areas to be dry (TT117).

At all times Bawden has maintained that he did not remove these items of clothing from the deceased. A possible but unlikely explanation is that in watering the garden the deceased wet her pantyhose and removed them in the bedroom and was disturbed by Bawden knocking on the door. This version, in my view, is unlikely because I could not imagine that in watering the garden the underwear could have become completely wet as if immersed in something. Further, some hours had elapsed from the time of death to the time these items were observed by Detective Sergeant Murray and it is unlikely the underwear would have been in the condition as described by him and one would expect that the floor on which they were lying would be wet.

What I believe happened is that someone cleaned the body up and used the underwear to do so, and probably rinsed them in the bathroom. The someone, in all the circumstances, must be Pohl. It is undisputed that he did quite a bit with the body after he discovered

it. He lifted it from the position on the floor, laid it on the bed, unknotted the shirt and pulled his wife's skirt down because her genitals were exposed as he said he did not want her body to be seen in that condition. Therefore, he could have been motivated to clean his wife up if she had fouled her underwear because of the embarrassment of his wife being found in such a condition. Alternatively, he could have done so for the purpose of suggesting a sexual attack and thus divert suspicion from himself.

There is other evidence that Pohl attempted to divert suspicion from himself and suggest the existence of an intruder. Pohl informed Detective Sergeant Tupman when first spoken to that he remembered he had left the back door unlocked on bringing in an Esky from under the house into the kitchen for cleaning before he and the deceased left for their holiday. However, at the trial Margaret Pohl gave evidence of what Pohl had told her later that day:

"He just remembered that he did not bring in the Esky from . . . under the house . . . for her to wash out, to clean out, because they go on a holiday and he remembered the Esky has been cleaned out."
(TT68)

He did not correct the information he had given to Tupman about this matter and, indeed, persisted with the original version to Tupman in a later Record of Interview. Margaret Pohl was not challenged in cross-examination on this matter.

It is open to infer that Pohl deliberately left the police with the impression that the back door was unlocked and that was how the intruder entered the flat.

7.10 Medical Evidence

7.10.1 Forensic

The version that the body was "cleaned up" has support from the observations of Dr Gillespie. It is undisputed that the body when discovered had no underwear on and Dr Gillespie observed that the anal sphincter was dilated, the anus open and faeces were observed by him further inside the anus. He also noticed that part of her skirt was damp but there was no evidence of dirtying or odour (TT41).

Generally he said in an asphyxiation death it was not uncommon for a deceased person to pass faeces. His observation was that the state of her anus was consistent with that having occurred. He said in the circumstances it was likely that some movement of the bowels had taken place. If that did occur, then not all the faeces were expelled from the bowels and if some portion was expelled it is not possible to determine the quantity.

Dr Gillespie was impressed by the fact that although the sphincter was dilated and the anus open "everything was clean, quite clean" (T130). He said the most likely thing was that the faeces had been passed and cleaned up and he made the following observations:

"Yes, it looked to me as if it had been cleaned up because everything was so clean and something pretty titanic sort of happened when the sphincter is open like that and remains open.

Titanic, it is indicating, perhaps not the appropriate word, but that there was considerable reflex activity with the muscles."

He disagreed with Dr Woods (T136) that it would have been extraordinarily difficult to have cleaned Mrs Pohl's body up without leaving a smell because he said being underclothes, if they contained faeces, they could have been washed out. He again emphasised:

"Her naked body there was clean, very clean, and I accepted from what I saw, I would have expected really the most likely thing that faeces had been passed." (T137)

Professor Hilton did not dispute Dr Gillespie's observations. He agreed that death is generally accompanied by a relaxation of all muscles, including the muscles of the anus, which may allow faeces to escape. Similarly with the bladder, although either event does not necessarily follow death. He agreed, however, that one of the significant factors in favour of defecation on such occasions was great fear in the person before death. Clearly, in the circumstances of this deceased's terrible death one would infer she would have been in great fear at the time of the attack. Bawden said she "fought like a wild cat".

A series of hypothetical questions were put to Professor Hilton by Dr Woods as to the difficulty of cleaning a body and the underwear completely without leaving obvious traces of faeces and the likelihood of an odour remaining in the room. This, in any event, must depend on the degree of defecation that occurred.

Dr Oettle in his report (Ex123) stated that loss of sphincteric control is common to many causes of sudden death and is certainly seen in asphyxia by manual strangulation and he thought it was possible that the body was cleaned up as faeces were present in the rectum and some could have been expelled. He said a scientific analysis would have been able to detect faeces if it had been looked for and skin swabs taken and examined microscopically.

Dr Oettle said that generally death is accompanied by a relaxation of all muscles, including the muscles of the anus, allowing faeces to escape, but this does not occur on all occasions. He also agreed with Professor Hilton that great fear is often a stimulus to the evacuation of faeces.

The totality of this evidence strongly supports my belief that Pohl cleaned his wife's body up by the use of this underwear after he discovered her in the bedroom. His motive for so doing is unclear.

7.10.2 Psychiatric

Dr Milton, an experienced forensic psychiatrist, saw Bawden on 18 September 1990 and reported on 21 September 1990 (Exhibit 62). He concluded Bawden had a serious personality disorder, was unconfident, had little self-esteem, and had long-standing feelings of shame or guilt unrelated to particular issues but emanating from childhood. In Dr Milton's opinion Bawden's attempts to deal with conflict were to do so by escape from it using fantasy, gambling, excessive use of alcohol and physically leaving situations.

Dr Milton laid considerable emphasis on the events preceding the confession. Bawden had been drinking to excess, and even though he was detoxified and went through a period of rehabilitation, he continued to drink and feel depressed. He and his friend, Spence, discussed suicide. He was upset because he had embarrassed his daughter, who had rejected him. The doctor concluded it was likely in those circumstances he would have felt guilty and ashamed.

Dr Milton considered that it was improbable he had committed the crime but emphasised the main feature in favour of his confession having any validity was his recollection of some details of the Pohl residence. Dr Milton referred to the various inconsistencies and apparent errors in his account and relied upon them in coming to his conclusion that it was unlikely Bawden was the murderer.

Dr Milton considered there were three principal psychological reasons for persons making a false confession:

1. Long-standing, non-specific feelings of guilt creating a need to confess to expiate the guilt.
2. Desire for notoriety and attention.
3. Gross mental disturbance resulting in the delusional belief of having committed the crime confessed to.

Dr Milton excluded Bawden from the third category, but said it is significant that for a long time he has had an enduring sense of guilt and shame and thought that a major provocation for confession was his guilt over his daughters rejection of him. Although he denied that having made the confession made him feel better, Dr Milton felt it likely that his long-standing feelings of guilt and shame could have caused him to make a false confession. With respect to Dr Milton's opinion why could not this long-standing guilt have resulted from Bawden having committed the murder?

He perceived Bawden as being a dependent, mild, unassertive, unconfident, unaggressive, anxious man who sought to escape from stressful issues by evading them. He felt he was wont to immerse himself in fantasy. Dr Milton referred to the fact that Bawden's first wife commented in detail about his wish to escape from things that bothered him, particularly conflict. He was prone to engage in fraudulent activity and to lie frequently. He was a failure and knew it.

Dr Milton then stated that confessing to Mrs Pohl's murder could have provided him with a feeling of notoriety, in a sense a form of success in an otherwise unsuccessful existence. The doctor concluded it would also provide him with satisfaction of his dependency needs for the foreseeable future if he were convicted of murder and incarcerated. It would also provide him with an outlet for long-standing feelings of guilt and allow him to feel he had taken on the burden of another's suffering.

Dr Milton pointed out the obvious, namely, that it is completely irrational for a person intending to commit a robbery to enter the premises knowing someone is inside. I am not satisfied that his intent on entering the house was for the purpose of robbery and I believe he had a sexual motive. The doctor conceded that having entered the house it was possible, but he believed improbable, that when the deceased started to scream he exploded.

Dr Woods asked him:

"And do I take it that that is one of the reasons why, in your opinion, while you come to the view you do, you would not rule out this as a confession being true as a reasonable possibility. A. Yes" (T225).

A strong contrary opinion to that of Dr Milton was expressed by Professor Finlay-Jones who examined Bawden on 31 January 1992 (Exhibit 94). Dr Finlay-Jones set out six categories of persons who are capable of making false confessions:

1. Normal people who are interrogated under severe duress, including physical intimidation, torture, or sensory deprivation, or are promised some reward, financial or otherwise.
2. Schizophrenics where the illness includes a delusion of wrongdoing
3. The psychotically depressed where the illness includes a delusion of guilt.
4. The mentally retarded and suggestible.
5. People with a dependent personality disorder who confess in order to exculpate another accused upon whom they are emotionally dependent.

6. People with histrionic or narcissistic personalities who attempt to seize the limelight, usually by confessing anonymously to a highly publicised crime.

He concluded that Bawden fitted none of these categories. He agreed with Dr Milton that Bawden had a dependent personality but disagreed that such a person would confess to relieve a non-specific feeling of guilt. He thought such a person would confess only to protect another upon whom he was dependent. He thought that Bawden had some traits of narcissism and the histrionic but not enough to seriously consider them as possible explanations. In any event the particular crime was not a highly publicised one and he did not confess anonymously. Professor Finlay-Jones did agree that Bawden had a history of mild anti-social behaviour but it did not constitute an anti-social personality disorder, lacking the key element of remorselessness.

In answering why Bawden would strangle a woman, he said whilst there was no evidence of sadistic tendencies or any history of seeking out women to hurt them, there was a tendency in his character to act impulsively and, at all costs, a tendency to avoid violence which he said would include shouting and screaming. He said a possible explanation was, being desperate for money, he acted impulsively by entering the flat. Mrs Pohl screamed and struggled so he impulsively strangled her, to use his words, "in order to silence her".

I am prepared to accept that he acted impulsively in entering the flat, but his motive was likely a belief that Mrs Pohl would consent to have sexual intercourse with him and when he was rejected and she started to scream he acted impulsively and strangled her to stop her screaming.

Professor Finlay-Jones said that it would not be inconsistent, on the one hand, that he might confess to a murder and that he may also have had a sexual motivation mixed in with an intention to get money. He agreed he was entirely dependent on what he was told by Bawden (T301).

In answer to Dr Woods, he agreed it was possible that Bawden was denying a sexual component or that he had forgotten about it years later, or he may have had mixed motives. He also agreed that people with a chronic alcohol dependency often feel remorseful about their general lifestyle, but in his experience he knows of nobody motivated by a general feeling of remorse who has confessed to a crime they had not committed and any suggestion of this he thought was a very extreme view.

Professor Finlay-Jones does not believe Bawden exhibits any of the characteristics of a person who would be likely to make a false confession. I must acknowledge, on the other hand, that Dr Milton is

of a contrary opinion. Both of these men are highly experienced professionals who have expressed differing views.

I am of the opinion that the views of Dr Finlay-Jones are preferable to those of Dr Milton. I believe a close examination of Dr Milton's reports does not convincingly disclose any psychiatric reason why Bawden acted in the manner in which he did. Dr Milton had to speculate as to how it was Bawden was able to describe the layout of the flat and other details. There is just no material from which I can infer he gained this information from a previous visit to the flat. In the event, the psychiatric material is not conclusive one way or the other.

