

IN THE CROWN COURT AT TEESSIDE

Before:

HIS HONOUR JUDGE STROYAN Q.C.

Held at the Law Courts,  
Victoria Square,  
Middlesbrough.

TUESDAY 10TH MARCH 1981

( Trial within a trial: )  
( Evidence of Mr. Mounter and )  
( Mr. Perry for the prosecution. )  
( Opening of defence case and )  
( evidence of Mr. Ford )

R E G I N A

- v -

J. A. SYMONDS

MR. RIVLIN Q.C. and MR. RADCLIFFE appeared as counsel on behalf of the Crown  
MR. SYMONDS represented himself

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(Transcript of the shorthand notes of Mrs. L. Pearce of Messrs. Humphreys,  
Barnett & Co., Official Shorthand Writers, 19 Queen Victoria Street,  
Leeds.)

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A

B

Tuesday 10th March 1981  
Trial within a trial (continued)

I N D E X

C

1 Discussion re. witnesses

6 Evidence of Julian Mounter (cross-examination)

17 " " " (re-examination)

D

20 Discussion re. witnesses

35 Evidence of Michael Roy Perry (in chief)

36 " " " (cross-examination)

39 Mr. Symonds opens case for the defence

E

43 Evidence of Hugh Dermot Ford (in chief)

60 " " " (cross-examination)

F

G

H

TUESDAY 10TH MARCH 1981

Continuation of trial within trial not in the presence of the jury

A HIS HONOUR JUDGE STROYAN: Mr. Symonds, I understand there is a question about certain witnesses you may wish to call.

MR. SYMONDS: True sir. Dealing first with the prosecution witnesses, we have been given an order of witnesses my Lord which is for the main trial. We have not been given an order of witnesses for this trial, but I have notified the prosecution on several occasions.

B HIS HONOUR JUDGE STROYAN: Well you were told in clear terms yesterday, I think it was, there is no problem about order of witnesses this time.

MR. SYMONDS: Very good my Lord, but there are witnesses which I would like the prosecution to call during this inquiry as I wish to ask them some questions my Lord on matters relevant to the inquiry in hand.

C MR. RIVLIN : Your Honour I have made it clear that the only other witness I propose to call is Mr. Perry to prove the voices. I have also made it clear that we undertake to have available to the defendant for him to call any material witness whose name appears on the original list of depositions.

HIS HONOUR JUDGE STROYAN: Yes.

D MR. RIVLIN: Although I have equally made it clear that we are only prepared to go to the expense of bringing these people up if we can be satisfied that their evidence, if heard, would be relevant. I hope Your Honour would agree that that is an appropriate course, because I envisage a situation whereby a great deal of money is spent on bringing witnesses up from London and other places and their evidence may not be relevant to this very narrow issue.

HIS HONOUR JUDGE STROYAN: Yes, that is obviously a risk.

E MR. RIVLIN: Mr. Moody is already in Durham, he has been brought up.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And as I say, if we are told who the defendant wishes to call on his own behalf we will certainly do our best to co-operate, providing that we can be satisfied that evidence is likely to be relevant.

F MR. SYMONDS: My Lord most of these witnesses are listed on the back of the indictment and the ones that are not listed on the back of the indictment have been served as notices of further evidence my Lord, and I would submit that it is the prosecution's duty to call these witnesses and if they do not want to ask them any questions they must make them available for cross-examination.

G HIS HONOUR JUDGE STROYAN: No, that is not the law. The position is that on this very narrow issue with which I am now concerned the prosecution call such witnesses as they think appropriate, you then call any witnesses, evidence of course being relevant and admissible, and we shall hear whether the prosecution want to ask leave to call evidence in rebuttal. That is the way this part of the trial will be carried out. If you want to have here any witnesses who can give relevant evidence, you shall call them.

H MR. SYMONDS: Well in respect, for example, the witness mentioned, Mr. Moody, is he in fact a prosecution witness or a defence witness?

HIS HONOUR JUDGE STROYAN: You heard Mr. Rivlin say that the witnesses on the back of the indictment will be available if they can give relevant evidence and they will be called by you if you want them. The only other witness the Crown are calling, you have just heard, is Mr. Perry.

A MR. SYMONDS: Well my Lord I would like to give notice that I would like to call Mr. Lambert.

HIS HONOUR JUDGE STROYAN: Lambert. What is he going to say that is relevant to this?

B MR. SYMONDS: My Lord he was the officer, appointed investigating officer in the early stages of the inquiry my Lord, and had charge of the tape recordings in the early months. It wasn't until some months later that Mr. Moody took over the inquiry.

HIS HONOUR JUDGE STROYAN: Is he a witness on the back of the indictment?

C MR. SYMONDS: My Lord he was originally to be a defence witness, as was Mr. Moody, but the prosecution have now jumped in, one or two days ago, with notices of further evidence in what would seem to be an effort to take away their status as defence witnesses and make them into prosecution witnesses, and following on from this my Lord, enormous lengths have been gone to that I shouldn't have an opportunity to interview or to have my solicitor interview for instance Mr. Moody, who is now a highly prized, apparently, prosecution witness.

D MR. RIVLIN: Your Honour it is a little difficult to understand some of these points. I can understand them but it is a little bit difficult to understand what sort of mind is making them up. The first point is this, and it concerned Mr. Lambert. It came to my notice when I first read these papers that the diary in this case was not being formally produced as it should be, and so I said that we had to have a statement from Mr. Lambert who first obtained it to formally produce it. I would be only too happy for him to be a defence witness. We wish to call as few witnesses as we possibly can, but we had to serve his additional evidence, and it was not done a day or so ago, it was done a week or so ago. We had to serve that additional evidence to cover up that point about the diary.

HIS HONOUR JUDGE STROYAN: This witness's diary?

MR. RIVLIN: Yes, that is the defendant's diary, exhibit 31.

F HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: As regards the idea that we are making him into one of our witnesses, in the first place we would be only too happy for him to be a defence witness, but we have got to call him. In the second place he will be brought to this court, and we haven't been approached by the defence about this, but if Mr. Green would like to interview Mr. Lambert we would have no objections whatsoever to him doing so.

G As regards Mr. Moody, the situation is this, that he is not to be called on behalf of the prosecution. Your Honour made an order last week to the effect that there should be no contact between Mr. Moody and the defendant. In our submission that is obviously right. We have not been asked whether it would be appropriate for his solicitor, Mr. Green, to interview Mr. Moody. If I had been asked I would have had no objection, subject to taking instructions about the matter.

H HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: But when these matters are mentioned for the very first time before you in this way one really wonders. Now the situation is that Mr. Lambert is not on the back of the indictment, but he being a serving and senior police officer, if the defendant wishes to call him as part of his case in the trial within a trial we will do our utmost to have him brought here and to co-operate.

HIS HONOUR JUDGE STROYAN: Very well. So far as Mr. Moody is concerned then ...

MR. RIVLIN: I am told that Mr. Lambert has now retired, but he has up till very recent times been a senior police officer, but we will do what we can to help.

MR. SYMONDS: Oh my Lord, to avoid you being misled by false points on several things there, in the first place Mr. Lambert is not a senior officer serving or recently retired. He retired, I believe, 10 years ago. Mr. Lambert has made a statement to my defence solicitors some months ago and was in fact subpoenaed to attend as a defence witness at my trial. The same applies for Mr. Moody who was also subpoenaed, so arrangements were made to bring him up on a Home Office order as a defence witness for my trial my Lord. These matters were aired before, I believe at a practise direction, and maybe this was news to the prosecution, I don't know, but shortly after that the prosecution suddenly decided that they would have them, they would rather have them as prosecution witnesses. So what I say, my Lord, is if they are prosecution witnesses, then they should be brought by the prosecution and offered for cross-examination.

HIS HONOUR JUDGE STROYAN: They are not prosecution witnesses. If you want Mr. Lambert and if you can satisfy me that he can give relevant evidence, well then you may have leave to call him. So far as Mr. Moody is concerned, there being I think no objection to it, I will certainly say that he can be interviewed by your solicitor, Mr. Green.

MR. SYMONDS: And Mr. Moody sir?

HIS HONOUR JUDGE STROYAN: I have just said Mr. Moody.

MR. SYMONDS: Sir, I would like it clarified, are these officers, are they ruled prosecution witnesses or defence witnesses?

HIS HONOUR JUDGE STROYAN: If you want to call them they will be your witnesses. The Crown are not going to call them.

MR. SYMONDS: Does the Crown propose to call them during the trial proper, my Lord?

HIS HONOUR JUDGE STROYAN: I am not concerned with that at the moment. I am concerned with this issue which I am trying now.

MR. SYMONDS: Further to that my Lord, the matter of Mr. Hyde and Mr. Penner and Mr. Ealey, I would like that position clarified my Lord. They were first of all supposed to be the people who made a transcript of tape recordings and I see they have now been promoted to the status of expert and they have been withheld to give an expert opinion after ?(inaudible). I disagree with that my Lord. I think that they should be called at this stage because I remind you that exhibit 35(c), which has been put in as an exhibit by the prosecution, has not yet been proved, and we have asked that it be proved on more than one occasion my Lord, and if for that matter alone, to prove exhibit 35(c), I think Mr. Penner and Mr. Ealey should give evidence at this stage of the prosecution case.

HIS HONOUR JUDGE STROYAN: You have heard the only other witness to be called is Mr. Perry. I cannot force the prosecution to call anybody they do not want to call.

**A** MR. SYMONDS: In that case I would like exhibit 35(c) withdrawn.

MR. RIVLIN: Yes, I think the defendant has made a fair point there. If I do not call Mr. Penner and Mr. Ealey at this stage then we do not prove exhibit 35(c).

HIS HONOUR JUDGE STROYAN: Yes.

**B** MR. RIVLIN: But we have proved already the police transcripts and, through the defendant, the Times transcripts.

HIS HONOUR JUDGE STROYAN: Yes. The police one, that is 35?

MR. RIVLIN: Police transcripts are 35(a) and (b).

HIS HONOUR JUDGE STROYAN: Yes.

**C** MR. RIVLIN: 35(c) is Penner and Ealey's, and 35(d) is the Times transcript.

HIS HONOUR JUDGE STROYAN: Yes, well the police transcript and Times transcript are now proved.

**D** MR. RIVLIN: Both police transcripts and the Times transcript are proved. There is no sinister reason for not calling these people. We wish to save time.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS: Are they to be called or not, may I ask?

HIS HONOUR JUDGE STROYAN: No.

**E** MR. SYMONDS: Well would exhibit 35 be withdrawn, my Lord?

MR. RIVLIN: Yes, it is withdrawn.

MR. SYMONDS: Please may the Court record be noted, withdrawn.

MR. RIVLIN: It will of course be proved in the main trial. It is withdrawn for the trial within a trial.

**F** HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS: My Lord at one stage when I was being urged to say something horrid to the witness Mr. Mounter, and I understood that if I did say something horrid I would not be allowed to ask further questions in cross-examination, and this business of pointing out, following on from that my Lord ...

**G** HIS HONOUR JUDGE STROYAN: Mr. Symonds just listen to me. That is not so. You said you were about to make an unpleasant allegation about him. I have told you on a number of occasions that if you were going to suggest that he had done something wrong in relation to the tapes that should be put to him in common fairness. That is what I told you.

**H** MR. SYMONDS: My Lord this was a legal trick by the prosecution.

HIS HONOUR JUDGE STROYAN: It was not.

MR. SYMONDS: And I would remind your Lordship that when I applied for the help of a barrister at the beginning of this case and you refused, you said that you would protect me.

HIS HONOUR JUDGE STROYAN: I did not.

MR. SYMONDS: My Lord, and I will suggest that instead of protecting me from that ditch you gave me a damn great shove and pushed me right in it, because from then on I have been forced to disclose my defence and all sorts of things are coming on from that my Lord. I think you had a duty to warn me of what would happen following on from saying something horrid to Mr. Mounter.

HIS HONOUR JUDGE STROYAN: Mr. Symonds, you are becoming very close to being in contempt of Court.

MR. SYMONDS: Very good my Lord.

HIS HONOUR JUDGE STROYAN: Very well. I have said that if you can satisfy me that Mr. Lambert can give relevant and admissible evidence you may call him. The same applies to Mr. Moody. So far as Mr. Moody is concerned, I have given leave, if it be necessary, that he be interviewed by your solicitor. Those are the two things I think you wanted.

MR. RIVLIN: Well we shall get Mr. Lambert here, so I hope we now know where we stand about witnesses.

HIS HONOUR JUDGE STROYAN: Yes Mr. Green, is there anything ...?

MR. GREEN: Could I just say a word, Your Honour? We are still slightly concerned about defence witnesses and I was wondering if perhaps it would be alright to have a word with Mr. Symonds about this, with the other defence witnesses, people who are not prosecution witnesses in any way.

HIS HONOUR JUDGE STROYAN: You mean you want a word with him now?

MR. GREEN: No, I was wondering, perhaps Mr. Symonds could justify them. We are slightly concerned about getting witnesses up here from London who might not be relevant, and Mr. Symonds is instructing us that he wishes people to be called and we are slightly concerned as to our position should it then be considered that they were not giving relevant evidence.

HIS HONOUR JUDGE STROYAN: Yes, I follow that.

MR. GREEN: It might be a relevant time to consider.

HIS HONOUR JUDGE STROYAN: Yes. You want to say anything?

MR. RIVLIN: No Your Honour, before we embark upon this obviously important exercise, I do have in mind that Mr. Mounter has been here for a very long time and this exercise may take not a short time and I would like to get Mr. Mounter away if I can. I think that we owe it to him to get him away.

HIS HONOUR JUDGE STROYAN: Well he has been in the witness box for three days now.

MR. RIVLIN: And he has been here since last Monday and he has got a fairly important job.

HIS HONOUR JUDGE STROYAN: Yes, very well, I have dealt with the question of Mr. Lambert and Mr. Moody. I will deal with the question of other witnesses when we come to the conclusion of Mr. Mounter's evidence.

EVIDENCE OF MR. MOUNTER (ctd.)

(CROSS-EXAMINATION BY MR. SYMONDS)

MR. SYMONDS:

Q. Mr. Mounter I believe that yesterday we had difficulty with the events of the 31st October. Do you have your notes and your pocket book notes and your statement before you? - A. I have.

Q. Do you have a note about the copying process on November the 11th? - A. No, no I don't.

Q. Do you recall whether you were present at Location Sound Facilities when these copies were made? - A. No, I don't recall.

Q. Could you have been? - A. I don't think I was.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS: My Lord may I word a question in such a way to tell Mr. Mounter that other previous witnesses have given evidence that he was in fact present together with a lady secretary. Witness has given evidence that he was present together with a lady secretary on this day.

HIS HONOUR JUDGE STROYAN: Well you have done so now. Were you present?

MR. MOUNTER: As I said so, I don't recall it.

HIS HONOUR JUDGE STROYAN: Very well.

MR. MOUNTER: I think I said yesterday that I do recall going once to Location Sound. I do not remember the time or the event. I thought it was possibly, having been asked, with Chief Inspector Duffy.

MR. SYMONDS:

Q. Do you recall on or about that date some enquiry as to why tapes had not been taken, or original tapes already in existence had not been taken to be copied? - A. On or about the 11th November. No I don't, I don't recall.

HIS HONOUR JUDGE STROYAN: Mr. Symonds there is no good going on asking him. He has said several times he does not recall.

MR. SYMONDS: My Lord my difficulty here is Mr. Lloyd and Mr. Hawkey went on two questions of copying. They left everything to Mr. Mounter in certain aspects and Mr. Mounter unfortunately cannot remember, so that line of inquiry has come to a dead end, because I believe it was mentioned that I should ask Mr. Mounter questions about the copying where this has arisen on previous occasions.

HIS HONOUR JUDGE STROYAN: Perhaps one of the reasons he does not remember no doubt is the fact that there has been a very long delay.

MR. SYMONDS:

Q. Do you recall, referring to your notebook and statements, do you recall going to a house in Beckenham on the 20th November? - A. I am afraid I don't.



Q. 76 Cromwell Road. That address mean anything to you? - A. No.

Q. Mrs. Corrine Knight? - A. Oh yes, I remember going there.

Q. You remember now. - A. Yes.

Q. Do you recall making telephone calls from that address? - A. No.

Q. In an effort to arrange an appointment with the police officers? -

A. No I don't. Mrs. Knight is a very good, was the wife of a very good friend of mine, I remember going there quite clearly. I remember going after one of the meetings and I thought we played back some tapes, but we may have made phone calls from there, I am not sure.

Q. During that day did you make phone calls to Mr. Robson and Mr. Harris? -

A. As I said, I don't recall.

HIS HONOUR JUDGE STROYAN: I don't see how this can help me.

MR. SYMONDS: Well my Lord this is another tape that is missing.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS: At some time either on November 20th or November 21st were you aware that a meeting had been arranged for the 21st between Mr. Perry and Sergeant Symonds? - A. Yes I remember meeting, November 21st.

Q. Do you remember setting up the equipment on that day for the recording processes? - A. I remember setting up equipment on several days. I cannot remember that one specifically.

Q. By referring to your notes in your pocket book, your notebook, statement number 7 dated November 21st, could you refresh your memory from paragraph 2 regarding the equipment set up on that day? - A. Yes.

Q. Do you now recall that Mr. Perry was in fact wearing a pocket Grundig recorder? - A. Yes.

Q. And did he have a radio microphone around his neck? - A. He would have done, yes.

Q. And were there two receivers from this radio microphone? - A. Yes, I think so.

Q. Can you recall where one of them was? - A. I am just reading from the statement which says that one was attached to a Nagra which was placed in the back seat of a blue station wagon. The third Nagra was linked to a microphone concealed under the dashboard and one was attached to a Nagra tape recorder concealed in the boot of the Wolsley. That seems to be the same one actually. One receiver for this was attached to a Nagra tape recorder concealed in the boot of the Wolsley, in other words attached to the Nagra which was placed in the back seat of the blue station wagon.

HIS HONOUR JUDGE STROYAN: So there were two.

MR. SYMONDS: No my Lord, he has just described three. Of course one was connected with a ...

HIS HONOUR JUDGE STROYAN: Just a moment, let me get this down right. One was attached to a ...

MR. SYMONDS: A direct microphone.

HIS HONOUR JUDGE STROYAN: Mr. Symonds, I am asking the witness questions.

