

BROTHERS

JUSTICE

CORRUPTION

AND THE MICKELBERGS

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ANTONIO BUTI
BROTHERS
JUSTICE
CORRUPTION
AND THE MICKELBERGS

If the law represents an expression of moral sentiment,
then police officers stand as instruments of that morality.

Chief Bob Harrison
Vacaville (California) Police Department
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Dedicated to Oxford

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PROLOGUE

Police divers mostly love their job – work that takes them under the temperate waters of the Indian Ocean or the Swan River where, for at least six months of the year, the diving weather is ideal.

But on an otherwise perfect day in 1983, they were not a happy lot, despite the welcoming waters off the coast of Kalbarri. A favoured tourist destination 800 kilometres north of Perth, this was where Raymond and Peter Mickelberg had made a very good living diving for abalone, which was why the police divers were there.

They were frustrated. For months they had painstakingly crawled across the same area of seabed, every centimetre of it, searching for gold. This was not some long-lost treasure trove. This was gold bullion, worth then just in excess of \$650,000 (though commonly reported by the press to be worth more than one million dollars), that had been swindled the year before out of the Perth Mint on Hay Street, situated within the spiritual shadow of nearby St Mary's Cathedral.

Perhaps some Mint officials found solace in this architectural symbol of West Australian Catholicism, but divine intervention was not to spare them embarrassment. The Mint, this emblematic fortress of material wealth, had been breached, and not by professional robbers but by a bold team of swindlers armed with nothing more than a few pieces of worthless paper.

Nor had they stolen cash; that would have been embarrassment enough. This lot had stolen gold – a precious metal treated almost with reverence in Perth. Gold was more than just money and power. Gold was at the core of Western Australia's history.

In 1885, the first discovery of gold in the remote Kimberley region of the north brought an early rush of eager diggers. It was a hard life, and rewards were meagre, except for the few

who struck it rich. Those that did not simply folded their tents and moved to the next field, their hopes fuelled often by nothing more than embellished stories, told by diggers, of the fortunes others had already made there. However, it was in the goldfields of Coolgardie and Kalgoorlie where, in the last decade of the nineteenth century, the romance of gold blossomed, after three Irish prospectors discovered enough gold to change the course of Western Australia's history. This newfound source of wealth was a watershed for the newly self-governing colony. Gold revenues and related income flowed into the Colonial Treasury and Perth prospered.

Although the fortunes of gold waxed and waned throughout the twentieth century, the precious metal never lost its iconic status; nor did the Perth Mint lose its lustre as the shrine at which fortune hunters worshipped. Little wonder then, that when someone violated the shrine, people reacted with shock.

The public expected the police to act quickly and decisively to bring the culprits to account. What they did not expect were the revelations of police corruption that would result. Nor could anyone have imagined that two highly respected police officers would come to violent and tragic ends because they believed their role was to get the job done, no matter what it took. After all, theirs was a noble cause.

Which brings us back to the police divers and their exhaustive but fruitless expedition off the coast at Kalbarri, where two of the leading protagonists in the story of the Perth Mint swindle used to camp and go diving for that other treasure: abalone. As it turned out, it would be a long time before Ray and Peter Mickelberg would again have an opportunity to dive for that seafood gem, because someone had decided they were going to gaol – with or without evidence.

The Perth Mint swindle is a story of intrigue and 'noble cause' corruption that would wreck the lives and reputations of many who played a part in it.

CHAPTER I

IF THE CROWN PLEASES

On a typically hot February morning in Perth, Chief Crown Prosecutor¹ Ron Davies QC² rose to his feet before the Chairman of the District Court,³ Judge Desmond Heenan, to begin his opening address to the jury.⁴

A criminal trial before a judge and jury follows a set procedure. It begins with the prosecutor outlining to the court the nature of the case it will present. Counsel for the accused then has the opportunity to tell the court how it intends to present its defence to the court. After prosecutor and defence counsel have finished these opening addresses, the prosecutor calls and questions all its witnesses, each of whom the defence is entitled to (but does not have to) cross-examine. The sum of all the evidence that the prosecution adduces from its witnesses is the prosecution evidence-in-chief. When the prosecutor has finished, the court invites the defence to do the same thing with its witnesses. In simple terms, counsel thoughtfully and benignly guide their friendly witnesses through the oral examination process to attempt to present the evidence in the most favourable light. It goes without saying that the cross-examiner does their best to extinguish that light.

‘Mr Foreman, ladies and gentlemen, the story you are about to spend certainly the next few days if not weeks on involves a tale of a very clever, but not quite clever enough, planned scheme to obtain gold bullion from the obvious place, the Mint.’

So began the Perth Mint swindle trial on 7 February 1983.

Three men stood accused of the crime. They were brothers Raymond Mickelberg, aged thirty-seven, a former SAS soldier and Vietnam veteran who operated a successful abalone fishing

business in Kalbarri, 800 kilometres north of Perth; Brian, thirty-five, a helicopter pilot operating from Perth's second airport, Jandakot; and the baby of the family, twenty-three year old Peter who worked with Ray as an abalone diver.

On 7 December 1982, the three brothers were indicted⁵ on eight counts.⁶ The first was the general count of conspiracy to defraud the Mint.⁷ It was alleged that, between 1 April 1982 and 23 June 1982, Ray, Brian and Peter conspired to defraud the director of the Perth Mint by inducing him to part with a quantity of gold without being paid for it. The other seven offences were said to have been committed to further the conspiracy. The second was the burglary⁸ offence committed on 7 April 1982 and the stealing of WA Building Society (WABS) cheque forms from the building of Conti Sheffield Estate Agency Pty Ltd. The third count was arson,⁹ committed at the same time, allegedly to cover up the identity of the offenders.

