

Before

His Honour JUDGE STROYAN Q.C.

Held at  
The Crown Court,  
The Law Courts,  
Victoria Square,  
MIDDLESBROUGH,  
Cleveland.

On  
8th April 1981

R E G I N A

-v-

John Alexander SYMONDS

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Mr. G. Rivlin Q.C. appeared as Counsel on behalf of the Crown,  
assisted by Mr. F. Radcliffe

Mr. J.A. Symonds appeared IN PERSON

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Transcript of the shorthand notes of MRS. C. ANDERSON, of  
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**G****H**

A (In the absence of the Jury)

B Mr. Rivlin: Your Honour, the position is this; that the regulations, to which I drew your attention yesterday, are issued by the Commissioner for Police in the Metropolitan area with the provision of the Home Office. They do have statutory foundation in that by virtue of Section 5 of the Metropolitan Police Act of 1829 "The said justices", and according to the note of this Section.

JUDGE STROYAN: 182'

Mr. Rivlin: 1829. "The said justices", and according to the note to this Section, "Said justices, i.e. the Commissioner .

C JUDGE STROYAN: Yes.

D Mr Rivlin: "The said justices may from time to time, subject to the approbation of one of His Majesty's principal secretaries of state, frame such orders and regulations as they shall deem expedient, relative to the general government of the men to be appointed members of the police force under this Act." I don't think that I need read the rest of it. Your Honour, the defendant has been provided with transcripts of unreported cases of Molloy, October 1978, and Keeting, 14th February 1979. Your Honour, if I might just read one short passage from the judgment of Mr. Justice Lawson in Molloy, in which this very question arose.

JUDGE STROYAN: Yes.

E Mr. Rivlin: "This is a very unusual and, in a way, unexpected application." He said ....

JUDGE STROYAN: What page?

Mr. Rivlin: This is page one of the transcript of Molloy.

JUDGE STROYAN: Yes.

F Mr. Rivlin: Top o f the page.

JUDGE STROYAN: Yes, I have got it.

G Mr. Rivlin: And then the second paragraph, "I have been on the Bench in one capacity or another for twenty years and I have never heard of such application being made, and I think it is right to say that there is no trace of such an application ever being made or, indeed, of the existence of the jurisdiction to make such Orders in any of the books or cases, but it may very well be the application is none the worse for that." May I say that in that case Mr. Justice Lawson held that he had no jurisdiction to make the order that was sought. And indeed, he went on to say that he felt that it would be inappropriate to make the type of order that was sought. Your Honour, certainly we are aware of no case in the defendant's favour on this point and the situation is quite simply that

/that

Submissions

A there are Police regulations. Those Police regulations state specifically what the procedure is to be in cases such as these. That is from the point of the Police Officer whom it is desired to interview. And I have drawn those regulations to your attention. Of course, as I pointed out yesterday, in the last resort the Police Officer in question is always in a position to say I simply refuse to be interviewed, whether in the presence of a senior Officer or not.

JUDGE STROYAN: Well, anybody can say that.

B Mr. Rivlin: Yes. But in this particular case, Your Honour, with respect, I very much doubt whether you have any jurisdiction to make the order that is sought by the defendant.

JUDGE STROYAN: Yes.

Mr. Rivlin: Even if you wish to.

C JUDGE STROYAN: What did Mrs. Justice Heilbron say about it in the other case?

D Mr. Rivlin: Well, in that case slightly different issues arose, although it is fair to say that she did refer to the judgment of Mr. Justice Lawson in Molloy, but she really said the same thing, in rather different words, namely that she was not prepared to make the order that was sought. And if I might remind you of the order that was sought, I think if one looks at page two of the transcript. "Detective Sergeant Keating has been committed for trial to Manchester Crown Court. His solicitor wishes to interview four Police Officers whose statements appear in the depositions. Additionally he wishes to interview ten to thirteen other unnamed Police Officers. They are of varying ranks including that of Inspector. The Prosecution have indicated that they have no objection to the defendant interviewing those witnesses, on condition that the interviews take place on Police premises and that a senior Police Officer be present. The Defence objects to those conditions." Well of course, we don't say, Your Honour, that the interviews should take place on Police premises.

E JUDGE STROYAN: No.

F Mr. Rivlin: But what we do say is that Your Honour has no jurisdiction to say that the interviews take place in contravention of the Police regulations.

JUDGE STROYAN: Yes.

G Mr. Rivlin: Well, that was the question that was before the learned Judge.

JUDGE STROYAN: Did she hold that she had jurisdiction?

Mr. Rivlin: Well, Your Honour, if one looks at page seven.

JUDGE STROYAN: Yes.

/Yes

Submissions

A Mr. Rivlin: What she there said, "It cannot, it seems to me, be against the interests of justice for this procedure to be followed at this stage and I am not prepared to interfere with the manner in which such witnesses are interviewed. I have not had the advantage of the citation of any authority from either Counsel, but it appears to me in general practice that the Court should not, and certainly not at this stage, cause the disclosure of perhaps vitally important, confidential information which could seriously hinder the Police in their work and by analogy, or just as a result, injure the public unless it can be shown that the public policy which gives such protection conflicts with the public policy that a defendant should be entitled to a fair trial and not be hampered in securing an acquittal." And in that case obviously it was feared by the Crown that if the Police Officers were interviewed in the absence of a senior Police Officer certain information might be imparted to the defendant through his solicitor which it would not be in the interests of the public for to happen.

C JUDGE STROYAN: Yes.

D Mr. Rivlin: Your Honour, I think it is fair to say that she doesn't, the learned Judge in this judgment does not specifically say that she has no jurisdiction, although if one looks at page six, and may I say, Your Honour, that in that case the court was concerned with the regulations applying to the Merseyside Police Force,

JUDGE STROYAN: Yes.

E Mr. Rivlin: She says, and this is the third paragraph, "In my view, despite the non-applicability of the Merseyside instructions to which I have just referred, I find myself in general agreement with that approach". That is the approach taken by Mr. Justice Lawson in the case of Molloy.

JUDGE STROYAN: Yes.

F Mr. Rivlin: Your Honour, with respect, I have found nothing to suggest that you have jurisdiction to order that the Police Officers be interviewed in a particular way, and again one wonders whether even if you had such jurisdiction it would be appropriate in a case of this nature.

JUDGE STROYAN: Well, yes.

Mr. Rivlin: But of course that will be a matter entirely for Your Honour.

G JUDGE STROYAN: That would be a discretionary matter.

Mr. Rivlin: That would be a discretionary matter.

JUDGE STROYAN: And you, I suppose, in a case of this nature say discretion should not be exercised.

H Mr. Rivlin: Your Honour, the position is ....

JUDGE STROYAN: If indeed it is.

A Mr. Rivlin: But basically these rules are there for the protection of the Police and the Police Officers who are being interviewed. That is what they are all about. And in the circumstances of this case one wonders how one can justify the proposition that the Police Officers whom the defendant proposes to have interviewed should not be permitted that protection.

B JUDGE STROYAN: Yes. Yes. Can I have the regulations?

Mr. Rivlin: Certainly.

JUDGE STROYAN: I was handed a copy last night.

C Mr. Rivlin: Your Honour, I hand to you a photocopy of the regulation in question. And would you like me to hand up to you the relevant section of the statute?

JUDGE STROYAN: Yes.

Mr. Rivlin: It is Section 5, on page 242 of the Third Edition of the Halsbury Statutes, Volume 25.

D JUDGE STROYAN: Thank you.

Mr. Rivlin: Yes, Your Honour, it has been drawn to my attention. In her judgment Mrs. Justice Heilbron makes reference to the fact that the Merseyside regulations do not cover criminal matters.

JUDGE STROYAN: Yes.

E Mr. Rivlin: Whereas, if you would be so kind as to look at the regulation that I have put in front of you, it is prefaced with the remark that those regulations apply in criminal cases.

JUDGE STROYAN: Yes. Yes, now Mr. Symonds, what do you have to say about this?

F Mr. Symonds: Well, Your Honour, referring you first of all to the extract from the service regulations.

JUDGE STROYAN: Yes.

G Mr. Symonds: 109A, paragraph (2). The service regulations are that the interview should always be in the presence of an independent senior Officer, and it has been suggested that the senior Officer who should be present should be the Officer in the case here. I would object to that. And it then goes on to say "who at the conclusion must report in detail what took place and what was said by both parties". Now, I submit Your Honour that that must be surely wrong in law, because it is interfering with the Defence rights, and I submit with the administration of justice. I think that I should have a right, there should be a right for my solicitor to interview a potential Defence witness. I agree that if the Defence witness

H

/witness

Submissions

A refuses to give a statement that is his right. But I think that it would be inhibiting for my Defence witnesses, Police Officers, to be interviewed in fact in the presence of the Officer in the case who bring the prosecution against me and knowing full well that that Officer will write down every word and report it to the Prosecution.

B JUDGE STROYAN: I don't think that the suggestion is that the person would be the Officer in charge of the case. I think it is in fact another Police Officer in another department. Is that right?

Mr. Rivlin: Yes.

Mr. Symonds: Well, as I understand it, the Officer Mr. Rivlin referred to the Officer sitting behind him, whom I would submit is the Officer in the case.

C Mr. Rivlin: Your Honour, the position is this; that the Officer sitting behind me is Chief Inspector Poche, who is serving in another department, which is the Department of the Metropolitan Police Force known as the Complaints Branch.

JUDGE STROYAN: Yes.

D Mr. Rivlin: And he and his predecessor in this case, Detective Chief Inspector Walker, have both been concerned to listen throughout this case to hear whether any allegation was to be made in relation to any Police Officer in the Metropolitan Police Force.

JUDGE STROYAN: Yes.

E Mr. Rivlin: Your Honour, it is right to say that both of those Officers have been regarded during the duration of this case as the Officer in the case in that given that they are senior Officers who have had to come up to Middlesbrough and be present throughout and given that the interviewing Officers, that is Detective Chief Inspector Price is now a Chief Constable, and Detective Chief Inspector Moody is now in prison, it was apparent that it would be quite inappropriate for either of the Officers then in the case so long ago ...

F JUDGE STROYAN: Yes.

Mr. Rivlin: ... should be here throughout these proceedings.

JUDGE STROYAN: Quite.

G Mr. Rivlin: Overseeing, if I may put it, the correct conduct in the case from the Police point of view.

JUDGE STROYAN: Yes.

H Mr. Rivlin: And Your Honour the administrative arrangement has been made whereby first Detective Chief Inspector Walker and now Detective Chief Inspector Poche should be here as as it were the formal Officer in the case in charge of the Exhibits,

in overall charge of the Exhibits, and the way in which this case is handled from a Police point of view. In other words, Your Honour, they really sit behind me wearing two hats.

JUDGE STROYAN: Yes.

Mr. Rivlin: But Your Honour it is right to say that neither of them were ever involved in any of the investigations into this case.

JUDGE STROYAN: No.

Mr. Rivlin: And to that extent may truly be regarded as independent. Now, Your Honour, it is for you to say whether that degree of independence satisfies you. If it doesn't we will have to get another senior Officer brought to this court to stand by during the course of the interviews.

JUDGE STROYAN: Would it be possible to get an Officer from the senior local Force?

Mr. Rivlin: Well, Your Honour, I very much hope so, and I am quite certain that steps could be taken to assist in that regard.

JUDGE STROYAN: Yes.

Mr. Rivlin: But, Your Honour, I think that the position is, and I am helpfully reminded by Mr. Radcliffe, that the senior Officer has to be an Officer from the same Force although he has to be independent. Now, the situation here is that we have Officers from the same Force or an Officer from the same Force who must surely be for all practical purposes independent. He is here after all concerned with ...

JUDGE STROYAN: Does it have to be the same Force?

Mr. Rivlin: Your Honour, he does.

JUDGE STROYAN: Where does one find that?

Mr. Symonds: It doesn't say that.

Mr. Rivlin: Well, Your Honour, the problem is that these regulations cover the Metropolitan Police Force only. No other Force.

JUDGE STROYAN: Yes.

Mr. Rivlin: Although ... may I say, entirely off the cuff, it doesn't seem to me that there would be any great conflict with the regulations if arrangements could be made with the consent of the appropriate authorities in the Metropolitan Police Force for another senior Officer up here to oversee the interviews.

JUDGE STROYAN: Yes.

Mr. Rivlin: It does seem, if I may say so, to be an incredible waste of time to have to go through such a procedure and hardly justified, but there it is.



JUDGE STROYAN: Yes.

A Mr. Rivlin: Detective Chief Inspector Poche has only been here now for a couple of days. He is hardly involved in this case or hardly has been involved in this case. He has really come here to take over from Detective Chief Inspector Walker, who has gone on leave or going on leave today.

B JUDGE STROYAN: Yes. Well, I can see that there are difficulties about the Officer in charge of the case being described as an independent senior Officer.

Mr. Rivlin: Well Your Honour, in those circumstances, ...

JUDGE STROYAN: Because he has some, looking at the matter too narrowly, he may be said to have some interest in the conduct of the proceedings even if it is only an interest to see that they are conducted properly.

C Mr. Rivlin: Well Your Honour, having heard what you have said, would you be so kind as to allow us to try and make enquiries to see whether we can organise with the consent of the appropriate authorities in the Metropolitan Police Force that a local senior Police Officer should be present during the interviews if you think that the Police regulations should be complied with.

D JUDGE STROYAN: Yes, I haven't got quite so far as that yet.

Mr. Rivlin: No.

JUDGE STROYAN: But yes.

E Mr. Symonds: Your Honour, following on from that, as far as I can see it the independent senior Officer is being present to protect the interests of the Officers interviewed.

JUDGE STROYAN: Yes. That's one of the reasons.

F Mr. Symonds: I can go with that, Your Honour. But it follows on to say that the independent senior Officer "must, at the conclusion, report in detail what took place and what was said by both parties."

JUDGE STROYAN: Yes.

Mr. Symonds: Now, I would assume from that, Your Honour, that the report would in fact go to the Prosecution, and my point is that that is against the principles of justice and also my rights, Your Honour.

G JUDGE STROYAN: Well I don't know that it would necessarily go to the Prosecution. And if it did it is what the regulations says. I am quite sure that Mr. Rivlin wouldn't misuse it.

H Mr. Symonds: No, Your Honour, but I submit that the law should take precedence to a Police regulation and I submit that the Police are not entitled to make such a regulation if, as in this instance, that regulation would hamper my Defence rights and the fairness of my trial.

A JUDGE STROYAN: Well, I think it is fairly clear in the Act of Parliament that the Commissioner was entitled to make those regulations, apparently been approved by the Home Office. I think it would be going much too far to say that none of these regulations have got any affect if on the face of them they are good regulations which have presumably been acted upon for a number of years. I don't think I could possibly say that there was anything unlawful about them.

B Mr Symonds: Following on from that, Your Honour, ...

JUDGE STROYAN: You may agree or disagree with that, but I am confronted with regulations properly made with statutory foundation. There is no authority which suggests that they are or were made unlawfully or to suggest that I am entitled, even if I thought it right, to override those regulations.

C Mr Symonds: Your Honour, the cases we have been referring to seem to apply to practice directions. Your Honour, and I think it is said somewhere that maybe the trial judge during a trial might have cause to come to a different decision than the decisions come to by Mr. Justice Lawson and Mrs. Justice Heilbron.

JUDGE STROYAN: Well, I think ...

