

**IN THE CROWN COURT AT CARDIFF**

The Law Courts  
Cathays Park  
Cardiff  
South Wales  
CF10 3PG

BEFORE:

**HIS HONOUR JUDGE PAUL THOMAS QC**

BETWEEN:

**R**

**PROSECUTION**

**- and -**

**MR MAURICE JOHN KIRK**

**DEFENDANT**

**Legal Representation**

Mr Richard Twomlow (Barrister) on behalf of the Prosecution  
Mr Kirk, Litigant-in-person

**Other Parties Present and their status**

Mrs Celia Jeune - Defendant's sister

**Whole Hearing**

Hearing date: 29 January 2010  
Transcribed from 10:41:20 until 10:43:47  
11:06:59 until 12:48:16  
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Number of folios in transcript	430
Number of words in transcript	30,929

**A**

**Court Clerk:** Court please rise.

**B**

**His Honour Judge Thomas:** Yes, Mr Kirk isn't in Court. I've been told that he has signed for his papers and they'll be brought into Court, so that will take some time, I'm afraid, to, to arrange. My other reason for being in Court is to find the document that I've mislaid, so I'll just do that and then I'll, I'll rise.

**C**

**Mr Twomlow:** Yes. Your Honour, can I mention one ...

**Male:** No.

**Mr Twomlow:** Matter?

**D**

**His Honour Judge Thomas:** Not in, not in, not in the absence of Mr Kirk.

**Mr Twomlow:** Well, it's not to, it's not really to do with this case. It's to do with Monday.

**E**

**His Honour Judge Thomas:** Oh, right, yes.

**F**

**Mr Twomlow:** I don't know if Your Honour is aware, but on Monday morning I am, am scheduled to and really have to appear in a, a, a case which is due to last Monday morning. I think the Court has been, has discussed this with my clerk and suggested, I think, that this, this case doesn't sit until 2 o'clock on Monday. I was told this last night. I thought I'd raise it now so that Your Honour knows ...

**G**

**His Honour Judge Thomas:** I understand that, no, of course. What is the nature of the case, sorry? Are you able to tell me?

**H**

**Mr Twomlow:** It's an application to dismiss in a, an alleged armed robbery conspiracy in which I've, Judge Denyer has been dealing with it from the beginning and adjourned the case last time for this hearing on Monday, quite a long time ago.

**His Honour Judge Thomas:** And you, you prosecute or defend?

**A** **Mr Kirk:** I'm defending.

**His Honour Judge Thomas:** Yes. Well, I'm very reluctant, as you can imagine, to interrupt this case, which --

**B** **Mr Twomlow:** Well --

**His Honour Judge Thomas:** Hasn't been the --

**C** **Mr Twomlow:** I --

**His Honour Judge Thomas:** Smoothest running in history.

**D** **Mr Twomlow:** Yes.

**His Honour Judge Thomas:** But as long as it, we can start at 2 o'clock ...

**E** **Mr Twomlow:** I don't think there's any doubt about that.

**His Honour Judge Thomas:** Yes. Well, I'll tell Mr Kirk and the Jury when, when we return.

**F** **Mr Twomlow:** Well, thank you very much, Your Honour. I do appreciate the need to, to deal with this case, get on with it, as much as anybody.

**G** **His Honour Judge Thomas:** Yes, well, I'll, I, it has been mentioned to me by listing. My initial reaction was that if it could be put off, then it should be. But ...

**Mr Twomlow:** Ah.

**H** **His Honour Judge Thomas:** I will grant it.

**Mr Twomlow:** Thank you.

**His Honour Judge Thomas:** Thank you.

**A**

(judge confers with clerk)

**His Honour Judge Thomas:** Yes, thank you.

**B**

**Court Clerk:** Court please rise.

(short adjournment)

**C**

**Court Clerk:** Court please rise. The return to trial of Maurice Kirk.

**His Honour Judge Thomas:** Mr Kirk, I've had a letter this morning from Mr Werren, again about the medical notes. This seems to be in relation to an ENT appointment in Bristol. Am I right about that?

**D**

**Mr Kirk:** I, during around about August, paid money to make the Caswell Clinic release my psychiatric records for my legal advisers. They have deliberately withheld the important psychiatric reports that relate to their attempts to have me sectioned under 37/41 to serve an indeterminate prison sentence at a high security prison in order to prevent this case from progressing and the civil action from progressing. Now, in law the Caswell Clinic, Dr Tegwyn Williams, he will be one of my witnesses later, should have released the medical records to my solicitor in, in Yorkshire. He used to be our local Member of Parliament in the Vale of Glamorgan, a, a, a grumpy old sod, ideal for the, our next Home Secretary, incidentally. I am not employing him, because he refuses to charge a penny whenever I seek a, legal advice. So I'm pursuing it through this Court that the report by professor Roger Wood seriously affected the psychiatric report that the Royal College are using to overturn a £1 million action in the local Court here that is on a deadline of 4:30 this afternoon. The report is that a, a, His Honour Judge, is it Mr Judge North? North, I think it was, but you would know who he is, has said that if I do not produce a psychiatric report to show that I am fit to conduct the prosecution against the Royal College and South Wales Police in the civil action, I have all the papers with me, they, the, the Reliance are refusing to produce my papers for the fourth day, which is another matter ...

**H**

**His Honour Judge Thomas:** You've got the papers with you, haven't you, now?

**Mr Kirk:** Sorry?

**A**

**His Honour Judge Thomas:** Don't you have your papers with you now in the dock?

**Mr Kirk:** No, they are downstairs. What I have here is what my sister has managed to get by, by way of defence documents. Can we just finish the important issue?

**B**

**His Honour Judge Thomas:** No, I want to hear, I want to, I want to hear from the --

**C**

**Mr Kirk:** OK.

**His Honour Judge Thomas:** Dock officer what's happened.

**D**

**Dock Officer:** Yes, he's signed for his paperwork here, Your Honour, but there's 20 large boxes. They are actually all in his cell with him now. And then afterwards, just before we came to Court, he said, I want all these up in Court. I personally refused to bring them myself. I said, you can bring whatever papers you require, but I'm not bringing 20 boxes to Court. If it, if you, Judge, orders it, Your Honour, if you order it, we will bring it up, but it'll take a long time to bring 20 boxes. And I *told you* they are large and heavy.

**E**

**F**

**His Honour Judge Thomas:** Well, I know how much random paperwork there is here, because I've got it with me in four boxes. Mr Kirk, as far as this question of the, the psychiatric report is concerned, if it is to do with your civil claim, then I suggest that you address it to the civil Judge. I'm not dealing with the civil claim.

**G**

**Mr Kirk:** No, no, no, I need it in this case because the late disclosure that I only received on 23 January, that's two days before trial, were two personal, sorry, were two statements from my wife. One was dated July, sorry, June 2009, I think the day after I was arrested or the same day.

**H**

**His Honour Judge Thomas:** Well, before I'm prepared --

**Mr Kirk:** I, I, ah, no, the --

**His Honour Judge Thomas:** Before I'm --

**A**

**Mr Kirk:** Content of it is --

**His Honour Judge Thomas:** Before I'm prepared --

**B**

**Mr Kirk:** Terribly important.

**His Honour Judge Thomas:** Before I'm prepared to do anything more about this long

running sore of the medical records, I'm not saying that I will ultimately, *because* I don't

**C**

think it's within my jurisdiction in this --

**Mr Kirk:** Yes, it --

**D**

**His Honour Judge Thomas:** Case.

**Mr Kirk:** Is.

**His Honour Judge Thomas:** But what letter has been written to Dr Tegwyn Williams? Do

**E**

you have a copy of that?

**Mr Kirk:** Well, yes, in one of the boxes --

**F**

**His Honour Judge Thomas:** Well --

**Mr Kirk:** Downstairs.

**G**

**His Honour Judge Thomas:** After lunch, if you can look for it over the lunch adjournment, bring it up in, this afternoon. Bring the letter up that has been written. Right, can we have the Jury back in then please?

**H**

(jury returns)

**His Honour Judge Thomas:** Well, members of the Jury, apologies again. I have some news, which may be good news or may be bad news, depending on your viewpoint, but

A we're not able to sit on this case on Monday morning. And we will sit at 2 o'clock on Monday, so you've got the morning off. As I say, that may be good news. It may be bad news. I've no way of knowing. Thank you.

B **Mr Twomlow:** May it please Your Honour, ladies and gentlemen, I call Richard Mabbit. His witness statement's page 70, Your Honour.

B **Mr Kirk:** I do require my legal papers.

C **His Honour Judge Thomas:** You've now signed for them, have you?

C **Mr Kirk:** Sorry?

D **His Honour Judge Thomas:** You've now signed for your papers.

E F G **Mr Kirk:** I have signed my papers under duress, yes. I have the cheque taken by the, the, the Prosecution, that was designed to get my medical records because, due to late disclosure, my, my wife was, was made to make statements on which she refused to sign, were only disclosed to me yesterday, which the police were asking for intricate, intimate, family, marriage details plus any possible history of mental illness. And I have now found on that late disclosure that they have on their schedule proof that they were investigating the exhibit 1 not three weeks before but six weeks before my arrest. And I require and I will have, or I will threaten to do what I said earlier in this trial, I'll go back to my cell and read the UK column and you can get on without me, I require disclosure, what has caused, by my reading the late disclosure yesterday. And it is clear that they have since December taken fresh statements from my wife, from the licensed engineers that were dealing with this aircraft and item before I purchased it, during I purchased it and after I purchased it. Oh, the, the, the list is long, but --

H **His Honour Judge Thomas:** Yeah.

H **Mr Kirk:** Until I have my legal papers and exhibits with me, I will, we can carry on with this gentleman now, but I, before I can cross-examine him I must have my legal papers available to me.

**Mr Twomlow:** Mr Werren has been given copies of the statements of the witnesses who giving, giving evidence today, this morning. So those statements are with Mr Kirk's --

A

**His Honour Judge Thomas:** Right.

**Mr Twomlow:** Representative.

B

**His Honour Judge Thomas:** So no doubt Mr Werren [sic] can give this statement to Mr Kirk and we can get on. Thank you.

C

**Mr Kirk:** What's this?

**Court Clerk:** Please repeat after me. I do solemnly ...

D

**Mr Mabbit:** I do solemnly ...

**Court Clerk:** Sincerely and truly declare ...

**Mr Mabbit:** Sincerely and truly declare ...

E

**Court Clerk:** And affirm ...

**Mr Mabbit:** And affirm ...

F

**Court Clerk:** That the evidence I shall give ...

**Mr Mabbit:** That the evidence that I give ...

G

**Court Clerk:** I shall give ...

**Mr Mabbit:** I shall give ...

H

**Court Clerk:** Shall be the truth ...

**Mr Mabbit:** Shall be the truth ...

**Court Clerk:** The whole truth ...

**A**

**Mr Mabbit:** The whole truth ...

**Court Clerk:** And nothing but the truth.

**B**

**Mr Mabbit:** And nothing but the truth.

**Court Clerk:** Thank you.

**C**

**Mr Twomlow:** Before I examine the witness, I should also say that those documents that he's just been given are documents he has already got. They're copies *that were* given to him this morning.

**D**

**Mr Kirk:** Could I have pen and --

**Mr Twomlow:** What's your --

**E**

**Mr Kirk:** Paper --

**Mr Twomlow:** Full name --

**F**

**Mr Kirk:** Please.

**Mr Twomlow:** Please?

**G**

**Mr Mabbit:** Richard Thomas Matthew Mabbit.

**H**

**Mr Kirk:** Pen and paper please. I'm not allowed a pen or paper when I'm in custody, contrary to what the police website says about remand, unconvicted prisoners. I'm not allowed a pen whilst I'm in the cells below this Court. I need a pen and paper please. No, not from you. Make them do their job.

(judge confers with clerk)

**His Honour Judge Thomas:** Is there any particular type of paper you'd like, Mr Kirk?

**A**

**Mr Kirk:** I'm sorry?

**His Honour Judge Thomas:** Is there any particular type of paper, or can Mr --

**B**

**Mr Kirk:** Any --

**His Honour Judge Thomas:** Werren [sic] --

**C**

**Mr Kirk:** Paper --

**His Honour Judge Thomas:** Give *you* --

**D**

**Mr Kirk:** That I can record what's going on.

**His Honour Judge Thomas:** Well, Mr Werren [sic] is right in front of you. He can pass you a piece of paper.

**E**

**Mr Kirk:** He is not in my employ. He's a virtual --

**His Honour Judge Thomas:** He's got a piece of paper.

**F**

**Mr Kirk:** Stranger to me.

**His Honour Judge Thomas:** He's got a piece of paper, Mr Kirk.

**G**

**Mr Kirk:** OK, right, *OK*.

(parties confer)

**H**

**His Honour Judge Thomas:** And we'll get you a pen.

(parties confer)

**Mr Twomlow:** Very sorry, Mr Mabbit. Would you give your full name again please?

**A**

**Mr Mabbit:** Richard Thomas Matthew Mabbit.

**Mr Twomlow:** And are you --

**B**

**His Honour Judge Thomas:** Wait a, wait a minute --

**Mr Twomlow:** Employed --

**C**

**His Honour Judge Thomas:** Mr --

**Mr Twomlow:** By the --

**D**

**His Honour Judge Thomas:** Mr Kirk, Mr Kirk hasn't yet got a pen.

(parties confer)

**E**

**His Honour Judge Thomas:** Right, thank you.

**Mr Twomlow:** Yes. Are you employed by the Worshipful Company of Gunmakers?

**F**

**Mr Mabbit:** Yes.

**Mr Twomlow:** And what is your current role please?

**G**

**Mr Mabbit:** My official title now is that of the proof master. I was the superintendent at the time of the inspection.

**H**

**Mr Twomlow:** I see. That, that, that, in July of last year, you were, what capacity were you working in then?

A

**Mr Mabbit:** My official title was superintendent, essentially the number 2 of the company, and my role involved, involves the inspection of small arms for safety and also the inspection of deactivated firearms.

B

**Mr Twomlow:** Right. Now, the ladies and gentlemen of the Jury, and the Court, may not know much about the Worshipful Company of Gunmakers. I wonder if you'd just explain what that is and what role --

C

**Mr Mabbit:** No *problem*.

D

**Mr Mabbit:** Very brief history. We were formed back in 1637 under Royal Charter, testing firearms for safety. We're only involved in sort of testing the pressure bearing components of firearms to ensure that they're safe for the end user and they have got the quality of work there. Come 1989, when sort of deactivation laws came in, we were then tasked by the Home Office to carry out the certification of the work to ensure that it was done to Home Office specifications. We don't actually carry out any of the work in house. We are there simply to inspect, certify and then mark any weapons that are presented.

E

**Mr Twomlow:** Thank you.

F

**His Honour Judge Thomas:** So you don't do the work, but you test that it's been done properly.

G

**Mr Twomlow:** And does the majority of your work involve the inspection of military weapons?

**Mr Mabbit:** Yes, it does.

H

**Mr Twomlow:** At half past 1 on the afternoon of Wednesday 15 July of last year, were you presented with exhibit or reference number AJR1 by DC Phillips, a South Wales Police officer?

**A** **Mr Mabbit:** Yes.

**Mr Twomlow:** And can you see that exhibit on the desk?

**Mr Mabbit:** Yes, it is. It's the black weapon furthest from me.

**B**

**Mr Twomlow:** And were you, were you aware that the exhibit was a Lewis machine gun or a Lewis type medium weight machine gun?

**C**

**Mr Mabbit:** Yes.

**Mr Twomlow:** And what was the purpose of your examination of that gun?

**D**

**Mr Mabbit:** The brief I had was to inspect it to see if it had been deactivated in any way and if it had been deactivated in accordance with the Home Office specification.

**Mr Twomlow:** Yes. Now, when you did examine the gun, what did you see?

**E**

**Mr Mabbit:** The working parts were still moving, i.e. the bolt. I noticed that there was something odd about the barrel. Although we didn't have the barrel out, it was obvious that it wasn't an original barrel. It was a smooth bored barrel.

**F**

**Mr Twomlow:** Right, if you just pause a moment because a note is being taken by His Honour of --

**Mr Mabbit:** Sorry.

**G**

**Mr Twomlow:** What you're saying. So we'll take it a little more slowly.

**His Honour Judge Thomas:** Yes, thank you.

**H**

**Mr Twomlow:** Yes.

**A** **Mr Mabbit:** The first thing we checked on there was to see if had been through either of the proof houses, either the London or the Birmingham Proof Houses. We can tell that because once we've certified a gun as being deactivated, we'll mark on there by way of hand stamp or engraving on the major components, i.e. the barrel, the action and the bolt, would put a mark to say, yes, it has been deactivated in accordance with the specification. None of those marks were evident. I noticed the gun had had some modifications done to it, i.e. the trigger group was held in with some screws that weren't of the original pattern.

**B** **Mr Twomlow:** Right, just, yes, yes, carry on.

**C** **Mr Mabbit:** So we, we, I stripped the gun down, inspected the parts, comparing the parts to the specification to see if any of the work had been done in accordance with the specifications, and we found that it hadn't been. The bore, i.e. through the barrel --

**D** **His Honour Judge Thomas:** Sorry, just --

**Mr Mabbit:** Was ...

**E** **His Honour Judge Thomas:** Sorry. So the gun hadn't been deactivated in accordance with specifications.

**F** **Mr Mabbit:** It hadn't been, no. And none of the major components had been weakened in that, and the barrel was free of any obstructions. I then --

**His Honour Judge Thomas:** And so the barrel was free of obstructions. Was, what is, what did you say immediately before *that*?

**G** **Mr Mabbit:** Free of, you could essentially see from one end of the barrel to the other. If it had been deactivated in any way, there would have been pins or rods welded in there.

**Mr Twomlow:** Did you test fire the gun?

**H** **Mr Mabbit:** I tested it with a primed case. So I took a live round of ammunition, deheaded it, emptied out the propellant so it's simply the charge in the primer, so very, very low charge, and I demonstrated to the officers that that weapon was still capable of firing.

**Mr Twomlow:** Yes.

**A**

**Mr Mabbit:** Although, because the barrel wasn't original, if a live round were to be fired, I couldn't say what would happen to the barrel, whether it would have withstood the force. But --

**B**

**Mr Twomlow:** No.

**Mr Mabbit:** A projectile would have still been fired.

**C**

**Mr Twomlow:** Yes. So far as the Lewis gun is concerned, between what years was it produced?

**D**

**Mr Mabbit:** Roughly between 1913 and 1942.

**Mr Twomlow:** And in what countries was it produced?

**E**

**Mr Mabbit:** There were some manufactured in Belgium, but predominantly they were manufactured in Britain and the USA.

**Mr Twomlow:** Are you able to say where this one actually was made?

**F**

**Mr Mabbit:** This gun, the identifying marks on this gun puts it as being a BSA, Birmingham Small Arms factory, so a UK produced weapon.

**His Honour Judge Thomas:** Could you just --

**G**

**Mr Twomlow:** Yes.

**His Honour Judge Thomas:** Go back to one matter that you've already mentioned? See if I've got this right. You were able to fire a primed bullet out of the, out of the gun.

**H**

**Mr Mabbit:** I fired simply a primed case, so it was --

**His Honour Judge Thomas:** Case, not live.

**A**

**Mr Mabbit:** Not live, no.

**His Honour Judge Thomas:** Could a live bullet have been fired out?

**B**

**Mr Mabbit:** Yes, it could. The reason we didn't fire a live round was because there was no guarantee that the barrel would contain the pressure.

**His Honour Judge Thomas:** So it might have been dangerous to do so.

**C**

**Mr Mabbit:** It might have been dangerous, but that's something that could, we could only ascertain if that weapon were to be fired with a live round.

**D**

**His Honour Judge Thomas:** Well, is, was it capable of discharging a lethal round?

**Mr Mabbit:** Yes.

**His Honour Judge Thomas:** Right, that's it. Thank you. Sorry, Mr --

**E**

**Mr Twomlow:** And --

**His Honour Judge Thomas:** Twomlow. I just wanted to check that.

**F**

**Mr Twomlow:** You, you, you may have dealt with this, but, just to be clear about it, had that gun been deactivated in any way?

**G**

**Mr Mabbit:** No.

**Mr Twomlow:** Yes, thank you very much. Mr Kirk will have some questions for you.

**Mr Kirk:** Good morning.

**H**

**Mr Mabbit:** Good morning.

A

**Mr Kirk:** I've provided a live round for you. The weapon is there. And with the leave of the learned Judge, I would like you to carry out what you say in order to finish your, the completion of your examination as to whether anything that you have said in this Court is at all relevant to the charges that I face, each carrying a minimum of 5 years.

B

**His Honour Judge Thomas:** Well, what --

**Mr Kirk:** So could you try it --

C

**His Honour Judge Thomas:** What are you --

**Mr Kirk:** Please?

D

**His Honour Judge Thomas:** What are you asking, Mr Kirk, that a, a, a --

**Mr Kirk:** That --

E

**His Honour Judge Thomas:** Live --

**Mr Kirk:** He --

F

**His Honour Judge Thomas:** Bullet --

**Mr Kirk:** He said --

G

**His Honour Judge Thomas:** Be fired --

**Mr Kirk:** He --

**His Honour Judge Thomas:** In Court ?

H

**Mr Kirk:** Said he, you, you may wear the, the, the recommended clothing and so on, should the breach split.

**His Honour Judge Thomas:** I'm sorry, Mr Kirk, what are you asking? That he fire a live

A --

**Mr Kirk:** Yes.

**His Honour Judge Thomas:** Round in Court?

B

**Mr Kirk:** Yes.

**His Honour Judge Thomas:** Well, I'm afraid I'm not going to allow that.

C

**Mr Kirk:** Well, that would be another grounds for the Court of Appeal, Your Honour.

**His Honour Judge Thomas:** It may well be, yes.

D

**Mr Kirk:** Right, *OK*. It is a --

**His Honour Judge Thomas:** Well, I'm not going to allow a live round to be fired in here.

Otherwise, I could be in front of a Court.

