

IN THE CROWN COURT

Before:

HIS HONOUR JUDGE R. A. R. STROYAN Q.C.

Held at:

The Law Courts,
Victoria Square,
Middlesbrough.

On:

Friday, 20th March, 1981

R E G I N A

- v -

JOHN ALEXANDER SYMONDS

MR. G. RIVLIN Q.C. assisted by MR. F. RADCLIFFE appeared as counsel on behalf of the Crown.

MR. SYMONDS was unrepresented.

Transcript of the Shorthand Notes by Mrs. C. Bowe of Humphreys, Barnett & Co.,
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JULIAN d'ARCY MOUNTER

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HIS HONOUR JUDGE STROYAN: Mr. Symonds, how is your throat to-day?

DEFENDANT SYMONDS: It's not good.

HIS HONOUR JUDGE STROYAN: I have got a medical report from Dr. Maddison, who examined you last night, who said that you were then suffering from laryngitis and associated pharyngitis, which is, I suppose, the medical way of saying a sore throat, and he considered you fit to attend court to-day.

I don't want to press you, but obviously it would be probably to your advantage if we could conclude the cross-examination of this witness to-day, while his evidence is fresh in the minds of the jury. If you think you can manage that - do. If you feel you are in difficulty, let me know.

DEFENDANT SYMONDS: Thank you.

HIS HONOUR JUDGE STROYAN: In the light of that, if you would like a few moments to condense your cross-examination so as to spare your voice, I am perfectly prepared to rise for a few minutes if that is going to help you.

DEFENDANT SYMONDS: I don't think there is all that much left to do.

HIS HONOUR JUDGE STROYAN: Yes.

Mr. JULIAN d'ARCY MOUNTER

Cross-examination by the Defendant Symonds (Continued)

Q. Mr. Mounter, I would now like you to look at a copy of a statement you made to Chief Superintendent Lambert on the 28th/29th of November, 1969.

HIS HONOUR JUDGE STROYAN: Have you got this Mr. Rivlin?

MR. RIVLIN: I don't think so Your Honour. I don't believe that I have got it. The defendant is handing a document down. I wonder if it could be passed to me please. Oh Your Honour, yes. I think that I recognise it. Yes I do. I do indeed. Your Honour, we have got it, and if you just allow me one moment.

HIS HONOUR JUDGE STROYAN: Yes, if you can tell me where to find it.

MR. RIVLIN: Your Honour, if you will just give me a moment.

HIS HONOUR JUDGE STROYAN: Mr. Symonds, if you find it easier to cross-examine sitting down you may certainly do so, provided you can keep your mouth close to the microphone.

DEFENDANT SYMONDS: I'm alright, thank you.

MR. RIVLIN: Your Honour, it is Statement No. 5. In my bundle it is Page 206. The position is that if Your Honour goes to the last page of the very long statement that Mr. Mounter made, Page 105, it should be the next document; and if it is not the next document in your bundle, I shall have a copy provided for you forthwith.

HIS HONOUR JUDGE STROYAN: Page 105 ...

MR. RIVLIN: Your Honour, I am not handing to you a photo-copy of this statement. You may recognise it when you see it, Your Honour.

HIS HONOUR JUDGE STROYAN: Yes.

DEFENDANT SYMONDS:

Q. Do you recognise this statement, Mr. Mounter? - A. Yes I do.

HIS HONOUR JUDGE STROYAN: It would help if I asked the formal questions.

DEFENDANT SYMONDS: Yes.

HIS HONOUR JUDGE STROYAN:

Q. Mr. Mounter, is that a witness statement, apparently signed by you at the top of the first page? - A. Yes sir.

Q. And I think it extends to four pages with your signature at the bottom? - A. Yes sir.

Q. Witnessed by Detective Sergeant (inaudible) , is that right? - A. Yes sir.

DEFENDANT SYMONDS:

Q. Was this statement made by you?

MR. RIVLIN: Your Honour, I am sorry to intervene, but I wonder if I may mention a matter in the absence of the jury, at this point. There is a matter of concern.

HIS HONOUR JUDGE STROYAN: Yes, very well. Members of the jury, there is a point of law.

Jury left court

HIS HONOUR JUDGE STROYAN: Ought the witness to withdraw?

MR. RIVLIN: Your Honour, I think not. Your Honour, I do hope you will forgive this intervention by me, I apologise for it, but my concern is this. It is a frank concern that if this cross-examination carries on with the defendant in this state, then at some later stage in the case it may be suggested by the defendant that he was ill on this day, and that he could not ask all the questions that he wished to, and he will refer to the fact that he was whispering, and in the result difficulties might be caused.

Your Honour, I do hope you will forgive me for mentioning the matter, but when we have the defendant asking questions in this vein, and coughing and spluttering in the way that he has just been doing, one wonders what might happen at some future stage in the trial if the question of Mr. Mounter's evidence crops up.

HIS HONOUR JUDGE STROYAN: Yes, well I, of course, had that in mind.

MR. RIVLIN: Your Honour, yes, I am sure you did.

HIS HONOUR JUDGE STROYAN: I think I can only but ask the defendant.

MR. RIVLIN: Your Honour, yes. Your Honour, may I say, I appreciate the

difficulties, and the very last thing that I wish to do is to prevent the completion of this cross-examination because Mr. Mounter has been here for several days and the last thing I want to do is have him called back.

HIS HONOUR JUDGE STROYAN: I am sure.

A MR. RIVLIN: But I do recall that on a previous occasion the defendant said in open court to Your Honour, with reference to a particular matter: "Well I was ill on that day and I couldn't ... I had to go on and I couldn't ..."

HIS HONOUR JUDGE STROYAN: Yes, I remember that.

MR. RIVLIN: Does Your Honour remember?

B HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Yes. Your Honour, I am not accusing the defendant, in the sense that I am not suggesting for a moment that that is what his intention is, but if that arises with the jury present, then I can see difficulties.

HIS HONOUR JUDGE STROYAN: Yes.

C MR. RIVLIN: That is what I am worried about.

HIS HONOUR JUDGE STROYAN: Well Mr. Symonds, you have heard what Mr. Rivlin has said.

DEFENDANT SYMONDS: Yes.

D HIS HONOUR JUDGE STROYAN: Obviously, I want you to be able to conduct the cross-examination, or the remainder of the cross-examination properly and sensibly, and equally obviously, if you say you can and are happy to do so, then it would not be right for me to allow you to say at a later time, if you want to do so, that you didn't have a proper opportunity to cross-examine him. Do you see?

DEFENDANT SYMONDS: Yes.

E HIS HONOUR JUDGE STROYAN: Now I am going to leave it to you. If you feel you can cross-examine properly, and put the remainder of your case, well then I would not be at all sympathetic to any suggestion you might afterwards make that you were not able to do so, do you see?

DEFENDANT SYMONDS: Yes.

F HIS HONOUR JUDGE STROYAN: I want to leave it to you, but you do see that I would listen sympathetically to an application if you said you couldn't conduct it properly. If you are telling me that you can conduct it properly, I would not permit you afterwards to say that you couldn't. Do you see?

DEFENDANT SYMONDS: Yes, Your Honour.

HIS HONOUR JUDGE STROYAN: Do you understand that?

G DEFENDANT SYMONDS: I understand, yes.

HIS HONOUR JUDGE STROYAN: Yes. Because I want to give you a proper opportunity of putting your case. Would you like to consider the matter for a few moments with your solicitor? I will rise while you do.

DEFENDANT SYMONDS: Yes.

H HIS HONOUR JUDGE STROYAN: Yes, very well.

Short Adjournment

A MR. RIVLIN: Your Honour, I have been told that the defendant feels handicapped by going on in the present circumstances, and in those circumstances perhaps it is best that Your Honour should consider the matter with that in mind.

HIS HONOUR JUDGE STROYAN: Yes.

B MR. RIVLIN: Your Honour, may I respectfully make one or two suggestions. The situation is this, that with the leave of Mr. Green, and in his presence, we have had a word with Mr. Mounter to consider his position, and from Mr. Mounter's point of view, if his cross-examination could not finish to-day, it would be most convenient to him - he is a busy man with great responsibilities - to be here at two o'clock on Monday for the completion of his cross-examination.

Now, in the meantime Your Honour, we can usefully take up the court's time in this way. I can call Mr. Hawkey in chief.

C HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Now the situation is that there are three tapes which remain to be played - 3B, tape 13 and tape 15 - and in any event that was going to take up sometime; and Mr. Hawkey in chief, given that these tapes would have to be played, would be likely to take, I should have thought, an hour and a half to two hours altogether.

D HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Now there is no objection, as I understand it, to our interposing Mr. Hawkey at this stage, and my calling him in chief; and he could be cross-examined on Monday morning. If his cross-examination wasn't finished by Monday afternoon, Mr. Mounter interposed, and then we could continue to finish Mr. Hawkey's evidence.

E HIS HONOUR JUDGE STROYAN: The difficulty about that, while that is a course which I can cope with sitting by myself, it is not perhaps quite so easy for a jury to follow things.

MR. RIVLIN: I fully understand that. There is this to be said, however. That the defendant had reached November the 21st with Mr. Mounter, which is the last incident.

F HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And I think that he, himself, would not suggest that there is very much more cross-examination of Mr. Mounter.

HIS HONOUR JUDGE STROYAN: Yes.

G MR. RIVLIN: And ... Well Your Honour may well appreciate our concern about this whole situation, but the one thing that we feel the defendant should never be able to say is that he has been inhibited from cross-examining because he is ill.

HIS HONOUR JUDGE STROYAN: Yes. Well if you call Mr. Hawkey in chief, and play the tapes, that will occupy the morning, will it?

H MR. RIVLIN: Oh yes. I feel that it will occupy most of the morning, if not all the morning.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Your Honour, another possibility was canvassed, namely that Mr. Mounter might remain until about half-past twelve to see if there was any improvement in the defendant's voice.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And any possibility that the defendant might feel able to complete his cross-examination this afternoon.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: But I am not convinced that that is a realistic possibility.

HIS HONOUR JUDGE STROYAN: I am afraid Mr. Mounter, on any view, has lost a day at his work.

MR. RIVLIN: He has.

HIS HONOUR JUDGE STROYAN: Even if he were to leave this moment.

MR. RIVLIN: Your Honour, might one say that anything can happen, and if by say half-past twelve or thereabouts, the defendant feels that he can continue his cross-examination to completion.

