

1 Q Okay. Indicating the defendant? A Yes, sir.

2 Q Okay. And when you saw him walking down the street was  
3 this the first time you had seen this man? A Yes.

4 Q Yourself? A Yes, that is the first time.

5 Q How did you know what sort of person you were looking  
6 for? A As we drove by -- I didn't know who I was  
7 looking for -- as we drove by I asked David, "Is that the guy  
8 you saw running by you?" And he said, "Yes, that's him."

9 Q When you saw this person walking now on Cottle, could you  
10 describe how he was walking? A Just, a little at a  
11 fast pace. He wasn't running but he wasn't loafing. He  
12 was just calmly walking.

13 Q Calmly walking in a fast pace? A Yes.

14 Q Okay. And what did you do after you saw this individual?

15 A Well, I told David we better not stop, let's just drive  
16 on by. So we drove on by and we stopped at the phone booth  
17 down on the corner.

18 Q What was your reason for not stopping?

19 A We thought he was probably armed because we heard  
20 something about a shooting.

21 Q And did you drive on past this individual? A Yes.

22 Q And then what did you do? A We drove down to the  
23 Union Station there, and there is a phone, and I stopped and  
24 got, went into the phone booth.

25 Q Okay. And when you got to the phone booth did you call  
26 somebody? A Yes, I called the police.

1 Q Okay. And what happened next? A I was on the  
2 phone telling, there was a lady on the other end, and I  
3 believe it was the police department, and she asked me to  
4 identify, and at that time he was walking right by the -- he  
5 was in the front of the shopping center which was directly  
6 across from me, and I described him to her.

7 Q All right. The phone booth that you stopped at by the  
8 gas station, was that in the shopping center?

9 A Yes. It is part of the shopping center. It is right  
10 behind the gas station.

11 Q Okay. And as you drove past this individual that was  
12 walking at a fast pace down Cottle Avenue did he look over  
13 at you? A No, I don't think he did.

14 Q As you were in the phone booth making this call did the  
15 man look at you? A No.

16 Q Now, did the police arrive at the phone booth?

17 A Just as I come out of the phone booth there was an  
18 officer in a car right there, and I waved at him and he  
19 pulled up, and I ran over to him, and I said, "I believe he  
20 is in one of those stores over there." I didn't know which  
21 one.

22 Q Which stores were you indicating? A Either the  
23 Lucky Store or pizza parlor.

24 Q And did this officer enter the pizza parlor?

25 A Yes, well, he got, he went ahead in the car and I walked,  
26 and he got there before I did. I assume --

1 Q And did you then go over to the pizza parlor?

2 A Yes, I went over to the front of it.

3 Q And did you stand outside the pizza parlor?

4 A Mm-hmm.

5 Q Did you see the officer go into the pizza parlor?

6 A No, they were in, already in there before I got over  
7 there.

8 Q Did you see the officer bring somebody out of the pizza  
9 parlor? A Yes.

10 Q And the person that he brought out of the pizza parlor,  
11 is this the same person you had seen walking at a fast pace  
12 down Cottle? A Yes, sir.

13 Q Is that the defendant? A Yes.

14 Q Now, I am going to show you People's 10-CC and 10-DD,  
15 are you familiar with that picture? A No, I haven't --

16 Q You never seen it before? A No.

6 17 Q Do those appear to be the clothes that the individual was  
18 wearing that you saw? A Yes, sir.

19 Q Okay. Gray suit and dark shirt? A Mm-hmm.

20 Q Okay. Now, Mr. Damron, if I can impose upon you a  
21 little bit more besides keeping you down here all day, which  
22 I apologize for, can you do us a favor and step to the board?  
23 And I will familiarize you a little bit with this diagram.  
24 Here is Woosley, here is Los Pinos, and here is Cottle. Okay?

25 A Mm-hmm.

26 Q Could you take, say, a green crayon and put an X on your

1 house where you live? A (Drawing.)

2 Q Okay. And maybe with this red crayon can you draw  
3 an X where your van was parked? A (Drawing.)

4 Q Okay. So your van was right next to your house on Los  
5 Pinos? A Mm-hmm.

6 Q Can you take that red crayon and trace a line for us in  
7 the direction that you traveled that night in your van with  
8 Mr. Stuken and Mr. Morgan? A You want me to mark it?

9 Q Yes, go ahead. A Okay. When we got to the  
10 corner we went across the street because we saw these two  
11 fellows right here (indicating), and we talked to the two  
12 fellows and they said, yes, they saw somebody down the street.  
13 Backed up and went down this way.

14 Q Could you draw a line to where you stopped your van  
15 where the gas station appears to be? A Phone booth is  
16 right there. I stopped right there (drawing).

17 Q All right. Now, could you put an X on there, a big red  
18 X where it was that you first saw the defendant, Mr. Ismail,  
19 walking at a fast pace on Cottle, if you can estimate?

20 A It was right in front of these apartments. I would say  
21 it was right there (indicating).

22 Q Can you put a big X in there? A (Drawing.)

23 Q Okay. Thank you. How far away are those apartments  
24 where you first saw the defendant, Mr. Ismail, walking at a  
25 fast pace from the shopping center? A I'd say it is  
26 four or five hundred feet.

1 Q Four or five hundred feet. Okay.

2 MR. ROBINSON: Thank you. I have nothing further.

3 CROSS-EXAMINATION

4 BY MR. PESTARINO:

5 Q I think you might as well identify the shopping center  
6 for us, would you please, on the map? Just put an S there.

7 A (Drawing.)

8 Q That is fine. Thank you. Had you heard any noises  
9 outside of what appeared to be garbage cans being tipped over

10 that night? A Before that?

11 Q Yeah. A No, sir.

12 MR. PESTARINO: Okay. I think that is all.

13 MR. ROBINSON: Thank you.

14 THE COURT: Thank you, Mr. Damron. You are excused.

15 (Witness excused.)

16 MR. ROBINSON: People call Mr. Stukan.

17 NICHOLAS STUKAN,

18 called as a witness on behalf of the People, being first duly  
19 sworn, was examined and testified as follows:

20 THE CLERK: Take the witness stand, please.

21 DIRECT EXAMINATION

22 BY MR. ROBINSON:

23 Q Can you state your full name, spelling your last name  
24 for the record, please? A S-t-u-k-a-n.

25 Q Okay. And your first name is Nicholas? A Yes.

26 Q Okay. Mr. Stukan, could you tell us where you live?

1 A 6226 Woosley Drive.

2 Q In San Jose? A Yes.

3 Q Okay. And did you live there on November the 6th, 1975?

4 A Yes.

5 Q Okay. And did you live there with your family?

6 A Yes.

7 Q All right. Now, where is your house in relationship to  
8 the Patriarch's house, 6217 Woosley Drive?

9 A Is right across the street. Not right -- just a little  
10 bit in maybe 10 degree.

11 Q You live on the other side of the street? A Yeah.

12 Q Okay. Now, Mr. Stukan, I am going to direct your  
13 attention to November the 6th, 1975, at about 20 to 7:00,  
14 quarter to 7:00 in the evening. Okay?

15 A Yeah.

16 Q At that time could you tell us where you were?

17 A We was in dining room.

18 Q You were -- A In my home.

19 Q And when you say "we," who was there?

20 A My wife, my daughter, my two daughter, and my son.

21 Q Okay. And were you eating dinner, something like that?

22 A Yes.

23 Q All right. Now, at that time, Mr. Stukan, did something  
24 attract your attention? A We hear scream.

25 Q You heard screams? A Yeah, scream, my daughter  
26 open the door, see Mrs. Emama --

1 Q Mrs. Shimun? A Yeah, screaming, said my  
2 husband shot.

3 Q Okay. Now, was that the first noise that you had heard  
4 that night? A Yes, yes.

5 Q Okay. And when your daughter opened the door -- well,  
6 strike that.

7 You heard Mrs. Shimun screaming outside?

8 A Yes.

9 Q Okay. And could you -- you could hear her actually?  
10 You could hear her voice outside? A No, not -- just  
11 according Mrs. Carol's husband, some couple people --

12 Q Let me back up a minute. I think I confused myself.  
13 When you were inside eating dinner with your family you said  
14 you could hear her voice screaming, Mrs. Shimun?

15 A Yes.

16 Q You hearing her screaming, that caused you to open the  
17 door? A Yes, Mrs. Emama came into my house.

18 Q When she came into your house could you describe her  
19 condition? A No. No, nothing, she was screaming,  
20 nothing more.

21 Q Was she hysterical? A Yeah.

22 MR. PESTARINO: That is irrelevant, too, if Your  
23 Honor please.

24 MR. ROBINSON: It is going to be relevant.

25 MR. PESTARINO: I don't think that it is relevant.  
26 Just designed to prejudice the jury.

1 THE COURT: No. Overruled. I think that it is  
2 appropriate to describe her demeanor. It may be more  
3 relevant later on.

4 MR. PESTARINO: I don't know that. Well, of  
5 course, Your Honor has ruled on it. I will abide by the  
6 ruling.

7 MR. ROBINSON: Thank you, Your Honor.

8 Q (By Mr. Robinson) Now, Mr. Stukan, after you saw Mrs.  
9 Shimun in your house, what did you do?

10 A Run, everybody to help, something. My wife and I go  
11 over next.

12 Q Could you speak up? It is hard to hear you.

13 A Yeah. We go to house, my wife and I. In corner, I  
14 ask the people what happened, the Carol, said she saw some man  
15 come out.

16 Q That is Mrs. Damron? A Yeah.

17 Q The lady who just testified in here? A Yeah.

18 Q Okay. Did Mr. Damron ask you to do anything?

19 A Yeah, took the van. He said, come on, follow him,  
20 looking for something.

21 Q And did you get into the truck with Mr. Damron?

22 A Yes.

23 Q And did you drive down Los Pinos? A Yes.

24 Q And did you stop on Los Pinos to pick up someone?

25 A Yeah, we pick up another guy.

26 Q And did he get into the van? A Yes.



1 Q Had you ever seen this other guy before?

2 A No.

3 Q Okay. So now there were three of you in the van?

4 A Yes.

5 Q And did you drive down Los Pinos in the van?

6 A To Cottle Road.

7 Q Cottle Road? A Cottle Road, yeah.

8 Q When you got to Cottle Road did you see the man?

9 A No.

10 Q Okay. What did you do when you got to Cottle Road?

11 A We stop, and there was couple guy across the street, ask  
12 them, they said yeah, they saw one man, he go this way,  
13 showing there Santa Teresa.

14 Q He was going down Cottle toward Santa Teresa?

15 A Yeah.

16 Q What did you do then? A We saw one man, he was  
17 walking in about, by Arbol Verde Apartments.

18 Q Okay. And what did you do next after you saw this man?

19 A We passed the guy, on to shopping center.

20 Q And at the shopping center did Mr. Damron go to the  
21 phone booth? A I don't know, he's gone.

22 Q Okay. When you got to the shopping center what  
23 happened? A Oh, I go to Thrifty.

24 Q Thrifty Drugs? A Department store, and they call  
25 my son.

26 Q Where was your son? A He was my home.

1 Q Okay. What did you tell your son?

2 A I said this guy, suspicious guy in pizza.

3 Q Was in pizza? A Yeah.

4 Q Okay. And what happened next? A Well, come out,  
5 the police was outside there.

6 Q And did somebody arrest you? A Yeah, the police,  
7 they took me, said --

8 Q Okay. Were you wearing a black shirt that night?

9 A Yeah.

10 Q Okay. And did you tell them that you weren't the guy?

11 A No, I don't say nothing.

12 Q They didn't arrest you though? A No. Told them  
13 go away.

14 Q Did you tell them where the guy was? Did you tell them  
15 where the guy was that went into the pizza place?

16 A No, I don't think so, I told him. I don't remember.  
17 I told him maybe something, because he took me.

18 Q They let you go though, didn't they? A Yeah.

19 Q And when -- did you see a police officer come out of the  
20 pizza place with some guy? A Yeah, he was, -- police  
21 was couple car.

22 Q And is this the guy that you saw walking down Cottle?

23 A I no see.

24 Q Well, the guy that you saw walking down Cottle.

25 A Yeah. Yeah, I saw where he come.

26 Q Was that the same guy that the police brought out?

1 A Yeah, the same guy.

2 Q Do you see that guy in court today? A I -- you  
3 see, I never saw the guy. Well, this was at night. I saw  
4 the guy, looking just for the gray, the clothes.

5 Q What sort of clothes was he wearing?

6 A Gray, light gray.

7 Q Suit? A Suit, yeah.

8 Q Okay.

9 MR. ROBINSON: And may I approach the witness, Your  
10 Honor?

11 THE COURT: Surely.

12 Q (By Mr. Robinson) Showing you People's 10-CC and 10-Z,  
13 does that suit look familiar to you?

14 A I don't know. I just -- this is it, was maybe 15, 20  
15 feet when I saw. I can't say exactly it is the same. It  
16 was light.

17 Q Light gray? A Light gray suit, yeah.

18 Q Okay.

19 MR. ROBINSON: Thank you, Mr. Stukan. And I have  
20 no further questions.

21 CROSS-EXAMINATION

22 BY MR. PESTARINO:

23 Q You could see this light gray suit for 15 or 20 feet?

24 A Yeah, we was passing him the van, it was in the sidewalk.

25 Q Okay. Let me ask you something, Mr. Stukan. And I  
26 am referring to this map, People's Exhibit 5 for identification,

1 here in the lower corner of the map is Woosley Drive, huh?

2 A Yes.

3 Q And you live across the street? A Yes.

4 Q At a little angle from the Patriarch?

5 A Yes.

6 Q Is all of this street, does it have lights, streetlights?

7 A Yes.

8 Q Is it pretty light at night? A Yes.

9 Q Pretty light. And when you go down Los Pinos --

10 A Yes.

11 Q -- are there lights all along that street?

12 A I don't remember. I think they get lights.

13 Q They got lights? A Yeah. I don't remember  
14 exactly.

15 Q You know where that chain fence is here? About, close  
16 to the corner, right almost kitty-corner?

17 A I never walk in this.

18 Q You don't know? Of course, Cottle Avenue is well-  
19 lighted? You could see somebody? A Yeah. I saw  
20 this guy some place here (indicating), the apartment.

21 Q Okay. All right. You didn't by any chance go over  
22 to the Shimuns' place right after the shooting, did you?

23 A No.

24 MR. PESTARINO: All right. I don't have any further  
25 questions.

26 REDIRECT EXAMINATION

1 BY MR. ROBINSON:

2 Q Yes. Mr. Stukan, did your wife go over to the Shimuns  
3 after the shooting? A Yes.

4 Q Did she help out with the little baby?

5 A Yeah, took baby in my home.

6 MR. PESTARINO: That is irrelevant, too.

7 THE COURT: Well, it is just --

8 MR. PESTARINO: You know what it is designed for,  
9 Your Honor.

10 THE COURT: Well, I will admonish the jury they're not  
11 to be guided by sympathy.

12 MR. PESTARINO: We have a baby in here now.

13 THE COURT: -- for either party, or prejudice, but  
14 it is relevant as to the actions of the various people.

15 MR. ROBINSON: Thank you. Your Honor, perhaps we  
16 can also admonish the jury to disregard Mr. Pestarino's  
17 comment. We are governed by rules of evidence. The  
18 objection was overruled. It was a permissible question.