D Mr Symonds: My two main points, Your Honour, are the fact that the Officer in the case could not be described as an independent Officer. Both Mr. Walker and Mr. Poche have been advising the Prosecution Counsel on this matter and others, and I would also submit that it is quite wrong that if an independent senior Officer, who I don't object to, from the local Force for example takes the interests of the Police Officers being interviewed by my solicitor I think it is quite wrong that that independent local Police Officer should then submit a written report of everything that was said to the Prosecution. Maybe the report could be kept back in case of any future or later complaint or allegations or maybe it could come into your hands alone, Your Honour, but I think it's wrong that it should go to the Prosecution.

F JUDGE STROYAN: Well, I don't know that it has to go to the Prosecution. And even if it were I don't think I am entitled to override these regulations.

Mr Symonds: I suggest, Your Honour, that if the regulations are wrong in law in British justice in some point or matter that you are quite entitled to override them, Your Honour.

G JUDGE STROYAN: Well I cannot see any reason for me to take the view that they are wrong in law. They are apparently made in accordance with the Act of Parliament and they have been approved by the Home Secretary. They appear to be regulations which are in force in the Metropolitan Police area, which have no doubt been acted upon quite a long time. I don't think it is for me to say that they are made without jurisdiction. There is no authority to indicate that I have got any such power at all. Those are regulations made with statutory foundation and it seems

/seems

Submissions

A to me that if they are to be said to be wrong then Parliament didn't say so. It would be very odd if a Judge could say, without any authority, that one or more of these regulations were made without authority or *ultra vires*. There is no provision in the regulations so far as I know enabling a Judge to set any of them aside.

B Mr. Symonds: Well, Your Honour, if I could fall back on the last position, and that is that if I were to submit that these regulations are capable of being interpreted in different ways and I would submit that you should interpret them in the manner most fair to me, the defendant, and that is that you should interpret an independent senior Officer to be a truly independent senior Officer and not the Officer in the case, and I submit that you should interpret that the independent senior Officer must report in detail what took place and what was said by both parties that you should interpret that exactly. C He may report it but it should not be handed over to the Prosecution because I think that that is not said in the general order and that is implied in the way in which the Prosecution are suggesting that these interviews should take place.

D JUDGE STROYAN: Well, so far as what happens in the court is concerned, there is no question of the Prosecution calling any further evidence so far as I can tell at the moment and it doesn't seem to me that the report, which, even if it was sent to the Prosecution immediately, is not going to get there until after the close of the Prosecution which has already happened and couldn't possibly make any difference.

E Mr. Symonds: Well, it would make a difference because the witnesses have not been called yet and the Prosecution do have the opportunity to cross-examine, Your Honour, and they may well take fuel or ammunition for their cross-examination from the report of a Defence interview conducted by a Defence solicitor on behalf of the Defence where I should have a right to some sort of privacy in my submission, Your Honour.

JUDGE STROYAN: Yes.

F Mr. Symonds: I suggest that if you do propose to take the general order as a guideline, Your Honour, that you interpret them in the way I have suggested.

R U L I N G

G JUDGE STROYAN: The defendant in this case has applied to me for a direction that his solicitor should be able to interview certain Police witnesses in the absence of any other Police Officer. The position is that I have had the appropriate Police Service Regulations placed before me, and I find, looking H at Regulation 109A, the regulation which deals with Defence

A request for Police Officers to give evidence in criminal cases, I find that the provision is; "If any request is received from a defence solicitor or his representative to interview an officer in connection with criminal proceedings, with or without service of a subpoena, similar conditions will apply as for interviews in civil cases. It is emphasised that officers will not allow themselves to be interviewed with or without service of a subpoena before seeking prior authority of the appropriate Chief Superintendent." Sub-regulation (2) provides; "When consent to a defence request for an interview has been given, the interview must always be in the presence of an independent senior officer, who at the conclusion must report in detail what took place and what was said by both parties." Those are the appropriate service regulations which apply in this case, and they have I understand the approbation of the Home Office. They have also a statutory foundation, which is to be found in Section 5 of the Metropolitan Police Act 1829, which provides, after appropriate amendment, that the Commissioner of the Metropolitan Police "may from time to time, subject to the approbation of one of his Majesty's principal secretaries of state, frame such orders and regulations as they shall deem expedient, relative to the general government of the men to be appointed members of the police force under this Act." I am, therefore, confronted with a perfectly clear regulation approved by the Home Secretary with the statutory foundation which I have just mentioned. I have had to consider whether I have got in any event jurisdiction to override those regulations by ordering that a Police Officer may be interviewed in breach of those regulations in the absence of an independent senior Officer.

A I have had the advantage of seeing two unreported decisions.  
B First, the decision of Mr. Justice Lawson in the case of  
C Molloy from a similar application made on the 16th October of  
D 1978, and a similar decision of Mrs. Justice Heilbron in the  
E case of Keating on the 14th February of 1979. Neither of  
F those Judges held that they had jurisdiction to override the  
G relevant order. The orders for both of those cases I think  
H were Merseyside orders as opposed to Metropolitan Police orders.  
The principle, however, appears to me to be the same. I am  
certainly not satisfied that I have got jurisdiction which  
enables me to override the Service Regulations and order that  
a potential Police Officer can be interviewed as a witness in  
the absence of an independent senior Officer. To do so would  
be not only to put the Officer concerned in potential breach  
of the Police Regulations but it would be to deprive him of the  
protection which the regulations are designed to formulate.  
It might well be, in the circumstances of this case, that it  
would also deprive the public of an important part of the  
protection afforded by these regulations in dealing with  
interviews of this sort. Both the judgments I have referred to  
reach the same conclusion as I have reached. And I think I  
need say no more than that I am certainly not satisfied that  
I have got any jurisdiction to make the order now sought, and  
even if I had the jurisdiction it is not in my judgment a  
case in which it should be appropriate in the circumstances to  
exercise it in favour of the defendant. The application is  
therefore refused, but so far as the independent senior Officer  
envisaged by the Service Regulations is concerned, I accept  
the submission of the defendant that the Officer in the case  
should not, in the very unusual circumstances of this case, and

/and

Ruling

A I confine my remarks in that context to this case and to this  
case alone, I think it would be wrong to have the Officer in  
charge of this case as the independent senior Officer present  
at the interview. If, therefore, any police Officers are to  
be interviewed they must be interviewed in the presence of  
B an independent senior Officer, and in the unusual circumstances  
of this case I think it would be wrong to say that the  
Officer in charge of the case falls within that definition  
and I say it without, of course, any reflection upon that  
C Officer at all. I much hope that it will be possible to get  
a local Police Officer to fulfil that role.

D Mr. Rivlin: Your Honour, yes. I am obliged for that. I am  
sure that those views will be directly communicated to the  
authority.

Mr. Symonds: Your Honour, there was the question of whether  
the independent Officer should report to the Prosecution.

JUDGE STROYAN: I can say nothing about that. I am bound by  
the regulations.

E (Short adjournment)

(The Jury return to the Court)

(In the presence of the Jury)

Mr. Symonds: Call Mr. Hales, please.

**A** JUDGE STROYAN: Have I got a statement from him?

Mr. Symonds: He did make a statement to my solicitor, Your Honour, which you did have before you at one time.

Mr. HALES, (sworn)

Examined in chief by Mr. Symonds:

**B** Q. What is your full name please, sir? - A. Frederick John Hales.

Q. And what is your address please? - A. 57 M..... Road, London, West 3.

Q. And your occupation please? - A. I am a Company Director.

**C** Q. Are you the Director of Location Sound Facilities? - A. That is correct.

Q. And were you the Managing Director of the company since 1954 when it was formed? - A. That is correct.

Q. And Does that mean that you were incharge of this operation? - A. Yes.

**D** Q. In 1969 were your premises at St. Peter's Square? - A. That is correct.

Q. Will it be right to say that it was quite an extensive operation at that time? - A. Yes, it was.

**E** Q. Would you describe the company as a sound recording company equipped to deal with all forms of recording? - A. Well, not all forms. Basically we were employed by the film industry and we worked for major companies.

JUDGE STROYAN: Employed by what industry? - A. The film industry.

Q. Yes.

**F** Mr. Symonds: And at those premises, sir, were there some ten cutting rooms? - A. There were ten, yes.

Q. And in these cutting rooms were there facilities for editing all forms of tapes? - A. Not tapes as such. Not the type of tapes that were used in this operation. Basically, cutting rooms were originally devised as a means of joining film together, but a room was made available at this time to use so that the recorders could be put in there for the transfer to be done.

**G** Q. Yes. And were these rooms soundproofed, sir? - A. To the best of my ability, yes.

Q. And at that time was Mr. Hawkey one of your engineers? - **H** A. Correct.

Q. And could he also repair taperecorders? - A. Yes.

A Q. And was he in fact employed by your firm to repair taperecorders? - A. That is correct.

Q. Would he have been paid directly by your company, sir, or was he ... - A. No, he was paid direct.

B Q. He was paid direct. Can you recall whether he was employed full time by your company or whether he had a small business going on his own account? - A. He was employed full time by my company but there was no reason why he couldn't repair privately taperecorders at home.

Q. And I believe you yourself, sir, have been working for the film industry since you were fourteen? - A. Correct.

C Q. And was your Transport Manageress at that time a Miss Joan Millard? - A. That is correct.

Q. In October or November 1969 how many staff would you have had, sir, in your operation? - A. Round about seventy, plus freelance personnel.

Q. And I believe in 1970 there was a recession in your industry, is that correct? - A. That is correct.

D Q. And following on from that did you make staff reductions? - A. I did, yes.

Q. And at that time did Mr. Hawkey and Miss Millard cease to work for your company? - A. That is correct.

E Q. You mentioned film tapes, sir. Did you also use a quantity of sound recording tape in your operations? - A. Well, sound is initially recorded on quarter-inch tape, yes.

Q. Yes. And were you in the habit of purchasing your tape in bulk from the manufacturer? - A. From E.M.I., yes.

Q. From E.M.I. Could it be said that you regularly purchased somewhat large supplies? - A. That is correct.

F Q. Do you recall being approached, your company being approached by a member of The Times newspaper staff in October 1969, sir? - A. Yes, I can't remember whether in fact they came, at this late stage, whether they came to see me or whether they telephoned me, but certainly I was approached.

G Q. And was The Times newspaper known to you as a previous customer? - A. No, we had never worked for them before.

H Q. And did you from the very beginning, sir, realise the nature of the undertaking for which you were being asked to supply equipment and technical assistants? - A. No, I don't think I was really aware until after it started what the exact nature of the operation was. You see, in film terms you really don't care what they are going to do so long as they do it, and this technique would be applied to this operation. The Times wanted to hire equipment and that was great.



/great

Mr. Hales

Q. So at the beginning, would it be right to say that as far as you were concerned it was a straight recording job? - A. That's right.

Q. And do you recall nominating two members of your staff to assist on this exercise? - A. That's right. Because it was a non-union operation they had to be non-union, I felt, members of the personnel to do it.

Q. Yes. And why would it have been a non-union operation, sir? - A. The Times was not making a film.

Q. I see. - A. The union I belong to, for which I am the shop steward, is the ACTT.

Q. Yes. So would it be right that, to say that you appointed Mr Hawkey to assist in this task because it was a non-union task? - A. That's right.

Q. And would it be right to say that he was a non-union member? - A. He was a non-union member.

Q. And would the same apply to Miss Millard? - A. That's correct.

Q. Had Mr. Hawkey ever been employed by you, sir, before as a sound engineer on outside location work? - A. Not that I remember, no.

Q. Would it be right to say that he had - his previous responsibilities had been to do more with maintenance? - A. To maintain the equipment. Obviously he would know how it all worked.

Q. Yes. - A. And would be able to use it.

Q. And at some later stage did you then discover the nature of the observations or recordings they were undertaking? - A. Yes, I did.

Q. And did you decide to allow your staff to continue on this operation following on from that? - A. I asked them whether they would agree to ....

JUDGE STROYAN: Well, no, no. - A. Sorry.

Mr. Symonds: If you just say yes or no, sir. - A. Yes.

Q. Thank you. Can you recall whether at some stage either Mr Hawkey or Miss Millard or both expressed some concern about being involved in this operation? - A. Yes.

JUDGE STROYAN: That is not an admissible question.

Mr. Symonds: And as a result of - Can I say this, Your Honour? As a result of what you learnt did you offer certain advice to them? - A. Yes, and ....

JUDGE STROYAN: Well, I don't think he can tell us what he said.

/said

Mr. Hales

Mr. Rivlin: Your Honour, may I say that I have no objection.

JUDGE STROYAN: Very well. Yes. Yes, Hawkey and Millard expressed concern, I have got. What else?

Mr. Symonds: And was your advice to them that they should seek legal advice? - A. I think the suggestion they should take legal advice came from them and I did put them in touch with the company solicitor.

Q. Now, sir, if I could ask you one or two questions about the procedure used, adopted by your company at that time, and by that I mean a procedure in the issuing of equipment and the accounting for it. Would it be right, sir, that at that time members of your staff employed on location work would draw equipment required from some form of stores? - A. Yes.

Q. And can you recall in what way they would account to your company for the equipment that they had withdrawn from the stores? - A. When in the normal way if one is making a film you take it out in bulk. You, say, take 250 rolls with you.

Q. Yes. - A. And the client is charged 250 rolls, ultimately minus whatever is returned. In terms of The Times operation it was slightly different inasmuch as they didn't know what they were going to use by day at all.

Q. Yes. - A. Or if they were going to get anything at all on the day.

Q. Yes. - A. So notes were made in the evening as to how much tape was used.

Q. Yes. And would these notes be in the form of some sort of invoice note? - A. Yes.

Q. And would it be right to say, sir, that if you had a team of sound recordists or whatever, doing operations on location, if ever they required additional equipment they simply had to pick up a telephone? - A. That is correct.

Q. And it would be sent up to them? - A. Yes.

Q. Would it be right to say that that was a well-known and established procedure? - A. Yes.

Q. So there would be no reason for anyone to attempt to undertake or record or whatever with known faulty equipment? - A. No.

Q. And would it be right also, sir, that all taperecordings taken to location and on location would in fact be brand new, virgin, factory fresh tapes? - A. Yes.

Q. And would it be right to say that if, for some reason or other, taperecordings or the number of tapes were insufficient a phone call would bring out a further supply of taperecordings? - A. That's correct.

Q. Almost immediately? - A. Yes.

/Yes

Mr. Hales

A Q. I wonder, sir, if you can recall the normal standard supply of taperecordings. Were they taken out in sevens or sixes? And I am talking about 81212 and 8126. If you were using a five inch machine and a seven inch machine would it be normal to take out half a dozen of each tapes? - A. Yes, that would be the normal practice.

Q. Would it also be normal to take a number, sufficient number of batteries? - A. That's right.

B Q. For a battery operated machine? - A. Yes.

Q. Is it right, sir, that sometimes batteries go flat on the shelf during their storage? - A. They can do, yes.

Q. They can do.

JUDGE STROYAN: Yes.

C Mr. Symonds: And during the period of this exercise, were you normally in your office at St. Peter's Square or about the premises? - A. That is correct.

D Q. And can you remember the sort of hours you were working in those days, sir? The normal hours you would be at work? - A. Nine, generally I got there at nine o'clock in the morning. Left between eight and nine at night.

Q. And do you recall the sound engineer, Mr. Hawkey, and the reporters making copies at your premises in the evening? - A. That is correct.

E Q. And was this the normal procedure undertaken, sir, that after making taperecordings during the day they would come to your premises and make copies there at night?

JUDGE STROYAN: Now, these are two questions in extremely leading form.

