

SUMMING UP:

A HIS HONOUR JUDGE R.A.R. STROYAN: Now we start the last lap!

Gentlemen, this case has taken an awful length of time to try. Immense numbers of points have been raised and pursued often at great length, many of them only on the fringe of this case - some fairly even irrelevant. The defendant has been given great latitude in this respect you may think too much latitude, but that I have done because he is by his own choice defending himself. Some of the points taken by the defendant deserve proper consideration and that you will of course give them. Many of the points taken earlier on, now you've heard all the evidence quite simply disappear.

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D In this summing up I'm going to confine myself to the substance of the case on either side. I am certainly not going to repeat at tedious length all the points that have been raised before you time and time again. You give what weight you think right to them. If any of the points which I don't mention seem to you to be important well then of course you give whatever weight you think right to them.

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F The basis of this case is in fact quite simple. It dates back to the Autumn of 1969 when reporters on 'The Times' allegedly uncovered a web of corruption in the Metropolitan Police and prosecutions followed. You are not in any way concerned with anything else or any other prosecution apart from that of which you heard in this Court, in this case, you will consider in isolation. I don't know anything about any of the other cases that you have heard mentioned, they don't concern either you or me. This particular case should have been tried in January, 1972 - then the evidence was fresh or relatively fresh, but for reasons of his own which the defendant explained to you he made himself scarce at that time. He returned

A to this country in May of last year, having been away for eight
or nine years and he returned voluntarily to stand his trial. The
trial before you is on three counts on an Indictment which is before
you. Those three counts are the only matters for your consideration.
You are not trying anybody else, you are not deciding some police
B officers in 1969 did what they should not have done or failed to
do what they should have done. You are not trying any of the 'Times'
reporters. You are not trying to decide what may or may not have
happened in 1969 save for the contents of those three counts.

C The relevant issues start on 24th December ... sorry, 24th September,
1969 when a man you have heard called Michael Perry was arrested in
connection with a burglary at the Nuneaton Co-operative a couple of
D days earlier on when cigarettes were stolen. Perry was arrested in
London, he was taken to Camberwell Police Station where the defendant
at that time was a Detective Sergeant in the Metropolitan police
and there stationed. There he has alleged the defendant went to
see him in the cells and gave him a tip off in relation to the
E lack of evidence in the possession of the police at the time in
relation to the Nuneaton burglary. The defendant, according to Perry
said words to the effect that he didn't think the Nuneaton police had
got anything on him but if they had finger prints he was to say he
F would plead guilty to a simple offence of theft under Section One of
the Theft Act., rather than the more serious offence of burglary.
If that is right, of course there was a police officer quite simply
G giving the game away on purpose to a suspect - and a suspect with a
good deal of criminal experience who would know exactly how to use
that information that the police had nothing on him. Perry was
then taken to Nuneaton and twenty-four hours after he had been
arrested he was released on bail. Then, according to Perry, something
H like a week later he met the defendant outside the Grove public house

on the defendants initiative and the defendant, according to Perry, told him he would get off the Nuneaton job and that it was going to cost him two-hundred pounds. So far as the 'getting off' is concerned that prediction turned out to be right as you can see if you look at the letter to Mr. Perry dated 8th October, 1969 which says with reference to the bail; "You will appear at Nuneaton police office on 16th October, I have to inform you it will not now be necessary for you to surrender at this police station". And that is signed by the Superintendant.

So there's the scene set. The alleged tip off by the defendant to Perry, Perry doesn't say anything, in due course he is released and in due course he is told he need not answer to his bail. There's a meeting, if Perry is right, about a week later after the Nuneaton incident at which the defendant says it was going to cost him two-hundred pounds - that following on from Perry saying that he would see the defendant right. So that is on the Crown case how it all started.

What happened next on the evidence that you have heard? It seems to follow doesn't it because on 28th October there was a telephone conversation between the defendant and Perry by which an engagement is made and a meeting is arranged. It is arranged in somewhat unusual terms you may think because if the conversation is rightly reported Perry is saying "I would like to see you about you know" and the defendant replies, "Yes, well." You heard the conversation, you see what you make of it. Perry has told you that it appeared to him that the defendant knew quite well what it was all about.

There then follows a 'meet' at the Rose public house, of which there is a tape-recording which is Exhibit Twelve ... Sorry, Exhibit Two.

A That tape-recording is a bad one. It is split up and the reason you may think appears to be that the transmitter with which Perry was fitted up was too far from the recorder during a lot of the conversation. At all events, what Perry tells you is that on that occasion fifty pounds was handed over to the defendant. That is the first of the charges.

B Likewise on 31st October there is another 'meet' between Perry and the defendant. Again according to Perry fifty pounds is handed over. There are recordings of that, which if they are right give one a
C sickening glimpse of what appears to be corruption in which the defendant was engaged. That's the second count.

D Likewise again on 21st November there is another 'meet' between Perry and the defendant at the Grove public house. Again there's a tape-recording of what was said there. If that is right, again it contains indications which are on one view very alarming of the activities the defendant is concerned. According to Perry fifty
E pounds again handed over. So there in consequence of the tip off say the Crown is the man Perry paying out to the defendant on three quite separate occasions three instalments of fifty pounds towards the originally agreed amount of two-hundred pounds for a tip off
F which apparently on one view enabled him to get off the Nuneaton charge. So that is quite simply the substance of this case. The evidence has been very lengthy about it.

G It is of course hotly disputed by the defendant but on the face of it it can be quite distinctly put before you:- Perry arrested, a tip off by the defendant, further meeting between Perry and the defendant and an agreement to pay money, then three separate
H instalments paid off on three different dates not long afterwards.

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A If you accept the evidence by telephone conversations which afford, if they are right, a really frightening glimpse of what was going on in that part of the Metropolitan Police with the defendant in the foreground at that time.

B Let me start by explaining to you the principles of law which you have to apply. That is my part in this case, it is my task to tell you what the law is and it is then for you to apply it. You will decide what the facts are and where the truth lies and I shall accept your verdict on the facts in just the same way as you will accept my directions about the law. The law is my part of the case, the facts are your part of the case.

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D The first and most important principle of law applies to this and to every other criminal case. It is that it's for the Crown to prove guilt and there is no duty or burden of answer or account upon this or any other defendant to prove his innocence. Unless, if at the end of the day having heard all the evidence the Crown have proven guilt this and any other defendant is entitled to be acquitted.

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F Secondly, in proving guilt the Crown must reach a high standard, because they have got to make you feel sure of guilt before you can convict on any of the counts. If you are anything less than sure then of course it will be your duty to acquit. You only convict if you are sure that the Crown have proved guilt upon any of those three counts. You have got the Indictment in front of you.

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H They are separate charges and they each deserve separate consideration at your hands. There is different evidence about each one of them, but it may well follow on the evidence in this case that your decision will be the same on each of the, whichever way it goes. But they are

as I've said nevertheless separate counts so they must be separately considered even though your verdict at the end of the day may be the same.

Now let us look at what it is that the Crown have to prove in the way in which I have mentioned. The words on each of the three counts are the same, it is only the date of the alleged 'gift' that is different. The defendant has submitted to you it is really all one offence and there should only be one count. I can deal with that straight away by telling you it is wrong as a matter of law. There are three counts and the reason that there are three counts is that there are three separate times ... three different payments and you cannot possibly charge one person in one count with receiving three different gifts on three different occasions. The reason for the gifts, namely the showing of the favour is of course the same in each, but there are three gifts, three separate occasions on which money is handed over. That is what the counts are about, that's why there are three counts.

Now let us look with some care at each of those counts and see what it is that has to be proved. First, if you follow the wording. It alleges that the defendant being an officer in the Metropolitan Police corruptly accepted or obtained for himself the sum of fifty pounds from Perry. Well the first thing to be proved therefore is that the defendant was acting corruptly at the time he received each gift. There is no mystery in law about what 'corruptly' means in that context, you heard the tapes, if you accept them, accept the passages like that about the defendant being in 'a firm' and passages of that sort then the corruption is ... (inaudible). But as a matter of law what must be proved in this case is that on each occasion the defendant, when he received the gifts did so dishonestly and in the knowledge

A that the money was being given to him as a result of improper conduct
by him as a Police Officer, in the circumstances a favour which is
obviously a dishonest one that is got out in connection with
improper conduct by the defendant as a police officer. Again, if
the tapes are right you may think there is little doubt about that.
Once indeed you come to the conclusion that any of those gifts were
B made then you may think that it is very difficult to say that they
were honest gifts, if only for this reason that the defendant has
from first to last hotly denied having received any of them. So
if he did receive those gifts or any of them can it be said on any
C view that they were honest gifts. You may think that if you are
sure that these gifts were made it's not at all difficult to come
to the conclusion that they were corrupt gifts. So the nub of the
case as I think everybody accepts is whether it is proved in any
D of those three instances that the defendant accepted or obtained for
himself the sum of fifty pounds from Perry. That depends on whether
you accept Perry's evidence. If Perry is right - and his evidence
is supported in ways which I shall point out later, if Perry is
E right there's no doubt that the defendant accepted these gifts.
It was I think being suggested at one time today by the defendant that
the Crown have to prove some sort of demand. That is not necessary.
You look at the Indictment and you will see there's not a word about
F demand there. What the Crown have to prove is quite simply in the
context of this case, that Perry made a gift of fifty pounds to the
defendant and he accepted it.

G Next, it has to prove in each case that the money was a reward. Well,
a reward means exactly what it says. It means a payment for something
the defendant had done - in a word payment for the tip off. The
amount doesn't matter, it's the payment of the money that matters.

H You are not concerned with whether the money was counted rightly

or wrongly. It doesn't matter tuppence whether what was handed over was forty-nine, fifty or fifty-one pounds or indeed any other sum. It is the handing over of a money gift which counts. Equally it is not relevant if you think that fifty pounds was a lot more than the services were worth on each occasion. If you thought that two-hundred pounds was far too much to pay for a tip off of the sort alleged, very well that's your view but it doesn't matter from the point of view of the Indictment. The point is that the Crown must prove a reward for something done - it's adequacy or proportion of what was done doesn't matter.

Next it has to be proved that the reward was for showing favour to Perry in relation to the defendants Principal's affairs - that is the affairs of the Metropolitan Police in connection with the arrest of Perry on 24th September. The favour doesn't have to be of any particular character. What the Crown say in this case is quite simply that the defendant gave a tip off. A tip off which the man Perry could and did turn into effect. I'm not going to go into the evidence at this stage about it but it is perfectly straight forward. You will remember the Crown say there is this tip off in the cell that Perry kept quiet on the basis that he was told that the Police had got nothing on him. That was, to an experienced man in crime as obviously Perry was, valuable information. Of course if a police officer tells a suspect that it is quite contrary to what you would expect any police officer to do because he is giving the game away. And if you are sure that is what happened then you would have no difficulty coming to the conclusion that a favour was shown by what had been described as that tip off.

Now those are the principles of law which apply to the counts in this case. They are perfectly simple, you will have no difficulty

in following them when you read the words of each of the counts.

I hope I have explained them and I hope you have now understood them.

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The decision on the facts as I've already told you is in your hands and not in mine and it's going to be for you to make your own mind up about it.

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There is one other matter which I must deal with so far as Perry

is concerned and I will do it straight away. I must give you a

warning about Perry's evidence. It is right in the circumstances

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of this case that he should be treated in the same way as if he was

an accomplice and that means that I must warn you, as I do, that it

is dangerous to act upon his evidence alone unless it is supported

by other evidence from a source independent of Perry, which supports

Perry's evidence on some material issue in the case. The view you

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take of the evidence is of course your concern and not mine. Having

given you that warning I can tell you as well that bearing that warning

clearly in mind you may still act upon Perry's evidence even if you

don't think it is supported, but that's a rather academic point because

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when we look at the evidence there is ample material, if you accept

it and of course it's for you to say whether you do or not, but there's

ample material in law which you could accept as supporting Perry's

evidence, enabling you to act upon it.

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That evidence comes under three headings. First of all there are the

searches spoken to by both the reporters and by Hawkey that Perry

before he had each rendezvous with the defendant was searched.

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That he had on him on each occasion fifty pounds and I think a little

small change, but basically he had with him fifty pounds and after

the rendezvous he was again searched and the fifty pounds had gone.

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If you accept that evidence that is something which you could regard as supporting Perry.

