

styloid process of the radius - the styloid is there
(indicating on himself) the wound was there, it went in
at a very oblique angle and lodged in the wrist down
between the capitate and the greater actagal bones to the
wrist joint.

Was it easy to get at?---No, it was wedged very firmly and it was
hard to pull out.

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to that effect.

Come to Sunday, the 27th July, of this year. When you were living at this 2 Fitzroy Street, St. Kilda, was your wife living there too?---Yes.

Did she know either of these men, to your knowledge; had they been there before ever?---No, neither of them had been there, I don't think.

On this Sunday, come to the afternoon; where were you about 3 o'clock in the afternoon?---In bed.

Any one there in bed with you?---Yes, my wife.

Tell us what happened in connection with Barrett and Martin?---I got a message that they were there and they wanted to see me, and I told them to come in, and they came in to the room. They said something about that there was some chap out at Pentridge - - -

HIS HONOR: Did they both say it, or did one say it?---I really forget which one said it.

One of them spoke, is that it?---It may have been the two. I do not remember actually whether it was the one or whether it was the two.

MR. SPROULE: Said what?---"Would you drive us out to Pentridge. We want to get a chap out on bail".

Did they mention the man's name?---"Joe", Joe somebody; I forget the Christian name now.

~~HAVE~~ Had you anything to drive them with?---Yes, I had my truck.

Where was your truck?---Stationed in Beaconsfield Parade.

Anywhere near this place where you were living?---Yes, right opposite.

When somebody asked you to drive them out to Pentridge, what did you say?---I said "Yes, I will do it for you, seeing that you are in a position that you can't get out there yourself. I will have to get some petrol first, though".

When you said you would have to get some petrol, what was said?---It was obtainable over at Fitzroy somewhere.

How do you know that? Was there anything said about petrol being

obtainable?---Yes.

Tell us who said it, and what?---Barrett said we would be able to get some petrol to get out there and back. I only had about a gallon in the truck; that was enough to get us over to Fitzroy, but no further.

Did you later go out with them?---Yes.

Before you went was there any beer about the place?---Yes, there was a dozen bought.

Where did that dozen come from; who bought it?---Some chap brought it down. I think Barrett got it, or got it between them; I don't know.

Did you buy the dozen beer?---No.

It was delivered, you say. Where was it brought - into your room?---Yes.

What happened with regard to that dozen of beer?---There were about three bottles drunk, two or three bottles.

Who shared in the drinking?---I think I had one glass. I did not feel like it. I had had a heavy night the night before.

You had a heavy night the night before?---Yes.

You had a glass, you think. Who else had beer?---I think only Barrett and Martin. I do not think the wife had it. She might have had a glass.

Could you say who had most of the beer?---Who had most of it? I think Martin and Barrett, they consumed most of it between them.

Before you went out was there any conversation in which your wife took part?---Something about - - -

Just try and think what was said; not just "something about", Mr. Hull. You try and cast your mind back and get as close as you can?---The actual conversation, it was "Who is going to sleep with you tonight?" or something, to my wife.

HIS HONOR: Who said that?---To be truthful, Your Honor, I could not tell whether it was Martin or Barrett. It is that long since that I don't remember which one it was actually.

MR. SPROULE: Was any reason suggested why anybody but you should sleep with her?---No, none to my knowledge. I had not any intention - all my intentions were that I was coming back. Was there anything said about that, about you coming back?---I took it as a joke. I never took it with any sincerity. Was anything said about you coming back or not coming back?---No, nothing at all. You took it as a joke. When you left, did you intend to come back?---Yes; as soon as the business was completed I was going to drive back home again. Did you go out then to your truck?---Yes.

LUNCHEON ADJOURNMENT.

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UPON RESUMING AT 2.15 p.m.

MR. SPROULE: Your Honor, before I put Hull back in the witness box would Your Honor allow me to call a doctor just to say Mrs. Hull is too ill to travel.

HIS HONOR: Very well.

JAMES LAWRENCE SINCLAIR, sworn and examined:

MR. SPROULE: Your is your full name, doctor?---James Lawrence Sinclair.

Where do you live?---1a Williams Road, Windsor.

You are a legally qualified medical practitioner?---Yes.

Have you seen Mrs. Valma Edith Hull today?---Yes.

Where did you see her?---At 11 a.m. this morning at 2 Fitzroy Street.