HIS HONOUR JUDGE STROYAN: Yes. You see I think it's an advantage to him if he can, because the matters will be fresh in the jury's mind.

MR. RIVLIN: Absolutely Your Honour, yes.

HIS HONOUR JUDGE STROYAN: Yes well I think that is what we will do.

MR. RIVLIN: Mr. Mounter, for his part, would be extremely pleased if his evidence could be completed to-day.

HIS HONOUR JUDGE STROYAN: Yes, I am sure he would. I am sure we all would. I have the medical report from Dr. Maddison. It does in fact say that he considers the defendant fit to attend court, not yesterday, but to-day.

MR. RIVLIN: Your Honour, yes. I think the problem with that is that of course, the defendant is doing the cross-examination.

HIS HONOUR JUDGE STROYAN: Yes well, if he feels that he is going to be inhibited in cross-examination, then ...

MR. RIVLIN: I don't know if the defendant has been given any medication, any lozenges, or anything like that to help him. I am just unaware of that.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Sometimes things that one can take do help in these circumstances.

HIS HONOUR JUDGE STROYAN: Yes, well, I'll tell you what we will do. We will go ahead now with Hawkey in chief, and immediately after the adjournment, I will ask the defendant if he feels able to complete Mr. Mounter's cross-examination, if that is convenient with Mr. Mounter. If he is not, then Mr. Mounter can come back ... Unhappily, he will have to come back on Monday.

MR. RIVLIN: Your Honour, yes, but not before 2.00 if possible.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: It would be of great assistance to him to know that he wouldn't have to be here before 2.00 on that day.

HIS HONOUR JUDGE STROYAN: Yes. Have we other matters which we could usefully occupy the time?

MR. RIVLIN: Your Honour, yes. We could cross-examine Mr. Hawkey.

HIS HONOUR JUDGE STROYAN: Yes. Judging from what happened last time, the cross-examination of Mr. Hawkey is not likely to be of the same character, or of the same length, as the cross-examination of the two reporters.

MR. RIVLIN: Absolutely so Your Honour.

HIS HONOUR JUDGE STROYAN: Yes, very well. Now Mr. Symonds, you have heard what has been said. Is it right that you feel inhibited about continuing with your cross-examination to-day?

DEFENDANT SYMONDS: I feel under considerable difficulties.

HIS HONOUR JUDGE STROYAN: Very well. Well in that event, we will proceed with the evidence of Mr. Hawkey in chief, do you understand that?

DEFENDANT SYMONDS: Yes.

HIS HONOUR JUDGE STROYAN: You are perfectly able to listen and take notes. And if, by the mid-day adjournment, you feel able to complete Mr. Mounter's cross-examination, well then I think it would be an advantage, both to you and to him, if you could do so. So I will ask you at quarter-past two whether you feel fit to conclude your cross-examination of Mr. Mounter this afternoon, and if not, well then we will go on with Mr. Hawkey, and you will have to do your cross-examination on Monday. Are you happy with that?

DEFENDANT SYMONDS: Yes.

HIS HONOUR JUDGE STROYAN: Well let the jury return.

Witness Mounter left court.

Jury returned to court.

HIS HONOUR JUDGE STROYAN: Members of the jury, I have been considering the problems arising from the defendant's sore throat and loss of voice, and in case he should be inhibited in putting the remaining points of cross-examination to Mr. Mounter that he says he may be, I have decided not to ask him to cross-examine any more this morning. So we are going to go on with the evidence of the next witness, which you will now hear. The defendant won't have to cross-examine him to-day. But if the defendant's voice returns sufficiently to enable him to finish with Mr. Mounter this afternoon, then we will do that so that we can get Mr. Mounter away. We are going on, in the meantime, with the evidence of the next witness.

I am afraid it is going to mix things up a little, but I am sure you will appreciate why it is necessary.

Examined by Mr. Rivlin:

Q. Is your name Ernest Hawkey? - A. It is.

A

Q. Mr. Hawkey, where do you live? - A. In Cheshunt in Hertfordshire.

Q. What is your full address, please? - A. 5 Dig Dag Hill, Cheshunt, Herts.

Q. What is your occupation? - A. I am self-employed, dictation and audio equipment.

B

Q. Mr. Hawkey, in 1969 by whom were you employed? - A. By Location Sound Facilities.

Q. In what capacity? - A. I was a freelance sound engineer.

Q. So were you, as it were, contracted, or sub-contracted to that company from time to time? - A. Yes I was, I was.

C

Q. You were not a full-time employee of that company? - A. Not at the time, no.

Q. No. And in relation to the taping of conversations, do you understand, whether telephone conversations or otherwise, did you have very much experience at the time? - A. I had done it previously, but not an awful lot of experience regarding telephone recordings.

D

Q. Now is it right that in October 1969 you became involved in what we know to be the Times Enquiry? - A. That is correct.

Q. And what part did you play in that? - A. I was to arrange for equipment to be taken to the two reporters where requested, and to fit the necessary equipment on to Mr. Perry, and in various cars, etcetera.

E

Q. Now, if you would like to point that microphone towards you, and speak into it, facing the jury, so that we will see you and hear what you have got to say. Now, on Tuesday, 28th of October, 1969, did you record certain telephone conversations in the morning? - A. Yes I did.

Q. Did you ever make any notes of the recordings that you made, or the events that occurred? - A. No, I made no notes at all.

F

Q. Well I would like you to have a look, please, at a few notes that are going to be handed to you now, and I would like you to tell us in whose handwriting they appear? - A. These are in my handwriting, but refer to the equipment used.

Q. They refer to the equipment used? - A. On the various days.

G

Q. Yes, well it is my fault. I wasn't asking you about the content of conversations, I was asking you about equipment used, and you did make notes of equipment that you used, is that right? - A. I did make notes.

Q. When did you make your notes Mr. Hawkey? - A. I made the odd notes on the day the equipment arrived, and then we ... I got together, and we ... I compiled these altogether.

H

Q. Now, when you say 'we got together', who do you mean? - A. I meant myself, and on some occasions Miss Millard and Miss Dawes helped me.

Q. At the time that you made the notes, were the matters then fresh in your mind? - A. They were, yes.

A Q. Now on the morning of the 28th of October, in relation to recording telephone conversations, what kind of equipment did you use? If you can't remember, refer to your notes if they help you, with his Honour's leave, that is? - A. This is with ... regarding the telephone conversations?

Q. The telephone conversations from Perry's mother's house. Do you remember that? - A. Yes, that was the Uher tape recorder connected with one of these suction pad induction coils that fits on the side of the telephone, and a head set to monitor the conversation.

B Q. Now Mr. Hawkey, the situation is this, isn't it, that one or two weeks ago now, you were at this court, and you gave evidence before His Honour? - A. That's correct, yes.

Q. But before you did that, you listened to a number of tape recordings? - A. I did, yes.

C Q. And was one of those, a tape recording of a telephone conversation that allegedly took place that morning, on the 28th? - A. It was, yes.

Q. Exhibit No. 1? - A. It was.

Q. And did you have a transcript in front of you as you were listening to the tape recording? - A. Yes I did.

D Q. When you listened to that tape recording, Exhibit No. 1, of a telephone conversation, what did you think of it in terms of its content and what you remembered from so long ago? - A. This is the original telephone conversation, that they were trying to get in touch with somebody and make a recording of. I think at that particular time I wasn't sure who they were trying to record.

E Q. Yes. Well I don't think that matters. What I am really trying to get at is this. Remembering what you heard on the recording when it was played to you in court, was it any different from that which you heard on the day in question? - A. No, it was exactly the same.

Q. Did you listen to this tape recording after it had been recorded? - A. I had.

F Q. You did listen to it. Was it, or was it not your practice to listen to tape recordings after the meetings? - A. Yes, after every time we made a recording, it would be re-wound and re-played straightaway, in front of me, and anybody else who was present at the time.

Q. Yes. And what was the purpose of having it re-played so quickly? - A. To see what the quality was like originally, and to find out how the recording actually came out.

G Q. Yes. Now, I would like you to look please, if you would, at Exhibit No. 1 and the box. Now, if you look at Exhibit No. 1, and I don't think we need trouble you with the box Mr. Hawkey, but if you look at the tape, do you find that there is some writing on it, somebody has written something on it? When I say 'the tape', I am sorry, I mean the spool. There's a label, is there, with some writing on? - A. Yes, it's come adrift actually.

H Q. It's come adrift? - A. There is a label with some writing on, yes.

- A
- Q. Is it part of an envelope that has been torn? - A. I believe it is.
- Q. Yes, now what does it say, Mr. Hawkey? - A. October the 28th, phone.
- Q. Now, I would like to ask you now, one or two questions about labels, and writing on tapes. Was that ever done in your presence? - A. Yes. The reporters used to write down their name on the centre label, and the dates, and various other information.
- Q. And when did they do that? - A. When we took the tapes off the machines. I am not absolutely sure whether it was just as we put the tape on the machine, or just after. It was immediately ...
- B
- Q. Before or after? - A. Yes.
- Q. Yes. And did you understand what the point of that was? Why it was being done? - A. So that they could recognise the tape, the date, and where the actual meeting was taking place.
- C
- Q. Now look at that tape. Are you able to recognise that one? - A. Mainly because I have seen it on many occasions, but I would say it is one of the tapes from the Uher tape recorder, and that the labels marking the side, one that we had used.
- Q. And in fact this one is the 28th of October? - A. The 28th, yes.
- Q. Did you ever tamper with that tape? - A. No I didn't.
- D
- Q. And by that I mean dishonestly, or improperly interfere with its content? - No sir, I had no reason to.
- Q. Were you ever asked to do any such thing? - A. No I was not.
- Q. Did the reporters ever, at any stage, ask you to do anything which you considered to be improper? - A. No sir, they didn't.
- E
- Q. I would now like to come on to the afternoon of the 28th, please. And in fact, is this right, that that afternoon, and perhaps you would like to refer to your notebook, or notes, for assistance. Can you remember a visit to the Rose public house? - A. Yes I can.
- Q. When a recording was made? - A. That's correct.
- F
- Q. Yes. Now, you were in court, weren't you Mr. Hawkey, when you heard a tape recording made, which is Exhibit No. 2 in this case, and to remind you, it is a very badly broken up recording? - A. That is correct.
- Q. Do you remember that one? - A. I do.
- Q. You can't hear very much, lots of silence and then some snatches of conversation? - A. That's correct.
- G
- Q. Now what equipment was used that afternoon at the Rose, please? - A. A Uher tape recorder, and a Nagra tape recorder with a radio microphone.
- Q. Now, as regards the Uher, what was the method of recording there? Was it a direct ...? - A. That was a recorder that was used in conjunction with the transmitter unit.
- H
- Q. And how did it work? - A. A microphone was placed on Mr. Perry, with a transmitter fitted to his body, or in his jacket pocket, and that was transmitting to a receiver which was connected to the Uher tape recorder. Consequently, anything transmitted by Mr. Perry would be received, and then recorded by the Uher tape recorder.