On the explanation for the delay in confessing, Professor Finlay-Jones believes that as Bawden had taken a detoxification and psychological course for his alcohol problems, this enabled him to face up to his life and realise that to overcome his feelings of guilt he had to confess.

Whilst there may be many reasons for him being depressed, why would those reasons cause him to confess to this particular murder if he had not committed it?

7.11 Bawden's Later Accounts

1. On Sunday, 9 September 1990 the investigation came under the direction of the late Detective Sergeant Leonard Dean. Unfortunately I have no recourse to any notes he may have made during his conversations with Bawden. It appears from the record of the interview (Ex35) he conducted with Bawden that there had been previous conversations between them that have not been recorded.
2. I do know that on the Sunday morning, before the interview, he was taken to the premises where he pointed out certain things in the flat and where, it appears, he was shown a scale plan of the flat as it existed at the time of the murder. Whilst the general layout is unchanged, the uses to which the various rooms are put are different. For example, the bedroom where the body was found is now used as a lounge/dining room and the study is now a bedroom.

Bawden however was able to point to the lounge/dining room as the room where he had hidden the body, although, initially, he made a mistake in indicating the room from which he took the fifty cent coins.

When shown a scale plan of the premises, Bawden was able to point out to Detective Sergeant Dean certain other features of the flat (see, for example, Q141.) This gives rise to a problem: whether this ability derives from his own memory of the premises or his ability to absorb features in the plan and use that

information to convince the police of his knowledge of the premises at the time of the murder. In the circumstances, it is impossible to resolve this question.

3. He was again interviewed by Detective Sergeant Dean on Monday 10 September 1990 by way of Record of Interview and during this interview he was again shown the plans of the dwelling. On that occasion he said, on thinking about the matter overnight, he realised he had taken the money from the bedroom of the premises and not the study, recollecting he had taken it from a cupboard, and the study as indicated in the plan did not contain a cupboard.

At the request of Detective Sergeant Dean, he marked on plans of the dwelling where the struggle had taken place between he and the deceased, where he had placed the body of the deceased and from where he had taken the watch and the money. These markings are generally consistent with Pohl's version to the police in 1973. At the conclusion of that Record of Interview Bawden was handed a copy of the Interview with a plan of the flat attached.

4. On 13 September 1990 Bawden was interviewed by Detective Sergeant Neville Smith. This interview lasted about seven and a half hours and consisted of 475 questions many of which tested what he had said earlier. Further information acquired by the police was put to him..
5. On 14 September 1990 Bawden was taken to the Booth Street premises by Detective Sergeant Smith and there interviewed, which interview was recorded on video.
6. On 18 September 1990 he was interviewed by Dr Rod Milton.
7. On 18 November 1990 Detective Sergeant Smith conducted a further record of interview.
8. On 31 May 1991 Bawden recounted his story in an interview with TCN Channel 9 journalist, Steve Barrett.
9. Bawden instructed solicitors and provided a statement to them (Ex 118).
10. On 31 January 1992 he was examined by Professor Robert Finlay-Jones, a Forensic Psychiatrist.
11. On 11, 17, 18, 19 and 21 February 1992 Bawden gave evidence before me. He repeated his account which was generally consistent with his preceding accounts. There were inconsistencies and conflicts both in his earlier interviews and when compared with the evidence before me. These inconsistencies and conflicts were put to him.

The deceased was strangled with a long sleeved man's shirt twisted and knotted around her neck. The shirt in question can be seen in trial

Exhibit 12 lying on top of the bed. The plans of the premises shown to Bawden also show the shirt on the bed. Bawden has maintained at all times that he strangled the deceased but has given differing descriptions of what he used to carry it out. He told Sergeant Pulsford that he used a bit of cloth, then to Sergeant Bowtell he described it as "a tea towel or shirt or something".

Over the period of his interrogation by the police his memory of this object varied from a bit of cloth to a tea towel to a shirt. It is open to infer on a close analysis of the evidence that these variations result from the fact that he was never sure what it was he used to strangle the deceased. For example, to Detective Sergeant Dean he said he tied something around her neck but was not sure what it was; it might have been a shirt but he was not sure.

To Detective Sergeant Smith he was still vague and uncertain as to what the material was. In answer to Q286 he said "it's very vague" but then went on to say that for some reason he thought it was a shirt or a tea towel, more likely a shirt. When taxed about his recollection, he was again unclear but then went on to say he recollected knotting the shirt and dragging the deceased into the bedroom. On one occasion he went so far as to say he was guessing.

When cross-examined by Mr Menzies he was asked about this matter and all he could say was that he remembered grabbing hold of something, stating "I can't be a hundred percent sure but it was material anyway. I think it was either a tea towel or a shirt." He was also asked by Mr Menzies where he got it from and he said "it must have been very close" because he was able to reach out and grab it probably with one hand.

This evidence discloses that he was clear in his mind that he used some type of cloth to strangle the deceased but is not sure in his own mind what that cloth was. The fact that he is not sure of this is understandable having regard to the circumstances in which the shirt was used and the lapse of time since the event.

There are many inconsistencies in his accounts, but it does not necessarily follow that his confession is a fabrication. Nineteen years have elapsed, the circumstances were traumatic and many details probably would not have been absorbed by him at the time and, in any event, at best, if absorbed, would become blurred and some over the years forgotten.

It would be strange, in all the circumstances, if there were not inconsistencies in Bawden's recounting of his story. If, on the other hand, his version was word perfect, suspicions would be aroused as to how he was able to retain all that knowledge over the intervening years.

One of the complicating factors is that during his questioning by the police at an early stage he was shown detailed plans of the premises and undoubtedly has gleaned some of the known facts of what occurred from that material. It is impossible for me to determine what part of his version comes from his own recollection of the event. No doubt his viewing the flat and being shown the plans would have assisted in refreshing his recollection of the events.

7.12 Bawden's Motive

If he committed the crime, the motive is unclear. When first spoken to by the police he told them he wanted "to do a bust" but later when questioned about his motive his answers are vague and unconvincing. For example, in the Record of Interview conducted on Sunday 9 September 1990 by Detective Sergeant Dean he was asked the following questions:

Q42: "Would you explain why you went back again, I know that you have before but I would like you to explain it again?"

A: "I can't as far as motivation goes. I can't remember what was actually going through my head. I can't think why I was actually there. The only reason that I can think of is that I was desperate for money."

Q. "That being the case, why, when Mrs Pohl started to scream out, why didn't you just run away and get into your car and take off?"

A. "Again, I don't know, I just panicked, I went the wrong, I panicked the wrong way."

Further, when interviewed by Detective Sergeant Smith on 13 September 1990 (Q246) he was again asked why it was he returned to Mrs Pohl's home on the second occasion and his answer was:

"I can't give an accurate reason. I am not sure myself. I've asked myself many times. I know I was in a very depressed state and I was very worried about money I lost gambling. So the only reason I can think of is robbery."

Q.247: "Is it fair to say that you are only assuming that the reason why you returned to Mrs Pohl's house was robbery?"

A. I can think of no other reason."

He was questioned by Mr Menzies about his comment to Mr Barrett in the television interview that he went in there prepared and he was asked by Mr Menzies what he meant by that. His answer on that occasion was that he did not know (T201). The next day, however, when again questioned about the matter by Mr Menzies he said he was prepared to commit a robbery.

The evidence as to why he would be driven to commit such a robbery is unsatisfactory. He gave some vague evidence about being in debt from gambling. I reject as nonsense his evidence before me that he

knocked on the door of the house because he intended to commit a robbery there. Mr Menzies asked him on a number of occasions why he would go to an area where he might be recognised and then to a modest dwelling in which he knew there was likely to be an occupant, to commit a robbery. There is no evidence that when he drove to the area he intended to rob this particular flat. On driving past the flat he saw Mrs Pohl in the garden, stopped his car around the corner and went and spoke to her. These are not the likely actions of a person intending to rob that particular property. Did his sighting of her arouse in him other emotions? Why, if he intended to rob the premises, did he then go to his car, wait a few minutes and return to the premises, where he must have known the woman he had seen in the garden would be and then force his way into the premises?

From the evidence an inference is open that he was attracted to her and his motive for returning to the house could have been sexual. It certainly does not make sense that a person would pick a house he knew to be occupied to commit a robbery. It must be said his evidence as to motive is unsatisfactory.

7.13 Could Bawden Have Gained Knowledge from Some Other Source?

7.13.1 Publicity

The evidence before me established that Bawden read newspapers, mainly the Canberra Times, was interested in current events and watched television. Significantly, to Sergeant Bowtell at 1.10am on 9 September 1990 Bawden stated that "she fought like a wildcat. It wasn't in the papers, but she must have had a lot of bruises." This establishes that he read the newspapers at the time of the murder. In any event, surely if he had murdered Mrs Pohl he would have been interested in following the investigation.

I cannot accept his denial to Detective Sergeant Smith (Record of Interview 13 September 1990) that he took no further interest in what happened to Pohl after he had read Pohl had been charged with his wife's murder. It is open to infer from the evidence that he was not prepared to admit he allowed an innocent man to be convicted for a crime which he, Bawden, had committed. This is corroborated to some extent by his statement to the police at Queanbeyan that he was aware Pohl had been convicted of the crime.

7.13.2 Newspapers Circulating in the ACT

Reports of the murder appeared in the Canberra Times on 10, 12, 13, 17, 29 March, 9, 10, 18 April, 3 May, 22 May, 13 June and 16 June 1973 on which last date Pohl was committed for trial. From the Canberra Times Bawden could have gleaned:

1. That Mrs Pohl's husband left the flat at 9.30am.
2. The deceased was cleaning the stove at about the time of the murder.
3. That she had been strangled probably between 10am and 11am.
4. That she had been found dead when Pohl returned two and a half hours later.
5. That she had been found strangled, with a man's shirt around her neck, in the bedroom of the flat.
6. A watch had been stolen from the house. The watch, which was described as "a clue" in the paper of 17 March 1973 was described as an automatic stainless steel Citizen men's calendar watch with a sweep second hand, a silver face luminous panel. The band was also described.
7. That the watch and \$18 in 50 cent coins were stolen from a house in Booth Street in Queanbeyan.
8. That there was considerable bruising, contusions and abrasions around the neck of the deceased.

A number of articles in The Queanbeyan Age on 9, 13, 16, 17, 23 and 13 June relating to the charging and committal of Pohl supplied the further detail that:

9. Mrs Pohl was of Asian descent.
10. She had been in Australia for about eighteen months and had worked as a stenographer in Canberra.

7.13.3 Sydney Newspapers

The trial was conducted in Sydney in late October/early November 1973 and accounts appeared in the Sydney Morning Herald, the Daily Telegraph and The Australian. From the Herald, Bawden could have read the following:

1. The opinion of the pathologist was that Mrs Pohl had died of strangulation at about 9.45am.
2. Pohl said he had left the house at about 9.40am.
3. The kitchen was in an untidy state.
4. The front door was sort of smashed.
5. There was no smell of any gas in the house.
6. The deceased had written to her parents in Hong Kong on 27 February 1973, saying that she was not so happy in Australia and wanted to return home.

