

1 the check number and the amount of the check.

2 Q Do you keep pretty good records of everything you do?

3 A Yes, sir.

4 Q And that is because you are a controller?

5 A Well, any accountant, keeps his books, be accurate as
6 much as possible.

7 Q So you met the Patriarch -- I mean, you met -- excuse
8 me, you met Ron Myers on December the 9th -- A Right.

9 Q -- 19 -- A -- '69.

10 Q '69? A Right.

11 Q And where did you meet him? A He came over to
12 the gas station looking for a job. And at the time he was
13 working at the Mobil Oil Company in the morning, and he asked
14 me if I would hire him as a part-time employee. And I did.
15 And he said, "I will work just a couple hours every day."
16 And from December the 9th he started working, until December
17 13th, and he made total wages of \$39.92.

18 Q And you have a record of that, too? A Right.

19 Q That is in the form of a cancelled check?

20 A Cancelled check and also I have unemployment -- I mean
21 Federal tax records.

22 Q All right. So from December 9th to the 13th you paid
23 him for that period of time? A December 13th, right.

24 Q Yeah. Then did he continue to work for you?

25 A Okay. During this period of time he said that, "I hear
26 you are selling your station?" I say, yes, I do. And he

1 say, "How much you want for it?" I say, "Go back to Union
2 76 and make deal with them."

3 Q Wait a minute. I didn't quite get you. You told him
4 to go back to Union -- A 76, to make deal with them.

5 Q To make the deal with them. I thought you owned the
6 service station? A I do, but I cannot accept him as a
7 dealer unless Union accepts him as a dealer.

8 Q Okay. A That is the contract between me and
9 Union.

10 Q So you sent him to Union 76 to see what they had to say
11 about a sale? A Right.

12 Q And what happened after that? A Well, they
13 agreed to have him as a dealer, and on the 1st of January --
14 right, 1st of January, or the 2nd of January, 1970, he went
15 to a dealer training school for one month.

16 Q So, I take it he came back in February?

17 A No, sir. On January the 24th he came back. And he
18 worked for a couple of hours, about four hours or five hours.
19 I don't know how many hours he worked. He made total wages
20 of \$17.84. At the same time he repair a car, which he has
21 a commission of 50 per cent, which was \$15.25.

22 Q All right. Now, tell me this, Mr. Lazar, when was the
23 sale consummated? A On February the 6th.

24 Q February the 6th? A Right.

25 Q And were you involved in that sale at all?

26 A No. Well, I wasn't directly involved. The Union rep

1 with another person and Ron Dale Myers, they came in the
2 morning about 8:00 or 9:00 o'clock on February the 6th, and
3 they closed the doors and they went into the old inventories.
4 And they took up the inventory, and after that they helped
5 calculate it and they gave me the figure and --

6 Q Now, just a minute, they gave you the figure?

7 A I mean the figure of the total inventory that they have,
8 which was tires, batteries, to the toilet papers, everything.

9 Q What was the total inventory? A \$4,410.30.

10 Q Now, what was done after they took the inventory?

11 A Okay. After the inventory they took, about 12:00
12 o'clock, I had to draw my cash out of the station, and I have
13 some pennies, quarters, and so on, amounting \$42.13. Ron
14 Myers, he asked me that he wanted to purchase these dimes and
15 nickels, and he gave me papers.

16 Q Of \$42? A Forty-two thirteen. And there was
17 some bulbs and flashers amounting to thirty-two sixty-five
18 which were bulbs, flashers, \$10 for the bulbs, \$3.90 for the
19 flashers, \$2 for the windshield bottle filler, one oil filter,
20 \$1, one battery used \$1.25, padlocks, \$10, keyholder, \$4.50,
21 total of thirty-two sixty-five. Ron Myer paid me \$74.78.

22 Q Thirty-two sixty-five plus the --

23 A Forty-two thirteen plus thirty-two sixty-five, and he
24 paid me in cash. I say good-bye and I left.

25 Q And the only two times you saw him thereafter is when
26 you went to his station? A Right after he took over.

1 Q Now, who did all of the paperwork on the sale of this
2 service station? A The paperwork has been done by
3 Union rep, by name of Bob Bola, B-o-l-a.

4 Q Was an escrow opened? Do you follow me?

5 A Okay. I didn't know whether the escrow was involved
6 in it or not because when I purchased it, I have an escrow.
7 But sounds to me like Union purchase my inventory and handed
8 it over to Ron Myer with the same value.

9 Q So did you receive a check then from Union?

10 A Right.

11 Q How much? A Well, we did not receive -- I did
12 not receive a check from Union because I have an account,
13 revolving charge with the Union what I owed them, what they
14 owe me.

15 Q All right. But anyway that account --

16 A That \$4,410.30 was settled between me and Union.

17 Q How much did you receive from Union in one settlement or
18 another? A Well, I did not receive, actually the

19 settlement was like this, the Union say that they want from
20 me about a thousand dollars to pay back to them, and I say
21 that you have to pay me back a thousand dollars. But the
22 thing is, that I purchased gas on the 1st of February on
23 credit, so until the 6th I consumed three-quarters of that
24 gas, it was about 2,000 gallons. And I have paid Union
25 before a thousand dollars when I purchased the station.

26 Q So they gave you a credit? A So towards my,

1 towards my bookkeeping, my account I was assuming that I
2 would have to have a check from Union for a thousand dollars.
3 But their type of bookkeeping, which is a computerized type
4 of bookkeeping, they have some mistakes and still I am
5 working with them to settle down the figures.

6 Q Now, did you deal directly with Ron Myers other than on
7 the two -- A No.

8 Q -- matters? The matter of the change and batteries and
9 miscellaneous? Other than that did you make any notes or
10 any papers or anything? A No, sir.

11 Q You didn't have any dealings? A Nothing.

12 Q With Ron Myers? A Nothing. The deal was closed
13 on February the 6th.

14 Q And other than Ron Myers paying you that amount of
15 money, the \$74, or \$72 -- A Seventy-four seventy-eight.
16 That is the only cash he pay me for the flashers and the cash
17 exchange.

18 Q You didn't sell the station to him for \$600, did you?

19 A No, sir.

20 Q Huh? A No, sir.

21 Q He didn't make any note to you, did he, for \$600?

22 A How you can buy a gas station for \$600? I got the
23 inventory is \$4,410, and I cannot sell it to Ron directly
24 because 75, 80 per cent of the merchandise are belong to 76.

25 Q I see. So you didn't -- you didn't deduct anything
26 from Ron, from the sale here to Ron Myers? For example,

1 \$210 for a gun? A I didn't purchase any guns from Ron
2 Myer.

3 Q Was Ron Myers angry with you for some reason or another?

4 A I don't know why he should be angry. I wasn't bad to
5 him. There was nothing involved with the gas station. I
6 told him, go back to Union 76, and he voluntarily went and
7 made deal with the Union 76, and I told Ron Myer, he made good
8 in that station because on the day I returned back was March
9 the 7th, 1970, when I was cashing the \$20, I asked him how
10 he's doing, he say, "I'm doing very well. I bought a new
11 car and a piece of property." He said, "The only problem
12 that I have is that my wife doesn't agree with my job because
13 it is too long hours."

14 Q So as far as you were and he were concerned nothing
15 happened? A Nothing happened. I lose money; he gain
16 money.

17 Q Did somebody in San Jose handle that sale? Some agent?

18 A No, sir. The company that I deal with for the purchase
19 and handing over is Union 76 in Oakland. Only Bob Bola is
20 the rep of the Union, he is transferred to San Jose area.

21 Q Listen, you have a -- just to change the subject a minute,
22 let me finish up here. First of all, I think I asked you
23 this, you are a Catholic, aren't you? A Yes, sir.

24 Q And what the Church of the Middle East does or does not
25 do doesn't bother you too much, does it? A No.

26 Q Huh? A No. It is God, same God whether it is

1 Catholic or any church, people goes for prayer, that's all.

2 Q You have two brothers, Sam and Joe, don't you?

3 A Yes.

4 Q And they run service stations? A Yes, sir.

5 Q Do they dress in khaki pants and uniforms?

6 A Well, Joe, most of the time, you see him on the shirt,
7 you know, with the blue, blue pants.

8 Q You ever see him with khaki pants? A No. No.

9 Joe usually doesn't, you know, wear gas station, you know,
10 dresses.

11 Q How about Sam? A Sam doesn't wear, doesn't work.

12 Q Doesn't work? A Sam, he keep the service station
13 accounts. He just collect the money.

14 Q Just collects the money? A Right.

15 Q And Joe does all of the work? Do they have government
16 cars at one of those service stations? A Yes, sir, we
17 do.

18 Q What kind of a car is it? A It is the California
19 government cars. They call them G.C.A. or G.C.I.

20 Q What do they look like? A Well, they have
21 different shape and type, you know, fire department, police
22 department, F.B.I.'s, Federal investigators.

23 Q And how do they keep those cars, do you know?

24 A They bring down the cars and they repair them and they
25 return them back unless if a car, they don't find any spare
26 parts for it or don't have any spare parts they keep it

1 overnight and they repair it next night, next day.

2 Q Did you tell either Sam or Joe or both of them to
3 contact David Ismail at the Sunset Motel when he first
4 arrived? A No, sir. I called Joe because I didn't

5 know, when I called David that I am coming to pick you up at
6 seven o'clock, I didn't realize that I was manager on duty
7 that evening. So when I found myself, I couldn't get out of
8 the hotel, then I called Joe if it is possible if he has any
9 road test to go over Sunset and pick up David Ismail.

10 Q What do you mean if he had any road test?

11 A When he repair a car he has to take it out for a road
12 test, testing the car if it is repaired, you know, because
13 on the government cars he have to check every single item in
14 them, the brakes, the heater, everything.

15 Q All right. And so -- A -- so I called Joe. I
16 asked him if he has a road test and if he could pick up David
17 Ismail, and Joe he say, "Well, I'm still working here, and if
18 I find the time I will do it." So I wait until 7:30. I
19 didn't see David coming so I called Joe again. I was a
20 little bit upset on him. He say, "Okay. I'm going to
21 finish after five, ten minutes, and I will go." So after
22 five or ten minutes I believe Joe left with another gas
23 station attendant who works also on the cars. But I don't
24 know what car they came or they brought David with.

25 Q I see. A So when I was in the lobby I saw
26 David coming in, and that is it.

1 Q All right. Now, this is while David Ismail was at the
2 Sunset Motel? A Yes, sir.

3 Q And did you have occasion to see him at the Sunset Motel
4 yourself? A No, sir.

5 Q Did you go out to dinner with him or take him out one
6 night? A On Friday, the first night when he was with
7 me having dinner, I took him back to Sunset Motel, and that
8 was my private car.

9 Q And that was what time? A Was about 10:30, 11:00
10 o'clock, in this area. And I returned him back again to the
11 hotel.

12 Q You watch the Johnny Carson show? A No, sir. I
13 don't have time for that.

14 Q You are quite sure about the time? A Because I
15 have to be in the hotel, and why I am figuring the time
16 because the dining room is closed quarter to eleven, so we
17 were, you know, about 10:00 o'clock we finished the dinner
18 and everything. And so that is why I am figuring 10:30 to
19 11:00 o'clock because I just dropping the Sunset Motel and
20 return back to the hotel. I cannot leave hotel without --

21 Q Anyway, on Sunday you testified that you took David to
22 church about 10:30? A Yes, sir.

23 Q What church did you take him to?

24 A Church of the East, 3939 Lawton Avenue.

25 Q You indicated to me the last time you were here in court
26 that you were going to get copies of the constitution and

1 bylaws of the A.U.A.? A Yes. I wrote to the
2 general secretary of the A.U.A. to send me copies of the
3 bylaws and manifesto.

4 Q And you will submit them to us? A And I will send
5 them to you.

6 Q Did the A.U.A., besides being interested in politics,
7 do they do a lot of good for Assyrian people?

8 A To help Assyrian people, in other words?

9 Q Yeah. A Well, they help them educationally, if
10 somebody needs money or help to update his studies or some-
11 thing like that. One time I understand that they gathered
12 some clothes and sent them back to Middle East for poor people,
13 northern Iraq.

14 Q And as far as you know, in Iraq or Iran there is a
15 representative of the A.U.A. to help the Assyrian people
16 with their government? A I believe in each country,
17 Iraq, Iran, all over Europe they have representative for each
18 country and for '76 I think in Iraq is a doctor, but I don't
19 remember his name.

20 Q You indicated that there was a burglary that occurred
21 in your store just shortly before you sold it?

22 A That was end of November, in that area, November 6th,
23 '68 -- '69.

24 Q Did you ever tell Ron Myers to buy a gun?

25 A No, sir.

26 Q Did you ever own a gun? A No, sir. I own a dog,

1 a German shepherd.

2 Q Did you have him at the service station?

3 A Yes, sir.

4 Q After the burglary or before? A After the
5 burglary.

6 Q The papers that you have before you, may I see them,
7 please?

8 MR. PESTARINO: Did you see this?

9 MR. ROBINSON: No.

10 THE WITNESS: This is my purchase.

11 Q (By Mr. Pestarino) This is the purchase of your
12 service station? Tell me what they represent so that we
13 know.

14 MR. ROBINSON: Well, can I see them?

15 MR. PESTARINO: Sure.

16 THE WITNESS: This is, I bought the station for
17 thirty-nine sixty-nine twenty-nine. I paid down payment a
18 thousand dollars. And there was a loan from Union 76 for
19 \$2,969.29.

20 Q Anything else that pertains to the service station?

21 A This was NorCal Escrow Company for that particular --

22 Q What does that represent, NorCal Escrow Company? That
23 is when you purchased the station? A Right. That is
24 the purchase of the station, when I purchase it.

25 Q On October 17th, '69? A This is the man that I
26 purchased from, Jules R. Moore, through the Union 76.

1 Q All right. A These are the inventories that consist
2 of \$3900.

3 Q When you sold the station, or when the Shell --

4 A When I purchased the service station, 76.

5 Q When you purchased it. A And those are when I
6 sold out.

7 Q And those copies there are what (indicating)?

8 A This is the inventory I sold to Union 76 and they handed
9 over to Ron Myers.

10 Q Well, I see you have two papers here, one is --

11 A That is the note of 29 --

12 Q That is the note of 29 --

13 MR. PESTARINO: Anyway, I would ask that all of
14 these be marked for identification as one exhibit, A, B, C,
15 so forth, as Defendant's next in order.

16 THE COURT: They will be Defendant's D-A, et cetera.

17 THE CLERK: D-1, D-2.

18 (Whereupon, the above-mentioned documents, being
19 papers pertaining to gas station, were marked as Defendant's
20 Exhibit D-1 and D-2 for identification.)

21 THE WITNESS: I do have cancelled checks of Ron
22 Myers' wages. Do you --

23 MR. PESTARINO: Yes. We might as well have them,
24 too.

25 THE COURT: Those will be D-1 instead of D-A.

26 MR. PESTARINO: Do you have a piece of handwritten

1 paper there?