Counts 4 and 5 were charges respectively of burglary and the theft of Perth Building Society (PBS) cheque forms from a Bull Creek real estate agency on 13 May 1982, again with an accompanying offence of arson. Finally, counts 6, 7 and 8 on the indictment alleged that on 22 June 1982 each of the three men falsely claimed to an employee of the director of the Perth Mint that three cheques presented in payment for the bullion were genuine.¹⁰ The two PBS cheques were to the value of \$104,492.50 and \$298,550 and the WABS cheque was for \$249,932.74.

Over ten engrossing days, Davies, a hard-nosed and uncompromising prosecutor, led circumstantial and scientific evidence¹¹ to present a story that might have come from the pages of a crime novel. Crucial to the Crown's case were alleged admissions and statements made by Ray, Brian and Peter to the police that pointed to their involvement in the swindle. Davies was relying on police evidence regarding these admissions to convince the jury that the three accused were guilty as charged. Davies also asserted that 'there are certainly strong hints of other involvement than three persons.' But, he said, all that would mean is that someone had yet to be caught.

Day after day, the Crown introduced its witnesses¹² — more than a hundred in total. Included in their number were many of the police officers and Criminal Investigation Bureau (CIB)

detectives who had been involved in the Mint swindle inquiry. The star witness was head of the inquiry, Detective Sergeant Don Hancock, known as the ‘Silver Fox’ because of his silver grey hair and cunning.

It was apt that Hancock should head an inquiry into missing gold; he came from three generations of gold prospectors. Born at Boulder City in 1937, Hancock worked in the family goldmine at Grants Patch before joining the police force in 1959 aged twenty-two. He spent some time with the Gold Stealing Detection staff and later rose to the head of the CIB and assistant commissioner. In 1988 he was awarded an Australian Police Medal.

Hancock and his partner in the Mint swindle investigation, Detective Sergeant Tony Lewandowski, were the perfect Crown witnesses. They withstood cross-examinations from three defence lawyers,¹³ one for each accused brother. Ron Cannon represented Ray. He had been a brilliant law student at the University of Western Australia in the late 1940s and practised law in Africa and Hong Kong before returning to Perth where he specialised in criminal law. Brian Singleton QC represented young Peter, and Cannon’s nephew, the relatively inexperienced Michael Bowden, represented Brian.

But Hancock and Lewandowski were unflappable. Cannon tried to force Hancock to admit that without the police interviews they had little evidence against Ray. And the notes from those interviews, he accused, were concocted ‘because you were convinced that Ray Mickelberg was guilty and this was the only way to bring him to justice, by admissions?’¹⁴ Cool as a cucumber, Hancock replied, ‘I’m telling you, the interview was not concocted.’ Hancock’s loyal offsideer Lewandowski followed him to the witness box, and equally calmly supported Hancock’s evidence.

With their multitude of witnesses, Davies and his assistant, Senior Assistant Crown Counsel John McKechnie, methodically developed the Crown case.

The court heard that in the two years leading up to the swindle, Raymond and Peter made purchases of gold bullion from the Perth Mint, paying for them with building society cheques. In the several months before the swindle, using the false identities

of Bob Fryer and Mr Blackwood, Ray and Peter regularly phoned the Mint to buy up to \$250,000 of gold when the price dropped below \$300 an ounce. Though the identities were false, the cheque accounts did have the necessary funds to pay for the gold.

The Mint made no effort to check the identity of people buying gold or silver. Its usual practice was to take an order over the phone and assign an order number. The purchaser, or someone acting on their behalf, would attend the Mint, quote the order number, and hand over a cheque in exchange for the gold. As far as the Mint was concerned that was the end of the matter. It seems no one gave any thought to the potential money laundering and tax evasion opportunities this practice created.

On 5 March 1982, Peter signed a six-month lease for a residential unit at 112 Rupert Street, Subiaco. He paid the whole rent in advance. For one referee, Peter offered the name Otto Kleiger, which was in fact one of Ray's many aliases.

The Crown alleged the brothers' next step was to obtain blank building society cheques. On Wednesday 7 April 1982, the premises of Conti Sheffield Estate Agency in North Perth, which was an agency of WABS, were broken into and a bundle of blank WABS cheque forms were stolen. The burglars set fire to the building to cover the theft. Called to the scene, the managing director of the agency saw a small burnt-orange car, which he believed to be either a Mazda or a Toyota, slow down, change lanes and pause outside the building. He noticed three men inside. Suspicious, he attempted to note down the car's registration number. He wrote down the letters XAK and noted that two of the digits were the same. Brian Mickelberg owned an orange Porsche, registration number XRK 500.

The mysterious Bob Fryer re-entered the story on 27 or 28 April 1982. By phone, he rented business premises at Suite 3, Barker House, Hay Street, Subiaco, without any prior inspection, paying the rent and the bond by untraceable bank cheque. A courier delivered the key to 'Fryer'. Less than a month later, a man calling himself Frank Harrison rented the nearby Suite 15, also without prior inspection, and had a telephone service connected in that name.

On 13 May 1982, burglars broke into a real estate agency in Bull Creek, a southern suburb of Perth. They stole a bundle of blank

PBS cheques and set fire to the building to cover their traces.