From the Daily Telegraph, in addition to the above material, Bawden could have read:

7. That the ambulance arrived at 12.15pm and that at that time the ambulance driver was of the opinion that the body was showing slight signs of rigor mortis.
8. Pohl said he returned to the flat at 11.55am.
9. Pohl found his wife lying between the bed and the wall.
10. That a blue shirt which was used as a cleaning rag was knotted round her neck.
11. That dark hair had been found on the floor near the door, suggesting that the deceased had first been attacked in the lounge.

The article in the Australian was brief and added nothing. To postulate that Bawden's source of information was the newspapers is to assume two highly unlikely alternatives; either that he read the information at the time and retained it over sixteen and seventeen years or, alternatively, has read the newspapers recently by attendance at libraries and has carefully sought out the information that way. The first alternative is unlikely given the feat of memory that would be required and the second alternative is unlikely because, given what I now know of Bawden, his peripatetic and alcohol-sodden existence would not have lent itself to that kind of organised behaviour. Whilst I am satisfied he obtained some information from the newspapers, that information could not account for certain of the facts he gave the police early in their investigations when they were unaware of the circumstances of the crime. In particular, his knowledge of the following:

1. The drawing board in the study.
2. The existence of the neighbour's dog.

This piece of evidence assumes considerable importance in the light of the evidence given by its owner, Mrs Ley, in this Inquiry which has been dealt with elsewhere.

3. That Pohl said the gas was on in the house.
4. The correct position of the body.

He could have ascertained from these reports that the body was found on the bedroom floor between the bed and the wall. It is to be pointed out, however, that his chance of correctly indicating the position of the body on the sketch he drew was only one chance in eight.

5. His remarkably accurate rough sketch of the layout of the premises.

7.13.4 Television and Radio

Despite Australia-wide circulation to all television and radio stations by the Police Media Liaison Unit of the New South Wales Police Service, no evidence has been forthcoming of any television or radio play or adaptation, re-creation or discussion of the murder. Unfortunately, due to the lapse of time, there are no contemporaneous news broadcasts still extant.

7.13.5 Other Publications

Inquiries at the National and State Libraries archives as to the possibility of there having been some publication of the murder in popular magazines have not produced any suggestion that this occurred.

7.13.6 Access By Bawden to any of the Proceedings or a Transcript of them

The committal, trial and appeal proceedings are all matters of record but access to them is not easy and it would be difficult for any person unfamiliar with the workings of the Courts to obtain them. Whilst possible, I consider it extremely unlikely that Bawden could have gained his knowledge of the events from studying the transcripts.

The RAAF records show that he was still stationed at Fairbairn when the committal hearing against Pohl was heard in Queanbeyan. The trial and appeal were heard in Sydney and, in the circumstances, it is unlikely he would have had the opportunity to attend any of these proceedings. Further, as he was a member of the Defence Force, he was exempt from jury service and it is unlikely he would have served on the jury which convicted Pohl.

7.13.7 Did Bawden Visit the Pohl Flat?

Whilst Bawden admitted he had attended a function in December 1972 at the time of the Federal election at a house in that street and that he had on occasions attended the nearby Queanbeyan Golf Club, there is no evidence he had ever visited the flat prior to the murder. It would, on the other hand, have been feasible for him subsequently to have attended the scene of the crime. He has denied this and there is no evidence he did. Even if he did, it is not likely he would have gained certain of the information he was able to recount to the police.

7.13.8 Did Bawden Know Pohl?

Despite extensive investigations by police and the Inquiry, there is no evidence that Bawden knew the deceased, Pohl or any of the persons who gave evidence at the trial.

7.13.9 Collusion Between Bawden and Pohl

There is no evidence of collusion between Bawden and Pohl. Despite the extensive inquiries made by the police, there is no evidence they had met before this Inquiry or that Pohl had been the source of Bawden's knowledge. Pohl had few visitors in gaol and since his release in 1983 has remained in New South Wales. Since that time Bawden has lived and worked principally outside New South Wales.

7.14 Fingerprints

Bawden provided a set of finger and palm prints to police who compared them with all the available fingerprint evidence that had been collected in 1973. None of the prints of Bawden matched any of the prints obtained in 1973.

7.15 Evidence Discovered as a Result of the Inquiry

In addition to the extensive newspaper advertising advising of the holding of the Inquiry, the opening of the Inquiry received quite wide publicity on p4 of the Sydney Morning Herald on Tuesday, 11 February 1992 and p8 of the Daily Telegraph of the same day. The Inquiry then adjourned to Queanbeyan and heard evidence on Thursday, 13 and Friday, 14 February 1992. It received further publicity in a prominent article by Marion Frith on p3 of the Canberra Times on Friday, 14 February 1992. The article included photographs of Bawden, Pohl and a contemporary view of Flat 2, 30 Booth Street, Queanbeyan.

There was also considerable media representation in Queanbeyan during the Inquiry. Inquiry staff were approached at Queanbeyan Courthouse by Norman Albert Harman and a statement was obtained (Ex 113).

Mr Harman had been a Telecom employee. He said that on the day of the murder he was working in Booth Street and that morning saw a man leave some flats in Booth Street, get into a car and drive away hurriedly. He said he was able to recall the incident took place on the day of the murder because he heard a television news report of the murder that night. I am satisfied that Mr Harman's recollection of when these events took place is faulty. His employment records indicate that he suffered an injury at work on 14 September 1971 at Gibraltar Street, Bungendore and was absent continuously on compensation from then until his services were terminated on 11 May 1973. Mr Harman himself said he had not worked since 1971 and it follows that whatever he observed in Booth Street did not take place on 9 March 1973.

No further witnesses came forward in relation to the events that took place on 9 March 1973.

8. Conclusions

Having examined all the material presented in this Inquiry, I have come to the conclusion that there must be a doubt about the conviction of Pohl for his wife's murder on 9 March 1973. I am of the view that Bawden's confession is probably genuine. There is compelling evidence to substantiate this, although I concede there are some inconsistent aspects in his accounts given over the period since his initial confession to the police at Queanbeyan on 8 September 1990.

These inconsistencies, bearing in mind the time that has elapsed, are not such, in my view, as to neutralise the compelling evidence in favour of the genuineness of the confession.

The compelling evidence is as follows:

1. His opportunity to commit the crime.
2. His familiarity with the area.
3. His harbouring a sense of guilt for some seventeen years.
4. His confession shortly after having undergone an alcohol rehabilitation programme and thereby getting his life under some sort of control.
5. The consistency of his behaviour since that time in maintaining his guilt..
6. His confession to George Spence.
7. His determination to confess to the police at Queanbeyan.
8. His informing the police of the name of the deceased, where the murder had taken place, the time of the murder and the fact that the deceased was Asian.
9. His taking the police directly to the flat in question.
10. His ability to draw with considerable accuracy the layout of the premises, bearing in mind there is no evidence he had ever visited the premises prior to the murder or up to the time he confessed to the police.
11. His description that one room of the premises contained a drawing board.
12. His describing the position of the body between the bed and the wall in the bedroom where it was found by Pohl.
13. His reference to a red setter dog rushing the door.
14. His account of turning on the gas.

15. His account of how he murdered the deceased accords with forensic and physical evidence at the trial.
16. Lack of any convincing or compelling psychiatric evidence to account for him making a false confession.
17. No motive has been uncovered as to why he would make such a false confession after seventeen years had elapsed, bearing in mind that this murder at that point of time did not have any notoriety.
18. No evidence of any association between Pohl and Bawden.
19. No evidence of collusion between them.
20. His alleged stealing of a watch and fifty cent coins.

In addition to that evidence, I have had the opportunity to observe his reactions in police and television videos and his evidence before me and he impressed me as being genuine in his confession of guilt.

9. Summary of Conclusions and Recommendations

1. The jury's verdict, on the evidence before it at Pohl's trial, was entirely justified. The decision of the Court of Criminal Appeal confirmed the jury's decision. Had it not been for the confession of Bawden, no doubt would have arisen as to Pohl's guilt.
2. It is probable that Mrs Pohl was murdered by Roger Graham Bawden.
3. It follows that there are substantial doubts as to Pohl's guilt. I am satisfied that, had Bawden confessed before Pohl was charged, then Pohl would never have been charged with the offence. I am further satisfied that had the jury in Pohl's trial been aware of Bawden's existence and confession, acting reasonably, they would have entertained a reasonable doubt as to the guilt of Pohl. A conviction could not have been justified.
4. I recommend that Pohl be granted a pardon by Your Excellency.

Dated 1 May 1992


P A McInerney

APPENDIX A
ADVERTISEMENT re INQUIRY

INQUIRY
under Section 475 of the Crimes Act 1900

Inquiry
JOHANN ERNST SIGFRIED POHL

Pursuant to Section 475 of the Crimes Act 1900, Peter Aloysius McNerney, a Judge of the Supreme Court of NSW and Justice of the Peace has been directed to inquire into doubts or questions as to the guilt of Johann Ernst Sigfried Pohl who was convicted on 2 November, 1973, at the Central Criminal Court, Sydney, of the murder of Kum Yee Pohl and sentenced for this offence to penal servitude for life, and to summon and examine on oath any person likely to give material information in the matter.

The Inquiry will commence taking evidence in the Supreme Court of NSW, Queen's Square, Sydney, on Monday, 10 February, 1992, at 10 am.

Any person who considers that he or she has information which may assist the Inquiry should contact:

M. A. Twohill
Solicitor Assisting the Pohl Inquiry
GPO Box 25
SYDNEY NSW 2001
PHONE: (02) 223 5233

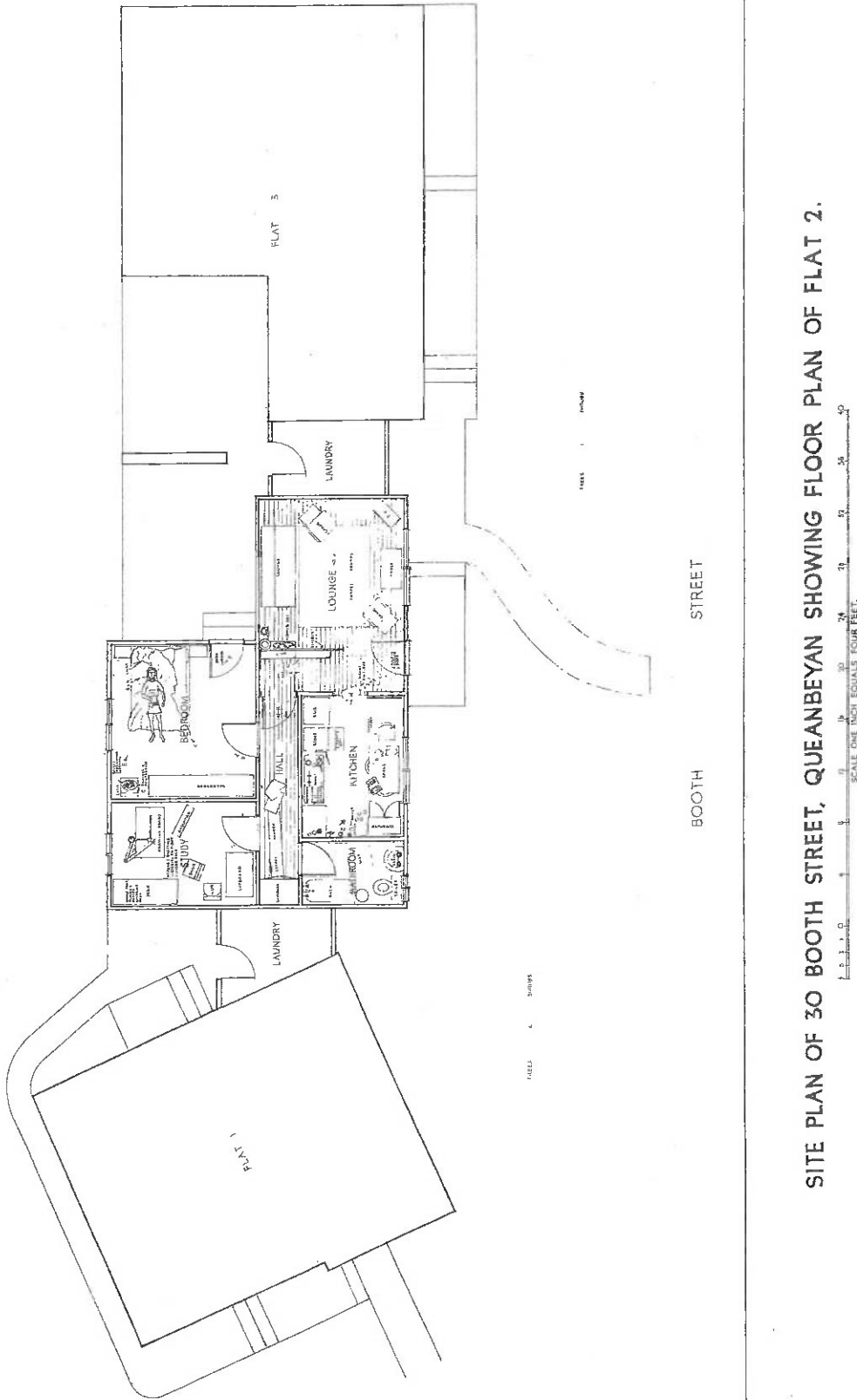
M A TWOHILL
Solicitor Assisting the Inquiry

This Notice was inserted in:

Queanbeyan Age:	15 January 1992 17 January 1992 22 January 1992 24 January 1992
Canberra Times:	15 January 1992 17 January 1992 22 January 1992 24 January 1992
The Australian:	15 January 1992 22 January 1992
The Sydney Morning Herald:	5 January 1992 22 January 1992
The Daily Telegraph-Mirror:	15 January 1992 22 January 1992
Corrective Services Bulletin:	13 February 1992

(This advertisement was changed slightly, in that the Notice was directed to any officers of the Department as opposed to any person who has information which may assist the Inquiry)"

APPENDIX B



APPENDIX C

G. 333

CORONERS ACT, 1960

MEDICAL REPORT UPON THE EXAMINATION OF THE DEAD

BODY of KUM YEE POHL

I, ARTHUR DONALD FRANCIS GILLESPIE a legally qualified medical practitioner carrying on my profession at 16 MONARO STREET QUEANBEYAN in the State of New South Wales, do hereby certify as follows:—

1. At 6 O'CLOCK in the POST noon, on the 9TH day of MARCH, 1973, at QUEANBEYAN

* External or internal.

in the said State, I made an* EXTERNAL & INTERNAL

† Man, woman, male child or female child.

examination of the dead body of a† WOMAN identified to me by

(name) DETECTIVE SENIOR CONSTABLE B.A. ~~WALSH~~ WALSH

(address) POLICE STATION. GOULBURN.

in the State aforesaid, as that of KUM YEE POHL

aged about 33 years.

‡ Strike out if external examination only.

2. ‡ I opened the three cavities of the body.

§ Particular reference should be made to marks of violence, if any. If an internal examination is made, reference should be made to the condition of the organs.

3. Upon such examination I found§

EXTERNAL EXAMINATION: initially at place of death Flat 2/30 Booth Street at 12.45 pm. 9.3.73 and again at 2.45 pm. and the following observations made.

12.45 pm. Rectal Temperature 35.9 Celsius.
Rigor Mortis of Jaw, Neck, Trunk and Abdominal muscles.
Post Mortem Lividity just commencing at Interscapular region.

2.45 pm. Rectal Temperature 34.6 Celsius.
Rigor Mortis of Jaw, Neck, Trunk, Abdomen, Arms and legs.
Petechiae of Face and Subconjunctival Ecchymoses.
Bruising of tip of Nose and Alae Nasae. Post Mortem Lividity established but easily dispersible.
Superficial laceration of the Chin. Multiple bruises of neck and Chin from lower Border of Mandible to Supra Sternal notch region, in following distribution, sizes and shapes:—
Along left inferior border of Mandible from point of Chin extending laterally, three bruises approximately 1 inch, 3/4 inch and 1/2 inch length and each 1/2 inch each in diameter.
Beneath the first bruise there is another below the chin. There is "Parchmenting" of the superficial layer of skin over these bruises due to Superficial Necrosis. Along the inferior surface of right border of Mandible there are several small bruises. Lower down the right neck and extending onto the Supra Sternal region are two large bruises also "Parchmented". On the left side there is a superficial abrasion. Over the Thyroid region the neck is swollen. Behind the neck is a Transverse mark consistent with the thin neck chain worn around the neck.
Bruise of left elbow over Medial Epicondyle.

LEGS: Small abrasion below right knee and marked indented semilunar pressure mark above left knee.

VULVA & VAGINA: No signs of injury. Swabbing taken.

INTERNALLY: Beneath the skin of the neck on dissection ^{marked} ~~marked~~ (SEE OVER)

3. Continued—

bruising of subcutaneous fat. The strap muscles are distended by a large Haematoma surrounding Thyroid Cartilage and Thyroid Gland and Trachea extending in the Fascia down into the Mediastinum to roots of the lungs:

LUNGS: Grossly Haemorrhagic. Trachea and Bronchial tree full of frothy blood-stained fluid. Petechial Haemorrhages throughout the Laryngeal, Tracheal and Bronchial Mucosa.

BLOOD: Specimens removed for analysis.

HEART: Mitral Valves thickened but not Stenosed. Nil else noted.

HEAD: Beneath the Scalp two bruises approximately 1 inch square, (1) over Vertrex (2) over Right Mastoid region. No Cerebral Haemorrhage or brain damage noted.

ABDOMEN: No abnormality detected. Stomach and contents, and Liver removed for purposes of analysis.

EXHIBIT 1
INQUEST TOUCHING THE
DEATH OF KUM YEE POH.
CORONER'S COURT QUEANBEYAN
22-5-73
Donald Elphinstone JP
CORONER.

4. In my opinion death had taken place about 3.1/4 Hours (From 6. pm.)

previously and the cause of death was:—

		Approximate interval between onset and death			
		Years	Months	Days	Hours
I. DIRECT CAUSE—					
Disease or condition directly leading to death	(a) ASPHYXIA (due to)				MINUTES
ANTECEDENT CAUSES—					
Morbid conditions, if any, giving rise to the above cause, stating the underlying condition last	(b) Pressure on Air passages with haemorrhage into tissues around Larynx and Trachea.				MINUTES
	(c) Strangulation by a gross constricting force applied by wide material around the neck.				MINUTES
II. Other significant conditions contributing to the death but not relating to the disease or condition causing it					MINUTES

DATED at QUEANBEYAN the 12TH day of MARCH, 1973

(Signature) *Donald Elphinstone*

|| Diploma should be added.

To the District Coroner, QUEANBEYAN

MBBS. MRACGP.

APPENDIX D

* TRANSCRIPTION OF EXHIBIT HH - 1 NOV 1973

PS Happy Birthday
Dad. There is something
for you inside the Card.
Buy yourself something
nice. God Bless you all.

P O Box 329
Queanbeyan
N.S.W. 2620
Australia
27th Feb. 1973

Dearest Mum, Dad & all at home,

Thanks for the Christmas cake - it was delicious.
Hope you all had a lovely Chinese New Year - This year I
couldn't find out when, as the Chinese (Taiwan) Embassy
closed down & I didn't know who to ask. I phoned up a few
people - like the Chinese Restaurants but they had no clues
otherwise I would have sent Mum some flowers.

Siegfried is fine & has put on a lot of weight.
Everyone says he is looking fine & fit. As for me - I am
growing thinner each day - Life here is very hard for me -
where you have to do everything yourself. At the moment I
have a headache - I don't know what's the cause for it - may
be too much sun, as I went Bushwalking on Sunday. I am not
so happy here - and that's one of the reasons why I haven't
been writing to anyone. So don't be surprised if you find me
back home or left Australia for some other place.

I just don't know what to do. I am all mixed up. I wish I
had someone to talk to who could give me some advice. I
don't think marriage is good for me - oh mummy - wish you
were here with me & could offer me some advice. Tell me what
shall I do - come home or make a go of it. Mummy I am only
thinking of you (not of myself) what will people say & what
you will have to bear up if I did come home. I'll do what
you say. The main problem is Siegfried doesn't want me to
work - but he doesn't understand - what am I going to do all
day at home by myself - that's beside the point - He can't

afford keeping me at home - Everything here is so expensive - all right he will give me a weekly allowance but that's just enough to cover the groceries & the butcher bills - but I need so many other things - that's what the men don't understand here - they say what we want all that for. So now as long as I am working I don't get a single cent from him. All right I can manage with my money - but I can't save anything. Oh mummy - what shall I do. Stop working but I am so scared. What happens if I fall short of money - I have nobody to turn to - Siegfried is a hopeless case sometimes he has no money on him. Sometimes I have to give him some. All I can't understand is why he doesn't want me to work. I don't know how long I can continue like this - my health is not so good.

I don't know whether it is right for me to tell you Mummy about my troubles - you must be all saying - serve me right but after all I have been through - I don't want my enemy to go through it.

You can explain to Tonia why I haven't written to her - it's not because I don't want to - it's because I am unhappy.

I took up my courage to write this as I don't want you to think that I have forgotten you all.

Are you sending me my parcel? What happened to the rice cookers - have you sent me any.

That's all - I can't write any more.

Love

Joyce

APPENDIX E



CRIMINAL INVESTIGATION BRANCH
SPECIAL CRIME SQUAD.

SYDNEY 2000 28th March, 1974.
TELEPHONE 1234 EXT.

The Superintendent in Charge,
CRIMINAL INVESTIGATION BRANCH.

SUBJECT: Resume of investigations into the murder of Kum Yee POHL at Queanbeyan on the 9th March, 1973 - Johann Ernst Siegfried POHL sentenced to penal servitude for life.

1. We have to report that this summary relates to investigations into the murder of Kum Yee Pohl, a Chinese born in Calcutta, India, in 1939 who, in the early 1960's, took up residence in Hong Kong with her parents and other members of the family. From early 1970, through an introductory service, she corresponded with Johann Ernst Siegfried Pohl of Sydney, who eventually proposed marriage. The deceased departed from Hong Kong in September, 1971, and in November of that year at Sydney, she married Pohl. They took up residence at Flat 2, 30 Booth Street, Queanbeyan, where they were living when the deceased met her death.