Can you say from your attendance on her whether she is too ill to travel today?---Yes. She will be unfit to travel for about a week.

MR. GOLDBERG: No questions.

MR. MOLOWEY: No questions.

(THE WITNESS WITHDREW)

KEITH KITCHENER HULL, recalled and further examined:

MR. SPROULE: You were just about to tell me Hull how you left 2 Fitzroy Street?---By the truck, my truck.

And did you take anything out to the truck with you?---No.

Did either of the others take anything out from the house to the truck?

---Only a couple of bottles of beer.

What do you mean by "only a couple of bottles"; two bottles?---Three bottles, I think there were.

Three bottles?---Yes.

And when you got out to the truck did you all get into the truck?---Yes.

I measured the petrol first; I only had about a gallon there.

Go on with the story; you measured the petrol you say? ---On measuring the petrol there was only about a gallon in it. I showed the measurement on the steering handle, the winding handle, and then we got into the truck.

How did you sit in the truck when you got in, who drove?---I did.

Who was next to you?---Barrett.

And Martin on the outside?---Yes.

Will you look at these photographs, photographs marked 1 and 2, do they represent this truck of yours that you are talking about?---Yes.

They do. I will, put these in, if Your Honor please.

EXHIBIT "C" Photographs of truck.

MR. SPROULE: When you got into the truck who was it suggested where you should drive first. You were going originally to Fitzroy. Who suggested where you should drive first?--- Oh, going round to some street to get some money, Barrett. Who suggested it?---Barrett.

What did he say?---"Drive around this way first so that we can go and see this chap about getting some money off him for the petrol" or something to that effect.

Did he say what chap you were going to see?---No, no names mentioned at all.

"Drive round this way"; did he indicate where he wanted to go to?--- Up Acland Street and then around Robe Street.

Did you drive up Acland Street?---Yes.

And round Robe Street. When you got to Robe Street what did you do then?---Turned into Neptune Lane.

Is that a left-turn off Robe Street?---Yes.

And by the way, did you know the man you were going to see?---No.

And how far along Neptune Lane did you drive? ---Oh, about three-quarters of the way, I should say.

How far would that be?---I could not - - -

Say in yards?---Maybe 75 or 100 yards, 50 yards, I could not say actually.

Well how did you come to stop. Did you stop of your own will or was there any indication to stop?---Oh no, I just pulled up there, just pulled up at this particular spot.

Was there anything about the particular spot you pulled up at?---Oh,

there was - - -

To make you pull up?---Oh no, just going up Neptune Lane. It is only a thin street and then there is a very acute turn.

Did you know where you were going to?---I was going to Fitzroy after this was completed here.

You pulled up at this particular place and you did not know how far you were going to go to get the money?---No, I was just told to "pull up here".

Who told you?---Yes.

Who told you?---I could not say which one it was.

Well one of them told you?---Yes, one of them said like "Pull up here, this will do and I will go over and see this chap."

Well, did you pull up?---Yes.

Did anyone get out of your truck when you pulled up? ---Yes, they both got out.

Did you get out?---No, I sat behind the steering wheel.

When they both got out did either of them go away?---Yes, Martin walked away to see about getting the money, I presume.

Where did he go, what direction?---Up towards Neptune Street.

Is that the same direction you had been driving?---Yes.

Went further up the lane. How far did he get up there?---Round about the corner as far as I remember, somewhere to the corner.

Is that a corner made by Neptune Lane and Neptune Street?---Yes.

What happened as he was going up along there with regards to Barrett?---Barrett sang out to him "Have you got the opener on you, can you open this?" the bottle, I presume.

Was that one of the bottles you had taken from your house?---Yes.

Well, when Barrett called out that what did Martin do or say?---He said "I will open it for you", came back ~~and he came back~~ to open it.

Came back to open it. What did he do when he came back?---Came back to open the bottle.

What with, an opener?---With his teeth.

You saw him do that?---Yes.

The bottle is open, what happened then?---I was offered a drink. I said I did not feel like one. I had a hangover from the day before, I did not want one at all.

Did either of them have a drink?---I think M artin had one and went to walk away over to this place again, and Barrett had one.

Martin went to walk away?---Yes.

How far did he go when you say he went to walk away?---I could not say actually.

One hundred yards?---I told him to hurry up and get the money, I felt sick and I wanted to get the business completed.