MR. MOUNTER: Yes, one receiver was attached ...

HIS HONOUR JUDGE STROYAN: Just let me check my note please. One was attached to a Nagra in a blue station wagon. One was attached to a microphone under the dashboard. That right?

MR. MOUNTER: Yes sir.

HIS HONOUR JUDGE STROYAN:

Q. And was in the boot. Now was there another? - A. Yes. One receiver for this was attached to a Nagra tape recorder and that appears also to have been concealed in the boot.

Q. There is one Nagra in the blue station wagon. - A. One in the blue station wagon and two in the boot of the Wolsley sir, one attached directly to a direct microphone and one also to a receiver. I think the purpose of this was that occasionally meetings were held other than where we thought they would be held and I think the thought was that they might get out of the Wolsley and get into Mr. Symonds car, in which case the radio microphone would still work between the two cars.

HIS HONOUR JUDGE STROYAN:

Q. I see, so that is two Nagras in the boot, one attached by direct line to the microphone under the dashboard and the other receiving from the microphone. - A. Yes.

Q. And one Nagra in the blue station wagon, so that is three in all. Yes? - A. Yes.

MR. SYMONDS:

Q. When describing these tape recordings later, were you in the habit of describing a receiver placed in a car other than Mr. Perry's as mobile? - A. No I don't think so. I am not sure. I seem to remember that we described one that was placed in the holdall bag as mobile, because occasionally if the meeting was going to be held in a bar or something, then the idea would be that we could walk into that bar and carry the mobile Nagra tape.

Q. Well do you recall whether the third Nagra was placed in a bag on this occasion or in another car? - A. It says it was placed in a bag in the car I think.

Q. In a bag in another car. - A. No it does not, sorry, it says in the back seat of the blue station wagon. It does not say in a bag. It may have been.

Q. So is it possible then that on your method of identification and markings this third Nagra would have been described as mobile? - A. It may have been.

Q. It may have been. - A. I am not sure.

Q. Now for the purpose of this hearing you have identified three tape recordings to the court. Exhibits, tapes number 13, 14 and 15, two Nagras and one Grundig. Do you know why the third Nagra tape recording, the mobile Nagra, is not before the court? - A. I don't. If it is not before the court I would imagine it did not work for some reason.

It may, for instance if it was in the station wagon it may for instance have been with Mr. Hawkey the recording engineer, and once we knew that you were having the meeting in the Wolsley it may not have been switched on, I don't know, but that would explain it I think.

**A** Q. If Mr. Hawkey, was this one of the occasions, the only occasion, do you recall when Mr. Hawkey and Miss Millard monitored a meeting between Perry and myself on the 21st? - A. I am sorry, how do you mean 'monitored'?

Q. Overheard by means of a tape recorder and radio receiver and headphones. -  
A. It may have been, I don't remember.

**B** Q. If this was so, this would have been the most important tape recording of the series, would it not? - A. No, I would have thought the most important one would have been the one that was direct to the microphone in the car. We were not anxious to have more than one tape recording of each meeting. The reason that there were several recorders going was that we had on one, I think, or possibly two occasions failed to cover a meeting because the meeting had taken place other than where we thought it would take place, so that was the reason. Once the meeting took place, the ideal place from our point of view was for it to take place in the Wolsley because that was a direct microphone and therefore there would be no problems with a radio microphone.

**C** Q. But apart from hearing one side of a telephone call on tape one, Perry's voice in fact, this was the only occasion in which two independent witnesses could give evidence, direct evidence, primary and first hand evidence of overhearing a conversation. - A. If you say so. I have no note of that.

**D** Q. Thank you. Now do you recall whether this tape was ever copied, this missing mobile Nagra tape? - A. I did not know that there was a tape, until you have said so I did not know that a tape was missing, and if it was, I would imagine it had nothing on it, in which case it would not have been copied.

**E** Q. Was it your habit to write 'master' on the box of the tape at the time of copying? - A. I can't remember when we wrote 'master'. We identified them mostly immediately after the meeting.

Q. Would you write 'master' immediately after the meeting? -  
A. I wouldn't have thought so, I am not sure.

**F** Q. Would you please look again at copy tape one. - A. Yes.

Q. Do you see some writing crossed out? - A. Yes I do.

Q. Would you again ... - A. "Master, Symonds, Grove, November 21st, made by Nagra."

**G** Q. So would it appear that there was in fact a tape recording in existence at one time from the mobile Nagra in the sound reporter's car? - A. It would seem so, yes, from this box.

Q. Can you offer the court any explanation why this tape recording is no longer in existence? - A. I would have thought that it did not record the ... if it isn't there it is because it did not record the conversation.

**H** Q. And so following on from that, if this tape did not record the conversation, and on similar tapes that did not record conversations,

when making copies was it your habit to make your copies onto tapes which had been unsuccessfully used on previous occasions? - A. I think I answered that question yesterday. I cannot really remember anything about the copying, but I would have thought not. The man to ask I think is Mr. Hawkey on that, whether he would use brand new tapes. I would have thought so.

Q. But looking at that box with "copy tape, tape one" written on it, is that correct? - A. Yes.

Q. And 'master, mobile Nagra, Symonds, Grove, November 21st' crossed out, would it appear from that that that had been a routine policy? -

A. No, it would suggest either, I mean it could suggest what you are suggesting, or that somebody required a box.

Q. Yes. Is it within your knowledge that every tape has a batch number? - A. No, that is not within my knowledge.

Q. Will you look at the white leader on the tape recording? - A. Yes.

Q. Do you see a number there? - A. I do, 35323.

Q. That is called a batch number. - A. Yes.

Q. Now will you look on the box to see if you can see a number. - A. Yes, there is a number there.

Q. Now is that number the same as the one you have just looked at on the tape? - A. No. No, it is different. It is 8126 on the box and it is 35323 on the tape.

Q. Is it within your knowledge that when tapes are issued from EMI, in this instance EMI tapes, the batch number unfailingly is the same for the tape and the box? - A. I did not know that, no, but I would presume it would be so.

Q. If that was so, could it be that here we have the wrong tape in the wrong box? - A. Yes, I think I said that.

Q. Thank you. Casting your mind back to tape five of the 31st in which an alleged conversation between Perry and myself on the 31st appears to have been recorded over part of a conversation referring to events on the 30th, could it be that this secondary conversation came, has come into existence because when the copy of tape five was made it was made onto a used tape? - A. Sorry, you have lost me.

Q. I am sorry. On tape five you recall I pointed out to you a place where the experts on both sides had found a fault. Following that we have conversation which obviously refers to a previous meeting on a previous day. - A. Yes, I am sorry I don't ...

HIS HONOUR JUDGE STROYAN: Well the prosecution accepted that part of tape 3(a) was erased by part of 3(b). That was one of the things they accepted. So far as tape 5 was concerned there was something rather similar accepted by the Crown.

MR. RIVLIN: We accepted that it was not factory fresh.

HIS HONOUR JUDGE STROYAN: They accepted it was not a very good tape. Yes.

MR. SYMONDS:

Q. Now do you understand, Mr. Mounter, what I am trying to get at? -

A. I understand what you are trying to get at. The simple answer to your questions, your very complex long questions, is that all these tape recordings were made at the time. Whether or not they were made on virgin tapes as you call them, or tapes that had not recorded something and had therefore been used again I cannot tell you I am afraid.

Q. You cannot, but I think you followed on from that to say that when you made your statement to police a week or so after the last recording session your memory was very clear and fresh at that time. -

A. Well you must remember there were many meetings, many including yours and the other meetings. It may have been that I made a mistake over whether or not it was a virgin tape. I cannot be certain, but I would have thought that I would be right.

Q. In your statement to the police where you had said that . - A. I would accept that I could have made that mistake, if it was a mistake.

Q. Mr. Mounter will you look at tape 13. Will you look at the box on tape 13. - A. Yes.

Q. Do you see any writing on the box? - A. Yes.

Q. Do you recognise the writing? - A. Yes, it is mine.

Q. Will you read out the writing that you recognise? - A. It says 'master, radio mike in boot of blu, Symonds at the Grove, November 21.'

Q. Would you describe the colour of the ink? - A. Yes, it is blue.

Q. Blue. Do you recall writing that on the back of the box? - A. Yes.

Q. Do you recall when you wrote it? By this I mean at the time of the making of the recording or at the time of copying. - A. I think I would have made it at the time of making the recording.

Q. Would you now please look at the spool of tape 13? - A. Yes.

Q. Do you see any writing on the spool? - A. I do.

Q. Do you recognise it? - A. Yes, it is mine.

Q. Would you please read it? - A. It says 'Symonds, Grove, November 21, radio mike in boot of blue' and I have signed it.

Q. Now please look carefully. Do you see the word 'master' written on the spool? - A. No, no.

Q. Is it to your knowledge that the procedure on prior meetings had been to write either the word 'master' or 'original' on the spool? -

A. I think sometimes we did, yes, I think we did.

Q. When you made copies of these tape recordings, if you made, were you in the habit of writing the same words on the spool of the copy as were written on the spool of the original? - A. I am not sure.

Q. Will you please look at copy tape 13? - A. Yes.

Q. Do you see writing on the spool? - A. I do.

Q. Could you read it out, the writing? - A. It says 'Symonds at Grove, November 21, copy.'

Q. 'Symonds at Grove'. - A. 'November 21, copy.' It is not in my handwriting.

A

Q. It has 'copy' written on the spool? - A. It has.

Q. And it is not in your handwriting. - A. It is not in my handwriting.

Q. Do you recognise the handwriting on the copy? - A. No I don't. It may be Gary's but I am not sure. It is certainly not mine.

B

Q. I believe you did recognise Mr. Lloyd's writing on previous occasions. - A. Did I. Well it may be but it is not mine.

Q. Could it be Miss Warren's? - A. I wouldn't know.

HIS HONOUR JUDGE STROYAN: He is not a handwriting expert.

C

MR. SYMONDS: Thank you.

Q. Why did you write 'master' on the box of tape 13 and not on the spool? Is there any reason for that? - A. I couldn't tell you what the reason for that would be, no.

Q. Will you look at tape 14 please? - A. Yes.

Q. Do you recognise writing on the box? - A. Yes, that is mine.

D

Q. Would you read out your writing? - A. It says 'November 21, Symonds at the Grove, direct to Nagra in boot of blue.'

Q. Are you looking at tape 13 or tape 14? - A. It says 14.

Q. Tape 14.

E

HIS HONOUR JUDGE STROYAN:

Q. It says what, 'November 21, Symonds at the Grove', anything else? -

A. 'Direct to Nagra in boot of blue.'

Q. That is on the box? - A. On the tape.

Q. On the tapes?

F

MR. SYMONDS:

Q. On tape 14? - A. Yes.

Q. Now do you recall what was written on the box of tape 13. 'Radio mike in boot of blu', is that correct, the one you have just looked at? - A. I presume so, yes.

G

Q. Tape 13 and tape 14. - A. They are both written on as master. One was in the boot, the radio mike in the boot, and one would have been the direct mike.

Q. So is it correct that tape 13 was the radio mike in the boot and tape 14 was the direct mike in the boot? - A. That is what it would seem to be, yes.

H

Q. Now looking at those again, is it correct that on tape 13 you have 'radio mike in the boot' written on the box and the spool to identify the location on the box and on the spool? - A. Yes.

Q. And is it correct on tape 14 on the spool you have the identification 'direct to Nagra in boot' but you do not have this on the box? -

A. That is right.

**A** Q. On the box it is just 'Symonds at Grove'. - A. 'November 21' and it is another master, yes.

Q. Do you recognise that writing positively as yours? - A. Yes, all except the '7 inch number 7.'

Q. Could it be somebody else's writing? - A. Do you mean the '7 inch number 7'?

**B** Q. The word 'master'. - A. No, absolutely not.

Q. Absolutely not. - A. No, it is my writing.

Q. If a police officer has recalled writing that word 'master' he would be incorrect? - A. He would.

**C** Q. Absolutely? - A. Yes, it is in my writing.

Q. Looking at the spool of tape 14. - A. Yes.

Q. Did you sign the spool with your name, J. D. Mounter? - A. Yes sir.

Q. Do you recall that you did not sign the spool of tape 13? -  
**D** A. I think I did actually, I just looked at it. I may not have done. Yes I did.

Q. You did. - A. Yes.

Q. Would you now please look at exhibit 15, tape 15? - A. Yes.

Q. Looking at the box, do you recognise the writing on the box? -

**E** A. All except the word 'master'. 'November 21 in Grove, Symonds. Grundig used to direct, J. D. Mounter.'

Q. You signed the box on this occasion? - A. I did.

Q. But you did not sign the box on the two sister tapes 13 and 14. -  
A. No.

**F** Q. Was there any reason for this, signing the box on this one occasion and not on the other two tapes? - A. I really can't remember but I should think it was most innocuous that I did not do so.

Q. Do you recognise, do you see the word 'master' written on the box? -  
A. I do.

**G** Q. Do you recognise the writing? - A. I think it is Mr. Lloyd's but I may be wrong. It is not mine.

Q. Remembering this is the one occasion the 21st November and these are three, having identified your own writing on the boxes of tapes 13, 14 and 15 and the word 'master' written by yourself on the box of tapes 13 and 14. - A. Yes.

**H** Q. Can you make some explanation as to why Mr. Lloyd should write 'master' on tape 15? - A. I can, because it was Mr. Lloyd's habit, immediately after the meetings, to interview Mr. Perry and he would

have unstrapped the tape recorder from his wrist, so he may well have, having taken the tape off, written 'master' then handed it to me. I don't know, but that is sort of one sort of explanation.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

Q. Regarding the '7 inch number 7' on tape 14, you did not recognise the writing. Can you recall these numbers being put on the box and for what reason? - A. No I can't.

Q. Turning now to November the 25th, is it to your knowledge that some copies were made of original tape recordings on that day? -

A. No, don't remember that.

Q. Do you recall a typist from the Times taking some tape recordings away? - A. I remember Miss Worre going to have some tapes copied, yes.

Q. Did you give her these tapes to take to be copied? - A. Either Mr. Lloyd or myself would have done so, yes.

Q. You do not recall specifically? - A. No.

Q. Do you recall taking them back from her? - A. I do not but gather I did, yes.

Q. After Miss Worre had brought back the tape recordings do you recall yourself or Mr. Lloyd writing on the boxes and the spools to identify them? - A. I do not recall so, no, but we may have done.

Q. Because you see you have identified the boxes as being in your writing. - A. It may have been that is when I did it, yes.

Q. So when Miss Worre brought them back to the Times from Location Sound Facilities they would have been in unmarked boxes. - A. That would seem the logic from what you are saying, yes.

HIS HONOUR JUDGE STROYAN: These are the copies you are talking about?

MR. SYMONDS: Copies.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

Q. Do you recall a further occasion when copies were made of tape recordings against originals on December 2nd? - A. I think I said I remember that the tapes were copied again for the purposes that the police wanted the originals and that we wanted to keep for the Times their own copies, if that is the occasion you are referring to. I recollect that there was a need to do that. I am not very clear on the recollection of it being done.

Q. Do you recall writing on any of the boxes of the second set of tape recordings which I will call the Times tape recordings, the Times copies? - A. I may have done, I don't know.

Q. Could Mr. Mounter look at two boxes from the Times copies please which may help him to refresh his memory, tape 7 inch number 5 and 7 inch number 4 from the Times copies.

MR. RIVLIN: These copies are in the custody of the court.



MR. SYMONDS: That is 7 inch number 4 and 7 inch number 5 my Lord. Number 7 inch number 5.

HIS HONOUR JUDGE STROYAN: Yes. That is 7 inch number 5 and that is 7 inch number 4.

MR. SYMONDS:

Q. Mr. Mounter would you look at 7 inch number 5 of the Times copy. Do you see writing upon the box? - A. Yes I do.

Q. Do you recognise the writing? - A. Yes, it is mine.

Q. As yours? - A. Yes.

Q. And will you read the last sentence following on from 'Radio mike onto tape in' and then continue? - A. It says 'Copy 7 inch number 5, The Grove, November 5th, Sergeant Harris and Inspector Robson, taken by radio mike onto tape number 409. Boot of H was locked by Gary Lloyd and I before meeting and opened by us afterwards.'

Q. So, 'Gary Lloyd and I' and you recognise your writing, so can we say that you were responsible for making these Times tapes, it would seem? - A. Sorry?

Q. Would it seem from that that you were responsible for making these Times tape recordings on December 2nd? - A. Well that is an assumption.

Q. Well ... - A. It does appear that I have written on both the spool and on the box. As I said I do have some recollection of going with Inspector Duffy so it may have been, or I could have written it at a later date. I am not sure.

Q. Very good. Now if in fact you did go with Inspector Duffy and make these recordings, would Mr. Hawkey have been present? - A. There would have been somebody to work the machine, yes.

Q. To work the machine, and would the situation have been that Mr. Hawkey was working the machine making these copies and you were placing the original into the original box and the copy into the copy box and marking the copy box?

HIS HONOUR JUDGE STROYAN: What?

MR. MOUNTER: Sorry, I said I can't remember it in detail and I can't remember whether Mr. Hawkey would have made the copies or not. All I do remember is that I have some recollection of going there. It may well have been a system like that, I don't know.

MR. SYMONDS:

Q. It may well have been a system like that. - A. It may well have been a system like that.

Q. You took the copy tapes and you marked the boxes? - A. It could well have been, yes.

Q. Now will you please look at 7 inch number 4. Oh, before you come back to that, my Lord, would you please look at 7 inch number 4. Do you recognise the writing on that box? - A. Sorry, this one?

Q. On 7 inch number 4. - A. Yes, it is mine.

Q. Do you see the word 'master' written on that box? - A. I do, and scrubbed out, yes.

Q. Did you write the word 'master' on that box? - A. It is in my writing, yes.

Q. Could it appear from that that at some time and for one moment during the copying process you were mistaken as to which tape should go into which box? - A. That could be so. I have written 'copy' on the inside on the spool and 'copy'. I do not know why that is.

Q. But you wrote 'master' on? - A. It does say 'master' and scrubbed out, that is right.

Q. Will you look at the number on the tape, batch number? - A. Yes.

Q. Will you read it out please? - A. 35462.

Q. Will you look at the number on the box, the batch number? - A. 8124. Sorry, 32994.

Q. Now will you again look at tape number 7 inch number 5. Will you look at the number on the tape, the batch number on the tape? - A. 33254.

