

## SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 52

HON. JOSEPH L. CALL, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

No. A 267861

STEVEN GROGAN,

Defendants.

REPORTERS' DAILY TRANSCRIPT

THURSDAY, JULY 29, 1971

APPEARANCES:

(See Volume 1)

ARCH HALL

CAUNTER

FELDMAN

GABER

WHITELEY

(CAR)  
DEATH  
VALLEY

VOLUME 22

Pages 2744-2887, Incl.

Reported by:

VERNON W. KISSEE, C.S.R.  
REGIS TAYLOR, C.S.R.  
Official Reporters

COPY

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LOS ANGELES, CALIFORNIA, THURSDAY, JULY 29, 1971

10:00 A.M.

THE COURT: Now, let's see. Let me take a statement for the transcript.

People against Grogan. Defendant is here.  
Defendant's counsel is here. People's counsel is here.

You may bring in the jury.

THE BAILIFF: Yes, sir.

(The following proceedings were had  
in open court in the presence of the  
jury:)

THE COURT: Now we have all of our jurors here plus the three alternates.

The People may proceed.

MR. KATZ: Thank you.

Call Miss Karen Nelson.

KAREN NELSON,  
recalled to the stand, testified further as follows:

THE COURT: You step up here now, Miss Nelson. You have been sworn.

State your name again for the reporter, please.

THE WITNESS: My name is Karen Nelson.

THE COURT: All right.

This is redirect, Mr. Katz?

MR. KATZ: Thank you, your Honor. Just a few additional questions.

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I had already conferred with defense counsel.

THE COURT: Yes. All right.

Go ahead.

REDIRECT EXAMINATION

BY MR. KATZ:

Q Miss Nelson, we enjoyed your company so much yesterday we asked you to come back and be with us today.

A Thank you.

Q Miss Nelson, you were talking about some business records to which you have access. Now, do these business records pertaining to personnel employed at Leslie Salt Company reflect information regarding the employee's status and work record as such?

A Yes.

Q The facts reflected in the personnel files are recorded or assembled by someone who's job it is to do that, is that correct?

A Correct.

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1 Q Do you have an immediate supervisor?

2 A Yes, I do.

3 Q What is your supervisor's name?

4 A Robert Braaten.

5 Q In connection with his responsibilities, is it his

6 job to have access to the employees' files and the information

7 contained therein?

8 A Yes, it is.

9 Q Is he also required to act upon the information

10 contained in the employees' files in the everyday business of

11 the Leslie Salt Company?

12 A Yes, he is.

13 Q Are you also required in the course of your every-

14 day duties to act upon information which you receive and

15 which is given you for your supervisor, and which information

16 is derived from the personnel records?

17 A Yes, I am.

18 Q At my request yesterday did you call San Francisco

19 and talk with your supervisor?

20 A Yes, I did.

21 Q Did you ask him to search the personnel records

22 and files of Leslie Salt Company to determine whether or not

23 you had any personnel file with the name Donald Jerome on it?

24 A Yes, I did.

25 Q Did he sometime thereafter call you back?

26 A No -- well, I held on.

27 Q All right.

28 Did he indicate to you whether or not there was

1 such a file in existence at Leslie Salt?

2 A There was none.

3 Q In other words, he indicated he could not find a  
4 personnel record pertaining to a purported employee, Donald  
5 Jerome?

6 Is that correct?

7 A Correct.

8 Q Did you also ask him to recheck the records to  
9 determine whether or not you have ever had an employee other  
10 than Donald Jerome Shea with the name Shea?

11 A Yes, I did.

12 Q What were you able to ascertain?

13 A There was not.

14 MR. KATZ: Thank you, no further questions.

15 THE COURT: Cross examine.

16 MR. WEEDMAN: I have no questions. Thank you.

17 MR. KATZ: The People wish to call Arch Hall.

18  
19 ARCH HALL,

20 called as a witness by the People, being first sworn, testified  
21 as follows:

22 THE COURT: Raise your right hand, please, and be sworn.

23 THE CLERK: You do solemnly swear that the testimony you  
24 may give in the cause now pending before this court shall be  
25 the truth, the whole truth and nothing but the truth, so help  
26 you God?

27 THE WITNESS: I do.

28 THE CLERK: Thank you, sir. Would you take the stand and

1 be seated.

2 State your name for the record.

3 THE WITNESS: Arch Hall.

4 THE CLERK: Spell the first name, please.

5 THE WITNESS: A-r-c-h.

6 MR. KATZ: And your last name is H-a-l-l?

7 THE WITNESS: Yes, the last name Hall.

8 THE COURT: Kindly talk into that like a telephone.

9 THE WITNESS: Thank you.

10  
11 DIRECT EXAMINATION

12 BY MR. KATZ:

13 Q Do you want to move the microphone a little closer  
14 to you?

15 A Yes.

16 Q Thank you, Mr. Hall.

17 Mr. Hall, what is your business or profession?

18 A I'm in the motion picture business.

19 Q How long have you been in the motion picture  
20 business?

21 A As a producer, about twelve years, and prior to  
22 that I had been writing and acting.

23 Q Incidentally, do you hold a union card?

24 A No.

25 Now, I don't. I belong to the actors' union, but  
26 a producer -- it isn't necessary.

27 Q But with respect to acting, you have an Actors'  
28 Equity card?

Is that correct?

A Yes.

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Q All right.

Now, for the past how many years have you been engaged in production of motion pictures?

A Since 1959.

Q How many motion pictures have you actually produced?

A About a dozen.

Q With respect to those motion pictures, were these all distributed to theaters?

A Yes.

Q And were these motion pictures also rereleased to television?

A Yes, they were.

Q So in other words you had an outlet for these motion pictures, is that correct?

A Yes.

Q All right.

Now, in connection with your function as a producer have you been obliged to travel throughout various countries of the world?

A Yes, I have.

Q Now, I want to direct your attention to approximately 1961 or '62. Were you contemplating making a motion picture or a portion thereof at Spahn's Movie Ranch?

A Yes. I considered it and looked at the location.

Q All right.

And did you go out to the location?

A Yes.

Q And when you went out there in that time period,

1 roughly 1961 or '62 who did you meet out there?

2 A I met Mr. Spahn and also a number of cowboys or  
3 people that were there.

4 And Mr. -- and Don Shea.

5 Q All right.

6 Did you later come to know Don Shea pretty well?

7 A Yes. Quite well.

8 Q All right.

9 Now, did you in fact in 1961 or '62 make a movie  
10 at Spahn Ranch?

11 A I made part of a movie at Spahn's Ranch. I believe  
12 it was very early in '63.

13 Q All right.

14 What was the name of that movie?

15 A The name of that was "What's Up Front."

16 Q And where was this movie shot?

17 A It was shot on a location and in the studio. And  
18 several sequences at Spahn's Ranch.

19 Q All right.

20 And in connection with the sequences that were shot  
21 at Spahn Ranch did you negotiate with anybody at Spahn Ranch  
22 for the use of the facilities?

23 A Yes. With Don Shea, who sort of represented Mr.  
24 Spahn as sort of like a foreman.

25 Q And with respect to the sequences that you shot at  
26 Spahn Ranch in this area of 1963, in connection with the film  
27 "What's Up Front" did Don Shea assist in providing those  
28 facilities for your movie company?

1 A Yes, he did. We used some horses and a donkey and  
2 some animals around the ranch, and some geese, as I remember.

3 Q All right.

4 Now, incidentally, using this date 1963 as a point  
5 of demarkation, did you thereafter see Mr. Shea more frequently?

6 A Yes. He came by my little -- I have a studio in  
7 Burbank, and he would come by quite often. And Mr. Spahn came  
8 a number of times.

9 We were thinking about making a picture, moonshine  
10 picture, and we were considering using the ranch for that.  
11 But we didn't make the picture.

12 But he did come to see me several times.

13 Q By he you mean Don Shea?

14 A Mr. Shea.

15 Q And also Mr. Shea did come with Mr. Spahn, or did  
16 he come separately?

17 A Sometimes he would come by himself and other times  
18 he would come with Mr. Spahn.

19 Q All right.

20 In 1963 until 1968 how often would you be in contact  
21 with Donald Shea?

22 A I made a western picture in '64 --

23 Q Well, we will get to that in a moment. What I am  
24 trying to determine right now is just roughly on the average  
25 how often would you see Donald Shea?

26 A Oh, I think during that period probably every  
27 couple of months or something like that, he would come by,

28 Q When he came by what would you talk about?

1           A       Well, he was very interested in being an actor.  
2       You know, western actor. And stuntman, and getting into the  
3       film business.

4                   And his calls, apart from using the ranch, were  
5       mostly if I was doing any films and was there any work for  
6       him.

7           Q       All right.

8                   These were the kinds of discussions you had with  
9       Don at that time, is that correct?

10          A       Yes.

11          Q       And were you able to ascertain his attitude  
12       towards the motion picture business at that time?

13          A       Well, he was -- he was very much in love with it.  
14       And he came from the East. But he was sort of in love with  
15       the West and the idea of cowboys, and he wanted to be a  
16       western actor.

17          Q       Now, you discussed this with him, is that correct?

18          A       Oh, yes.

19          Q       All right.

20                   Now, in 1964 did you make a picture called  
21       "Deadwood 76" or some other time?

22          A       Yes, I did, during the summer of 1964.

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1 Q And where was this film shot, "Deadwood 76"?

2 A Most of the photography was done in the Black Hills --  
3 or the Badlands and Black Hills of South Dakota.

4 But some of it we made in -- at Corriganville.  
5 The weather became very bad out there, and we came back and  
6 shot quite a lot of it at Corriganville.

7 Q Now, when you came back for purposes of completing  
8 the shooting of that motion picture at Corriganville, did you  
9 find it necessary to negotiate once again with George Spahn  
10 and Donald Shea to provide certain horses for the shooting at  
11 Corriganville?

12 A Yes, we did. We had to match some horses that we  
13 used for the cast in South Dakota, that we had to match them  
14 with their color, stocking feet and that sort of thing, and  
15 colors.

16 Oddly enough, Mr. Spahn happened to have some horses  
17 that matched. So we used his horses.

18 Q Once again, did Don assist in this negotiation?

19 A Yes. Don was -- he took care of the horses, and  
20 he would bring them over to the set and return them.

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1 Q In other words, he brought them from Spahn Ranch  
2 to Corriganville, and would return?

3 Is that right?

4 A Yes. He was still a sort of a foreman or something  
5 for Mr. Spahn.

6 Q Now, did Don provide any other services for you  
7 during the partial shooting of Deadwood 76 at Corriganville?

8 A Yes, he did.

9 He played a small part in the picture.

10 Q In other words, you gave him a small part?

11 A Yes, I did.

12 Q Do you recall the part that he played in it?

13 A Well, it was a member of a -- I believe it was Sam  
14 Bass's gang of outlaws. He rode horse in it.

15 Q Could you spell the last name for us?

16 A Sam Bass, B-a-s-s.

17 Q I'm sorry I interrupted you.

18 A Yes. He played a small part in that, and rode in  
19 several scenes.

20 It ended in a gun fight, like many Westerns do,  
21 and Don was in that, and I think he was shot.

22 Q In other words, he died in that motion picture?

23 A I believe he did.

24 Q All right. Now, was Deadwood 76 distributed in  
25 theatres and subsequently to TV?

26 A Yes, it was.

27 Q When was it distributed to the theatres?

28 A I think the first date was in late 1964 or very

1 early 1965.

2 Paramount Theatre in New York played my first date  
3 on it.

4 Q All right. Now, using this Deadwood 76 as a frame  
5 of reference, did you purchase a matched set of Dakota revolvers  
6 for use in that motion picture?

7 A Yes, I did.

8 I bought a set of matched revolvers prior to making  
9 the picture, during the preparation for the film.

10 Q Was that for the purpose of using those matched  
11 set of guns in the Western, Deadwood 76?

12 A Yes, it was.

13 Q Did you also have a holster for that set of guns?

14 A Yes. I had a pair of what they call quick-draw  
15 holsters. They are specially made holsters, and a belt for  
16 the two guns.

17 Q All right. Now, roughly between the time that you  
18 concluded the picture Deadwood 76 until 1968, would you see  
19 Donald Shea off and on?

20 A Yes. He would come by often to see whether we  
21 needed the services -- his services or horses or the ranch, if  
22 there was any -- if I was making any more Western pictures.

23 Q At that time did you discuss his interest in the  
24 movies when he came over on these occasions?

25 A Yes. He was very anxious.

26 I don't really know whether he was working in films  
27 to any extent then, but he would come quite often and tell me  
28 where he had been on an interview, or something of that nature.

1 He wanted to be a stuntman.

2 Q Did he ask for your assistance, if you could help  
3 him?

4 A Yes, he did. It is very difficult to help someone  
5 get into a union, unless you are shooting a film. At the time,  
6 I wasn't doing anything.

7 Q Between this period, let's just talk roughly be-  
8 tween the end of 1964-1965 and 1968, did Donald ever come over  
9 and handle your guns and talk to you about your guns?

10 A Yes, during the filming of the picture, of course,  
11 he became familiar with them.

12 I had them made special for quick draw, quick  
13 firing.

14 Q What does that mean?

15 A Well, you file the triggers -- I'm not technically  
16 qualified to say, but it is so that you can fan the gun, shoot  
17 much faster with it.

18 Q In other words, trick shooting?

19 A Yes, special.

20 He fell in love with the guns while we were making  
21 the picture.

22 Q Deadwood 76?

23 A Yes, and he would -- when he saw that I wasn't  
24 making another Western, he often wanted to buy them.

25 Q Well, let me ask you this. When he would come by  
26 occasionally to see you and talk with you, did he ever broach  
27 the subject of your selling the guns to him?

28 A Yes, he did, a number of times.



1 Q What would he say about them?

2 A Well, sometimes I thought making another Western  
3 I really wouldn't care to sell them, but it is hazardous. I  
4 had quite a number of guns, and it is hazardous to keep them  
5 around because of theft.

6 I said that yes, I would probably sell them some-  
7 time, you know, when he had the money, and --

8 Q What did he say about the guns?

9 A Well, he especially liked the guns, and he liked  
10 the fact that you could fan them.

11 He was sort of in love with the guns. Some people  
12 just go crazy about guns. They become fanatics, you might say.

13 Q Did you see him handle those guns?

14 A Yes.

15 Q How did he handle the guns?

16 A Well, I would say probably like you might a baby,  
17 you know. He sort of fondled them.

18 People that love guns have that manner of handling  
19 them.

20 Q All right. Now, sometime in 1968 had you returned  
21 from making a film in Europe?

22 A I had returned earlier in 1968 from Spain, yes.

23 Q All right. Thereafter did you see Donald Shea  
24 in roughly the spring of 1968?

25 A Yes, I did.

26 Don came by a number of times.

27 Q Once again, what did you discuss with Donald Shea?

28 A Whether or not I was going to make another film,

1 and we were thinking somewhat of making another Western, but  
2 I didn't at all, so I'd still have the guns.

3 He liked to see them. A time or two he wanted to  
4 borrow them.

5 Q Now, you said he would like to see the guns.

6 Did you show him the guns again?

7 A Yes, I kept them right there.

8 Q What was his attitude when he saw the guns?

9 A Well, he put them on, of course, and would fool  
10 around with them like a cowboy does.

11 Q Now, Mr. Hall, once again in 1968 you were talking  
12 about roughly the spring or summer of 1968, did you have any  
13 discussions with Mr. Shea concerning your willingness to sell  
14 him the guns?

15 A Yes, I did.

16 Q Tell us about that.

17 A Well, he came by one day and another chap was with  
18 him.

19 If I recall correctly, and I think I do, it seems  
20 as though he had quite a good job in Tombstone, Arizona, or  
21 some place, and if he had a set of guns -- it was some kind of  
22 a stunt show or something, but he could make a pretty nice fee.

23 First he talked about could he borrow them, and I  
24 said, "No," I wouldn't -- if not registered -- I wasn't sure.  
25 I had forgotten whether they were registered.

26 I wouldn't loan them, so he asked what I wanted  
27 for them, and I told him. I gave him a figure and -- he said,  
28 "Well, I will come back."

I believe he came back a day later or possibly that day. He had some money for a deposit, and he asked me if I would accept a couple of cameras, not movie cameras, you know, regular cameras.

Q Still cameras?

A Yes, as sort of earnest -- like a deposit to assure me that he would be back and pay for the guns, settle for them in full.

Q Did you agree to do so?

A Yes, I did.

Q Was this other fellow with him when you actually delivered the guns?

A Yes.

Q Now, approximately how much money did you have invested in the guns at that time, considering that you had had the actions worked on the guns, and you had some holsters?

A Oh, I would say maybe three -- around \$300, I would say, something like that.

I'm not too sure, but it is quite expensive to have them worked on, and the holsters and belts are special made, you know, and they are quite expensive.

Q What was approximately the value of the holsters and belt?

A Well, I suppose \$100 even at that time, although I think they are more expensive now.

Q In any event, did you sell to Shorty the holsters and the guns?

A Yes.

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1 A Yes, the holsters and guns. They all kind of went  
2 together.

3 Q Now, I know this has been a long time since that  
4 date, but approximately what was the agreed purchase price of  
5 the holsters and the gun set?

6 A It seems to me -- I'm a little vague on that, but  
7 it seems to me like it was 150 or \$200, around that, approxi-  
8 mately.

9 Q Do you recall at all how much it was Donald gave  
10 you in cash in addition to the cameras as earnest money?

11 A No, I really don't.

12 I wrote it down at the time, I remember, and I  
13 know I had him -- took the numbers of the guns and had him  
14 sign that I gave them to him.

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Q All right.

Now --

A But I can't remember. It wasn't a large amount. It might have been \$40 or \$50 or something like that.

Q That is the best of your recollection, is that correct?

A That is about the best of my recollection.

Q Now, Mr. Hall, approximately when was it that you actually sold him the guns and gave the guns to him?

A That -- that would have been in the summer or possibly late summer of 1968.

Q All right.

A Because right after that I went to Europe.

Q You went to Europe when?

A In about November, I think. But I was planning a trip at that time.

Q All right.

And how long were you in Europe this time until you returned to the United States?

A About three months. Three, four months.

