War crimes evidence 'inadequate'

By DAVID BEVAN

The case against Adelaide pensioner Ivan Polyukhovich was so inadequate he should never have to face a jury, the Adelaide Magistrates Court has been told.

The submission was made yesterday by senior defence lawyer Mr Michael David, QC, who argued the evidence produced during Polyukhovich's committal hearing was "incredible" "manifestly self-contradictory" and "totally unsatisfactory". The prosecution in turn urged magistrate Mr Kelvyn Prescott to commit Polyukhovich to the Supreme Court to stand trial for his alleged involvement in the liquidation of a Jewish ghetto and the murder of 17 people during World War II.

Prosecutor Mr Greg James, QC, rejected the suggestion the prosecution case was a "hotchpotch" of evidence. He said so-called "spectacular inconsistencies" in the evidence were almost always regarding peripheral issues or were in fact not inconsistent at all.

During Australia's first European war crimes hearing, the prosecution called 27 witness from Ukraine, Israel and North America who lived in the Berniki region of Ukraine in 1942-43.

Of these, seven gave evidence linking Polyukhovich to the alleged offences.

Much of yesterday's argument concerned just what a magistrate needed to believe in order to commit a person to stand trial.

Mr James said a magistrate had to take the prosecution case at its highest and could only reject evidence if it was "so inherently incredible that no reasonable person would accept it as true".

Mr David argued that even if all of the defence submissions on the law were rejected the evidence produced at the committal came well within the description "so incredible" or "manifestly self-contradictory" and was simply insufficient to put Polyukhovich on trial.

Mr David said generally there was only one eyewitness to each of the offences allegedly committed 50 years ago.

"Evidence of that type, as the basis for committing a defendant for trial on a serious charge, is totally unsatisfactory," he claimed.

Mr David said the "vital" charges were counts one to three which dealt with Polyukhovich's alleged involvement in the rounding up of the Berniki Jews and their extermination at a pit outside the village in about August, 1942. "The evidence supporting counts one, two and three rests entirely on the internally and externally inconsistent eyewitness accounts of (two witnesses)," Mr David said.

He said the committal had been "plagued from beginning to end" with the problem of deciding what witnesses saw and what they had heard from other people.

Under the War Crimes Act the prosecution has to show Polyukhovich was pursuing a German policy of racial or political persecution at the time of the alleged offences.

The defence argued the prosecution had to go further and show Polyukhovich was aware he was following this policy.

"There is no evidence from which it can be inferred that the accused knew that the killings were committed in the course of political, racial or religious persecution of the Jewish people of Europe," Mr David said.

"There's no evidence he was a German, or was part of a German force."

There was no evidence Polyukhovich had ever received any instructions regarding the (Berniki) extermination, of which there is no historical record.

The last charge, involving the alleged murder of five people, relied on the evidence of a man who had not seen Polyukhovich before or since the event and whose evidence was contaminated by having seen a photograph of Polyukhovich and a newspaper article.

The prosecution is expected to finish submissions today.

Slippery customer gets Premier's approval

Looks good . . . tastes good . . . is good: Mr Bannon finds a South Australian oyster worthy of his gastronomic seal of approval at OYSA's marketing launch yesterday. Picture: STEVE MORENOS

It was more slippery than a State Bank profit, almost as expensive as a royal commission and unfortunately contained no pearl of wisdom for our beleaguered Premier.

But this South Australian oyster received Mr Bannon's wholehearted gastronomic seal of approval yesterday.

Mr Bannon was launching a new marketing body which aims to make the South Australian oyster more popular than the Sydney rock oyster.

The Premier looked pensive as the mollusc slipped down his throat.

Shortly afterwards, however, he expressed his delight at the homegrown product.

The new organisation, trading as OYSA — Oysters SA — was initiated by the SA Oyster Growers Association and hopes to have 20 per cent of the SA market by the end of the year.

"Once we have won over the local market we will move interstate and then overseas as we produce more and more top quality oysters," said OYSA president Mr Leon Veerhuis.

"It is a rapid growth industry which had only two full-time leases in SA six years ago, more than 20 now and a further 61 in stages of development.

"Now that we are getting together as a united force we should be able to increase production from seven million a year now to 25 million in five years."