E

**Mr Kirk:** Well, I ask the brief adjournment for it to be taken over to the police station, where there might be a suitable target, to prove that it's lethal.

F

**His Honour Judge Thomas:** He's just said it was lethal.

**Mr Kirk:** To make sure there's no misunderstanding, the Prosecution have the exhibit listed

on their undisclosed material that they are denying the Jury to see. It was referred to in front

G

of the gentleman from Manchester, where I said the Prosecution had evidence that I

deliberately left my paperweight, which is a .303 with the date of manufacture stamped on

it. And I've gathered information for this witness so that there will be difficulties for the,

the learned Judge not to carry out what I would be asking if I was sitting on a Jury. So could

H

I please seek an adjournment for that purpose? The exhibit, if I could just be given the

exhibit list that is being, I, I will give you the item number. I think it was 332, something

like.

**His Honour Judge Thomas:** Have you --

**A**

**Mr Kirk:** Could I please have --

**His Honour Judge Thomas:** Have you --

**B**

**Mr Kirk:** Sight --

**His Honour Judge Thomas:** Carried out, have you carried out a test with a non live, what's the word I'm looking for, missile?

**C**

**Mr Mabbit:** No. All we did was fire off a primed case. So the only thing that would have exited the barrel would have been powder residue and the blast from the pressure.

**D**

**His Honour Judge Thomas:** Yes.

**Mr Mabbit:** But there were no projectiles that I tested the weapon with.

**His Honour Judge Thomas:** Any other questions, Mr Kirk?

**E**

**Mr Kirk:** You are refusing the adjournment to test the, because while he's here it needs to be dealt with, while he's here from London. Sorry, are you from London?

**F**

**Mr Mabbit:** Yes.

**Mr Kirk:** Good, OK.

**G**

**His Honour Judge Thomas:** Yes.

**Mr Kirk:** You refuse the adjournment?

**H**

**His Honour Judge Thomas:** Yes.

**Mr Kirk:** For the test, OK.

**His Honour Judge Thomas:** The test has been carried out.

**A**

**Mr Kirk:** Right, OK. Well, I mean, I, to be done by the relevant procedures. I, I'm just a, an early retired veterinary surgeon. I'm a, I still think that it should be tested, because he's been restricted in his examination. The Prosecution have kindly acquired a live ammunition, a prohibited ammunition, if we are to believe everything the Prosecution witness from Manchester said. And it's there on the exhibit list and therefore easily available to --

**B**

**His Honour Judge Thomas:** What's --

**C**

**Mr Kirk:** The Court.

**His Honour Judge Thomas:** On the exhibit list?

**D**

**Mr Kirk:** One round, live, of .303 calibre, with the date of manufacture stamped on it.

**His Honour Judge Thomas:** Why didn't you carry out a test with live ammunition please?

**E**

**Mr Mabbit:** It would have been dangerous to do so. And also, if the barrel hadn't withstood the pressure, we would have essentially destroyed the exhibit. And my tasking was simply to say, had it been deactivated to the Home Office specification? And to that, the answer was no, so there was no requirement for me to test it with a live round.

**F**

**Mr Kirk:** So you withdraw all your statements and everything you said in evidence-in-chief, in that that's what would be needed to complete your test? You withdraw what you wrote on your statement?

**G**

**Mr Mabbit:** No, I don't.

**Mr Kirk:** You withdraw what you have said in evidence-in-chief that you have failed to complete, by using a live round?

**H**

**Mr Mabbit:** No, I completed what I was asked to do, which was to inspect the weapon to see if it had --

**Mr Kirk:** Yes.

**A**

**Mr Mabbit:** Been deactivated in --

**Mr Kirk:** Yeah.

**B**

**Mr Mabbit:** Accordance with the Home Office specification.

**Mr Kirk:** Yes, but the police were aware because it was filmed on video when the first police officer that came into my house with the video. And on the list of undisclosed material there are a number of videos filmed from the hat of the police officer, when I gave detailed statements to the Barry Police Station prior to being arrested, and on the very 18 June, when I visited the Chief Constable's offices in order to try and exchange witness statements concerning a civil action. If you could, could you look at page 16 of the Jury bundle please.

**C**

**His Honour Judge Thomas:** It's, it's in front of you there, Mr Mabbit.

**Mr Mabbit:** *Yeah.*

**E**

(defendant confers with his sister)

**Mr Mabbit:** OK, page 16.

**F**

**Mr Kirk:** Yes. If you look at the bottom left hand side, you'll see a picture of a foreign, French car, registered, with a three legged Jack Russell, loose, and numerous police officers outside the main, the main, the, the main HQ of South Wales Police. And the photograph, if the camera is dated to the same as that photograph, will be 18 June, the day before our deadline in the Court to exchange mutual, mutual exchange of witness statements requiring two, 200 police officers to give evidence.

**G**

**His Honour Judge Thomas:** But this is your claim.

**H**

**Mr Kirk:** Yes, evidence later you'll hear, Mr Mabbit, that they were searching for the ammunition for the exhibit 1, eight police officers, because it was videoed, and I'll be getting that, with the cooperation of the learned Judge, later, everything that went on inside and at

A the gate and when I bypassed the gate, to put a polite way of putting it, and got into the central hub of police HQ, where I was surrounded by numerous officers with machine guns, OK, and tin hats and smoke grenades. My question is back to that picture and then back before that. On the list of exhibits, which I'm still waiting to have because I have to, for the Court of Appeal, identify the exact CPS item, so could I ask please, through the learned Judge, for the CPS to hand me the list?

B

**His Honour Judge Thomas:** What list? You've had the list.

C **Mr Kirk:** It's downstairs. The, you are refusing me, even though I have signed for them, you are refusing me my documents.

**His Honour Judge Thomas:** I --

D **Mr Kirk:** I told you this before the --

**His Honour Judge Thomas:** I gave --

E **Mr Kirk:** Jury --

**His Honour Judge Thomas:** You --

F **Mr Kirk:** Came in.

**His Honour Judge Thomas:** I, the --

**Mr Kirk:** I must have the documents --

G

**His Honour Judge Thomas:** Just so that we're all clear, Mr Kirk, just so we're all clear, we didn't come into Court and the members of the Jury didn't come into Court until, I don't know, what was it? 5 past? 10 past 11? The reason for that 35 minute delay was because I was told that you had signed for your papers, and I gave you that time to find the papers that you needed. Now, I'm not going to waste more time by giving you an indeterminate length of time in the course of the morning to look again.

**Mr Kirk:** Are you --

**A**

**His Honour Judge Thomas:** When, when we rise at 1 o'clock for lunch, any papers that you require, you are going to have to look through and bring them up this afternoon. I'm not going to waste more time with this ridiculous charade of your papers. Now, please continue to ask questions.

**B**

**Mr Kirk:** A retired Magistrate came to see me at 22 minutes past 9 today. I was refused to be able to pass any papers, because I've been put into closed visits, a big *pane of* glass and everything tape recorded, right? That lady is in this Court to confirm everything I am about to say. I was into my cell at 20 past 10. I had been asking for my suit and for my legal papers. It took them 22 minutes to get the papers into my cell, which was then about 10 to 11. I told them I wanted them in the Court in advance but I wanted to check which box was which so that I could have the boxes I need for each witness in the forefront of, but if you are saying what you're saying, I would like to have all the Prosecution questions in advance from the Prosecutor so that I can have the relevant papers to cross-examine *a*, cross-examine on his questions. But because --

**C**

**His Honour Judge Thomas:** The questions that he will --

**E**

**Mr Kirk:** You and I, it's only --

**F**

**His Honour Judge Thomas:** The questions that he will be asking ...

**Mr Kirk:** No.

**G**

**His Honour Judge Thomas:** Are --

**His Honour Judge Thomas:** Questions --

**H**

**Mr Kirk:** Prosecution ask --

A

**His Honour Judge Thomas:** Which questions that the Prosecution ask are the ones which are contained on the statements. If Mr Twomlow tried to ask a question which was not in relation to something contained on his statements, I would not allow him to do so. Now, this gentleman has said that there were no marks from the proof house to say that it was deactivated. Do you agree or disagree with that proposition?

B

**Mr Kirk:** If the witness comes back with answers that you and I are not coming, right, I'm not prepared for his answers, right, I must have time to get the papers to question his answers.

C

**His Honour Judge Thomas:** The statement is the basis upon which the Prosecution ask questions. They cannot ask questions of matters which are not contained in the statement. Everything that this witness has said, I think I'm right in saying, is contained in his statement.

**Mr Kirk:** Are you --

D

**His Honour Judge Thomas:** Now, if you want to, if you want to ask him any questions, please do so from the statement that you've again been given this morning.

E

**Mr Kirk:** Are you suggesting that the police officers from the South Wales Police have been given the answers to give and nothing else? But this gentleman is from outside the area of South Wales. He is from London.

**His Honour Judge Thomas:** Well, ask him *some* --

F

**Mr Kirk:** And he is a free thinker.

G

**His Honour Judge Thomas:** Ask him --

**Mr Kirk:** And --

**His Honour Judge Thomas:** Some questions --

H

**Mr Kirk:** I will believe --

**His Honour Judge Thomas:** Then.

**A** **Mr Kirk:** Everything he says, and that applies to anybody involved in the serious business of proofing firearms, as long as they are not linked by pressure, monetary or otherwise, by the South Wales Police, the Prosecutors who had me struck off the veterinary register.

**B** **His Honour Judge Thomas:** Well, ask him some questions then, and you'll no doubt be content with the answers.

**Mr Kirk:** So you are denying me my papers to cross-examine him on fresh material that has come to the notice of this Court.

**C** **His Honour Judge Thomas:** Please ask your questions.

**Mr Kirk:** Could you explain to the Jury please --

**D** **His Honour Judge Thomas:** Mr Kirk, please --

**Mr Kirk:** I'm --

**E** **His Honour Judge Thomas:** Ask your questions.

**Mr Kirk:** I'm sorry. I'm asking you. Please explain to the Jury, please, Mr ...

**F** **Mrs Jeune:** Mabbit.

**Mr Kirk:** Mr Mabbit ...

**G** **His Honour Judge Thomas:** I'm sorry, Mr Kirk. I took that the wrong way.

**Mr Kirk:** I, no, I'm sorry, I was not looking at him, because I lose concentration.

**H** **His Honour Judge Thomas:** Join the club.

**Mr Kirk:** You, you, you know the real world. What was I talking about? What was talking about?

(defendant confers with his sister)

A

**Mr Kirk:** Could you explain to the Jury, please, why that is not, is it a Section 2 of the, oh, oh, can you talk about law?

B

**Mr Mabbit:** No, not firearms law.

C

**Mr Kirk:** Ah, because the, the, the learned Judge and I are getting thoroughly bored with this case because we want to get our teeth into the law relating to this weapon. We had a chance yesterday. So you can't tell me that that's not a shotgun.

**Mr Mabbit:** I can tell you it's not a shotgun.

D

**Mr Kirk:** Why not? Good. Tell me why not?

**Mr Mabbit:** *In fact, if*, let, I will backtrack on that at the moment actually, purely because the barrel was smooth bored. All I was asked at the time --

E

**Mr Kirk:** No, no, no. No, please. I'm not, I know exactly what *you*, I even have a copy of what you were given because I had lots of pre flight planning for this, and pre flight planning I'm very good at, now, or so I'm told. Shotgun. What are the requirements in law for that not to be a shotgun?

F

**Mr Mabbit:** That, I don't know.

**Mr Kirk:** Well, let me, let me ...

G

(defendant confers with his sister)

H

**Mr Kirk:** Well, thank you. Thank you very much. I apologise for you having to come back in to cross the Severn Bridge, take up the taxpayer's time.

**His Honour Judge Thomas:** Thank you.

**Mr Mabbit:** Thank you.

**A**

**Mr Twomlow:** Sorry, no.

**His Honour Judge Thomas:** Unless you have --

**B**

**Mr Twomlow:** Thank you.

**His Honour Judge Thomas:** Any re-examination. I'm sorry. There is one, there is one matter that I need to ask you. A firearm is defined as a lethal barrelled weapon from which any shot, bullet or other missile can be discharged. I'm interested in the word lethal. Was it lethal, in your view?

**Mr Mabbit:** In my opinion, yes, it was capable of discharging a lethal projectile.

**D**

**His Honour Judge Thomas:** Even though it was, even on the limited experimentations you were able to carry out?

**Mr Mabbit:** In my opinion it would have been.

**E**

**Mr Kirk:** Your Honour, I was going to leave that bit *for a*, for another witness. But now you've raised it, I, I feel it ought to be ...

**F**

**His Honour Judge Thomas:** Yes.

**G**

**Mr Kirk:** In your opinion, based on not what the police told you to say and not to say in my courtroom, what is your history, your experience? You've been at this business for a long time. Surely you can help the Jury a little more so that when we get it from a police officer later they can compare the veracity of each witness.

**H**

**Mr Mabbit:** Well, firstly, I've not been asked to say or not say anything by anybody. My personal experience on firearms is that of a military armourer, Class 1 armourer with the Royal Electrical and Mechanical Engineers for eight years. And then I did a further ten years in the civilian gun trade. And now I've been with the proof house for about two and a half years.

A **Mr Kirk:** Yes, but could you, because I have a short memory problem, could, so I'm told by Dr Tegwyn Williams, could you expand on the subject of lethal? Are you saying that your tests confirmed that it was a lethal weapon?

B **Mr Mabbit:** I'm saying in my opinion that weapon would have been capable of firing a live round and therefore a lethal projectile.

C **Mr Kirk:** But a very experienced armourer, ex Air Force, with all due respect, a Mr Cooper, the current owner of exhibit 1, in his statement he says the barrel was blocked. Do you know about that?

**Mr Mabbit:** No.

D **Mr Kirk:** Weren't you briefed about that by the South Wales Police when they came to see you?

E **Mr Mabbit:** No. All I was given was the gun and asked to examine it to check if it had been deactivated.

**Mr Kirk:** Have you got any written proof of that?

F **Mr Mabbit:** No.

**Mr Kirk:** Who said that to you?

G **Mr Mabbit:** I believe it was the officer that brought the gun down who, from memory, was Jim Phillips.

**Mr Kirk:** Who could have given it if it wasn't him?

H **Mr Mabbit:** I'm guessing the other officer that accompanied him.

**Mr Kirk:** And his name please.

**Mr Mabbit:** I don't know.

**A**

(defendant confers with his sister)

**Mr Kirk:** Who, how did you, how did the, did they just come and knock on the door and say, we've got *some*, can we sell you a, a, a First World War machine gun? I mean, was it -

**B**

-

**Mr Mabbit:** No, they phoned me up and --

**C**

**Mr Kirk:** Who phoned you up?

**Mr Mabbit:** I believe it was Jim Phillips, bearing in mind I take phone calls on an almost -

-

**D**

**Mr Kirk:** Yes.

**Mr Mabbit:** Daily basis --

**E**

**Mr Kirk:** Yeah.

**Mr Mabbit:** To investigate and inspect firearms. I was phoned up and asked if they could come down, bring a gun for me to examine. They came down a few days later, and I examined the gun and gave the statement.

**F**

**Mr Kirk:** Did they tell you where they came from?

**G**

**Mr Mabbit:** They said they were coming from South Wales.

**Mr Kirk:** No. Did they say they came from Chepstow?

**H**

**Mr Mabbit:** I don't recall.

**Mr Kirk:** No.

**Mr Mabbit:** It, it wouldn't have been relevant to me.

**A**

**Mr Kirk:** Well, I hope none of this is relevant to you, other than the direct instructions which I am determined to get out of you. Surely there's a written record of the instructions that you, in such an important position, would have on record somewhere.

**B**

**Mr Mabbit:** No, I was simply asked to inspect the gun and confirm or deny if it was deactivated in accordance with the specification.

**C**

**Mr Kirk:** Could you give the Jury and myself, please, because I've asked from the moment I got here at the beginning of the week for a witness who's coming back, if the Prosecution risk it, a Mr Huxtable from the South Wales Police, who referred to the manual to which I believe you now refer, the Home Office regulations on deactivation of a, of, of a lethal weapon, a shotgun, whatever?

**D**

**His Honour Judge Thomas:** *Do you*, do you have the Home Office ...

**Mr Mabbit:** The --

**E**

**His Honour Judge Thomas:** Specification?

**Mr Mabbit:** It's the Home Office specifications --

**F**

**Mr Kirk:** Yes.

**Mr Mabbit:** That we work to.

**G**

**Mr Kirk:** Yeah.

**His Honour Judge Thomas:** Do you have them with you?

**H**

**Mr Mabbit:** No, I don't.

**His Honour Judge Thomas:** Can they be sent to us?

**Mr Mabbit:** Yes.

**A**

**Mr Kirk:** No, no, no, Your Honour, he's got them in his pile because Huxtable, whatever his Christian name was, admitted having them with him ...

**His Honour Judge Thomas:** Well, I want to --

**B**

**Mr Kirk:** In his evidence.

**His Honour Judge Thomas:** I want to see the Home Office specifications.

**C**

**Mr Kirk:** Well, I've been, well, I'm grateful that you. I am very grateful. I'm, I'm pleased to hear that. My birthday. Now, could we have an adjournment in order that the Prosecution hand it, and the copy that I ordered on the first day of the trial, or maybe the second day, in order that I can pursue this, because my information on that is locked up in a cell downstairs. And some private company that seems to dominate my defence more than I could believe is preventing me from going down those stairs now to get my own record.

**D**

**His Honour Judge Thomas:** Is there a copy of the Home *Office*, Home Office specifications?

**E**

**Mr Twomlow:** It's not an exhibit. I'm just making enquiry whether it, there is a copy. I don't know.

**F**

**His Honour Judge Thomas:** Yes, thank you.

**G**

**Mr Kirk:** Well, I was trying to save time. I asked for the copy to be prepared yesterday so that we wouldn't have a delay.

**His Honour Judge Thomas:** Do you have any other questions of this witness?

**H**

**Mr Mabbit:** Shotgun. Persuade me it's not a shotgun.

(no audible response)

A **Mr Kirk:** Right, you talked about barrel. Somebody's, oh, I know, thank you, you've brought me back into line. Thank you. That's, that's your job. Could you look at, please, the statement, the second statement of Mr Cooper, when he was asked to, they took the gun another 1,000 miles, from south, from Bridgend to Lincoln, from Lincoln to Nottingham, and somewhere else, to ask each witness, is this the gun, sorry, is this the item that was delivered at Cardiff Airport? Could you please look at, that would be, I think, his third or fourth witness statement? They're withholding original statements --

B **Mr Twomlow:** Yeah, well --

C **Mr Kirk:** But we'll be coming --

**Mr Twomlow:** It's not for this --

D **Mr Kirk:** To that later.

**Mr Twomlow:** It's not for this witness to look at other people's witness statements. He's there to answer questions from ...

E **His Honour Judge Thomas:** Well, what, what is the point that you want him to deal with?

F **Mr Kirk:** Mr --

G **His Honour Judge Thomas:** Mr Kirk?

**Mr Kirk:** You know full well. Mr Cooper, when he was asked to examine item 1 in August/September, weeks after he'd first been interviewed, got, got a phone call from the Civil Aviation, I say, old chap, have you got a piece of ironware stuck to your aeroplane? Could you take it, unbolt it and take it along through the high street of Nottingham in an unlocked car on his own without anybody to protect him, a, a firearm, prohibited firearm, down the main street of, Nottingham High Street, where he was to leave it with a stranger, a, a, a purported gunsmith, Section 5, who has, suffers tinnitus seriously like I do?

H

**His Honour Judge Thomas:** Yes. What is the question you're going to ask the witness though, Mr Kirk?

**A** **Mr Kirk:** In his statement he said:

“This is unusual. When I had it I cleaned the barrel.”

Or something. Oh, it, it was blocked.

**B**

“But now I seem to be able to put the ...”

**C** But nobody's seen their second statement. Nobody. It was deliberately *withheld*. My humble submission is that the Prosecution deliberately withheld that statement because the second statement, he said:

“Well, that's funny. I can now put my cleaning ...”

**D**

**His Honour Judge Thomas:** Well, we've heard --

**Mr Kirk:** You're --

**E**

**His Honour Judge Thomas:** We've heard evidence that it was blocked by means of Allen keys and that some sort of --

**Mr Kirk:** Don't you, please, lead my cross-examination.

**F**

**His Honour Judge Thomas:** Mr Kirk, I'm doing my best not only to try and understand what you're saying, myself, but as another part of my duty, to try and help the Jury to understand what is going on. Now, are you suggesting that the Allen keys had been removed or that something else had been done? Just, just help us to understand what you're saying.