19 THE COURT: Just a minute. I have previously told  
20 the jurors about objections and the Court ruling on them,  
21 and the reasons for the Court's ruling, that they were not to  
22 speculate as to why the objection is made or what the answer  
23 might be if I sustain them, and so forth. I just want to  
24 emphasize that anything that counsel says during the trial  
25 is not evidence. The evidence comes only from the witnesses.  
26 All right. You may proceed.

1 MR. ROBINSON: Thank you. I have no further  
2 questions. Thank you, Mr. Stukan.

3 (Witness excused.)

4 MR. ROBINSON: The People call David Morgan, Your  
5 Honor.

6 DAVID PHILIP MORGAN,

7 called as a witness on behalf of the People, being first duly  
8 sworn, was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. ROBINSON:

11 Q Could you state your full name, spelling your last name  
12 for the record, please? A David Philip Morgan,  
13 M-o-r-g-a-n.

14 Q Mr. Morgan, where do you reside?

15 A 367 Los Pinos.

16 Q In San Jose? A Right.

17 Q Now, directing your attention to November 6th, 1975,  
18 did you live at Los Pinos at that time? A No, I didn't.

19 Q Okay. Were you in the area of 367 Los Pinos on  
20 November 6th, 1975? A Yes, I was across the street.

21 Q And were you by yourself or with somebody?

22 A I was with my wife.

23 Q What was your purpose in being there?

24 A We were waiting for the tenant to arrive to give us our  
25 keys so we could move in.

26 Q You just purchased that residence and you were going to  
move in? A Right.

1 Q Now, at approximately a quarter to seven in the evening  
2 on November 6th, 1975, you were parked in your car across  
3 the street from 367 Los Pinos? A Right.

4 Q At that time did you hear any noise? A Yes. I  
5 heard two or three noises.

6 Q Could you describe these noises for us?

7 A They sounded like backfires.

8 Q Of a car? A Right.

9 Q And what did you do upon hearing these noises?

10 A I got out of the truck and started walking up towards  
11 where I heard the noises.

12 Q Why did you do that? A Well, right after that I  
13 started hearing screams.

14 Q After you heard the noises you heard the screams?

15 A Right. So I started walking up the street to investi-  
16 gate.

17 Q And as you were walking up the street did you observe  
18 anything? A I saw a gentleman running down the street  
19 towards me.

20 Q He was running towards? A Right.

21 Q And what side of the street were you on as you are on  
22 Los Pinos going up towards Woosley, were you on the right-hand  
23 or left-hand side? A Left-hand side.

24 Q So you were on the sidewalk? A No, I was on the  
25 street.

26 Q You were on the street. Okay. And did you see

1 somebody running towards you? A That is correct.

2 Q And was this person on the street or the sidewalk?

3 A Sidewalk.

4 Q Sidewalk. And did you observe how this person was  
5 running? A He was running pretty fast.

6 Q Okay. What do you mean by pretty fast?

7 A He was running fast.

8 Q Okay. And did this person pass you?

9 A Yes, he did.

10 Q Okay. And did you get a good look at him?

11 A Sure did.

12 Q Do you see him in the court today?

13 A Yes, I do.

14 Q Would you point him out, please?

15 A That gentleman right over there (indicating).

16 Q Indicating the defendant.

17 THE COURT: Yes. Let the record so show.

18 Q (By Mr. Robinson) When this person passed you, Mr.  
19 Morgan, could you tell us how he was holding his arms?

20 A He was holding his right arm close to his body.

21 Q Okay. Now, after this person passed you did you see  
22 what he did? A No. I just saw him run past me and

23 I didn't see where he went. I just kept going up the  
24 street.

25 Q And as you kept going up the street did you meet a  
26 couple other people? A Yes, I did.



1 Q Who did you meet? A Bob and his neighbor.

2 Q Were they in a car? A They were in a van.

3 Q Did they ask you anything? A Yes, they asked me  
4 if I saw somebody running, and I said, "Yes, I did."

5 Q Did you indicate where you saw him running?

6 A I indicated that I saw him running down Los Pinos.

7 Q Did they ask you to do anything? A They asked if  
8 I would get in the van with them.

9 Q Did you? A Yes, I did.

10 Q What did you do when you got in the van?

11 A I indicated which direction that I had last seen him  
12 running.

13 Q And did you proceed after him in the van?

14 A Yes, we did.

15 Q And did you see him on Los Pinos at all after you got  
16 in the van? A No, we didn't.

17 Q Okay. And did you drive from Los Pinos to Cottle?

18 A Yes, we did.

19 Q And upon arriving at the intersection of Los Pinos and  
20 Cottle what did you do? A We didn't see him at the  
21 time. We asked some people who were going in their house  
22 across the street if they saw somebody running and they  
23 indicated that they had, and that he was running down Cottle.

24 Q Then what did you do? A Well, we started driving  
25 down Cottle.

26 Q Okay. And did you see this person at that time on

1 Cottle? A Yes, we did.

2 Q Okay. And could you describe what the person was  
3 doing at this time? A At that time he was walking,  
4 but he was walking at a pretty fast pace.

5 Q And did you see where this person went as he walked down  
6 Cottle? A Rephrase that, please?

7 Q Yes. What did you do after you saw this person on  
8 Cottle? A Well, we just -- we kept going past him  
9 and just continued down the street.

10 Q All right. Did you go into the gas station?

11 A Yes, we did.

12 Q Did you see where this person went walking down Cottle?

13 A Yes, he was still coming toward us.

14 Q Did you get a good look at him as he walked towards you?

15 A Yes, I did.

16 Q Did you see where he walked? Did he enter the shopping  
17 center area? A He walked down the store fronts in  
18 the shopping center.

19 Q Did he enter a store? A No.

20 Q Did he enter an establishment there? A Yes, he  
21 did.

22 Q What did he enter? A He entered a pizza parlor.

23 Q Did the police arrive shortly? A Yes, they did.

24 Q Did you see a policeman enter the pizza parlor?

25 A Yes, I did.

26 Q Did you see him bring out an individual?

1 A Yes, I did.

2 Q And the individual you saw him bring out is the same  
3 individual that you saw running past you on Los Pinos?

4 A It was.

5 Q Now, Mr. Morgan, as this individual ran past you, and  
6 as you saw him walk down Cottle, did you have an opportunity --  
7 strike that.

8 From what you saw of this person did you form an  
9 opinion as to the state of his sobriety?

10 A I didn't really think about it, but he was not walking  
11 in an erratic manner or running in an erratic manner.

12 Q He wasn't stumbling or anything? A No.

13 Q As you saw him go into the parking lot where the shopping  
14 center was were there other cars in the parking lot?

15 A Yes.

16 Q Did you see him bump into cars or anything?

17 A No, I did not.

18 Q Did he appear to walk straight when he wanted to go?

19 A Yes, he did.

20 Q Would you describe this person from what you saw of him  
21 as being sober or drunk? A I believe he was sober.

22 MR. ROBINSON: I have nothing further.

23 CROSS-EXAMINATION

24 BY MR. PESTARINO:

25 Q Mr. Morgan, you weren't particularly looking at him to  
26 see whether he was sober or drunk? All you know is that he

1 was walking straight or running straight? A That is  
2 true.

3 Q Okay. So you weren't thinking in terms of how much the  
4 man had been drinking or anything like that?

5 A No.

6 Q All you were thinking of was to apprehend this person?

7 A That is correct.

8 Q Okay. Fine. Now, you said you heard two or three  
9 noises. First of all, you thought what appeared to be back-  
10 fires? A That is correct.

11 Q From the exhaust of a car? Then you heard screams,  
12 and then you walked toward the corner of Los Pinos and  
13 Woosley; is that right? A That's right.

14 Q And, of course, you heard more screams?

15 A Mm-hmm.

16 Q Did you hear anything else after that?

17 A No, I didn't.

18 Q Did you hear anything that appeared to be a sports car  
19 driving off? A No, sir.

20 Q Los Pinos is that well-lit by streetlights?

21 A Yes, sir.

22 Q Are you familiar with that chain-link fence on the corner  
23 of Los Pinos and Woosley? A No, sir, I am not.

24 Q Did you do anything else that night but what you  
25 testified to here in regard to this case?

26 A I don't believe so, no.

1 MR. PESTARINO: Okay. Thank you. That's all.

2 MR. ROBINSON: Thank you, Mr. Morgan. I have  
3 nothing further.

4 THE COURT: Thank you, Mr. Morgan.

5 MR. PESTARINO: Can I ask you, I neglected to ask  
6 you just a question or two.

7 Q (By Mr. Pestarino) When you saw the defendant, the  
8 person you identified as the defendant running down Los Pinos,  
9 first of all, did he have a coat on? A Yes, sir, he did.

10 Q Was it a gray checkered coat? A It was a gray  
11 coat.

12 Q And a black shirt? A Yes.

13 Q Okay. And a light tie? A I didn't notice the  
14 tie.

15 Q And you indicated that he held his right arm down?

16 A Mm-hmm.

17 Q At what point at Los Pinos did you first see him? Would  
18 you look at the map there and maybe put a mark there of M-1?  
19 Here, let me. I already asked you this. This is Woosley,  
20 and Los Pinos is here (indicating). Now, someone indicated  
21 that his travel was along Los Pinos to Cottle, up through here  
22 to the shopping center up here. Now, where on Los Pinos  
23 did you see him? A All right.

24 Q Will you make a big mark there or some kind of a mark?  
25 Put an M there. A (Writing.)

26 Q That's it? Okay. And that is where you first saw him

1 and he was holding his right arm in a peculiar manner?

2 A At that point I didn't see his right arm, no, but as he  
3 passed me I saw him holding his arm down to the side.

4 Q Will you indicate for us how you saw him? Will you  
5 stand up and show us? A He was holding it in this  
6 manner as he was running (indicating).

7 MR. ROBINSON: Indicating straight down, finger  
8 pointed towards the floor, for the record.

9 Q (By Mr. Pestarino) He was running with his hand like  
10 that? A He wasn't -- he just had his arm down like  
11 this (indicating).

12 Q And he was running? A Yes.

13 Q And the other arm was swinging free?

14 A Yes.

15 MR. PESTARINO: All right. Thank you.

16 MR. ROBINSON: I have nothing further. Thank you.  
17 Thanks for coming in.

18 (Witness excused.)

19 MR. ROBINSON: The People call Officer Lintern.

20 CHARLES MELVIN LINTERN,

21 called as a witness on behalf of the People, being first duly  
22 sworn, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. ROBINSON:

25 Q Can you state your full name, spelling your last name,  
26 and give us your occupation, for the record, please?

1 A Charles Melvin Lintern, police officer, City of San Jose.

2 Q Okay. Officer Lintern, were you employed in that  
3 capacity and on duty on November 6th, 1975?

4 A Yes, sir, I was.

5 Q And at that time did you have an occasion to respond to  
6 a homicide at 6217 Woosley in San Jose? A Yes, I did.

7 Q Okay. And did you respond by yourself or were you with  
8 a partner? A I was by myself at the time.

9 Q And were you in uniform and in a patrol vehicle?

10 A Yes, I was.

11 Q And in response to that homicide did you have occasion  
12 to talk to Carol Damron? A Yes, I did.

13 Q And did she give you the direction of travel in which  
14 the man had taken? A Yes, she did.

15 Q And did she state that this man had fallen in a  
16 particular area? A Yes, she did.

17 Q Did you respond to that area? A Yes, I did.

18 Q In responding to that area was this by a chain-link  
19 fence by some juniper bushes? A Yes, it was.

20 Q Why did you respond to that area? A I responded  
21 to that area looking for a weapon.

22 Q Okay. And did you find a weapon in that area?

23 A Yes, I did.

24 Q And is that area well lit or is it dark?

25 A It is dark.

26 Q Did you need your flashlight to see the chain-link fence?

1 A Yes.

2 Q Did you need your flashlight to search through the  
3 junipers to find the weapon? A Yes.

4 Q On finding the weapon did you touch it at all?

5 A No, I did not.

6 Q What did you do? A I found the weapon, located  
7 it, and waited for the detective crew to respond.

8 Q For Sergeant Parrott? A Sergeant Parrott.

9 Q Okay.

10 MR. ROBINSON: Thank you. I have nothing further.

11 CROSS-EXAMINATION

12 BY MR. PESTARINO:

13 Q Did you go to the house where the homicide took place or  
14 alleged homicide? A Yes, I did.

15 Q And was it you who roped off that area?

16 A No, sir.

17 Q Was there another officer there with you?

18 A Yes, sir, there was.

19 Q When you first responded to this call were you alone  
20 or with someone else? A I was by myself.

21 Q But you met another officer there? A Yes.

22 Q By any chance did you have an opportunity to find out  
23 or look at the body of the victim? A No, I did not.

24 Q Were the lights on at the residence on Woolsley Drive  
25 where the homicide -- A Yes, they were.

26 Q And you talked about a chain-link fence. Could you see



1 the posts without a flashlight? A I believe so, yes.

2 Q But you had to look into the bushes with your flashlight

3 for the gun and to find the chain? A For the gun, yes.

4 The chain, I believe so. I don't recall.

5 Q You don't recall whether you could see that without a

6 flashlight or not? A Yes.

7 MR. PESTARINO: Thank you. That's all I have.

8 MR. ROBINSON: Thank you, Officer.

9 (Witness excused.)

10 MR. ROBINSON: Might we approach the bench?

11 THE COURT: Surely.

12 (Discussion off the record.)

13 MR. ROBINSON: People call Ronnie Myers.

14 Your Honor, at this time we'd ask leave of the Court  
15 to call this witness out of order. Mr. Myers is going to  
16 start a vacation on Monday and he is going to be gone  
17 approximately two weeks.

18 MR. PESTARINO: I would have no objection.

19 RONNIE G. MYERS,

20 called as a witness on behalf of the People, being first duly  
21 sworn, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. ROBINSON:

24 Q Could you state your full name and spell your last name

25 for the record? A My name is Ronnie G. Myers, my last

26 name is M-y-e-r-s.

- 1 Q And Mr. Myers, where do you reside? The city?  
2 A Dublin.  
3 Q Dublin, California? A Mm-hmm.  
4 Q Mr. Myers, are you of Assyrian descent?  
5 A I don't know, understand what you mean by that.  
6 Q Yes. What nationality are you? A American.  
7 Q Okay. You are not from Assyria? A No.  
8 Q Not from Iran or Iraq? A No. I was born in  
9 Berkeley, California.  
10 Q And Mr. Myers, do you know anything about the Church of  
11 the East? A No.  
12 Q Did you know anything about Patriarch Mar Shimun?  
13 A No.  
14 Q Okay. Mr. Myers, do you know anything about the  
15 Assyrian Universal Alliance? A Never heard of them.  
16 Q Could you tell us what you do for a living?  
17 A I am a deisel mechanic.  
18 Q And Mr. Myers, did you purchase a gas station in Oakland,  
19 California? A I sure did.  
20 Q Could you tell us the year in which you purchased that  
21 gas station? A I believe it was in January, 1970.  
22 Q Okay. And where was that gas station located?  
23 A It was on 411 West MacArthur Boulevard, Union 76.  
24 Q In Oakland, California? A Yes.  
25 Q And from whom did you purchase that gas station?  
26 A From a person by the name of Yule Lazar.