Q. Yes. Well now, you have also mentioned, it is right to say, a Nagra recorder? - A. That is correct. There was a Nagra fitted in the boot of the car, and a microphone was fitted underneath the dashboard, connected by a microphone cable. That went underneath the carpetting of the car.

A Q. Now, can you help us there please Mr. Hawkey? We have one tape for that afternoon, do you understand? - A. Yes.

Q. That is, I think, the Uher tape.

HIS HONOUR JUDGE STROYAN:

B Q. Which car was it fitted in, the Nagra? - A. That would have been Mr. Perry's. I would have to actually refer to that I am afraid.

MR. RIVLIN:

Q. Well I think you had perhaps better, because it is rather important. - A. Otherwise I might mislead you.

C Q. Yes. It is very important for you to be accurate about this, Mr. Hawkey. - A. Can I reflect on saying that the Uher tape recorder was in Mr. Perry's car, and I believe on this occasion ... No, I would have to refer to notes. Can I have a look, please?

Q. You have written a statement, haven't you? - A. I have written a statement.

D Q. Yes. Well Mr. Hawkey, I am not convinced that it would be appropriate for me to show you it. Your Honour, it is dated 13th of January, 1970, which is a good two months after.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And I don't think I am entitled to ask the witness to look at that.

E HIS HONOUR JUDGE STROYAN: No, I think not. It is too long.

MR. RIVLIN: I think it is.

HIS HONOUR JUDGE STROYAN: Unless the defendant wants you to do so.

F MR. RIVLIN: Yes. Well Your Honour, I don't think it would be fair to invite him to assist me.

HIS HONOUR JUDGE STROYAN: No.

MR. RIVLIN: I think if a stage ever arises when I can put it, then I will put it.

HIS HONOUR JUDGE STROYAN: Yes.

G MR. RIVLIN: But for the time being, I don't think that I can.

HIS HONOUR JUDGE STROYAN: You certainly can't put a note in examination-in-chief of something he wrote out three months afterwards to refresh his recollection.

H MR. RIVLIN: No.

MR. RIVLIN:

Q. Well Mr. Hawkey, can I just put this to you - and it is a long time ago, one appreciates - we have a tape of that recording, of that conversation that afternoon, the one that is badly broken up? - A. Yes.

Q. And you heard it, didn't you? - A. Yes I did, and that was ... The reason for that was that Michael Perry had a transmitter on him at the time. I would say that the machine was in ... the car.

Q. Well Mr. Hawkey, don't, as it were, try to scrape your memory to come up with something, if you can't remember. It is much better that you say so. The point is this, was there ever a better recording that afternoon of that conversation, a recording better than the one of snatches? - A. Was there one better? That was the afternoon ...

Q. Was there, in fact, another recording at all that afternoon? - A. There was another recording on the Uher ... On the Nagra tape recorder. I am just trying to reflect actually on the meet.

Q. When you say 'the meet', you mean the meeting? - A. The meeting, the actual meeting.

MR. RIVLIN: Yes. Well Your Honour, I can't take it any further.

HIS HONOUR JUDGE STROYAN: No.

MR. RIVLIN: I don't think I can take that any further now.

HIS HONOUR JUDGE STROYAN: Has he seen the Exhibit 2 tape?

MR. RIVLIN: I am going to ask him to.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: But I can't take the question of his recollection any further.

HIS HONOUR JUDGE STROYAN: No.

MR. RIVLIN:

Q. Mr. Hawkey, when you listened to the tape last week ... And if you can't remember it, we will have to play it again for you, do you understand? - A. I understand.

Q. When you listened to it, was it any different from the broken up tape that you heard at the time? - A. No it was not. It was exactly the same.

Q. It's not a good recording, is it? - A. No, it's not.

Q. And do you remember that there was an occasion early on, when there was not a good recording? - A. Yes, that is correct.

Q. That's correct? - A. Yes.

Q. Well you had better have a look, I think, at Exhibit No. 2, Tape 2, please. Exhibit No. 2, Tape 2. Now, have a good look at the box, and have a good look at the spool, and you tell us ... Well, you say what you have to about that box and spool? - A. Well, it is the original spool at various dates, who the meeting is with, and signed also with one of the reporters' signatures. It is one of the Location Sound boxes, and I would say it is the original tape.

- Q. Yes. How much care were the reporters taking with these tapes? -
A. A considerable care. As I say, they signed them. When they were taken off the machine, they were given directly to the reporters and looked after, as far as I am concerned, very well.
- A Q. And how seriously was everyone taking this? - A. Oh, very seriously.
- Q. Very seriously? - A. Very seriously.
- Q. Well now, I am going to come on now, if I may please, to the 31st of October, because that is the next day that actually concerns us in this case, do you understand Mr. Hawkey? - A. I understand.
- B Q. Right. And in relation to the 31st of October, is it right that a meeting was held at the 'Grove' in the afternoon? - A. That is correct, yes.
- Q. And were recordings made of that meeting? - A. They were, yes.
- C Q. Do you have anything in front of you which helps you to record the type of equipment that was used? - A. Yes, a note was made that on the 31st of October, which was a Friday, there was one Nagra tape recorder with a head set, a radio microphone ...
- HIS HONOUR JUDGE STROYAN: Just a moment please. Yes? - A. A Uher tape recorder, and Uher head sets for monitoring.
- MR. RIVLIN:
- D Q. So there's a Nagra, and a Uher? - A. That is correct, yes.
- Q. The radio microphone, of course, transmitting into the Uher? - A. That is correct.
- Q. Now, you have listened, have you not, in court, to the recording of the Nagra, Exhibit No. 3, Tape No. 5? - A. Yes, I have.
- E Q. A fairly long conversation, quite ... Or, reasonably clear. Do you remember that one? - A. Yes, that is correct.
- Q. And you had a transcript in front of you, didn't you? - A. Yes.
- Q. And when you listened to that, Mr. Hawkey, what did you think in terms of your recollection as to what had actually been recorded at the time? - A. That that was the actual original recording that was made at that particular time.
- F Q. Would you please have a look at Exhibit No. 3, Tape 5, and the box in which it is contained? And I am not going to ask you to read out what you see, but looking at the spool and at the box, what do you say about them? Are you able to help? - A. Yes, that is the original tape which was used at that time.
- G Q. And I think in fairness, I ought to ask you the next question before I ask you to look at the tape. Can you remember whether ... Well, can you remember, in relation to the tapes that you used, whether they were in each and every case new tapes? - A. Yes they were.
- Q. Now, if I use the expression 'virgin tape' or 'factory fresh tape', you would know what I mean by that? - A. Yes, I would.
- H Q. It means a tape that has been manufactured, and this is the first time that it is being used? - A. That is correct.

Q. Now, to the best of your recollection, what was the position about the tapes that you used? - A. That they were all new tapes taken out of the box, that we had got from the Location Sound stock.

Q. Right. Well now, you having said that, I am now going to ask you to look at Exhibit No. 4, Tape No. 3, if you would please. And we are going to hear it in a few minutes time.

Oh, I am so sorry Your Honour, this particular one is set up on the machine because, in order to save time, we have put it on the machine ready for use.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Can we hear it now, and then I can ask questions about the tape and the box?

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Members of the jury, we haven't heard this one. May I say this, Your Honour? We haven't heard this one yet. Would you look at your little schedule 'B' please, and if you go to the fourth box down, JEM7, Exhibit No. 3, we have heard that one. But there were two tape recordings made this day, the other one, the previous one is Exhibit 4, Tape 3, 3B. Now, we haven't heard that one yet, and it is going to be necessary for you to hear all of these original tapes sooner or later, so we are going to do it now. And might I invite the jury, if they wish to, to look at the transcript?

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Your Honour, the position is this, that there are two transcripts here. The police have done a transcript of Tape 3, Mr. Penna and Mr. Eley have done a transcript of Exhibit 3, Tape 5, and it may be of assistance to the jury, I would suggest, to have Mr. Penna and Mr. Eley's transcript in front of them for this reason. That they will be able to compare Tape 3 with Tape 5.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: What they have heard on it. But it matters not from the Crown's point of view.

HIS HONOUR JUDGE STROYAN: So there is, in fact ... Well, where is the transcript of this particular tape recording?

MR. RIVLIN: Well, Your Honour, the position is this, that Mr. Penna and Mr. Eley haven't done a transcript of this, because they have chosen the good tape.

HIS HONOUR JUDGE STROYAN: They have chosen the best tape, yes.

MR. RIVLIN: And they have transcribed it.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: But the police transcribed, or attempted to transcribe, all of the tapes.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: So that, there is a transcription in the police bundle, Exhibit No. 35B.

HIS HONOUR JUDGE STROYAN: Yes. Well that is what I thought.

MR. RIVLIN: And, Your Honour, the situation there is this, that this particular tape I think appears at Page 20 of 35B.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And Your Honour, it is very important indeed, that we should go to Page 28 of 35B.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And I say this because it is a matter that has been ventilated, and is now agreed. That there is a cut-off point here. And if the jury would please look at Page 28, do they get 24 about ten lines up from the bottom. "Male: 'Let's - let's put it in this car shall we'." Then: "Garbled". Then: "Engine noise". Then, as I understand it Your Honour, and this is the experts agreeing.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: There's a cut-out point there. And then the next bit has got nothing to do with this case.

HIS HONOUR JUDGE STROYAN: Now, we can follow that either in the police transcript, or in the Penna and Eley transcript.

MR. RIVLIN: That is right, and perhaps the witness should be permitted to have a transcript in front of him?

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And Your Honour, I suggest, with respect, that he should listen ... He should have the Penna and Eley transcript of Tape 5.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: So that everyone can compare the two tapes, then.

HIS HONOUR JUDGE STROYAN: I repeat again, members of the jury, the evidence is what you hear on the tape recordings, and the transcripts are merely to assist you. Evidence is what you actually hear.

MR. RIVLIN: And that is Page 7 of Exhibit 35D, the last transcript. Page 7.