**G**

**Mr Kirk:** I'll answer your question when you hand over the statement to which I refer. The, but while you're on the subject of a Mr Cooper, he was interviewed under caution, and it was tape recorded. And I had the police deny it. *It*, you can play the tape back because you've got this new system which you will not let me get a copy of. My, my sister here has been trying to get copy --

**His Honour Judge Thomas:** Is there a --

**A**

**Mr Kirk:** Immediate copy --

**His Honour Judge Thomas:** Is there a tape, Mr Twomlow, of Mr Cooper's interview?

**B**

**Mr Twomlow:** I'm sorry.

**His Honour Judge Thomas:** Is there a tape of Mr Cooper's interview or statement taking process?

**C**

**Mr Twomlow:** There may have been a tape.

**Mr Kirk:** Oh.

**D**

**Mr Twomlow:** I, I --

**Mr Kirk:** Yes.

**E**

**Mr Twomlow:** I'm --

**Mr Kirk:** Oh.

**F**

**Mr Twomlow:** Trying to recall.

**Mr Kirk:** Yes. Oh, surprise --

**G**

**Mr Twomlow:** I would need to check --

**Mr Kirk:** Surprise.

**H**

**Mr Twomlow:** Again in relation to that. It --

**His Honour Judge Thomas:** Did that lead to a --

**Mr Twomlow:** But --

**A**

**His Honour Judge Thomas:** Statement being taken?

**Mr Twomlow:** I'm sorry?

**B**

**His Honour Judge Thomas:** Did that lead to a statement being taken? Is there any statement --

**Mr Twomlow:** I --

**C**

**His Honour Judge Thomas:** From Mr Cooper? Is there any statement from Mr Cooper that Mr Kirk has not had?

**D**

**Mr Twomlow:** No statement, no.

**His Honour Judge Thomas:** Yeah.

**Mr Kirk:** Standard weasel words from a Judge.

**E**

**His Honour Judge Thomas:** I'm sorry you've got to resort to personal abuse, Mr ...

**Mr Kirk:** Not --

**F**

**His Honour Judge Thomas:** Mr Kirk.

**Mr Kirk:** To you. Not to you, Your Honour, yet. The recuse bit comes later.

**G**

**His Honour Judge Thomas:** Well, please, please don't resort to personal --

**Mr Kirk:** I refer --

**H**

**His Honour Judge Thomas:** Abuse.

**Mr Kirk:** To the Crown Prosecution Service.

A **His Honour Judge Thomas:** Well, I think that we'd all get on quicker and better if we didn't resort to personal abuse.

**Mr Kirk:** The word --

B **His Honour Judge Thomas:** Now --

**Mr Kirk:** I would --

C **His Honour Judge Thomas:** Could you, could you --

**Mr Kirk:** The word --

D **His Honour Judge Thomas:** Please --

**Mr Kirk:** I would suggest --

E **His Honour Judge Thomas:** Could you please ask any more questions of this gentleman, who's come a long way and no doubt wants to get home?

F **Mr Kirk:** On the list of late disclosure only this weekend, there is admittance that Mr Cooper, Mrs Cooper, I'm not sure about Mr Page, the pilot, were under caution and were tape recorded. Every tape recorder, it is a matter of, of record, is transcribed into transcript form in order to be used. Now, whether it has on this occasion is his excuse for saying there is no other statement. He is, in my book, and I come from a different world to you lot here in Cardiff Court, to me, he is misleading the Court into thinking that the police did not have other statements, information in their notebooks, when he was taped. And since they realised there were several firearms involved and they used two helicopters, one for the Sunday and one for the Tuesday when I was arrested, because one team of police officers were arresting me because their own solicitor, a Mr, of Dolmans, Adrian Oliver, had made a statement to the police himself, to have me arrested. It is identified on this weekend's late discovery, late disclosure, which I find in keeping with the standard I've experienced in the last 18 years whilst trying to practise veterinary medicine in the South Wales. My mother and father were horrified when they heard that I was working in South Wales. They were horrified why the,

G

H

*when, when I then bought a practice. And it's only due to matters of the heart that I have stayed the 18 years. This man is knowingly perverting the course of justice --*

**A**

**His Honour Judge Thomas:** Now, Mr Kirk, let's, let's see if you can return to, to the, to our world for a moment or two.

**B**

**Mr Kirk:** Into your world, yes.

**His Honour Judge Thomas:** Well --

**C**

**Mr Kirk:** I've learnt to live with it. I'm experienced now --

**His Honour Judge Thomas:** What, what I --

**D**

**Mr Kirk:** In dealing --

**His Honour Judge Thomas:** What I'd --

**Mr Kirk:** With --

**E**

**His Honour Judge Thomas:** What I'd like you to do now, and those, those matters may or may not be relevant, but I'm sure that this gentleman has got nothing to do with any of that. He's got no links with South Wales. He's got no links with ...

**F**

**Mr Kirk:** I ...

**His Honour Judge Thomas:** As far as we know, you can ask him if you, if you doubt it.

**G**

**Mr Kirk:** I wouldn't --

**His Honour Judge Thomas:** But are there any questions that you --

**H**

**Mr Kirk:** I wouldn't --

**His Honour Judge Thomas:** Want to ask --

A      **Mr Kirk:** Insult him.

**His Honour Judge Thomas:** Do you want to ask this gentleman any more questions?

B      **Mr Kirk:** It's like asking you if you were a Freemason. I already know the answer, so therefore I will not answer it, ask, ask. But I might be asking that question, and I give you notice, Tom Tit or whatever your, Tom Thumb, I may be asking that after the last police officer gives evidence.

C      **His Honour Judge Thomas:** And what do you think the answer is --

**Mr Kirk:** I wish --

D      **His Honour Judge Thomas:** To my Freemason --

**Mr Kirk:** To put to this gentleman --

E      **His Honour Judge Thomas:** What do you think the answer to my Freemason status is, as a matter of interest?

**Mr Kirk:** I, I said it as an example. They usually come in, Your Honour, and say, I am not a Freemason, if, in, in case you're going to ask me, Mr Kirk.

F

**His Honour Judge Thomas:** Well, let me tell you --

G      **Mr Kirk:** I haven't asked you and I'm not asking you to answer what you would say if I asked you.

**His Honour Judge Thomas:** Well, I don't --

H      **Mr Kirk:** It will prejudice --

**His Honour Judge Thomas:** I don't care --

**Mr Kirk:** The Jury.

**A**

**His Honour Judge Thomas:** I don't care, I don't care what you want to ask. As you've raised the matter, I am not a Freemason and never have been.

**B**

**Mr Kirk:** And that is what every of the nine previous Judges, no, the 34 Judges that I've had to face in this building since I bought the practice in January 1992 in Barry and turned it into a veterinary hospital.

**C**

**His Honour Judge Thomas:** Well, I suppose it's possible they may be telling the truth.

**Let's ask some more questions, shall we, Mr Kirk.**

**Mr Kirk:** Are you suggesting that because a Judge --

**D**

**His Honour Judge Thomas:** Mr Kirk, please ask some --

**Mr Kirk:** Well --

**E**

**His Honour Judge Thomas:** More --

**Mr Kirk:** I --

**F**

**His Honour Judge Thomas:** Questions.

**Mr Kirk:** Told you not to go down that route.

**G**

**His Honour Judge Thomas:** Mr Kirk, please ask any more questions of this witness that you think are appropriate.

**Mr Kirk:** I wish him to read the owner's second, sorry ...

**H**

**His Honour Judge Thomas:** Do we, do we now have these?

**Mr Twomlow:** I've got the Home Office specifications.

**Mr Kirk:** No, no.

**A**

**Mr Twomlow:** There's one --

**Mr Kirk:** Not that one.

**B**

**Mr Twomlow:** Copy.

**Mr Kirk:** The Mr Cooper. We'll --

**C**

**Mr Twomlow:** There --

**Mr Kirk:** Come back to that in a minute.

**D**

**His Honour Judge Thomas:** Right.

**E**

**Mr Twomlow:** There --

**His Honour Judge Thomas:** Just --

**F**

**Mr Twomlow:** There are no --

**His Honour Judge Thomas:** Hand them please, Mr Twomlow, to the witness.

**G**

**His Honour Judge Thomas:** Right. Now then, what is it about the Home Office regulations you want to ask questions about, Mr Kirk?

**H**

**Mr Kirk:** All right, if we're going to go down that route, could he work and get the statement from Mr Cooper?

(counsel takes instructions)

**Mr Kirk:** When he said it's no longer blocked.

**A**

**His Honour Judge Thomas:** Just, you've made the point that Mr Cooper --

**Mr Kirk:** I don't --

**B**

**His Honour Judge Thomas:** Said it's --

**Mr Kirk:** Want these --

**C**

**His Honour Judge Thomas:** No longer blocked.

**Mr Kirk:** Delays while I'm cross-examining --

**D**

**His Honour Judge Thomas:** What do you --

**Mr Kirk:** Because --

**E**

**His Honour Judge Thomas:** What, what do you --

**Mr Kirk:** Certain people --

**His Honour Judge Thomas:** Say about that --

**F**

**Mr Kirk:** In this room will get --

**His Honour Judge Thomas:** Mr --

**G**

**Mr Kirk:** Bored.

**His Honour Judge Thomas:** What do you say about that, about it being blocked or otherwise? When you saw it what condition was it in?

**H**

**Mr Mabbit:** When I inspected it the barrel was clear of any obstruction. It was not blocked. In the reference to the Allen keys or the Allen screws, they simply held the trigger

A mechanism to the weapon, which prevent field stripping, which is, sort of the user in the field would field strip to carry out routine maintenance. But the barrel was free of any obstruction.

**His Honour Judge Thomas:** When you saw it.

B **Mr Mabbit:** When I inspected it.

**Mr Kirk:** Were there any holes in the side of the barrel?

C **Mr Mabbit:** I don't recall seeing any.

**Mr Kirk:** Could there have been and you missed them?

D **Mr Mabbit:** Possibly. I would say unlikely. But I don't recall seeing any holes.

E **Mr Kirk:** How does the mechanism work in order for it to be a machine gun? And therefore under the latest legislation, the mechanism directly beneath the barrel, that even if I'd been using a piece of it as a paperweight, the Court has heard from the Prosecution expert, will be or could be considered as a breach of Section, 1968 ...

**His Honour Judge Thomas:** Section 1, I think.

F **Mr Kirk:** Section 1, a prohibited weapon, carrying a 5 year prison sentence. Could you explain to the Court your knowledge on any of that, or is, are, am I to leave that for Mr Huxtable when he comes back?

G **Mr Mabbit:** I think really there we are getting into the realms of firearms law, of which I'm not an expert.

**Mr Kirk:** Right, but are you an expert on the Lewis machine gun?

H **Mr Mabbit:** I have expertise --

**Mr Kirk:** Yeah.

A **Mr Mabbit:** In many models of machine gun. I haven't specifically studied that weapon, but that weapon does have a very similar method of operation to many machine guns.

B **Mr Kirk:** Yeah, yeah, you're right, absolutely right, even the old Hotchkiss, even the old First World War Vickers. Now, would you agree that if you fired a projectile or you exploded the percussion cap of a blank, air that comes up the barrel is designed to go out through a hole? Is that right? In order to push the mechanism beneath to rotate the magazine to allow the next round to drop into the breach.

C **Mr Mabbit:** *On --*

**Mr Kirk:** Roughly. You've ...

D **Mr Mabbit:** On some weapons, yes. On that --

**Mr Kirk:** Yes.

E **Mr Mabbit:** Gun, I don't particularly --

**Mr Kirk:** Yes.

**Mr Mabbit:** I don't --

F

**Mr Kirk:** Right.

**Mr Mabbit:** Know, off the top of my head.

G

**Mr Kirk:** So, but you can't confirm whether there was a, a hole there in order for that piece of material relating to that gun that has been described as, you can't get around it, those bits to do more than one round by, on a single pressure of the trigger? Are you with me?

H

**Mr Mabbit:** I can't confirm if ...

**Mr Kirk:** No, OK.

**A** **Mr Mabbit:** There were any gas ports there, but that was irrelevant to my inspection.

**B** **Mr Kirk:** Yeah, yes, I'm sure it was. It's just that the Prosecution have avoided the witnesses that should be before the, before the Jury, in order to bluff their way because they had, it will be shown later, they had no intention of this case coming to trial. Now, getting back, have you found it yet please, Mr Thumblow, Tom Thumblow, Twomlow?

**His Honour Judge Thomas:** Found what, Mr ...

**C** **Mr Kirk:** Mr Cooper's, what you are purporting to be his final witness statement.

**His Honour Judge Thomas:** You've had, I'm given to believe, and Mr Twomlow will or will not confirm this, all *the* statements that Mr Cooper has made.

**D** **Mr Kirk:** Well, they're downstairs in the cell. Can I go down and get it?

**His Honour Judge Thomas:** You can go down and get all your, I tell you what I'll do. I tell you what I'll do.

**E** **Mr Kirk:** No, don't you, I'm in the middle *of* this. Don't you let him have a break. He'll be, he'll be nobbled.

**F** **His Honour Judge Thomas:** Right. Do you want to get your papers or do you want this witness to complete his evidence?

**G** **Mr Kirk:** Oh, no, I want, *yeah*, well, it's, the witnesses are more important. I will go down and get my papers.

**His Honour Judge Thomas:** Right, finish *with* --

**H** **Mr Kirk:** Thank you.

**His Honour Judge Thomas:** This witness, and then you can get your papers, and we'll have a --

**Mr Kirk:** Sorry?

**A**

**His Honour Judge Thomas:** A break. Finish with this witness --

**Mr Kirk:** No, no, I haven't finished with him.

**B**

**His Honour Judge Thomas:** Yes. I said, please finish --

**Mr Kirk:** Oh.

**C**

**His Honour Judge Thomas:** With him.

**Mr Kirk:** Oh, I see. It's a deal. OK.

**D**

**His Honour Judge Thomas:** And then you can get your --

**Mr Kirk:** So --

**E**

**His Honour Judge Thomas:** Papers and we can have a break.

**F**

**Mr Kirk:** For the Court of Appeal record off the tape, please assume I'm right. When Mr Cooper looked at, we've, well, we don't know. They say it was that one. There's no evidence to suggest that it is, other than the police officers looking. I've yet to measure it. My sister's coming with a tape measure tomorrow, on Monday, to tape measure the distance that they've said, oh, yes, that's the gun that we saw a year ago, and so on. Mr Cooper said in his second statement that:

**G**

“Oh, that's interesting. I used to clean it with the [with the, with the] gun rod.”

**H**

Now, that would either be a brass, a brass ferrule, wouldn't it, a brass rod or a, a, a cloth ramrod?

**Mr Mabbit:** Yes.

**A** **Mr Kirk:** Agreed? Right, we, we didn't, I didn't waste the taxpayer's time on the intricacies of that. And he said in that second statement in late August/September:

“Oh, that's unusual. [It] The [the] barrel is now not blocked.”

**B** Now, someone in this room interfered with my cross-examination and introduced where the Prosecution, I would submit, are in big trouble. And it's to do with, apparently, a hole drilled through the side by somebody either before I bought it, while I had it or after I'd sold it, or whilst it was in the, the custody of numerous South Wales Police officers, the number and **C** geographical position yet to be clearly established in the Defence camp. If it was blocked and yet you found it clear, can you give some logical explanation?

**D** **Mr Mabbit:** I can't give any explanation. When the gun was presented to me to inspect, the bore was clear.

**Mr Kirk:** Right, so if it had been welded long, long ago, even before I saw it, would it have been lawful at that time?

**E** **Mr Mabbit:** If it had been done to the specifications, just welding it won't necessarily --

**Mr Kirk:** Good.

**F** **Mr Mabbit:** Have made it conform to the specifications.

**G** **Mr Kirk:** Does it worry you that had I not raised the issue on the fourth day of this trial, we may never get to see, or the Jury, more, they're the ones that are important in this room, will never get to see what the regulations were on the day that I bought the DH.2 if, and with a big if, if item 1 is the item that I bought from a Brian Woodford when it was attached to an aircraft in the biggest De Havilland in the, in the world, at Cattistock, where they house a very good pack of hounds? OK.

**H** **Mr Mabbit:** I'm sorry. I can't comment on ...

**Mr Kirk:** No.

A **Mr Mabbit:** The rights and wrongs of that. All I can say is that I carried out an inspection as I was asked, and the findings of those inspections.

B **Mr Kirk:** So the documents that have come in the door now will cover, I hope, the argument that is within the aviation world, the display business, and antique gun collectors' arguments, and riddled with, amongst the firearms magazines and antique magazines, that there is some law somewhere, which I have failed to find, that if it was decommissioned when it was put on the aircraft in the late '70s or, well, let's say 1980s, if it was lawful at that time and decommissioned, would you have the documents, Home Office issue, that the local gunsmith, we have an old Frank, Frank Richards, who was the epitome of the Prosecution witness of the same responsibility, would you, could you confirm and get before the, the, not by the way of somebody sending it by fax, the original legislation laid down by Home Office that may have now gone out of date somewhere, I suspect, between 1997 and 1999, which would be what you've got now before the Court shortly? Can you help me clarify my brain on all that? Do you --

C **Mr Mabbit:** As far as I'm aware, the deactivation specifications came about in 1989. They were subsequently amended in 1995, which is --

D E

**Mr Kirk:** Well --

F **Mr Mabbit:** The specification that we work to today.

G

**Mr Kirk:** Right.

**Mr Twomlow:** The, the '95, the '95 edition is, is what is in Court.

H

**His Honour Judge Thomas:** So the first --

**Mr Twomlow:** And --

I

**His Honour Judge Thomas:** Regulations were what, 19 ...

**Mr Mabbit:** 1989.

A **His Honour Judge Thomas:** And then they were superseded.

**Mr Mabbit:** Amended 1995.

B **His Honour Judge Thomas:** And that's the one that you have there.

C **Mr Mabbit:** Yes. But on the two specifications, if a weapon comes in that has been deactivated to the 1989 specifications, providing we are happy that no further work has been carried out, we will still allow that weapon to be classed as deactivated under those specifications, even though the 1995 specifications are more stringent.

D **His Honour Judge Thomas:** So let me just make sure I understand that. If something is deactivated according to the 1989 regulations, even though in the meantime, in 1995, there are more, presumably, stringent regulations ...

**Mr Mabbit:** Yes.

E **His Honour Judge Thomas:** As long as they've been effectively deactivated in the intervening six years, you would not then require the extra specifications to --

**Mr Mabbit:** That's correct.

F **His Honour Judge Thomas:** Be met. All right.

**Mr Kirk:** Why didn't you stamp that item 1, if it is the same item?

G **Mr Mabbit:** As far as, why didn't we stamp it? As far as I'm aware, that weapon has never, before the date of inspection, been to the London Proof House for inspection and certification.

H **Mr Kirk:** *When you're --*

A **Mr Mabbit:** We hold a record of every firearm that has come in for deactivation. And looking at the weapon, no work has been carried out. Therefore, no one in the proof house would have certified it as being deactivated.

**Mr Kirk:** And your dates, your, your, your legality started on what date and *in* what year?

B **Mr Mabbit:** Sorry, you've ...

**Mr Kirk:** When did the London Proof House come into existence?

C **Mr Mabbit:** 14 March 1637.

D **Mr Kirk:** Right, and can you show me the records of, for example, to, to make sure there is no time wasted by the Jury, that firearms that were considered by the local constabulary back in the '70s, '80s and up to 1997, you have got record in your system that they're all with you on record? Do you see what I mean?

E **Mr Mabbit:** We keep all the records for, I believe it's 100 years for guns that have been proof tested. For guns that have been certified as being deactivated, we would have had the records from 1989, when we were obliged to test them.

**Mr Kirk:** No, no. No, no, no. I'm talking, it, it, ah, ah, only from '89.

F **Mr Mabbit:** Yes. Previous to that --

G **Mr Kirk:** Yeah, I want to know previous to that. When this weapon, as they describe it, if it's the same one, if it, it's, it's, if it's the same one, when it was put on the aircraft originally, in the '70s or '80s, I, even I haven't managed to find out whether it was in the '70s or '80s, although we've heard evidence of this, in this trial that it was in the '70s, when the aircraft was built, would you have, you, I think you said you have record that it was officially lawfully, whatever, local policeman comes and writes a piece of paper, this has been decommissioned, and it would be in your proof house records?

H

**Mr Mabbit:** No, it wouldn't. Prior to 1989 the proof house had no involvement --

**Mr Kirk:** Right.

**A**

**Mr Mabbit:** In deactivated weapons.

**Mr Kirk:** Well --

**B**

**Mr Mabbit:** It was only in 1989 that we were tasked with --

**Mr Kirk:** Yeah.

**C**

**Mr Mabbit:** Inspecting and certifying deactivated arms. Therefore, no records exist before 1989, as far as the proof house is concerned.

**D**

**His Honour Judge Thomas:** Was there a requirement before that date for weapons to be deactivated?

**Mr Mabbit:** Not as far as I'm aware. But obviously, because the proof house weren't involved, it was not something I would have had to have covered.

**E**

**His Honour Judge Thomas:** Thank you.

**F**

**Mr Kirk:** But my own enquiries cause me to understand the Home Office Regulations Department have detail, even though it was not required. And Your Honour, do, do help me here. If I understand what he has just said, there is no requirement if the Prosecution are saying that that item 1 is the one that Mr Cooper said was put on the aircraft in 1977. The Prosecution are in difficulties, are they not, because, because there is no need for me to produce proof that that, that the proof houses of Birmingham and London will have a record to confirm that one is legal?

**G**

**His Honour Judge Thomas:** No, what, what, I think, he is saying is that before 1989 the deactivation regulations had not come in, and therefore they had no responsibility for deactivation and certifying deactivation. So, if the machine gun was in existence before that date, different rules apply. It is only at that point that guns had to be certified as deactivated, if they came within the definition of prohibition, prohibited weapons, I suspect because that's when it became an offence to prohibit [sic] weapons. But ...

**H**

A **Mr Kirk:** But, well, my understanding from his evidence, and please don't trust me, because I *find it* difficult to follow, I thought I heard him say that if he's presented with a weapon that the police say is a prohibited weapon and it can be shown that it originated prior to 1989 and that it was deactivated in a conventional manner at that time and, in this particular case, because it was part of the civil aviation regulations of the engineers that put that, the piece of ironware on the front, he did not have to stamp it or record it unless there had been modifications to it ...

B **His Honour Judge Thomas:** Is that what you're --

C **Mr Kirk:** Between --

D **His Honour Judge Thomas:** Saying?

E **Mr Mabbit:** I'm saying that prior to 1989 we had no involvement in deactivated arms, therefore would have no record of that weapon.

F **Mr Kirk:** Could that be the case today, if we are to believe that that is the item that I allegedly sold to Mr Cooper?

G **Mr Mabbit:** I don't quite get where you're ...

