

VI WEIGHT TO BE GIVEN TO THE EVIDENCE OF THE CATT CHILDREN

(a) THE TRIALS

103. The obvious conclusions to be drawn as to the evidence of all four of the Catt children, Christopher, Sharon, Julie and Tony at the trial of Barry Catt is that the jury were not satisfied beyond reasonable doubt that the account which each of them gave was true.

104. In light of the way in which her Honour left the evidence of the three children, Christopher, Sharon and Julie to the jury in the Roseanne Catt trial, the conclusion to be drawn is that the jury were not satisfied as to the veracity of their evidence even as a matter of reasonable possibility.

105. This follows because her Honour directed the jury that the Crown case depended upon their rejecting the children as being witnesses of truth and that if they had a reasonable doubt as to this that they would "have to acquit the accused" (S/U p191).

106. As will be seen, I have taken the view that this direction extended, and is likely to have been understood by the jury to extend, beyond the sexual assault allegations and particularly to evidence given by the three children at Roseanne Catt's trial in direct support of her version of events as to Counts 1, 2 and 4.

(b) THE SECTION 12 HEARING

107. The last-mentioned conclusion is important because at the section 12 hearing, the Crown, without objection, called all four

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Catt children to say, in effect, that the sexual assault allegations were false; that Ms Catt had put them up to making these false allegations, and that she had deliberately influenced them and coached them into giving false accounts of these and other matters in various courts, and also in other contexts.

108. Their evidence was reversed not only in relation to the sexual assault allegations but also in relation to eg. the "rock" incident,

the "cricket bat/eucalyptus oil" incident and substantially in all other respects in which they had previously given evidence favourable to the case for Ms Catt.

109. In addition, at the section 12 hearing they provided direct evidence, if accepted, that they, at the instigation of Ms Catt and with her active participation, had contaminated the liquids and other food stuffs kept by Mr Catt in his refrigerator in the office at 28 Cornwall Street with overdoses of his prescribed medication as alleged by the Crown in Count 5 of the indictment.

110. The Crown relies on this evidence now given by all four Catt children as converting a "strong" Crown case at trial to an "overwhelming" Crown case on all issues and charges.

111. As to their evidence at the section 12 hearing, Mr Martin, then of counsel for Ms Catt, in his (incomplete) written submissions, relies on what he describes as "perjury" on previous occasions committed by the Catt children, their out-of-court prior inconsistent statements, and other inconsistencies, as showing fabrication and collusion between the Catt children inter se and Mr Newell, a Crown witness.

112. The Catt children have, according to their current versions, told lies in great detail of a kind designed to secure the conviction of

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their own father of major sexual offences at committal proceedings and at his trial. The jury, having declined to act on their version at Barry Catt's trial, three of them subsequently gave evidence at Roseanne Catt's trial, and, on the assumption which must be made, that the jury accepted her Honour's directions, the jury found beyond reasonable doubt that those three were lying in Roseanne Catt's trial.

113. In addition, on the assumption which I have made that it is likely that the remarks of Woods J were brought to their attention, all four were under continuing threat of investigation and perhaps prosecution for perjury if they maintained their previous versions at Roseanne Catt's trial. Three of them nevertheless did so.

114. Having regard to the diametrically inconsistent versions given by each of them on oath in various proceedings, one approach

might be to simply set aside the whole of their evidence at the section 12 hearing as lacking any credibility at all as to any contested issue.

115. I have decided not to adopt this approach. Each of these witnesses claims as a child to have been heavily under the influence of Ms Catt when making the sexual assault allegations, making other out-of-court statements and in giving evidence supportive of Ms Catt's case as to eg. the "rock" incident and the "cricket bat/eucalyptus oil" incident, etc. Each of them also gave evidence of "coaching" by Ms Catt in Dapto aided by a former det sgt of the New South Wales Police, Gordon Henderson, whilst Ms Catt was on bail awaiting her trial. These matters must, of course, be given due consideration. The fact remains, however, that they have been found not to be witnesses of truth.