Did Martin start to walk away again?---He started to walk away after he had the drink. He might have only got as far as the front of the truck.

I did not catch that?---He started to walk and may have only got to the front of the truck but he started to walk away to this place.

After he had the drink what happened? ---Barrett had a drink then.

What happened after Barrett had a drink?---He offered me a drink. I would not have it, I said "No," I did not want one.

Where were you sitting then?---Sitting behind the steering wheel.

What were you doing with your hands?---Leaning on the steering wheel.

What happened then?---When I said I did not want a drink the next thing I heard "Cop this" and I was shot.

You heard "Cop this", who said "Cop this"?---Barrett.

You heard "Cop this" that came from Barrett. Did you look to or towards Barrett when you heard that?---Did I?

Yes?---No. "Cop this" then I was shot.

What did you feel?---A piercing of the chest.

And did you hear the shot?---Yes.

Well, when you got that shot in the chest what did you do?---Grabbed hold of my chest like that (indicating).

With your left hand?---Yes.

And what happened then?---Then I felt one in the hand, felt a shot
in the hand.

Is that the one we have been told about that was in your wrist?---Yes.
Well, did you see Barrett between the shots?---No, I was sitting like
this; the shot came from over there.

That is the first shot?---The one here, then I got the other one and
I automatically fell out of the door of the truck.

Did you see Barrett at all from the time he said "Cop this"?---No,
I just heard the voice.

Heard the voice?---Oh, he was standing there.

What?---He was standing there; I heard the voice.

Where did the voice come from?---From the side of the truck, the other
doorway.

Was the door open?---Yes.

I mean the door on the side where Barrett was, was that open?---Yes.

Well, you say you fell out of the truck - - -

HIS HONOR: Well, did you see a weapon at any time?---Did I see the
weapon?

Any weapon?---I saw the weapon when I heard "Cop this". I turned
round and felt the impact against my chest and then I went
like that and I fell out of the truck.

I know you did, did you see any weapon?---Yes, I saw it for a second or
so, a split second.

What did you see?---A weapon in Barrett's hand.

What sort of weapon, what did you see?---What did I see?

Was it a knife?---No, a revolver.

MR. SPROULE: You say you fell out of the truck. Is there a lock on
the right-hand door of the truck?---On my side?

Yes?---No.

Did you fall out with/^{out}any intention on your part or some intention on
your part?---I think I threw myself at the side of it actually.

Did you fall to the ground?---Yes.

And what did you do then?---Ran.

You mean got up and ran?---Yes, got up and ran.

Which way did you run?---Towards Robe Street.

That is the way the truck had come?---That is right.

After you fell out of your truck did you see either Barrett or Martin?---No.

Did you look around?---No, I just kept running.

When you got down to Robe Street did you turn in there?---I went from Robe Street up towards Acland Street.

And whathappened?---I ran out, I sang out "I have been shot" and I got up to the corner of Acland Street and some people came along, a man and a woman came along in a car and picked me up.

I see. They picked you up and where did they take you to?---Down to my place first at the corner of Beaconsfield Parade and Fitzroy Street.

Did you get out and go in there?---No, I stayed there, the lady went in to see my wife.

Did you see your wife there?---No, I never saw her.

Where did you go onto then?---Down to the Alfred Hospital.

And when did you get out of the Alfred Hospital?---The following - the following afternoon.

Recently, before this Sunday, had you had any row with Barrett?---No.

When had you seen him last before that?---Oh, I think one day in an hotel out in Fitzroy.

Had you been in his company that day?---No. He was drinking with the same company that I was with, we were all associated together.

And Martin, when had you seen him last before?---Oh, about three days before I was talking to him - no, the day before at the races, I was drinking with him.

Any soreness between you and Martin?---I beg your pardon?

Any soreness between you and Martin?---Oh no, none at all.

Did you expect anything to happen when you went on that trip?---No.

Were you armed?---No.

With any weapon of any sort?---No.

CROSS-EXAMINED BY MR. GOLDBERG:

On this particular day you were in a very bad temper, weren't you Hull?

---Oh, as far as the wife and I were concerned I had had a bit of a dispute with her at home.

What time did you get home?---About 11 o'clock that morning.

Had not been home all night?---No.

And she told you she did not want you there, didn't she?---Yes.