Next there is a considerable amount of evidence to be found on the tape recordings. Again, if you accept those as being original and authentic. But let me just point it out to you now while it is fresh in your minds. Would you look at page seven of Exhibit 45.d. There at the top. "How are you Mick?", then there's the remark about Perry, "You know, a bit more dough", "I see" and then there's the single word from the defendant, "Yes". Now if you are satisfied that that's indeed what was said well then there's the defendant acknowledging that some money has been paid because there's a clear reference to "a bit more dough" - more than what it must be, more than the last time. Do you see? So if that tape-recording is right there is the defendant acknowledging that and that's something which you can take as supporting the evidence of Perry on the first count.

Now let me go to page fifteen, there's another reference there by Perry to money. Look where it says twenty-five twenty. "I ain't got it all yet, I get another fifty alright". Answer by the defendant, "Yes, fine, yes". Well on the same principle as the last passage if that is right then there the man Perry is saying he's got another fifty, that's pretty clear that if that's another fifty there's already been one. And if where you see the defendant saying "Yes, fine, yes" if that's an acknowledgement by the defendant then that supports Perry's evidence about the gift on Count One. Of course it also supports his evidence about the gift on Count Two.

Now may we go to page nineteen at the bottom. There's a reference at twenty-eight thirty-five by Perry, "I'll get it, I'm going to definitely get it by next week but I can't get my hands on it". "Yes" says Symonds, "That's alright, as I say don't do anything silly, just sort of, you know". Well there we are, again the defendant

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appearing to acknowledge it's alright if he gets his next payment next week. And again, evidence you may think supporting Perry's evidence about the money provided in each case, if you think there is an acknowledgement by Perry of what ... an acknowledgement of Symonds of what Perry is saying. Of course it's right that Perry cannot support himself by his own evidence otherwise it would not be evidence coming from an independent source. But if you think there is an acknowledgement of what Perry says by the defendant properly represented in this conversation then that is the defendant who is independent from Perry acknowledging something which amounts to showing there has been a payment.

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If one goes on, at the bottom of page twenty-four. I'm sorry, before we do that let us just look before we leave page twenty at what is perhaps one of the most powerful passages in all the tapes. Symonds saying, if this is right, "Don't forget always let me know straight away if you want anything because I know people everywhere because I'm in a firm, it doesn't matter where, anywhere in London I can get on the phone to someone that I know, I can trust, that talks the same as me". "I've got you", says Perry. Symonds replies, "If he isn't the person who can do it well he'll know someone who can". If that's right it gives a fairly horrifying glimpse of what was going on at the time. And if you think that's right you may think it is the most powerful support that the gifts were given corruptly. Do you see?

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Then on the money side of it. The bottom of page twenty-four. That is a difficult passage but there was evidence from Mr. Eley or Mr. King that when he listened to that there is a phrase which you may have written into the bottom of there. "Yeah here y'are, I may as well give you that now, I can't, I can't get fuck all". Well you've heard all the tapes played. I thought the second was

A the easiest to follow, I don't know what you thought about it.
Well if that's right, if Perry was saying "I may as well give you
that now" and the defendant was saying "Cheers" then you come back
quite significantly to Perrys sentence finishing with the word 'lately'.
There's Symonds interrupting Perry's sentence by saying "Cheers"
and if you take that to be an indication of 'thanks for the money
being passed over', then there's independent support for Perry.
B And the other thing which you may glean from that is that there is
an instance of the two parties to the conversation talking so to
speak on top of each other. It so happens that it comes in quite a
C significant place. And you will remember in that context the
evidence of Mr. Hide is that it is almost impossible to fabricate
tape where two people are talking at the same time. But it's a small
point, but there it is and it does emerge. Well those are all
D matters which you can regard as supporting Perry's evidence on those
counts.

E There are other matters too which falls into a third category and they
are to be found in Symonds diary. Let us have a brief look at that.

F MR. RIVLIN: Your Honour before we do, might I respectfully draw your
attention to two statements which could be capable of amounting to
corroboration of the tapes.

HIS HONOUR JUDGE R.A.R. STROYAN: Yes.

MR. RIVLIN: Your Honour page twenty-two and thirty-six. I mentioned
these matters. If your Honour disagrees with me Your Honour could
say now. The top of page twenty-two and the bottom of page thirty-
six. I did make submissions on this.

G HIS HONOUR JUDGE R.A.R. STROYAN: Yes. Members of the Jury I wasn't
being exclusive when I told you what I have just said, but there if
you look at the top of page twenty-two, that's the 21st of November, 1969
you see a reference there to Perry saying ...

A Well again exactly the same applies if you accept acknowledgement of Symonds of Perry saying he's only got fifty, then that obviously supports Perry on that particular aspect of the matter which is Count Three. At the top of page twenty-two.

B And equally if you look at page thirty-six at the very bottom you will see "Anyway Mick thanks very much for that". If you take that as a reference by the defendant to a payment made by Perry at that 'meet' there again there is the defendant supporting what Perry said. So if you do accept the tapes on these matters there is support from the defendant for what Perry told you.

C So far as the transcript is concerned, I've asked you to look at 35.d. of course look at the others as well when you come to consider the matter. I'm not restricting you in any way to 35.d, I'm using it because it seems to be the most convenient, it's got the most on it. But what you will bear in mind throughout is of course each of these transcripts is designed as an aid to you. The evidence of course is what you hear from the tapes, so far as the transcripts help you then of course make use of them but the evidence is the conversations on the tapes not the transcripts which are only an assistance.

F I was going to ask you to look at the diary. I hope I'm going to do that quite briefly. Let us look at the relevant dates, that's all I'm going to look at with you for the moment. We start off at the G 28th October. A 'meet' as you know was at 5.30 or thereabouts. If you look at the entries relating to that time, 5.15 p.m. to Edmund Street re. enquiry and returned to M.C. (which is Camberwell Police Station) at 6.00. What enquiry was there at Edmund Street where the H Grove public house was. Now the importance of that entry in this

context is if looking at the evidence as a whole you came to the conclusion that this is a dishonest entry put there if necessary to mislead, if you came to the conclusion that the defendant has made a dishonest entry in his diary to conceal what he was really doing, well that dishonesty there could be regarded as support for Perry on that occasion. Just the same applies to the other two entries. Turning to 31st October, the meeting at 2.30 or thereabouts. What do you see there? 2.00 p.m. meal, 2.45 Camberwell. He said re. enquiry and returned to M.C. that's the police station at 3.00 p.m. There again you have to ask yourselves whether that is an honest entry or an entry designed to deceive a superior officer who may look at that diary. If on the evidence as a whole you come to the conclusion that it is a dishonest entry made to conceal what he was really doing on that occasion then again it may be taken as supporting Perry's evidence in relation to the second count. The same applies in relation to Count Three, 21st November, the 'meet' again I think at 2.30.

MR. RIVLIN: Your Honour 12.30.

HIS HONOUR JUDGE R.A.R. STROYAN: I'm sorry, I misread my handwriting.

12.30. What are the entries there? Twelve noon to (inaudible) re. enquiry, returned to M.C. at 12.30 for a meal and that is followed at 1.15 at the office. Again, if looking at the case as a whole you are sure this is a dishonest entry in the diary designed to conceal what the defendant was really up to, on that view of the matter if that's what you think about it that too could be taken as support for Perry.

So there are the three matters which if you accept them and if you look at them in the way I have been explaining to you, you could

regard as support for the evidence of Perry. They are one:- the searches before and after. Two:- what you find in the tape-recordings. Three:- what you find in the diary. If you accept any of those in relation to any of the counts then there is support for Perry's evidence of a kind which will satisfy you if you accept it in relation to the warning I have given you that it is dangerous to convict without that support. So look at the support. If you find it there then you can act on it - on Perry's evidence supported if you so find it.

Now then the next point which I would like to deal with this evening is the rather unusual situation in this case in that the defendant didn't give you evidence on oath but chose to make a statement from the dock instead. Now let me say at once that no inferences of guilt can be drawn from that circumstance alone. It is the defendant's right to do what he did and the fact that he chose that course is not by itself any evidence at all of guilt. You must remember from first to last and all the time and particularly in this context, it is for the Prosecution to prove guilt and not for the defendant to prove his innocence. Now the statement unsworn from the dock is a relic in our law of the position before 1898, before 1898 when there was an Act of Parliament that no prisoner was allowed to give evidence on his own behalf at all. All the Court heard was evidence for the Crown and then if the prisoner chose, evidence called by or on behalf of the prisoner, but not the prisoner's evidence. He wasn't allowed to give evidence for himself until 1898. And I think the reason for that may have been that from years and years back it was thought to be a bad thing to place a prisoner who was likely to tell lies in the witness box because of the danger to his mortal soul if he so did upon oath. That is a piece of ancient history now. But the Courts did allow the practice for defendants to make statements from the dock because they couldn't go and give evidence from the

witness box. Now that right has been preserved by successive Acts of Parliament and it is still a right today. And it is a right the defendant is perfectly entitled to exercise as he cares. You will recall that I told him of his right. I said that he could give evidence on oath or he could make a statement from the dock or he could simply say nothing at all. He has chosen the course which he did, he is perfectly entitled to do so and the fact that he did do has no indication by itself of guilt because it is the Crown who have to prove guilt. But the fact that the defendant didn't give evidence on oath but he did make his statement from the dock inevitably involves two things. You heard me warn him certainly about one of them. The first is that a statement from the dock means that the person who makes it does not have his explanation tested by cross-examination in the same way that in this case the defendant tested the evidence given by the Prosecution witnesses who gave evidence on oath. It enables the defendant to avoid being asked questions which might perhaps be rather awkward to answer, that is one effect of it. Secondly, it inevitably means this, that whatever weight you attach to his statement from the dock there is no evidence on oath cross-examined to on behalf of the defendant himself to put against the evidence of Mr. Lloyd, Mr. Mounter or Mr. Perry. You will of course give proper weight to the criticisms the defendant has made to their evidence. But it is inevitable result of the course which he has perfectly properly taken that he has not given evidence on oath which could be tested by cross-examination to put it in the scale when you come to consider the evidence. But you will of course remember that in that context he is entitled to take that course and it is for the Crown to prove his guilt. The degree of weight which you attach to the statement from the dock which is not as I've said sworn evidence, is for you to say. I cannot help you about it.

You must make your own mind up about it.

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Now this defendant has chosen, again perfectly properly as he is entitled to do, to conduct his own defence. You have heard the way in which he did so and you are perfectly entitled to bear that in mind when coming to your conclusions. Did you think that he conducted that defence in an upright, honest and direct way, if you did that would of course no doubt support his contentions. If you took the view that he was conducting an unscrupulous defence and putting forward points which were misleading or indeed deliberately misleading, well there again that would be something you would be entitled to bear in mind particularly when considering if he was acting corruptly in relation to those three counts.

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What you must consider when you retire tomorrow is of course what the evidence really was as opposed to what the defendant would like you to think it was - if those two things are different you will remember the evidence in so far as the defendant relies upon evidence which was given, he is entitled to do just that. If you think he has taken points which are really not supported by the evidence at all then you would be bound to disregard them.

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During this case there have been a number of references, you may think far too many references to hearsay evidence. Hearsay evidence is inadmissible in law. But I have interpreted the rules of law leniently, I think perhaps too leniently in favour of the defendant in this regard. But the reason for hearsay evidence being inadmissible is two fold. First of course it is not the best evidence because if someone says to you in the witnessbox "well somebody told me so and so" the best evidence would be from the person who actually made that remark was in the witness box giving you that evidence on oath.

And, it is coming to you second-hand if the way it is put is somebody told me something or another. The other reason is that obviously enough it is likely to be unreliable and it certainly cannot be tested in cross-examination because the person alleged to have made the remark isn't in the witness box and so the truth of what he says cannot be tested. And that is why it is a matter of commonsense hearsay evidence as a matter of general principle isn't admissible in a Court of Law. Otherwise you never know where you could possible end up. It's a matter of commonsense as well as law. Let me give you just one example of a particularly striking piece of hearsay evidence in the evidence of D.C. Lewis which was read to you on Thursday. It is that which the defendant has referred to in his final speech. It reads as follows:- "It was only subsequently that I heard in the office that the informant had told somebody that Perry had said that the (inaudible) he had received had cost him money". You have only to read that out to see that is a fourth or fifth-hand remark. "I heard in the office that somebody" - told by somebody in the office, "That the informant" - that's a third party "had told somebody" - that's the fourth party. "That Perry" - that's the fifth party. "Had said that the (inaudible) he had received from somebody else" - that's a sixth party. "Had cost him money". That is why hearsay evidence is unreliable, it comes to you at sixth-hand. It is plainly, to say the least of it unreliable. It is also inadmissible and you will of course attach no weight to it at all, as it must obviously be the case. That is just an example, a rather striking one and the same applies of course to pieces of hearsay evidence I didn't stop the defendant getting in. With that example in mind I know you will bear that in mind and of course if the matter is merely reiterated to you at second or third-hand it would be wrong to include it, so bear that in mind.

