

COURTS AND THE LAW

Gold bullion dealer accused of laundering \$2m from drug proceeds

SYDNEY: A former gold bullion dealer appeared in court yesterday accused of laundering money from a \$77 million international drug smuggling deal.

After a three-year inquiry, the National Crime Authority summonsed Paul John Casey, 43, of Annandale, Sydney, on 12 charges concerning the laundering of

more than \$2 million. Giving evidence at St James Local Court, NCA officer Timothy Morris said that in January, 1989, Ian Saxon, his brother Lloyd Saxon, Gary Morton and an indemnified witness known as "Mr Andrews" had imported 10 tonnes of hashish aboard the boat Rolling Thunder. Mr Morris alleged that Ian Sax-

on used a company called Citizens Gold Bullion Exchange Pty Ltd to launder proceeds from the hashish, which had an estimated street value of \$77 million.

Casey was the operations manager for Citizens Gold, employed by former Australian resident Fabio Benjamin Garcia, 54, who left Australia in 1989.

The NCA arrested Garcia in Los Angeles last week on charges similar to those brought against Casey, and plan to extradite him.

Magistrate Derek Price heard NCA allegations that the proceeds of the drugs deal were used to buy and sell gold through Casey's company in Hong Kong, Dubai and the United Arab Emirates.

"It is to be argued... that Garcia and Casey were acting in league to export gold supplied with cash supplied by Saxon," Mr Morris said in a statement.

"The gold would be sold offshore and the proceeds were forwarded to accounts nominated by Saxon."

direct involvement totalled more than \$2 million worth of gold.

Michael Poberczny, appearing for the Director of Public Prosecutions, applied to have the matter adjourned for two weeks to allow Garcia's extradition to go through so the two matters could be heard together.

Conditional bail was granted, with a surety of \$50,000. Casey did not agree to the surety and was taken into custody.

The matter was adjourned and will resume at St James court on August 24.

Manager is suspected of 'torching'

MELBOURNE: A former manager of Melbourne's Swagman restaurant was suspected of torching the popular family nightspot, a court heard yesterday.

Senior Constable Stuart Frith told the Victorian Supreme Court that while on patrol in a divisional van about half-an-hour before the fire of May 27, 1991, he stopped manager and part-owner Paul Engler as he drove out of the Swagman's car park.

It was close to 4am and Mr Engler appeared fidgety as he was asked to show police his licence, Senior Constable Frith said.

He received a call at 4.30am, to say that the restaurant, on the Burwood Highway at Ferntree Gully in the Dandenongs, was on fire, and rushed to the scene.

About an hour later he accompanied detectives to the home of Mr Engler, who lived about 800 metres from the Swagman.

Under cross-examination, Senior Const Frith agreed that at the time Mr Engler was interviewed he was a suspect for arson.

Several companies associated with the Swagman are suing the Royal Insurance Australia company over its refusal to pay out on the restaurant's \$11 million insurance policy.

When the hearing began on Friday, the insurance company's counsel, Bill Gillard, QC, said payment had not been made because Royal Insurance believed it had been the victim of fraud.

He alleged that six people who were either directors, part-owners or employees of the Swagman, including Mr Engler, had conspired to light the fire and then claim the insurance.

The motive was the "clear financial gain" to be made at a time of recession and falling patronage when the restaurant owed \$6.8 million to the ANZ bank, Mr Gillard said.

The hearing is continuing.

Remand costs \$122,640 a head, Connolly admits

By PETER CLACK, City Reporter

The Minister for Housing and Community Services, Terry Connolly, confirmed yesterday that it had cost the ACT Government \$122,640 a head to house inmates at Belconnen Remand Centre in 1991-92.

The main reason for the increased costs were a 12 per cent decrease in days in custody, security costs while detainees were in hospital, and new psychiatric services and special care units.

Mr Connolly said "simple maths" showed that as detainee numbers fell, the cost for each detainee would increase.

He was responding to allegations by the Liberal Party of a "cost blow-out" of \$25,000 a year for each inmate with serious implications for the \$8 million a year corrections budget.

The shadow attorney-general, Gary Humphries, said it now cost \$122,640 a year, or \$336 a day, to keep a detainee at the centre awaiting trial.

