

1 Q Yeah. Unusual. It is not? It is not unusual? You
2 follow me? A No. Because I don't know.

3 Q When Assyrian people get together -- A Yes.

4 Q -- and they visit one another in their homes --

5 A Yes.

6 Q -- do they talk about politics? A Never. All
7 their talk is singing and dancing.

8 Q Singing and dancing? A Yes.

9 Q Drinking, too? A I don't know. But, you know,
10 happy conversation. And it is not that politics is something
11 very important that when we go to visit we start visiting and
12 doing so, this land is taken so. No, that is not true.

13 Q They never talk? A I can't say never talk, but it
14 is not the main issue to discuss about when we visit someone.
15 We visit someone to have fun, to ask how they are, to visit.

14 16 Q So it is a nice, social visit and you don't talk
17 politics or religion? A I don't know what you are
18 asking, your question.

19 MR. ROBINSON: That question just can't be answered.
20 Is he talking about when Mrs. Shimun visits a friend who is
21 Assyrian, when she visits David Ismail? How can --

22 THE COURT: The objection is sustained in that you
23 are discussing the Assyrian people as a whole which she
24 obviously says, she says she can't talk for the people as a
25 whole.

26 MR. PESTARINO: All right. Thank you, Your Honor.

1 Q (By Mr. Pestarino) Let me ask you this, how long have
2 you known David? A How long?
3 Q Yeah. A Since I came to Canada.
4 Q And that is '69? A Yes.
5 Q And how long did you live in Canada?
6 A Until '71.
7 Q Until 1971? A Yes.
8 Q And you'd see David once or twice a year?
9 A He was -- he visited our family, I think, twice or
10 three times, and stayed over with his wife, and the week-end,
11 I think, Saturday and Sunday.
12 Q Did David drink? A Yes, he drinks.
13 Q Let me ask you this, do you know if your husband, the
14 Patriarch, knew David? A He just heard David call him
15 over the phone, and my husband said, "I have never seen
16 Malek Yagoub's son, David." And he said, "How he looks like?"
17 I said, "I don't know. Like other brothers." He said,
18 "I have met Zaia. I know Zaia." He was talking about Zaia
19 but not about David. He said, "I don't know David. I
20 haven't seen him. I don't know him." But he called him
21 about two months before his assassination, he called him
22 saying that he liked the Patriarch, and he will go to Iran
23 and kill his uncle because he likes, he likes him. And
24 then my husband turned to me, and he said, "He seems like
25 crazy talking. What's this killing matter?" You know,
26 you are not Christian if you are thinking about killing

1 because we don't have this in Christianity. This is what
2 he knows about David.

3 Q What -- A (Interrupting) About from his
4 telephone conversation.

5 Q Just from that, huh? A That is what he said, I
6 think because he haven't seen him, he said, "I don't, I
7 haven't seen this son of Malek Yagoub," but he was remembering
8 Zaia. He has met Zaia and seen him.

9 Q Let me ask you, on the night of November the 6th, do you
10 know whether the front door was closed or not?

11 A Would you please repeat the question?

12 Q On the night of November 6th when your husband was shot --

13 A Yes.

14 Q -- do you know whether or not the front door was closed?

15 MR. ROBINSON: I am going to object. The question
16 is vague and ambiguous. What time? Before or after her
17 husband was shot?

18 Q (By Mr. Pestarino) Before he was shot.

19 A I think I answered that question when my attorney asked
20 me.

21 Q Would you mind answering that? A I wasn't sure.
22 I don't know.

23 Q You don't know whether it was locked or not?

24 A No, because I went first and then the Patriarch came
25 carrying the child. So I don't know.

26 Q Well, you indicated to us that your husband on occasions

1 preceding this terrible thing, that your husband felt that
2 his life was in danger? A Not quite so. No, he
3 didn't feel his life was in danger because he was taking a
4 walk every day from nine to ten at night. And I said, "How
5 about if something happens?" He said, "No one will come
6 and kill." You know, he didn't believe in killing. He
7 said if they will do, they will fight me by writing, you
8 know, like everyone expresses opinion. But not by someone
9 shooting. He didn't believe in shooting.

10 Q Well, he knew that -- he knew that there was a lot of
11 bad feeling against him in Australia from Kanna?

12 A Mm-hmm.

13 Q And other newspapers down in the valley, Modesto, Turlock?

14 A You mean Assyrian organizations' magazines?

15 Q Yes. A Yes. There was articles against him,
16 and at the same time there was articles in favor of him.

17 Q He always told you to be careful, you know, that people
18 might be mad at him and they might transfer that anger to you?

19 A No.

20 Q Did he ever tell you anything like that?

21 A No. No, please don't try to put it in another way. A
22 month ago someone tried to open our door because they opened
23 the door of the neighbor's.

24 Q Wait a minute. Just respond to the question.

25 THE COURT: Just answer his question.

26 THE WITNESS: It is not quite as he puts it.

1 Q (By Mr. Pestarino) Well, had your husband ever been
2 threatened before or been threatened? A No.

3 Q Never been threatened? A No.

4 Q Okay. He never saw people except by appointment; is
5 that right? A Yes.

6 Q And normally you had to call for an appointment
7 sufficiently in advance to see your husband?

8 A Who?

9 Q Anybody. A Oh, yes. Even to call or send a
10 message --

11 Q (Interrupting) Yeah. A -- by certain people that
12 he knows.

13 Q All right. You don't know then immediately before the
14 shooting whether the door was locked or not?

15 A No, I don't know because I entered first, he entered
16 second. But when I went upstairs the door was shut. But I
17 can't tell you it was locked. The chain wasn't on the door,
18 that is for sure, that I know because I saw the chain was
19 hanging, and I know that my husband is taking a walk at nine
20 o'clock. But this is all what I know.

21 Q Is it a practice of yours, or was it a practice of your
22 husband's to lock the front door at night?

23 A When he comes from his walk?

24 Q Yes. Or before his walk. A No.

25 Q Before dinner? A No. Before, no. But after
26 he comes home, he finishes his walk about 9:30 to 10:00, he

1 locks all of the doors, makes sure that the doors are locked.
2 Then we go upstairs. This is what I know.

3 Q All right. Now, at 66 years of age your husband was
4 a very alert man, was he not? Good thinker? Good writer?

5 A Yes.

6 Q Educated? A Mm-hmm.

7 Q Could he hear a conversation like we are speaking now?

8 A No.

9 Q He couldn't hear us? A No.

10 Q I'd have to get much closer to him to talk to him?

11 A Yes, and much louder.

12 Q And how close would I have to get to talk to him? Would
13 you please tell me that? A No, I can't tell you that
14 because I have seen people like sitting where the Judge is
15 sitting, or the person (indicating) and he comes, you know,
16 he bends his (indicating), he tries to make them talk loudly.
17 It depends on how he is hearing. I don't know how much
18 distance. I can't tell you by feet.

19 Q Well, could he sometimes hear a knock on the door?

20 A Not --

21 Q (Interrupting) Sometimes? A Not usually. Mostly
22 I was telling him that there is a knock on the door.

23 Q Did your husband drive a car? A Yes.

24 Q Could he hear a doorbell? A Most of the times I
25 was telling him, even the telephone ringing, I was telling
26 him that the telephone is ringing because he wasn't hearing

1 the noise of the telephone ringing.

2 Q Was that because you are in the house and paying
3 attention? A No.

4 Q To those things? A No. No, he say that when he
5 was traveling between Middle East and United States and
6 France he was using, I don't know what they put in the ear
7 so that the pressure, to prevent them from the pressure of
8 high altitudes, and by using those things he has injured his
9 ears. And this is why he was having this problem. That is
10 what he explained it to me.

11 Q Did your husband wear a hearing aid? You know what I
12 mean? A No.

13 Q He didn't wear -- A (Interrupting) You mean
14 those (indicating)?

15 Q Yeah, one of those? A No.

16 Q Whatever they are. A No.

17 Q You indicated in 1969 you and David had a conversation?

18 A Yes.

19 Q Where did that conversation take place?

20 A I think we visited them. I'm not sure we visited them
21 or they visited us. I think we visited them, yes. Well,
22 all of the time whenever we visited them or they visited us,
23 it doesn't make any difference with David because he starts
24 always talking about politics. This is all what I have
25 heard from him. I have never heard from David talking about
26 church, about religion, about being loyal to his church. I

1 have never heard. I have heard him million of times being
2 loyal for what he believes in joining Kurds and sacrificing
3 his blood to join the war with the Kurds, and this is all what
4 I have heard from him.

5 Q So he has never really talked about religion at all?

6 A He say that, this idea of running after church and
7 religion, this prevents people from joining. That is why
8 whenever we are through with these churches then we can pay
9 attention to the politics.

10 Q Was his father there when he talked like that?

11 A His father, no.

12 Q No. He never talked in front of his father that way,
13 did he? A I haven't met him with his father. I
14 don't know.

15 Q You never met him together with his father?

16 A It happens that we are in their house, but like his
17 father is talking with my father. I am not sitting there
18 to join the conversation between fathers. We are, you know,
19 in another room. Like, it never happened we are with his
20 father and David is sitting there, we are sitting there. It
21 wasn't like that. Usually my father sits with his father
22 and we are somewhere else. We are not in the same room.

23 Q Well, when this conversation took place was this at
24 David's house or at your house? A At David's house and
25 at my house it is the same because he starts talking the same
26 thing wherever he is, and in our house or in their house.

1 Q And that, it was the same all of the time, wasn't it?

2 A This is what I have heard him.

3 Q Yeah. A Yes.

4 Q You have heard him talk this way every time you visited
5 back and forth? A Yes.

6 Q And who was present on some of these occasions when he
7 talked like this? A Present?

8 Q Who was there? A My brothers are there and my
9 family.

10 Q Was any of David's family there? A His wife and --

11 Q Anybody else? A I really don't remember. There
12 is people there. I don't know their names exactly.

13 Q Do you know Jack Ismail? His brother Jack?

14 A Yes.

15 Q And do you know his brother Zaia? A Yes.

16 Q Were they present at these conversations?

17 A No.

18 Q They were not. Just his wife? A No, Jack is
19 living in, I think, in another place not close to where David
20 is living.

21 Q Was Zaia -- excuse me. A Mm-hmm.

22 Q Did you have anything else? A No.

23 Q All right. Was Zaia ever present during any of these
24 conversations? A I have met Zaia once. I think he
25 was in David's house once. I don't remember that he has
26 visited our family. But just once I met him in Ontario,

1 London, Ontario.

2 Q When David -- when you saw David on these occasions
3 did he always drink? A Did he always?

4 Q Yeah. Take a few drinks?

5 A I don't know if he --

6 Q Okay. Did he appear happy and talkative?

15 7 A Well, he talks. I don't know how he appears.

8 Q He talks a whole lot, doesn't he, or he did?

9 A I don't know what you mean by that.

10 Q Well, have you ever seen people that drink and they get
11 talkative? A No, I haven't seen.

12 Q You haven't seen anybody like that? A No.

13 Q Okay. A Because I don't know --

14 Q (Interrupting) How long did these -- excuse me. I am
15 interrupting you again. A I'm sorry. I can't, I don't
16 know what you are trying to --

17 MR. ROBINSON: (Interrupting) Just respond to the
18 questions. Wait a minute. Let him ask a question and give
19 the answer.

20 THE WITNESS: Excuse me, because he said have you
21 seen people drinking and talking. I have seen my uncle
22 drinking, and I can't say no, I haven't because like my uncle
23 drinks sometimes. What is wrong with that?

24 MR. PESTARINO: Nothing. I drink sometimes, too.
25 I think even the District Attorney maybe.

26 THE WITNESS: Yes.

1 Q (By Mr. Pestarino) So on these occasions there was
2 just David and his wife and yourself present?

3 A No.

4 Q When these conversations took place? A No, there
5 is many people, all of the people there. It is not just me
6 and his wife and him, no.

7 Q Can you name a few more for me, that is what I am
8 getting at, on some of these occasions? You mentioned your
9 brothers? A I really don't know the names of their
10 family.

11 Q Well, Jack was not there. You know Jack?

12 A Yes, I know Jack.

13 Q He wasn't there? A No.

14 Q And David. And Zaia wasn't there? A Once I met
15 Zaia in their house.

16 Q And was his father present, David's father?

17 A His father was with my father, yes.

18 Q Every time that you visited you visited with your father?

19 A No. Sometimes we -- no, not all of the time my father
20 is with us, no.

21 Q All right. On many occasions your father visited with
22 you at David's father's house? A No.

23 Q No? A No.

24 Q Tell me. A It happened one time he wanted to
25 visit his father, so he came with us because my father, he
26 can't take a car for a long distance driving.

1 Q So mostly they'd come and visit with you?

2 A No, not with me.

3 Q With your folks? With your mother and father?

4 A They come to visit our family.

5 Q Yeah. A I don't know what kind of relations he
6 has with my brothers because I don't know, my brother has
7 been in Canada for six or seven years.

8 Q That is what I am trying to find out, Mrs. Shimun. How
9 many times at least during the years from 1969 until you moved
10 from Canada, how many times would David and his family visit
11 with your family every year?

12 MR. ROBINSON: I am going to object to this, No. 1,
13 I think it's been covered over and over; and No. 2, when
14 counsel uses the term "David and his family" is he including
15 the General? What are we talking about by the term "his
16 family"?

17 THE COURT: I think we are getting into an argument-
18 ative area, or at least an area that the witness --

19 MR. PESTARINO: (Interrupting) I'm not.

20 THE COURT: No, but she is a very precise person in
21 answering.

22 MR. PESTARINO: I understand that. But it is rather
23 vital that I go into these periods of time.

24 THE COURT: Let's do this. Let's take the noon
25 recess and during the noon recess perhaps Mr. Robinson could
26 explain to the witness how to respond to questions.

1 MR. ROBINSON: Well, Your Honor, I don't want to put
2 words in the witness' mouth.

3 THE COURT: No, I don't mean that with regard to
4 what she should say but as to the legal complications of the
5 questions which are being asked. We will resume at 1:30,
6 ladies and gentlemen. You will keep in mind the admonition
7 I have given you before. The defendant and all witnesses
8 will be asked to return. You can come back at 1:30?

9 THE WITNESS: 1:30? I really have two babies at
10 home.

11 THE COURT: Is there anyone to look after them?

12 THE WITNESS: My mother is 60.

13 THE COURT: Excuse me.

14 MR. ROBINSON: I have some other witnesses outside.
15 Could we have them ordered back, also?

16 THE COURT: Yes. All witnesses will be ordered
17 back.

18 Do you drive?

19 THE WITNESS: No, there is a person taking.

20 THE COURT: Somebody can take you home then and
21 bring you back, and you can explain to your mother to get it
22 over with today, then you won't have to come back.