And that led to an argument between you?---Yes.

And at the time Martin and Barrett called and you were drinking the

beer there the argument between you and your wife was still proceeding?---No, it had finished, it had nothing to do with anybody else who was there.

I know, but whether it had anything to do with anybody else who was there, the position was this, you and your wife were still arguing the point?---No. Before they came we may have been still talking about it but not while they were present.

Didn't she say you were not getting back~~xxx~~ any more, you were not coming back into the house any more as far as she was concerned?---Oh, she may have said something to that effect. I do not remember her saying it, she may have.

And didn't Martin say to her not to be silly and they would leave half a dozen bottles and they could drink them when they came back?---Yes, he left half a dozen there.

HIS HONOR: Did he say that "We will drink them when we come back"?
---Oh, I could not tell you what words were said, Your Honor, I was pretty sick myself.

It is no good asking double questions; ask single questions.

MR. GOLDBERG: The idea of the half dozen bottles being left there - -

HIS HONOR: How can he say what the idea was unless something is said?

MR. GOLDBERG: Was it said, the half dozen bottles would be left there

and drunk on their return?---Yes, that was said. HULL XM.

S.S.W.

At the house a man named Eddy, he showed these two men into your room, didn't he?---Yes.

And Martin said to you "Hullo, Keith, we are going out to Pentridge to take Jack Carter out some things, how about driving us"?---No, Joe Taylor or somebody, it was, not Jack Carter.

Are you quite sure it was not Jack Carter?---No, it was Joe Taylor.

And didn't Barrett say, "We can't get a taxi and I want to take some things out to Jack Carter at the gaol"?---No, the way I was led to it, to drive Joe Taylor out; they never had enough money. They were going to fix somebody up to get him out on bail.

Are you quite sure the name was Taylor?---I think it is Taylor, Joe somebody.

Did you ever say Turner?---It might have been Turner.

Are you sure of the name at all?---No, only as Joe, which is the only name I am sure of.

And I suggest to you there was nothing said, there was not any money to pay for a taxi?---That was the impression I was under because they wanted my truck to go out.

Didn't they say "We cannot get a taxi and that is why we want your truck"?
---They may have said, but I was under the impression they never had enough money to get a taxi.

Didn't a man get a dozen bottles of beer at your house, and it was paid for by those two men?---Yes.

And the price of a dozen bottles was £2.10. 0?---Yes.

So it is more than the price of a taxi to the gaol?

HIS HONOR: Perhaps they could not have both.

MR. GOLDBERG: That was the position, wasn't it?---Oh yes, looking at it that way.

And then they offered you a drink?---Yes.

And three bottles were consumed?---Yes.

Is that right?---Yes.

And you, your wife, Martin and Barrett consumed the beer, the three bottles?---Yes, it was drunk between us.

And you had your fair share of it, you didn't limit yourself to just one glass?---I didn't feel like drinking.

Whether you felt like drinking or not, I suggest to you you had your full share of those three bottles?---I had three glasses at the most, it may have been two.

And didn't you say you would not have enough petrol to get them out to the gaol?---Yes.

And did Martin say "I can get you some petrol just round in Neptune Street"?---There was - one said something about getting some in St. Kilda and one said about getting it at Fitzroy, if we cannot get it - - -

I suggest to you Martin said "I can get you some petrol round in Neptune Street"?---I cannot remember the name. He may have said it; I cannot remember the name being said. I can remember in St. Kilda and out at Fitzroy.

And did you say "All right, wait until I get dressed"?---Yes, I might have said that.

And then did Martin say "We will have a dozen of beer and have a drink; we will get a dozen of beer and have a drink"?---Yes, that was suggested while I got dressed.

And did you say "All right, Eddie will ring up for a dozen", Eddie being the man who had shown these two men into your room?---Yes, that could have been said.

HIS HONOR: Have you got any recollection whether it was said or not?---As I told you, Your Honor, I was sick from the beer myself. I cannot remember the full conversation. It could have been said.

MR. GOLDBERG: You don't deny it was said, but you don't remember it was said?---Yes, that's right.

Did Eddie leave the room and later a man come with the beer?---That is right.

And he brought the dozen, is that so?---Yes.

And while you were drinking your wife and you were still arguing the

point?---No, I cannot recollect .

~~And~~ It had been a bitter quarrel between you and your wife?---In the morning, yes, when I came home, before they came down.