HIS HONOUR JUDGE STROYAN: If you want to make notes as you go along, please do.

MR. RIVLIN: Your Honour, before this is played, might I please show the witness the box?

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Because I think it will be of assistance to all of us.

Q. Now, would you just have a look at the box, please, here Mr. Hawkey, and look at the back of the box, and read that to yourself? Do you have that? - A. Yes I do.

Q. There is reference to the start of the tape? - A. There is, yes.

Q. Being nothing to do with this particular meeting, and then the rest of the tape going on to this meeting? - A. That is correct, yes.

MR. RIVLIN: Yes. I am sorry, Your Honour. Your Honour, I have had a message passed to me, that the defendant would like the jury to follow this on the 3B transcript, that is the police transcript. Well Your Honour, the jury have heard what his wishes are.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: I don't mind at all. The only reason why I suggested the Penna and Eley one was because the jury have already followed that through, and they could compare the two tapes.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: But if ... It is of no account so far as I am concerned.

HIS HONOUR JUDGE STROYAN: Yes. Very well.

MR. RIVLIN: Perhaps they can have both of them, struggle with both of them.

DEFENDANT SYMONDS: I would submit that this is the only transcript of 3B. The Penna transcript, as we have heard ... (whispering inaudibly).

MR. RIVLIN: The defendant is saying, Your Honour, that the police transcript is the only transcript of 3B, and he is absolutely right in saying that.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And I am sure that the jury will bear that in mind.

HIS HONOUR JUDGE STROYAN: Yes. Are we starting at 3A or is this 3B? We are starting at 3B.

MR. RIVLIN: We are going to start at 3B hopefully, and the defendant again has said that he wants the jury to follow on 3B.

HIS HONOUR JUDGE STROYAN: There we are.

MR. RIVLIN: Well, there we are. 3B starts at Page 20. I don't think it is going to be necessary to hear it on earphones.

Tape 3B played.

MR. RIVLIN:

Q. Yes, right, well now, that is not as clear, is it, as the last one you heard, the other tape of this particular alleged conversation? -
A. That is correct.

Q. This is the one where there is a radio mike, isn't it? - A. It is.

Q. And in relation to the two voices, Mr. Symonds' voice, if it is Mr. Symonds' voice; and Perry's voice, if it is his. Perry was wearing a radio mike, wasn't he? - A. Yes, he was.

Q. Does one voice appear to you to be rather more blurred than the other voice? - A. Yes. Yes possibly, yes.

Q. Which one is that? - A. That of Mr. Sym ... The alleged Mr. Symonds, I would say.

Q. Yes, very well Mr. Hawkey. Now, listening to that tape being played, is it any different from the one that you heard at the time? - A. No, it sounded exactly the same.

- A
- Q. Sounded exactly the same. Now, I would like you to have another look at the box, and then I would like you to look at the spool. You have got the box there, have you? - A. Yes, I have.
- Q. Right. Now, do you remember your answer to me before this question arose of playing the tape, that you believed that you had used new tapes in every case? - A. That is correct, yes.
- Q. Now, if you look at the box there, at the back, there is reference to the start of the tape being another conversation, isn't there? - A. Yes, there is.
- B
- Q. Yes. And indeed, although we haven't played it through, I think it is generally accepted Mr. Hawkey, that this tape does bear other conversations? - A. That is correct.
- Q. Do you understand? - A. Yes.
- C
- Q. Now, does that help you to remember, in relation to this particular recording, whether this particular recording was recorded on a perfectly factory-fresh tape? - A. We made a recording on the machine, and then afterwards we recorded the other conversation on the same tape. There was also ...

HIS HONOUR JUDGE STROYAN: Just a moment, please.

- Q. 'Afterwards, we recorded another conversation', is that right? - A. That is correct.

D

MR. RIVLIN:

- Q. On the same tape? - A. On the same tape.
- Q. And if it be the evidence in relation to Tape No. 5, Exhibit No. 3, that again the situation arises where there are two conversations on one tape ... Two different conversations, do you understand? - A. I understand.
- E
- Q. Not whole conversations, but part of one, and then another conversation? - A. Yes.
- Q. What would you say about that? - A. I would say that one ... A recording had been made, and if there was another partial recording of another conversation that had been over-recorded, that a certain section had been used twice.

F

MR. RIVLIN: Yes.

HIS HONOUR JUDGE STROYAN:

- Q. You mean the second conversation on the same tape would have substituted itself? - A. Would erase the first recording.

G

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN:

- H
- Q. Well now, given that that may have happened, you understand, with a tape being used, or partially used, and then another recording going on to that tape. Did anybody ... Well, did you think that there was anything sinister in that at the time? - A. If it was done, it was done purely out of accident. It was pure accident if it had happened.

Q. Do you remember whether you ever saw any money?

HIS HONOUR JUDGE STROYAN:

Q. Just a minute. If it was, as you say, if it was done as a result of an accident, would the second conversation which then erased and went over the top of the first one, would the quality of that recording be affected by the fact that it was on top of the earlier one? -

A. I would say the quality wouldn't be actually, My Lord, but I think that would be up to the experts to ...

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN:

Q. Mr. Hawkey, I omitted to ask you about money. Did you ever see anything happen in relation to money? - A. There was a mention of it on the odd occasion. Also, I told Mr. Perry on several occasions not to put money in his inside pocket.

Q. Don't worry, that's to do with recording, is it? - A. Yes.

Q. Yes, ah. Well never mind what you told Mr. Perry, the point is this; did you see that he was in possession of money? - A. I believe on one occasion I did.

Q. On one occasion you saw it? - A. Yes.

Q. Do you know whether the reporters did anything in connection with money? - A. They counted the money, and took the serial numbers I believe, yes.

Q. Did you ever see the reporters do anything in relation to money after the meetings had taken place? - A. They used to check Perry to see whether he had any money actually on his person, and they used to search him.

Q. And did he ever have any money on his person after his meetings with the defendant, Mr. Symonds? - A. Not to my knowledge. No.

Q. Would you please have a look at the spool, please? Tape 3, Exhibit 4 spool. Just have a careful look at it. That's the one that has just been played. What do you say about it, Mr. Hawkey? - A. I would say that that is the original tape we used at the time.

Q. Alright. Would you please put that back, and now we are going to come on to the 21st of November. Before we actually deal with the meeting itself, do you have any record of any copying of tapes? - A. On what date?

Q. Well, the 11th, in fact? - A. The 11th.

Q. Dealing with matters chronologically? - A. Following through, yes, we did make some copies of some tapes.

Q. Yes. Well I suppose it would, perhaps, be of best assistance if I left all questions of copying to the end. I'll come back to copying. Let's go straight on to the 21st, shall we? The 21st of November, was there another meeting that day? - A. There was.

Q. Between Mr. Perry and the defendant? - A. That's the 31st of October?

Q. No, 21st of November? - A. 21st of November. On the 21st of November, yes, there was.

Q. Now, I have said 'the defendant'. Perhaps I should not have. Did you ever see who Perry was with? Did you ever look at the person? -

A. I saw a person in, it looked like a light grey coat, and I don't think I would recognise the face.

A Q. You don't think you would recognise the face. Well then I shall use the word 'alleged'. - A. Alleged.

Q. Alleged to be the defendant, at the Grove public house. Did this meeting take place at about 12.30? - A. It did.

Q. And what equipment was used on this occasion, please? - A. There was three. At this particular meeting, three Nagra's we used.

B Q. Yes. Well, just describe how the microphones were fitted up, and how the recordings into the Nagra's was to take place? - A. Two Nagra's had receivers fitted to them, because we used two radio microphones this time. So, two Nagra's had receivers fitted, and a transmitter was placed on Mr. Perry. There was another Nagra in a boot.

HIS HONOUR JUDGE STROYAN: Just a moment, please. Yes.

C WITNESS HAWKEY: There was another Nagra in the boot of the car, connected by a microphone underneath the dashboard. And on this occasion, a small Grundig portable tape recorder was used, with a small microphone which was also placed on Perry. I believe it was positioned on his arm.

MR. RIVLIN:

D Q. Yes. So there is one direct recording? - A. There is one direct recording.

Q. Two transmitted recordings? - A. Yes.

Q. And ... In fact, three transmitted recordings altogether? - A. Two transmitted recordings sir, from the radio microphone through the two receivers.

E Q. Yes? - A. And there was one direct connected to the microphone underneath the dashboard, and a small portable Grundig cassette recorder.

Q. Direct into ...? - A. Connected to a microphone, via a cable down the arm.

F Q. Yes. I am sorry about that. Now, can you remember whether any of the Nagra's on this occasion, were installed in your own motorcar? - A. Yes they were. One was, yes.

Q. One was. And did you have, sort of, headphones, or anything like that you could ...? - A. Yes, we had ... I believe somebody else was with me in the car at the time. We had a head set connected to a Nagra so that we could monitor the conversation.

G Q. Yes. Well I shall ask you about that in due course. When you were in court recently, you listened, did you not, to a tape being played? It is Tape No. 14, Exhibit No. 5? - A. Yes sir.

Q. Said to be the best of the recordings, the direct recording? - A. The direct recording.

H HIS HONOUR JUDGE STROYAN:

Q. That's the one from the microphone under the dashboard, connected by a

Humphreys, Barnett & Co.

cable to the recorder? - A. Yes, My Lord.

MR. RIVLIN:

A Q. And, so that the jury have it, it is their Schedule B. It is the second one from the bottom. That is the one he has already heard, members of the jury, Exhibit 5, Tape 14. You have heard that one, and when you listened to it being played to you, what did you think in terms of its content? - A. The content was very good.

Q. Yes. Sorry, you are misunderstanding the purpose of my question. In relation to the recording that you heard at the time, so long ago, was it ...? - A. No, it was the original recording.

B Q. It was the same? - A. The same, same one.

MR. RIVLIN: The same recording. Now, Your Honour, the two that have not been played are 13 and 15.

HIS HONOUR JUDGE STROYAN: Yes.

C MR. RIVLIN: And I would like, if I may please, to play 13; and the jury have got Exhibit 35B, and Tape 13 I think starts at Page 29.

HIS HONOUR JUDGE STROYAN: That is Exhibit 6.

MR. RIVLIN: Yes, that's right Your Honour.

D HIS HONOUR JUDGE STROYAN: Exhibit 6, Tape 13. Which transcript are you looking at?

MR. RIVLIN: Exhibit 35B, the first police transcript, Page 29.

HIS HONOUR JUDGE STROYAN: Yes.