H **Mr Kirk:** If that was a gun made up of bits and pieces, put on the front Viv Bellamy, bolting it there down at Land's End, I can imagine it today, bolting it onto the front of his DH.2, designed and built off the, off, off the plans off a back of a cigarette packet, and it was woodbine in those days, ever since then it was in the domain and control of the Civil Aviation Authority. The Judge will argue differently. We haven't even got to the CAA yet. They're a lot of fun to deal with. If that is the case, could you tell, on the law, was there a point then in time that the operator or owner or licensed engineer of the De Havilland with a British registration, was there a law that came into force that caused him to have to present it to you for registration?

**Mr Mabbit:** I, I don't know. I've been with the proof house, as I say --

**A**

**Mr Kirk:** Yeah, yeah, what --

**Mr Mabbit:** Two and a half years. Prior to 1989, I do not know the law on the licensing --

**B**

**Mr Kirk:** Yeah.

**Mr Mabbit:** Of that type of weapon. It's of no relevance to me.

**C**

**Mr Kirk:** So weren't you briefed that you were bound to be cross-examined on this when you came to Court?

**D**

**Mr Mabbit:** I was told I would be cross-examined, but, as I say, I can only comment on what we specialise in, which --

**Mr Kirk:** Yeah.

**E**

**Mr Mabbit:** Is the inspection and certification of weapons. I can't comment on any past legislation --

**Mr Kirk:** No.

**F**

**Mr Mabbit:** Or firearms law. I'm, I don't know it.

**Mr Kirk:** You are not wasting the Court's time. If we'd heard this on the first day, it would have shortened the trial. Who warned you you would be cross-examined?

**G**

**Mr Mabbit:** I, I can't recall.

**Mr Kirk:** Yes, you can.

**H**

**Mr Mabbit:** No.

**Mr Kirk:** I --

A      **Mr Mabbit:** I can't.

**Mr Kirk:** I humbly suggest I will help you. You had a phone call, and there is written record of the instructions and payment paid. Did you pay, did somebody pay you for this?

B      **Mr Mabbit:** No.

**Mr Kirk:** Is it free?

C      **Mr Mabbit:** I can claim expenses for coming down here.

**Mr Kirk:** No, no, I'm --

D      **Mr Mabbit:** But I *haven't* --

**Mr Kirk:** No, I'm talking about the, the examination by an external police force.

E      **Mr Mabbit:** For the inspection and examination of the weapon, we did not charge any fee.

**Mr Kirk:** Why not?

**Mr Mabbit:** We --

F

**Mr Kirk:** Were you bribed?

**Mr Mabbit:** We never do, no.

G

**Mr Kirk:** Well, how *do* --

**Mr Mabbit:** No money, no favours. We do it on a regular basis. If --

H

**Mr Kirk:** Who pays --

**Mr Mabbit:** The police --

**Mr Kirk:** Your wages?

**A**

**Mr Mabbit:** Come in and ask us to inspect a weapon, we will inspect that weapon.

**Mr Kirk:** Who pays your wages?

**B**

**Mr Mabbit:** We are a private funded company, so our income comes from charging the trade, the public, who submit their guns for proof or certification of deactivated arms.

**C**

(defendant confers with dock officer)

**Mr Kirk:** That's a whole new issue, Your Honour. But you did get written instructions on what to do.

**D**

**Mr Mabbit:** Not on the inspection. I was asked if they could come down with the gun.

**Mr Kirk:** On the phone?

**E**

**Mr Mabbit:** Yes.

**Mr Kirk:** And you can't remember the man who told you.

**F**

**Mr Mabbit:** I can't.

**Mr Kirk:** It was female, wasn't it?

**G**

**Mr Mabbit:** I can't remember who it was. Male, female, it's of no relevance to me. I was

--

**Mr Kirk:** You do it all --

**H**

**Mr Mabbit:** Asked if --

**Mr Kirk:** The time.

A **Mr Mabbit:** We would inspect a gun. Yes was my answer.

**Mr Kirk:** Yeah. Was there any significant delay between the booking of it and you seeing it?

B **Mr Mabbit:** I can't recall what --

**Mr Kirk:** No.

C **Mr Mabbit:** Timescale --

**Mr Kirk:** No.

D **Mr Mabbit:** It was.

**Mr Kirk:** One last question. Had it been recently fired?

E **Mr Mabbit:** I don't know.

**Mr Kirk:** But you were in the position to have said.

**Mr Mabbit:** I couldn't tell you. I, it's not in my remit to inspect a gun to tell if it's been ...

F

**Mr Kirk:** No, no.

**Mr Mabbit:** Fired or not.

G

**Mr Kirk:** No, no, I, if it, don't worry about it. It's just that you, I mean, how many Lewis machine guns had you seen that week?

H **Mr Mabbit:** That was the only one.

**Mr Kirk:** In the previous year?

**Mr Mabbit:** I don't recall that I'd seen any.

**A**

**Mr Kirk:** And how long have you been in the business?

**Mr Mabbit:** In the proof house or in the --

**B**

**Mr Kirk:** The whole --

**Mr Mabbit:** Sort of weapons business?

**C**

**Mr Kirk:** The, the, the whole business.

**Mr Mabbit:** 18, 19 years I've been --

**D**

**Mr Kirk:** Good.

**Mr Mabbit:** Dealing with firearms.

**E**

**Mr Kirk:** Good. How many aviation model 1916, designed for aero work, Lewis machine guns have you ever seen?

**Mr Mabbit:** Getting down to the very specific sort of model, I don't know. I have seen Lewis machine guns. What exact model they are, I do not know.

**F**

**Mr Kirk:** And can you, where you've seen them is at *the* RAF museum at Duxford, at Duxford, RAF Duxford museum, at RAF, the one in north London.

**G**

**Male:** Hendon.

**Mr Kirk:** Hendon. Oh, where they train police officers, before the war had the finest air shows imaginable. And that's your limit. Thank you very much for your time.

**H**

**Mr Mabbit:** Thank you.

**His Honour Judge Thomas:** Thank you.

**Mr Twomlow:** No re-examination, thank you.

**A**

**His Honour Judge Thomas:** Thank you.

**Mr Mabbit:** Thank you, Your Honour.

**B**

**His Honour Judge Thomas:** Now, Mr Kirk, if I give you 15 minutes before the next witness, can you bring all your papers up into Court, the ones you need for the next witness?

**C**

**Mr Mabbit:** If I could ask for my sister's assistance, yes.

**His Honour Judge Thomas:** No, you've got to, your, your sister is not in custody as you are. Could you please look for the documents? Or if you can deal with the deal with the next witness, who is, I --

**D**

**Mr Kirk:** I --

**E**

**His Honour Judge Thomas:** Think probably the gentleman from Birmingham.

**Mr Kirk:** I make an application for bail, with the chance that I might not be in custody.

**His Honour Judge Thomas:** Just wait a minute, Mr Kirk.

**F**

**Mr Twomlow:** Mr Perry, 73. Mr, Mr Perry from the Birmingham Proof House --

**His Honour Judge Thomas:** Right.

**G**

**Mr Twomlow:** Is the next witness.

**H**

**His Honour Judge Thomas:** The next gentleman is the equivalent from Birmingham, of the last witness. Can you cross-examine him without getting access to your papers? You've got his statement in front of you.

**Mr Kirk:** Well, I'm impressed. It's logical to have him next. At last we've got some logical order of witnesses. But I have a file on this subject.

**A**

**His Honour Judge Thomas:** Well, I'll give you --

**Mr Kirk:** Ah, ah, do, we'll do a deal again. You let me cross-examine him without my file.

**B** Will you then let me get the papers I need for the witnesses after lunch?

**His Honour Judge Thomas:** You can get your, as many papers as you want.

**C**

**Mr Mabbit:** Right.

**His Honour Judge Thomas:** I don't care how --

**D**

**Mr Kirk:** Deal.

**His Honour Judge Thomas:** Many papers you --

**Mr Kirk:** It's a deal. Let's go.

**E**

**His Honour Judge Thomas:** Let's have this witness then. Sorry, members of the Jury, I was going to give you a break, but let's, let's bat on, shall we?

**F**

**Mr Twomlow:** Yes, Samuel Perry please.

(defendant confers with dock officer)

**G**

**His Honour Judge Thomas:** The other thing I can tell you, members of the Jury, is that I don't propose to sit beyond 3:45 this afternoon. But it means, I'm afraid, we'll have a slightly, no, we'll have the same length of lunch hour.

**H**

**Court Clerk:** If you could raise the Testament in your hand please. Please repeat after me. I swear by Almighty God.

**Mr Perry:** I swear by Almighty God ...

**Court Clerk:** That the evidence I shall give ...

**A**

**Mr Perry:** That the evidence I shall give ...

**Court Clerk:** Shall be the truth ...

**B**

**Mr Perry:** Shall be the truth ...

**Court Clerk:** The whole truth ...

**C**

**Mr Perry:** The whole truth ...

**Court Clerk:** And nothing but the truth.

**D**

**Mr Perry:** And nothing but the truth.

**Court Clerk:** Thank you.

**E**

**Mr Twomlow:** What is your full name please?

**Mr Perry:** Samuel Sebastian Perry.

**F**

**Mr Twomlow:** And what is your occupation please?

**Mr Perry:** I'm the superintendent of the Birmingham Gun Barrel Proof House.

**G**

**Mr Twomlow:** And as the superintendent, are you responsible for the daily running of the Birmingham Proof House?

**Mr Perry:** That is correct.

**H**

**Mr Twomlow:** Is the proof house for the testing of all small arms on entry to the country within 28 days of the reproofing of weapons that have had work carried out on them?

**Mr Perry:** That's correct.

**A**

**Mr Twomlow:** And do you certify deactivation of fire arms under the Home, Home Office guidelines?

**Mr Perry:** Yes, under the --

**B**

**Mr Twomlow:** Which --

**Mr Perry:** Home Office specification.

**C**

**Mr Twomlow:** Which guidelines are those?

**Mr Perry:** The '95 deactivation specification.

**D**

**Mr Twomlow:** Right, 1995.

**Mr Perry:** 1995.

**E**

**Mr Twomlow:** How long have you been employed as a senior inspector at the proof house?

**Mr Perry:** For six years.

**F**

**Mr Twomlow:** At 12:45pm on Thursday 6 August 2009 did you meet with Detective Constable Dodge of the South Wales Police at the Birmingham Proof House?

**Mr Perry:** I did.

**G**

**Mr Twomlow:** And were you requested to examine a Lewis gun which was reference number AJR1?

**H**

**Mr Perry:** I was.

**Mr Twomlow:** And can you see the gun there on the desk?

**Mr Perry:** I can.

**A**

**Mr Twomlow:** What did you find, please, when you did examine the gun? Hi did what we call a field strip on the gun, where I removed the Allen key bolts that hold the trigger mechanism on. I could see that the barrel was clear. There was no slotting in it. There was no pin across the chamber, which it would have needed to comply with the Home Office specification.

**B**

**Mr Twomlow:** *Can you just, just pause a moment? A note is being taken of what, of what you're saying. So ...*

**C**

**Mr Perry:** Yes, sorry.

**Mr Twomlow:** If we can take it fairly slowly please.

**D**

**Mr Perry:** I then reassembled the weapon and was able to dock and dry fire it. I relayed all this back to the gentleman that came to see me, with the weapon.

**E**

**Mr Perry:** Cock and dry fire is you're able to cock the mechanism. That is to be able to rack it, what we call rack back the mechanism with a cocking handle, hence cocking. So that arms the weapon. And then by pulling the trigger, that's dry firing. The action will work, and you, you try that with a, what we call a primed case, which is a, a dummy round, but it will act as a live round by the percussion cap in the rear of it. And by that process I was able to tell that it would fire a round.

**F**

**His Honour Judge Thomas:** Thank you.

**G**

**Mr Twomlow:** Did you examine the gun for any deactivation marks?

**H**

**Mr Perry:** We did. The deactivation marks were usually on, would usually be on various components, i.e. the barrel, the frame, the trigger mechanism. There were no marks present, either London or Birmingham marks.

**Mr Twomlow:** On, on any of those ...

**A**

**Mr Perry:** On any --

**Mr Twomlow:** Components.

**B**

**Mr Perry:** Components.

**Mr Twomlow:** Was there anything that you could see that suggested that any deactivation work had been carried out on that weapon?

**C**

**Mr Perry:** No. The only thing that I could see from examining the weapon, that the barrel had been altered in some way, but it would not have complied with the deactivation specifications.

**D**

**Mr Twomlow:** Did you get a serial number from the weapon?

**Mr Perry:** Yes.

**E**

**Mr Twomlow:** And did you carry out a check on your database in respect of that?

**Mr Perry:** Yes, I carried out the check personally myself, which we do by a process of elimination. It was not present on the database.

**F**

**Mr Twomlow:** And, well, does that mean it has never been examined at the Birmingham --

**Mr Perry:** It has never --

**G**

**Mr Twomlow:** Proof House?

**Mr Perry:** Been submitted to the Birmingham Proof House for a deactivation mark at any time.

**H**

**Mr Twomlow:** You examined the barrel.

**Mr Perry:** Yes.

**A**

**Mr Twomlow:** And what were you looking for when you examined the barrel?

**Mr Perry:** I would have been looking for a slot or a pin going across the barrel, holding it to the receiver. I would have been looking for a rod that would have blocked the barrel.

**B**

None of those were present.

**Mr Twomlow:** And what about welding? Where would that come in?

**C**

**Mr Perry:** Welding would usually be along the slot. You can weld from the muzzle and from the rear and along the slot, but, any point, there should have been some.

**D**

**Mr Twomlow:** Right. Just to explain this, when you say you were looking for a slot, what, what do you mean by that?

**E**

**Mr Perry:** By a slot, what you have to do is, if you take the barrel as a, a section of that, of length, the slot would be cut with a milling tool into the barrel, into the bore so you can actually see into the inside of the barrel. And that would have to be a minimum of 8 millimetres.

**His Honour Judge Thomas:** So, in effect, a hole in the barrel at the bottom.

**F**

**Mr Perry:** Yes, yeah.

**Mr Twomlow:** Now, if a barrel is, is going to be treated in a way which will deactivate the gun, you've, you've mentioned pinning, slotting or welding.

**G**

**Mr Perry:** Yes.

**Mr Twomlow:** Are those, is that what you would be looking for?

**H**

**Mr Perry:** Yes. To comply with the Home Office specification, that is exactly what we'd be looking for.

**Mr Twomlow:** Was there any evidence of any of those things on the barrel of this gun?

**A**

**Mr Perry:** No.

**His Honour Judge Thomas:** Sorry, what were the three again? Pinning, welding, and what was the other one?

**B**

**Mr Perry:** Pinning, welding and a slot.

**His Honour Judge Thomas:** Thank you.

**C**

**Mr Twomlow:** Yes, thank you very much, Mr Perry. Mr Kirk will have some questions for you.

**D**

**Mr Perry:** OK.

**Mr Kirk:** Good afternoon.

**Mr Perry:** Good afternoon.

**E**

**Mr Kirk:** How did you get your instructions?

**Mr Perry:** Sorry?

**F**

**Mr Kirk:** How did you get your instructions? Did you get paid? Did you, who, who arrived? Did it come in a box? Did it come in a black bag? Could you tell us a few things?

**G**

**Mr Perry:** The weapon was brought with two police officers.

(defendant confers with a male)

**H**

**Mr Kirk:** Right, names? Numbers?

**Mr Perry:** They're on my statement. I, I cannot remember them from --

**Mr Kirk:** Right, OK.

**A**

**Mr Perry:** Memory.

**His Honour Judge Thomas:** Well, Dodge is one that you --

**B**

**Mr Perry:** Dodge, yes.

(defendant confers with his sister)

**C**

**Mr Kirk:** And, what, in a, in a black box, was it?

**Mr Perry:** It, it came in a black transit case.

**D**

**Mr Kirk:** Yeah, OK. Had it been recently fired?

**Mr Perry:** It was very difficult to tell. You couldn't examine it in that way, because the bore is so rough. Yeah, I would have been looking for powder droplets, any discharge marks.

**E**

**Mr Kirk:** Did you see any?

**Mr Perry:** At that point, no.

**F**

**Mr Kirk:** Yeah. Could they have been there and you didn't see them?

**Mr Perry:** It is possible, but it is more likely that the weapon would have been cleaned after firing.

**G**

**Mr Kirk:** Have you got any evidence that it was cleaned after firing?

**Mr Perry:** No.

**H**

**Mr Kirk:** Yeah, OK. Could you explain whether the item that was shown to you could be construed as a shotgun and therefore not a prohibited weapon?

**Mr Perry:** I would not class that weapon as a shotgun.

**A**

**Mr Kirk:** Good. If you could just, if you have the ability, the technical requirements for it not to be a prohibited weapon.

**B**

**Mr Perry:** It did not contain the requirements to be, not to be a prohibited weapon. It is a prohibited weapon.

**C**

**Mr Perry:** Well, first *and*, first and foremost, it would have to not be a light machine gun. The classification of a Lewis gun is a light machine gun.

**D**

**Mr Kirk:** So, hang on, let's just hold it on that one. Was there evidence there that it could project more than one round on one single pressure on the machine gun, on the trigger?

**E**

**Mr Perry:** I was not asked to test for that. All I was able to test was that it would accept a cartridge case and it would dry fire it.

**F**

**Mr Kirk:** Yes.

**Mr Perry:** As to the repeating of the arm, I was not asked to check for that.

**G**

**His Honour Judge Thomas:** Well, it's accepted by the Prosecution, isn't it, Mr Kirk, that this was not a weapon capable in that condition of repeatedly firing successive cartridges or, or shells? That's accepted by the Prosecution.

**H**

**Mr Kirk:** Well, yes, but I got an E in English language and an E in English literature, and it's showing. When I last read the law of Section whatever it was, which I keep forgetting, I got the impression, oh, sorry, the, the indictment, and I, this is my fault, it's not because it's wrong, as far as I read the indictment, it, it says:

A

“Modified or designed so that one single pressure on the trigger will discharge more than.”

B

**His Honour Judge Thomas:** Well, that's, that's, *it*, it's a matter of law which you and I and the Prosecution will have to discuss, and I will in due course give the Jury directions. But as far as what you're asking this witness is concerned, you're asking him to confirm something which the Prosecution accept.

**Mr Kirk:** Yes, but the Jury have a, the right, I would humbly submit --

C

**His Honour Judge Thomas:** Well, if you want to ask the question, carry on.

**Mr Kirk:** To understand --

D

**His Honour Judge Thomas:** Carry on with the question, Mr --

**Mr Kirk:** If you are --

E

**His Honour Judge Thomas:** Kirk.

**Mr Kirk:** Going to direct the Jury, for which they can ignore you completely if they so wish, here is an opportunity yet again --

F

**His Honour Judge Thomas:** Well, not in law they can't, no.

G

**Mr Kirk:** Here is an opportunity yet again for somebody who's in the business, who I suspect is not biased, to explain the intricacies that might affect their decisions, irrespective of what you tell them. I'm going to ask this ...

**His Honour Judge Thomas:** I've just said --

H

**Mr Kirk:** *Officer* --

**His Honour Judge Thomas:** You can ask it, Mr Kirk, so ask it.

**Mr Kirk:** But you were not, you were given instructions in writing or in, by voice.

**A**

**Mr Perry:** By voice.

**Mr Kirk:** OK, and within those instructions you weren't asked to confirm whether it would fire more than one round on a single pressure on the, on the --

**B**

**Mr Perry:** No.

**Mr Kirk:** On the --

**C**

**Mr Perry:** I was not --

**Mr Kirk:** Trigger.

**D**

**Mr Perry:** Asked if the weapon was able to repeat, repeatedly fire.

**Mr Kirk:** On the trigger.

**E**

**Mr Perry:** On the trigger.

**Mr Kirk:** Mechanism.

**F**

**Mr Perry:** Mechanism, if you wish.

**Mr Kirk:** Yeah, and if the trigger mechanism wasn't there, would that change its legality about whether it's been proofed?

**G**

**Mr Perry:** If you, if you're referring to its legality as a Section 5 weapon, if the trigger was there or not, there are still Section 5 components contained within the weapon.

**H**

**Mr Kirk:** Yes, but there is evidence from the Prosecution, and you've just said that that's where they sometimes put the proof mark. Is that right?

**Mr Perry:** The, some, sometimes, depending on the weapon type --

A      **Mr Kirk:** Ah, right, yes, I'm with you.

**Mr Perry:** The, they will bear a, a mark --

B      **Mr Kirk:** Yeah, yeah.

**Mr Perry:** On the trigger mechanism.

C      **Mr Kirk:** Yeah. If that barrel had been changed between the time when I'm accused of being in possession, if it's been changed by somebody who was in possession after I had it in, if it's the, if it's the same gun, in nineteen ninety, two years ago at least, two and a half years ago, proof of, of, of a mark would have been no longer on the barrel, would it, because it, the barrel's been changed?

D      **Mr Perry:** I couldn't tell you if the barrel's been changed.

**Mr Kirk:** No, no, I'm --

E      **Mr Perry:** But I can tell you the barrel --

**Mr Kirk:** I'm assuming it's been changed.

F      **Mr Perry:** I can --

**Mr Kirk:** I mean --

G      **Mr Perry:** Tell you that the barrel does not bear a mark.

**Mr Kirk:** Right.

H      **Mr Perry:** But it would not only be carried on the barrel. It would be carried on various part of the weapon.

**Mr Kirk:** Yeah. Sorry, you said you stripped it down.

**A** **Mr Perry:** Yes.

**Mr Kirk:** Right, can you remember how many blank cartridges, empty, *what's the* expression you're using? Spent cartridges. Do you remember how many spent cartridges were in the magazine?