A Another thing which was put before you by the defendant is that
the reporters may have been acting as what the French call 'agente
provocateur'. That means that they were so to speak putting Perry
up to it. It is for you to say whether that was happening. You
heard the reporters. But let me make it perfectly clear to you,
even if someone does put somebody else up to commit an offence that
B is no defence in law to the person who commits the offence. The
fact someone meets you on the way home tonight and asks you to
burgle your brother-in-laws house, that's no defence to you when
you stand in that dock a few weeks later.

C Now the case has as I've already said taken a very long time. You
may well be asking yourselves whether the pronlongation of this case
on the evidence has been with the genuine object of putting all the
D relevant evidence clearly before you or whether it has really been
to create a smoke screen to distract your attention from the basically
quite simple facts and real issues which you have to decide. You may
also have been wondering whether some of the points which you may think
E were misleading were deliberately misleading, - it's going to be for
you to say. What you will have to do at the end of the day is to
fan out the wheat from the chaff and decide what is important and what's
not as far as the facts are concerned. There's evidence before you
F which would enable you to convict if you were sure that that evidence
was right without even looking at the tapes. You will see the
evidence of Perry, the evidence of the reporters, there is the evidence
of Hawkey, there is the diary. If Perry is right, if you find him
G to be supported by the reporters' version about the searches, they've
got reasonably up-to-date notes to prompt their recollection, if you
think that that evidence is reliable, if you think Perry's evidence
is indeed supported in that way and it is safe to act upon it then
H you can find verdicts of guilty on each of those Counts without looking

at the tapes at all.

A But this case being what it is and the events having taken place
as long ago as 1969 the tapes of course have played a very prominent
part in the case and they are on the Crown's view of the
case of great importance. Let me tell you at once that you have got
B to be sure that they are both original and authentic before you can
act upon them. If you are not quite sure about that then banish
them from your mind entirely. I have already pointed out and I do so
again now that the evidence which you have to consider is what you
C hear with your own ears when the recordings are played over rather
than the transcripts. The transcripts are there to help and to
remind. They are not evidence. The evidence is what you hear and
before I conclude this summing up I am going to have the tapes played
D to you again, so you can bear that in mind. So if you are not sure
that the tapes are original and authentic then you disregard them.
Now in that context you will bear in mind that the defendant's first
witness, Mr. Taylor, told you the tapes are as reliable as the honesty
E of the people who produced them. That really puts this case in a
nutshell, doesn't it? If you accept that those tapes are the
original ones, if you accept that what was heard on those tapes
represents accurately what was said at those meetings then your task
F is relatively simple, is it not. Mr. Lloyd, Mr. Mounter, Mr. Hawkey,
Mr. Lambert each of you heard each of them in their different ways
told you that those tapes are the originals. If that is so you need
not really trouble need you, about the difficulties raised by the
G rest of the expert evidence about it. So it's very important to
decide whether you accept what those four people have said about
the tapes. If they are original then you may think that's really
the end of the matter.
H

A You see, on a number of the really important issues the experts really
agree, do they not, although there are of course differences of
emphasis and differences of approach. It is agreed that it is
difficult and perhaps impossible to detect whether a tape is
original if it has been competently edited. It is agreed that it is
perfectly possible to cut out bits of tape, join them together again
and having joined them copy them onto another tape and if that is
done and done properly then it is very difficult to detect. It is
agreed also is it not that so far as the conversations of which you
are concerned go there is no evidence of doctoring or tampering with
any of those tapes. All the experts agree that on the parts which really
matter the conversations with which you are concerned they all agree
there is no evidence of any tampering. The defendant on the other
hand asks you to say that you are not satisfied about that because
it may be that somebody at some stage, despite what all the experts
have said has succeeded in copying tapes and therefore they are
doctored. Well, you bear that suggestion in mind, but the evidence as
I have said including that of the defendant's own experts is on the
relevant part of the tapes no evidence of any doctoring or tampering.
I shall deal with the tapes in rather more detail tomorrow.

F One consideration you are going to have to bear in mind is surely this,
that if anybody was going to doctor tapes, tamper with them, fabricate
them in any way it would not be a very sensible approach to try to
do that with no less than seven tapes. Because with each one you
increase the risk of detection, in particular in relation to the
alleged recordings of the last two meetings, there's more than one
recording, those recordings are the same length, they match, so that
anybody who intended to doctor would have to doctor and doctor
successfully each of those tapes and doctor as well the sound levels
because they would differ where the person talking is wearing the

microphone (that is Perry) and where the other person talking (that is Symonds) is being recorded in the microphone under the dash-board.

Indeed you may think where was the opportunity for doing it. The defendant was suggesting to you that this might have happened almost at any time after the recordings were made. He shrank from saying Hawkey had done anything dishonest, but he was suggesting you may think the reporters. Do you also think I detected a suggestion that this happened when the tapes were in Police hands and Mr. Moody may have been responsible for something of that sort? In that connection let us look at what Mr. Ford the expert called by the defendant told you about it. He had examined the tapes himself as you will recall. He said he had done so on 3rd December, 1971. He told you also that he had examined 'The Times' copies which you will remember had been either in a bank or in the custody of the Court since they were made which was just before 3rd December when the alleged originals were handed over to the Police. What did Mr. Ford say about it? I've listened to the 'Times' copies he said, they are also identical in length to the alleged originals. Any tampering, said Mr. Ford must have been done before 3rd December otherwise he would have detected it because he had the 'Times' copies. Well, difficult isn't it against that background to think that those tapes were in fact interfered with in any way after they had come into the custody of the Police. The defendants own witness has virtually told you that they didn't. And, of course you had the evidence of those police officers who told you how they exercised the greatest care with the tapes. There are points which the defendant has made about someone saying (I think Mr. Moody) that there were two keys at one stage, but you've heard the people who really had charge of them, the police officers - the said only one key and no one had access to them except in their presence. And you heard what each expert said about the way in which those tapes were being looked after by the police. Indeed, everybody said the

greatest care was taken by the police. Mr. Ford tells you if tampered with at all they must have been tampered with before 3rd December.

So who does that leave? It would only be the reporters, wouldn't it.

Either they would be likely to do so at Location Sound Facilities when the copying was going on. It's not suggested by the defendant you heard him say so a short time ago any of the secretaries (and

that includes Miss Whar) had done anything by way of dishonest copying or editing. But if editing was to be done you may think either it had been done at home in the very early stages by one of the reporters, but had they got the facilities, had they got the

experience? I think one of the experts related to the difficulties of doing something of a skilled job like that in ones bedroom. Some of you may be more knowledgable about tape-recordings than I am, but you may think the idea of taking all these tapes in ones bedroom is really rather far fetched because there are not just one or two tapes, but seven and a number of them relate to virtually identical recordings of the same events. Could they have been doctored therefore in

Location Sound Facilities studios? Well you have the word of the Under Managing Director of that Company, again called by the defendant. He was on the premises until something like nine o'clock every night and had anybody even dreamed of doing any tampering there he told you they would have been fired at once. Where then is the possibility of doctoring or tampering with those tapes.

You heard a great deal of evidence which you will carefully consider about fifty htz. hum on some of the tapes and thirty htz. hum ... sorry, thirty htz. tone bursts on others. You heard about marks on the tapes which were described as that by one or two witnesses by editing marks, - by another witness as copying or identification marks, they came at stages (I'll deal with it in more detail tomorrow) where somebody if they were going to make a mark they would make it if they were going

to copy. That is a matter for you to say. But what is shown it is said by this phenomena - the tone bursts and hum were that the tapes were not factory fresh. What is the evidence about that?

The defendant would have you believe that the witnesses were fore-saying that the tapes were all factory fresh. I'll go into that in more detail tomorrow. But you may think when you consider the evidence that the proper conclusion is that which the Crown accept that a number of these tapes were not factory fresh, they had been used before and were used again and that makes no difference to the quality of the conversation recorded. It makes no difference to the originality. All those criticisms you may think depend basically on the question of whether the tapes were factory fresh or not. Once it is accepted that they were not you may think that the evidence about hum and tone bursts becomes explicable and not really terribly important. Though it is for you to say. The hum and tone bursts are basically not part of the recordings of the actual conversations. In relation to tape thirteen they come quite a long time after the conclusion of the conversation. Well, you bear all those points in mind. As I've said I'm not going to deal with them all in detail. You will give them whatever weight you think right, they may have been made to you time and time again through not one or two or three witnesses, but more. It may have been made to you time and again by the defendant. As I've said, you give them what weight you think right. You won't of course accept the tape-recordings unless you are quite sure that they are indeed original and authentic.

Now there is one peice of evidence which may help you in deciding the importance of all the other evidence about fifty htx. hum and tone bursts, people doing experiments and so on or not doing experiments at Crystal Palace, all those highly technical points how

far are they really relevant and how far are they relevant indeed in the light of the evidence of Miss Millard, again called by the defendant. She told you that she heard the tapes and those conversations on the occasions 31st October and 31st November, each day just after they had been recorded "I listened to the tapes" she said, "with excitement and horror, what I heard horrified me. What I heard was police corruption, I didn't believe it existed, it shocked me, I was scared out of my wits and so was Mr. Harkey. I was frightened for my life, if Symonds could behave in that way I wondered what corrupt police officers would do if they found out, I just couldn't imagine this was going on". She said, "That was my reaction on hearing the first tape, the second tape was a bad if not worse". There is the evidence of one of the defendant's witnesses who heard the tape very shortly after they were made. Does her evidence help you to decide what importance should be placed on the evidence about fifty htz. tone bursts and thirty ... I'm sorry, thirty htz. tone bursts and fifty htz. hum. In the light of that evidence what importance does that expert evidence really in commonsense bear. It's for you to say.

I'm going to break off now members of the jury. I shall conclude my summing up I hope tomorrow, but don't take that as a guarantee, it may take me rather longer than I think it will. At all events, it's just as important now as it ever was to remember the warning I have given you about not discussing the case and not letting anyone discuss it with you. We will resume tomorrow.

(Court Adjourned Overnight)

14th April, 1981

HIS HONOUR JUDGE R.A.R. STROYAN: Members of the jury, yesterday I

A told you the principles of law which you must apply and also dealt
with some of the considerations of fact which are of course your
B side of the case. There are an immense quantity of points which
have arisen in this case. Some are serious ones which deserve
consideration, some are doubtful and some plain bad ones. If I was
to repeat all of them I think you might be in grave danger of failing
C to see the wood for the trees. So I'm going to confine myself as
I have indicated yesterday to what seems to me to be main points.
You are of course entitled to supplement what I say from your own
knowledge of the case and indeed you are bound to give weight to
any points which I do not mention, if you think they deserve it, any
of the points which have been taken before you by witnesses and in
speeches again and again. I do not think it would help you much if
D I repeated them to you for the umpteenth time. You give them
whatever weight you think right even if I don't mention them.

Now let me in very summary form before I turn to the facts just remind
E you of the principles of law which I am sure you will bear in mind
throughout. I'm not going to remind you of them again after this.
First of course, the duty of proving the case is on the Crown, there
is no duty on the defendant of any sort or kind to prove his
F innocence. The Crown must reach a very high standard of proof because
they have to make you feel sure of guilt before you can convict.
And you must consider the counts separately although it may be that
your verdict will turn out to be the same for each of them.

G So far as the Indictment is concerned what the Crown must prove
in that way is firstly if the defendant accepted money he did so
H corruptly. That means he did so dishonestly knowing that what he

did he did as a result of his own improper conduct as a police officer. Next it must be proved and it is perhaps the principle matter in this case that the defendant did in fact accept money from Perry on each of those occasions. That's the kernal in this case, that is hotly denied by the defendant and insisted upon by Perry and some of the other witnesses for the Crown. Thirdly, the Crown must prove that that gift in each case, that money, was accepted as a reward, that means what it says. In the context of this case it means as a reward for services rendered, in other words for what has been described as the tip off that the Nuneaton police hadn't got anything on him, or words to that effect. If the payment in each case was a reward in that sense then it doesn't matter at all if you think that it was either disproportionately large or disproportionately small for the services rendered - namely the tip off. The amount doesn't really matter in other words. And then the showing of the favour. What the Crown in the context of this case have to prove is there was indeed that tip off to Perry that the defendant didn't think the Nuneaton police had any evidence against him or much evidence against him. I don't think he is said to have told Perry "They have got nothing on you", but "If they have finger prints then tell them you will plead guilty to Section One theft". Well there is the favour and the tip off, perfectly straight forward and what the Prosecution say is everything follows on from that.