2. Flat 2, 30 Booth Street, Queanbeyan, is one of a cluster of three small single story dwellings, erected side by side. At the time of our investigation, Flat 1 was occupied by the owner of the three flats, and Flat 3 by Mr. James Ley and his common law wife, Miss Laraine Warwick. A laundry located at the rear of the premises was shared by the occupants of Flats 2 and 3 and is of quite some significance in this matter.

3. Johann Ernst Siegfried Pohl was born in Germany on the 2nd April, 1937, and migrated to Australia in 1958 where he followed his usual occupation as a carpenter.

4. The circumstances of this investigation are that at 12.05pm on the 9th March, 1973, Karl Eric Meyer of 45 Atkinson Street Queanbeyan, telephoned the Queanbeyan District Ambulance Station and requested the attendance of an ambulance at Flat 2, 30 Booth Street, Queanbeyan, as a woman residing there had stopped breathing. This initial telephone call was followed by a second one from Mr. Meyer some few minutes later requesting that the attendance of the ambulance be expedited.

5. At 12.15pm that same date, Mr. John Michael Walton, an ambulance officer, arrived at the flat and there saw the body of a female apparently dead, lying on a double bed in the bedroom of the flat. The body was dressed in a blue woollen jumper and a dark skirt. It was obvious to Mr. Walton that the female, Kum Yee Pohl, known as Joyce, had been dead for some hours. Mr. Walton made a brief examination of the deceased and noted severe bruising and abrasions in the vicinity of the neck, chin and sternum. Present at the flat at this time, was the husband of the deceased, Johann Ernst Siegfried Pohl.

6. As a result of his observations of the deceased, Mr. Walton radioed his base and requested the attendance of Police. Sergeant 3rd Class H.F. Gant, of Queanbeyan, arrived shortly afterwards, accompanied by Constable R. McDougall, also of Queanbeyan. The two Police viewed the body of the deceased, spoke briefly to Mr. Pohl, who informed them that he had arrived home shortly before noon and found his wife dead. Sergeant Gant then contacted Queanbeyan Police Station and requested the attendance of Detectives.

7. Detective Sergeant 3rd Class R.N. Murray of Queanbeyan attended the scene and, after viewing the body of the deceased, made an examination of the premises. He noted that the door of the oven was open and that parts of the interior of the stove were on the sink. He also observed a break in the masonite interior lining of the front door of the flat. In the bedroom, under a chair near the foot of the bed, he picked up a pair of woman's panties and panty hose which he noticed were quite wet.

8. Sergeant Murray then spoke to Pohl who informed him that he had arrived home for lunch about 12 noon, and had looked in and around the flat for his wife before finding her on the floor, between the bed and the wall in the only bedroom of the flat. Pohl continued by saying that he had picked her up and placed her on the bed before noticing that a blue shirt was knotted around her neck. He untied this shirt before running from the flat and knocking on the front door of Flat 3. When there was no response to his knockin, he got into his car, which was parked at the front of the flats, and drove to the nearby home of Mr. Meyer to raise the alarm. About the same time he found his wife's body, he heard Miss Warwick of Flat 3 calling out to her dog at the rear of the flats. When he arrived at Mr. Meyer's home in Atkinson Street, he saw Miss Warwick walking along that street towards the Queanbeyan Shopping Centre.

9. During questioning by Detective Sergeant Murray, Pohl stated that he had found the wet panties and panty hose on the floor near the foot of the bed and it was when he picked them up that he saw the body of his wife. Sergeant Murray made an examination of the carpet near the base of the bed, but could find no wet spots. Pohl also informed Detective Sergeant Murray that there was a number of 50 cent pieces missing from a drawer of the wardrobe and a watch missing from a shelf in the lounge room, although another watch in the same position had not been touched. He also stated that the front door of the flat was not damaged when he left the home earlier that date.

10. When asked to account for his movements during the morning of the 9th March, 1973, Pohl informed Detective Sergeant Murray that he had left home sometime between 7.30am and 7.45am and had gone to Canberra on business, returning home about 9.30am. At this time, his wife was in the process of cleaning the stove and the shelves and other parts were on the kitchen sink. Pohl stated that he remained at home for about 10 minutes on this occasion, and after collecting some plans from his study he left and went to various places around Queanbeyan before returning home and finding his wife as previously outlined. He said that his wife was still cleaning the stove when he left. Later that date, at the Queanbeyan Police Station Detective Sergeant Murray had a recorded interview with Pohl, who re-iterated what he had earlier told the Sergeant at the Booth Street address.

11. During the afternoon of the 9th March, 1973, Pohl was spoken to by Detective Sergeants W.G. Gay of Goulburn, and J.M. Gudgeon of Queanbeyan, and he gave them a similar version of the incidents of that morning as he had related to Detective Sergeant Murray. He also informed them that when he arrived home about noon, the motor of the stove rotisserie was turned on and he had switched it off.

12. Dr. A.R.F. Gillespie, the Government Medical Officer for Queanbeyan, attended at the Booth Street flat at about 12.45pm on the 9th March, 1973, and examined the body of the deceased. He noted there were signs of rigor mortis in the jaw, neck, trunk and abdominal regions. He noted bruising in the regions of the neck, chin and sternum. At 6pm that same date, Dr. Gillespie performed a post-mortem examination of the deceased at the Queanbeyan District Hospital and certified cause of death was due to strangulation by a gross constricting force applied with wide material around the neck. He fixed the time of death at about 9.45am on that date.

13. During the early stages of the investigation, the movements of Pohl on the 9th March, 1973, as outlined by him, were checked and found to be substantially correct.

14. Late on the afternoon of the 9th March, 1973, Detective Sergeant 1st Class H.D. Tupman, and Detective Senior Constable D.M. Gilligan of the Special Crime Squad, Criminal Investigation Branch, were detailed to go to Queanbeyan and assist local Police with inquiries into the murder of Mrs. Pohl. They commenced their investigations on the morning of the 10th March, 1973, by examining the flat at Booth Street and, later that morning at the flat, they were met by Mrs. Margaret Pohl, sister-in-law of the deceased, who is married to the brother of Johann Ernst Siegfried Pohl.

15. Mrs. Pohl informed the investigating Police that on the morning of the 9th March, 1973, one of her two children had been admitted to Queanbeyan Hospital unexpectedly and later that same morning, she went to Flat 2, 30 Booth Street, to notify her sister-in-law, the deceased, of this fact. She was not sure of the time of this visit but believed it to be in the vicinity of 11.15am. Mrs. Margaret Pohl said that there was no answer to her door knock at the flat so she looked through the kitchen window, which is at the front of the dwelling and facing the street, and saw parts of the stove on the sink. She also heard a radio playing in the flat.

16. Mrs. Pohl then went and looked in the yard at the rear of the flat, also the laundry, before knocking on the rear door which was unlocked but closed. She then entered the door and as she did, she called out to the deceased, walked through the bedroom into which the rear door opens, then to the lounge room and kitchen area at the front of the flat. Mrs. Pohl stated that the radio was playing, as previously mentioned, but she did not hear the sound of the rotisserie motor. She checked the front door to make sure the deceased had not gone out the front to answer her knock, and she saw no damage to the interior of that door. She then walked back towards the bedroom and in doing so, saw that the door to the study was closed, but the bathroom door was open. She then went back into the bedroom to make sure the deceased was not in bed and left the flat via the rear door through which she had entered. She did not notice the panties and panty hose on the floor at the foot of the bed and was quite emphatic that had they been there, she would have seen them. Mrs. Pohl further stated that there was no unusual odour about the premises and she noticed nothing out of order in the flat with the exception of the dismantled stove. It might be pointed out that following the discovery of the body of the deceased, Mrs. Margaret Pohl was contacted by Mr. Meyer and came to the flat at Booth Street where she spoke to Pohl and informed him that she had visited his flat earlier that morning.

17. With regards to the time of Mrs. Pohl's visit to the Booth Street flat, she could not be specific as already mentioned in paragraph 15, however she did state that on leaving the flat, she had seen a man delivering soft drink to the house opposite the flat, which is number 35 Booth Street occupied by people named Mihaljevic. The soft drink carter was identified as Patrick Francis Connel employed by Sharpe Brothers at Queanbeyan. He was interviewed as to what time he had delivered drinks at 35 Booth Street, but could not assist with a definite time although he said on leaving the Mihaljevic home he did see a woman of similar description to Mrs. Margaret Pohl leaving the Booth Street flat. Connel said that before arriving at 35 Booth Street, he had made a delivery of drinks to a Mrs. Reardon at 38 Booth Street, Queanbeyan, some 100 yards from the Pohl residence.

18. Mrs. Beverly May Reardon, the occupant of 38 Booth Street Queanbeyan was interviewed and stated that on the morning of the 9th March, 1973, she had driven her son to school on a route which took her past the home of the deceased. On her return, about 9.25am, she saw the deceased dressed distinctively in a coloured blouse, watering plants at the front of her flat. When questioned about the time she

- 4 -

had received delivery of her soft drinks that date, Mrs. Reardon could not give a specific time, but was able to say with certainty that the soft drink man came to her home at the end of an A.B.C. Television program entitled "Play School".

19. Inquiries from the Australian Broadcasting Commission at Canberra revealed that on the 9th March, 1973, "Play School" concluded at 11.39.05am precisely. This information established beyond doubt that the man Connel made his delivery of drinks to 35 Booth Street, Queanbeyan, some time shortly after 11.40am at which time Mrs. Margaret Pohl left the home of the deceased which was then in a state of order.

20. Miss Laraine Warwick of Flat 3, 30 Booth Street, Queanbeyan, was interviewed and stated that on the morning of the 9th March, 1973, whilst hanging washing on the clothes line at the rear of the flats, she saw the blue shirt which Pohl allegedly found tied around the neck of his wife on a Port-a-gan bottle outside the rear door of the Pohl flat. According to Miss Warwick the shirt had been in that same position for some weeks prior to that morning. Miss Warwick continued that she had left her home about 8.25am on the morning of the 9th March, 1973, for work in the commercial area of Queanbeyan. At about 11.55am that same date, she returned to her home for the purpose of bringing home her pet dog which had been found wandering around the shopping centre at Queanbeyan. She went to the rear of the flats, put the dog into the share laundry between Flats 2 and 3, pulling the door almost closed and placing a bucket of water behind the door to prevent the dog escaping. Miss Warwick then entered her own flat through the rear door and remained inside for between 5 and 7 minutes leaving there shortly after noon. She left by the front door and walked past the Pohl's front door, which was closed, and she saw Mr. Pohl's car parked outside the front of his flat. There had been no knock on the front door of her own flat during the time she had been in there.

21. On the afternoon of the 10th March, 1973, Detective Sergeant Tupman and Detective Senior Constable Gilligan accompanied Johann Ernst Siegfried Pohl to his home at Booth Street where he re-enacted for them what had happened the previous day when he returned home and found his wife as outlined earlier in this resume. He described in detail how he had searched the flat for her, looked in the laundry and in the rear yard, before noticing damage to the front door which precipitated a further search of the flat during which he found the body of his wife beside the bed.

22. Pohl showed Sergeant Tupman and Detective Gilligan a linen cupboard in the hallway of the flat where he claimed the blue shirt he found knotted around his wife's neck was always kept. He was asked whether there was anything else he could think of regarding his own movements or the condition of the flat, and he answered that there was nothing further. Later that day at the Queanbeyan Police Station, Pohl demonstrated to the two Detectives how the shirt had been tied around the neck of his wife.