2 THE WITNESS: This is the nickels, and this is the
3 flasher, and these are the meter readings on February 6th.

4 THE COURT: All right. All of those can be marked
5 as E, one exhibit, the salary, the papers, et cetera.

6 (Whereupon, the above-mentioned items described
7 above, were marked as Defendant's Exhibit E for identification.)

8 MR. PESTARINO: I think that is all I have.

9 MR. ROBINSON: Yes.

10 REDIRECT EXAMINATION

11 BY MR. ROBINSON:

12 Q Mr. Lazar, you brought all of these papers with you when
13 you came down here the day before yesterday, didn't you?

14 A Yes, sir.

15 Q Okay. And you'd gone through and picked up all of these
16 papers from your files? A Well, I changed so many
17 places, and I didn't know where I had put these papers, six
18 or seven years, so it took me about three days to work six
19 hours to pull things and to find those papers.

20 Q So, is it safe to say that prior to your coming down
21 here to testify the other day that you started searching about
22 three days before that for these papers? A Well, I
23 have been searching on these papers about a week, something
24 like that.

25 Q Why? A Because I wanted to have evidence of
26 everything I do, be questioned.

1 Q Everything regarding a purchase of business and
2 everything? A Everything.

3 Q Okay. And these are all of the documents that you have?

4 A Right.

5 Q Who asked you to bring down all of these papers?

6 A I brought them voluntarily.

7 Q I take it then you don't know Mr. Hernandez, Mr.

8 Pestarino's investigator? A Beg pardon?

9 Q Do you know Mr. Hernandez, Mr. Pestarino's investigator?

46 10 A Well, I know Joe is investigator.

11 Q Okay. And have you spoken with Joe about this?

12 A Well, one time I told him that I should have some papers
13 of the inventories and all of the stuff, but I am going to
14 get them one day. I cannot find them at the present time.

15 Q When did you speak with him about this?

16 A About these papers?

17 Q Yes, sir. A Probably a week.

18 Q When? A A week or four days or five days.

19 Q Before your coming down here to testify? A Right.

20 Q Now, let me ask you something, you said you sold the
21 station at a loss. You lost money on it? A Right.

22 Q Okay. And yet Mr. Myers was making money?

23 A Well, this is what I understand from Ron Myers, that he
24 said, "I am doing very well. I bought the car and I bought
25 a piece of land."

26 Q And you went out and bought yourself a German shepherd

1 dog, right? A Well, the German shepherd dog --

2 Q Could you answer the question yes or no? Then if you
3 want to explain you are entitled to explain. Did you buy
4 yourself a German shepherd dog? A Yes.

5 Q And the reason that you bought yourself the German
6 shepherd dog, your station wasn't in a good area?

7 A No, it wasn't that purpose actually.

8 Q Why did you buy the German shepherd dog?

9 A I like dogs, first of all, and I brought the German
10 shepherd to my house, and he is a watchdog, and I like dogs.

11 Q Had your house been burglarized? A No.

12 Q And did you all of a sudden start liking German
13 shepherd dogs after your service station got burglarized?

14 A So I had dogs from before, I had four or five dogs in
15 my life.

16 Q And in answer to Mr. Pestarino's question about a gun,
17 you told us that you went out and bought a German shepherd
18 dog? A I didn't buy from outside a German shepherd.

19 The manager of the station, the guy took from me \$200 and he
20 disappeared next day, I bought this dog from him for \$25 and
21 I have a receipt for that.

22 Q Okay. And then you had the dog all of the time at the
23 station? A Well, I bought it some time end of
24 November, early December, and I have it until 1974.

25 Q Okay. Now, let's talk about the area in which your
26 station was in. Was it in a good area or in a bad area?

1 A Well, medium. I didn't have much problem.

2 Q Okay. And it is your testimony that you have never
3 owned a gun in your life? A No, sir.

4 Q Okay. And have you ever purchased any ammunition for
5 a weapon? A No, sir.

6 Q Do you know where Siegle's Sportsman's Supply is?

7 A No, sir.

8 Q Your station was located at 411 West MacArthur Boulevard
9 in Oakland? A Yes, sir.

10 Q How close is 508 West MacArthur Boulevard in Oakland?

11 A 508 or 580?

12 Q 508. It is right next door, isn't it?

13 A You mean the numbers, 411 to 508?

14 Q Yes, sir. A Oh, I see. Well, it could be a
15 block and a half.

16 Q On the same side of the street as your station, right?

17 And I take it that you drove to your station every day when

18 you worked there? A Yeah, but I used to come differ-
19 ent way.

20 Q You were familiar with the area though?

21 A Well, I haven't seen on Telegraph any shops that relating
22 to what you are telling me.

23 Q You have never seen Siegle's Sporting Supply?

24 A Yesterday I went and saw it.

25 Q That was the first time? A Yes, sir. Curiosity.

26 Q Just curiosity? Pardon? A Right.

1 Q Did you go inside? A No.

2 Q Just drove by? A Just drove by to see where
3 Siegle's shop is.

4 Q Now, when you sold the service station did you make any
5 profit for the good name or the time you had put in on the
6 station? A Not really.

7 Q Nothing? Okay. What about any accounts receivable
8 that you had, people that had charged things?

9 A I didn't have that. We don't have. In the service
10 station we don't have that.

11 Q Nothing about somebody coming in --

12 A Well, bad credit cards, yes.

13 Q Did you have any credit extended? A No. Credit
14 cards, bad credit cards.

15 Q Nobody paid on time, paid you \$20 a month for maybe a
16 lube job? Something like that? A Excuse me. The
17 credit cards, we send into the bank but sometimes the credit
18 cards are expired and the bank return back to us. Or some-
19 times they will not honor the credit cards.

20 Q Okay. So you are telling us that at no time did Mr.
21 Myers ever execute a promissory note to you?

22 A No, sir.

23 Q Okay. Now, you have two brothers, that is Joe and Sam?

24 A Yes.

25 Q Okay. And Sam works for Kaiser? A Yes, sir.

26 Q Sam doesn't work in a gas station, does he?

1 A No. He keep the accounts.

2 Q Keeps the accounts for the gas station?

3 A Right.

4 Q All right. And Joe works in a gas station?

5 A Yes, sir.

6 Q And the gas station is where?

7 A Oh, 6th and Harrison.

8 Q In San Francisco? A San Francisco.

9 Q How far is 6th and Harrison from the Sunset Motel at
10 19th and Taravel? A If you take the highway will be
11 about six minutes.

12 Q Six minutes? A Six, seven minutes.

13 Q Now, Mr. Lazar, isn't it about 15 to 20 miles away?

14 A Well, I figure it out, six or seven minutes. I don't
15 know how many miles it is. I never count how many minutes
16 is it, but I, approximately could be six or seven minutes.
17 It's about seven miles.

18 Q All right. And then I take it, have you ever driven from
19 the gas station down at 6th and Harrison to the Sunset Motel?

20 A No.

21 Q Then how do you know it is only six or seven minutes?

22 A Well, it is not far away from my house. If you are
23 coming up from the 280 going, I believe, west, so you will
24 come up first Sunset Motel and then my house.

25 Q You live how close to the Sunset Motel?

26 A About four blocks, I believe.

1 Q Now, on the phone slips that we showed you the other
2 day from the phone calls that Mr. Ismail made on November the
3 6th, before he checked out of your hotel, one of them had
4 the name written on them to Kanna, the one to Australia. Did
5 you write that on there? A No, sir. That has been
6 written by the telephone operator.

7 Q Why would that name be written on there?

8 A Just for the reference.

9 Q Pardon me? A If, like for example, David didn't
10 pay for the phone we could go back and charge for the phone
11 in Australia to the particular person. This information
12 needed by Pacific Telephone Company.

13 Q Now, there is no name written on the other phone call.
14 Can you explain that? A The one to Kanna, right.

15 Q No. The other one to Australia.

16 A I don't know. I have to check into that.

17 Q Okay. Now, you told us the other day that the Assyrian
18 people like to help each other out? A Sure, right.

19 Q Somebody comes into town, if they want to start a
20 business in here you take them around, introduce them to
21 people and things like that? A Well, to a certain
22 extent.

23 Q Okay. And did Mr. Ismail indicate to you that he
24 wanted to start a business in this area? A Yes, sir.

25 Q And did you take him around and introduce him to various
26 people that had businesses? A No, because he say that,

1 "I'll be back in February, by that time if there is anything
2 like a grocery or a liquor or something, just put it on your
3 mind and let me know about it."

4 Q Would it be fair to say then he didn't come to San
5 Francisco for the purpose of looking into opening a business?

6 A That is the way he say it. He wanted to open a
7 business.

8 Q Did he do anything to establish the fact that he wanted
9 to open a business? Did he say, "Hey, can you put me in
10 contact with someone, can you bring me over here, do you know
11 anybody that I can talk to?" Or did he just say, "I'll be
12 back in February"? A Actually when, he say to me

13 he likes the weather very much, and he would like to open a
14 business or relocate himself in San Francisco or California.

15 Q That is all he said? A Right. And I asked him,
16 "What kind of business you want to go in?" And he say,
17 "Any kind of business, you know, liquor store, food market,
18 anything."

19 Q Okay. And did he indicate to you how he was going to
20 pay for this business? A No. I just say that a
21 business like that size needs so much money.

22 Q Did he indicate to you that only his wife was working
23 and that he didn't have a job? A Well, I don't ask
24 people, "How much money you have?"

25 Q Did you discuss how much money it would take to get into
26 one of these businesses? A No, I told him, the business

1 for such a size gross sales will cost you fifty, sixty,
2 one hundred, one hundred twenty. But I didn't ask him if
3 you have money or not. That is not my business.

4 Q You are aware, of course, of the defense fund set up for
5 Mr. Ismail? A No, sir, I don't know about that.

6 Q You are not aware of that? A I don't know about
7 that.

8 Q You have never been contacted to contribute any money?

9 A No, sir.

10 Q Kitty Benjamin has never asked you about that or asked
11 you to pay any money? A No, sir.

12 Q Now, you also told us that when you picked up Mr. Ismail
13 at the motel, the Sunset Motel, that he was dressed in a sport
14 outfit and that he was dressed casual and you were dressed
15 in a suit? A I was dressed in a suit. He was
16 dressed in casual.

17 Q And that you then went back to your house and you changed?

18 A Right.

19 Q Before you went out? A Right.

20 Q Okay. And that you moved him into the motel, your hotel,
21 the PSA Hotel? A Right. Yes, sir.

22 Q Transported him in your car, right? A Right.

23 Q I'm going to show you People's Exhibit No. 30. Does
24 that look familiar to you? A I really don't remember,
25 but it was a small piece of luggage. And I was driving a
26 Pinto, and has a small trunk. I imagine if it will be a big

1 large luggage then wouldn't fit in that trunk.

2 Q Okay. And you put his luggage in the trunk?

3 A No, I just opened the trunk and he put the luggage.

4 Q Why was there a necessity to open the trunk when this
5 was the only piece of luggage that he had?

6 A Well, the Pinto car is too small, and it is one-door
7 car, I came and opened the trunk. It was more, more easy
8 or more comfort to sit in a car without luggage.

9 Q Isn't it a fact that he had two suitcases and an over-
10 night bag where, that bag, and a bag, a plastic bag where he
11 hung suits in? A Sir, I don't remember.

12 Q You don't remember? A Yes.

13 Q Okay. Well, if he had those items do you have any idea
14 where they could be now? A I don't know, sir.

15 Q They are not down at your hotel, are they?

16 A No, sir.

17 Q They are not at your house? A We don't keep
18 luggage at hotel.

19 Q What about your house? A You can search my house,
20 too.

21 MR. ROBINSON: I have no further questions.

22 MR. PESTARINO: That is all I have.

23 THE COURT: Thank you, Mr. Lazar.

24 THE WITNESS: You are welcome.

25 MR. PESTARINO: May this witness be excused?

26 THE COURT: We will excuse you subject to recall and

1 give you plenty of notice if we should call you again.

2 (Witness excused.)

3 MR. ROBINSON: Your Honor, at this time the People
4 would move to introduce all of the People's items of evidence
5 that have been marked for identification in this trial.

6 MR. PESTARINO: Your Honor, can we defer that? Give
7 me an opportunity to go through them again? I think they
8 are all all right.

9 THE COURT: All right. I will give you an
10 opportunity to examine them and object to any of them. They
11 will be admitted subject to any motion to strike or to remove
12 them as an exhibit.

13 MR. PESTARINO: Thank you.

14 MR. ROBINSON: In that case then the People would
15 rest their case subject to reopening their case if any
16 problem should arise regarding the admissibility of any of
17 the items of evidence.

18 THE COURT: All right. The People rest subject to
19 admission of exhibits.

20 All right. Ladies and gentlemen, the People have
21 rested in the case and it now becomes the responsibility of
22 the defense to place his case on. As you know, tomorrow is --

23 MR. ROBINSON: Your Honor, might we approach the
24 bench?

25 (Discussion off the record.)

26 THE COURT: Yes. It is not their responsibility,

1 it is their option to put a defense on, which has been
2 indicated to me that they intend to do. They don't have to
3 prove anything if they don't want to. You understand that?
4 Tomorrow, of course, we have settlement conferences and we
5 will not normally meet. I have had a request to allow Mr.
6 Pestarino Friday to prepare his side of the case. And I
7 have granted that request on the ground that it will help
8 expedite the matter in the long run. So we will not meet
9 either tomorrow or Friday, which will give you, in essence,
10 some time to catch up on your housework, laundry, and other
11 things that you have been delaying, and go back to work for
12 a day or two if you have to, and we will resume Monday
13 morning at 9:45. And I would again admonish you, as I have
14 before, not to speculate, make any announcement about your
15 opinion on the case, discuss it with anyone, or read anything
16 about it, as I previously indicated. We will see you then
17 on Monday, 9:45. The defendant will be ordered to return,
18 any witnesses under subpoena will be ordered to return.

19 MR. PESTARINO: Judge, may we approach the bench
20 again?

21 THE COURT: Sure.

22 (Discussion off the record.)

23 (Whereupon, Court adjourned until Monday, March 22,
24 1976, at 9:45 o'clock a.m.)

25 ----OOO----

26

47
1 EIGHTH DAY

2 March 22, 1976

9:45 a.m.

3 (Pursuant to adjournment, Court convened, and the
4 following proceedings were had:)5 THE COURT: Please be seated. Good morning, ladies
6 and gentlemen. Let the record show that the jury is present,
7 defendant is present with counsel. Do you wish to make an
8 opening statement?9 MR. PESTARINO: I believe there is a motion to
10 admit the evidence which has been under submission.11 THE COURT: That's right. You were going to check
12 it over.