So far as Perry is concerned I remind you that in the context of this case it is dangerous to act upon his evidence unless it is supported by other evidence coming from a source independent of Perry himself which confirms his evidence in some important respect. I have already indicated there are three possible sources of support if you accept them. First the searches before and after the meetings.

Secondly, what is said in the tape-recordings, if you accept them. Thirdly the diary, if you accept the entries in the diary for the relevant dates, whether the defendant has concealed where he really was. Those are the possible sources of support for Perry, if you accept the evidence about them. The reason for that of course is that Perry is a man with a large number of previous convictions, I think over twenty. You've got his record in front of you, I'm not going to go through it all again now, you can see for yourselves what his criminal record is. You notice that whatever may have happened in the past he does seem to have kept out of trouble for the last few years. But it is for you to decide in the light of all the other evidence in the case what you make of his evidence.

Now having reminded you of these matters let me turn to some of the considerations of fact. As I've already indicated I'm only going to pick out some of those which seem to me to be important to the case and I'm not by any means going through them all.

Let me remind you of the substance of what the defendant said to you in his statement from the dock. It is up to you to give what weight to those remarks he made you think is right. It is not of course evidence on oath like the evidence given by other witnesses in the witness-box. For that reason it has not been cross-examined to and it has not been tested in the way the evidence of other witnesses has been. But you heard what he said, it's up to you to decide what it's worth. He started by telling you about his early career, how he joined the Army at an early age and was commissioned I think in the Royal Artillery. Then he described coming to the Police Force after something like three years service and getting appointed to the C.I.D. and eventually becoming Sergeant as he was at the time these incidents took place. Now what that

A means of course is this, that he is entitled to be treated as a
man of good character hitherto, he has got not previous convictions
of any kind at all that is recorded. That means that he is
entitled to ask you to bear that in mind when it comes to con-
sidering his evidence along side the evidence of other witnesses.
If at the end of the day you find the scales are evenly balanced
B then he is entitled to ask you to put his good character into the scale
on his side and bring it down in his favour. But of course it
doesn't really follow that because he is of good character therefore
he cannot be convicted or he must be believed. If that was so
C nobody could ever be convicted for the first time. And of course
if having considered the matters he puts before you you feel compelled
by the evidence to reject what he has told you from the dock well
then that's the end of it, he hasn't given you evidence on oath
D but he is entitled to pray his good character in aid when you consider
what he said from the dock. The conclusion you come to is of course
not just a conclusion from what he said in the dock but from all
the evidence given in the witness box.

E But in substance what he was telling you was that he had been with
other Officers keeping an eye on Perry for a considerable time,
certainly from July or August, 1969. He and other officers had
F been keeping something of a watch on Perry, they were trying to
keep in touch to where he lived and they were compiling some sort
of diary on Perry because they were of the view he was part of
a gang called, I think, 'The Likely Lads' which were operating with
G skeleton keys to commit a number of burglaries. The defendant told
you that on 24th September which is the first important date in this
case really, 1969, he received a telephone call from Beckinham
H police stated he was with another Sergeant at the time, saying

police officers from Nuneaton had arrived at Peckinham and had evidence which enabled them to arrest Perry and another man who turned out to be Brooks, in respect of the burglary at Nuneaton. The defendant described, as you heard from a number of witnesses how they went along to Perry's flat and eventually when Perry arrived he was arrested and taken to the Camberwell police station. And there the defendant told you the stolen cigarettes had been placed in a cell or store-room, one of the witnesses described it as the 'female cell' in the cell passage. There was evidence that he had asked to see Perry in the cells. There was evidence that he had asked one of the Nuneaton officers if he could see Perry in the cells presumably on the basis Perry had committed an offence in Nuneaton and was therefore the prisoner of the Nuneaton officers in relation to that offence. But, said the defendant, it is nonsense to say he was obstructed by the D.C. from Nuneaton because he was perfectly entitled to go and see a prisoner in his own police station. He told you that Sergeant Harris knew there was no finger prints because he had been told so by the finger prints officer. Harris knew apparently Perry had refused to make any admission at Camberwell and the defendant told you that Sergeant James (now an Inspector) who you heard, had suggested to him that he should speak to Perry and (inaudible) to tell him that why should he imagine that officers had come all the way from Nuneaton to arrest him at his house if there wasn't some form of evidence against him and to plead guilty to Section One which would only carry twelve months. It was also agreed said the defendant that the officers would give the treatment described earlier in the Court which was called the 'cold turkey' treatment - whatever that may be, and he was taken back to Nuneaton, said the defendant. The next thing we heard evidence that at some stage the Nuneaton officers because Mr. Perry said these words, "I've been told to keep quiet", the Nuneaton officers

lost heart and gave in, "We will release you" and the defendant went on to say that is ridiculous and totally untrue and the defendant went on to say that he did receive information from Nuneaton to the effect that it had caused Perry to get out from Nuneaton. The defendant had received that information but not he said from Harrison. And yesterday, you will remember we looked at the piece of hearsay evidence upon which the defendant based that suggestion, you will remember it was the bit we looked at which was third, fourth, fifth or sixth hearsay, sixth-hand. The defendant went on to tell you that the reason that Perry got to know about it, the reason they had become associated in the case was really because of Perry's motor car. You will remember that suggestion that the defendant had said he would try and get Perry's motor car to the police station after Perry had been arrested and there was a bit of tooting and froing about that. The defendant said too that Mr. Perry first started to make allegations about him at Perry's house on 20th October when he had previously made a full statement to the 'Times' detailing all he knew about allegedly corrupt police officers or threats and so on. And, said my name wasn't mentioned at all, said the defendant. Well, that is true and that is a point the defendant is entitled to make in his own favour. Perry in his original statement to 'The Times' made a statement but not including Symonds with other officers. A little later it came out that this defendant was involved in matters you heard about in addition to the other officer Robson and Harris being involved in other rather more serious offences. Then after a bit the defendant went on to deal with the meeting at the Rose public house about the 22nd October, which he said was the first time he had spoken to Perry and he said Perry asked him if he could help him over his car which was down at Nuneaton. Then he said the next bit of evidence against him was the telephone calls. It was said Perry telephoned him and mentioned

"You know". Well, you've seen that passage in the transcript, it's in the very early stages, in fact it's on page one of 35.d. The passage referred to is at the top of page two. Perry says "Um I'd like to see you about, er, you know". Symonds says, "Yeah, where are you now". Well, Perry's evidence that the defendant seemed to understand perfectly well what he was talking about. Well, you can see what it says there, you make your minds up about that. But what the defendant told you was when he picked up the telephone he thought it was a man called 'Terry' not Perry who was talking to him, so said the defendant he was going along to this meeting expecting to see a man called Terry who he said was an informant of his. Well, see where that takes you if you look at page one. If you look at 4.26 towards the bottom, the defendant said "Speaking, Perry said, "Hello, it's Perry here, remember me do you?" "Who", "Perry", "Yes", "I'd like to see you about, er, you know". The penny appears to drop, whether that be so or not the defendant was telling you he when he was going to meet someone called Terry and then he was totally surprised when Perry pulled up in his car near him. Then he described a small rat faced man, well that was the defendants view (perhaps it still is) of Mr. Lloyd. And then the defendant came really to the heart of his case, because he was saying he never demanded any money from Perry and his case is in the clearest terms that he never took any money from Perry at all, they had a friendly conversation.

Going on to The Grove public house and if you look at your Schedule A. you can see there are two recordings in relation to that. Why did I go to the Grove public House, said the defendant. I went there because that's usually where I had my dinner, the only place to get a hot meal at Camberwell at lunch time and he said during this period he must have met Perry on and off half a dozen times accidentally

A at the Grove, I would come out of the public house said the defendant
after having my lunch and Mr. Perry, surprise, surprise, waiting
outside making signs he wanted to talk to me. So that's what the
defendant was saying about those meetings with Perry at the Grove
that they were really chance meetings. How that evidence fits in
with the rest of the evidence is for you to decide. And said the
B defendant the evidence is that I must have had some sort of a brain
storm or something one would imagine after the briefest of acquaintanceships
with a criminal it was incredible I should go and tell Perry about
it on the second or third meeting. And then he went on about
C criminal fantasy. You will give what weight you think right to it,
to the submissions you heard often from the defendant.

MR. RIVLIN: (Inaudible)

HIS HONOUR JUDGE R.A.R. STROYAN: I'm sorry. Members of the jury

D I am grateful. You will bear in mind that in one way that's one
way of looking at it, the other way of looking at them is that this
was a corrupt Police Officer seeing what he could get out of a man
to whom he had given a tip off, that's the other side of it.

E Well, that's a few of the points emerging from the defendants
statement from the dock on the first day he made it. He went on
and concluding he said he helped Perry over his motor car. I've
F dealt with that. He said on 22nd October Perry came with him to
the public house and again asked him about his car and appeared to
be adopting a friendly attitude. "I knew Perry was at the very heart
of the offences". He said, "And I decided to cultivate him as an
G informant. He said, "Sometime later Perry started telephoning me
giving me the impression he was amiable to becoming an informant
many more times than have been brought before the Court." And he
went on "Mr Moody has set out to convict me by changing around
H original evidence". What that's got to do with it, I don't know,

it's for you to say. But the evidence really upon which you are basically being asked to consider is that of Mr. Mounter, Mr. Lloyd, Mr. Perry and the other witnesses. The defendants submission that Mr. Moody started changing around evidence you may feel does not get support on evidence at all. Then he said he decided to counter attack Moody by threatening unless he stopped what he was doing he would bring him to the most superior authorities and he said "Pressure came upon me to leave the country". Promises, inducements and later threats. So he did decide to leave the country but only on a short term, on a holiday, timed so he would know the result of the other case. Well, as you know he was out of the country when his case was due to be tried, which I think was in January, 1972 and his next appearance here was in May, 1980.

So far as the tapes are concerned, what the defendant said was this, "All I put to you members of the jury is that these tapes are fraudulent, the first thing you must think about before you start to put your mind to what are on the tapes are the tapes genuine, are they original because I say they are not." I will deal with the tapes a little later.

But so far as the other matters are concerned I've already told you there is evidence upon which, if you are sure it is right, you could convict without ever getting as far as the tapes. That is Perry supported by the reporters and Hawkey. If you take that view of the evidence it is possible for you to convict on that evidence even before you bother about the tapes, but you would have to be obviously very careful about that, that Perry's evidence was true and properly supported. If of course you accept what's on the tapes well then you may think the matter is clear beyond peradventure. I think the defendant at one stage in the proceedings described the

tapes as being fatal to him. But it is for you to say what weight they have. At all events, Perry ... I'm sorry, the defendant is saying basically that he never paid Perry any money at all and therefore that none of these charges is proved. And his contention was that the money which was on Perry when he went to the meetings had been produced by the reporters and then pocketed by Perry between the meeting and the time when he was next searched. That is really in essence what the defendant was saying. The reporters have of course given a quite difference account of the matter, that is the defendants contention and you will of course consider it. The reason he gives you for his conduct with Perry - and he accepts he did have these three conversations in the car is he thought Perry was going to be an informant. Well, it is for you to decide what you make of that. You have seen in the transcripts and you heard on the tapes the views which were being expressed by the defendant about people who were informers. There are a number of places where he makes it absolutely clear he would not trust a grass further than he could throw him. At page twenty-six, you will see about half way down the page there is a reference to 'fitting someone up' at the bottom you will see a reference to Perry saying he didn't trust somebody. And page twenty-seven there's Symonds saying "If you're a grass, you're a fucking frass, and if you're a grass that means you're likely just as likely to fucking grass me as any cunt, you see what I mean?" And then there's that other reference which you also I'm sure remember "What happens to grasses, they get dealt with by other fellows". So there you find there are a number of references to that which you can turn up yourselves. There you can find the view which was being taken by both the defendant and by Perry about grasses. The defendant was foresaying he didn't trust them. That may or may not be right, but Perry was making it absolutely clear that one thing he wasn't going to do and that was become a grass. So how does that

fit in with what the defendant suggests about cultivating him as a grass.

A You will remember too the diaries kept by the defendant, there follow
on references and I'm not going to go through them all again. There
follow on references to meetings with informers, buying drinks
B for informers, things of that sort. But when we come to these
meetings and we come to the date with which Perry is concerned there
is not a whiff of a suggestion that the meeting with Perry was
anything to do with him as an informer. So how does that fit
C in with the defendants suggestions about trying to get Perry to be
a grass.