1 Q Okay. And how was it that you purchased that gas  
2 station from Mr. Lazar? A I was looking for a job in  
3 the evenings and I was employed by him for approximately two  
4 months previous to the time that I took the station over.

5 Q Okay. And did Mr. Lazar work at that station?

6 A He was the owner.

7 Q He was the owner of the station?

8 A Of the station.

9 Q Did he also work there? A Yes.

10 Q Okay. Are you familiar with Mr. Lazar?

11 A Yes.

12 Q Okay. And after you purchased this gas station from  
13 Mr. Lazar did you have occasion to buy a weapon?

14 A Yes.

15 Q And why did you buy the weapon? A Mr. Lazar  
16 stated the fact that I should have some protection because  
17 this station got robbed several times, you should have some  
18 form of protection.

19 Q Okay. And where did you purchase this weapon at?

20 A Siegle's Guns in Oakland on MacArthur Boulevard.

21 Q 508 MacArthur Boulevard? A Yes.

22 Q When did you purchase this gun? A It was  
23 approximately --

24 Q If you recall. A -- a week, a week after I took  
25 possession of the station.

26 Q Okay. A 1970.

1 Q All right. And this gun, what sort of a gun was it?

2 A It's been a long time ago. It looked like a Luger in  
3 a way, a .22, I believe automatic, had a clip in the bottom.

4 Q Okay. A Been a long time since I have seen it  
5 though.

6 Q How much did you pay for this gun?

7 A It was -- I don't really remember that. Somewheres in  
8 the neighborhood of 169, something like that.

9 Q And how long did you keep this gun for?

10 A One week.

11 Q All right. And what was it that caused you to only keep  
12 this gun for a week? A Well, I owed Mr. Yule Lazar

13 money when we had the business transaction from the station,  
14 and I really couldn't afford to pay him the payment that he  
15 wanted, so I was making a payment to Yule Lazar and he saw  
16 the gun.

17 Q Where was this payment being made at?

18 A In the station.

19 Q Okay. Was there anybody else around besides you and  
20 Mr. Lazar when this payment went down? A No.

21 Q And when Mr. Lazar saw the gun what did he say?

22 A He was impressed with it, and he asked to see it, and I  
23 had a floor safe and it was down in the floor safe, and when  
24 I opened the safe to give him the money he saw it, and he  
25 asked to see it. I handed it to him. He liked it, and he  
26 says I'll give you more money than what you paid for it. He

1 was aware that I had bought it. He is the one that told me  
2 I should have some protection.

3 Q Okay. And did you sell it to Mr. Lazar?

4 A Yes, for a considerable amount more than what I paid for  
5 it.

6 Q So you made a good deal off of it? A Right.

7 Q Do you remember how much you sold it to Mr. Lazar for?

8 A It was around 210, somewhere in that neighborhood, not --  
9 I'm not sure to be exact. I don't have any paperwork on it.

10 Q Were you contacted by a member of the San Jose Police  
11 Department, Sergeant Randall, regarding this transaction?

12 A Yes.

13 Q Okay. And at that time were you shown the weapon?

14 A No.

15 Q Were you shown a weapon? A Uh-uh.

16 Q Were you asked to describe a weapon? A No.

17 Q Did he ask you about a weapon that you had purchased at  
18 Siegle's Sportsmen Supply, 508 West MacArthur Boulevard?

19 A He asked me if I owned a gun, and I said yes, and have  
20 I sold any guns, and I said yes, and he asked when and where,  
21 and how many and what.

22 Q How many guns have you sold? A Just one. That  
23 was it.

24 Q Is that the one you sold to Mr. Lazar? A Right.

25 Q How many guns have you owned? A I have owned  
26 three. I still have the other two.

1 Q You still have the other two. So in your life you  
2 have only had three guns? A That is it.

3 Q And you have two of them now. You only sold one, one  
4 to Mr. Lazar? A Right.

5 Q And the gun that you sold to Mr. Lazar is the gun you  
6 bought at Siegle's in Oakland? A Right.

7 Q Now, after you sold this gun to Mr. Lazar did you ever  
8 see it again? A No.

9 Q Did you ever see Mr. Lazar again? A Yes.

10 Q Did he ever indicate to you what he had done with that  
11 gun? A No.

12 Q You might not see it again if I can't get this thing  
13 out of here (referring to gun).

14 Now, showing you People's Exhibit 4, Mr. Myers, does  
15 that look familiar to you?

16 THE COURT: Perhaps we ought to explain the item  
17 around the trigger has been placed there by the Court.

18 THE WITNESS: Yeah, right. That looks like it.  
19 It could be a replica of it, but it sure looks like it.

20 Q (By Mr. Robinson) That looks like what?

21 A The gun I bought at Siegle's.

22 Q And that you sold to Mr. Lazar? A Yes.

23 Q Is there a serial number on that gun? Is there a  
24 number to identify it? A Yes, there is.

25 Q And could you read that? A 30056.

26 Q Okay. When you bought this gun from Siegle's did you

1 fill out some paperwork for it? A Yes, and I had to  
2 wait a week before I could get it.

3 Q And that paperwork, when they wrote down, did they write  
4 down the serial number of the gun? A Yes, they did.

5 Q Which goes to Alcohol, Tobacco, and Firearms?

6 A Right.

7 Q You waited a week and you got your gun?

8 A Right.

9 MR. ROBINSON: Thank you, Mr. Myers. I have  
10 nothing further.

11 MR. PESTARINO: I have a few questions.

12 CROSS-EXAMINATION

13 BY MR. PESTARINO:

14 Q This all took place about five years ago, Mr. Myers, is  
15 that right? A More like six.

16 Q Six. Okay. A It was in 1970.

17 Q All right. And how long before you purchased the  
18 service station had you known Mr. Lazar? A Two months  
19 approximately.

20 Q Have you ever seen him since? A Since when?

21 Q Since you bought the service station? A Yes.

22 Q When? A After I went into the station I seen him  
23 various times off and on once a week for about three months.

24 Q Mm-hmm. And did you see him after that?

25 A The last time that I seen him he told me that he was a  
26 manager or something or another of a motel.

1 Q All right. A And he went in there, and I  
2 haven't seen him since.

3 Q So you knew him about two months before you purchased  
4 the service station and because you used to work for him?

5 A Right.

6 Q Is that right? A This is true.

7 Q And when he told you -- when you bought the service  
8 station from him he suggested to you that you ought to have  
9 a gun because the service station had been burglarized or he  
10 had been robbed? A This is true.

11 Q Well, did he have a gun? A Yes, at the time.

12 Q What kind of gun did he have? A He never did let  
13 me see it.

14 Q How do you know he had a gun? A He told me he had  
15 a gun. But I never did see it.

16 Q Do you know what kind it was, whether it was a rifle or  
17 pistol or revolver? A I'm not sure. I never saw it.  
18 And he didn't state to the fact what it was. He just said  
19 that he had a gun.

20 Q And did he offer to sell you this gun when you purchased  
21 the service station? A No.

22 Q No. He told you you better go buy one? A Right.

23 Q And then some time after when you were making payments  
24 to him he saw the gun in your floor safe? A Mm-hmm,  
25 this is true.

26 Q And he says I want to buy it from you? A Right.



1 Q How much did you pay for the gun? A In the  
2 neighborhood of \$169.

3 Q Do you have any papers at all that show that you paid  
4 that much for it? A No, I don't. I'm just going back  
5 of what I thought I paid, I'm not even really sure if that is  
6 what I paid for it.

7 Q Okay. And anyway you sold it to Mr. Lazar for two ten?  
8 A Somewheres in the neighborhood. It was a considerable  
9 amount more than what I paid for it. He didn't pay me cash  
10 for it. He deducted the amount from what I owed him in a  
11 business transaction.

12 Q How much did you owe him at that time?

13 A It was around \$600.

14 Q So you gave him the gun and he took off two ten for it,  
15 huh? A Right.

16 Q And that is the last you ever saw of the gun?

17 A That's right.

18 Q You remember definitely handing it to Mr. Lazar?

19 A Yes.

20 Q Was Mr. Lazar always fair with you in his dealings with  
21 you? A Not exactly.

22 Q Okay. You felt that you got a bum deal?

23 A Not on that deal, no.

24 Q Not on that deal if you sold it considerably more, then  
25 you got a pretty good deal, huh? A This is true. But  
26 he made up for it in other business transactions, yes.

1 Q He made up for it in other ways so you didn't mind  
2 charging him more, is that what you are telling us?

3 A Well, that was, let's see, one week after I went into  
4 the station, so I really didn't get a chance to really get  
5 gouged yet.

6 Q But you had worked there for about two or three months  
7 before? A Two months, right.

8 Q Did you work all day? A No.

9 Q What were your hours? A It was around from seven  
10 in the evening until midnight.

11 Q And you were in charge of the money, and so forth, in  
12 charge of running the business? A Right.

13 Q He was not around? A He was in and out.

14 Q You knew what the business was doing, the station was  
15 doing by way of business at that time, didn't you?

16 A Yes.

17 Q And you had had some experience, I take it, in the  
18 operation of service stations? A No.

19 Q This is the first time? A Yes.

20 Q You were a mechanic at that time? A Yes. This  
21 is the reason why I took the service station.

22 Q Had a little shop there? A Well, me and Yule done  
23 mechanic work together, and he wasn't mechanically inclined  
24 at all, and we were making good profits in the mechanical end  
25 of it.

26 Q And so you decided you would take over the whole station?

1 A Well, Yule told me one day that he had decided to give  
2 the station up.

3 Q And so he made arrangements to sell it to you?

4 A He asked me if I was interested.

5 Q Q Were there any papers drawn up?

6 A On the business transaction?

7 Q Yeah. A From Yule Lazar to me?

8 Q Yeah. A Yes, through Union Oil.

9 Q And I take it you have those papers yet?

10 A No.

11 Q No. Well, was there any kind of a promissory note that  
12 you gave to him because you were supposed to make payments to  
13 him? A Yes, there was.

14 Q Well, I might as well ask you, what did you pay for the  
15 station? A Well, I bought the equipment from him. He  
16 didn't own the station.

17 Q I understand that. Union Oil Company owned it?

18 A Right. I bought --

19 Q You bought the business from him, the equipment, and the  
20 goodwill that he had accumulated? A This is true.

21 Q Yeah. And how much did you pay for that?

22 A It was around \$600 somewheres.

23 Q For the whole business? A Yes.

24 Q And did you give him a promissory note for that?

25 A We took a piece of paper, it was a simple thing, that I  
26 released this equipment to you, and you owe me so much money

1 a month until the balance is paid, just a simple little piece  
2 of paper is all it was.

3 Q Yeah. It is a promissory note? A Right. And I  
4 signed it.

5 Q Did you pay any cash to him? A Yes.

6 Q How much cash down did you pay? A I think it was  
7 about \$100.

8 Q \$100 down and then you took over the management and the  
9 responsibility of the business? A That is correct.  
10 This is correct.

11 Q When you sold him the gun did you ask for a receipt?

12 A No.

13 Q Well, you sold it for \$210 so I suppose that \$210 was  
14 to come off of the \$500 that you owed him?

15 A Well, he didn't write a receipt particularly against the  
16 gun, but the little note that he had where I had signed it,  
17 he had subtracted that on there, off of the balance of what I  
18 owed him.

19 Q He had subtracted that off the balance?

20 A He didn't write down what it was or anything else, he  
21 just put payment, two hundred and some odd dollars.

22 Q And did he give you a copy of that? A Yes.

23 Q And you don't have that copy anymore? A I looked  
24 for it. I couldn't find it.

25 Q Is there anything that you had or have in your possess-  
26 ion now that would indicate this gun transfer? A No.

1 Q Any writing at all? A No.

2 Q Had you had any burglaries there?

3 A At the station?

4 Q Yeah. A Yes.

5 Q At the time you were there? A Yes.

6 Q Did Lazar say why he wanted the gun? Having had one  
7 already. A No.

8 Q Did you ask him? A No, I didn't give it a second  
9 thought.

10 Q Did you transfer to him any bullets or any clips or  
11 magazines? A No.

12 Q You didn't have any clips or magazines, you just had  
13 the gun? A Just the gun. I didn't even have any  
14 bullets for it.

15 Q What were you going to do with a gun without bullets for  
16 it? A Well, I don't want to shoot anybody anyway.  
17 Scare somebody I guess.

18 Q Well, just to scare somebody? A Yeah.

19 Q With an empty gun. At no time then did you buy any  
20 magazines or bullets for the gun? A I might have, but  
21 I don't remember. But I do know that when the gun was in  
22 the safe I didn't have any bullets for it.

23 Q You know what a magazine is, don't you?

24 A That is the clip that goes into it?

25 Q Yeah. A Yeah.

26 Q You don't remember buying that? A No, I don't.

1 All I remember is the gun. I might have bought some bullets  
2 and a magazine, I don't remember. All I remember is that I  
3 bought the gun and that was it.

4 Q And this transfer took place close to six years ago,  
5 and you had never seen the gun since? A No.

6 Q How far was this sport shop from your station?

7 A Approximately, let's see, two and a half blocks.

8 Q Within walking distance certainly? A Yes.

9 Q Do you know if Yule Lazar ever went to that sporting  
10 store? A Yes, several times.

11 Q And were you with him? A At that time?

12 Q No. On these occasions that he has gone to the --

13 A When I bought the gun?

14 Q No. Before you bought the gun or after?

15 A Yes, we went in there.

16 Q Before? A Yes. When he was telling me that I  
17 should have some protection, he took me down there and showed  
18 me all of the guns that were reasonable and good buys, and  
19 what have you.

20 Q And he knew the price of this gun? A Yes.

21 Q And he knew then that you paid \$169 for -- or that much  
22 for it? A Right.

23 Q Do you know whether Mr. Lazar was a citizen or not?

24 A I didn't know that.

25 Q You don't know that. Was there any discussion along  
26 these lines when you sold him the gun, "Well, look, Yule, you

1 were with me at the sport shop, I only paid \$169 for it, you  
2 can buy one there"? A I did mention that, that he  
3 could buy the same gun for the same price, and I was wonder-  
4 ing why, that he didn't buy his own gun.

5 Q But you didn't ask him for a receipt or any notations  
6 with regard to the gun? A No. Just to subtract it  
7 from what I owed him.

8 Q Just to subtract it, and then I take it you kept the  
9 station for a short period of time thereafter and sold it,  
10 or -- A Eight months.