13 MR. PESTARINO: Yes, I have no objection.

14 THE COURT: All right. All of the People's
15 Exhibits 1 through 31 will be admitted then.16 (Whereupon, the above-mentioned items, being
17 People's Exhibits No. 1 through 31 previously marked for
18 identification were received into evidence.)

19 MR. ROBINSON: Thank you, Your Honor.

20 MR. PESTARINO: If Your Honor please, the defense
21 will waive their opening statement and call the defendant.

22 THE COURT: All right.

23 MR. PESTARINO: Mr. Ismail.

24 THE COURT: Take the stand, Mr. Ismail.

25 DAVID MALEK ISMAIL,

26 called as a witness on his own behalf, being first duly sworn,

1 was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. PESTARINO:

4 Q. Mr. Ismail, will you state your name, please? Your
5 full name for the record, and spell it for us.

6 A. My name is David Malek Ismail, M-a-l-e-k, I-s-m-a-i-l.

7 Q. And where had you been living, Mr. Ismail?

8 A. London, Ontario, Canada.

9 Q. And the address? What is the address?

10 A. 1497 Huron Street Apartment 402.

11 Q. And were you employed? A. Ford Motor
12 Company.

13 Q. At one time? A. Yes.

14 Q. Recently you have been unemployed, haven't you, for
15 a number of months? A. Yes.

16 Q. Okay. Are you married? A. Yes, I am.

17 Q. The name of your wife? A. Peggy
18 Ismail, Peggy Benjamin Ismail.

19 Q. Is there some significance to the word "Benjamin"?
20 It keeps cropping up all of the time. Do you know?

21 A. Her nation.

22 Q. Nation? A. My wife's nation,
23 Benjamin.

24 Q. Is it called Benjamin? A. Yeah.

25 Q. The tribe from which she came or the nation from which
26 she came? A. Yeah.

1 Q. Now, do you have any children?

2 A. I have a boy.

3 Q. How old? A. Twelve.

4 Q. And is he an adopted boy? A. Yes, he
5 is.

6 Q. Okay. Now, how long have you lived in Canada?

7 A. Over ten years.

8 Q. And during those ten years you worked for the Ford
9 Motor Company most of them?

10 A. I did work for Hexon and Lang Suppliers for a year
11 and a half and then I worked for Ford Motor Company.

12 Q. When is the last time you worked at the Ford Plant?

13 A. November the 8th, '74 .

14 Q. November the 8th, '74 . And were you hurt in the
15 plant? A. Yes, I did.

16 Q. You hurt your hand? A. Yes.

17 Q. From November until the present time -- excuse me,
18 strike that.

19 I suppose your wife Peggy is working, isn't she?

20 A. Yes, she is.

21 Q. Okay. And where is she employed?

22 A. Wilco, W-i-l-c-o.

23 Q. Wilco. And what does she do?

24 A. Machine operator.

25 Q. Okay. Now, from November of 1975 until recently
26 how did you live?

1 MR. ROBINSON: I am going to object, that misstates
2 the evidence. November '75 or November '74?

3 MR. FESTARINO: November, '74. Whatever he said.

4 Q. (By Mr. Pestarino) Did you say 1974 is the last time
5 you worked? A. November, '74.

6 Q. Yeah. All right. Excuse me. From November, 1974,
7 until November 6th, 1975, how did you live financially?

8 A. Well, I work hard for ten years in Canada, and I used
9 to have a big house, big house, beautiful, and I sold it.

10 Q. And you lived off of the proceeds of this sale, is that
11 right? A. Right.

12 Q. Now, you lived for ten years in Canada. By the way,
13 how old are you? A. Exactly July the
14 5th I should be forty-one years old.

15 Q. And so roughly you moved to Canada when you were thirty?

16 A. Yeah.

17 Q. Okay. Now, where were you born?

18 A. Syria.

19 Q. Syria. In what year? A. Exactly 1935.

20 Q. And in Syria, did you stay in Syria or did you move
21 throughout the Middle East as a youngster?

22 A. I moved lot.

23 Q. You moved lot. Why did you move so much?

24 A. Was going with my father wherever he go.

25 Q. Is it correct to say that you wereraised by your
26 father? A. Yes, I am.

1 Q. And was your father in the military?

2 A. He was.

3 Q. And did he reach the rank of a general?

4 A. He wasn't general.

5 Q. He was not a general? A. No.

6 Q. What was he? What was his rank?

7 A. I'd say something like colonel.

8 Q. Like colonel? A. Yeah.

9 Q. Was he called a general? A. No.

10 Q. Did the people call him general?

11 A. The Assyrian people, they call him general, but he is
12 not general.

13 Q. Now, your father, was he a religious man?

14 A. Yes, he was.

15 Q. Did he belong to the Church of the East?

16 A. Yes.

17 Q. How would you characterize him as a religious man?

18 Very religious? Or simply just religious, or what?

19 A. I'd say very religious because when I was ten or eleven
20 years old he used to wake me up 3:00 o'clock in the morning
21 to go to church.

22 Q. Well, your father belonged to the Church of the East,
23 and I suppose you were baptized in the Church of the East?

24 A. Yes.

25 Q. And did you go to church with him regularly from eleven
26 years old on? A. All of the time.

1 Q. All of the time. Tell me a little bit about your
2 religious habits, his religious habits? Every morning you
3 went to church at 3:30 or 3:00 o'clock?

4 A. Well, he was waking me up every morning between 3:00
5 and 3:30, and walk to, three block to go to church with my
6 uncle and aunt, my uncle's boy, too. Until 4:00 o'clock or
7 after four, and come back and sleep and wake up early morning,
8 around 8:00 o'clock, 9:00 o'clock, before we have breakfast.

9 Q. And did you go to church at other times during the day?

10 A. In afternoon.

11 Q. In afternoon what time? A. 4:30, 4:30 -
12 5:00.

13 Q. And then at night did you pray?

14 A. Before go to bed.

15 Q. Before going to bed? A. We have to.

16 Q. And when you were a young boy did you and your father
17 do this together all of the time?

18 A. Yeah, he teach me how to pray.

19 Q. Okay. Now, in your religion do you fast at various
20 times? A. Yes, we do.

21 Q. You know what I mean by fast? A. Yes, we
22 do.

23 Q. When do you fast? A. We usually fast
24 fifty days for Easter and twenty-five days for Christmas --
25 and Christmas. And nineteen -- I don't know exactly,
26 sixty-four or six -- between sixty-two to sixty-four, I don't

1 know exactly, we had permission from Patriarch to cancel
2 the fifty days, just one week for Easter and three days for
3 Christmas.

4 Q. How long really in terms of your age, how long did you
5 spend with your father in this religious training?

6 A. I would say most of my life.

7 Q. Now, did you travel throughout the Middle East with
8 your father? A. Yes.

9 Q. Where did you go? What countries?

10 A. We went to Iraq, for, I don't remember exactly, eight
11 years or seven years.

12 Q. How old were you when you went to Iraq?

13 A. I was eight.

14 Q. And you stayed there for about eight years?

15 A. Around eight years, yeah.

16 Q. And I take it you went to school there?

17 A. Yeah.

18 Q. Okay. And then where did you go?

19 A. Went to Lebanon for a year.

20 Q. And then where? A. Went for six months
21 to Egypt.

22 Q. All right. Now, during all of this time you attended
23 various schools in Iraq, and Lebanon, did you?

24 A. Not in Egypt.

25 Q. Not in Egypt. Okay. Now, let me talk for a moment
26 about this, you knew the Mar Shimun, did you?

1 A. Sure I did.

2 Q. And you knew him for how long?

3 A. I heard about him since I was eight or ten years old.
4 I know him, I see him first time '62.

5 Q. In 1962. Were you married then?

6 A. Yes, I was.

7 Q. And was your wife Peggy with you when you saw him?

8 A. Yes.

9 Q. And where did you see him? A. We see
10 him at Damascus.

11 Q. In Damascus? A. Yeah. I was married
12 1956 to 1962, we don't have no children, so we believe that
13 Patriarch, so I took my wife and we went to see him in
14 Damascus. And my cousin was his cousin asked him to pry
15 (pray) for my wife, and he did pry (pray) for her to have
16 children.

17 Q. You say "pry." You mean really pray?

18 A. Yeah, pray.

19 Q. Pray. Okay.

20 THE COURT: Excuse me, counsel, that parchment
21 document will be marked F for identification.

22 (Whereupon, the above-mentioned item, being a
23 photograph, was marked as Defendant's Exhibit F for
24 identification.)

25 MR. PESTARINO: Thank you.

26 Q. (By Mr. Pestarino) Let me show you Defendant's F for

1 identification and ask you, is this your picture?

2 A. Yeah, that is mine. That is my wife and that is Mar
3 Shimun.

4 Q. Will you speak into the mike, please?

5 A. Me and my wife and Mar Shimun.

6 Q. Okay. And that was taken in Damascus?

7 A. '62.

8 Q. In '62? A. Yes.

9 Q. So you have known the Patriarch for a long time, have
10 you not? A. Yes.

11 Q. And your father knew him a long time, didn't he?

12 A. Yes, he know.

13 Q. Now, was your father a leader of the Assyrian people?

14 A. Our family was leader for one tribe, Assyrian tribe.
15 And 1970 or '71 I think the Assyrian, they call my father as
16 a leader for Assyrian, I don't know why.

17 Q. Well, your family knew the Patriarch and his family,
18 didn't -- A. Yes.

19 Q. -- you? And before, your family in generations
20 preceding you, your family supported the Patriarch, always,
21 didn't they? A. Yes, they did.

22 Q. And your father supported him?

23 A. Yes.

24 Q. Tell me a little bit about the support. Were there
25 some people opposed to the Patriarch or against the
26 Patriarch? A. In 19 --

1 MR. ROBINSON: I am going to object, no
2 foundation. At what time?

3 MR. PESTARINO: During this time, the time he was
4 growing up.

5 MR. ROBINSON: The same objection, no foundation.
6 We don't know whether he means 1975, 1936, 1945 --

7 THE COURT: I believe it is ambiguous.

8 Q. (By Mr. Pestarino) During the time that you lived in
9 the Middle East with your father up to say, 1930, was it?

10 A. I born 1935.

11 Q. Pardon me. You were born in 1935, and you left there
12 when?

A. Left to Canada you mean?

13 Q. Yeah.

A. '65.

14 Q. '65. And you were married when?

15 A. '56.

16 Q. '56. Now, up to the time you were married did you live
17 with your father?

A. Oh, yes.

18 Q. And was your relationship very close with your father?

19 A. Very close.

20 Q. And was his family supporting the Patriarch all of the
21 time?

A. All of the time, all of the

22 way.

23 Q. All the way. And was his family before him supporting
24 the other Patriarch?

A. Yes.

25 Q. And I take it that your family knew the Patriarch and
26 his family, didn't you?

A. Yeah, they

1 great family, Assyrian people, Patriarch greater family we
2 had in Assyrian people.

3 Q. I notice in this photograph that was taken in
4 Damascus and in 1962 of you, your wife, and the Patriarch,
5 that you and your wife were kneeling. You know what I mean,
6 kneeling down when your picture was taken?

7 A. Yes.

8 Q. Did you show a great deal of respect for the Patriarch?

9 A. We have to kneel. We can't stand beside the Patriarch
10 and take picture.

11 Q. You can't ?

12 A. No. That is what
13 we feel, that is the way we feeled.

14 Q. Now, during this period of time that you lived with
15 your father in the Middle East, did you have, were there
16 some people that would not support the Patriarch that would
17 come and talk to your father?

18 A. There was, there was people against Patriarch.

19 Q. What was your father's attitude toward those people?

20 A. Well, some people, my father, he throw them out of
21 the village, throw them out of the village. They have a
22 village there. And they fight with them, have a -- have
23 argument with them. And some of them they just left the
24 place we lived, and they left and went to another place.
25 Because they know we are support the Patriarch, we believe
26 him and we support a great family and --

Q. All right. Tell me, the Patriarch's wife, Emama

1 Shimun -- A. Um-hum.

2 Q. Had you known her and her family?

3 A. Yes.

4 Q. And how long have you known Emama?

5 A. I think '69 year.

6 Q. Since '69? A. Yeah.

7 Q. And did you visit back and forth between her house
8 and your house and your family and her family?

9 A. Yeah.

10 MR. ROBINSON: I'm going to object to this now
11 as being leading questions. This is counsel's own witness.
12 He can ask the witness how he knew her, what their
13 relationship was. These are leading questions. I haven't
14 objected now, but I think in deference to the client I
15 represent I have to object .

16 MR. PESTARINO: We have a little bit of a
17 language barrier here.

18 MR. ROBINSON: I don't think that is evident.

19 THE COURT: Well, technically the objection is
20 sustained.

21 MR. PESTARINO: All right.

22 Q. (By Mr. Pestarino) You indicated that you knew Emama.

23 Did you visit with her? A. Yes, we did. We

24 went to her parents' place, and they came to our place.

25 Q. Where did her parents live?

26 A. At Hamilton, Ontario.

1 Q. And how far is that from your place?

2 A. I believe ninety-five mile.

3 Q. And how often would you visit, generally speaking?

4 A. Maybe one or twice a year, and maybe we get together
5 every year in early November to go to Flint, Michigan, to
6 visit the Patriarch, because he is --

7 Q. He was living in Flint, Michigan?

8 A. No, he was coming to Flint, Michigan, once a year,
9 early November.

10 Q. Now, tell me, on these occasions, did you talk to Mrs.
11 Shimun or Emama about politics or religion when you visited
12 with her and sometime she would visit with you?

13 A. I don't know exactly.

14 Q. You could have? A. Could have.
15 Could be.

16 Q. Were you interested in politics at that time?

17 A. No, not at all, not at the time.

18 Q. What was your interest at that time mostly besides
19 making a living? A. Well, I was, as I

20 said, making good living, teaching my boy religion.

21 Q. By the way, how old is your boy now?

22 A. Twelve.

23 Q. What did you teach him? A. I teach him
24 our language, read and write, which, like my father had four
25 boys and brother had three boys, they don't even speak very
26 well our language, but my boy do speak and read and write

1 and pray in our language, too.

2 Q. And does he fast like you fast?

3 A. No. We don't let him until he gets fifteen.

4 Q. Let me ask you this, Mr. Ismail, your father was in
5 the military; is that right? A. Yes.

6 Q. And he's been in the military how long?

7 A. I believe since 1920.

8 Q. Were you supposed to go into the military at one time?

9 A. I love to.

10 Q. Huh? A. I love to go in Assyrian
11 Military, and they didn't take me.

12 Q. They didn't take you? A. No.

13 Q. And that -- why didn't they take you?

14 A. Well, I had an accident 194 -- 1943. And I lost my
15 hearing in right ear.

16 Q. What type of an accident was that ?

17 A. It was four or five boys playing and I was running
18 and I hit my head on telephone post or something like that,
19 and I fell down. And my father take me to the hospital, and
20 I was in hospital for two weeks, two or three weeks, I don't
21 know exactly.

