

Part
1

524

1944

A

R

v

Agostini

Not to be taken

Original depts
part 1

Pages 1
to

268



I N Q U I S I T I O N

held at

T H E C I T Y M O R G U E - M E L B O U R N E

on

THURSDAY, 23rd MARCH, 1944.

BEFORE:-

A. C. TINGATE, ESQ., P.M.,
City Coroner.

UPON THE BODY OF A WOMAN WHOSE BODY WAS FOUND NEAR ALBURY, N.S.W.
ON THE 1st SEPTEMBER, 1934.

MR. A. L. READ appeared to assist the Coroner.

MR. J.V. BARRY, K.C., and Mr. R.V. Monahan appeared on behalf
of Janet C. Rutledge.

MR. W. A. FAZIO appeared on behalf of Agostini, the man in
custody.

THOMAS HUNTER GRIFFITH, on his oath saith:

My name is Thomas Hunter Griffith and I am a Grazier residing at "Delaware", on the Albury-Howlong Road, New South Wales. My homestead is situated five and a half miles from Albury. I remember Saturday morning, the 1st. September, 1934. At about 9 o'clock on that morning I was leading a prize bull along the Albury-Howlong road. I had taken possession of that bull from a man named Harry Hall, who had brought the bull from the Albury railway station. I met Hall about three and a half miles from Albury. When taking the bull back to my home I was walking on the north side of the road. I know a brick parapet culvert at a spot about four and a half miles from Albury. As I approached that culvert I noticed a body lying at the entrance to the culvert. When I first noticed the body I was about twelve feet from the culvert. I moved a little closer and I could see it was the body of a woman. I did not touch the body at all at that time. The head was covered with a bag, the bag was partly burnt. I could observe that when I had my first look at the body. I then led the bull over into the nearest paddock I could get it into and I secured it. Having done that I met a man named Jack Hall. He was riding a bicycle in the direction of Howlong, coming from Albury. I borrowed the bicycle from him and I rode to my father's home, "Delaware". I there telephoned the Albury police and had some conversation with them. My mother had a telephone conversation with my father in his office at Albury. I then returned to the culvert. I remained there until the police and my father arrived. I see the photograph produced. That is a true photographic representation of the position in which deceased was lying when I found her in the culvert.

EXHIBIT No. 1.

Photograph showing deceased and culvert.

That photograph shows the exact position in which deceased was lying when I found the body. As to how much of the body

D.

GRIFFITH.

of deceased was actually lying in the culvert, the portion from the shins to the feet was lying in the culvert. I think any person walking along the north side of the road on the grass could have seen the body in the culvert. Anyone driving along the road in a motor vehicle would not have seen the body; possibly anyone in a high vehicle, such as a spring-cart, might have seen it. I see the photograph produced. That is a true photographic representation of the brick parapet above the culvert where the body of deceased was found.

EXHIBIT No. 2.

Photograph of brick parapet.

The top of that parapet would be approximately three feet above the crown of the road. That brick parapet has since been removed from its position. The bottom of the entrance to the culvert is about four feet from the crown on the road. I was present when the police made an inspection of the surrounding locality. I noticed an odour, there was a distinct smell of oil - I do not think I could say any particular kind of oil. That oil was on the water that was lying in the bottom of the drain, and there was also a coating on the grass. There was water in the drain leading from the southern outlet of the culvert. That extended approximately 20 yards to the fence and a short distance into the paddock on the other side of the fence. So far as that sheet of water lying on the southern side of the road was concerned, it also had oil on it. I noticed the grass in the drain was definitely brown in colour. From the surrounding grass there was a distinct odour. It had rained on the nights of the 28th. and 29th. of August. In that particular locality near the culvert there is a tendency for the water to lie there. I myself had driven in a car over that culvert that morning, that was in my father's car. He was going to Albury and I was going to collect the bull. I did not notice anything when I went over the culvert that

morning. I did not see the face of deceased at any time
not until ~~xxxxxxxxxxxx~~ yesterday afternoon. Prior to the
finding of the body I had not seen anyone in a motor car
or any other vehicle in the vicinity of that culvert.

TO MR. BARRY: I spoke of there being a distinct odour from the grass.
It was more or less of burnt oil, sump oil, I should say.
When I speak of the odour, I refer to the odour of oil.
As to knowing a shack known as Quinn's Shack, I am afraid I
could not go to it, but I know it is on the Albury Common.
In a direct line from where the body was found, I should
say at an estimate that shack would be three and a half to
four miles away. By road the distance would be
considerably longer; it would be 8, 9, or 10 miles by road.

