

## THE ROCK

1. This incident occurred on 2 May 1988. On 6 May 1988 Roseanne Catt laid an information for assault against Barry Catt. The hearing began in the Local Court at Taree on 3 July 1989 and was adjourned to 22 September 1989 (Ex 22).
2. On 24 August 1989 Roseanne Catt was charged, among other things, with having committed perjury in her evidence on 3 July 1989, and with having maliciously wounded Barry Catt on 2 May 1988.
3. It is puzzling that no consideration appears to have been given prior to this hearing by any party to the propriety or legitimacy of this course of action. It is in my submission, contrary to practice and principle to launch a perjury prosecution which prejudices the merits of evidence given in a current continuing case; it has the clear vice of exerting pressure on parties and other witnesses. In the assault case, the issue of who wielded the rock was a major factor in the credit of the competing parties. It is extraordinary that such action should have been accepted apparently without question by the DPP. At the level of the charging officer, it may be seen as one of several signs of an unorthodox, indeed somewhat "wild west" approach to the task.
4. In the part heard case, Roseanne Catt's complaint was supported by evidence from Peter Bridge, Shane Golds, Christopher Catt and Julie Catt. Evidently, though neither ever came to give evidence, Barry Catt was to be supported by Mary Warwick.
5. By the time of Roseanne Catt's trial, this alignment had changed. Peter Bridge, though he could have given evidence, had been put in a position where many lawyers would advise him not to do so, he having been charged with conspiring with his mother to wrongfully accuse Barry Catt of assault, and assault of Barry Catt. He did not give evidence. Shane Golds had made statements saying that his evidence on 3 July 1989 had been false, and so testified at Roseanne Catt's trial, where he gave evidence that it was she who had wielded the rock.

6. By the time of the present hearing, the Catt children had also changed position, asserting that their original evidence had been false, and that Roseanne Catt had wielded the rock.
7. The change of evidence by Shane Golds deserves particular examination. His first statement withdrawing his original account was made to police on 23 August 1989, on the same day and in the same location as Marie Whalen's remarkable about-turn. There is no reason to believe that the police would not have taken a similar approach to both these witnesses. Certainly early in the conversation Thomas mentioned perjury, and that the penalty could be six years gaol. Yet Golds claimed he had not been frightened by this (T 803). He said that it was about 4 o'clock in the afternoon (T 807), and that he was away from work about an hour (T 805). This overlaps with the time of the interview with Marie Whalen.
8. One of the major issues in the incident is who began the violence between Barry Catt and Roseanne Catt. On this point Shane Golds progressively changed his evidence in a way consistent only with trying to assist the prosecution. His first recanting statement of 23 August 1989 was only brief. In the subsequent two he said clearly that Barry Catt slapped Roseanne on coming over to the car (Ex O, 8/11/89 para 11, 30/11/89 para 6).
9. At the trial this had developed into Barry Catt yelling at Roseanne, she first hitting him, then he hitting her back (T 765, 794, 795). This was in essence Barry Catt's version at the trial (T 136). At the trial of Peter Bridge, Golds' version had evolved to a point perhaps intended to indicate an accidental blow by Barry Catt as he put his hand in the window to get the car keys (Ex TT, 120).
10. Golds' statements say nothing of Roseanne Catt pursuing and hitting Barry Catt as he walked towards the house. By the time of the trial, Golds supported Barry Catt on this point (T 766).
11. Golds said at the trial that when he gave false evidence at the Local Court "I didn't want to lose my job" (T 798). However, he had finished his employment with Barry Catt in October 1988 (T 787), so that could not have been a reason.
12. Golds said that Roseanne Catt hit Barry Catt on the back with the rock having swung it from just above head height (T 837, 838). He

said that she hit in this manner twice on the back, and then on the head (T 839, 840).

13. Mary Warwick described a similar motion, and said that Barry Catt was hit on the back with the rock possibly three times, and on the head two or three times (T 724). Contrary to the others, she said that he was completely spread-eagled on the ground (T 733, 738). She said "After they drove up the road I ran over to Barry. He seemed semi-conscious. It took a few minutes for him to turn over. Finally he was able to stand up, but he wasn't able to stand on his own. I had to help him" (T 725, also 726). This is contrary to the evidence of all other participants, even Barry Catt, and clearly an attempt to exaggerate the effect of the blows. Shane Golds, even in his revised version at the trial, said that Barry Catt got up after being released (T 841). Barry Catt in effect said that he was up before the car left (T 310), and mentioned no assistance from Mary Warwick.
14. Barry Catt said that he was hit on the head four times by the rock – "the main one that done the damage was a positive hit, the others were sort of side blows" (T 309). His evidence at the current hearing confirms that the blow which injured him was on the top of his head (H 734-735).
15. It is practically inconceivable that the sort of blows described by Barry Catt, Shane Golds and Mary Warwick would not have caused much greater damage than that found on examination at the hospital.
16. On this point, the medical evidence is much more supportive of the version of Roseanne Catt. There is no reference whatever to the extensive bruising which Barry Catt must have suffered to his back from the sort of actions described. Dr McGrath was not called at the trial, and it appears that his statement was unknown to the defence.
17. Barry Catt said that his left hand little finger was broken in the rock incident (T137, 312). However, this is not mentioned in the medical records. (Ex FFF). In a statement made on 21 August 1989 (Ex NNN), he claimed to have received a lump on his left little finger knuckle from the cricket bat (para 15). In the current hearing, he first said that a finger was broken trying to protect himself from the rock, then quickly changed to say that this had

occurred in another incident (H 689). It looks very much as though he had forgotten to which incident he had added the colourful, but non-existent, detail of the broken finger.