Q. And will you look at the batch number on the box? - A. 33254.

Q. 33254. Would you accept that with the exception of 7 inch number 4 all the other tape recordings match the batch number and the box number? - A. I have not looked at them all but if you say so.

Q. Yes. Can you give any explanation to this court why we have an instance here of the wrong tape being in the wrong box with the word 'master' crossed out on the box? - A. No.

Q. Would it appear from that that you may have handled or someone may have handled the tape on this instance in, say, rather careless manner? - A. No.

Q. You would not? - A. No.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

Q. Oh. Mr. Mounter you recognise your writing on that last thing. Did you notice how you spelt my name? - A. You are not mentioned on them.

Q. Well will you look on, for example, tape 5 number 3 of the Times copies.

HIS HONOUR JUDGE STROYAN: Mr. Symonds I have already said I am not really interested in mistakes.

MR. SYMONDS: Thank you very much my Lord.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

Q. Mr. Mounter if at some later stage when the experts give evidence it is discovered that amongst the original tapes offered as original tape recordings we find an instance of the wrong tape in the wrong box, amongst

A the police copy tapes we have a wrong tape in a wrong box, amongst the Times copy tapes we have a wrong tape in a wrong box, amongst the Times copy tape we have the word 'master' crossed out, amongst the police copy tapes we have the word 'master' crossed out and we have words crossed out which refer to a tape recording which was apparently made but which is now lost. Would you say that this could indicate that at some stage in your inquiry the tapes and copies etc. were handled with somewhat less than due care by someone somewhere? - A. I don't think so. The point really is that the tapes, the original master tapes were treated with great care. It may well be that boxes got mixed up, I don't know. It appears from what you are saying that they did, but the tapes were handled with great care.

B Q. Following on from that, if the boxes were mixed up at some stage and some of these tapes have 'master' or 'original' written on the spool and some do not, is it beyond the bounds of possibility that a tape recording could have ended up in the wrong box. By this I mean that a copy tape recording could have been put in some way at some time into a box marked 'master'.

C HIS HONOUR JUDGE STROYAN: Well that is really a comment.

MR. MOUNTER: I would have thought it extremely unlikely.

MR. SYMONDS: Well thank you.

HIS HONOUR JUDGE STROYAN: Yes Mr. Rivlin.

RE-EXAMINED BY MR. RIVLIN

MR. RIVLIN:

Q. Yes, I have only one matter I would like to deal with Mr. Mounter and that is this. You have been asked about the question of boxes with the word 'master' crossed out and you have been asked in particular about the 21st November of 1969 with reference to the possibility that a tape has gone missing. - A. Yes sir.

E Q. Do you understand - and I think that it may be possible for us to clear up that particular mystery. Did you make a very long statement to the police about all this? - A. I did sir.

Q. Over a hundred pages in all, is that right? - A. Yes sir.

F Q. And I am not going to ask you to look at that statement or the contents of it before you have identified it and identified the date of it. Would you please have a look at the original statement. Do you see your signature on the statement? - A. Yes sir.

Q. Is that the statement you made to the police? - A. Yes sir.

Q. And if you go to the very beginning of the statement do you see the date of it, I think it is the 19th December of 1969? - A. Yes sir.

G Q. That is within a month of the 21st November of 1969. - A. Yes.

Q. At that time when you made your statement to the police would the matters of the 21st November, that is about three weeks earlier, then have been fresh in your mind? - A. They would have been, yes sir.

H Q. To be fair, about three and a half weeks earlier. - A. Yes, fairly fresh.

Q. They would then have been fresh in your mind, and again just answer this question if you would please yes or no. In that statement did you deal in detail with the tapes? - A. Yes sir.

MR. RIVLIN: Your Honour I would like the witness, with your leave, to have a look at page 100 of that statement where he deals with the 21st November.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN:

Q. Would you go to page 100 please. Start at page 199. Do you have that, it is a typed statement you have, is it? - A. Page 99?

Q. Page 199. Sorry, page 99 of the statement. It is page 199 of our bundle for Mr. Symonds benefit. - A. Yes.

Q. Now you are there looking at I think part of a schedule of ...

MR. SYMONDS: Excuse me, I do not have a copy of this.

MR. RIVLIN: I think Mr. Symonds probably will have a copy because he has already referred to the witness's statement to the police. It is the witness's statement to the police, a very long document.

MR. SYMONDS: I have got that, yes.

MR. RIVLIN: And we have got an extract of it for your benefit if you feel it appropriate to look at it, but perhaps it is best not at the moment, Your Honour, because it has not been accepted yet.

HIS HONOUR JUDGE STROYAN: If it has not been used I have probably not seen it.

MR. SYMONDS: I follow on this.

MR. RIVLIN: Very well.

Q. Now that is part of a schedule, isn't it, in which you deal with a great number of exhibits including tapes and boxes and the like? -

A. Page 99 sir?

Q. Page 99 of your statement. You find the page number ...

HIS HONOUR JUDGE STROYAN: Was it detached and put in at an earlier stage?

MR. RIVLIN: No, that was part of a schedule by Mr. Lloyd.

MR. MOUNTER: Sorry, yes sir I have that.

MR. RIVLIN:

Q. You have that, do you? - A. I do sir.

Q. Now that is part of a detailed schedule of many exhibits. - A. Yes.

Q. Now would you look towards the bottom of the page and do you there see reference to the 21st November? - A. Yes sir.

Q. Begins with a tape between Mr. Perry and Mr. Robson. - A. Yes.

Q. Right. Now we are onto the 21st November, and do you there list, thereafter list the four tapes relevant to Mr. Symonds on the 21st November, two on that page and two over the top of the page? - A. Yes.

Q. What is the first tape that you have listed? - A. Grundig pocket recorder tapes.

Q. And how was that attached? - A. To his wrist.

**A**

Q. To Mr. Perry's wrist? - A. To Mr. Perry's wrist.

Q. What is the second tape you have listed? - A. 7 inch Nagra direct to the microphone in the boot of the Wolsley.

HIS HONOUR JUDGE STROYAN: Just a moment. 7 inch Nagra direct to the boot, is that right?

**B**

MR. RIVLIN: Yes.

Q. What is the third tape that you have listed? - A. 7 inch Nagra linked to the radio microphone concealed in boot of the Wolsley.

HIS HONOUR JUDGE STROYAN:

Q. That is BLU, is it? - A. Yes.

**C**

MR. RIVLIN:

Q. And is there reference to a fourth tape? - A. There is.

Q. Now I would like you to refresh your memory from this document and read it very slowly. - A. It says 'A tape 4, a tape, 7 inch Nagra, operated in blue station wagon by Hawkey and Millard.'

HIS HONOUR JUDGE STROYAN:

**D**

Q. Just a moment. Tape 7 inch Nagra operated ...? - A. In blue station wagon.

Q. Yes. - A. By Hawkey and Millard not now available as there was nothing on tape.

HIS HONOUR JUDGE STROYAN: Yes.

**E**

MR. RIVLIN:

Q. Now at the time that you made that statement were these matters then fresh in your memory? - A. Yes sir.

Q. And does that help you to remember, Mr. Mounter, what happened to the fourth tape in the motor car of Hawkey and Millard? - A. It does not help me to remember it sir, but they would have been fresh at that time, much more fresh.

**F**

Q. Certainly, but does that help you to remember, looking at that document, in the first place as to whether there was anything on the tape? - A. I am sure if it is here there wasn't.

Q. Yes, so it does help you to remember. - A. Yes.

**G**

Q. Because after all, this statement was made within a matter of weeks, wasn't it? - A. Weeks, yes.

Q. And if there had been nothing on that tape would you have bothered to retain it and to put it in as an original? - A. No sir.

MR. RIVLIN: No. Yes, I have no more questions.

**H**

HIS HONOUR JUDGE STROYAN: Thank you.

MR. RIVLIN: Thank you very much indeed Mr. Mounter.

MR. SYMONDS: My Lord I wonder if I may ask one or two questions only in further cross-examination because I did not put that to Mr. Mounter?

HIS HONOUR JUDGE STROYAN: Mr. Symonds, Mr. Mounter has been in the witness box now, this is his third day, he has been giving evidence for something over six hours.

MR. SYMONDS: If I guarantee less than five minutes?

HIS HONOUR JUDGE STROYAN: No, I am afraid not. This would never come to an end otherwise. Thank you.

MR. RIVLIN: Thank you Mr. Mounter. Mr. Perry please.

HIS HONOUR JUDGE STROYAN: Now Mr. Symonds I am going to deal with two matters. One are those witnesses that you mentioned earlier this morning. The other is that the jury is now here and the question is when are they going to be needed. Is it possible to give any estimate?

MR. SYMONDS: My Lord I would, the only estimate I could give would depend entirely upon your directions on the matter of what witnesses I can call.

HIS HONOUR JUDGE STROYAN: Very well, let us deal with that first. Yes, we have already dealt with Lambert and Moody.

MR. SYMONDS: Well My Lord my witnesses will be the experts Mr. Ford, Mr. Killick, Mr. Taylor.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS: Then I would like to call Miss Millard who was the fourth member of this team.

HIS HONOUR JUDGE STROYAN: Yes, that is alright.

MR. SYMONDS: As the prosecution are calling Mr. Moody I will cross that off my list now sir. As the prosecution are calling Mr. Lambert I will cross him off my list.

HIS HONOUR JUDGE STROYAN: The prosecution are not calling either Moody or Lambert.

MR. SYMONDS: In that case I would like to call them my Lord. My Lord I would like to call Mr. Duffy who gave evidence at the previous hearing.

HIS HONOUR JUDGE STROYAN: How is he going to help? I do not know of this previous hearing or anything about it.

MR. SYMONDS: Well he was ...

MR. RIVLIN: Your Honour it may save time if I say that I concede that he is relevant.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: But the defendant knows and so does his instructing Solicitors know what he had to say at the last trial within a trial.

HIS HONOUR JUDGE STROYAN: Yes.

A MR. RIVLIN: He is a very senior officer. We obviously would like to avoid troubling him if possible. He is a Commander. If it is seriously thought that that which he would say if he came to court would help the defence in any way shape or form I would be the first to say that we should bring him here. I have got a transcript of his evidence. I am willing to make that available to Mr. Green.

MR. SYMONDS: In that case I would postpone Mr. Duffy for the moment until I have read the transcript.

B MR. RIVLIN: The defendant knows what he has got to say because he gave evidence last time and it was not helpful to the defence, in other words it did not advance their case in the trial within a trial.

HIS HONOUR JUDGE STROYAN: I think I shall want to be assured before I gave leave to call him that he was going to say something that would help your case.

C MR. SYMONDS: In view of the prosecution's offer I will re-read the transcript offered and maybe approach you again on that subject.

HIS HONOUR JUDGE STROYAN: Very well. I would like to know as soon as possible. Perhaps you can read it during the adjournment.

D MR. SYMONDS: Yes my Lord. I would like to call a Miss Clemence who is a member of the Location Sound Facilities staff. My Lord this is in connection with I think the very important ... My Lord if the originals, the fresh virgin tapes had been edited, they must have been cut in some way and bits removed of the tape and then the cuts joined together with sellotape, and that would of course mean that you have one EMI tape which cannot be produced because it would show obvious signs of surgery.

HIS HONOUR JUDGE STROYAN: Are we talking about the original tapes or the copy tapes?

E MR. SYMONDS: Original tapes my Lord.

HIS HONOUR JUDGE STROYAN: Yes.

F MR. SYMONDS: And the true original having been edited is then copied onto the false master which I believe is called a copy edited master or an edited copy. My Lord in order to achieve this, if editing was done using this method of cutting the tapes, this means that there are going to be used a number of other tapes over and above the tapes used and produced. Now at the moment my Lord we have 15 tapes alleged originals, 15 tapes alleged police copies and 15 tapes alleged Times copies. Those are onto EMI tapes. My Lord I submit that if in fact after the end of the inquiry the Location Sound Facilities invoice the Times for a larger number of tapes which are supposed to be in existence, my Lord I would consider this very relevant and I hope to call Miss Clemence who was a clerk or secretary to the Managing Director and for your Lordship to look at the invoice and to raise a query, well why has the Times had to pay for more than 45 tapes, what happened to these other tapes.

G HIS HONOUR JUDGE STROYAN: I do not think that is going to help you very much.

MR. SYMONDS: My Lord it is very important.

H MR. RIVLIN: Your Honour I might be able to help the defendant. He may wish to keep this evidence back and not let us know what this lady is going to say, but if he would like to tell us, if he would like to show

us a statement from this lady, tell us what she is going to say, we might be able to agree it.

**A** HIS HONOUR JUDGE STROYAN: For what the invoice is worth, I do not at the moment see how it can help.

MR. RIVLIN: Nor do I, but there it is.

HIS HONOUR JUDGE STROYAN: The invoice might be possibly agreed.

MR. RIVLIN: Certainly, we might very well be able to do that.

**B** MR. SYMONDS: I wonder if I could discuss that with my advisor during the lunch break.

HIS HONOUR JUDGE STROYAN: He may be able to help you now. I am reluctant to have her here merely to prove an invoice.

**C** MR. SYMONDS: My Lord without wasting the court's time, when I discuss this I need to produce voluminous documents about the invoices that I have and to break down the invoices into tapes. There were several invoices on several different occasions. The invoices refer to transfer notes which have different numbers which refer to the copying and I would like to ask the prosecution to agree to rather a fuller statement than the prosecution have of Miss Clemence by looking at the statements of Miss Vivienne Sheridan nee Maloney and to look at one or two other statements of staff and perhaps we can agree a statement which would save four people, my Lord.

**D** HIS HONOUR JUDGE STROYAN: I have no idea what those witnesses are going to say.

MR. RIVLIN: I think if we are approached about this we will do our best.

HIS HONOUR JUDGE STROYAN: Yes, very well.

**E** MR. SYMONDS: Well my Lord I wont mention the other Location Sound staff except, my Lord, for the proprietor Mr. Hales. In connection with this my Lord, Miss Millard and Mr. Hales be called and I believe that Mr. Clark, well one or two other people, my Lord, recall that during the taping exercise the true procedure was that after making the tape recordings at a meeting the reporters and Mr. Hawkey and Miss Millard and sometimes Perry took themselves off to Location Sound Facilities and made copies that night. Now Miss Millard did make a statement to the police about this. Mr. Hales has made a statement to the police also and a statement to solicitors, and Miss Millard has made a statement to my solicitors. My Lord this is very interesting because all the evidence we have heard has been in actual fact there was this rigmarole of copying on November 11th and again on November 25th under stricter controlled conditions. Now here we have witnesses who are going to come along and say ah, this is not quite right, in actual fact the reporters went back to Location Sound Facilities on the night, on the night of the 31st, on the night of the 3rd, on the night of the 5th, and so on my Lord, and made copies there and then. Now this was important because following on from the taping ...

**F** HIS HONOUR JUDGE STROYAN: I have heard both reporters.

**G** MR. SYMONDS: Yes my Lord.

**H** HIS HONOUR JUDGE STROYAN: Yes.



A MR. SYMONDS: Well my Lord, following on from what I told you of the usual method of editing, my Lord, whereby embarrassing bits such as discussions over photographers who have rather obviously taken the photographs or other embarrassing bits which would show agent provocateur, if that is the right word, and other embarrassing bits are immediately removed, this would entail going back to Location Sound Facilities that night, chopping off the bits they do not want which might get them taken off the job if Mr. Rees-Mogg or Mr. Webb found out that the thing was getting very dodgy indeed, chopping out those bits and making the copy edited master. Now unfortunately for the reporters, when they made the copy edited master they made it in a building which had mains electricity emitting a 15 hertz hum, which you will hear about my Lord. When the originals, the true virgins were made - and B I do not dispute for one moment that fresh original virgin tapes were used in the first place - the original tapes were made on battery operated machines nowhere near any transformers or any mains emitting 15 hertz hums or 30 hertz or what. Now my Lord we must also remember that we have missing tapes, brand new tapes invoiced to the Times ...

HIS HONOUR JUDGE STROYAN: But none of this was suggested ...

C MR. SYMONDS: None of this is important, my Lord, really?

HIS HONOUR JUDGE STROYAN: Listen, I did not say that. What I said was that it was not suggested to the reporters that they had done anything like this at all and you had them in the witness box for days.

D MR. SYMONDS: My Lord I suggested they tampered with the tapes. I did not go into saying what our witnesses are going to say about how and when they tampered with it exactly and all the rest of it, what times and dates etc. My Lord I suggested they tampered with the tapes.

HIS HONOUR JUDGE STROYAN: I told you that was exactly what you should have done in great detail.

MR. SYMONDS: Well do you want me to continue telling you why ...

E HIS HONOUR JUDGE STROYAN: I want you to tell me who you want to call and what they are going to say.

MR. SYMONDS: My Lord I think that Miss Millard ...

HIS HONOUR JUDGE STROYAN: You are calling Miss Millard so we need not go on about that.

F MR. SYMONDS: I think Mr. Hales and maybe other witnesses who corroborate Miss Millard, in as much as that the reporters ...

HIS HONOUR JUDGE STROYAN: You think Miss Millard is going to say that the reporters went back contrary to what they have told the court?

G MR. SYMONDS: In fact I would like your Lordship to look at Miss Millard's original statement to the police in which I believe she says, it is page 1 my Lord.

H MR. RIVLIN: No Your Honour, with respect he is going to call Miss Millard; let him call Miss Millard. As to the other matters, may I just say this, that for the life of me at the present time I find it difficult to see how other evidence could conceivably affect the result of this trial within a trial. There it is.

**A** HIS HONOUR JUDGE STROYAN: Yes. So you will call Miss Millard. You are going to call her either today or tomorrow I imagine. You are going to call your three experts. You are going to decide about Mr. Duffy when you have had a look at his transcript. Again, decide about Miss Clemence when you have had an opportunity of looking at the invoices. But I cannot see that the evidence of Mr. Hales is going to affect you very much. Is there anyone else?

MR. SYMONDS: My Lord will I get another chance to apply to call these defence witnesses?