Q So, in other words, -- strike that.

And you left around November, is that right?

A Seems like it was late November.

Q And is it fair to say you would have then returned sometime in 1969, is that right?

A Yes. In, I believe, March. I am a little vague on the time. It is something like that.

Q All right.

1 Now, sometime after March of 1969 and more parti-  
2 cularly in the area of July, roughly, the beginning of the  
3 summer of 1969, did you hear from Donald?

4 A Yes, I did.

5 Q And how did you make this contact with Donald  
6 Shea?

7 A He called me on the phone one day in my office.

8 Q And this was roughly in the area of July of 1969,  
9 is that correct?

10 A I would say it was summer or possibly late  
11 summer. But it was in the summertime.

12 Q All right.

13 And what did Donald say to you at that time?

14 A Well, he made a remark that perhaps I thought he  
15 was a deadbeat or something because he hadn't been back to  
16 take care of the gun situation.

17 He wanted to know if I still had the cameras. And  
18 I told him yes. And as a matter of fact I had them in my  
19 desk drawer. And he said that he was sorry that he hadn't  
20 been in, but he had been out of town. I believe he said  
21 Boston, part of the time at least. And he said, "I am going  
22 to be in, in about a week, and we'll get settled up."

23 Q Now, did he discuss his marital situation with  
24 you at that time?

25 A He mentioned -- yes, he did. He mentioned that  
26 he had gotten married.

27 Q Did he say where?

28 A During this period.

1 Q Did he say where he got married?

2 A Seems like it was Las Vegas. Seems like that he  
3 had been there a short time or had gone there on a honeymoon  
4 or had gotten married there.

5 Q All right.

6 And he said in this connection that he would be in  
7 within a week to straighten up matters with you?

8 A Yes, he did.

9 Q In that same conversation did you ask him whether  
10 or not he wanted to give the guns back to you?

11 A I don't recall. I know I had told him before that,  
12 you know, if he -- he could always -- if he decided he didn't  
13 want them he could always bring them back. But I don't  
14 recall then whether he had mentioned bringing them back or  
15 not.

16 Q All right.

17 Since that telephone call in roughly July or the  
18 late summer of 1969 did you ever see or hear from Donald Shea  
19 again?

20 A No, I never did. He never came. And -- or called.

21 Q All right.

22 Knowing Mr. Shea as well as you have over a period  
23 of time and especially with reference to his attitude towards  
24 guns is it your opinion, sir, that he would have ever  
25 voluntarily sold those guns?

26 MR. WEEDMAN: I will object to that, your Honor, as  
27 calling for conclusion with no foundation whatsoever laid for  
28 such evidence coming from Mr. Hall.

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THE COURT: Well, overruled.

You may answer the question.

THE WITNESS: I would -- I would doubt very much whether he would unless he were desperate. Unless he may be very hungry or something like that.

Q BY MR. KATZ: If he was very hungry he would certainly pawn them, is that correct?

A I would think that he would.

Q But with reference to selling them is it your opinion that he would not sell them?

A That would be my opinion, yes, sir.

Q Incidentally, before you went to Europe in 1968 and after Don received the guns from you, did he leave a number where he could be reached, of friends?

A Yes, he did. He left -- it was -- I think there was a connection with the cameras. He had been doing some work or working for a chap in Hollywood, and he left that telephone number.

Q Do you recognize the name Jerry Binder?

A Yeah, that was the name.

Q He left Jerry Binder's number?

A Yes.

Q I see.

A Binder?

Q Yes.

A Binder. Yes.



MR. KATZ: All right.

Your Honor, if I may have just a moment, please.

THE COURT: Yes.

(Short pause.)

MR. KATZ: Your Honor, I have two Xerox copies of a certificate of manufacture pertaining to Dakota revolvers bearing serial Nos. 2421 and 2422. And I ask that they be respectively marked 9-C and 9-D for identification.

THE COURT: Counsel just saw them?

MR. KATZ: Yes.

MR. NEEDMAN: Yes, I have seen them. Thank you.

THE COURT: All right.

And the defendant.

They will be so marked.

MR. KATZ: Thank you. May I approach the witness, your Honor.

THE COURT: Yes, sir.

Q BY MR. KATZ: Mr. Hall, once again, have you brought with you the originals of these certificates?

A Yes, I did.

Q Do you have them with you?

A Yes (handing).

Q And would you please compare the original certificates with the Xerox copies and tell me whether or not they are true and correct copies in all respects of the originals you have in your possession.

A The number here (pointing), yes, those are true copies.

9-c &  
9-D id.

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MR. KATZ: All right.

Your Honor, respectfully then I would request permission to retain the Xerox copies now as the exhibits 9-C and 9-D.

THE COURT: Any objection, Mr. Weedman?

MR. WEEDMAN: No, your Honor.

THE COURT: All right. So ordered.

Q BY MR. KATZ: All right.

Now, showing you those certificates 9-C and 9-D, what are they?

A They are -- they are Italian made copies of Frontier model Colts with long barrels, and they are made in Milano. They are to indicate ownership of the serial number.

It's a certificate actually of purchase and ownership.

Q Mr. Hall, in other words you received these with the purchase of the guns, is that correct?

A That's correct, yes, sir, I did.

Q All right.

Did you provide these documents to me at the grand jury proceeding, is that correct?

A Yes.

Q All right.

May I approach the witness again, your Honor?

THE COURT: Yes.

Q BY MR. KATZ: I would like to show you these Dakota revolvers 9-A and 9-B for identification (handing). Would you kindly look at these Dakota revolvers and tell me

1 whether or not you recognize these revolvers as having seen  
2 them before?

3 A Yes.

4 Q And bearing serial No. 2422, which is People's  
5 exhibit 9-B and 2421 which is People's exhibit 9-A. Do you  
6 recognize these revolvers?

7 A Yes, I do.

8 Q And were these the revolvers which you had  
9 originally purchased?

10 A Yes, they are.

11 Q And are these the revolvers which you had sold to  
12 Shorty Shea?

13 A Yes.

14 Q Incidentally, did you know him by the name of  
15 Shorty Shea or Donald Shea?

16 A Donald Shea. Don Shea.

17 I never knew him as Shorty. He wasn't short. He  
18 was a pretty good-sized man.

19 Q In other words he wasn't too small an individual,  
20 is that right?

21 A No, he was a good-sized man. Maybe close to six  
22 feet.

23 Q All right.

24 Now, showing you People's 1 for identification,  
25 do you recognize the photograph as having seen that individual  
26 before?

27 A Yes. That's a photograph of Don.

28 Q And once again, just showing you quickly People's

1 2 for identification, is this another photograph of Don Shea?

2 A Yes. That is a photograph of Don.

3 MR. KATZ: Your Honor, I have here an illustrative  
4 brochure of a movie "What's Up Front" and I ask this be marked  
5 People's 29 for identification.

6 THE COURT: All right.

7 Show it to the defense counsel.

8 MR. KATZ: Yes, your Honor (handing).

9 THE COURT: All right.

10 MR. KATZ: I also have an illustrative brochure with the  
11 name "Deadwood 76" and I ask that this be marked People's 30  
12 for identification.

13 THE COURT: Very well. So marked.

14 MR. KATZ: And I am handing it to counsel.

15 May I confer with my witness for a moment.

16 THE COURT: Yes.

17 (Counsel and witness confer. Not reported.)

18 MR. KATZ: May I approach the witness, your Honor?

19 THE COURT: Yes.

20 Q BY MR. KATZ: Let me show you this picture, People's  
21 23 for identification, and ask you whether or not you recognize  
22 this to be Shorty Shea with a little beard?

23 A Yes.

24 Q All right.

25 Now, I am interested in this holster rigging which  
26 appears on his chest or across his chest. Do you recognize  
27 that black holster rigging?

28 A Yes, I do. That's the holster and belt that went  
29 with the guns.

1 Q And that is the holster rig which you had specially  
2 constructed and fabricated for your own purposes?

3 Is that correct?

4 A Yes.

5 Q Showing you People's 29 for identification, what  
6 appears to be a promotional brochure of some kind with the  
7 title "What's Up Front," in technicolor, and "Girl-O-Rama,"  
8 is this a brochure of the picture "What's Up Front," which you  
9 used?

10 A Yes, it is.

11 Part of that I made at Spahn's.

12 Q And that, again, was used in promotional areas?

13 Is that correct?

14 A Yes, that was what they call a press book. A press  
15 book, the trade calls it.

16 Q Going on to People's 34 for identification, here  
17 is another promotional brochure which is entitled "Deadwood 76."

18 I see it indicates starring Arch Hall, Jr.

19 Is that your son?

20 A Yes, that is my son.

21 Q Was this the promotional brochure you used promot-  
22 ing Deadwood 76?

23 A Yes, it was.

24 This is the press book.

25 Q Incidentally, is this Western currently playing  
26 some place?

27 A Yes, it is right now playing in England and other  
28 countries, too.

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I mean it has just recently started in England.

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MR. KATZ: Your Honor, if I may have one moment, I think I have concluded my questioning.

3

4

Q Incidentally, did you have any identification mark inscribed on your holsters?

5

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A Yes, I did.

7

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I had F.I.F., I think, for Fairway International Films, and also my son had put his name in it.

9

10

In other words, it was either Arch Hall, Jr., or Archie Hall, Jr.

11

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Q Where was this inscription?

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A That was carved on the inside of the belt.

MR. KATZ: Thank you. I have nothing further.

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THE COURT: Cross examine.

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# CROSS EXAMINATION

BY MR. WEEDMAN:

Q Mr. Hall, do I understand you to say that you produced this film, 'What's Up Front'?

A Yes.

Q Is that a Western?

A What's Up Front?

Q Yes.

A No, it wasn't.

It had a hillbilly -- several hillbilly sequences in it, and that was the reason we made part of it at Spahn's Ranch.

Q With respect to this movie, What's Up Front,

NDX

1 Mr. Hall, and looking at People's 29 for identification, the  
2 color brochure, or perhaps you have some other name for it,  
3 it indicates on this that it was produced by Anthony M. Lanza.

4 Does that mean anything?

5 A Yes, that is quite a common thing.

6 Anthony M. Lanza worked for me as my film editor,  
7 and I gave him the producer's credit.

8 Q And you wrote the story and participated in the  
9 screenplay as well?

10 A That is right.

11 Q This title, What's Up Front, was that intended to  
12 suggest a woman's --

13 A A story of a --

14 Q Excuse me, was that intended to suggest a woman's  
15 bosom as part of the key to the story by a traveling salesman?

16 A Not necessarily.

17 It is your interpretation. It is the story of a  
18 brassiere salesman that goes door to door and out through the  
19 country selling bras, so it is an indication of the -- although  
20 it had referred to cigarettes, and the war -- well, they use  
21 that expression.

22 It is a well-known expression.

23 Q Mr. Shea had a small part in that movie back in  
24 1963?

25 Is that correct?

26 A He worked at Spahn's Ranch at that time, and was  
27 instrumental in helping with the equipment that we used, and  
28 animals.

4 1 Q Now, did you really mean to tell us, Mr. Hall,  
2 that you negotiated with Mr. Shea with respect to the use of  
3 Spahn Ranch and the Spahn horses and equipment there?

4 A Yes.

5 Q Did he tell you that he was the foreman at that  
6 location, Mr. Hall?

7 A I don't know that he ever said he was exactly a  
8 foreman, but he came with Mr. Spahn and they negotiated  
9 together, although I would say I needed so many horses, and  
10 he would tell me what the price was for the horses.

11 Q Well, but it was with Mr. Spahn?

12 A Mr. Spahn actually collected the money when I paid  
13 for it.

14 I paid it to Mr. Spahn.

15 Q And it was really your understanding, wasn't it,  
16 that it was Mr. Spahn's ranch, and that they were Mr. Spahn's  
17 horses, and that Mr. Shea was really there as a cowboy more  
18 than anything else?

19 A Well, I think he called himself a foreman, or  
20 maybe Mr. Spahn did.

21 He gave the impression that he was -- I think in  
22 Western terminology, they call it a straw boss or somebody  
23 that sort of looks after things.



6a-1

1 Q I am sorry, I interrupted you.

2 A I said he seemed to be a pretty dependable sort  
3 of fellow, and Spahn kind of depended on him to help him.

4 Q Now, when you sold these guns to Mr. Shea in 1968,  
5 you believed, did you not, that he was going to go over to  
6 Tombstone and make a picture?

7 A I don't believe it was a picture, if I remember  
8 correctly.

9 I think it was a western show. A live show, in  
10 other words.

11 Q If I told you that Mr. Shea didn't do that, but  
12 went up and worked in the Leslie Salt mines at Vallejo,  
13 California, would that surprise you, Mr. Hall?

14 MR. KATZ: I object to the form of the question as  
15 being totally argumentative, your Honor, and absolutely calls  
16 for conclusion and speculation.

17 THE COURT: The way it is framed I think it is objection-  
18 able. Rephrase it.

19 Q BY MR. WEEDMAN: Did you believe, Mr. Hall, that  
20 the show that Mr. Shea told you that he was going to do over  
21 in Tombstone was the way that Mr. Shea was going to use to pay  
22 for these guns?

23 A I don't believe he necessarily said that.

24 He said he could make a pretty nice little fee if  
25 he had these guns in that show.

26 Q All right.

27 I take it that he did not tell you that he  
28 intended to go to work the salt mines for Leslie Salt Company

1 up in Vallejo, California?

2 A No, he didn't mention that.

3 Q Mr. Hall, isn't it true that the last time Mr. Shea  
4 did any kind of work at all in connection with any movies in  
5 which you had a part was in 1964?

6 A Yes, 1964 in Deadwood.

7 Q So that as far as Mr. Shea being active in the  
8 movies in any way at all, some five years passed, did they not,  
9 between that 1964 movie and the month of August 1969?

10 MR. KATZ: Excuse me, unless it is limited with refer-  
11 ence to performances for Mr. Hall.

12 He can't speculate as to what Mr. Shea did for  
13 other people.

14 THE COURT: I think probably you are correct.

15 MR. WEEDMAN: Excuse me, I am talking about Mr. Hall.

16 I thought I made that clear.

17 If I haven't, I will withdraw the question and  
18 start over again.

19 THE COURT: Repeat your question.

20 Q BY MR. WEEDMAN: Mr. Hall, as far as your own  
21 movie participation goes, Mr. Shea hadn't begun anything for  
22 you at all for at least five years?

23 That is, from 1964 until August of 1969? Is that  
24 so?

25 A Yes.

26 Q And as a matter of fact no one has heard of him  
27 since about that time, so obviously he hasn't done anything  
28 for you in the interim?

1 Is that right?

2 A No.

3 MR. KATZ: Excuse me, your Honor. We have a double  
4 negative.

5 I don't want to leave the record in that state.

6 THE COURT: Now, you are arguing. Is there a motion?

7 MR. KATZ: Yes, there is a motion to strike the answer  
8 for the purpose of interposing the objection that it is now  
9 ambiguous in the manner in which it is answered.

10 THE COURT: Motion denied. Next question.

11 Q BY MR. WEEDMAN: Are you of the opinion that Mr.  
12 Shea was a dependable person, Mr. Hall?

13 A In my own experience with him on the two different  
14 occasions I found that he was dependable.

15 Q What about his failing to pay you for these guns?

16 A He had left these two cameras which were supposedly  
17 to cover any cost.

18 I have never found out what the cameras are worth.  
19 They are pretty nice looking cameras.

20 The fact that he called me, phoned me, sort of  
21 proved that in my own mind at least he was, in the final  
22 analysis, honorable.

23 Q He let over a year go by before he called you or  
24 contacted you at all with reference to paying for those guns,  
25 isn't that so, Mr. Hall?

26 A That is true. Almost a year.

27 Q Do you feel that that is the mark of a dependable  
28 man as you use the term "dependable"?

1           A     Not necessarily.

2                 A man like Shea is, I would say, somewhat of a  
3     drifter. You couldn't tell where he might have been. I wasn't  
4     really too concerned about it.

5           Q     Finally, are you of the opinion that Mr. Shea would  
6     not sell these guns, even if he were broke?

7           A     That would be my opinion, yes, sir.

8           Q     Do you think he would pawn the guns if he needed  
9     money?

10          A     Well, I believe -- yes, I think that he would, if  
11     he were hungry and needed money badly for some reason.

12                 That is the way pawnshops survive, I guess, when  
13     somebody is really very, very hard up.

14          Q     Well, supposing Mr. Shea had reached a condition  
15     where he was not only virtually destitute but living out of  
16     his automobile at the Spahn Ranch.

17                 Do you think then, Mr. Hall, that he would, in  
18     your opinion, sell these guns in order to --

19          A     To survive?

20          Q     To survive.

1 MR. KATZ: Excuse me, your Honor.

2 Now, I am objecting on the grounds that now it  
3 calls for a specific conclusion with respect to specific facts  
4 hypothecated, and it is not in the format of a general opinion.

5 MR. WEEDMAN: Well, the general opinion is worthless,  
6 your Honor. There are specific facts in question here, your  
7 Honor.

8 THE COURT: I am a little disturbed about the founda-  
9 tional structure of the question, living out of the auto.

10 I think you can reframe your question and probably  
11 get the point that you want answered, if you could revamp it  
12 somewhat.

13 I would sustain it upon the hypothesis you set  
14 up as the foundational structure.

15 MR. WEEDMAN: All right, your Honor.

16 I withdraw the question. Thank you, your Honor.

17 Q Mr. Hall, just talking about your opinion now,  
18 and of course this relates to your judgment of Mr. Shea's  
19 attachment to these particular guns, I take it that you  
20 concede that your opinion is such that Mr. Shea would pawn  
21 the guns if he needed money?

22 A I think I said that, yes.

23 Q Yes, all right.

24 A I think if he was desperate.

25 Q Let's go beyond that. Let's suppose after having  
26 pawned the guns he continues to have a desperate need for  
27 money such that he cannot redeem the guns.

28 In your opinion do you feel that Mr. Shea would

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be beyond selling or transferring the pawn receipts for additional money?

MR. KATZ: Excuse me, your Honor. That would call for an ultimate fact to be decided by the jury, and he cannot answer that kind of a question.

There is no sufficient foundation.

MR. WEEDMAN: Counsel opened the door on this one, your Honor.