And did you, Martin and Barrett go out to your truck?---Yes.

And did Martin say "We will drive round to Zooker's place, I am sure he will let us have some petrol"?---He might have mentioned the name, but when we went down to Neptune lane I presumed that is where ^{we} were going.

You knew Claude Zooker?---Yes, known him for years.

And you knew where to go?---Yes, as we were going along.

And Martin told you to drive to Claude Zooker's, and that is what you did and stopped within 15 feet - - -

HIS HONOR: There you are, Mr. Goldberg, three questions.

MR. GOLDBERG: You went to Claude Zooker's?---Yes.

And you pulled the truck up near the corner of Neptune Street, in Neptune Lane?---Yes.

Within about 5 yards of the corner?---It would be more than that. I think it would not be much more, but it would be more.

And when Martin walked out he walked in the direction, did he not, of Zooker's?---That is right. It is right opposite the corner.

So it was Martin who had suggested going round to Zooker's?

HIS HONOR: He has not said it, you keep putting words into his mouth. He said he does not remember the name Zooker mentioned, but it might have been said.

MR. GOLDBERG: It was Martin who suggested you go round that way, is that so?---Yes.

So when you swore earlier it was Barrett who suggested it, that was wrong?---No, I don't remember saying Barrett said it. I don't recollect him saying that. I did not know whether Barrett knew he lived round there. I knew he lived round there.

After Martin got out of the truck Barrett followed him, got out of the truck too?---Yes.

And Barrett got one of the bottles of beer which was on the tray behind the cabin?---Yes, they were on the back of the tray.

And he got that bottle and got back into the cabin, didn't he?---No,
he stood out the doorway.

How far away from where you were?---The length of the cabin.

What is the distance?---About four feet, I should think.

Did he call out "Have you got an opener?" to Martin?---Yes.

And did Martin call out "No, but I will come back and open it for you"?---

That is right.

And did Martin return?---Yes.

And I suggest to you that when Martin returned Barrett was sitting
beside you in the cabin. Now, wasn't he?---No.

Are you certain of that?---Positive.

After Martin had opened the bottle, did he have a drink?---Yes, he
had first drink, I think.

And then he gave it to Barrett?---That is right.

And Barrett had a drink, didn't he?---Yes.

And Barrett then offered you the bottle?---Yes.

And when he offered you the bottle, didn't you say "Not off you"?---

No, I didn't feel like a drink.

Did you say "No, not off you"?---No, I said I didn't want one.

Did he say to you "Why not"?---No.

Any words to that effect?---No, he might have said why not and I said
I didn't feel like one.

And at the time you said, or he said "Why not", did he at that time
hand the bottle back to Martin?---He may have given it to
Martin, I don't remember.

Did you say to Barrett "You have been crook on me for years, haven't
you"?---No, ~~xxx~~ that I remember.

What do you mean by that, you remember?---I don't remember saying that.

Did you hear any words to this effect by Barrett, "what makes you
think that"?---No.

And did you say "You reckon I shot Donnie Day in cold blood, don't you"?
---No.

Stopping there; it was your belief, wasn't it, that Barrett believed
that you had shot Donnie Day in cold blood?---That ~~xxx~~ ^{is} what

I was under the impression he believed.

And you resented that, didn't you?---Yes.

Because he had made no bones about it to mutual acquaintances, as to his belief?---No.

Hadn't he?---What, as far as talking was concerned?

Yes, you knew that?---Yes.

And that made you feel very bitter against him, didn't it?---As far as our friendship was concerned, it was broken up.

And I suggest to you that on this day that you said to him "You reckon I shot Donnie Day in cold blood", didn't you, and he said "Yes, I certainly do"?---No.

It is the fact that you did shoot Day, isn't it?---Yes.

And Day died as a result?---Yes.

I think in fairness to the witness, I should put one more question, with Your Honor's permission as to that.

HIS HONOR: Yes.

MR. GOLDBERG: And did he say - did you say, "Well, I think you are a cunt"?---No.

And he replied "I think you are a cunt too"?---No.

You called him one and he called you one. Now, come on Hull, didn't he?---No.

Isn't that what happened that day?---No, I cannot place that being said at all.

And you said "Cop this, you bastard," and then you got the gun from the left-hand side, you pulled it from your clothes?---No.