11 Q Eight months. Did you go broke? A No, I didn't  
12 go broke. What happened is my insurance went out of sight,  
13 and I called up Union Oil and told them that the insurance  
14 was too high, I wasn't about to pay it, and if you want to  
15 supply the insurance I will stay here, but I wasn't going to  
16 buy fire insurance on their building, and what have you. And  
17 they refused, and I told them they could keep their station,  
18 and I closed it.

19 Q And you took the equipment? A I took the equip-  
20 ment, but it was paid for with Yule Lazar. There was a lot  
21 of transactions except for cash, I worked on his car, he got  
22 gasoline from me and oil, everything he could get his hands  
23 on to collect the \$600.

24 Q Is that because you hadn't been paying him?

25 A No. He would take money or oil or gas. He didn't  
26 care as long as he got his money.

1 Q What was the agreement? How often were you to pay him  
2 on the \$600? A I think it was going to be \$50 a month,  
3 somewheres in that neighborhood. And the initial agreement,  
4 he said that it would be strictly money, but then after he  
5 went to work for the motel he came back, and he said, "Well,  
6 I'll take gas and you can subtract it from the bill, and I  
7 will take a case of oil," and what have you. This was  
8 after we made our initial agreement.

9 Q So you would subtract it? A Yeah, he would take  
10 this little note, he carried it in his pocket all of the  
11 time, all of the time he came to see me.

12 Q He was kind of a -- he was -- you knew him to be a book-  
13 keeper and accountant, didn't you? A Yes. This is  
14 what he explained to me, that he was a TWA pilot. I don't  
15 know if he was or not. He was a bookkeeper and a motel  
16 manager.

17 Q And he used to be very meticulous about --

18 A Book work.

19 Q -- everything he did was entered into a book?

20 A Yeah, he is good with book work.

21 Q So he never said to you, "I want a receipt for the gun"?

22 A No.

23 MR. PESTARINO: That is all. Thank you.

24 REDIRECT EXAMINATION

25 BY MR. ROBINSON:

26 Q Mr. Lazar would keep constant records?



1 A. Constant records, yes. He was very good with book work.

2 Q. And is Mr. Lazar the type of person that might destroy  
3 his records?

4 MR. PESTARINO: Wait a minute, that is calling for  
5 opinion.

6 THE COURT: Well, it is argumentative unless he can  
7 tie it in.

8 MR. PESTARINO: Is he the type that would destroy his  
9 records, calling for conclusion.

10 THE COURT: The objection is sustained.

11 Q. (By Mr. Robinson) Have you ever seen Mr. Lazar destroy  
12 any records? A. Only if the transaction was finished or  
13 something like that.

14 Q. Was what? A. In other words, if he made a trans-  
15 action with a customer, or something, and he would keep the  
16 paper work until the job was done and rip it up and throw it  
17 away.

18 Q. Okay. Now, after your business dealings with Mr. Lazar  
19 and after you sold your station, that would be the latter part  
20 of 1970, I take it? A. Somewheres around in there.

21 Q. Did you have any contact between Mr. Lazar and yourself  
22 from, say, well, let's even go as far as 1971, from 1971  
23 until the present day? A. Have I had any contact with  
24 him?

25 Q. Yeah. A. No.

26 Q. Okay. Do you have any reason to lie about Mr. Lazar at

1 this trial?

2 MR. PESTARINO: Just a moment --

3 MR. ROBINSON: Goes to his bias, interest, or motive  
4 with --

5 MR. PESTARINO: Just a moment, that is an improper  
6 question and counsel should know it.

7 MR. ROBINSON: What is the legal objection?

8 MR. PESTARINO: It calls for a conclusion. It is  
9 not for the province of this witness or the attorney to ask  
10 this witness, it is the province of the jury, he has no  
11 reason to lie.

12 THE COURT: The question was what?

13 MR. ROBINSON: The question is, do you have any  
14 reason to lie on Mr. Lazar. Counsel has attacked his  
15 credibility by asking questions, "Well, you didn't keep a  
16 receipt," you didn't do this. His credibility is in issue,  
17 and my question is, "Do you have any reason to lie," and he  
18 can answer yes or no.

19 MR. PESTARINO: I don't care whether his credibility  
20 is in issue or not. The question is calling for his opinion  
21 and it is self-serving.

22 THE COURT: The objection is sustained.

23 Q (By Mr. Robinson) Do you like Mr. Lazar?

24 A Not particularly.

25 Q Okay. Would you commit perjury?

26 MR. PESTARINO: Again, before he starts -- well,

1 excuse me. Go ahead with your question. I am going to  
2 object.

3 Q (By Mr. Robinson) Would you commit perjury because you  
4 didn't like somebody?

5 MR. PESTARINO: Objection, if Your Honor please.

6 THE COURT: He can answer that.

7 THE WITNESS: No.

8 MR. PESTARINO: If Your Honor please, can I approach  
9 the bench before you make a ruling on that?

10 THE COURT: All right.

11 (Discussion off the record.)

12 THE COURT: Ladies and gentlemen of the jury, as I  
13 indicated prior to our commencing the trial, there are certain  
14 legal matters that the Court has to rule on. The question as  
15 to whether or not Mr. Myers can answer this question is a  
16 matter for the Court to determine. As I indicated to you  
17 preliminarily, if I overrule an objection I am merely allowing  
18 the witness to give an answer, I am not passing any value  
19 judgment as to the weight to be given the answer because you  
20 are the ultimate determiners of the facts and of the  
21 credibility of the witnesses. So I am going to overrule the  
22 objection and allow the witness to indicate his state of mind  
23 with regard to the evidence and his attitude toward Mr. Lazar.  
24 And the objection of Mr. Pestarino will be noted for the  
25 record.

26 MR. PESTARINO: May I make my objection specifically

1 here for the record?

2 THE COURT: Yes, sir.

3 MR. PESTARINO: I would object to the introduction  
4 of this evidence on about two or three grounds: One, it calls  
5 for the opinion and conclusion of the witness; secondly, it  
6 is self-serving; thirdly, it is argumentative; and fourthly,  
7 if we are going to get into that then I have the same rights  
8 when I bring in or when some other witnesses take the stand  
9 to testify, I could ask every witness that takes the stand,  
10 would you commit perjury, and --

11 MR. ROBINSON: Certainly.

12 MR. PESTARINO: -- and I think that is an improper  
13 question. It is to be decided by somebody else. The Court  
14 is going to usurp the province of the jury when it allows  
15 that in, and I would like the record to so reflect.

16 THE COURT: Thank you. The record will so reflect.  
17 But, again, for the record, as to whether or not the witness  
18 is or is not telling the truth is a matter for the jury to  
19 determine. You may answer the question.

20 Q (By Mr. Robinson) Mr. Myers, would you commit perjury  
21 simply because you don't like Mr. Lazar? A No.

22 Q Okay. Now, this gun that you sold to Mr. Lazar that  
23 you say it might be, No. 4, it looks the same and everything?

24 A Mm-hmm.

25 Q Okay. Is the first time since you sold that gun to Mr.  
26 Lazar, that you even heard about that gun again, was that on

1 December 1st, 1975, when Sergeant Randall came over to talk  
2 to you about it? A This is the first time I have  
3 heard of it again, yes.

4 Q Okay. A couple other questions. This sport shop  
5 where you bought the gun -- A Yes.

6 Q -- that is a sport shop that Mr. Lazar was familiar with?

7 A Yes.

8 Q And if you buy bullets in a sport shop do they keep  
9 records, do you know? A I don't know.

10 MR. ROBINSON: Okay. Thank you. I have nothing  
11 further.

12 MR. PESTARINO: That's all.

13 THE COURT: Thank you, sir.

14 (Witness excused.)

15 THE COURT: Ladies and gentlemen, counsel have  
16 indicated that we have made a little more progress than  
17 anticipated today, so although it is just a little after  
18 three there are no other witnesses who are available for  
19 today. So we will give you an hour or so off earlier than  
20 usual. We will resume Monday morning at 9:45. You are  
21 again to keep in mind the admonition I have given you before  
22 about not discussing the case, reading anything about it,  
23 listening to anything on the radio or television about it,  
24 and expressing any opinion about the guilt or innocence of  
25 the defendant until the case is submitted to you. Have a  
26 good week-end. Be sure and get your parking tickets stamped,

1 and we will see you then on Monday morning. The  
2 defendant and witnesses are ordered to return.

3 Do you wish to go in chambers? Or are you satis-  
4 fied with the record?

5 MR. PESTARINO: I am satisfied with the record I  
6 made.

7 (Whereupon, Court adjourned until Monday, March 15,  
8 1976, at 9:45 o'clock a.m.)

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1 FIFTH DAY

2 March 15, 1976.

9:45 o'clock a.m.

3 (Pursuant to adjournment, Court convened, and the  
4 following proceedings were had:)

5 THE COURT: Let the record show that the jury is  
6 present, defendant and his counsel are present. You may  
7 proceed.

8 MR. ROBINSON: Thank you. The People call Mrs.  
9 Shimun.

10 THE COURT: Would you come forward, please, ma'am?

11 EMAMA MAR ESHAI SHIMUN,  
12 called as a witness on behalf of the People, being first duly  
13 sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. ROBINSON:

16 Q Could you state your full name and spell your last name  
17 for the record, please? A Emama Mar Eshai Shimun,  
18 E-m-a-m-a M-a-r E-s-h-a-i S-h-i-m-u-n.

19 MR. ROBINSON: Can everybody hear okay?

20 Q (By Mr. Robinson) Mrs. Shimun, can you tell us what  
21 nationality you are? A Assyrian.

22 Q Where were you born? A Iraq.

23 Q And how long did you live in Iraq?

24 A Since 1942 until 1969.

25 Q And did you leave Iraq? A Where?

26 Q Did you leave Iraq, go from Iraq to some other place?

1 A I just left Iraq once when we went for a vacation to  
2 Iran.

3 Q Okay. And directing your attention to 1969 did you  
4 leave Iraq then? A I left Iraq 1968 to Tehran once.  
5 Then I left Iraq again to Canada.

6 Q Okay. And when you left Iraq to go to Canada was that  
7 to live in Canada? A Yes, I immigrated to Canada.

8 Q And the prior times that you had left Iraq to go to  
9 Iran and Tehran, were those just on vacations?

10 A Yes, vacations.

11 Q What did you do for a living in Iraq?

12 A I was an institute teacher for science and chemistry.

13 Q Science and chemistry? A Yes.

14 Q Were you a schoolteacher? A Yes.

15 Q And Mrs. Shimun, when did you -- you left Iraq to go to  
16 Canada in 1969? A Yes.

17 Q All right. And where did you live in Canada?

18 A Hamilton, Ontario.

19 Q And did you leave Canada to go to the United States?

20 A I immigrated to the United States in 1971.

21 Q Okay. And when you immigrated to the United States  
22 where did you live? A I lived in San Jose, California.

23 Q San Jose? A Yes.

24 Q Okay. Now, directing your attention to 1969 in  
25 Canada, that time frame, okay? A Yes.

26 Q Could you tell us who you lived with in Canada?



1 A I lived with my parents, four brothers and my parents.

2 Q Okay. And had your parents also left Iran to go to  
3 Canada? A You mean Iraq?

4 Q Iraq, excuse me. A Yes, the whole family.

5 Q You all left together? A Yes.

6 Q Do you have four brothers? A Yes.

7 Q And what do your brothers do? What did they do in  
8 Iraq? A In Iraq?

9 Q Yes. A One of them is petroleum engineer in  
10 Iraq, and the other one, they were high school graduates,  
11 and the youngest one was studying engineering.

12 Q Okay. Now, when you came to Canada in 1969, did you  
13 know a Mr. David Ismail? A Yes.

14 Q And did you know his family? A Yes.

15 Q And how was it that you knew the Ismail family?

16 A We know them as -- we know his father and we know the  
17 whole family.

18 Q Your family did? A My family did, yes.

19 Q And what about Mr. Ismail's father, can you tell us what  
20 his occupation was? A As far as I know he is a general,  
21 I think.

22 Q And in what army was he a general?

23 A I really don't know the full history, but back to 1920,  
24 I think, he was leading the Assyrian people.

25 Q A general for the Assyrian people?

26 A I think so.

1 Q Okay. A I'm not quite sure of the history.

2 Q Now, when you came to Canada in 1969, did David Ismail

3 visit you? A Yes, they visited my family, and our  
4 family visited their family.

5 Q And do you see Mr. Ismail in court today?

6 A Yes.

7 Q Could you point him out for us, please?

8 A Yes, he is sitting (indicating).

9 Q Okay. And when Mr. Ismail came to visit you in Canada

10 MR. ROBINSON: Your Honor, do we have some water  
11 or something for Mrs. Shimun?

12 Mrs. Shimun, would you like a glass of water?

13 THE COURT: Here is a box of Kleenex for you.

14 MR. ROBINSON: Are you okay?

15 THE WITNESS: Yes.

16 Q (By Mr. Robinson) All right. Where did David Ismail  
17 live when he came to visit you in 1969 in Canada?

18 A London, Ontario.

19 Q Is that in Canada, also? A Yes.

20 Q Now, when he came to visit you and your family in 1969,  
21 did he discuss politics with you? A Yes.

22 Q Okay. And could you tell us what you discussed?

23 A He was describing this organization, organization of  
24 what they call it federation or alliance, I don't know

25 exactly what is the name, that they are trying to take our

26 lands from Iraqi government and to go back to our lands, and

1 that the Kurds are trying for the liberty, and so we should  
2 do the same, and that we should join the Kurds people.

3 Q The who?

4 THE COURT: The Kurds.

5 MR. ROBINSON: Could you spell that for us?

6 THE WITNESS: K-u-r-d-s.

7 Q (By Mr. Robinson) Okay. A And they are, they  
8 occupy the north part of Iran, and they are fighting Iraqi  
9 government to take their lands, and that we should do the  
10 same and join them against Iraqi government.

11 Q Let me ask you this, Mrs. Shimun, do the Assyrian people,  
12 do they have a country of their own? A Now?

13 Q Yes, now. A No.

14 Q Did they in preceding times? A In ancient time?

15 Q Yes, ma'am. A Yes.

16 Q And who now occupies what was formerly Assyria?

17 A The Arabs.

18 Q Okay. And when Mr. Ismail came to talk to you about  
19 joining the -- did he ask you to join an organization?

20 A Yes. He said we should all be in this and we should  
21 fight for our land and sacrifice our blood for that.

22 Q Sacrifice what? A Sacrifice our blood for one  
23 end, that is, to take our land and to liberate from Iraqi  
24 government.

25 Q Okay. Now, did Mr. Ismail indicate that he was a  
26 member of this organization? A Yes, he did, like we

1 are all in this and we are doing so and so, yes.

2 Q And this organization, was it called the Assyrian  
3 Universal Alliance? A I really don't remember exactly  
4 the name what he says.