THE COURT: Now, wait a minute, please.

The witness has recited rather an intimate business relationship with Shorty Shea over a considerable period of time, and has recited a chain of factual matters over that period of time in his dealings with Shea.

Now, I think that he is entitled to give an answer to the opinion.

It is definitely conclusional. I will say to the jury now that the answer about to be elicited, if the witness answers the question, if he is able to answer it, is an opinion or conclusion of the witness.

The jury is the judge of the strength, maturity or credibility to be given to the answer. You may accept part of it, all of it or reject it. That is your business.

My ruling has nothing to do with the truthfulness of the answer, but I think probably the basis -- it does reach into pretty much ultimate conclusions, but I think the background is there for the answer.

Now, if you desire to ask your question again you may do so.

1 MR. WEEDMAN: Perhaps we could have it read, your Honor.

2 THE COURT: Read the question back, Mr. Reporter.

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1 (The record was read by the reporter  
2 as follows:

3 "Q Let's go beyond that. Let's suppose  
4 after having pawned the guns he continues to have  
5 a desperate need for money such that he cannot  
6 redeem the guns. In your opinion, do you feel  
7 that Mr. Shea would be beyond selling or transfer-  
8 ring the pawn receipts for additional money?")

9 THE WITNESS: Answer that question now?

10 THE COURT: Yes, you can answer that. Give us your opin-  
11 ion.

12 THE WITNESS: Inasmuch as he phoned me that he was coming  
13 in and he knew that really technically or legally the guns were  
14 still mine, I would -- and knowing how he felt about them --  
15 I didn't know that you could transfer pawn tickets.

16 But let's say that we could --

17 Q BY MR. WEEDMAN: Mr. Hall, excuse me for interrupt-  
18 ing, sir, but can you give an answer to my question, because  
19 it is a hypothetical question, of course.

20 A Yes.

21 THE COURT: I think I should strike the answer as not an  
22 answer to your question.

23 MR. WEEDMAN: Thank you, your Honor.

24 THE COURT: Now, I am not eliminating your from your  
25 question. I am simply striking the answer as not responsive.

26 MR. KATZ: I would like to be heard. As a matter of  
27 fact, I don't think you can limit a yes or no type of answer  
28 to this question.



1 The witness should be permitted to answer the  
2 question in the most efficacious manner. He was attempting  
3 to do so in good faith. He should be permitted and given the  
4 courtesy and given the opportunity to answer that.

5 MR. WEEDMAN: Counsel is confusing good faith with the  
6 rules of evidence.

7 THE COURT: The answer is stricken.

8 You can restate your question, if you desire.

9 MR. WEEDMAN: Well, may I leave the question stand?

10 THE COURT: Repeat it.

11 MR. WEEDMAN: Then add something to the question, your  
12 Honor?

13 THE COURT: Restate it in full so it will be clear.

14 MR. WEEDMAN: Perhaps we could have that question read.

15 THE COURT: All right.

16 Then you can add on.

17 Read the question again, Mr. Reporter.

18 (The record was read by the reporter  
19 as follows:

20 "Q Let's go beyond that. Let's suppose  
21 after having pawned the guns he continues to have  
22 a desperate need for money such that he cannot  
23 redeem the guns. In your opinion, do you feel  
24 that Mr. Shea would be beyond selling or transfer  
25 ing the pawn receipts for additional money?"

26 Q BY MR. WEEDMAN: And I would ask that your answer,  
27 Mr. Hall, if you feel you can answer the question, be based of  
28 course on the assumptions which are really contained in that

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1 question and ask you not to reflect back on your perhaps  
2 additional opinion with respect to Mr. Shea's financial assets  
3 at that time.

4 In other words, we are going to assume for pur-  
5 poses of my question that he was indeed desperate for money,  
6 you see.

7 THE COURT: In other words, at this juncture, instead of  
8 giving your reasons, if you can answer the question.

9 If you can't answer it, you say, "I can't answer  
10 it."

11 But if you can answer it, you answer it. Let your  
12 reasons stand in abeyance for a while and try to answer. Is  
13 that clear?

14 THE WITNESS: Yes.

15 THE COURT: All right.

16 THE WITNESS: I don't believe that he would.

17 Q BY MR. WEEDMAN: What did you mean by your use of  
18 the phrase that Mr. Shea was somewhat of a drifter?

19 A Well, of course, during the time that I knew him,  
20 he lived at Spahn's Ranch and he wasn't married and didn't have  
21 to my knowledge -- he had been married, I believe he said, told  
22 me one time.

23 But a cowboy who works, and I think he had been  
24 in the service. You mentioned he went to Vallejo. I think  
25 probably that type person, not too well educated, would work  
26 wherever opportunity to make a living.

27 In that way I meant drifter. I didn't mean it  
28 disparagingly.

4  
1 MR. WEEDMAN: I understand.

2 Well, thank you very much, Mr. Hall. We appreciate  
3 your coming in.

4 THE COURT: Is that all, gentlemen?

5 MR. KATZ: No, your Honor.

6  
7 REDIRECT EXAMINATION

8 BY MR. KATZ:

9 Q You were about to tell us why you don't think  
10 Mr. Shea would have pawned the guns or sold -- excuse me --  
11 sold the guns under the hypothesis suggested by Mr. Weedman.

12 Would you tell us now why you are of that opinion?

13 A One, I don't think he would permanently want to  
14 lose the guns.

15 Two, I think that he knew that I actually was still  
16 really the prime owner of the guns. And I couldn't believe  
17 in view of that, in his -- that he would do that.

18 I think that I was, I know, one of the friends  
19 that he had in the picture business. And I doubt very much  
20 whether he sold the guns under the circumstances.

21 Q All right.

22 And this is based upon knowing him for these years,  
23 is that right, and your dealings with him, is that right?

24 A Yes.

25 MR. KATZ: Thank you.

26 I have no further questions.

27 THE COURT: Is that all, gentlemen?

28 MR. WEEDMAN: I have nothing further.

NDX

1 Thank you, Mr. Hall.

2 THE COURT: That is all. Thank you very much for your  
3 time.

4 THE WITNESS: Thank you.

5 THE COURT: Ladies and gentlemen, I think we will take  
6 a short recess and then go ahead.

7 Do not discuss the case or come to any opinion or  
8 conclusion. We are at recess.

9 (Recess.)

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1 THE COURT: All right, gentlemen. We will go ahead.  
2 People against Grogan.

3 Defendant is here. Defendant's counsel is here.  
4 People's counsel is here.

5 You can bring in the jury, sheriff.

6 THE BAILIFF: Yes, sir.

7 (The following proceedings were had in open court  
8 in the presence of the jury.)

9 THE COURT: Now we have all the jurors here.

10 You may proceed.

11 MR. KATZ: Yes.

12 People wish to call Mr. Samuel Launer.

13 THE COURT: All right.

14  
15 SAM M. LAUNER,  
16 called by the People, being first sworn, testified as follows:

17 THE COURT: Now, raise your right hand and be sworn,  
18 please.

19 THE CLERK: You do solemnly swear the testimony you will  
20 give in the cause now pending before this court shall be the  
21 truth, the whole truth, and nothing but the truth, so help you  
22 God?

23 THE WITNESS: I do.

24 THE CLERK: Thank you, sir.

25 Will you be seated, please.

26 THE WITNESS: Thank you.

27 THE CLERK: Will you be kind enough to state your name  
28 for the record.

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1 THE WITNESS: Sam M. Launer.  
2 THE COURT: Will you spell your last name, please.  
3 THE WITNESS: L-a-u-n-e-r.  
4 THE COURT: Thank you.  
5 THE CLERK: Thank you.  
6 THE COURT: Kind of talk in there like it is a telephone.  
7 THE WITNESS: Yes, sir.  
8 THE COURT: All right.

## DIRECT EXAMINATION

11 BY MR. KATZ:

12 Q Mr. Launer, I am over here, and if I go a little  
13 bit too fast for you or I don't speak too distinctly, will you  
14 ask me to reframe the question.  
15 A I will.  
16 Q What is your business or profession, Mr. Launer?  
17 A Pawnbroker.  
18 Q How long have you been engaged in that profession?  
19 A 20 years.  
20 Q Where do you work?  
21 A Hollywood Collateral Loan.  
22 Q Where is that located, Mr. Launer?  
23 A 1612 North Vine Street.  
24 Q Is that in Hollywood?  
25 A In Hollywood.  
26 Q How long have you been at that location?  
27 A Oh, about over ten years.  
28 Q And can you tell me whether or not you have a

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1 central depository which contains a card file reflecting  
2 transactions with the customers you deal with?

3 A Yes, we do.

4 Q Can you explain the nature of this card filing  
5 system?

6 A We -- we kept the file on all the transactions we  
7 make. One copy is sent to the Police Department and one copy  
8 is kept in our files.

9 We keep them for five years.

10 Q All right.

11 Now, let's suppose that a given individual whose  
12 name will be arbitrarily John Smith, comes in to you and pawns,  
13 perhaps, a toaster.

14 And then on another occasion he pawns another  
15 appliance.

16 Would you be able to locate that transaction if it  
17 occurred within the last five years?

18 A Yes.

19 Q How would you do so?

20 A Just go to the file and pick out his cards.

21 Q All right.

22 You say his cards. How would you determine that  
23 John Smith had pawned these items that I have mentioned in my  
24 hypothetical?

25 A I get his identification.

26 Q What I am driving at, is this filing system set up  
27 in such a manner that it is under name, is that correct?

28 A Yes, it's filed by name.

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1 Q I see. So if a person gives his name as John Smith  
2 and you have secured sufficient identification, a card is made  
3 out indicating that this is the file card of John Smith, is  
4 that right?

5 A That's correct.

6 Q Now, if within the five-year period that person has  
7 transactions with Hollywood Collateral Loan, say, on five or  
8 six occasions, that would all be reflected on the same card,  
9 is that right?

10 A No, they are all on different cards, but they are  
11 filed together.

12 Q All right.

13 So that you could locate all of the cards in one  
14 place, is that right?

15 A That's right.

16 Q Now, when somebody comes in and pawns an item with  
17 you, what happens, generally? What do you do, for example?

18 A Well, we make out a pawn ticket.

19 Q What is a pawn ticket?

20 A Well, it's showing that he has left collateral for  
21 a certain amount of money.

22 Q All right.

23 In other words, a person comes in with an item  
24 of personal property, and you give a loan against that using  
25 the property as collateral, is that right?

26 A That is correct.

27 Q Now, this transaction is reflected in what is known  
28 as a pawn ticket, is that right?



A5

1 A That is right.

2 Q Do you take serial numbers down which identify the  
3 item which is pawned?

4 A Yes.

5 Q And do you require identification of the person  
6 who is pawning the items?

7 A Yes.

8 Q Is that then written and reflected in the pawn  
9 ticket in the ordinary course of business on or about the  
10 date that transaction occurs?

11 A Yes.

12 Q And you say that a copy of all of these transac-  
13 tions is transmitted to the Police Department, is that correct?

14 A That is right.

15 Q Is this some form of carbon of the original?

16 A Well, the Police Department gets the original.  
17 We have the copy.

18 Q All right.

19 Now, did I ask you to check your files to determine  
20 whether or not you had any records reflecting some loan  
21 transactions with a Donald Shea?

22 A Yes.

23 Q And did you bring some records to me on a previous  
24 occasion which reflect that you did have some transactions?

25 A Yes, I did.

26 Q Did you have more than one transaction with this  
27 Mr. Donald Shea?

28 A Yes. Several.

1 Q And did you know him by face?

2 A Yes.

3 MR. KATZ: May I approach the witness, your Honor?

4 THE COURT: Yes.

5 Q BY MR. KATZ: Showing you People's 1 for identifica-  
6 tion, do you recognize that individual as Mr. Shea?

7 A Yes.

8 Q And once again just showing you People's 2, again  
9 does that appear to be Mr. Shea?

10 A Yes.

11 Q You will have to speak up louder.

12 A Yes.

13 Q Thank you, sir.

14 A All right.

15 Q You see, we have a court reporter who is right in  
16 front of you at this time, and it is very necessary that he takes  
17 down everything in the record.

18 So we will appreciate it if you speak right into  
19 the microphone. Will you do that?

20 A Okay. I will.

21 MR. KATZ: Thank you.

22 May I approach the witness?

23 THE COURT: Yes, sir.

24 Q BY MR. KATZ: Let me start out with the 11 series,  
25 that is, 11-A, -B and -C. I want to first direct your attention  
26 to 11-A for identification. Did you provide me with this  
27 document, Mr. Launer?

28 A Yes.

A7

1 Q And can you tell us what this document is?

2 A This is a pawn ticket on a revolver. A Colt  
3 Dakota .45 caliber, 7-1/2-inch barrel, blue in color.

4 A All right.

5 Now, do you know whose writing appears on the face  
6 of the document?

7 A This is my writing.

8 Q All right.

9 So you recognize your writing which appears on  
10 People's 11-A, is that right?

11 A That's correct.

12 Q I do not have reference to the signature or the  
13 address that's given at this point, is that correct?

14 A That's correct.

15 Q Now, can you tell us the date of the transaction  
16 that appears and is reflected in 11-A for identification?

17 A February 3, 1969.

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1 Q And does it indicate what was pawned?

2 A Yes.

3 Q What was pawned?

4 A A revolver, Colt Dakota .45 caliber, 7-1/2 inch  
5 barrel, blue in color, serial No. 2421 in a brown attache  
6 case.

7 Q Does it indicate who the person was who pawned  
8 the item that is reflected in 11-A?

9 A Yes, Donald J. Shea.

10 Q Did you require a signature to be signed and an  
11 address to be written by the person who presented the Dakota  
12 revolver?

13 A Yes.

14 Q The signature appearing in the middle section of  
15 11-A, and also at the bottom section?

16 A Yes.

17 Q Donald Shea?

18 A Donald J. Shea.

19 Q Was this signed in your presence?

20 A Yes.

21 Q Now, with respect to the address, was this the  
22 address Mr. Shea gave you, 8010 Hollywood Boulevard?

23 A That is correct.

24 Q How much money did you give for the -- as a loan  
25 against the brown attache case and this Dakota revolver, serial  
26 No. 2421?

27 A \$20.

28 Q All right. Let's go on to 11-B for identification,

1 and I am going to ask you what this pawn ticket reflects.

2 A This pawn ticket reflects --

3 Q Right in the microphone.

4 A A revolver, Colt Dakota .45 caliber, 7-1/2 inch  
5 barrel, blue in color, serial No. 2422 in a brown attache  
6 case.

7 Q All right. Once again, the person who presented  
8 you that revolver against the loan which he received from  
9 Hollywood Collateral was required to sign in two places?

10 Is that correct?

11 A That is correct.

12 Q Once again, in the center portion and in the bottom  
13 portion of 11-B, Mr. Shea signed his name in your presence?

14 A That is correct.

15 Q And he gave the address once again 8010 Hollywood  
16 Boulevard?

17 A That is correct.

18 Q Does your writing, again, appear on 11-B?

19 A Yes.

20 Q How much money did you loan against the Dakota  
21 revolver, serial No. 2422?

22 A \$20.

23 Q Going on to 11-C for identification.

24 Once again is this a pawn ticket reflecting a  
25 transaction?

26 A That is correct.

27 Q What was pawned in this transaction?

28 A A portable tape recorder, small cassette, by the

1 name of Hallmark.

2 Q Is there a serial number that was on that?

3 A Serial No. H979490, and a black case.

4 Oh, no. Wait a moment. Serial No. 2323.

5 The other number I called out was his driver's  
6 license number.

7 Q All right. Once again, how much money was loaned  
8 against that item?

9 A \$10.

10 Q What was the date of that transaction?

11 A February 11th.

12 Q 1969?

13 A 1969.

14 Q Do you stamp in the ordinary course of business  
15 on or about the date the transaction occurred the date the  
16 transaction, in fact, occurred?

17 A Yes.

18 Q Going back just to 11-B for identification.

19 This Dakota revolver, serial No. 2422 was pawned  
20 on February 3rd, the same day that the Dakota revolver,  
21 serial No. 2421 and the brown attache case was pawned.

22 Is that correct?

23 A That is correct.

24 Q Once again, do you recognize the handwriting?

25 A This is not my handwriting.

26 Q All right, but with respect to the signature here,  
27 do you recognize that signature as Mr. Shea's?

28 A That is correct, yes.

1 Q Incidentally, the date was stamped here February  
2 11, 1969 indicating the date of the transaction reflecting  
3 the tape recorder?

4 A Is that correct?

5 A That is correct.

6 Q And the address of Donald Shea given there was  
7 the Wilcox Hotel? Is that correct?

8 A That is correct.

9 Q Room 226?

10 A That is correct.

11 Q That is in Hollywood?

12 A Hollywood.

13 Q Now, let's just sticking with these documents --  
14 let's go back now to 11-A for identification.

15 Is there something on this document which indicates  
16 that the revolver was redeemed?

17 A Yes.

18 Q And what is there on this document that indicates  
19 that the revolver was redeemed, and we are talking about the  
20 revolver bearing serial No. 2421.

21 A It is stamped "Redeemed" by our stamp dated March  
22 5th, 1969.

23 Q All right. Now, when a person redeems an item  
24 which he has pawned, do you automatically stamp on your copy  
25 of the transaction, the pawn slip, that is?

26 A Yes.

27 Q The date it was redeemed?

28 A Yes, we do that immediately.

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Q This is done in each and every situation in which the item or merchandise is redeemed?

Is that correct?

A That is correct.

Q Now, is there anything that indicates to you who it was that redeemed that item?

A Yes.

Q All right.

A Donald J. Shea.

Q I notice that you have separated --

A Yes.

Q -- the two pieces of paper that comprise 11-A for identification.

A That is right.

Q On the second page there is a signature across the line dated "To Redeem," and it says "Donald J. Shea."

Is that correct?

A That is correct.

Q And that indicates that Mr. Shea redeemed that item?

Is that correct?

A That is correct.

Q Now, let's go on to 11-B for identification.

Tell me whether or not there is something on that document placed by you in the ordinary course of business which indicates that the merchandise was redeemed.

I now have reference to a Dakota revolver and brown attache case, the revolver bearing serial No. 2422.