Mr. Symonds: Well, I am sorry. I will try and put them in another way.

F JUDGE STROYAN: You have already done the damage.

Mr. Symonds: Did your staff help the reporters to make copies the same day?

JUDGE STROYAN: No.

Mr. Symonds: Do you recall ....

G Mr. Rivlin: Well, Your Honour, the question has been asked now and the damage has been done, so I am not going to ....

JUDGE STROYAN: Yes.

Mr. Symonds: Well, damage to who? Damage to the Prosecution case?

H JUDGE STROYAN: No.

Mr. Symonds: Or what?

A JUDGE STROYAN: The jury have heard some indamissible evidence of a reply to an inadmissible question. You are not entitled to ask questions that suggest their own answers and I shall tell the jury to pay little attention to the answers to questions of that sort.

B Mr. Symonds: Mr. Hales, do you recall if any of the other staff involved at that time are still in your employment? By which I mean, if I may ask some names, Mr. Watson or Mr. Clerk or Miss Clements or Mrs. Sheridan? - A, No, not at this time.

Q. Would it be right to say that as far as your cutting rooms were concerned you didn't employ editors but you would make the room available? - A. That is correct.

C Q. And people would make their own? - A. They do their own cutting.

Q. To clarify this other point. Mr. Hawkey will have taken the number of tapes he wanted from a stock cupboard, would he, and then ...

JUDGE STROYAN: No.

D Mr. Symonds: I believe it has been brought out in evidence that at the end that he would return some or say how many had been used.

JUDGE STROYAN: The proper way to ask a question is what did Mr Hawkey do about tapes?

E Mr. Symonds: Yes. And as far as the drawing, Mr. Hawkey's accounting for the tapes that had been used, could you please explain how that is done? - A. Yes, he would draw the stock from Keith Watson, who was the storekeeper at that time, and then make a return to Jenny Clements, who was the secretary in that section, at a later stage, after they had been used.

F Q. And perhaps I could ask you another question now, sir, and that's this. If, for example, some new tapes had been drawn from the stores and for some reason the recording had failed - by this I mean the tape had been passed through the machine but there was nothing on the tape, what would be the procedure, the office procedure or the accounting procedure from that tape, from that, sir? Presuming that the client would not want that tape, what would happen? - A. The tape had been used on behalf of the clients so it was no longer a new tape.

G Q. Yes. - A. So the client would be charged. It probably would be stored with the client's material.

Q. Yes. And if that be the general rule, sir, would that have been followed through The Times enquiry also? - A. Yes, it would.

H Q. It would? Now, we have heard of a system whereby some tapes are returned for bulk erasing. Can you think of some event

A which would cover that happening, sir? Tapes being returned to Location Sound Facilities for bulk erasing? - A. You can bulk erase tape. Whether that took place during this operation I wouldn't know.

Q. And did you have a bulk erasing machine at your premises at that time, sir? - A. We had several.

B Q. And is it right to say that once a machine has been bulk erased there is in fact a higher noise level than would be found on a virgin tape?

JUDGE STROYAN: Now, that too is a leading question.

Mr. Symonds: Well, may I put it another way?

JUDGE STROYAN: It has already been dealt with, countless times.

C Mr. Symonds: Well, I am going on to something else. Once a machine had been bulk erased, sir, would you like it to be used again for any professional purpose? - A. Yes, there is no reason why it shouldn't be. If in fact it belonged to us and not a client.

D Q. And if a tape had been written upon in some way to identify the spool or the box would that tape, having been written upon and marked in some way and put through a bulk erase machine, would this be supplied to a client, perhaps another client for use on a sound recording exercise or would it be kept for testing or laboratory use? - A. You don't mark tapes in that fashion.

E Q. Well, were it a professional would one always use virgin new tapes? - A. One would unless one is doing a music film where you would have to mark up the tape for play back purposes. Then you mark it up, but not otherwise.

Q. By marking up, you mean marking the tape itself in some way? - A. With a chinograph pencil on the back.

F Q. With a chinograph pencil on the back? And as far as Mr. Hawkey was concerned, did he have some years of experience with taperecordings and tapes and such? - A. Yes, indeed. That was why he was employed.

Q. And if he had felt inclined to edit a tape for any reason would he have the knowledge to do this? - A. He would have the knowledge like we all have the knowledge but it's not an easy or something one would attempt with a master tape.

G JUDGE STROYAN: Just a moment. Yes.

Mr. Symonds: And as far as you were concerned, sir, this would be a relatively small job? - A. Yes.

Q. As your jobs went? - A. Yes.

H Q. I wonder if you would now look, sir, at a copy of the invoice sent by your company to the Times newspaper, or perhaps

/perhaps

Mr. Hales

A the original, or the invoices in respect of this matter, and to see if you could - the first thing I must ask, sir, is would you normally have checked or initialled the invoices sent out by your company in the normal course of events? - A. No, never.

Q. So those invoices would in fact be prepared by? - A. The accounts.

B Q. Clerical members of your staff? - A. The accounts Department at that time, yes.

Q. And if you could look briefly through these, sir, perhaps to refresh your memory.

JUDGE STROYAN: He said he's never checked them.

C Mr. Symonds: Therefore we come to the question of Miss Clements and Sheridan now, Your Honour, whether we could avoid calling them or not.

JUDGE STROYAN: Well, the invoices don't seem to be anything to do with the case at all at the moment.

D Mr. Symonds: Well, they have been to do with the case in respect of some additional tapes that Mr. Hawkey brought from the stores and never accounted for either to his company or to The Times and I would suggest that they now become of interest for a further point in respect of the possibility that all tapes used would be charged for.

JUDGE STROYAN: Oh I have no doubt all the tapes used were charged for. I don't suppose this witness gave them as presents.

E Mr. Symonds: The witness's evidence before Your Honour was that - from Mr. Hawkey was that if tapes were unsuccessful they were returned to the company and cleaned in a bulk erasure and used for laboratory or testing purposes and they would never be used.

JUDGE STROYAN: This witness has said that tapes which had been used unsuccessfully were, if they had been processed by the clients, put in the clients' file. - A. Yes.

F Q. That's what this witness has said.

Mr. Symonds: Yes.

JUDGE STROYAN: I don't think we need waste much time on the tapes and the accounts. I don't see how this ....

G Mr. Symonds: Well, the Prosecution accept that there were additional tapes which are not yet accounted for and that would stop all this immediately.

JUDGE STROYAN: Well, I don't see what it's got to do with the case at all.

H Mr. Symonds: Well, Your Honour, if there are missing tapes I suggest it's a lot to do with the case because as we have heard, in order to edit a tape you must mutilate it.

JUDGE STROYAN: What the jury are concerned with are the seven tapes that are relevant in this case which we have heard in the list.

Mr. Symonds: I beg your pardon, Your Honour?

JUDGE STROYAN: What the jury are concerned with are the seven tapes which are exhibited in this case of which we heard Miss Millard speak yesterday. Those are the tapes. They are not lost. They may or may not be (inaudible) as you suggest, but those are the tapes. I really don't think it is any good asking a witness about invoices which he has never checked and so far has never seen. - A. No.

Mr. Symonds: Well, following on from that, Your Honour, we must either then now subpoena up to Middlesbrough the people who did prepare the invoices unless you say that it is of no interest to the court that there were additional tapes.

JUDGE STROYAN: Let's get on.

Mr. Symonds: Looking at these invoices, Mr. Hales, do you understand them? - A. Yes, I think so.

Q. And would taperecordings come under the heading of expendable stores? - A. Tapes would come under the heading of Expendable stores, yes.

Q. And Equipment hired would refer to machines? - A. Correct.

Q. And Equipment hired. Transport would refer to motorcars used? - A. That's right.

Q. And the Crew operator number one and two, would that refer to Mr. Hawkey and some other engineer, operator number two? - A. I think this was Mr. Hawkey and Joan Millard.

Q. I see. And do you see from the first page, sir, Expendable stores, there is a sum charged for those stores? - A. Yes.

Q. To the right of the page? - A. That's right. 54.

Q. Invoice number 2676. - A. Yes.

Q. And looking amongst the supporting documents can you see, sir, where those expendable stores are recorded? - A. Well, the zeroxing is very bad, but there is a reference at the bottom to tapes on 1385.

Q. And on invoice note 1499 do you see a further reference? - A. Invoice 18?

Q. 1499. - A. I haven't got that as an invoice.

Q. Do you have a note there, sir, headed Expendable stores? - A. 1489 I have got.

Q. And looking to the end perhaps do you have such a note, sir, headed Expendable stores to The Times? - A. At 1489?

Q. No, a separate note, sir. Perhaps you could look at this one.

A JUDGE STROYAN: Asking this witness to look at documents that really he knows nothing about is really a complete waste of time.

Mr. Symonds: Then I ask no more, sir. Well, stay there please, Mr. Hales.

Cross-examined by Mr. Rivlin

B Q. Mr. Hales, according to you, you really spent a great deal of time each day at your place of work, is that right? -

A. Yes, I did.

Q. You were there from nine in the morning until quite late at night? - A.. Yes.

C Q. Was that most days? - A. Most days, yes.

Q. Most days. And can you help us to this extent? Did you keep tabs on what was going on in your premises? - A. It was a very large premises. Yes, I used to walk through it every day, but not all the time.

D Q. No. Of course you could walk through any time that you liked, couldn't you? - A. Correct.

Q. No one could prevent you from doing that? - A. No.

Q. And no one tried to? - A. No.

E Q. And ~~this~~ is not right - let's talk about the question of editing and tampering with these Times tapes. So far as you are concerned you are quite convinced that no such thing ever happened at your premises, aren't you? - A. Absolutely.

Q. And if you had even caught a whiff of such a thing happening you would be able to tell us about it, wouldn't you? - A. Yes.

F Q. The suggestion we have just heard is new being made, and I underline the word new, that Mr. Hawkey may have been responsible for editing or tampering with these tapes.

JUDGE STROYAN: No such suggestion.

Mr. Symonds: When was that suggestion made to you?

G Mr. Rivlin: You made it in cross-examination.

Mr. Symonds: I said was Mr. Hawkey capable of editing tapes if he so required. Please look at the court record.

Mr. Rivlin: That's right. Well, I am glad to hear that the defendant is not making the suggestion against Mr. Hawkey because some of those listening might have thought that it was.

H Mr. Symonds: Please check the facts before you make those allegations.



JUDGE STROYAN: Mr. Symonds, is it right that you are not making the suggestion that Mr. Hawkey tampered with the tapes?

Mr. Symonds: Well, we have got three or four taperecordings. We have got a ..... To my memory I said, in fact I was reading, I was actually reading out the cross-examination, the examination in chief employed by Mr. Rivlin.

JUDGE STROYAN: No, Mr. Symonds, listen to me. Listen to me. I am asking you a perfectly simple question to which there is a perfectly simple answer. Are you now suggesting or are you not now suggesting that Mr. Hawkey tampered with or edited those tapes?

Mr. Symonds: What I am saying is now in my examination of Mr. Hales I asked him a question along the following lines, and that is that if, that Mr. Hawkey would have had knowledge on how to edit tapes in view of his experience and some years in dealing with taperecorders and tapes.

JUDGE STROYAN: Are you suggesting that Mr. Hawkey did edit or tamper with any of those tapes? There is a simple answer to that.

Mr. Symonds: I don't know. I wasn't there, Your Honour. I wasn't looking over his shoulder unfortunately.

JUDGE STROYAN: This won't do. This wasn't put to Mr. Hawkey. You didn't suggest that Mr. Hawkey had been in any way dishonest, and it is wholly inappropriate and quite wrong that that suggestion should even be floated before this witness.

Mr. Symonds: Do you mean by floated that when I asked the question was Mr. Hawkey capable of?

JUDGE STROYAN: Yes, that carried with it, floated the suggestion that Mr. Hawkey was a person who might be editing tapes. That's why I want to know, as you never suggested it to him, whether you are ....

Mr. Symonds: We have evidence that Mr. Hawkey offered to edit these tapes ~~from~~ Mr. Mounter and Mr. Lloyd and they refused because they said over the swear words being taken out. This came out, perhaps floated during the trial, to edit out the swear words.

Mr. Rivlin: Your Honour, the evidence was when that was put to each, no, and if he had it would have been refused.

JUDGE STROYAN: Yes.

Mr. Symonds: I give up. No chance against us. The scales are too heavily weighted. Talk about justice.

Mr. Rivlin: Mr. Hales, let's see if we can possibly clear this out of the way whether the suggestion was ever made or not, you understand? If the suggestion were brought to your mind that Mr. Hawkey might have done this what's your reaction to this? - A. Without my knowledge and without prior agreement

A with the client, like if you are making a musical as I have said, you have to edit the tapes. It's a known practice. In terms of this thing the tapes would not have been edited and if anybody had attempted to they would have been fired.

Q. Is it not right, Mr. Hales, that The Times reporters were taking the tapes rather seriously? - A. Very.

Q. Very seriously. And indeed they wouldn't leave them overnight at your premises, would they? - A. That is correct.

B Q. So that if any tampering or editing was being done it must have been done at night time when the tapes were not in your premises? - A. Yes. Yes.

Q. It certainly can't have been done at your premises? - A. I was thinking of how one would do it. It would have been quite a carry on to have done.

C Q. It would have been quite a carry on. Yes, well I am sure that we understand that. And indeed so far as Mr. Hawkey was concerned, do your best to remember the man as he was then. He was rather frightened and scared about the whole thing, wasn't he? - A. Both he and Joan Millard were petrified.

D Q. Yes. You say that it would have been quite a carry on to edit or tamper with the tapes. By that do you mean this, Mr. Hales, that if he had set about this sort of thing there are signs there to be seen? - A. Yes.

Q. Yes. And you saw no signs? - A. None whatsoever.

E Q. Now, you did tell Mr. Symonds that once a tape has been bulk erased there is no reason why you wouldn't allow it to be used again for professional purposes? - A. That is correct.

Q. And that's right, is it? - A. That's right.

Q. Yes. And Mr. Hawkey would know that, wouldn't he? - A. Oh yes.

F Q. Yes. Of course, you appreciated I suppose as time wore on that the - it was, if I may use this expression, a rather fraught and exciting operation, this business of taking taperecordings of different conversations. Did you realise that? - A. I wasn't doing it.

Q. You were not doing it? - A. No.

G Q. But did you realise that there was more than one Police Officer involved or not? - A. I really didn't take much notice.

Q. Very well. Very well.- A. A lot of other things go on.

Q. Pardon? - A. A lot of other things go on in my own company.

H Q. Yes, certainly. And in relation to copying of tapes, tapes were copied, weren't they? - A. Yes. The transferring, as we say.

/say

Mr. Hales

A Q. Yes, the transfer. I don't suppose you are able to say after all this time are you <sup>precisely</sup> when they were copied? - A. No.

Q. But certainly in relation to any copying that did go on you are satisfied in your own mind, are you not, from your observations and from the time that you spent on your premises that it was all above board? - A. Absolutely.

Q. Nothing dishonest going on? - A. Nothing whatsoever.

B Q. And you say that if you had even had a hint of anything dishonest happening you would have sacked your employees? - A. Yes, but again it wouldn't happen.

Q. No. Well, that's another matter. Thank you very much, Mr. Hales.

C Re-examined by Mr. Symonds

Q. Mr. Hales, to clear up one matter then. I think you said that if taperecordings had been used, issued from the stores? - A. Yes.