23 THE WITNESS: How long will it take today?

24 THE COURT: I have no idea. Mr. Pestarino, may I
25 ask about how much longer you are going to anticipate?

26 MR. PESTARINO: Fifteen, twenty minutes.

1 THE COURT: How about you?

2 MR. ROBINSON: Ten, five minutes.

3 THE COURT: Maybe another 45 minutes.

4 THE WITNESS: Okay.

5 MR. PESTARINO: I would suggest a little longer
6 knowing the way things go.

7 THE COURT: Let's figure about an hour after you get
8 back. If you are a little late coming back --

9 THE WITNESS: Do you want me to wait here until two?

10 THE COURT: You can do whatever you want during the
11 noon hour.

12 MR. ROBINSON: We have an investigator from our
13 office who can provide Mrs. Shimun --

14 THE WITNESS: When will we start again?

15 THE COURT: About 1:30 or a little after.

16 THE WITNESS: So I will wait here.

17 THE COURT: Would you rather wait here?

18 THE WITNESS: Yes.

19 THE COURT: Ladies and gentlemen, we will see you
20 then at, and all of the witnesses will be ordered back, at
21 1:30.

22 (Whereupon, Court adjourned until 1:30 o'clock p.m.,
23 this day.)

24 ---oOo---

25

26

1 AFTERNOON SESSION

2 March 15, 1976. 1:30 o'clock p.m.

3 (Pursuant to recess, Court convened, and the
4 following proceedings were had:)5 THE COURT: Let the record show that the jury is
6 present, the defendant is present with counsel. You may
7 proceed, Mr. Pestarino.8 EMAMA MAR ESHAI SHIMUN,9 the witness on the stand at the time of the adjournment,
10 resumed the stand and testified further as follows:

11 CROSS-EXAMINATION (Resumed)

12 BY MR. PESTARINO:

13 Q Before the luncheon recess, Mrs. Shimun, I was asking
14 you about these conversations that took place in 1969 in
15 Canada with David Ismail. Do you recall that?

16 A Yes.

17 Q Okay. Now, how often -- well, starting in 1969 you
18 lived in Canada until about 1970-71? A Until 1971, yes.

19 Q '71? A Yes.

20 Q And you visited once or twice or three times a year
21 between your family and David's family? A Yes.22 Q And these conversations took place about politics almost
23 every time you met? A Yes.

24 Q And there were no religious talks at all?

25 A He was mentioning that once these churches are destroyed
26 we can direct the might of the people to the politics.

1 Q And in any of these conversations did he tell you that he
2 was a member of the Assyrian Universal Alliance?

3 A He was talking about this organization, yes.

4 Q Did he say he was a member? A I don't recall.

5 Q Can you tell me generally who was present at these
6 conversations besides you and David? Who was there when
7 these conversations took place? A When he was talking

8 to me he was talking just to me, but there was many people --

9 Q Uh-huh. A -- at the house.

10 Q So are you saying that you were all maybe in one portion
11 of the house, in the living room or dining room, and you and
12 he were talking? A Like there is many people as we

13 are sitting now, and he sits besides me and talking to me.

14 Q Would anybody else be able to hear your conversation?

15 MR. ROBINSON: Objection, calls for speculation.

16 THE COURT: No, she may -- well, it calls for
17 conjecture.

18 Q (By Mr. Pestarino) Let me ask you, was there anybody
19 nearby, close to you when these conversations were taking
20 place? A As I said, there is many people in the room

21 and he is sitting and talking to me.

22 Q And generally what was the texture or the tone of these
23 conversations? What did David Ismail -- how did they start?

24 A He just started talking politics. Whenever he comes
25 home to visit us and whenever we go there he is always talk-
26 ing about politics and about going back to join the Kurds and

1 be against the Iraqi government, against the Arabs, and this
2 kind of conversation.

3 Q And did he tell you why he wanted to go back there and
4 join the Kurds? A I remember once he mentioned that
5 his cousin is killed there and he said I have to take revenge
6 of my cousin. And, also, he was mentioning that he has to
7 fight, and I don't know what exactly is idea of joining the
8 Kurds and fighting against the Arabs. I presume he wants
9 to liberate the Assyrians there, or that is what he thinks
10 that he will do.

11 Q Now, you didn't marry the Patriarch until 1973?

12 A Yes.

13 Q Did these conversations take place almost continuously
14 from '69 to 1971? A I don't --

15 Q You don't understand? A I don't know exactly
16 what's your question.

17 Q My question was, did these conversations between you and
18 David with regard to politics -- A Yes.

19 Q -- did they take place almost continuously between 1969
20 and 1971?

21 MR. ROBINSON: Well, Your Honor, I am going to
22 object to that. That question is vague and ambiguous,
23 "almost continuously."

24 MR. PESTARINO: Well, this is cross-examination.

25 THE COURT: Well, it is ambiguous, counsel, when
26 you say continuous for two years. It implies constantly.

1 MR. PESTARINO: I think she can explain it though.

2 MR. ROBINSON: It is my understanding of the Evidence
3 Code and rules that we are supposed to be following in this
4 case --

5 MR. PESTARINO: All right.

6 MR. ROBINSON: All right. Mr. Pestarino, I am
7 talking. You want to listen a minute?

8 MR. PESTARINO: I will withdraw my question, Your
9 Honor. There is nothing to say.

10 MR. ROBINSON: All right.

11 MR. PESTARINO: I'm sorry.

12 Q (By Mr. Pestarino) How often did you have these
13 conversations from 1969 to 1971? How often?

14 A Whenever I have seen this person he has been talking
15 always about the politics, always whenever I have met him.
16 Never I have heard anything other than that. And everyone
17 in the family can hear him talking that way.

18 Q Now, my question is, how often did you hear him talk
19 about politics? A I am telling you, whenever I met him,
20 whenever he comes to visit us, whenever we go to visit him,
21 we have never heard him just talking about politics.

22 Q Can you give me some idea, Mrs. Shimun, how many times
23 that would be roughly?

24 MR. ROBINSON: I am going to object. This has been
25 asked and answered on numerous occasions. I am sure that
26 every member of the jury can give the answer, two to three

1 times between 1969 and 1971.

2 THE COURT: No, overruled. You may answer. What
3 he wants to know, how often during a year or the two years
4 did you have these conversations?

5 THE WITNESS: I answered the question already that
6 whenever I met him I have.

7 THE COURT: But he wants to know how many times did
8 you meet him during a year.

9 THE WITNESS: How many times I met him during the year?

10 THE COURT: Yes.

11 THE WITNESS: Two or three times.

12 Q (By Mr. Pestarino) Two or three times a year. Did he
13 ever in any of these conversations say anything about your
14 husband, your husband to be at that time?

15 A I don't remember. All I remember, he says, "I know
16 you're from a religious family, once this idea of religion is
17 destroyed then we can draw the attention of the people to the
18 politics."

19 Q Mm-hmm. But he never mentioned your husband, did he?

20 A I don't remember.

21 Q Okay. When did the Patriarch indicate to the people of
22 his congregation that they should not get involved in politics?
23 In what year?

24 MR. ROBINSON: I am going to object to that. That
25 assumes something not in evidence, Your Honor.

26 MR. PESTARINO: Going back to the history.

1 THE COURT: No, I think she indicated that previously.
2 Do you remember?

3 MR. ROBINSON: Your Honor, I believe what she
4 indicated was, the Patriarch never said, "Don't get involved
5 in politics." The Patriarch said, "You should be faithful
6 to the country in which you live in." But I don't believe
7 there has been testimony in this courtroom that the Patriarch
8 said, "Don't get involved in politics."

9 THE COURT: Well, politics is such a general term,
10 I assume that counsel meant in the politics of the Assyrian
11 group?

12 MR. PESTARINO: Sure.

13 THE COURT: Yes. With regard to the Assyrian
14 liberation group, or whatever you want to call it, counsel
15 wants to know when your husband made that remark about he
16 did not want to get involved with that. If you recall.

17 THE WITNESS: No, I don't recall.

18 THE COURT: Okay.

19 Q (By Mr. Pestarino) You indicated that Zaia, David's
20 brother, had a political background, did you not?

21 A Yes.

22 Q And where did you learn that? A I have heard him
23 talking about politics with me personally.

24 Q With you personally? A Yes.

25 Q Was David present on those occasions?

26 A When Zaia was talking to me, it took very short period,

1 his conversations with me. It was when we visited, I
2 think, David's family.

3 Q So it was in the same time span you had these conversa-
4 tions with Zaia that you had with David? A No, Zaia
5 came from his house to visit us when he learned that we are
6 in David's house, and I saw him for a few minutes.

7 Q And he indicated to you that he supported what?

8 A He indicated that we needed educated people like you,
9 that this organization, this what they call a Federation,
10 that we are working for taking the land for the sake of the
11 Assyrians, and we need educated people like you and your
12 brothers and others.

13 Q Now, in any of these conversations did you have any
14 conversations with Jack Ismail? A I have been to
15 their house, I don't remember once or twice while we were
16 traveling from Canada to Flint, Michigan, and we stopped to
17 their house. Yes, I met him and his family.

18 Q And was he politically oriented?

19 A I haven't heard him anything, it was just ordinary
20 discussion, I haven't heard him talking about politics or
21 anything.

22 Q Do you know David's wife, Peggy? A I know her.
23 She has visited my family many times.

24 Q Do you know whether or not she is religious or whether
25 she is politically oriented? A I have no idea.

26 Q You have no idea. Now, you first met the Patriarch in

1 Tehran; is that right? A Yes.

2 Q And in what year? A I think it was 1968 when he
3 visited Tehran.

4 Q And you married him in 1973, in August?

5 A Yes.

6 Q Do you remember the name of the person that married you?

7 A Name of the person?

8 Q Yeah. A You mean the priest?

9 Q Yes. A Yes. It was Reverend Ninos in San
10 Francisco.

11 Q In San Francisco. And do these names mean anything to
12 you? Mar Youkhannan Philipus. Does that name mean any-
13 thing to you? A Mar Youkhannan Philipus?

14 Q Yeah. A He is bishop.

15 Q And so was Mar Dinkha, huh? A Yeah.

16 Q And Mar Narsai de Baz? A Yes.

17 Q Do you remember your husband, or did he discuss it with
18 you, a communication that was sent to all the people on
19 September the 13th, 1973, in effect asking that your --
20 telling your husband that he was no longer a Patriarch?

21 A Did you say a statement?

22 Q Yeah. Strike that. Let me try over again.

23 Does the 4th Assyrian church council mean anything
24 to you? Does that phrase mean anything to you?

25 A 4th Assyrian council?

26 Q Church council, yeah. A No.

1 Q Well, your husband was asked to resign, wasn't he, in
2 September of 1973, resign his duties as Patriarch by the
3 bishops? A In September -- I'm sorry. I didn't
4 get your answer (sic) exactly.

5 Q Yeah. In September of 1973 didn't the bishops ask
6 your husband to resign? Or didn't they tell him you are
7 no longer the Patriarch? A No, he was resigned by
8 a statement given by himself officially that he is resigning
9 his office, but that doesn't mean that he is not a Patriarch.
10 He is a Patriarch, but he resigned his office, his duties.

11 Q Let me show you this letter that I have, and see if
12 that jogs your memory in any way.

13 MR. ROBINSON: Perhaps we should have something
14 marked, Your Honor, if we are going to be showing it to a
15 witness.

16 MR. PESTARINO: I'll just show it to her.

17 THE COURT: Well, show it and we will mark it.

18 MR. PESTARINO: I tried a few cases. I think I
19 know what I am doing.

20 MR. ROBINSON: Well, I think you know the rules of
21 evidence then.

22 THE COURT: Counsel, let's not quibble.

23 THE WITNESS: I haven't seen this statement.

24 Q (By Mr. Pestarino) You never seen this letter?

25 A No.

26 Q Would you care to read it briefly and see if it means

1 anything to you?

2 THE COURT: The question was: Does that paper mean
3 anything to you?

4 MR. ROBINSON: It can be answered yes or no.

5 THE COURT: Just say yes or no.

6 THE WITNESS: Yes.

7 Q (By Mr. Pestarino) It does mean something to you?

8 A Yes.

9 Q Does that refresh your -- have you ever seen that paper
10 before or one similar to that? A No.

11 Q Have you ever talked about the contents of the letter
12 that you read, about the contents of the letter you just
13 read to your late husband? Did he ever mention that?

14 A The Patriarch has answered that letter and on an
15 official statement of 15 pages and was distributed to all
16 over the world, to all of the parishes and all of the people.

17 Q Yes. But this letter is action taken by the bishops,
18 isn't it?

19 MR. ROBINSON: Your Honor, I think if we are going
20 to be referring to a letter, so that the record is clear,
21 perhaps we should have that marked. There might be other
22 witnesses in this trial who will testify about that.

23 MR. PESTARINO: We will mark it. We don't want --

24 THE COURT: We will mark it as Defendant's Exhibit

25 A.

26 MR. PESTARINO: Mark it.

1 (Whereupon, the above-mentioned document, being a
2 letter, was marked as Defendant's Exhibit A for
3 identification.)

4 Q (By Mr. Pestarino) Referring to Defendant's Exhibit A,
5 the letter that I have just shown you, Mrs. Shimun, that
6 letter is a letter taken by the 4th council of the church,
7 isn't it, in Beirut, Lebanon?

8 MR. ROBINSON: I am going to object. Is counsel
9 going to testify from the contents of that letter? If he
10 is it is hearsay.

11 MR. PESTARINO: It is part of the history, part of
12 the motive, and part of everything that you have let in,
13 Your Honor.

14 THE COURT: Well, I realize that, counsel, except
15 you are asking her opinion about a document which she has
16 never seen before.

17 MR. PESTARINO: She said her husband talked about
18 it and answered it with a 15-page letter.

19 THE COURT: I realize that, counsel, but your
20 statement was that this was adopted in Beirut by a group of
21 bishops.

22 MR. PESTARINO: Let me, I'll --

23 THE COURT: There would be no way she could have
24 knowledge of that.

25 MR. PESTARINO: Unless she talked to her husband.

26 THE COURT: She said she hadn't. However, you may

1 cross-examine.

2 MR. PESTARINO: All right. Thank you, Your Honor.

3 Q (By Mr. Pestarino) Your husband wrote a 15-page letter
4 answering the letter, Defendant's Exhibit A for identifica-
5 tion that you just read? A I don't know if he was
6 answering exactly that letter. I haven't seen that letter
7 from the first place, but he answered the meeting of the
8 bishop, the bishops concerning his marriage, that it was
9 against the canon law of the Church of the East, and he
10 shows the reasons and in that statement.