A Yes, it is stamped "Redeemed" May 14th, 1969 by --



1 Q By whom?

2 A Well, I will look over here. Donald J. Shea.

3 Q Once again, the date of redemption and the  
4 signature of the person who redeemed it appears on the second  
5 page?

6 Is that correct?

7 A That is correct.

8 Q Going on to 11-C for identification, is there any  
9 identification that the tape recorder had been redeemed?

10 A Yes, it is stamped "Redeemed."

11 Q What is the date of the redemption?

12 A May 14, 1969.

13 Q Once again, can you tell us who it was that  
14 redeemed it?

15 A Donald J. Shea.

16 Q Let me just show you briefly these exhibits, 12-A  
17 and B and C.

18 I will ask you whether or not they are not more  
19 than carbon copies of the transaction reflected in 11-A and B  
20 and C.

21 A Yes, these are copies. They are made at the same  
22 time the tickets are made.

23 Q What happens to those copies?

24 A We keep these in our files.

25 Q All right. So in other words, for example, 11-A  
26 which bears the serial No. -- That is the pawn ticket  
27 No. 40727 is reflected once again in this carbon 40727 which  
28 is denominated by People's 12-A?

Is that right?

A That is right.

That is just a copy of this (indicating).

8a

8a-1

1 Q Going on to 12-B, serial No. 40726, that is a copy  
2 of 11-B?

3 Is that right?

4 A Yes.

5 Q Once again, 12-C is nothing more than a carbon copy  
6 bearing pawn ticket No. 40974, and is a copy of People's 11-C?

7 Is that correct?

8 A That is correct.

9 Q Now, Mr. Launer, I wish to direct your attention  
10 now to this 13 series, and we will start with 13-A for  
11 identification.

12 Is this, once again, a pawn ticket which reflects  
13 a transaction concerning a Dakota revolver?

14 A Yes.

15 Q Can you tell us the date the Dakota revolver and  
16 the brown attache case was pawned?

17 A July 28th, 1969.

18 Q Once again, your stamp appears on the pawn ticket  
19 which reflects the date it was pawned?

20 Is that correct?

21 A Yes, in two places.

22 Q All right, the particular Dakota revolver that was  
23 pawned on July 28th had serial No. 2421?

24 Is that correct?

25 A Correct.

26 Q Do you recognize the handwriting appearing thereon?

27 A Yes.

28 Q Whose handwriting is that?

1 A It is mine.

2 Q With respect once again to the name in the center,  
3 Donald J. Shea, or the signature Donald J. Shea, and the  
4 address 8010 Hollywood Boulevard, did Mr. Shea write that in  
5 your presence?

6 A Yes.

7 Q With respect to the signature at the bottom,  
8 Donald J. Shea, did he write that in your presence?

9 A Yes.

10 Q All right. Going on to 13-B for identification,  
11 this is a pawn ticket which reflects a transaction? Is that  
12 correct?

13 A That is correct.

14 Q What was the date of the transaction?  
15 Namely, when was the merchandise pawned?

16 A July 25th, 1969.

17 Q What was pawned?

18 A A revolver, Colt Dakota, .45 caliber, 7-1/2 inch  
19 barrel, blue in color, without the attache case.

20 Q And the serial number?

21 A Serial No. 2422.

22 Q So in other words this document, 13-B, reflects  
23 the pawning of a Dakota revolver bearing serial No. 2422 on the  
24 date July 25th, 1969?

25 Is that correct?

26 A That is correct.

27 Q With respect to this 11-A -- 13-A for identifica-  
28 tion, this reflects the pawning of a Dakota revolver serial

1 No. 2421 by Mr. Shea on July 28th, 1969 together with a brown  
2 attache case?

3 A That is correct.

4 Q Now, let's move back to 13-B for identification.

5 Once again, do you recognize the writing as having  
6 been signed in your presence?

7 Is that correct?

8 A That is correct.

9 Q That is Mr. Shea's signature?

10 Is that correct?

11 A That is right.

12 Q What did you loan against the revolver No. 2422?

13 A \$20.

14 Q What did you loan against the brown attache case  
15 and the Dakota revolver on July 28th, 1969?

16 A \$20.

17 Q Now, Mr. Launer, let's stop here for a moment.

18 In the course of your business as a pawnbroker,  
19 is it necessary for you to be reasonably familiar with the  
20 value of guns?

21 A Yes.

22 Q I take it that is because you have to know the  
23 maximum you can loan against any gun that is brought to you?

24 Is that right?

25 A That is right.

26 Q How much would you have loaned, that is the  
27 maximum, that you would have loaned against each of the  
28 Dakota revolvers Mr. Shea brought to you?

1 MR. WEEDMAN: Excuse me, your Honor.

2 I am going to object to that as really, ultimately,  
3 depending upon this gentleman's knowledge of the value of  
4 firearms.

5 Now, he may well have such knowledge, but I submit  
6 that there is no adequate foundation for that shown here, your  
7 Honor.

8 THE COURT: Well, I think probably there is sufficient  
9 background shown.

10 It is a matter of argument to the jury. He is in  
11 the business of loaning money on various articles, guns and  
12 the like.

13 I think you may answer the question.

14 The objection is overruled.

15 MR. WEEDMAN: Thank you, your Honor.

#9

1 Q BY MR. KATZ: Mr. Launer, how much would you have  
2 loaned against each of the Dakota revolvers?

3 A Say about fifty dollars.

4 Q In other words, a maximum of \$50 per gun, is that  
5 right?

6 A That's correct.

7 Q So I understand you, you would have been willing  
8 to loan, had Mr. Shea asked for it, a total or an aggregate  
9 of \$100 against both of the guns, is that right?

10 A That's right.

11 Q Now, going on -- well, strike that.

12 Now, with respect to this transaction which is  
13 reflected in People's 13-B for identification, which is dated  
14 July 25, 1969, did you recognize Mr. Shea when he walked into  
15 the store?

16 A Yes.

17 Q Did he greet you in any fashion or identify himself  
18 to you?

19 A Well, he said, "I'm back with the two guns again."

20 Q And you recognized him?

21 A Yes.

22 Q As having dealt with him?

23 A Yes. I remembered the guns. They were very nice  
24 guns.

25 Q All right.

26 Now, did he say anything about the guns as he pawned,  
27 for example, the first gun on July 25, 1969?

28 A He says, "I love these guns. They are very

1 important to me."

2 Q Well, did he give you any instructions with respect  
3 to how you are supposed to take care of them?

4 A Oh, "Take good care of them." Yeah. "See that they  
5 are put away in a nice, dry place."

6 Q And I want to go on to 13-C for identification.  
7 What is this document?

8 A That's a pawn ticket on my Colt Dakota revolver  
9 .45 caliber, 7-1/2-inch barrel, blue. For the amount of \$25.

10 Q All right.

11 Now, this appears to be a carbon, this 13-C appears  
12 to be a carbon of 13-A.

13 A That's a customer's copy.

14 Q All right.

15 So, in other words, when you take an item in and  
16 give a loan against the item which is pawned with you, you  
17 give the customer a redemption slip which he must present  
18 before he can get his merchandise out?

19 A That's correct.

20 Q All right.

21 Now, with respect to this carbon, which is 13-C,  
22 and reflects the same transaction appearing in 13-A, would this  
23 have been the copy that would have been given to the person  
24 who pawned it?

25 A That's right.

26 Q Therefore, this was given to Mr. Shea then, is that  
27 correct, on July 28, 1969?

28 A That's correct.



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Q Now, is there a stamp on here which indicates to you when this was redeemed?

A Yes.

Q If you hold it up to the light, if you can.

A Redeemed September 3rd.

Q All right.

A 1969.

Q All right.

And once again are you required to secure the identification of the person who

A Yes.

Q -- redeems the item which has been pawned with you?

A Yes.

Q Must you place that information at some place on the redemption slip?

A Yes.

Q And on that occasion can you tell us whether you did?

A Yes, I did.

Q And was identification required from the person who redeemed the Dakota revolver on that occasion?

A That's correct.

Q We were talking about September what?

A September the 3rd.

Q All right.

And that has reference to redeeming Dakota revolver 2421 and a brown attache case, is that correct?

A That's correct.

1 Q And when an item is redeemed, I take it that the  
2 information or the identification that is presented to you is  
3 compared with the person who is standing in front of you, is  
4 that it?

5 A That's right.

6 Q All right.

7 Now, would you please look on the back and tell us  
8 who it was that redeemed that, what information you have in  
9 that regard?

10 A Richard Allen Smith.

11 Do you want to know his address?

12 Q Yes. What address?

13 A 8350 --

14 Q Collegio?

15 A Collegio Drive, L. A. 45.

16 Q Was there a description given of the individual?

17 A Yes. Male, brown hair, brown eyes, 5 feet 5 tall,  
18 130 pounds.

19 And a previous license from Arizona.

20 Q What was the date of that, of the Arizona license,  
21 that is?

22 A June 20, 1942.

23 Q And was there also an instruction permit number  
24 taken down?

25 A Yes. CC 225246.

26 Q Now, was this -- was this Mr. Smith or Richard  
27 Allen Smith required to sign any place before he received the  
28 Dakota revolvers and the brown attache case?

5

1 A Yes, the usual place here.

2 Q Once again, on the front or carbon?

3 A Yes, on the customer's copy.

4 Q That once again would be 13-C for identification,  
5 is that correct?

6 A That's correct.

7 Q And is there a signature which appears to have  
8 been signed by the person who redeemed it?

9 A Yes.

10 Q What is the signature?

11 A R. A. Smith.

12 Q And going on to 13-B for identification, once  
13 again a carbon reflecting the transaction in 13-B for identi-  
14 fication, can you tell us whether or not there is a redemption  
15 stamp indicating that the Dakota revolver No. 2422 was redeemed  
16 on September 2, 1969?

17 A Yes, there is.

18 Q And once again, can you tell us who it was that  
19 redeemed it, based upon the information you placed on the  
20 document?

21 A Smith.

22 Q And is there a signature of the person who re-  
23 deemed it?

24 A Yes. Right here.

25 Q What is the signature?

26 A B. Smith or -- is it P -- P. Smith? Can't read  
27 it too well.

28 Q There is a Smith, is that right?

1           A     That's right. It's the same signature as on the  
2 other one.

3                     Here it is.

4           Q     Yes. Would you take a look at that signature.

5           A     Yes. R. A. Smith.

6           Q     This is R. Smith?

7           A     He signed it R. Smith, yeah. He left the A out.  
8 Same signature.

9           Q     All right.

10                    Now, is it true that anybody who has possession of  
11 the pawn slips can redeem the item which has been pawned with  
12 you if they pay the interest fee plus the principal loan?

13          A     That's correct.

14          Q     So there was no law then apparently which says  
15 that only the person who pawns it is entitled to redeem it,  
16 is that right?

17          A     No. There is no such law.

18          Q     If someone else comes in and has the redemption  
19 slips and can present proper identification, then you will honor  
20 that redemption, is that correct?

21          A     That's correct.

22          Q     Showing you People's 14 for identification, I have  
23 a white slip or a carbon which bears the pawn ticket No. 46386.  
24 Is that once again a carbon of this document 13-D?

25          A     46386? Yes. That's a copy of this one.

26          Q     What happens to that copy, once again?

27          A     That is kept in our files.

28          Q     Incidentally, there is another copy of these

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1 transactions which is forwarded to the Police Department, is  
2 that right?

3 A That's correct.

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1 Q Lastly, I just want to go back to here, I think I  
2 misled you with respect to 13-C for identification and with  
3 reference to the back, this 6-20-42, is that the date of birth  
4 which you put down?

5 A Yes, that's his date of birth. That's right.

6 Q Thank you, sir.

7 A You are welcome.

8 MR. KATZ: If I may have a moment, your Honor, I believe  
9 I have concluded.

10 THE COURT: Yes, sir.

11 (Short pause.)

12 Q BY MR. KATZ: Let me just direct your attention to  
13 13-B for identification. This has reference to a July 25, 1969  
14 transaction, in which the Dakota revolver, bearing serial  
15 No. 2422 was pawned, is that correct?

16 A That's correct.

17 Q Once again you have both the stamp date in the  
18 right center portion as well on the right border, is that  
19 right?

20 A That's correct.

21 Q It says July 25th, 1969?

22 A That is correct.

23 Q And I notice again, as we previously alluded to  
24 this document, that Donald Shea's signature appears in two  
25 places, is that correct?

26 A That is correct.

27 Q You took down Donald Shea's description, is that  
28 right?

1 A That's correct.

2 Q What is the description you took down regarding  
3 Donald Shea?

4 A Male. Brown hair. Brown eyes. Height, five feet  
5 eleven. Weight, 190. Date of birth, 9-18-33.

6 Q Thank you, sir.

7 A Yes, sir.

8 Q Now, lastly, with respect to the pawning of one of  
9 the Colt Dakota revolvers on July 25th, 1969, did Mr. Shea tell  
10 you how much money he wanted for the guns?

11 A Yes.

12 Q What did he say?

13 A \$20.

14 Q And with respect to the transaction on July 28th,  
15 1969, respecting the other Dakota revolver, did he tell you  
16 how much money he wanted?

17 A Yes. \$25.

18 Q As I understand it on each of the guns you would  
19 have loaned him up to \$50, is that right?

20 A That's correct.

21 MR. KATZ: Thank you.

22 No further questions.

23 THE COURT: Cross.

24 MR. WEEDMAN: Thank you, your Honor.

25

26

CROSS-EXAMINATION

27

BY MR. WEEDMAN:

28

Q Mr. Launer, how do you set your fee for a given

INDEX

1 pawn transaction?

2 A It's set by the State.

3 Q Well, can you -- can you tell us --

4 A It's marked right on the ticket.

5 Q What is the fee based upon, Mr. Launer?

6 A It's based upon the amount of money loaned.

7 Q And is it some percentage of that amount, or what?

8 A It's -- well, it's got a minimum charge. The  
9 minimum charge on this loan is \$5 for the first 90 days. After  
10 90 days it's a dollar per month.

11 It's stated right on the ticket.

12 Q I see. When does the fee get passed that minimum  
13 amount?

14 A Well, after it runs -- it's changed since then.  
15 So -- I don't know exactly. I would have to look up the chart  
16 on that. It's right around, I would say, \$200.

17 Q And what happens when it gets up to that amount  
18 of money?

19 A Then it goes into a different -- it's for \$200  
20 loan, it's \$5 a month straight.

21 Q If it's under \$200 how much is it?

22 A Depending on the amount.

23 Q Well, is there a percentage?

24 A This one --

25 Q How would we compute --

26 A There is a minimum charge, you see, up to a  
27 certain amount.

28 Q There is a minimum charge?



1 A Yes.

2 Q Okay. Then beyond that do you earn a percentage  
3 of the amount that you loan?

4 A Yes. There is a percentage involved. We have a  
5 regular --

6 Q Yes. Can you tell us how that works, please.

7 A I wouldn't know exactly. I go by the chart.

8 Q Well, even though, we don't have precise figures --

9 A It's 2-1/2 percent a month, usually.

10 Q 2-1/2 percent?

11 A Yeah.

12 Q Per month?

13 A On the --

14 Q 2-1/2 percent of the amount that you lend?

15 A That's right.

16 Q And --

17 A After -- the minimum charges are -- at the three-  
18 month period, after that it goes into percentage.

19 Q Did Mr. Shea tell you with respect to either of  
20 these pawns in July, that is, July 25th and July 28th, 1969,  
21 when he intended to redeem these guns?

22 A He usually said, "I'll redeem them shortly."  
23 He never gave me a definite date.

24 Q You say he usually said?

25 A Yeah.

26 Q He would redeem them shortly?

27 A He always says, "I will take them out soon."

28 Everyone says that.

1 Q Everyone says that?  
2 A Yeah.  
3 Q Is that why you are telling us that Mr. Shea said  
4 that, because everyone says that?  
5 A No.  
6 Q Mr. Launer --  
7 A I don't remember every word I -- with him. I  
8 couldn't tell you that. I'm sure. Nobody else could.  
9 Q Of course.  
10 Do you recall who was in your shop pawning  
11 merchandise just before Mr. Shea was?  
12 A No, I don't.  
13 Q On July 28th, 1969?  
14 A Unless I looked at the tickets.  
15 Q Do you recall who was in your shop just after  
16 Mr. Shea left on July the 28th, 1969?  
17 A No, I wouldn't know.  
18 Q That was a long time ago.  
19 A Yes. I would have to go by the tickets. It's the  
20 only way I can go.  
21 Q Would the fee be different, that is, your fee be  
22 different for a \$50 loan on these guns for a month?  
23 A Yes.  
24 Q Than for a \$25 loan for a month?  
25 A Yes.  
26 Q If so, would you tell us what that is, please.  
27 A It would be \$7.50 for the first three months.  
28 Q I am sorry. For the first month would there be

any difference?

A Yes. It would be \$7.50 for the first three months, or a month. It doesn't make any difference.

It's taken out any time during that three-month period the fee would be \$7.50 on \$50.

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#10

1 Q And what is that \$7.50 fee based upon?

2 A That is a minimum charge.

3 Q For \$50?

4 A For \$50. Yes.

5 Q What is the minimum charge for \$25?

6 A \$5.

7 Q What is the minimum charge for \$20?

8 A \$3.

9 Q And irrespective of when the guns, during the

10 3-month period, and irrespective of the minimum fee, there is

11 no refund, I take it, for an early redemption?

12 A No.

13 Q Did you ever see my client, Mr. Grogan?

14 Mr. Grogan, would you come around here so

15 Mr. Launer can see you quite clearly?

16 Did you ever see my client in your pawnshop,

17 Mr. Launer?

18 A I don't recall.

19 Q Did my client redeem these guns which you have been

20 talking about, Mr. Launer?