23. On the 12th March, 1973, Detective Sergeant Tupman and Detective Gilligan again accompanied the man Pohl to his flat to enable him to obtain an address from there. On approaching the front of the flat, Pohl indicated an Esky type ice box upturned in a position between Flat 2 and 3. He informed the Detectives he now remembered that on returning home on the first occasion, about 9.30am on the 9th March, 1973, he got that Esky from underneath the rear of Flat 1 at the request of his wife and brought it into the house for her to wash. He stated that in doing so, he had left the back door of his own flat unlocked. Pohl volunteered that his wife must have placed the Esky outside the flat as a number of bottles which were in the kitchen had been in the Esky when he had brought it inside. He indicated a manhole under flat 1 from where he claimed he had taken the Esky, and also a number of soft drink bottles on the kitchen

floor which he claimed had come from the Esky.

24. On the morning of the 14th March, 1973, Pohl came to the Queenbeyam Police Station and showed Detective Sergeant Tupman two letters from relatives of the deceased in Hong Kong which had been written prior to her death. The letters indicated that the deceased had corresponded with her family shortly before her death setting out that she was unhappy in Australia, also with her marriage, and that it was quite likely she would be leaving her husband in the near future. During this same visit by Pohl to the Police Station, he told Detective Sergeant Tupman that on his return to his flat about mid-day on the 9th March, 1973, he found the door of his study open and the gas heater connected to a bayonet joint on the floor in the hallway with the gas turned on but not ignited.

25. Later that same day, Detective Sergeant Tupman interviewed the man Pohl at length in the form of a recorded interview. During the course of this interview, Pohl was asked why it was that he had not told investigating Police before Monday the 12th March, 1973, that he had left the back door of his flat unlocked when he had told Detective Sergeant Murray in his interview with him that the door was normally locked. Pohl could give no satisfactory answer to this question passing it over by stating that he had forgotten, and that it was upon seeing the Esky on the 12th that this important aspect had come to his mind.

26. Pohl was questioned about the gas heater which he stated, for the first time on the 14th March, 1973, was connected to a bayonet joint in the hallway of his flat on the 9th. He said that it was in the hallway near the door to the study and that when he bent down to disconnect it, he had smelt gas coming from it. It is as well to recall that both Mrs. Margaret Pohl, who had been at the flat at about 11.45am on the 9th, and the ambulance officer, John Walton, who arrived a little later, had been asked whether they had noticed any unusual smell, and both had given a negative answer. Mrs. Margaret Pohl took it further by stating the heater was not standing in the hallway when she visited the flat and that the study door was closed and not opened as claimed by Pohl.

27. Pohl was asked how long it was between the time he had arrived at the flat before finding his wife, and when he raised the alarm, and he stated that it would have been 15 or 20 minutes. This provided a most vital piece of circumstantial evidence when it is borne in mind that the call for an ambulance was recorded at 12.05pm and it could be proved that Mrs. Pohl did not leave the flat until approximately 11.45am. When referred to Mrs. Margaret Pohl's visit to the flat and the fact that at that time the front door was not damaged, the rotisserie was not turned on, nor were the panties or the panty hose on the floor near the foot of the bed, Pohl could give no explanation. He was informed that medical opinion was that his wife's death had occurred about 9.45am when he, on his own admissions, was about the flat and that his wife would have been dead for about 3 hours when Mrs. Margaret Pohl visited the flat and found it in order and Pohl could give no explanation.

28. Further information was obtained from Miss Warwick, mentioned in paragraph 20, and her de-facto husband Mr. James Ley, that the Esky ice box had been in the same position outside the flats for some weeks at least before the death of Mrs. Kum Yee Pohl, and could not have been put there on the day of her death as suggested by Pohl.

29. Mrs. Theresa Wurzer, a friend of the deceased woman, was interviewed and stated that she had visited the deceased at her home on the evening of the 6th March, and had commented on the number of soft drink bottles in the kitchen. This evidence, together with that of Ley and Miss Warwick, served to convince investigating Police that the story of the Esky as related by Pohl was a fabrication put forward by him in an attempt to explain the unlocked back door

as discovered by Mrs. Pohl in her unexpected call at the flat on the morning of the 9th March.

30. Information was obtained from Mr. Ian Snelling, an employee of Shell Gas, suppliers of the Port-a-gas bottle, to the effect that if the gas heater had been turned on as outlined by Pohl, the strong and offensive odour of the gas would have lingered in the flat for some considerable time after being turned off. It is felt that the story of the heater was devised by Pohl in an attempt to negative Margaret Pohl's evidence that the study door was closed when she visited the flat, but open when Pohl arrived home and thus suggest that some unknown offender was hiding in the study at the time of Margaret Pohl's visit.

31. Inquiries were made in Hong Kong from the family of the deceased and eventually, a letter written by her shortly before her death came into the possession of investigating Police. The letter was dated the 27th February, 1973, and in it the deceased set out that she was unhappy with her marriage and with her husband who she described as "hopeless". She further stated that her family could either expect her back in Hong Kong or find that she had left Australia for other parts.

32. Pohl had made no admission of guilt and we had no doubt that he never would. However, we considered there was sufficient circumstantial evidence to arrest him and eventually convict him of the murder of his wife.

33. On the 8th April, 1973, Pohl was arrested at Queanbeyan by Detective Sergeant Tupman and other Police, and taken to the Queanbeyan Police Station for further interview. He was informed of the contents of his wife's letter as mentioned in paragraph 31, and stated that he was surprised to hear that his wife was unhappy with her marriage. During this interview, he informed Detective Sergeant Tupman that when he returned home and found his wife dead, she was wearing a coloured blouse and not the blue jumper she was wearing when the ambulance officer and Police attended the flat. He was shown a coloured blouse which had previously been identified by Mrs. Reardon, see paragraph 18, and stated that it was the blouse his wife was wearing when he found her dead. Pohl could give no satisfactory explanation as to how the blue jumper was on his wife when the ambulance officer arrived.

34. Pohl appeared at the Queanbeyan Court of Petty Sessions on the 9th April, 1973, before Mr. Leo, Stipendiary Magistrate, charged with the murder of his wife. He was remanded to the same Court on the 21st May, 1973, when committal proceedings commenced and continued to the 25th May, then resumed on the 13th June, 1973, on which date he was committed to stand trial at the Central Criminal Court.

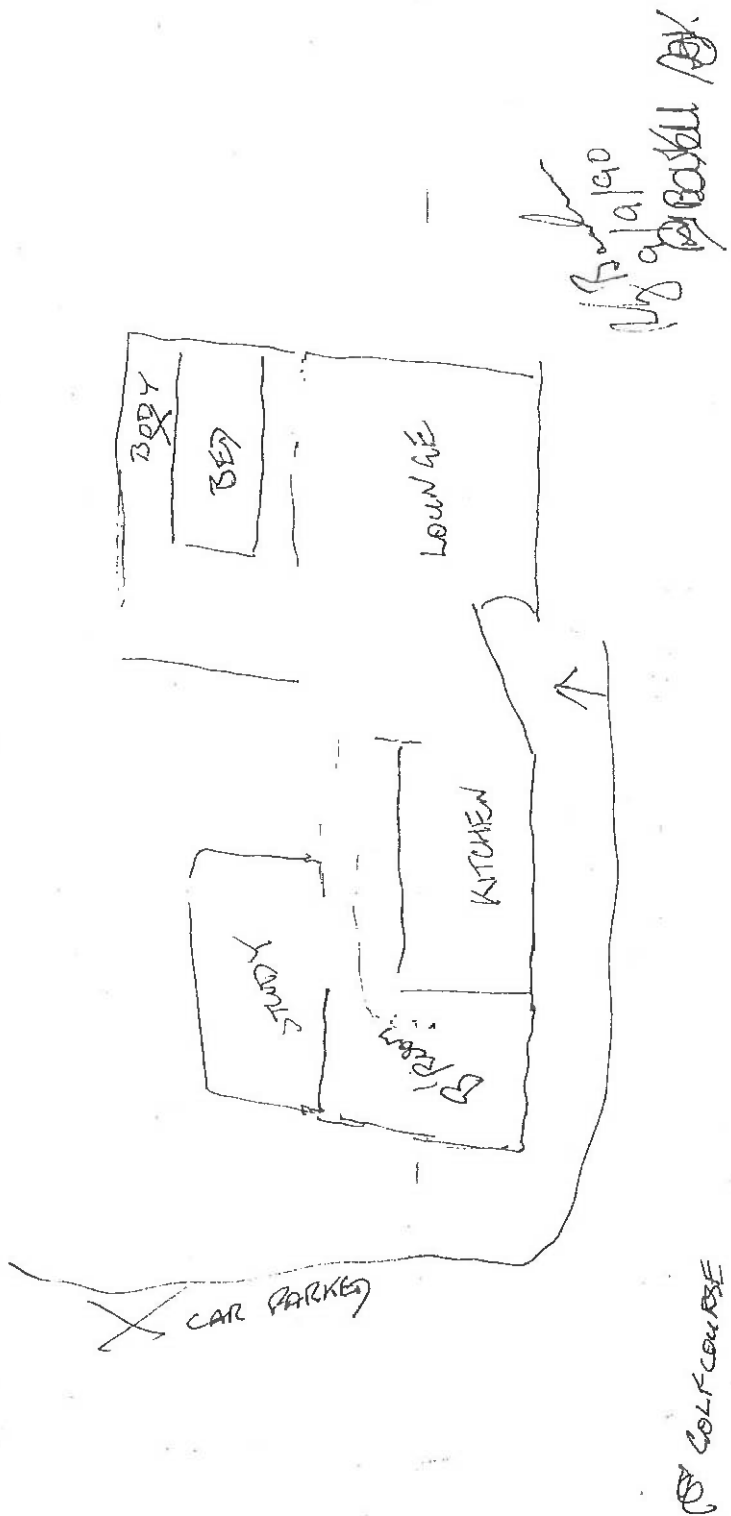
35. On the 29th October, 1973, Pohl was arraigned at the Central Criminal Court before Mr. Justice Lee and Jury charged with the murder of his wife. After a trial lasting 5 days, he was found guilty and sentenced to penal servitude for life.

36. Perhaps this resume might be forwarded to the Modus Operandi Section for filing with other papers dealing with this matter.

H.D. Tupman.
Detective Sergeant 1st Class.

D.M. Gilligan.
Detective Senior Constable.