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(c) THE GENERAL PROCESS OF CONVERSION

116. Following the conviction of Ms Catt and her incarceration, the children went to live with one of Ms Catt's sisters, Ms Dawn Lawson (not called at the trial nor in the section 12 hearing).

117. According to the children's evidence, they only started to disclose to Ms Lawson what each of them now claims to be the true position after Ms Catt was sentenced and they were no longer under her influence. The Crown relies upon the fact that it was almost immediately after they got out of the sphere of influence of Ms Catt that they commenced the drastic revision of their accounts of relevant matters.

118. Thereafter, for the purposes of the 1993 Appeal, Christopher and Sharon Catt swore affidavits which continued the process of revision leading to their yet more detailed evidence at the section 12 hearing (H.Ex 22 and 28).

119. In October 2001, Christopher and Tony Catt made oral statements on a 60 Minutes television programme generally affirming their revised version (H.Ex 11).

120. Shortly prior to each of the four children giving evidence at the section 12 hearing they were interviewed by police officers assisting the Crown in the presentation of its case for the purposes of the hearing, and gave versions generally consistent with their evidence. This was done in interrogatory

form and there is no hint, as I read the transcripts, of any undue or improper pressure or suggestion by those police (as to Christopher Catt, H.Ex 21; as to Sharon Catt, H.Ex 27; as to Julie Catt, H.Ex 18; and as to Tony Catt, H.Ex 19).

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121. Finally, in the section 12 hearing, each of them gave a comprehensive reversal of evidence given on oath on previous occasions as to alleged sexual assaults by Mr Catt and others, and provided other substantial support for the Crown's case in the way of direct evidence on which the Crown relies as to some of the substantive counts in the indictment.

(d) INTERNAL INCONSISTENCIES AND POSSIBILITY OF COLLUSION

122. Some suspicion of collusion, and perhaps of coaching by others, as for example Mr Newell or Mr Catt, as to their current versions is engendered by the complete and comprehensive nature of the "conversion" of these witnesses. There are also parts of their evidence which give some grounds for concern.

123. Christopher Catt is recorded as having informed the presenters of the 60 Minutes television programme that in a drawer in the en suite of the main bedroom occupied by Ms Catt at 1 Cornwall Street he had previously seen the handle of a "pistol". This tends to support the Crown's case, if true, as to Count 9. In his pre-evidence interview, however, he told the police that what he thought he had seen was "just a cap gun" (H.Ex 21, Q&A 219).

124. Tony Catt and Christopher Catt alleged at the trial of Barry Catt that they had been sexually assaulted by Mr Catt to the point of penile/anal penetration. They now assert no such sexual assault. Indeed, Tony Catt now alleges that he had only been sexually abused by Ms Catt (see H.Ex 11).

125. Sharon Catt (as with Christopher Catt) indicated during the section 12 hearing a close and continuing contact with Mr Newell as a family friend who had taken a sympathetic interest

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in Mr Catt's well-being, and as a witness. Sharon Catt said that Mr Newell had been in touch with her at about the time of the preparation of the 60 Minutes television programme, circa

October 1991. In addition, whilst giving evidence at the section 12 hearing, she said that she had been in touch with Mr Newell about an aspect of one of her statements as to which she said she was in some confusion. Mr Newell it seems had a set of her statements. This and other activities of Mr Newell have generated allegations of collusion.

126. Julie Catt in the trial of Barry Catt had said that she could remember when she was about one year old and still in nappies, that Mr Catt had vaginally penetrated her with his penis. I find it difficult to accept that an allegation in those terms was suggested to her by any adult. She resiled at the section 12 hearing from any allegation of sexual interference with her by her father.

(e) MEDICAL EVIDENCE NOT ADMITTED AT THE TRIAL

127. There is in evidence in the section 12 hearing, a transcript of the evidence at trial on the voir dire of Drs Cooper and Rack who, at the request of FACS, examined the four children after the making of the sexual assault allegations. Senior counsel for Ms Catt had sought to introduce this evidence before the jury but her Honour ruled it inadmissible although he was permitted, in light of the issue as to Ms Catt's state of mind, to adduce evidence from her as to what the doctors had told her.