That gun that was there that day was yours?---No.

And that when you had that gun this man grabbed that gun, didn't he?---No.

And there was a struggle between you and he for the gun?---No.

And do you say then, that the gun went off?---No.

Well, ~~anywhere~~ where do you say he was when the gun went off?---

Standing in the doorway.

, ~~along~~ the length of

How far away from you?---About 4 feet 6 inches.

the cabin and the width of the mudguard.

How far would the barrel opening of the gun, which is the muzzle, be away from your person, the nearest part?--- Well, from what I would take up behind the steering wheel and what was left of vacant ~~at~~ the cabin and the running board of the ~~same~~ truck.

Well, how far about, say?---About 4 feet 6, 4 feet or so.

I suggest to you he was much closer than than to you. He was inside the cabin sitting next to you?---No.

And after the gun went off, you let go the gun and you put your hand up towards your chest?---No.

That you sat down. You deny that?---Yes.

That you sat down for a few seconds and he was still holding the gun, Barrett, at this time, and that you grabbed the gun with the right hand and tried to take it off him?

HIS HONOR: Which part of all that do you wish him to answer first?

MR. GOLDBERG: Was he standing there with the gun and you make a grab at him?---No.

Did you at any time make a grab at that gun?---Oh, when I heard, "Cop this", I might have shifted like, you know.

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MR. GOLDBERG: In what direction did you shift?---I was like that (indicating with the steering wheel, when he said, "Cop this" I might have looked - I don't remember exactly, it is a thing you don't remember.

If you carried out the movements which you have just described that would be taking you away from him, and not towards him?--- Yes, well that is what I presume I did, that is the only way I could put it down, if I was like that when I looked around, go like that, or something, I don't know.

Was it before or after the shot was fired?--- No, when I heard "Cop this", - without - I think the shot was fired then.

Did you turn around before the shot was fired?--- That I can't tell you.

Did you turn around and swing the gun in Barrett's hand before the shot was fired?---When I heard "Cop this" that is when I ~~turned~~ looked around.

I take it the gun had not been fired then?--- No, I heard a report then.

When you looked in the direction you would turn away from him then, would you not?---I do not know, it was a thing you would not remember when that was happening; I do not know.

Or is that you do not want to remember?---I can't remember.

It will be sworn that that second shot you got in the wrist was got by you at the time you were trying to pull the gun away from Barrett?---No.

And that he pulled away to prevent you getting it and it was then the gun went off?---No.

What kind of a gun was it?---What I saw of it, a quick glance, I do not know, I thought it was a revolver.

You knew it was a revolver, did you not?---I did not know for sure, the space of shots, that is the only way I knew.

I suggest you knew it was a revolver because it was your gun?---No.

You did not report - when you got up you ran away did you not?---That is right.

And when you ran away, had you called out or said anything to the effect you had been shot?---I sang out "Help".

And ^{away} you were running, may we take it it did not appear as though you had been seriously injured or injured at all?---I do not know how I was running, all I remember was that I was running.

And you were running very fast?---I might have been doing that, too.

Not like a man who had been injured?

HIS HONOR: No-one suggested that he had a broken leg.

MR. GOLDBERG: No, Your Honor.

(To witness): Did you notice Martin and Barrett, where they were when you ran away?---No, I never looked back at all, I just kept on running.

And then you were asked by the police for a statement, were you not?---

That is right.

And you refused to give them any information?---Yes.

Is that so?---That is so.

And you did not give them any information until such time as following the arrest of Martin and Barrett?---Yes, they were arrested before I made any statement at all.

CROSS-EXAMINED BY MR. MONAHAN.

Mr. Hull, you have mentioned that you ~~had~~ do not claim to be very clear in your recollection about the conversation because you were feeling pretty sick?--- When was that, at my place you mean? Yes.---Yes.

And you did not improve as things went on, you were still pretty sick at all material times, as the lawyers say?---I had a hang-over, yes.

HIS HONOR: Speak to the jury. I heard your answer, but I am quite sure the jury did not.

MR. MONAHAN; It follows, of course, that there might have been a number of things passed in the room there between your ~~wife~~ and yourself that we have not heard about; passed, I mean, at the time Martin and Barrett were there?--- Yes, something may have been said but I would not remember or take any notice of.