D Now the defendant as he is perfectly entitled to do called a number
of witnesses. I will deal with Miss Millard later. I've already
spoken of her to you. He called a number of police officers. There
was Constable Cook from Nuneaton. He remembered taking Perry back
to Nuneaton. He didn't remember any conversation about finger prints
E nor in relation to Perry being told anything about how to deal with
offences. He did say, "I heard Symonds ask Sergeant James if he had
any objection that is to seeing Perry". Symonds had said according
to that witness "I know him and might be able to get him to plead
F guilty to Section One". Well, if that was said is that a genuine
remark or is it the defendant trying to get himself into a position
which he could have a word with Perry for a corrupt purpose because
he had the chance of making some cash out of it.

G Then there was Clarkson, a Detective Constable from Nuneaton and
he said that his memory was that Perry had offered him a bribe.
Perry had said, "How much does it cost me to walk out of here", or
H words to that effect and he mentioned twenty-five pounds. He said,

"I reported this to Sergeant James immediately, before Perry left".

He laughed, "We didn't take him seriously on the twenty-five pounds".

He did take him seriously that he got a tip off not to say anything.

You see if that's right there's Clarkson saying he was offered a

bribe by Perry at the police station. Perry of course doesn't

accept that and the defendant is entitled to say well that is something

which should cause you to doubt Perry's evidence. That is the way

it is relevant, that's why he was called, and he says you must

compare that with the evidence given by the other Nuneaton police

officers and see where that gets you.

A large number of statements were read to you starting with that of

Miss Whar. She said there was copying of the statements ... sorry,

copying of the tapes after they had been made, but I think she spoke

of there being two keys to the cupboard in the 'Times' offices.

There was evidence from Sergeant (inaudible) of Peckham who said

he had got a message that the uniformed branch of Peckham had been

sitting on a white van all night and that was the van that had the

cigarettes in it and it was checked out that it was stolen. The

suggestion there is the two branches at Peckham, the uniformed branch

and the C.I.D. were at logger-heads. That may or may not be so.

Whether it helps you is for you to say.

The 'charge sheet' for Perry at Nuneaton was produced, you can look

at it if you like. A large number of officers were called to give

evidence about the events at the police station at Nuneaton. The

charge sheet records routine visits by the people whose duty it was

to visit Perry but it doesn't record visits by C.I.D. officers and

others who went to interview him about this offence. That shows, says

the defendant that the Nuneaton police at the time were not doing

their job properly because they were not keeping this charge sheet

A properly up-to-date and that, says the defendant, is something which
is important because it really does show that as I said at the
beginning the man Perry was at Nuneaton police station receiving
'cold turkey' treatment. In other words he wasn't being seen by
anybody, that's how the defendant puts it. The Nuneaton officers
support it to the extent that they say that the visits were only
B the routine visits, no C.I.D. so to speak were shown on the charge
sheet, but Perry told you he was interviewed by C.I.D. that was
there and you heard evidence from the others that they had been
interviewing. Whether the breach of rules there is of any significance
C is for you to say.

One other point emerged from the evidence of Mr. Owens which was
read to you which was on 31st October at The Grove he saw the witness
D Pridmore walk into the car park. Now that's a point which the
defendant makes. You will remember that Perry himself said that he
didn't see anybody walk in and taking any photographs. You will
remember Mr. Pridmore the photographer said he was trying not
E to be conspicuous and trying to avoid being seen. But there is the
statement of Mr. Owen read in evidence saying that Pridmore did walk
into the car park. Well where that gets you I don't know, it's for
you to say. But the defendant says it supports him. His case is
F the photographer did walk into the car park and take a photograph and
he said something about it to Perry - but that's not on any of the
tapes, that's what he says to you. And he is entitled to say that
that suggestion is supported to some degree by the evidence of Mr. Owen.
G Now if you think about that, Perry has said he never saw anyone come
in, the defendant hasn't given you any evidence on oath about it either.
But what do you think would have happened if the defendant had indeed
seen somebody come into that car park when he was talking to Perry
H and had taken a photograph of that event? What would have happened

A then. Do you think he would have gone along as before, or do you think everybody would have quite simply clammed up and tried to forget about it. At all events there's that point and you must give it whatever weight you think right.

B Perry's own evidence is of course central to the case. I will remind you of part of it, when he got to the cell in the police station he said this. "I saw the defendant who poked his head round the door and had a few words, he said someone told me to see you, I hadn't spoken to him before". The defendant said "If the police ask what I'm doing tell them I'm asking about clothes", and you will remember there was a reference to clothes, there was clothes found in Perry's flat. So that so to speak was the defendant covering his tracks in case questions were asked. Said Perry, "I took it to be an excuse for him to be in my cell talking to me. The defendant said I don't think the Nuneaton police have got anything on you, but if they have got finger prints tell them you'll plead guilty to Section One theft which has a twelve month maximum". Perry said, "I said thanks for trying to tip me off I'll see you alright at a later date - that meant I would give him a few pounds which is described as a drink". "The defendant didn't ask me any questions" said Perry "about the Nuneaton offence and I was taken to Nuneaton later that night". That's obviously an important part of the evidence and you must consider it carefully.

G Now about a week later, said Perry, he saw the defendant outside The Rose - not on his initiative. "The defendant" said Perry "told me I would be getting off the Nuneaton job and it would come to two-hundred pounds, we were in the defendant's car at that time, just the two of us, I thought he was being greedy". "I said I hadn't got two-hundred pounds and I would see him later, the defendant said you better get it". He was trying to say he said he was going to

A
get me off. Well that's really the starting point for the money being handed over. It is important you've got to consider it carefully and it is of some significance perhaps that of the two-hundred pounds he said fifty, if the evidence is right, had been handed over in instalments.

B
He spoke of the telephone conversation and told you the one recorded was the original. Then the meeting on the 28th October. Remember that is a rather bad tape-recording and not a great deal of it.

C
Perry said that he had handed over money on that occasion, it was his own money. In the car he said "I gave him fifty pounds and said I would give him another fifty when I got it and he accepted that". He said he was searched afterwards and the money he had, the fifty pounds was gone.

D
On 31st October, again he said I had fifty pounds, again I borrowed it, it wasn't given to me by the reporters or by Hawkey. The reporters noted the numbers and then gave me the money back. Of that he said it was a successful recording. And you've heard tape
E
five, exhibit three. You will hear it again at the end of this summing up. Perry said that indeed was the conversation which he had.

F
He spoke to meeting on 21st November, he said he got just over fifty pounds on him, "It was my money". He said, "The reporters noted the numbers before I met the defendant. Then he described
G
going and meeting the defendant and listening to the tapes afterwards and told you these were the original tapes which you heard. You heard what he said in relation to page twenty-four, - "Here's the other thing", he said that's when he handed over the money.

A Then he was cross-examined at great length. Cross-examined in
relation to the favour and Perry said "You told me if they have got
finger prints plead guilty to Section One". You will remember the
controversy about whether the word 'if' was used. Well where that
takes you is for you to say. Perry denied having said to D.C. Clarkson
how much does it cost to walk out of here (that's Nuneaton police
station) and of course Clarkson says that is what he did say. So
B there is a conflict between those two that the defendant points out.
It was put to him in terms he had secreted money given to him by
reporters, but he insisted that the money on each occasion was his
own money. I'm not going into great detail about that. It's perhaps
C worth just reminding you that when cross-examined Perry said "I'm
not skillful at secreting things or I wouldn't have so many convictions."
You will remember what he said about that.

D You will remember there was a degree of confusion about the reporters
noting the numbers, it took a long time to get the explanation out,
there was obviously a degree of confusion there. Whether that matters
or not is for you to say. But in essence it's really straight forward,
E isn't it. There is Perry saying that on these three occasions "I had
money on me, it was my own money, I handed it to the defendant, the
reason was the payment for the tip off". That's what Perry has told
you. That is hotly denied by the defendant and that is really the
F basic issue in the case and it is a perfectly simple one and it is
for you to decide it.

G So far as the earlier events are concerned I'll just remind you of
what was said by Inspector James. He was then a Sergeant at Nuneaton.
He described the arrest of Brooks and Perry on 24th September. Perry
being taken to Camberwell police station. He said, "At one time the
H defendant asked if I minded if he had a word with the prisoner on his

own, the defendant said he was a local officer and knew Perry and might be able to get the truth better than I, I agreed". He said, "I had no hard evidence against Perry and the defendant knew that".

So if that's right, Symonds knew that there was no hard evidence against Perry at the time. "And later", said Sergeant James, "The defendant said I think he will plead guilty of Section One".

The sergeant said he found a dissension between the uniformed branch and the C.I.D. at Peckham. He expected to deal with C.I.D. when he got there but found himself dealing with mixed officers. "The whole atmosphere in the Metropolitan Police" he said "was fraught with a feeling he didn't like". Well perhaps that's not surprising if

there was indeed corruption on the part of the defendant at the time. Is that the sort of situation which would produce good feeling as between a corrupt officer and upright officers. If there

was that dissension what does it tell you about the real situation there. He said the charge sheet at Nuneaton didn't enter his visits to Perry. You remember that point. He said Perry didn't offer him a bribe but he was told later he had offered a bribe to Wilson and

Clarkson. Well, Clarkson said he did, Wilson said he didn't. There's another small conflict. Then he spoke to the visit of Moody and Lamber to Nuneaton looking for ... The impression they were looking for a scape goat there. It was he, he said who advised his

Superintendent that Perry should not be brought back to answer his bail (and I've already read you the letter that makes that clear).

But he said so far as that is concerned he would never tell a suspect to say nothing or that we didn't think we had anything on him, I would never allow a suspect to know I didn't have much on him.

A That you may think is really quite obvious. What would the object
B be of telling Perry that the police at Nuneaton had nothing on him
C if it wasn't to get something out of him by the tip off. Sergeant
D Harris was another of the Nuneaton officers. He heard the defendant
tell Sergeant James that he thought that Perry would take a Section
One. So to speak, that is plead guilty to straight forward theft
at Nuneaton. "I spoke to the defendant, he said on the Saturday,
that's 27th on the telephone I told him Perry was to be bailed, I
said to the defendant Perry said he knew the Police had no evidence
against him and Perry said it would cost him when he returned to
London". "I told Perry ..." Sorry, he said, "I told the defendant
it was alleged that a police officer had told Perry this". In other
words a police officer had given the game away. Now what was the
reaction of the defendant to that. According to Sergeant Harris
it was to ask if anybody else knew of those allegations. He was
told that Robson at Scotland Yard knew about it and the defendant
asked him not to tell anybody else. (Inaudible)

E Well if that's right what does that tell you about the defendant
at the time. He was cross-examined by the defendant and he said
to the defendant "You could have tipped Perry off quietly not to
say anything and you asked if it would be alright for you to see
F Perry".

Then there was Constable Wilson, another Nuneaton officer present
when Perry was arrested. He says that he wasn't offered a bribe.
G You will remember I have already told you that the other officer there,
Clarkson, said he was. So there is that conflict between them and
the defendant points that out.
H

The Chief Constable from Cumbria, Mr. Price, who was then a Detective Chief Inspector gave some evidence quite briefly about this. He dealt with the diary. I'm not going to say any more about that now. He had seen the defendant at Scotland Yard, he had been there when they had prepared the questionnaire and was put to him. I'm not going through it again, but the defendant simply denied as he was perfectly entitled to, denied having committed any offence at all and he denied having received any money from Perry. Well, the only way that may help you is this, that if you once come to the conclusion that the defendant did give Perry money (and he is denying it) it is very difficult to think that that money was given for any honest purpose. But that is the only significance of that.

Mr. Lambert came from retirement, the elderly gentleman, who was a superintendent in the Metropolitan Police who took charge of the 'Times' enquiry. He said from inception on 28th/29th November, 1969 until April or May, 1970 he told you that the tapes were under lock and key all the time when they were in the custody of the Police. He dealt with Perry's original statement made on 5th September. You remember the argument about the word 'if' and he said the word 'if' was put in later - and the defendant relies upon that. He said Perry was taken under the care of the 'Times' and provided with accommodation. He said he had left the enquiry but the reasons for his doing so were brought out by the defendant when he was asked about it in re-examination he said the reason for his leaving the investigation had nothing to do with evidence in this or any other case at the time. And he had the tapes played to him and he is another person who told you that they were genuine. He said this, "I am convinced they are the tapes which came into the possession of the police in 1969, I listened to all of them then on several

A occasions, I am convinced they are the same tapes, it is complete rubbish to say the tapes have been tampered with, it would have been quite obvious to me if they had been tampered with and I am certain that they have not".