11 Q In other words, the bishops felt it was against the
12 canon laws of the Church of the East to get married?

13 A No, this was a wrong idea. I don't think they have
14 mentioned it in their letter because it is not a law of the
15 Church of the East, and the Patriarch did not break a law.

16 Q Well, let me ask you this, in the history of the Church
17 of the East do you know either by reading, talking, or any
18 other way whether any Patriarch had ever married before?

19 A Yes, there was Patriarchs who were married until the
20 6th century.

21 Q Until the 6th century? A Yes.

22 Q And in the 6th century -- A Then after that they
23 took, they took people who were in the monasteries from the
24 monastery to be prelates, so it happened that the tradition
25 went, whenever people are in the monasteries to be prelates
26 in the church.

1 Q Wasn't that the time of Nestorius from whom the name
2 comes? A No, this name --

3 Q (Interrupting) Bishop Nestorius? A No, this name
4 is a nickname given by the Catholic Church to our church.
5 Our church is Church of the East.

6 Q Well, that is the time when they broke away from the
7 Catholic Church, isn't it? A No. It is not. This is
8 very ancient church. It is not a Catholic church, not
9 broken from the Catholic. It originated right after the
10 Christ, the Jesus Christ came, you know, was in that time.

11 Q Well, anyway, my question, Mrs. Shimun, was that your
12 husband, the Patriarch, felt that there was nothing wrong
13 as far as canon law was concerned with his marriage?

14 A That is true.

15 Q And he based that on the fact that St. Peter had been
16 married? A That is true.

17 Q Didn't he? A Well, he gets all of the history of
18 the church, and the Patriarchs who were married, and
19 according to answer, the bishops I guess.

20 Q But since the 6th century to the present time there has
21 never been a Patriarch that had married, is there?

22 A I really don't know exactly. We have to go back to
23 the history of the church to see what he has written in his
24 statement because he has mentioned that in details and in
25 the statement written. If you want to have a copy of it
26 so that you will know exactly what he has answered about

1 your question.

2 Q Okay. Let me ask you this then, the marriage, your
3 marriage in August the 16th of 1973 created quite a bit of
4 talk among the Assyrian people and in the Church of the East,
5 did it not? A I don't know how much talk because I
6 haven't been in the people.

7 Q Uh-huh. You have heard from friends?

8 A I haven't heard from anyone because I was at home all of
9 the time.

10 Q Well, did you hear from your parents?

11 A My parents just say that we kept quiet until we received
12 the statement of the Patriarch and we know all of the truth
13 and what he explained, and we accepted it, and all of the
14 faithful of the church that did that.

15 Q But anyway, it caused some kind of a split in the
16 thinking among the people of the church?

17 A It caused that some people, they didn't accepted it.
18 Some people, they accepted according to the facts and the
19 law of the church because we have to obey the law of the
20 church. This is the basic thing of our beliefs and our
21 church.

22 Q Well, anyway, on November the 6th, was your husband then,
23 did he resign from the church at that time? Was he resigned?

24 A No. He was the Patriarch.

25 Q He was still the Patriarch? A Yes.

26 Q He had tried to resign? A He had --

1 Q He wanted to retire? A When?

2 Q Earlier. A Oh, yes, he was very tired and for
3 the health reasons he resigned and he mentioned that in
4 official statement, he distributed all that to the bishops
5 and to all over the world, he was asking for a new Patriarch
6 to be elected.

7 Q And he was asking, but then on November the -- they
8 didn't accept that resignation? A No.

9 Q Okay. Now, there was a meeting scheduled for November
10 the 19th, and what was that meeting for?

11 A That meeting was between the Patriarch and the bishops.
12 What it was, going to be discussed in that meeting I don't
13 know. He was preparing for that. I don't recall.

14 Q To your knowledge did the Patriarch ever communicate
15 with David's father after your marriage? A I don't
16 remember.

17 Q You don't know or don't remember?

18 A I don't know. I don't remember anything.

19 Q I thought you indicated that the Patriarch had talked
20 to David Ismail some time ago, two, three, four, five, six
21 months ago? A No, David called our house to talk to
22 the Patriarch. It was, I don't remember exactly, two
23 months before his assassination.

24 Q And do you know what the conversation was at that time?

25 A I didn't talk to him. The Patriarch was talking to him.

26 Q Yeah. But did the Patriarch tell you what they

1 talked about? A Yes. He said he seems to me like
2 crazy person because he said, like, we are very loyal to
3 you, me and my brother Jack, but not Zaia, because we have
4 nothing to do with Zaia, and I am ready to go back to Iraq
5 and kill some people who are against you. This is what --

6 Q So he told the Patriarch he was very loyal to him at
7 that time? A He said that, that we like you, me and
8 Jack, and we don't know about Zaia. But I don't know how
9 much more he said because I wasn't on the phone. But it
10 seems very funny to hear him talking about killing, going
11 back to Iraq and kill some people because they are not loyal,
12 and the Patriarch thought that maybe something wrong, you
13 know, and what he is talking because he is creating this
14 story, he is going and killing someone because he is not
15 loyal. This is against the rule of Christianity. Killing,
16 we don't believe in killing no matter how much we are
17 against a person, but killing is not involved in this matter.

18 Q So as far as you know there was just that one conversa-
19 tion between the Patriarch and David, and that was about two
20 months before November the 6th? A That is what I
21 remember.

22 Q Do you know whether there was any communications back
23 and forth between your husband and the Ismail family during --

24 MR. ROBINSON: Objection.

25 MR. PESTARINO: -- during -- well, wait a minute --
26 during the two or three-month period preceding your husband's

1 death?

2 THE COURT: You may answer.

3 THE WITNESS: What you mean "family"? What's
4 "family"?

5 Q (By Mr. Pestarino) What I am asking you, Mrs. Shimun,
6 was there any written communications, letters or anything
7 that went from your husband to David's family or from David's
8 family to your husband? A No. No.

9 Q Do you know whether or not David's father had been
10 communicating with the Patriarch prior to your marriage?

11 A How do I know?

12 Q Did you talk to your husband about it? Did he talk to
13 you about it? A No, because there was not a special
14 issue about his father to talk about. I don't -- maybe
15 there is, maybe there isn't, I don't know. We haven't
16 really discussed any special person, you know, in special.
17 I don't know, maybe there is, maybe there isn't. I can't
18 tell.

19 Q So you don't know? All right. Anyway, he talked to
20 you about many things, didn't he? A Yes.

21 Q Your husband did. And did you help him with some of
22 his paper work, his book work? A He was reading the
23 letters that he was receiving, most of them, and what he was
24 answering. Mostly his answers, I was reading them, yes.
25 All of his epistles.

26 Q After your marriage -- pardon me -- after your marriage

1 there was some newspaper articles coming from Australia?

2 A Yes.

3 Q Weren't there, with newspaper articles from Chicago,

4 weren't they? A You mean from Assyrian Federation?

5 Q Yeah. A Writing against him?

6 Q Yeah. A Yes. There was articles against him
7 in their magazines.

8 Q There was quite a few articles that were written about
9 your marriage and against the Patriarch for having married

10 you? A In the magazines of Assyrian Alliance, yes.

11 Q Now, tell me this, what is the difference between the
12 Assyrian Federation and the Assyrian Universal Alliance?

13 Is there a difference? A I don't know.

14 Q Anyway, as a result of these criticisms in the newspapers
15 from these various sources did your husband tell you to be
16 careful, don't go out at night, watch out where you are
17 going, did he caution you? A Excuse me, you are
18 talking about articles which appeared in the, what they
19 call themselves Assyrian Federation in Chicago and
20 Australia which is political organization, and it has
21 nothing to do with the Church of the East at all. So they
22 took the marriage as an issue to attack him.

23 Q I understand that. A Yeah.

24 Q But did your husband tell you, "Now, look, these people
25 are attacking me, they may attack you, be careful"?

26 A Me?

1 Q Yeah. You know -- do I make myself clear?

2 A No. I don't know.

3 Q Sometimes a person might be mad at me --

4 A Yes.

5 Q -- and to injure me might injure some member of my family.
6 You see what I mean?

7 A He was concerned about the safety of his son, and without
8 mentioning about the articles written against him or articles
9 in favor of him he told me whenever something happens, any-
10 one entered the house, if the attack is on me and you are
11 not there just take the baby and scream for help. This is
12 what I have heard from him. But, specifically, well, I
13 can't specify exactly.

14 Q Well, let me see if I can help you. Some time shortly
15 before his death didn't you go to the supermarket and meet
16 somebody who asked you if you spoke Assyrian, Turkish, or
17 something else? A Yes.

18 Q And you had never seen this person before?

19 A No, I haven't.

20 Q And you came home and you told your husband about this
21 person, didn't you? A No. No --

22 Q Didn't you tell him that? A No, he was with me.
23 He was behind me.

24 Q Well, anyway, you discussed --

25 A (Interrupting) He listened to what the person was
26 telling me.

1 Q He heard -- A Yes.

2 Q -- the person, and then did you discuss it further when
3 you were at home that night or that day?

4 A Yes, he asked me that it was foolish to answer that
5 person because from the first place, he don't have the
6 right to stop me and ask me such a question and insist on
7 other questions.

8 Q And didn't he tell you to be careful about where you go
9 and who you talk to? A I wasn't going anywhere
10 because whenever I leave home mostly I was with him unless
11 I take the baby out, and I wasn't talking to anybody, there
12 was nothing that, if I meet some people it is an appointment
13 arranged with him and I am sitting in the room with them.
14 So I don't talk to persons really.

15 Q Well, nobody ever came to your home without an appoint-
16 ment, isn't that right, other than maybe your neighbor?

17 A My neighbor didn't come. They don't visit me. Just
18 if I am outside they talk to me, or if they come, even if it
19 is for long, if I am working outside they have this conver-
20 sation, but that is all. But if there is a visiting, yes,
21 it is by appointment.

22 Q It is always by appointment? A Yes, always.

23 Q Okay. Did you hear a chair moving that night?

24 A I heard a movement.

25 Q Of some furniture scraping the floor? A I heard a
26 movement. It sounds like movement of the chair.

1 Q What about this person Sargis, he visited with your
2 husband about a month before? A I think it was about
3 a month. I am not exact because I don't know the date.

4 Q His name is Sargis Michaels? A I think. I know
5 his name is Sargis, but I don't know exactly his last name.
6 I think.

7 Q Was he from Chicago? A Yes.

8 Q And did he write for an appointment? A He asked
9 for appointment by brother-in-law, brother-in-law of my
10 husband.

11 Q And did he come to visit your husband during the day or
12 the night? A No, it was about, he give him appoint-
13 ment, I remember not exactly, about 11:30 in the morning.

14 Q In the morning? A Yes.

15 Q And you indicated that Sargis was from the A.U.A.?

16 A Yes, he was a member in this organization, yes. I don't
17 know exactly A.U.A.

18 Q Well, Assyrian Universal Alliance? A Well, it is
19 that organization in Chicago, yes.

20 Q And he was a member of that? A Yes.

21 Q And he came to see your husband for what reason?

22 A He came asking if my husband would take political
23 leadership and forget about the spiritual leadership.

24 Q And were you present during that conversation?

25 A Yes.

26 Q What did your husband say?

1 A He said, "I'm very tired. I don't want to get
2 involved in politics." And he asked him what, what he
3 means by -- what he wants. He said like Malek Yacoub, the
4 father of David, discussed all of the matter with Iraqi
5 government, and his son Zaia was present there, and himself,
6 and he wants -- they want the Patriarch to take over what
7 the Iraqi government has promised them. And he said, "Well,
8 if Zaia is present there, let him go ahead and do whatever
9 he wants to, and I will be glad one day if I hear that we
10 have land and we are in our country." But to him to get
11 involved, he said, "I'm tired. I can't. I don't want to
12 be involved in anything, in political parties or organiza-
13 tions."

14 Q What they were striving for is to obtain a country of
15 their own, isn't that right? A Pardon me?

16 Q The Universal -- the Assyrian Universal Alliance, the
17 people that belonged to that are trying what, to get a
18 country of their own? A That is what they are
19 claiming.

20 Q They, also, try to help Assyrian people no matter where
21 they are, isn't that right? A I don't know. I am
22 not a member, and I don't know what their intentions are.

23 Q David's father also was trying to gain some rights for
24 the Assyrian people back in Iraq, wasn't he?

25 A When?

26 Q All of the years since 19 -- since World War I?

1 A. Yes.

2 Q. So he was talking about politics, too, wasn't he?

3 A. Yes.

4 Q. And he was a deeply religious man, too, wasn't he?

5 A. He was religious.

6 MR. PESTARINO: I think that is all.

7 MR. ROBINSON: Yes.

8 REDIRECT EXAMINATION

9 BY MR. ROBINSON:

10 Q. Do you know when David's father died?

11 A. Exactly the date I don't know. I think it was a
12 couple of years ago.

13 Q. Okay. A couple of years ago. Prior to November the
14 6th, 1975? A. Yes.

15 Q. Okay. I just have a couple of quick questions, Mrs.
16 Shimun. You told us that you heard your husband scream,
17 you heard some sort of a scuffling that you think might have
18 been the chair, then you heard the three shots?

19 A. Pardon me, I can't hear.

20 Q. I'm sorry. You told us that you heard your husband
21 scream your name twice, you heard some sort of a movement
22 on the floor which you thought might have been a chair, then
23 you heard three shots? A. Yes, exactly.

24 Q. And it is in that order that you heard those events?

25 A. Yes, exactly.

26 Q. Now, when you ran down the stairs and saw your husband

1 lying on the floor at the position that you have marked for
2 us, did you see a chair in the area? A No. I don't
3 remember.

4 Q Okay. Did you ever see a chair overturned that night?

5 A After I left home, the same day, I didn't come until the
6 next day, and next day I saw the chair. It was way down
7 in the living room.

8 Q Was it in a different place from where you ordinarily
9 kept it? A Yes.

10 MR. ROBINSON: Mr. Clerk, can I see the photographs,
11 please?

12 May I approach the witness, Your Honor?

13 THE COURT: Yes, sir.

14 MR. ROBINSON: Thank you.

15 Q (By Mr. Robinson) Mrs. Shimun, showing you People's
16 Exhibit 10-0 marked for identification, is that the chair
17 that is depicted in that photograph that you are talking
18 about, or was it another chair? A No, it was another
19 chair here.

20 Q And you had another chair that normally belonged in your
21 residence? A Yes.

22 Q Where was that other chair usually kept?

23 A Here in this part (indicating).

24 MR. PESTARINO: Could we mark that? Excuse me.
25 I don't want to tell you how to bring your case, but I would
26 like that marked.