(Signed) Thos. H. Griffith.

TAKEN AND SWORN BEFORE ME AT MELBOURNE THIS 23rd. DAY OF MARCH, 1944.

Alvington
.....
CORONER.

WILLIAM HENRY KELLY on his oath saith:

My full name is William Henry Kelly, and I am a constable of police stationed at West Maitland. On the 1st September, 1934, I was a constable of police stationed at Albury. I remember the morning of the 1st September, 1934. At about 9.0 a.m. on that date, as a result of a telephone message received at the Albury Police Station from Mr. T.H. Griffiths, I, in company with Inspector Goodsell and the late Detective Sergeant Cleaver, proceeded by motor car to a culvert situated approximately four miles from Albury on the Albury - Howlong road. When I arrived there I was met by Mr. T.H. Griffiths and his son Thomas. That is the last witness. Mr. Thomas Griffiths took me to the northern end of a brick parapet culvert, where he pointed out the body of a woman lying at the entrance. I first of all examined the body as it lay there. I saw that the body was partly clothed in pyjamas. The two parts of the pyjamas that had not been burnt were around the thighs. The head was resting in the bottom of a potato bag which had been almost burnt away up to the chin of the body. The top portion of the coat of the pyjamas was enclosed in the bag at the back of the body and around the shoulders. The front parts of the pyjama coat had been burnt away. The two calves of both legs had been burnt away. The parts of the body from the toes to the chin had been scorched and burnt. That is what I observed at the time. The photograph produced (Exhibit No.1) is a photograph that I took showing the exact position in which the body was lying when I saw it in the culvert. The photograph produced (Exhibit No. 2.) is a true photographic representation of the culvert after the removal of the body. I took that photograph also. Acting under instructions from my superior officers I then returned to Albury, and informed His Worship the Coroner, Mr. C.W. Sweeney, and

GC.BH.

KELLY.

I also informed Dr. Woods, the Government Medical Officer. I also obtained a camera. I returned to the scene with His Worship the Coroner. As a result of orders given by His Worship I then removed the body, placed it in an ambulance, and it was taken to the Hospital Mortuary in Albury. When the body was removed I noticed that at the northern end of the culvert where the body was lying there was a small trickle of water still running through the culvert. That had seeped from the grass surrounding. At the southern end of the culvert there was a stream of water extending for about 20 yards, still lying there. The water was about two feet wide, and extended to a fence ~~adjacent~~ bounding a property owned by Mr. Griffiths, and for some 15 feet inside the fence. All this water from the southern end of the culvert to the end of it 15 feet through the fence was covered with an oily substance. On the grass on both sides where the water had gone down could be seen that some oily substance had passed over it. That was the grass on the southern side of the road. The water had receded from that grass down to about six inches. This grass was brown and discoloured. The grass in the water-course itself, extending from the southern end of the culvert was all covered with an oily substance and had gone brown. There was a smell of something; there was a distinct smell of oil. It resembled Kerosene or petrol. At about noon on that date, the 1st of September, I was present at the Albury Hospital Morgue with the late Detective Sergeant Cleaver when Dr. Woods made an external examination of the body of the deceased. The bag was removed from the head of the body. It was also partly on the top portion of the body, partly on the shoulders and the back. The bag did not have any appearance at all of having been tied.

GC.BH.

KELLY.

I produce that bag.

EXHIBIT "3"BAG.

The head of the body was resting in this part of the bag (indicated) like that (indicated.) That part would cover the chin. A small part of the chin protruded for about one inch. The edge of the bag which is burnt would be near the chin of the body. This part (indicated) was underneath the back of the body in the watercourse. It shows that nearly all one side of the bag has been completely burnt, and a large portion of the second side appears to be also burnt. When the bag was removed from the body I noticed something else wrapped around the head, an ordinary household face towel. I produce that towel.

EXHIBIT "4"FACE TOWEL.

When the bag was removed from the head the towel was wrapped with two distinct folds around the head, covering the hair. The towel was wrapped in this fashion (indicated) round the top of the head and over the hair - two distinct folds. It had been burnt from the centre of the body, and it had burnt in to where the flames had reached that part (indicated.) The burnt part would come almost up to the left ear. The portion around the chin of the deceased was burnt. The ~~two~~ towel did not have any appearance of having been tied or fastened in any way, just wrapped around with two ~~distinct~~ distinct folds. I also removed portion of some pyjamas from the body of the deceased. The portions produced are the portions which I removed.