**B**

**Mr Perry:** I do not.

**Mr Kirk:** What, you mean you didn't make a record?

**C**

**Mr Perry:** No. There was no record made of spent cases in the magazine.

**Mr Kirk:** Did you make a written report?

**D**

**Mr Perry:** Yes, I made a written report.

**Mr Kirk:** And do you have it with you?

**E**

**Mr Perry:** I do not. My statement should be evidence enough.

**Mr Kirk:** Well, that's for me to decide. Did you make handwritten notes when you did --

**F**

**His Honour Judge Thomas:** Actually --

**Mr Kirk:** Whatever?

**G** **His Honour Judge Thomas:** Believe it or not, Mr Kirk, it's for me to decide.

**Mr Kirk:** It's *for* me to decide whether to pursue any further cross-examination of a Prosecution witness, with all due respect. Did you make a handwritten note?

**H**

**Mr Perry:** Of the spent cases in the magazine?

A

**Mr Kirk:** No, no. Did you make handwritten notes, what the police call a contemporaneous note, of the examination of a weapon that is carrying the potential of a 10 year mandatory prison sentence, if he can wriggle out of an IPP?

**Mr Perry:** Yes.

B

**Mr Kirk:** Right. So you made a written statement. Where are they? A written record.

**Mr Perry:** They were not submitted as evidence. There were --

C

**Mr Kirk:** No.

**Mr Perry:** My personal --

D

**Mr Kirk:** Where are --

**Mr Perry:** Records.

E

**Mr Kirk:** They? I asked, please.

**Mr Perry:** They are not with me.

F

**Mr Perry:** They are in the Birmingham Gun Barrel Proof House.

**Mr Kirk:** Good. Could they be faxed to the Crown Court --

G

**Mr Perry:** They would --

**Mr Kirk:** Fax?

H

**Mr Perry:** Not be able to. They are in my personal folder.

**A** **Mr Kirk:** Your Honour, in your good time, could I please receive them, if, tomorrow or over the weekend or Monday, at the, at the end of the play on *Monday*? No, it has to be by midday on Monday. And if I can argue with you that there is information there to recall this witness, I would ask that he be recalled for final examination.

**B** **His Honour Judge Thomas:** Mr Perry, those notes ...

**Mr Perry:** Yes.

**C** **His Honour Judge Thomas:** Which you took, would --

**Mr Perry:** We're --

**D** **His Honour Judge Thomas:** You --

**E** **Mr Perry:** Talking very brief handwritten notes, because my evidence was mostly maintained in the, in the statement. I didn't --

**F** **His Honour Judge Thomas:** Yeah.

**G** **Mr Perry:** I didn't feel I, that after examining it and writing the statement, that there was much more evidence needed for myself to, to be satisfied that it met what I said in my statement.

**H** **His Honour Judge Thomas:** Is there any reason why, those notes can't be faxed to us over the weekend?

**I** **Mr Perry:** There is. We haven't, I haven't actually got access to the proof house until Monday.

**J** **His Honour Judge Thomas:** Well, Monday morning?

**K** **Mr Perry:** I could get them to you Monday morning?

**L** **His Honour Judge Thomas:** Could you fax them down to us on Monday morning --

**Mr Perry:** Yeah.

**A**

**His Honour Judge Thomas:** Please?

**Mr Perry:** We are literally talking four or five handwritten lines on a piece of paper.

**B**

**His Honour Judge Thomas:** Could you please just ...

**Mr Perry:** Yes, yeah, of course --

**C**

**His Honour Judge Thomas:** Fax them --

**Mr Perry:** I could.

**D**

**His Honour Judge Thomas:** Down to us on --

**Mr Perry:** Of --

**E**

**His Honour Judge Thomas:** Monday --

**Mr Perry:** Course --

**F**

**His Honour Judge Thomas:** Morning?

**Mr Perry:** I could, Your Honour.

**G**

**His Honour Judge Thomas:** Thank you.

**Mr Kirk:** Your Honour, there lies a problem. We've been down this road many times in this room. How am I to know that they are the originals if we separate this gentleman from my presence, where he then has the opportunity to write what he likes, scribble out, throw away into a dustbin and write new, could you, I ask you that the, the, the person in possession, using the word under the '68 Firearms Act, in possession of the office where they are, be

**H**

contacted and that the police, if need be, seal the, the filing cabinet and that, for someone else to retrieve those notes. Oh, *and* we've been --

A

**His Honour Judge Thomas:** Mr --

**Mr Kirk:** Down --

B

**His Honour Judge Thomas:** Mr --

**Mr Kirk:** This route so many --

C

**His Honour Judge Thomas:** Mr --

**Mr Kirk:** Times.

D

**His Honour Judge Thomas:** Mr, Mr Perry, is it possible that someone could get access to those notes in your absence?

**Mr Perry:** It is highly unlikely.

E

**His Honour Judge Thomas:** Why is that?

**Mr Perry:** They're, they're in a locked cabinet and I have the key.

F

**His Honour Judge Thomas:** Right.

**Mr Kirk:** Easy.

G

**Mr Perry:** And the key's at home.

H

**Mr Kirk:** Easy. Could the key be put into the custody of this Court and the Court organise that someone else open the cabinet, preferably a local police officer, and they see it, they keep the original and fax a photocopy to this Court?

**His Honour Judge Thomas:** No, I will let Mr Perry go to his office on --

**A** **Mr Perry:** Thank you.

**His Honour Judge Thomas:** Monday morning. He can then fax us down a copy of his notes.

**B** **Mr Perry:** Not a problem.

**His Honour Judge Thomas:** You can address the Jury on the basis that gives Mr Perry the opportunity over the weekend to ...

**C**   
(defendant confers with his sister)

**His Honour Judge Thomas:** You can address the Jury on the basis that that has --

**D**   
**Mr Kirk:** Yes.

**E**   
**His Honour Judge Thomas:** Given Mr Perry the opportunity over the weekend, if he wishes to, to falsify them. And if the Jury accept that, then that is a matter for them. But I'm not going to have people jumping through hoops --

**Mr Kirk:** No.

**F**   
**His Honour Judge Thomas:** Over silly, in my opinion, objections.

**Mr Kirk:** Your, Your, Your --

**G**   
**His Honour Judge Thomas:** So, Mr Perry --

**Mr Kirk:** Your --

**H**   
**Mr Perry:** Thank you.

**His Honour Judge Thomas:** Would you please, on Monday, fax it down to this Court? And no doubt someone will give you an address.

**Mr Perry:** Yes.

**A**

**His Honour Judge Thomas:** And please resist the temptation, as Mr Kirk would have it, to alter them in any way.

**B** **Mr Perry:** I will.

**Mr Kirk:** Your, Your Honour --

**C** **His Honour Judge Thomas:** Thank you.

**D** **Mr Kirk:** Could he just write down what he remembers on a piece of paper so that we have a copy of, of his handwriting and briefly what he's already recorded from memory and it be kept in the custody of the Court. And I --

**His Honour Judge Thomas:** Did --

**E** **Mr Kirk:** Have a photocopy --

**His Honour Judge Thomas:** Did you give a handwritten statement to the police?

**Mr Perry:** Yes, yeah, that wouldn't --

**F**

**His Honour Judge Thomas:** Right.

**Mr Perry:** Be a problem.

**G**

**His Honour Judge Thomas:** We have a copy of his handwriting.

**H**

**Mr Kirk:** No, the notes that he took contemporaneously. He said it's four or five lines. The statement is, is in front of a police officer because they have the investigating police officer, which they're deliberately leaving till the end.

**His Honour Judge Thomas:** Yes.

**A** **Mr Kirk:** Because --

**His Honour Judge Thomas:** Thank you, Mr Perry, if you could send that on Monday morning.

**B** **Mr Perry:** Yeah.

**His Honour Judge Thomas:** Do you have any re-examination?

**C** **Mr Kirk:** Are you refusing me the chance for him to just write down what he remembers -

**His Honour Judge Thomas:** Yes.

**D** **Mr Kirk:** Is on the, on the contemporaneous note?

**His Honour Judge Thomas:** Yes.

**E** **Mr Kirk:** Right, OK.

**F** **His Honour Judge Thomas:** Thank you. He's told you he can't remember. He made very brief notes. The Jury will be addressed, no doubt, by you on the basis he's had the opportunity over the weekend to alter them. They must assess that when the time comes. Thank you, Mr Perry.

**Mr Perry:** OK.

**G** **Mr Twomlow:** Yes, the next witness is Malcolm Burr, and that's page 33, Detective Sergeant or acting Detective Sergeant when he made the statement.

**H** (defendant confers with his sister)

**Court Clerk:** Would you like to raise the Testament *in your hand*? Please repeat after me. I swear by Almighty God ...

**DS Burr:** I swear by Almighty God ...

**A**

**Court Clerk:** That the evidence I shall give ...

**DS Burr:** That the evidence I shall give ...

**B**

**Court Clerk:** Shall be the truth ...

**DS Burr:** Shall be the truth ...

**C**

**Court Clerk:** The whole truth ...

**DS Burr:** The whole truth ...

**D**

**Court Clerk:** And nothing but the truth.

**DS Burr:** And nothing but the truth.

**E**

**Court Clerk:** Thank you.

**Mr Twomlow:** What's your full name, your rank and your station please?

**F**

**DS Burr:** I'm acting Detective Sergeant Malcolm David Burr, currently stationed on the Scenes of Crime Department at Bridgend Police Station.

**G**

**Mr Twomlow:** I think in July of 2009, when you made a statement in relation to this matter, you were then acting Detective Sergeant.

**DS Burr:** That's correct.

**H**

**Mr Twomlow:** On the morning of Monday 22 June at 10 to 9 did you attend at the major crime incident room, Bridgend?

**DS Burr:** I did, yes.

A      **Mr Twomlow:** Was that for a briefing with Detective Inspector Suzanne Hughes?

**DS Burr:** That's correct.

B      **Mr Twomlow:** And as a result of what was discussed there, did you go to The Marlpits in St Donats, Llantwit Major?

**DS Burr:** I did, yes.

C      **Mr Twomlow:** Did you arrive outside that address at 10 o'clock?

**DS Burr:** That's correct.

D      **Mr Twomlow:** And was the address the subject of a search throughout the day?

**DS Burr:** That's correct.

E      **Mr Twomlow:** And what time did you leave the scene that day please?

**DS Burr:** On that day I left at 18:30 hours.

F      **Mr Twomlow:** Did you the following day go back to The Marlpits?

**DS Burr:** That's correct.

G      **Mr Twomlow:** What time was that?

**DS Burr:** I arrived at The Marlpits at 12 midday.

H      **Mr Twomlow:** And was there then a further search of the address?

**DS Burr:** That's correct.

**Mr Twomlow:** And what time did you leave the scene?

A **DS Burr:** At 18:00 hours the same day.

**Mr Twomlow:** Thank you, Mr Burr. Mr Kirk will have some questions for you.

B **Mr Kirk:** I need my file for this one, Your Honour.

C **His Honour Judge Thomas:** Right, in that case we will now rise until 5 to 2. In the meantime you must bring the documents you need, not all 20 boxes at this stage, because it's going to be impossible to do so. But you must bring up those documents which you require for the witnesses this afternoon, and Mr Twomlow will give you a list of the witnesses we will have this afternoon.

D **Mr Kirk:** Your Honour, at the last *at*, at the last break I was refused access to my witnesses, the Reliance refused to let them. I have a witness, my sister, here to confirm that. Two witnesses. One was a potential witness. I wasn't even allowed to interview them. Now, I've had eight months of this at the prison, and, each time I come to Court, for the twelfth hearing like this, over the last eight months, seven months, once I leave the prison, I am not allowed to see anybody and I'm not allowed any of my papers. Now, all of a sudden E overnight I have my papers now actually in my cell. But I have been denied access, contrary to the police website saying that people unconvicted on remand in custody have, can carry on running their business, I raised an, a sordid subject of having to get money to my *sister* last night. And, yes, the police have taken possession of the cheque. I cannot finance. There F are letters that have come to me in the last few days from lawyers, a number of lawyers, confirming, and, that you cannot transfer money whilst you're in custody. All my chequebooks --

G **His Honour Judge Thomas:** Mr Kirk --

**Mr Kirk:** Have been --

H **His Honour Judge Thomas:** Would you --

**Mr Kirk:** Taken off me --

**His Honour Judge Thomas:** Would you please listen very --

**A**

**Mr Kirk:** Months ago.

**His Honour Judge Thomas:** Will you please listen very carefully to what I've just said.

**B** You've now got an hour and ten minutes, in which time you've got the documents downstairs in the cell. Find the documents which you need for this afternoon and bring them up please.

**Mr Kirk:** I wish to interview those witnesses during that time as well.

**C**

**His Honour Judge Thomas:** No. You --

**Mr Kirk:** And --

**D**

**His Honour Judge Thomas:** Will spend the time, please, looking for the documents. If --

**Mr Kirk:** I will --

**E**

**His Honour Judge Thomas:** You don't come up with the documents, then we will continue in the absence, again, of the documents.

**Mr Kirk:** They close --

**F**

**His Honour Judge Thomas:** The obstacles, the obstacles for you having your papers are entirely of your own making, Mr Kirk, and I'm afraid that my patience on the matter is rapidly becoming exhausted. So, if you don't bring up the papers you need for this afternoon, then I'm afraid we will continue again in their absence.

**G**

**Mr Kirk:** Can you name the witnesses --

**His Honour Judge Thomas:** Thank you, members of the Jury.

**H**

**Mr Kirk:** That are coming this afternoon?

**His Honour Judge Thomas:** Thank you.

**A** (jury retires)

**His Honour Judge Thomas:** Yes, Mr Twomlow --

**Mr Kirk:** Can you --

**B**

**His Honour Judge Thomas:** Will give you a list.

**Mr Kirk:** Name them?

**C**

**His Honour Judge Thomas:** I've got no idea who they are. Mr Twomlow will. Thank you.

**Mr Twomlow:** Well ...

**D**

(parties confer)

**His Honour Judge Thomas:** Yes.

**E**

**Mr Twomlow:** Can I --

**F**

**His Honour Judge Thomas:** Detective Constable Burr, I'm afraid that you will have to come back after lunch. Please don't discuss your evidence with anyone who has or may be in the future giving evidence. Thank you.

**Mr Twomlow:** DC Minto, PC Richard Jones, DC James Phillips ...

**G**

**His Honour Judge Thomas:** Well, as I've said, at, at 3:45 I'll be ...

**Mr Twomlow:** Yes, well, that should be ...

**H**

(judge confers with clerk)

(defendant confers with his sister)

**His Honour Judge Thomas:** I, is this a Jury note?

**A**

**Court Clerk:** Yeah, *it is.*

**His Honour Judge Thomas:** Can I hand you the Jury note? And this must be shown as well to, thank you, Mr Kirk.

**B**

**Mr Kirk:** Could I have a copy of it made please?

**His Honour Judge Thomas:** Yes.

**C**

**Mr Kirk:** Thank you.

(parties confer)

**D**

(shouting from public gallery)

**His Honour Judge Thomas:** Be quiet please. We'll have a photocopy of that taken, Mr Kirk. The original will have to remain on the Court file.

**E**

**Mr Kirk:** With all due respect, we've been down this before. You know that I've stopped at least four trials in this building, and one of them related to these notes. Could my secretary, my secretary? My kid sister please write out a copy of what's there, should that piece of paper be mislaid between now and being photocopied and returned?

**F**

**His Honour Judge Thomas:** Right. I wonder, please, *if* the usher will now make sure that that's been done properly.

**G**

**Mr Kirk:** Well, what ...

**His Honour Judge Thomas:** Could we just make sure --

**H**

**Mr Kirk:** Yes.

**His Honour Judge Thomas:** That the note, keep an on eye on the note. That's all that's needed.

**A**

**Mr Kirk:** Yes.

(defendant confers with usher)

**B**

**His Honour Judge Thomas:** As I've said, Mr Twomlow, I, I'm going to rise at 3:45 this afternoon, so, if you need to adjust your witnesses accordingly, Mr Twomlow?

**C**

**Mr Twomlow:** I'm sorry. I'm sorry.

**His Honour Judge Thomas:** As I've said, I'm rising at 3:45 --

**D**

**Mr Twomlow:** Yes.

**His Honour Judge Thomas:** So could you please inform witnesses accordingly so that no one is unnecessarily detained.

**E**

**Mr Twomlow:** Yeah, I would think that this witness and the three I, I mentioned would be sufficient for this afternoon.

**F**

**His Honour Judge Thomas:** Well, I'm sure they will. And if they're not, then we'll rise at that stage. Yes.

**Mr Twomlow:** Right, thank you.

**G**

**His Honour Judge Thomas:** Thank you.

**Court Clerk:** Court please rise.

**H**

(luncheon adjournment)

**Court Clerk:** Court please rise.

**His Honour Judge Thomas:** Thank you. Yes, yes.

**A**

(defendant confers with his sister)

**His Honour Judge Thomas:** In relation, thank, can I thank the Reliance staff for bringing those boxes?

**B**

**Mrs Jeune:** Thank you.

**His Honour Judge Thomas:** Thank you.

**C**

(defendant confers with dock officer)

**His Honour Judge Thomas:** I've had a note from the Jury, from the Jury. I

**D**

"Is there more than one Lewis gun or more than one barrel, as there appears to be differences in the various photographs in the witness bundle?"

**E**

Now, that's not a matter I can deal with. They'll just have to wait and see how the evidence unfolds.

(defendant confers with his sister)

**F**

**Mr Twomlow:** Yes.

**His Honour Judge Thomas:** Yes, thank you.

**G**

(jury returns)

**His Honour Judge Thomas:** As you can see, members of the Jury, the boxes have arrived. Members of the Jury, before you left just at lunchtime, I was handed a, a, a note by one or more of you, which reads as follows:

**H**

"Is there more than one Lewis gun or more than one barrel, as there appear to be differences in the witness bundle?"

**A** The answer to that, I can't give the answer to that. It may or may not emerge during the course of the evidence, but clearly it's something which the Prosecution and Mr Kirk are now aware of, and it's for them to introduce the evidence as to that as time goes on. And the other matter that concern was raised has been addressed. Yes, Mr Kirk. Mr Kirk, do you have any questions for Mr Burr please?

**B**

**Mr Kirk:** Yes. Could you look at the police schedule please? We'll start with the schedule that was served on me this weekend. Could somebody give him a copy please?

**C** **His Honour Judge Thomas:** Is that, is, is that the disclosure schedule?

**Mr Kirk:** Yes.

**D** (judge confers with clerk)

**Mr Kirk:** It is being done, isn't it? Could you ...

**E** (counsel takes instructions)

**His Honour Judge Thomas:** Well, could you ask ...

**Mr Kirk:** Did --

**F**

**His Honour Judge Thomas:** Well, that, that will be obtained. But if there are other questions --

**G**

**Mr Kirk:** No, no.

**His Honour Judge Thomas:** That you can --

**H**

**Mr Kirk:** He's --

**His Honour Judge Thomas:** Deal with --

**Mr Kirk:** Got one.

**A**

**His Honour Judge Thomas:** If there are questions you can deal with, other than about the disclosure schedule --

**Mr Kirk:** Yeah.

**B**

**His Honour Judge Thomas:** Before --

**Mr Kirk:** The --

**C**

**His Honour Judge Thomas:** That is --

**Mr Kirk:** Occurrence --

**D**

**His Honour Judge Thomas:** Arranged.

**Mr Kirk:** Number of your incident please.

**E**

**DS Burr:** 62090198834.

**Mr Kirk:** And the occurrence number for the incident with the helicopter two days earlier.

**F**

**DS Burr:** I wouldn't know that.

**Mr Kirk:** Why wouldn't you know it?

**G**

**DS Burr:** Because it's of no relevance to what I did at the scene.

**Mr Kirk:** Sorry?

**H**

**DS Burr:** It's of no relevance to what I did at the scene.

**Mr Kirk:** No relevance to you.

**DS Burr:** Correct.

**A**

**Mr Kirk:** Are you aware that the helicopter hovered most of the afternoon over my house and upset my horse?

**DS Burr:** I'm not.

**B**

**Mr Kirk:** You're not aware that they came to arrest me two days before you came to the scenes of crime.

**C**

**DS Burr:** That's correct. I'm not aware.

**Mr Kirk:** Is it possible that there have been two arrangements for my arrest by two different departments of the South Wales Police?

**D**

**DS Burr:** I don't know that.

**Mr Kirk:** Is it possible ...

**E**

**DS Burr:** Sorry, could you rephrase the question please?

**Mr Kirk:** Right, so the easy way or the hard way. The facts are these. The police have, have, are withholding disclosure that a warrant, somebody *agreed*, decided to arrest me on the Sunday, Father's Day, I think it was.

**F**

(judge confers with clerk)

**G**

**His Honour Judge Thomas:** Now, I have a copy of, of the schedule. Perhaps that can be shown to the officer if there's something there --

**Mr Kirk:** Yeah, yeah.

**H**

**His Honour Judge Thomas:** That specifically --

**Mr Kirk:** We're --

A

**His Honour Judge Thomas:** You want him --

**Mr Kirk:** We're, we're --

B

**His Honour Judge Thomas:** To do.

**Mr Kirk:** We're on to ...

C

**His Honour Judge Thomas:** Thank you.

**Mr Kirk:** Is that an up to date schedule please?

D

**His Honour Judge Thomas:** This was the most recent one, which, as you say, thank you

...

E

**Mr Kirk:** The, the, the last dates, the last. 12 January was the Inspector, Chief Inspector, who was clearing the, to let me get near them. And his signature is omitted from the document, which I suspect is not legal.

F

**His Honour Judge Thomas:** Yes. Anyway, the first --

**Mr Kirk:** But, but if you look on the bottom --

G

**His Honour Judge Thomas:** The first edition is 20 August, and then there is a final one, dated 12 January. Is that the one?