1 MR. ROBINSON: Well, don't tell me because that is
2 what I am doing. I too have tried a lot of cases like
3 yourself.

4 Q (By Mr. Robinson) Mrs. Shimun, would you take this
5 red pen, please, and perhaps draw in maybe a big circle and
6 put a line through it and write "chair" where the chair was
7 normally kept?

8 MR. PESTARINO: Thank you.

9 Q (By Mr. Robinson) Could you write "chair" for us under-
10 neath that, please? A (Marking on exhibit.)

11 Q Okay. A Somewhere here (indicating).

12 Q Okay. All right. And the chair that is normally,
13 is normally kept there isn't depicted in these photographs?
14 This photograph, you don't see it there?

15 A No, I don't.

16 Q Okay. And the chair that is normally kept there, where
17 was it when you came back to your house the next day, do you
18 remember? A It was, it was in the middle, like in
19 the center.

20 Q Of the living room? A Yes.

21 Q Okay. Now, you told us that you were married by the
22 Reverend Ninos in San Francisco. Is that where his parish
23 is? A Yes.

24 Q Where did you get married? A In Seattle,
25 Washington.

26 Q So the Reverend Ninos accompanied you or went up to

1 Seattle and married you? A Not me. He was with the
2 Patriarch.

3 Q And you were married in Seattle? A Yes.

4 MR. ROBINSON: Thank you. I have nothing further,
5 Mrs. Shimun.

6 MR. PESTARINO: That is all I have. Thank you very
7 much.

8 THE WITNESS: Thank you.

9 (Witness excused.)

10 MR. ROBINSON: The People will call Edith Hart, Your
11 Honor.

12 EDITH MAY HART,

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

15 DIRECT EXAMINATION

16 BY MR. ROBINSON:

17 Q Can you state your full name, spelling your last name
18 for the record, please? A Edith May Hart, H-a-r-t.

19 Q And your occupation? A Motel manager.

20 Q And Mrs. Hart, where is your motel located?

21 A It is in San Francisco on Taravel Street right off 19th
22 Avenue.

23 Q Is that right across the street from Zim's?

24 A Yes, it is.

25 Q And the address is 821 Taravel Street?

26 A Right, yes.

1 Q Do you own that hotel? A No, we just manage it.

2 Q When you say "we," is there a Mr. Hart? A Yes,
3 there is.

4 Q And do you live at that motel? A Yes.

5 Q With Mr. Hart? A Yes.

6 Q And you and Mr. Hart manage it? A Mm-hmm.

7 Q How long have you been employed in that occupation?

8 A Nineteen months.

9 Q Now, I am going to direct your attention -- strike that.

10 Did I ask you to bring down some records with you?

11 A Yes, you did.

12 Q Did you bring those down? A Yes.

13 Q May I see those, please? A Certainly. And the
14 other side, too.

15 MR. ROBINSON: Okay. Might we have this registra-
16 tion card marked as People's next in order?

17 THE COURT: It will be No. 19.

18 (Whereupon, the above-mentioned item, being
19 a registration card, was marked as People's Exhibit No. 19
20 for identification.)

21 Q (By Mr. Robinson) Mrs. Hart, showing you People's
22 Exhibit 19, can you tell us what that is?

23 A That is one of our registration cards from the motel.

24 Q Okay. And is that card made in the regular course of
25 business? A Yes, it is by anybody who registers
26 at the motel.

1 Q Can you tell us how the information is obtained on that
2 card? A Well, when they come in and register for
3 the room then they have to make one of these out.

4 Q Okay. And does your motel rely upon those records?

5 A Oh, yes.

6 Q And are they made out in the regular course of your
7 business? A Yes, they are.

8 Q Okay. Now, can you tell us the name of the individual
9 registered on this card? A Mm-hmm. It says "David
10 Benjamin."

11 Q David Benjamin? A Yes.

12 Q And do we have an address for that person?

13 A Yes, it is 1477 21st Avenue in San Francisco.

14 Q And can you tell us when the person identified as Mr.
15 Benjamin registered in that motel? A Yes, it was on
16 Thursday, November 30th. Yeah -- October 30th.

17 Q October 30th? Okay. And how long did --

18 MR. PESTARINO: Excuse me. October 30th?

19 THE WITNESS: Yes. October, the day before Halloween.

20 Q (By Mr. Robinson) How many nights did that individual
21 stay at your motel? A Two. Thursday night and
22 Friday night. He left Saturday night -- well, Saturday,
23 early afternoon.

24 Q Saturday, early afternoon. And was there an individual --
25 strike that.

26 Were you the motel clerk that checked the individual

1 into your motel? A No, I wasn't.

2 Q And who was that? A My daughter.

3 Q Okay. And your daughter is who? A Robin Crowley.

4 Q And is your daughter pregnant now?

5 A Yes, she is.

6 Q Okay. And where does your daughter live?

7 A My daughter lives in Martinez, California.

8 Q Okay. Now, from looking at that card can you tell us
9 when the person checked out how did they pay this bill, by
10 check or by cash? A By cash.

11 Q How can you tell us that? A We have to
12 write down on the bottom of the card how it was paid.

13 Q Did you do that in that case? A Yeah.

14 Q And how much was paid for the motel for two nights?

15 A Well, it was thirty-five forty-seven, but that included
16 a phone call.

17 Q Okay. And this phone call, do you have a list of --
18 strike that.

19 How do you know it included a phone call?

20 A Well, we don't have any phones in our rooms, only the
21 phone in the office, and if a guest from the motel wants to
22 make a phone call then they come to the office, we will get
23 the number for them and then get time and charges.

24 Q Was a phone call made? A Then it is written on
25 the back of their card. Yes, there was.

26 Q Where was the phone call made to?

1 A It was made to Los Angeles.

2 Q When was the phone call made? A That was made
3 the 31st.

4 Q And is there a number on there to which, the person
5 called? A Mm-hmm.

6 Q Could you give us that number? A Yeah, it is a
7 Los Angeles area code, 213, then 386-7534.

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

9 CROSS-EXAMINATION

10 BY MR. PESTARINO:

11 Q May I see that when you are through with it? Thank
12 you.

13 Mrs. Hart, do I understand you correctly, you were
14 not present when this person --

15 A No, I wasn't.

16 Q -- registered? Do you know a person by the name of
17 Kitty Benjamin? A No, I don't.

18 Q All you know is really what is on this card?

19 A Right. We did have a phone call a few days earlier of
20 making the reservation, but I didn't meet them.

21 Q And apparently he paid you whatever the motel fare was?

22 MR. ROBINSON: Objection, assumes facts not in
23 evidence.

24 Q (By Mr. Pestarino) Well, this is kept in the ordinary
25 course of business, is it not?

26 MR. ROBINSON: The witness did not testify that Mr.

1 Ismail paid the bill.

2 MR. PESTARINO: I am asking her.

3 THE COURT: I don't think he has been identified.

4 MR. PESTARINO: Well, I am asking her with regard
5 to this card was the amount paid.

6 THE WITNESS: Okay. According to what I was told --

7 MR. ROBINSON: No. No --

8 THE COURT: Just tell us what you know of your own
9 knowledge.

10 THE WITNESS: I was paid, yes.

11 MR. PESTARINO: Okay. I think that is all I have.
12 Thank you very much.

13 MR. ROBINSON: Thank you.

14 (Witness excused.)

15 MR. ROBINSON: The People will call Mr. Siegle.

16 THE CLERK: Come up and be sworn, please.

17 DAVID KENNETH SIEGLE,

18 called as a witness on behalf of the People, being first
19 duly 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 for us, spelling your last
24 name for the record? A Yes, my name is David Kenneth
25 Siegle, S-i-e-g-l-e.

26 Q Okay. And Mr. Siegle, your occupation?

1 A I am part owner of a gun store in Oakland.

2 Q And is your father the other owner?

3 A My father and my brother, yes.

4 Q So there is three of you in it? A Right.

5 Q How long have you been employed like that, Mr. Siegle?

6 A About 12 years altogether.

7 Q And this gun store, is that at 508 West MacArthur
8 Boulevard in Oakland? A Yes, that is correct.

9 Q All right. And Mr. Siegle, did I ask you to bring down
10 some documents with you today? A Yes, you did.

11 Q And did you bring them? A Yes, I did.

12 Q May I see them, please? A Sure.

13 Q Can I see the other one? These are copies here.

14 Okay. Are these the copies?

15 A No, these are the copies. Those are originals.

16 MR. ROBINSON: Your Honor, might I have a few minutes
17 to show counsel the original and copies?

18 THE COURT: Sure.

19 MR. ROBINSON: This is the first time I have seen
20 them. Maybe we can just get the copies in.

21 MR. PESTARINO: I will stipulate these may go into
22 evidence, if Your Honor please.

23 MR. ROBINSON: I believe these need some explanation,
24 Your Honor. Mr. Siegle will be very brief, I'm sure.

25 Your Honor, might we have this set of documents,
26 three documents, marked as People's next in order, please?

1 They can be marked as one exhibit.

2 THE COURT: Yes. No. 20.

3 MR. PESTARINO: What exhibit is that?

4 THE CLERK: 20.

5 (Whereupon, the above-mentioned documents, being a
6 State registration form for a handgun, an invoice, and a
7 Federal recording form, were marked as People's Exhibit No.
8 20 for identification and received into evidence.)

9 Q (By Mr. Robinson) Mr. Siegle, showing you People's
10 Exhibit 20, the copies of the documents that you furnished
11 us, can you tell us what those are? A Well, first of
12 all, this pink form here is a State registration form on a
13 handgun purchase, and this small white copy here is our own
14 invoice we write out, and this larger white document here is
15 the 4473 which is the Federal recording on any firearm.

16 Q And are you required to keep such documents on any
17 handgun that you sell? A Yes, we are.

18 Q Okay. And are those documents made in the regular
19 course of business? A Yes, they are.

20 Q And could you tell us how those documents are obtained?
21 How you get the information on those documents?

22 A We normally would use a driver's license.

23 Q Okay. What other information is contained on those
24 documents? A Well, of course the purchaser and his
25 address, identification, his date of birth, there are certain
26 requirements concerning the purchase of a handgun that have

1 to be answered properly.

2 Q For example, is the make of the handgun contained in
3 those documents? A Yes, it is.

4 Q The serial number of the handgun? A Yes, that is
5 correct.

6 Q The date it is sold? A That is correct.

7 Q The purchase price? A Right.

8 Q And are these kept in the regular course of business?

9 A Yes, they are.

10 Q And are these documents then furnished to say, alcohol,
11 tobacco, and firearms Federal agencies and the local state
12 agencies? A Yes, they go to state --

13 Q Okay. A -- agency.

14 Q Now, I am going to show you People's Exhibit 4 for
15 identification, and can you take a look at that and tell me,
16 are you familiar with that type of weapon?

17 A Yes, I am.

18 Q Could you tell us what kind of a gun that is?

19 A This is a Walther Model PP, and the caliber is .22 long
20 rifle.

21 Q Okay. And does that gun have a serial number?

22 A Yes, it does.

23 Q And could you tell us what the serial number is?

24 A 30056.

25 Q Okay. And directing your attention to your document,
26 on December the 24th, 1969, did you sell that gun to a Mr.

1 Ron E. Myers? A Yes, we did. That is correct.

2 Q Okay. How can you tell us if you sold that gun to Mr.

3 Myers? A Well, according to the documents, the

4 serial number is the same.

5 Q Okay. And is the description of the gun the same?

6 A And the description is the same, yes.

7 Q So what you would have done when you sold this gun to

8 Mr. Myers, you would have taken the serial number and various

9 other information and wrote it down on there?

10 A That is correct.

11 Q And is Mr. Myers' name listed as the purchaser on these

12 documents? A Yes, it is.

13 Q Now, is one of the questions that you are required to

14 fill out, in 1969 or in 1970 when you sold these guns, is

15 one of the questions, "Is purchaser a citizen of the United

16 States of America"? A Yes, it is.

17 Q Okay. And at that time did you have to include this

18 information? A Yes.

19 Q Okay. And can you tell us from looking at your documents

20 how much the weapon was sold for?

21 A The price was \$98 plus tax.

22 Q Okay. So a total of \$103.88? A Right. That is

23 including one box of ammunition.

24 Q One box of ammunition. That includes a box of .22 long

25 rifle ammunition? A Yes, it does.

26 Q And .22 long rifle ammunition would be the type of

1 ammunition that would fit this gun? A That is correct.

2 Q A couple other questions. Mr. Siegle, is this the kind
3 of clip that would ordinarily come with the gun, the clip
4 that is in there? A Yes.

5 Q Okay.

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

7 CROSS-EXAMINATION

8 BY MR. PESTARINO:

9 Q Mr. Siegle, when you sold the gun you sold the clip and
10 the ammunition with it, didn't you? A Yes, sir, mm-hmm.

11 Q It all came as part of the gun? A Oh, yes. No,
12 not the ammunition. The clip.

13 Q No, the clip? A Right.

14 Q Then you buy the ammunition? A The ammo he chose
15 to purchase along with the weapon, yes.

16 Q Now, is there anything on your papers that tell a buyer --
17 for example, if I were to buy a gun from you, suppose I
18 wanted to sell that gun to somebody else?

19 A Mm-hmm.

20 Q Is there anything on those papers that say what you are
21 supposed to do? A No, there isn't.

22 Q Do you ever tell your people what to do if they want to
23 sell it? A I do make recommendation, yes.

24 Q What recommendation do you make? A Well, actually --

25 MR. ROBINSON: I am going to object unless we know
26 that the person who actually sold this gun to Mr. Myers made

1 that recommendation. If that is a company policy we can
2 get into that, but I think there needs to be some foundation
3 to be laid.

4 Q (By Mr. Pestarino) Do you have a company policy to
5 that effect? A No.

6 Q You don't. It is just what you tell people?

7 A Right, whoever actually writes up the sale.

8 Q Now, is your initials anywhere or your name anywhere
9 on that sale slip? A No. No, it isn't.

10 Q So you have no knowledge one way or another who in your
11 firm or your store or your shop made the sale, do you?

12 A Well, I know who did because I not only recognize his
13 handwriting but he has to sign the document.

14 Q So it was somebody, one of your co-owners, your father
15 or your brother? A No, actually it was one of our
16 gunsmiths.

17 Q Okay. And it gives an address of a purchaser. What
18 address is that? A The address indicated here is 1034
19 Ramona Street, Albany.

20 Q Albany. And is that store located a couple of blocks
21 from the service station, a Union station? Is your store
22 located a couple blocks from a Union station?