EXHIBIT "5".....PORTIONS OF PYJAMAS.

As to what portions of the body those pyjamas were on when I found the body, the top part of the coat of the pyjamas was wrapped around the back and shoulders of the body and underneath. All the front part had been completely burnt out. The two ^{pieces} ~~pieces~~ of pants were around the thighs and the knees. The front parts had been also burnt out. The whole of the

top portion of the trousers had been burnt away, and also the bottom. I produce a photograph taken of the deceased at the hospital morgue at Albury after the bag and the towel and the pyjamas had been removed from the body.

EXHIBIT "6".....PHOTOGRAPH OF BODY TAKEN AT HOSPITAL MORGUE AT ALBURY.

That photograph was taken by Jack Rowland Hall, a photographer of Dean street, Albury. I was present when it was taken.

I produce a photograph of the head of the deceased in which the deceased's head is being supported by a hand.

EXHIBIT "7".....PHOTOGRAPH OF HEAD SUPPORTED BY HAND.

I also produce another photograph of the head of the deceased taken at the Albury Hospital Morgue.

EXHIBIT "8".....PHOTOGRAPH OF HEAD OF DECEASED.

When examining the body of the deceased at the Albury Hospital Morgue I notice a peculiarity about the ears of the deceased. Both the lobes of the ears - which should have been the lobes - were joined on to the side of the face on both sides, and up towards the centre of both ears there was a small piece taken out, as if it had been frost bitten at one time, a sort of deformity of the ear. I was indicating on

what is called the helix of the ear. I am referring to the top outer edge of the ear. I did not cut two locks of hair from the body of the deceased on that date; it was on the 3rd. or the 4th of September - I would not be sure which it was - I cut two locks of hair from the body of the deceased. The two locks of hair produced are the two locks of hair that I cut from the body of the deceased.

EXHIBIT "9".....TWO LOCKS OF HAIR.

The photograph produced is a true photographic representation of the section of the road approaching the culvert where the body of the deceased was found. I was present when that photograph was taken. The bend of the road is the culvert. That photograph is looking towards Howlong and the

home of Mr. Griffiths.

EXHIBIT "10"PHOTOGRAPH OF ROAD APPROACHING THE CULVERT.

The photograph produced is a true photographic representation of the road surface near the top of the culvert where the body of deceased was found. That is also looking towards Howlong.

EXHIBIT "11" PHOTOGRAPH OF SURFACE OF ROAD NEAR CULVERT.

TO MR. BARRY: The ears are in the same condition as they were when I inspected the body in September of 1934; I had a look at them yesterday. I did not pay particular attention to the peculiarities of the structure of the outer part of the ear yesterday; I did not particularly notice that. I did not pay any particular attention to that yesterday. It is correct that I gave evidence at an inquest that was held at Albury. That was held in 1938, I think. It was held in January, 1938. I am not still stationed at Albury. I do not think that I described any peculiarities of the ear there. I do not know whether those peculiarities of the ear which I have described are in any way associated with the identification of the body as Linda Agostini. It is correct that I smelt something at the spot where I saw the body, a smell of oil - kerosene or petrol, I would not be sure which - mostly kerosene, I think. I have not heard lately that the agent now said to have been used to destroy the body was petrol; I have not heard that at all. I am quite sure of that. I have not heard that even in casual conversation; I only landed here yesterday morning. I got here at about 12.0'clock yesterday.

MR. READ OBJECTED. OBJECTION OVER-RULED

TO MR. BARRY: I have had a copy of my deposition ever since the last inquiry. I may have a copy in my pocket. I have, yes. The passage in that deposition which reads-

GC.BH.

KELLY.

"I could see at that time that the body had been partly burnt. I could see that the clothing consisting of pyjamas had been partly burnt, as had the bag which covered portion of the body. I detected a strong odour of kerosene about the spot where the body was lying, and more noticeably^{so} after the body had been removed.", is correct. There is no mention there of petrol. It is a fact that there is no mention at all of petrol. In the same paragraph appears - "On top of that water I saw an oily substance. This oily substance extended about 20 yards to the fence of Mr. Griffiths paddock and to about 15 feet inside the fence. I detected a strong smell of kerosene inside the fence." It is a fact that there is again no mention of petrol. As to whether that comes to this, that when I gave evidence in 1938 I was persuaded that the oil I had smelt was kerosene and not petrol, I say not persuaded; that was my own observations. It is a fact that in 1938 I believed that it was kerosene and not petrol.