H

**Mr Kirk:** The 12 of ...

**His Honour Judge Thomas:** January.

**Mr Kirk:** Yeah, and could you give me the number of the last incident please, before you let go of it, for the item I mean, three hundred and something.

**His Honour Judge Thomas:** 382, dated 12 January.

A                   **Mr Kirk:** No, no, the number of the item please. I didn't hear.

**His Honour Judge Thomas:** 382.

B                   **Mr Kirk:** Oh, it's up to 382. Right, OK. Right, on Sunday 20 a number of police cars came to my residence, Marlpits, including a police helicopter, information, some of which has been admitted in this Court so far, is, and hearsay from me, which is not on oath, that even a marked police car came right up to the main gate of my house, crashed his gears and reversed all the way down to the T junction by the pond in St Donats. Are you saying that C it's possible that you would not be aware of any of that?

**DS Burr:** That's correct.

D                   **Mr Kirk:** Right. I have a witness who was warned to be involved in that arrest. Now, you don't have the occurrence number for that incident. Right.

**DS Burr:** No.

E                   **Mr Kirk:** That, that's --

**DS Burr:** I was involved --

F                   **Mr Kirk:** That's, that's where we started, I think. So you were involved with the occurrence number that you have quoted. Who instigated that search?

**DS Burr:** I was briefed by Detective Inspector Suzanne Hughes.

G                   **Mr Kirk:** Who instigated my arrest?

**DS Burr:** I don't know.

H                   **Mr Kirk:** Right. I'd like you to look at the first page of my arrest documents.

(defendant confers with dock officer)

A **Mr Kirk:** Could you, could, can you come around and give me a hand? Well, if you, if you get in here, you may not --

**His Honour Judge Thomas:** No, I'm --

B **Mr Kirk:** Well --

**His Honour Judge Thomas:** Afraid you're not going to be allowed into the dock, Madam.

C (defendant confers with dock officer)

**His Honour Judge Thomas:** Do, do the Prosecution have a copy of this?

D (no audible response)

**His Honour Judge Thomas:** I think Mr Kirk's looking for the first page of his arrest document, as he calls it.

E (counsel takes instructions)

**Mr Twomlow:** It's in the Jury bundle, in fact. But if --

F **His Honour Judge Thomas:** What --

**Mr Twomlow:** If it's a --

G **His Honour Judge Thomas:** What --

**Mr Twomlow:** If, if it's the document at page 24 of the Jury bundle, RBJ1, the officer who deals with the arrest is actually coming ...

H (defendant confers with his sister)

**Mr Twomlow:** Is here this afternoon to give evidence.

A

(defendant confers with his sister)

**Mr Twomlow:** Page 24.

B

**His Honour Judge Thomas:** Page 24, I see.

(defendant confers with his sister)

**His Honour Judge Thomas:** Is that the arrest pro forma document, Mr Kirk?

C

**Mr Kirk:** Yes, yes.

D

**His Honour Judge Thomas:** That, that's the one you mean, is it? We've got that in our bundles at page 24.

**Mr Kirk:** Yeah, I have it in my hand.

E

(counsel takes instructions)

**Mr Kirk:** It's, it says here an officer, Stuart McKenzie, was involved, yes?

**DS Burr:** It, Stuart, I know Stuart McKenzie, yes.

F

**Mr Kirk:** Sorry?

**DS Burr:** Yes, I know of Mr McKenzie.

G

**Mr Kirk:** Yes, he was in charge.

**DS Burr:** I, I'm not sure. I was briefed by DI, DI Suzanne Hughes. It was my first involvement, on the Monday morning.

H

**Mr Kirk:** It's, Detective Superintendent Stuart McKenzie has signed the, the first page that I had served on me, with:

A

“[A big name] arrest.”

On it.

B

**His Honour Judge Thomas:** Is that, is that the first arrest? Is this the, the, the arrest that you say happened beforehand? Or the one ...

C

**Mr Kirk:** He knows nothing about that. Let's, let's not confuse anybody in this room.

D

**His Honour Judge Thomas:** OK, well, I think I might have inadvertently done so because the arrest pro forma document ...

**Mr Kirk:** Which is why I need the occurrence numbers, and you are determined to prevent me from doing that.

E

**His Honour Judge Thomas:** I'm not determined to do any such thing, Mr Kirk.

**Mr Kirk:** I showed you 43 of them at the beginning of this trial, and I said I will get those by the end of the trial, and if I don't, I may be in difficulties.

**His Honour Judge Thomas:** What is the document that you want him to look at now?

F

**Mr Kirk:** Do you mean you aren't aware of the standard procedure?

**His Honour Judge Thomas:** What's the document, Mr Kirk, please?

G

**Mr Kirk:** Could I show you at the end of the trial?

**His Honour Judge Thomas:** Well, it might help if he showed us now.

H

**Mr Kirk:** I don't trust you, and once I part with it you may start asking questions. And I am about to cross-examine a very important witness in this case.

**His Honour Judge Thomas:** I'm sorry you don't trust me, Mr Kirk, but what I want to do is to move on with it. So please ask any questions.

A

**Mr Kirk:** Right. I have an occurrence number here, 62EA01576/09. Is that yours?

**DS Burr:** It isn't, no.

B

**Mr Kirk:** Right. Is it that each time you do a package of work, each package of work is given a different occurrence number?

C

**DS Burr:** Every incident that's reported to the police is given an occurrence number.

**Mr Kirk:** Ah, you mean the arrest incident has a different occurrence number to a search incident.

D

**DS Burr:** I'm not sure with the arrest incident. I --

**Mr Kirk:** Well --

E

**DS Burr:** I've not been involved in arresting anyone for over ten years, so I don't know.

**His Honour Judge Thomas:** The next witness, we're told, Mr Kirk, after this one, is the arresting officer. Is that right, Mr Twomlow?

F

**Mr Twomlow:** Yes.

**His Honour Judge Thomas:** If I --

G

**Mr Twomlow:** He's here.

**His Honour Judge Thomas:** Understand you --

H

**Mr Twomlow:** Yes.

**His Honour Judge Thomas:** Correctly.

A      **Mr Kirk:** It, it, it's, it, it isn't --

**Mr Twomlow:** He wasn't going to be the next, but he can be. He's here this afternoon, yes.

B      **Mr Kirk:** It, it, it is a pity. In fact, can I reserve my cross-*examination* and, and, and let's get the evidence-in-chief of the other one?

**His Honour Judge Thomas:** Well, now, cross-examine --

C      **Mr Kirk:** No, I make a --

**His Honour Judge Thomas:** This witness.

D      **Mr Kirk:** An official --

**His Honour Judge Thomas:** Cross --

E      **Mr Kirk:** Application --

**His Honour Judge Thomas:** Cross-examine --

F      **Mr Kirk:** For the --

**His Honour Judge Thomas:** This witness. If he needs to be recalled, he can be recalled. Now, please just cross-examine this witness on the matters that he has talked about, which is to say the, going to the search.

G      **Mr Kirk:** When I have cross-examined the most important witness in this, the arresting officer, you will make sure that I won't be allowed to recall this witness, based on the evidence I obtain from the arresting officer. So why don't we make it simple? I haven't really asked him anything yet. Why don't we just put him aside so I can recall him, and let things be dealt in the right order? Who instigated? Who arrested? Who searched? Who then dealt with me in cross, in, in custody? And then they went out and looked for witnesses. And when they found that they, there were two searches, there were two arrests going on

and one didn't know what the left, the right arm didn't know what the left one was doing. We came right around, and then they went out again and interviewed all the witnesses again in December. Why don't we do it in a logical order? Because one person in this room, and that's me, will get confused otherwise.

**His Honour Judge Thomas:** Well, I think it may be more that you're getting confused, with respect, Mr Kirk. Right, if you don't have any questions at this stage of this officer, you may leave the witness box, but please don't go until you're given leave to go, because you may have to be recalled. Can we have the next witness then please?

**Mr Twomlow:** Yes, Detective Constable Richard Jones please.

**His Honour Judge Thomas:** And he is a, an arresting officer, is he?

**Mr Twomlow:** It's at page 15. He's the officer who filled out the form at page 24 onwards.

**His Honour Judge Thomas:** Sorry, did, did you say page 15, one five?

**Mr Twomlow:** One, five of the deposition.

(counsel takes instructions)

**Mr Twomlow:** He'll just be a moment because he wasn't going to be the next witness. But I'll call him now.

(pause)

**Mr Kirk:** I'm still waiting for the photocopies of the things I asked for this morning, *we*, no, I asked for yesterday, Mr Huxtable's pro forma from the Home Office, relating to firearms procedure generally. I forget what it was called.

**His Honour Judge Thomas:** The regulations?

**Mr Kirk:** Yeah. I, I, I had his file yesterday, and I, and you --

**His Honour Judge Thomas:** Oh, the, yes. Has that been photocopied?

**A**

**Mr Twomlow:** *It*, it was handed to a witness this morning and no questions were asked about it, and so then it was handed back.

(counsel takes instructions)

**B**

**Mr Twomlow:** But it can be photocopied if necessary, yes.

(counsel takes instructions)

**C**

**Mr Kirk:** No, no, that's *half a* --

**His Honour Judge Thomas:** No, we're talking about the, we're *talking, there are* two things

**D**

we're talking about.

**Mr Twomlow:** The, the Home --

**E**

**His Honour Judge Thomas:** First of all the Home Office regulations, which need --

**Mr Twomlow:** The --

**F**

**Mr Twomlow:** Specifications.

**His Honour Judge Thomas:** Yes.

**G**

**Mr Twomlow:** Yes.

**His Honour Judge Thomas:** And the other thing is the file that came from the witness yesterday was to be photocopied and a --

**H**

**Mr Twomlow:** Oh, yes.

**His Honour Judge Thomas:** Copy --

**A**

**Mr Twomlow:** Yes.

**His Honour Judge Thomas:** Given to, to ...

**B**

**Mr Twomlow:** Yes.

(counsel takes instructions)

**C**

**Mr Twomlow:** He's already had that.

**His Honour Judge Thomas:** Right.

**D**

**Mr Kirk:** Sorry? What?

**His Honour Judge Thomas:** You've already had that apparently --

**E**

**Mr Kirk:** No, I haven't.

**His Honour Judge Thomas:** Mr Kirk.

**F**

**Mr Kirk:** No, I haven't. There were lots of photographs in it, and I was actually after the, mainly the literature in it. And I asked for every page. I asked the lady, the usher.

**Usher:** I passed it to Celia.

**G**

**Mr Kirk:** Yeah. Can you confirm I have not received it please?

(no audible response)

**H**

**His Honour Judge Thomas:** The CPS, I'm told, have been given it, given it to you. Is that right?

**Mr Twomlow:** Yes.

**Mr Kirk:** When?

**A**

**Mr Twomlow:** That's what I'm told. I, I --

**His Honour Judge Thomas:** Well, I --

**B**

**Mr Twomlow:** Didn't have. But, *but* --

**Mr Kirk:** Well, who physically did it please?

**C**

(parties confer)

**Mr Twomlow:** Well, this lady gave it to Mr Werren, who gave it to Mr Kirk.

**D**

**His Honour Judge Thomas:** Right. Next question. Oh, you're going to ask questions of this officer, Mr --

**E**

**Court Clerk:** *Would you like to* just raise the Testament in your hand please? Please repeat after me. I swear by Almighty God ...

**DC Jones:** I swear by Almighty God ...

**F**

**Court Clerk:** That the evidence I shall give ...

**DC Jones:** That the evidence I shall give ...

**G**

**Court Clerk:** Shall be the truth ...

**DC Jones:** Shall be the truth ...

**H**

**Court Clerk:** The whole truth ...

**DC Jones:** The whole truth ...

**Court Clerk:** And nothing but the truth ...

**A**

**DC Jones:** And nothing but the truth.

**Court Clerk:** Thank you.

**B**

**Mr Twomlow:** What is your full name, your rank and your station please?

**DC Jones:** I am DC 1177 Richard Jones. I'm currently working with the Criminal Investigation Department at Porthcawl Police Station for South Wales Police.

**C**

**Mr Twomlow:** Yes. On Monday 22 June 2009 did you go to St Donats in Llantwit Major?

**DC Jones:** Yes, I did.

**D**

**Mr Twomlow:** What time did you go there please?

**DC Jones:** I went there at approximately, we got there at, at about half past 7 in the, in the morning.

**E**

**Mr Twomlow:** In the morning. And what did you see when you got there?

**F**

**DC Jones:** Well, I was there for a, a short time before I was told to go through to lanes at St Donats. When I went through the lanes, I saw a, a male person who I now know to be Mr Maurice Kirk stood at the side of the road talking to a plain clothes officer.

**Mr Twomlow:** Right, and what, and what did you do then?

**G**

**DC Jones:** I approached Mr Kirk, I identified myself and I then arrested, arrested him.

**Mr Twomlow:** Now, were you in possession of an arrest pro forma?

**H**

**DC Jones:** Yes, I was.

**Mr Twomlow:** Would you look at page 24, please, of the green file that you have there in front of you? Through pages 24 to 27, do they form that pro forma?

A

**DC Jones:** Yes, they do.

**Mr Twomlow:** And is that your handwriting on the pro forma?

B

**DC Jones:** Yes, it is.

**Mr Twomlow:** And I think the exhibit is RBJ1 and your, your initials are RJ. Is that your  
C reference number?

**DC Jones:** Yes, it is, yes.

D

**Mr Twomlow:** Yes, now, would you deal with the form, please, the pro forma, and tell the Court, the ladies and gentlemen of the Jury what happened that morning, starting from the top of the pro forma?

E

**DC Jones:** Yes, at, I say that, well, it's at, 08:15 is the actual time that I approached Mr Kirk. I identified myself and the officer with me, who was DC 2276 Moffett. I then read through and said:

F

“I am arresting you on suspicion of the following offences, possession of a prohibited weapon, namely a Lewis machine gun, possession of prohibited ammunition, contrary to Section 5 of the Firearms Act 1968, also for making threats to cause criminal damage to Dolmans Solicitors, contrary to Section 2A and 4 of the Criminal Damage Act 1971.”

G

**His Honour Judge Thomas:** Can I just interrupt you for a moment, officer? Was, was this a document that you took in blank with you?

H

**DC Jones:** Yes, it was.

**His Honour Judge Thomas:** So you filled it in at the time?

**DC Jones:** At the time, Sir, yes. I then cautioned Mr Kirk. I said:

**A**

“You do not have to say anything, but it may harm your defence if you do not mention when questioned something you later rely on in Court. Anything you do say may be given in evidence.”

**B**

To this you replied:

“Well, I don’t … Dolmans? What’s this about?”

**C**

**Mr Twomlow:** Right. Now, how did that come to be filled in there? When did you write it in?

**DC Jones:** At the time when Mr, Mr Kirk replied to the caution.

**D**

**Mr Twomlow:** Right, and then what happened?

**DC Jones:** This was at the side of the road. DC Moffett then asked Mr Kirk if he had any items on him that he shouldn’t have, and DC Moffett then searched --

**E**

**Mr Twomlow:** Well --

**DC Jones:** Mr Kirk.

**F**

**Mr Twomlow:** What, what your, what, the last evidence you gave was his reply:

“Well, I don’t. Well, no, I don’t. Dolmans? What’s that about?”

**G**

Was something else said by you then before …

**DC Jones:** Oh, sorry, I said, I said:

**H**

“This is a police vehicle. Your arrest is necessary to allow the prompt and effective investigation of these offences.”

**Mr Twomlow:** Yes.

**A**

**DC Jones:** I said:

**B**

“This vehicle is also equipped with tape and video recording facilities. All conversations throughout this journey will be recorded. Do you understand?”

**Mr Twomlow:** Yes.

**C**

**DC Jones:** Mr Kirk --

**Mr Twomlow:** Now, where were you in the, in the vehicle at that point, or in relation to the vehicle?

**D**

**DC Jones:** I was sat in the back offside seat, behind the police driver.

**Mr Twomlow:** Right, and where was Mr Kirk?

**E**

**DC Jones:** Mr Kirk was sat to the left of me in the rear seat.

**F**

**Mr Twomlow:** And when you said, when you told him about the tape and video recording facilities and said that all conversations would be recorded and asked him if he understood, did he reply to that?

**DC Jones:** He said:

**G**

“You should have told me that at the beginning.”

**Mr Twomlow:** Right. Now, what’s the next thing?

**H**

**DC Jones:** I then said:

“The circumstances of this case indicate that the lives of officers and members of the public may be at risk and there is a very real threat that life

A may be in immediate danger. It's necessary for me to commence an interview in accordance with PACE Code C 11.1."

**Mr Twomlow:** Yes. PACE is the Police and Criminal Evidence Act 1984, isn't it?

**DC Jones:** That is correct, yes.

B

**Mr Twomlow:** Yes.

**DC Jones:** I said:

C

"You don't have to say anything, but anything you do say may be given in evidence."

D I then continued to question Mr Kirk with the, the following predetermined questions. I said:

"Where is the Lewis machine gun?"

To which Mr Kirk replied:

E

"I think it would be appropriate for such a question, I would like it to be, I'd like to be put before a Court of law at your earliest convenience."

F

**Mr Twomlow:** Yes. Now, if the members of the Jury look to page 27, they will see the answers to the questions, with numbers. Is that right?

**DC Jones:** That is correct, Sir, yes.

G

**His Honour Judge Thomas:** Ah, I see, so those, that --

**Mr Twomlow:** So --

H

**His Honour Judge Thomas:** String of letters. Yes.

**Mr Twomlow:** So the questions are not numbered. The first one was:

A

“Where is the Lewis machine gun?”

And his answer has been noted on a piece of paper at page 27.

**DC Jones:** That's correct, Sir.

B

**Mr Twomlow:** And when did you make a note of that answer?

**DC Jones:** As Mr Kirk was replying to me.

C

**Mr Twomlow:** Yes.

**DC Jones:** I then, then said:

D

“Where is the ammunition?”

Mr Kirk replied:

E

“Ammunition for what?”

My third question was:

F

“Are you in possession of this weapon?”

To which Mr Kirk, Mr Kirk gave no reply.

G

**Mr Twomlow:** And you've got:

“NR.”

H

Against 3 there. That means no reply, does it?

**DC Jones:** Yes, Sir.

**Mr Twomlow:** Yes.

**A**

**DC Jones:** I asked:

“Are you in possession of the ammunition?”

**B**

To which he gave no reply again. My fifth question was:

**C**

“Do you have any information that [that] you can give me now which will assist in the recovery of the Lewis machine in order to protect the lives of others?”

Mr Kirk then said:

**D**

“You’re reading from a prewritten document. How long have you, have you had it? Why should taxpayers’ money ...”

**Mr Twomlow:** Is that:

**E**

“Why spend”?

**DC Jones:**

**F**

“Spent [in this manner] in this exuberant manner?”

I then said:

**G**

“Do you have any information that you can give me to assist in the recovery of the ammunition in order to protect the lives of others?”

To which Mr Kirk gave no reply. I then said:

**H**

“End of urgent interview. You will now be conveyed to Port Talbot Police Station. During this time neither my, my colleague nor I will engage in conversation with you. If anything is said by you significant to the

A

offences for which you have been arrested, the comment will be noted contemporaneously and you will be asked to sign the document. This may later be used in evidence. Do you understand?”

Mr Kirk then said:

B

“What about leaving my house unlocked? I’m in Wales, for Christ’s sake.”

I then said:

C

“You’ll be conveyed to Port Talbot Police Station. The reason for using this [police vehicle is to, to assist us in, sorry] police station is to assist us to deal with this matter diligently, expeditiously and to help reduce your time in custody. Do you understand?”

D

Mr Kirk replied:

“I’m fascinated we’re going all the way to Port Talbot. Why can’t this be dealt with at Cardiff?”

E

I then said:

F

“[I have read the above comments, sorry, I have read the above comments] The above comments have been read to me. I can confirm that this is a true an accurate account of what was said.”

I then asked Mr Kirk to sign to confirm this, to which he refused.

G

**Mr Twomlow:** Yes, and was he then taken to Port Talbot Police Station?

**DC Jones:** Yes, he was.

H

**Mr Twomlow:** And when you got there what did you do?

**DC Jones:** When we got to Port Talbot Police Station, Mr Kirk was brought before the custody sergeant, where he was booked into custody.

**A**

**Mr Twomlow:** Yes, and did you then hand this pro forma document to Detective Constable Knight?

**B**

**DC Jones:** Yes, I did.

**Mr Twomlow:** Is that, is that Erica Knight?

**C**

**DC Jones:** Erica Knight, yes, Sir.

**Mr Twomlow:** Did you have any further involvement in the investigation after that?

**D**

**DC Jones:** I've had no further involvement, no.

**Mr Twomlow:** Yes. Yes, thank you very much. Mr Kirk will have some questions for you.

**E**

**DC Jones:** Thank you, Sir.

**Mr Kirk:** Who, who gave you instructions to carry out the arrest?

**F**

**DC Jones:** I was briefed earlier that morning by DI Hughes.

**His Honour Judge Thomas:** By, sorry, DI ...

**DC Jones:** Hughes.

**G**

**His Honour Judge Thomas:** Hughes.

**DC Jones:** Suzanne Hughes, Sir.

**H**

**Mr Kirk:** Was that the first you knew about it?

**DC Jones:** Yes, it was.

**Mr Kirk:** So, what was the arrest for, arranged for two days earlier?

**A**

**DC Jones:** I'm sorry, Sir. I can't quite hear you.

**B** **Mr Kirk:** What was the reason for the helicopter and the police cars surrounding my house at the same address that you visited less than, well, about 36 hours later? Well, well, anyway, less than two days later.

**DC Jones:** I said *that* my only involvement has been in the arrest of Mr Kirk.

**C**

**Mr Kirk:** No, no.

**DC Jones:** I've had no other involvement.

**D**

**Mr Kirk:** Were you aware that an arrest was aborted two days before?

**DC Jones:** No, I wasn't.

**E**

**Mr Kirk:** Were you aware of any police incident relating to me and that property two days, on the Sunday two days before you?