Twelve days later, on Tuesday 25 May 1982, a man calling himself Robert Talbot purchased a 1965 white-coloured Ford Falcon car from a Mr Allen in the outer south-east suburb of Armadale. The Crown alleged Talbot was Peter, dressed in disguise, wearing a wig and dark-rimmed glasses. He gave Mr Allen a slip of paper on which he had printed the words 'Robert Talbot C/o Meekatharra Post Office, Meekatharra' as the address at which he wished to receive the disposal notice.

On Thursday 27 May 1982, PBS issued a cheque for \$20, drawn on a savings account which Ray had opened on 10 March 1976 in the name of Peter Gulley. The cheque was payable to C. Wilson, but never presented. Only two transactions had been processed through that account since 1979. The first was a \$10 cash withdrawal made on 22 April 1982, and the second was the C. Wilson payment. The Crown case was that the building society cheque, drawn on the account Ray had opened in the name of Peter Gulley and made payable to the mysterious C. Wilson, was to serve as a model when the time came to fraudulently fill in details on the stolen blank PBS cheques.

Wilson's name comes up again. A Colin Wilson operated an account with PBS which, unlike the Gulley account, had been very active over the period March 1982 to June 1982. Withdrawals from it were reasonably proximate in time and amounts to the rentals paid for Suite 3, Barker House. The cheque for \$20 withdrawn from the Gulley account had not been deposited into the Wilson account.

On 8 or 9 June 1982, a man using the name Fryer telephoned Peter Duvnjak and engaged him through an employment agency as a temporary driver. He was told to drive a vehicle, fitted with a citizen band (CB) radio, to move geological core samples from Barker House to Jandakot Airport and to other offices in Subiaco.

From 15 June 1982 onwards, security guards from three different firms were hired by phone. They were instructed to collect bank cheques from Suite 3 in Barker House on 22 June and then transport bullion from the Mint to that suite. A young secretary, Jo Armstrong, was also hired, by phone, to be in attendance at the suite.

On 20 June 1982, Duvnjak spoke by phone to a man calling

himself Frank, from Fryer Investments. Duvnjak agreed to use his own car for the work he was to do. His car was fitted with a CB radio. Frank instructed Duvnjak to park his car in Churchill Avenue, a street running parallel to Hay Street in Subiaco. He was told to wait for radio instructions to enter Barker House, pick up mining equipment, transport it to Jandakot Airport and leave it at a designated point.

The Crown alleged that on the morning of the swindle, Peter, in disguise, parked the white Ford Falcon off a laneway near Barker House. He entered Suite 3 before the young secretary Jo Armstrong arrived and he left three fraudulently completed building society cheques there. One of the cheques was a WABS cheque form stolen from Conti Sheffield. The other two were PBS cheque forms stolen from the Bull Creek agency.

The old Falcon, fitted with a CB radio, was parked at the rear of 31–33 Hay Street in a parking bay belonging to the sales manager of City Business Brokers, Mr Henry. He saw a man step out from the driver's seat of the Falcon, open the boot, take out a lightweight white plastic shopping bag and, with a white glove on his right hand, wipe the lock of the boot as he closed it. Henry also observed the man wiping the driver's and passengers' door handles.

His suspicions aroused, Henry telephoned the police. When Constable Buchanan arrived at the scene, the driver had disappeared but the driver's door was unlocked and the driver's window half down.

Some two hours later, Henry returned to the car park with a work colleague, Mr McCracken. The Falcon's engine was running and the driver was bending under the dashboard. McCracken told the man that he shouldn't be parking on private property. The young man told Henry that the car had been difficult to start. (During the trial, McCracken said that the man looked similar to Peter but his hair was shorter.) Henry, the amateur detective, noted the registration number of the Falcon, which matched that of the car sold by Mr Allen.

On the afternoon of 22 June 1982, the hired security guards from Transurety, Armaguard and ASAP headed to the Mint with the cheques and boxes collected from Barker House. The Mint had earlier received three telephone orders to buy large quantities

of gold bullion. One purchase was in the name of Blackwood, a second in the name of York and a third in the name of Fryer.

The guards handed over the cheques to the Mint in exchange for \$650,000 of gold bullion. In what the police argued was a major mistake by Ray, who they were confident was the mastermind behind the swindle, the cheques used for the Blackwood and York purchases bore the account number of the PBS savings account kept by Ray in the name of Peter Gully. The details on the cheques and the application for the telephone service in Suite 15 had been written on the one typewriter and the WABS cheque bore Ray's fingerprint. On it, the word 'forty' was spelled 'fourty'.

The hired guards drove out of the iron gates of the Mint and returned to Barker House where Jo Armstrong took delivery of the boxes, unaware of their contents. A security officer from Arpad (a security firm made up of serving and former SAS soldiers) guarded the gold bullion at Barker House. After receiving instructions over the CB radio, allegedly from the white Falcon (which was later found abandoned and burnt), Duvnjak collected the boxes and drove to Jandakot Airport. Duvnjak, who had no idea he was carrying a fortune in gold, believed he was followed to the airport.

What happened to the gold bullion after Duvnjak left it at Jandakot Airport has remained a mystery until this day.

In a hangar near where Duvnjak deposited the boxes, airline Captain Graham Hewitt was working on an old Auster aeroplane. Hewitt told police that some time before the arrival of Duvnjak, two young men in their twenties started their powerful car nearby and sped off towards the main part of the airport.

The next day, Mint executives finally became concerned about the size of the previous day's transactions. When the bank cheques bounced, red-faced Mint executives notified the police. Soon, detectives from the CIB were running in all directions, following up leads.