TO MR. FAZIO: As to whether I can distinguish between the smell of kerosene and the smell of petrol when it has been in the open air for some days, it is very hard; I should think that the smell of petrol, once it has almost evaporated, is like kerosene. My knowledge was similar in 1934 as it is now. It was never put to me before today that there was any difference in the smell of kerosene and petrol. My mind was never previously directed to the question as to whether what I smelt was kerosene and not petrol.

(Signed) W.H. Kelly.

TAKEN AND SWORN BEFORE ME AT MELBOURNE THIS 23rd DAY OF MARCH, 1944.


.....
CORONER.

GC.BH. ✓

KELLY.

FRANCIS HERBERT JACKSON, on his oath saith :

My name is Francis Herbert Jackson and I am a captain in the Australian Army Dental Corps, stationed in Victoria, and at present residing at 468 Toorak road, Toorak. In September 1934 I was practising my profession as a dentist in Dean street, Albury, New South Wales. On the 3rd September, 1934, I visited the Albury Hospital Morgue at the request of some officers of the police. I there saw the body of a woman, which had been extensively burnt. For the purpose of identification, I have again seen that same body this morning; that is the body of the deceased. I examined the mouth of the deceased as well as possible under the circumstances. As to the condition of the mouth when I was there, the mouth was difficult to open to begin with and, on obtaining a wide enough opening to see anything at all, there was dirt and a sort of glutinous material which may have been saliva, a bit sticky, in fact, it was an awful looking business. There was blood in the mouth at that time. At the request of the police officers I extracted from the body of the deceased the lower right second molar. As to whether I extracted the first upper right molar, I am not absolutely certain of that. At the time I was of the opinion it was the second upper right molar. To give a reason for thinking that, while I say it was the second molar, at that time it was in the position of the first molar, that being brought about quite often by the extraction of the first molar early in life, allowing another tooth to move forward and take up the position of the first molar. I have not gone into the matter to form ~~an~~ and opinion concerning what it is now. As to which right upper molar I extracted, at that time I thought it was the second. As to the condition of those two teeth, they were filled with gold. I would call them gold inlays. They were occlusal fillings, not involving what we call the buccal - meaning the cheek side of the teeth - or lingual side. They

✓
M/H.

JACKSON.

were occlusal fillings, meaning they were situated on the grinding surface of the teeth. On the 7th September, at the request of ~~the~~ police officers, I also extracted from the body of the deceased the upper right third molar and the upper left first, second and third molars. Following on the extraction of those teeth, I took an impression of both the upper and lower jaws of the mouth of the deceased. Models were then run in artificial stone and the artificial teeth placed in those models in positions corresponding to the positions they held in the mouth of the deceased. I produce that model which I made.

EXHIBIT 12 ... MOULD OF TEETH.

That model now contains all the original teeth which I extracted from the body of the deceased. As regards the teeth I extracted on the 7th September, the upper right third molar was filled with amalgam, the upper left first molar was filled with amalgam, the upper second left molar was filled with amalgam and the upper left third molar was filled with amalgam, all of them being occlusal fillings, similar in type to the gold inlays. When I made my examination early in September, 1934, I did not notice anything at that time about the first and/or second upper right bicuspids. Looking at the mould (Exhibit 12), as to whether there is anything on that mould to show anything unusual about either of those two bicuspid teeth, I would say not looking at the mould. I have this morning examined the first and second upper right bicuspids which are in the mouth of the deceased at the present time. Taking the first upper right bicuspid, there is a small occlusal filling in porcelain. In connection with the second right upper bicuspid, there is a distinct cavity which suggests that a filling could have been in there. That cavity is on the mesial surface of the upper right second bicuspid and there appears to be the small remains of an occlusal portion of a filling. As to whether there are two cavities in the second right upper bicuspid, it could be

two; sometimes a filling in a mesial is joined with an occlusal. I could not say whether those two cavities had joined up. As to whether that cavity would be the type of a cavity prepared for a porcelain filling, it was a general routine cavity.