23 A There is a Union station about two, maybe three blocks
24 away.

25 Q What street is that on? A West MacArthur.

26 Q West MacArthur? A Mm-hmm.

1 Q This gives an address of Albany, doesn't it?

2 A The purchaser address?

3 Q Yeah. A Yes, Albany.

4 Q Now, the gun sold for \$98? A That is correct.

5 Q Okay.

6 MR. PESTARINO: Thank you very much.

7 REDIRECT EXAMINATION

8 BY MR. ROBINSON:

9 Q The purchaser address on here, is that the person's home
10 address that you are looking for? A That would be
11 the permanent address. We ask for a permanent address.

12 Q Where he lives? A Right.

13 Q Not where he works? A No.

14 MR. ROBINSON: Okay. Thank you. I have nothing
15 further.

16 THE COURT: All right. Before the witness leaves,
17 did I understand that you had no objection to a copy?

18 THE CLERK: This is a copy.

19 MR. PESTARINO: I have no objection to them going
20 into evidence, copies or originals, doesn't make any differ-
21 ence.

22 THE COURT: All right.

23 MR. PESTARINO: Thank you.

24 (Witness excused.)

25 MR. ROBINSON: The People call Yule Lazar.

26 /

1 PSA Hotel records, were marked as People's Exhibit Nos. 21-A
2 through 21-F for identification.)

3 Q (By Mr. Robinson) I am going to show you People's 21-B
4 for identification, and ask you, can you identify that for
5 us? A What is that? 21-B?

6 Q Well, it is on the other side, 21-B is over here. I
7 just want to know, not can you identify 21-B. Can you
8 identify what this document represents?

9 A Okay. This document represents four days room and tax,
10 each day is \$10, room tax is 60 cents.

11 Q Okay. And is there a person that stayed at your room,
12 at the room? A Mr. David Ismail stayed in Room 727.

13 Q 727? A Right.

14 Q And did he stay there on November the 1st?

15 A Yes, sir.

16 Q Okay. On November the 2nd? A Yes, sir.

17 Q On November the 3rd? A Yes, sir.

18 Q On November the 4th? A Yes, sir.

19 Q On November the 5th? A I believe the 4th he
20 checked out of the room, of the 5th --

21 Q Refreshing your recollection, when did he check out?

22 A Well, 6th.

23 Q November the 6th. And from looking, are these records,
24 look at all of these records. While I am qualifying the
25 records -- A Have I seen them?

26 Q How are these records made? A These records are

1 made at the front office at the time when the guest is
2 registered.

3 Q How does somebody get the information that is contained
4 on those records? A The night auditor, he runs room
5 and tax on the folder, the guest's folder, the guest
6 account, we call it, and any charges from food and beverage
7 operation goes into this account folder.

8 Q And along with a charge for the room and liquor, and
9 things like that? A Right.

10 Q Okay. Now, are those records made in the regular
11 course of business? A Yes, sir.

12 Q Okay. And does your company, the hotel, rely upon
13 those records? A Right.

14 Q And are those original copies? A Official
15 original copies, right.

16 Q Okay. Good, now, can you tell us how much Mr. Ismail
17 paid for his stay of November the 1st through November the
18 6th? A He checked out on November the 6th, and he
19 paid cash \$114.87.

20 Q Paid cash? A Right.

21 Q Okay. And showing you People's 21-E, can you tell us
22 what that is? A This is the operator number.

23 Q The operator number? A Right.

24 Q What does that mean? A I think that is the overseas
25 operator number.

26 Q Did Mr. Ismail make some long distance calls?

1 A Yes, he did, three long distance calls.

2 Q Showing you -- A Four long distance calls.

3 Q Showing you 21-A marked for identification, can you tell
4 us what that represents? A 21-A again is the
5 operator exchange number.

6 Q And from looking at 21-A can you tell us what room or
7 account number was that charged to? A It is posted
8 here, 727.

9 Q Well, we have to tell the jury, too.

10 A Fine.

11 Q 727, is that Mr. Ismail's room? A Right.

12 Q When was that call made? A This call be made on
13 November the 6th.

14 Q 1975? A 1975.

15 Q Would that be made prior to his checking out?

16 A Yes, sir.

17 Q Okay. And could you tell us where that call is to?

18 A That is for Sidney, Australia.

19 Q Okay. Is there a man's name on that call? Who he
20 called? A Yes, Mr. Ismail, Room 727.

21 Q Who did he call? A I couldn't pronounce the name,
22 CA NNA.

23 Q Canna?

24 MR. PESTARINO: I will stipulate it is Canna.

25 Q (By Mr. Robinson) Is there a telephone number on there?

26 A 6070027.

1 Q And showing you People's 21-C for identification, is
2 that another telephone call that was made on November 6th?

3 A Yeah, this is another telephone call made to Sidney,
4 Australia, 728, telephone, 7732, and being charged to his
5 room, 727.

6 Q Showing you 21-F for identification, can you tell us
7 what that is? A Where is that, sir?

8 Q Can you tell us what that is? A Well, this is
9 the registration. It is also, could be a telephone
10 operator being called in or out, I cannot tell. We'd have
11 to check this.

12 Q On your registration does it indicate what time Mr.
13 Ismail checked into your hotel on November 1st?

14 A Yes, sir.

15 Q What time did he come in? A 8:05 P.M.

16 Q In the evening. And showing you People's 21-D can you
17 tell us what that is? A No. I can check. This
18 is new to me. I haven't seen it.

19 Q Didn't you just explain that, what that was to me out
20 in the hallway? A This one? This is a beverage
21 charge.

22 Q You see, Mr. Lazar, we just marked them for identifica-
23 tion. You don't have to tell us what "21-D" means. Tell
24 us what the other side means. A Because I couldn't
25 have the figure and I don't know about the figure. Okay.

26 This is beverage charge has been made on November the 3rd for

1 \$4.55, apparently is about four drinks and charged to Room
2 727.

3 Q So, how much -- is that what they call the bar bill?

4 A Yes, sir.

5 Q So that would be charged to the room? A Right.

6 Q And between November the 1st when Mr. Ismail checked in
7 and November 6th when he checked out, how much was his
8 bar bill at the hotel? A \$4.85.

9 Q How much drinks at the motel for room service?

10 A It is \$1.25. This is not a room service. This is a
11 bar check.

12 Q So somebody goes down to the bar and they put it on
13 their tab? A Right.

14 Q So how much was his bar bill, actually drinks consumed
15 in the bar? A Sounds to me about four drinks.

16 Q Four drinks in six days? A Right.

17 Q Okay. All right. Now, you told us, didn't you, I
18 think that Mr. Ismail paid cash? A Yes, sir.

19 Q Okay. And is that a pretty cheap hotel to stay at,
20 your hotel? A No, sir. I give him 50 per cent
21 discount.

22 Q How much? A 50.

23 Q 50 per cent. Okay. A Room rate is \$20 for
24 that particular room.

25 Q So you only charged him 10? A Right.

26 Q How come you only charged him \$10 for a \$20 room?

1 A I have this priority to do it.

2 Q Pardon me? A I have this priority to do it. I
3 can give come rooms. I can give any rate I want.

4 Q You can charge any rate for the rooms you want?

5 A Right.

6 Q And nobody checks into that or anything?

7 A Well, I am a part of management.

8 Q Okay. A So I have that kind of privileges to
9 do it.

10 Q Let me ask you this, if I came up to the PSA Hotel in
11 San Francisco and wanted a room would you charge me \$10?

12 A Well, that is pretty tough question. Well, probably
13 I'll give you a come.

14 Q Why did you give Mr. Ismail a discount, Mr. Lazar, of
15 50 per cent? A Well, just actually what I do, I give
16 most Assyrian people 50 per cent off because they are using
17 our facility, they have many parties, many other stuff, so
18 we take care of them.

19 Q How did Mr. Ismail get to the PSA Hotel on November 1st
20 at 8:00 o'clock when he checked in? A Okay. On
21 October 31st I received a call from my brother, Sam Lazar.
22 He say that I have a message from David Ismail, he is in town,
23 and he stated that he didn't have time to see David so
24 probably you could call him and see him. And he say that
25 he is staying at Sunset Motel. I call Sunset Motel, and
26 first of all the operator couldn't tell me whether they have

1 a guest by David Ismail, so I make more explanation that he
2 is from Canada. He say, "Well, we have somebody from
3 Canada by David Benjamin." So I say, "Let me talk to him."
4 She said, "He went to zoo." Then I put the message to call
5 me back. And David, he did. And I wasn't in the office,
6 so I returned his call again. And I talk with David. And
7 I haven't seen David before. I never talking to him. So
8 I, I not -- I invite him for dinner and he came over to the
9 hotel, and we sat and we had dinner.

10 Q How did he get from the Sunset Motel to your hotel?

11 A Okay. That night I was m.o.d., manager on duty. I
12 couldn't get out of the motel. I called my brother Joe, if
13 he has any road test, you know, he could go to Sunset Motel
14 and pick up David. And my brother Joe did. He went to
15 Sunset, pick up David. He came to the hotel and drop him
16 there and my brother left.

17 Q What night was this now? A That was on Friday.

18 Q Friday. So that would be -- do we have a calendar?

19 A October 31st.

20 Q October the 31st? A '75.

21 Q Okay. So -- A Then we have --

22 Q Wait a minute. I have to ask questions. That is the
23 way you have to do here. A Sorry.

24 Q Could you tell us, in November of 1975 did you live at
25 1851 21st Avenue in San Francisco? A Yes.

26 Q And are you familiar with a Kitty Benjamin?

19

1 A Yes, she is my employee.

2 Q And does Kitty Benjamin live at 1477 21st Avenue in San
3 Francisco? A Yes, sir.

4 Q So what, about three blocks from you?

5 A Yeah, about four blocks, yeah.

6 Q Okay. Now, did Kitty Benjamin tell you that David
7 Ismail was coming to town? A No.

8 Q Did you know that David Ismail was coming to town?

9 A No.

10 Q Okay. So the first time you knew about David Ismail
11 was when your brother Sam called you? A Called me,
12 yes, sir.

13 Q And you met David Ismail on Friday, October the 31st?

14 A Right.

15 Q And what time did you meet him? A I believe it
16 was about 7:30 or 8:00 o'clock, in between.

17 Q Okay. In the evening? A In the evening.

18 Q And that was the first time you met him?

19 A Yes, sir.

20 Q Okay. And could you tell us what he was wearing, if
21 you remember? A I think a suit. Or I really couldn't
22 remember.

23 Q Okay. And did you have a dinner with him?

24 A Yes, sir.

25 Q And where did you have the dinner? A In our Pena
26 dining room.

1 Q It is a dining room in your hotel? A (Nods
2 affirmative.)

3 Q And how long were you with him on Friday, October the
4 31st? A On Friday I was until about 10:30, something
5 like that.

6 Q And then how did you part with Mr. Ismail?

7 A Okay. On October the 31st, during the time we had
8 dinner, he said that I came to visit California, San
9 Francisco, and his intentions, he wanted to relocate his
10 living in San Francisco particularly. He wanted to open
11 a business.

12 Q Could you answer my question? How did you part with
13 him? You were with him for dinner until 10:30.

14 A I took him back to Sunset Motel.

15 Q Had you had your car back there? A Beg pardon?

16 Q You had your car at your hotel? A Yes, sir.

17 Q And the Sunset Motel is approximately how far away from
18 where you live in San Francisco? A Not -- from where
19 I live on 21st Avenue?

20 Q Mm-hmm. A It is not that far.

21 Q About two blocks? A No, more than that. It is
22 about five blocks.

23 Q Five blocks away. So he was staying in your general
24 area? A Right.

25 Q Now, you took him back to the Sunset Motel. Did you
26 go in with him? A No.

1 Q Just left him off? A I just drop him and went
2 back.

3 Q Okay. And when was the next time you saw Mr. Ismail?

4 A Okay. During our dinner he liked our hotel very much,
5 and he wasn't satisfied with his Sunset Motel because of the
6 traffic at that area, couldn't sleep.

7 Q Did he say something about it being too noisy?

8 A Yeah.

9 Q Okay. A And he say he would like to, you know,
10 come to our hotel. I said that is fine. So we arranged
11 on Saturday that he will come and check into the hotel.

12 Q Okay. Now, prior to his making this statement about
13 the hotel being too noisy, did you encourage him to come
14 down to the PSA Hotel? A Not really.

15 Q Didn't you say, "Hey, I can give you 50 per cent
16 discount if you will stay down here"? A I may have
17 said to him, "If you want to come over here I will give you
18 50 per cent," but I am not in promotion, put it this way.

19 Q Okay. But you knew Mr. Ismail was an Assyrian, right?

20 A Sure, I know he is Assyrian.

21 Q And you give all Assyrians 50 per cent discount?

22 A Right.

23 Q But you didn't mention the discount to him until after
24 he said he wanted to leave the Sunset Motel?

25 A Right. I don't have to tell them I am giving Assyrian
26 50 per cent, but I do it personally.

1 Q So did you see Mr. Ismail on Saturday morning?

2 A No, sir.

3 Q Okay. When was the next time you saw Mr. Ismail?

4 A Next time I saw Mr. Ismail was 7:30 evening on Saturday.

5 Q Saturday? A Yeah. I brought him and check in
6 hotel. I brought him and checked into the motel -- I
7 mean hotel.

8 Q You went out to the Sunset -- A Motel.

9 Q -- and picked him up? A Right.

10 Q Were you going to have a dinner together or something?

11 A Okay. I invite him on Friday, and he said, "Well, you
12 invite me on Friday, I have to invite you today." So he
13 forced me into it. And this is the Assyrian way. You
14 invite somebody, he invites you again. So we went and had
15 dinner together.

16 Q So when you picked Mr. Ismail up on Saturday night, that
17 would be November the 1st? A November the 1st, right.

18 Q Okay. You had intentions of going out to dinner with
19 him? A Well, when I checked him in he said, "Don't

20 go. We will go for a dinner. I have -- you invited me
21 yesterday, I have to invite you today." So I said, "Fine."

22 Q Now, how were you dressed on Saturday night when you
23 picked Mr. Ismail up? A Saturday night actually I
24 wasn't supposed to check him in, I was trying to go to
25 Turlock for a party --

26 Q Turlock? A -- and I asked David he could check in?

1 I have his registration there and everything will take care.
2 He say, "Where you going Saturday night?" I said, "I'm
3 going to Turlock." He said, "Maybe I'll come with you."
4 But that Saturday I had a call that the party was cancelled.
5 So I went and picked up David, to the motel, and I was
6 dressed --

7 Q Like you are now? A Right.

8 Q You had a coat and tie on? A I have a suit.

9 Q How was Mr. Ismail dressed? A Mr. Ismail was
10 dressed casual, and he stated to me that, "Well, if I knew
11 that you were dressed I would dress." You know, if you
12 wear a dress suit I wear dress suit. I say, "Okay. Don't
13 change your clothes. I'll change. I will go in casual."
14 So I did. We came home and I dressed casual.