**B** HIS HONOUR JUDGE STROYAN: If, when you have called Miss Millard, it appears that Mr. Hales may be able to give relevant and admissible and helpful evidence, well then I am perfectly prepared to reconsider that, but at the moment I cannot see that it is going to help me to come to a conclusion, but I will certainly be prepared to hear you again when I have heard Miss Millard and when I have heard your experts.

MR. SYMONDS: Well then following on from that my Lord, when the alleged originals were first handed over to the police ...

**C** HIS HONOUR JUDGE STROYAN: Well never mind that. Could you just please tell me if there is anyone else.

MR. SYMONDS: Yes my Lord. I am telling you why I want to call them.

HIS HONOUR JUDGE STROYAN: Could you tell me who they are?

**D** MR. SYMONDS: Mr. Buchanan, Mr. Hewsdon.

HIS HONOUR JUDGE STROYAN: Yes, anyone else?

MR. SYMONDS: Mr. Emmett, Mr. Webb, Miss Worre I can't call, is that right?

HIS HONOUR JUDGE STROYAN: No.

**E** MR. SYMONDS: That is absolutely finished?

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS: Well in that case Miss Dippey, if I can find her.

HIS HONOUR JUDGE STROYAN: Yes.

**F** MR. SYMONDS: Mr. Rees-Mogg.

HIS HONOUR JUDGE STROYAN: Yes. Well how are they going to help. First of all Mr. Buchanan. What do you think he is going to say?

MR. SYMONDS: Pardon?

**G** HIS HONOUR JUDGE STROYAN: I want to know how you think they are going to help.

MR. SYMONDS: Well my Lord, how I think they are going to help ...

HIS HONOUR JUDGE STROYAN: What is Mr. Buchanan going to say?

MR. SYMONDS: Well perhaps I should describe who Mr. Buchanan is.

**H** HIS HONOUR JUDGE STROYAN: Yes.

**A** MR. SYMONDS: Mr. Buchanan is, or was in fact a senior officer in the EMI organisation to Mr. Taylor. Now when the Commissioner of Police decided to give these alleged original recordings over to an absolutely independent expert for analysis as to their originality, they gave them to EMI. Arrangements were made through Mr. Buchanan. Mr. Buchanan delegated Mr. Taylor to carry out the investigation. You will hear the results of Mr. Taylor's investigation later, my Lord.

HIS HONOUR JUDGE STROYAN: Who is calling Mr. Taylor? Is it you?

**B** MR. SYMONDS: The police independent expert, the only independent one they have had - they have now got the Home Office employee and two laboratory technicians, employed by the police - the police went first of all to EMI, and EMI turned round and said "These tapes are crooked, obviously interfered with, obviously not original", so Mr. Taylor is now of course expert for the defence my Lord, together with two other entirely independent experts, the two top men in the country in fact, who will also say they are crooked. Now at some stage shortly after these tape recordings were given to EMI ...

HIS HONOUR JUDGE STROYAN: You are going to call Mr. Taylor, are you?

**C** MR. SYMONDS: My Lord he is here as a witness, he is a witness. He is an expert, he is here as an expert.

HIS HONOUR JUDGE STROYAN: What I am interested in is are you going to call him?

MR. SYMONDS: Yes my Lord, absolutely.

**D** HIS HONOUR JUDGE STROYAN: Yes. Then I cannot see that Mr. Buchanan is going to help.

MR. SYMONDS: Well my Lord ...

HIS HONOUR JUDGE STROYAN: What about Mr. Hewsdon.

**E** MR. SYMONDS: Apart from his part in arranging for the expert examination and such, shortly after EMI examined these tapes and the word went round that they were obviously crooked, obviously interfered with, obviously not according to their alleged histories, Mr. Buchanan received a phone call from L.S.F. Now Mr. Buchanan knew about L.S.F. because L.S.F. were the biggest firm in the country involved in location sound.

HIS HONOUR JUDGE STROYAN: It was Mr. Taylor who examined the tapes.

**F** MR. SYMONDS: Mr. Buchanan received the phone call, my Lord.

HIS HONOUR JUDGE STROYAN: How is that going to help you?

**G** MR. SYMONDS: From someone in L.S.F. on behalf of the Times, who wanted to know, "Is it true that you can find out whether tapes are originals or copies?" Mr. Buchanan mentioned this to Mr. Taylor and in fact they decided this ought to be mentioned to the police, and a statement was made to one of the investigating officers on this matter, because of course my Lord it is rather intriguing that the Times should instigate L.S.F. to find out whether or not EMI could establish whether tapes were originals or copies. My Lord I would suggest for that very one conversation alone I would suggest this man is of considerable interest to you.

**H** HIS HONOUR JUDGE STROYAN: I think that is totally irrelevant.

MR. SYMONDS: Totally irrelevant my Lord. Thank you very much.

HIS HONOUR JUDGE STROYAN: What about Hewsdon?

MR. SYMONDS: My Lord Mr. Hewsdon was the man, Chief Maintenance Engineer who was responsible for handing out tapes and equipment used on this inquiry by Mr. Hawkey and co.

HIS HONOUR JUDGE STROYAN: Yes, well I have heard Mr. Hawkey.

MR. SYMONDS: Yes, well my Lord there is a discrepancy, of course, a serious discrepancy over the number of tapes which were in fact drawn, used up and paid for, because you must remember, my Lord, that when tapes, according to Mr. Hawkey and according to the invoices, when tapes were used and failed to record a satisfactory conversation, they were returned to L.S.F. and I think Mr. Hawkey's exact words were "invoice wise", in other words the Times were not charged for tapes returned, and these tapes ...

HIS HONOUR JUDGE STROYAN: What I am concerned with are these tapes, not other tapes, and I have heard the evidence of Mr. Hawkey.

MR. SYMONDS: Well these were the missing tapes and this is very important information for tape 5, my Lord, where tape 5 was originally a tape used unsuccessfully on another earlier meeting, returned to L.S.F., was crossed off invoice wise, the Times was not to be charged with it, the tape was then taken to the laboratory and put aside for laboratory use. Later on the edited master, stuck together with sellotape, is copied onto what is going to be offered as the new master. Unfortunately, they picked up tape 5 before it had been processed through the bias eraser machine and therefore we now have tape 5, which for many years has been sworn blind to have been a new virgin tape, with this fatal, fatal for the prosecution my Lord, this fatal conversation left over from the previous day on the back end of it.

HIS HONOUR JUDGE STROYAN: What do you say about Mr. Emmett?

MR. SYMONDS: My Lord Mr. Emmett was an inquiry officer who took many statements and made many inquiries into these matters and interviewed many people, my Lord.

HIS HONOUR JUDGE STROYAN: Is he a policeman?

MR. RIVLIN: He is now a deputy Chief Constable.

HIS HONOUR JUDGE STROYAN: Yes, who took statements you say?

MR. SYMONDS: Yes my Lord, and interviewed people.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS: And went back and took further statements when it was discovered that their first statements were untrue in some way.

HIS HONOUR JUDGE STROYAN: Then the evidence about what they said would be hearsay and inadmissible.

MR. SYMONDS: Yes my Lord, but you see I applied to you to subpoena about 150 people. You say I cannot have them.

HIS HONOUR JUDGE STROYAN: That is right.

MR. SYMONDS: I thought that if I called one or two inquiry officers who took statements, because you said I must prove to you thoroughly they are relevant. My Lord these one or two inquiry officers, where one man was responsible for taking ...

**A** HIS HONOUR JUDGE STROYAN: The order I made was that you could call I think two witnesses and we would then see how the evidence went and if it looked as if it might be helpful to you, I would certainly be prepared to let you have more, but I am not going to burden the public purse with having 150 witnesses here when I do not know what they are going to say. And Emmett you say is a policeman who took some statements.

MR. SYMONDS: Yes my Lord.

HIS HONOUR JUDGE STROYAN: Yes, what about Webb?

**B** MR. SYMONDS: Webb, my Lord, was the News Editor of the Times at the time this happened and in fact was in charge of the investigation, the office manager if you like.

HIS HONOUR JUDGE STROYAN: Yes. How is he going to help you?

**C** MR. SYMONDS: Well my Lord for many years now we have had a story that from day one more or less the tape recordings, as soon as they were made, were rushed back to the Times, rushed into this huge steel safe, locked up securely, etc., etc., etc., my Lord. It has started to appear now, these last few days, that this is all absolute nonsense and lies. This is not what has happened at all, and in fact some sort of filing cabinet such as that was supplied to reporters by Mr. Webb in fact quite late in the inquiry, after they had received advice and it had been realised that the evidence the reporters was offering was quite insufficient to back up any allegation that it was proposed to make in the newspaper, so the conspiracy was got together at this stage whereby it was decided to make up this to pull the ends of the story together, to tie it up in other words.

**D** HIS HONOUR JUDGE STROYAN: That has been totally denied by the reporters.

MR. SYMONDS: Oh yes my Lord, of course they did. I would have been astonished if they sort of admitted it, but that is what happened my Lord.

HIS HONOUR JUDGE STROYAN: Do you suppose Mr. Webb is going to say ...

**E** MR. SYMONDS: As the reporters have denied it, does this mean I cannot call any witnesses who might well prove that their denials are false?

HIS HONOUR JUDGE STROYAN: No.

MR. SYMONDS: Thank you my Lord. So going on from that ...

**F** HIS HONOUR JUDGE STROYAN: I want to know what is going to be said is relevant. You must remember what I have got to decide is whether there is prima facie evidence that these tapes are original and authentic. I am not deciding, the jury are deciding the weight which those tapes will carry, if we get as far as the jury. I have heard what you say about Mr. Webb. What about Miss Dippey?

**G** MR. SYMONDS: My Lord Miss Dippey was one of the typists involved in transcribing these tapes, quite alone in an office somewhere, in actual fact tape 5 in my case. In actual fact she was transcribing this tape on November 11th it seems, when according to the false evidence before the court it was being copied.

HIS HONOUR JUDGE STROYAN: According to what?

**H** MR. SYMONDS: It was being copied on November the 11th ...

HIS HONOUR JUDGE STROYAN: What are you talking about. What false evidence are you talking about?

MR. SYMONDS: The false evidence given by the reporters, my Lord, as to the alleged continuity of handling of these tapes, and it is false.

HIS HONOUR JUDGE STROYAN: I do not know that yet.

MR. SYMONDS: Well my Lord, that is why I want to call these witnesses to try and urge you to start to think that.

HIS HONOUR JUDGE STROYAN: Well how is Miss Dippey going to help you?

MR. SYMONDS: The alleged continuity is entirely cooked up my Lord. Miss Dippey might help to show you part of this aspect.

MR. RIVLIN: Well Your Honour it may be of some assistance for me to say this, that one wonders whether any effort has been made to take a statement from this lady. If an effort has been made to do that and if a statement has been obtained from her, why then it may well be that following that it could be said that her evidence was going to be relevant, but the prospect of calling people, many people out of thin air, as it were, merely because one wonders what they might say if they came here, is one which in our submission is unrealistic in this case.

HIS HONOUR JUDGE STROYAN: Well has a statement been taken from Miss Dippey? Has any effort been made to find her?

MR. SYMONDS: We wrote to the Times asking to take statements from various witnesses.

HIS HONOUR JUDGE STROYAN: It is a perfectly simple question, can you help me with the answer. Has a statement been taken by your Solicitors from Miss Dippey?

MR. SYMONDS: No my Lord.

MR. RIVLIN: Well Miss Dippey I think lives in the south of England. The defendant's Solicitors are based in the south of England. In our submission what they should do is to trace her, take a statement from her and then make a decision as to whether she should be called or not.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS: My Lord Mr. Rees-Mogg, as most of the Times staff completely refused to make statements or to see my Solicitors, Mr. Rees-Mogg did say he might consider answering some questions if they were put in written form and ...?(inaudible) apparently with whom he has been in close contact, a Mr. Saunders or Sanders, but the Times have absolutely refused to assist in any way, such as disclosing the present address of any of their employees and allowing them to be interviewed, and there are lots in existence about this my Lord, which you may care to look at. But my Lord Miss Dippey did make a statement to a police investigation officer which I think you ought to look at now, my Lord.

MR. RIVLIN: We have disclosed everything. I repeat, if it is thought that this lady ought to be interviewed, then that must be done by the defence.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: And I hardly need, I think, to caution Your Honour against permitting a great number of witnesses to be brought up here on spec.

HIS HONOUR JUDGE STROYAN: Yes.

A MR. SYMONDS: Of course my Lord this is most convenient for the prosecution to try and completely stop me getting any defence witnesses here. Their case is weak enough, it is quite obvious, but I think that it is incredible. I am trying to get a couple of defence witnesses up here and the prosecution keep jumping up and putting up all sorts of nonsense arguments about why you shouldn't call them. I have never heard anything like it before. I think I might as well go to prison for contempt now, my Lord. I have just had enough of this. It is a farce. I am not having any more of it. Please send me to prison for contempt. It is a damn farce. If it goes on like this I will make it a real farce. I am quite prepared to join in the fun and games. Either I am allowed to call defence witnesses to defend myself or not. I could stand here and lay out my complete defence and all the defence secrets ...

B

HIS HONOUR JUDGE STROYAN: I am going to rise for a few moments in order that you may recover your temper and sense of caution.

C  
(At this point the court adjourned, and returned after the luncheon adjournment.)

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1.45pm

MR. SYMONDS: My Lord, I would like to ask you to withdraw from this trial.

HIS HONOUR JUDGE STROYAN: Well you can ask me but I am not going to.

MR. SYMONDS: Well in that case I would like to ask you to adjourn the case because I hold you and this court in contempt.

HIS HONOUR JUDGE STROYAN: I am not going to deal with any question of contempt which may arise until we have a verdict from the jury. If any question of contempt arises, and it has not arisen directly so far, I will deal with it at the end of the trial. So far as withdrawing from the case is concerned, if when any defendant is dissatisfied with how the trial is going they are entitled to ask the Judge to withdraw, then criminal cases would never come to an end.

I think you may be under a misapprehension, Mr. Symonds, about what is going on now, where I have given you the opportunity to understand it. I am not trying now the issue whether you are guilty or not guilty. I am trying only the narrow issue of whether the tapes are admissible in evidence or not, and if I rule that they are not admissible, well then it will be possible for the prosecution to decide whether they go on. If I rule they are admissible, then the trial before the jury will start. I am concerned at the moment only with whether there is a prima facie case on the balance of probabilities that the tapes are admissible. I am not deciding a matter beyond reasonable doubt. I am now looking only for whether there is a prima facie case, do you understand the difference?

MR. SYMONDS: Yes my Lord.

HIS HONOUR JUDGE STROYAN: That is what I am doing, but I am not deciding the question of your guilt or innocence in any way at all, and anything that may be relevant when we come to the jury trial, if we get as far as that, which is not relevant at the moment, a number of matters which you have raised might be relevant before the jury have not been relevant on the narrow issue that I have to decide.

Now we were about to deal with, or we had started to deal with the question of witnesses who you wanted to call and I would like to get on with that. Now as I understand it you have<sup>not</sup> got statements from these witnesses, is that right?

MR. SYMONDS: My Lord I propose to ask my solicitors to call certain witnesses to this court to give evidence in my defence. I do not propose to go any more into it in outlines of my whole defence case in trying to justify having to call one or two people to give evidence for me in my defence. If your Lordship rules that I am not allowed to call witnesses for the defence, very well, I will continue without any witnesses.

HIS HONOUR JUDGE STROYAN: I have not made such a ruling.

MR. RIVLIN: Your Honour may I tell you, and it may help, that we have told Mr. Green, that is the defendant's Solicitor, that if he has difficulty in tracing the address of any witness and it is believed that the Times have the address of that witness but that is unknown to anyone else, we will use our good offices in trying to secure the address of the witness so that a statement may be taken accordingly.

May I further tell Your Honour, because in relation to the question of witnesses this may be of some assistance, in the previous trial within a trial in this case it is right to say that Mr. Buchanan was called and Mr. Hales was called.



HIS HONOUR JUDGE STROYAN: Yes.

A MR. RIVLIN: Miss Millard was called, Mr. Duffy was called, Mr. Ford and Mr. Killick were called, all of those called on behalf of the defence, and I say that not in an effort to exclude any others but simply to assist the defendant to this extent, that clearly someone thought last time that the evidence of Hales and Buchanan was relevant. And may I say moreover that the defence have a copy of Mr. Buchanan's statement or statements, because we have served it so far as we are concerned and the defendant knows what is contained in these statements and he has made reference to it this morning before you. We are perfectly happy to admit it and to have a statement read to Your Honour as admitted evidence.

B HIS HONOUR JUDGE STROYAN: That is Mr.?

MR. RIVLIN: Buchanan.

HIS HONOUR JUDGE STROYAN: Buchanan. Does that deal with that, Mr. Symonds? Does that deal with that, Mr. Symonds, if the prosecution are prepared to have the statement of Mr. Buchanan read is that what you want?

C MR. SYMONDS: I did not follow that my Lord. I thought the prosecuting counsel said that as someone that was my Q.C. thought that Mr. Buchanan's evidence was relevant at the last trial, I thought he said it seemed reasonable to call him to this one.

D MR. RIVLIN: I am pointing out to Your Honour that because, if I may say so Your Honour we appreciate the difficulties you must be in in trying to ascertain the relevance of evidence at the present time.

HIS HONOUR JUDGE STROYAN: Of course I do not know anything about the other trial.

E MR. RIVLIN: I am pointing out to you that at the last trial they were called at a time when the defendant was represented and I say that to assist him and I have said that we are prepared to admit the statements in our possession of Mr. John Buchanan and to have them read to you as admitted evidence so that you will have the evidence and be able to consider it without anyone, in particular the defendant and his Solicitor having to go to the trouble and expense of bringing Mr. Buchanan up from Buckinghamshire to this court.

F HIS HONOUR JUDGE STROYAN: Yes I see. Well that deals with Mr. Buchanan. Now Mr. Symonds, are you happy with that way of dealing with Mr. Buchanan's evidence, his statement?

MR. SYMONDS: No my Lord, I would rather have Mr. Buchanan here. In fact if your Lordship would look at a statement made by Mr. Buchanan to my defence Solicitors, defence witness statement, you will see the reason why I would like to have Mr. Buchanan because he says more in his defence statement, witness statement to the defence Solicitors, than he does in his police statement.

G MR. RIVLIN: If the defendant thinks it right to allow us to see this we may be able to agree that as well. I am not saying we will, but we may be able to agree it. We will give very sympathetic consideration to the question of agreeing any evidence that we possibly can to avoid witnesses being brought long distances.