TO MR. BARRY: As to whether I made a very careful examination of the mouth of the deceased, as carefully as I was able. I was brought into this matter for the purpose of examining the dental structure of the deceased as an expert. I was, of course, aware of the importance of the work I was undertaking. I first examined the mouth of the deceased on the morning of the third of September. I was again there at mid-day on the 7th September and again at night on the 7th September only for taking impressions; at mid-day on the 7th September I only removed teeth, I did not make another examination. My examination on the 3rd September was not exactly a hurried one. As to whether I had ample opportunities to make all the observations I needed, I was given plenty of time. I was told the purpose of my examination was to enable ~~the assistance~~ dental charts to be prepared to enable the assistance of dentists to be invoked in the identification of the deceased person. I agree it was accordingly of first importance that I should note all peculiarities of the teeth. It is correct to say I did not observe on the first occasion anything about porcelain fillings. I did not observe anything about cavities in the teeth which might or might not have been filled with porcelain. I did not observe any existing porcelain fillings. No notes made by me at the time contained any record of porcelain fillings. As far as I know, no description circulated on my notes contained any reference to porcelain fillings. I did not then know where the porcelain fillings were. I now say the porcelain filling was in the first upper right bicuspid - the first tooth removed back from what is commonly known as the eye tooth (Witness indicated). As to whether the tooth was then fairly

easily visible, no teeth past the canine are easily visible in the mouth. They are not always easily visible in a person who is alive. One has to open the mouth very wide to see them. I agree that depends upon the structure of the mouth. If I were asked whether the porcelain filling in the tooth I examined this morning was easily visible to me, I would say it was visible; no porcelain filling is easily visible unless it is of a bad colour. If one was told there was a filling there and went and looked, one could see it. I claim, under the conditions, a porcelain filling in the situation it was in would not be easily visible and could quite easily be missed. I am saying I missed it. ~~If~~ I agree, if what I say in the last two or three days was there when I made my first examination, I must have overlooked it. I am not denying I overlooked it. As to the positions of the cavities, there was a cavity in the mesial - which means towards the middle of the centre of the mouth - of the upper right second bicuspid, which is the next tooth removed back from the last one. There is now a hole in that tooth. I never saw that hole until I saw it this morning. I would not like to swear positively it contained a filling but I would say possibly it contained a filling. I would say that hole is the result of interference by a dentist. I say that for the simple reason that when I took my impressions that hole was definitely not there, otherwise, as any dentist or dental mechanic knows, the hole in the tooth would be reproduced in the model. The hole that is now in the tooth was not reproduced in my cast of the teeth, and, from that, I take the view the hole could not have been there when I took the cast. As to whether there is anything about the hole which enables me to say definitely that it ^{is} ~~was~~ a hole that was produced by a dental drill, it is not possible for me to say for certain, but it looks as though it is. I am prepared to say there is a big possibility there has been a filling in it. If it were put to me I am

not prepared to affirm positively that is a hole made by a dentist, I say I do not think anybody can swear to that. As to whether the photograph produced is a photograph of a mould ^{four of} of the front teeth of the deceased, I do not wish to answer that at the moment. The photograph you show me is a photograph of a model, not of actual teeth, and anything can happen to a model when it is being made. I would like to compare that with both the model and the actual teeth. As to whether that is a photograph of a cast or model of the four front teeth of the body in the Morgue at the moment, just from what photograph I would not answer; I cannot answer it because it is not a proper picture. Looking at the cast you produce, I would like to compare that with the body. (Witness left the witness box to view the body.) Upon returning: I have compared the teeth of the body with that cast. In my opinion it is not a model of the body I viewed just now. In my opinion it is not a model of any of the teeth in the body.

EXHIBIT "A" ... CAST OF TEETH (FOR IDENTIFICATION)

My original cast is the one that is here this morning. One can never retain the original impression, it is destroyed in the making of the cast. I agree, the actual impression of the mouth is not in existence, but the model is. I agree that the description given by me now of the dead woman's teeth is different from the description given by me originally, as far as reference to the two bicuspids is concerned. As to whether those, from a point of view of description, are very important, I do not think it is possible for anyone to be perfect. Undoubtedly the description is different - there are two teeth filled which I did not notice. It is debatable to say that the description of the two teeth which is now added to the earlier description is a most important factor from the point of view of identifying the teeth.

TO MR. READ: There are several substances used for taking impressions. For taking the impressions of the teeth of the deceased on the 7th September, I used a composition compound which, I think,

was known as Dresch's Compound. There are various trade names but they are all of the same type, commonly known in the practise as "Godiva." After it has been used to make a plaster cast it can be softened up and used again, but that is not usual. It is not usual to preserve the composition which I describe as Godiva after making the cast. It is no good for the purpose of making another cast of the same impression. Porcelain fillings are usually, as near as practically possible to the same colourings as the teeth. Porcelain fillings, it is generally recognized, are slightly soluble. In my opinion, if a body had been in a formalin bath for approximately ten years, there would be a possibility of the porcelain fillings becoming loosened and so falling out of a tooth filled with porcelain.