15 Q So you went from your house -- you went from the Sunset
16 Motel to your house? A Right.

17 Q About seven blocks away? A Right.

18 Q And then you changed into some casual clothes?

19 A Right.

20 Q What do you mean by casual? Like a sweater and shirt?

21 A Right.

22 Q Not a suit or anything like that? A No, no ties.

23 Q And at that time I take it you checked Mr. Ismail out
24 of the Sunset? A Right.

25 Q Okay. And did you take his bags? A He put them
26 in the trunk.

1 Q Okay. And that was in the trunk of your car?

2 A Right.

3 Q Then you went to your house and changed? A Right.

4 Q Then you drove him from your house down to the PSA Hotel?

5 A In San Francisco, yeah.

6 Q Did you have a dinner that night? A Yeah.

7 Q All right. Where did you have dinner?

8 A He invite me to Elegant Farm at Jack London Square.

9 Q Mr. Ismail paid for this dinner? A Yes.

10 Q How did he pay? A Cash.

11 Q Paid cash. Okay. And let me ask you this, when did
12 you take his clothes -- I mean, his suitcases out of your
13 trunk and bring them up to the PSA? Was that before or
14 after dinner? A No, that is before dinner.

15 Q Did you have a bellboy take them out or did you both
16 pick them up, or what? A I don't remember. I think
17 he pick them up himself, but it wasn't big luggage.

18 Q How many pieces did he have? A I can't remember.

19 Q Well, was it more than one suitcase?

20 A I don't -- I cannot tell. I don't remember. I didn't
21 put my attention to it.

22 Q But at least you can tell us this much, that he had more
23 than one little bag, huh? A I know there was a bag.

24 Q All right. Well, was it big enough bag to put in a
25 separate change of clothes? A I don't know. I
26 haven't seen inside the bag.

1 Q Well, you seen bags before, haven't you?

2 A Yeah, but I cannot tell.

3 Q Well, are you in the habit of taking a little overnight
4 bag and stuffing in a suit and a tie and all of that stuff?

5 MR. PESTARINO: That is irrelevant.

6 THE COURT: Yes, his habits are not in issue. The
7 objection is sustained.

8 Q (By Mr. Robinson) Was it the sort of a bag, this bag
9 that Mr. Ismail had, was it the sort of bag that could fit
10 in other clothes or was it a small bag?

11 A Well, I can't put my suit in a small bag. But if you
12 have a big bag, I don't know what you put in, probably suit
13 coats, whatever.

14 Q Was it a suitcase that he had? Let me ask you that.

15 A I believe was a suitcase. I didn't put much attention.
16 We got thousands of suitcases coming through the hotel and
17 going out. You never know.

18 Q Okay. But you do recall that in your opinion it was
19 bigger than say, a little, you know what -- strike that.

20 Do you know what sort of a bag you use to keep like
21 your shaving gear in, and stuff like that? A little kit?

22 A No, sir.

23 Q You don't know that. Okay. So then you went to the
24 Elegant Farm in Jack London Square, and Mr. Ismail paid for
25 your dinner? A Right.

26 Q Where did you go after that, after Jack London?

1 A We came back. It was about 10:30, I drop him to the
2 hotel and he asked me to do him a favor, to take him to the
3 church on Sunday. And I left home.

4 Q Okay. And what time did you get home that night?

5 A About 11:30, something like that.

6 Q And then on Sunday what did you do? A Sunday I
7 came at 10:30, I pick him up from the hotel. I took him
8 to the church. And I left from the church to --

9 Q Would that be 10:30 in the morning?

10 A 10:30, right.

11 Q Okay. And you took him to church? A Right.

12 Q Now, did you see Mr. Ismail at all that Sunday after you
13 took him to church? A No, I left to soccer game.
14 And he is supposed to meet me at soccer game. And he
15 didn't show up. So I came back home. At 4:00 o'clock
16 Sunday I have radio program. So I sat at home, I made the
17 program, and I went to the studio.

18 Q This radio program that you have, are you the --

19 A I am the program director.

20 Q All right. Besides that, are you the leader of the
21 San Francisco area of the Assyrian Universal Alliance?

22 A I am the secretary.

23 Q And that is the highest office, isn't it --

24 A No.

25 Q -- of the Assyrian Universal Alliance? A This is
26 a division. It is a division. It is a --

1 Q And you are the secretary for the Assyrian Universal
2 Alliance in the San Francisco area? A Right.

3 Q And how long have you held that office?

4 A I think since October, '75.

5 Q Of 1975. Who held that office before you?

6 A My brother Sam Lazar.

7 Q How long did Sam hold the office? A I believe one
8 year.

9 Q And so I can get the data straight in my own mind, is
10 there a president of the Assyrian Universal Alliance in San
11 Francisco? A Well, Universal Alliance, we have one
12 general secretary who is for all of the world.

13 Q Okay. And that is the top office? A That is the
14 top office. And they have --

15 Q That is called general secretary? A Right. And
16 they have --

17 Q Where is he located? A I believe in Cincinnati.

18 Q Cincinnati, Ohio. How else do you break it down?

19 A How is that?

20 Q What is the next office besides the general secretary?

21 A Well, then comes the International World, like Australia,
22 Iraq, Persia, so they have another secretary general over
23 there, and you have in the United States another secretary
24 called America's secretary.

25 Q Is that what you are? A No, I am a divisional,
26 like San Francisco. Turlock has own secretary. Los

1 Angeles has own secretary.

2 Q So is it safe to say -- A Chapter.

3 Q Okay. Are you the head of the chapter in San Francisco?

4 A Right.

5 Q Okay. And your brother was the head of the chapter
6 prior to you? A Right.

7 THE COURT: Counsel, could we take our afternoon
8 break? We will take our afternoon recess, about 15 minutes.
9 You will keep in mind my previous admonition. You will be
10 directed to return, the defendant will be directed to return.
11 You can step down. Resume at 3:25.

12 (Short recess taken.)

13 THE COURT: All right. Let the record show that the
14 jury has now returned to the courtroom. The defendant is
15 present. Everybody is here but his lawyer.

16 MR. PESTARINO: Sorry, Your Honor.

17 THE COURT: It's all right. Let the record show
18 that Mr. Pestarino has returned. You may continue.

19 MR. ROBINSON: Thank you, Your Honor.

20 Excuse me, Your Honor, may I have one minute, please?

21 THE COURT: Surely.

22 MR. ROBINSON: Okay. Thank you, Your Honor.

23 Q (By Mr. Robinson) Mr. Lazar, I believe we left off with
24 your telling us that you took Mr. Ismail to church on Sunday,
25 November 2nd, 1975? A Yes, sir.

26 Q And at that time you didn't see him any more on Sunday?

1 A No.

2 Q And that is because you had a radio program to do?

3 A Right.

4 Q And does that radio program have anything to do with the
5 Assyrian people? A Yes, sir.

6 Q Could you tell us what the radio program is?

7 A The Assyrian Voice radio broadcast is an Assyrian
8 broadcast which its purpose is the Assyrian heritage, history,
9 education.

10 Q Now, on Monday, November 3rd, 1975, did you see Mr.
11 Ismail? A Yes, sir.

12 Q And could you tell us where you saw Mr. Ismail?

13 A Okay. Mr. Ismail called me about 11:00 o'clock in the
14 morning from the coffee shop. And he say, "I am downstairs
15 having a cup of coffee. Would you come and have a cup of
16 coffee with me?" So I came down and had a cup of coffee,
17 and he say he wanted to go and see San Francisco, apparently
18 he wanted to know a street in San Francisco which was Anza
19 Street. And I lead him where he has to go, and I offer my
20 car to go over, you know, and at 3:00 o'clock he came back,
21 and he get my car back to me.

22 Q So Mr. Ismail borrowed your car on November 3rd, 1975?

23 A Right.

24 Q Now, did you see Mr. Ismail Monday night, November the
25 3rd? A I don't recall it.

26 Q Okay. A We had a cup of coffee after he

1 returned back. But at night I haven't been with him.

2 Q And you don't recall if you saw him that Monday night?

3 A No, definitely not.

4 Q November the 4th, 1975, a Tuesday.

5 A That is Tuesday.

6 Q Okay. A Tuesday I haven't seen him.

7 Q Well, I have to ask the questions.

8 A I'm sorry.

9 Q That's okay. Everyone knows what the question is going
10 to be. Did you -- A Well, because I --

11 Q What did you have for breakfast Tuesday?

12 No. Did you see Mr. Ismail Tuesday, November 4th,

13 1975? A I believe I had a cup of coffee in the
14 morning at 10:00 o'clock.

15 Q Okay. And that was -- who initiated that contact,
16 yourself or Mr. Ismail? A No, Mr. Ismail called me
17 in the office. He say, "I'm in the coffee shop having a
18 cup of coffee." He usually called me about 10:30 11:00
19 o'clock, and that is the time he goes for breakfast.

20 Q And you had coffee with him then? A Right.

21 Q After that cup of coffee Tuesday morning at 11:00 o'clock
22 on November the 4th, 1975, did you have any more conversation
23 with Mr. Ismail on Tuesday? A He was talking about
24 going to San Francisco, it is a beautiful town, and he starts
25 talking about Canada, how snow is down there, terrible
26 weather.

1 Q Did you see him again after the 11:00 o'clock coffee
2 meeting on Tuesday? A I don't recall it.

3 Q Did you see him Tuesday night? A No.

4 Q Okay. Wednesday, November the 5th, 1975, did you see
5 Mr. Ismail Wednesday? A Yeah, I did see him. Again,
6 it was 10:30, 11:00 o'clock, for a cup of coffee. That's
7 all. I mean, that is the time he call me to have a cup of
8 coffee, and I ask him how you feel, and how you like the
9 place, and stuff like that. See, I am not that much free
10 man. I got a lot of obligations to do.

11 Q Okay. Wednesday afternoon, did you see Mr. Ismail?

12 A I don't know if I had another cup of coffee with him in
13 the coffee shop. I don't know.

14 Q Wednesday night did you see Mr. Ismail?

15 A That is when we were talking about, the Wednesday.

16 Q November the 5th? A Right.

17 Q Right. A Wednesday night I believe we had a
18 drink or a cup of coffee. I really don't remember that,
19 you know.

20 Q Okay. Let's talk about Thursday.

21 A That was the 5th.

22 Q No, Thursday is the 6th. A Is the 6th.

23 Q Wednesday is the 5th. A That is the time he
24 check out.

25 Q Yeah. Did you see Mr. Ismail on Thursday?

26 A Thursday I saw him again about 12:00 o'clock. He call

1 me, he said he is checking out.

2 Q Okay. And that is 12:00 o'clock in the afternoon?

3 A Right.

4 Q Okay. And when he called you to say that he was
5 checking out did you go up to his room? A No, sir.

6 Q Okay. What did he do next? A He pay his bill.

7 Q All right. When he paid his bill were you there?

8 A Yeah, I was at the front office. I offer if I take him,
9 you know, any place he wants to go. He say no.

10 Q Wait a minute. I have to ask questions. Okay? Now,
11 when he paid his bill how did he pay? In cash?

12 A Cash.

13 Q Okay. And this would be about what time on Tuesday --
14 on Thursday, November the 6th? A Was about, I'm
15 sorry, 1:00 o'clock.

16 Q About 1:00 o'clock. Okay. And I take it he had his
17 bags with him at that time? A I didn't see really
18 anything at that time. I mean, I wasn't looking what he
19 has because he was, when we had a cup of coffee at the
20 coffee shop he said, "I'm checking out," so he went to the
21 front office, he pay his bill, and I say, good-bye, good-bye
22 to him.

23 Q Okay. Let me ask you this, when you first met him on
24 Friday, the 31st, okay, of October, do you remember what he
25 was wearing? A Well, I am not remembering quite well.
26 Probably suit or casual, I don't remember. But I remember

1 Saturday what he was wearing.

2 Q On Saturday? A Yeah.

3 Q That is the first of November? A Right.

4 Q And at that time he was wearing casual clothes?

5 A Casual, right.

6 Q On Sunday, November the 2nd, do you know what he was
7 wearing when you took him to church?

8 A Sunday I remember he was wearing a suit.

9 Q Can you describe the suit for us?

10 A Kind of gray or white.

11 Q All right. On Monday, the 11th (sic), when you had
12 coffee with him and he wanted to know where Anza Street was,
13 and he borrowed your car and he came back and you had
14 coffee with him again, do you know what he was wearing on
15 Monday, the 11th (sic)? A I think he was wearing
16 again a suit.

17 Q On Tuesday, the 4th, do you know what he was wearing?

18 /

19 /

20 /

21 /

22 /

23 /

24 /

25 /

26 /

1 A. That is pretty tough. Really I don't. It is getting
2 too far, you know.

3 Q. Wednesday, the 5th? A. Not really.

4 Q. Thursday, the 6th, when he checked out?

5 A. When he checked out I believe he was wearing a suit.

6 Q. Okay.

7 MR. ROBINSON: Now, Mr. Clerk, may I see that?

8 Q. (By Mr. Robinson) Showing you People's Exhibit No. 11
9 and Number 12, does this look familiar to you?

10 A. Yeah, I think it is his suit.

11 Q. Okay. Does this appear to be the suit that he was
12 wearing? A. I believe so.

13 Q. And showing you People's Exhibit No. 14, a black shirt,
14 have you ever seen Mr. Ismail in this shirt?

15 A. I believe so.

16 Q. Okay. And when he wore this shirt with that suit, did
17 he wear a tie? A. Yes.

18 Q. Okay. And showing you People's Exhibit No. 13, does
19 that appear to be the tie? A. I believe so.

20 Q. Okay. Now, these casual clothes that you have told us
21 about, can you describe, were they different from what you
22 have already seen, the suit, the shirt, and the tie?

23 A. I believe so.

24 Q. Okay. Now, did you ever see Mr. Ismail that you can
25 recall other than the Saturday that you told us about wearing
26 a different type of a suit or different color suit?

2
1 A. No.

