

EXTRACTS FROM PLEA TRANSCRIPT

IN THE SUPREME COURT
OF VICTORIA

CRIMINAL JURISDICTION

MELBOURNE

FRIDAY, 28th OCTOBER 1988 BEFORE THE HONOURABLE

MR JUSTICE HAMPEL

THE QUEEN v JULIAN KNIGHT

CHARGE: Murder (7 counts)
Attempted Murder (46 counts)

THE ACCUSED pleaded Guilty

MR J. DICKSON QC, with MR J. LECKIE appeared on behalf of the Crown.

MR R. RICHTER QC, with MR R. PIRRIE, appeared on behalf of the Prisoner.

TRANSCRIPT OF PROCEEDINGS

AT MELBOURNE ON FRIDAY, 28th OCTOBER 1988, AT 1105 AM

Page 36:

TESTIMONY

SWORN & EXAMINED

MR RICHTER: Would you please tell His Honour your full name and qualifications, please?

DR SIME: **David Alexander Sime.** Apart from my medical qualifications I am a Fellow of the Royal Australian and New Zealand College of Psychiatrists and member of the Royal College of Psychiatrists and I hold a Diploma of Psychological Medicine.

Page 56-57:

CROSS-EXAMINED

MR DICKSON: Well, you say yourself that he has a serious personality disorder?

DR SIME: Yes.

MR DICKSON: This disorder does not bear a label?

DR SIME: Well, there are two major personality disorders which are referred to - one is psychopathy and the other is personality disorder. The psychopathy has fairly definite aspects to it, some of which he shows in a degree, but he doesn't in fact come across as a true psychopath so - but his personality is clearly disturbed, there is no question about that.

MR DICKSON: He comes across more clearly as a psychopath, doesn't he, if it were to be accepted that he did what he did because he wanted to see what it was like to kill people and be killed himself?

DR SIME: If this were the case this would be more the psychopathic area.

MR DICKSON: And the psychopathic condition is one that cannot be treated as such?

DR SIME: It is - some people would say that it can actually. It certainly improves with time.

MR DICKSON: Yes, and according to the books, generally speaking, it is thought that a psychopathic personality, if it is going to improve naturally, will do so at an age somewhere like 40, 50, that sort of mark?

DR SIME: MR My experience is in the thirties actually.

DICKSON: But is also your opinion that there is a chance, greater chance with this man than with most that he could well develop a psychotic state within the next few years?

DR SIME: I think that is possible. Perhaps if I can just speak a little bit about this question of whether he is a psychopath or not. The reason that I argue against it principally is this question of, does he or does he not show remorse, and I think that his behaviour in prison afterwards, and in this depressed state I saw him in, he was, the remorse was undoubtedly there during that time. A psychopath wouldn't be like that. So I excluded it as a concept.

Pages 73-74:

TESTIMONY

SWORN & EXAMINED

MR RICHTER: Your full name is Allen Austin Bartholomew?

DR BARTHOLOMEW: **It is.**

MR RICHTER: What are your qualifications?

DR BARTHOLOMEW: Bachelor in Medicine and Surgery of London, the Diploma of Psychological Medicine of both England and London, the Fellowship of the Royal Australian College of Psychiatrists and a Fellow of the Royal College of Psychiatrists in the United States, and Member of the Australian Psychological Society.

Pages 78-80:

MR RICHTER: The concept of psychopathy - what does that, in fact, involve in terms of personality?

DR BARTHOLOMEW: 'Immaturity' is one simple word you can use, somebody who wants immediate gratification -self-centred, doesn't learn from experience particularly well, indifferent to other people's feelings. A sense of remorse is significantly absent in many cases but I would here enter a word of caution, Your Honour, that the word 'remorse' is very different when you are dealing with a chap who is in prison and comes into this court at some stage or other where you can be very remorseful when you are there, quite apart from what you have done to get you there.

MR RICHTER: When discussing the events of the shooting in August 1987, on 15th August [1987] you had an interview with him; was he weeping hysterically?

DR BARTHOLOMEW: Yes, he was more or less curled up in a corner of a completely empty ward or cell almost in a sort of fetal position holding on to his head and -not just crying - screaming.

Yes?

MR RICHTER: He was hysterical and suddenly it stopped.

DR BARTHOLOMEW: Did that appear genuine?

MR RICHTER: If it wasn't genuine, it was a superb performance.

MR RICHTER: With your experience, I take it you would opt for the genuineness rather than...?
I have no doubt, no sensible doubt.

DR BARTHOLOMEW:

Page 82:

RE-EXAMINATION

MR RICHTER: Perhaps with Your Honour's leave, there was one thing I omitted to ask that I intended to. I take it you watched the videotapes of the reconstruction and of his confession and listened to the audio tapes that were made of him?