Mr Humphries said figures supplied to him showed it had cost \$98,000 a year, or \$268 a day, to keep a detainee at the centre in 1990-91.

"These costs are totally excessive, particularly when the annual cost of keeping a detainee on remand in NSW is just \$48,000 and at a time when inflation is almost negligible," he said.

He said it would be easy for the Opposition to accuse the Labor Government of waste and mismanagement, but he accepted the "excuse" that difficulties at the centre had contributed to the blow-out.

Mr Humphries said the territory had inherited a "totally inappropriate and inhumane" facility that would continue to drain resources.

The Government must contain costs

at the centre by better staffing efficiencies and flexible work practices, and also act to replace the centre with a prison-remand centre under contract in the private sector.

Mr Connolly said fixed costs for each detainee, \$336 last year, were expected to fall this financial year because of work-place reform recently negotiated with unions and management.

He said remanding detainees was "an expensive proposition" and that Mr Humphries was well aware of it.

"The ACT experience with building and operating a small custodial institution designed to accommodate all categories of remandee has ensured that the Government will treat with great caution any claims that the ACT can build and operate a new custodial complex or prison at a lower or even comparable cost than other jurisdictions," Mr Connolly said.



Gary Humphries: costs totally excessive.

Fridge repairs result in injury, not payment: court

A refrigerator repair man was punched in the head three times by a customer who refused to pay an account, the ACT Magistrates Court heard yesterday.

Phillip Paul Jackson, a refrigerator engineer, told Magistrate John Dainer that he had been asked by Nayaz Kulenovic, 54, of Downer, to fix a refrigerator in early November, 1991.

Mr Jackson said that the fridge needed a new motor and took it away, quoting \$440 for the repairs, which was to be paid when the fridge was delivered.

Jackson bought the fridge back two days later, but Kulenovic said he only had \$200 and could not pay the rest until the insurance money came through.

After many phone calls Jackson had still not been paid and on December 11, he phoned Kulenovic to warn that if the money was not paid Jackson would sue.

Kulenovic had said the fridge was not working, and wanted Jackson to come and fix it again.

Jackson told the court that he had gone to look at the fridge about 3pm. He could find nothing wrong with it, and

demanding his money. Kulenovic said he would not pay unless the fridge was repaired, so Jackson told him he would sue.

Jackson said that Kulenovic had then hit him in the left eye. He had pushed Kulenovic away, but was punched by him again, this time on the mouth. Jackson said he was then held by a young male, and was hit again in the mouth, breaking his front teeth. He said he tried to call the police, but was stopped from using the phone. He then went outside and called the police on his mobile phone. Kulenovic told the court that he

had been the one to make the call, and had offered to pay Jackson the money.

He said that Jackson had struck him first, with a spanner, and had yelled, "I want my money, I want my money." Jackson had started it all by trying to grab a cheque book.

Mr Dainer said he did not believe Kulenovic's version of events and found one count of assault occasioning actual bodily harm to be proven, but did not record a conviction. Because Kulenovic had no prior convictions, he placed him on a six-month, \$1000 good-behaviour bond.

Suspended sentence after guilty plea over heroin

By GILLIAN FIELD

A man who pleaded guilty to possessing heroin was given a suspended sentence yesterday in the Supreme Court on the condition that he continue treatment for drug dependency and mental illness.

Chief Justice Jeffrey Miles said he accepted that Andrew Colin Scott Carn, 36, of Narrabundah, had no intention of selling heroin, and had been forced to get more of the drug than he had wanted.

Justice Miles also said that the crime had been done with a background of heroin addiction and mental illness.

Police evidence was that Carn was arrested on May 19, 1991. He had 8.521g of a white substance hidden in a condom in his rectum, 2.13g of it pure heroin. The traffickable amount is 2g.

Carn told the court he suffered from severe back problems after an accident, and had lost his job because he could not work. He was an addict, and the heroin helped him cope.

He had gone to Sydney to get some heroin on credit, and had only wanted a gram or so for his own use, but had

been told he must take more if he wanted any at all.

The court heard that Carn had appeared in the Magistrates Court in February on a theft charge and had been placed on a drugs of dependence order for a year. He had appeared again, in March, on a burglary charge, and had been assessed by a psychiatrist as being mentally ill in a report tendered to the court in May. The burglary charges had been adjourned until September so the court could check on the progress of his treatment, and Carn was put on bail.