2 Q. Always wearing that same suit?

3 A. Right.

4 Q. Okay. And you remember that now?

5 A. Yes.

6 Q. Okay. What was it that caused you to remember that now
7 when you couldn't a few minutes ago?

8 A. Well, I know he was wearing all of the time one type of
9 suit.

10 Q. Okay. He was always wearing that suit?

11 A. Right.

12 Q. Okay. Except for the time you saw him in the casual
13 clothes?

A. Right.

14 Q. Now, when Mr. Ismail checked out at about 1 o'clock in
15 the afternoon on Thursday, November the 6th, you offered to
16 give him a ride someplace?

A. Right.

17 Q. Where did you offer to give him a ride to?

18 A. I just told him if I want to give you a ride, he say,
19 "No, I'll catch a bus."

20 Q. Well, you weren't going to give him a ride back to
21 Canada, were you?

A. No, I mean, Assyrians'

22 talking is different than, I told him, "May I give you a
23 ride?" He said, "No, I would take a bus."

24 Q. Did Mr. Ismail tell you where he was going?

25 A. Well, suppose he was going to Canada, somebody is
26 checking out, goes to airport, or, you know --

1 Q Did he tell you where he was going?

2 A No.

3 Q Didn't discuss it with you? A No.

4 Q Okay. Didn't say, "I'm checking out now. I'm going
5 to Canada"? A No.

6 Q You didn't say to him when he said, "I'm checking out,"
7 you didn't say, "Are you going home? Have a nice trip home,"
8 anything like that? A I said, "I hope that your stay,"
9 you know, "You were comfortable." And he said, "I'll see
10 you in February."

11 Q See you in February? A Right. So I assume, of
12 course, I guess, leaving, he is going home and he will see
13 me in February. I don't ask him are you going to Canada or
14 Boston, you know.

15 Q Now, during these conversations I take it when you were
16 meeting Mr. Ismail, when you had the two dinners with him,
17 when you drove him from the motel down to the hotel, when you
18 met with him for coffee and everything, lent him your car,
19 that you would talk with him how -- you never met the man
20 before, right? A Right.

21 Q And did you talk about politics? A No.

22 Q Didn't talk about them at all? Okay. Did Mr. Ismail
23 ever mention politics? A I don't recall that.

24 Q Did you talk about the Assyrian Universal Alliance?

25 A Well, I think we talk about Universal Alliance, how many
26 people you have here, and, you know, the Geneva Congress that

1 they had last year.

2 Q Was Mr. Ismail present at the Geneva Congress for the
3 Universal Alliance? A I don't know.

4 Q Now, how did your brother Sam meet Mr. Ismail?

5 A Talking to Sam about this, he say that he was in one of
6 the Assyrian convention back in Chicago and there is where
7 he met Mr. Ismail.

8 Q And was your brother Sam at the convention when he was
9 president, when he was secretary of the San Francisco branch
10 of the Assyrian Universal Alliance? A I don't know.

11 Q Okay. Well, did you discuss how the plan -- strike
12 that.

13 What is the purpose of the Assyrian Universal
14 Alliance?

15 A Well, the purpose of Assyrian Universal Alliance to seek
16 a homeland for Assyrian people, and the heritage, Assyrian
17 heritage, history, educational, and all this as it is a
18 peaceful, political body.

19 Q And has the Assyrian Universal Alliance -- are you
20 familiar with the Kurds? A The Kurds?

21 Q Yeah. A What Kurds?

22 THE COURT: Kurds, K-u-r-d-s.

23 THE WITNESS: (Shakes head negative.)

24 Q (By Mr. Robinson) No? Never heard of them?

25 A (Shakes head negative.) I have been a member of
26 Universal Alliance, I have been member here since '75, and

1 I haven't been much in their meeting --

2 THE COURT: I think maybe he misunderstood. Kurds
3 are people who live in Iraq.

4 THE WITNESS: Oh, the Kurds. The people live in
5 northern Iraq. Yes, I do.

6 Q (By Mr. Robinson) And does the Assyrian Universal
7 Alliance support these people? A No.

8 Q No. Okay. Where is this homeland going to be for the
9 Assyrian, in Iraq or Iran? A In Iraq.

10 Q Did you discuss this with Mr. Ismail? A No.

11 Q Didn't mention it at all? Okay. What about the
12 Patriarch, Mar Shimun, did you discuss him with Mr. Ismail?

13 A Nothing.

14 Q Never mentioned his name at all? A At all.

15 Q Okay. Mr. Ismail never mentioned him? A No.

16 Q Okay. A Actually there is no use to mention
17 because I am a Catholic. I am not, you know --

18 Q Okay. Did you know how the Patriarch thought about the
19 Assyrian Universal Alliance? A Not really.

20 Q You didn't know about that. Okay. Did Mr. Ismail
21 ever mention his brother Zaia? A I asked for Zaia
22 because I know Zaia rather than David, and I asked about --

23 Q How do you know Zaia? A I know Zaia since 1963.
24 I believe he came, he was a congressman in Goma, Syria, and
25 he came to Iraq in 1962 or '63, I don't recall very well,
26 and met, visit all of the Assyrians over there.

1 Q How long have you been in the United States?

2 A About six years.

3 Q And are you a citizen of the United States?

4 A No.

5 Q No? A (Shakes head negative.)

6 Q Okay. What about a Mr. Kanna, Sidney, Australia, do
7 you know that man? A No, sir.

8 Q Do you know he is a main leader of the Assyrian Universal
9 Alliance? A I have very small information on A.U.A.

10 Q You do? A Yes.

11 Q Yet you have a radio program? A I do a lot about
12 the radio program.

13 Q Also you are the secretary of the chapter out here in
14 San Francisco? A For A.U.A.

15 Q But you don't know much about it? A Yeah, it is
16 quiet, we don't have much activity at this point. The most
17 of activity comes from the head themselves, they have the
18 congress in Switzerland, and they just talk, there is no
19 activity in Bay Area or in Los Angeles. It is just members,
20 they pay their dues and that is all.

21 Q What about a Mr. Sargis, Sargis Michaels, does that name
22 ring a bell? A I don't know.

23 Q You don't know whether or not -- A Well, I heard
24 name Sargis Michaels, Michael Sargis. These are Assyrians'
25 family names.

26 Q Have you ever heard that name in connection with the

1 Assyrian Universal Alliance? A No.

2 Q Have you ever met that man? A No.

3 Q Now, when you were with Mr. Ismail on October the 31st,
4 1975, Friday, did you see whether or not he had a gun?

5 A I haven't seen any gun for him.

6 Q Did you ever discuss his having a gun? A No.

7 Q Okay. When you took him to the hotel on Saturday,
8 November the 1st, 1975, did you see a gun at that time?

9 A No, sir.

10 Q Did you go up to the hotel room with him?

11 A No, sir.

12 Q You checked him into the hotel? A Right.

13 Q And you gave him his key? A Well, the front
14 office do the transaction.

15 Q Where did you wait for him? A Downstair.

16 Q And how long was he up in his room? A Not much
17 longer, five, ten minutes.

18 Q And he came back, you went to dinner? A Right.

19 Q And when you went out to dinner you never saw a gun?

20 A No, sir.

21 Q Okay. Sunday, November the 2nd, 1975, did you ever see
22 Mr. Ismail with a gun? A I haven't seen Mr. Ismail
23 with a gun at all.

24 Q You never knew he had a gun? A I haven't seen a
25 gun with Mr. Ismail.

26 Q Did he ever discuss having a gun with you?

1 A No, sir.

2 Q In 1969, Mr. Lazar, did you own a service station, a
3 Union 76 service station at 411 MacArthur Boulevard in
4 Oakland? A Yes, sir.

5 Q Was that one of the first things you bought when you
6 came to the United States? A Right.

7 Q That was your first business? A Right.

8 Q And, of course, did you think at that time that it was
9 illegal for an alien to possess a gun in the United States?

10 A I don't know nothing about that.

11 Q Well, didn't you think that it was illegal for an alien
12 to have a gun? A Well, I didn't discuss with nobody
13 about it, and I don't know nothing about it. I mean, I
14 operate a gas station, not a gun shop.

15 Q Okay. Let me ask you this, Mr. Lazar, did you give a
16 statement on December the 3rd, 1975, to Sergeant Denkowsky
17 and Sergeant Randall of the San Jose Police Department?

18 A Yes, sir.

19 Q Okay. And at that time did they ask you whether or not
20 you felt that it was illegal for an alien to possess a gun?

21 A Well, now I know, you are talking about when the time I
22 came in '69. Now, if you are asking me after a year, after
23 five years, of course I know most of the law here United
24 States.

25 Q So when you came in 1969 nobody told you it was illegal
26 for an alien to have a gun? A I never discuss with

1 nobody.

2 Q And when you talked to Sergeant Denkowsky and Sergeant
3 Randall on December 3rd, 1975, did you tell them that you
4 felt it was illegal for an alien to possess a gun?

5 A At the point right now I know, I believe that it is
6 illegal. I don't know. Probably not, but I -- you know.

7 Q Okay. Now, did you sell that service station, Mr.
8 Lazar? A Yes, sir.

9 Q And how long did you have that service station?

10 A I purchased that service station October 17th, 1969. I
11 sold it February the 6th, 1970.

12 Q And during the course of your owning that service
13 station did you have Mr. Ron Myers in your employ?

14 A He was a part-time temporary employee.

15 Q And what was his job there? A Ron Gale Myers, he
16 starts on December the 9th, '69. He came up to the gas
17 station and he say that he is a Mobil Oil employee, and he
18 wants the job as a part-time, and he is a mechanic, and he
19 say if you have any job. I say, "Yes, I do." So Ron, he
20 work with me for a very short period of time. He start on
21 December the 9th, '69, and his first paycheck was on December
22 13th, '69, wages of thirty-nine ninety-two. Then at this
23 time on December 1st, '69, I gave a notice to Union 76 that
24 I am leaving the station. I have to give them 60 days
25 notice. And Ron Myer he heard about it. He asked me if
26 I would be interested in selling the service station. I

1 referred that he would go to Union 76 and talk to those
2 guys over there.

3 Q Let me ask you some questions. You only owned the
4 service station, you tried to sell it in December of 1969,
5 you told Union you were quitting? A Yes.

6 Q And you bought it in October of 1969? A Right.

7 Q October 17th, right? A Right.

8 Q So you were there about a month and a half, right?

9 A Right. And I decide to quit.

10 Q Why? A Well, it was a bad area.

11 Q Okay. Hadn't you been the victim of robberies in that
12 area? A Yes.

13 Q People came in and robbed money from you, right?

14 A Well, they didn't hold me up. It is just employees
15 weren't honest. I had a lot of shortages in cash, missing
16 merchandise, that's all.

17 Q And nobody ever held up that service station?

18 A No, sir.

19 Q You're sure about that? A I'm sure.

20 Q Okay. So you kept -- A I had -- excuse me --
21 I had a burglary, not hold up.

22 Q A burglary? A Right.

23 Q Tell us about the burglary? A Okay. Some time, I
24 believe was end of November, I got the papers, not with me,
25 but I got report to the police, one of my attendants call me
26 in the morning, he say that your station is open and there

1 is no tires, no oil, nothing. So I came down. And I saw
2 that the station was open by normal keys. Prior to that
3 incident I used to have an employee over there, he was the
4 station manager, and he worked for a week. He was honest.
5 The cash was okay and I did like him. So he came next day
6 and he asked me for a loan of \$200. I pay him \$200 and he
7 disappear next day. So after a week my station was robbed
8 and I reported to the police. The police caught a van full
9 of merchandise. And they caught the guy and they brought
10 the merchandise back, most of it, about 95 per cent of it.

21 Q Okay. A And from then I don't know what the
11 police did with the guy, there was no court, nothing, but
12 the thing is that it happened that one of the police
13 officers was new, he opened the van before locking it up to
14 bring it to the police station and charge the guy on the van,
15 something like that. So after that burglary I decided to
16 quit.
17

18 Q And you sold your station to Mr. Myers? A Yes, sir.

19 Q Okay. After you sold your station to Mr. Myers in
20 February of 1970 did you ever see Mr. Myers again?

21 A Yes, sir.

22 Q Could you tell us when? A I saw Mr. Myers on
23 March the 7th.

24 Q Of what year? A 1970. And I went over there,
25 I cash a check of \$20.

26 Q Okay. And what other time? A The other time I

1 went over there in May, the 9th, 1970. I purchased gas
2 for \$7.60.

3 Q Was that the only time you had seen Mr. Myers?

4 A Yes, sir.

5 Q Okay. Did you know, was Mr. Myers an Assyrian?

6 A I don't believe that, no. I don't think.

7 Q Pardon me? A No, he is American, I believe.

8 Q Was Mr. Myers involved in the Assyrian Universal

9 Alliance? A I don't know Mr. Myers really so good.

10 I just know him, employee a couple days, and he offered to
11 purchase the gas station, and that is it.

12 Q Is there a sporting goods shop, Siegle's, next to your
13 gas station? A I don't know.

14 Q In Oakland? A I don't know.

15 Q You don't know? A No.

16 Q It is a couple of blocks down? A I haven't seen
17 Siegle. I work for about three months in that gas station,
18 and I haven't been out to that gas station so often.

19 Q I am going to show you People's 4 for identification, it
20 is a gun. I'd like you to take a look at it. It is a
21 .22. Would you look at that gun, please?

22 Did you have a good chance to look at it?

23 A Yeah.

24 Q Did you ever obtain this gun from Mr. Myers?

25 A No, sir.

26 Q Have you ever seen this gun before in your life?

1 A No, sir.

2 Q You are positive about that? A A hundred per cent.

3 Q Never seen it before? A Never.

4 Q Okay. Did you ever furnish a weapon to the defendant,
5 Mr. Ismail? A No, sir.

6 Q Now, I take it you know Kitty Benjamin?

7 A Yes, sir.

8 Q And Kitty Benjamin lives a couple blocks from your house?

9 A Yes, sir.

10 Q Kitty Benjamin works down at your motel? A Right.

11 Q You got her the job there, right? A Right.

12 Q Is Kitty Benjamin a member of the Assyrian Universal
13 Alliance? A No, sir.

14 MR. PESTARINO: I didn't --

15 THE COURT: The answer was, "No, sir."

16 Q (By Mr. Robinson) Does Kitty Benjamin support or
17 believe in the Assyrian Universal Alliance?

18 A I haven't talked much with her about A.U.A.

19 Q You never discussed the A.U.A. with Kitty Benjamin?

20 A Not really.

21 Q How often do you see Kitty Benjamin?

22 A Every day, five days a week.

23 Q Do you have coffee with Kitty Benjamin?

24 A Once in awhile when I call them for a meeting or
25 discussion.

26 Q Do you see her socially? A No.

1 Q Never been to any party where she has been there,
2 anything? A Oh, Assyrian parties, I saw her down
3 there as any other Assyrians.