E MR. RIVLIN: And I would like to refer you, if I may please, to Page 38. You can see it at 12 there. No. 10: "See you later", 'conversation terminates. Car radio and engine noise'. And what I would like to do, if I may Your Honour is, to continue to play this tape from 55/34 onwards to the end.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Because a matter has cropped up as to whether a particular recording came out, or not.

F HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And this may assist the witness.

HIS HONOUR JUDGE STROYAN: Yes. Yes, very well.

MR. RIVLIN: This is Exhibit 6, Tape 13.

G HIS HONOUR JUDGE STROYAN: We are following it at Exhibit 35B, at Page 29.

Exhibit 6, Tape 13 played

MR. RIVLIN: (To person operating tape recorder) Would you please go on to 55/34.

H Q. Whilst we are going on, you have listened to that now Mr. Hawkey? -
A. Yes.

Q. What do you say about it in relation to the tape recording that was made at the time? - A. I would say it sounded exactly the same, and it was the original one.

A Q. Now, I would like you to listen to just a little besides. Now, this particular one is where, I think it's a radio mike round Perry's neck. Do you understand? This isn't the direct recording, and it appears to have picked some more conversation up after quite some time, and that is what I am going to ask you about now. - A. Right

Exhibit 6, Tape 13 played from 55/34

MR. RIVLIN:

B Q. Right, we have played that one through right to the end. Now, just one or two questions I would like to ask you about that, Mr. Hawkey. Were you present at the time that this bit of chat was going on right at the very end? - A. Yes I was present. Yes.

C Q. And it seems that somebody was actually winding back a tape. You could hear the sort of Donald Duck sound, couldn't you, of a tape being wound back? - A. That's correct, yes.

Q. So that, within about ten or fifteen minutes of the recording having taken place, somebody was winding back a tape, and was that, or was it not, with the object of listening to it? - A. It was, generally taking place in a car.

D Q. Yes. So that's the sort of time lapse that occurred before tapes were listened to? - A. That's correct.

Q. Can I just ask you about this, because we have three recordings. We have got the one that you heard last week. We have got the one that you have just heard now. We have also got a Grundig recording. Do you understand? - A. That's quite correct.

E Q. But you have made a record of the fact that there were four recorders equipped, as it were, for taking tapes? - A. Yes.

Q. Now, I would like you to have a look at the transcript. You have been going through the transcript, haven't you? - A. Yes.

Q. Yes. And I know, Mr. Hawkey, that earlier this morning, before the court sat, you were asked to listen to this particular part of the tape, weren't you? - A. That's correct, yes.

F MR. RIVLIN: That was done in the presence of Mr. Green, Your Honour.

Q. And if you look at Page 39, somebody is saying, after a female says something: "I didn't realise you were right behind us. The sound went off completely on our one. As I got out, I saw your motor there. I thought 'My God', and some laughter". Do you remember that? - A. Yes I do.

G Q. And you were asked to listen to that more than once, weren't you? - A. Yes.

Q. Now, could you ...? Can you recognise that person, who is talking there? - A. The young lady?

H Q. No, the male who is saying: "I didn't realise you were right behind us. The sound went off completely on our one." Page 39. Have you got it? - A. Page 39, yes.

Q. No. 8. Just read it through to yourself. Do you have it? - A. Yes I do.

Q. And do you remember listening to it this morning? - A. I do, yes.

A Q. Can you remember whose voice that was? - A. I would have to hear it again, to be honest. But I think Julian Mounter was in the car at the time. But I would have to hear just that section again, if I may.

MR. RIVLIN: Yes, well you had better hear just that section again.

Relevant part of tape re-played - Exhibit 6, Tape 13

B MR. RIVLIN:

Q. Now, can you say who that is? - A. Yes, that's my voice.

Q. Yes. And does that help you to recall what happened to your particular recording? - A. The quality?

C Q. The mobile, the one in the mobile? - A. The one in the mobile, I believe the quality was poor, if I remember correctly.

Q. Well, what are you saying: "The sound went off completely on our one" for? - A. Something happened. I don't know whether the transmitter failed, or what have you, but we were out of range, and we didn't get a very good recording.

D Q. Very well. Yes. Now Mr. Hawkey, the time has come for you to look at the boxes and the spools of the tape recordings that we have here. Would you please have a look first, at Exhibit No. 5, Tape 14? - A. Yes.

Q. What do you say about that? - A. I would say that is an original recording, signed and dated by the reporters.

E Q. Would you look at Exhibit No. 7, Tape 15? I am asking you to look at this one because Exhibit 6 is not yet off the spool. Exhibit 7, Tape 15. Oh, it's cued up. Alright, look at Exhibit No. 6, Tape 13, the one that has just been played, and what do you say about that one? - A. That that is also an original recording, made by the reporters and myself.

F MR. RIVLIN: Right. Now Your Honour, in relation to Tape 15, Exhibit No. 7, this is the only one that we have not, as yet, heard.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: It is the Grundig.

HIS HONOUR JUDGE STROYAN: Yes.

G MR. RIVLIN: Your Honour, I am entirely in the court's hands, and in the defendant's. I don't know, really, whether it is necessary to play this one, but it ...

HIS HONOUR JUDGE STROYAN: Further recording of the same conversation.

MR. RIVLIN: It's a further recording of the same conversation, and we have had two already.

H HIS HONOUR JUDGE STROYAN: Do you want it played again, Mr. Symonds?

DEFENDANT SYMONDS: (Inaudible whisper)

HIS HONOUR JUDGE STROYAN: What?

DEFENDANT SYMONDS: I would like it Your Honour, yes.

MR. RIVLIN: Alright, well we will get it over with Your Honour.

DEFENDANT SYMONDS: Against the transcript on Page 53.

MR. RIVLIN: Your Honour, we will play it.

HIS HONOUR JUDGE STROYAN: Yes. Very well. Exhibit 7.

MR. RIVLIN: Tape 15.

HIS HONOUR JUDGE STROYAN: Tape 15.

MR. RIVLIN: Page 53 transcript.

Exhibit 7, Tape 15 played

MR. RIVLIN:

Q. Now, you have heard that played, Mr. Hawkey. That is the last of the tapes that concern us in this case. What do you have to say about it? - A. That that is the original tape recording made at that time.

Q. I would like you, if you would please, to have a look at the cassette and the box, Exhibit No. 7. Just see if you can identify these. Is there anything on the box at all? - A. Yes, there's a price label, because I had to go out and purchase this cassette for the machine.

Q. Yes. And what about the cassette itself? - A. Yes. Also there is, apart from the signatures, there is some camera tape actually. We call it camera tape in the trade. It's an adhesive tape that we can write on, and that can be taken off quite easily.

Q. And who put that on? - A. I did, at the time.

Q. Yes. So, do you have any doubt about that being the original cassette? - A. None whatsoever.

Q. Thank you very much, Mr. Hawkey. Put that down now.

Now, Mr. Hawkey, I said I was going to ask you a few questions about copying, and that is what I would like to come to now. Do you have any record, apart from that which you told the police, in your notes that is, about copying? If you don't, just say so, and we will do the best we can without. - A. No, I can't see any.

Q. Alright. Well, the position is this. That, it may not be all that difficult to establish dates, but let me ask you some general questions. Were you involved in copying tapes for The Times? - A. I was, yes.

Q. And can you just describe to the jury in general terms, what used to happen when you were asked to copy tapes? How did you get hold of the tapes? - A. The tapes were brought to my company, which was Location Sound, by one of the reporters, accompanied by a secretary I believe the young lady to be.

Q. What used to happen? What did they bring to you? - A. They brought the tapes in to us, and we then set up two identical Nagra tape recorders.

We took the one out of the original box and placed it on the machine, put a new tape on the second machine.

MR. RIVLIN: Just a moment, please.

HIS HONOUR JUDGE STROYAN:

Q. Set up two identical Nagras, yes? - A. We put an empty, or a virgin tape on the second machine. Then, with an inter-connecting lead between the two machines, the one with the original recording on ...

HIS HONOUR JUDGE STROYAN: Just a moment. Inter-connecting lead. Yes.

WITNESS HAWKEY: The one with the original recording on, was switched to 'play back'.

HIS HONOUR JUDGE STROYAN: Yes.

WITNESS HAWKEY: And the second machine was switched to 'record', and both machines were started together.

MR. RIVLIN:

Q. And did the copying take place? - A. The copying did take place.

Q. Was anybody with you when you did the copying, or were you on your own? -
A. No the reporter and a secretary were in the room, and there was also another gentleman, an assistant, helping me at the time.

Q. On such occasions ...

HIS HONOUR JUDGE STROYAN:

Q. Who was he? - A. Pardon?

Q. Who was he? - A. An assistant of Location Sound who used to help me.

Q. Who? - A. I can't recollect his name.

HIS HONOUR JUDGE STROYAN: Yes, very well.

MR. RIVLIN:

Q. On such occasions as copying took place, did you do anything else, other than copy the tapes? - A. No sir.

Q. Were the tapes interfered with in any way? - A. Not in any way.

Q. Now, November the 11th was a date that I canvassed with you, but we do have, I think, two more dates that have actually been given in evidence in this case. The first is the 25th of ... I said the 11th of November, did I? - A. You said the 11th of November.

Q. The first is the 25th of November, when it has been said that a Miss Woore came along? - A. That's correct, yes.

Q. And the second one, may I tell you, is a date that we find on a number of boxes of what is known as The Times Copy Tapes, which is the 2nd of December? - A. That's correct, yes.

Q. And do you remember that The Times wanted copies for themselves? -
A. They did, yes.

Q. On such occasions as copying took place, with what degree of care and security were those exercises carried out? - A. Well, I was always watched by the reporters when I was doing the work, and also as I say, the witness was there; but all care and attention was taken at all times.

A Q. I think you said that the copies were Nagra to Nagra? - A. Yes, they were.

Q. Are you sure about that? - A. Not with all the recordings. When we get down to the small Grundig cassette, I believe they were made from the Grundig cassette to a(Travex?) tape recorder.

B Q. Well, do you know? - A. The other one was from a Uher tape recorder to a Nagra.

Q. Do you have any record of the equipment that was used for the copying? - A. Um.

C Q. Well I think you have just been through your notes, haven't you? - A. Yes. There should be a note in Location Sound Facilities invoices, that I am sure of.

Q. Yes. Well, you have no record in your own hand? - A. I have no record of my own.

Q. Alright. And after the copying had taken place, what happened to the originals? - A. The originals were handed back to the reporters, as were the copies.