128. The Crown, having called all four Catt children at the section 12 hearing to affirmatively assert the falsity of previous allegations made, put in issue the truth of the sexual allegations and the evidence of the doctors now becomes directly relevant.

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(f) DRS COOPER AND RACK

129. The evidence of Drs Cooper and Rack (Pt H.Ex JJJJ) is supportive of the conclusion that at least Sharon and Julie Catt, at some time, had been sexually interfered with by someone to the point of penetration.

130. The evidence is not, of course, corroborative of any relevant act having been done by Mr Catt but it is relevant, and in my view important, when considering the credibility of these two witnesses.

131. The Crown's case at the trial of Roseanne Catt, however, was not limited to alleging total fabrication by Ms Catt of allegations of sexual assault and inducing the children to give that in evidence. Presumably as a "fall back" position, the Crown also asserted that she had promoted and exaggerated allegations which may have had a grain of truth but so as falsely to include serious sexual acts by Mr Catt. In either case, alleged the Crown, her motive was to induce revulsion among any of his friends and acquaintances who might otherwise have been expected to support him.

(g) DR WILLIAMS

132. Her Honour, at the Roseanne Catt trial, also rejected evidence from Dr Williams, psychiatrist, of her expert opinion as to whether the Catt children had been coached in the making of sexual assault allegations, essentially on the basis that specialist psychiatrists are in no better position than lay persons to make such an assessment and that there is no recognised body of expertise to base that opinion. On this issue the Crown also called Dr Walker on the voir dire (see evidence on the voir dire, H.Ex VVVVV p 3631-45).

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133. At the section 12 hearing, Dr Williams said that Christopher, Sharon and Julie Catt had been brought to see her by someone from FACS. She said that she understood Tony was then in Queensland. She said she maintained contact with the other three children until September 1991, and several times after the conviction of Ms Catt.

134. Dr Williams said that at no time in speaking to the children did they alter the version that they had given of alleged sexual abuse. According to Dr Williams, Christopher Catt who at the section 12 hearing had alleged that he was sexually abused by Mr Bridge, Ms Catt's son, told her that he would like to grow up like Mr Bridge because he admired him very much and regarded him as a brother.

135. Dr Williams gave evidence of what is described as "the accommodation syndrome" in the specialist literature. She said it occurs when children who have been abused sexually reverse their statements when interviewed by another person in order to accommodate the wishes of the interviewer.

136. The doctor did not say whether in her opinion the recantation of versions given by the three Catt children she had counselled were explicable by the "accommodation syndrome".

137. The only assistance I get from Dr Williams' evidence is that, following the incarceration of Ms Catt, none of the three children resiled from previous versions.

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(h) CONCLUSIONS AS TO WEIGHT TO BE GIVEN TO EVIDENCE AT SECTION 12 HEARING OF THE CATT CHILDREN

138. A jury rejected the evidence of all four of the Catt children at the trial of Barry Catt to the effect that they were sexually assaulted by him. Evidence they now give to the effect that they were not, is accepted on that issue. This is because it is clear that the jury rejected their evidence on the basis that they may have been subjected to pressure by Ms Catt.

139. A jury at the trial of Roseanne Catt found beyond reasonable doubt that three of the Catt children, Christopher, Sharon and Julie, were not witnesses of truth as to the "rock" incident (Counts 1 and 2) and the "cricket bat/eucalyptus oil" incident (Count 4). Evidence now given by them to the opposite effect and consistent with the jury's verdicts as to these counts, although from an unreliable source, may nevertheless provide some support for the Crown's case on these counts.

140. Where no previous version was given by any of the Catt children and reversed at the section 12 hearing so as to be now consistent with a verdict of the jury in the trial of Ms Roseanne Catt, evidence now given at the section 12 hearing is not accepted by me because it comes from an unreliable source (c/f *Davies and Cody v The King* (1937) 57 CLR 170, 183-5). This is so because one jury has already rejected the evidence of all four as not coming from witnesses of truth and another has reached the same conclusion as to three of them beyond reasonable doubt. Therefore the evidence of the Catt children at the section 12 hearing as to Counts 5 and 9 is not accepted by me.

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