**DC Jones:** No, I was not.

**F**

(defendant confers with his sister)

**G** **Mr Kirk:** Why didn't you answer my question when I asked you a question in the police

car?

**DC Jones:** Sorry?

**H**

**Mr Kirk:** You asked me --

**DC Jones:** It's a --

**Mr Kirk:** About ammunition.

**A**

**DC Jones:** Yes, Sir.

**Mr Kirk:** Why didn't you answer when I said, what did I say? What ammunition?

**B**

**DC Jones:** Right. I was instructed during the briefing to ask Mr Kirk the questions that are on the pro forma, ask only those questions and to note his reply.

**C**

**Mr Kirk:** So that's the total of your questions. So, if you, if I had replied, the Kalashnikovs are stored down at The, The Shoes down at Marcross, you would have ignored that. You would have just moved on to the question that's already typed out for you.

**D**

**DC Jones:** As I said, I was instructed to only ask these questions, and obviously hand on to the, the investigating officers, who would take it further.

**Mr Kirk:** Who were they?

**E**

**DC Jones:** I handed on to DC Erica Knight. That's the only person I've had any contact with.

**F**

**DC Jones:** Yes. I don't work in the department. I handed it on to DC Erica Knight.

**G**

**Mr Kirk:** There were armed policemen there, weren't there?

**DC Jones:** I, I don't know.

**H**

**Mr Kirk:** I counted, I was, I was escorting my daughter from my house to a house in St Donats, and she was carrying books. And there were police cars all over the place, talking to each other with mobile phones. That is correct, isn't it?

**DC Jones:** When I arrived, there was a plain clothes officer next to Mr Kirk, and there were other officers in the street, yes.

**A**

**Mr Kirk:** No, there were at least four vehicles.

**DC Jones:** There were vehicles in the road, yes.

**B**

**Mr Kirk:** Do you confirm there were at least four in my line of sight?

**DC Jones:** I don't know how many there were.

**C**

**Mr Kirk:** Yes.

**DC Jones:** I arrived in a marked police vehicle. I ...

**D**

**Mr Kirk:** Right.

**DC Jones:** Went straight to Mr Kirk. I wasn't paying any attention to any vehicles.

**E**

**Mr Kirk:** Can you explain to the Jury why they didn't simply arrest me? Why, why did you need to be there?

**DC Jones:** I was the designated arrest officer. I was briefed to do that. That was my role.

**F**

**Mr Kirk:** So how did they get there in front of you and why?

**DC Jones:** I don't know.

**G**

**Mr Kirk:** Could you explain to the Jury why I was under Level 3 MAPPA?

**DC Jones:** I have no idea what that is.

**H**

**Mr Kirk:** You do not know what Multi-Agency Public Protection Arrangements is all about.

**DC Jones:** I'm aware that there's a, a, a, there's something called MAPPA. However, I've had no involvement with it or what Level 3 MAPPA is.

**A**

**Mr Kirk:** Could you look at item 381 and 382? This is of the police schedule called a form MG6C.

**B**

**His Honour Judge Thomas:** The, the brass cartridges? Do you mean the brass cartridges, Mr Kirk?

**Mr Kirk:** Yes.

**C**

**Mr Twomlow:** No, you won't find it. You won't, you won't find it in there.

**DC Jones:** Sorry?

**D**

**His Honour Judge Thomas:** You, you won't find it in there.

**Mr Twomlow:** He doesn't have it.

**E**

**His Honour Judge Thomas:** Are these, are those in Court, the brass cartridges? I assume not.

**Mr Twomlow:** No, Your Honour. I doubt it.

**F**

(counsel takes instructions)

**Mr Twomlow:** I, no.

**G**

**Mr Kirk:** But hang on. I ordered this earlier. The day before yesterday I said I wanted them here.

**H**

(counsel takes instructions)

**His Honour Judge Thomas:** It, it's easy to bring documents to Court, Mr Kirk, not so easy to bring live ammunition.

**A** **Mr Kirk:** With all due respect, Your Honour, it's easy for you, but I've still got a lot of boxes down there, and I've had to make do with what I've got. And I have been denied my medication. It was taken from my sock when I left the prison. They searched me and they took away my medicine because I'm not allowed to take it out. I have asked for my medicine at lunchtime. I'm just trying to get across to Your Honour what it's really like being in **B** prison when unconvicted, in Cardiff Prison.

**His Honour Judge Thomas:** What, what is it specifically about the ammunition that you want to ask the officer about, Mr Kirk?

**C** **Mr Kirk:** I'm waiting with bated breath, Your Honour, as to what item 82 is.

**His Honour Judge Thomas:** 82 or 382?

**D** **Mr Kirk:** Oh, 382. It was only served on me this weekend, last weekend.

**His Honour Judge Thomas:** Well, the, the, the schedule says that they are two .303 cartridges, brass, I think, from memory.

**E** **Mr Kirk:** Well, until I've seen them, I can't answer anything from you, with all due respect.

**His Honour Judge Thomas:** I'm not asking you any questions.

**F** **Mr Kirk:** Yeah. I will then, by all means.

(counsel takes instructions)

**G** **Mr Twomlow:** The cartridges will be in Bridgend. It wasn't through necessary that they should be brought, along with a, many other items.

**H** **His Honour Judge Thomas:** Well, they're not, they're not here, Mr, Mr Kirk, so could you ask --

**Mr Twomlow:** I, I know. I --

A

**His Honour Judge Thomas:** Any questions? Sorry.

**Mr Twomlow:** I'm, two, two cartridges were recovered, as I recall, when Mrs Kirk asked the police to go to the premises. It may be those, but I, I'm, I'm not, I haven't checked that.

B

**His Honour Judge Thomas:** Well, looking at the chronology, it would appear to be the two that were mentioned by Mrs Kirk in her statement ...

**Mr Twomlow:** Yes.

C

**His Honour Judge Thomas:** When she said she rang the police ...

**Mr Twomlow:** That's right.

D

**His Honour Judge Thomas:** In November, I think it was, wasn't it? *Yeah*, why does this officer need to see these, Mr Kirk?

E

**Mr Kirk:** I wrote to the Prosecution Service. I have a spare copy for --

**His Honour Judge Thomas:** Well, let's short cut it. Why does he need to see it?

F

**Mr Kirk:** Oh, no, no, everything's been by documentation. I'm not getting fooled. This is for evidence in a Court later, all, well, *I*, because I don't remember for a minute what I'm talking about, I have had the chance to prepare a little bit of this trial. If you could, could the Prosecution take this, and one for the, his learned Judge please? I wrote on 2 December to the Crown Prosecution Service.

G

**His Honour Judge Thomas:** Thank you.

H

**Mr Kirk:** And as I understand it from you, Your Honour, there, there was a second search of the premises.

**His Honour Judge Thomas:** No.

**Mr Kirk:** Who's going to tell us all about the --

**A**

**His Honour Judge Thomas:** It's --

**Mr Kirk:** Second --

**B**

**His Honour Judge Thomas:** The, the two --

**Mr Kirk:** Search?

**C**

**His Honour Judge Thomas:** The two, the two .303, if my memory serves me correct, which are the last two items on the updated schedule, were the two that your wife told the police were in the house. And she asked them to come and get them. That was in November.

**D**

**Mr Kirk:** Well --

**His Honour Judge Thomas:** That would have been five months after the only involvement that this officer had.

**E**

**Mr Kirk:** Well, I've got to get this information from 24 files, I think it is. No, it's more than that. It's 52 files. I have to get all this information from the witnesses. Until I know what they're prepared to give me, like this one knows nothing about the raid on my house two days before from the, using the same helicopter, and he can't even give me the occurrence number, because the occurrence number is the way to pull the witnesses in for my defence. Remember I want witness summonses served today on the Chief Constable, Barbara Wilding and Dr Tegwyn Williams and an investigating officer on the front of my arrest sheet called McKenzie. I am going to get those, aren't I? Because I said day, every day of this week that as long as I know I'm getting them, there's no point in me asking questions which cannot then be confirmed by police officers, because you've blocked me from calling them.

**F**

**G**

**His Honour Judge Thomas:** I've told you before that I will issue witness summonses if it can be shown that that witness can give relevant evidence in relation to this trial. What I'm very concerned about, Mr Kirk, is that you are using this trial as some sort of ...

**H**

(defendant confers with dock officer)

A

**His Honour Judge Thomas:** Fact finding exercise for your prosecution, as you put it, in fact suing South Wales Police. Now, I've got to be very careful that all the evidence that is put before this Jury is relevant and that their time is not wasted by matters which are really to do with your civil claim. Now, please ask questions of this officer, relating to your arrest on that day, in relation to these matters. I'm not, I'm afraid, going to be used by you as a sounding board for any other matters relating to other cases in another jurisdiction.

B

**Mr Kirk:** Why was I being arrested?

C

**DC Jones:** Mr Kirk was arrested on firearms offences.

D

**Mr Kirk:** No, no. What was the, what did you say to me when you arrested me? What was the first thing you said?

**DC Jones:** If I, if I could refer back --

E

**Mr Kirk:** Do you --

**DC Jones:** To this please, Sir.

F

**Mr Kirk:** Need to --

**DC Jones:** *Yeah.*

**Mr Kirk:** Refer to it? Did you make a note in your notebook?

G

**DC Jones:** These were my original notes, Sir.

**Mr Kirk:** No, did you make a record of the arrest in your notebook?

H

**DC Jones:** That was noted later, yes, Sir.

**Mr Kirk:** Do you have your notebook with you?

**A DC Jones:** I do, Sir.

**Mr Kirk:** Would you like to check what you've put in your notebook on what you first said to me when I was arrested?

**B DC Jones:** Sir, these are my original notes.

**Mr Kirk:** Yes.

**C DC Jones:** My --

**Mr Kirk:** Would you --

**D DC Jones:** My pocketbook is summarised later, as these are my original notes.

**Mr Kirk:** Yes. Would you read your summary from your notebook please?

**E DC Jones:** Yes, Sir.

**Mr Kirk:** Thank you. All I want is, is what you first said to me.

**F DC Jones:** I said in my pocketbook is summarised, of what I've said. There's no direct speech. What I have is:

“08:15 arrest Maurice Kirk at the lanes in St Donats, Llantwit Major, Section 9 [which is a, a, a handwritten or a, a, a typed statement, original notes] caution, no reply, handcuffed front stack, double locked, rear of recorded traffic car, reading from arrest pro forma, conveyed to Port Talbot

--

**H Mr Kirk:** OK.

**DC Jones:**

“Detention authorised.”

A

**Mr Kirk:** OK, OK, that'll do. What were you instructed to do by Detective Inspector Suzanne Hughes?

B **DC Jones:** I was instructed to attend at St Donats with other officers. And once Mr Kirk had been located, I was to progress forward and arrest him.

**Mr Kirk:** When were you first given that instruction?

C **DC Jones:** I was given that instruction early in the day, during the briefing.

**Mr Kirk:** Right, and that's the first you knew about it?

D **DC Jones:** That's the first I had any involvement or any knowledge of it.

**Mr Kirk:** So it's she that handed you the pro forma to tell you what to read out to how to arrest me.

E

**DC Jones:** That is correct, yes.

F

**Mr Kirk:** The reason to arrest me. Dolmans Solicitors laid complaint, and by Saturday previously, the police had a statement of complaint by Andrew Oliver of Dolmans and a statement by a member of staff called Farthing or Nightingale, one or the other. Were you aware of that?

**DC Jones:** I was not, no.

G

**Mr Kirk:** So you were arresting me for threats of criminal damage but you're saying to this Court that you, you knew nothing about the incident for which you were arrested.

H

**DC Jones:** That is correct, yes.

**Mr Kirk:** Is that normal practice?

**DC Jones:** I was instructed during the briefing that Mr Kirk was to be arrested by a supervising officer. I carried out that order.

A

**Mr Kirk:** Is it normal practice?

**DC Jones:** It can be normal practice for officers who are no, have no involvement in a case

B

to arrest someone on behalf of someone else.

C

**Mr Kirk:** And you still maintain that you had no knowledge of the incident relating to my attempt to exchange witness statements between the Chief Constable and myself on a civil action.

**DC Jones:** I have no knowledge of this.

D

**Mr Kirk:** You had no knowledge prior to the arrest.

**DC Jones:** Prior to the arrest I had no knowledge.

E

**Mr Kirk:** But you were aware that I spent a considerable amount of the day on the 18<sup>th</sup>, which was the Friday, Thursday before, inside the HQ of Bridgend.

F

**DC Jones:** I, I, I was under the impression that was after, I've heard later since of this incident. *But I*, at the time, I did not know.

G

**Mr Kirk:** If you'd like to look at that black folder you've got there and look at page 16, bottom left hand corner, do you remember the incident that virtually emptied the HQ, in order that that property be, that car and my, and myself be searched?

H

**DC Jones:** I'm aware of the incident that took place, yes.

**Mr Kirk:** Can you confirm that it was filmed?

I

**DC Jones:** I do not know.

**Mr Kirk:** If I showed you the police schedule, and it's identified there, would I be able to have a copy of it?

**A**

**DC Jones:** I have no knowledge of it. I don't know what this is.

**B** **Mr Kirk:** Why do you have any knowledge of the second reason to arrest, in possession of

a prohibited weapon? What were you told about it?

**DC Jones:** I was told no details of, of what had actually happened. I was just instructed to carry out the arrest.

**C**

**Mr Kirk:** What was the urgency of it?

**D** **DC Jones:** As it says in the, the interview notes, obviously there was a machine gun and ammunition, so obviously the risk of police officers and members of the public, that's why the arrest was carried out.

**E** **Mr Kirk:** Did this incident relate at all to me owning a similar type weapon, as you describe it or as your boss describes it, that I'd had in my possession nearly 18 months previously?

(defendant confers with his sister)

**F** **Mr Kirk:** No, no, no, just under a year before.

**DC Jones:** I know nothing about any previous incidents.

**G** **Mr Kirk:** Do you know anything about exhibit 1 over there?

**DC Jones:** Sorry, what is exhibit 1.

**His Honour Judge Thomas:** It's the ...

**H**

**Mr Kirk:** It, it's described --

**His Honour Judge Thomas:** Gun on the ...

A      **Mr Kirk:** As a Lewis --

**DC Jones:** No.

B      **Mr Kirk:** Machine gun.

**DC Jones:** These are the first, this is the first I've seen this exhibit.

C      **Mr Kirk:** Right. Ever seen a Lewis machine gun before?

**DC Jones:** I've never seen a Lewis machine gun before.

D      **Mr Kirk:** You see, it's a matter of record from the Prosecution that possibly that one, but it was definitely, they say, sold, I think in August of the previous year.

(defendant confers with his sister)

E      **Mr Kirk:** Ten months earlier. Now, are you saying you know nothing about that *if* you knew nothing about that when you arrested me?

**DC Jones:** I knew nothing about this when I arrested Mr Kirk.

F      **Mr Kirk:** So why did I spend all that time with so many police officers at the scene, waiting for you to come and arrest me? Why didn't they arrest me?

**DC Jones:** I was the designated arrest officer.

G      **Mr Kirk:** So, what were they doing? Why were they all around, hiding in the bushes, and Q cars, four Q cars, unmarked police cars, going in little cars, going up and down St Donats, where it's difficult for mobile reception, following me down the streets with Genevieve? What were they, what were they there for?

H      **DC Jones:** I was instructed there was other officers in the area where Mr Kirk was located, I would be called, and called forward to arrest.

A **Mr Kirk:** But they waylaid me by the pond and we had a long conversation looking over the pond, sorting out which way to catch a mirror carp. What, did you not get information as to exactly where I was before I was arrested?

B **DC Jones:** I'm sorry, Sir. I don't understand --

**Mr Kirk:** Did you --

**DC Jones:** The question.

C **Mr Kirk:** Get information as to where I was to be, for me to be arrested?

**DC Jones:** I was instructed that Mr Kirk was --

D **Mr Kirk:** Who by?

E **DC Jones:** I don't know who the, called through. It was a message received via a, a radio and that Mr Kirk was in the lanes in St Donats. Obviously, the, the police driver then us through.

**Mr Kirk:** A police driver took you to him, a police driver from one of the other parked vehicles.

F (judge confers with clerk)

**DC Jones:** The, the police vehicle that I was in was driven by a traffic officer, PC French.

G (defendant confers with his sister)

H **Mr Kirk:** Can you just briefly say how many police officers were at the scene, how many vehicles, when you arrived in a marked police car to carry out a formal arrest that had been written up by somebody else? You were to arrest on the exact typed out pro forma, and you were not to ask me any other, answer any of my questions. Isn't that, is that the, the situation?

A

**DC Jones:** I said when I arrived there were other vehicles. I did see other police officers, and I'm aware that they were in plain clothes. I don't know how many other officers were there, or vehicles. And yes, I did read from a pro forma arrest sheet.

B

**Mr Kirk:** So the second reason for arresting me was for being in possession of a machine gun. Was it not that they were, somebody might have thought that I might be in possession of a machine gun? Is, is that what it was about? Was I being arrested for being in possession of a machine gun or being in possession of a machine gun ten months earlier?

C

**His Honour Judge Thomas:** Sorry, I didn't, I didn't catch the last part there, Mr Kirk, sorry.

**Mr Kirk:** Well, it's because of the Jury note that we've got to home in on this. Was the apparent urgency, you did everything under emergency rules, didn't you?

D

**DC Jones:** Yes, I did, yes.

**Mr Kirk:** Yes. You didn't need, did you need any form of permission to arrest me, by way of a warrant or a, a, a Magistrates' certificate or anything?

E

**DC Jones:** No warrant was needed to arrest. It was an arrest led by intelligence, and it was by Superintendent's authority that I carried out the emergency interview.

F

**Mr Kirk:** Right, does that apply to searching the house?

**DC Jones:** I wasn't involved in any search of any property.

G

**Mr Kirk:** Does that, does that refer to if you, when arresting somebody and you need to search the house, under those particular powers upon which you relied that day, do you need paperwork to search a house where there might be a Lewis machine gun?

H

**DC Jones:** There are varying authorities and warrants to search premises, whether on arrest or prior to arrest. I wasn't involved in any part of that investigation, so I don't know what authority was used to search.

**A** **Mr Kirk:** I'll say it for the third time. Under the circumstances in which you arrested me under emergency procedures, whereby a higher, a, another officer had typed out because he didn't want you to write down my questions or give him information, like what ammunition, under those circumstances, if, if you were asked to do it tomorrow and there was no one else, there weren't 26 other police officers and a helicopter above and sniffer dogs in the back of a van and you were just there with your mate, Starsky, would you have the power to then enter the house where there may have been a Lewis machine gun? Yes, yes or no.

**B** **DC Jones:** I said Mr Kirk was arrested away from his house, so the power after arrest is Section 32 under PACE. That didn't apply. I don't know what the --

**C** **Mr Kirk:** Yes.

**D** **DC Jones:** I'm --

**E** **Mr Kirk:** *Yeah.*

**F** **DC Jones:** Sorry, Sir. I don't understand --

**G** **Mr Kirk:** *Yeah, yes.*

**H** **DC Jones:** Your question.

**I** **Mr Kirk:** Yes, no, you're --

**J** **DC Jones:** I'm trying to answer --

**K** **Mr Kirk:** Forgetting that. We're --

**L** **DC Jones:** As best as I can.

**M** **Mr Kirk:** No, we're, my wife got very, very upset, has made official complaints, and a witness along the line's going to hear all about it. Because I was not on my premises, a Section 32 under PACE had to be applied. Is that what you're saying?

A

**DC Jones:** No. Section 32 dictates, dictates that when someone is arrested you can arrest *in the* area they've *just*, they've, they're at or where they've just been. However, wasn't involved in the search. I don't know whether this power was used or whether a warrant issued by a Magistrate was used. I wasn't involved with it. I do not know.

B

**Mr Kirk:** Surely if you think something, your neighbour's got a machine gun, I wouldn't wait for a policeman. I'd be in there and grab it before it was used for the wrong purpose. Surely the police have the power to enter any premises anywhere in this country if there are explosives, firearms, Class 3 MAPPA individuals. Surely that is the case. You, you would know, as a serving police officer.

C

**DC Jones:** I, there are instances where you can enter a property, such as to save, save life, save property. I said, with such a circumstances, obviously safety is paramount. Obviously, the officers who were dealing with this would take that into account. But I said had no involvement with that side of the investigation.

D

**Mr Kirk:** Yes, but the second reason for my arrest was for being in possession of a machine gun. Correct?

E

**DC Jones:** Mr Kirk was arrested for being in possession of a prohibited weapon, yes.

F

**Mr Kirk:** Oh, sorry, yes, it said prohibited weapon. You're correct, yeah. Was that for having a prohibited weapon on the day, or was it ten months ago?

G

**DC Jones:** I have no knowledge of any previous weapon. I was instructed to read from the pro forma questions. I don't know any, which one it relates to.

H

**Mr Kirk:** Which Prosecution witness is going to tell the Jury what they wish to know, and me?

**DC Jones:** I can't speak for anybody else. I can only tell what I know.

I

**Mr Kirk:** DI Hughes can, can't she? Was she --

**DC Jones:** I --

A      **Mr Kirk:** In charge?

**DC Jones:** I can't speak for DI Hughes.

B      **Mr Kirk:** Well, would, would it be natural to assume that she would know that, who issued the decision to arrest me under emergency conditions with 28, *no*, well, *up*, up to 30 police officers, with a machine gun, at 8:15, when, the evidence will come later, I had been under surveillance long before my arrest and that the car, my, one of my foreign cars had already been through the police computer, all this was being done? And that, it's on the schedule C      that the police only served on me this weekend, that, that they were investigating the machine gun that they say is this one, six weeks before you came on the scene. Can you not give us some information on the things that I have just raised?