4 Q Now, when you were with Mr. Ismail for the six days
5 did he ever discuss the Assyrian Universal Alliance?

6 A No, sir.

7 Q Okay. When you were with Mr. Ismail for the six days
8 did you ever see him consume any alcohol?

9 A Not to my knowledge, sir.

10 Q You never saw him drink anything?

11 A Probably once we had a cocktail.

12 Q Okay. When you took him out to dinner that night --

13 A I'm sorry, we had some wine at that time.

14 Q And when he took you out to dinner did you have anything
15 to drink? A No, when I took him to dinner we didn't.
16 I don't know, I don't remember, probably yes, we had a drink,
17 but the next time for the Elegant Farm we had wine for sure.

18 Q Okay. Do you know what sort of alcohol Mr. Ismail
19 drinks? A I believe he drinks Scotch.

20 Q Okay. And what kind of Scotch? A I don't
21 remember, Johnny Walker or --

22 Q Okay. Now, would you say that Mr. Ismail drinks a lot
23 or a little? A I don't know, some people they could
24 consume a lot of drink but you never realize they are drunk
25 or not.

26 Q There is no change in them? A I don't know.

1 Q Let me ask you this, did you make the statement to the
2 police on December 3rd, 1975, where you talked to Sergeant
3 Denkowsky and Sergeant Randall that Mr. Ismail, you saw him,
4 he was drinking Scotch, Johnny Walker Red, you noticed no
5 change in his behavior and that he drinks a lot?

6 A Well, I believe he drink but, you know, I mean, put it
7 this way, some people they could drink one shot and they are
8 over; some people they can drink one bottle, you know, and
9 their behavior is still maintaining in a normal way.

10 Q Wait a minute now, did you tell the police what I just
11 read to you? A Yeah, I believe that all Assyrians or
12 most of the Assyrians --

13 Q Could you answer my question yes or no? Did you tell
14 the police that? A Yes, I did.

15 Q Okay. And you told them that Mr. Ismail drinks a lot,
16 didn't you tell them that? A Well, I believe.

17 Q What did you have to base that on, sir?

18 A Well, I could see a person that the way he is drinking
19 his alcohol, you can tell his, he uses a lot of alcohol or
20 not, especially when you are working in a hotel and food and
21 beverage operation you can tell.

22 Q How? A Well, the way of the person drinks the
23 alcohol itself.

24 Q What do you mean by that? I don't understand.

25 A Well, a person that he is drinking alcohol, he drink in
26 different way, you can see that he doesn't like it or he

1 doesn't feel to take it, some people they drinking just like
2 normal thing. That is my opinion.

3 Q And did Mr. Ismail in your opinion drink it just like a
4 normal thing? A Right, a normal drinking, I could
5 feel that the person is, he drinks.

6 Q You also remembered to tell the police exactly what he
7 drinks, Johnny Walker Red, right? A That is what I
8 remember.

9 Q Okay. And that is a pretty good memory, don't you
10 think?

11 MR. PESTARINO: Well, wait a minute, if Your Honor
12 please, it is getting to be argumentative.

13 THE COURT: It is argumentative.

14 MR. ROBINSON: Okay. I'm sorry.

15 Q (By Mr. Robinson) Do you also remember how many bags
16 of luggage Mr. Ismail had? A No, sir, I don't remember
17 that.

18 Q Okay. And the reason you don't remember is because you
19 see so many people with luggage? A Right.

20 Q In your hotel? And I take it you see a lot of people
21 drink in your hotel, too? A Yes, sir.

22 Q How is it that you can remember exactly what he drinks
23 but you can't remember how much luggage he had?

24 A Well, No. 1, if you look on the beverage check here you
25 will see \$2.55 a drink.

26 Q Yeah. A Which that is one of the expensive drink

1 which is Johnny Walker.

2 Q So you knew from just looking at the \$2.55 that was
3 Johnny Walker he ordered? A Right.

4 Q Did you have any other drinks in the bar that cost you
5 \$2.55? A Well, I knew he was drinking Johnny Walker,
6 whether it is red or white or blue, whatever, I can't
7 remember, you know. I am sitting with many people and
8 every person is ordering a drink, but I could -- I am not
9 quite sure whether he is drinking Johnny Walker either.

10 Q You told the police that he was drinking Johnny Walker?

11 A Right. I believe that he is drinking Johnny Walker
12 but I am not quite sure.

13 Q Did you tell the police that when you saw Mr. Ismail
14 drinking there was no change in his behavior?

15 A Well, they asked me how he was when he is drinking, I
16 say he was maintain in good shape.

17 Q Could he still function, understand? A Right.

18 Q Didn't become incoherent or anything like that?

19 A He didn't slap me.

20 Q He knew what he was doing? A Right.

21 Q In other words, if you said pass the salt he knew enough
22 to pick up the salt and pass it to you? A Right.

23 MR. ROBINSON: Thanks. I have nothing further.

24 CROSS-EXAMINATION

25 BY MR. PESTARINO:

26 Q You really haven't seen Mr. Ismail drink, have you,

1 except maybe take one drink? A Right, yes.

2 Q And it would make a difference if he had a half bottle
3 or three-quarters of a bottle, wouldn't it?

4 MR. ROBINSON: I am going to object, calls for
5 speculation.

6 MR. PESTARINO: This whole thing is speculative.

7 THE COURT: When you say "make a difference" that is
8 ambiguous.

9 Q (By Mr. Pestarino) It would make a difference in his
10 sobriety or lack of sobriety? A Right.

11 Q Sure. You only saw him drink once, twice?

12 A Well, if a person is drinking two drinks -- if I drink
13 one drink I will pass out. I cannot stand drink. Some
14 people, they could drink, you know, the way is drinking you
15 can tell he is a man that he likes to drink. And during
16 this period of time he was maintaining his, you know,
17 attitude and all of this type of thing. My general manager
18 drink a lot of booze, but you would never tell whether he
19 is drink or not, you know.

20 Q Do you know how much, how much did David drink? Did
21 you see him drink? A I cannot tell.

22 Q Was it more than one drink, two drinks?

23 A Two drinks, three drinks.

24 Q Okay. A I mean, I don't count people's, how
25 much they are drinking either.

26 Q Okay. Let's go back a little bit. When David

1 registered at your motel, first of all, do you have the
2 registration slips? A Yes, sir.

3 Q You do? A Yes.

4 Q May I see them? And I take it those slips are kept in
5 the regular course of your business and under your direction?

6 MR. ROBINSON: They are in evidence.

7 THE WITNESS: Well, these are originals. I would
8 like to get them back.

9 THE COURT: They are 21-A through E, I believe it was.

10 THE WITNESS: These are official hotel documents.

11 MR. ROBINSON: Perhaps we could have the Clerk maybe
12 photostat copies of those.

13 THE WITNESS: I am sure that you have two copies in
14 your file because I give couple of copies.

15 MR. PESTARINO: Why don't you produce one and we
16 will let him take these back?

17 THE WITNESS: If you do so, you can take them and
18 send these copies to me to my office.

19 MR. ROBINSON: I think we can have them copied.

20 Q (By Mr. Pestarino) Let me ask you a question, the
21 registration there, what is the name on the registration?

22 A David Ismail.

23 Q Did he sign that? A Yes, sir.

24 Q Anywhere in these records do you see the name David
25 Benjamin? A No, sir.

26 Q You talked about the A.U.A., Mr. Lazar, and you described

1 it as an organization that is interested in getting land for
2 the Assyrians? A Right.

3 Q And let me ask you this, is it a peaceful organization?

4 A Yes, sir.

5 Q What does A.U.A., what are some of its beliefs and

6 principles with regard -- A I believe in the
7 principles of A.U.A. as a peaceful organization, so far as
8 I know.

9 Q Do you have any bylaws or -- A Yes, we do.

10 Q Do you have a constitution? A Yes, we do.

11 Q And does that constitution or those bylaws --

12 A Suggested by the United States government.

13 Q What? They are suggested by --

14 A They are registered. They are legal. It is a legal
15 political body.

16 Q It is a legal political body? A Right.

17 Q Could you get a copy of those rules and regulations?

18 A Yes, sir.

19 Q Would you get it for us, please? A Okay.

20 Q And anywhere in those rules and regulations does A.U.A.
21 suggest revolutions or violence? A No way. No way.

22 Q The purpose of A.U.A. then is to influence the govern-
23 ment to give you lands? A Well, if you know about
24 the Assyrian history, our ancient fathers they were in Iraq,
25 in Mesopotamia. It is a wide history. I think everybody
26 knows about Assyrian Empire at the time and Nineveh was our

1 capital, and we believe that we have some rights in Iran to
2 have a piece of that land that our Assyrian people could live
3 in those lands with the Iraqi government or Iraqi people.

4 Q You feel -- and what does the A.U.A. do towards getting
5 those lands in Iraq or Iran? A They have a congress

6 in Geneva last year, and I do have a copy of those minutes
7 that they were at that time. And they discuss about

8 establishing consulars, embassies around all of the world,
9 negotiation with Iraqi government, and we do have a

10 representative in Iraq, Mr. Zaia Ismail. I believe before

11 was his father, great Malek Ismail. And now is his son,

12 and there is a communication in between, all of the Assyrian

13 in the world and their representative in Iraq to the

14 possibility of getting this piece of land and live all

15 Assyrian in peace with Iraqi people.

16 Q And there is no violence or revolution proposed?

17 A Sir, Assyrian doesn't have anything. They don't have

18 any country. They don't have weapons. They don't have

19 nothing. And they don't believe in violence, especially

20 Assyrians because Assyrians are tired from all old ancient

21 times, and they been in wars and stuff like that so they

22 feel today's world is not by war, it is by peaceful talk.

23 Q And is A.U.A. then designed to help individual Assyrians

24 in whatever country they might be? For example, like a

25 labor union might represent an employee, or a member of

26 their union, does the A.U.A. try to represent people in

1 foreign countries that are in trouble or have problems?

2 A No, they help poor people to give them more education
3 if they need it. And I mean, all Assyrians are distributed
4 in the world, United States, Australia, Canada, Belgium,
5 Switzerland, and all over. And few have seen manifesto,
6 Assyrian manifesto, you can read exactly what A.U.A. stands
7 for.

8 Q And you will provide us with some copies of that?

9 A Sure.

10 Q Let me ask you this, Mr. Lazar, you are a Catholic?

11 A Yes, sir.

12 Q Assyrian Catholic? A I am a Roman Catholic.

13 Q All right. A Roman Catholic. But you are an
14 Assyrian? A Right.

15 Q And as far as you are concerned do you have any interest
16 in the Church of the East, either politically or religiously
17 or any other way? A No, sir.

18 Q You gave David a 50 per cent discount on his motel room,
19 and I understand that you have some interest in the manage-
20 ment of that motel or hotel. Why'd you do it?

21 A Well, I give to all Assyrians 50 per cent discount. I
22 do it.

23 Q Doesn't matter who it is if he is an Assyrian he
24 automatically gets it? A Well, it is not, I mean,

25 Assyrian. Typical I give come rooms to all of the organi-
26 zations which they are involved in promotion. I give

1 government people 50 per cent discount, too.

2 Q Let me ask you that, do you still do that and make money?

3 A Yes, sir. That is the only way, if you been involved,
4 we don't have the trade budget in advertisements, so we
5 advertise hotel to getting people in looking at it, you know,
6 then they will go back and talk to their friends, and friends
7 come over.

8 Q You don't know anyone in Australia, do you?

9 A No, sir.

10 Q You never knew the Patriarch or Mrs. Shimun?

11 A I didn't know Mrs. Shimun until the first day I came to
12 the Grand Jury.

13 Q Did you have a conversation with her at the Grand Jury?

14 A Yeah, right.

15 Q And was that about keeping the door closed or something?

16 A No. It is just I say to her, I feel sorry for what
17 happened. She asked me who I am, and I told them my name
18 is Yule Lazar, and she said, "Say from where are you." I
19 say, "I am from --"

20 MR. ROBINSON: I am going to object to this convers-
21 ation between this man and Mrs. Shimun.

22 THE COURT: Yes. It is hearsay and it is also
23 irrelevant.

24 Q (By Mr. Pestarino) Well, did Mrs. Shimun in any
25 conversation with you mention keeping the door locked or
26 locking of a door, or anything of that nature?

1 A She mentioned something that, now she start talking
2 about all Assyrians, they are bad people, yeah, I say to her
3 that --

4 MR. ROBINSON: Wait a minute, I am going to object.

5 MR. PESTARINO: Wait a minute --

6 MR. ROBINSON: Don't tell me to wait a minute. I
7 am going to object.

8 THE COURT: Let him make his objection. Let me
9 rule on it.

10 MR. ROBINSON: I object and make a motion to strike,
11 that is irrelevant.

12 MR. PESTARINO: I lost track of the question and
13 answer.

14 MR. ROBINSON: The answer was non-responsive.

15 THE COURT: The answer was non-responsive.

16 MR. PESTARINO: Let me -- I don't even remember the
17 question. Can we have it read back?

18 (Question read by the Reporter.)

19 MR. ROBINSON: That can be answered yes or no..

20 THE COURT: That is correct. Mr. Lazar, you should
21 answer that yes or no, if you can.

22 Q (By Mr. Pestarino) All right. Did she mention to you
23 being afraid of people? A She is afraid of people?

24 Q Yeah. A That she is afraid of people?

25 Q That she was afraid of people before her husband was
26 killed? A She says something that --

1 MR. ROBINSON: That can be answered yes or no.

2 THE COURT: Yes. Answer that yes or no.

3 THE WITNESS: That she was afraid of Assyrians.

4 Q (By Mr. Pestarino) Yeah. A Well, something to
5 that, she brought it up, she say, "I hate all Assyrians,
6 are bad people." This is the way she put it, you know, to
7 me. And, "They are violent," you know, and I said to her,
8 "Well, you're Assyrian and I am."

9 MR. ROBINSON: I am going to object --

10 THE COURT: Well, we are --

11 MR. PESTARINO: All right.

12 Q (By Mr. Pestarino) Did she mention to you that her
13 husband was afraid of these, some Assyrian people?

14 A She mentioned something, she didn't call my husband, she
15 called him Holy Saint, something like that. And she said
16 that she used always tell him that you have to be careful,
17 you got to get some security, stuff like that, and, "I warn
18 him," that Emama warned the Patriarch to be careful in going
19 out, coming in, and you know.

20 Q Okay. All right. Now, you had seen David how many
21 days? Five, six days? A Four. Four days or five
22 days.

23 Q Yeah. And as I understand it --

24 A Very short period of time with the exception we had
25 dinner on Friday and Saturday.

26 Q You knew his brother, did you, Zaia?