A few days later, courier Duvnjak appeared on local Perth radio station 6PR with well-known radio personality Howard Sattler, talking about his role as a courier. He had gone to the radio station because he was concerned he wasn't going to be paid for his services. On air, he told Sattler he observed an unidentified

man taking photographs of people entering and leaving Barker House during the time the swindle was taking place. Apparently, the police did not follow up this information, and never provided a reason why not.

Their break finally came with the Peter Gulley account. Australia-wide inquiries had revealed Peter Gulley did not exist and the address that the non-existent Peter Gulley had given when opening the account in 1976 was now a vacant block. Detective Sergeant Round checked council and State Energy Commission records, which revealed the last SEC account for the address, 144 Barker Road in Subiaco, was for the period 1976 to 1979 in the name of P. Macjelberg. Further digging turned up a similar name, Meckelberg, who lived at Unit 7, 112 Rupert Street, Subiaco. This was in fact Peter Mickelberg, who had terminated the lease in July 1982. Detective Round next discovered that an R. Mickleberg lived at 1 Leach Street, Marmion. This was Ray's home.

On 9 July 1982, Round and Detective Sergeant Dennis Henley visited Ray's home at Marmion. Ray was not there, he was in Penang, Malaysia, with his family, and Peter was looking after the house. Round asked Peter to ask Ray to telephone the Perth CIB on his return. Meanwhile, the detectives took the opportunity to question Peter.¹⁵ He confirmed that his mother had run a boarding house at the Barker Road address but said he could not otherwise help with the inquiry about the cheques used by Gulley.

The police interviewed Ray twice on his return from Malaysia on 15 July 1982. Round and Detective Sergeant Henry Hooft conducted the first interview at Ray's home in Marmion as police searched the premises. Initially, Ray denied any knowledge of Gulley or that he had operated the PBS account in that name. However, when confronted with the fact that the handwriting on the application forms for the opening of that account had been identified as his, and that it could be proven that he had operated the account since 1976, Ray admitted the account was his. He claimed he had operated it for tax purposes. (At trial, he also admitted operating the Wilson account.) According to Round, Ray said he would make a phone call to see if he could retrieve the passbook.

Round and Hancock conducted the second interview at police headquarters in East Perth. Ray told them he did not have the Gulley passbook. He said it had been in a black clipboard folder which he had lost, most likely at the Karrinyup PBS office. The detectives asked him to explain how two of the cheques used in the Mint swindle had the Peter Gulley account number on them. Ray said someone could have found the passbook and used that number.

Round and Hancock also questioned Ray about some burnt papers police found while searching his Marmion home earlier that day. Ray confirmed he had burnt a number of papers ‘in the last day or so.’

During one of the interviews, Ray was asked to write \$49.19 in words and he wrote ‘fourty’, which corresponded to the misspelling on one of the cheques.

At around 3 p.m. on Thursday 15 July 1982, Hooft, Henley and Detective Porter went to Brian Mickelberg’s house in Jandakot with a search warrant.¹⁶ While the police were searching the house, Brian telephoned his lawyer, with whom Hooft had also spoken. Brian asked the detectives whether Ray was at police headquarters and when they said yes, he agreed to accompany them.¹⁷

At police headquarters, Hooft told Brian he was investigating the fraud of the Mint as well as two arsons and breaking and entering offences. Brian said he could not help Hooft with his inquiries, but Hooft continued the interrogation. He asked Brian where he was on the night of 7 April when the Conti real estate office was broken into and set on fire. Brian replied, ‘In Port Hedland,’ and gave the same answer in relation to his whereabouts on 13 May, the time of the Bull Creek real estate office fire. Hooft then said, ‘There were a number of cheques stolen from these premises. Three of the cheques were used to obtain gold from the Mint on 22 June. Where were you on that day?’

Brian replied, ‘On 22 June, I would have been in Hong Kong.’
‘When did you go to Hong Kong?’

Brian replied, ‘I wouldn’t have a clue.’ Hooft thought the answer strange and said to Brian that surely he would know when he went to Hong Kong and when he returned, as it was recent. Brian replied, ‘You’re making the inquiries. You probably

already know.' Hooft then asked whether Brian had ever made a gold transaction with the Perth Mint. Brian replied, 'No.'

Hancock then had his turn with Brian. When Hancock asked what he knew about Ray using the name Peter Gulley, Brian said, 'Nothing.' He also repeated the answer he gave to Hooft as to his whereabouts on 22 June. 'I have already explained that. I was in Hong Kong.'

Hancock handed Brian a piece of foolscap paper and asked him to write \$49.19 in words. Brian correctly wrote 'forty'.

Hancock then asked Brian when he had arrived in Perth from Port Hedland. Brian told him he came down on 9 July 1982. He wasn't actually due until Tuesday but came down early because Ray had telephoned to tell him their father was sick. When Hancock asked Brian what he thought about the likelihood of Ray being involved in the Mint swindle, Brian responded, 'It's got nothing to do with me.'

Meanwhile, on 16 July 1982, detectives Hooft and Henley searched the garage at the Mullaloo home of Peggy and Malcolm Mickelberg, the parents. Peter was present during the search, having accompanied the police from Ray's home. Peter told the detectives that on the day of the Mint swindle he was positive that he and his two brothers were erecting a fence at his parents' home. He then agreed to accompany Hooft and Henley to Subiaco.

The police parked their car at the rear of the premises of City Business Brokers at Hay Street, hoping Henry would be able to identify Peter.

Unfortunately for the police, Henry couldn't identify Peter as the man he had seen on the morning of the Mint swindle. He said Peter was taller and his hair was shorter. But he did tell Hooft 'the face was familiar' and that the man he had seen had had a wig on.