TO MR. BARRY: I did not mean "cadaver" - a corpse. What I am referring to is a substance which, as students, we called "Godiva." It is a type of substance used for the purpose of taking impressions. It is a slang expression.

(Signed.) FRANCIS H. JACKSON.

TAKEN AND SWORN BEFORE ME AT MELBOURNE THIS ^{23RD} ~~24TH~~ DAY OF MARCH, 1944.

Francis H. Jackson
.....
CORONER.

HENRY NICHOLAS SHEA, on his oath saith:

My name is Henry Nicholas Shea and I am a Licensed Surveyor attached to the Titles Office at Melbourne. On the 10th. March, 1944, I went to premises situate at 589 Swanston Street, Carlton, and I there made a survey of those premises. I subsequently prepared a plan, drawn to the scale of 6 feet to one inch, of those premises. I produce that plan of those premises.

EXHIBIT No. 13.

Plan of premises 589 Swanston Street, Carlton.

The width of the staircase is drawn to scale - everything is drawn to scale. The actual stairs are 2ft.6 in. in width. As to the distance from the second step from the landing to the floor level below, and from the third step from the landing to the floor level below, from the second step from the landing to the floor, on the slope, the distance is 10 feet 3 inches, and from the third step the distance is 9 feet 3 inches. The perpendicular distance from the first-mentioned step is 8 feet, and from the second mentioned step it is 7 ft. 4 in., that is, above floor level. The ~~slope~~ slope of these steps is 45 degrees. On the 17th. March, 1944, in company with Detective Sergeants Ramus and Halsall, I proceeded to Albury, New South Wales, and I there proceeded along a road known as the Albury-Howlong Road. I made a survey of a portion of the Albury-Howlong Road, up to a certain point indicated to me by Detective Sergeant Ramus. I produce that plan.

EXHIBIT No. 14.

Plan of portion of Albury-Howlong Road.

That line on the south of what is marked "Griffith's Property", is a fence, a post and wire fence. There is an unused Government road on the east side of that fence. On the left of the plan there is marked "Brick work", opposite the square shown on the plan. That brick work at the present time is a mass of brick 5 ft. 6 in., long,

1 ft. 6 in. wide and about 2 ft. in height, that is, from where it is standing on the ground. It has apparently ^{been} moved to that position from somewhere else, as it is not fixed on any foundation. To the left of that again there is marked on the plan, on the left side of the road "Water-course". There is no culvert there at the present time. That point marked "Griffith's Property", is $4\frac{1}{2}$ miles from the ~~xx~~ turn-off at the corner of Townsend Street and Smollett Street, Albury.

TO MR. FAZIO: Dealing with Exhibit No. 13 and taking the part dealing with the ground floor, the middle of the dark ~~xxxx~~ drawing, where it shows "Stairs" is where the stairs go up through the room to the first floor. Taking the passage-way that goes across what would be the bottom of the stairs, the width of that at the bottom of the stairs would be 3 feet. If 11 ft. 3 in. is subtracted from 14 ft. 9 ins., it would leave 3 ft. 6 ins.; but there is a step in the side of the wall, and the actual measurement of the passage is 3 feet. The 11ft. 3 ins. is the internal width of that room. The horizontal length of the stairs is ^{not} 11 ft. 3 ins. That 11ft. 3 ins. is the width of that room; that 11 feet 3 ins. has no relationship whatsoever to the length of the stairs. As to there being one step more that is shown on the plan, there are no steps on the ground floor. The broken line shown on the ground floor plan indicates the position of the stairs overhead. From the bottom of the stairs across to the end of the passageway at the bottom of the stairs is 3 feet - to the north wall it is 3 feet. As to how I measured the angle of these stairs, it was simply by measuring the actual block of the stair; it is 8 ins. by 8 ins.; there is an 8 inch step up and an 8 inch step in. As to the actual angle not being measured by me, other than that, there was no necessity under these circumstances.

(Signed) H.N. Shea.

TAKEN AND SWORN BEFORE ME AT MELBOURNE THIS 23rd. DAY OF MARCH, 1944.

D.

17

H.N. Shea
CORONER.

SHEA.