D Q. And they what? Took them away with them, did they? - A. They took them away, back to The Times building, I presume.

E MR. RIVLIN: Yes. Will you just allow me a moment, Your Honour? Well Your Honour, I think that completes my examination-in-chief. I don't think that the defendant is cross-examining Mr. Hawkey to-day, so that if there is anything I have left out, perhaps I can be permitted to ask about it, but I think I have asked everything I need to.

HIS HONOUR JUDGE STROYAN: Yes. Yes, very well. That is all for to-day then, Mr. Hawkey. I am afraid we will have to ask you to be back on Monday.

WITNESS HAWKEY: Thank you sir.

F HIS HONOUR JUDGE STROYAN: It is extremely important in the meantime not to talk about your evidence to anybody in any way at all.

MR. RIVLIN: Your Honour, that is Monday morning at half-past ten, is it?

HIS HONOUR JUDGE STROYAN: Monday morning at half-past ten. Is there anything else we can usefully do?

G MR. RIVLIN: Your Honour, I don't think before the luncheon adjournment. There is a matter of a certain witness that has to be discussed, but the jury won't be concerned with that. We could do it now. It would take about five minutes.

HIS HONOUR JUDGE STROYAN: We will do it this afternoon.

H MR. RIVLIN: If you please.

A
HIS HONOUR JUDGE STROYAN: Well now, I hope that during the adjournment somebody may be able to give the defendant something to help his throat - even if it is only something very ordinary - and after the adjournment I am going to ask you, Mr. Symonds, if you will be in a position to cross-examine Mr. Mounter. I hope your throat may be a little better by then.

DEFENDANT SYMONDS: Thank you

Luncheon Adjournment

B
HIS HONOUR JUDGE STROYAN: Now then Mr. Symonds, what is the position?

C
DEFENDANT SYMONDS: The position Your Honour is, that in the course of this morning I have had various medical attentions to my throat - Paracetamol, cough mixture, antibiotic tablets, three hot water and salt gargles, a couple of packets of Tunes, and a packet of Mentho-lyptus - and I am starting to get my voice back again now. I think that if I spent the afternoon using it in cross-examination it might well go again. I would prefer not to do this, and I would remind Your Honour that there is a matter which was raised before about calling defence witnesses. How many I could call, etcetera.

HIS HONOUR JUDGE STROYAN: Yes.

D
DEFENDANT SYMONDS: I think it was suggested that this could be done in Chambers. I think this could well take up an hour or two this afternoon, because I feel that the prosecution case is likely to finish next week, and I will then be in the position of having to start to call defence witnesses.

HIS HONOUR JUDGE STROYAN: Does that estimate of time accord with yours, Mr. Rivlin?

E
MR. RIVLIN: No Your Honour, I am afraid not.

HIS HONOUR JUDGE STROYAN: No.

MR. RIVLIN: I don't know how much cross-examination there is of my remaining witnesses, but I should be very surprised if we finished the prosecution case next week. I would have thought ... I expect that we will finish the prosecution case sometime during the following week.

F
HIS HONOUR JUDGE STROYAN: Yes. Well of course, it really depends on Mr. Symonds.

MR. RIVLIN: Of course it does.

HIS HONOUR JUDGE STROYAN: Yes, well ...

G
DEFENDANT SYMONDS: Well Your Honour, I would say obviously the bulk of my cross-examination was obviously going to, and has fallen upon the reporters.

HIS HONOUR JUDGE STROYAN: Yes.

DEFENDANT SYMONDS: A number of the other prosecution witnesses, I really can't see that I shall have much to cross-examine them about.

H
HIS HONOUR JUDGE STROYAN: That is what I would have hoped and expected.

MR. RIVLIN: Well Your Honour, I am grateful for that. Of course, we have got Mr. Hawkey to be cross-examined, and of course, there is Mr. Perry to call too.

HIS HONOUR JUDGE STROYAN: He may be sometime.

MR. RIVLIN: Yes. Now, with that in mind, I know how many more witnesses we have to call.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: I know how many have been requested, in terms of requesting their presence in the witness box.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Your Honour, it is my present intention to see, over the week-end, how many of these witnesses I shall be able to tender to the defendant for cross-examination, because it is my view that it is possible to cut this case down - at least, I hope that it is - and as soon as Mr. Radcliffe and I have formed a judgement about how many witnesses we can tender for cross-examination, then I shall be able to give a better estimate.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: I am very pleased to hear that the defendant feels we will make fairly speedy progress.

HIS HONOUR JUDGE STROYAN: It certainly would be possible, depending on the amount of cross-examination, I would have thought, to finish the prosecution next week. In the ordinary way, one would expect that. Mr. Symonds now tells us he won't be nearly so long with the others, as he has been with the two reporters.

MR. RIVLIN: Your Honour, yes. Your Honour, in those circumstances of course, that is bound to make a difference to these proceedings.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And I don't really see how much more I can say.

HIS HONOUR JUDGE STROYAN: No. Yes, well I think ... This is the last witness, except for Perry, and you will have a lot to put to him in cross-examination I take it, will you?

DEFENDANT SYMONDS: Yes, Your Honour. I would like to be sure that my cross-examination of Mr. Mounter was thorough.

HIS HONOUR JUDGE STROYAN: I don't think anybody would suggest it would be anything else but.

MR. RIVLIN: Well Your Honour, it does look, does it not realistically, as though we are not going to be able to finish Mr. Mounter to-day?

HIS HONOUR JUDGE STROYAN: Yes, it does.

MR. RIVLIN: And perhaps he is entitled to know that at the earliest possible opportunity, so that he can skip off and catch a train, if he can get one.

HIS HONOUR JUDGE STROYAN: Yes, I am afraid that's right. I think Mr. Mounter can now go until two o'clock on Monday, and we will put him in ... Mr. Symonds, I take it, from what you have said already, that you are confident if you have another half day, that you are confident of finishing your cross-examination?

DEFENDANT SYMONDS: I can be confident that I will finish the cross-examination of Mr. Mounter by the time this court closes on Monday.

HIS HONOUR JUDGE STROYAN: Very well. Thank you. Mr. Mounter may go then, and I think we will interrupt anything else that is going on, in order to enable the remainder of the cross-examination of Mr. Mounter to start at two o'clock.

MR. RIVLIN: Yes, I am obliged.

HIS HONOUR JUDGE STROYAN: Yes. Very well. Members of the jury, that looks as if it is as far as we can go so far as you are concerned to-day. You have heard what has happened. I hope we shall be able to make some rather more rapid progress in this case on Monday morning; and you be kind enough to be back here on Monday morning at half-past ten. And in the meantime, it is particularly important to remember the warning I have given you. If you would care to leave the court now.

Jury left court

MR. RIVLIN: Your Honour, I wonder if I can save the defendant's voice by mentioning a couple of matters now.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: He says that he wishes to deal with the question of defence witnesses. Your Honour, the situation is as follows, that of course, Your Honour will have to make a decision about that. Your Honour, it may be possible for me, on behalf of the prosecution, to concede that inevitably some of the witnesses that he has in mind are bound to be relevant. Now, I say that with all due deference because it is not really my place, but if I can make a concession, it will save Your Honour having to make a decision, and I shall be only too happy to do so.

Your Honour, the other matter that I would like to raise, if I may, is the question of Miss Woore. We know what happened in the trial within a trial.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Her evidence was admitted for that purpose. I would respectfully suggest that it would be appropriate that we go through the same procedure again in relation to Miss Woore, and we will admit the telephone conversation with her that is before you.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Your Honour, I don't invite the defendant to express a view about Miss Woore just now if his voice is bad, but may I say this. That we have an exact note of what he put, that is, the defendant put to Mr. Lloyd, and he said this at one point: "Well Tape 1 and Tape 4, according to Miss Woore's records were later copied on the 25th; but Tape 10, there is no record of it ever being copied."

So what he was doing, was using her evidence to cross-examine him.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And a short time after that, question by the defendant: "And so therefore, would it follow that when copies were made two weeks later, that they would also be made into brand new tapes?" Mr. Lloyd: "You mean by

Miss Woore, sir?" Answer: "Yes". And it is crystal clear, we would say, that the defendant was using her Section 9 statement for the purposes of cross-examination; and in those circumstances, we would contend that it would be entirely appropriate that the same course should be adopted as last time, because if it were not, it would mean that the defendant had, as it were, put to a witness evidence that he knew he was not going to admit, which would be an extra-ordinary situation.

HIS HONOUR JUDGE STROYAN: Yes. So the position so far as she is concerned will be that she will not be called.

MR. RIVLIN: Oh she's in Australia, she will certainly not be called.

HIS HONOUR JUDGE STROYAN: Her evidence can't, under Section 9, be read unless it is agreed; but I understood it to be agreed as between Mr. Birnberg and yourself, that the note of Mr. Birnberg's telephone questioning of her could be read.

MR. RIVLIN: Your Honour, no. It was agreed that the note was accurate.

HIS HONOUR JUDGE STROYAN: Accurate, yes.

MR. RIVLIN: And then it was left over for the defendant to either agree the evidence, or not. The situation being, that we would be prepared to agree the whole of it - her Section 9 statement, and the questions and answers given when she was telephoned by Mr. Birnberg - or nothing. It is either all, or nothing.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: That is obviously right. The point that I make is this. That it is difficult, with all due respect, for us to see how, in the circumstances, her evidence could not now be agreed. And having regard to the defendant's cross-examination of Mr. Lloyd it would, with respect, seem to us to be improper for those questions to have been put, if the defendant had not got it in mind that her evidence would be agreed.

HIS HONOUR JUDGE STROYAN: Yes. Well, he was obviously going to back it up, as I understood it, by her evidence.

MR. RIVLIN: By her evidence, Your Honour, yes. So, Your Honour, I mention that now. I ventilate that matter so that the court may have it in mind.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Your Honour, I undertake on Monday morning, to provide Mr. Green with a list of those witnesses whom we feel we can tender to the defence, and I am obliged to Mr. Green and the defendant who have already indicated to me that there are two or three Crown witnesses whose statements can be read in any event.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And who will not be required. So, may I tell Your Honour that we are, I think, all making some progress at this stage towards shortening the future progress of this case.

HIS HONOUR JUDGE STROYAN: I am delighted to hear it.

MR. RIVLIN: Your Honour, yes. But Your Honour, if it is the defendant's intention to argue the question of defence witnesses this afternoon then, with respect, it would seem that he would really be using his voice up in just the way that he said he was not to be doing.