B Now the background to all this is of course the evidence of the two 'Times' reporters who initiated this inquiry, Mr. Lloyd and Mr. Mounter. Their evidence is obviously very important in this case. If you accept it it provides just that degree of support which you would no doubt be looking for before you acted on Perry's evidence. Each of them in turn gave you an account of those occasions when the defendant met Perry, once at The Rose and twice at the Grove public house. Each of them heard the tapes after they had been recorded within a very short time, each of them has told you that the conversations they heard played in this Court were the same as the conversations they heard immediately afterwards in the car. They spoke of the searching of the man Perry before and after he met the defendant. They spoke of him having the fifty pounds and I think a little small change as well. It's really for you to say whether they are right or not. They both stoutly deny tampering with the tapes in any way. They said they were taking the greatest care of them. They dealt in detail with each of those meetings. They told you their secretaries used to do the transcriptions. They described the tapes going to be copied. They described what was happening in the News Room, they described the custody of the tapes first going home (I think it was Lloyd) before they got the cabinet and thereafter being locked up, the only key being in the possession of either Lloyd or Mounter, nobody else having access to the tapes. Their evidence is to a very large extent you may think supported by Mr. Hawkey who has no axe to grind in this matter at all. You may remember he was described by H Miss Millard as being scared to bits about what was going on. You

may think he had no axe to grind in the case. They spoke of the money, they spoke of the searches - I've already pointed out to you there was a degree of confusion about those numbers on one occasion. I think numbers were taken down relating to money being passed to another Police Officer on another occasion. There was confusion about that, it's for you to say whether you think that's important or not. At all events the evidence is there if you accept it that the searches were made on each occasion Perry went to the meeting with fifty pounds and on each occasion came back without it.

They were cross-examined and criticised at very very great length. It was suggested their notes had been concocted, it was even suggested to Mr. Lloyd he has a long history of mental derangement. He said that was nonsense. That is a question no barrister would have been allowed to put to a witness unless it was supported by other evidence - and it has been supported by no evidence at all you may think, it was a suggestion which should simply never have been made.

At all events members of the jury if that evidence I have been dealing with is right there is the clear evidence not only that the tapes have not been interfered with but also that money was given by Perry to this defendant on each of those three occasions. The defendant says that the two reporters have been giving lying evidence. He has thrown every sort of accusation you could think of at them. It is up to you to say how they emerged from that. If they are right it is clearly the end of the matter because in the last resort you have to decide whether they are right and whether those tapes are genuine and original. If they are, then you may think there's not a lot that can be said on the other side if the tapes are genuine

A and original. So as I've said they are spoken to by two reporters
principally responsible for this enquiry, they are supported by Mr.
B Hawkey who has no axe to grind. You will of course consider their
evidence with great care, bearing in mind all the criticisms which
the defendant has made of it. You may think it is not without
significance that Miss Millard who told you she was extremely
frightened by what was going on, described both of those two
reporters as honourable men. If they are honourable men, if they
have given honest evidence about these matters you may think that
is indeed the most powerful feature in this case.

C Now the tapes. There are a large number of points taken about
those tapes. They are a very important part of this case. It is
through them very largely that the Crown have been able to bring to
D life, so to speak, all the events of the Autumn 1969, a very long time
ago. So you will consider very carefully whether those tapes are
genuine and original. As I've said, if you are not sure that they
are then of course you will disregard them. That indeed is the
E defendant's case about them. He says you should at the very least
harbour very considerable doubts about these tapes and it is impossible
for you to be sure they are genuine and authentic. He has been unable
to point to any specific passage he says has been altered, but he
F says that the circumstances are such and the expert evidence is such
that you should be very careful before attaching weight to those
tapes. And he said that they are not to be accepted. He was saying
at one stage they were fraudulent, that they had been fabricated. It
G is for you to say whether that is the case or not. If so, of course
the Prosecution lose a very powerful weapon in their armoury.

H Now the first thing about them is of course their custody and continuity
of handling. That is obviously important. What is said by the

defendant is that they may well have been copied and if they had been copied then they are not original and that is the end of it. So you will look very carefully at questions of their custody and continuity of handling. That falls into two sectors, doesn't it. The first sector is before they got into police custody, the second sector is after they have got into police custody. When they got into police custody they were on the evidence of the police officers (and you've heard the evidence of those who had custody of them). First Mr. (inaudible) then Mr. Vernol and Collins who was the assistant on duty for one weekend when he had the keys himself. They all spoke to the great care they took of these tapes and it is accepted by the defendant's experts, it is accepted by each one of them that the police were indeed taking the greatest possible care of those tapes. And indeed if one looks at the evidence of Mr. Ford, the defendant's expert, Mr. Ford had examined the tapes on 3rd December, 1971 and had also listened to the 'Times' copies made you will remember before the alleged originals went into the custody of the police and he said any tampering with the tapes must have been before 3rd December. Well, put that evidence beside the evidence of the police officers in the case and bear in mind of course I think Mr. Moody had said there were two keys at one time, but put that evidence of Mr. Ford beside the evidence of the other police officers, you may think it is really fanciful to think in the light particularly of what Mr. Ford said that the tapes could have been tampered with after they got into the police custody.

Now that leaves you therefore with some sort of fabrication, doctoring, falsification of some sort earlier on, that before they got into police custody. Well the defendant himself has eliminated from the scene the secretaries, and that was obviously right because nobody

would suggest the secretaries doing the transcripts would have done any tampering. It is not suggested Mr. Hawkey "although he is capable" said the defendant of editing tapes, it's not suggested for a moment that Mr. Hawkey actually did it himself. And that really leaves Mr. Lloyd and Mr. Mounter when one of them took the tapes home on some occasion. So far as they are concerned there is no evidence at all that they had the necessary degree of skill to edit tapes let alone edit tapes of this sort with people talking at the same time. One of the experts said it is not an easy thing to do in your bedroom and so far as doing it at Location Sound Facilities is concerned you have the evidence of Mr. Hailes - again called by the defendant, that he is absolutely positive there was no editing done on his premises and if there had somebody would have been fired. So that is very conclusive, you may think on that aspect of the matter. So if there was fabrication the only suggestion can be that it must have been by Lloyd or Mounter in their bedrooms or at all events at home, but it wasn't in any known premises like that of Location Sound Facilities. So then it comes back to the question of are they honest witnesses. If they are well they certainly did not tamper with the tapes. If you think they were dishonest witnesses then you come to a very different conclusion. But it is for you to say whether they are honest or not.

The suggestion is made that the tapes were copied at some stage and because they were copied therefore says the defedant obviously they are not originals so you must disregard them. One of the suggestions is really based on the idea that all of those tapes were virgin fresh tapes. You will remember how that suggestion was pursued. Mr. Hawkey did say that at one time, one of the reporters did say that at one time. Mr. Hailes said that all the tapes went out were fresh. Miss Millard said all tapes went out fresh. Well that's commonsense and it certainly ought to be so.

A But as it now appears the tapes one, three and five were not factory
fresh and that is accepted by the Crown. Lloyd said so far as the
first tape is concerned that he didn't know if the tape used was
now or not. You will remember the one produced by Mr. Hawkey, a
number of other conversations was put on it. So far as tape three
B was concerned Lloyd said it had been used before, do you remember,
and the batteries ran down so it was used again. So far as tape
five is concerned Lloyd said he couldn't remember whether or not
it was fresh. Mounter told you that in the early stages, that is
probably up to 31st October, Hawkey wasn't properly equipped, nobody
C had devised a fool proof system of marking although there was no
possibility of a mix up. And it is plain you may think the idea
was that fresh tapes should be used and that is what everybody thought
ought to have been happening, but when you analyse the evidence
D it is plain everybody agrees that those tapes were not originals.
Mr. Hawkey told you he didn't realise on tape three that that was
so. He said there was no particular reason to start 3.b after 3.a
and he said it was by accident we over-ran the conversation with
E another incident. He said tape five has two conversations on it,
if that was done it was pure accident. What he was really saying
was looking at these documents if they are not factory fresh then
we must have used them again and in the situation of the taping in
F the early stages when they were still in a way experimenting with
what was going on, it's not surprising some of the tapes were used
again. At all events that's the situation the Crown accept these
were not factory fresh tapes and it is plain you may think that some
G mistake has been made somewhere, probably by Mr. Hawkey who hadn't
got what he thought he had and who hadn't in fact insisted on
factory fresh tapes being used every time. But plain it is, is it not
that the fact that the tape is not factory fresh doesn't effect the
H quality or indeed the reliability of the conversation recorded on it.

A Each of these conversations have been played back to a number of
people, Mr. Lloyd, Mr. Mounter, Perry and Lambert and each of them
tell you that the conversation on those tapes were the conversation
which they in fact heard. That is the important evidence you may
think in this case, if it is true. If it's true then it doesn't
matter whether they were factory fresh or not. What does matter
B is are those the genuine conversations. At all events, that is
the points which the defendant makes to which he attaches very
considerable importance, and you will give it whatever weight
you think right.

C There was a further suggestion about a fourth tape used on 21st
November, 1969 that isn't in existence. The suggestion was by
the defendant there was in existence another tape but that it
D disappeared in a copying process and that there was a sinister
connotation to that which invalidates the validity of the other
tapes. Now it has turned out you may remember that when witnesses
were asked to look at schedules in their original statements and
E indeed when we listened to another part of one of the tapes, do
you remember that, do you remember that what had happened was simply
that that tape hadn't worked, the recorder had been presumably too
far from the transmitter and it hadn't come out, and that you may
F think is the explanation of the discrepancy-- if that is the right
way to describe it. At all events, that is a point which the
defendant makes which you will take into account.

G He makes a further point about tape two which is a five inch and not
a seven inch tape and therefore he says too short a time for the
whole conversation to be recorded. Again, you give that point what
H weight you think right.

A He makes a further point which has been made time and again about
the difference between fourteen and fifteen tapes, well that has
been dealt with time and time again. There was a time when a
witness said there was fourteen tapes taken and you will remember
all the witnesses of the police said there was fifteen. It is a
point to which the defendant attaches weight to. You can see in
B the exhibit book there was fifteen tapes which arrived at the
police station and later the four Grundig tapes.

C Now those are some, certainly not all of the points which the
defendant puts before you about the tapes and their authenticity.
It is right I should remind you of the evidence of his witnesses
about the tapes. He called Mr. Taylor first. He was the Deputy
Technical Manager of E.M.I. and had a great deal of experience
D dealing with tape-recordings. He was the chief engineer of Phillips,
a member of a number of learned Associates and he had examined the
tapes at an early stage, in January, 1970. He said and agreed
that if copying is well done it is impossible to tell whether a
E tape is an original or a copy. He said in no circumstances could he
detect any edits. The tape would be cut and joined on again with
sticky tape and then copied onto a fresh tape and nobody could tell.
He was asked to look in particular at tape 3.a and 3.b and he told
F you as we now know, nobody disputes it, that 3.b erases the
conversation which is on 3.a. He said the erasure is in the middle
of the tape and gave him great concern. He was given the history
and the history was that it was a virgin fresh tape, - that you may
G think may account for his concern. He was shown a mark, "It could
be construed as an edit mark that somebody wanted to start the tape
from a specific point". His idea was this, he said an indicating
mark and he said the part that was erased on tape 3.a. corresponded
H with a dubious part of the tape which is tape four. This is not one

which is put before you, it is one which was relevant in the Robson and Harris case. So far as tape five is concerned he found a break in continuity after the phrase "let's put it in the car". That you can find in the police transcript if you want to go to it. A break in continuity there and he said that would not comply with the alleged history of the tape. He said there was a number of breaks in continuity in tape thirteen. Tape fourteen there was overlap distortion during the music but no other technical fault. It was recorded ghroughout its length. And that is worth remembering because nobody has made the slightest criticism of tape fourteen from first to last. When you come to consider the other tapes made on that day, tape thirteen and fifteen it is the Grundig one you will find, they are each the same length and they have each got the same words, there's no criticism made of tape fourteen (inaudible). He spoke of tape two being only five inches, if recorded on its full track which only ran for fifteen minutes, he said it would be foolish to switch it on early if you wanted to record a meeting lasting longer than that. That's commonsense. The tone bursts he heard, fifty htz. hum. I will deal with that in more detail when I come to the other witnesses who deal with it in more detail. All he did say and this is obviously commonsense, isn't it, what Mr. Taylor did say is a tape is as reliable as the honesty of the people who produce it, if they are reliable so is the tape. So we come back to the evidence, the reliability of the evidence of Mr. Lloyd and Mr. Mounter, supported by Mr. Hawkey. He said too, that if tapes one, three and five were not factory fresh then a great deal fits into place and a logical explanation appears. "I have never suggested any juxtaposition of words and found no defects in that respect". And he said he didn't suggest those tapes had been interfered with, there was no defects to lead him to believe those tapes had been edited. "I don't suggest the words we heard on the tape had been tampered with

or doctored. And of course it's those words which you may think really matter in this case.