H HIS HONOUR JUDGE STROYAN: Yes, well if you ask your Solicitors to supply a copy of that statement.

MR. SYMONDS: Yes my Lord.

HIS HONOUR JUDGE STROYAN: The Crown could then decide whether they will admit it or not.

**A** MR. SYMONDS: Very good my Lord.

HIS HONOUR JUDGE STROYAN: So that deals with Mr. Buchanan. Now what about Mr. Hales. He was called last time. Did he have anything to add?

**B** MR. SYMONDS: My Lord if the prosecution are prepared to supply Mr. Hales' witness statement to the police to my Solicitor we would then also be prepared to supply Mr. Hales' statement to defence Solicitors to the prosecution.

MR. RIVLIN: We have never taken a statement from Mr. Hales. That is my instruction.

HIS HONOUR JUDGE STROYAN: But he did give evidence last time.

**C** MR. RIVLIN: But he did give evidence last time, yes.

HIS HONOUR JUDGE STROYAN: Is it relevant evidence?

**D** MR. RIVLIN: Well I confess that I, although I have today been given a note of the junior counsel's note of Hales, I have not read it and Your Honour may I say this, that I think that it would be very difficult for us to suggest, if it was thought relevant to call him last time, and we are aware of the fact that the defendant was represented by senior counsel, be very difficult to suggest that his evidence could not be relevant this time. In fact, Your Honour, we are very reluctant to suggest that any witness, that the defendant should be prevented from calling any witness, [that] we do have very strong feelings that some of those he wishes to call may not be relevant, and in relation to Mr. Hales I merely draw it to your notice that he did give evidence last time.

**E** HIS HONOUR JUDGE STROYAN: Well that I did not know.

MR. RIVLIN: You did not, nor did I until just before lunch.

HIS HONOUR JUDGE STROYAN: No.

MR. RIVLIN: But I do now so I have brought it to your attention.

**F** HIS HONOUR JUDGE STROYAN: Yes. Well then if it was thought right to have his evidence last time by leading counsel, I think I should say he can be brought this time.

Now then, that leaves Hewsdon.

**G** MR. SYMONDS: Well once again my Lord, if the prosecution would supply Mr. Hewsdon's statement.

MR. RIVLIN: We have supplied Hewsdon's statement and we are perfectly willing to have it admitted. I very much doubt that anyone would imagine it would take anyone's case any further, but for what it is worth we are happy to admit it and to have it read, and if we are provided with a statement of Mr. Hales we will give consideration to see whether that can be admitted too.

**H** HIS HONOUR JUDGE STROYAN: Yes, very well. Mr. Emmett.

MR. SYMONDS: We have discussed Mr. Emmett my Lord. He was one of the inquiry officers, took a number of statements from witnesses.

HIS HONOUR JUDGE STROYAN: Was he called last time?

**A** MR. SYMONDS: No my Lord, but Mr. Duffy was who was in an identical position. They were both Chief Inspectors.

HIS HONOUR JUDGE STROYAN: Let me just finish with Emmett. He wasn't called last time. Is there a statement from him anywhere?

MR. SYMONDS: No my Lord.

**B** MR. RIVLIN: Well there is I think. Yes, there are statements from him which have been disclosed to the defence.

MR. SYMONDS: Could we have a further copy of his statement my Lord?

MR. RIVLIN: Certainly. Certainly.

**C** HIS HONOUR JUDGE STROYAN: Yes. You have seen at first sight, Mr. Symonds, the fact that he took, what appeared in the statement he took from anybody else at first sight appears to be hearsay, but if there is anything which he can help about, well then I am perfectly prepared to hear about it. It would not be admissible to call him to say "I took a statement from somebody and they said a particular thing". That would not be admissible in evidence. Well then if you will disclose his statement, the way of approaching it I think is to say that I should be very reluctant to have witnesses called without your Solicitors knowing what they were going to say. I do not think it would be justifiable basis of the defence to have a lot of witnesses called without somebody knowing what they were going to say and what I suggest happens is that in respect of any witnesses whom you want to call from whom you have not got a statement, that your Solicitors, who are based in the south I understand, take statements from them and when those statements have been taken if your Solicitors are satisfied that they are going to help, well then they shall be called.

**E** MR. SYMONDS: My Lord may I ask, if I put it right, are the prosecution prepared to help my Solicitors take statements from Times staff and police officers?

HIS HONOUR JUDGE STROYAN: I think they are prepared to give you names and addresses.

**F** MR. RIVLIN: What we are prepared to do is this. We can do no more. If their addresses are unknown to the defendant and unknown to us, then we are prepared to contact the Times by telephone and speak to the Times Solicitor and to say that it is thought highly desirable that their addresses should be given to the defence.

HIS HONOUR JUDGE STROYAN: Yes.

**G** MR. RIVLIN: And indeed if Your Honour would be so kind as to say that you would entirely endorse that course, then those views also can be communicated to the Times with the object of ensuring that this matter is dealt with speedily.

**H** HIS HONOUR JUDGE STROYAN: Well I think that is right. I can certainly, if there are any names and addresses which are not known to the defendant, people who may be able to give relevant evidence, well then they should be disclosed.

MR. RIVLIN: Certainly.

A HIS HONOUR JUDGE STROYAN: But that of course is limited to the names and addresses. It will then be for your Solicitors to see those people and decide whether they have something relevant to say. If I am assured by or on behalf of your Solicitors that they have got something to say, well then they shall give evidence.

B MR. SYMONDS: Yes my Lord. The situation is most of these witnesses we do have copies of statements they made to the police which appears to show their relevance, but apparently the Times newspaper authorities have forbidden their staff to have anything to do with my Solicitors as far as I can make out, they have refused to speak to my Solicitors or make statements.

HIS HONOUR JUDGE STROYAN: I do not know about that. I cannot force them to.

C MR. SYMONDS: No my Lord. Then we would be left with the position of their original police statements which would appear to be, my Lord, of great interest.

MR. RIVLIN: Your Honour I am sure that we have said enough already about this to try and cope with the situation. If there are any further problems I shall bring them to the notice of the defence and to your notice.

D HIS HONOUR JUDGE STROYAN: Well then I think the position is now perfectly clear. Your Solicitors will be given the, or have been given the names and addresses and statements of those who have given statements to the police. In the case of those who have not, the prosecution will invite the Times to disclose any relevant names and addresses and your Solicitors can then interview the people concerned to see if they can give relevant evidence, and if your Solicitors tell me that they can give relevant evidence then they can be called.

E MR. RIVLIN: If we could just have the names of those witnesses in whose cases the defendant would like to have addresses. There is Miss Dippey, We have heard about her. Leonie Humphrey.

MR. SYMONDS: Leonie Humphrey. I can give these later on, my Lord. The name of the chief of security of the Times office in 1969, being retired Chief Superintendent of the Metropolitan Police.

F HIS HONOUR JUDGE STROYAN: Yes, well I think that deals with everything doesn't it.

MR. RIVLIN: Yes, and what is more, it is our intention to communicate, Your Honour, our view - and I am sure it is a view endorsed by you - that if these witnesses choose of their own volition to say nothing, that is their business, but it would be inappropriate for any employer to as it were influence them to say nothing when seen by a solicitor.

G HIS HONOUR JUDGE STROYAN: Yes. I think they should make their minds up themselves.

MR. RIVLIN: Yes, I am obliged. Well that view will be communicated.

H MR. SYMONDS: My Lord one further person, a Mr. Owen who is the hire car driver on the night of the 30th and the driver of the photographer on the 31st. We have a copy of his statement to the police my Lord.

HIS HONOUR JUDGE STROYAN: Well then you have his name and address.

MR. SYMONDS: I would like permission to subpoena him to be here as a witness. I can show you, there is a statement of Mr. Owens my Lord.

HIS HONOUR JUDGE STROYAN: Well I do not think I ought to see evidence.

A MR. RIVLIN: No, but I made this offer, it is not made for the first time, that if there is any witness statements in the possession of the defendant we have supplied - and we have supplied many, many - that they wish to have agreed and admitted, if we could just be told about it then we will make a decision whether we could agree and admit it and avoid further time loss and expense.

B HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: We have not as yet been approached to agree any statement but if we are we will give sympathetic consideration at all times.

HIS HONOUR JUDGE STROYAN: I am grateful. You heard that?

MR. SYMONDS: I heard that my Lord, thank you very much.

C HIS HONOUR JUDGE STROYAN: There you are then. I think that deals with all the matters. You or your Solicitors will get in touch with the prosecution with a view to agreeing such evidence as can be agreed, names will be given to you where that is appropriate and your Solicitors can then interview the people concerned and if your Solicitors take the view that their evidence is material well then we shall have a subpoena.

D MR. SYMONDS: Thank you.

MR. RIVLIN: Your Honour before calling Mr. Perry I understand that the waiting jurors have presented themselves to this court. I do not know if they have been sent away now.

HIS HONOUR JUDGE STROYAN: They have.

E MR. RIVLIN: They have. Very well. I call Mr. Perry then please.

F HIS HONOUR JUDGE STROYAN: Mr. Symonds, before Mr. Perry comes into court may I remind you yet again that what I am deciding is whether the tapes are authentic. I am not deciding whether, for example, Perry gave you any money or anything like that, so will you please remember that in your cross-examination. I am only interested in the question of the tapes and not in the question of whether Perry gave you money or any of those matters. You may also like to know that I have got a full copy of Perry's criminal record and you need not go through that any more.

MR. SYMONDS: Thank you.

MICHAEL ROY PERRY (SWORN)

EXAMINED IN CHIEF BY MR. RIVLIN

G MR. RIVLIN:

Q. What is your full name? - A. Michael Roy Perry.

Q. Where do you live? - A. 460 Green Lane, South East 9.

H Q. Now you remember, Mr. Perry, that last week fairly early one morning you sat in court, did you not, with Mr. Hawkey? - A. Yes.

Q. And listened to a number of tapes. - A. That is right.

Q. The first tape that you listened to was exhibit number 1 purporting to be a telephone conversation. Do you remember that one? - A. Yes.

Q. Who was speaking on that tape? - A. It was the accused I think, I am not sure about the first one.

Q. You are not sure about the first one? - A. When was that, was that when I rang up the police station?

Q. No, this is purporting to be a telephone conversation when you are ringing up the police station asking to speak to a Mr. Symonds. -

A. I think I must have spoke to the switchboard lady.

Q. And then do you remember the content of that tape where you managed to get through to somebody and made a meeting? - A. Yes.

Q. Arranged a meeting? - A. Yes.

Q. Who was it you were speaking to? - A. Detective Sergeant Symonds.

Q. Now I am going to ask you about the second one now, because the second one you heard was exhibit number 2 which purports to relate to a conversation held at the Rose public House that same day, and just to refresh your memory to this extent, when you listened to the tape you may have noticed it was badly broken up and not very much could be heard anyway. Do you remember that? - A. I remember that, yes.

Q. Who was speaking on that tape? - A. Detective Sergeant Symonds and myself.

Q. The third tape that we listened to in court was tape number 5, exhibit number 3, purporting to be a conversation recorded at the Grove on the 31st August, and I am going to say no more, 31st October, I am so sorry, and I am going to say no more about it than this, that it was a long recording, fairly long recording and very clear. Seemed to us to be very clear perhaps. Who was speaking on that tape? - A. Detective Sergeant Symonds and myself.

Q. And the last one that you heard was tape number 14, exhibit number 5, which purports to be another conversation recorded at the Grove on the 21st November, another fairly long conversation. Who was speaking on that tape? - A. Sergeant Symonds and myself.

HIS HONOUR JUDGE STROYAN: Yes.

CROSS-EXAMINED BY MR. SYMONDS

MR. SYMONDS:

Q. Mr. Perry when you heard these tape recordings the other morning, could you say whether or not there had been any changes to them? - A. No, they sounded the same to me.

Q. The same. If one or two words had been altered here and there would you immediately recognise that? - A. I think I would, yes.

Q. After 12 years? - A. Well they sound pretty much the same to me.

Q. Pretty much the same. Do you recall being advised by the reporters to say certain things? - A. No.

Q. Did the reporters encourage you to make telephone calls? - A. Yes.

Q. And before you made the telephone call would the reporter advise you what sort of things he hoped you would say? - A. No, he just, he just said "Say what you would normally say" as if I was talking to you.

**A** Q. Were there other meetings during that period other than the ones you have heard? - A. Yes.

Q. And which no tape recording exists. - A. No, I meant with other policemen.

Q. No, I mean with me. - A. No.

**B** HIS HONOUR JUDGE STROYAN: I do not know that he knows. I imagine he knows that he was wired for sound. Do you know about the recordings which emerged or not?

MR. PERRY: Yes.

HIS HONOUR JUDGE STROYAN: Very well.

**C** MR. SYMONDS: My Lord the point I am trying to reach is that if there were other meetings in between the first and the alleged last and the recordings were not available, this would affect the series.

HIS HONOUR JUDGE STROYAN: I am afraid I am not following that.

**D** MR. SYMONDS: I was asking Mr. Perry if there were other meetings which were either not recorded or which were recorded and the recordings disposed of as embarrassing to the reporters.

HIS HONOUR JUDGE STROYAN: Well let us take it in stages.

MR. SYMONDS:

Q. Do you recall whether there were other meetings between the period of the 28th October and the 21st November other than the 28th, the 31st and the 21st? - A. No, there was no other meetings.

**E** Q. Do you recall ...

HIS HONOUR JUDGE STROYAN:

Q. Except the 21st, the 28th October and the 21st November. Those you say were the only meetings, that right? - A. Yes sir.

HIS HONOUR JUDGE STROYAN: Yes.

**F** MR. SYMONDS:

Q. Do you recall on one occasion a photographer walking past the front of the car and taking a photograph? - A. I don't recall it, no.

Q. If this had happened would there have been conversation about this? - A. What, between me and you?

**G** Q. Yes. - A. If we had seen it, yes I should imagine so.

Q. From your point of view in your position at that time it would have been quite a serious event. - A. What would have?

**H** Q. For a photographer to walk past the front of the car and take a photograph with a camera under his coat. - A. Not necessarily a serious event.

Q. Well it is likely to arouse suspicion. - A. Oh yes.

Q. And therefore there might well be some comment on this occurrence. -  
A. Yes.

A

Q. Such as "Who is that?" - A. That is right.

Q. And if there was such a comment, can you remember what your reply was to explain who the photographer was? - A. Well there was no such comment.

HIS HONOUR JUDGE STROYAN: Yes.

B

MR. SYMONDS:

Q. When you listened to the tape recordings did it not appear to you that they did not make sense, the conversation alleged recorded? -

A. It made sense to me.

Q. Well who would you say was doing all the talking? - A. You.

C

Q. On the conversations? - A. You.

Q. And your words were "Yeah, yeah", this sort of thing. - A. Thereabouts.

Q. And so you say that was the way the meetings progressed, me doing all the talking and you just saying "Yeah." - A. Mainly, yeah.

D

MR. SYMONDS: Thank you very much.

HIS HONOUR JUDGE STROYAN: Mr. Rivlin?

MR. RIVLIN: No questions thank you.

HIS HONOUR JUDGE STROYAN: Thank you.

MR. RIVLIN: Yes, might Mr. Perry now be released for the time being?

E

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Thank you. That is my case.

HIS HONOUR JUDGE STROYAN: Yes.

F

MR. SYMONDS: My Lord I wonder if I could consult with Mr. Ford who will be the first witness for 5 minutes.

HIS HONOUR JUDGE STROYAN: Is he an expert?

MR. SYMONDS: Yes my Lord.

HIS HONOUR JUDGE STROYAN: Yes, yes Mr. Symonds. Are you wanting to give evidence yourself? I take it not.

G

MR. SYMONDS: Not at this stage my Lord, just call the defence witnesses and the experts and whatever witnesses we can get hold of.

HIS HONOUR JUDGE STROYAN: Yes. Well would you like, you have a right if you want to exercise it, to tell me briefly what it is you hope to prove by this evidence.

H



**A** MR. SYMONDS: Of the experts my Lord. Well briefly I hope the experts' evidence will raise serious doubts in your mind about the alleged originality of these tape recordings. The evidence of the prosecution seeks to show in the first place that the tapes used were new original tapes taken from plastic wrappers and that they were then kept in secure custody in the Times offices and copied on one or two occasions in two parts before being handed over to the police, the day before being handed over to the police the originals copied once more, which seems a pretty cast iron case, my Lord, on the face of it. What I have tried to do, my Lord, during the preceding few days is to shake that and to try to show you that that in fact was not so, that in fact there was considerable laxity in the handling of the tape recordings, particularly in the early days, and **B** that the tape recordings were not kept in a strong steel safe from day one, that they were in fact disbursed around the Times office being transcribed by various ladies. I also hope to show you that on at least one occasion an original tape was left on a desk overnight. Mr. Lloyd himself has said that in the early days he may well - I have not read the transcript my Lord, he either did or may well have taken tapes home for safe custody during the first few days of the inquiry.

**C** My Lord I hope too, I hope that I have raised doubts in your mind as to the alleged continuity of the handling and as to the care the reporters took of the tape recordings, particularly in the early days my Lord, and I particularly hope I have raised doubt in your mind as to the possibilities of an accident, some form of mishandling whereby, due to the reporters inexperience in carrying out this sort of investigation, they may have put the wrong tape in the wrong box and imagine that they have, that they are carefully looking after an original.

**D** I sought to bring your Lordship's attention to the methods of marking. Some tapes had 'master' on and some did not. Some were in the wrong box, some come before the court, my Lord, in the wrong boxes. Because, my Lord, our experts are going to give evidence now which I submit proves beyond all doubt that some of these tapes are in fact copy tapes, some of the tapes put forward as originals by the prosecution.