APPENDIX F



APPENDIX G

ALPHABETICAL LIST OF WITNESSES APPEARING AT THE INQUIRY

	Inquiry Transcript Reference No
Judith Margaret Bawden	250
Roger Graham Bawden	35, 189, 226, 272, 285, 374
Peter Francis Bowtell	142
Geoffrey Ross Coles	413
Robert Finlay-Jones	301, 370
William Gordon Gay	162
Arthur Daniel Francis Gillespie	124
Dennis Martin Gilligan	177
Anthony Roland Green	415
John Millar Napier Hilton	292
Laraine Edith Ley	99, 138
David John Marchant	268
Rodney Bernard Milton	218
Roderick Norman Murray	179
John Adrian Nutt	170
Thomas Howard Godfrey Oettle	303, 382
Johann Siegfried Pohl	317, 368, 395
Margaret Pohl	110
Robert Verna Pohl	139
Warwick John Pulsford	152
Kevin John Schreiber	375
Geoffrey Thomas Smith	307
Neville John Smith	312
Ian George Snelling	386
George Shedden Spence	377
John Stuart Stirling	290
Harry Desmond Tupman	175
Bernard Joseph Walsh	184

APPENDIX H
LIST OF EXHIBITS

- | Exhibit
No | Exhibit |
|---------------|---|
| 1. | McInerney J: Confirmation of Appointment |
| 2. | Pohl Inquiry: Note of Suggested Procedure |
| 3. | Pohl Inquiry: Newspaper Advertisement of Public Hearing |
| 4. | Pohl Committal: Police Brief
Gillespie, Dr D, autopsy report, 12/3/73
Walsh, Bernard, 10/4/73
Pohl, Margaret, undated
Connell, Patrick Francis, undated
Reardon, Beverley May, 23/3/73
McGann, Joy, 10/4/73
Warwick, Laraine Edith, 2/4/73
Ley, James Arthur, 2/4/73
Curtis, Josephine Gloria, 4/4/73
Wurzer, Theresa, 8/4/73
Rouch, Hans, 20/3/73
Rauch, Maria Josephine, 19/3/73
Snelling, Ian George, 3/4/73
Gay, William Gordon, 6/4/73
Tupman, Harry Desmond, undated
Pohl, JES, Record of Interview with DS Tupman, 15/3/73
Pohl, JES, Record of Interview with DS Tupman, 8/4/73
Gilligan, Dennis Martin, undated
Howard, Inspector, record of conversation with JES Pohl
Pohl, Margaret, 9/3/73
McGeachie, William John, undated
Golowenko, Wladimir, 9/4/73
Simpson, Douglas, undated
ABC Playschool operation sheet for 9/3/73
Pohl, Joyce, letter dated 27/2/73 to family |
| 5. | Police Scientific Officers' Notes |
| 6. | Pohl Committal Depositions & list of witnesses who gave
evidence
Wallace, Keith Mathew, 101 Tharwa Road, Queanbeyan—
Estimator
Wall, Valerie Muriel, 13 Hillbar Rise, Queanbeyan—Cashier
Clerk
Menegazzo, Egidio, 23 Crest Road, Queanbeyan—Concretor
Curtotti, Mario, 127 Cooma Road, Queanbeyan—Concretor |

Exhibit
No

Exhibit

Walton, John Michael, Unit 35, 77 Riley Street, East
Sydney—Ambulance Officer

Simpson, Douglas, Unit 9, 11 Bellevue Parade, Hurstville—
Presentation officer with ABC

Walton, John Michael—recalled

Szczerbiak, Nicholas, 66 Uriarra Road, Queanbeyan—
Motor Mechanic

Gillespie, Arthur Donald Francis, 16 Monaro Street,
Queanbeyan—Medical Practitioner

Lawlor, Robert Edward—Constable of Police, Queanbeyan

Connell, Patrick Francis, 2 Goodenia Street, Rivett, ACT—
Salesman

Gant, Horace Frank—Sergeant of Police, Queanbeyan

Forner, Voleria, 22 Frederick Street, Queanbeyan—Earth
moving contractor

Edwards, William Neil, 180 Crawford Street, Queanbeyan—
Shop proprietor

Skazis, Leo, 74 Burn Street, Downer, ACT—Painter

Walsh, Bernard Joseph—Detective Sergeant of Police,
Goulburn

Murray, Roderick Norman, Detective Sergeant of Police,
Queanbeyan

McGann, Joy, 38 Booth Street, Queanbeyan—Domestic and
part time cleaner

Pohl, Margaret, 5 Highland Close, Ridgeway Estate,
Queanbeyan—Domestic

Reardon, Beverley May, 38 Booth Street, Queanbeyan—
Domestic

Wurzer, Theresa, 5/45 Atkinson Street, Queanbeyan—
Domestic

Warwick, Laraine Edith, 3/30 Booth Street, Queanbeyan—
Secretary

Ley, James Arthur, 3/30 Booth Street, Queanbeyan—Manager

Rauch, Hans, 30 William Street, Oakes Estate, ACT—
Carpenter

Snelling, Ian George, 9 Wyton Place, Holder, ACT—
District Manager

Tillmans, Walter Richard, 8 Bathurst Place, Macquarie,
ACT—Butcher

McGeachie, William John—Constable of Police, Queanbeyan

Golowenko, Vladimir—Constable of Police, Queanbeyan

Gay, William Gordon—Detective Sergeant of Police,
Goulburn

- | Exhibit
No | Exhibit |
|---------------|---|
| | Gudgeon, John Melville—Detective Sergeant of Police,
Queanbeyan |
| | Platt, Kevin William Hampden, 30 William Parade,
Queanbeyan—Accountant with CBA Bank, Queanbeyan |
| | Tupman, Harry Desmond—Detective Sergeant of Police,
CIB, Sydney |
| | Howard, Frederick Keith Davenport—Inspector of Police,
Queanbeyan |
| | Gilligan, Dennis Martin—Detective Senior Constable of
Police, CIB, Sydney |
| | Tupman, Harry Desmond—recalled |
| | Fretsch, Reginald Henry, 103 Crawford Street, Queanbeyan—
Ambulance Officer |
| | Gudgeon, John Melville—recalled |
| | Gay, William Gordon—recalled |
| | Murray, Roderick Norman—recalled |
| | Curtis, Josephine Gloria, 1 Tharwa Road, Queanbeyan—
Company Secretary |
| | Phillip, Charles Wilson, 26 Booth Crescent, Cook ACT—
Real Estate Salesman |
| | Curtis, Allen Vincent, 1 Tharwa Road, Queanbeyan—Real
Estate Salesman |
| | Bailey, Shirley Ann, 12 Malcolm Road, Queanbeyan—
Clerk/typist |
| | Harris, Victoria Christine, 3 Ross Road, Queanbeyan—
Domestic |
| | Sulway, Rex Brooke, 81 Pindari Crescent, Queanbeyan—
Health and Building Surveyor |
| | Davies, Colin Lance, 65 Pindari Crescent, Queanbeyan—
Building Inspector |
| 7. | Pohl Committal Addresses & Magistrates Findings |
| 8. | Pohl Committal Exhibits (not used at trial)— |
| | Stegbar Windowwalls invoices (2) |
| | Pohl Committal Exhibits sketch |
| | Edwards Williams Neil Statement 13.3.73 |
| | Piper Norman Henry: Forensic Analysis Report |
| | Horton Laurence Francis: Forensic Biology Report |
| | West John Charles—22.3.73 Paint Samples |
| | Pohl Margaret Statement 9.3.73 |
| | Warwick Laraine Edith Statement 2.4.73 |
| | PMG Record of phone calls |
| | Pohl JES Authority re Blood and Saliva testing. 15.3.73 |

- | Exhibit
No | Exhibit |
|---------------|---|
| | Curtis Josephine Gloria 4.4.73 |
| | Meyer Carl Eric Rudolf Statement 9.3.73 |
| | Gillespie Arthur Donald Francis—Autopsy Report 12.3.73 |
| 9. | Deane Deane & Nutt Letter to Clerk of Peace re Committal Witnesses dated 15.10.73 |
| 10. | Pohl Committal Index of Witnesses called at Committal |
| 11. | Pohl Committal Minute recommending bill: Bannon to Tanner QC dated 13.8.73 |
| 12. | Schmalzbach Dr Oscar: Report re fitness to plead 2.11.73 |
| 13. | Tupman Detective Sergeant H D re Pohl antecedents dated 19.7.73 |
| 14. | Pohl JES Letter 5.10.79 to F Walker, Attorney General |
| 15. | Pohl Trial: Transcript of evidence 29.10.73 to 2.11.73 |
| 16. | Pohl Trial: Summing Up Begg J—2.11.73 |
| 17. | Pohl Trial Exhibits: |
| | A 1-4: 4 photos deceased in situ |
| | Exhibit B: Skirt and pullover—no longer available |
| | Exhibit C: Shirt—no longer available |
| | Exhibit D1-2: 2 photos deceased in situ—facial |
| | Exhibit E1-2: 2 photos front and rear outside Flat 2 Booth St. Queanbeyan |
| | Exhibit F1-2: Photographs showing hole in front door |
| | Exhibit G: Photo of Lounge |
| | Exhibit H1-2: 2 photos showing sites of hairs of deceased |
| | Exhibit J: Photo of hallway |
| | Exhibit K: Front door of Flat |
| | Exhibit L: Photo of kitchen |
| | Exhibit M1-2: Photos of deceased on floor, vacant bed. |
| | Exhibit N 1-6: Photographs of deceased taken at morgue |
| | Exhibit O 1- 2: Coloured photos of deceased |
| | Exhibit P: Boots of accused—no longer available |
| | Exhibit Q 1-3: Plan of premises—3 copies |
| | Exhibit R: Deceased's pants and pantyhose—no longer available |
| | Exhibit S: Photo of chair against hole in door |
| | Exhibit T: Chair—no longer available |
| | Exhibit U: Blouse—no longer available |
| | Exhibit V: Map of Canberra and Queanbeyan |
| | Exhibit W: Plan (Previously ex 36 at Committal) |
| | Exhibit X: Mop—no longer available |
| | Exhibit Y: Eskey—no longer available |

Exhibit
No

Exhibit

- Exhibit Z: Pohl Record of Interview 9.3.73—Murray
Exhibit AA: Gas Heater—no longer available
Exhibit BB: 2 Gas Cylinders—no longer available
Exhibit CC: Knotted Cloth—no longer available
Exhibit DD: Pohl Record of Interview 15.3.73—Tupman
Exhibit EE: Pohl Record of Interview 8.4.73—Tupman
Exhibit FF: Photostat letter to the deceased from June,
shown to the accused dated 9.3.73.
Exhibit GG: Pohl Record of Interview 8.4.73—Inspector
Howard
Exhibit HH: Letter & typed transcription deceased to
family dated 27.2.73.
18. MFI 1 Aerogramme 9/3/73, Don to deceased
MFI 2 Aero letter dated 9.3.73 together with envelope of same
date from June to deceased.
 19. Pohl Appeal Book Index
 20. Pohl Appeal Notification of Additional Grounds of
Appeal 25.3.74
 21. Pohl Notice of Appeal 8.11.73
 22. Pohl Grounds of Appeal
 23. Pohl Notice of Application for Extension of Time
 24. Pohl Appeal: Report of Trial Judge 4.4.74
 25. Pohl Appeal: Transcript of Appeal 20.5.74
 26. Pohl Appeal: Deposition of Nicholas Szczerbiak
 27. Pohl Appeal: Crown Submissions to the Court of
Criminal Appeal
 28. Pohl Appeal: Chronology prepared by Crown
 29. Pohl Appeal: Judgement Court of Criminal Appeal
 30. Pohl Appeal: Affidavit Charles Ronald Newham 10.5.73
 31. Pohl Appeal: Affidavit sworn 14.3.74 Carl Eric
Rudolf Meyer
 32. Department of Corrective Services: Extracts from
Dept files in relation to Pohl's custody, visitation
and gaol movements
 33. Detective Sergeant HD Tupman & Detective Senior Constable
DM Gilligan Minute—to Superintendent CIB 28.3.74
Resume of investigation
 34. Bawden Roger: Record of Interview with
Det Sgt Dean—9.9.90
 35. Bawden Roger: Record of Interview with
Det Sgt Dean—10.9.90