Q. <sup>T</sup>hen they would be brand new, virgin tapes, is that right, from E.M.I.? - A. That is correct.

D Q. And then after that tape was used in any way, put on the machine and passed through the machine, that would no longer be a brand new, virgin tape. The customer would be charged for that tape and he would be given that tape, do you say? - A. That is correct.

E Q. And so therefore, the possibility would never arise, do you follow, that procedure of taking away a tape, cleaning it, rubbing off the writing on the box and spool and pretending to a customer that this was a brand new tape because all the tapes have been absolutely accounted for. Is that right, sir? - A. Yes, as far as I am aware.

Q. Yes. - A. The Times didn't complain.

F Q. No. So the situation would be then, would it not, sir, that all tapes taken out of the stores and used by Mr. Hawkey on an exercise such as this or any other exercise would be brand new, virgin, factory fresh tapes? - A. That's basically true, yes, yes.

G Q. Yes. And I believe you said in reply to cross-examination that you saw nothing wrong with using a second-hand tape as it were, and I believe you also said earlier on that you referred to making some sort of music recording. Did you mean that a second-hand tape would, could be used for some sort of music recording? - A. No, that's not what I said. In terms of making a musical,

Q. Yes? - A. You would do it by playback.

H Q. Yes. - A. In which case you have to split the tape up to begin with, to sections.

Q. Yes. - A. And you do this by marking up the tape physically with a chinograph pencil.

Q. Yes. So can you say fairly definitely and fairly surely, sir, that all tapes supplied to the Times ...

JUDGE STROYAN: No, no, that question ....

Mr. Symonds: The Prosecution now raise the possibility that this gentleman was trying to charge the Times for second-hand tapes.

JUDGE STROYAN: Just listen to me. That was not mentioned by the Prosecution. This was a leading question which you are trying to put and which doesn't arise out of cross-examination.

Mr. Symonds: Well, all I can say/is to that the same old thing of trying to give the jury a false impression. Thank you very much, sir. No more questions. Thank you. May this witness be released?

JUDGE STROYAN: Yes. Thank you, Mr. Hales. - A. Thank you.

Mr. Symonds: Your Honour, if I could now address you in the absence of the jury in relation to the reading of statements.

JUDGE STROYAN: Would you mind, Members of the Jury, leaving us for a few moments.

(The Jury leave the Court)

Mr. Symonds: Your Honour, the situation now is that apart from three Police Officers and the arrangements which are being made in respect of interviewing them in the presence of an independent Officer we have statements left to read.

JUDGE STROYAN: Yes.

Mr. Symonds: And the situation is, Your Honour, that a number of statements were made by Prosecution Officers and I originally wanted to call these people as witnesses. Most of them were on my list of 150 witnesses that I did ask and want to call, and the Prosecution have said that we can read these statements providing certain matters are deleted. These are matters which are helpful to the Defence and unhelpful to the Prosecution and include also matters of probably which could be described as hearsay. The situation is, Your Honour, that many of these statements contain matters which are also hearsay which are of no help whatsoever to the Defence. Now, the Prosecution have looked at these statements and they have crossed out what bits which they say are hearsay and are damaging to the Prosecution but they have left many such matters which can equally be described as hearsay which are damaging to the Defence.

JUDGE STROYAN: Oh, Mr. Symonds.

Mr. Symonds: What I would like to say, Your Honour, is that I think that the statements should either go in as they are or I should be allowed to cross out bits that I consider damaging

A to the Defence, or we should call the witnesses, Your Honour, because many of the points, many of the reasons that I wanted to call these witnesses for in the first place have now been crossed out by the Prosecution.

JUDGE STROYAN: I don't know what statements you are referring to, but what I do know is I cannot allow hearsay evidence to be in, whether it is in favour of the Defence or in favour of the Prosecution, nor could I allow it to be given when the witness was in the witness box.

B Mr. Symonds: Well, in that case, Your Honour, I don't know whether you have read the statements that have been submitted to you.

JUDGE STROYAN: I think they have all been taken back.

C Mr. Rivlin: Your Honour, can I help? Your Honour, the defendant is referring to the bundle of statements that have been agreed.

JUDGE STROYAN: Yes.

Mr. Rivlin: And Your Honour I spent a lot of time going through those statements with great care with Mr. Green, the defendant's solicitor.

D JUDGE STROYAN: Yes.

Mr. Rivlin: And Your Honour what we did was this. When I say we, I proposed excising all those passages which I regarded as being blatant inadmissible hearsay.

JUDGE STROYAN: Yes.

E Mr. Rivlin: Your Honour, at the same time, in order to make sense of certain passages, I willingly at the request of the Defence left in certain odd statements or odd sentences here and there which might technically amount to hearsay but it wouldn't carry either the Prosecution case or the Defence case any further. Your Honour, may I say this, that I expressed my fear when I was doing it that when the defendant saw that I was letting some matters go in that he would therefore think that we have only cut out those bits that suit us, which is simply not the case. The defendant himself must know that there are passages that I have left in which are technically hearsay to assist him and that I have done that over and over and over again in these statements, and Your Honour will see that when they, or hear it, when they come to be read. Your Honour, yesterday the matter was raised that the defendant was unhappy with the way in which this had been done and it was left in this way as Your Honour will recall, that we were going to hear what passages he was unhappy with and we would consider them afresh.

G JUDGE STROYAN: Yes.

H Mr. Rivlin: Well, there has been no approach. I don't criticise Mr. Green for that. We have got nothing but admiration for the way he has worked on this case. He probably has not had time.

A But the fact is that we have not been approached and we are in this situation now whereby Mr. Green and I together and in company with Mr. Or and Mr. Radcliffe have gone through the statements excising those parts that appear to be blatant inadmissible hearsay.

JUDGE STROYAN: Yes.

B Mr. Rivlin: And the matter was left there. Your Honour, if the defendant claims that there is any hearsay in any of these statements, any inadmissible hearsay that ~~as a~~ the Crown I would be the very first to say that that should be excised. Certainly that has not happened at my instigation and it is not the case with my knowledge. But if any passages are brought to my attention in those many statements where that has been done I would be only too happy to have them excised.

C JUDGE STROYAN: Well there you are, Mr. Symonds. You can't get it any fairer than that. If you can point to any passage that you say is in favour which damages your case it will be deleted.

D Mr. Symonds: The situation, Your Honour, is that I received these statements back from Mr. Green this morning at quarter ~~pa~~ ten. I have glanced through them very quickly. I have seen ~~several~~ things I would like to delete and I have seen several things that I would argue about that are proposed deletions. And so what I would like to do now, Your Honour is to perhaps to go through these with Mr. Green now and that he should go to Mr. Rivlin and we should possibly come to some sort of agreement on those, but ....

E JUDGE STROYAN: Well, presumably there are a number of statements about which no question arises. There is no reason why we shouldn't deal with them now is there?

Mr. Symonds: Well, the situation would be that I would wish to skim through the statements now perhaps and for instance nearly every statement has some sort of deletion, Your Honour.

JUDGE STROYAN: Well, I haven't seen them. I don't know.?

F Mr. Symonds: Perhaps I could do that this lunchtime.

JUDGE STROYAN: I don't want to waste half an hour.

G Mr. Symonds: Well then I will search for two or three statements which have no deletions, Your Honour, but we are starting to lose track here because I would rather have the statements read in some form of chronological order. For example, the Peckham statements read in an order that makes sense to the jury and then on with the Nuneaton, because otherwise if we read one or two from Peckham and one or two from Nuneaton ....

H JUDGE STROYAN: There doesn't seem to me there is any real problem here. Hearsay is not admissible. You know what is hearsay. I have got no jurisdiction to allow hearsay to be admitted whether it is in favour for the Defence or the Prosecution. I cannot see that there is any real difficulty about this.

/this

Discussion

A Mr. Symonds: And another point, Your Honour, is I would like to ask again about some of the statements that you saw at the beginning of the trial and thought would probably not be relevant and I would like to now ask you again now that you have heard more evidence to again consider whether certain statements might be regarded as relevant to be read. For example in the first case, that of Mr. Steenson, Your Honour, and some others in the bundle that you have seen.

B JUDGE STROYAN: If you hand me back the bundle. I will look at those during the adjournment.

C Mr. Symonds: Your Honour, in respect of those statements I would submit that the statement of Mr. Steenson is now relevant particularly in view of the Peckham statements that have been accepted by the Prosecution to be read out. Mr. Steenson was the caretaker of the block of flats who discovered the van in the first place and informed Peckham Police, and he was also the man to whom the three, presumably the three criminals returned later in the morning after the uniformed Police had unloaded the van and taken the cigarettes away. Three chaps turned up some time later and wanted to know what had happened to their cigarettes out of the back of the van. I say that is relevant, Your Honour, because that is one of the things which led to this dissension at Peckham which indirectly led to the whole business and that is that the observation should be handed over to the C.I.D. who would have done it properly using night duty aids to C.I.D. which are retained increasingly for the purpose of keeping observation on lorries full of stolen goods that come to the notice of the Police in the middle of the night.

D JUDGE STROYAN: Mr. Steenson's evidence in my view is far too remote from any of these issues in this case and I am certainly not going to allow any more. I have read his evidence already and there is nothing that alters my opinion before.

E Mr. Symonds: As far as the evidence of Mr. Skippen is concerned, Your Honour. Mr. Skippen is the man who owned the cigarette shop below where Perry was living and now during the course of this trial I submit that he has become of interest inasmuch as that he knew of the people above him and what ~~was~~ <sup>was</sup> there, in fact he was being used as a source of information and making lists of the numbers of cars that came to call on Perry and associates and these lists in fact contributed to the dossier that was being kept at Camberwell police Station and to who those people were associated with and who visited them and such things.

F JUDGE STROYAN: His evidence is far too remote from any of the issues the jury are going to decide and I am certainly not concerned about him.

G Mr. Symonds: And as far as Mayor is concerned, Your Honour, this is the Constable who was on duty on the telephone that night who was in fact instructed by the uniformed Officers not to tell the C.I.D. Officers about the observations which ~~was~~ <sup>were</sup> then going on. And if we are going to read out the statements of Dolan, Clements and others I would suggest that Mayor is

quite a vital link to make any sense of what they are going to say.

A Mr. Rivlin: Your Honour, if it helps I have already said in open court once and to Mr. Green more than once that the Crown is not concerned with the fact that there was dissension between the branches of the Police.

JUDGE STROYAN: No.

B Mr. Rivlin: There is some evidence to that effect before the jury. We have not sought to challenge it nor shall I ever challenge it and if it's a point that the defendant wishes to have made he has made it.

JUDGE STROYAN: Well, he can make it again to the jury.

Mr. Rivlin: He can make it again to the jury.

C Mr. Symonds: The point Your Honour on why Mayor's statement came to be made in the first place is because the Prosecution refused point blank to have it read out, or the statements which we offered to the Prosecution let's read these out shall we. They are taken by Prosecution Police Officers and we want to call them, and the Prosecution say oh no, no, we won't allow you to read those out, and we have put them into your hands to say to you, Your Honour, we consider that these are relevant and they do have something to do with the Defence and we ask that if the Prosecution don't allow us to read them out we have no option left but to be asked to allow us to call them here as witnesses. I am quite prepared to fall back to reading them out, Your Honour, which is my application in the first place.

E JUDGE STROYAN: I have looked at Mayor's statement and it doesn't seem to say what you are saying it says at all.

Mr. Symonds: I am doing this off the top of my head, but to my recollection Mayor was the Police Constable who was on the telephone switchboard at Peckham Police Station that night.

JUDGE STROYAN: Well, that is not what this statement says.

F Mr. Symonds: Well, in that case, Your Honour, I must be wrong.

JUDGE STROYAN: It says he spoke to ...

Mr. Symonds: Was he the night duty reserve Officer, Your Honour? Night duty reserve Officer, yes, according to my reference. That meant that he would have been the Officer..

G JUDGE STROYAN: Yes, he was.

Mr. Symonds: On this telephone switchboard at Peckham Police Station.

JUDGE STROYAN: He says he was night duty in the communications room.

H Mr. Symonds: The communications room is in fact the telephone.



JUDGE STROYAN: I know. Nothing he says would answer your case at all. None of it so far as I can see is even remotely relevant.

Mr. Symonds: It is just a small link, Your Honour, in between the statements of Sergeant M...(?), D.C. Dolan and Sergeant Clements. And if it's so unimportant and so unnecessary and makes so little difference why is the Prosecuting Counsel saying no, no, no, we won't accept this, you can't read it out, we won't allow it?

JUDGE STROYAN: I haven't heard Mr. Rivlin say that.

Mr. Symonds: As you say, it's a very small statement.

JUDGE STROYAN: I'm not going to waste any further time about that.

Mr. Symonds: So you refuse that one as well?

JUDGE STROYAN: Yes.

Mr. Symonds: As far as Gundry is concerned, Your Honour I bring him up again because he made a statement supporting the statement of Mr. Birchmore, that you did give permission for us to subpoena Mr. Birchmore and we now find that Mr. Birchmore is dead and so we have lost his evidence. I bring Mr. Gundry up again because Mr. Gundry was a man who corroborates to some extent what Mr. Birchmore said, and that is that Perry certainly didn't come to him to borrow any money which was supposed to have been the source of the money paid I believe on the 21st.

JUDGE STROYAN: He doesn't mention Perry in the statement I have got. He talks about a conversation with Mr. Steenson, which is inadmissible.

Mr. Symonds: I am sorry, I should have said Sanworth, Your Honour. Gundry is the one that supports Steenson, you are right. Sanworth is the man who offered some corroboration to Mr. Birchmore's statement.

JUDGE STROYAN: Well, there is nothing admissible in his statement. He talks of talking to a man known as Perry who was apparently known to Birchmore, but that's inadmissible even if it was relevant. No.

Mr. Symonds: Your Honour. And the statement of Sergeant Barmbrook I would like to ask about again.

JUDGE STROYAN: That's entirely hearsay. He cannot recall any incident relating to Perry. He couldn't possibly help you. No.

Mr. Symonds: Apparently Conlon is still open, Your Honour.

JUDGE STROYAN: Conlon?

Mr. Rivlin: Your Honour, the position is that Mr. Green told us a couple of days ago that he would come back to me and tell me what the proposed relevance of this statement was. I

A haven't actually heard from him yet. Your Honour, when I do hear from him I will consider the matter. Your Honour, of course, as the defendant perfectly well knows, I have never put myself up as the final arbitrator of these matters. Your Honour, he must know that it is very unusual indeed for the Prosecution to agree to the reading of so many statements.

JUDGE STROYAN: Yes.

B Mr. Rivlin: It is only being done in the rather special circumstances.

JUDGE STROYAN: Yes.

Mr. Rivlin: And that he is being given a latitude in this respect that is accorded to very few if any defendants in my experience.

C JUDGE STROYAN: Yes.

D Mr. Symonds: Well, Your Honour, to clarify that. As you recall, I have asked for some time. Originally I wanted to subpoena those people to have them give evidence. In the first place I was refused permission to subpoena those Defence witnesses and then matters were delayed and delayed and delayed until in the end I have been more or less obliged to agree.

JUDGE STROYAN: Matters were not delayed and delayed and delayed. They were dealt with when they were raised.

Mr. Symonds: Yes, the subpoenas were refused.

JUDGE STROYAN: Yes.

E Mr. Symonds: So this is the last chance, Your Honour, to place the evidence before the jury.

JUDGE STROYAN: I have seen no statement of anyone called Conlon. I have no idea what he says. I don't know anything about him at all, apart from the fact that you have just mentioned his name. He has not been the subject of a proposed application so far as I can recollect.