**E** HIS HONOUR JUDGE STROYAN: Yes.

**F** MR. SYMONDS: I have been struggling to lay, what I have been doing these last few days my Lord is struggling to lay the foundations for the evidence which is to come so that when the experts say, according to my complicated machinery and my intensive research and examination of these tapes, they could not be the tapes according to the evidence offered by the prosecution, their alleged history, in other words, that these were brand new virgin tapes taken from boxes, taken out of plastic wrappers, put onto a machine, taken off immediately afterwards, signed and put in safe custody, because the experts have found - and I won't go into this too deeply my Lord - they have found certain phenomena upon the alleged recordings which, if they were truly originals, just could not be; my Lord it is impossible. Now my Lord for many years in fact the prosecution have said, with one exception, tape 3(a) and 3(b), all the tapes were brand new originals when they were put on the machines, and they were offered to the court as brand new originals. **G** There has been a recent admission by the Crown which I understand to be something along the lines that the Crown now says that tape 5 was not a brand new virgin tape when originally recorded. Well my Lord I contend that there is no reason why the original tape, tape 5, should not have been a brand new virgin tape.

**H** HIS HONOUR JUDGE STROYAN: Well the point, I think, is not so much whether the tape was original, but whether what was recorded on it was original.

A MR. SYMONDS: My Lord the prosecution evidence has been that the tape was original, and on this basis, that the tape was a brand new virgin tape, my Lord, and on this basis the experts have investigated the evidence so supplied of their brand-newness and their virginity by the sound engineer Mr. Hawkey, who came from a highly professional outfit, the largest in the country, who were in the habit of sending teams, I believe, out on location properly and fully equipped. L.S.F. were, I understand, one of the largest purchasers of tapes in bulk from E.M.I. and I think there is no reason to disbelieve Mr. Hawkey or the reporters when they said that the original tape was brand new virgin.

B HIS HONOUR JUDGE STROYAN: That is obviously a point which you are entitled to take, but it is not the end of the matter because it is one point but not the only point. You see the other way of looking at it is suppose all the tapes in this case had been used, let us say three times each and then they were used to record conversations which you are alleged to be having with Perry. Provided those recordings were proved to be the recordings, the original recording of that conversation, well then it would not matter in that situation whether the tapes had been used before or not. See, that is the other point. Do you follow that?

C MR. SYMONDS: Yes my Lord, but the thing is this, that the evidence has been of the prosecution that they were brand new original tapes.

HIS HONOUR JUDGE STROYAN: Yes.

D MR. SYMONDS: And this is what everyone has worked on, because if they were not brand new original tapes and they were not taken out of their plastic bags, then someone has been telling a lot of lies, my Lord, for a long period of time, and why should the reporters go to the police and make statements and go to court and take up the Bible and take a holy oath and say on a number of occasions "these were brand new tapes, I saw them being taken out," if in fact it would have been, as your Lordship suggested, much simpler to say these were old tapes which had been used before.

E HIS HONOUR JUDGE STROYAN: I am not saying that is not a proper point to take. It is, but what I am inviting your attention to is there is another way of looking at it and I have pointed that out to you. Are you going to deal with that or not? You do not have to.

F MR. SYMONDS: Yes, I would like to deal with it. That is a very dangerous proposition, my Lord, that you put up, because you see, as you will hear from the experts, the method of editing, there are various methods of editing as they will describe to you, such as erasing parts of the conversation with some form of eraser or a magnet, but they will go into detail, but one of the methods of editing is in fact by cutting the tape with a pair of scissors and you literally cut out the words you do not want or the conversation you do not want, and then you, having cut that out, taken care to cut at an angle of 45 degrees with a non-magnetised blade I understand, you then stick the two pieces together with a bit of sellotape, and this is a simple job. Done competently, that is not leaving a small gap, it then takes an expert ear, my Lord, to detect at first hearing that in actual fact there is something wrong. It may be some form of change in background noise I understand, or maybe an expert ear will detect a minor click, or just something wrong.

G  
H Now my Lord, you have a tape which has been mutilated in some way and therefore this mutilated tape cannot go forward as an unaltered, untouched virgin <sup>continuous</sup> recording because it has an obvious mutilation, so what has to happen then, my Lord, is that this true original tape has to be copied and has to be copied onto another tape which does not have signs of surgery,

as it were. Now when a tape is copied under certain conditions, phenomena as I understand my Lord - and I am not an expert my Lord, I have just read through a few experts' reports - as I understand under certain conditions, when recorded in a room or near a mains electricity supply for example, phenomena appears on the copy tape which could not exist on the true original, and the experts will tell you about this phenomena my Lord and they will tell you why it just is not possible.

So my Lord I would say that it is very, very suspicious and you must regard it so, that if reporters have gone to such great lengths to describe the newness and the virginity of the original tape recordings and when these alleged tape recordings appear before this court there are no signs of surgery on the tape recordings my Lord, but there is phenomena on the tape which I will suggest to you, my Lord, must raise in your mind serious doubts as to whether this tape is a true original or is in fact a copy. And I will go on further from that my Lord, for you to say to yourself, if this is a copy, why?

Now my Lord I am offering, if you like, everyone an easy way out. I am saying, well perhaps you got them mixed up in the boxes, but also my Lord there is another possibility, and the possibility is, my Lord, that somebody has edited these tapes and they have then copied the master, which has now become an edited master, onto another tape which is presented to this court as the original master but is in fact not an original master but a copy edited master. Now a copy edited master, my Lord, is an alleged master but with phenomena copied on.

HIS HONOUR JUDGE STROYAN: What you are suggesting is that these tapes either have been mixed or alternatively that at some stage somebody has cut out bits and joined the tapes together again. Is that it?

MR. SYMONDS: My Lord yes. What I am saying at this stage, to stay within the narrow confines my Lord, the burden upon the prosecution, they have got to satisfy you on at least two points. They have got to satisfy you on the originality of the tape recording and the authenticity, but the authenticity includes, my Lord, the continuity of handling. Now we have heard a theory advanced by the prosecution not once during these past days that if these masters were taken on the tube train in London and carelessly left on the seat and then recovered from the lost property office, I understand this theory, a week later, Mr. Rivlin intends to urge you to say well there has been no interference or break in the originality because you see the reporter wrote on the label of the spool or on the box when the tape was made in the first place. Now two points from that, my Lord. The first is that these tapes, the tapes had never been marked, my Lord. They have never been marked, and if you look on the tape you will find a large length of white plastic which is not magnetic. My Lord a length of white plastic at the beginning of the tape, and I believe at the end you will find a length of red plastic, my Lord. Now the tapes have not been marked, I mean they have not been written on the tape itself, and I have tried to bring out during the last few days my Lord that this sort of tape particularly is common, my Lord. You put two spools on, one with a full tape, one empty spool. You switch it on, the thing buzzes round, and eventually the tape flicks off the first spool onto the second, my Lord. Right, the first spool has all these markings on, alleged contemporaneous markings, 'Tape of Symonds at Grove' and so and so, but my Lord it is very easy to flick back another tape onto that spool, very easy indeed, and so I will suggest to your Lordship that these bits and pieces of writing which, let's face it, are in a terrible mess, with both people identifying the same writing, phone calls in some instances, we have got boxes mixed up, we have got 'master' on some and not on the other. They are a mess, my Lord. But I would suggest to you that they are a mess but that it is not so important, my Lord, because the tapes

have never really been identified in any way, that is by some sort of marking upon the tape. Further on from that my Lord and on the subject of marks, you will hear about certain pencil or crayon marks discovered on the backs of some of these tape recordings. Now this is very, very interesting and very, very serious I submit, because who and why has someone somewhere made a mark on the back of a brand new virgin, allegedly, tape recording. Further to that my Lord, these marks are made at what I may call vital places. They are places where there are obvious false - and that is where a trained ear or even a semi-trained ear, ~~because~~ I understand that there are signs of editing, clicks or some such sign where a semi-trained ear would perk up his head and say there is something wrong there, and these marks are made at such places my Lord which I suggest to you is very, very suspicious and no-one has ever offered any explanation for these marks my Lord, but I would suggest that these must also raise doubts in your mind because why mark a tape unless you intend to use that mark, and for what other purpose could you use that mark but as to make a future edit.

Now my Lord you may ask well why edit a copy edited master. Well my Lord let us assume that, for example, the original tape 5, the meeting of the 31st, let us assume that it contained some sort of conversation about a photographer who just walked past and taken a photograph from a camera under his coat, and let us assume that this would have been embarrassing to the reporters, because one of them, shall we imagine, had been taken off a similar investigation some time before and was rather sore about this and wanted to make a name for himself and get a story etc. So let us assume they decided to remove, someone decided to remove this embarrassing bit which might well cause Mr. Rees-Mogg or Mr. Webb to say "Look, this is getting dangerous and stop the investigation." Now That bit would be cut out, my Lord, and stuck together, but you have a mutilated tape. Now we understand the procedure for copying to have been you take the original to the laboratory of L.S.F., you put it on a machine and you copy it onto another tape, a brand new tape. Right, so the mutilated one is thrown away and the brand new one now becomes the alleged original master. But my Lord supposing there had been some sort of mix up or some sort of accident at the laboratory and instead of copying onto a new virgin tape, suppose, my Lord, the mutilated master had been copied onto a tape which had been used on a previous occasion but had failed to pick up any sort of conversation of a meeting but had on the tail of the tape part of a conversation between, say, Perry and reporters about what happened at the meeting. I am going to suggest to you, my Lord, that that is probably what happened with tape 5 and at some stage someone listened to that tape and they thought "Well this is not right" and so therefore on that tape or on other tapes marks are made, my Lord, at a point which could be an indication that there was going to be a further edit, that someone at some stage was going to remove these signs of incompetence or nefarious activities by making a third alleged master, and maybe, my Lord, the inquiry is brought to some sort of end or something like that and they were handed over, but that is the groundwork. I know I have not done well, my Lord, but that is the sort of groundwork I have been trying to lay.

HIS HONOUR JUDGE STROYAN: I see. Thank you.

MR. SYMONDS: And that is what I hope, when the experts come, will give you, my Lord, I hope, thought for much thought.

HIS HONOUR JUDGE STROYAN: So what you are saying in a nutshell is that the tapes have had things cut out of them and they have been joined together and the joints concealed by making copies. That puts it in a nutshell, does it?

MR. SYMONDS: My Lord I did spend some time also saying that it could also ...

HIS HONOUR JUDGE STROYAN: Yes, I followed that.

MR. SYMONDS: You see my Lord, the thing is this. Why on earth cut tape 1, you might say to yourself, which is a simple phone call, if tape 1 happens to have phenomena on it, so I would like your Lordship to bear in mind that not only am I proposing this but I am also proposing incompetence.

HIS HONOUR JUDGE STROYAN: Yes, I have got that.

MR. SYMONDS: Which could have led to a, just a pure mix up on some occasions.

HIS HONOUR JUDGE STROYAN: Yes, I follow.

MR. SYMONDS: And that wrong tape ...

HIS HONOUR JUDGE STROYAN: You are not suggesting, I understand, additions to the tapes. What you are suggesting is things have been cut out. Very well.

MR. SYMONDS: Could I speak to Mr. Ford before he ... he did ask me to speak to him for 5 minutes, one or two points he wishes to raise.

HIS HONOUR JUDGE STROYAN: Very well, I will rise for 5 minutes but please do not let it be more than 5 minutes.

(SHORT ADJOURNMENT)

MR. SYMONDS: As my first witness I would like to call Mr. Hewsdon.

HIS HONOUR JUDGE STROYAN: Yes.

(The witness Mr. Ford appears)

MR. FORD (SWORN)

EXAMINED IN CHIEF BY MR. SYMONDS

MR. SYMONDS:

Q. What is your full name? - A. Hugh Dermot Ford.

Q. What is your address? - A. My work address is 24a Trinity Road, Richmond, Surrey.

Q. Do you have professional qualifications? - A. Yes I do. I am a Chartered Engineer, a member of the Institution of Electronic and Radio Engineers and a member of the British Computer Society. In addition in the past I have been a council member of the Royal Television Society. I am a past Chairman of the British section of the Audio Engineering Society and I am currently a Governor in New York of the Audio Engineering Society which is an international body of about 10,000 members.

Q. You are involved in a number of engineering committees? -

A. Yes I am. I am a member of the Audio Engineering Society Digital Audio Standards Committee. I am also involved in the Association of Professional Recording Studios and I am Chairman of their Committee on Digital Audio Standards Harmonisation. I am a member of the British Kinematograph Sound and Television Society Sound Committee. I am a member of the Institution of Radio and Electronic Engineers Recording Group. I am also a member of one of the Institution of Electrical and Radio Engineers Committees concerned with the International Conference on Video and Data Recording and I am also involved in the Technical Committee of the International Broadcasting Convention.

Q. What is your current occupation? - A. I am currently an independent Consultant and have been since 1967.

A

Q. How long have you been involved with magnetic tape? - A. I have been involved for many years as a personal interest, but from 1964 to 1967 I was employed in a technical capacity by EMI Tape Ltd.

Q. Can you tell me about a paper you wrote on tape authenticity? - A. Yes I can. In 1974 I wrote a paper to the Audio Engineering Society European Convention in Copenhagen relating to the authenticity of tapes in law.

B

Q. Where was it published? - A. That was published in many places. It was initially published in a Journal of the Audio Engineering Society. It has also been published in Wireless World, also in Studio Sound Professional Magazine and in other places.

C

Q. What other papers have been published on the subject? - A. Very very few in fact. Whilst I might not quote papers, there is of course a report on the Watergate tapes. Mr. Killick who will be giving evidence wrote a paper to the Medico Legal Society, and to my knowledge there is only one other paper that has been published on the subject. That was by Mr. John G. McNight who was a member of the Watergate Committee, and that was published in a Journal of the Audio Engineering Society.

Q. At the time of the Watergate affair, C.B.C. did an experiment on tape editing. - A. Yes.

D

Q. Can you tell me about it? - A. Yes, I shall tell you about that. C.B.C. Toronto decided to investigate if experts could detect edits in tapes, and what they did was they put together a tape of various bits of programme with edit in. They circulated that tape to a number of experts, including speech experts in New York, film editors in Los Angeles, and so on, to try to find out if people could reliably detect edits in tapes. The outcome of this was that no-one reliably detected any edits.

E

Q. Turning to the tapes in this case, when did you first examine them? - A. I first examined them in 1971.

Q. Could you please look at the exhibits in this case? - A. My Lord, Your Honour, please may I refer to my notes as these are, you will appreciate, about 10 years old.

F

MR. RIVLIN: No objection.

HIS HONOUR JUDGE STROYAN: Yes.

MR. FORD: Thank you.

MR. SYMONDS:

G

Q. Would you look at exhibit 1 in this case? - A. Now this is the box and spool that I have previously examined.

Q. Would you look at exhibit 2. Oh, excuse me, is that the tape you examined, can you say? - A. All I can say is it has the same batch numbers, but I cannot tell further.

H

Q. Thank you. - A. Again this is the box and reel that I examined. The tape has the same batch number to that which I examined.

Q. Thank you. Will you look at exhibit 3 in this case? - A. Thank you. This is the box and reel which I previously examined.

Q. And the tape? - A. I cannot tell.

Q. Will you look at exhibit 4 in this case please? - A. Thank you. That is the box and reel. Tape has no batch number.

**A** Q. Would you look at exhibit 5 in this case please? - A. That is the box and reel which I previously examined and the tape has the same batch number.

Q. Thank you. Will you look at exhibit 6? - A. That is the same box and reel that I have examined. The tape has the same batch number.

**B** Q. Thank you, and lastly I believe, exhibit 7. - A. That is the same box and cassette that I have examined.

Q. Thank you sir. You have mentioned batch numbers. Could you say how many tapes have the same batch number? - A. Do you mean when it is manufactured?

**C** Q. Yes. - A. A fairly large number of tapes have the same batch number. It is not always the same number in fact.

Q. How large sir? - A. It could be 60 or more. Quite commonly it would be about 90.

Q. Can anyone, therefore, identify these tapes by visual examination? - A. No, no way.

**D** Q. When you examined these tapes Mr. Ford, who was present? - A. Throughout my examination of the tapes, Detective Sergeant Emmett and Sergeant Vernol were present and Mr. Killick was also present.

HIS HONOUR JUDGE STROYAN: Mr. Symonds I see you are being assisted by somebody who is standing beside you.

MR. SYMONDS: Yes my Lord.

**E** HIS HONOUR JUDGE STROYAN: Who is that?

MR. SYMONDS: This is another expert my Lord, Mr. Killick. My position is that I have no technical knowledge whatsoever, my Lord.

HIS HONOUR JUDGE STROYAN: Yes, I follow that.

**F** MR. SYMONDS: And I would like Mr. Killick to advise me on certain questions regarding technical matters.

HIS HONOUR JUDGE STROYAN: It is unusual to have someone prompted in that way.

MR. SYMONDS: I will attempt to continue by myself.

**G** MR. RIVLIN: Your Honour I did not actually appreciate that was happening. It is not merely unusual, it is in our submission quite extraordinary, the problem being this, that as I understand it Mr. Killick is about to be called on behalf of the defendant after this witness.

HIS HONOUR JUDGE STROYAN: Yes.

**H** MR. RIVLIN: Your Honour I don't want to put anything in the defendant's way of bringing out every single point that he wishes to bring out, although it may be of assistance to him in understanding the technique of examining

someone in chief to appreciate that with an expert like Mr. Ford he can really ask him about a particular tape and ask him to express his views on examination and his conclusions, and can, I suspect, depend on Mr. Ford to say everything that needs to be said about it.

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

MR. RIVLIN: But may I say this is not a formal objection to what is going on because I understand the defendant's difficulty. The problem is that if one has got as it were one witness examining in chief another witness it is a highly remarkable situation.

**B** MR. SYMONDS: I will continue by myself my Lord.

MR. RIVLIN: I do not wish it to be thought that I am trying to stop the defendant from being assisted. Far from it, but he has got an expert in the witness box and I have no doubt that the expert will - who has got a report in front of him - will be able to say everything that is necessary.

**C** HIS HONOUR JUDGE STROYAN: See, Mr. Symonds, the difficulty - I am not going to stop you doing it, but the difficulty is this, that if you are being advised by one of your experts while examining the other one in chief, it may be that the evidence of the gentleman who is now advising you when he comes into the witness box will perhaps lose some of its force. I don't know, you see. You can certainly, I am not going to stop you doing it, but you may be perhaps ...

**D** MR. SYMONDS: My Lord I do not wish any of this evidence to lose one iota of its force and I will therefore continue by myself my Lord.

HIS HONOUR JUDGE STROYAN: Very well.

MR. SYMONDS: I would prefer to continue by myself.

