

IV OUTLINE OF THE CROWN'S CASE AT TRIAL

69. The Crown's case was that, even before her marriage to Mr Catt on 14 August 1987, Ms Catt had been motivated by an intention to take over Mr Catt's panel beating business, Catty's Body Repairs, for the benefit of herself and her son, Mr Peter Bridge, and to the exclusion of Mr Catt.

70. According to the Crown, the intention was manifested in a number of ways. Thus:

i) After marriage, she immediately took control of the business leaving only the practical work in the panel beating workshop to Mr Catt;

ii) She sought to have Mr Catt committed to mental institutions and to promote the notion among Mr Catt's friends and business associates that because of his mental state he was incapable of running the business;

She invented or at least exaggerated allegations of sexual abuse of his four children by Mr Catt and his associates in order to have him put away if not in gaol then in a mental institution and in any event to further isolate him from persons who might be expected to support him. She prevailed upon his four children to give false evidence to that effect;

iv) She overdosed him with prescribed medication with the intention of killing him as alleged in Count 5 of the indictment;

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v) She solicited or encouraged three persons, Mr Morris, Mr O'Brien and Mr Vernon Taylor to kill Mr Catt as alleged in Counts 6, 7 and 8;

vi) Her ill-will towards Mr Catt was further exhibited by her statements to others and by striking him on the head with a large rock (Counts 1 and 2), hitting him on the head with a cricket bat (Count 4), and stabbing him with a knife (Count 3).

(a) TAKING CONTROL OF MR BARRY CATT'S BUSINESS

71. No factual issue arises for determination under this head but it constitutes an important part of the Crown's case as to motive, and provides a background for consideration of the evidence as to factual issues to be determined.

72. The evidence at the trial raised competing inferences as to Ms Catt's motivation.

73. Her Honour left to the jury as common ground that, after Ms Catt had become established in Mr Catt's life, she took over all the office work including quotations, leaving Mr Call to do only the work in the workshop (S/U p156).

74. Her Honour referred the jury to evidence relating to Family Law Court proceedings which resulted in Ms Call obtaining formal control of the business (although as Trustee for herself and Mr Catt) and of her endeavouring to protect, by caveats against real property in which Mr Catt had an interest, what she asserted was her interest in Mr Catt's business.

75. Her Honour detailed for the jury three further matters which were in dispute:

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a) Whether Ms Catt had assumed partnership status in the business in an underhand way including the forgery of documents;

b) The financial state of the business when Ms Catt began to assume control of it; and

c) The amount of money, if any, which Ms Catt contributed to the business;

76. Apart from the "unsafe and unsatisfactory" ground of appeal relied upon in the 1993 Appeal from Ms Catt's convictions, none of these matters was raised as a ground of appeal except as to evidence of the cancellation of endowment policies in favour of each of the Catt children. The Court of Criminal Appeal held that this evidence was properly admissible as going to Ms Catt's motivation for getting rid of Mr Catt in order to control his assets and those of his family "and would have had little, if any, prejudicial effect" (R v Roseanne Gaff (1993) 68 A Crim R 189, 205-6).

(b) MR BARRY CATT'S MENTAL HEALTH

77. Mr Catt was diagnosed as a manic depressive. He was admitted to mental institutions either on a voluntary basis or following scheduling by psychiatrists, or pursuant to court orders. He was prescribed medication, most significantly Lithium Carbonate (Lithium) and Clonazepam (Rivotril).

78. Questions relating to Mr Catt's medication are canvassed later, more particularly as to Count 5.

79. His current mental state is also a matter of significance as to his general credibility as a witness at the section 12 hearing

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particularly in light of his evidence that he does not regard himself as suffering from any mental illness and that he has ceased taking medication.

80. Mr Catt's assessment is inconsistent with my observation of him in the witness box. He was verbose, rambling, and at times irrelevant to the point of incomprehensibility. In light of the view which I have formed as to Mr Catt's credibility as a witness in the section 12 hearing, I do not accept his evidence unless supported by independent credible evidence from another source which I do accept.

81. Apart from Mr Catt's general credibility, no issue arises for determination specifically relating to Mr Catt's mental state or his institutionalisation.

82. Nevertheless, it is my assessment of the evidence adduced at the trial that the relevant history of Mr Catt's committal to mental institutions did not support the Crown's case as -constituting part of the accused's "continuing endeavours to have him put away".

83. It would not have been open to the jury, on the evidence, to accept this part of the Crown's case.

84. On two of the three occasions on which he was admitted to a mental institution he was duly scheduled by a specialist medical practitioner.

85. There was a division of opinion on the first admission but there was no suggestion that Dr Richardson, who wrote the schedule, or Dr Kelly, who supported Dr Richardson's opinion, acted in any way unprofessionally.

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86. As to Dr Sandfield's schedule, even Dr Aguado, who seemed generally sympathetic in his evidence towards Mr Catt, seems to have agreed with it because he took the step of obtaining a Magistrate's order for the involuntary holding of Mr Catt as a patient for a period of one month.

87. As to a third admission to Hunter Hospital, this was also in accordance with the terms of a Magistrate's order.

88. An admission to Eversham Clinic was instigated by one Sharon Napper (Clarke) and not Ms Catt and was, according to Mr Catt, a voluntary admission.

89. His admission to Northside Clinic was in accordance with an undertaking which he gave to the Local Court on an application by Ms Catt for an Apprehended Domestic Violence Order which had been adjourned part-heard on 27 May 1988.

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