21 A I wouldn't know.

22 Q You wouldn't know?

23 Would you stand up, Mr. Grogan, please.

24 Do you see my client?

25 A Yes. Do you know how many people I see every day?

26 Q I don't care how many people you see every day,

27 Mr. Launer.

28 Was it my client that redeemed these guns?

2

1 A I wouldn't know.

2 Q Was this the man whose description you gave as  
3 5 feet 5, weigh 130 pounds?

4 Is this the man, Mr. Launer?

5 A What description did I give there of what?

6 Q I don't know. You were the one who is testifying.

7 A Well, you tell me whose description this is,  
8 5 feet 5.

9 Q Let me start over again, Mr. Launer. I am sorry.  
10 First of all, did you get a good look at my client?

11 A Yes.

12 Q He is the man on trial here.

13 A Okay.

14 Q Is this the man that came into your store and  
15 redeemed these guns in September of 1969?

16 A I am not really sure.

17 MR. KATZ: I object, unless the witness is allowed to  
18 refer to the documents that reflect the description.

19 THE COURT: Overruled.

20 Where is your description?

21 THE WITNESS: Of him?

22 THE COURT: Well, get it and read it.

23 Did you write that description?

24 THE WITNESS: Oh, yes.

25 THE COURT: Just wait a minute.

26 THE WITNESS: Yes.

27 THE COURT: Did you write that description down?

28 THE WITNESS: Yes, sir.

1 THE COURT: Did you write it down?

2 THE WITNESS: Yes, sir.

3 THE COURT: Read it to yourself.

4 Read it out loud so I can hear it again.

5 THE WITNESS: "Instruction permit" -- you want the  
6 description?

7 THE COURT: I want the description you have written.

8 THE WITNESS: Male.

9 THE COURT: Now, wait a minute. It isn't going to do any  
10 good for you and me to talk at the same time. Let me get my  
11 question to you.

12 I want you to read the description of a man that  
13 you have put down that redeemed the gun or guns.

14 Now read it, please.

15 THE WITNESS: Male, brown hair, brown eyes, 5 feet 5,  
16 130 pounds, birth date 6-20-42. Previous license from Arizona.

17 THE COURT: All right.

18 MR. KATZ: May we identify the document from which he  
19 is reading so the record is clear?

20 THE WITNESS: It is on the back of the redemption ticket.

21 MR. KATZ: What is the title of the document?

22 THE COURT: Well, you will have a right on redirect.

23 MR. KATZ: I just want the record clear, your Honor.

24 THE COURT: Let's finish, please.

25 Now, ask your next question.

26 Q BY MR. WEEDMAN: Well, Mr. Launer, having looked at  
27 this physical description of the man who apparently redeemed  
28 these guns in September of 1969, can you tell us whether or

1 not it was my client, the gentleman seated at my left, who  
2 redeemed these guns from you in September of 1969?

3 A I wouldn't know.

4 Q Well, when you say that you wouldn't know --

5 A I don't recognize him.

6 Q Are you telling us that my client -- that you do  
7 not remember what this man looked like that redeemed these  
8 guns from you in 1969?

9 A I see maybe 100 or 200 people every day, and I  
10 don't remember everybody.

11 Q How many times was Mr. Shea in your store altogether?

12 A Oh, half a dozen times.

13 Q What did he pawn --

14 A I had a little conversation with him. That is all.

15 Q He would come in even though he wouldn't have  
16 anything to pawn?

17 A No, he wouldn't come in.

18 Q Pardon me?

19 A He came in when he had something to pawn.  
20 He never came in socially.

21 Q He pawned these guns in February of 1969?  
22 Is that correct?

23 A Well, I will look at the tickets.

24 I have to look at the tickets. I have no other  
25 way of going.

26 Here is some more tickets.

27 These are all July here. I will have to refer to  
28 the tickets. Otherwise I wouldn't remember.

4  
1 Q Well, let me ask you this question, then, instead.

2 THE COURT: Gentlemen, we are up until 12:00 o'clock.

3 Let's recess until 2:00 o'clock.

4 I will ask you ladies and gentlemen, do not discuss  
5 the case or come to any opinion or conclusion.

6 We will proceed at 2:00 o'clock.

7 I will ask the witness to kindly return at 2:00  
8 o'clock and we will proceed.

9 MR. WEEDMAN: May we confer with the court in chambers  
10 briefly?

11 THE COURT: All right. We are in recess.

12 (At 12:00 noon adjournment was had until  
13 2:00 p.m. of the same day, Thursday,  
14 July 29, 1971.)  
15

11 fls



1 LOS ANGELES, CALIFORNIA, THURSDAY, JULY 29, 1971; 2:10 P. M.

2 - - -

3  
4 THE COURT: Now, gentlemen, we will go right ahead.  
5 People against Grogan.

6 Defendant is here, defendant's counsel is here,  
7 People's counsel is in court.

8 And if you will bring in the jury, sheriff, we will  
9 go ahead.

10 And I believe the witness was on the stand. Where  
11 is that gentleman? Will you step up, please.

12 You have been sworn. Will you state your name  
13 again so the reporter can write it down.

14 THE WITNESS: Sam M. Launer.

15 THE COURT: Thank you.

16 (Following proceedings took place in  
17 open court in the presence of the jury.)

18 THE COURT: Now we have all of the regular jurors, plus  
19 the alternates.

20 You may go ahead with your examination.

21 MR. WEEDMAN: Thank you, your Honor.

22  
23 SAM M. LAUNER,  
24 resumed the stand and testified further as follows:

25  
26 CROSS EXAMINATION (Continued)

27 BY MR. WEEDMAN:

28 Q Mr. Launer, you indicated this morning that you

1 had seen Mr. Shea at your place of business six times, and  
2 as I understand it, that he was in there to pawn something on  
3 each of those six occasions.

4 Can you tell us what, in addition to the guns and  
5 the tape recorder, that he pawned with you?

6 A I don't know of any other items.

12 fls

#12

1 Q Well, how many times did he pawn with you in  
2 February, 1969?

3 A I don't know, unless I look at the records.

4 Q Well, would your records reflect, perhaps we can  
5 show those to you again.

6 A He brought those same guns in two or three times,  
7 I think.

8 I don't remember exactly. It would be on the  
9 records.

10 Q Well, Mr. Launer, I will show you People's 11 and  
11 People's 13 for identification and ask you if you would go  
12 through those again and perhaps you can give us a little sum-  
13 mary thereby as to how many times he was in your store pawning  
14 things.

15 A There is July 28th -- let's see, what is the date  
16 on the ticket?

17 July 28th is right. July 25th. There is another  
18 one -- I think that one is the other copy.

19 February 3rd, July 25th again, February 3rd,  
20 February 11th.

21 Q So with respect to the -- excuse me, Mr. Launer.

22 A I'm sorry.

23 Q No, I am sorry.

24 With respect to the pawning of the guns, then, he  
25 was in your place of business for a total of four times, then,  
26 in 1969?

27 A Yes.

28 Q In other words, he was in there twice in February

1 of 1969?

2 A I believe so.

3 He wants to put them in and take them out, and  
4 whatever is reflected on these tickets.

5 I don't remember exactly. I would have to refer  
6 to the tickets.

7 Q Well, they are in front of you, Mr. Launer.

8 Go ahead and take the time.

9 A Well, there is nothing else I can show you about  
10 it.

11 Q He was in there four times altogether to pawn guns?

12 Is that so?

13 A Whatever the tickets are, that is it.

14 I didn't count the times. I wouldn't know.

15 Q Well, you prepared the tickets, didn't you,  
16 Mr. Launer?

17 A Yes, I wrote the tickets.

18 Q Don't those tickets reflect that he was in there  
19 four times to pawn guns?

20 A Yes.

21 Q Didn't the tickets also reflect that he was in  
22 there twice to redeem guns?

23 A That is right.

24 Q In other words, he redeemed the guns that were  
25 pawned in February, did he not?

26 A Yes. That was in July.

27 He took it out in September.

28

13-1

1 MR. KATZ: Excuse me, I am going to move to strike the  
2 witness' statement he took it out in September.

3 Q BY MR. WEEDMAN: It wasn't Mr. Shea --

4 THE COURT: Strike it out.

5 THE WITNESS: Oh.

6 Q BY MR. WEEDMAN: It wasn't Mr. Shea that came in,  
7 in September, was it, Mr. Launer?

8 A Came in to get them out?

9 Q Yes.

10 A I have to look again.

11 (Short pause.)

12 September 2nd. Smith took them out. That's right.

13 And this one September 3rd, Smith took them out.

14 Q All right.

15 So you have no recollection of Mr. Shea redeeming  
16 those guns in September, do you, Mr. Launer?

17 A No. No, sir.

18 Q When did you last see Mr. Shea, Mr. Launer?

19 A Well, let's see.

20 Q Excuse me, just a moment.

21 A Oh.

22 Q And can you answer that question without reference  
23 to the pawn tickets?

24 A No.

25 Q Okay.

26 In other words, you have no independent recollec-  
27 tion of seeing Mr. Shea without looking at these tickets, is  
28 that correct?

1 A These tickets, I wouldn't, no.

2 Q Well, if I were to ask you not for specific dates  
3 but just for general times, that is, perhaps a month or even  
4 for a portion of a year, could you answer that question, that  
5 is, when did you see Mr. Shea, without looking at these  
6 tickets?

7 A No, I wouldn't remember the date.

8 Q Would it be fair to say then, Mr. Launer, that you  
9 are totally dependent upon the tickets in order to tell us when  
10 you saw Mr. Shea in your store?

11 A That's correct.

12 Q Now, did you feel that there was something improper  
13 about Mr. Smith -- what was his first name again? I am sorry.

14 A Richard Allen Smith.

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13A

1 Q Did you feel there was anything improper about  
2 Richard Allen Smith presenting these customer receipts or  
3 these, I think you called them, redemption slips?

4 A Yes.

5 Q Anything unusual about Mr. Smith presenting these  
6 redemption slips?

7 A I don't recall anything unusual. Of course, we  
8 like to have the people that put them in, take them out. But  
9 we can't refuse to deliver the goods if they bring the ticket  
10 and show identification.

11 Q That's not a very unusual thing, is it, Mr. Launer?

12 A No.

13 Q For someone other than the person that pawned the  
14 gun to come in with the redemption slips and pay you the money  
15 that you lent, plus the fees, and take the merchandise?

16 A Not unusual.

17 MR. WEEDMAN: That is all I have.

18 Thank you very much.

19 THE COURT: Is that all, gentlemen?

20 MR. KATZ: No questions.

21 THE COURT: That's all. Thank you very much.

22 MR. KATZ: Thank you, Mr. Launer.

23 Audrey Feldman.  
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AUDREY FELDMAN,

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called as a witness by the People, being first sworn, testified  
as follows:

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4

THE COURT: Now, first raise your right hand and be  
sworn, lady, please.

5

6

THE CLERK: You do solemnly swear the testimony you may  
give in the cause now pending before this court shall be the  
truth, the whole truth and nothing but the truth, so help you  
God?

7

8

THE WITNESS: I do.

9

THE CLERK: Thank you, ma'am.

10

Will you take the stand and be seated, please.

11

And will you be kind enough to state your name

12

for the record, please.

13

THE WITNESS: Audrey Feldman.

14

THE CLERK: Will you spell the first and last name,  
please.

15

16

THE WITNESS: A-u-d-r-e-y F-e-l-d-m-a-n.

17

THE CLERK: Thank you, ma'am.

18

THE COURT: Talk right in there like a telephone, if you  
will, lady.

19

20

THE WITNESS: Certainly.

21

THE COURT: That's it.

22

23

## DIRECT EXAMINATION

24

BY MR. KATZ:

25

Q Mrs. Feldman, are you the co-owner of a pawnshop

26

retail store called the Jewelry and Loan Store in Santa Monica?



1 A Art's Jewelry & Loan.

2 Q Art's Jewelry & Loan?

3 A That's right.

4 Q With that modification, is my statement correct?

5 A That's right.

6 Q When did you take over the operation of that  
7 business?

8 A It was in 1969.

9 Q All right.

10 Now, did you check the pawn records of Art's  
11 Jewelry & Loan to determine whether or not one Donald Jerome  
12 Shea had pawned any merchandise with your store?

13 A Yes, I did.

14 fls

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Q Do you have some type of master file by which you can determine whether or not a given customer pawned merchandise over a certain period of time?

A Yes, we do.

Q Would you explain that master indexing file to us.

A We have a card index file which lists the name of the person and the description of the person and the loans that they have made during the period of time that we have owned the store.

Q Well, do you locate the customer by way of a name?

A Yes.

Q When you locate a customer's name, is there some entry which is made on that card?

A That is right.

All of the loans are listed on that card.

Q Is there a correlation or a number which is also placed on the card?

A Yes.

Q To indicate the specific ticket number or pawn ticket number?

A That is right.

Q At my request did you check the records of your business to determine whether or not a Donald Jerome Shea had pawned any merchandise with your store?

A Yes, I did.

MR. KATZ: May I approach the witness, your Honor.

THE COURT: Yes, go ahead.

Q BY MR. KATZ: I would like to show you 15-A for

1 identification, and ask you whether or not you recognize that  
2 document as having seen it before?

3 A Yes, I do.

4 Q Can you tell us what that is, 15-A?

5 A This is the original pawn slip given at the time  
6 that the loan -- this particular loan was made, which was  
7 January 15th, 1969.

8 The ticket -- the number is listed up here, and the  
9 item that has been pawned is also listed on it.

10 Q I notice that there has been some printing that has  
11 been crossed out and some writing which appears in its place  
12 instead.

13 Was this done by you when you took over the  
14 business at 228 Broadway?

15 A Yes. This was what has been -- what has been  
16 crossed off was the name of our store, Broadway Loan, which  
17 was across the street and ours has been inserted over it.  
18 Also the number from the Broadway Loan ticket book has been  
19 crossed out, and the number inserted therein.

20 Q Who placed that number thereon?

21 A My husband did.

22 Q You are familiar with your husband's writing?  
23 Is that correct?

24 A I am.

25 Q That is your husband's writing which appears on  
26 People's 15-A for identification?

27 Is that correct?

28 A That is right.

1 Q Now, you said that this exhibit 15-A was given to  
2 somebody after a transaction in which a Dakota revolver was  
3 pawned at your store?

4 Is that right?

5 A That is right.

6 Q To whom was it given?

7 A To the man who pawned it, Donald Shea.

8 Q Now, before a person leaves the store after pawning  
9 an item, is he required to give some identification?

10 A Yes, he is.

11 Q What kind of identification do you require?

12 A Something that definitely describes the person,  
13 either a driver's license, as was given in this case, or a  
14 Selective Service card, or some business identification that  
15 can be handwritten.

16 Q And in that connection do you or your husband then  
17 copy that information on some documents?

18 A Yes, we do.

19 Q What kind of document do you transfer that  
20 information to?

21 A Well, at this particular time they were kept in  
22 bound books, and the description was listed on the side of our  
23 copy of the ticket.

24 Q All right. Now, with reference to the date January  
25 15th, 1969 in the upper right-hand corner of 15-A, what does  
26 that represent?

27 A That is the date that the article was pawned.

28 Q All right. Now, with respect to the date which

1 appears in the lower right-hand portion of the document, January  
2 30th, 1969 and below that there is a signature of what purports  
3 to be Donald Shea.

4 What does that represent?

5 A The January 30th, I don't know who wrote that in.  
6 Our copy would say the date this was redeemed.

7 I would assume that this January 30th is the date  
8 that it was redeemed, but I wouldn't swear to it until I saw  
9 our copy of it.

10 Q I'm not going to show you your copy yet.

11 A Yes.

12 Q With reference to the signature which appears at the  
13 bottom of 15-A, must a person sign that before you will release  
14 the property back to him?

15 A Yes. It must be signed and it also must match the  
16 signature we take at the time the article was pawned.

17 Q All right. Let me go on to 15-B for identification,  
18 the second document.

19 What is this?

20 A This is the page that is torn out of our bound book  
21 which lists the loans.

22 The top would be the customer's copy of this. This  
23 would be what we -- do you want me to go on?

24 Q No, let's stop there for a moment.

25 Now, do you keep in sequential order the transactions  
26 in a book which occur from day to day?

27 A Yes, at this time we did.

28 Q All right. Did you assign a number to each of the

1 transactions consecutively to one another?

2 A That is right.

3 Q All right. Now, I note at the top of 15-B there  
4 is a number which bears invoice No. 108439.

5 Does that have anything to do with the transaction  
6 which is reflected below the name Donald Shea?

7 A No, it doesn't.

8 Q In other words, this is just part of the page of  
9 the book and the transaction reflected on the bottom half of  
10 15-B, that which followed the above transaction?

11 Is that correct?

12 A That is right.

13 Q So let's then address ourselves to the bottom half  
14 of 15-B which bears the invoice No. 108440, and which  
15 corresponds with that same invoice number on 15-A.

16 Tell us what this invoice means.

17 A This is the copy which we keep of the loan that  
18 was made on January 15th, 1969. It is always kept in the store  
19 in a bound book.

20 Q Now, you testified before the grand jury in  
21 December 1970?

22 Is that correct?

23 A That is correct.

24 Q You brought the book down with you at that time?

25 A Yes, that is right.

26 Q At my request did you tear this page out of the  
27 book?

28 A Yes, I did.

1 Q Specifically, can you tell us what this signature  
2 down here connotes, this signature Donald J. Shea?

3 A The signature was made at the time that the loan  
4 was made, January 15th.

5 When a person makes the loan they sign, and when  
6 they redeem the loan this is the copy that the signature on  
7 the redemption must match.

8 Q All right. I notice that you made a description  
9 or somebody made a description of the Dakota giving the serial  
10 number of 2422.

11 Is that correct?

12 A That is right.

13 Q In other words, the serial number of the particular  
14 gun that was pawned on January 15th, 1969 was taken down and  
15 placed in the document which reflects that transaction?

16 Is that correct?

17 A That is right.

18 Q How much was given as a loan against that gun?

19 A \$14.

20 Q All right. Now, once again going to this second  
21 document, 15-A.

22 Is this the document which would reflect the fact  
23 that the Dakota revolver had been redeemed?

24 A That is right.

14A

1 Q Are you able to determine when this document was --  
2 when the Dakota revolver, serial No. 2422, was redeemed?

3 A Yes.

4 Q When was it?

5 A It was redeemed January 30th.

6 When it was redeemed my husband wrote this up here  
7 (indicating).

8 Q That is your husband's writing?

9 A That is right.

10 Q You are referring to the lower half of 15-W for  
11 identification?

12 Is that correct?

13 A That is right.

14 Q This says paid, "P. D.," and then "1-30."

15 A That is right.

16 Q That was his way of designating the Dakota revolver  
17 serial No. 2422 had been redeemed?

18 Is that correct?

19 A That is right, except this is not "paid," this is  
20 his writing for redeemed, "r-e-d."

21 Q It is r-e-d?

22 A Yes.

23 Q Thank you. Incidentally, you are required to keep  
24 those documents in the ordinary course of business in conduct-  
25 ing this jewelry and loan service in Santa Monica?