**E** HIS HONOUR JUDGE STROYAN: If you want to ask for any further assistance you may of course do so. I am sorry, may I have the name of the other gentleman. Was it Mr. Killick?

MR. SYMONDS: Mr. Killick.

Q. Have you examined these tapes since? - A. Yes I have, I examined them last year.

**F** Q. Was there any change in their condition? - A. So far as the recordings themselves were concerned ...

HIS HONOUR JUDGE STROYAN: Just a moment please? When was that?

MR. FORD: That was in, offhand Your Honour, November, the end of last year.

HIS HONOUR JUDGE STROYAN:

**G** Q. Yes, I examined the tapes November 1980. Yes? - A. So far as actual audible recordings themselves were concerned, there was no change.

Q. Yes. - A. However, Your Honour, there were marks on the reverse side of some tapes and those marks are practically invisible now.

MR. SYMONDS:

Q. Would you expect to find such marks on new tapes?

**H** HIS HONOUR JUDGE STROYAN: Just a moment please. What sort of marks?



MR. FORD: They were pencil type marks Your Honour, what one would normally describe as an edit mark.

HIS HONOUR JUDGE STROYAN:

A

Q. Were they on the edge of the tape or on the flat surface? -

A. They were on the flat surface of the tape Your Honour, on the uncoated side, that is the side that does not touch the recorder replay heads. And that is the position where you would normally place an editing mark if you were editing a tape.

HIS HONOUR JUDGE STROYAN: Yes.

B

MR. SYMONDS:

Q. And were these marked located in any particular position? -

A. They were both at highly significant positions and accurately placed. In the case of exhibit 4, tape 3(b), there was a mark located very precisely at the junction of the recordings 3(a) and 3(b).

HIS HONOUR JUDGE STROYAN: Yes.

C

MR. FORD: This coincides with what is believed to be a break in the back up recording, tape 4, which is not concerned with Mr. Symonds, where there is also a mark.

HIS HONOUR JUDGE STROYAN:

Q. This coincides with what? - A. The back up tape Your Honour. 3(a) and 4 were recorded in a parallel. One was a direct recording, the other a radio microphone recording.

D

Q. Yes, I follow that. - A. As you proceed down 4 you come to what one might politely describe as a hiccup in the recording. This has been clearly marked, as has the identical position in the conversation which occurs in junctions on recording 3(a) and 3(b), which is also marked.

E

Q. What I have got is that there is a mark at the junction of tapes 3(a) and 3(b), or recordings 3(a) and 3(b), and it coincides with a mark. What do you mean by the back up? - A. Well like the tapes in this case Your Honour, tapes 13, 14 and 15 I would call back up tapes to each other because they are recording the same event allegedly at the same time.

Q. Well does it coincide with a mark on one of the other tapes before the court? - A. No, it coincides with a mark on one of the tapes which are not before the court, Your Honour, they relate to Harris and Robson, but it is an identical point in the conversation where the marks occur.

F

Q. Well I am afraid I am not following at all. - A. I am sorry, it is rather complicated.

MR. SYMONDS: My Lord ...

HIS HONOUR JUDGE STROYAN: Just a moment.

G

Q. Coincides with a mark on a tape concerned with Harris and Robson. -

A. That is correct, Your Honour.

Q. I do not follow that at all. - A. Tape 4 relating to Harris and Robson was recorded at the same time and in parallel with tape 3(a), which also relates to Harris and Robson. Where 3(a) finishes and 3(b) starts relating to Symonds, there is a mark.

H

Q. Yes. - A. If you go along this tape 4 in relation to Harris and Robson,

Q. But is it a different tape? - A. A separate tape, it is not involved in this case Your Honour, tape 4, but it was recorded at the same time as tape 3(a) recording the same event.

**A** Q. This is a conversation between Harris and Robson. It is not the same event. - A. The same event as 3(a) Your Honour.

Q. I see what you mean, yes I am sorry, I had not followed you. -  
A. It is curious that the same points are marked in both tapes, and there is what we regard as a discontinuity in tape 4, Your Honour, at that point.

**B** Q. But this is a different tape which concerns Harris and Robson. -  
A. Tape 4 is, yes.

Q. Tape 4 is not exhibited. - A. It is not, no.

**C** Q. Then how does it help me to know that, I follow the point about a mark at the junction of tapes 3(a) and 3(b). Are you talking about the reverse which deals with tape including a meeting with Harris ... - A. No, I am talking about a tape which is not an exhibit in this case but was recorded in parallel with 3(b), they were recorded at the same time. Sorry, I beg your pardon, 3(a) and tape 4 were recording the same event at the same time, it is alleged.

MR. RIVLIN: Your Honour not exhibit 4, tape 4. Tape 4 is not a tape in this case.

**D** HIS HONOUR JUDGE STROYAN: No. 3(a) appears to be, looking at the schedule, include telephone calls on the night of October 31st.

MR. SYMONDS: My Lord may I try to assist you?

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS: My Lord tape 3 is exhibit 4 in my case. On one side there are phone calls recorded.

**E** HIS HONOUR JUDGE STROYAN: Yes.

**F** MR. SYMONDS: And on the other side, my Lord, there are in fact two recordings, one running into the other. The first recording relates to Perry and Robson and Harris taken on the 30th, and then this recording runs, a recording taken on the 31st my Lord, alleged to be in my case, starts on top of the end of that recording taken on the 30th between Perry and Robson, thus rubbing out something. At this exact point my Lord, a mark has been found, and Mr. Ford also found a mark on tape 4 of the series of tapes which is the twin tape of tape 3(a) my Lord.

MR. FORD: That is correct.

**G** MR. SYMONDS: On that occasion the tape recordings were made of Robson and Perry for ...

HIS HONOUR JUDGE STROYAN: 3(a) and 4 are twin tapes.

MR. FORD: That is correct.

MR. SYMONDS: As are 3(b) and 5.

**H** HIS HONOUR JUDGE STROYAN: And you say there is a mark at the junction of 3(a) and 3(b)?

MR. FORD: That is correct. And there is also a mark on 4 at the virtually identical point in conversation.

HIS HONOUR JUDGE STROYAN:

Q. Yes. - A. And this coincides on 4 with what we believe to be some form of a break in the recording.

Q. Yes. - A. That is the situation about the marks on that tape, Your Honour. There is also a mark on tape 5, exhibit 3.

Q. Yes. - A. This occurs at a junction of the two programmes on that tape which I understand the prosecution have agreed exists. At the end of the Symonds recording on that tape we suddenly jump into a previous recording at the end of the Symonds recording.

Q. What do you mean, jump into a previous recording? - A. That tape, Your Honour, had been previously used before the Symonds recording was put on it.

Q. Yes. - A. The situation is that the Symonds recording was shorter than the first recording.

Q. Yes. - A. Consequently the Symonds recording has erased the first part of the previous recording and over-written it, so to speak, and as a result of the Symonds recording being shorter than the previous recording, you then have a bit of the previous recording remaining on the tape.

Q. Yes. - A. This point has been very carefully marked with great accuracy with an editing type mark again.

HIS HONOUR JUDGE STROYAN: Yes, go on.

MR. SYMONDS:

Q. What sort of person would use marks like these? - A. Normally when editing audio recording tape you use a mark of this type, and accuracy with which these marks were placed definitely suggest it has been done by someone who is competent in using tape and able to locate editing points.

Q. Did you find any other peculiarities about the tapes? - A. In some tapes yes I did. Some tapes had a most peculiar situation which I am afraid is slightly lengthy to explain.

HIS HONOUR JUDGE STROYAN:

Q. Which tapes were these? - A. These tapes, Your Honour, are tape 1 exhibit 1 and tape 5 exhibit 3.

Q. Yes. - A. After the recording ends on both these tapes there are bursts of very low level recorded tone, and as I have explained these could not have been recorded by a normal recording process.

MR. SYMONDS:

Q. Tone bursts. Would you expect to find these on virgin tapes? -

A. Never in my experience have I found bursts of this nature in virgin tape, or any other tape for that matter.

Q. Can you explain the difference between factory fresh and used tape, that is noise difference? - A. Yes I will explain that. When you buy a tape from a tape factory it is put over a device known as a bulk eraser. This reduces the tape noise, or tape hiss.

HIS HONOUR JUDGE STROYAN:

Q. Is this before you buy it? - A. Before you buy it Your Honour. When you buy it from the factory, all factories have what we call this bulk eraser.

**A** Q. Yes. - A. This reduces the tape noise, or tape hiss as one might call it.

Q. Yes. - A. To the minimum it is possible. If you then put a tape on a tape recorder and record on it without any sound going into recorder, in simple terms,

**B** Q. What? - A. Without any sound going into recorder, you just tell the recorder to record. Imagine there is no microphone, no input, this will increase the tape noise or tape hiss.

Q. Yes. - A. We call this bias erase noise, and a noise when it has been over a bulk eraser we call bulk erase noise.

MR. SYMONDS:

**C** Q. Could the tone burst result from a normal recording process? -

A. This is impossible because as I have just explained when you put the tape across a machine in record mode you increase the tape noise or tape hiss from bulk erase noise to bias erase noise.

HIS HONOUR JUDGE STROYAN:

**D** Q. What are these bursts you are talking about? - A. I have measured these tone bursts, I have measured the noise in the tape and this noise is in fact bulk erase noise, so we have an anomaly here.

Q. What do you mean by burst? - A. If you run tapes fairly fast across a recording you will hear peep, peep, peep, peep, bursts like that. If you run it at normal speed, over a low frequency in fact, 30 hertz or cycles per second, at the nominal recorded speed, but they are clearly audible at high speed winding. The anomaly is that if these bursts have been put on by normal recording process we would have expected this bias erase noise, the higher noise level.

**E** Q. Well are you suggesting somebody at some stage has put on this beep, beep, beep noise? - A. They must have done so.

**F** Q. What would be the point of that? - A. Well I have an explanation which, only one explanation. I have had 10 years to think about it, I have been very puzzled by it. It could be in fact an erasing process using a rather simple technique which produces bulk erase noise on a recorder.

Q. Yes. - A. On the Nagra 3 recorder which was used for these recordings there is a problem of noise from the motor getting into recording chain and this can record a low level of 30 hertz or 30 cycles per second tone inbursts.

**G** Q. What, do you mean the motor makes the beep, beep, beeping noise? - A. No, the motor in fact puts a 30 hertz, which is a very low frequency, into record chain. You are probably familiar with the hum you can get from mains electricity. That is 50 hertz. 30 hertz is just over half that, so it is a very low buzz.

**H** Q. How do you spell hertz? - A. HERTZ, that is the modern expression for cycles per second.

Q. Sounds more like a hired motor car! - A. Yes.

A

Q. Anyhow you say there was a 30 hertz hum. - A. That can be introduced into record chain from the tape recorder's motor, and this is in fact mentioned in the manual for that make of tape recorder. So the point here is that the motor can in fact record low levels of 30 hertz, which would normally be harmless. So the result of this is if you put a tape on one of these Nagra machines and recorded it without any microphone or any signal going into the recorder, you will get these bursts of 30 hertz recorded at a low level, but in the presence of the bias erase noise, the higher noise level from tape - which is not what we have found. However, I can explain just what we have found.

B

Q. What have you found. Tell me that. - A. Well we have found these 30 hertz bursts associated with the bulk erase noise, which you do not normally get when you are recording.

C

Q. 30 hertz burst, which are the beep, beep, beep noises. - A. It is beep, beep when it is played fast.

Q. And you found them doing what? - A. We have found them in these allegedly unused sections of tape and associated with bulk erase noise, with factory fresh type noise.

D

Q. 30 hertz. I better write this down. - A. I am sorry, it is rather complicated.

Q. You found beep, beep, beep noises in an alleged what? - A. In an allegedly unused sections of these two tapes, tape 1 and tape 5.

E

Q. Yes. - A. The only way I can explain these is by someone doing a peculiar sort of fiddle. If you in fact turn the tape inside out on a Nagra recorder so that the coated oxide surface is not touching the heads and the uncoated, what we call base sort of side, is touching the heads.

Q. Yes. - A. And if you then try to record on that tape with no audio signal going into recorder, as if you are trying to record silence.

F

Q. How on earth do you try to record nothing? - A. Because you are going to erase the tape, Your Honour. This is the effect this will have is to erase any signals off the tape and the fact that the tape is inside out will give you this bulk erase noise which you would not normally get.

Q. Well have I got this right. Somebody, probably sitting down, put the tape on upside down recording nothing? - A. That will erase anything which is on the tape, which you might desire to do, and will leave you with what is apparently bulk erase or factory fresh noise plus these beeps. That is the only way I have been able to explain this phenomenon. I cannot think of any other way it could have occurred.

G

Q. If you turn the tape inside out with the uncoated side touching the heads and then try to record on the tape, no audio signal. -

A. No audio signal or no input to recorder.

H

Q. There is no audio signal. - A. Yes.

Q. Then try to record no audio signal, what happens? - A. You will end up with apparently bulk erase noise, a noise you would expect of factory fresh tape.

Q. Yes. - A. And if using the Nagra 3 recorder, as was used for some of these recordings.

Q. Yes. - A. At a speed of  $3\frac{3}{4}$  inches a second.

Q. Yes. - A. You will get these tone bursts recorded.

Q. The beep, beep, beep noises? - A. That is correct.

**A** Q. Yes. - A. And I have found no other explanation for these tone bursts. I have tried many experiments and I have not been able to adduce them. Of course normally if you recorded on a tape you would have this bias erase noise, which we have not got.

Q. Well these beep, beep, beep noises you say on tape 1 exhibit 1 and on tape 5 exhibit 3, is that right? - A. That is correct.

**B** Q. And in order to produce them I must visualise somebody sitting down, putting the tape on back to front and recording nothing. - A. That is correct, possibly in order to erase something and make the tape apparently factory fresh, I don't know. That could be a reason for doing it.

MR. SYMONDS: My Lord.

HIS HONOUR JUDGE STROYAN: Yes.

**C** MR. SYMONDS: My Lord I think that this would be done not during the alleged recording process.

HIS HONOUR JUDGE STROYAN: Well ask the witness.

**D** MR. RIVLIN: Your Honour so far as we are concerned the defendant can ask leading questions of this witness. He can put a proposition to the witness and I shall take no objection.

HIS HONOUR JUDGE STROYAN: Yes, you go and ask him whatever questions you like.

MR. SYMONDS:

Q. Have you ever come across such tone burst on other tapes? -

A. Neither before nor since have I seen this type of phenomenon. It is absolutely unique to my knowledge.

**E** HIS HONOUR JUDGE STROYAN:

Q. What is the phenomenon you say? - A. This type of tone burst with bulk erase noise.

HIS HONOUR JUDGE STROYAN: Yes, yes.

MR. SYMONDS:

**F** Q. You have examined two sets of copy tapes. - A. Yes I have examined the copy tapes which were retained by the Times and also the other set of copy tapes which has been in court here.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

**G** Q. Did you find tone bursts on these? - A. No I did not.

Q. What do you regard as the significance of tone bursts? -

A. Well the only explanation I can make is someone has for some reason erased these tapes by the method described. I cannot see any other methods by which they can exist.

HIS HONOUR JUDGE STROYAN:

**H** Q. Erased which tape? - A. Part of the tapes which now constitute tape 1 and tape 5.

Q. Using the procedure of erasing them by running them upside down? -  
 A. That will erase them, yes. Certainly you would never find such tone burst in virgin tape, and running them inside out on a recorder will erase any previous programme and also account for these peculiar bursts.

**A** Q. Yes. Supposing that would be so, it is plain somebody has at some time recorded something on these tapes. - A. That is absolutely plain, yes. These bursts were recorded. It is absolutely impossible they could have occurred without being recorded. I have also examined EMI tapes of similar batch numbers from the factory and I found no such bursts.

**B** Q. So what conclusion do you invite me to draw from these bursts? -  
 A. Well the only explanation I can have for these is someone has tried to generate new tapes from old, so to speak.

**C** Q. I am afraid I am not with you. - A. Well it is possible that these tapes have been used for other recordings, for further recordings which do not exist now, and someone might have decided they want to get rid of those recordings. They would have realised, if they are technically competent, if they tried to record nothing they would get this bias erase noise which does not look like factory fresh tape, so they would want to obtain this bulk erase noise which does look like factory fresh tape, and possibly used this method. I do not know why they exist Your Honour. All I can do is report on what I find and possible reasons.

**D** Q. But assuming that to be right, the effect of doing what you say, doing, in other words turning them upside down and recording nothing, is to make them sound rather as if they were fresh? - A. Very much as if they are fresh. If anything, better than fresh.

Q. And then if one tried to record something on those tapes after that process, it would go down in the ordinary way, would it? - A. That is correct, yes.

**E** Q. So that in those cases your view is that it may be that the tapes on exhibit 1 and exhibit 3 are not virgin tapes. That is what it comes to. -  
 A. In my view they are most definitely not virgin tapes. It is impossible in that state.

Q. That is 1, 5, are not virgin tapes. Yes. - A. There is another peculiarity I might mention about tape 1. That is that these bursts after the end of the recording occur across the full width of tape.

**F** Q. What does that mean? - A. It was a record head which carried across the complete width of the tape, the full quarter inch width. However, the existing recording on tape one, which was alleged to have been made on a Uher recorder, is what we call a half track recording, that is it occupies effectively half the tape width.

Q. What assistance do I get from that? - A. Well clearly the bursts on tape 1 were not put on by the original recorder, Uher, because that was a half track recorder.

**G** Q. You mean only recorded on half the width of the tape? - A. It only records on half the quarter inch width. You can then turn the tape over and record the other half.

Q. You mean there are bursts on each side, on both parts? - A. If we imagine, Your Honour, that this is a bit of tape here.

**H** Q. No, we wont do that. Put it down. - A. Sorry. If we imagine this is a piece of tape quarter of an inch wide. With a full track recorder

you have a head that goes across like that. With a half track recorder you have a head that width, so you record on half the tape and turn the tape over and go down and record on the other half of the tape. In the case of tape 1, this was recorded on a Uher, which is a half track recorder.

**A** Q. You mean the conversation? - A. The conversation, the telephone calls are recorded on a half track machine.

Q. Yes. - A. But the tone bursts at the end are recorded across the full width of the tape.

**B** Q. After the conversation? - A. After the conversation. They may indeed be present on the unused half during the conversation, but I can't tell.