F Mr. Symonds: So I would now like to raise the matter of Clements and Sheridan, Your Honour, who did in fact give permission to subpoena on one occasion and you took steps to subpoena these ladies. I told you some days ago that one of the ladies had expressed some objection to coming as her father had died etcetera and I then understood, maybe wrongly I understand, that there possibly was a way out of this and that is that if we could extract this evidence from Mr. Hales instead then it would save everybody a lot of trouble because there would be no need to call Miss Clements, who is mourning her father. But Your Honour, this morning there was no opportunity I submit to extract details of this...

G JUDGE STROYAN: He said he didn't know anything about that.

/that

Discussion

A Mr. Symonds: ... of this equipment. Well, with that goes the way out which had been tentatively agreed between the Prosecution and the Defence. The way out of this difficulty is now gone.

JUDGE STROYAN: I think I gave ...

Mr. Symonds: So we come back now as to whether or not we can call Miss Clements. It's as simple as that, Your Honour.

B JUDGE STROYAN: Well, what's she got to do with it? Now I have already given leave for a subpoena in respect of Miss Clements, Sheridan, Mr. Watson and Mr. Hughesdon.

Mr. Symonds: Yes, but Miss Clements has stated that she doesn't wish to attend court, Your Honour, as I mentioned to you.

C JUDGE STROYAN: Well, I am certainly not disposed to commit her for contempt.

Mr. Symonds: So really we just forget about it, is that it?

JUDGE STROYAN: What are you asking me to do?

Mr. Symonds: I am asking your advice. What happens next, Your Honour?

D JUDGE STROYAN: Well, it's your case, Mr. Symonds.

Mr. Symonds: She has evidence to give. It ~~tried~~ to be as helpful to the court as possible and ~~tried~~ to find a way to extract this evidence from Mr. Hales which saves everybody a lot of trouble but I was stopped. So now we are back to square one, Your Honour.

E JUDGE STROYAN: Well, I would like to know what is the point of this evidence.

Mr. Symonds: Well, you have read her statement, Your Honour, and you have yourself said that she is relevant and you have authorised a subpoena. The relevance is of course that there were these large numbers of ...

F JUDGE STROYAN: If she won't come the only remedy is to have her committed for contempt and I certainly ~~wouldn't~~ be prepared to do that.

Mr. Symonds: That's the end to that.

G Mr. Rivlin: Your Honour, I was prepared the other day to assist in relation to this witness to this extent. Your Honour may recall that I was unhappy about her statement being read as agreed evidence to this extent, that we were not convinced that she could prove what she was claiming to say in her statement.

JUDGE STROYAN: Yes.

H Mr. Rivlin: And Your Honour, the proposal that I made, for what

/what

Discussion

it was worth, and I must admit that that is an appropriate expression, ~~there~~ that it might be read on the basis that this is what she says.

JUDGE STROYAN: Yes, I remember that.

Mr. Rivlin: But I didn't feel that it could be read as agreed evidence.

JUDGE STROYAN: No.

Mr. Rivlin: And Your Honour quite rightly said well I wonder if that really ~~is an~~ appropriate way of dealing with it.

JUDGE STROYAN: I don't think that one can have brought out before the jury that evidence which is not in fact evidence.

Mr. Rivlin: Well, Your Honour, this is the problem. I was certainly prepared to have it read on the basis that this is what the lady has said, but expressing the reservation that the Prosecution don't necessarily accept it.

JUDGE STROYAN: Well.

Mr. Rivlin: Now, Your Honour, it may be a compromise but it equally may be a way out of the present difficulties in relation to this lady.

JUDGE STROYAN: Yes.

Mr. Rivlin: Your Honour, I don't think that I could strictly argue that what I am suggesting is right.

JUDGE STROYAN: No.

Mr. Rivlin: But on the other hand, given that the lady has had a recent bereavement and that we are in Middlesbrough and she is down South it may satisfy the defendant if the matter was proceeded with on that basis.

JUDGE STROYAN: Yes.

Mr. Rivlin: And if it does I would be content. Or at least that he would be able to say to the jury well Miss Clements has said this.

JUDGE STROYAN: Yes.

Mr. Rivlin: Your Honour, I am only trying to help.

JUDGE STROYAN: Yes, very well, you heard that, Mr. Symonds.

Mr. Symonds: Yes, Your Honour, I would ask that the statements of Miss Clements and Mrs. Sheridan are read out because one is complementary to the other. They are the two ladies involved in making up - because I believe you authorised a subpoena for her as well and I think that I would be quite happy just to have these two statements read out.

JUDGE STROYAN: If they both say the same thing there is no point in having it duplicated.

Mr Symonds: No, they don't say the same thing, Your Honour. They refer to slightly different aspects of it.

JUDGE STROYAN: I have seen those statements at one time but I haven't got them before me now. I now have got the statement of Conlon.

Mr Symonds: I think the situation is that Mrs. Sheridan was making up an invoice in respect of information supplied by Miss Clements. Something along those lines, Your Honour, but I submit that the two are complementary to each other.

Mr. Rivlin: Your Honour, I am prepared to deal with the matter on the same basis as Miss Clements.

JUDGE STROYAN: Yes. I haven't seen the document.

Mr Rivlin: It's rather an involved, complicated statement relating to quantities of tapes.

JUDGE STROYAN: It seems to me very much on the fringe of the matter in any event.

Mr. Rivlin: Your Honour, yes, and it's because I take that view ...

JUDGE STROYAN: Yes.

Mr Rivlin: ... that I am prepared to adopt the same course.

JUDGE STROYAN: Yes.

Mr Rivlin: If it meets with Your Honour's approval.

JUDGE STROYAN: Well, I think in those very unusual circumstances I wouldn't want to stand in the way.

Mr. Rivlin: Well, there is no need to say otherwise, Your Honour.

JUDGE STROYAN: Yes. Yes, well that evidence can be read on the same basis.

Mr. Symonds: Your Honour, and the last person now to do with the Location Sound Facilities aspect is Mr. Watson.

JUDGE STROYAN: Yes.

Mr. Symonds: And if that could also be read out, Your Honour. It's just been agreed.

Mr. Rivlin: No objection.

JUDGE STROYAN: Yes.

Mr Symonds: So for the moment, Your Honour, that is the position with Nuneaton, reading out of those three statements which I will ask to be done next to follow on from Mr. Hales's evidence

/evidence

Discussion

so that Location Sound Facilities, that aspect is kept together.

JUDGE STROYAN: Very well.

Mr. Symonds: And during the luncheon adjournment, Your Honour, I would try to make some - come to some final arrangement regarding the amendments and alterations to the Peckham and Nuneaton statements which are the other two.

JUDGE STROYAN: Very well, can we now read Clements, Sheridan and Watson then?

Mr. Symonds: Yes, Your Honour.

JUDGE STROYAN: You can do that now before the adjournment..I would like copies myself. I don't think at the moment I have got them.

Mr. Symonds: They could be read in the order of Watson, Clements and Sheridan.

Mr. Rivlin: May I say I am looking at the clock. They will take a little time to read. They are not short statements. Each one is several pages.

JUDGE STROYAN: I see. Well I think we will make a start. And these are read out as merely as regards what they said when they made their statements rather than as agreed evidence.

Mr. Rivlin: Well, Your Honour, we are prepared to agree Watson. The other two we <sup>are</sup> formally prepared to admit that these witnesses have said that which is contained in their statements.

JUDGE STROYAN: Yes. Thank you.

(The Jury return to Court at 12.57 p.m.)

JUDGE STROYAN: Members of the Jury, I am very sorry you have been kept. We have been trying to make some arrangements about reading statements which is now to be done..

CLERK OF THE COURT: The statement of Mr. Keith Watson. There then appears a certificate as to the truth of the statement which reads "This statement, consisting of two pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true." That certificate is dated 16th March 1970. Signed K. Watson. Signature witnessed by Peter Duffy, D.C.I. "I am employed by Location Sound Facilities. In the ordinary course of events, I issue stock in accordance with the details shown on despatch notes. These despatch notes come to me from Mr. Hughesdon's office from which all jobs are instigated. I also keep stock cards for my own purposes. At the end of last year I was aware that Mr. Hawkey was working on a job with the Times newspaper. This enquiry was dealt with in a secret fashion and my normal routine was not followed. I know that I issued some rolls of tape to Mr. Hawkey but I cannot tell you precisely the number of tapes or the dates of issue. I was aware at the time that

when he needed them Mr. Hawkey took tapes himself and he in fact told me so, therefore I am unable to give you a comprehensive list of tapes supplied to Mr. Hawkey.

A I look at despatch notes 1385, 1500 and 1499 and a handwritten note itemising expendable stores. These documents do not bear my writing and I did not prepare them.

I just want to say that this enquiry was dealt with differently from my normal way as it was kept secret.

Q. Do you recall Mr. Hawkey returning rolls of tape to you to be put back in stores?

B A. I cannot recall this happening.

Q. Do you have any notes of tapes returned to you by Mr. Hawkey?

A. No I haven't. So far as I am aware only Mr. Hawkey would know the exact number of tapes used and possibly Mr. Hughesdon." That is signed by K. Watson. Witnessed by Peter Duffy, D.C.I.

C CLERK OF THE COURT: There is a further statement of Keith Watson, which reads, "Further to my statement dated 16th March 1970, I have been asked if I can recall any occasion that I conveyed equipment from Location Sound Facilities to Mr. Hawkey. On reflection I can recall that one day just after Hawkey started this job I was instructed, I can't recall by who, to take specific equipment to a location in Wolwich. To the best of my knowledge I took a radio-mike and some new seven inch E.M.I. tape, and went in the firm's minivan to a block of flats where I saw Hawkey. This was about lunchtime and Hawkey was waiting for me. I was directed to a flat high up in the block where I used the toilet and took the equipment up with me. Then I sat in the lounge and had a cup of tea with Hawkey, three men and a woman who made the tea, I think it was her flat. I think one of the three men was not to do with Hawkey. He was young, blond hair, cockney accent. He was about twenty-five years of age. I gathered he was in the centre of things. He was answering questions from the other two. They were avoiding talking in my presence. I suggested we tested the equipment before I left and we did so using me as the carrier with mike, and Hawkey on the receiver. In all I was there about forty-five minutes. The test was taped and I was present when it was played back on the Magra receiver. When we were going to do the test Mr. Hawkey took out a used tape. From what I recall he said they used this tape purely for testing. Then I left and took back the radio mike they said was defective, and which I replaced. I did not know exactly what it was all about." K. Watson, statement taken by S. Bailey, Detective Sergeant.

G CLERK OF THE COURT: The statement of Jennifer Susan Clements, aged over 21, Secretary, lives at 209 Argyle Avenue, Hounslow, Middlesex. There then appears the certificate as to the truth of the statement similar to the one which I read to you on the previous statement, Members of the Jury, and it is dated 2nd April 1970.

H JUDGE STROYAN: I think before that is read it should be made clear that it has been agreed by the Prosecution as a statement which she made on the occasion referred to and it is not quite in the same category as the last for it is not agreed evidence. It is agreed evidence that she said what she said on the statement.

A CLERK OF THE COURT: The certificate is dated 2nd April 1970, signed J. Clements. "I am employed by Location Sound Facilities, as a Secretary to Mr. Hughesdon who is the Chief Maintenance Engineer. Part of my duties is to prepare despatch sheets to be sent to the customer and which record items of stock used and services given. I type them up from information given to me from Mr. Hughesdon who is the instigator of all jobs.

B In the case of the "Times" enquiry I prepared despatch note number 1385 and I dated it 27th October 1969, because I assumed it was a one day job.

C The remainder of the despatch notes were prepared by me at the end of the job from information supplied to me from Stores or workshop. In fact I remember talking to Mr. Hawkey quite a lot about this job and he gave me pieces of paper with details of equipment and stock thereon. I used these to prepare despatch notes and then I destroyed them. I want to point out that this job was dealt with in a different manner from our normal routine. Normally I would prepare a despatch note at the commencement of the job from information given to me by Mr. Hughesdon and this would show a quantity of stock and equipment. This would be qualified at the end of the job by information from stores as to the exact amount used. If it was a long job more stock might be supplied and another despatch note made out at the same time. In the case of the "Times Enquiry" I completed despatch note no. 1385 at the commencement of the job but contrary to our normal practice the other despatch notes were not made out until the end of the job in December 1969, from information supplied by Mr. Hawkey. I look at the copy invoices as supplied to the Times Newspapers Limited, and can say that I have nothing to do with the preparation of the invoices or other documents but I am directly concerned in making out the despatch notes.

E I identify the following despatch notes: (i) 1385 dated 27th October 1969. This bears my handwriting at the bottom where I have noted precise numbers of tapes used.

- F (ii) 1488 dated 29th October 1969  
(iii) 1489 dated 30th October 1969  
(iv) 1490 dated 3rd November 1969  
(v) 1496 dated 5th November 1969  
(vi) 1495 dated 11th November 1969  
(vii) 1500 dated 20th November 1969  
(viii) 1501 dated 21st November 1969  
(ix) 1499 dated 24th November 1969  
(x) 1498 dated 24th November 1969  
(xi) 1486 dated 25th November 1969

G I also look at a photostat copy of a list of "expendable stores" which I identify as being in my handwriting. This was prepared by me from information supplied, from I believe, Mr. Hawkey and was sent by me to the Accounts Department to assist.

H The following despatch notes show details of rolls of tape issued. (i) 1385: Seven 5 inch and twelve 7 inch tapes  
(ii) 1500: Seven 7 inch and seven 5 inch tapes.  
(iii) 1499: Three 7 inch and two 5 inch tapes.  
It will be seen that this totals 38 tapes in all supplied.



/supplied

Miss Clements

A This is qualified by my handwritten note of "Expendable stores" prepared by me from information I believe I received from Mr. Hawkey and which shows that 34 tapes were used.

I don't know the back-ground to these totals. I merely made out the despatch notes from information supplied to me.

B I look at transfer note No. 3591 dated December 1969 which records that a further 15 tapes were used for copying purposes. I don't know anything about this document."

That is signed J. Clements. Statement taken by Peter Duffy.

C CLERK OF THE COURT: Mrs. Vivian Mary Sheridan, over 21, a Secretary, lives at 180A Southfield Road, Chiswick, W.4. There then appears the certificate as to the truth of the statement, dated 16th March 1970, signed V.M. Sheridan, signature witnessed by Peter Duffy, D.C.I. "I am employed by Location Sound Facilities and I am familiar with the accounts of my employer.

I have been asked to explain invoices and documents sent to the Times Newspapers Limited, in connection with services supplied by my Company through Mr. Kenneth Hawkey.

D In the course of the whole enquiry fifty-three rolls of 5 and 7 inch tape were supplied to Mr. Hawkey. I have nothing to do with the supply of tapes but will explain where they are shown on the invoices..

In invoice 2676 dated 28th November 1969, there is an item "Expendable Stores". This item refers to despatch notes 1385, 1500 and 1499.

E The despatch notes record the supply of 5 and 7 inch tape, and the total shown 38 rolls of tape supplied. They are technically described as 5 inch - 812/6 and 7 inch 812/12. Of these 38 rolls of tape, 34 were used.. Four were returned to Stores.

F Also on invoice 2676 is a transfer item and this relates to the "transfer" or copying of fifteen tapes. Therefore, the two items "Expendable Stores" and "Transfer" account for fifteen master tapes with fifteen copies making a total of 30.

G There are four further tapes that have been charged for but which are not relevant. Whether these were spoiled in some way only Mr. Hawkey can say.