5 Q All right. Now, had you heard at this time in 1969 in  
6 Canada of an organization called the Assyrian Universal  
7 Alliance? A No.

8 Q Okay. And you had just come from Iraq to Canada in  
9 1969? A Yes.

10 Q Okay. When you are in Iraq I take it you hadn't heard  
11 of any organization called the Assyrian Universal Alliance?

12 A No.

13 Q Now, did Mr. Ismail say anything about the church in  
14 1969 when he talked to you in Canada? A Yes. When he  
15 was talking with me about that we have to sacrifice our blood  
16 for our end, that is, to take our lands and to liberate our  
17 lands from Iraqi government, and I said no, because we had  
18 enough there in our country and let us live in peace here,  
19 that is why we are immigrating to this country, and we don't  
20 want to be involved, and I was against his idea. And he  
21 said, "Well, I don't blame you. You are too religious, from  
22 a religious family. These churches, once they are destroyed  
23 and this idea of hanging on the church is gone then we can  
24 draw the attention of the people to the politics and to what  
25 we want to do."

26 Q Okay. And this church that you were a member of, would

1 that be the Church of the East? A Yes.

2 Q Who was the Patriarch of the Church of the East in 1969

3 when you were in Canada? A Mar Eshai Shimun, XXIII.

4 Q Did Mr. Ismail say anything else about the church in

5 regard to politics? A This is all what he mentioned

6 that, you are, the people are leaning too much on the church,

7 and that we have to draw their attention to the politics,

8 and this idea of church should be gone and destroyed.

9 Q Okay. Do you know Mr. Ismail's brother, Zaia?

10 A Yes.

11 Q And could you describe his political background?

12 MR. PESTARINO: If Your Honor please, I think we are  
13 getting -- first of all, I suppose some of this is hearsay,  
14 reputation or hearsay; secondly, I think it is somewhat  
15 irrelevant to talk about Zaia's background. Mostly I am  
16 concerned about hearsay.

17 MR. ROBINSON: Under 1314 of the Evidence Code there  
18 is an exception to the hearsay rule, reputation in the  
19 community concerning family history, and I believe that  
20 certainly applies in this case.

21 THE COURT: Well, at the moment it is not hearsay  
22 because the question was merely asked of her if she knew of  
23 his brother. But I guess you are anticipating?

24 MR. PESTARINO: Yeah.

25 THE COURT: So I will overrule the objection.

26 MR. PESTARINO: Already we have had some hearsay

1 statement and I -- well, I'll withdraw my objection that I  
2 have towards that. Okay.

3 THE COURT: You may renew them later. All right.

4 Q (By Mr. Robinson) Now, are you familiar with Mr.

5 Ismail's brother, Zaia? A Yes.

6 Q And could you describe his political background?

7 MR. PESTARINO: If Your Honor please, again we are  
8 getting into certain things that are irrelevant here.

9 MR. ROBINSON: I beg to differ with counsel. It  
10 goes to motive in this case which is highly relevant in all  
11 criminal cases.

12 MR. PESTARINO: I don't see that the political back-  
13 ground that has anything to do with what happened in this case.

14 MR. ROBINSON: That is counsel's viewpoint.

15 THE COURT: That is a matter of opinion. The  
16 question is evidentiary at the moment, and let me just --

17 MR. PESTARINO: All right. I will save some time.  
18 I will withdraw my objection. Go ahead, counsel.

19 THE COURT: Thank you.

20 Q (By Mr. Robinson) Could you answer that question,  
21 please? A Could you repeat it, please?

22 Q Yes. Are you familiar with Mr. Ismail's brother, Zaia,  
23 his political background? A Yes, he has been in  
24 politics since ever I know him.

25 Q Okay. And did he support the Assyrian Universal  
26 Alliance? A Fully.

1 Q Fully? A Yes, sir.

2 Q And the Federation? A Fully.

3 Q All right. Is the Federation and the Assyrian  
4 Universal Alliance the same thing? The same organization?

5 A Yes.

6 Q Okay. Now, did Zaia Ismail visit you at all in Canada  
7 in 1969? A No. We visited them. I saw him. I  
8 saw him there, I think in David Ismail's house. I don't  
9 remember exactly where I saw him, but it was there.

10 Q Okay. And when you had this discussion with Mr. Ismail  
11 about joining politics and destroying the foundations of the  
12 church, was Zaia Ismail present? A No.

13 Q Just you and the defendant, David Ismail? A Yes.

14 Q Now, what did you tell David Ismail when he asked to  
15 join the political organization and destroy the foundations  
16 of the church? A I said that is ridiculous.

17 Q Why did you say that? A Because our language and  
18 the basis of the Assyrians is based on the churches, and the  
19 church is carrying on the language and everything, the  
20 history of Assyrians. This is -- the church is the founda-  
21 tion of the history of Assyrians.

22 Q Okay. And would you say that the Patriarch, Mar Eshai  
23 Shimun, XXIII, was the leader of the Assyrian people?

24 A Yes, he was.

25 Q Now, when did you first meet the Patriarch, Mrs. Shimun?

26 A I heard about him coming to Persia, and my father and

1 the family wanted to visit him, and we all went to see him,  
2 to Persia, and that was in 1968.

3 Q Would that be in Tehran? A Yes. We went with  
4 group of Assyrian people.

5 Q Okay. And was that your first actual meeting with the  
6 Patriarch? A Yes. I just saw him with the, in the  
7 public.

8 Q Now, I am going to direct your attention to 1973, if I  
9 can, okay? A Okay.

10 Q Did you have any contact with the Patriarch in July of  
11 1973? A No. You mean what contact? The marriage?

12 Q Yes. A Yes. We got married in August, 1973.

13 Q And in July of '73 did the Patriarch ask you to marry  
14 him? A Yes, he did.

15 Q And what reasons did he give as to why he wanted to get  
16 married? A Well, first he explained --

17 MR. PESTARINO: If Your Honor please, I'll -- go  
18 ahead. I'll withdraw it. Excuse me. I'll withdraw it.

19 THE COURT: Go ahead.

20 MR. ROBINSON: Thank you.

21 Q (By Mr. Robinson) What reasons did he give, Mrs.  
22 Shimun, as to his wanting to get married in July, '73?

23 A He said that he has resigned his office because he was  
24 very tired, and he was -- his health, health reasons, and that  
25 he wants someone to be with him at home to help him and to  
26 take care of him in his old age and to live few years in peace.



1 Q Okay. And did you marry the Patriarch?

2 A Yes, I did.

3 Q Okay. When did you marry the Patriarch?

4 A August 16th, '73.

5 Q Where did you marry him? A Seattle, Washington.

6 Q And from the time you married the Patriarch in August  
7 the 16th of 1973, did you live with him?

8 A Pardon me?

9 Q Did you live with the Patriarch? A Yes.

10 Q From August 16th, '73, until he was killed?

11 A Yes, sir.

12 Q Okay. Now, Mrs. Shimun, I'd like to ask you, was  
13 there a tradition in the church that the Patriarch wouldn't  
14 marry? A There is a tradition, a custom.

15 Q Okay. A Which goes, you know, for long time,  
16 but in the case of --

17 Q Well, let me just ask you questions. Okay? And this  
18 traditional custom that you said went for a long time of the  
19 Patriarch not marrying, could you tell us how long a time  
20 this went for? A I really don't know quite well about  
21 the history how long it goes, but I think from, about 100,  
22 119 I think. I really --

23 Q 119? A I'm not exact, I really don't know.

24 Q Would it be safe to say in excess of four or five  
25 hundred years? A Maybe, yes.

26 Q How did the position of Patriarch, how did that occur?

1 How did somebody get to be the Patriarch?

2 A In the ancient time we had large university called  
3 Naisiban University, it was on border of Turkey and Persia,  
4 and the graduates, the Patriarchs were elected from those  
5 graduated people there. Then the persecution came and the  
6 people were scattered, so to keep this tradition going on so  
7 we won't lose the church and the history of this church, the  
8 people elected the Mar Shimun's family, being the most capable  
9 family, to elect a Patriarch from that family, and this  
10 tradition was in their house transferring from uncle to  
11 nephew for about 120 years until now.

12 Q Now, prior to asking you to marry him had the Patriarch  
13 resigned from the church? A Yes. He resigned from  
14 the church, then the bishops came asking him to hold his  
15 office again because they were not prepared to elect another  
16 Patriarch. So he resumed his office for six months giving  
17 them a chance to get together and elect a new Patriarch so  
18 the church wouldn't be scattered and destroyed. So they  
19 were not successful in doing that. Then he resigned  
20 completely from his office after six months and that is why,  
21 that is when he decided to get married.

22 Q Okay. Now, let me ask you this, when you say  
23 "resigned from the church," was he still a member of the  
24 Church of the East? A Oh, yes, resigning from office  
25 doesn't mean resigning from his patriarchal line. He is  
26 still a Patriarch, but he is considered a resigned Patriarch.

1 Q And I take it that the Patriarch's uncle was the  
2 Patriarch before the Patriarch became Patriarch?

3 A Yes, that is true.

4 Q Okay. And when the Patriarch decided to marry you,  
5 would you describe the condition of the church at that time?

6 A When he decided to marry, he accomplished everything,  
7 he visited Iraq twice, he raised all of the funds and in  
8 United States, and put them under the State of California's  
9 law to be used for the education of the schools of the  
10 priesthood, prelate school, and he prepared all the thing  
11 that, everything that these money should be sent back to the  
12 Middle East for the A-Lejican School there, and he brought  
13 peace among the church. And he accomplished everything.  
14 There was nothing left. So he thought now, it is the time  
15 for him to resign and someone else to carry on his duties  
16 because he has served this church for 56 years, and that was  
17 when he was 12 years old.

18 Q I will move on to that in a second. Now, would you  
19 describe the attitude of the people of the church when they  
20 found out that the Patriarch was going to marry?

21 A He wrote a special statement about his marriage, and he  
22 sent it all over the world to all church that this marriage  
23 of the Patriarch means him, would seem kind of strange for  
24 the people because this is the first Patriarch in so long  
25 time getting married, but he said people will get used to it  
26 once they know the fact that it is not a rule in the church,

1 that Jesus selected his Apostles from married men, and it is  
2 not a rule in the Church of the East for a Patriarch not to  
3 be married, and that he has resigned, and so they will get  
4 used to it, you know, by the time.

5 Q All right. Let me ask you this, initially when the  
6 people found out that the Patriarch was marrying, the people  
7 of the Assyrian, the Assyrian belief, were they upset?

8 A Most of the people, the honest people, they just  
9 remained silent until they hear more from the Patriarch, the  
10 details, and another statement coming from him. But the  
11 unfaithful people they rushed to the banks taking the money  
12 and claiming that the Patriarch was stolen all of the money,  
13 and all of the money is gone, and they were concerned about  
14 the money, they were not concerned about his marriage, and  
15 these people who created all of this problem, the unfaithful  
16 people.

17 Q Okay. Now, I'd like to go back a little bit if I can  
18 to get some information about the Patriarch. Okay?

19 A Yes.

20 Q All right. Now, you told us that the Patriarchy  
21 remained in the Shimun family for in excess of how many years?

22 Do you remember? A About 120 years.

23 Q It has been in the family for 120 years?

24 A Yes.

25 Q And when did -- pardon me. A I'm really not sure  
26 because what I was reading is for 600 years. I don't know.

1 I think this was 200, 120 Patriarchs, but in their home it  
2 has been for 600 years.

3 Q Okay. 600 years? A Yes.

4 Q And the Patriarch before your husband, your husband's  
5 uncle, was he killed? A Yes, he was assassinated.

6 Q And where did this occur? A I think in Turkey.

7 Q And your husband became Patriarch in 1920? A Yes.

8 Q All right. And that was when he was how old?

9 A When he was, I'm not sure, 11 or 12. I think 11 years  
10 old.

11 Q And could you describe for us your husband's educational  
12 background, what sort of education did he have that would  
13 enable him to be Patriarch? A Yes. He went to  
14 England and he finished his theological school university  
15 there in England.

16 Q Would that be Cambridge? A Yes, Cambridge Univer-  
17 sity, and then he went back to Iraq, and then he went to  
18 Geneva to present the Assyrians' case there. And then he  
19 immigrated to United States.

20 Q Okay. And did the Patriarch ever go to the United  
21 Nations to present the Assyrians' case? A Yes.

22 Q When did the Patriarch come to the United States?

23 A I'm really not sure of the year. I don't recall.

24 Q Okay. And when he came to the United States, could you  
25 tell us where he lived? A First, he lived in Chicago.  
26 Then he moved to San Francisco, California.

1 Q Okay. And then he moved to San Jose?

2 A Yes, he moved to San Jose when we get married.

3 Q Okay. Now, tell us a little bit, if you can, about  
4 the Church of the East. Could you describe what sort of a  
5 religious body that is? A The Church of the East is

6 very ancient church, and we are very minority keeping this  
7 ancient church to go ahead. And it is, most of the members  
8 are in Iraq and Syria. The few people are here in the  
9 United States.

10 Q Okay. Can you tell us how many followers there are  
11 members of the Church of the East?

12 A All over the world?

13 Q Yes. A I really don't know exactly. I can't  
14 give you a number because I am not sure.

15 Q Okay. Do you have an approximation for us?

16 A Not really. I don't know.

17 Q Okay. And besides the countries of Iran and Iraq,  
18 are there members of the Church of the East in Australia?

19 A Yes, there is in Australia, and recently the Patriarch  
20 accepted 12,000 people from Italy, and he was accepting  
21 another, about a million people from Brazil and from France.

22 Q Okay. Now, you told us that the Patriarch resigned as  
23 leader of the Church of the East? A Yes.

24 Q Okay. And the reasons for his resigning were?

25 A The reason were the health and he was very much tired  
26 from 56 years of service.

1 Q Okay. And after he resigned he came back once again  
2 to become the Patriarch and the leader of the church?

3 A Yes. He resumed his office again when he saw that the  
4 bishops are not successful to elect the Patriarch and they  
5 are acting against the canon law of the church, so he wanted  
6 to resume his office to straighten things up again and put  
7 them in order.

8 Q Okay. And on November the 6th, 1975, was the Patriarch  
9 the leader of the church? A Yes. He was the  
10 Patriarch of the Church of the East.

11 Q Now, since you were married to the Patriarch, from 1973  
12 on to November the 6th, 1975, did you further find out about  
13 the Assyrian Universal Alliance? A They were very  
14 much against the Patriarch because they thought that he is  
15 not joining them in their policy.

16 Q Okay. And what sort of a policy did they want the  
17 Patriarch to join in on? A They wanted him to go ahead  
18 and take the political leadership and forget about spiritual  
19 leadership, and then to take their land from Iraqi government.

20 Q And how did the Patriarch feel about making the church  
21 a political body? A He felt that this is against the  
22 rule of the Church of the East, and that the church should  
23 be isolated completely from the politics.

24 Q Separation of church and state? A Yes. The  
25 church should be acting as a church, as a spiritual factor.  
26 And politics is politics. So he didn't want to be involved

1 at this time in politics.