18. Mary Warwick said that the rock had blood on it, which was visible at the time she spoke to the police about it (T 733). Constable Geoffrey Brown who attended the scene, and spoke to both Barry Catt and Mrs Warwick, did not take possession of any rock (T 852). He said at the trial of Peter Bridge that if he had seen a blood stained rock he would have taken it with him (Ex CCCCC, 184).
19. Roseanne Catt's case was that it was Mrs Warwick who had wielded the rock. To do so, she would have had to come down from the verandah into the garden. One circumstance implicitly against that was her evidence that there were two young children at home, one of whom, aged seven months, she was holding while on the front verandah (T 683, 711). The trial judge saw this as an issue of "real significance" and so directed the jury (SU 16). However, at the trial of Peter Bridge, Mary Warwick's position on this point changed radically:
  - Q. Your two small children, where were they at that time?
  - A. The little one was still in the walker locked in the house and the two year old was holding on to my legs screaming  
(Ex CCCCC, 104 also 89, 100).

This is not a detail of such an incident easily confused or forgotten.

20. Holding a baby in her arms was as much a reason against helping Barry Catt get up, yet she claimed to have done that. It is of major importance that Mary Warwick's version of this issue at Peter Bridge's trial was what Roseanne Catt herself had said at her trial – "She had a little girl in a baby walker" (T 2933). Thus, the issue which the jury was directed to regard as of real significance, involving a conflict between Roseanne Catt and Mary Warwick, a conflict which among other things affected Roseanne Catt's credibility generally, was, on the later evidence of Mary Warwick, non-existent.

21. On Roseanne Catt's account, Mrs Warwick was the person who wielded the rock. It may well be regarded as a consciousness of guilt on the part of the latter that she so exaggerated the effects of the blows on Barry Catt (para 13 above), and described herself at the trial of Roseanne Catt as holding a baby in her arms.
22. The revised evidence of the Catt children on this issue is not convincing.
23. Julie Catt's main point in her evidence was to repeat that Roseanne Catt had hit Barry Catt with the rock ( 1240 lines 20/21, 1241 line 26, 1242 lines 2-4). Apart from that as the major point, her concern seemed to be to eliminate from the scene any suggestion of violence by Barry Catt. She did not remember his seizing the car keys or hitting Roseanne Catt (H 1241). She said that the detail of Barry Catt hitting Roseanne Catt and knocking her glasses off was false, and something Roseanne had told them to say (H 1240), whereas Barry Catt acknowledged having done this (T 136). In her interview with Sergeant Boyd-Skinner on 20 January 2003 she was radically confused, claiming that Roseanne Catt had told the children to say that Barry Catt had hit Roseanne with the rock (Ex 18, A25).
24. Similarly, Chris Catt denied the same detail of the glasses being knocked off as part of a general denial that Barry Catt had hit Roseanne Catt at all (H 1353 lines 16-27). Yet he had said at the trial of Peter Bridge in 1995 that he had seen his father strike her in the head (H 1354 lines 10-12). He said that Roseanne Catt told everybody what to say on the way to the police station (H 1357).
25. The same essential impulse as in the evidence of Julie Catt is found in Sharon's, that she had seen Roseanne Catt hit Barry Catt over the head with a rock (H 1447, lines 53-56, 1448 lines 16-17, 1449 lines 46-48, 1450 lines 21/22). Some of these answers were obvious unresponsive repetitions of this theme in answer to questions which required a different response. Her account in the interview with Sergeant Boyd Skinner on 15 January 2003 is particularly unconvincing, being merely a mechanical adoption of the propositions put to her in cross-examination in the Local Court in July 1989 (Ex 27, A134-A168). There is no hint of the repeated blows mentioned by others, simply that "Roseanne picked up a rock and hit my dad on the head with it." (A166).

26. Like Julie Catt, her account of how Roseanne Catt made her tell a false story was radically confused, to the point where she initially asserted in Ex 27 that the false story was that Barry Catt hit Roseanne over the head with a rock (H 1446-1448). She also denied that Barry Catt hit Roseanne Catt at the car (H 1449 lines 15-17), and did not remember her father knocking Roseanne's glasses off (H 1449 lines 43-45).
27. Sharon Catt also received phone calls from Barry Catt and Adrian Newell during her evidence (H 1508-1510). During her interview with Sergeant Boyd-Skinner, Sharon Catt said of one question "I'd have to check with Adrian." (Ex 27, A68). Newell appears to have taken a guiding role for her in this matter. During the current hearing, Sharon Catt phoned all her siblings, Tony and Chris several times, and Julie frequently. (Ex AH). Newell phoned Sharon several times. (Ex AF).

Through 246b

Tom Higley