26 Is that correct?

27 A Yes, we are.

28 Q Incidentally, is there some place on the margin



1 of 15-B which denotes the physical description and birth date  
2 of the individual who pawned the Dakota .45, serial No. 2422?

3 A Yes, there is.

4 Q What was written in that margin?

5 A Under "A," which is age, 9-18-33.

6 Q That is the birth date?

7 A That is right.

8 "H," which is height, 5-11. Weight, 190.

9 This would be color of hair, brown, and the time  
10 would be 1:00 o'clock.

11 Q 1:00 o'clock January 15, 1969?

12 A That is right.

13 Q This information was derived from material pro-  
14 vided to you by the person who had pawned the Dakota revolver?

15 A Yes, that is right.

16 MR. KATZ: Thank you. Nothing further.

17 THE COURT: Is that all? Cross.

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## CROSS EXAMINATION

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BY MR. WEEDMAN:

Q Mrs. Feldman, have you anything to do with Sam Launer's pawnshop that's located in Hollywood?

A No, there is no connection.

Q Okay. So you are talking about something, that is, you are talking about a gun being pawned by Mr. Shea which has nothing to do with any other pawnshop then?

A That's right.

Q That gun was pawned by Mr. Shea with you folks on January 15, 1969?

A That's right.

Q When was it redeemed?

A Two weeks later, January 30th.

Q If I may, would you show me the slip that reflects the fact that it was redeemed, and the date?

A This is the slip that was made when it was pawned January 15th. This notation up here is our notation where it was redeemed January 30th.

This is the customer's copy of the loan which was given to him and signed at the time of redemption.

As I said, I don't know who wrote this in. But my husband did write up here it was January 30th.

Q Do you recall anything about the condition of these guns going back so far, that is, the condition of them when -- or the gun, rather, that was taken by you folks on January the 15th?

A Not particularly. The description is put down

15-2

1 here and also on the police report forms.

2 If there was anything additional it would have  
3 been on the police reporting forms which are turned in to the  
4 Police Department.

5 Q Do you have any independent recollection of the  
6 transactions you have testified to, that is, a recollection  
7 apart from the business records there?

8 A No, I don't.

9 MR. WEEDMAN: All right.

10 Thank you, Mrs. Feldman.

11 MR. KATZ: Nothing further, your Honor.

12 THE COURT: That's all. Thank you, lady.

13 Watch the step. There is a bad step there.

14 MR. KATZ: Richard Barber.

15  
16 RICHARD . BARBER,

17 called as a witness on behalf of the People, being first sworn,  
18 testified as follows:

19 THE COURT: Raise your right hand and be sworn, please.

20 THE CLERK: You do solemnly swear the testimony you  
21 may give in the cause now pending before this court shall be  
22 the truth, the whole truth, and nothing but the truth, so help  
23 you God?

24 THE WITNESS: I do.

25 THE CLERK: Thank you, sir.

26 Will you take the stand and be seated, please.

27 THE COURT: Sit there and tell us your name, please.

28 THE WITNESS: Richard Barber.

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THE CLERK: Will you spell the last name.

THE WITNESS: What?

THE CLERK: Will you spell your last name, please.

THE WITNESS: B-a-r-b-e-r.

THE CLERK: Thank you.

THE COURT: Thank you.

Mr. Barber, when you talk, keep your voice out  
so the jury can hear you. Talk into the microphone like a  
telephone.

THE WITNESS: Okay.

DIRECT EXAMINATION

BY MR. KATZ:

Q Richard, I am over here. Can you see me?

A Yes.

Q I can hardly hear you.

A Yes.

THE COURT: That's it. Talk up.

Q BY MR. KATZ: How old are you, Richard?

A 16.

Q Richard, in the first part of 1970 did you go on  
some sporting outing with your father and some other people?

A Yes.

Q What was the nature of that outing?

A Well, we were going to see if we could find  
any mules out in Death Valley.

Q All right.

And in connection with that little trip in February

1 of 1970, did you go to the Balarat or Goler Wash area?

2 A Yes, we did.

3 Q Did you find something unusual along the road  
4 leading from Balarat to Goler Wash?

5 A I found a briefcase and a suitcase.

6 Q Where did you find it?

7 A By the side of the road under some bushes.

8 Q Under some bushes?

9 A Uh-huh.

10 Q All right.

11 And can you tell us approximately when it was in  
12 February, as you best recall, the approximate part of the  
13 month?

14 A During the middle of the month.

15 Q Roughly the middle of February, 1970?

16 A Yes.

17 Q And can you describe the pieces that you found  
18 beneath the bushes along this road leading from Balarat to  
19 Goler Wash.

20 A There was a small, reddish-brown briefcase with a  
21 name on the front. I don't remember the name.

22 And there was a blue suitcase with straps around  
23 it.

24 Q All right.

25 And was somebody with you at the time that you found  
26 these items beneath the bushes?

27 A Not at the exact time when I found it. But after I  
28 found them, I went and got my brother and my father.

- 1 Q Did you later turn those items over to your father?
- 2 A Yes.
- 3 Q And later did you and your father turn them over
- 4 to the Inyo County authorities?
- 5 A The Highway Patrol.
- 6 Q Highway Patrol?
- 7 A Uh-huh.
- 8 Q That is the California Highway Patrol?
- 9 A I guess so.
- 10 Q All right.
- 11 May I approach the witness, your Honor?
- 12 THE COURT: Yes.
- 13 Q BY MR. KATZ: Richard, let me show you this brief-
- 14 case.
- 15 Let me show you this briefcase which has been
- 16 denominated People's 10 for identification. And first I will
- 17 ask you whether or not you recognize the exterior as having
- 18 seen this briefcase before.
- 19 A Yes.
- 20 Q Where had you seen it before?
- 21 A It's one of the two luggages that I found.
- 22 Q In the middle of February, 1970, is that correct?
- 23 A Yes.
- 24 Q Let me open the inside for you, and putting aside
- 25 whatever contents we have, do you recognize the interior as
- 26 the interior of the attache case you found in 1970?
- 27 A Yes.
- 28 Q All right.

1 Now, do you recall seeing any checks that were  
2 loose in the attache case?

3 A I don't know if they were loose or not. There was  
4 some loose in the other case.

5 Q All right.

6 Now, with reference to -- I am going to show you  
7 People's 10-A for identification, a number of checks which all  
8 bear "Spahn's Movie Ranch" and "Pay to the order of William Rex  
9 Cole" and all are payable in the amount of \$137.35.

10 Do you recognize these checks as having seen them  
11 in the attache case?

12 A Yes.

13 Q All right.

14 I take it you didn't count the number of checks  
15 that were in there, is that correct?

16 A No.

17 Q Is that correct?

18 A Oh. Yes, that's correct.

19 Q All right.

20 I am showing you 10-B for identification. Especi-  
21 ally with reference to the folder which houses some checks  
22 that have the imprint "Duane E. Schwarm, 7340 Northeast Sandy  
23 Boulevard, Portland, Oregon."

24 And I direct your attention to the outer wrapping  
25 or folder which houses these checks.

26 The "First National Bank and Trust Company in  
27 Steubenville."

28 Now, do you recognize these checks as having seen

1 them in the attache case?

2 A I seen the folder before, but I didn't open it up  
3 when I first found it.

4 Q All you recognize is this black folder which has  
5 the name "The First National Bank and Trust Company in  
6 Steubenville," is that correct?

7 A Yes.

8 Q I take it there were some checks, however, housed  
9 within the unopened black container, is that correct?

10 A Yes.

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15A

1 Q With reference to any of the other items, such as  
2 some aspirins, a bottle of Anacin and some miscellaneous  
3 papers and envelopes and writing tablets, do you know whether  
4 or not these were in the attache case?

5 A Yes, they were.

6 Q Did you, yourself, remove any of the items from  
7 the attache case?

8 A No. We looked at them and then we set it back up  
9 and took it back to our camper.

10 Q So everything you looked at in the attache case  
11 you returned to the attache case, denominated People's 10 for  
12 identification, is that correct?

13 A Yes.

14 Q Now, you were telling us about a blue suitcase you  
15 found beneath some bushes. Did you note some of the contents  
16 of the blue suitcase?

17 A Well, there was an adding machine. And there was  
18 a -- what we figured out to be a check machine.

19 Q A checkwriting machine?

20 A Well, it had a lever on it and a bunch of numbers  
21 and things, and that's what we thought it might be.

22 Q All right.

23 And was this inside the blue suitcase or outside?

24 A It was inside.

25 Q And showing you People's 20-H for identification,  
26 this dilapidated suitcase, do you recognize this as having seen  
27 it before?

28 A Yes.

1 Q Where had you seen this before?

2 A That is the briefcase that I found and the suitcase.

3 Q When you say briefcases, the other suitcase you  
4 found?

5 A Yes.

6 Q Where were these bushes in relation to this road?

7 THE COURT: You better identify the suitcase, the number.

8 MR. KATZ: 20-H, your Honor. We had already.

9 THE COURT: All right. Go ahead.

10 MR. KATZ: Thank you, your Honor.

11 Q How far was the bushes off from the roadway leading  
12 from Balarat to the Goler Wash?

13 A Two or three feet.

14 Q I am going to open 20H for identification, this blue  
15 suitcase, and ask you to look at some of the contents which  
16 show some clothing and some checks and some other miscellaneous  
17 items.

18 Do you recall seeing basically this kind of  
19 material in this suitcase?

20 A Yes.

21 Q And in addition you say there was an adding machine?

22 A Yes.

23 Q And a check imprinting machine?

24 A Yes.

25 Q Once again, did you return the contents to the  
26 suitcase?

27 A Yes, we did.

28 Q And this suitcase together with the attache case

1 was then delivered to the California Highway Patrol, is that  
2 correct?

3 A Yes.

4 MR. KATZ: Your Honor, I think I made a mistake when I  
5 opened it.

6 THE CLERK: To expedite things, sir, I will take it over  
7 there and fasten it for you.

8 MR. KATZ: Thank you.

9 THE COURT: Thank you.

10 Q BY MR. KATZ: Inside the briefcase, did you see  
11 any guns of any kind?

12 A No.

13 Q Did you see any knife of any kind?

14 A No.

15 Q In the blue case did you see any guns of any kind?

16 A No.

17 Q Did you see any knife of any kind?

18 A No.

19 Q In the vicinity in which you found the briefcase  
20 and the suitcase did you see any guns or a knife in that area?

21 A No.

22 MR. KATZ: Your Honor, I have a topographical map  
23 depicting the Balarat and Goler Wash area. I ask this be  
24 marked out of order People's 41.

25 THE COURT: Did counsel see it?

26 MR. KATZ: Yes.

27 THE COURT: It may be so marked.

28 (Short pause.)

\*41 id.

1 Q BY MR. KATZ: Richard, showing you this topo-  
2 graphical map, had you seen this map before at the time you  
3 testified at the grand jury?

4 A Yes.

5 Q And once again orienting you, at the very top of  
6 the map is north, and to the right is east, and to the left  
7 is west, and to the bottom is south.

8 Now, I notice that at some point here there is an  
9 X and the initials R.B. Did you place that designation on  
10 there?

11 A Yes.

12 Q What does that designation indicate?

13 A That is where I found the briefcase and suitcase.

14 Q So in other words, right at the left marginal  
15 center of People's 41 for identification, is the beginning of  
16 Balarat, is that correct?

17 A Yes.

18 Q As you proceed in a southerly direction you go down  
19 until you hit a perpendicular line which indicates Goler Wash,  
20 is that right?

21 A Yes.

22 Q And just outside of Balarat where you placed the  
23 X is the approximate area where you recovered the brown attache  
24 case, People's 10 and the blue suitcase, which is People's 20  
25 for identification, is that correct?

26 A Yes.

27 Q And incidentally, is this a concrete highway, this  
28 roadway that leads from Balarat to Goler Wash?

1 A It was a dirt road.

2 Q Is it a heavily traveled road?

3 A Well, I didn't see many cars go by when we were  
4 there.

5 Q Did you see many people around there?

6 A No.

7 Q What is the condition of this dirt road when you  
8 had seen it?

9 A It was sandy and had rocks all through it, and it's  
10 kind of wore down on the two sides.

11 MR. KATZ: May I have one moment, your Honor.

12 THE COURT: Yes.

13 MR. KATZ: Thank you. I have nothing further.

14 THE COURT: Cross-examine.

15 MR. WEEDMAN: If I may have just a moment, your Honor.

16 THE COURT: Sure.

17 (Short pause.)

18 MR. WEEDMAN: We have no questions.

19 MR. KATZ: Yes. May the witness be excused?

20 THE COURT: Yes.

21 That's all.

22 Thank you very much.

23 Call your next witness.

24 MR. KATZ: Yes. Sgt. Guenther -- strike that. Sgt.  
25 Whiteley.

26

27

28

1                                   PAUL J. WHITELEY,  
2 called as a witness by the People, testified as follows:

3           THE COURT: Raise your right hand and be sworn, please.

4           THE CLERK: You do solemnly swear the testimony you will  
5 give in the cause now pending before this court, shall be  
6 the truth, the whole truth and nothing but the truth, so help  
7 you God?

8           THE WITNESS: I do.

9           THE CLERK: Thank you, sir. Will you be seated, please,  
10 and state your name for the record.

11          THE WITNESS: Paul J. Whiteley. W-h-i-t-e-l-e-y.

12          THE COURT: Thank you.

13          THE CLERK: Will you spell your last name again, please.

14          THE WITNESS: W-h-i-t-e-l-e-y.

15          THE CLERK: Thank you.

16  
17 INDEX

DIRECT EXAMINATION

18 BY MR. KATZ:

19           Q       Sgt. Whiteley, what is your occupation and assign-  
20 ment?

21           A       I am a detective sergeant with the Los Angeles  
22 County Sheriff's office, assigned to the Homicide Bureau.

23           Q       And in connection with your assignment as a homicide  
24 investigator, did your assignment take you to the Death Valley  
25 area and in particular Balarat and Goler Wash?

26           A       Yes, it did.

27           Q       How many occasions have you been up there?

28           A       Approximately four.

#16

1 Q Have you traveled in particular the road from  
2 Balarat to the mouth of Goler Wash?

3 A Yes, I have.

4 Q Have you traveled from the mouth of Goler Wash to  
5 the Barker Ranch area?

6 A Yes, I have.

7 Q I would like to show you People's 41 for identifi-  
8 cation, and ask you whether or not this map accurately shows  
9 the relationship of Balarat to the mouth of Goler Wash, and the  
10 mouth of Goler Wash to the approximate area of Meyer's Ranch.

11 A Yes, it does.

12 Q Sergeant, how far would you say it is in distance  
13 between Balarat and the mouth of Goler Wash?

14 A Approximately 15 miles of dirt road.

15 Q When was it that you were out there?

16 A October 1969 through July of 1970.

17 Q What was the condition of the road from Goler Wash  
18 to Balarat when you saw it?

19 A Extremely poor.

20 Q When you say "extremely poor," what do you mean?

21 A It is washed out in many places.

22 It doesn't appear to be maintained by the County  
23 Road Departments. Many places a four-wheel drive is needed to  
24 get from the mouth to Goler Wash.

25 Q You are talking about the mouth of Goler Wash?

26 A Coming down the road in many places the road was  
27 washed out.

28 Q Is this heavily populated, this road, when you

1 were up there?

2 A In my times up there I didn't see anyone on the  
3 road except police vehicles.

4 I did not see any residences or any houses or  
5 structures, except for mines.

6 Q All right. Now, let's take it from the point where  
7 the mouth of Goler Wash runs into the road leading to Balarat  
8 up to the Meyers Ranch.

9 What is the wash?

10 A The wash is a deep ravine of rock that goes very  
11 steeply upward, and then it levels off once it goes through  
12 the wash into a small valley.

13 Q Now, did you actually traverse the wash itself  
14 from the mouth all the way up to the Meyers Ranch?

15 A Yes, I have.

16 Q How were you able to negotiate the wash?

17 A Only by four-wheel drive or walking.

18 Q Was it necessary at times to get out of your four-  
19 wheel drive vehicle?

20 A Yes. We had one of our police vehicles stuck in  
21 there for approximately -- almost a half a day.

22 Q All right. Are there many rocks in the wash?

23 A Yes. They have dry falls all through the wash.

24 Q Does this inhibit the flow of traffic through this  
25 area?

26 A Yes.

27 Q Now, when you went through this Goler Wash area  
28 to Meyers Ranch, did you come in contact with any non-police



1 vehicles of any kind?

2 A I did not.

3 Q Approximately how far is it from the mouth of  
4 Goler Wash to the Meyers Ranch area?

5 A Approximately five and a half miles, as the crow  
6 flies.

7 The road crisscrosses back and forth as it goes  
8 up. Probably eight miles, as you travel by vehicle.

9 Q What is the condition of Goler Wash as compared to  
10 the road which leads from Balarat to the mouth of Goler Wash?

11 A Only four-wheel drive vehicles can, in my opinion,  
12 get up through Goler Wash, where a regular vehicle could get  
13 from Balarat to the mouth of Goler Wash.

14 Q With some difficulty, I take it?

15 A With great difficulty.

16 MR. KATZ: If I may have a moment, your Honor.

17 THE COURT: Yes.

18 Q BY MR. KATZ: Now, I would like to show you  
19 People's 10 for identification.

20 I ask you whether or not you recognize that item  
21 as having seen it before?

22 A Yes, I have.

23 Q Where have you seen it, sir?

24 A It came into my possession on February 22, 1970.

25 Q And that is through the auspices of the California  
26 Highway Patrol?

27 A Yes.

28 Q Opening People's 10 for identification, would you

1 quickly look at the contents contained therein, and tell me  
2 whether or not they were in the attache case when it was  
3 turned over to you.