Exhibit

- | No | Exhibit |
|-----|--|
| 36. | Bawden Roger: Record of Interview with Det Sgt N Smith -13.9.90 |
| 37. | Bawden Roger: Record of Interview with Det Sgt N. Smith—15.11.90 |
| 38. | Teese, Margaret Rose—Statement and record of interview between Det Sen Cons Plotecki and Margaret Rose Teese, former acquaintance of Bawden, dated 12.11.91. |
| 39. | Graham, Ernest Charles—Statement of Ernest Charles Graham, former cook at Fairbairn Airbase in March 1973 dated 15.11.90. |
| 40. | Ritter, Alison Joan—Statement of Alison Joan Ritter (Clinical Psychologist) on 13.11.91. |
| 41. | Ritter, Alison Joan—Record of interview between Det Sen Const Plotecki and Alison Joan Ritter on 11.10.90 re treatment of Roger Bawden. |
| 42. | Bawden, Roger—Copy of letter written by Roger Bawden to Mr George Spence, undated. |
| 43. | Bowtell, Pulsford—Initial inquiries carried out by uniform Sergeants, Bowtell & Pulsford on 9.9.90. |
| 44. | Bawden, Roger—Criminal conviction of Roger Graham Bawden, D.O.B. 14.4.50. |
| 45. | Bawden, Roger—2 Polaroid coloured photographs taken of Bawden at Queanbeyan Police Station on 11.9.90. |
| 46. | Bawden, Roger—Black & white photograph of Bawden, RAAF 9.1.73. |
| 47. | Bawden, Roger—Bawden's medical history from Canberra Hospital. |
| 48. | Bawden, Roger—Bawden's medical history from Rockhampton Hospital. |
| 49. | Bawden, Roger—Bawden's medical history from Blackwater Hospital, Queensland. |
| 50. | Bawden, Roger—Bawden's medical history from Gresswell Rehabilitation Centre |
| 51. | Bawden, Roger—Transcript of Sgt. Bowtell's notebook entry of admissions made by Roger Bawden at Queanbeyan Police Station on 9.9.90. |
| 52. | Bowtell, Sgt—Photostat of Sgt Bowtell's notebook entry. |
| 53. | Bawden, Roger—Transcript of conversation between Bawden and Sgt Pulsford at Queanbeyan Police Station on 8.9.90. |
| 54. | Newspaper articles regarding Pohl murder from Queanbeyan Age and Canberra Times, Sydney Morning Herald and Telegraph 1973. |
| 55. | Bawden, Roger—Medical records from RAAF. |

Exhibit

- | No | Exhibit |
|-----|--|
| 56. | Bawden, Roger—Service particulars from RAAF. |
| 57. | Bawden, Roger—Service records from RAAF re Bawden's discharge. |
| 58. | Bawden, Judith Margaret—Statement Judith Margaret Bawden dated 10/9/90. |
| 59. | Bawden, Judith Margaret—Handwritten statement and typed transcription made by Judith Margaret Bawden, 10.9.90. |
| 60. | Pohl, Johann Ernest Siegfried—Criminal conviction of Johann Ernest Siegfried Pohl, D.O.B. 2.4.37. |
| 61. | Bawden, Anne-Marie—Statement and Record of Interview between Anne-Marie Bawden and Detective Sergeant Neville Smith, dated 12.12.91 and 11.12.91 respectively. |
| 62. | Milton, Dr Rod—Report on Dr Rod Milton, Psychiatrist dated 21/9/90. |
| 63. | Pohl, Johann Ernst Siegfried—Record of Interview Detective Sergeant Smith and Ernest Siegfried Pohl date 13/11/90. |
| 64. | Margaret Pohl—Record of Interview between Detective Sergeant Smith and Margaret Pohl dated 19/9/90. |
| 65. | Spence, George Shedden—Statement George Shedden Spence dated 11/10/90. |
| 66. | Spence, George Shedden—Record of Interview between Detective Senior Constable Plotecki and George Spence dated 10/10/90. |
| 67. | Demos, Leslie—Statement Leslie Demos dated 11/10/90. |
| 68. | Diluzio, Nadia—Statement Nadia Diluzio dated 11/10/90. |
| 69. | Ritter, Alison Joan—Statement Alison Joan Ritter dated 11/10/90. |
| 70. | Gillespie, Arthur Donald Francis—Statement Dr Arthur Donald Francis Gillespie dated 21/9/90. |
| 71. | Stirling, John Stuart—Statement John Stuart Stirling dated 17/9/90. |
| 72. | Bawden, Roger—Transcript notebook entry between Sergeant Bowtell and Roger Bawden dated 9/9/90. |
| 73. | Bawden, Roger—Original map drawn by Roger Bawden to Sergeant Bowtell at Queanbeyan Police Station on 9/9/90. |
| 74. | Bawden, Judith—Facsimile copy of statement of Judith Bawden from Victorian Police, 10/9/90. |
| 75. | Bawden, Roger—Original note written by Roger Bawden to George Spence. |
| 76. | Bawden, Francis John—Statement and Record of Interview between Det. Sen Cons. O'Reilly and Francis John Bawden, dated 16.1.92. |

Exhibit

- | No | Exhibit |
|-----|--|
| 77. | Gibson, Maurine Elizabeth—Statement and Record of Interview between Det. Sen Cons Plotecki and Maurine Elizabeth Gibson, dated 17.1.92. |
| 78. | Meikle, William James—Statement and Record of Interview between Det. Sen Cons O'Reilly and William James Meikle, dated 18.1.92. |
| 79. | Meikle, Linda Gay—Statement and Record of Interview between Det. Sen Cons Plotecki and Linda Gay Meikle, dated 19.1.92. |
| 80. | Gay, William Gordon—Statement William Gordon Gay dated 28.1.92. |
| 81. | Gillespie, Dr Arthur Donald Francis—Statement—29.1.92 |
| 82. | Bawden Peter Anthony—Statement and Record of Interview with Sn Const O'Reilly dated 4.2.92 |
| 83. | Marchant David John—Statement dated 4.2.92 |
| 84. | Bartram Gladys—Statement dated 30.1.92 |
| 85. | Doolan John Joseph—Statement dated 4.2.92 |
| 86. | Pulsford Warwick John—Statement dated 4.2.92 |
| 87. | Tupman Harry Desmond—Statement dated 5.2.92 |
| 88. | Gilligan Dennis Martin—Statement dated 4.2.92 |
| 89. | Bawden Roger—Video Record of Interview at murder scene with Detective Sergeant N Smith—14.9.90 with typed Transcription of Video Record of Interview |
| 90. | Video of Newsclip—Interviews between Steve Barrett of TCN9 and Bawden Roger (31.5.91) and Steve Barrett and JES Pohl (1.6.91). |
| 91. | Smith Geoffrey Thomas—Fingerprint Section—Statement dated 7.2.92 |
| 92. | Bawden Roger—Occurrence Pad Entry re arrest and charging of M J Allen—25.1.92 |
| 93. | Hilton Professor John—Forensic Report dated 29.1.92 |
| 94. | Finlay-Jones Professor Robert—Report re Psychiatric Examination of R G Bawden on 31.1.92 together with Curriculum Vitae. |
| 95. | Barrett Steve Channel 9 News—Statement dated 10.2.92 re Bawden interview 19.5.91. |
| 96. | Connell Patrick Francis—undated amended Statement. |
| 97. | Ordinance map, ACT |
| 98. | Bawden Roger—Sketch of floor plan premises, Henderson Street, Queanbeyan |
| 99. | Bawden Roger—Sketch of floor plan premises McQuoid Street, Queanbeyan |

- | Exhibit
No | Exhibit |
|---------------|--|
| 100. | UBD map of Queanbeyan marked by Bawden showing route taken to Booth Street |
| 101. | Bawden Roger—Sketch of premises McQuoid Street, Queanbeyan |
| 102. | Jewellery Reference Book |
| 103. | Crime Information report detailing property stolen from 2/30 Booth St on 9.3.73 dated 13.12.73 |
| 104. | Bawden Roger—V-Line travel ticket, Albury to Canberra, 8/9/90 |
| 105. | Bawden Roger—copy Queanbeyan Leagues Club Honorary Members Register, 8/9/90 |
| 106. | Close Constable Wayne John—statement dated 4/1/92 |
| 107. | Bowtell Sergeant Peter Francis—statement dated 11/2/92 |
| 108. | Photographs (5)—showing lounge chair obstructing front door, the gas heater, the chair and the hole in the door |
| 109. | Photograph Board (RAAF Personnel including Roger Bawden) |
| 110. | Deane, Deane & Nutt, Solicitors—File. |
| 111. | Meyer Mr—Copy of Aerogramme (as transcribed and found on Ex 110) and copy handwritten statement (as transcribed) of Mr Meyer |
| 112. | Bawden Roger—Copy of letter written by Bawden to George Spence |
| 113. | Harmon Norman Albert—Statement of, dated 14.2.92 |
| 114. | Murray Rod—CIR report, murder K.Y. Pohl dated 13/3/73 |
| 115. | Murray Rod—FIR report dated 9/4/73 |
| 116. | Bawden Roger—unedited video tape interview with Steve Barrett, May 1991 |
| 117. | Bawden Roger—Transcript of Exhibit 116 |
| 118. | Bawden Roger—Statement of 5/6/91 obtained from file Hill & Rummery, Solicitors |
| 119. | Bawden Roger—Photograph with first child |
| 120. | Detective Senior Constable Plotecki Michael—Result of inquiries with Lake Furniture re employment JES Pohl dated 11.2.92 |
| 121. | Murray Rod—Copy of minute to Inspector of Police, Queanbeyan dated 17/8/74 re jewellery |
| 122. | Callister Michael John—Statement dated 17/2/92 and e twenty-three coloured photographs taken of premises in September 1990 |
| 123. | Oettle Dr Godfrey—Report dated 19/2/92 re time of death |

Exhibit

- | No | Exhibit |
|------|--|
| 124. | Wilson Annabelle (former Associate to Mr Justice Begg)—
Statement 19/2/92 re Judge's Associate's notebook |
| 125. | Police fingerprint records, Extract from—pp277 and 283 |
| 126. | Detective Sergeant Smith Neville John—Statement
dated 10/2/92 |
| 127. | Police Media Liaison Unit circular to TV and radio stations
dated 15.1.92 |
| 128. | Bawden Roger—Transcription of item appearing in The
Australian 3/11/73 re conviction |
| 129. | Proud GJ—Statement re starting times RAAF, Fairbairn,
dated 4.2.92 |
| 130. | Beilby Vivienne—analysts certificate re Roger Bawden's blood
type dated 4.2.92 |
| 131. | Pohl JES—letter re further study in technical drawing
dated 8.4.75 |
| 132. | Walsh Bernard Joseph—10 colour photographs of deceased |
| 133. | Schreiber Kelvin John—Statement dated 17/2/92 |

N345-944 0252

3