Then Henry and Hooft walked away. Peter got back into the police car and started to cry, saying, according to Henley, he thought Henry had recognised him. Henley said, 'I think he did too, because it was you in the white Falcon. Is that not right?'

Peter responded, distraught, 'Christ, if he recognises me I'm gone. Shit. Why this?'

Shortly after, Hooft returned to the police car. He turned to

Peter and said, 'What's wrong with you?'

Henley interjected before Peter could answer. 'He's very worried that he was recognised.'

Peter said, 'Did he recognise me?'

'Calm down, Peter. What are you worried about?' Hooft said.

'What's happening to this family? Ray'll kill me for this. Can I see Ray first? I've got to see Ray.'

'What's the matter?'

'Did he recognise me?'

'He may have,' Hooft responded. 'It was you in the car parked here on the morning of 22nd June, wasn't it?'

'If I see Ray first I'll tell you what you want to know. If Ray says it's all right, I'll tell you. I'll tell you everything.'

The Crown's case seems very compelling. Especially because, at the time, there was nothing to suggest that the notes from which evidence was allegedly drawn were not genuine, even if at times the comments attributed to Peter might otherwise have seemed implausible at best.

Hooft's evidence continued.

'Can you tell us where the vehicle is now?'

Peter insisted that he had to see Ray. 'I've got to see Ray. I can't say anything until I see Ray. He'll kill me if I tell you.'

Hooft then said, 'All right. We'll leave that for the moment. Just calm down. You had a flat in Rupert Street, Subiaco. Is that right?'

'Yes.'

'I'd like you to come with us while we search those premises. Is that all right with you?'

Peter agreed but he added that he had to be at his lawyer's office by 'nine o'clock.' His lawyer was Ron Cannon, who at that stage was the lawyer for all three brothers. Only at the trial was each brother represented by a different lawyer.

Later that day, detectives Andrew Tovey and Ljiljana Cvijic interviewed Peter at Unit 7, 112 Rupert Street, Subiaco. Tovey asked Peter what the weekly rent was. Peter said \$95. Tovey thought that was pretty high, but Peter said he shared the rent with a mate who had returned to his girlfriend not long after they moved into the flat. When Tovey pressed Peter for the name of his mate, Peter said, 'Otto.'

Tovey asked for Otto's full name. Peter replied, 'Otto Kleiger,

but he has gone up north.' He couldn't say exactly where. The reason Peter had moved out of the Rupert Street unit and back to his parents' home was because his father was sick.

On 26 July 1982, Peter was questioned further, this time by Hancock and Detective Sergeant Tony Lewandowski. Initially, the interview took place at the Belmont CIB office, about a ten-minute drive from Perth. Peter was driven to Belmont by Tovey and Detective Russell August.

At the start of the interview, Peter produced a letter from his lawyer stating that Peter was not going to make any statement to the police. This was a standard letter that Cannon gave most of his clients. It was well known around the police force, who derisively referred to it as 'Cannon's Joke'. Also on Cannon's advice, Peter had obtained a medical certificate testifying that he was in good physical condition. Cannon thought this prudent in case the police assaulted his client. Despite 'Cannon's Joke' the police continued with the interview.

At the trial, the Crown attack was relentless as they led still more evidence from Hancock and Lewandowski's unsigned notes of what they said occurred at the interviews. The two detectives claimed they asked Peter about the 'Talbot note' which, they said, police handwriting experts¹⁸ had concluded was in Peter's handwriting.

'So what if I bought the car?' responded Peter.

Hancock asked Peter, 'Did you buy the car?'

'I can't say.'

'Why?'

'I know. But we made an agreement that we wouldn't say anything.'

Hancock said, 'On the morning that the gold was obtained from the Mint, that car was parked at the back of Barker House from about quarter past eight till about half past ten. A man from a nearby business actually spoke to the driver as he was leaving and I have reason to suspect that that driver was you.'

Peter replied, 'I know him. You took me up there last time. Did he recognise me or not?'

'When he saw your photo with a wig on, he recognised you.'

'I thought so.'

Hancock continued. 'Peter, we would like to know where that

vehicle is now.’

Peter replied, ‘I would tell you, but I promised not to say anything about it. If Ray says it’s all right, I’ll tell you where it is.’

‘We have searched everywhere for it, even up at Kalbarri. Is it up there somewhere?’

‘No. It’s not up there. It’s not far away really.’

‘Is it hidden in a garage somewhere?’

‘No. It’s been dumped. You will find it eventually but you mightn’t recognise it.’

Hancock asked if it had been burnt and again Peter remained silent. Hancock then asked where the car had been dumped.

Peter replied, ‘I can’t tell you until I talk to Ray. If he says it’s all right I’ll show you.’

Hancock then moved onto Otto Kleiger. ‘When you made the application for the lease of that unit [in Rupert Street, Subiaco] you gave the name of Otto Kleiger as a referee. Who is Otto Kleiger?’

Peter remained silent.

‘Who is Otto Kleiger, Peter?’ Hancock repeated.

‘I can’t say anything about that.’

‘You told Detective Tovey that Otto Kleiger was your flatmate and he had gone up north.’

Peter again refused to answer.

‘Otto Kleiger is Ray, isn’t he?’

‘How do you know that?’

‘Never mind that. Why did you use one of Ray’s false identities when you leased the unit?’

‘That was Ray’s idea.’

‘We suspect that that unit was leased purely as a headquarters for the job on the Mint.’