HIS HONOUR JUDGE STROYAN: I think we might make some progress. I don't mind, in chambers, asking Mr. Green for his assistance.

MR. RIVLIN: Your Honour, yes.

HIS HONOUR JUDGE STROYAN: I don't think I could do so before the jury, in open court.

MR. RIVLIN: No Your Honour.

HIS HONOUR JUDGE STROYAN: But if we are prepared to deal with the matter in chambers, well then, I would be prepared to hear Mr. Green in chambers.

MR. RIVLIN: Your Honour, in any event, it is crystal clear that if the defendant's intention is to call his experts, as Your Honour remarked the other day, there's plenty to keep the pot boiling.

HIS HONOUR JUDGE STROYAN: Yes. Whether he will want to call them, in the light of what they said last time, is another matter.

MR. RIVLIN: Well Your Honour, that's not for me. That is not for me, that's for him. Your Honour, I would unquestionably concede their relevance, as no doubt, Your Honour would entirely agree.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And moreover, I would concede the relevance of Miss Millard, although whether ... May I say this, Your Honour? Whether the defendant would be assisted in his case by calling her, again is another matter, another matter entirely. It may be that she would not assist, but I would unquestionably concede her relevance.

HIS HONOUR JUDGE STROYAN: Yes. What are the other witnesses who you are prepared to say are relevant?

MR. RIVLIN: Well Your Honour, these are the ones about whom I know. There's Mr. Moody, of course.

HIS HONOUR JUDGE STROYAN: It may be that his evidence may be double-edged, I don't know.

MR. RIVLIN: Well Your Honour, I don't know either. Your Honour, may I say this to Your Honour, because it is my duty to be entirely open with the court. He is a witness whose name appears on the back of the indictment.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: As at the present time, we have no reason to believe, on behalf of the Crown, that he would give false evidence in this case.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: We are very reluctant indeed to call him, because he is a man who is at present serving a long sentence for corruption, and we don't wish, for that reason, to make him part of our case.

HIS HONOUR JUDGE STROYAN: No.

MR. RIVLIN: The defendant may wish, and he may not know about this, but he may wish to apply to Your Honour, that Your Honour should, as it were, request us to tender him as part of our case. He is entitled to do that if he wishes.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: He may not know it, but he is entitled to do it. And Your Honour will then have to consider, if he wishes to make that request, whether to invite us to tender him, and if Your Honour invites me to tender him, then of course I will do so.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: If you just allow me a moment.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Your Honour, I am told that it is the intention of the defendant to request Your Honour to invite the prosecution to tender the witness Moody, even though we don't want to call him.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And I have been of every assistance that I can be to you there.

HIS HONOUR JUDGE STROYAN: If he is on the back of the indictment, I suppose that is something he is entitled to say.

MR. RIVLIN: He is. He is indeed.

HIS HONOUR JUDGE STROYAN: Yes. Whether he is going to help, or not, is another matter. Where is his statement?

MR. RIVLIN: Your Honour, his statement is towards the end of the depositions, and it is really exactly the same, I think, as that of Officer Price, except Moody was cross-examined before the Magistrates.

Your Honour, I have also been told by Mr. Green that the defendant wishes us to tender for cross-examination, a number of witnesses whose names have just been given to me, but who, if I recall aright, have nothing to do with this case in that they give evidence about what were Counts 4 to 8.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Now, I am not proposing to call anybody who has got nothing to do with this case, nor am I proposing to tender anybody who has got nothing to do with this case. I am under no duty to do that, I would submit. If they are not able to give relevant evidence about this case, then we would consider it a waste of the court's time for us to call them, and the defence will have to call them.

Your Honour, I would suggest that that matter be left over, and that Mr. Green, together with his lay client, can consider what they are asking us to do there.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And come to us with a list which we will look at.

HIS HONOUR JUDGE STROYAN: Yes. Are there any other witnesses whose name is on the back of the indictment, who are relevant to this case?

MR. RIVLIN: Well Your Honour, would you be willing to leave it in this way? Mr. Green has said that he will give me a list.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: He said that he will have a look at the evidence. I think that's right.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: I think that his initial inclination - and this does not commit the defendant in any way - is to agree that the evidence of these people does not come into the same category as Moody, who is plainly relevant to this case.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: That is The Times enquiry.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Your Honour, I am very fearful that if we embarked upon a process of calling witnesses who were not relevant to this case, sooner or later something might slip out, and the jury might hear about other charges that don't concern them at all.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And then we would be in a terrible mess.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And my view is, in those circumstances, that any such witness should be called by the defendant, who must take responsibility for what they have got to say.

HIS HONOUR JUDGE STROYAN: Yes. Well I don't think it would be either desirable, or right, for the Crown to call evidence which is not directly admissible before the jury.

MR. RIVLIN: Well Your Honour, absolutely. And if I did, I think I would be playing with fire.

HIS HONOUR JUDGE STROYAN: I think I should stop you.

MR. RIVLIN: Well Your Honour, I am obliged for that. Well, I would be playing with fire anyway, because something might slip out which the defendant could claim was as a result of the prosecution calling a witness who had nothing to do with the case.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And I am not.

HIS HONOUR JUDGE STROYAN: No.

MR. RIVLIN: And so Your Honour, the situation is this, that there is a line of communication established.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And it will ... On Monday morning perhaps, when we have both had time to consider our positions, we can talk further about this matter.

HIS HONOUR JUDGE STROYAN: You think it wouldn't be helpful for me to go on sitting here at the moment.

MR. RIVLIN: Well, Your Honour, it might be if the defendant has any particular

application to make.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: But I can't think of anything that I want to say.

A Yes, I think that the defence would like to have an answer about Mr. Moody now, if they could get one.

HIS HONOUR JUDGE STROYAN: Yes, well. The defence can call Mr. Moody if they wish to do so.

B **MR. RIVLIN:** Your Honour, the defendant would invite Your Honour to say that we should tender Mr. Moody.

HIS HONOUR JUDGE STROYAN: Yes, of course he is one of the ones on the back of the indictment.

MR. RIVLIN: Yes he is.

C **HIS HONOUR JUDGE STROYAN:** Yes. Well he should be tendered by the Crown for cross-examination.

MR. RIVLIN: Yes, well we have dealt with Mr. Moody.

D **HIS HONOUR JUDGE STROYAN:** Yes. We might as well deal with Miss Woore. I have already dealt with her not coming from Australia. I am not going to deal with that again. I imagine, on the basis of the cross-examination that you put Mr. Symonds, that you would want her Section 9 statement, and the cross-examination of her on the telephone by your solicitor to be agreed evidence, is that right?

E **DEFENDANT SYMONDS:** Your Honour, no. And furthermore Your Honour, I would like to take up the very fair offer of the prosecuting counsel, some days ago, when he said that he thought it only right and proper that I should make my applications to you about who I could call as a defence witness, and for what reasons, in chambers, and in the absence of the prosecution. I would rather not go into the pros and cons, the whys and wherefores of who I want to call as a defence witness and why in open court.

MR. RIVLIN: Miss Woore is not a defence witness. She is nothing to do with the defence.

F **HIS HONOUR JUDGE STROYAN:** I just want to deal with Miss Woore first. You want ... On the basis of the cross-examination which you have already conducted, I understood you to be agreeing, as you did in the trial within the trial, that her Section 9 statement, on which you were relying for cross-examination, and her conversation with Mr. Birnberg should be part of the agreed evidence. Now, is that right?

G **DEFENDANT SYMONDS:** Your Honour, I agreed to this measure during the trial within a trial, as I agreed to other measures, for example, not calling any defence witnesses practically, under pressure because matters were left to the very last minute, and there was little else to do. This is why I have tried to raise this point now, Your Honour, in good time, so that the same situation does not arise, and that all these matters are sorted out as to who I can call or not.

H As far as Miss Woore is concerned, I would point out to Your Honour, with due respect, that I have been interrupted numerous times every day - and Your Honour, in all probability quite rightly - for putting questions which weren't allowed, or were inadmissible, or may reflect upon myself, etcetera, etcetera, etcetera.

Now, when I happen to put a question about Miss Woore, in my ignorance, of course I did not realise that I put a question about Miss Woore amongst thousands of other questions to that witness, that in this way I was opening myself to being deprived of her attendance here.

HIS HONOUR JUDGE STROYAN: She is not coming anyhow. There is no question...

DEFENDANT SYMONDS: Well, I would point out to your Honour that I was not interrupted, one occasion when I was not interrupted, and the question was not stopped, or brought to my notice, until some days later when these words were plucked out of a many thousand word transcript, and I do protest.

You may be quite right, Your Honour, that I did say these words at some time during one of the days, I am not disputing that; but I protest that it is done in this way, some days later, these few words plucked out of a transcript somewhere: "Oh yes, you mentioned Miss Woore in one of your questions, and now you can't insist on her being called, and you have got to accept a very unsatisfactory Section 9 statement, or whatever".

HIS HONOUR JUDGE STROYAN: I think you are under a misapprehension there. It is for the Crown to call her as part of their case if they wish to do so. She is in Australia. There is no means of compelling her to come. The position now is - either there is no evidence from her, or the Section 9 statement is agreed together with the conversation on the telephone with Mr. Birnberg. It may be that that contains something helpful to you, that will be for you to say. The question is, either ...

Well, the question is really is whether you are prepared to, and want to have her Section 9 statement, plus the agreed note, in evidence, in which case that will be done. If you don't want that done, well then there will be no evidence from Miss Woore at all. You won't be able to rely upon her statement. That is the choice.

DEFENDANT SYMONDS: Yes, well, if I have to make that choice now, Your Honour, I would say, rather no evidence at all, and that would leave, of course, a very huge gap in the continuity of the prosecution case respecting the handling of the tapes, and the custody.

HIS HONOUR JUDGE STROYAN: Well, that's a matter for the prosecution.

DEFENDANT SYMONDS: Yes.

HIS HONOUR JUDGE STROYAN: Well you can consider that, if you like, over the weekend.

DEFENDANT SYMONDS: Thank you, Your Honour.

HIS HONOUR JUDGE STROYAN: It may be that the balance of advantage when you have considered it, from your point of view, is having the documents in. But that is for you to say when you have talked to Mr. Green about it.