4 We will start, however -- we might as well start  
5 out in an orderly fashion.

6 All right. 10-A, which contains a number of  
7 checks that are payable to William Rex Cole in the amount of  
8 \$137.35, purportedly signed by George C. Spahn, and apparently  
9 drawn on Spahn's Movie Ranch.

10 Have you seen these checks before?

11 A Yes, I have.

12 Q Where had you seen them?

13 A They were inside of that valise.

14 Q You are referring to People's 10?

15 A Yes.

16 Q Going to 10-B for identification, this series of  
17 checks that bear the following name, Duane E. Schwarm, 7340  
18 Northeast Sandy Boulevard, Portland, Oregon, and the black  
19 vinyl cover, do you recognize the check and the cover as having  
20 seen it before?

21 A Yes. It was also in the valise.

22 Q Once again referring to People's 10?

23 Is that correct?

24 A That is correct.

25 Q Going on to 10-C which apparently houses a bottle  
26 of Anacin, had you seen that in the attache case, too?

27 A Yes, and it was also in People's 10.

28 Q Going on to 10-D, which apparently contains a tin

1 which in itself contains some ink eradicator or eraser, do you  
2 recognize this as having seen it before?

3 A Yes, that appears to be the same that was in the  
4 valise.

5 Q There was one in the valise similar to this?

6 Is that correct?

7 A That is correct.

8 Q Going on to 10-E, there is an envelope which  
9 contains some licorice cigarette papers.

10 Do you recall seeing those?

11 A Yes, they were also in the valise.

12 Q And lastly, going on to 10-F, there are some  
13 miscellaneous papers contained in this manila folder.

14 Would you quickly look through them and tell me  
15 whether or not you recognize these miscellaneous items as  
16 having seen them in the attache case, People's 10 for identi-  
17 fication?

18 A Yes, I do recognize those.

16A

1 Q And particularly this Hy-Tone writing tablet with  
2 some writing thereon. You recognize that as having seen this  
3 before, and the writing on it?

4 A Yes.

5 Q And the envelopes with various designations, \$10-  
6 bills, \$20-bills, \$1-bills. You recognize as having seen them?

7 Is that correct?

8 A Yes.

9 Q With reference to some of the envelopes that  
10 contain further writing on them, had you seen these envelopes  
11 with that writing on it?

12 A Yes.

13 Q So all of these miscellaneous objects that I have  
14 shown you were in the attache case when it was turned over to  
15 you by the CHP?

16 Is that correct?

17 A That is correct.

18 Q Now, Officer, was the blue suitcase turned over to  
19 you as well?

20 A Yes, that was.

21 Q In connection with that blue suitcase, do you  
22 recall the contents of the blue suitcase?

23 A There were checks inside, and some clothing and  
24 miscellaneous papers.

25 Q Do you recall seeing an adding machine at all?

26 A Yes, I did see an adding machine.

27 Q Where did you see that?

28 A At the Los Angeles Police Department.

A2

1 Q Do you recall whether or not that was together  
2 with this blue suitcase, or was that apart from it?

3 A It was apart from it.

4 Q Did you see a check imprinter or writer?

5 A Yes, I did.

6 Q Where did you see that?

7 A At the Los Angeles Police Department.

8 Q Showing you 20-H for identification, would you  
9 quickly look at this before it falls apart, and tell me whether  
10 you have ever seen it before?

11 A Yes, I have seen it.

12 Q Once again, I'm going to have to ask you to look at  
13 the contents, so we will open it up.

14 Tell me whether or not you recognize the contents  
15 as having seen them before.

16 A Yes.

17 Q For example, the series of checks here with the  
18 name First National Bank of Oregon, and once again the name  
19 of Duane E. Schwarm, with the address 7340 Northeast Sandy  
20 Boulevard, Portland, Oregon.

21 Had you seen those checks inside this blue suit-  
22 case, 20-H?

23 A Yes.

24 Q These are the same kind of checks you saw in  
25 People's 10 for identification.

26 Is that correct?

27 A That is correct.

28 Q When did you come into possession of this exhibit

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20-H and the contents?

A The same date, February 22, 1970.

Q In other words, the same date you came into possession of People's 10, the attache case?

A That is correct.

Q Now, at some point in time were you assigned to investigate a missing person by the name of Donald Shea?

A Yes, in a round-about way.

Q All right. In connection with that and other assignments you had for sheriff's homicide, did you go to Eau Claire, Wisconsin, on December 4, 1969?

A Yes.

MR. WEEDMAN: Excuse me, but before this answer comes in, I wonder if we might approach the bench?

THE COURT: All right; you want the reporter?

MR. WEEDMAN: Yes, your Honor.

THE COURT: Let's take a short recess, gentlemen.

Do not discuss the case or come to any opinion or conclusion. We will proceed in a few minutes.

(Recess.)

(The following proceedings were had in chambers.)

MR. WEEDMAN: Your Honor, I wish to inquire before Mr. Katz continues as to what he expects to elicit from Sgt. Whiteley in connection with his trip to Eau Claire, Wisconsin.

I, of course, have the benefit of the grand jury transcript, and it appears to me that Mr. Katz may be seeking

A4

1 to elicit hearsay material, to which I would object.

2 THE COURT: Well, what statements?

3 What statements do you expect to show?

4 What do you expect to elicit?

5 MR. WEEDMAN: I don't know. I thought I would ask  
6 Mr. Katz.

7 THE COURT: Well, we had better have a ruling in here  
8 before we get it to the jury.

9 MR. KATZ: I expect to elicit no statements.

10 THE COURT: Give me the question.

11 MR. KATZ: I will make an offer of proof.

12 THE COURT: Go ahead.

13 MR. KATZ: I mean to elicit from the witness that on  
14 December 4, 1969, in connection with an investigation, he went  
15 back to talk with a person by the name of Mary Bruner, that  
16 he saw that girl and had a conversation with that girl, stop.  
17 No conversation elicited.

18 After talking with Mary Bruner, and as a result  
19 of the conversation, did he return to Los Angeles. Yes, he  
20 did.

21 In connection with the day, December 4, 1969, did  
22 he thereafter locate a car which was later determined to be  
23 the car of Shorty Shea. Then I will have him identify the  
24 exhibits which clearly identify the car, where it was  
25 recovered, and where he found it, and what he did in connection  
26 with that car.

27 I attempt in no way whatsoever to elicit any  
28 statements coming from Mary Bruner whatsoever, and the jury is

A5

1 in no position to draw any inferences as to anything in connec-  
2 tion with the car.

3 MR. WEEDMAN: Well, then, may I ask why counsel wants to  
4 ask or talk to Sgt. Whiteley about talking to Mary Bruner,  
5 unless he is offering it for probable cause?

6 If he is offering it for probable cause, then it  
7 may be appropriate for me to inquire further of Mr. Katz  
8 relative to whether there was a search warrant for the search  
9 of this vehicle.

10 If there was not, I will object to any kind of  
11 evidence with respect to the interior of that vehicle, and  
12 object to it as the product of an unlawful search and seizure,  
13 your Honor.

16B



16b-1

1 MR. KATZ: I cannot believe that counsel is truly  
2 serious. This is an abandoned vehicle.

3 It was identified by the wife who reported her  
4 husband missing, and who had given a description of her  
5 husband and, indeed, a description of the vehicle with the  
6 license number.

7 Now, I don't think counsel, in all seriousness,  
8 is really strenuously indicating that this is a subject or  
9 product of an unlawful search and seizure.

10 THE COURT: I was inclined to overrule the objection.

11 MR. WEEDMAN: If counsel feels that probable cause is  
12 not in issue here, then I submit that there is no need to  
13 inquire of Sgt. Whiteley about this trip back to Eau Claire,  
14 Wisconsin and the fact that he had a conversation with Mary  
15 Brunner.

16 I think it is obvious that the jury will draw an  
17 inference that Mary Brunner said something to him indicating  
18 some knowledge on her part as to the location of the vehicle.  
19 The fact that Mr. Katz does not call for direct conversation  
20 doesn't eliminate the fact that he is getting in indirectly,  
21 you see, conversation.

22 If counsel is satisfied that there is probable  
23 cause for Sgt. Whiteley going into the vehicle, then there is  
24 no need, certainly, to produce that.

25 As a matter of fact such matters are not to be  
26 heard by a jury in any event.

27 Probable cause matters, your Honor.

28 MR. KATZ: There is no probable cause issue, respectfully.

1 MR. WEEDMAN: I will object to anything about Sgt.  
2 Whiteley going to Eau Claire, Wisconsin and talking to Mary  
3 Brunner, because counsel says then as a result of that  
4 conversation did you go to the Greshen Street address in  
5 Chatsworth, California and locate the vehicle that has been  
6 identified as belonging to Shorty Shea.

7 It is obvious that Mary Brunner must have said  
8 something to Sgt. Whiteley about the car.

9 Now, that is an inescapable conclusion. The jury  
10 will draw that conclusion, or feel free to draw that conclusion,  
11 and that is hearsay.

12 THE COURT: Well, the conversation is not gone into.

13 MR. WEEDMAN: But, your Honor, the conversation is gone  
14 into because counsel says, and as a result of that conversation  
15 did you then go to Chatsworth and locate Mr. Shea's automobile.

16 Now, it permits the jury, then, your Honor, to draw  
17 an inference that Mary Brunner said something to Sgt. Whiteley  
18 showing knowledge with respect to this automobile.

19 THE COURT: Well, the question is this, as I understand  
20 it, did you have a conversation with Mary. Yes. Did you then  
21 go to such and such a place.

22 I think it is a factual matter. He is not going  
23 into hearsay.

24 MR. WEEDMAN: Why can't Mr. Katz eliminate that, your  
25 Honor. There is no need for Mr. Katz to talk about a conversa-  
26 tion with Mary Brunner, none whatsoever.

27 All it does is serve to permit the jury to infer  
28 that Mary Brunner had knowledge of this automobile.

1 MR. KATZ: Your Honor, we are entitled to show circum-  
2 stantially the chain of events that led up to the discovery  
3 and recovery of certain pieces of evidence which are being  
4 introduced in the course of this trial.

5 Now, we are putting together bits and pieces in  
6 this circumstantial chain to prove corpus delicti.

7 Now, we are not eliciting any statements by way of  
8 conversation, number one. Number two, we are not offering  
9 anything for the truth of the assertions. Under the Evidence  
10 Code it is not hearsay.

11 We are entitled to establish the fact of the  
12 conversation which is circumstantial evidence of the time  
13 period in which Sgt. Whiteley was looking for evidence in  
14 connection with this case. We are entitled to do so.

15 I repeat we are not offering it for the truth of  
16 any conversations elicited.

17 THE COURT: Well, I would be inclined to overrule the  
18 objection. If the conversation is gone into it is another  
19 situation.

20 MR. WEEDMAN: But, your Honor, you realize, of course,  
21 immediately that I am precluded from cross-examining Sgt.  
22 Whiteley as to the conversation.

17-1

1 THE COURT: Well, there isn't any conversation brought  
2 out.

3 MR. WEEDMAN: But there is, your Honor, when counsel says  
4 "As a result of the conversation did you then go and recover  
5 the automobile?"

6 THE COURT: I don't know if he used the words "as a  
7 result". I don't know.

8 I stand for correction. I thought he said "Did  
9 you then go to such and such a location?"

10 MR. WEEDMAN: Well, your Honor, if it is not connected  
11 with the vehicle in some way then I say it is immaterial and  
12 irrelevant to any issue in this case.

13 THE COURT: Well, I don't know. The testimony is of a  
14 physical situation "Did you see? Did you see a woman, Mary?  
15 Yes."

16 It is a chronological step.

17 Whether it has any particular bearing or not I  
18 don't know.

19 MR. WEEDMAN: Your Honor, to permit this in evidence, it  
20 would <sup>be</sup> grossly prejudicial to my client. Mary Brunner is a  
21 known member of the, if you will if that term has any meaning,  
22 at least she is closely associated with what has been referred  
23 to, however incorrectly, as the Charles Manson family.

24 She has testified on other occasions. Her testimony  
25 has been the subject of grave dispute. She has attempted to  
26 repudiate much if not all of her testimony on numerous grounds.

27 For counsel to be permitted to bring in the name of  
28 Mary Brunner for no reason other than to prejudice my client

1 seems grossly unfair to my client, your Honor.

2 And counsel doesn't need to have Sgt. Whitelley  
3 testify that he went to Eau Claire, Wisconsin and talked to  
4 Mary Brunner. Why should he be permitted to put that in  
5 evidence, your Honor, when it has nothing to do with the  
6 automobile now, as I understand Mr. Katz' answer.

7 If it doesn't have anything to do with the car and  
8 it doesn't have anything to do with my client, then why should  
9 it be permitted in evidence?

10 MR. KATZ: I think your Honor has already correctly  
11 analyzed it. I don't want to belabor the point. The matter  
12 is submitted, your Honor.

13 MR. WEEDMAN: Your Honor, it would be the same thing as  
14 if Sgt. Whiteley testified "Yes, I had a conversation with  
15 Mary Brunner. Then I arrested her for murder."

16 The jury would say, "Boy, she must have said  
17 something by way of confession to the murder."

18 The fact that Mr. Katz is not eliciting the words  
19 is just a subterfuge on his part. A clever way to leave him  
20 free to say that he is not going into hearsay.

21 But conduct, your Honor, conduct can be hearsay  
22 just as much as words.

23 THE COURT: Back up a minute. Would there be any  
24 materiality or necessity of even talking about Mary Brunner?  
25 Suppose you asked the officer "Did you go to such and such a  
26 place and find this automobile?"

27 And describing it. Wouldn't you get the same  
28 point there?

1 MR. KATZ: No, your Honor. First of all we are entitled  
2 to show the efforts made by members of the sheriff's homicide  
3 department who were engaged in investigation to determine the  
4 whereabouts of one Shorty Shea who had been reported missing.

5 Now, we are entitled to show with whom these  
6 persons talked, without introducing the conversations as such.  
7 We can circumstantially show that as a result of certain things  
8 that they conducted further investigations which resulted in  
9 the recovery of certain property.

10 Now, indeed, Mary Brunner will be shown by  
11 independent evidence which will be forthcoming very shortly  
12 that she was a staunch and loyal member of the Manson family  
13 and resided at the Manson ranch during the critical period,  
14 or as I say, the Spahn Ranch where Mr. Manson and Grogan and  
15 Atkins and Krenwinkle and Kasabian and Little Larry Jones  
16 and Bill Vance and Ella Jo Bailey and all of these other  
17 members of the family resided at.

18 And it is material to the point. Again, if you  
19 will look at the definition of hearsay, your Honor, it says  
20 it is a statement which is offered not for the truth of the  
21 contents --

22 THE COURT: Well, I agree with you on that. Counsel is  
23 posing a question. It could be inflammatory or prejudicial  
24 as I understand it, his main position here, bringing the name  
25 in the matter here.

26 MR. WEEDMAN: That's right, your Honor.

27 THE COURT: That is what I garner as his main objection.  
28 I am a hundred percent with you, it is hearsay and shouldn't

1 go in as far as what did Mary Brunner say. What she said, his  
2 position is with respect to inflammatory nature of the testi-  
3 mony to bring the girl's name in -- suppose -- let's suppose  
4 the question -- suppose the question were directed in this  
5 way: suppose you should say to the officer "Officer, you went  
6 to the Spahn Ranch? Yes. Did you see Manson there? Yes.  
7 Did you talk to Manson? Yes."

8 All right. "Then you went up to such and such a  
9 place and found an automobile, is that right? Yes."

10 Now, of course, you are not asking him that, but  
11 the point is there is a parallelism there, if you brought in  
12 the name of Manson I would think without further connection,  
13 if you just stopped right there it could definitely, unless  
14 you tie in Manson at another time, you could highly -- you  
15 could have a highly prejudicial structure that is set in the  
16 matter.

17 Now, the question is whether you have the same  
18 thing with the name of Mary here.

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#17A

1 MR. KATZ: I think your Honor has to realize that the  
2 People have the right to circumstantially establish the corpus  
3 delicti of the crime of murder. Now, in so doing, statements  
4 and conduct which manifest an awareness and understanding that  
5 a person is dead, is obviously admissible to establish the  
6 corpus delicti of the crime.

7 It is not a question of connecting a given defend-  
8 ant to the offense. We are not attempting to do that.

9 But any statement which shows cognition or awareness  
10 that a person is dead, in this case Shorty Shea, would be  
11 circumstantial evidence of that death.

12 For example, in Scott they kept talking about the  
13 kinds of statements. The kinds of acts that Scott engaged in  
14 repeatedly which indicated that he had knowledge that his wife,  
15 Mrs. Scott, was dead, and that was the reason why he was doing  
16 those things and saying those things.

17 Well, by the same token, when we have people that  
18 start using the property of Shorty Shea, who is now missing,  
19 shown to be missing, very convincingly by the People's evidence  
20 at this posture of the proceedings, and whereby they are  
21 making statements that indicate that he falsely went to some  
22 location we in fact know he never went there, and there are  
23 other inferences to be drawn that shows knowledge, your Honor,  
24 that this person has met death by a criminal agency.

25 This is circumstantial evidence. When they are  
26 utilizing his dishes, for example, and his car is found aban-  
27 doned a half block from the Greshen Street address where  
28 Grogan, Manson, Mary Bruner and a lot of other members of the



A2

1 family were living. This is circumstantial evidence. This is  
2 what circumstantial evidence is all about.

3 Mr. Weedman's complaint and the thrust has always  
4 been -- and I don't fault him for making it as a defense --  
5 "My gosh, your Honor, this is inflammatory. It hurts us."

6 It hurts him, of course it does, because it starts  
7 to build the People's case. But it is not judicially pro-  
8 hibited. That is the point I want to make. It is not  
9 judicially prohibited. This is the kind of evidence that  
10 has been presented in Finch and Scott and the Watson case and  
11 Wetherford and Alcalde and Atchley, and all the other kinds  
12 of cases where they allowed acts and declarations and conduct,  
13 to fortify the corpus delicti of the crime.