Carn said that since he had begun treatment for his illness he had felt much better because he knew the cause of his problems.

Justice Miles said it was important to remind everyone of the seriousness of trafficking heroin, and the dangers of having a traffickable amount "foisted upon you". He accepted Carn had bought the drug for his own use.

Carn was given an 18-month suspended sentence, and put on a three-year, \$5000 good-behaviour bond on the condition that he observe the drugs of dependence order already made by the Magistrates Court, and report to Adult Corrective Services.

Alleged abuse victim was not questioned, court told

SYDNEY: A 14-year-old girl from a religious sect had not been questioned during three days of interviews over allegations she was sexually abused by adult members of the group, the Department of Community Services told a Sydney court yesterday.

The department also admitted that it had not raised the allegations with the girl after she was taken into care by the department along with 65 other children belonging to The Family, following dawn raids on the sect's homes in May.

Pauline Rockley, in charge of the department's investigating team, told Cobham Children's Court in Sydney the west that she could not say why the girl had not been asked about the sexual practices of the group, an issue vital to the case against the sect.

The department has alleged all the children have been or are in danger of being sexually and emotionally abused.

Ms Rockley said the department believed the children were being abused on the basis of interviews with former members, literature seized from the sect's houses, and police records.

Counsel for the children Mark

Trench, asked Ms Rockley whether it was "normal department practice to proceed with a care application without giving the child the opportunity to answer questions on the matter".

She answered, "I have no justification as to why the questions weren't asked."

Earlier yesterday, the court was told the department should define what it meant by sexual abuse before the hearing continued. It was incredible the department could take children from their homes when it could not define its own terms, counsel for the parents, Robert Cavanagh, said.

But Magistrate Ian Forsyth said the court did not need a precise definition in order for evidence to be heard — all he had to do was decide whether the children were in need of care.

A Melbourne judge dismissed a police application for a supervision order on eight children from The Family.

The Melbourne Children's Court magistrate said he agreed the children suffered some emotional and psychological harm because of social isolation and a narrow education.

But he was not satisfied the children were likely to have their emotional and psychological development "significantly" damaged.

The magistrate said he could find no evidence of sexual or physical abuse.

In his ruling, the magistrate said the court had "entered dangerous territory" when it was called on to inquire into the sect's practices. He said he had misgivings over whether the case fell within the mandate of the Children's Court.

A police officer involved in the investigation later told reporters she respected the magistrate's ruling and did not see it as a loss.

"We had protective concerns in relation to the children and we put our case to the court — but the law changed half way through our case," she said.

When the application was made, the law required the police to prove that the children's emotional development was in jeopardy.

"But things changed and it then became a case of having to prove 'significant harm'," she said.

Police had never sought to remove the children from their home, she said.

LAW LIST FOR TODAY

HIGH COURT
Before Justice Toobey, in Court 4, 8th floor, 251 Adelaide Terrace, Perth, at 10am: Wynnes Pty Limited and others v Western Australian Meat Marketing Corporation and another. At 10.30am: Utemorrah and others v The Commonwealth of Australia and another.

FAMILY COURT
Before Justice Finn, in Court 1, at 10am: Hawcroft, At 2.15pm: Poole/Moran.
Before Deputy Registrar O'Rourke, in Court 3, at 10am: Carr, At 11am: Hobday, At noon: Spindler, At 2.15pm: Grosvener.
Before Deputy Registrar Morrissey, in Court 4, at 9.30am: MacPherson, At 2.15pm: Towers.

ACT SUPREME COURT
Before Chief Justice Miles, in Court 1, ACT Law Courts, at 9.30am today: Sentence: R v Brooks.
Before Justice Higgins, in Court 1, at 10am: Hearing: Moore v Australian War Memorial.
Before Justice Morling, in Court 2, at 10am: Appeal: Eastman v Magistrate W. K. Nicholl and another.

Before the Master, in Court 1, at 9.30am: Directions: Rech v FRC Employees Pty Ltd and others. At 10am: Hearing: Maly v Mudd; Maly v Mudd; Daniel v Commonwealth of Australia.