H There are four further tapes which I believe were disposed of as follows. Two, I believe, were spoiled during copying and two returned as virgin tape. These four were not charged for.

I produce invoice number 2882 dated 7th January 1970. This shows a "Transfer item" of fifteen tapes and I believe

/believe

Mrs. Sheridan

A that this was done when a further copy of the fifteen master tapes was requested. This now makes a total of forty-five rolls, that is fifteen masters copied twice, which together with eight tapes returned to my company for different reasons makes a grand total of fifty-three.

So far as I am concerned, I take no account of identity marks on individual tapes and know nothing about them.

B Q. On invoice number 2676 the two relevant items do not specify actual numbers of tapes. How do you know the number of tapes this includes?

C A. If you count the number of rolls of tape shown on despatch notes 1385, 1500 and 1499 you will see that this totals 38 tapes. I produce a handwritten note which I believe to be written by our Storeman, Mr. Keith Watson, which shows a total of 34 tapes used. This agrees with what I have described earlier and this note came from Mr. Watson with other documentation in order that invoice 2676 could be prepared.

Q. Do you keep a book which shows the issue of rolls of tape and their disposition?

D A. No. My company does not keep such a book, but Mr. Watson uses as his record copies of despatch notes issued. I want to correct that. In fact, when he issues stock he makes out a despatch note with four carbon copies. Two are sent off to the client. One they retain and the second they return to us signed. The storekeeper retains three copies until the conclusion of the job when he finalises them, that is, takes account of anything returned to stock.

E The three copies left come into the Accounts Office and a file is made of the customer's account. The invoice is then prepared from the despatch notes and is sent off to the customer. Therefore, the only record of stock supplied and used would be kept in my office.

F The charges shown on invoice 2676 are arrived at from the stock shown as used on the note supplied by Mr. Watson, the Storekeeper.

Invoice number 2882 specifies the number of rolls used and is self-explanatory. I would refer to three other documents included with the invoice that is transfer notes 3589, 3590 and 3591, which merely record that the tapes were copied.

G The invoice together with the documents also refers to other items of transport equipment and hire. I identify to you a complete copy of the invoices and documents attached as supplied to Times Newspapers Limited. It includes invoice 2853 dated 30th December and invoice number 3106 dated 12th February which do not deal in any way with the supply of rolls of tape.

H On reflection I wish to refer to Invoice number 2882

A dated 7th January 1970. The "transfer item" which records the use of fifteen rolls of tape would not be recorded on a despatch note because new tape used for transfer is not dealt with in that way. When stock is taken for transfer or copying, it is recorded on a transfer note. In this case, transfer note No. 3591 refers."

It is signed V.M. Sheridan, witnessed by Peter Duffy, D.C.I., statement taken by S. Bailey, Detective Sergeant.

B There is another statement. "Further to my statement dated 16th March 1970, I state that a handwritten note was supplied to me by Mr. Watson to prepare invoice number 2676. I have since found out that this note was written out by Miss Clements.

C The "costing" on the side of the handwritten note was made by Mrs. Malone."

That is signed by Mrs. Sheridan.

Mr. Rivlin: Your Honour, in order to remove any possibility of irregular procedure.

JUDGE STROYAN: Yes.

D Mr. Rivlin: I have decided that the appropriate course is for us to admit those statements as evidence.

JUDGE STROYAN: Yes.

Mr. Rivlin: Then there can be no question about it.

JUDGE STROYAN: Thank you.

E Mr. Rivlin: And there can be no question as to the status of those statements.

JUDGE STROYAN: Thank you. We will break off there.

(The Court adjourned for lunch)

F JUDGE STROYAN: Yes, Mr. Symonds.

Mr. Symonds: I call Mr. Cook please.

Mr. COOK, (Sworn)

Examined in chief by Mr. Symonds

G Q. What is your full name please? - A. Robert Frederick Cook.

Q. What is your address please? - A. 36 ...(?)... Way, Aldridge.

Q. And your present occupation? - A. Production Director.

/Director

Mr. Cook

Q. In 1969, were you a Detective Constable with the Nuneaton Police Force? - A. I was, Your Honour, yes.

Q. Can you recall the events of September of that year? - A. Some of the events, Your Honour, yes, but a lot of them have gone very vague by now.

Q. Your Honour, this witness did make a statement on the 19th December 1969. I wonder if he could refer to this.

JUDGE STROYAN: Have I seen it? Is there no - I assume he has not got a notebook. Is there any objection, Mr. Rivlin?

Mr. Rivlin: No, Your Honour, none at all. I don't know whether the witness is being asked about events in September of 1969. If he is I have no objection to his statement being shown to him providing the jury know that the date of the statement is the 19th December 1969.

JUDGE STROYAN: Yes. Yes, very well.

Mr. Symonds: I wonder if you would look at the statement you made on the 19th December please.

JUDGE STROYAN: That is not of course your evidence, but you may look at it to refresh your memory. - A. Thank you very much.

Mr. Symonds: And were you on duty on Tuesday, 23rd September 1969? - A. I was, Your Honour, yes.

Q. And during the day did you receive a telephone call from an informant? - A. Your Honour, it says that I did in the statement. I honestly can't remember now whether I did or I didn't. If this statement is the one that I made at the time then, yes, that is what happened. But I can't remember a lot of what is in it.

JUDGE STROYAN: No, I am sure you can't. - A. But the statement says yes I did.

Mr. Symonds: Do you remember the name of this informant?

JUDGE STROYAN: You are not ... - A. Again without reference to this.

JUDGE STROYAN: You are not obliged to give it.

Mr. Symonds: And was this informant known to you previously as an informant was was this the first time you had had contact with him? - A. This would have been the first time, Your Honour.

Q. Did the informant offer you information respecting a break in at Nuneaton?

JUDGE STROYAN: No, we cannot have this, you see.

Mr. Symonds: Very good. What ...

/what

Mr. Cook

JUDGE STROYAN: We cannot have what the alleged informant said to the witness because it's hearsay.

Mr. Symonds: Very good. As a result of this information did you later go somewhere? - A. I did, Your Honour, yes.

Q. And was that with another Officer? - A. It was, Your Honour, yes.

Q. Can you recall the name of the other Officer? - A. D.C. Hannis, Your Honour.

Q. And did you, D.C. Hannis and the informant then go to London? - A. That is correct, Your Honour, yes.

Q. Did you first go to Scotland Yard? - A. We did, Your Honour, yes.

Q. And at Scotland Yard did the informant make reference to the photographic library? - A. Not that I can recall, Your Honour.

Q. Do you recall at what stage or if at any stage the informant gave you some names of persons allegedly responsible for the Nuneaton offence? - A. I believe that was the case, Your Honour.

Q. Can you recall the names of the suspects provided by the informant?

JUDGE STROYAN: Well, you see, here we are.

Mr. Symonds: Can you recall - Your Honour, I don't think any of this is disputed. It is twelve years ago.

Mr. Rivlin: Your Honour, I am not very worried about this really.

JUDGE STROYAN: Yes, very well.

Mr. Rivlin: We have had it so many times.

JUDGE STROYAN: Very well. I haven't got the statements. Yes, very well. Yes.

Mr. Symonds: Would the names Perry and Brooke have been brought to your attention by about this time? - A. I'm not sure whether it was this time that I heard those names, Your Honour, or not.

Q. Very good. Did you later hear those names? - A. I did, Your Honour, yes.

Q. And had those names in fact been supplied to you either directly or indirectly by the informant? - A. Not to me personally from the informant, Your Honour, I don't believe, no.

Q. And ~~was~~ did you receive any information as to who in fact was in possession of the skeleton keys used in this raid?

/raid

Mr. Cook

A JUDGE STROYAN: Well, I think this is really getting more and more unsatisfactory. This witness is being asked to remember things that happened twelve years ago by reference to a note, which he made three months or so after the events in question. It is very very unsatisfactory.

Mr. Symonds: Well, perhaps you won't refer to your note any more, Mr. ....

JUDGE STROYAN: Well, he can look at it for what it is worth.

B Mr. Symonds: I beg your pardon, Your Honour?

C JUDGE STROYAN: He can look at it for what it is worth, but if having looked at it he still, quite understandably, doesn't remember very much about it well that's an end of the matter. It's not as if this was a note made the same day or the next day. It's three months later. And it's now twelve years on from that. He can certainly look at it but it may not help him in those circumstances. I don't know whether it will or not.

Mr. Symonds: Do you recall eventually going to Peckham Police Station, Mr. Cook? - A. I believe we did go to Peckham Police Station, Your Honour, yes.

D Q. And at Peckham Police Station did you carry out enquiries as to tracing one of these men, the suspects? - A. Can't remember what enquiries those were, Your Honour.

Q. And do you recall whether or not one man was eventually arrested? - A. One man was arrested eventually, Your Honour, yes.

E Q. Would that have been at Peckham? - A. Exactly where he was arrested, Your Honour, I don't know. I wasn't the arresting Officer.

Q. Do you recall ever meeting me? - A. I don't, Your Honour, no. I don't recognise you anyway.

F Q. Do you recall ever meeting anyone called Sylvester? - A. I know of the name Sylvester, Your Honour.

Mr. Rivlin: Your Honour, if it helps the defendant. If he has got something in mind that he wants to get from this witness I will not object if he comes straight to the point and leads the point.

JUDGE STROYAN: Yes, very well. Thank you.

G Mr. Symonds: Do you recall going with Camberwell Officers to a house in Nunhead Lane? - A. I do, Your Honour, yes.

Q. And do you recall entering that house with a search warrant? - A. I do, Your Honour, yes.

H Q. And do you recall whether there was anybody in that house when you entered it? - A. There was no one in the house upstairs, Your Honour, no.

/no

Mr. Cook

Q. Can you recall searching the house? - A. I can, Your Honour, yes.

A

Q. Can you recall any of the things and items found when the house was searched? - A. I remember that there was a knife found above the lintel of a door and possibly a knife found somewhere else in the premises. Exactly where I can't remember.

JUDGE STROYAN: Well, we heard all this.

B

Mr. Symonds: Do you recall that after waiting some time, arrangements were made to send half the other Officers off for a meal while half the number stayed behind? - A. I do remember that, Your Honour, yes.

Q. Were you present when Mr. Perry returned to his house? - A. No I wasn't, Your Honour.

C

Q. Had you gone with D.C. Hannis to Camberwell in fact? - A. I believe that is so, Your Honour, yes.

Q. Do you recall were you present when Mr. Perry was taken to Camberwell? - A. No I wasn't, Your Honour.

D

Q. Do you recall seeing Mr. Perry at any time at Camberwell? - A. I can't exactly remember, Your Honour, where I first saw Perry now. I don't know which Police Station it was.

Q. Do you recall any conversation taking place about interviewing or questioning Mr. Perry? - A. I don't remember anything of that, Your Honour, no.

Q. Do you recall any mention of fingerprints at all? - A. Not at all, Your Honour, no.

E

Q. And did you later take Mr. Perry back to Nuneaton? Do you recall that? - A. I do remember taking him back to Nuneaton, Your Honour, yes.

Q. And at Nuneaton do you recall any mention of fingerprints being made? - A. No, no, Your Honour, I don't remember any conversation in regard to fingerprints at all.

F

Q. Did you interview Mr. Perry at Nuneaton? - A. Personally, no, Your Honour.

Q. Do you recall any conversation with or about Mr. Perry at Nuneaton? Did you ask him at all about the offence, alleged offence? - A. Me personally, no.

G

Q. No. Do you recall waiting outside the cell door at Camberwell Police Station when I was talking to Mr. Perry? - A. I can't recall that, Your Honour, no.

H

Q. But if you had later made a statement saying that this had happened would it have been possible that this did happen? - A. If that statement in front of me is the one that I have made and I have signed the bottom of each copy then that's exactly what happened at the time.

JUDGE STROYAN: Anything else?

A Mr Symonds: No, Your Honour. I don't see that, this witness obviously doesn't remember. There is no point in pursuing it. Thank you very much.

Cross-examined by Mr Rivlin

B Q. Well, hardly anything at all, Mr. Cook. But I would like you to look at your statement please. Page eight, and ask you if that refreshes your memory about what happened at Camberwell. Look at the second paragraph. Do you see that? - A. I do, Your Honour, yes.

C Q. Is it not right that you heard Sergeant Symonds ask Sergeant James if he had any objections to him having a word with Perry? - A. I can't recall that now, Your Honour, no. Well, it's in my statement and it must have been so at the time.

Q. But that is something that you cannot recall now? - A. I can't, Your Honour, no.

D Q. No. And if the defendant wishes it, I shall read the rest of that paragraph so that the jury can know what he had to say about the matter. And whilst he is looking at that, can I ask you to have a very brief look please at page eleven, which refers to the 25th September, the day after Perry was arrested and when he was at Nuneaton, and that was your day off-duty, wasn't it? That was your rest day? - A. Sorry?

Q. Did you pop into Nuneaton to see Sergeant James because you were interested to know how things were going with Perry? That's right, isn't it? - A. Yes.

E Q. And although you didn't interview Perry yourself on that day because it was your day off, it was apparent that he was being interviewed that day, isn't it? - A. He was in custody, Your Honour, so I assume he naturally would be interviewed, yes.

F Q. Well, that's not what I am asking you. It is apparent, is it not, that he was in fact being interviewed on that day? - A. It must be apparent, Your Honour, yes.

Q. Yes.

JUDGE STROYAN: That's the 24th? - A. The 25th.

Mr. Rivlin: On the 25th, yes.

G JUDGE STROYAN: The 25th, I am sorry.

Mr. Rivlin: And just answer this question yes or no. Something came into your notice, didn't it, that upset you very much about the matter? - A. Yes.

H Q. Yes. Certainly you learnt that Perry wasn't saying anything? - A. Yes.



/yes

Mr Cook

A Q. Yes. Well now, before I sit down, I had just asked the defendant if he would like me to read to the witness the last few lines of the second paragraph of page eight.

Mr. Symonds: I will cover that point in re-examination, Your Honour, because I can also read out reams of the statement.

Mr. Rivlin: Well, I am afraid that ....

JUDGE STROYAN: You can't, you see.

B Mr. Rivlin: The defendant can't, that's why I am making the offer to him.

Mr. Symonds: Well, you can read out the last two lines if you want.

C Mr Rivlin: Very well. Is this not right, Officer, that in your statement you say this. "Either whilst we were in the public house or whilst we were at the Station prior to going to the public house I heard Sergeant Symonds ask Sergeant James if he had any objections to him having a word with Perry. Symonds said 'I know him and I might be able to get him to plead to section one theft! Although I took it that he wanted to be alone with Perry, Sergeant Symonds didn't say this." - A. That is indeed in the statement, Your Honour, yes.

D Q. And this is what you recalled in December of 1969, is that right? - A. That's when the statement was taken, Your Honour, yes that is the case,

Q. Very well. Thank you.

Re-examination

E Mr Symonds: I thought you said the last two lines. That's the last seven, Your Honour. Not that it makes any difference. Is it a fact that you can remember practically nothing about these events? - A. Surprisingly very little, Your Honour, yes.

F Q. And when you made the statement it was taken by Detective Chief Superintendent Moody, is that right? - A. I believe he was present, Your Honour.

Q. And the words were written down by Detective Constable Cyril Jones, is that right? - A. That's right, Your Honour, yes.

Q. And did it appear to you that they wanted you to make a statement along a certain line, for example?

G JUDGE STROYAN: This does not arise out of cross-examination.

Mr Symonds: Is it to your knowledge that both Jones and Moody were later sentenced to long terms of imprisonment?