14 THE COURT: Well, but of course, the only basis that  
15 you get into questions again, you get into the question of  
16 conversations or to bring in third parties here, and to tie  
17 in Grogan by the actions or the conduct or the statements of  
18 third parties is based on a conspiracy --

19 MR. KATZ: No, your Honor.

20 THE COURT: Well, you have no right bringing in other  
21 statements -- I mean you could take a third party and quote  
22 statements from Grogan, but you are attempting to, in effect,  
23 bind Grogan by statements of third parties. Incriminating  
24 statements.

25 MR. KATZ: No, first of all, you are assuming I am  
26 eliciting a conversation between Mary Bruner and Sergeant  
27 Whiteley. First of all, that is not the case, and I indicated  
28 I was not.

1 THE COURT: That's right. I concede that.

2 MR. KATZ: Secondly, let me draw this analogy. Suppose  
3 we didn't have a wholly circumstantial evidence case in that  
4 there was a body.

5 All right. So we wouldn't be plagued with the  
6 problem of having to show somehow by acts and conduct that  
7 there is knowledge of the person's death. We therefore must  
8 resort to indirect evidence.

9 Now, for example, if 25 people said, "Shorty is  
10 dead," this has nothing to do with connecting Grogan to the  
11 crime. It has nothing whatsoever to do with connecting  
12 evidence.

13 Isn't that circumstantial evidence, your Honor,  
14 of the fact that he is dead? People are acting as if he is  
15 dead. They are appropriating his property to their own use.

16 THE COURT: If she says, "He is dead," they are going  
17 to have to know what they are talking about, Shorty is dead.

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1 MR. KATZ: It doesn't matter that an act which shows  
2 whether or not -- it might be a statement against penal  
3 interest or not, is not important. Whether or not it is an  
4 admission is not important. You can use admissions to  
5 establish and fortify the corpus delicti of the crime.

6 The law is clear so long as there is other  
7 independent evidence, however slight, which establishes a  
8 prima facie case of the corpus delicti.

9 MR. WEEDMAN: But, your Honor, that is hearsay. Counsel  
10 keeps insisting -- and this is not the first time -- that  
11 merely because he has a circumstantial evidence problem, that  
12 that somehow permits hearsay evidence.

13 It does not and I know counsel has a problem here,  
14 a grave problem, if you will excuse the pun perhaps, in  
15 establishing his corpus delicti.

16 And we have now, I think, we are now for the third  
17 time, really, talking about the same thing again. Counsel  
18 seeks to elicit either directly or indirectly statements of  
19 other persons which are strictly hearsay in this case and  
20 seeks to justify them because he is having trouble proving up  
21 his circumstantial evidence case. I submit it --

22 THE COURT: Let me back up here again.

23 MR. KATZ: I am going to withdraw the question. It's  
24 not that important.

25 I am not interested in the question.

26 THE COURT: Wait a minute.

27 MR. WEEDMAN: I will accept that, your Honor.

28 THE COURT: Wait a minute.

1 MR. KATZ: I am not interested in it, your Honor. We  
2 will save time.

3 THE COURT: Wait a minute. You want to show, again,  
4 to get us back to our foundation, the officer talked with Mary  
5 then went up and saw this -- found this automobile up here.

6 That could be a factual matter. Your point is that  
7 it is a factual matter of importance to your case.

8 Now, if that's the case at a later time, testimony  
9 to that effect, you can bring the officer back at a later time  
10 in your case and say "Listen, when you went to the Spahn Ranch  
11 did you see Mary there? Yes."

12 But it isn't necessary at this time, at this very  
13 moment. I don't see how it is necessary at this very moment  
14 to establish a fact that the officer found an automobile at  
15 another location. In other words, it is a matter of proof.  
16 It is a matter of bringing out at a later time if you want to  
17 do it.

18 The way I am thinking now is not to necessarily  
19 deprive you of that statement from the officer, the question  
20 is whether it should be put in at this time.

21 MR. KATZ: Are you talking about the statement concerning  
22 the conversation with Brunner?

23 THE COURT: With Mary.

24 MR. KATZ: Or are you talking about the recovery of the  
25 automobile?

26 THE COURT: Well, yes. You are asking this, you want  
27 to say "Did you talk to Mary? Did you then go to this  
28 automobile?"

1 MR. KATZ: Yes.

2 THE COURT: That is what you are proposing. I am saying  
3 hold up the question "Did you talk to Mary? Did you go to the  
4 automobile?" And merely say, "Did you go to a certain spot  
5 and did you see an automobile there?" Forget Mary.

6 MR. KATZ: I have no objection, as I said. I withdraw  
7 the question.

8 THE COURT: I am not saying -- I will go further than  
9 that in my ruling -- I am not saying you couldn't ask the  
10 question at a later time. It may be when you have more back-  
11 ground here you can call him back and ask him the question.  
12 I wouldn't deprive him the right, if you have the right to ask  
13 the question, bring him back at a later juncture. It could  
14 be asked.

15 I am not saying you can't ever ask the officer  
16 that question. It may be it would be better to withhold your  
17 offer, or your asking of that specific question to a later  
18 time.

19 MR. KATZ: I have no objection, your Honor.

20 THE COURT: All right. Let's go ahead on that basis.

21 MR. KATZ: May we take a short recess at this time, your  
22 Honor.

23 THE COURT: Yes, by all means.

24 (Recess.)

(The following proceedings were had in open court out of the presence of the jury.)

THE COURT: Now, gentlemen, let's see where we are. People against Grogan.

The defendant is here, both counsel are here.

Will you state your name again, Officer? You have been sworn,

THE WITNESS: Paul J. Whiteley.

THE CLERK: Will you spell your name for this reporter?

THE WITNESS: W-h-i-t-e-l-e-y.

THE COURT: Thank you. You can bring in the jury, sheriff. We will go right ahead.

(The following proceedings were had in open court in the presence of the jury.)

THE COURT: Now, we have all of the regular jurors, plus the three alternates.

You may go ahead, Mr. Katz.

Q BY MR. KATZ: Sgt. Whiteley, as I understand it in your capacity as homicide investigator with the Los Angeles sheriff's office, you were assigned the case of Donald Jerome Shea, first as a missing person case?

Is that correct?

A Yes.

Q At this time, I'm not going to ask you the type of connection -- strike that.

I'm not going to ask you the type of investigation you made in your efforts to locate Mr. Shea. I want to direct your attention to a car.

1 With reference to that, sometime in December of  
2 1969, did you recover a car?

3 A Yes, I did.

4 Q In connection with your investigation, where did  
5 you locate that car?

6 A I went to the vicinity of Greshen Street and  
7 Independence in Chatsworth.

8 Q On what date, sir?

9 A The first time was December 8, 1969.

10 Q All right. When you went to that location on  
11 December 8, 1969, what did you do?

12 A I looked for any vehicles that appeared that they  
13 had been abandoned at the location.

14 Q All right. Did you take any license numbers down  
15 of certain vehicles?

16 A Yes, I did.

17 Q Thereafter did you contact Magdalene Shea?

18 A Yes, I did.

19 Q Was that the same day, December 8th, or the follow-  
20 ing day?

21 A The following day, December 9th.

22 Q Did you acquire from her the license number of  
23 Donald Shea's vehicle?

24 A Yes, I did.

25 Q Also a description of the vehicle?

26 A Yes.

27 Q And as I understand it, on the previous day you  
28 had taken down the license numbers of vehicles and a description?

1 A Just the license numbers.

2 Q Did you note any corresponding license number with  
3 that which Mrs. Shea had given you on December the 9th?

4 A Yes.

5 Q As a result of that did you go back to the Greshen  
6 Street area in Canoga Park?

7 A Yes, I did.

8 Q Specifically, where did you go on December 9th?

9 A I went approximately 200 feet north of Greshen  
10 Street on Independence on the west side of the street.

11 Q Were you with somebody at that time?

12 A Yes, I was.

13 Q With whom?

14 A Deputy Charles Guenther.

15 Q And he was working with you on the case at that  
16 time?

17 A Yes.

18 Q All right. Apparently what time of day did you  
19 go there on December 9th, or evening as the case may be?

20 A It was in the early evening hours.

21 Q What was the atmospheric conditions at that time?

22 A It was rather -- high humidity in the air. I  
23 believe it had rained.

24 Q All right. Let me first show you series 16-A  
25 through 16-J for identification, and I will ask you whether or  
26 not you will recognize the photographs that were taken of  
27 this automobile.

28 First, these four photographs, 16-A, -B, -C and -D.



1 Tell me whether you recognize that automobile as  
2 having seen it before.

3 A Yes, I have.

4 Q When had you first seen it?

5 A Well, on December the 8th in the afternoon hours  
6 of 1969.

7 Q And then you returned, having been given the  
8 license number NLM 841 to the location on December 9, 1969?

9 Is that correct?

10 A Yes. I returned on the 9th.

11 Q All right. Did you cause a photographic team and  
12 a latent print team to come to the location?

13 A Yes, I did.

14 Q Approximately what time did the photographic unit  
15 of the sheriff's department arrive at the scene where the car  
16 was parked?

17 A Sometime between 8:00 and 9:00 o'clock in the  
18 evening.

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Q All right. Now, with reference to the first four photographs, do you know where those photographs were taken?

A Yes.

Q Where were they taken?

A Where the vehicle was recovered.

Q And this is before the vehicle was moved, is that correct?

A That's correct.

Q And going on to 16-E, for example, showing the front interior portion of the car, and 16-F showing the driver's side of the car and the front, 16-G which shows the rear passenger portion behind the driver's seat, and 16-H which shows the rear bench behind the driver's seat, do you recognize these photographs as having seen the subject contained therein before?

A Yes.

Q What do these photographs show us?

A They show the contents and the condition of the vehicle at the time we recovered it.

Q All right.

And with reference to those eight photographs that I have shown you, do these photographs truly and accurately depict the approximately condition of the car when you recovered it on December 9th, 1969?

A Yes.

Q And with respect to the debris and the dirt which is easily discernible and visible in the last four photographs, 16-E through 16-H, was this the condition of the car when you

1 saw it?

2 A The dirt on the outside or the exterior of the  
3 vehicle in these four photographs, you can't see the dirt  
4 that's there.

5 Q You are talking about the first four.

6 A Due to the flash, I believe.

7 Q You are talking about the first four. Let's go  
8 to the ones I directed your attention to, 16-E through 16-H.  
9 This shows the interior portion of the vehicle.

10 A Yes.

11 Q With respect to these four photographs, do these  
12 photographs depict the dirt and debris that was in the car  
13 when you recovered it on December 9, 1969?

14 A Yes.

15 Q All right.

16 Now, with respect to the exterior of the vehicle,  
17 which is depicted in the first four photographs, 16-A through  
18 16-D, are you telling us that these photographs do not display  
19 the amount of dirt that was on the car, is that correct?

20 A That's correct.

21 Q And in other words the flash somehow dissipated  
22 the appearance and visibility of the dirt that was on the car,  
23 is that correct?

24 A Yes.

25 Q Incidentally, when you found the car, December 9,  
26 1969 in what condition did you find the windows, were they  
27 rolled up, were they closed or what?

28 A There was one window open in the vehicle.

1 Q And did you find some keys to the automobile?

2 A Yes.

3 Q Where did you find the keys?

4 A They were under the driver's seat.

5 Q And you had been directed to look in that place,  
6 is that correct?

7 A Yes.

8 Q And you found some keys.

9 Did you thereafter test the keys with the ignition  
10 to determine whether or not they activated the ignition to the  
11 car?

12 A Yes.

13 Q And did it?

14 A Yes.

15 Q And after the photographs were taken of the  
16 vehicle, was the car moved, or did you wait until the latent  
17 print team came?

18 A The man that took the photographs was a latent  
19 print man.

20 Q All right.

21 And at that time did you make a decision, on  
22 December 9, 1969, in the evening, that it was not desirable to  
23 try and left any prints at that time?

24 A That's correct.

25 Q As a result of that decision did you cause the car  
26 to be towed to a garage in Canoga Park?

27 A Yes, I did.

28 Q Where did you cause it to be taken?

1 A The Calabasas Garage in Calabasas.

2 Q Is Paul Ewert the owner and operator of that  
3 garage?

4 A Yes.

5 Q Is Ewert spelled E-w-e-r-t?

6 A Yes.

7 Q All right.

8 Now, there are two photographs here in the 16  
9 series, 16-I and 16-J which show a trunk open and some  
10 footlockers inside the trunk.

11 At the time that you saw the car on December 9,  
12 1969 had you opened the trunk of the car?

13 A Yes.

14 Q Where had you opened it, at the scene where the  
15 car was recovered, or at the garage in Canoga Park?

16 A At the scene.

17 Q All right.

18 And what did you find in the trunk?

19 A Two large footlockers.

20 Q All right.

21 Did you touch those footlockers?

22 A No.

23 Q All right.

24 And when the car was towed to the Calabasas --  
25 strike that.

26 Where was it towed to?

27 A The Calabasas Garage.

28 Q And when it was towed to the Calabasas Garage did

1 you have the car secured until the following day when the  
2 latent print team could work on the car?

3 A That's correct.

4 Q That would be December 10th, is that correct?

5 A That's correct.

6 Q Now, on December 10th did somebody come from the  
7 sheriff's office to lift some prints?

8 A Yes.

9 Q And do you know who came out to lift some prints?

10 A No. I was not present at the time.

11 Q All right.

12 Now, after the latent print team had gone over the  
13 car that's depicted in the 16 series, did you inventory some of  
14 the contents of the car?

15 A Yes, I did.

16 Q And that was on December 10th, 1969?

17 A Yes.

18 Q Let me show you 17 for identification and ask you  
19 whether or not you recognize these keys as having seen them  
20 before?

21 A Yes. They appear to be the keys that I found  
22 underneath the seat of the car.

23 Q All right.

24 Now, they came from a small manila packet. Do you  
25 recognize the writing on this packet?

26 A Yes.

27 Q Whose handwriting is that?

28 A That's my handwriting.

19A

1 Q Did you place the keys in that packet?

2 A Yes, I did.

3 Q And thereafter retained custody of them until they  
4 were turned over to the grand jury, is that correct?

5 A That's correct.

6 Q Incidentally, did you determine whether or not  
7 any of the keys fit the footlockers, if you recall?

8 A I can't remember whether I actually placed them  
9 in there or someone else did.

10 Q Now, I show you some footlockers that appear in  
11 front of you, the first of which is 20-F and the next one  
12 is 20-G. And on the face of it they have the name Donald  
13 Jerome. Do you recognize these footlockers as having seen  
14 them before?

15 A Yes.

16 Q Where were these footlockers when you had seen  
17 them?

18 A They were in the trunk of the recovered vehicle.

19 Q When you recovered the vehicle was the trunk of  
20 the vehicle locked?

21 A Yes, it was.

22 Q So that while you could gain access to the inside  
23 of the passenger compartment of the car because the window  
24 was open, the trunk was locked and secured, is that correct?

25 A That's correct.

26 Q In other words, the atmosphere could not get into  
27 it, is that right?

28 A That's correct.

19-A2

1 Q However, as I understand it, you said that a  
2 window was open in the car?

3 A Yes.

4 Q And therefore the air could flow through and get  
5 into the passenger compartment, is that correct?

6 A Yes.

7 Q Now, did you thereafter open the trunk and inven-  
8 tory some of the contents?

9 A Yes, I did.

10 Q Showing you 20-F for identification and opening  
11 this footlocker up, let me quickly show you this packet of  
12 clothes, which is now denominated 20-F1. Do you recognize  
13 some of these clothes as having seen them before?

14 A Yes. This blue coat and the black pinstripe pants  
15 appear to be the same as those that I found in the locker.

16 Q All right.

17 And you saw a bunch of clothes in there, is that  
18 right?

19 A Yes. There were numerous clothing in there.

20 Q Did you retain custody of the clothes and keep  
21 them in the footlocker?

22 A Yes.

23 Q And there is another small bundle which is 20-F2  
24 for identification. Do you know whether or not this was part  
25 of the clothing that was in this footlocker?

26 A There was a great deal of clothing there. I don't  
27 recognize anything in this -- in this bundle.

28 Q Did you, however, make an effort to keep the



19-A3

1 clothing together in each of the footlockers in which you  
2 found it?

3 A Yes.

4 Q So, in other words, the clothing that would be  
5 in this trunk which has been denominated 20-F, would be 20-F1  
6 and 20-F2, is that correct?

7 A Yes.

8 Q Incidentally, did you place your initials on this  
9 trunk to help you identify it?

10 A Yes.

11 Q And those are your initials, P.W., is that correct?

12 A That's correct.

13 Q Showing you this trunk, 20-G, and its contents  
14 would you please tell me whether or not you recognize this  
15 bundle of clothing, which has been denominated 20-G1, as having  
16 seen it in this trunk, 20-G?

17 A Yes. This appears to be the clothing that was  
18 in the trunk.

19 Q Once again, you kept the items that you found in  
20 each of the footlockers in that identical footlocker in which  
21 you found it, is that correct?

22 A Yes.

23 Q Here is a packet which is denominated 20-G2 and  
24 which contains two cufflink cases and some jewelry. Would you  
25 please open them and tell me whether or not you recognize  
26 them as having seen them before?

27 A I recognize these cufflinks.

28 Q All right. Those with the stones on them?

1 A Yes.

2 Q And this other green box, which is identical to  
3 the one which houses the cufflinks, was that also in the  
4 trunk?

5 A The box I remember, but I don't specifically  
6 remember what was inside of it.

7 Q All right. And going on to 20-G3, would you quick-  
8 ly look at these books and tell me whether or not these were  
9 in the footlocker 20-G when you recovered the footlocker in  
10 the car?

11 A Yes.

12 Q All right.

13 And with reference to this panty hose dispenser  
14 of some kind --

15 A I don't specifically remember this.

16 MR. KATZ: All right.

17 THE COURT: Pardon me, gentlemen. I think it is time  
18 to recess until tomorrow.

19 MR. KATZ: Yes. Thank you.

20 THE COURT: Let's take the recess, ladies and gentlemen,  
21 until tomorrow morning at 9:30.

22 Please do not discuss the case or come to any  
23 opinion or conclusion. We will proceed promptly at 9:30  
24 tomorrow. Thank you.

25 (At 4 p.m., adjournment was had until the  
26 next day, Friday, July 30, 1971, at 9:30 a.m.)  
27  
28