22 Q. All right. Did you have an ear operation recently?

23 A. My ear?

24 Q. Yes. A. Yes, I do.

25 Q. What year was that? 1972, '73?

26 A. I think '72, '73, sometime in year '72, '73.

1 Q. That was in Canada? A. Was in Canada,
2 was bothering me too much.

3 Q. Now, since you talked about the accident, what other
4 accidents did you have? A. I had a car
5 accident in 1960.

6 Q. Um-hum. And were you hurt there, in that accident?

7 A. I hurt, yeah, and I lost my, I lost my memory for six
8 months, seven months.

9 Q. How old were you then? A. I was, I
10 believe, twenty-five.

11 Q. How old were you when you ran into the pole and hurt
12 your head? A. Well, I born '35, think

13 happen '43, eight years old.

14 Q. Eight years old. Now, when you were twenty-five you
15 were in this car accident? A. Yes.

16 Q. And tell me about your injuries, how were you hurt?
17 Where? A. Hit my neck (indicating), yeah.

18 Q. Yeah. A. I hurt my back. I don't
19 know how long I was in the hospital, but I believe was month
20 and a half.

21 Q. A month and a half. A. In the
22 hospital, yeah.

23 Q. In what country? A. In Syria.

24 Q. In Syria? A. Yes.

25 Q. And you indicated that you lost your memory?

26 A. Yes.

1 Q. What do you mean by that?

2 A. Well, when I get out of the hospital I don't, I don't
3 know when I get out of the hospital, and I was talking to
4 my family, to my father, going to church, but I don't know
5 what I am doing. I read the whole, what my father write is,
6 he was writing every day what is going on about me.

7 Q. He kept -- do you know what a diary is?

8 A. No.

9 Q. He kept a history of everything that went on?

10 A. Right.

11 Q. Every day? A. Right. Diary, yeah.

12 Q. As far as your hospitalization is concerned, is that
13 what you are saying? A. Yeah. That is what
14 I'm saying.

15 Q. And you talked to your father about that?

16 A. Talked to my father and to my wife, and she was
17 laughing at me, and she said you would say so-and-so and
18 something, doesn't make sense, and I don't know, I don't
19 remember nothing, what happened.

20 Q. Was it a complete loss of memory? Complete? You know,
21 total, all of your memory? Did you lose all of your memory
22 or was it a loss of memory just in certain areas? Do you
23 follow what I mean? A. Yeah. Sometime I

24 was just like a dreaming, come back just like a dream.

25 Q. Now, did you have any other accidents or injuries?

26 A. I don't remember.

1 Q. All right. Were you ever ill, sick, when you were a
2 boy? A. Yes.

3 Q. Did you ever have a fever? You know what I mean,
4 fever?

5 MR. ROBINSON: Well, Your Honor, they have carried
6 this far enough. I am going to have to object. This is
7 totally irrelevant whether he had a fever when he was a boy.

8 MR. PESTARINO: It may be relevant.

9 THE COURT: Well, as to whether he had a fever --

10 MR. PESTARINO: If Your Honor please, I propose
11 to tie this in.

12 THE COURT: All right. You may answer then
13 subject to a motion to strike.

14 MR. PESTARINO: Sure.

15 Q. (By Mr. Pestarino) Did you ever have a fever?

16 A. Yes.

17 Q. How old were you when you had a fever?

18 A. I believe around fifteen years old.

19 Q. Fifteen? A. Fifteen.

20 Q. Did that fever affect you in any way that would affect --
21 well, how did it affect you? How did the fever affect you
22 after you got well? Or did it?

23 A. I don't remember exactly.

24 Q. Okay. All right. Now, I take it you were going to
25 school at the time that you were -- at the time that you
26 hit your head on the pole you were going to school, weren't

1 you? A. Yeah, I was grade three. I
2 was going to grade four.

3 Q. Before the accident how did you do in school? Were
4 your grades good? A. Well, I start grade, as
5 grade four for two or three weeks. They take me back to
6 grade one.

7 Q. You mean after the accident?

8 A. Yeah, after the accident.

9 Q. What did you notice about yourself at that time?

10 A. Well, I started school, grade one and two to three I
11 was doing very well. And my father, I remember he told me
12 when I was reading the Bable, Bible, and I was doing all
13 right. And after the accident they take me back to grade
14 one because I don't know nothing. And when I read the Bable,
15 Bible at that time I know what it says, but in little while
16 I just forget what was.

17 Q. Okay. Now, how old were you when you were going into
18 the military? A. I believe twenty.

19 Q. Twenty? A. Yeah.

20 Q. And was it your desire to go in the army?

21 A. I love to be in the army. I love the army.

22 Q. And your father was still in the military at that
23 time, wasn't he? A. No.

24 Q. What happened at that time as far as your father?

25 What was he doing? A. He was leader our
26 tribe.

1 Q. He had retired from the military?

2 A. Yeah.

3 Q. All right. Now, before that time, when your father
4 was in the military, did you go with him to different army
5 posts like they do in the United States? You know what I
6 mean, army post? Army camps? Army bases?

7 A. I believe in Iraq, yes.

8 Q. You travelled, did you, from one army post to another?

9 A. Summertime.

10 Q. Summertime. When you were a boy before you went to
11 apply for the army or before the army was going to take you,
12 did you know anything about guns?

13 A. Yeah, I know very well.

14 MR. ROBINSON: Pardon me?

15 THE WITNESS: I know very well.

16 Q. (By Mr. Pestarino) Where did you learn about guns?

17 A. My father teach me when I was, I was, I'd say ten years
18 old when I started shooting, teaching me how to shoot.

19 Q. What kind of guns did he teach you to shoot?

20 A. Different kinds.

21 Q. And what was your -- did you follow any practice
22 throughout the years?

23 A. Every year, I would
24 say, every week, and for first time, I believe until it was
25 forty-five, forty-three, something, that we went to, he
26 wants to see how I do gun, pistol, so he shot three shots
and I shot three, and I made two and he made one.

1 Q. So did you do that every year or every week or --

2 A. Every week. Every week.

3 Q. For how many years? A. Well, all of my
4 life. Even in Canada.

5 Q. Even in Canada? A. Yeah.

6 Q. And in the Middle East did you own some guns?

7 A. Yes, I own different guns.

8 Q. And tell me, what kind of guns did you own? Rifles,
9 pistols, revolvers, or what? A. I don't use
10 rifles too much. But I do pistol, different kind of pistol,
11 nine millimeter or seven, or eight, six.

12 Q. In the Middle East they are all calibrated by
13 millimeters, aren't they? A. Yeah.

14 Q. Over here we say caliber .22, .38, .45; is that right?

15 A. That is what I heard.

16 Q. Okay. Have you ever fired a weapon like People's
17 Exhibit 4 ? This is called, as you know now, a .22 caliber
18 pistol. Have you ever fired anything similar to that when
19 you were in the Middle East? A. I did
20 thousands.

21 Q. Huh? A. Thousands.

22 Q. And when you were in the Middle East did you carry a
23 weapon like that with you? A. All of the time.

24 Q. All of the time? A. Yes.

25 Q. Will you explain that a little bit more?

26 A. Well, I raise with my father, as I say, and with all

1 kind of gun as soon as I was ten, twelve years old. And
2 most of the people over there, they do that, too. Not all
3 of them, most of them, especially in the tribes, you know.
4 And I carry gun all of the time wherever I go.

5 Q. Even if you were dressed up with a suit of clothes on?

6 A. Yeah, doesn't mean nothing. Just like sunglass. Put
7 in your pocket, that's all.

8 Q. Suppose -- A. Just don't load it
9 up, that's all.

10 Q. Suppose you went to visit somebody, would you have a
11 gun with you? A. Doesn't mean
12 nothing, but just don't load it. That's all.

13 Q. Suppose you came to visit somebody. What would you
14 do with your gun?

15 MR. ROBINSON: Objection, calling for
16 speculation. Strike that.

17 Q. (By Mr. Pestarino) What would you do with your gun?

18 A. Well, if it is my friend it, it doesn't matter. But
19 if it is high officials, you shouldn't go in with that gun.
20 You should give it to somebody over there.

21 Q. You should give it to somebody over there. What do
22 you mean by that? A. I mean, if anybody,
23 like security guard or service man there, you should give it
24 to him and then enter through the door.

25 Q. Suppose you went over to a friend's house for dinner
26 at night, what would you do with your gun?

1 A. My friend?

2 Q. Yeah. A. I just keep in my pocket.

3 Q. That is what you did for how many years?

4 A. All my life.

5 Q. You say it's all right provided you don't keep it
6 loaded?

7 A. That's right. You hurt
8 yourself.

9 Q. Now, when you went -- when you went to Canada did you
10 own guns in Canada?

11 A. Yes, I do. Do have
12 three different guns. I have six and seven and nine.

13 Q. Six, seven, and nine millimeter?

14 A. Yeah. Nine, it is not automatic.

15 Q. It is a revolver? A. Revolver. It is
16 little big. It is not small.

17 Q. Bigger caliber? A. Seven white silver
18 gun, too. Six --

19 Q. Now, in Canada, did you carry guns with you?

20 A. Yeah. Sometime my pocket. All of the time it's in
21 my car. Sometime I come in my pocket, sometime beneath the
22 cushion.

23 Q. Why do you carry a gun? A. That's what
24 -- that's what I was brought up. I don't know why.

25 Q. Nobody has ever threatened your life?

26 A. No.

Q. So you 'd carry guns in Canada?

A. Yeah.

1 Q. The same way you did in the Middle East?

2 A. Yes.

3 Q. When you went to work did you carry guns?

4 A. To work, yeah, it was my car.

5 Q. It was in your car? A. Um-hum.

6 Q. You made some trips to the United States, didn't you,
7 to Flint, Michigan, and Chicago? A. Yes.

8 Q. Those trips were for what? Yeah, for what purpose
9 were those trips?

10 MR. ROBINSON: Once again I think we need, for
11 the benefit of myself and the jury, some foundation as to
12 what time the trips were made.

13 MR. PESTARINO: All right.

14 Q. (By Mr. Pestarino) During the time you moved to
15 Canada until November the 6th, 1975.

16 A. Well, I went many time. My sister got married in
17 Chicago.

18 Q. Your sister? A. My sister-in-law.

19 Q. I see. A. And many time to Flint,
20 Michigan. Once a year, '66, '67 to '71, I believe '72 ,
21 because Patriarch was coming every year there once a year.
22 And the last time it was last summer when I went to Chicago
23 to, I had a, three big stone, old stone, I want to take
24 them to museum to see what it is and how old it is.

25 Q. Stones? A. Yeah.

26 Q. All right. So you went to Chicago then?

1 A. Yeah. Summertime I believe two time.

2 Q. Well, quite often you came to the United States then
3 during the time you lived in Canada?

4 A. That's right.

5 Q. Yeah. Did you carry your gun in the United States?

6 A. All of the time.

7 Q. All of the time? A. Yes.

8 Q. Anybody ever see you with a gun?

9 A. They have what?

10 Q. Did anybody ever see you with a gun, any of your
11 friends?

12 A. All my friends they see me
13 with, most of my friends.

14 Q. Did they ever say anything to you about the gun?

15 A. The last time, last summer some friend told me that
16 you're not allowed to carry gun in the United States.

17 MR. ROBINSON: I'm going to object. That is
18 hearsay. Make a motion to strike.

19 MR. PESTARINO: Well, it is not offered -- I'll
20 withdraw the question.

21 THE COURT: The answer may be stricken then.

22 Q. (By Mr. Pestarino) All right. Let's talk about
23 something else for a moment. You drink, don't you?

24 A. Yes, I do.

25 Q. Tell me a little bit about your drinking habits. When
26 did they start?

A. Well, I used to drink
regular like if I go to some wedding or Christmas or some

1 party. But I start drinking habit since '73.

2 Q. In 1973? A. Yeah.

3 Q. And from 1973 until your -- the date of your arrest,
4 were you drinking more than usual?

5 A. I --

6 MR. ROBINSON: I'm going to object. What's more
7 than usual mean?

8 THE COURT: The objection is sustained. No
9 foundation.

10 Q. (By Mr. Pestarino) Tell me about your drinking.

11 A. I drink every day since 1973. I can't go to bed with-
12 out two or three shots, Johnny Walk.

13 Q. Always drink Johnny Walker? A. Most of
14 the time, yes.

15 Q. And how does a drink affect you when you drink? Do
16 you get mean? Do you get wild? Do you get happy or what?

17 A. Well, when I drink, if I get in argument, I get mad.
18 And I get very mad, very opsit (upset), and very nervous.
19 But if I didn't get in argument I be all right.

20 Q. Do you think when you get in an argument something
21 happens to you when you are drinking?

22 A. Well, if I get in argument, even if I have one shot of
23 Johnny Walker, I just like I had one or two bottle.

24 Q. Have you had that problem for a long time?

25 A. Not that I know of. Since '73.

26 Q. And did your father ever talk to you about your

1 drinking?

A. I believe he did.

2 Q. Okay. Did you ever have any problems at home when you
3 drank and somebody said something, and you didn't remember?

4 A. Well, I heard in 19, early '62, '61, early, I guess
5 when my father left Syria to Canada, and I wasn't drinking
6 too much at that time, but I had couple of drink, had a
7 little argument with my wife, I want to go see my father,
8 you know, and she said, "You better wait for next year," or
9 something like that, you know, and I get mad and it is a
10 shame but I say, I broke all of my dish. And I don't know
11 what happened until the next day I see the pile in the
12 corner.

13 Q. And you don't remember doing that?

14 A. No.

15 Q. Did you have another argument where you didn't
16 remember?

A. I had, '73 -- 2.

17 MR. ROBINSON: Your Honor, I would like to
18 voir dire briefly, if I may on this 1961 - '62 dish
19 breaking incident? If Mr. Ismail doesn't remember doing it
20 how can he testify about it today? The only other way is
21 if somebody told him what happened and it is hearsay.

22 MR. PESTARINO : Why don't you voir dire? I have
23 no objection.

24 EXAMINATION ON VOIR DIRE

25 BY MR. ROBINSON:

26 Q. Mr. Ismail, you told us that you don't remember doing

1 that in 1961 or 1962? A. No, I don't.