‘That was Ray’s idea, too.’

‘Is that where the phone calls were made to the Mint and where the cheques were typed out?’

Peter said he couldn’t say anything about that.

Hancock showed Peter a Mint voucher and receipt for the purchase of bullion in the name of Rodgers. Peter said he had never seen it before but the Crown led evidence at trial from a police handwriting expert which opined that Rodgers’ signature had been written by Peter.

Hancock then moved onto the whereabouts of the Mickelberg brothers on 22 June 1982, the day of the Mint swindle. Peter repeated what he had previously told Hooft, that on 22 June the brothers were erecting a fence at their parents' home. But Peter did change his story in one respect. He remembered that Ray was not at the home but rather at an abalone divers' meeting.

Hancock wanted to know how it was possible for Peter to be at his parents' home all day building the fence and at Subiaco in the morning. Peter replied, 'I didn't say I was at Subiaco. You'll have to prove that. He mightn't have recognised me.'

Hancock said, 'We are extremely anxious to recover the gold from the Mint. If it is recovered, half the problems are over. Are you prepared to tell us where it is?'

'I can't tell you, sergeant; you'll have to talk to Ray,' replied Peter. 'I know that if you get the gold back all this will stop but I can't tell you unless he says so.'

Hancock then turned to the issue of Brian's knowledge of the whereabouts of the missing gold. He asked Peter, 'What about Brian? Does he know where the gold is?'

'Look, sergeant, we can't tell you anything without Ray's say-so. I would like to tell you where it is and get this over with. If I can talk to Ray and he says yes I'll tell you everything.'

Peter refused to answer questions about the building society fires, saying the brothers had agreed they would not talk about them.

When Hancock raised the issue of Brian's orange Porsche, Peter confirmed that he and Ray sometimes drove the Porsche. Hancock then asked whether he or Ray were in the Porsche seen at the fire site in North Perth on 7 April 1982. Peter responded, 'I don't want to answer that. You'll have to talk to Raymond. If he says it's all right I'll tell you the whole story.'

Hancock then said to Peter, 'After we have interviewed Ray I will make arrangements for you to have a talk to him. If he agrees, will you be prepared to tell us the full story and help us get the gold back?'

'Yes,' said Peter.

When the interview was over, Hancock asked Peter if he was prepared to make a statement. Peter declined. Lewandowski said at the trial that he made notes during the interview. He claimed

to have read these notes back to Peter who agreed they were accurate but would not sign them.¹⁹

Round then drove Peter to central police headquarters, where he and Detective John Gillespie continued the interview.

Round asked Peter what he had told Hancock. Peter said, ‘I haven’t told him where the gold is but I have certainly told him a lot more than I intended to. Ray won’t be very happy about it.’ When Round asked Peter to tell him where the gold was, Peter replied, ‘Look, I can’t. I have to talk to Ray. If Ray says it’s all right, I’ll tell you. You know what it’s like being brothers and that. I can’t say anything.’

‘Did you tell them where the car is?’

‘Not exactly. I told them it had been burnt and dumped but I didn’t tell them where.’ Round urged him to tell them more but Peter refused to give further details.

Round moved on to the all-important Peter Gulley. ‘Why did you tell me the other day you didn’t know the name Peter Gulley?’

‘That’s obvious now, isn’t it? I knew you were looking for Ray and I knew it was Ray and I knew why you were looking for him.’

‘You told Detective Tovey that Otto Kleiger was your flatmate.’

‘Yes, that was a bit silly, wasn’t it? That was the only name I could think of at the time. You know that’s just a tax dodge.’

Round then said, ‘Did you ever live at the unit with anybody?’

‘No.’

‘The neighbours said you were hardly ever there but the lights used to be on at the place.’

‘Yes. Ray gave me one of those time switches that put the lights on and off so it would look like someone was living there.’

‘Don’t you think you should tell us the full story, Peter, and help us get the gold back?’

Once again, Peter said he couldn’t talk without Ray’s approval.

‘Peter, you talk a lot about Ray. What about Brian?’

‘Ray’s been like a father to me. Dad’s been sick and Ray’s been the head of the family to all of us. What he says goes.’

‘I can understand you looking up to Ray but what about Brian? He is older than you.’

‘Brian goes along with the rest of us.’

On that same day, 26 July 1982, detectives also interviewed Ray on three separate occasions. By that time, his fingerprint had

been identified on the back of the WABS cheque.

Round, Gillespie and Detective Trevor Porter carried out the first interview at the local Whitford Shopping Centre car park. Ray's wife Sheryl was also there.

Round asked Ray whether he used the name Otto Kleiger. Sheryl spoke before Ray could give an answer, saying, 'You're a bloody joke. That's not Ray. Otto used to live with us for a while, didn't he, Ray?' Ray told Sheryl to keep quiet. Round repeated the question to Ray, who replied, 'All right.'

But Sheryl didn't want to be quiet. She asked, 'Who were the two detectives who went to Penang, anyway?' Gillespie said that Penang had not previously been mentioned in the conversation. Ray once again told his wife to keep quiet. As the two detectives, Hancock and Billing, did not go to Penang until 11 August 1982, it seems unlikely that Sheryl could have asked the question at that particular interview. By raising it in his evidence, however, it would suggest to the jury that Sheryl might have something to hide, because Ray and she had visited Malaysia earlier in July.

From the Whitford Shopping Centre car park, the detectives drove Ray to police headquarters in East Perth and, from there, to the Belmont CIB office where Hancock and Lewandowski had interviewed Peter. During the journey from East Perth to Belmont, Round told Ray that things did not look too good for him. He told the court that Ray responded, 'I know everything does look bad but like I said the other day, last time, I can't say anything. There's too much involved.'