Q. Well where does that lead me? - A. That leads us to see that these bursts were recorded by a full track machine, and a full track machine was not used for the alleged original recording, therefore the tone burst could not have been recorded at the time of the original recording.

**C** Q. Well does that mean that your view is that somebody with this tape sat down and, whatever had been on it before, they put in on back to front, played it through in total silence and then at a later stage somebody with a Uher recorder recorded the conversation? - A. That is one possible explanation. The other possible I think we perhaps ought to consider is that there could have been further conversations which might have been erased by this method. As I see it those are the two possibilities.

**D** Q. Erased before this telephone conversation was put on? - A. If we imagine there were further conversations on tape which do not now exist, someone could have wanted to get rid of a conversation or whatever was on it for some reason, so what they could have done, they could have carefully lined up the end of the conversation they wanted to leave on the erase head of the machine and then it has gone into record and produced these tone bursts.

**E** Q. Does that tell me any more than what I have just been asking about? - A. Well you suggested someone might have erased the tape before these recordings went on a full track machine. That is also a possibility, that the whole tape had been used for some other purpose, they wanted to make it factory fresh again so they put it through this process and then subsequently recorded on October 28th.

**F** Q. Well I follow that so far, I follow that you say it is possible that someone had turned this tape upside down, put it through the machine in silence in order to make it look like a new one, and then I follow that after that had been done somebody else had made a recording of telephone conversation on half the track with a Uher recorder. That is right, is it? - A. That is correct, but I cannot say that those bursts were there before or after the Uher recording.

**G** Q. Well where do they occur? - A. They occur after the end of the existing audible recording, but they may also occur on the unused tracks of the tape during recording, but I cannot tell.

**H** Q. So what it comes to is somebody may have wanted to erase whatever was on that tape and make it sound as if it was a new one and somebody else may have then come along with a Uher recorder and recorded the conversation on half the tape. - A. That is possibility number one. Possibility number two is that perhaps the Uher recording was originally longer than it now is and for some reason someone wanted to get rid of some conversation that no longer exists.



Q. Well does that/<sup>mean</sup>at the end of what we now find recorded the machine was put through this unusual process, starting at the end of the present recording, to erase whatever else was on that tape? - A. That is what I considered to be a possibility. I am afraid I cannot help you further.

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

MR. SYMONDS:

Q. Can we now turn to 50 hertz hum? - A. Yes, we do have 50 hertz hum present.

HIS HONOUR JUDGE STROYAN:

**B** Q. Which tape are we talking about now? - A. On tape 1, tape 3(b) and tape 13.

MR. SYMONDS:

Q. Is 50 hertz hum a common problem? - A. It is a common problem with mains operated equipment, but not normally with battery operated equipment.

HIS HONOUR JUDGE STROYAN: Yes.

**C** MR. SYMONDS:

Q. How could 50 hertz hum occur in a battery powered recording? -

A. The only possibility here is if one were near a large transformer or heavy power line, or something like that could introduce hum.

HIS HONOUR JUDGE STROYAN:

**D** Q. If it is a battery recording, power lines, this right? - A. Heavy power lines my Lord, my Honour, or big transformers, electricity sub stations, that sort of thing might cause this problem.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

Q. Can 50 hertz hum occur with battery operated radio microphones? -

**E** A. Here again, if one is away from large transformers and power lines and things, it certainly would not. These microphones are designed for operating in recording studios, on stage and so on, and in these places you often do have heavy electrical appliances, lights and so on, and the microphones are designed to be immune from picking up hum from these devices.

Q. Mentioned that hum could be picked up from a large transformer or power cable. - A. That is correct.

**F** Q. Have you checked this at the Grove public house? - A. Yes, I attended at the Grove public house with a Nagra 3 recorder and an R.M.S. 9 radio microphone, the same models as were alleged to be used for these recordings, and we made several recordings around the car park at the Grove public house and at no time could we manage to pick up any hum.

Q. Can we turn now to tape 1. - A. Yes.

**G** Q. The telephone calls. What did you find about this tape? -  
**H** A. Well in tape 1 we have these tone bursts in the allegedly unused section. We also have cyclic 50 hertz hum, not straightforward 50 hertz hum. Now the tape is said to have been recorded using a telephone pick up coil, and using those coils you often expect to pick up hum, but you do not expect to pick up cyclic hum. The conclusion I draw from this is that possibly tape 1 is a copy, because if you copy tapes you quite often have the problem of picking up further hum and this would account for the cyclic hum.

HIS HONOUR JUDGE STROYAN:

Q. You mean in the copying process? - A. Copying process would account for the hum being cyclic.

**A**

MR. SYMONDS:

Q. Even if this was not a new tape, would you expect tone burst? -

A. I would not.

HIS HONOUR JUDGE STROYAN: Yes.

MR. FORD: Not tone bursts of that nature, I think I should say to be strictly accurate.

**B**

MR. SYMONDS:

Q. You might expect hum with a telephone pick up coil? - A. That is so.

Q. Would you expect the 50 hertz hum you found on this tape? -

A. No. As I have explained, I would not expect hum from a telephone pick up to be cyclic.

**C**

HIS HONOUR JUDGE STROYAN: Yes, I have got that, yes.

MR. SYMONDS :

Q. Do you have any observations about the batch number of this tape? -

A. Yes, there is a certain peculiarity about the batch number of this tape. This tape has the batch number 35296. The other 5 inch reels of tape, tape 2 exhibit 2 has the batch number 35681. Tape 3 has a batch number which is not completely legible, which is 352 something or other, 352 - same start as tape 2. So we have two tapes with probably the same batch number and one odd man out, 35296. If we look at the copy tapes, the first copy tapes that were made are the ones in the possession of the police. It may or may not be significant that copy number two has the same batch number as alleged original number one.

**D**

HIS HONOUR JUDGE STROYAN: Yes.

**E**

MR. FORD: And the copy tape of tape 3 has a batch number which starts with 352, the last of the digits being illegible.

HIS HONOUR JUDGE STROYAN: Yes.

MR. FORD: The inference here is of course that the tape currently presented as tape 1 has the same batch number as the copies of tape 2 and tape 3(b).

**F**

HIS HONOUR JUDGE STROYAN:

Q. Tape 1, you say, - A. Tape 1 has the same batch number as copy tape 2.

Q. Yes. - A. And probably copy tape 3.

HIS HONOUR JUDGE STROYAN: Yes.

**G**

MR. SYMONDS:

Q. What are your conclusions about the alleged original tape 1? -

A. I am of the opinion that that tape was most certainly not a virgin tape when it started life.

HIS HONOUR JUDGE STROYAN: It must have been.

**H**

MR. FORD: When it started its present existence.

HIS HONOUR JUDGE STROYAN:

Q. What, do you mean when the recording was put on? - A. When it was recorded, yes.

A

Q. Yes. - A. And that tape 1 is likely to be a copy of another recording.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

Q. Turning to tape 2, did the quality of the recording hamper your investigations? - A. It was a poor recording. It was very difficult to do anything useful with it.

B

Q. Did you find tone bursts in this recording? - A. We did not find tone bursts in this recording because it was recorded throughout its length and if they had existed we would not have found them.

Q. Did you find hum in this recording? - A. No I did not.

C

Q. What are your conclusions about tape 2? - A. Tape 2 was very difficult to investigate and I wouldn't like to comment about it one way or the other.

Q. Turning to tape 3 Mr. Ford, what recordings does this contain? -  
A. Tape 3 has three recordings on it.

D

Q. Can you describe the recordings? - A. Yes, there is the recording 3(a) which we mentioned earlier this afternoon relating to Harris and Robson, which is followed by the recording 3(b) relating to yourself.

Q. And the third? - A. And the third is a separate recording on the other track of the tape, this tape being a half track tape.

Q. Did you find any marks on tape 3? - A. Yes indeed, as I have already mentioned there was a mark at the conjunction of recordings 3(a) and 3(b).

E

Q. The recording 3(b), the Grove, October 31st. How was this made? -  
A. This was allegedly made using a Uher recorder with an input from a microphone as opposed to a radio microphone.

HIS HONOUR JUDGE STROYAN:

Q. This is 3(b)? - A. This is 3(b).

F

Q. Direct tape, in other words. - A. Direct, yes.

Q. You can tell that, can you, from a tape? - A. Yes, within reason.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

G

Q. Did you find 50 hertz hum in recording 3(b)? - A. Yes I did.

Q. Can you explain the presence of this hum? - A. Well the hum clearly should not be there, and again it could well be associated with a copying process.

HIS HONOUR JUDGE STROYAN: Yes.

H

MR. SYMONDS:

Q. Have you used similar equipment at the Grove public house? -  
A. Yes I have.

Q. And what is your conclusion about tape 3? - A. As far as recording 3(b) is concerned I consider it to be most unreliable.

HIS HONOUR JUDGE STROYAN:

Q. Yes. Why? - A. This is because it has this 50 hertz hum present.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

Q. If we now turn to tape 5 which is the back up tape to 3(b). - A. Yes.

Q. How was this alleged to have been made? - A. Tape 5. Tape 5 was alleged to have been made on a Nagra recorder using a direct microphone.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

Q. Is tape 5 a single continuous recording? - A. No, as I have earlier explained, it is two recordings.

Q. And does a mark occur at the junction of the recording? - A. It does.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

Q. Did you find any tone burst on tape 5? - A. Yes I did, after the audible recordings.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

Q. If you were told that tape 5 started as a virgin, factory fresh tape, what would you say? - A. Well we have a situation where we have two recordings and a second recording followed by tone burst. These tone burst would not occur on factory fresh tape.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

Q. How do you view tape 5? - A. Tape 5 was clearly used for two separate recordings. The one that is now the second recording was the first recording chronologically.

HIS HONOUR JUDGE STROYAN:

Q. There were two recordings, you say, and the second was the earlier in time? - A. That is correct.

Q. Do they carry straight on one from the other, or is there some sort of delay between them? - A. To someone who did not understand, looking for gaps in recordings, it might well be or it might well appear to be a continuous recording.

Q. What is your view? - A. Well I am 100% confident that that tape bears two separate recordings.

MR. RIVLIN: We agree that, Your Honour.

HIS HONOUR JUDGE STROYAN:

Q. Yes, I follow that, but is there a gap in time between the end of the ... - A. The gap occupies about a third of a second.

HIS HONOUR JUDGE STROYAN: Yes I see. Yes.

MR. SYMONDS:

Q. Turning to the events of the 21st November, there were three tapes. -

A. That is correct, tapes 13, 14 and 15.

**A**

Q. Can you describe these? - A. Yes, tape 15 was made on a Grundig EN 3 dictating type machine. Tape 14 was made on a Nagra recorder using a direct microphone. Tape 13 was again made on a Nagra recorder using an R.M.S. 9 radio microphone.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

**B**

Q. Do you regard tape 15 of any significance? - A. Tape 15 is absolutely appalling quality and I think it is impossible to make any judgement on it.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

Q. Have you any criticism of tape 14? - A. No, I do not have any criticism of tape 14. I did not find any marks on it. I did not find any hum in it.

**C**

Q. And tape 13? - A. Yes, tape 13 contained some 50 hertz hum which should not be present.

HIS HONOUR JUDGE STROYAN: Yes.

MR. SYMONDS:

**D**

Q. What is your feeling about the phenomena on tape 13? - A. Well certainly using a battery operated recorder with a radio microphone should not produce hum, with the provisos that I have previously mentioned, that is that the recording is not made adjacent to large power transformers and other potential sources of hum.

Q. Have you examined other EMI batches of other tapes of similar batches for the presence of tone burst? - A. Yes I have.

**E**

Q. Did you find any? - A. I did not.

Q. Have you any confidence in the authenticity and or originality of the recorded exhibits before this court? - A. I am afraid I have very little confidence. I have heard evidence which is very much contrary to what I have found.

**F**

Q. Is there anything else you would like to add at this stage? -

A. I think that is basically all I can usefully say.

Q. Before this case Mr. Ford, and your interest in this case, did you have any personal or previous contact with me? - A. None.

MR. SYMONDS: No more questions.

**G**

HIS HONOUR JUDGE STROYAN: You will be some time with this witness?

MR. RIVLIN: Your Honour yes. If Your Honour wishes me to ask a few preliminary questions this evening I can, otherwise I will clearly go into tomorrow.

HIS HONOUR JUDGE STROYAN: Yes. Will it be useful to ask one or two questions?

**H**

MR. RIVLIN: I am entirely in your hands. If you wish to save a little time I am prepared to ask some questions this evening, Your Honour. Perhaps

what I might do is just to ask some background questions and get into the tapes tomorrow morning.

HIS HONOUR JUDGE STROYAN: Yes, very well.

**A** MR. RIVLIN: Would you like me to do that?

HIS HONOUR JUDGE STROYAN: Yes.

CROSS-EXAMINED BY MR. RIVLIN

MR. RIVLIN:

**B** Q. Mr. Ford you do have strong personal views, do you not, about tape recordings and courts? - A. I have fairly strong views based on my experience.

Q. It is your view, isn't it, that tape recordings ought never to be admitted as evidence in a court of law? - A. Not as reliable evidence.

**C** Q. Well then can I take it, given that obviously you do not want unreliable evidence to be put in before a court, that it is your view that tape recordings ought never to be admitted in evidence in a court of law? - A. Yes.

**D** Q. Yes. Now I am not going to go into the small print of this at the present time, but it is perfectly clear, is it not, in your eyes that if these tapes have been tampered with, for a variety of reasons they have been tampered with by an expert or experts? - A. I am completely unable to tell.

Q. Well that is not so, is it Mr. Ford. For a variety of reasons, isn't this right, if these tapes have been tampered with they have been tampered with by some person or persons with expert knowledge of tape recording and editing? - A. I don't agree.

**E** Q. You don't agree? - A. You do not have to be expert in any way. Many amateurs do tape editing as a hobby and make a very good job of it.

Q. I see. You see it may well be that your view here will differ from that of another witness who is to be called very shortly. - A. It may be.

**F** Q. Yes, and I shall be able to point out, I think, some features to you, perhaps tomorrow, which might indicate that if the tapes have been tampered with they have been tampered with by an expert rather than an amateur. Do you understand? - A. Okay.

Q. But just let us deal at the moment with the general proposition that it is suggested by you that these tapes are unreliable, or may be unreliable. You appreciate, do you not, that the tapes bear words, recorded speech? - A. They do.

**G** Q. You are not suggesting for a moment, are you, that the words which we hear, or other people hear, on these tapes have never been used? - A. Clearly these words were at some time spoken, there is no doubt whatsoever.

**H** Q. And moreover, they have been spoken, have they not, during the course of what one might call a face to face confrontation or conversation, because, let me explain why. This is not one of those cases where it can be said that (A) has asked a question, paused, and (B) has given an answer. There are many, many instances in these tape recordings, are there not, where the two people appear to be speaking at one and the same time? -

A. They certainly appear to at times.

Q. Yes, and that happens I think without exception, does it not, in each and every tape that we have listened to? - A. In each tape a conversation takes place. I have no means of telling if that was the conversation as spoken or was not. I have no evidence that any conversation has been removed or inserted, or for that matter, evidence to the contrary.

Q. Well then let me just take you up on your last answer because it may be important. You have no evidence, you said, that any speech or conversation has been removed or inserted. - A. No.

Q. Or, to be fair to you, any evidence to the contrary. - A. Precisely.

Q. And the situation is this, that you are giving evidence, expert evidence you say, about various features of these individual tapes. That is right, isn't it? - A. Yes, that is right.

Q. In relation to those features there is not I think, and you will correct me if I am wrong, one single one that you have been able to draw to the court's attention which appears within a passage of recorded speech, that is from the time that the conversation appears to start until the time that the conversation appears to end. That is right, isn't it? - A. There is hum within conversations.

Q. You say that there is hum. - A. Yes.

Q. Very well. Well let us leave aside the question of hum for the moment. There is no question of tone bursts or markings or anything like that, you say, within the period of conversations. Right? - A. The marks are at junctions of conversations.

Q. Yes. Well we appreciate what you say about that Mr. Ford. Then you agree with me, do you not, that there is no evidence of tone bursts or marks appearing within, within the period of conversations? -

A. Within the period of the existing conversations there are no marks. Whether a tone burst or not, I am unable to comment because if they did exist I would not be able to find them.

Q. No Mr. Ford, but you are obviously trying to help the court. - A. I am doing my best.

Q. And if you yourself have not been able to find them, then so far as you are concerned there is no evidence of them. - A. We have to be a little bit cautious about this. There is no evidence of them. On the other hand, if they did exist I do not have suitable techniques that would find them.

Q. Yes, well you see we are only asking you about what you have been able to find and about your evidence, and so far as your evidence goes you have not been able to find any. That is right. - A. That is correct.

Q. And so is this right, that with the exception of the question of hum, to which I shall come tomorrow, there is nothing within these recorded conversations - A. Not ...

Q. If you would be so kind as to let me finish my question. - A. I beg your pardon sir, I thought you had.

Q. There is nothing within the space of the recorded conversations to cause you to raise your eyebrows. That is right is it? - A. Not within the existing recorded conversations.

MR. RIVLIN: Thank you. Yes, well I am going to come on to detail Your Honour, and I have a number of questions to put to this witness.

A HIS HONOUR JUDGE STROYAN: Yes, very well we will deal with that tomorrow. It is very important Mr. Ford that you do not talk about your evidence in this case to anybody at all under any circumstances at all from the time you leave the witness box until the time you return tomorrow.

MR. FORD: I do appreciate that Your Honour.

B MR. SYMONDS: My Lord I wonder if the prosecution are going to call their experts in rebuttal to follow on from ours, whether that would be immediately after our experts have finished giving evidence.

HIS HONOUR JUDGE STROYAN: I do not know, they may not be. First of all before they can call experts in rebuttal they have got to get my leave, and in the second place I am not sure whether they are going to want to do so or not. We shall have to wait and see.

C MR. RIVLIN: Yes, I think so.

HIS HONOUR JUDGE STROYAN: Well I think the best thing to do is to deal with that at 10.30 tomorrow.

(COURT ADJOURNS FOR THE DAY)

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F  
G I certify that I took shorthand notes in the case of R -v- Symonds on the 10th March 1981, and I certify that the pages numbered 1 - 62 are a true and complete transcript of the said shorthand notes to the best of my skill and ability.

...Linda Beere...