2 Q. Okay. And you don't remember the incident?

3 A. What's "incident"?

4 Q. Well, the incident you just told us about.

5 MR. PESTARINO: He doesn't understand the
6 word "incident."

7 THE WITNESS: I don't --

8 Q. (By Mr. Robinson) Do you understand the word
9 "incident"? You know what "incident" means?

10 A. No, I don't.

11 Q. Okay. This argument that you had with your wife.

12 A. Oh, I see.

13 Q. Okay? A. Yeah.

14 Q. And the argument was about you wanted to go see your
15 father? A. Yeah.

16 Q. And you had a couple drinks? A. Yeah.

17 Q. Okay. And then you told us that you remember the next
18 day all of the dishes were broken?

19 A. Yeah.

20 Q. You don't remember breaking the dishes?

21 A. No, I don't.

22 Q. How do you know they were all broken?

23 A. My wife, she pile it there, she don't take it. She
24 told me what happened last night.

25 Q. Your wife told you what happened?

26 A. Yeah.

1 MR. ROBINSON: Then I make a motion to strike as
2 hearsay.

3 MR. PESTARINO: I don't think that it is hearsay.
4 It is showing state of mind.

5 THE COURT: Well, you can't show a state of mind
6 if he has none. The only question is --

7 MR. ROBINSON: As His Honor well knows, the People
8 cannot call his wife to testify because there is the
9 privilege. So, therefore, it is hearsay because we can't
10 refute this.

11 MR. PESTARINO: I'll tie it in. His wife will be
12 here.

13 MR. ROBINSON: It is still hearsay.

14 THE COURT: It may be stricken subject to renewal
15 later on with opportunity to recall him.

16 MR. PESTARINO: All right.

17 MR. ROBINSON: Thank you.

18 THE COURT: The jury will be asked to disregard
19 the statement as to that event based upon the fact that it
20 was told to him by his wife as to what the facts were.

21 DIRECT EXAMINATION (Resumed)

22 BY MR. PESTARINO:

23 Q. Now let me ask you this, you remember drinking, you
24 remember getting mad, don't you; is that right? When you
25 had this argument with your wife?

26 A. Yeah.

1 Q. And you remember the next day seeing a lot of broken
2 dishes, didn't you? A. Yeah, she --

3 Q. Wait a minute. Where did you see those broken dishes?

4 A. Huh?

5 Q. Where did you see the broken dishes?

6 A. Right in the dining room in the corner. She left it
7 there.

8 Q. Yeah. And you looked at the broken dishes, did you?

9 A. Yeah.

10 Q. Did you talk to your wife about the broken dishes?

11 Just answer my question. A. She asked me --

12 THE COURT: Just answer yes or no.

13 THE WITNESS: Yes.

14 Q. (By Mr. Pestarino) Did you talk to your wife about
15 the broken dishes? A. Yes.

16 Q. Okay. And what did you do after that?

17 A. Buy new dish.

18 Q. Okay. You bought new dishes. All right. Now, did
19 you have any argument later on when you had been drinking
20 and your memory went back on you, so to speak?

21 A. I believe in Chicago in 1972 that, the Assyrian club
22 in Chicago, they have a party for my father, they invite my
23 father.

24 Q. Can you give us a little bit more definite, 1972, and
25 what time of the year? Was it the summer, fall?

26 A. I'll say September.

1 Q. September. They had a party for your father?

2 A. Yeah. They invite my father and all our family we
3 went there.

4 Q. Excuse me. All of your family, and you say you went
5 there. Was your brother there, Zaia?

6 A. Yeah.

7 Q. And your brother Jack? A. Yes.

8 Q. Okay. What happened then? Were you drinking?

9 A. Was drinking and dancing, I had a good time and then
10 around 12:00 o'clock we left to my friend's house and some
11 more guys they came with us. And one person by name Skharia.

12 Q. How do you spell that? A. S-k-h-a-r-i-a,
13 I believe. We sit down drinking at my friend's house, and
14 singing and have a good time, and he start talking about
15 Mar Shimun, which bother me, and I jump on him. We have a
16 little fight, but he didn't fight, he just keep quiet. He
17 was six, six two, six three, probably could beat me. But
18 he didn't say nothing. He just keep quiet and he get out
19 that place.

20 Q. All right. A. I don't know nothing
21 about that next day.

22 Q. The next day? A. Yeah.

23 Q. How did you find out about it the next day?

24 A. Well, my brother told me and my sister-in-law, my
25 friends told me, everybody told me.

26 Q. You don't remember? A. No.

1 Q. Were you drinking very much at that time? Well,
2 let me strike that.

3 Were you drinking more than three or four or five
4 whiskeys? A. Yeah.

5 Q. Okay. And did you have another such occasion as this
6 where you didn't remember? A. Yeah, in
7 Canada around, was --

8 Q. What year? A. '73, September. We
9 have an argument, too. And I believe was there me and my
10 wife and was a person by the name Edward Younan, Y-o-u-n-a-n.
11 And that is after we heard Patriarch is married, he get
12 married. And just we was talking about that thing, and I
13 get very upset, very mad. And we was ready to eat dinner,
14 so everything on the table so I sweep whole thing on the floor.

15 Q. Do you remember doing that? A. No.

16 Q. Did you have any other such lapse of memories that you
17 can recall? A. Don't remember.

18 Q. All right.

19 MR. PESTARINO: Now -- maybe, Your Honor, this
20 would be a good time to take the morning recess because I am
21 going into another phase.

22 THE COURT: All right. Ladies and gentlemen we
23 will take fifteen minutes, as our usual custom, and you will
24 keep in mind the admonition I have given you before. We
25 will resume at five after eleven. And you will keep in mind
26 your obligation not to discuss the case. You may step down.

1 You can step down, also, Mr. Ismail.

2 (Short recess taken.)

3 THE COURT: Please be seated. Let the record
4 show that the jury is present, the defendant is present with
5 counsel. You may proceed.

6 Q. (By Mr. Pestarino) Mr. Ismail, before coming, well,
7 had you received any communications from the Mar Shimun?

8 A. Yes, I do.

9 Q. Had your father received any communications?

10 MR. ROBINSON: Objection, no foundation. What
11 time?

12 THE COURT: Yes.

13 MR. PESTARINO: Will you mark these, please?

14 THE COURT: Yes. They will be Defendant's G.
15 Are they one exhibit?

16 (Whereupon, the above-mentioned document, being
17 a letter, was marked as Defendant's Exhibit G for
18 identification.)

19 MR. PESTARINO: Yes. That is G. And I would
20 like -- I don't think that you can read them or I would show
21 them to you.

22 MR. ROBINSON: You'd be surprised what I can read.

23 MR. PESTARINO: Here. Take a shot at it
24 (documents handed to Mr. Robinson).

25 MR. ROBINSON: I can read dates.

26 MR. PESTARINO: And mark these as another exhibit.

1 THE COURT: These are what, sir? Papers?

2 MR. PESTARINO: Yeah, these are letters.

3 THE COURT: All right. They will be H.

4 (Whereupon, the above-mentioned documents, being
5 letters, were marked as Defendant's Exhibit H for
6 identification.)

7 MR. PESTARINO: And G is the same sort of thing.

8 Q. (By Mr. Pestarino) Let me ask you this, while we are
9 waiting, when did your father pass away?

10 A. January 25th, '74.

11 Q. '74. And when did the Patriarch -- did the Patriarch
12 get married? I guess I should ask you that. Did the
13 Patriarch get married? A. Yeah.

14 Q. When did he get married? A. I believe
15 August the 16th.

16 Q. August the 16th what year? A. '73.

17 Q. '73. I'll show you a couple of letters here and ask
18 you if you have seen those letters before. They are marked
19 Defendant's G for identification. There is two letters.
20 Would you look at those? My question, Mr. Ismail, is, do you
21 ever remember seeing those letters before?

22 A. Yes, I do.

23 Q. And what are those letters? A. That is from
24 my father to Mar Eshai Shimun.

25 Q. Dated when? A. September the 15th, 1972.
26 It says --

1 Q. No, I don't want what it says. From your father to
2 the Mar Shimun? A. Yes.

3 Q. The Patriarch? A. Yes.

4 Q. That is dated what date? A. September
5 15th, 1972.

6 Q. What is the other letter? Strike that.

7 Was there a reply from the Patriarch to your
8 father's letter? Did he answer it?

9 A. This letter is, Mar Shimun give permission to my
10 father don't fast because he had a problem in his chest.

11 Q. Your father at that time was suffering from a heart
12 condition, wasn't he? A. Yes, he was.

13 Q. And your father, did your father write to the Mar
14 Shimun? A. I believe he write it.

15 Q. And that is an answer from the Mar Shimun to your
16 father? A. Yes. Give him
17 permission don't fasting.

18 Q. Don't fast. Okay. Now, would you -- well, I guess it
19 is marked. Yeah, I'll show you Defendant's H for
20 identification, and tell me what those letters are.

21 A. That is the -- I got this letter from Mar Shimun.

22 Q. You received it yourself? A. Yes, I did.

23 Q. From the Patriarch? A. Yes, I did.

24 Q. What is the date of that letter?

25 A. February the 20th, 1975.

26 Q. 1975. February the 20th? A. Yes.

1 Q. Does it have his signature on there?

2 A. Yes, it did.

3 Q. All right. And what does that letter say?

4 MR. ROBINSON: I'll object. The letter speaks for
5 itself.

6 THE COURT: Well --

7 MR. PESTARINO: I don't think that it speaks for
8 itself.

9 THE COURT: It is in a foreign language.

10 MR. ROBINSON: Is it in a foreign language? The
11 letter counsel showed me , said, you can read this one.
12 It was in English.

13 MR. PESTARINO: No. That is in a foreign
14 language. Take a look at it.

15 MR. ROBINSON: What does that letter say?

16 THE COURT: Perhaps we could have the defendant
17 translate the letter, then later on you could have somebody
18 else.

19 MR. PESTARINO: I'll have a translation of it or
20 bring in a translator.

21 Q. (By Mr. Pestarino) But basically what does it say,

22 Mr. Ismail? A. Well --

23 Q. The letter, not the night letter. Just the letter.
24 The letter from the Patriarch to you dated February the 20th.
25 What does it say just generally?

26 A. It says, "We received your letter," and it was about

1 my cousin. Mar Shimun, he wants my cousin to be president
2 in Flint, Michigan, take over in Flint, Michigan, and I ask
3 him, and he said, "I can't take it because I don't have
4 enough education and I have five children." So, I answered
5 that letter and --

6 Q. Is your answer there? A. And he answers
7 me. He says let your cousin to write to me by himself, and
8 he mention about this telegram sended to Middle East against
9 him by Aprim De Baz and some friends of him, and there is
10 signature of Sha-Ma-Sha (sic) Dinkha, that is my uncle. And
11 your signature, too. Like my signature. I don't know if
12 your people know about it. He don't know that we don't know
13 about it. So --

14 Q. I'm sorry. I didn't get the -- I don't understand
15 completely what you are testifying to. You are talking about
16 the letter, Defendant's H for identification, and this is a
17 letter, what is the date of that letter?

18 A. February the 20th, 1975.

19 Q. February the 20th. And that is from the Patriarch to
20 you? A. Yeah.

21 Q. And what does that letter say generally speaking?

22 A. He wants to know if we send a telegram against him to
23 the Middle East.

24 Q. He wants to know in that letter if you had sent the
25 telegram to the Middle East? A. Or any

26 member of our family, or any member in our family. And we

1 say no.

2 Q. Why did he want to know that?

3 A. He wants, he wants support.

4 Q. So is it correct to say that he sent you this letter
5 asking you if your family is still supporting him?

6 A. Yeah.

7 MR. ROBINSON: Well, wait a minute, Your Honor,
8 perhaps we should have Mr. Ismail read the letter to us. Is
9 that what Mr. Ismail's opinion is? Or is that what the
10 letter says? I am going to make a motion to strike, that
11 hasn't any foundation.

12 THE COURT: Yes. The answer will be stricken.
13 And you may start again.

14 Q. (By Mr. Pestarino) Will you translate that letter,
15 please? A. It is hard for me to
16 translate.

17 Q. Well -- A. It is in English, too.

18 Q. There is a translation? Do you know who made that
19 translation? A. No, I don't.

20 Q. All right. Well, can you read that letter and
21 translate it the best way you can?

22 A. It says, " I receive your letter date February the 2,
23 '75, about Hormis De Malik Ismail. As I told you
24 in the telephone should Hormis write himself to
25 me. There is telegraph from Chicago against me,
26 and there is your uncle's name and your cousin's

1 name and your brother's name. Send it to bishop,
2 high bishop in the Middle East. And we are so
3 glad that we know that nobody, no any member in
4 your family knows about that letter, that
5 telegram sended from Chicago. Could you sent,
6 could you send telegram against that telegram that
7 support us? Send to Middle East to the bishop
8 that we accept the Patriarch. And I send you a
9 copy of telegram, " this one(indicating) because
10 I told him, I said, "I can't write in English, and it is hard
11 to me," so he told me by telephone I'll send you
12 how you, how should be the telegram to send to Middle East.

13 Q. Wait a minute. Have you finished translating the
14 letter as best you could? The letter of February the 20th?
15 Have you finished your translation of that?

16 A. "And when you send the telegraph send me copy of
17 that."

18 Q. Now -- A. And there is another
19 reverend by the name of Athanasius Yousip, he send telegram,
20 too. That's all.

21 Q. Now, when you received that letter did you phone the
22 Patriarch or did he phone you? A. I believe I
23 phoned him to ask, it was sometime in January when his father-
24 in-law came to my place.

25 Q. I don't think that you -- I don't think you understood
26 my question. That letter is dated what, February the 20th?

1 A. 20th, yes.

2 Q. Yes. 1975? A. Yeah.

3 Q. And after February when you received that letter did
4 you phone the Patriarch or did the Patriarch phone you?

5 A. I speak to him but I don't remember exactly I phoned
6 him or he phoned me. I don't know exactly.

7 Q. You don't remember? Do you remember speaking to him
8 on the telephone? A. Yes.

9 Q. And do you remember what month that was?

10 A. First month was January when his father came to my
11 place, his father-in-law, and he talk about Mar Shimun.
12 And he asked me to, if I don't mind, he could use the
13 telephone to phone him from London, Ontario, to San Francisco,
14 to telephone him. I say, "Okay. Go ahead." And he phone.
15 And for first time I don't know what he talk to him. I
16 wasn't listening. But he ask me to talk to him.

17 Q. And you talked to him? A. And I did,
18 yeah.

19 Q. What did you talk about then?

20 A. He asked me if we know, if we signed any telegram
21 against him, any letter against him. And I say --

22 Q. What did you say? A. I said, "We
23 didn't sign nothing against you."

24 Q. Okay. And then did you talk to him afterwards on the
25 telephone later? A. Yeah. I called

26 next time, it was in January, I guess, again, when he asked

1 me to, to send telegram to Middle East, and when he asked me
2 to see how is Assyrian in Canada. And if I had any letter
3 from Middle East, Syria or Iraq. So I call him in January it
4 was, I believe.

5 Q. Did you call him after that?

6 A. The third time.

7 Q. February, March, April, May, June?

8 A. I know I had three time a week we talk, but I don't
9 remember exactly the last time I called him or he called me.

10 Q. Well, anyway, you see the night letter there in People's
11 -- or Defendant's Exhibit H for identification? Is there a
12 night letter? A. This one?