To promote OYSA, oyster farmers and a dozen Southern Vales wineries will join forces on Sunday to present From the Sea and the Vines, serving natural oysters for $5 a half dozen and wine at $2 a glass.

Aussie taxi runs up a $12,000 fare

MELBOURNE: If you've ever wondered how much it would cost to catch a taxi around Australia, the answer is $12,340.

Bret Robinson knows because he has just driven a Silver Top taxi around the country as part of a Ford economy run.

"As the taxi driver I'm entitled to half of that," Bret joked, as he stepped from his six-cylinder four-litre Ford sedan yesterday.

His "passenger" and observer verifying petrol consumption was Dick Murphy, from the Victoria Police Motor Sports Club — who was not rushing to pick up the bill.

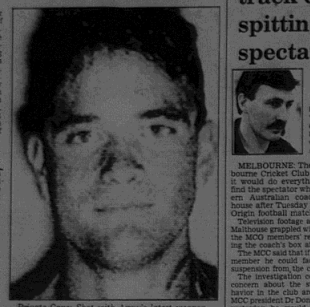
He didn't have people trying to hail the taxi in Fitzroy Crossing or Port Hedland "but I did get some strange looks".

Driving as economically as possible without using tricks such as rolling down hills, Bret covered the 14,856km trip spending $671.34 on liquefied petroleum gas and averaging 9.5 litres per 100kms (29.65 miles per gallon).

Another Ford — using unleaded fuel — covered the trip at a cost of $734.51 in fuel, an average of 6.6 litres per 100 kms (42.62 miles per gallon), which sets a standard that Ford hopes will make the Guinness Book of Records.

The unleaded petrol ended up not much more expensive because of the relatively high price of LPG in rural areas.

Heath accidental



Private Cave: Shot with Army's latest weapon.

MCC out to track down spitting spectator

Mick Malthouse: "There's a difference between quick wit and quick spit."

MELBOURNE: The highbrow Melbourne Cricket Club said yesterday it would do everything possible to find the spectator who spat on Western Australian coach Mick Malthouse after Tuesday night's State of Origin football match.

Television footage also showed that Malthouse grappled with a spectator in the MCG members' reserve after leaving the coach's box after the match.

The MCC said that if the culprit was a member he could face expulsion or suspension from the club.

The investigation comes amid club concern about the standards of behavior in the club area at the MCG. MCC president Dr Donald Cordner said yesterday he would investigate the incident but he also said an MCC member might not be responsible. "We have lots of people in the members reserve who are not members, but guests of members," he said.

The assistant to the MCC general manager, Mr Peter French, said the club would watch television footage of the incident to try to identify the person.

He said standards of behavior in the members' reserve appeared to be failing.

● PAGE 33: SA may play Origin match against WA

Malthouse said last night he did not "very much like being spat on".

"It seems to be the same group of people every time . . . some of the stuff that is said is quite comical, but there's a difference between quick wit and quick spit," he said.

Recently, the MCC cracked down on swearing by over-enthusiastic fans in the members' reserve.

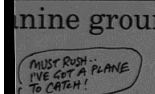
The club's newsletter, MCC News, which is sent to 50,000 people, declared "Offenders will be dealt with very severely". It said supporters abusing umpires had been a problem over the past two seasons.

According to the latest survey, half the people in the MCG members reserve were guests — 30 per cent were the lads of the Melbourne Football Club, 20 per cent of Carlton, 20 per cent Collingwood and 18 per cent Essendon.

Police have evicted 261 spectators from football matches this season for swearing. During MCG matches police have arrested 22 spectators for drunkenness, booked five for offensive behavior, and arrested 11 for assault, five for resisting arrest, seven for trespassing and 14 for throwing objects.

George Tavlelei, of 6 RAR, tries out the new Steyr semi-automatic rifle.

Engine grounds planes



said its 737 flight from Melbourne was forced to land on a second runway, and another Australian flight to Cairns was delayed three minutes before it could take off.

The FAC spokeswoman said the Qantas flight had to circle above the runway until it was cleared.

It is the second time this year animals have ruffled the fur of Sydney Airport staff.

On February 11, a kitten stuck in the electronic equipment under the cockpit of an Australian Airlines plane grounded the aircraft for six hours.

On that occasion an airline staff member adopted it.

The RSPCA warned people to hand animals in to local councils or animal shelters so they do not get hit by cars or become a nuisance.

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