Well, now I suggest to you, that your wife complained to these two visitors about the fact that you had been out all night, did she not?--- That could have been so, I went outside for a wash and I was at

to the lavatory and that.

Yes, and that while you were present in the room she made it clear to you that she was not going to have you back again that night; once you went out of the room she was going to shut you out. She made that clear, did she not?---Well, I could not say for sure, it is very vague.

What is your belief, Mr. Hull?---She might have said to me before they came into the room. I don't think it was said, like, I ^{would} ~~am~~/not think --

I suggest that is how the jocular remark was made - "Well, who's going to sleep with you, Judy, if you are not going to let Keith back", that is why the remark was made?---That is all I took it, as a joke, I took that as a joke "Who is going to sleep with you" I would not take ---

You agree that is the setting in which it was said; whether those are the actual words, that was the setting in which that was said, was it not?---It might have been.

That she was fed up with you and not going to have you back that night?--- That could have been the lead-up to the conversation, as it were.

And I suggest that the six bottles were left there as a gesture, more or less as a peace-offering - "Well, now after we have been out to the Metropolitan Gaol we will come back and have a drink and all be friends again"?---Well, I was under the assumption we were coming back like to drink the beer, that is why it was left there.

Whoever arranged to leave the beer there had put it that you would have a friendly drink and it would all blow over when you got back from the gaol?---That is the way I took it, that is the way I took it.

HIS HONOR: Was that your assumption, or was that said?---It could have been

MR. MONAHAN: What is your belief?---That is the way I looked at it, it was more like that, we ~~were coming back~~ would come back and

consume half a dozen bottles after we had been out there.

And all be friends again?---Yes.

Now, you told my friend, Mr. Goldberg, you did not remember saying here today that it was Barrett who suggested going around to this place in St. Kilda,?--- That is so.

May I take it that if you did say it, and the notes will prove whether you did or did not, if you did say it you did not mean it, you meant it was Martin?---Yes, I think I would mean it was Martin because Martin used to live opposite Zucker.

That is the very point I was coming to. Martin lived exactly opposite Claude Zucker?---Yes.

And Claude Zucker is a man who runs a fleet of motor buses?---Yes.

And he has always got some petrol on hand if friends get stuck?---He has a petrol bowser out in his backyard.

And on another occasion Martin had taken you and your truck to Claude Zucker for some help, do you remember that?---No, I don't.

I had been to Martin's place when he was living opposite.

Do you remember one time coming home from the races, yourself and Martin, and someone ran into you?---Yes, that is right.

Was it not Claude Zucker to whom you went to advice for your steering?

---That is correct.

You knew full well, did you not, sick and all as you felt, you knew that day when you turned up that lane you were going up to Claude Zucker's?---Oh, when we turned around there, yes.

Well then, Martin got out, set out for Zucker's place and he was called back and the drinking began?---Yes, he was walking towards Claudie's place.

You have nothing against Martin?---No, the time I have known him and that, his brother used to work for me, he has always been a friend of mine.

Martin has nothing against you?---No, unless it was the races the day before, I did not know there was any animosity between us.

RE-EXAMINED BY MR. SPROULE:

It was put to you regarding the shooting of this man Day, why did you

shoot Day?---He came up to shoot me.

And were you tried for this?---Yes.

What happened?---I was acquitted.

Were you charged with any offence in regard to the pistol you used?---

No.

Coming back to this matter of making a statement, it was put to you
you refused to make a statement to the police until after
the arrest of these two men?---That is right.

Why did you make a statement then?---On account of something that
happened to my wife.

What was that?---Oh, coming down to our place to get her.

Tell us what were the facts - - -

HIS HONOR: Just hearsay or something you knew of your own knowledge
was this?---I was not there at the time myself.

You were not there.

MR. SPROULE: Something you were told?---Yes.

The reason for making the statement - - -

HIS HONOR: You cannot do that.

MR. SPROULE: I submit he has been asked what his reasons were, it
is suggested he did not make a statement until later, his
reason for making the statement later would depend on what
he had heard, not what he had seen - - -

HIS HONOR: Well, I think his conduct is going to be challenged - - -

MR. MONAHAN: I am under the impression his answer he gave to Mr.
Goldberg was "I did not make any statement in relation to
these men until after their arrest."

HIS HONOR: Yes.