WILLIAM JOSEPH O'BRIEN on his oath saith:

My full name is William Joseph O'Brien, and I am a dentist, practising my profession at 185 Elizabeth street, Sydney. I have been registered as a dentist in the State of New South Wales since April, 1903, and I have been continuously practising my profession since that date. During those years of practice I have done all types and kinds of dental work. As to my practice as regards keeping a record of any dental work done by me, I always keep a record of every filling that has been done, the type of filling, and the position in the tooth of each tooth, and the particular tooth. I use a ledger, because I find a ledger gives me more scope for descriptions of fillings. I have in Court with me my ledger relating to work done by me in and about the years from 1930 onwards. I know a man name Agostini. I see him in Court. On the 15th of September, 1930, Agostini# came to my surgery at Elizabeth street, Sydney. I then performed some dental work for him on that date. From that date up to the 12th of November, 1930, he visited my surgery on several occasions for the purpose of having other dental work done. Again, on the 3rd of February, 1932, Agostini came to my surgery when I scaled and cleaned his teeth. In the same year, between the 3rd and the 8th of August, I saw him at my surgery, when I inserted a porcelain filling and three amalgam fillings in teeth for him. He again called at my surgery on the 24th January, 1938. As to whether he told me anything about his address on that occasion, I think he said his address would be care of the Italian Newspaper, I think, in George street, Sydney. I think I have that in my ledger. His original address was 105 York street, care# of Romano's; but later he gave me the address, care of the Italian Newspaper, which

I do not at the moment see recorded here. However, I have that on record. On that occasion I did some further dental work for him, and I continued to do dental work for him on the 27th and the 31st days of January, and the second and 7th days of February, 1938. Then I finally saw him on the 12th day of July, 1938, when I inserted a porcelain filling in one of his teeth. That is the last occasion on which I have seen Mr. Agostini until today. During his visits to me, Mr. Agostini did not tell me anything about himself; he told me that he was at Romano's Cafe, working there, and I understood he was in the cloak room; in what capacity, I do not know, whether as lessee or as attendant. I understood that he was working at Romano's cafe, and subsequently he told me he had changed over to the Italian Newspaper. I have that address in another ledger which is not here. That is when he came to me in 1938. I remember a woman coming to my surgery on the 12th of November, 1930. I remember that she was accompanied by someone; she was accompanied by Mr. Agostini. She was introduced to me by Mr. Agostini as his wife. I have seen the body of the deceased now lying in the Morgue here. As to whether I am able to say whose body that is, as clearly as I can remember it ^{has} ~~is~~ Mrs. Agostini's build and characteristics. I think that is the body of Mrs. Agostini as clearly as I can remember. I will not say definitely. I did two gold inlays for Mrs. Agostini. On my first examination of her on the 12th of November, 1930, I noticed that the third molar of the lower right jaw had been extracted. As to whether it appeared to be recent or not, the cavity was suppurating and in an unhealthy condition, and I ~~curv~~ curretted the gum, curretted the wound and the ~~the~~ diseased socket, and treated it by syringing it. On the first visit I did something to the second lower right molar; I put a zinc oxide base filling in that second right lower molar.

As to that being my usual practice when preparing a cavity for a gold inlay, that is my usual practice when the cavity is deep seated and possibly involving the pulp. I do that because if a permanent filling is put in without a non conductor, which the zinc oxide filling is, it possibly might ache and the filling would have to be removed again and treated, and it might end with the death of the pulp. I always take that precaution with a deep cavity. The cavity was deep in the second right molar and the pulp was almost exposed, therefore I put in the zinc oxide base filling. On the 18th of November, 1930, Mrs. Agostini again called at my surgery, and I again syringed the cavity which I had previously treated, and put an antiseptic dressing in it. Of course, that was not my extraction. On the same date I also prepared a cavity in the upper right first molar. I put a zinc oxide filling in that, the same as I did in the other. On the 21st of November I did a gold inlay in the upper right first molar and in the second lower right molar, the cavities of which I had previously prepared. I saw Mrs. Agostini again on the 26th of November, 1930. I did some work in regard to the first upper right bicuspid. I inserted a porcelain filling in the first upper right bicuspid. That filling was inserted in the occlusal cavity, in the occlusal surface of the tooth. On the 28th of November, 1930, I performed some dental work on the upper left second molar. I inserted an amalgam filling. That was in the occlusal surface, too. On the same date, the 28th of November, I did some porcelain work in connection with the upper right second bicuspid. I inserted a porcelain filling in the upper right ~~second~~ second bicuspid. I would say that porcelain filling was on the mesio interstitial. That is towards the media line, the centre of the mouth, but in between - interstitial. I saw

GC.BH.