Round did not give up. He moved on to the various names that Ray had been using, like Otto Kleiger and Peter Gulley. Ray responded, 'They are nothing really. I really shouldn't talk to you but it doesn't matter. They were just to dodge tax.'

At the Belmont CIB, Hancock and Lewandowski interviewed Ray. Again, the only record of the interview was the handwritten notes allegedly made at the time. They told him about their interview with Peter earlier that day. Hancock said, 'Peter has told us that he knows where the gold is and he is prepared to tell us if you agree. What do you say about that?'

Ray replied, 'Peter is just a kid. He can't tell you where it is.'

Hancock asked Ray, as he had Peter, whether the gold could be returned. Ray replied, 'I can't say.'

‘Can it be recovered? Is it possible to recover it?’ Ray shook his head.

‘Where is it?’

‘You already know where it is.’

‘What do you mean, we already know?’

‘Someone opened their big mouth this morning.’

‘I don’t know what you are talking about.’

‘Don’t worry about it then.’

‘Ray, if we can get that gold back, half the problems are over.’

‘I can’t say anything.’

‘Why can’t you tell us?’

‘There’s too much involved.’

‘Are there other people involved that we don’t know about?’

‘I can’t say.’

On the same day, Hooft, Henley and other police officers, armed with a search warrant, paid Brian another visit at his Jandakot home and asked him to accompany them to police headquarters. Brian asked if Peter was there and Hooft replied he thought so. After speaking to his wife and then to his parents by phone, Brian went to police headquarters.²⁰

Once there, Hooft did most of the questioning. He asked, ‘Do you remember the last time I spoke to you? You told me you were in Port Hedland on 7 April when the building society in North Perth was broken into and cheques stolen.’

‘Yes.’

‘Well, we checked that and you were not in Port Hedland at that time. You also told us that on 13 May, when the building society in Bull Creek was broken into and the Perth Building Society cheques were stolen you were in Port Hedland. Is that right?’

‘I don’t remember.’

‘That’s what you said and we’ve checked that and you were in Perth at that time. What have you got to say about that?’

‘I wouldn’t know.’

Hooft continued, ‘You also told me that on 22 June you were in Hong Kong and we now know that you returned on 17 June.’

‘I know that now. Since the last time I spoke to you, I checked with Ray and we were doing the fence at Mullaloo.’

At some stage during the interview, Hooft left the room to

speak to Hancock. When he returned, he said, 'It appears that Ray and Peter are both going to be charged with these offences. There is also a lot that tends to show you are involved also.'

Brian said, 'Are they both being charged?'

'Yes.'

'I never thought it would come to this.'

'What do you mean by that?' Hooft asked.

'I'm not supposed to be here. Ray thinks he's so smart.'

Hooft went on to tell Brian that they had evidence to show that he was involved. Henley then said, 'Brian, did you pick up the gold when it was delivered to Jandakot on 22 June?'

Brian replied, 'I've got nothing to say about that.'

Henley repeated the question. 'Brian, did you pick up the gold when it was delivered to Jandakot on 22 June?'

'I got nothing to say about that.'

'Why not?'

Brian remained silent and Henley said, 'The office of Mayne Bristow [Brian's employer] is 100 yards from where the bullion was dropped and you live within a mile of the airport.'

Brian said, 'It looks bad, doesn't it?'

Henley continued, 'We can also show that you and your brothers have all done gold transactions with the Perth Mint.'

Brian wanted to see Ray. 'Where's Ray?'

'He's here. The main thing now is, can we recover the gold?'

'I'm the little man. You see Ray about that.'

'Why see Ray? Can't you tell me?'

'I can but if Ray hasn't told you, I won't.'

Some time later, Hancock took over the interview. He referred to Brian's earlier interview that day. 'Sergeant Hooft tells me you know where the gold is from the Mint. Are you prepared to tell us?'

Brian replied, 'Are Ray and young Peter going to be charged?'

'Yes. They are obviously involved and I have reason to suspect that you are involved with them.'

'I'm not supposed to be here.'

'I gathered that. Ray has described you as a safe house, a person who is involved but who is kept out of sight to look after the others if something goes wrong.'

'That's Ray all over.'

‘Are you involved?’

‘It’s pretty obvious isn’t it? If you’re going to charge them you’ll have to charge me, too.’

‘Are you prepared to tell me the part that you played?’

‘Not unless Ray has told you the whole thing and he hasn’t if you’re still asking about the gold.’

‘What about the gold? Are you prepared to tell us where it is?’

‘That’s up to Ray.’

Hancock turned to what Brian was doing on 22 June 1982. ‘That business about the fence at your parents’ house on the day the gold was obtained from the Mint?’

Brian replied, ‘That was another one of Ray’s brilliant ideas.’

‘Where were you on that day?’

‘No, I can’t tell you.’

‘Did you pick the gold up from Jandakot?’

‘I can’t say.’

Hancock then asked Brian about the transfer of his matrimonial home into his wife’s name, mentioning that Ray had transferred his home to his wife, Sheryl. (In fact, though Ray had intended to transfer the house to Sheryl, he had not done so. Nor had Brian’s transfer gone through.) Brian’s home had been in the joint names of Brian and his wife Faye, and on 21 June 1982, a transfer was executed to his wife. However an accountant advised Brian that it would be better if the disposition went to a unit trust, and the transfer was not finalised. Brian said the transfer was for business reasons. When Hancock asked him about it, Brian said, ‘Ray tries to cover all the angles,’ and ‘it looks like a pretty good idea now.’