13 Q. Yeah. A. Yeah.

14 Q. Is there a date on that? A. No, that is --
15 he just sent it to me to --

16 Q. There is an envelope in which that came, is there?

17 A. A date?

18 Q. Yeah. No postmark on the envelope?

19 A. Yeah, there is , February the 20th, '75.

20 Q. All right. Did you receive that night letter with that
21 other letter on February the -- dated February the 20th, 1975?

22 A. I think so.

23 Q. Okay. A. Yeah.

24 Q. Now, what does that night letter say? Read it. No
25 -- excuse me, it is written in English, isn't it?

26 A. Yes.

1 Q. Will you read it out loud? A. It is
2 pretty hard to me.

3 MR. ROBINSON: I'm going to object. It speaks for
4 itself if it is in English.

5 THE COURT: Well, he can read it.

6 THE WITNESS: Well --

7 THE COURT: Go ahead.

8 THE WITNESS: The telegraph says to bishop, to
9 archbishop in Iraq, and we denied that somebody put our
10 signature. And we support the Patriarch.

11 THE COURT: He wants you to read that exactly.

12 THE WITNESS: I can't read it.

13 Q. (By Mr. Pestarino) You can't read?

14 A. I cannot read it.

15 Q. You can't read any of this, the English?

16 A. Not very much .

17 Q. Well, do the best that you can with it, but read it word
18 for word. A. 'We have been horrified

19 to learn that Messrs. Aprim De Baz, Ninos Andrews,
20 Ashor Solomon, and Mike Rashu have sent a
21 telegram -- telegraph resolution to you and to
22 other bishop on February 8th against His Holiness
23 Mar Eshai Shimun 23rd, Patriarch Catholicos of
24 the East in the name of many purported member of
25 the Church in Chicago and Canada including the
26 names of several members of the house of Malik

1 Ismail. We denied the d-e-c-e-i-p-t-f --"

2 Q. Spell that again?

3 MR. ROBINSON: Well, the letter speaks for
4 itself.

5 THE COURT: Well, counsel, if you like I could
6 read it.

7 MR. PESTARINO: Why don't you read it.

8 THE COURT: The jury doesn't know what it says,
9 and, you can't cross-examine.

10 MR. PESTARINO: I will stipulate that Your Honor
11 may read it.

12 THE COURT: The only reason for the Defendant's
13 reading it, of course, is to go to his knowledge of the
14 English language and the contents of the letter.

15 MR. PESTARINO: Well, also something further, but

16 --

17 THE COURT: All right.

18 MR. PESTARINO: Thank you.

19 THE COURT: I don't know about my pronunciation
20 of the various names , but it is headed, "Night letter,"
21 in capital letters. "Mar Yosip," Y-o-s-i-p, "Metropolitan,
22 care of Mar Aprim Khamis house number 10B/4 Karradeh,"
23 K-a-r-r-a-d-e-h, "Al Mariam, Baghdad, Iraq. We have been
24 horrified to learn that Messrs Aprim De Baz, Ninos
25 Andrews, Ashor Solomon, and Mike Rashu have sent
26 a telegraphic resolution to you and other bishops

1 on February 8th, against His Holiness Mar Eshai
2 Shimun the 23rd, Catholicos Patriarch of the East
3 in the name of many purported members of the
4 church in Chicago and Canada including the names
5 of several members of the house of Malik Ismail.
6 We denounce the deceitful action of these men
7 who have written our names without our knowledge
8 or permission." Underneath that are the names
9 of, "Dinka Malik Ismail and David Malik Ismail." And it
10 say, "Copy to His Holiness the Patriarch."

11 MR. ROBINSON: Thank you, Your Honor.

12 MR. PESTARINO: Thank you.

13 Q. (By Mr. Pestarino) Now, after receiving that night
14 letter what did you do with it? Did you sign it? Did you
15 mail it? Did you do anything? A. No, I didn't.

16 Q. You just kept it? A. Just kept just
17 sometime to see him.

18 Q. So you planned to see him sometime about this letter?

19 A. A lot of thing, too.

20 Q. And other things? A. Yeah.

21 Q. Now, were you that friendly with the Patriarch that
22 you could see him? A. I believe we are very
23 close to this great family.

24 MR. ROBINSON: I am going to make a motion to
25 strike, Your Honor. Counsel didn't ask him what his family
26 relationship was with the Patriarch. It was, was he close

1 enough with the Patriarch. That can be answered yes or no
2 with explanation.

3 THE COURT: Yes. The answer will be stricken.
4 The jury will be ordered to disregard it.

5 The question was: Were you yourself that familiar
6 with him? You can answer that yes or no.

7 THE WITNESS: Yes.

8 THE COURT: Now you can explain.

9 Q. (By Mr. Pestarino) You wanted to explain your answer?

10 A. Yeah. I could explain it. I know him very well
11 through my father. And my great -- what he did for our
12 church, he served our church for over fifty years. So this
13 great family and we are very close.

14 Q. So is it your testimony then that you kept this night
15 letter and were going to talk to him about it sometime?

16 A. Right.

17 Q. And did you have any particular time in mind when you
18 were going to talk to him about it?

19 A. Not really.

20 Q. No. By the way, what was the feeling among the
21 Assyrian people, particularly your father and yourself when
22 the Patriarch got married on August the 16th, 1973?

23 A. Was very bad.

24 Q. You want to explain that? A. Well, we all
25 shake when we heard that, and all very opsit (upset).

26 THE COURT: Very upset.

1 THE WITNESS: I called my father in Beirut. He was
2 in Beirut at time, and he told me to go see him. And I wasn't
3 work that time, I just, I didn't quit the job but I just
4 couldn't work. And he sent me money so I fly there and I
5 see him. And I told him: If he heard about? He said yeah,
6 he did. And I asked him, "What you think about that?"

7 THE COURT: I'm a little confused. Where did you
8 fly?

9 THE WITNESS: I fly to Beirut, Lebanon.

10 THE COURT: All right.

11 THE WITNESS: And I asked him, "What do you think
12 about that?" And he just couldn't answer me. He said, "Don't
13 mention about that. Let the god take care of that." And he
14 was very upset but he didn't explain it to me. I could see
15 it in his face.

16 Q. Now, did this marriage of the Patriarch affect you
17 personally? A. Very much.

18 Q. In what way? A. Well, the way I
19 felt, you know, I heard since I born the Patriarch shouldn't
20 be married, and the religion, and the way we believe just
21 like Jesus Christ on Earth, and that is the way we are, you
22 know, I can't help it.

23 Q. In what way did it affect you?

24 A. It affect me, I couldn't look after my house no more,
25 I couldn't go to work. He get married summer of '73. I
26 quit my job 1974, November the 8th. That is over a year, I

1 guess, but I didn't work maybe three months, two or three
2 months that time, period of time. What I saved, all, I
3 spend. I just couldn't work at the time thinking.

4 Q. Were you thinking about your religion and your people?

5 A. About my religion first of all, and the people second.

6 Q. When you were on your job could you concentrate on your
7 job, concentrate, think about your work?

8 A. Well, I was on the job, doing the job, but I don't know,
9 I wasn't there. I was someplace else, thinking, you know.
10 I hurt my hand, and I take off maybe three months.

11 Actually I shouldn't. I should take maybe two or three weeks,
12 but I couldn't get back on job again. Just stayed home.

13 Q. All right. How did it affect your father? Did you
14 see any change in your father? A. He was very
15 changed.

16 Q. Very changed? A. Very changed.
17 Especially the people, he was against them because they was
18 against the Patriarch, and many of them they told him, "See,
19 we told you he wasn't good, and he was against us." And it
20 bother him too much that.

21 Q. How old was your father when he died?

22 A. Seventy-eight.

23 Q. Had he had a heart condition previous to that?

24 A. Well, he used to have, he had a heart problem, maybe
25 1960 or '62, I don't remember exactly. But in 1963 was very
26 bad when he was visiting Mar Shimun's father and the family,

1 and they take care of my father very very well for over four
2 or five months. I don't know exactly. And he was very good
3 at that time. Came to Canada again, and since that he was very
4 good until summer 1973, September, October, started again
5 very bad.

6 Q. Did you notice this change after the Patriarch had
7 married?

8 A. Yeah, because in Iraq there
9 was -- our church is split already before he get married.
10 There was some problem in the church, and he was talking to
11 other side to get again back.

12 Q. Unite them? A. Unite them, yeah.

13 Q. Is that why your father went back to Iraq?

14 A. No, he went back, Iraq government they invite him for,
15 for they want his support against the Kurdish, north of Iraq,
16 Assyrian support against the Kurdish in northern Iraq. And
17 the period he talked to the people, there was a split from
18 our church, to come back again. And the Mar Shimun, he sent
19 his resignation sometime in late '72, I believe. And my
20 father, he sent him telegraph from Canada to come back again,
21 please.

22 Q. So your father was telling the Patriarch, continue to
23 lead the church? A. Yes.

24 Q. And did you talk to your father about how he felt about
25 it? A. After he get married?

26 Q. Yeah. A. He don't let me. He
said, "Don't mention about that no more. Just let the god

1 take care of that."

2 Q. Now, what were your own feelings toward the Patriarch
3 when he got married or when you received word that he had
4 married? How did you feel? A. That day I

5 heard I got letter from, I believe from Chicago, some friend
6 or my sister-in-law, I don't remember exactly, it shake me.
7 I couldn't believe it, you know, something never happened,
8 can't be happening, you know. And they start calling all
9 over to find out. And it was true. And I don't know what
10 happened to me. I just hate to work, hate to stay home
11 sometime, I want to be alone all of the time.

12 Q. Did you drink more? A. I drink very
13 very heavy.

14 Q. All right. Did you at any time tell the Patriarch that
15 you were not going to support him or that you would support
16 him? A. He asked on telephone for
17 support.

18 Q. When was that? A. Sometime in January,
19 I guess, '75 or February, early February, but I didn't, I
20 didn't say, "No, we don't support you." And I was, I always
21 believe that we should go along with him.

22 Q. Why? A. In case going to happen
23 another, another split in our church, and split another time.
24 So I just, that is my opinion, I was thinking that. But how,
25 I don't know. And I didn't tell him that we are against you,
26 no. I didn't say nothing on telephone. And he talk lot. I

1 didn't answer very well, I just write him letter. I didn't
2 say in the letter, I believe I didn't say that we are going
3 to support you. But I believe I said that we love the Mar
4 Shimun, and something like that, you know.

5 Q. All right. Up to this point did you have a great deal
6 of respect for the Mar Shimun or the Patriarch?

7 MR. ROBINSON: Up to what point? Talking about
8 January or February, '75?

9 MR. PESTARINO: January or February.

10 MR. ROBINSON: Or up to the point he got married?

11 MR. PESTARINO: January, February.

12 THE WITNESS: Say that again, please?

13 Q. (By Mr. Pestarino) Did you have a great deal of
14 respect for the Mar Shimun up to January or February of
15 1975?

16 A. You mean accept him, to
17 come back?

18 Q. I mean always. No. Let me try again. Strike that.

19 The picture of you and your wife, Peggy, with
20 the Mar Shimun was taken in 1962?

21 A. Yeah.

22 Q. In Beirut?

23 A. Yeah.

24 Q. Huh?

25 A. No, in Damascus.

26 Q. And from that time forward did you see the Patriarch
any times?

A. Yes, sir. We see him 1966,
early November, and '67, same time in Flint, Michigan, and
'68, '69, '70, and we miss one year, I don't remember

1 exactly, I miss '71 or '70. I didn't go. I was working a
2 weekend.

3 Q. All right. When you saw him did you have an audience
4 with him? Were you able to talk to him? Were you able to
5 talk to him on these occasions? You know what I mean? It is
6 one thing to see somebody. It is another thing to talk to
7 them.

8 A. I don't talk very much to
9 him. I was listening to him and my father was talking about.
10 But I remember one time, all children, they came to kiss his
11 hand. And I teach my boy how to go to him to kiss his hand.
12 He have to kneel and then kiss his hand. So he did it. But
13 the rest of the boy, like my brother's boy, the rest of them
14 they just go like that (indicating) and kiss his hand. So
15 he ask, "Who's that boy?" I said, "It is mine." And I
16 asked him to pry (pray) for him, and he did.

17 Q. Now, on these occasions that you saw the Patriarch,
18 were you close to him? Did he see you? Did you see him
19 personally?

20 A. Oh, yeah.

21 Q. Was your family there? A. Yeah, my
22 father, most of the time him and my father was sitting alone,
23 and I get in and just listen to them, what they says.

24 Q. So that you'd be very close to them?

25 A. Yeah.

26 Q. On all of these occasions? A. Yeah.

Q. And he was a well-respected man, wasn't he? Well
respected? He was like Jesus Christ walking on earth, wasn't

1 he? A. That's right.

2 Q. And do the people bring the sick people to him?

3 A. They do, bring in Damascus lots of them, lots of sick
4 people. And we take, me and my wife, we take some water to
5 him and he pray (prayer) in that water, and we take him back
6 home six hundred mile to keep in home.

7 Q. So you respected him very much?

8 A. Sure we are.

9 Q. Now, when he got married how did you feel about the
10 Patriarch?

A. Well, feel very bad.

11 Q. Well, did you decide not to support him anymore after
12 he got married?

A. First of all, yeah.

13 Q. First of all you did? A. First '73, when
14 I heard.

15 Q. When did that feeling change?

16 A. Well, in '74, '75, you know, I was thinking that the
17 world is changing, we should change. You know, I know it
18 is very hard, that is the way our blood is, but we should be
19 changed, too.

20 Q. All right. So then you thought in order to preserve
21 the unity of the church --

22 MR. ROBINSON: Objection, leading question.

23 MR. PESTARINO: He has already testified.

24 MR. ROBINSON: Asked and answered then.

25 MR. PESTARINO: Well --

26 THE COURT: Let's not quibble. Rephrase the

1 question.

2 MR. ROBINSON: Thank you, Your Honor.

3 Q. (By Mr. Pestarino) Did you ever tell the Patriarch
4 about your feelings for him? A. No, not that.

5 Q. Did you ever tell him in any other way, write to him
6 or anything? A. No, I was thinking if I see
7 him out loud I say, it depends what to do is the best.

8 Q. Now, did you have any more communications with the
9 Patriarch before November the 6th other than the
10 communications that you have mentioned there in those letters
11 dated February the 20th, 1975, either by phone, writing, or
12 any other way? A. No.