2 Q And did the Patriarch ever make any speeches to the  
3 members of the church or send out any letters regarding what  
4 the individual members of the church, what government they  
5 should support? A Yes. When he visited Iraq he gave  
6 a speech for all of the people there and in other countries  
7 that all of the members of the Church of the East, especially,  
8 and other Assyrians should be loyal to the government that  
9 they are in. He gave an example like he is American citizen,  
10 he should be loyal to United States. If they are Iraqi  
11 citizens they should be loyal to their government. So every-  
12 one should be loyal to the government that he is living in  
13 that country.

14 Q Okay. Now, how did the Patriarch feel about the  
15 Assyrian Universal Alliance and its members?

16 A He is not against them. He doesn't have any objection.  
17 But, for example, when one of their members visited the  
18 Patriarch a month ago before his killing asking him to take  
19 the political leadership --

20 Q Wait. I will get to that. Okay?

21 A Okay.

22 Q Did the Patriarch want to get involved with the Assyrian  
23 Universal Alliance? A No, he didn't. He was tired.  
24 He wanted to relax for these years that --

25 Q Did the Patriarch want the Church of the East to be  
26 involved with the Assyrian Universal Alliance?



1 A Not at all.

2 Q Okay. Now, you were going to tell us something that  
3 happened a month ago. Would this be a month before he was  
4 killed? A Yes. About a month.

5 Q So some time in October of 1975? A Yes.

6 Q All right. Did a member from the Assyrian Universal  
7 Alliance visit the Patriarch? A Yes. He was an  
8 active member from Chicago. He came especially to see the  
9 Patriarch and to discuss with him about him taking over the  
10 political leadership instead of spiritual leadership. And  
11 he said he was very tired, and when he is tired, he mean that  
12 he is tired and his health is in, not in a good condition  
13 and he wants to relax. He has no objection at all about  
14 what Malek Yagoub, his father, has accomplished with the  
15 Iraqi government, and especially that person said that he was  
16 with him when discussing the land with the Iraqi government,  
17 and his brother Zaia was -- David Ismail's brother Zaia was  
18 there. And the Patriarch said, "What did the Iraqi govern-  
19 ment promise?" He said they promised that they will give us  
20 their land, the Assyrians' land. He said, "Okay. Let Zaia  
21 go ahead and take those lands as the Iraqi government  
22 promised and I will be more than glad to hear that we are  
23 having our lands there."

24 Q And did this person -- was this person that visited the  
25 Patriarch from Chicago, was he a leader of the Assyrian  
26 Universal Alliance? A Was he what?

1 Q A leader? A I really don't know his position,  
2 whether he is, but I know that he is an active member there.

3 Q And did he want the Patriarch to go to some other  
4 country? A Yes, he asked the Patriarch that he should

5 leave the United States and go and live in Iraq and make our  
6 home there, and by that it is easy for him to take over the  
7 political leadership. He was mainly concerned about the  
8 political part of it.

9 Q Okay. And what did the Patriarch say to this

10 individual? A He said that he has tried before, all  
11 his power to take the land. He has presented the case to  
12 the United Nations. He has done everything that he could,  
13 but he said politics is a strong matter and we are a minority  
14 people, we are not strong. We don't have educated people.  
15 We don't have enough army to go and fight with it. We don't  
16 have ammunition, we don't have anything. We are not capable  
17 to take our land from a big government like Iraq, so it is  
18 better for us to leave those people who are living in Iraq  
19 in peace. By making statements here and there in other  
20 countries which are big countries, it is easy here because we  
21 don't get punished. But the people in Iraq, he was concerned  
22 about the safety of the Iraq, Assyrian people in Iraq.

23 Q So in October, 1975, a month before he was killed would  
24 it be fair to say that the Patriarch still believed in a  
25 separation between church and state? A Church and what?

26 Q That he didn't want the church, his church to be involved

1 in politics? A. Definitely, yes.

2 Q. And at this time did he once again enumerate the policy  
3 that he wanted people to be faithful to the country in which  
4 they were living? A. Exactly, yes.

5 Q. And also to be faithful to the Church of the East?

6 A. Yes.

7 Q. Now, do you know a man named Kanna who lives in Sidney,  
8 Australia? A. Yes.

9 Q. And could you describe this person in relation to the  
10 Assyrian Universal Alliance? A. He is very active member  
11 in the Assyrian Universal Alliance.

12 Q. And has he ever written anything or spoken out regarding  
13 the Patriarch? A. He was always writing against the  
14 Patriarch and speaking in Australia against him and threaten-  
15 ing the people who are faithful to the Patriarch that they  
16 will get killed if they support the Patriarch.

17 Q. Okay. And did he want the Patriarch in office or out  
18 of office? A. He wants the Patriarch out of the office.

19 Q. Now, I am going to direct your attention to the 19th of  
20 November, 1975. Okay? Was there to be a meeting in Seattle?

21 A. Yes. There was a meeting between the Patriarch and  
22 the bishops.

23 Q. Okay. And this was to take place in Seattle, Washington?

24 A. Exactly.

25 Q. What was the purpose for this meeting?

26 A. To settle things which were among the Patriarch and the

1 bishops, and to put the church in order again and in peace,  
2 and I presume after that he was going to resign again.

3 Q Now, when you talk about the bishops, could you tell us,  
4 are these bishops, are they all in the United States?

5 A No, they are all in the Middle East.

6 Q Okay. And what countries do these bishops live in?

7 A In Iraq, Iran, Syria, Lebanon. We don't have in  
8 Australia and Italy.

9 Q And are these bishops, are they clergy in the church?

10 A Yes.

11 Q Now, had this meeting been postponed from November 19th,  
12 1975, to a different date? A Yes. A week before his

13 assassination he decided to make it on January 5th.

14 Q January the 5th, 1976? A Yes.

15 Q Okay. Now, Mrs. Shimun, I take it that during the  
16 course of your married life to the Patriarch you were very  
17 close to him? A After our marriage?

18 Q Yes. A Yes.

19 Q Okay. And did he confide in you about things?

20 A Yes, very much.

21 Q Okay. Now, a couple of months before the killing on  
22 November the 6th, 1975, did the Patriarch say anything to you  
23 regarding whether or not he felt somebody might harm him?

24 A Yes, he did.

25 Q What did he say? A He said that there is people  
26 he thinks that they are working against, cooking something

1 against him, especially that when he heard that Zaia and his  
2 cousin are in Iraq.

3 Q That is Zaia Ismail? A Yes.

4 Q Okay. Now, I am going to direct your attention now,  
5 Mrs. Shimun, to November the 6th, 1975. Okay?

6 A Okay.

7 Q All right. Could you tell us what time you woke up  
8 that day? A About seven o'clock.

9 Q Okay. And could you tell us where you lived on  
10 November the 6th, 1975? A 6217 Woosley Drive.

11 Q That is in San Jose? A Yes.

12 Q All right. And who did you live there with?

13 A The Patriarch and my son.

14 Q Okay. How old is your son? A Now he is about  
15 19 months.

16 Q Okay. So he was approximately what, 13 months, I guess?

17 A Yes.

18 Q Fourteen months at that time. And what is his name,  
19 your son's name? A Yohanan.

20 Q Call him John? A If you wish.

21 Q Now, on November 6th, 1975, was your husband still the  
22 leader of the church? A Yes.

23 Q And after you woke up that morning what did you do?

24 A In the morning we came down and I prepared the breakfast,  
25 and we had the breakfast together, and he went to his office  
26 upstairs.

1 Q All right. Did he have an office in your home on  
2 Woosley? A Yes.

3 Q Was that where he ran the church from?

4 A Pardon me?

5 Q Was that where he conducted church business from?

6 A Yes.

7 Q He ran the church from that office?

8 A It is his office. And it is Patriarch of the East, yes.

9 Q And what did he do in his office?

10 A He was busy all of the day preparing for this senate  
11 meeting between him and the bishops, and about the rules of  
12 the church and what was going to be discussed in the senate.

13 Q And this senate meeting, is this the one that you told  
14 us about that was going to occur in Seattle? A Yes.

15 Q What did you do when the Patriarch was in his office

16 working? A When he was working that day I was taking  
17 care of my son and doing the housework until 1:30 afternoon.

18 Q Okay. And at 1:30 in the afternoon did you leave the  
19 house? A Yes. I told him that I am taking the baby

20 for a walk, as usual, and doing some shopping.

21 Q Okay. Where did you go? A I took the baby out,  
22 and I went to the nearest shopping center that we have.

23 Q And that nearest shopping center, that is located on  
24 Cottle Avenue? A Yes, on Cottle and Santa Teresa.

25 Q And how far is that shopping center from your house, if  
26 you know? A Less than half a mile, I guess.

- 1 Q Did you walk to the shopping center? A Yes.
- 2 Q All right. And in walking to the shopping center from  
3 your house did you go down Los Pinos? A Yes, I did.
- 4 Q And do you turn left on Los Pinos? A I turn left,  
5 I went Los Pinos, yes, I turned left, yes.
- 6 Q Okay. And then walked down Cottle? A Down  
7 Cottle, no. When you go down Los Pinos then you are on  
8 Camino Verde, then coming from -- to the shopping center,  
9 this is the way we going for a walk.
- 10 Q Okay. You just went a different way? A Yes.
- 11 Q Now, what time did you come home from shopping, Mrs.  
12 Shimun? A I came about 3:30 to 4:00, about 3:30.
- 13 Q All right. And when you came home from shopping did  
14 you see your husband, the Patriarch? A Yes. I saw  
15 him and he was very tired.
- 16 Q Okay. Had he been working all day?
- 17 A (Nods affirmative.)
- 18 Q What did you do when you came home from shopping?
- 19 A I prepared the tea because it was tea time. This is  
20 kind of habit we have, to have tea at 4:00 o'clock. So we  
21 had tea together and then after that we started preparing  
22 dinner.
- 23 Q Okay. And what time did you start preparing dinner?
- 24 A It was about five o'clock.
- 25 Q Okay. And when you say "we" started preparing dinner,  
26 did the Patriarch help you to prepare dinner? A Yes.

1 Q And was this his custom and habit? A Yes.

2 Q Okay. Just like having the tea at four o'clock was?

3 A Yes.

4 Q Now, you were preparing dinner, were you, in the kitchen  
5 area at this time? A Yes.

6 Q All right. And what time did you have dinner, Mrs.

7 Shimun? A About six o'clock.

8 Q Okay. And where did you eat dinner?

9 A In the dining room.

10 Q Okay. And do you always eat dinner in the dining room?

11 A Yes, always.

12 Q And, now, after you ate dinner can you give us an  
13 estimate as to what time you finished eating dinner?

14 A I finished eating about, I'm not exact, about 6:30, and  
15 I was ahead of him because I wanted to take the baby upstairs,  
16 he was crying and he was not comfortable at that day, so I  
17 wanted to put him to sleep.

18 Q Okay. And prior to putting the baby asleep were you

19 going to do anything to the baby? A I took him for a  
20 bath, yes, that is every day giving him a bath before putting  
21 him to sleep.

22 Q That was your habit and custom? A Yes.

23 Q To do that? A Yes.

24 Q Now, did you get up from the dinner table?

25 A Yes, I did.

26 Q And did you pick up your baby? A Yes.



1 Q And go upstairs? A Yes.

2 Q Now, when you got up from the dinner table was the  
3 Patriarch still eating dinner? A Yes, he was.

4 Q Were there dishes still on the dinner table?

5 A Yes.

6 Q And food and other items? A Everything, yes.

7 Q Now, did the Patriarch have a custom or habit regarding  
8 the dishes on the dinner table? A Yes. When I take  
9 the baby for a bath and put him to sleep the Patriarch helps  
10 me in picking up the dishes from the table and putting,  
11 washing, putting them in the sink ready for putting them  
12 in the dishwasher and cleaning the table.

13 Q You mean he would clean the table, put the dishes in  
14 and scrape off -- A (Interrupting) Yes.

15 Q -- and wash them, put them in the sink? A Yes.

16 Q Then you would come down and put them in the dishwasher  
17 later? A Yes, and he prepares the coffee.

18 Q And he prepares the coffee? A Yes.

19 Q What was your custom regarding having coffee? When  
20 would you have that? A After I come down from putting  
21 the baby to sleep we sit in the family room, he watches the  
22 news and while watching the news we are having the coffee.

23 Q Okay. Now, from the area of the dining room where  
24 you have dinner can somebody see the front door from that  
25 part of your house? A Yes.

26 Q Okay. And could you describe your front door for us?

1 Is it glass or -- A The upper part is glass and  
2 there is sheer drapes on it, and the lower part is wood.

3 Q Okay. And on the side of the front door, do you have  
4 glass on the side of the door? A Yes, and in the  
5 living room.

6 Q And when you say -- are they also -- do they also have  
7 sheer drapes? A Yes.

8 Q Now, if somebody was at your front door without knocking  
9 or ringing the bell, could you see out of those sheer drapes  
10 to see there was somebody at your door? A Yes, we can  
11 see that.

12 Q You can see the figure out there? A The chair  
13 where he is sitting, if he is sitting he can. But the  
14 corner --

15 Q (Interrupting) I will get to that. Okay?

16 A Yes.

17 Q Just asking you, could you see outside the front door  
18 through the sheer drapes to see if there was a figure outside  
19 by your front door? A Just the shape, yes.

20 Q Now, where the Patriarch sat at the dining room table,  
21 is his back to the front door? A Yes.

22 Q Okay. And I take it where you sat you would be facing  
23 the front door? A Exactly, yes.

24 Q When you got up to take the baby upstairs to put the  
25 baby, to give the baby a bath, did you notice if there was  
26 anybody at your front door? A No, I didn't.

1 Q. And in order to clear the table and the dishes from the  
2 table, would the Patriarch have to leave from the dining room  
3 to the kitchen area? A. Yes.

4 Q. And in walking between the dining room and the kitchen  
5 area would he be facing the front door at any time?

6 A. Yes.

7 Q. So if in clearing the dishes, walking from the dining  
8 room to the kitchen area then, he would have an access view  
9 to look out the front door? A. Yes, that is true.

10 Q. Was your front door that night of November the 6th, 1975,  
11 was it open or closed? A. It wasn't locked by the, by  
12 the chain. But I am not sure whether, because when I  
13 entered the house the Patriarch helped me to carry the  
14 carriage of the baby, the buggy, and I don't know whether he  
15 locked it or not.

16 Q. Well, was the door open or shut? A. It was shut.

17 Q. But you don't know if it was locked or not?

18 A. No, I don't.

19 Q. Now, I am going to jump ahead a little bit, if I can?  
20 Okay? A. Yes.

21 Q. After the Patriarch was killed, the next day, did you go  
22 back to your house? A. Yes, I did.

23 Q. Okay. And did you go into the area of the dining room?

24 A. Yes.

25 Q. All right. And were there any dishes from the preceding  
26 night on the dining room table? A. No. He has taken

1 all of the dishes. They were in the sink. And he has  
2 prepared the cups and the coffee.