MR. RIVLIN: Your Honour, certainly if that is the attitude the defendant takes, so be it. May I say this, that under no circumstances, so far as we are concerned, is this jury going to be misled into thinking that the defendant hasn't had the chance of ascertaining from Miss Woore that which he wishes to ascertain, because his solicitor has spoken to her on the 'phone, and asked all the questions that the defendant asked should be put.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And we will not, unless Your Honour forbids us, we will not let this jury go into their room under a misapprehension as to what has happened, with a big question mark hanging over her head. In our submission they should

know that the defendant has had the opportunity to ask any questions that he wished over the 'phone, and that we have agreed that her answers should be admitted.

HIS HONOUR JUDGE STROYAN: Yes, oh certainly.

MR. RIVLIN: Your Honour, yes.

HIS HONOUR JUDGE STROYAN: Well I think the best I can do ... You and Mr. Green have heard what Mr. Symonds has said. Quite obviously there is no question of the jury being misled by thinking that you have been deprived of an opportunity of being in touch with her, because your solicitor has, in fact, been afforded the opportunity of asking her questions on the telephone which have been agreed. So the jury will certainly, if necessary, be told that.

DEFENDANT SYMONDS: Your Honour, I would submit that there are further jury points in the matter of Miss Woore that I should be allowed to make. For instance, her alleged original statement which has since been lost or mislaid in some way, and so on.

HIS HONOUR JUDGE STROYAN: But so far as Miss Woore is concerned, the position is, as I have told you, that either there is no evidence from her; or her Section 9 statement, plus cross-examination on the telephone by your solicitor, will go in as agreed evidence. There is no half-way house, is there?

DEFENDANT SYMONDS: Well Your Honour, there is a third point you didn't mention, and that is: why isn't Miss Woore allowed to come here? The fare, after all, is £327 which is much less than the fare to Australia was in 1972. In fact, I think it is about half the cost now. I fail to see the dispute over what must be a relatively small amount of money, taken in context with the cost of this trial, counsel, equipment, witnesses. And I would point out, I am defending myself. I am saving the taxpayers in this way, a certain amount of money, the fees for a Q.C., and ...

HIS HONOUR JUDGE STROYAN: Well we need not go into this.

DEFENDANT SYMONDS: I would say that the money I am saving the taxpayer by defending myself, would more than cover a £300 air fare for Miss Woore to be brought here to solve this problem.

HIS HONOUR JUDGE STROYAN: I don't think I am going to go into an argument about that. Another point of view is you are taking, perhaps, a great deal longer than it would have done had you not been defending yourself. So it can cut both ways. But I am not going to get into an argument about that.

What I will say about Miss Woore at the moment, is that I will leave you to consider that matter over the adjournment with Mr. Green.

DEFENDANT SYMONDS: Thank you, Your Honour.

HIS HONOUR JUDGE STROYAN: But on no view is she coming here, and you will have, either no evidence from her; or you will have the Section 9 statement, plus her cross-examination on the telephone by Mr. Birnberg. It's all or nothing.

DEFENDANT SYMONDS: Thank you Your Honour.

HIS HONOUR JUDGE STROYAN: Now what about ... I have already said that the prosecution should tender Mr. Moody. So far as Miss Millard is concerned, you should have leave to call her. Now, what about other witnesses?

A DEFENDANT SYMONDS: Well, the other witnesses from now on, Your Honour, are purely defence witnesses, and I would like to speak to you in chambers about that matter, because I propose to produce statements made, either to the police, or to my defence witnesses; and either invite you to read them or may be to read extracts from these statements to you, in which manner I hope to persuade you of their relevance to my defence, Your Honour. And I would rather do that, not in the presence of the prosecution, and all the paraphernalia of tape recorders.

HIS HONOUR JUDGE STROYAN: Very well. Well, no-one is going to tape record you in this court, I can tell you that.

B Well Mr. Rivlin, perhaps, unless there is any other matter you can help me with, that will be a convenient time.

MR. RIVLIN: Your Honour, I don't think so. Your Honour, we can be released, can we, on our side, the prosecution side; or do you want us to wait here?

HIS HONOUR JUDGE STROYAN: I think it is possible some point may crop up. I don't think I shall be very long. I don't know.

C MR. RIVLIN: As I understand it, you are going to be shown a number of statements, and asked to consider them.

HIS HONOUR JUDGE STROYAN: Yes. Well I think the prosecution can now be released until Monday morning.

D MR. RIVLIN: Yes, Your Honour, I am obliged. Well Your Honour, if it is of any further assistance, the position is this. Does Your Honour recall that you read a number of statements in the trial within a trial?

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: I remember Your Honour saying that you felt some of them were relevant, and some of them weren't.

HIS HONOUR JUDGE STROYAN: Yes.

E MR. RIVLIN: But certainly I think we would agree that some of them are relevant, or could be relevant. I have mentioned Miss Millard.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: I think John Buchanan, and Frederick Hewitson, Ann Dippy.

F HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And as regards the remainder, the defendant may have to argue them.

HIS HONOUR JUDGE STROYAN: Yes.

G MR. RIVLIN: But again, Your Honour, may I say that if the defence come to us and say: "Look here, we have got some statements from these people" ... In fact, we have provided statements to the defence.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: We provided all of the ones that you read.

HIS HONOUR JUDGE STROYAN: Yes.

H MR. RIVLIN: If they say to us: "We don't want them to say anything more than

that which is contained in their statement, will you please agree it so that we can put it in as part of our case?", we will do our best to co-operate.

HIS HONOUR JUDGE STROYAN: Yes.

A MR. RIVLIN: Which, again, may save Your Honour further time and trouble this afternoon. That's why I was really trying to cut matters short.

HIS HONOUR JUDGE STROYAN: Yes. Well it is very helpful of you to do that.

B DEFENDANT SYMONDS: Well Your Honour, if that is so, if the prosecution are prepared to agree a number of those statements, then the back of this problem is completely broken, because most of the statements we have were supplied by the prosecution in the first place.

MR. RIVLIN: Yes.

HIS HONOUR JUDGE STROYAN: Yes.

C DEFENDANT SYMONDS: And most of the statements do contain the one or two facts that I consider helpful to the defence, and probably I would not require more than that.

MR. RIVLIN: Well Your Honour ...

DEFENDANT SYMONDS: That is a very generous suggestion.

D MR. RIVLIN: Well there we are. Your Honour, we might be able to resolve this situation without troubling you to make the invidious decision as to whether certain witnesses are to be subpoenaed or not.

HIS HONOUR JUDGE STROYAN: At all events, those witnesses we are talking about are the witnesses in the bundle I was handed at the end of the issue on the voir dire?

E DEFENDANT SYMONDS: The bundle you were handed were about 16 or 17 witnesses. Those are all certainly included. Of course, there are a number of other witnesses. I am thinking now of the whole case, the Nuneaton aspect, the police officers from Nuneaton, etcetera. And perhaps the afternoon would be better spent in conference with Mr. Green and a representative of the prosecution, agreeing these statements. Maybe we could agree ...

HIS HONOUR JUDGE STROYAN: I am not sure how far the Nuneaton ...

F DEFENDANT SYMONDS: ... 50 or 60 statements.

MR. RIVLIN: Well Your Honour, I envisaged that this was going to be an impossible situation.

HIS HONOUR JUDGE STROYAN: Yes.

G MR. RIVLIN: It was going to resolve into one. I take it that Mr. Symonds is talking about statements that we have served on the defence?

DEFENDANT SYMONDS: In the main, yes.

MR. RIVLIN: Yes. Well Your Honour, what I would suggest, is this. That Mr. Green supplies us with a final and authoritative list of all of those witnesses, and their statements, that we have served on them.

H HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: That they would like us to agree, in this case.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: If there are any of them that we can agree, we will. If there are any of them that we say are irrelevant, then we will tell Mr. Green and that can be argued before you.

HIS HONOUR JUDGE STROYAN: Yes. I think that is the best way of dealing with it.

DEFENDANT SYMONDS: I would agree with that, Your Honour, and I would then suggest I spend some hours this afternoon with Mr. Green, preparing this list.

HIS HONOUR JUDGE STROYAN: Yes. I shall be here, in any event, until half-past four. I could come back in chambers, and deal with anything else in chambers, if necessary. Whether you will be troubled by my hearing Mr. Symonds in your absence, Mr. Rivlin, I don't know.

MR. RIVLIN: Well I don't mind that, Your Honour. I think the prospect of being here until half-past four on a Friday afternoon ...

HIS HONOUR JUDGE STROYAN: I follow that, yes.

MR. RIVLIN: ... Is the one that is sending hot and cold shivers up our spines.

HIS HONOUR JUDGE STROYAN: Yes. Well, there is no need for you to stay.

MR. RIVLIN: Yes. But in any event, as I say, if Mr. Green gives us that list on Monday morning, we will set about looking at it. We have got a number of days to go before ...

HIS HONOUR JUDGE STROYAN: You have got a number of days to go, and I should have thought if you knew by Wednesday which witnesses were going to be controversial, I could look at any who were doubtful overnight.

MR. RIVLIN: Well, what we could do is that. Yes, Your Honour. We could prepare a bundle of statements that are, as it were, between us in dispute as being relevant.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Let you have the bundle to look at.

HIS HONOUR JUDGE STROYAN: Yes. Then I can hear Mr. Symonds in chambers on those in your absence, if he wants to tell me there are things he hopes the witnesses will say which are not in the statement. And I can deal with that in your absence, if he wants to take you by surprise. It wouldn't be right. You would be forewarned.

MR. RIVLIN: Yes.

HIS HONOUR JUDGE STROYAN: I think that's the best way of dealing with it. If you and Mr. Green can, between you, agree about two things. One is, the witnesses who you accept are relevant and likely to be of assistance, and those the defendant shall have leave to call without further delay. And then a further bundle of those who the defendant may consider he wants to call, but who you don't consider to be relevant, and I shall have to make my mind up about those in the light of the situation when I see the documents.

MR. RIVLIN: Your Honour, it may be able for us to agree a third list of those we both agree to be relevant, and that we are prepared to formally admit in order to save time and trouble.

HIS HONOUR JUDGE STROYAN: Yes. It certainly saved a lot of time and trouble on the issue of the voir dire.

I don't think there is anything further I can do at the moment. As I mentioned, I shall be in the building until nearly half-past four, but I certainly am not going to ask you to stay.

MR. RIVLIN: Well Your Honour, if you want me to, I shall of course.

I hereby certify that I took Shorthand Notes in the trial of Regina -v- Symonds, and that pages numbered 1 - 38 are a complete and correct transcript of my said Shorthand Notes to the best of my skill and ability.

Signed: *Laet B. Buse*