JUDGE STROYAN: No, no, no, you know as well as anybody else ..

H Mr Symonds: Your Honour, I was trying to be fair. I took this

A witness through his statement. He remembered very little. You intimated it was the right thing to do just to leave it, and the cross-examination I don't think was right at all to start reading out bits and picking out a couple of choice lumps and reading them out and saying that's right isn't it.

JUDGE STROYAN: The cross-examination was perfectly proper. A great deal more proper than some of your questions. Mr. Rivlin was doing the right thing. Yes.

Mr. Symonds: Thank you very much, Mr. Cook.

JUDGE STROYAN: You are released. Yes.

Mr. Symonds: Call Mr. Clarkson, please.

Mr. CLARKSON, (Sworn)

Examined in chief by Mr. Symonds

Q. What is your full name please? - A. Oliver William Clarkson, Detective Constable 719, Warwickshire Constabulary, stationed at Nuneaton, Your Honour.

Q. And on Monday, 20th September 1969, were you on duty as a Detective Constable at Nuneaton Police Station? - A. That is correct, Your Honour.

Q. Some time in that morning was there a phone call received in your office? - A. Yes, regarding a break in at the Nuneaton Co-op, Your Honour.

Q. And as a result of that phone call did you go to examine the scene? - A. Not to examine the scene, Your Honour. I arrived after other Police Officers.

Q. Did you later visit the scene? - A. That is correct, Your Honour.

Q. And at the scene did you make an examination for fingerprints and such? - A. Not me, Your Honour.

Q. Did it later come to your knowledge that information had been received by your colleagues in connection with this offence?

JUDGE STROYAN: No, no, no, no. This is third or fourth hand.

Mr. Symonds: Well, shall I keep reading his statement out and say you did say this, didn't you?

JUDGE STROYAN: No you won't. Mr. Symonds, I have explained to you.

Mr. Symonds: Your Honour, it's nothing. None of this is in dispute. I am only trying to quickly go to one or two facts I want to bring out from this Officer.

JUDGE STROYAN: You go to the facts you want to bring out, but please don't go to them by way of leading questions. That is questions which suggest their own answer. You can take him to

/to

Mr. Clarkson

A the point you want to get to. I am sure Mr. Rivlin won't object to that, and then you ask him an ordinary question about it and if he can remember he will give you the answer. If he can't he won't be able to. What was the point you wanted to make?

Mr. Symonds: Did you later learn that a van had been recovered in London? - A. That is correct, Your Honour.

B Q. Did you take any part in the arrest of two suspects in connection with this offence? - A. I did not, Your Honour.

Q. Were you on duty at the Nuneaton Police Station when one suspect was brought there from London? - A. That is correct, Your Honour.

C Q. Were you present when the suspect was put into a cell at Nuneaton Police Station? - A. I would have been in the charge room area, sir. I can't recall if I was present when he was placed in the cell, Your Honour.

JUDGE STROYAN: Do you remember who he was? - A. Yes.

Q. Perry? - A. Perry, yes, Your Honour.

D Mr. Symonds: Were you ever asked to go to Mr. Perry's cell and interrogate him in connection with this alleged offence? - A. I can't remember. Bearing in mind it's twelve years ago, sir.

Q. Did you at any time take Mr. Perry's photograph or fingerprints? - A. I did, Your Honour.

E JUDGE STROYAN: Which? - A. I took both photographs and fingerprints, Your Honour.

Mr. Symonds: And when you went to take his fingerprints and photograph were you alone? - A. I was with Detective Constable Wilson, Your Honour.

F Q. Whilst you were taking Mr. Perry's fingerprints and photograph was there any conversation between you? - A. Yes, Your Honour. What it was I can't remember, unless I look at the statement that I made at the time.

JUDGE STROYAN: You had a conversation with Perry? - A. Yes, Your Honour.

Mr. Symonds: Did Mr. Perry offer you a bribe?

G JUDGE STROYAN: You have asked it now. You must know as well as everyone by now that is not a question he can answer. - A. Again, Your Honour, without looking back to what I said at that time I wouldn't be able to tell you what the conversation was and what it amounted to.

H Mr. Symonds: If Mr. Perry had offered you a bribe would you have remembered that? - A. Yes, I would have done. Well, I say yes. I would have to have a look at the statement again, Your Honour, to refer back.

A Q. May this witness refer to his statement please, Your Honour, made on the same day, the 19th day of December? Will you please look at the statement you made on the 19th December.  
- A. I have here a typewritten copy of the original statement, Your Honour.

JUDGE STROYAN: You will beshown the original in a moment. Well, he is looking at his statement now. - A. This - I beg your pardon, Your Honour. This statement isn't in actually my handwriting.

B Q. No. - A. It's in the handwriting of a Detective Sergeant in the Metropolitan Police.

Q. Yes. - A. The only thing on there is my signature.

Q. Yes. - A. Yes.

C Q. Well, is it a statement you made on that day? - A. Yes sir.

Q. On what day? - A. It is dated 19th December 1969, Your Honour.

Q. 19th December 1969. That's three months after the events you are describing? - A. Yes, Your Honour.

D Q. Very well.

Mr Symonds: And according to your statement, was your memory at the time of making that statement that Mr Perry offered you a bribe? - A. Yes, Your Honour.

E Q. And did he specify a sum, a particular sum? - A. Could you tell me the number of the page of that please?

Q. Page ten. - A. I recall in the statement at that time, Your Honour, that ~~perry~~ had said to Detective Constable Wilson and I how much ~~does it cost for me to walk out of here~~. He didn't use the word walk, or a word to that effect. A sum of £25 was mentioned.

F JUDGE STROYAN: Yes.

Mr Symonds: And did you make a note in your pocketbook about this offer? - A. I did not, Your Honour.

Q. And did you caution Mr Perry? - A. I did not, Your Honour.

G Q. And did you report this to a senior Officer and report this matter? - A. To Detective Sergeant James, Your Honour.

Q. And did you report this immediately? - A. I did, Your Honour.

Q. And that is before Mr Perry left the Police Station? - A. That is correct, Your Honour.

H Q. And to your knowledge did Mr James take any action over this?

/this

Mr. Clarkson

JUDGE STROYAN: Well, were you present when he took any?

Mr. Symonds: Were you present when he took any action? - A. I was not, Your Honour.

Q. And was Mr. Wilson with you at this time? - A. When I reported it to Detective Sergeant James?

Q. No, when the offer was made by Mr. Perry? - A. That is correct, Your Honour.

Q. And would he have heard this? - A. I assume so, Your Honour.

Q. And did he go with you to Sergeant James to report this? - A. As far as I recall, yes, Your Honour.

Q. Did Mr. Perry also make another allegation or an allegation to you? - A. Can I continue reading this statement, Your Honour?

Q. Yes.

JUDGE STROYAN: Well, I think he had better see what the question is. And I think it had better not be in a leading form. What happened after that? - A. Well I don't know.

Q. After you reported it to Sergeant James? - A. I reported what Perry had said to Detective Sergeant James, Your Honour.

Q. Yes. - A. And left it at that with him.

Q. Yes.

Mr. Symonds: And to your knowledge was Mr. Perry later released from Nuneaton Police Station - A. That is correct, Your Honour, under Section 38 (2) of the Magistrates Courts Act.

Q. Stay there please, Mr. Clarkson.

Cross-examined by Mr. Rivlin

Q. Your Honour, might I invite your attention to page ten?

JUDGE STROYAN: Yes.

Mr. Rivlin: And will you please read the contents of that page because I would like to cross-examine the witness about the whole of the contents of that page and not just part of them.

JUDGE STROYAN: Thank you. Yes, it was used in examination in chief. I don't see any reason why you can't cross-examine on that.

Mr. Rivlin: Your Honour, that must be right.

JUDGE STROYAN: Can I hold on to a copy?

Mr. Rivlin: Yes, please, Your Honour.

A Q. Now, Mr. Clarkson, may I say that it is not disputed for a moment that Perry said some such thing to you, but I would like if I may to try and put it into context, do you understand?  
- A. That is correct, sir.

Q. And on page ten of your statement you give a fairly detailed account of the matter, don't you? - A. That is correct, Your Honour.

B Q. It begins with Wilson asking Perry "We understand you are abiding by what you said in London?" That is with reference to the theft? - A. That is correct, Your Honour.

Q. And is that the truth of the matter? - A. Yes, sir.

Q. Well, you did understand that Perry was sticking to what he had said in London? - A. Yes.

C Mr. Symonds: Your Honour, apart from this being hearsay I did try to bring this out and you stopped us. I asked this witness did Mr. Perry make another allegation.

JUDGE STROYAN: I didn't stop you.

D Mr. Symonds: Well, my recollection, Your Honour, I was trying to say was there another allegation made.

JUDGE STROYAN: Yes. I said what happened next.

Mr. Rivlin: And is this right? That Perry said, and you will appreciate that I am referring you to your statement, don't you, Officer? - A. Yes, sir.

E Q. Perry said "I am saying fuck all. I am sticking to what I was told in London, that I have to play it by ear. You have got fuck all on me and it will cost me a pocket when I get back."  
- A. That is correct, Your Honour.

Q. And did you say "Which copper told you that?" - A. I did, Your Honour.

F Q. Meaning which Police Officer had told Perry that there was no evidence against him. - A. That is correct, Your Honour.

Q. Because if any Police Officer had told Perry that there was no evidence against him you would regard that as quite improper, wouldn't you? - A. Definitely, Your Honour.

G Q. It is just asking for trouble, isn't it, to give that sort of information away to somebody that you are interviewing?  
- A. That is correct, Your Honour.

Q. Because if you tell him that you have got nothing on him you are not likely to get any admissions out of him, is that correct? - A. That is correct, sir.

H Q. And only a very foolish or twisted police Officer would say such a thing? - A. That is correct, Your Honour.

A Q. Yes. And when you said to him "Which copper told you that?" he ignored your question and wouldn't tell you the name of the person, is that right? - A. That is correct, Your Honour.

Q. Yes. And he then said to you "How much does it cost for me to walk out of here?" - A. That is correct, Your Honour.

B Q. Although he perhaps didn't use the word "walk"? - A. No, not the word "walk" but a word to the effect of walking out.

Q. And is this not right, Officer, and is it not there large as life in your statement that at that point you laughed? - A. That is correct, Your Honour.

Q. In fact the two of you laughed? You two Police Officers? - A. That is correct, Your Honour.

C Q. Here was a young man bold as brass asking how much it would cost for him to walk out, and you just didn't take him seriously, is that not right? - A. That is correct, Your Honour.

Q. And he then said - that's Perry then said "£25" and you took it to mean that he was offering you £25? - A. That is correct, Your Honour.

D Q. And didn't you say to him "We wouldn't take as much as a fag from you"? - A. That is correct, Your Honour.

Q. And you reported the matter to Sergeant James? - A. That is correct, Your Honour.

E Q. And it's right, is it not, that at the time you just didn't take that matter seriously, although you reported it to your senior Officer? - A. No, sir.

JUDGE STROYAN: You mean yes? - A. Sorry, yes.

F Mr Rivlin: But what you did take seriously, is this not right, and what you were very upset about was the thought that somebody in London, some London Police Officer could have told Perry that there was no evidence against him? - A. That is correct, Your Honour.

Q. Because that would amount to a tip off, wouldn't it? - A. Yes, Your Honour.

Q. A tip off not to say anything? - A. Yes, sir.

G Q. Yes. Yes, thank you.

Re-examined by Mr. Symonds

H Q. And is it to your knowledge that Detective Constable Wilson completely denies that Perry offered a bribe to you and him? Your Honour, the whole thing is a farce anyway. You are on my back every two minutes about hearsay evidence. Can't say this, can't say that. We have just listened to ten

/ten

Mr. Clarkson

minutes of that being read out. It's a nonsense. One rule for the rich and one rule for the poor, it seems.  
No more questions. Thank you very much.

The Clerk: You can be released, Officer.

Mr. Symonds: Your Honour, could we have a five minute break please to sort out papers. Two witnesses will be Camberwell Officers.

JUDGE STROYAN: Yes. There is no other live witness after these two, is there?

Mr. Symonds: No, Your Honour.

JUDGE STROYAN: No.

Mr Symonds: And then afterwards it's just a matter of reading out.

JUDGE STROYAN: I want to get to the end of the evidence this evening if I can. Certainly we can manage those two other Police Officers. I don't want to have them coming back tomorrow.

Five minutes, Members of the Jury.

(Short adjournment)

Mr Symonds: Call Mr. Hill please.

Mr. HILL, (Sworn)

Examined in chief by Mr Symonds

Q. What is your name? - A. David Hill, attached to East Dulwich Police Station, Metropolitan.

Q. Mr. Hill, were you a Detective Constable at Camberwell Police Station in 1969? - A. Yes, Your Honour.

Q. And at that time was I stationed there also? - A. Yes, Your Honour.

Q. Did you often work with me? - A. Yes, Your Honour, I did .

Q. And how did I appear to you at that time as an active serving Police Officer? - A. Well, since ~~that~~ time I have personally served on the Flying Squad and a lot I learnt off Mr. Symonds has been carried out through my career.

JUDGE STROYAN: So you learnt a lot from him? - A. Yes .

Q. Yes.

Mr Symonds: And at that time was it to your knowledge that I was preparing a dossier of a local gang known as the likely lads? - A. That is correct, Your Honour, yes.

Q. And was this dossier circulated amongst the C.I.D. at Camberwell? - A. It was indeed, Your Honour, yes.



/Yes

Mr Hill

Q. Did I also obtain a photograph of a member of that gang by the name of Perry? - A. Yes, Your Honour.

Q. Would you please look at Exhibit 37. - A. Yes, that's Michael Perry.

Q. Did I make many copies of that photograph and circulate that around Camberwell Police Station also? - A. Yes, you did.

Q. Were all Officers asked to gather all information possible upon Mr Perry and members of his gang and contribute it to the dossier? - A. That is correct, Your Honour, yes.

Q. At that time is it true that in order to collate information generally it was necessary for Police Officers to go into public houses frequented by criminals? - A. Yes, Your Honour.

JUDGE STROYAN: I dare say they still do? - A. Yes, Your Honour.

Mr Symonds: Would you say that at the time of September, October and November 1969 in particular, I was working, as were we all, long hours? - A. Yes, Your Honour.

Q. Do you recall the events of the 24th September 1969? - A. Yes, I do, Your Honour.

Q. Do you recall me instructing you to obtain a search warrant? - A. I was instructed I believe by another Sergeant, Holland, but it was as a result of a phone call from either yourself or Sergeant Harley.

Q. And did you go to obtain from a Justice of the Peace a search warrant for an address in Nunhead Lane? - A. Yes, 40 Nunhead Lane.

Q. And was this address previously known to you? - A. Yes, this was the address that the likely lads and, in particular, Perry used.

Q. And do you recall what happened after? Did you then take the search warrant to myself and Sergeant Harley at Nunhead Lane? - A. Yes.

Q. And do you recall what happened after that? - A. A search was conducted with Nuneaton Officers and Harley and other Officers left and yourself, me, a number of Nuneaton Officers and it may have been another Police Officer from the Metropolitan area, Peters, then kept observation on the premises, anticipating the return of Perry.

Q. And do you recall Mr. Perry later arriving back at that address? - A. Yes, he did.

Q. And did you then identify Mr Perry to the Nuneaton Officers? - A. I did, yes.

Q. And did they then arrest him? - A. Yes.

/Yes

Mr Hill

Q. Do you recall how Mr. Perry was taken to Camberwell Police Station from that address? - A. No, I don't.

Q. Were you present in Camberwell Police Station after Mr. Perry was taken back there? - A. I may have been, but as to my recollection I don't think I took any active part with Perry on arrival back at the Police Station.