ADMINISTRATIVE TRIBUNAL
Before Dr Travers, Member, Conference Room 1, 3rd floor, AMP Building, Hobart Place, Canberra. Conference: At 10am: Bills and Repatriation Commission. At 11.30am: Bowen and Repatriation Commission. At 12.15pm: Shands and Repatriation Commission. At 2pm: Nelson and Repatriation Commission. At 2.45pm: Keating and Repatriation Commission. Telephone Conference: At 10.45am: Ripper and Repatriation Commission. At 1pm: Davis and Repatriation Commission. At 3.30pm: Sibra and Repatriation Commission.

Man 'not dead of bad heart and alcoholism'

MELBOURNE: The family of a man who died after undergoing a drug-induced sleep therapy rejected the view that he died from a heart condition and alcoholism, a court heard yesterday.

Kevin Joseph Storey, 49, died on February 25, 1975, in a private hospital at the end of a month-long drug treatment which rendered him unconscious for several hours, his widow Eileen told the Melbourne Coroners Court.

The family did not receive a death certificate and it was "shocked and puzzled" in 1990 to find that it mentioned a heart problem, 15 years of alcoholism and emphysema, Mrs Storey said.

"I never considered Kevin had a drinking problem and he was not an alcoholic," she told Deputy State Coroner Wendy

Wilmoth. Her daughter Lorretta Strang said her father had been a teetotaler since 1972.

Mrs Storey, a former nursing sister, said she had been married for 29 years and her husband showed no signs of a heart problem.

On the advice of psychiatrist Arthur Klepfisz he was admitted to the Newhaven Private Hospital, in the eastern suburb of Kew, in January, 1975, for four or five weeks of drug therapy, she said.

During the treatment his condition deteriorated, he was unsteady on his feet and unable to do simple tasks like open a tobacco tin or roll a cigarette, she said.

Mrs Strang said her father had been in good health until her grandparents died. He had only rarely drunk beer and had ceased drinking

altogether years before he died.

After reading a newspaper article in 1990 about the hospital where her father died she contacted the Citizens Commission on Human Rights.

It was then that she first saw a copy of the death certificate, the court heard.

CCHR is a part of the Church of Scientology, which investigates alleged psychiatric violations of human rights.

The group's involvement partly led to the inquest being held, and it had also pushed for the Royal Commission into the Chelmsford Hospital in NSW which found that at least 26 people had died after receiving deep-sleep therapy during the 1960s and 1970s.

The hearing with about 20 witnesses is continuing.

Ukraine war criminal to testify in SA trial

ADELAIDE: A man convicted of war crimes in the Ukraine will testify that 68-year-old South Australian pensioner Heinrich Wagner was involved in the massacre of Jewish children in 1942, an Adelaide court heard yesterday.

Former Ukrainian policeman Ivan Zhilun, who was sentenced to 25 years' jail in 1947 for his part in war atrocities in Nazi-occupied Ukraine, claims the children were taken on a cart to a forest where they were shot by a number of men, including a man he alleges was Wagner.

Mr Zhilun also claims this man escorted Jewish prisoners from the village of Israelovka to a pit where they were later shot and buried.

Parts of Mr Zhilun's sworn statement were revealed in court yesterday. He is expected to testify later this month.

Wagner is charged with having murdered 19 children and a railway construction worker and with being involved in the murder of 104 people.

Prosecutor John Nader, QC, in his opening address, said the prosecution would seek to prove Wagner lied in a statement made after he was arrested in the Ukraine when he alleged offences took place.

Mr Nader said he would call a witness who claimed he saw Wagner a number of times near the Ukrainian town of Ustinovska during 1943.

Wagner's alibi was that he spent much of that time involved in police training in Vienna.

The committal hearing before magistrate Kym Bosall will continue in the Adelaide Magistrates Court today.

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Boy 'may have been bragging' over sex claim

SYDNEY: A seven-year-old boy may have been bragging when he claimed he saw six adults making love, a court was told yesterday.

The boy's claim was raised during a hearing at Cobham Children's Court involving a care application by the Department of Community Services for 65 children belonging to the religious sect known as The Family.

The department has alleged the children are being sexually and emotionally abused by their parents.

Ms Pauline Rockley, in charge of the department's investigating team, told the court yesterday the boy told welfare officers he saw several people in bed "making love".