A Mr. Ford was the second of the defendants experts. He again had
a large number of qualifications. They didn't include a University
B degree, you may think that doesn't matter very much, although the
defendant was worried about it. At all events Mr. Ford had a large
number of qualifications. There was one thing about his evidence
C however which may have struck you, that is he had written a paper,
writing published, and he still adhered to the view no tape-recordings
should ever be used in evidence. Well experts who give evidence in
Court are normally people who have an open mind and give their
D opinions, professional opinion. If you've got an open mind your
opinion is perhaps rather or more value than if you approach the
matter with a closed mind. That's a matter for you to consider.
E Mr. Ford approached the matter on the basis that no tape-recordings
should be produced in evidence in a Court of Law. Well, tape-recordings
have in fact been produced in Court of Law for a very considerable
time now and they were produced in this case. Now Mr. Ford spoke
F of thirty htz. hum ... thirty htz. tone bursts on tape one and I
think on tape four (which is not before you). He said thirty htz.
tone bursts he had come across before. One possible way of doing
it which is a rather complicated business of running a tape inside
G out, erased by a ~~magra~~ with a spacer between the tape and the head.
He said there were no tone busts on the two sets of copy tapes and
they are unique. Thirty htz. hum he said was a common problem, but
in the case of tape one here it was cyclic hum which means there are
two sounds so to speak made against each other and that he found
unusual, and it made him wonder whether that was an indication of
H copying.

A He said fifty htz. hum is a common problem with telephone pick up.
B But he said in addition to the hum you might expect there is a noise
C which turns the noise into a cyclic hum and that is what he found
D unusual. He said he wasn't satisfied that tape one was a virgin
E tape and found the presence of the thirty htz. tone bursts on it
F very difficult to understand. The fifty htz. hum might he says be from
a copying process. Well, Mr. Ford said he wasn't satisfied it was
a virgin tape and we know it wasn't. Tape three he spoke of, he spoke
of a mark on the tape three which he referred to as an editing mark -
referred to by other witnesses involved as an indicating mark. He said on
tape three the indications were that the tape had been wound back after
the recorder had been put into the recording mode, wound back and then
started to make the recording 3.b, the relevant conversation. He said
"I found fifty htz hum" he said "which should not have been there".
Tape five, of the continuous recording he said there, "There is a mark
at the junction of the two recordings". That is said by the defendant
sinister and to indicate copying. But that mark on the tape and on
the other tape might, you may think be quite useful if someone played
it over and over again for the purposes of getting out the transcripts.
Whether it is sinister or not is for you to say. He found no defects
at all in tape fourteen, it was recorded all its length. If there
were tone bursts he couldn't find them. He found tone bursts on tape
fourteen which he said should not have been present.

And what he said in sum was this, "I find it difficult to have much
confidence in the recordings before the Court". Well, that was in
accordance with, was it not, not only with what he was saying to
you in detail but also happens to fit into the view which he always
holds. What weight you put on his evidence is for you to say. True
it is that ...

DEFENDANT, SYMONDS: May I leave the Court, Your Honour?

HIS HONOUR JUDGE STROYAN: Yes, how long will you be Mr. Symonds?

DEFENDANT, SYMONDS: I would like to be out of the Court during your summing up, Your Honour.

A HIS HON. JUDGE STROYAN: Oh! I thought you wanted to be out for a different purpose. No, I think you ought to be in Court during the summing up. If you want to go downstairs for another purpose of course you may go. But I think it will be advisable ...

DEFENDANT, SYMONDS: My solicitor will stay in Court and can make any notes. I consider your summing up to be extremely bias. Your Honour I am having great difficulty to stop myself interrupting.

B HIS HON. JUDGE STROYAN: Well you haven't heard it all Mr. Symonds. I think you really ought to stay.

C Now I was dealing with Mr. Ford. The view he expressed at the end of his evidence when questioned by the defendant was this: "I find it difficult to have very much confidence in the recordings before the Court". He went on to say in cross-examination that "There was no evidence that the recordings of speech which you've heard had been tampered with or doctored". He held the view that magnetic

D tapes should never be put in evidence. He said on tape one there was no evidence of doctoring or tampering, on tape two the same thing. Tape three he said obviously combines different recordings and that he said is obvious. He said he didn't notice the marks on 21st September,

E 1971 when he made the examination but they became plain when they were pointed out to him afterwards. He said tapes 3.b. and 5 are of the same conversation and he accepted that they were identical in length. The noise levels, you will remember the difference between the positions

F of the microphones, one under the dash-board and the other on Perry. The noise levels he said are consistent with the positions of the microphones, but he said "It wasn't impossible to fake the recordings". And tampering he said (and I've already mentioned this) he said must

G have been done before 3rd December. Nothing to criticise about tape fourteen, he didn't investigate tape fifteen in detail. The 'Times' copy he said is of identical length and quality so he said any fabricating must have been done before the 'Times' copied them, before

H

December. He said cyclic hum had always been on his mind, he said it verged more than on suspicion for copying.

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Mr. Killick the defendant's other expert told you that a competent copy of a tape was really undetectable, of course everybody agrees about that. He added too that the leader if it had been used by means of an identification could be readily replaced and he said the boxes and spools had been identified (well, he was in Court when that was done and so were you). Not a lot of doubt about that identification, but what is said by the defendant is that it established no more than that the boxes and spools had been identified, it doesn't mean that the tapes had been identified, the tapes which contain the conversations. That of course is right but the identification of the recordings of course depends on the evidence of Lloyd, Mounter and Hawkey, those who actually made them, it's their evidence rather than the evidence on the boxes and spools, although that evidence is helpful. But you follow the point the defendant makes about that. Tape one, said Mr. Killick had no editing marks. There was thirty htz. tone burst at the end of the tape in a passage of factory bulk erased noise. We find fifty htz. hum in the recordings of the telephone conversation. He said it had a cyclic beat very much the same sort of evidence that Mr. Ford gave you. He said a hum of that sort could be picked up off the telephone but it wasn't originally cyclic. He said the tape might have been copied in conditions where two fifty htz. hum was present. He said no marks on tape two, no fifty htz. tone bursts, if there had been it would not have been possible to detect them because it was a full length recording. Tape three he said he didn't find thirty htz. tone bursts but fifty htz. hum and a break in the recording after the speech interview. He said it was slowing up because of the battery running down. You will remember the evidence about that

happening, the battery was running down in that tape and when played fast made a noise like what the defendant described as Micky Mouse. But it is clear now that recording was erased and put 3.b. recorded on top of it. 3.b. he said starts adjacent to t apoint on 3.a. which in the Robson and Harris case contained phenomena that were contested at that trial. Fifty htz. hum he said surprised him enormously, it might be an indication of copying. On tape thirteen fifty htz. hum was found at a low level at a break towards the end, well passed the speech area. "I'm not satisfied that fifty htz. hum could have arisen as part of the recording described". No critioism of tape fourteen. No phenomena apparently on the Grundig tape. So far as tape thirteen was concerned you will remember that it was canvassed more than once after the relevant conversation it is suggested by the Crown that that hum may have been produced by passing the Crystal Palace television transmitters, that is something which is not accepted by the defendants experts. They don't actually appear to have done an experiment at that place which is put forward I think by Mr. ...

MR. RIVLIN: Your Honour, Mr. Eley.

HIS HONOUR JUDGE STROYAN: I am sorry, Mr. Eley. It is put forward as no more than a (inauidble) as that could have been where it got on there. But the important part of the tape is the speech recording and that is identical in content and length with tape fourteen - the one nobody has criticised from start to finish and whether or not therefore there are passages of fifty htz. hum at the end does not matter very much. You may not think it necessary to consider very closely all the tooing and froing we had in relation to Crystal Palace or what might or might not have happened there. Anyway, that is something you can consider for yourselves. Mr. Killick also said, that he had never suggested the tapes had been fabricated in any way, he said I have never suggested the people who created those tapes were

A responsible for anything of that nature. He said on tape one there is a possible explanation for the fifty htz. hum, he hadn't got a word to say against tape two. He said of tape three and four there was no positive evidence of tampering, cutting, editing or splicing. He said if anybody had fabricated or rigged tapes that person must have had some skill and experience. That is very obvious, isn't it.

B He agreed with Mr. Hyde that it was difficult to fabricate speech of the sort one hears here. It's a good deal easier to move a bit of the tape. He accepted that the noise levels on the tapes are consistent with different microphone positions and that really goes to the second two occasions when you will remember there was one

C microphone on Perry and one under the dash-board, - that those noise levels are consistent with the actual positions of the microphones. Because if anybody has fabricated those tapes he said he has fabricated three tapes and the more tapes in existence the more risk there

D becomes of being detected. "I am satisfied", he said, "that all the words on those tapes were spoken". He found it hard to believe any of the conversations on the tapes had been tampered with.

E Well, I'll just remind you of what Mr. Hyde said about this. He was the expert called by the Prosecution. He too had a large number of qualifications, he was engaged for nine years in the Speech Research

F Unit, he had a degree in electronic engineering and a Batchelor of Science although I do not think that by itself makes him any more authoratitive than any of the others. But the point about his evidence was he was the only one of those experts whose seciality

G which was in the Speech Research Unit. He came into this case originally in October, 1970, worked on the tapes from 21st October, 1970 until 24th January, 1972. His work consisted of carefully listening to the tapes to identify the contents, visual inspection on parts

H of the tapes and instrumental analysis using instruments, he used a

'sound spectrograph' presenting a picture of the sounds used. He said he had never had uncontrolled custody of the tapes in the sense that the other experts accept that the police were always closely supervising what they were doing. And he examined the tapes over a long period and found no evidence to suggest the tapes were edited or the conversations tampered with in any way, that is true as a whole. Other doubts arose from not the conversations but the parts of the tapes other than the conversations. "If the tapes were faked in any way I would expect evidence to appear on the recordings but I found none." "The subject matter is such it would be virtually impossible to make substantial changes to the text." Now that is important evidence isn't it, given by an expert in speech. "It's not at all easy to fake" and he said, "It's virtually impossible to fake places where voices overlap". Trivial edits he said would be possible but if you tried to edit out a critical phrase the result might be detectable. "You would have to practice he said on a copy." He agreed with Mr. Symonds that he couldn't say with certainty simply by listening to it whether a tape was original or a copy. That of course is something which all the others agree. "As a whole", he said "editing or copying would be undetectable if it was done in favourable circumstances". He said, and this may be of importance as well, "It makes no difference to the quality of the recording whether or not the tapes weren't virgin". And again there doesn't seem to be any dispute about that. It was put to him that the tapes had been tampered with, he would not accept that. So far as the criticisms of the tapes are concerned, criticism by the other experts in relation to the fifty htz. hum and thirty htz. tone bursts, the marks and so on, he said "There's a perfectly innocent explanation and that is that the tape was used, there's no need to come to sinister conclusions that it could have been edited". He said he didn't find any serious faults and he didn't think anybody else had used a sound spectrograph.

A Mr. Penna one of those concerned in using the transcript you have
got, 35.d, gave you his evidence. He said he used both copies and
originals in preparing the transcripts. He then produced a demonstration
tape which purported to show that part of tape thirteen had been
played back in the car, if you remember, and recorded on tape fourteen.
That is what he said but in fact that turned out when the defendant
B pursued it to be a false point. He said it was in reverse, do you
remember the point in the evidence where you heard sounds of tape
being run through on a machine, they said they had slowed that down,
ran it through in the reverse and (inaudible). What was happening
C was tape thirteen being played in reverse ... I'm sorry, tape thirteen
being wound back, that turned out on analysis not to be so. The
reason is thriteen and fourteen are of the same length and it would
not have been possible to get the one off the turn-table in order
D for them to play that while the other was going. That was the
point that was made by the defendant. It turned out to be right and
it turned out Mr. Penna's demonstration tape was unhelpful in that
respect and that is a point the defendant is entitled to take in
E his favour. The explanation may be that what is heard being
whizzed around on that part of the tape thirteen is the tape 15 which
was the little Grundig one. Whether it matters or not will be for
you to say.