13 Q. During this period of time were you friendly with his
14 mother and father? A. Very much, yeah.

15 Q. Did you visit the Patriarch's mother and father, or
16 did they visit you? A. Yeah, I visit at
17 some, at Christmas, 1974, I went to my brother's place for
18 Christmas dinner and --

19 Q. Where does your brother live?

20 A. He lived in Mississagi, Ontario.

21 Q. That is what brother? A. Jack.

22 Q. Jack. A. And the next day we left
23 for Niagara Fall, me and my wife and my boy. We came from
24 Niagara Fall to go back to London, and we went to Hamilton,
25 and I asked my wife we should go and see them because he
26 came to my place one time when my father died. So he came

1 to me, him and his both, both son. So she said okay, so we
2 went there. And we had a nice dinner. They asked us to
3 drink and we did. Then he don't let us go back home because
4 he said, he told me that you had many, many a drink, you
5 shouldn't drive. So you have to stay here tomorrow morning
6 and go back home.

7 Q. So you spent the night there? A. Yes.

8 MR. ROBINSON: So we are not confused, who are
9 we talking about? The Patriarch's mother and father or the
10 Patriarch?

11 THE COURT: I think we are talking about the
12 Patriarch's mother and father, as I understand it. Is that
13 correct, sir?

14 MR. PESTARINO: Yes.

15 THE WITNESS: Yes.

16 THE COURT: That is where? Hamilton, Ontario?

17 THE WITNESS: Yes.

18 Q. (By Mr. Pestarino) That was in January of 1974?

19 A. I believe in January, December or January, early
20 January or late December.

21 Q. All right. And on that -- did you see them anymore
22 after that? Did you visit with them after that?

23 A. Yeah, they come to my place again.

24 Q. When? A. In January.

25 Q. Same year? A. Yes, '75.

26 Q. Oh, '75? A. Yeah.

1 Q. And that is -- is that the only two times you seen his
2 mother and father, after his marriage, anyway?

3 A. I think after I see them three times. I don't know
4 exactly. I know between Christmas and New Years one, and
5 early January one, and third time I think it is January,
6 late too, again.

7 Q. Did the Patriarch's mother and father ask you to
8 support or your family to support the Patriarch?

9 MR. ROBINSON: Objection, no foundation. At what
10 time?

11 MR. PESTARINO: During any of these conversations
12 of 1974, '75?

13 THE WITNESS: Yes, they did.

14 Q. (By Mr. Pestarino) What did you tell them?

15 A. I told them that, how is Assyrian people in the Middle
16 East, how they are feel, and it's very bad, and here. His
17 father said, "Yeah, it's very bad but as you know, we don't
18 have no person, any person in Assyrian people that can be
19 Patriarch because he hasn't had enough education, enough
20 experience, enough so-and-so. So I was believe him, one
21 side.

22 Q. So you decided then somewhere after these conversations

23 -- A. Yes.

24 Q. -- to support the Patriarch? A. Yeah, they
25 talked to me a lot.

26 Q. Did they ever ask you to talk to the Patriarch himself?

1 A. Yes, they did.

2 Q. Did you do anything? Did you talk to the Patriarch?

3 A. I talked to Patriarch telephone but we couldn't say
4 nothing.

5 MR. ROBINSON: Once again, what time?

6 THE WITNESS: In January.

7 MR. ROBINSON: What year?

8 THE WITNESS: '75.

9 Q. (By Mr. Pestarino) Is that the only time you talked
10 to him? A. Three time.

11 Q. On the telephone? A. Yeah.

12 MR. PESTARINO: It might be a good time to stop.

13 THE COURT: All right. Ladies and gentlemen, we
14 will take our noon recess and resume at 1:30. You will keep
15 in mind my previous admonition about not discussing the case
16 among yourself or with any other person. Mr. Ismail, you may
17 step down. You will be ordered back at 1:30, also. Any
18 witnesses under subpoena will be ordered back, also.

19 (Whereupon, Court adjourned for the luncheon
20 recess until 1:30 o'clock p.m., this day.)

21
22 ----oOo---
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26

1 AFTERNOON SESSION

2 March 22, 1976. 1:30 o'clock p.m.

3 (Pursuant to adjournment, Court convened, and the
4 following proceedings were had:)5 THE COURT: Please be seated. Let the record show
6 that the jury is present, defendant and counsel are present.
7 You may continue, Mr. Pestarino.

8 MR. PESTARINO: Thank you, Your Honor.

9 DAVID MALEK ISMAIL,10 the witness on the stand at the time of the adjournment,
11 resumed the stand and testified further as follows:

12 DIRECT EXAMINATION (Resumed)

13 BY MR. PESTARINO:

14 Q Mr. Ismail, before noon I asked you a question if you
15 had a conversation with the Patriarch's family, his father
16 and his mother. Did you understand the question correctly?

17 A No.

18 Q Did you ever talk to the Patriarch's mother and father?

19 A No.

20 Q It was his -- A I did by telephone, I believe
21 '69 or '70.22 Q Yeah. Okay. A Just for Christmas when my
23 father talked to them.24 Q All right. These conversations that you testified to
25 before lunch, were they conversations that you had with Mrs.
26 Shimun's mother and father? A Yes.

2
1 Q Okay. All right. Now, in your conversations with
2 the Patriarch when your father was present, your son, did he
3 show any signs of not being able to hear you properly?

4 A No.

5 Q As far as you are concerned his hearing was all right?

6 MR. ROBINSON: Objection, leading question.

7 THE COURT: It is leading.

8 THE WITNESS: It was not --

9 THE COURT: Just a minute.

10 MR. PESTARINO: Let me rephrase the question.

11 Q (By Mr. Pestarino) You talked to the Patriarch, and
12 your father talked to the Patriarch, didn't he?

13 A Yes.

14 Q Did the Patriarch understand or did he have to ask him
15 to repeat the questions or anything? A No, no.

16 Q All right. So around the end of October you decided
17 to come to San Francisco, isn't that right? A Yeah.

18 Q And you bought air fare one way? A Yes, I did.

19 MR. ROBINSON: Objection, leading question again.

20 MR. PESTARINO: It has all been testified to. My
21 gosh --

22 MR. ROBINSON: Counsel knows the rules. If
23 counsel wants to testify let's put him on the stand and let
24 me cross-examine him under oath. We want to hear what the
25 witness said. That is the purpose for the leading question.

26 THE COURT: It is a leading question, Mr. Robinson.

3
1 The objection is sustained.

2 MR. PESTARINO: I'm sorry.

3 Q (By Mr. Pestarino) You came to San Francisco, did you
4 buy a round-trip ticket? A No, one-way ticket.

5 Q Why did you take a one-way ticket?

6 A I was thinking going to Denver, Colorado, by bus, and
7 then Chicago, stay a couple days and then my sister-in-law
8 and then go back home.

9 Q What was your purpose in coming to San Francisco?

10 A Well, visiting San Francisco and we planned to move from
11 London, Ontario. It's very cold.

12 Q Planned to move to San Francisco? A San Francisco
13 or British Columbia, or some place.

14 Q Did you intend to open up some kind of a business or go
15 into business? A Well, I was thinking, I was thinking
16 of a small business.

17 Q A small business? A Yeah.

18 Q You testified earlier that you had sold your home --

19 A Yes.

20 Q -- in Canada? And did you have any money left?

21 A Well, we have 1500 acre --

22 Q No, excuse me. You better answer my question. Did you
23 have any money left from the sale of your house?

24 A No.

25 Q How were you going to pay for a small business in San
26 Francisco or anywhere? A Well, we have, as I said,

1 1500 acre back home.

2 Q Back home? A Syria, and we have big farm which
3 65 acre, all kind of fruit, apples, pears, and we called my
4 cousin there, me and my brother, and he put it on sale last,
5 I believe, September.

6 Q Which brother? A Zaia. That's belong to me and
7 Zaia, not Jack, older brother. I had two-thirds and Zaia
8 had one-third.

9 Q How did you get that property? A How could I get?

10 Q How were you going to get it or how did you get it?

11 A That's my father property.

12 Q I see. So anyway, you decided to come to San Francisco
13 on a one-way ticket? A Yeah.

14 Q And did you get into the International Airport here in
15 San Francisco? A I don't know what airport. I get
16 some airport. I don't know how many airport in here, but I
17 believe, I arrived at airport, and I think International
18 Airport.

19 Q What day did you arrive? A I think it was
20 Thursday.

21 Q Thursday? A Yeah.

22 Q October the 30th? A I believe the 30th.

23 Q Do you know a person by the name of Kitty Benjamin?

24 A Yeah. She pick me up from airport.

25 Q Did you call her before she picked you up? A Yes.

26 Q Where did you call her from? A From London, Ontario.

1 Q London, Ontario? A Yes.

2 Q And what time did she pick you up?

3 A I don't know exactly. I don't know, 7:00, 8:00 o'clock,
4 something like that. I think 7:00 o'clock.

5 Q And where did you go after, as she picked you up?

6 A Went to motel, Sunset Motel, I guess. I don't know the
7 motel and --

8 Q All right. Now, before you went to the motel did you
9 take any luggage with you when Kitty picked you up?

10 A Well, I take the key, and she was waiting, and I take
11 the luggage.

12 Q What luggage did you take? A I have a small --
13 that one there (indicating), for shaving and towels and some
14 books in it and suitcase, which not too big, regular size.

15 Q And did you have something to hang your clothes in?

16 A I had a, yeah, that thing to hang my suit on it, yeah.

17 Q What did it look like? A It's block (black).

18 Q It's a block? A It's dark, very block (black).

19 Q Oh, black, pardon me. And you can hang a suit in it,
20 can you? A Yeah, just for hanging a suit, that's all.

21 Q So that is what you had when you left the airport?

22 A Yes.

23 Q And you went to the Sunset Motel? A Yes.

24 Q Did you register on the registration card at the Sunset
25 Motel? A No, I didn't see nobody there. She said
26 I got a key for you, and I don't know how she get key for

6
1 me, and I just put my luggage inside. I don't know I hang
2 them or not, and went to her place, mother's place.

3 Q In other words, all right, you just went into your room,
4 hung your luggage and walked out? A Yeah.

5 Q And then where did you go? A Went to her mother's
6 place.

7 Q And did you have dinner there? A Yes.

8 Q Did you come back to the motel after that?

9 A We come back a little late, maybe 11:00 or 11:30,
10 something like that.

11 Q Now, the next day did you go anywhere?

12 A The next day --

13 Q That is Friday. A Yes, I did. I went to the
14 office, was person in the office, motel, and I asked him if
15 I could have a phone call. He said yeah. I phoned a person
16 by name Sam Lazar, which I see in, I don't remember, last '72
17 or '73, some place, in Chicago or Flint, Michigan, in some
18 convention. And I talked to him. He was busy. And he
19 said I'll talk to my brother to take care of you and show you
20 all San Francisco.

21 Q Okay. Now, when you went back to the Sunset Motel was
22 there a man, a clerk at the desk? A When?

23 Q Thursday. A Thursday I didn't see nobody.

24 Q You didn't see anybody Thursday all day?

25 A No. It was Thursday night I came there.

26 Q Thursday night you came to the Sunset -- A Yeah.

7

1 Q -- Motel? A Yeah.

2 Q Well, you slept the night before, didn't you?

3 A No. Thursday I arrive from San Francisco, 7:00 o'clock

4 I think. And we went to motel, I didn't see nobody, no man.

5 Next day, Friday, I did.

6 Q Yeah. That is what I am talking about, Friday. Did

7 you see a man? A Yes, sir.

8 Q At the Sunset Motel? A Yes, I did.

9 Q Was that man Mr. Crowley, the man that was here?

10 A It looked like him.

11 Q Looked like him? A Yes.

12 Q When did you first see Mr. Crowley? A Mr. who?

13 Q Crowley. Crowley. I think that was his name, Crowley,

14 C-r-o-w-l-e-y, Crowley. A The person who was in office

15 you mean?

16 Q Yes. A I see him Friday and I ask him for --

17 Q You saw him Friday when? What time?

18 A I believe noon.

19 Q All right. And did you have a conversation with him?

20 A Yeah. He -- when I, first I get in, told him, "Hi."

21 And he said, "Hi, Mr. Benjamin." I said, "My name is not

22 Mr. Benjamin. My name is David Ismail. Where you get that

23 name?" He said, "Well, you register here by this name."

24 I said, "You better change that, that is not my name." He

25 said, "That's all right. No problem." And I just asked

26 him, "Where is zoo?" And he show me where to go to zoo, take

1 the bus.

2 Q Did you go by bus or by car? A No, by bus.

3 Q Then did you see Mr. Crowley later on that evening?

4 A Friday night, yes, I did. Yule Lazar, he invite me for
5 dinner. And he said 7:00 o'clock. So I went 7:00 o'clock
6 to the motel office, and I wait for him to 10 after. Nobody
7 show. So I asked the man if I could phone. He said,
8 "Yeah, okay." Was talking like that, and later on two man
9 they came in there, I don't know them, and they look at
10 person and they look at me, and says, "Are you Assyrian?" I
11 said, "Yeah, I am. How do you know?" They says, "You look
12 like Assyrian." And he says, "I am Yule's brother. He
13 phoned me to pick you up. He is busy. If you are ready
14 we will go." I said, "Yeah, I'm ready. Just give me minute."
15 So I went back to room and I take some cigarettes with me.
16 I remember I give him one pack of cigarette, the person that
17 take me out. And he was with station, I don't know, I don't
18 remember what color station.

19 Q Station? What do you mean? What was the station?

20 A The car was big car, station wagon.

21 Q Oh, station wagon? A Yeah, looked station wagon.

22 Q Did it have any writing on it, on the door?

23 A I don't know, some writing on it, but I don't know what
24 it was. I don't pay attention.

25 Q What car was it, do you know? Was it a light or a black?

26 A I don't know exactly. Can't say.

1 Q And how were -- did you say two men came in there?

2 A Yes.

3 Q How were they dressed? Do you remember?

4 A Just work dress.

5 Q Work clothes? A Work clothes, yeah.

6 Q Okay. And what time is this? A Some time between
7 7:00, 7:30. I don't know exactly.

8 Q And where did you go? A They take me to motel,
9 San Franciscan Motel.

10 Q The San Franciscan Motel? A Yeah.

11 Q Where is that located? Or do you know?

12 A I don't know. Downtown somewhere.

13 Q Is that where Kitty works? A Yeah.

14 Q And is that where Mr. Lazar works? A Yeah.

15 Q And you went there? A Yes.

16 Q Now, later on, what did you do when you got there?

17 A We went inside and Yule's brother, he came with me
18 because I don't know Yule. And we get in and Yule, he was
19 talking to some person, so he finished talking. He came
20 back and his brother said, "Here is David Malek Ismail. This
21 is my brother, Yule." So I meet him there.

22 Q Is that the first time you met Yule? A Yeah.

23 Q Did you have any luggage with you? A No.

24 Q Did you leave your luggage back at the Sunset?

25 A The motel, yeah.

26 Q All right. Did you and Yule go anywhere or did you

10

1 stay there? A No, we stayed there in the dining room.