Hancock said, ‘We have checked with your employer in Port Hedland and you were rostered to have your two weeks off in Perth on 8 June to 22 June, that is the day of the Mint job. You were due to start back in Port Hedland that day. However, you applied for an extra week off because you were going to Hong Kong. Is that right?’

‘Yes.’

‘According to the Immigration Department you left Perth on 9 June and got back on the 17th so you had plenty of time to be back in Port Hedland on the 22nd if you had wanted to.’

Brian said, ‘We all know what happened now, don’t we?’

Hancock asked Brian if he had an account at the Conti Sheffield

Agency in North Perth. Brian said he hadn't and added that he didn't light the fire. Hancock said, 'We know that but if you were part of the whole plan and knew about it, then under the law you are equally guilty.'²¹

Brian replied, 'There's no way out then. If they're going to be charged I'll have to be charged, too.'

'Are you saying that you took part in the gold fraud on the Mint?'

'I've already told you. If you are going to charge Ray and Peter, you'll have to charge me too. I'm not going to say any more about it. That's up to Ray.'

'Are you prepared to talk to Ray about us getting the gold back?'

'I'll talk to him but it won't do any good. He's made up his mind.'

Later that evening, Ray, Brian and Peter were given an opportunity to speak to each other. Soon after, they were subjected to more questioning by Hancock, Lewandowski and Round, this time with the three brothers together, but still without lawyers present. Hancock asked whether, having had a chance to talk together, they were prepared to tell the police where the gold was. Ray spoke for all of them.

'We made our decision a week ago, and we'll stick by it. You will just have to charge us and we will see what happens.'

Two weeks later, on 12 August 1982, the burnt-out Falcon with a CB bracket but no radio was found north of the city, on a bush track in Joondalup. Inside the car were the charred remains of the *West Australian* newspaper, dated 22 June 1982.

On 23 September 1982, a few weeks after the discovery of the Falcon, detectives again interviewed Peter. This time Tovey and Detective Sergeant James Allen conducted the interview at Warwick police station.

'I want to talk to you about the gold from the Perth Mint,' Tovey said.

Peter replied, 'I've already spoken to Sergeant Hancock and Sergeant Lewandowski.'

'Things have changed now though and we still want to get the gold back.' He did not elaborate on how things had changed.

Using Tovey's first name, Peter said, 'Andrew, you don't really expect me to tell you where it is, do you?'

‘Do you realise that it would be better for everyone concerned if the gold from the Mint can be recovered?’

‘Andrew, if I tell you where it is, Ray will kill me.’

‘Why are you so scared of Ray?’

‘You don’t know what he’s like.’

‘What are you going to do? Sit on the gold forever?’

Peter replied, ‘We’re prepared to get twenty years.’

‘Who told you that?’

‘Cannon,’ said Peter, referring to his lawyer.

Tovey then questioned Peter about the night of Friday 17 September 1982. ‘Peter, at about 10.30 p.m. last Friday the 17th two men were seen with a Landrover in the bush off Glendale Crescent, Jandakot.’

‘Oh, yeah, about that. I was with my girlfriend all night.’

‘Was the gold buried out there?’

‘Andrew, I can’t tell you that.’

Tovey persevered, ‘Peter, if you tell us where the gold is, Ray doesn’t have to know you told us.’

Later on, Peter raised the issue of his father’s ill health. ‘What about Dad? What can you do for him? He’s pretty sick.’

‘Would you like me to talk to Sergeant Hancock about that?’

‘Yes I would.’

Tovey left the interview room to talk to Hancock. On returning, he said, ‘I have just spoken to Sergeant Hancock. He is prepared to approach the Crown Law Department on behalf of your parents, provided the gold from the Mint can be recovered.’

Peter said, ‘Andrew, it’s a hard decision.’

‘It’s up to you.’

‘Do you mind if I think about it for a while?’

‘Sure.’

Tovey allowed Peter a small break. Then it was back on. ‘Well, Peter, are you going to tell us where the gold is?’

‘No, Andrew, I can’t. Ray would kill me. I won’t waste any more of your time.’

‘Just tell me one thing,’ Tovey asked, ‘is the gold overseas?’

‘No, it’s not.’

‘Are you sure you won’t tell me where it is?’

‘Nothing personal, Andrew, but I can’t.’

On the same day, 23 September 1982, Hancock and Detective

Sergeant Francis Bower interviewed Ray. Hancock did not beat about the bush. 'You know that we still badly want to recover the gold from the Mint. If you tell us where it can be recovered, I'm prepared to approach the Crown Law Department on behalf of your parents.'

Ray provided him no joy. 'I know what you're getting at, but you're wasting your time and mine ... we've made our decision.'

'You're not going to tell me where the gold is?'

'I think you know me, Don. I'll take a bullet in the head before I tell you where that is.'

'Even if it means the whole family being locked up?'

'We can handle it; we'll do it on our ear.'

'What about Mum and Dad?'

'They can hack it.'

The jury might have been puzzled about where this was leading. At no time had the prosecutor alleged or implied that the Mickelbergs' parents were involved. Nor had they been charged in connection with this matter. Was it just an implied threat to put more pressure on the brothers? Or was there something the jury was yet to learn? If that were the case, they would have to wait.

On 18 February 1983, Chief Crown Prosecutor Davies turned to face Judge Desmond Heenan. 'If your Honour pleases, that is the case for the Crown.'