DR BARTHOLOMEW: Yes, I did. I saw that at the St Kilda police complex.

MR RICHTER: And did his manner strike you as if it had been a sort of military debriefing almost?

DR BARTHOLOMEW: I used that work in my report in fact.

MR RICHTER: And was that significant to you, the manner that he had on the tape?

DR BARTHOLOMEW: It did two things as far as I was concerned. It made me quite satisfied he was not mentally ill.

MR RICHTER: In the sense in which you describe which would be medically?

DR BARTHOLOMEW: Medically, yes, and if you are competent medically then you are not likely to be McNaughten [Ref: M'Naghten's Case (1843) 10 Cl & Fin 200; 8 ER 718: *R vM'Naghten* [1843-1860] All ER Rep 229]. And the other was that it was remarkably "laid back" to my mind anyhow which would fit in with some concept of some degree of disassociation.

MR RICHTER: Yes. Do you believe that he is anxious to know why it is he did what he did?

I am sure he does.

DR BARTHOLOMEW; Thank you.

MR RICHTER:

TRANSCRIPT OF PROCEEDINGS
AT MELBOURNE ON MONDAY, 31^{HL}_{st} OCTOBER 1988, AT 1030 AM

Pages 99-101

PLEA

HIS HONOUR: In other states, certainly New South Wales where the diminished responsibility exists, and in England, the professional evidence in this case would bring this case into some sort of diminished responsibility concept, would it not?

MR RICHTER:

It would come very close, because the concept of diminished responsibility was designed to ameliorate the strictness of the insanity rules and of course it takes into account many factors. We would say that the diminished responsibility, had it been available, would have been argued as a defence in this case and the psychiatric evidence that Your Honour has heard might well have brought about that result although that, of course, is not open on the law as we have it.

The other matter of distinction between the Russell Street bombing case and this one that I meant to refer to of course was the plea of guilty and that is seen, in our respectful submission, as a very, very significant differential because, in this instance, in our respectful submission, Your Honour would be entitled to accept on the evidence that as the reality of what he had done was sinking in with time, there is remorse shown - the attempted suicide or rather the suicidal disposition and the evidence that Your Honour has heard would lead Your Honour to the view that there was remorse developing and will continue to develop over the years as the horror of what was done sinks in but that **remorse is also indicated by the fact that he has pleaded guilty** and that is a matter of some great importance especially in a case which would have taken many months to complete and would have put many people through enormous trauma. You will also observe the committal proceedings in this instance were completed in a morning, as it were, so that the decision not to fight, not to contest was one that was reached very early on in the piece. No witnesses were called; it was, as it were, a committal by acceptance to this court for disposition. **Remorse was expressed on that occasion** and it was not designed to put the witnesses through any trauma at committal.

There is only one other matter that needs to arise in that context and that is the recent application that Mr Knight had made to this court to re-open the inquest. That was not done in the sense of trying to obtain an advantage for himself but rather it was done out of a sense of wanting somehow to bring forth to the consciousness of the community now it is that the events could have occurred and how they did occur. And it occurred in circumstances where the mind of the prisoner was, as it were, set off to pursue that course by the events of another inquest that had been taking place in which the causes of the episode in Queen Street were explored to a great and considerable length. Mr Knight is, and has in the past and continues to be conscious of the fact that the tragedy that he brought about ought to be looked at in terms of prevention for the future. And his concern to re-open the inquest was to try and

get some public understanding and pronouncement about what could be done for the future.

HIS HONOUR: I think, Mr Richter, you can take it that I do not -having heard him make his own application in this court - I do not take the view that he did it for any ulterior motive of his own to get some benefit for himself. Some of the things that he said in court and so on did not indicate that he was trying to get some advantage.

MR RICHTER It was certainly not through some concept of saying "I am not guilty"; it was trying to bring the public's attention to it. That harks back to something he did back in [December] last year when he wrote to the Premier and he wrote in the following terms - he sent the Premier of this State a letter which reads: "Dear Sir, I feel it necessary . of sound mind." Your Honour can imagine how the legal advisers viewed the fact that he had gone public whilst the matter was pending, to find printed in the newspaper a letter with respect to which none of the legal advisers were alerted as to its existence, but it indicates a concern for what he has done. It indicates a concern that something should happen in this community to prevent it happening again. One cannot prevent everything but there are certain things that can be done and the tone and content of the letter indicates someone who had been trying to work out what had happened, why it happened and thinking long and hard about his responsibility for it and thinking long and hard about what it is that the community ought to be doing to see to it that it does not happen again.