MR. SPROULE: You see the way that can be used by the defence/ That
is an entirely different way from what the P rosecutor - - -

HIS HONOR: It can be used in several ways. The Prosecutor is
entitled to stop it anyway that is open here - - - and if
this question of conduct may be used in addresses I think
the Crown Prosecutor is entitled to ask.

MR. MOWAHAN: I cannot bind Mr. Goldberg. I think I can see what Your Honor has in mind. I do not press any objection.

MR. SPROULE: What was it you heard which induced you to make a statement?---That they wanted my wife, came down to our place and wanted my wife to go with them or something, and she was not home.

Who had done this that you had heard?---Dulcie Martin, Ernie Martin.

Who is Dulcie Martin?---A girl, that is all I know, Dulcie Martin.

Has she any connection with these men?---She used to keep company with Charles Martin.

Who is the Ernie Martin you mentioned? ---Charlie Martin's brother.

Had you made any statement to the police at all about shooting either in connection with these men or any other men until after you had heard?---No.

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MR. SPROULE: It was suggested to you that this beer was bought by these men for Barrett and left as a peace offering, a peace offering to make the peace between you and Martin or you and Barrett?---I don't know. The way I looked at it was between, well, when it was said, if it was said, that I was not supposed to come back that night, that the beer might have been left so as to reconcile, you know, when I came back from going out to Pentridge, the wife and myself. I don't know which way it could mean actually.

MR. MONAHAN: That is what I put, reconciliation between - - -

HIS HONOR: You are guessing; you don't remember any conversation about the beer being left there at all?---No. I may not have been in the room, but whatever was said I do not remember what it was exactly.

MR. SPROULE: Whereabouts was it that Martin lived in this neighborhood, or used to live?---On the corner of Neptune Lane and Neptune Street.

And Zucker lived?---Right opposite.

In Neptune Lane or in Neptune Street? ---In Neptune Street.

Are you right-handed or left-handed?---Right-handed.

As to this supposed struggle in the front ~~seat~~ seat of your truck, was there any struggle at all?---No.

Did you have a gun in your hand?---No.

(THE WITNESS WITHDREW)

MR. SPROULE: Your Honor, I propose to call Detective Donnelly just to prove the preliminaries before putting in the testimony of Mrs. Hull taken in the depositions, and then leave his examination until later.

HUGH RUPERT DONNELLY, sworn and examined:

MR. SPROULE: Your name, Mr. Donnelly?---Hugh Rupert Donnelly.

And you are a Senior-detective of Police stationed - - -?---At Melbourne.

Were you in the Court of Petty Sessions before the Justices in the Court of Petty Sessions at St. Kilda on the 15th August of

this year?---I was.

When these two men were charged with this offence, wounding with intent to murder?---I was.

Were you there when Mrs. Valma Edith Hull gave her evidence?---I was.

Were the accused present?---They were.

And did they or their Counsel have full opportunity to cross-examine?

---Their Counsel had full opportunity to cross-examine.

(THE WITNESS WITHDREW)

MR. SPROULE: I tender the deposition, sir, certified by the Magistrate, Mr. Meehan, Police Magistrate, of Mrs. Valma Edith Hull.

HIS HONOR: Very well.

MR. SPROULE: I ask leave to read it as evidence. I propose, Your Honor, to read the evidence-in-chief and if my friends wish the cross-examination read, to leave it to them.

MR. MONAHAN: I only would wish you to read the first three sentences in cross-examination. That is all I am concerned with.

MR. SPROULE: Yes. I propose to do that, and not any more of it, unless they wish.

HIS HONOR: Is that suitable to you, Mr. Goldberg?

MR. GOLDBERG: Yes, Your Honor.

HIS HONOR: Do you want this taken down in the notes?

MR. SPROULE: Yes. (Reading): "Valma Edith Hull, sworn, saith: I am a married woman residing at "Elenara" Guest House, 2 Fitzroy Street, St. Kilda. Keith Kitchener Hull, the last witness, is my husband. I have been at "Elenara" about six months. On the 27th July 1947 - - -

HIS HONOR: On the 27th of the 7th; we have not come to the 9th yet.

MR. SPROULE: "On the 27th of the 7th, 1947, at about 3 p.m. I heard a knock on the door. I called out 'Come in'. Accused Martin and Barrett came into the room. I had known Barrett by hearing of him and seeing him about. Later they got a dozen bottles of beer which were brought there by