F Mr. Eley who also helped with those transcripts dealt with this point
about the fifty htz. hum on tape thirteen and going near to Crystal
Palace. He conducted experiments and put that forward as a possible
G explanation for the fifty htz. hum on tape thirteen. That was not
accepted by the defendant's experts. Whether it matters or not is
a matter for you. At all events I'm not going to pursue that point.
What is important is that you should be sure that the tapes conversations
H which were played to you were in fact the tapes which were used at

A the material time. You've got to be sure that those conversations are the original conversations. The defendant says that his expert evidence and other evidence which he has lead should leave you in doubt about that or indeed should leave you to think they are fabricated tapes. But it is for you to say whether that is so or not.

B Now I come to the stage when I think that before I say any more (and I haven't got very much more to say to you) it would be right for you to hear the material tapes once more. So they will now be played to you. Let me say this before they are that I'm sure you won't feel yourselves, or allow yourselves to feel you are being C brain washed. The tapes have been played once I think on one or two occasions twice, but certainly none of them have been played to you three times. Now after many many weeks I think it is D right you should hear them again before you retire to consider your verdicts. What I will tell you now is if when you are considering your verdicts you want to hear the tapes again of course you can do so. If that happens you will come back into Court, the Court E will be cleared so there is nobody here except the Officer of the Court and the defendant's solicitor and you can hear them played again if you want to. It may be once you've heard them now before you retire you may find that is enough. Any how, that will be for you to say F because the decision of the facts is in your hands.

Now we will have the tapes played again please, number one, number two, number five and number fourteen.

G MR. RIVLIN: Before they are played would you permit me to correct a very small error of fact?

JUDGE STROYAN: Yes.

H MR. RIVLIN: When you talked about Mr. Penna's demonstration what in fact Mr. Penna had first said and Your Honour was quite right when you said he got it wrong and admitted he got it wrong. He first heard

tape thirteen and it is on tape thirteen and you can hear the winding back and he said that must be tape fourteen and he later changed to tape fifteen. Your Honour said he heard tape fourteen and said that must be tape thirteen.

A HIS HONOUR JUDGE STROYAN: There you are members of the jury, I made a slip.

Now we will hear tape one. Before we do so members of the jury the points which you may like to look for there are those points which

B indicate whether the defendant recognised or did not recognise Perry by name and the other point is that about which a lot has been said: "Uh, I'd like to see you about, er, you know". We will now hear tape one please.

C MR. RIVLIN: Your Honour I am asked to say the head-phone machines are switched on if they wish to use them.

HIS HONOUR JUDGE STROYAN: There you are members of the jury. I sometimes find it easier without them, but do what you like.

D (Tape Number One Played)

That is tape one. Let me remind you again it is what you hear on the recording which is the evidence, not what you find in the transcript. The transcript is there to remind you of the substance of it and to assist your recollection, but that is all. The evidence is what you hear rather than what you see. Now we will hear tape two, please.

E MR. RIVLIN: Your Honour, do you wish the whole tape to be played?

F HIS HONOUR JUDGE STROYAN: Just the parts that have got the voices on them. (Tape Number Two Played)

Members of the jury the relevant part of that you may think is on page six, "I'll see you about the other thing later on". Is that a reference about money? And then a little later on he says, "If I can scrape up a few quid, if it comes to a few quid I mean I can scrape it up".

H

Yes, now we will have tape five played please. You will remember the point the defendant makes, that is the end of the radio there's a noise which is of the door opening and after the phrase "How are you doing Micky?" at the top of page seven it is said there is a noise which indicates the door closing.

(Tape Number Five Played)

We will hear the last one after the adjournment.

(Luncheon Adjournment)

(Tape No. 14 played)

A HIS HONOUR JUDGE R.A.R. STROYAN: Members of the jury you have now heard
the tapes of the four conversations for the last time in this Court
B unless you want to hear them after you retire in which case I have
told you you can come back into Court and they will be played to you
by the Clerk of the Court with the defendant's solicitor in attendance
and nobody else in the room save for the man who operates the machine.

Now you have heard these tapes, you have read the transcripts, you
are of course entitled to look at all the transcripts, in particular
C you are entitled to look at, if you want to, 35.b, the police trans-
cript which has the full wording on the tapes including a matter
which does not relate to this case, if you can glean any help from
them of course you are entitled to do so. As I've said the evidence
D is what you hear, not what you see. You will attach no importance
at all to these tapes, as I've told you unless you think they are
original and authentic. You will bear in mind the criticisms
which the defendant has made of the tapes. You will bear in mind
E what he has said and what he has told you from the dock in his own
defence. In substance he says he never paid any money at all to
Perry on any of these three occasions, he says that Perry pocketed
money given to him by the reporters and no money reached him at all.
F So far as the three meetings are concerned the defendant told you
he set out for the first one under the impressions he was going to
meet an informer called Terry. So far as the other two are concerned
he says they were chance meetings because he always lunched at The
G Grove public house. He says that the conversations which he had
with Perry were in fact conversations with a view of getting him to
be an informer. The defendant submits to you that the tapes
are or may be fabricated or doctored in some way. He submits
H on the evidence at the very least you can't rule out that these
copied tapes (in which case they wouldn't be original and you wouldn't

pay any attention to them) and he puts before you that there's been a good deal of confusion in the handling of these tapes and what passed for originals may well have turned out to be copies and if that's so again you couldn't pay any attention to them.

He called his expert witnesses and they put before you their reasons for being unhappy with these tapes. It's for you to judge how far that gets you. If those tapes are original and authentic you may think they throw a flood of light on this case. Let's just look briefly at 35.b. again for a few moments, page thirteen. Towards the top. The defendant: "The thing to do is, you see, if you know like once you get yourself all square and that, fucking work in with us you know". You heard the tone in which that remark was made.

Page fourteen at the top. "Around here any time, anything you like, anything you like I can give you a license, but as long as we've got to know the order to do the cover". Then at the bottom of the page: "That's the thing it can work, well it's worked for fucking years, hasn't it". Page fifteen: "You can have more than help". (This is the first substantial answer) "You can have more than help, you can have fucking ... you can have fucking earners out of it". Page sixteen towards the bottom: "All you've got to remember as I say if you're going to do something like you go and do it, don't tell me, not us see, because if you ... but if we find out you've done something we want we want a fucking share". Then the third one is: "You might want to do something with some help you know, you might want to know there's no cunt about at a certain time of the night, see and we can do all sorts of things, Moody calls we can make believe we're going to raid a pub boozer or something, get every cunt off the streets you know and go and turn over some fucking boozer, that keeps them clear doesn't it". Says Perry, "Well if it's something big you could do it, it would be worth while". Says the Defendant, "If it was big I'd come

with you, yeah if it's good enough". Then a little lower down: "Fucking we'll come with you an a big one, you can't have any better insurance than that, can you". Page twenty, perhaps one of the most striking passages: "Don't forget, always let me know straight away if you want anything because I know people everywhere, because I'm in a little firm in a firm, it doesn't matter, anywhere in London I can get on the phone to somebody that I know I can trust that talks the same as me". "I get you, in London". "Yeah, and if he's not the person who can do it well he'll know someone who can". Let's go on to page twenty-four, that's the next conversation on 21st November: The reference is to a grass. "You see the thing is I don't mind helping out but if there's a fucking grass among them, you see I'm putting my ... see what I've said, ... that McDonald, you know trying to get at if McDonald grassed them, because, um, if he's say he got collected up then he grassed them and I start steaming in an fucking doing things". "Yeah, that's right, yeah". "To get them all out, then he's just as likely to fucking grass me, isn't he?" "Yeah", says Perry, "But I can't see him doing that". Then there's that conversation at the bottom of the page which I think is said to be a reference to the money being handed over. Page twenty-seven in the middle: "If you're a grass you're a fucking grass and if you're a grass that means you're just as fucking likely grass me as any cunt, see what I mean". How do those passages accord with the suggestion that Mr. Symonds was trying to enrol Perry as an informer. Page twenty-eight: "Because otherwise you'll think you're fucking him up about the money and he'll fit you up but you've done the business and you just want to drop the man out of it, because what he's doing might be trying to bleed you". That's a reference members of the jury to another police officer. "He might hink this you know, I'm onto a good one because

we've got more villains in our game than you've got in yours".

Who were the villains in this particular game? Page thirty-four towards the bottom, just under thirty-five point nought nought:

"And find out the names the blokes dealing with, that's what I want to know, I want to know the names of the police officers, cos' I you see it's like, with the sticks like if you're nicked anywhere in London, like Harlesden nick, anywhere you see, I can, I can get on the blower to someone in my firm who will know someone ..." "Someone knows someone, yeah, yeah". "Somewhere, you can get something done. This is in London". "I got you yeah".

And at the bottom of page thirty-five, "It's always fatal for a metropolitan bloke to approach a country copper, it's got to be one of their own country coppers". "I've got you". "Got a chance of a drink here ..." and so it goes on.

Well you bear in mind the criticisms the defendant has made of those tapes and you give them what weight you think proper. The value of the tapes comes back to this, does it not, whether you accept what you've been told about them by Mr. Lloyd and Mr. Mounter whose evidence is supported by Mr. Hawkey. Are they honourable men who acted honourably as Miss Millard told you or have the fabricated tapes, concocted their note books and told lies from the witness box. It's for you to say. You are entitled to bear in mind the view you formed of the defendant, from the statement from the dock and the way he has conducted his case. You must make your own mind up about it.

One thing which may have occurred to you is that it's plain on those tape-recordings, isn't it, that he must have known something very strange must have been going on as between Perry and Inspector Robson, the business about the gelignite (or the jelly as it's been called), the defendant must have known about that. If he's an honest and upright policeman perhaps one would expect him to have reported that. There's no evidence that he did.

Have those conversations which you've heard on the tape-recordings been tampered with, doctored, anything of that sort. The expert evidence is unanimous in saying there's no evidence that the conversation was doctored or tampered with in any way. The highest that it's put is by the defendants experts who say they are unhappy about other parts of the tapes. No one has said there is any direct evidence that the conversations themselves have been doctored. The defendant says they've been copied, well by whom and where. Could the reporters have done it? Again you come back to the question did they do it. They told you they took the greatest care of those tapes. Are they honourable men or are they the reverse as the defendant suggests to you. You heard the evidence about the tapes, you heard the reporters. When you consider the value to be put on that evidence which questions the tapes you will use your commonsense in deciding what weight and what value it should bear. You may find it helpful to remember at the end of the day what was said by Miss Millard called by the defendant who heard the tapes she told you very shortly after they were made. I repeat to you what she said: "I listened to the tapes each day after they were recorded with excitement and horror, what I heard horrified me, what I heard was police corruption, I didn't believe it existed, it shocked me out of my wits, I was scared and so was Mr. Hawkey. I was frightened for my life, if Symonds could behave in this way I wondered what corrupt police could do if they found out,

A I just couldn't imagine what was going on, I realised the reporters
B were investigating alleged corruption, that was fully confirmed in
my mind. Even when it was over I was worried, I just couldn't believe
it, Mr. Hawkey became increasingly frightened". She added, "Those
two men involved were acting honourably". If that's right, if Miss
Millard is right, her account of those tapes to which she listened
shortly after they were made, what value do you put on the expert
evidence which doubts them, it's for you to say.

C Members of the jury the defendant ended his address by telling you
that so far as the prosecution case is concerned something stinks.
You may wonder whether if there is a stink in this place it is not
the stench of corruption.

D You will of course try this case fairly. You've heard all the
evidence. You will fairly consider both the evidence for the Crown
and the propositions put before you by the defendant. It is your
task to make sure that he has a fair trial. If he is right or
E may be right in what he submits to you then of course you would
acquit him. If on the other hand having fairly considered the
evidence you come to the conclusion that the Crown have proved
guilt so that you are sure about it, well then it is your duty in
F accordance with the oath which you've taken to say so by your
verdicts.

G Your verdicts must be unanimous. There are circumstances in which
Courts can accept majority verdicts, they have not arisen in this
case, if they did, after a long interval of time, I would have to
ask you to come back into Court and I would give you a further
H direction.

So will you please now retire and find unanimous verdicts and let me know as soon as you've made your minds up. You may find it useful to start by electing a foreman to speak for you when the verdicts are taken if you have not already done so.

(Jury Bailiffs sworn)

(Jury retire at 2.35 p.m.)