2 They take me dining room, have a dinner.

3 Q Did you have anything to drink? A We have some-
4 thing for drink. I don't know how many shots.

5 Q And did Yule take you home afterwards?

6 A Yes, he did take me home, some time between 10:00, 10:30,
7 11:00. I don't remember exactly.

8 Q Did he come in your apartment or in the motel when he
9 took you home? A Did he what?

10 Q Did he come inside? Did you invite him into your room
11 or did he come into the motel? A Yeah, I believe he
12 was have a Pinto, a small car, he drive me right in.

13 Q He didn't get out of the car? A No. He just
14 drive right in.

15 Q And you said good-night to him? A And I left him.

16 Q Now, when you are at the Sunset Motel did you receive a
17 phone call by someone? A No. I receive -- the guy
18 told me that you had a phone call from Yule that day, a Fri-
19 day, and I think just Yule. But I did make some phone call,
20 as I said, to Lazar and I make phone call to Los Angeles,
21 that is my brother -- brother-in-law's brother.

22 Q Did you make that phone call from the Sunset Motel?

23 A I think so.

24 Q And did you speak to anybody in Los Angeles?

25 A No, wasn't there.

26 Q Is that the only -- those are the only two phone calls

11

1 that you made? A Yes, sir.

2 Q At the Sunset Motel? A Yeah.

3 Q Okay. Now, where was your luggage when you returned?

4 Was it in your room? A In my room.

5 Q Okay. Now, that same night before you, these two men

6 came to see you, the men dressed in working clothes, where

7 were you? A You mean before 7:00 o'clock?

8 Q Yeah. Let me help you a little bit. Does the word

9 "Zim's" mean anything to you? A Yeah, I was in a bar.

10 Q Where is that bar? A I think somewhere close to

11 19th.

12 Q Is there -- is Zim's Restaurant -- A Yeah.

13 Q -- close to the Sunset? A Yeah. I had breakfast

14 there. It's close to Zim's Restaurant.

15 Q And you were in this bar? A Yes. I went to the

16 bar about 5:00 o'clock. I want to spend couple hours there

17 before Yule come pick me up.

18 Q And you went there alone? A Yes.

19 Q All right. Did you do any drinking then?

20 A Yeah. I was drinking Johnny Walker by myself. There

21 was couple guys sitting there, too, a little far from me.

22 Q You already looked at the gun, People's Exhibit No. 4?

23 A Yes.

24 Q The .22 caliber pistol? A Yeah.

25 Q Did you see that gun that night? A I believe

26 that that is the gun, yeah.

12

1 Q All right. Tell me, where did you get it and under
2 what circumstances? A This gun?

3 Q Yeah. A First time?

4 Q Yeah. A I was sitting drinking, as I said, and
5 there was two guys sitting drinking there, too. One of them
6 is left, and another one, he take his beer, he was drinking
7 by the bottle, he take his bottle and he came to me, said,
8 "Can I enjoy your company?" I said, "Yeah." He start
9 talking, he was between 40 to 45, I don't know exactly. And
10 I remember he wasn't shaving, maybe couple two or three days,
11 and there is some burning, looked like, on face over here
12 left side (indicating), and he was talking about his wife,
13 and she left him, I don't know, he was a little drunk. And
14 he look at me, said, "What kind of cigarette is that?" I
15 said, "That's Canadian cigarette." He said, "Are you
16 Canadian?" I said, "Yeah, I am." "Where from?" I
17 told him. And he start talking more to me, and his beer is
18 finished, he asked me to buy him beer. So I did buy one
19 bottle beer for him. And later on, he was drinking too
20 fast, and he finish his beer, he asked me another beer to buy.
21 So I said, "I'm sorry, I don't have enough money, you know."
22 And he turned to me, the seat was moving, he just turned like
23 that (indicating), and he said, "You want to buy a gun?"
24 I said, "No, I don't need a gun." And he didn't ask me more
25 than that, he just try to pull it out. So I turned myself
26 face of him in case he wants to do something, and he pulled

13 1 the gun, it was wrapped some white rag, and I told him, "I
2 don't want a gun." But he said, "Listen," he was looking
3 left and right, all of the time he was looking left and right,
4 and he told me, he said, "I'll give you that for \$20." Well,
5 I did buy it. I thought it was good buy. And I pay him
6 \$20. I take the gun. I put it underneath my shirt. Was
7 with two clips, put one in each pocket, pants, and at that
8 time I was having a double Johnny Walker, a second one, and
9 I left. And he asked me, "Where are you going?" I said,
10 "I'll be back in a minute." So I left my cigarette there
11 with some change, and my glass of whiskey in case he give me
12 trouble, or something like that. So I just left there, went
13 back to motel.

14 Q And you had the gun with you? A Yeah.

15 Q All right. When you got back to the motel what did you
16 do with the gun? A Put it in that suitcase, that
17 small one (indicating).

18 Q And then you went out with Yule Lazar or his brother?

19 A Yeah.

20 Q Okay. Now, the next day was November the 1st, a
21 Saturday? A Yeah.

22 Q Did you move to the Franciscan? A Yeah. That,
23 the Friday night before I asked Yule, I said, "They don't
24 have a bath shower in here. I don't like that motel. They
25 don't have a bath shower, a bath and no shower, no nothing,
26 you know. Could you get me room in your hotel?" He said,

1 "Yeah, sure. Get you, and will give you discount, too."

2 Q Now, who took you over to his motel?

3 A Who take me to what?

4 Q To the Franciscan? Who took you from the Sunset to
5 the Franciscan, or how did you get there?

6 A I get, Yule take me.

7 Q Yule took you? A Yeah.

8 Q Who paid the bill at the Franciscan -- or at the Sunset?

9 A I went Saturday to pay the bill, and the person he was
10 there said already get paid. I thought Yule paid, and I
11 found out later on it wasn't he paid. It was Kitty paid.

12 Q Now, on Saturday what did you do? You checked into
13 the Franciscan? What did you do that day?

14 A Well, Kitty, she came, picked me up. Yule, he was busy.
15 And she take me to some museum over there. I have some
16 stone to show, stones, you know, and she show me San Francis-
17 co from 1:30, 2:00 o'clock we came back again.

18 Q All right. And on Sunday did you go to church?

19 A Yeah. Saturday night I invite Yule for dinner because
20 he invite me day before. So Saturday night I invite him.
21 He take me some place, I don't know what it is called. And
22 I ask him if he go early tonight, I was thinking next day of
23 going to church, "Could you take me?" He say, "Sure, I
24 take you tomorrow to church."

25 Q Now, what did you do during the time that you were in

26 San Francisco with the gun? A I carry gun most of the

15

1 time.

2 Q Most of the time? A Yeah.

3 Q How were you dressed most of the time?

4 A I had two suits with me, and I had a blue jacket, and I
5 had another sport jacket, light brown, and two pants, and I
6 had, I believe, four shirts. I was dressed different, you
7 know.

8 Q Well, for the most part did you dress with a suit or did
9 you wear sports clothes? A Sport, I believe.

10 Q And you testified that most of the time you carried the
11 gun? A Yeah, say --

12 Q Did you carry the gun when you went to church on Sunday?

13 A No.

14 Q Mm? A No.

15 Q Where was the gun? A It was in that small bag.

16 Q All right. Now, when did you decide to leave San
17 Francisco? A I think Wednesday night I said, "I
18 going to move tomorrow. I got to get back."

19 Q All right. Wednesday night. Now, when you were at
20 the Franciscan Motel did you make any phone calls?

21 A Yes, I did. I phoned first day, I believe it was
22 Sunday night, and I phoned my wife in Canada. And in my
23 room was friend of mine by the name of Eshaia De Mar Shimun.
24 And he talked to my wife, too.

25 Q Who was that? A Eshaia De Mar Shimun.

26 Q In your room? A Yes.

1 Q Where did he come from? A Well, Sunday I went to
2 church. I meet him there. And I meet his mother and
3 sisters, and they take me home, and I stay there until 5:00
4 or 6:00 o'clock.

5 Q Where did he live? A Anza, something like that.
6 I had his address.

7 Q Anyway, he was in your room? A Yes.

8 Q And you made some phone calls while he was there?

9 A Yeah. I phoned Canada. I phoned my wife.

10 Q Did you phone Australia? A I did -- not on
11 Sunday. But I don't know, Monday or Tuesday, or I don't
12 know exactly. I phoned my niece in Australia.

13 Q What's her name? A Huh?

14 Q What's her name? A Werdia.

15 Q How do you spell that? A W-e-r, I guess, d-i-a.

16 Q What's her last name? A Shimun.

17 Q Shimun? A Yeah.

18 Q And you phoned her? A I phoned her house. And
19 the person by the name, I think William, he answer me. And
20 I asked, "Where is Werdia?" And he said, "They moved
21 thousand mile from here for one year." And I asked him,
22 where did they move? He told me the name of city. I said,
23 "Well, do you have any, her phone number or address?" He
24 said, "No, I don't have it." I talked to him for maybe two
25 or three minutes, that's all.

26 Q Did you make another phone call after that?

1 A Yeah. Right after that I make another phone call to
2 Yule Kanna.

3 Q Kanna? A Kanna, in Australia, Sidney.

4 Q Who is Mr. Kanna? A Well, the person I know, Mr.
5 Kanna, 1972, he's came to visit my father. He give us his
6 address and phone number and everything, so I asked him, him
7 and Werdia's husband very close friends. I asked him if he
8 knows Werdia's phone number or why they moved. He said,
9 "I don't know the phone number, but maybe this week some time
10 they can send it to me, the address and phone number, and I
11 would send it to you."

12 Q So you never spoke to your niece? A No. I don't
13 have any chances to talk to her.

14 Q Those are the only two phone calls you made to Australia?

15 A Yes.

16 Q Did you make any other phone calls anywhere else? You
17 already testified you called your wife and you made two phone
18 calls to Canada? A Yeah.

19 Q Any other phone calls? A I don't remember, no.

20 Q Now, what did you do with your luggage?

21 A My luggage with me.

22 Q Did you still have the same luggage that you had when
23 you came from the airport? A I still have them, until
24 last two weeks ago Joe says no, he don't have. You have one.
25 I believe I, when I left San Francisco I had a suit on me,
26 and I think I hang suit, I just roll and put in my suitcase

1 with another suit.

2 Q Well, let's get to that. You left San Francisco when?

3 A Thursday.

4 Q Thursday. About what time? A About 2:00 o'clock.

5 Q And where did you leave San Francisco from?

6 A From bus depot.

7 Q How did you get to the bus depot? A Well, walk.

8 Q And did you buy a ticket? A Yeah.

9 Q To where? A To St. Joe's.

10 Q San Jose? Yeah, okay. And did you take the bus to

11 San Jose? A Yeah.

12 Q All right. Now, before taking the bus to San Jose, did
13 you stop anywhere to buy anything? A I had couple drink
14 in, in a bar. It's close to, to bus depot.

15 Q Yeah. Did you buy anything? A I bought half a
16 bottle Johnny Walker Red.

17 Q Okay. I'll show you People's Exhibit 10-B. You see
18 that? A I think that --

19 Q Is that the bottle? A Look like my bottle.

20 Q Yeah. Your bottle. Anyway, you had this bottle and
21 you did what with it? You didn't drink it on the bus, did
22 you? A No.

23 Q What did you do with it? When you bought it what did you
24 do with the bottle? A I believe I put it in my shaving
25 suitcase.

26 Q Okay. And was that a pint bottle? A What's a

1 pint?

2 Q What do you call it? A Fifty.

3 Q Fifty what? A Half a bottle.

4 Q How much did you pay for it? A Well, I don't
5 remember exactly. I pay \$4, whether he give me some change
6 or I give him some change I don't know exactly.

7 Q Around \$4 is what you paid for it? A Yeah. He
8 give me some change or I give him some change. There was
9 change between us. So I don't know whether I gave or he gave
10 it.

11 Q So you put this into your small shaving bag?

12 A Yeah.

13 Q And you took the bus and came to San Jose?

14 A Yeah.

15 Q All right. Now, you got to San Jose, what did you do?

16 A I get my suitcase, and the small one, and I was waiting
17 for a taxi to come. Somebody says he phoned a taxi. And
18 taxi didn't show, 10, 15, 20 minutes. So I walked the
19 street and I seen taxi, so I get in taxi.

20 Q Now, all right, how were you dressed? In the gray suit?

21 A Yeah.

22 Q Black shirt? A Yeah.

23 Q And light-colored tie? A Right.

24 Q And where was the gun? A My pocket.

25 Q Where was the clips, the magazines?

26 A Was one in this side pocket and another one in the other

1 pocket.

2 Q Okay. And you got a taxi? A Yeah.

3 Q What kind was it? A Yellow Cab or black cab?

4 A I believe yellow.

5 Q Okay. Now, tell me, what did you tell the taxi driver?

6 Where did you tell him to take you? A I said, "Could

7 you take me to motel close to south San Jose and Cottle?"

8 And he said, "Yeah."

9 Q Cottle? A Cottle Street, yeah.

10 Q And what did he say? A He said, "Yeah." And he

11 drive me long way, I don't know where he take me, and he

12 stop in front of big plaza. He said, "There is no motel

13 from here. We have to go back." I said, "Well, go back

14 to motel."

15 Q Did you later go to that plaza? A Hmm?

16 Q Did you later go to that plaza? A Yes.

17 Q Where was that plaza? A He call it Cottle and

18 Santa Teresa, something like that.

19 Q And in that plaza did they have a lot of shops?

20 A Yes.

21 Q Restaurants? A I believe they have a lot of shops.

22 Q Was there a pizza place? A A lot of cars there.

23 Q Was there a pizza place there? A Yes. I seen it,

24 I was in taxicab.

25 Q So then he stopped by the plaza the first time and said

26 there were no motels around here? A Right.

1 Q What did you tell him to do? A I said, "I want
2 to go to motel." So he make U-turn there, after he pass the
3 light he make a U-turn.

4 Q Okay. A And went back again.

5 Q And where did he go? A And he take me to some
6 motel, just block far from Cottle, I guess, block or two
7 block, and called Oasis, something like that.

8 Q All right. And did you pay the man? A Yes, I did.

9 Q How much did you pay him? A I don't know exactly.

10 Q Well, more or less? A Eight-fifty or nine dollars,
11 I think.

12 Q From San Jose out to the Oasis Motel? Eight-fifty?

13 Nine dollars? A Yeah, something like that. Was more
14 than eight, I believe, but I don't know exactly how much was.

15 Q Now, he took you to the Oasis Motel? I take it he drove
16 you right up to the office or the --

17 A No, he stopped in front office.

18 Q Yeah. And you got out? A Yeah.

19 Q You paid the man? A Right.

20 Q and you took your luggage? A I believe I took the
21 luggage.

22 Q Well, did you? A I believe I take my luggage,
23 this one (indicating), and my suitcase, too.

24 Q So you believe that you got out of the taxi and you had
25 two suitcases, the small one here that is in evidence, and
26 the larger one? A Not two, one suitcase and this one.