3 Q Okay. And this would be what he would ordinarily have  
4 done? A (Nods affirmative.)

5 Q Okay. Now, when you were upstairs, Mrs. Shimun, with  
6 your baby, had you already begun the bath water?

7 A No.

8 Q Okay. A It was prepared before that.

9 Q The bath had already been prepared? A Yes.

10 Q I see. You had let the water cool or something?

11 A Yes.

12 Q And when you were upstairs was there any water running?

13 A No.

14 Q Okay. Did you hear the doorbell ring?

15 A Not at all.

16 Q Did you hear a knock on the door? A No.

17 Q From your position of the bathroom upstairs would you  
18 have heard the doorbell ring if it had rang?

19 A Very clearly because we have a bell right in front of  
20 the bathroom upstairs.

21 Q On November the 6th, 1975, between, say, 6:30 and 7:00  
22 o'clock in the evening you heard the door -- well, you  
23 didn't hear it ring? A No.

24 Q And did you hear a knock on the door? A No, I  
25 didn't.

26 Q Could you have heard a knock on the door if there was

1 one from your position upstairs in the bathroom?

2 A Yes, very clearly.

3 Q Did your husband, the Patriarch, have any problems with  
4 his hearing? A Yes, he has.

5 Q Okay. And could you tell us what problems that he had?

6 A When he is sitting on the table in the dining room and  
7 someone is knocking on the door he won't hear him. I'll tell  
8 him there is a knocking on the door so he will get up and  
9 open the door.

10 Q I am going to direct your attention to approximately  
11 a week before this tragedy occurred, some time around October  
12 31st, Halloween. Okay? A Yes.

13 Q Are you familiar with Halloween? A Yes, I am.

14 Q On Halloween night did children from your neighborhood  
15 come and knock on your door? A Yes.

16 Q Did the Patriarch hear those knocks?

17 A The Patriarch asked me not to open the door for anyone  
18 but he will go and open the door for the children. Then he  
19 wasn't hearing the knocking and I was always telling him  
20 here is a knock on the door, and he says, "Oh, I didn't hear  
21 that." Then he goes and opens the door. It happened  
22 seven, eight times that I was telling him that there is a  
23 knocking on the door.

24 Q Was that on Halloween night? A Yes.

25 Q And the Patriarch didn't want you to open the door?

26 A No.

1 Q Did he ever say why? A Because he said if there  
2 is anyone coming, you know, like it is Halloween and everyone  
3 is knocking on the door, and someone will come with a gun or  
4 something, then he will just scream and I have to take the  
5 baby upstairs and lock the door and call for help for the  
6 neighbors. That is what he told me.

7 Q Now, Mrs. Shimun, when you were upstairs on November the  
8 6th, 1975, with your baby, did you hear anything?

9 A Yes.

10 Q And could you tell us the first thing that you heard?

11 A I heard -- I heard the Patriarch scream very loudly my  
12 name twice.

13 Q Well, okay, and prior to hearing the Patriarch scream  
14 your name twice very loudly, did you hear anything else?

15 A No, I didn't.

16 Q And how did he scream your name, Mrs. Shimun?

17 A He screamed, "Emama, Emama," very loudly.

18 Q Could you describe his voice when you heard that?

19 A It was very loud, very unusual loud, and it seemed like  
20 there is a trouble happening, something happening to him.

21 Q Okay. Now, when he screamed your name, "Emama, Emama,"  
22 loudly twice, what did that mean to you? A That means  
23 I have to run to the baby and take him and lock myself in a  
24 room and call for help.

25 Q Was this a signal that you had worked out with the  
26 Patriarch? A Yes.

1 Q And was this a warning that he was giving you?

2 A Yes.

3 Q Okay. Now, after you heard your name loudly being  
4 screamed twice, what did you hear next? A Immediately  
5 I heard a movement like a chair moving, something. I  
6 thought that he was sitting on the chair eating and something  
7 happened to him so he is falling from the chair, something  
8 like this, movement of the chair.

9 Q After hearing this movement what did you hear next?

10 A Immediately I heard three shots.

11 Q Okay. Now, how soon did this all happen? Was it  
12 instantaneously? A Very instant, yes, everything  
13 happening one after another.

14 Q So sort of like, "Emama, Emama," shuffling, and bang,  
15 three shots? A Yes.

16 Q Now, Mrs. Shimun, after you heard this very fast, did  
17 you disregard the Patriarch's order? A Yes.

18 Q Okay. Could you tell us why? A I just forget  
19 all about that and I rush downstairs to see what happened to  
20 him.

21 Q Okay. And when you rushed down the stairs did you see  
22 your husband? A (Nods affirmative.)

23 Q Could you tell us where he was?

24 MR. ROBINSON: Your Honor --

25 (Witness weeping.)

26 THE COURT: Let's take a break then at this time and

1 give her a chance to compose herself.

2 Ladies and gentlemen, we will take our morning  
3 recess and you will keep in mind the admonition that I have  
4 given you before. You will be ordered to return at eleven  
5 o'clock.

6 (Short recess taken.)

7 THE COURT: Let the record show that the jury is  
8 present and the defendant is present. You may proceed.

9 MR. ROBINSON: Thank you, Your Honor.

10 Q (By Mr. Robinson) Mrs. Shimun, I am going to show you  
11 some pictures and ask you, first of all, showing you People's  
12 10-H for identification, do you recognize the car in that  
13 photograph? A Yes.

14 Q Whose car is that? A That is our car.

15 Q Was that the way your car was parked that night?

16 A Yes.

17 Q Okay. And I am going to show you People's 10-0 for  
18 identification, and ask you if you would for us, please, take  
19 this green pen and, perhaps, put an X where your husband's  
20 body was when you came down the stairs and saw him that night?

21 A (Witness marks exhibit.)

22 Q Okay. Could you make that a big X, a little bigger?

23 Okay. Thank you.

24 I am, also, going to show you, Mrs. Shimun, People's  
25 10-B, and ask you if you could, perhaps, put an X in that  
26 picture where your husband's body was located?



1 A. (Witness marks exhibit.)

2 Q. Okay. Thank you. And the same with 10-Q, please.

3 A. (Witness marks exhibit.)

4 Q. Okay. And 10-M. A. (Witness marks exhibit.)

5 Q. Okay. Thank you. Now, Mrs. Shimun, how far away  
6 from the front door -- strike that.

7 When you came down the stairs that night and saw  
8 your husband's body, what did you do?

9 A. Will you repeat the question?

10 Q. If you can remember, and I know it is difficult, when  
11 you came down the stairs that night and saw your husband  
12 laying there on the ground, what did you do?

13 A. I just asked him what happened, and then when I saw the  
14 blood from on his shirt, and he couldn't talk, so I run to  
15 the neighbors.

16 Q. Did you run out the front door into the street?

17 A. Yes.

18 Q. Okay. And was the front door open or closed?

19 A. No, it was open.

20 Q. You didn't have to open it yourself? A. No.

21 Q. Now, I am going to show you 10-L and that appears to be  
22 a glasses case in 10-L. Are you familiar with that glasses  
23 case? A. Yes, it is my husband's.

24 Q. And where would he ordinarily carry that glasses case?  
25 Would he hold it in his hand or wear it on his pocket?

26 A. He usually have it in his pocket.

1 Q In his shirt pocket? A Yes.

2 Q All right. Mrs. Shimun, approximately how far away from  
3 the front door was your husband's body when you saw it that  
4 night, if you can estimate in feet? If you can't tell us,  
5 "I don't know." A From the front door?

6 Q From the front door. A I think about 12 feet.

7 Q About 12 feet. Okay.

8 MR. PESTARINO: May I see those pictures?

9 Q (By Mr. Robinson) Now, when you came -- strike that.

10 When you got up in the morning of November the 6th,  
11 1975, did the Patriarch indicate to you whether or not he was  
12 going to receive any guests that day? A No, not.

13 Q So you weren't expecting any callers? A No.

14 Q Okay. And when you got home from the store at  
15 approximately 3:30 in the afternoon on November the 6th, 1975,  
16 did the Patriarch indicate to you that you were going to  
17 receive some guests that night? A No.

18 Q Were you expecting anybody that night? A No.

19 Q And from the time of your arriving home from the store  
20 at 3:30 until the time you heard him scream, "Emama, Emama,"  
21 were you expecting guests that night? A No.

22 Q Was it your intention after you had bathed your baby and  
23 put your baby to bed you were going to join the Patriarch for  
24 coffee? A Yes.

25 Q This was going to be a standard average evening in your  
26 home? A Yes. In fact, he has prepared two cups,

1 one for him and one for me, and he was waiting.

2 Q He prepared two cups of coffee? A Yes.

3 Q Didn't prepare three? A No.

4 Q Now, did the Patriarch, was his position as the leader  
5 of the Church of the East equivalent to the position of the  
6 Pope in the Vatican? A Yes, maybe.

7 Q As the Pope is the leader of the Catholic Church your  
8 husband was the leader of the Church of the East?

9 A Exactly, yes.

10 Q And did he have a policy regarding the reception of  
11 guests at his home? A Yes.

12 Q And could you tell us what that was, please?

13 A Anyone who visit the Patriarch, he has to make an  
14 appointment one week in advance so that he will schedule for  
15 it and be ready for that.

16 Q So, in other words, somebody just didn't drop in off the  
17 street and wish to see the Patriarch? That didn't occur,  
18 huh? A Oh, no. In fact, there was a bishop who came  
19 from Vatican without having an appointment. He knocked the  
20 door and I just told him because not having an appointment  
21 he can't see the Patriarch, and he went back.

22 Q Okay. And did the Patriarch have a policy regarding  
23 reception of guests after, say, six o'clock at night?

24 A No, not at all, even after four he won't see anyone.

25 Q After four o'clock? A Yes.

26 Q In the afternoon? A Yes.

1 Q Now, the day before your husband was killed, okay?  
2 That would be November the 5th, 1975, did you receive any  
3 phone calls at your house? A Yes.

4 Q Okay. And could you describe what occurred on those  
5 phone calls? A There was a man calling with accent,  
6 our accent, Assyrian accent, and asking for is this number  
7 227-45, the last digits were, he was giving them wrong. And  
8 we say no. Then again he calls repeating the same thing,  
9 and again this last two digits, giving them wrong. So it  
10 happened three or four times, my husband was suspecting there  
11 is someone calling purposely and he just wanted to make sure  
12 that he is home.

13 Q Okay. And this man had an Assyrian accent?

14 A That is what my husband said, yes.

15 Q Now, did you receive a call from -- the same sort of a  
16 call from a woman? A Yes.

17 Q Okay. And what did this woman want?

18 A She did the same thing, asking for wrong number, asking  
19 if this is Williamson's house. And, in fact, three months  
20 ago they were calling asking is this DeBaz, Aphraim DeBaz's  
21 office, and we were saying there is not such a person here,  
22 and this call was four or five times.

23 Q So what they would basically do is give your right number  
24 the first three, then the next two, then the last two would  
25 be different than your number? A Yes, that is true.

26 Q Did the Patriarch have an appointment with anybody that

1 evening? A No, not at all.

2 Q Now, did you know that David Ismail was in San Francisco  
3 between October the 31st and November the 5th, November the  
4 6th, 1975? A No.

5 Q Between October the 31st and November the 6th, 1975,  
6 did David Ismail call your house? A Between?

7 Q Between October 31st and November the 6th, 1975, did he  
8 call your house? A No, not at all.

9 Q Did you know that David Ismail was in San Jose on  
10 November the 6th, 1975? A No.

11 Q Okay. Now, this person that you described as a leader  
12 in the Assyrian Universal Alliance who came to visit the  
13 Patriarch approximately a month before he was killed --

14 A (Interrupting) Yes.

15 Q -- and wanted the Patriarch to go to Iran, is this  
16 person's name "Sargis"? A Yes.

17 Q Do you know his last name? Or is that his last name?

18 A I really don't know. He was always writing. He has  
19 two articles written in favor of the Patriarch in the last  
20 two issues of Assyrian Star, I think by the name of Sargis  
21 Michael. I'm not sure.

22 MR. ROBINSON: Thank you. I have no further  
23 questions.

24 CROSS-EXAMINATION

25 BY MR. PESTARINO:

26 Q Mrs. Shimun, I am going to have several questions to ask

1 you, and I want to do it as nicely and easily as I can. So  
2 will you forgive me if I -- A (Interrupting) Thank  
3 you.

4 Q -- if I talk too much.

5 I am a little confused. You heard a scream before  
6 you heard three shots? A Correct.

7 Q Right? A Correct, yes.

8 Q Yeah. And at that time you thought your husband was  
9 having a heart attack, didn't you? A I thought maybe  
10 is falling from the chair or something happened to him. I  
11 don't know. I don't know what came to my mind.

12 Q Well, do you remember testifying in court very briefly  
13 on November the 25th in Judge Kanemoto's court?

14 A Yes, I testified.

15 Q Very briefly, I asked you just a few questions, and that  
16 was about it, wasn't it? A Yes.

17 Q And Mr. Hoffman asked you the question, the question by  
18 Mr. Hoffman was, "Q What did you hear?" Answer, and  
19 your answer was, "A I was upstairs, I just took the baby  
20 upstairs, and just taking his clothes, putting them  
21 in his bath, I heard movement of a chair. I thought  
22 he has a heart attack when he screamed very loudly."  
23 Do you remember saying that?

24 A Yeah, I remember saying that, but I am not exact in that.

25 Q And further on, Mr. Hoffman questioning you, and he said,  
26 "Q You said you heard a scream. Did you recognize

1           who screamed?"

2           And your answer was, "My husband."

3           "Q All right. Did you hear any other sounds?

4           "A Very shortly I heard three bullets, sound, three  
5 shots sound.

6           "Q All right. Were the shots before or after  
7 the scream?"

8           And the answer was, "They were after."

9           A That is true, but --

10          Q Now -- (interrupting)

11          A Excuse me.

12          Q Excuse me. A I just want to correct one thing  
13 there that you read. I heard him scream and then I heard  
14 the movement. That is what I heard. I just want to  
15 correct what you say.

16          Q You heard a chair move? A I heard him first  
17 screaming and then I heard the movement.

18          Q Did you hear a chair being pushed aside?

19          A I said something like movement of the chair, but it was  
20 something moving which I heard after he screamed.

21          Q Mm-hmm. Now, nowhere in that preliminary hearing did  
22 you say that he called out your name, "Emama, Emama," did you?

23          A Yes.

24          Q You did not say that at that time before Judge Kanemoto?

25          A I'm sorry, I don't?

26          Q All of the questions that were asked you at this time in

1 court on November the 25th -- you remember?

2 A Yes.

3 Q -- you didn't mention anything about him calling, "Emama,  
4 Emama," did you?

5 MR. ROBINSON: I am going to object --

6 THE WITNESS: (Interrupting) Yes, he called, "Emama,  
7 Emama."

8 MR. ROBINSON: We don't know whether that question  
9 was asked or not, what did he say.

10 MR. PESTARINO: I am asking her if she did.

11 THE COURT: She did what, sir? Asking her if she  
12 did what?

13 MR. PESTARINO: If she heard her husband call out,  
14 "Emama, Emama," at that time.

15 MR. ROBINSON: I believe the proper question is,  
16 "Were you asked that question." As His Honor well knows, a  
17 preliminary hearing isn't to bring out all of the evidence.