Q. In your opinion did I appear anxious to secure the arrest of Mr. Perry and other members of his gang? - A. Yes, you were.

Q. Did any of my actions during the time you knew me lead you to believe that I may be a corrupt Officer? - A. None whatsoever.

Q. Thank you, Mr. Hill.

Mr Rivlin: No questions.

JUDGE STROYAN: You are released.

Mr. Symonds: Your Honour, I call Mr. Harley please.

Mr. HARLEY, (Sworn)

Examined in chief by Mr. Symonds

A. Ian Harley, Detective Chief Inspector, Metropolitan Police, Your Honour.

Q. Mr Harley, do you ...

JUDGE STROYAN: I'm sorry. Which force? - A. Detective Chief Inspector, Metropolitan Police, Your Honour.

Q. Thank you.

Mr. Symonds: Do you recall the events of the 24th September 1969? - A. Yes I do.

Q. Can you recall meeting some Nuneaton Police Officers? - A. Yes.

Q. Can you recall the events that led up to that meeting? - A. Yes, I can.

Q. Is it right that the Nuneaton Officers wanted to find the man called Perry? - A. That's correct, Your Honour.

Q. Did they believe that he may have stolen property from an address at Nuneaton? - A. That is correct.

Q. At that time had Police Officers at Camberwell any reason to have taken notice of Mr Perry and his associates previously? - A. Yes. Information had been received about Mr. Perry and certain other individuals, as a result of which enquiries were being made generally about them.

/them

Mr Harley

A Q. And was in fact a dossier being kept, listing their names, addresses, haunts, motor cars used etcetera? - A. That is correct, Your Honour.

Q. And was information being sought from various sources to complete this dossier? - A. That is correct.

Q. Is it to your knowledge that Mr Perry and an associate had previously lived at another address other than Nunhead Lane? - A. I can't now recall that fact, Your Honour.

B JUDGE STROYAN: It would be very surprising if you could. - A. Yes, sir.

C Q. At that time would it have been possible that you and I may have known of Perry's home address and Peckham Officers not, for example? - A. I think that that's possible. From memory, Your Honour, I believe that Perry had not been residing long at the Nunhead Lane address.

Q. And is it, do you recall whether we had been approached by Peckham Police Officers to supply information which may assist in the arrest of Perry, for example his address? - A. Peckham Police Officers?

D Q. Yes. - A. I can't recall Peckham Police Officers. I can recall Nuneaton Officers contacting Camberwell or Peckham.

Q. Do you recall the details of Mr. Perry's flat? For example, do you recall whether it was above a shop? - A. Yes it was, Your Honour, I think.

Q. Do you recall the name of the shop or not? - A. I think the man was called Skippen, Skipton or something similar.

E Q. And is it right that Mr. Skippen was supplying us with information about his tenants? - A. Yes, he had been spoken to about Mr Perry and other people upstairs.

F Q. Do you recall the obtaining of a search warrant in order to enter these premises at Nunhead Lane? - A. Yes. A search warrant was sought by I think one of other who were then T.D.C.'s as a result of I think on the telephone.

JUDGE STROYAN: Anyhow, we know there was a search warrant and we know the flat was searched. - A. That is correct, Your Honour.

Mr Symonds: Did you take part in the search? - A. Yes I did.

G Q. Do you recall what was found, if anything? - A. The only thing I can distinctly remember, there were certain sexual aids. That sort of stands in my mind. There was also a quantity of clothing which had been used which suggested that more than one person was living at the address.

H Q. And is it right that after searching the house you decided to leave and return to Camberwell Police Station? - A. Yes, I left earlier than the others, It was my daughter's birthday, Your Honour.

A Q. Do you recall any form of dispute with the Nuneaton Officers for any reason whatsoever? - A. Er, I can recall at one point some comment was made because they were, whilst they were searching I think one or other was walking across windows and if Perry had been returning to his flat at that time he would have seen somebody up there and probably would have come in and there was a sort of general comment made about that.

B Q. Would it be right that we had been keeping observation on Mr. Perry's address for some weeks before the 24th September? - A. Yes. General observation which included looking at any cars in the neighbourhood, any people he had been with, that sort of thing.

C Q. Would it be right to say that at about this time we had felt that we ourselves would soon have been in a position to effect the arrest of Mr. Perry and his associates? - A. Yes, from memory, Your Honour, I believe that day some, that Mr. Perry and his various members of his gang were believed to have been stealing large amounts of property from the provinces and were bringing property back to one or other of their addresses and I believe we were working on the assumption that sooner rather than later we would get information that they had property in their address and we would be able to search it and arrest them.

D JUDGE STROYAN: Yes.

Mr. Symonds: And at this time is it right to say that we were very deeply engaged on other matters at Camberwell Police Station? - A. Yes, there was the general day to day work and I think within two days there was a large abortion enquiry which resulted in the arrest of other people and in fact I was struck off from general work to deal with that.

E Q. One or two further points, Mr. Harley. Do you recall that at the time we met the Nuneaton Police Officers whether or not there was some form of dissension at Peckham Police Station? By which I mean dissension between the uniformed and the C.I.D. staff? - A. I don't think I was aware of it on that day, but afterwards certain matters were mentioned to me concerning ..

F JUDGE STROYAN: Well, we had better be careful about this. At all events it is right that there was some dissension? - A. I have no direct knowledge of that myself but ....

Q. Yes, very well.

G Mr. Symonds: Mr. Harley, did we work together for a year or more? - A. I can't remember when you came to Camberwell. I was there between September 1967 and November 1969. I think it must have been nearly a year.

Q. And during that time did you come to any opinion of my character and my work? - A. Well, you always were a hardworking, conscientious Officer, did your job competently, experienced and a normal colleague.

H Q. Did you ever have any reason whatsoever to imagine that I might be engaging in corrupt activities? - A. None at all.

Q. Thank you, Mr. Harley.

Cross-examined by Mr. Rivlin

Q. Is it right, Detective Inspector, that it was you essentially who was concerned with keeping observations at Nunhead Lane and you were assisted on occasions by Sergeant Symonds? - A. Er, certainly I was keeping observations there, sir, and Sergeant Symonds was also keeping observations. There were times when we did it together. There were times when we did it separately.

Q. Well, I repeat what I said. Is it not right that you were keeping observations and you were assisted on occasions by Sergeant Symonds? - A. Well, that's right, sir, yes.

Q. Yes. - A. But what I meant by that, I wouldn't know if Sergeant Symonds was making observations on his own.

Q. No, certainly. Who was it who was actually keeping this dossier? - A. I started off a list of these people and it was added to I believe. Sergeant Symonds would add some things and certainly I was relying upon collater at Camberwell and I think possibly the collater at Peckham C.I.D. as well.

Q. Who was it who was actually keeping this dossier? - A. I think I kept it in my desk, sir.

Q. Just one more matter, and that's this. The 24th, the day of the arrest. - A. Yes, sir.

Q. Is this right, in respect of Skippen, that on that day you introduced the defendant to Skippen but you didn't tell Mr Skippen that the defendant's name was Symonds. You introduced him in another name. Is that right? - A. That may be right, sir. As I say, I can't honestly remember back that far. I had seen Mr Skippen I believe once before myself.

Q. Well, you have been asked questions about this on another occasion a very long time ago, isn't that right? - A. Yes, that is correct, sir.

Q. And isn't it right that on that day you introduced Skippen to Sergeant Symonds? - A. I think if that's what I said all those years ago then that would be a more clear recollection than I have at this moment, Your Honour.

Q. Well, I am quite willing to show you the passage if you would like to. - A. I accept that from you, sir.

Q. And in fact you introduced him in another name. In other words, not merely did Skippen not know who Sergeant Symonds was but you told Skippen that Sergeant Symonds was somebody other than Sergeant Symonds in order perhaps to protect him, I don't know. - A. I accept that, sir, as I say because I cannot now remember.

Q. Yes. Yes, thank you.

/you

Mr. Harley

Re-examination

A Mr. Symonds: I wonder if I could look at this interview please, Your Honour.

Mr. Rivlin: Your Honour, I am certainly willing to show the defendant the passage that I have just put.

JUDGE STROYAN: Yes.

B Mr. Symonds: Because I don't think I could re-examine on something I have never seen and the witness has not seen for twelve years.

Mr. Rivlin: Oh yes he has. - A. Yes, I last saw it yesterday morning and saw it this morning, sir.

Mr. Rivlin: I am not prepared to disclose the whole of it.

C JUDGE STROYAN: No.

Mr. Rivlin: The passage that I have just put, most certainly.

JUDGE STROYAN: Have you marked it so that ...

Mr. Rivlin: Yes, I have, Your Honour.

D JUDGE STROYAN: Yes.

Mr. Symonds: I am afraid I can't make head or tail of this, Your Honour, without looking at ...

JUDGE STROYAN: Well, it is a very small point, Mr. Symonds.

E Mr. Symonds: Yes, it could be "and another." "I introduced Symonds to Skippen and another Police Officer" or something like that. It could be as simple as that, Your Honour. I believe this is in Mr. Harley's own handwriting.

JUDGE STROYAN: Well, in that event he may be able to tell you.

F Mr. Symonds: Would you look at this statement, Mr. Harley. Is that your handwriting, Mr. Harley? - A. No, it's not my handwriting, Your Honour, but I have signed the bottom of the page. And shall I read it, sir?

JUDGE STROYAN: Well that one sentence, yes.

Mr. Symonds: That one sentence, yes. - A. It says "I introduced Symonds to Skippen as another Police Officer."

G JUDGE STROYAN: Yes, very well.

Mr. Symonds: Well, could that have been "and another Police Officer" or something like that? Did you go over that statement and sign any mistakes after that, can you recall? - A. Yes, I would have done.

H Q. You would have done. Can you imagine any reason why you

/you

Mr. Harley

A should introduce me as another Police Officer or could that be a minor error or a mistake in the taking of the statement?  
- A. Well, I am reading it now after all these years and I assume that what I was saying I introduced you to Mr Skippen as another Police Officer.

Q. What, as Charlie Smith, something like this, or as another Police Officer? - A. No. You know who I am. This is another Police Officer.

B Q. Yes. In other words, you said this is another Police Officer?

JUDGE STROYAN: Mr Symonds, perhaps it was a leading question.

Mr Symonds: I beg your pardon, Your Honour?

C JUDGE STROYAN: That sounds to me as if that was a leading question. I think I would like to see that document please. -  
A. Yes, sir.

Mr Symonds: It's a matter of picking out a little ..

D JUDGE STROYAN: Well, there are two possible meanings of this phrase. "I introduced Mr. Symonds to Skippen as another Police Officer." One is that you introduced Symonds to Skippen, deliberately concealing his name. The other is that you introduced Symonds to Skippen without giving any name at all save to say that he is another Policeman. Which is it? - A. I would think at this point of time that I introduced him as a Police Officer. As another Police Officer. I can't now, sir, recall any reason why I shouldn't have tried to keep his identity away from Mr. Skippen.

E Q. Yes, very well.

Mr. Symonds: Thank you very much, Mr. Harley. Thank you.

JUDGE STROYAN: Yes.

Mr. Symonds: May this witness be released please, Your Honour.

F JUDGE STROYAN: Yes. Yes, you are released. - A. Thank you, Your Honour.

Mr Symonds: Your Honour, if I could speak to you in the absence of the jury please. I wonder if I could speak to you in the absence of the jury, Your Honour.

G JUDGE STROYAN: Members of the Jury, you may be getting rather bored with being asked to leave. Off you go, ladies and gentlemen please. I am afraid you won't be long this time.

(The jury leaves court)

H Mr Symonds: Your Honour, all that remains now is the reading out of a number of statements which I can't imagine would take much more than an hour or so. And the situation is that I have not yet had a chance to go over those statements with my

A solicitor and to point out some things to him because as you know my solicitor was very much occupied during the lunch break interviewing these Police Officers in the presence of an independent Officer. I would ask Your Honour if I could perhaps be allowed to spend the next - if the court could rise and if I could spend the next hour with Mr. Green going through those statements to be read out first thing tomorrow morning and that would be the end of the Defence case, rather than trying to rush through them now and ...

B JUDGE STROYAN: Well, are they agreed or not agreed, because if they are agreed they can be read?

Mr. Symonds: The situation is they are half agreed, Your Honour, inasmuch as the Prosecution have struck out the bits.

C JUDGE STROYAN: I thought I dealt with this before the adjournment. We really must get on. I think we had better deal with those which are agreed and the ones that are not agreed.

Mr. Symonds: It will mean perhaps our taking statements or different events out of chronological order, Your Honour, which I think would be confusing for the jury.

D JUDGE STROYAN: Well, I don't know what the position is. Either the statements are agreed or they are not agreed. I don't know what the position is.

Mr. Rivlin: Well, Your Honour, the position is that the statements have been gone through very carefully between myself and Mr. Green.

JUDGE STROYAN: Yes.

E Mr. Rivlin: Of course, the defendant wasn't there. I told Mr. Green which parts I felt were inadmissible.

JUDGE STROYAN: Yes.

F Mr. Rivlin: Whichever way they went, Prosecution or Defence, and those statements have been marked accordingly. Now, I don't know. If the defendant says he hasn't had an opportunity to see the results of our labours so be it. He is, I know, of course entitled to call these people in the order that he wants to.

JUDGE STROYAN: Yes.

Mr. Rivlin: And, well, Your Honour, it's not for me to interfere in any way.

G JUDGE STROYAN: No.

Mr. Rivlin: But if Your Honour thought possibly we might adjourn and start a little earlier in the morning.

H JUDGE STROYAN: Yes, I think that might be best and I have it in mind.



A Mr Symonds: I am trying to avoid finishing the Defence in a muddle, Your Honour, with a selection of different events being read out to the jury. I would like them to be read in chronological order.

JUDGE STROYAN: Yes, very well. I will rise now then. The jury had better come back and we had better tell them what is happening.

B Mr Symonds: Thank you.

JUDGE STROYAN: We will start at ten o' clock tomorrow morning. The reading of the evidence won't take more than an hour or so, will it?

C Mr. Rivlin: Your Honour, would you allow a short five minute break between the reading of all those statements and the commencement of my speech?

JUDGE STROYAN: Yes, certainly. Well, then we will have Mr. Rivlin's speech and I should think we would be able to have yours. I am not sitting on Friday but you can then finish your speech on Monday and I will then start summing up.

(The Jury return to Court)

D JUDGE STROYAN: Members of the Jury, we are trying to make some arrangements for the future. The defendant wants to get the statements which are to be read to you into order. Before they are, and he says it will take him some little time to do that, so I am going to rise now and I am going to ask you to be back at ten o' clock tomorrow morning so as to make up for lost time. We will then hear the statements read and that, I think, will conclude the case for the defendant. Then you will hear Mr. Rivlin address you on behalf of the Crown, followed by Mr. Symonds addressing you on his own behalf, and if he doesn't finish tomorrow then he will be able to do so on Monday morning because I am not going to be sitting on Friday, so you will have a long weekend. At least so far as this case is concerned.

(The Court adjourned)

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G I certify that I took shorthand notes in the above proceedings of Regina -v- John Alexander Symonds and that pages numbered 1 to 63 are a correct and complete transcript of my said shorthand notes, to the best of my skill and ability.

*J. Anderson...*