But counsel for the children, Mark Trench, said the boy could have been bragging or might have been confused by what he saw, and that his age meant his memory was unreliable. He also said there was no evidence ruling out the possibility that the boy had stumbled by accident upon the adults.

Earlier, the court was told by Mr Trench that the department should define exactly what it meant by sexual abuse.

But Magistrate Ian Forsyth said the court did not need a precise definition in order for evidence to be heard — all he had to do was decide whether the children were in need of care.

The case was adjourned until today.

Charged over kangaroo kills

SYDNEY: Two men have been arrested in the Snowy Mountains for allegedly shooting kangaroos within a national park, police said.

A police spokesman said a 20-year-old from Coomandarra and an 18-year-old from Harden, both in south-eastern NSW, were charged and arrested at Tumut Police Station on Saturday.

They were charged with removing native fauna from Kosciuszko National Park and discharging a firearm in a public place.

The men were hunting the kangaroos within 100 metres of a popular camping spot off the Snowy Mountains Highway.

Several 22 rifle were confiscated as well as the hind legs of six eastern grey kangaroos, police said.

The two men were released on unconditional bail and are due to appear in Tumut Local Court on September 10.

DRINK-DRIVING
Four people were dealt with in the ACT Magistrates Court yesterday for drink-driving offences.

Before Special Magistrate Marcus Banister, Stephen Pavlovic, 36, of Lipscomb Place Macgregor, pleaded guilty of an offence on November 15, 1991, on Antill Street, Breathalyzer 0.06, licence cancelled, fined \$1000.

Before Magistrate Warren Nicholl, Richard Andrew Spence, 27, of HMAS Harman, pleaded guilty of an offence on July 29, 1989, on Morhead Drive, Breathalyzer 0.11, fined \$250, licence suspended for three months.

Clifford George Ryan, 61, of Carr Crescent, Wannamassa, pleaded guilty of an offence on April 27, 1992, in Rylah Street car park, Breathalyzer 0.140, no conviction recorded, 18-month \$2000 good-behaviour bond, \$400 donation of St Vincent de Paul.

Jeffrey Freeman Tattan, 27, of Macadam Street, Page, pleaded guilty of an offence on May 1, on Belconnen Way, Breathalyzer 0.170, fined \$350, licence suspended for three months.

Eight people were dealt with in the ACT Magistrates Court on Friday for drink-driving offences.

Before Magistrate Michael Ward, Penelope Jane Crawford, 20, of Tudawali Place, Chapman, pleaded guilty of an offence on March 20, 1992, on Maplestone Place, Breathalyzer 0.190, fined \$500, licence suspended for six months.

Mario Joseph Cruz, 37, of Grote Street, Kambah, pleaded guilty of an offence on June 5, 1992, on Kent Street, Breathalyzer 0.110, no conviction recorded, two years, \$1000 good-behaviour bond.

James Wiley, 20, of Dixon Drive, Holder, pleaded guilty of an offence on May 23, 1992, on Vernon Court, Breathalyzer 0.03, fined \$300, licence suspended for three months.

Paul Bobbin, 21, of Southside Caravan Park, Symonston, pleaded guilty of an offence on May 12, 1992, on Flinders Way, Breathalyzer 0.160, 1992, on Vernon Court, Breathalyzer 0.130, fined \$300, licence suspended for four months.

Andrew David Littlejohn, 21, of Muggleton Place, Bruce, pleaded guilty of an offence on June 8, 1992, on College Street, Breathalyzer 0.210, fined \$800, licence suspended for 10 months.

Glenn Barrington Fitton, 19, of Carstense Street, Griffith, pleaded guilty of an offence on June 14, 1992, on Fairbairn Avenue, Breathalyzer 0.140, fined \$400, licence suspended for six months.

James McGregor Aitken, 25, of Jeffries Street, Torres, pleaded guilty of an offence on June 12, 1992, on Fairbairn Avenue, Breathalyzer 0.180, fined \$500, licence cancelled.

Hugo Alexander Ellwood, 17, of Hawkesbury Crescent, Farrer, pleaded guilty of an offence on June 14, 1992, on the access road to Bunda Street car park, Breathalyzer 0.05, fined \$250, licence suspended for three months.

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