18 THE COURT: Yes. I understand that. The question  
19 that I am confused about is whether Mr. Pestarino is asking  
20 her if she heard those words or whether she responded to a  
21 question that she --

22 MR. PESTARINO: (Interrupting) Well, my question was,  
23 did she say anything about her husband calling, "Emama, Emama"  
24 at that time.

25 MR. ROBINSON: At the preliminary.

26 THE COURT: And the objection is that no question was



1 asked about any conversation?

2 MR. ROBINSON: Yeah, I think we have to lay a  
3 further foundation.

4 THE COURT: I don't have the preliminary.

5 MR. PESTARINO: There was no questions asked her if  
6 she heard the words, "Emama, Emama." The questions were  
7 just as I read them.

8 MR. ROBINSON: Perhaps, can I take a brief look at  
9 that since that ended up without having a preliminary hearing?  
10 We had to go to the Grand Jury. All I have is the Grand  
11 Jury transcript.

12 MR. PESTARINO: It is still under oath.

13 Q (By Mr. Pestarino) You were sworn under oath at that  
14 time? A I don't know what you want to ask me.

15 THE COURT: There is nothing at the moment. If  
16 you will just wait a moment.

17 Q (By Mr. Pestarino) Well, let me ask you this, and change  
18 the subject --

19 MR. ROBINSON: Could we have --

20 MR. PESTARINO: I will withdraw it for the moment.  
21 Don't get excited.

22 Q (By Mr. Pestarino) You thought your husband was  
23 having a heart attack when he screamed?

24 A I don't know exactly.

25 Q Well, at the preliminary hearing you testified that he  
26 was, you thought he had a heart attack?

1 A I don't know exactly. I don't know what came to my  
2 mind.

3 Q All right. Let me change the subject for a moment.  
4 Your husband, in effect, was equivalent to the Pope as far as  
5 the Assyrian people are concerned? A Mm-hmm.

6 Q Isn't that right? A Yes.

7 Q And as a boy, 12 or 13 years of age, he was elected Pope  
8 for the Assyrian people, wasn't he? A Would you please  
9 use the term of Patriarch.

10 Q All right. Patriarch, pardon me. I am trying to --  
11 all right. Patriarch. He was elected Patriarch when he  
12 was 12 or 13 years of age, wasn't he? A Yes.

13 Q And his family had been traditionally elected to the  
14 same position for many, many years? A Yes.

15 Q Haven't they? A Yes.

16 Q And so as a boy he was educated, was he not, in England?

17 A Yes.

18 Q And he was educated just for this position, wasn't he,  
19 by the Assyrian people? A I really don't know the  
20 background of his education.

21 Q You don't? A I'm not sure.

22 Q Well, anyway, you knew him to be an educated man?

23 A Oh, yes.

24 Q You are an educated woman? A Yes.

25 Q Most Assyrian people are uneducated, isn't that right?

26 Generally speaking? A I can't answer that because I

1 don't know.

2 Q You don't know? A I don't know if you are talking,  
3 generally speaking, because in this generation most of them,  
4 no, they are educated. Most of them are university graduates  
5 and high school, at least.

6 Q Nowadays in the United States? A Pardon me?

7 Q In the United States? A No, back in Middle East.

8 Q Middle East, too? A Yes.

9 Q Anyway, for many years your husband, the Patriarch, as  
10 history goes back was involved in politics, was he? Pardon  
11 me for yelling. I want you to hear me.

12 A Yes, because I can't hear you.

13 Q All right. Fine. Was involved in politics, wasn't he?

14 A When?

15 Q Well, after World War I, in the 1930's?

16 A I can't answer that question because I can't answer  
17 something when I am not sure exactly what it is. So this  
18 question I don't know exactly.

19 Q Okay. Well, after World War I the Assyrian people were  
20 promised a lot of land, or some land, weren't they, as a  
21 nation? Do you know that? A Promised by whom?

22 Q By the British government. A To have a land?

23 Q Yeah. A That is true, yes.

24 Q Yes. That is true, isn't it? A Yes.

25 Q And that promise for one reason or another was never  
26 kept? A That is true.

1 Q And didn't your husband go to the League of Nations?

2 A Yes.

3 Q And he appeared there and he wanted his land for his  
4 people? A That is true.

5 Q And then in 1932 there was a revolution, wasn't there,  
6 or a revolt where the Moslem people killed many of the  
7 Assyrian people and tortured them? A I wasn't born at  
8 that time.

9 Q Well, you know from history? A I can't answer  
10 that.

11 Q I am sure you weren't born at that time. You are too  
12 young. A Yes, but still I can't say something where  
13 I am not exactly sure of it.

14 Q But you know of it from history, don't you?

15 A Well, I have to read it right now so that I will tell  
16 you.

17 Q Okay. So you don't know if that is true or not? Any-  
18 way, do you know that your husband for many years suffered  
19 a great deal, went out in the desert and lived with his people  
20 during the course of a revolutionary period in the 1930's?

21 A Yes, he has suffered a lot.

22 Q Huh? A I know he has suffered a lot.

23 Q And all of this time he was great friends with General  
24 Ismail, wasn't he? Your husband and David's father were  
25 very close friends, weren't they, over the years?

26 A I really don't know whether they are friends but I think

1 my husband loved him very much.

2 Q Yeah. A He was always talking that he is honest  
3 and very good man.

4 MR. ROBINSON: This is who?

5 THE WITNESS: His father. I know what he told, but  
6 I don't know prior to that because I wasn't with him. I  
7 don't know.

8 Q (By Mr. Pestarino) Well, you heard him talk and you  
9 heard other people talk, and you know by reputation that  
10 David's father and your husband were good friends?

11 A Yes.

12 Q David's father was about 10 years older than your  
13 husband, wasn't he? A I really don't know.

14 Q You don't know? A I don't know his age.

15 Q You knew him back in 1969, didn't you?

16 A His father?

17 Q Yes. A Oh, yes.

18 Q Sure. You seen him many times? A Oh, he is  
19 very good man, yes.

20 Q And you knew that, that he is older than your husband  
21 who when he passed away was 68 years of age, wasn't he?

22 A I think he is older, but I, again, I'm not exactly  
23 telling you, 10 years, 9 years.

24 THE COURT: No, I think you misunderstood the  
25 question. Your husband's age when he passed away.

26 THE WITNESS: 66.

1 THE COURT: 66.

2 Q (By Mr. Pestarino) 66? A Yes.

3 Q And you heard your husband talk very nicely, very  
4 fondly, very affectionately toward General Ismail, hadn't you?

5 A I have heard him telling me that he is honest, he is  
6 good man, I love him, he is very religious man.

7 Q Very religious man? A That is what I heard him say.

8 Q You were born in 1942? A 2, yes.

9 Q You had lived in the same general area as the Ismails  
10 in Canada, didn't you? You lived close together in the same  
11 neighborhood? A No.

12 Q No? A No, we were living in Hamilton. They are  
13 living in London, Ontario, which is four hours driving.

14 Q How many? A I think, I'm not sure, I think four  
15 hours. He knows much better. I don't know.

16 Q So you and your family would visit the Ismails, and the  
17 Ismails and their family would visit you occasionally?

18 A Once a year or twice. Once a year, maybe, on occasions.

19 Q And did Mr. Ismail, the General, David's father, always  
20 visit with you? A He visited my family once. I wasn't  
21 home. But they told me that he has been there visiting. And  
22 my father visited him.

23 Q The General was a very religious man, wasn't he?

24 A That is what I heard from my father or my husband.

25 Q And as part of the religion, the Assyrian people fast a  
26 certain period of time at Christmas and Eastertime, like

1 Catholic people do? A Yes, fast.

2 Q Fast. They don't eat meat during that period of time?

3 A Yes. Not all of them now, some of them.

4 Q And do you know anything about David's background, where  
5 he was born? A I don't know where he was born.

6 Q You don't know where he was born? A No.

7 Q Did you see him most of the time with his father? Was  
8 he always with his father?

9 MR. ROBINSON: I am going to object to that question.  
10 It is compound, "most of the time, always," can't be answered  
11 yes or no.

12 MR. PESTARINO: Yeah.

13 Q (By Mr. Pestarino) Have you seen David in the company  
14 of his father? A I haven't seen him, no.

15 Q You have not seen David in the company of his father?

16 A No.

17 Q You spoke to David on a number of occasions, did you  
18 not? A Yes.

19 Q Did he always speak about his father?

20 A I haven't heard him to me speaking about his father, no.

21 Q Did you speak to his brothers about David's relationship  
22 with his father? A No, not at all.

23 Q Not at all? A No.

24 Q So you don't know anything about David's relationship  
25 with his father? A All what I know, he is his son.

26 Q That is all? A Yes.

1 Q And you don't know anything about David's religious  
2 background, do you? A No, I don't know. I think he  
3 is not religious, not religious, no. I think he is more  
4 politically, has more political idea than religion idea  
5 because whenever he comes to our home he started singing,  
6 dancing for taking the land, and we have to sacrifice our  
7 blood for the generation for taking the land. This is all  
8 what I have heard from him, talking about politics.

9 Q Well, don't most of the Assyrian people -- strike that.  
10 I don't want to yell at you.

11 A No, it is okay. I can hear you better.

12 Q I just want to be sure you hear me. Can I get up  
13 closer because I --

14 THE COURT: Surely.

15 Q (By Mr. Pastarino) The Assyrian people, I think you  
16 mentioned it, their nationality really is their religion,  
17 isn't it? A Not quite so.

18 Q Well, will you explain what you mean "not quite so"?

19 A Because the Church of the East doesn't have all of the  
20 Assyrians in it. There is Assyrians, there is Assyrians'  
21 Catholic, Assyrians' Protestant, Presbyterians. There is  
22 Assyrians, you know, different religion.

23 Q And the Assyrian Catholics, for example, have really  
24 nothing to do with the Patriarch, neither do the Presbyter-  
25 ians, is that right?

26 MR. ROBINSON: I am going to object to that question.



1 THE WITNESS: I don't know.

2 MR. ROBINSON: She doesn't know.

3 THE WITNESS: How do I know?

4 MR. PESTARINO: Well, I don't know how you know.

5 THE WITNESS: Well, then how can you ask me such  
6 questions?

7 MR. PESTARINO: Well, excuse me. Could you -- all  
8 right.

9 Q (By Mr. Pestarino) The Patriarch doesn't have any  
10 control over Catholics, did he? Any jurisdiction, any  
11 power over the Catholics? A I don't know.

12 Q And you don't know whether he had any power over the --  
13 well, let me ask you this. There were no Catholic bishops  
14 under the jurisdiction of the Patriarch, was there?

15 A Yes, there is.

16 Q There is Catholic bishops? A I don't know about  
17 these two bishops he accepted from Italy. I don't know  
18 their background exactly to tell you what their background  
19 was, and how they were accepted to the Church of the East.  
20 But we have two from Italy recently.

21 Q So, anyway, getting back to the subject, the Assyrian  
22 people were tied together, at least the Assyrians from the  
23 Church of the East were bound together mostly by religion,  
24 weren't they? A I don't follow. The Church of the  
25 East?

26 Q Yeah. You belong to the Church of the East and the

1 Patriarch was the Patriarch of the Church of the East?

2 A That is true.

3 Q And that is different than Catholics? A Yes.

4 Q And Presbyterians? A Yes.

5 Q And so forth, other denominations. So the people from  
6 the East, the Church of the East, were bound together mostly  
7 by religion? A Not quite so.

8 Q Will you explain that? What do you mean "Not quite so"?

9 A No, not as you put your question.

10 Q Well, were they, did anything else bind them together?

11 A Well, they are Assyrians.

12 Q They are Assyrians. And being Assyrians they are very  
13 close, aren't they? Very close people?

14 A I don't know what you mean by that.

15 Q Well, their relationship is kind of like one big family  
16 to the extent at least that they are together, they believe  
17 in the same things? A They are like any nationalities.

18 Let's take Americans, how do an American feel towards an  
19 American? It is the same Assyrian feels towards an Assyrian.  
20 I don't know what is the difference. What are you trying  
21 to tell me?

22 Q Well, I am trying, they are bound together by religion  
23 mostly, aren't they? A No.

24 Q No? A No.

25 Q They are bound together because they are Assyrians?

26 A Yes. Yes, I don't know what you mean "bound together."

1 MR. ROBINSON: I think I am going to have to object  
2 to the question. I don't think it can be answered. By  
3 "bound together," I think it is vague and ambiguous.

4 THE COURT: It is ambiguous. Perhaps you could  
5 clarify your terms, Mr. Pestarino.

6 Q (By Mr. Pestarino) Well, they are united, are they not?  
7 The Assyrian people are united by culture, by religion?

8 A You can't say they are united. They are not because  
9 there is many groups, different opinions, and every group has  
10 one opinion. So you can't --

11 MR. ROBINSON: (Interrupting) Excuse me, Officer.  
12 Witnesses have been excluded.

13 THE COURT: Yes.

14 MR. ROBINSON: Sorry, Your Honor.

15 Q (By Mr. Pestarino) Did you learn from your husband or  
16 any other source that David's father supported your husband,  
17 the Patriarch, during the time that he was in the Middle East  
18 and during the time that he was in the United States?

19 A I really don't know.

20 Q You don't know? A Because there is not a special  
21 discussion about his father, you know, or about certain  
22 person, so I have no idea. I don't know.

23 Q Well, do you know if the Ismail family were religious  
24 people or not? A I know their father is very religious.  
25 Their father, yes.

26 Q Okay. Did you ever meet his mother?

1 A Pardon me?

2 Q Did you ever meet his mother, David's mother?

3 A No.

4 Q Never met her? A No. I never met her. They are  
5 in Syria. They were in Syria and we were in Iraq. So I  
6 never visited Syria. I never met the family there.

7 Q So really you don't know anything too much about the  
8 background, do you, of David, his father, in relation to what  
9 your husband did? A I know his father very well, and  
10 I know my father has been talking very serious, very honestly,  
11 and very, like he is a very good man, very religious man. He  
12 is always, you know, always having good opinion about his  
13 father. This is what I have heard from my father, from  
14 anybody, that he is very religious.

15 Q And you have heard, also, that David's father did a lot  
16 to unite the Assyrian people? Have you heard that?

17 A To unit how?

18 Q To unite them in culture, religious bounds, political  
19 bounds? A What do you mean "religious"?

20 Q Well, religion, that he supported your husband, the  
21 Patriarch, in many, many ways? A I really can't tell  
22 you because I don't know.

23 Q You don't know that? A No.

24 Q Fine. Okay. It is not unusual for Assyrians to get  
25 together and discuss politics, is it? A It is not  
26 unusual?