O'BRIEN.

her again on the 3rd December, 1930. I then inserted an occlusal amalgam filling in the upper left third molar. From that period until the 31st March, 1932, I did not see Mrs. Agostini. On that date she called at my surgery for further dental work, and I did something again to the upper right second bicuspid. I did a porcelain filling in the upper right second bicuspid. That tooth had been previously filled, but apparently further decay had occurred, and I found that was close to the pulp also, and I either supplemented that filling by putting in an additional filling alongside it or removing the old filling and inserting a new filling. I am not clear on that, but I have a note here that I put in a layer of cavatine. That is a neutral varnish and a non conductor. I am not certain whether that was a separate filling altogether or whether I put in another filling that joined up with the old one. It was probably an interstitial filling put in between, and in doing that I would probably remove the occlusal filling and make one filling of it. On that ~~same~~^{same} date, the 31st March, 1932, I inserted a small occlusal amalgam filling in the upper right third molar. On the 5th of April, 1932, I inserted an occlusal amalgam filling in the upper left third molar. That was also a tooth on which I had done previous work, where further caries had occurred. The work that I did on Mrs. Agostini's mouth concluded on the 5th of April, 1932. It is correct that my records show that I had done this work:- First of all, an occlusal amalgam filling in the upper right third molar, an occlusal cast gold inlay in the upper right first molar, a mesial occlusal porcelain filling in the upper right second bicuspid, an occlusal porcelain filling in the upper right first bicuspid, and lastly an occlusal amalgam filling in the upper left second and third molars of the upper jaw; and in the lower jaw a cast gold/inlay in the lower occlusal

right second molar. Mr. Agostini paid for the dental work that was done on Mrs. Agostine. On Thursday the 24th of February, 1944, at about 2.0'clock, accompanied by Drs. Magnus and Baird, I was present at an examination of the body of the deceased. In my presence an examination was made of the mouth and the teeth of the deceased. I noticed that there was a filling out of the upper right second bicuspid which was extracted by Dr. Baird. After that tooth had been extracted I examined it. As to whether I am able to say anything in relation to that tooth with regard to the work I had performed on a similar tooth for Mrs. Agostini, I say that was the tooth which I had previously filled with porcelain. It was prepared for a porcelain filling, and, if possible, I always put a porcelain filling in a bicuspid tooth. As to that being the type of work that I perform, I always use a porcelain filling in that bicuspid if possible. Mrs. Agostini's mouth was fairly prominent and would show an amalgam filling. I always put in a porcelain filling where it can be seen. It is the ambition of a dental surgeon as far as possible to get the porcelain filling to correspond with the shade of the teeth. That is my practice, if possible to get the shade that will disguise the filling in the tooth. That has been my practice, where possible to procure the right colour. On that date I also examined the first upper right bicuspid in the body of the deceased. I say that contained a porcelain filling in the occlusal cavity. It was a filling put in a position in which I say I inserted a porcelain filling in the deceased. Looking at the model which was prepared by Mr. Jackson (Exhibit 12), I notice that there are six human teeth in that model. The first upper right molar and the second lower right molar each contains a gold inlay. Those gold inlays are similar to my work; they are the type of inlays that I do. As to my method as regards

preparation of teeth, where a cavity is a central cavity involving some of the pits, you might call them, extending from the different teeth, my practice is to destroy as little as possible of the tooth surface; but in order to prepare it properly we have to intrude a little on those pits because they are subject to decay if you leave them there, so we involve a little of that tooth in the preparation of the inlay. It is correct that I am conservative in my preparation for inlays. As to my opinion of those inlays, I think they are a similar type of inlay which it is my practice to insert. As far as I am able to express an

opinion that appears to me to be similar to the work I ~~did~~ did for those two gold inlays for Mrs. Agostini. There are four other molars in that model, three on the left upper jaw, and one on the right upper jaw. They are all filled with amalgam. Three of those teeth are in the same position and contain the same type of fillings as I placed in three teeth in Mrs. Agostini's mouth. Those fillings are conservative; I think I can safely say that all my work is of the conservative type. I avoid destruction of tooth tissue where I can. As far as I am able to judge the fillings in these three teeth are similar to the work I did in Mrs. Agostini's mouth; that is, in respect of the second and third left upper and the third upper right molars.

I notice that ~~xxxxxxxx~~ the lower right third molar is missing on the model. That is the position of the cavity in Mrs. Agostini's mouth where I say I ~~curb~~ ^{filled} the cavity. It is not my practice when a patient comes to my surgery to record what teeth the patient then has missing or what dental work the patient has had done previously. I have no recollection as to what the prior condition of Mrs. Agostini's mouth was. I am only able to say what the actual work I did to her mouth was. So far as my gold inlay work is