D      **DC Jones:** I'm not afraid not. I was instructed to arrest, and that was my only involvement.

**Mr Kirk:** Were you, right, last time. Hughes is the one that's going to answer all these questions. Was there any senior officer above her that's been involved in any aspect between you and me?

E

**DC Jones:** I was briefed by DI Suzanne Hughes. That's the only officer I know of.

**Mr Kirk:** Yeah. *Her* name?

F

**DC Jones:** DI Suzanne Hughes.

**Mr Kirk:** Could you look at that first page of the arrest? Can I give it? Or ...

G

(parties confer)

**Mr Kirk:** *With a* big letter:

H

“Arrest.”

Written on it. Right, I'd like to look at this document. Somebody? Usher? Thank you.

A

(counsel takes instructions)

**Mr Kirk:** Right, could you explain to me the, the signature of Superintendent Stuart, what's the name? McKenzie? He's signing something and he's ticked a box yes or no. Could you read out the full content to the Jury please, halfway down?

B

**DC Jones:**

C

“Are there any grounds for not disclosing either the evidence or the identity of any witnesses in the case to the Defence?”

And he's endorsed it:

D

“No.”

**His Honour Judge Thomas:** What's the date of that document?

E

**DC Jones:** It doesn't say the date that it's gone in. It says the date of the hearing, which is 26.06.2009. Sorry, the, the date that it's been sent in was 24.06.2009. That's when the application for remand in custody was made.

F

**Mr Kirk:** So there's no reason not to disclose the normal things. Is that your, you're familiar with that form, aren't you, because you've arrested more than one person in your life?

**DC Jones:** It is a file coversheet.

G

**Mr Kirk:** Sorry?

**DC Jones:** It's a file coversheet.

H

**Mr Kirk:** Yes, but you're familiar with *them*.

**DC Jones:** Yes, I am, Sir, yes.

**Mr Kirk:** Can you see something else that's a little unusual on there?

**A**

**DC Jones:** There's a number started. Someone's started to write the number across, but I, I don't know what that is. It says 0292079, and that's where it ends.

**Mr Kirk:** Right. You understand that my phones were tapped at that time, on that day.

**B**

**DC Jones:** No, I do not.

**Mr Kirk:** No one told you.

**C**

**DC Jones:** I was not aware of that, no.

**Mr Kirk:** Were you told anything at all, other than the form that'd --

**D**

**His Honour Judge Thomas:** Mr --

**Mr Kirk:** Been written --

**E**

**His Honour Judge Thomas:** Mr Kirk --

**Mr Kirk:** Out?

**F**

**His Honour Judge Thomas:** He's, he's said that now, I think --

**Mr Kirk:** OK.

**G**

**His Honour Judge Thomas:** On probably about --

**Mr Kirk:** Sorry.

**H**

**His Honour Judge Thomas:** A dozen occasions.

**Mr Kirk:** OK.

**His Honour Judge Thomas:** I don't think you're going to get a different answer from him.

**The Jury --**

**A**

**Mr Kirk:** No.

**His Honour Judge Thomas:** May or may not think he's telling the truth.

**B**

**Mr Kirk:** No, no, I --

**His Honour Judge Thomas:** But I don't --

**C**

**Mr Kirk:** Forget.

**His Honour Judge Thomas:** Think you're going to get a different answer from him.

**D**

**Mr Kirk:** Oh, well, you do sometimes. But I forget. I forget what I talked about five minutes ago. So, arrest for threats of criminal damage. What was the outcome of the threats to criminal damage?

**E**

**DC Jones:** I do not know.

**Mr Kirk:** Well, you've not been called to give evidence, have you?

**F**

**DC Jones:** I have not been called in any other case against Mr Kirk.

**Mr Kirk:** I, I wish to put the statements that caused that arrest to this witness.

**G**

**His Honour Judge Thomas:** Well, he's *a*, he's told us all he's an arresting officer. He knows nothing at all about the other matter. And he's not going to change his evidence on -

-

**H**

**Mr Kirk:** No.

**His Honour Judge Thomas:** That, is he?

**Mr Kirk:** So who's going to give me the statement, explanation as to why no action was taken after I was arrested?

**A**

**His Honour Judge Thomas:** I don't know, but it's not going to be this officer, is it?

**Mr Kirk:** You don't know.

**B**

**His Honour Judge Thomas:** It's not going to be this officer, is it?

**Mr Kirk:** No, no, but he --

**C**

**His Honour Judge Thomas:** *So* is there --

**Mr Kirk:** Might know.

**D**

**His Honour Judge Thomas:** Are there any other questions? Are there any other relevant questions for --

**Mr Kirk:** Yes.

**E**

**His Honour Judge Thomas:** This officer?

**Mr Kirk:** Yes, but he would know --

**F**

**His Honour Judge Thomas:** Are there --

**Mr Kirk:** Because --

**G**

**His Honour Judge Thomas:** Any other relevant questions for this officer? He --

**Mr Kirk:** Well --

**H**

**His Honour Judge Thomas:** Can't tell you any more times that all he knows about this is going to the house on that day. Now, the Jury may not believe him, and no doubt you will address them on the basis they shouldn't believe him.

**Mr Kirk:** I won't be --

**A**

**His Honour Judge Thomas:** But he's not --

**Mr Kirk:** Bothering --

**B**

**His Honour Judge Thomas:** Going to give you a different answer, is he?

**Mr Kirk:** What else was I arrested for that day?

**C**

**His Honour Judge Thomas:** He's told you that as well. It's --

**Mr Kirk:** No.

**D**

**His Honour Judge Thomas:** On the --

**Mr Kirk:** We haven't --

**E**

**His Honour Judge Thomas:** Pro forma.

**Mr Kirk:** Got to that yet. What is the third thing on the issue there?

**F**

**DC Jones:** From my pro forma statement?

**Mr Kirk:** Wherever you like.

**G**

**DC Jones:** There was three offences. The third offence was making threats to cause criminal damage to Dolmans Solicitors.

**H**

**Mr Kirk:** Oh, sorry. I, I'm doing it from a different format here. It's in a different format on the next page of your official document. No, I'm talking about ammunition. What? I was being arrested for what?

**DC Jones:** Possession of prohibited ammunition.

**A** **Mr Kirk:** So really none of those three incidents that, issues were in fact followed up, despite the fact superintendent McKenzie ticked the box saying:

“No, there is no reason to withhold information for the arrested person.”

**B** Isn’t that right? That’s the summary of the front page. Nothing --

**DC Jones:** Sorry. Sorry, Sir, you, it’s, you’re going through a lot there and asking about five questions in one.

**C**

**Mr Kirk:** You arrested me for three things.

**DC Jones:** Yes, Sir.

**D**

**Mr Kirk:** For threats of criminal damage.

**DC Jones:** Yes, Sir.

**E**

**Mr Kirk:** The Court will hear later that I have been denied the statement that caused me to be arrested for that offence, right? For being in possession of the machine gun, I have not been, I’m not here for that unless I hear different, which --

**F**

**His Honour Judge Thomas:** What, you’re not here for the possession of a, of a machine gun?

**Mr Kirk:** On the --

**G**

**His Honour Judge Thomas:** Sorry, I thought that’s what we were here for.

**H**

**Mr Kirk:** Was I being arrested for being in possession of a machine gun which they thought was in the house at the time, or are they really trying to push that they did all this for me being in possession of another gun, ten months earlier? Can you give us any information on that?

**DC Jones:** No, I can't.

**A**

**Mr Kirk:** Right, last one. I was being arrested for being in possession of ammunition.

**DC Jones:** Yes, Sir.

**B**

**Mr Kirk:** Since then, have you established, is it .22 ammunition? Is it for, for my humane killers, .32, .45? Is it for my muzzleloaders? Is it ball? That means ball. Is it for a .303? Is it for something that might fit that item A or might fit, had I had one similar ten months earlier? What ammunition were you referring to when you said:

**C**

“Being in possession of ammunition”?

**DJ Jones:** I have no information about that. I've had no involvement in the investigation.

**D**

**Mr Kirk:** Would it surprise you that I asked a lot of people about which ammunition and it wasn't until 2 December that I sent this letter to the Prosecution? That'll teach me to put it away. Tidy. I want you to look at it because I say in there:

**E**

“What about the .303 ammunition that I left on my desk, [which would be] which will show up on a video?”

**F** It's standard procedure, isn't it, when you search a house or search something, you usually send somebody in with a video first before any, anything gets moved around?

**DC Jones:** There's no standard procedure for videoing any search.

**G**

**Mr Kirk:** It's not unusual to do that.

**DC Jones:** It's up to the, the officers in charge of the search if they want to use a video or not.

**H**

**Mr Kirk:** Can you say, yes or no, it's not unusual --

**DC Jones:** It's --

**Mr Kirk:** For --

**A**

**DC Jones:** Not unusual for a video to be used, no.

**B** **Mr Kirk:** Right. The Prosecution have got their own copy, 2 December. If the Prosecution could find it, it would help. I've got two of them here. I brought them out earlier. Could the Prosecution find their copy please? It was a letter from me to them. Thank you.

**His Honour Judge Thomas:** Is this the one you handed up to me?

**C**

**Mr Kirk:** Yeah, oh, sorry. I've already done it, have I? Sorry, that's very ...

**His Honour Judge Thomas:** Sorry, there we are.

**D**

**Mr Kirk:** Could you show that to the witness please?

**DC Jones:** Thank you.

**E**

**Mr Kirk:** Could you read it out, please, from end to end because I don't have a copy?

**DC Jones:** It starts in the top right hand corner.

**F**

**Mr Kirk:** Date?

**DC Jones:** B, sorry?

**G**

**Mr Kirk:** The date.

**DC Jones:** The date is 2 December 2009.

**H**

**Mr Twomlow:** Well --

**DC Jones:** Crown Prosecution --

**Mr Twomlow:** Your --

**A**

**DC Jones:** Service --

**Mr Twomlow:** Your Honour --

**B**

**DC Jones:** Cardiff.

**Mr Twomlow:** I am not, I've not been able to take full instructions about this, and I will check it, but I'm not aware of this letter, and neither's the lady sitting behind me. And why **C** this witness should be being asked to read out a letter which has been sent allegedly to the Crown Prosecution Service in December, I, I don't know.

**Mr Kirk:** I'll read it out.

**D**

**Mr Twomlow:** Doesn't seem to me, with respect, to be potentially relevant at all. And, and so, so ...

**E**

**His Honour Judge Thomas:** Well, by Monday I want the Crown Prosecution Service to check whether they have any --

**Mr Twomlow:** Well --

**F**

**His Honour Judge Thomas:** Record of receiving the letter.

**Mr Twomlow:** Well, that, that was what I was having done when, but at the moment I object to that being read by him. I ...

**G**

**Mr Kirk:** It, it, it --

**Mr Twomlow:** This witness anyway.

**H**

**Mr Kirk:** If I could have it back, I will just shorten it.

**His Honour Judge Thomas:** No, no. There may be a witness that you can put this to.

A **Mr Kirk:** Oh, no, no, no. I want to hear his answer --

**His Honour Judge Thomas:** Wait a minute --

B **Mr Kirk:** To this.

**His Honour Judge Thomas:** Mr Kirk. There may be a witness in due course that you can put this letter to, but first of all there are rules of evidence that have to be complied with.

C **Mr Kirk:** Your Honour --

D **His Honour Judge Thomas:** This officer has told us, now, on many occasions that he has no involvement other than arresting you. It may be that there is someone higher up the chain of command who can deal with it. Now, it's 3:30 on a Friday afternoon of, of what I suspect most of us have found a long and demanding week. Can we please ask this officer any questions which relate directly to his evidence? You've asked him, now, questions for probably the best of three quarters of an hour.

E **Mr Kirk:** I would --

**His Honour Judge Thomas:** Can you --

F **Mr Kirk:** Like my letter --

**His Honour Judge Thomas:** Please ask him something relevant?

G **Mr Kirk:** I would like my letter back please.

**His Honour Judge Thomas:** Now, are there any other matters relating to --

H **Mr Kirk:** Yes.

**His Honour Judge Thomas:** This officer?

**Mr Kirk:** Plenty. Thank you. Will you return my computer immediately?

**A**

**His Honour Judge Thomas:** Your computer --

**Mr Kirk:** Do you know anything about what was taken from the house?

**B**

**His Honour Judge Thomas:** Your computer, Mr Kirk, as you accepted earlier in the week, in the absence of the Jury, was in fact returned to your wife. When I told the Jury that I thought it was an exhibit, I was wrong. It was returned to your wife. So perhaps, if there are any questions, this isn't really the person to answer them.

**C**

**Mr Kirk:** Has the identity of the last exhibit arrived yet, reference 382?

**D**

**His Honour Judge Thomas:** It's a .303 cartridge, which is in Bridgend. It hasn't been brought here, for what seems to me are very good reasons. This officer never saw such a cartridge.

**Mr Kirk:** How do you know that?

**E**

**His Honour Judge Thomas:** Because he's just told us that. And if he's lying, again the members of the Jury may find he's lying, but he's not going to give you a different answer, I suspect.

**F**

(defendant confers with his sister)

**Mr Kirk:** Sorry, what was your name again? Jones?

**G**

**DC Jones:** Richard Jones, yeah.

**Mr Kirk:** Did you, is there another Jones who did the search, a Stuart Jones or a Keith?

**H**

**DC Jones:** I don't know.

**Mr Kirk:** *You --*

**DC Jones:** There's lots of --

**A**

**Mr Kirk:** You don't know.

**DC Jones:** Joneses in South --

**B**

**Mr Kirk:** OK.

**DC Jones:** Wales Police.

**C**

**Mr Kirk:** Yeah, OK. Well, there was a Jones that took the statement from my wife that day. It wasn't you?

(defendant confers with his sister)

**D**

**DC Jones:** That was not me.

(defendant confers with his sister)

**E**

**Mr Kirk:** Stuart Davies. Was there a Stuart Davies there when you were there?

**DC Jones:** I don't know of any Stuart Davies.

**F**

**Mr Kirk:** I will need the names of the policemen that were there when you arrested me. Can you give me one or two?

**G**

**DC Jones:** When, in the car, when Mr Kirk was arrested, there was PC French driving the car, there was a DC Martin Jones in the front and there was DC, no, sorry, there was DC Moffett in the front and myself sat in the back with Mr Kirk.

**H**

**Mr Kirk:** Yeah, no, no, the plain clothes surveillance team that were scattered about. There was, there were one, two, three, four, five. There were five in plain clothes, on the road, when your police car arrived. Name me one of them, because then I'll get the other names from him.

**DC Jones:** I don't know the names of any of the other officers there.

**A**  
**Mr Kirk:** You mean you didn't. How do you know they were police officers?

**DC Jones:** Because I was made aware that we'd be called forward once police officers had spoken to Mr Kirk, and that, I assumed that they were police officers there.

**B**  
**Mr Kirk:** But none of them were in uniform.

**C**  
**DC Jones:** I said I was instructed to come forward once there were police officers there with Mr Kirk. I went forward. I assumed that they were police officers.

**Mr Kirk:** Where exactly were you told to arrest me?

**D**  
**DC Jones:** It was in the lanes at St Donats. I don't know the area. I'm afraid I can't say where that is.

(defendant confers with his sister)

**E**  
**Mr Kirk:** Good. Thank you for your time.

**DC Jones:** Thank you, Sir.

**F**  
**Mr Twomlow:** I appreciate I, can we just ask whether Mr Burr is going to be --

**His Honour Judge Thomas:** No, Mr, I'm, I'm not going to have another witness at this time. Mr --

**G**  
**Mr Twomlow:** No, I --

**His Honour Judge Thomas:** Burr is going to --

**H**  
**Mr Twomlow:** The --

**His Honour Judge Thomas:** Come back on, on, do you want Mr Burr back on Monday, Mr Kirk?

**A**

**Mr Kirk:** I don't think I've --

**His Honour Judge Thomas:** This isn't --

**B**

**Mr Kirk:** Asked him. I've only asked him about an occurrence number. Oh, is this Mr Burr?

**C**

**His Honour Judge Thomas:** No, no, this isn't Mr Burr, no. Just on the matter of occurrence numbers, can I ask you please to be given a copy of your original statement, please, PC Jones?

**D**

**DC Jones:** Sorry, Sir?

**His Honour Judge Thomas:** Can I ask you please to look at a copy of your statement? You won't find it there.

**E**

(clerk confers with witness)

**His Honour Judge Thomas:** Well, let me just hand you this, the front page of, of the copy I've been given.

**F**

(clerk confers with witness)

**G**

**His Honour Judge Thomas:** Now, that's a copy of a statement that's been served on Mr Kirk. In the top left hand corner what is written there?

**DC Jones:** That is occurrence 62090214195.

**H**

**His Honour Judge Thomas:** So that's the occurrence number that's on your statement, is it?

**DC Jones:** That is the occurrence number written on this --

A

**His Honour Judge Thomas:** Yes, thank you.

**DC Jones:** Statement.

B

**His Honour Judge Thomas:** Could I have that back then please? Yes, thank you, officer.

**DC Jones:** Thank you.

C

**Mr Kirk:** And you are in the --

**His Honour Judge Thomas:** Thank you, officer.

**Mr Kirk:** Drug divisional research team?

D

**DC Jones:** No, Sir.

**Mr Kirk:** Well, it says:

E

“I’m currently attached to the Divisional Drug Team of Bridgend.”

**DC Jones:** Sorry, Sir, you said search team then.

F

**Mr Kirk:** Drug.

**DC Jones:** At the time, I was attached to the drug team in Bridgend. Yes, that’s correct.

G

**Mr Kirk:** Yeah, and so the search had nothing to do with drugs.

(counsel takes instructions)

H

**DC Jones:** I played no part in the, in the search.

**Mr Kirk:** No.

**DC Jones:** No.

**A**

**Mr Kirk:** If it had been to do with --

**His Honour Judge Thomas:** Now, Mr Kirk --

**B**

**Mr Kirk:** Drugs --

**His Honour Judge Thomas:** I'm sorry.

**C**

**Mr Kirk:** You would know about it, wouldn't you?

**DC Jones:** Like I said, I played no involvement. I never went to the house.

**D**

**His Honour Judge Thomas:** Yes, thank you, officer. Now, the last witness before this one, Mr Kirk, do you require him to come back on Monday?

**Mr Kirk:** Yes, I haven't started. I've only asked, I've only asked him one question, two questions so far.

**E**

**His Honour Judge Thomas:** Right.

**Mr Kirk:** Yes.

**F**

**His Honour Judge Thomas:** Perhaps he can --

**Mr Kirk:** Thank you.

**G**

**His Honour Judge Thomas:** Come back on Monday then. I'm sorry. Yes.

**Mr Kirk:** Can I have my documents that you promised to have served?

**H**

**His Honour Judge Thomas:** What documents are these --

**Mr Kirk:** I've been --

**His Honour Judge Thomas:** Now --

**A**

**Mr Kirk:** Asking --

**His Honour Judge Thomas:** Mr Kirk?

**B**

**Mr Kirk:** For photocopies of things. They still --

**His Honour Judge Thomas:** Well --

**C**

**Mr Kirk:** Haven't, CPS --

**His Honour Judge Thomas:** I --

**D**

**Mr Kirk:** Still haven't --

**His Honour Judge Thomas:** I've got --

**E**

**Mr Kirk:** Given *them* to me.

**His Honour Judge Thomas:** Many duties and many things to do. Photocopying, I'm afraid, is not one of them. They will be no doubt photocopied and given to you, I hope, before you leave, tonight. Members of the Jury, I did say quarter to 4. I suspect you won't shout at me if I say 25 to 4. So have a pleasant weekend, and I will see you, please, at 2 o'clock on Monday. There's nothing to stop you, if you're keen, being here at half past 10, but you don't need to be here until 2 o'clock.

**F**

**Female Juror:** OK.

**His Honour Judge Thomas:** Thank you.

**H**

(defendant confers with his sister)

(jury retires)

A

**Mr Kirk:** Your, Your Honour, could I just ask a, a problem?

(judge confers with clerk)

B

**Mr Kirk:** I have someone who would like to see me on Monday, and I'm being denied the right for people to come to see me in the cell, sorry, in the visiting area of the cells below the Court.

C

**His Honour Judge Thomas:** Is that person a potential witness?

**Mr Kirk:** I have people who are helping and doing searching, what we're calling preserving evidence. And I also have people who are potential witnesses.

D

**His Honour Judge Thomas:** Well, in the --

**Mr Kirk:** These --

E

**His Honour Judge Thomas:** In view --

**Mr Kirk:** These two --

F

**His Honour Judge Thomas:** In view of the, in view of the fact that you are representing yourself, all I can say is that as long as it is not contrary to the security of the cells or any other cell regulation, you can have access to people who are to be your witnesses, on the basis you're defending yourself. But, I state again, that has to be commensurate with the security --

G

**Mr Kirk:** Well, yeah.

H

**His Honour Judge Thomas:** Of the cells, and it must not be in breach of any regulation, though I'm sure that Reliance will use their sensible discretion on the point.

**Mr Kirk:** I am talking about potential witnesses who are gathering information for me. These two, lady and gentleman, are not witnesses, but they've been allowed to sit there.

A

They cannot be here, possibly, on Monday, and I am *trying*, and somebody has offered to come and sit there on, on their behalf. And, and I'm simply, and, if, of course, if, if that person becomes a witness, they can't be in the courtroom. I'm talking about, they are preventing me from having people. I'm in a closed situation, a piece of glass. I can't even pass any information in, in, in --

B

**His Honour Judge Thomas:** Well, I've --

**Mr Kirk:** Confidence.

C

**His Honour Judge Thomas:** I've explained my view, and I'm sure that Reliance will use their sensible discretion on the point. Thank you.

**Court Clerk:** Court please rise.

D

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The Transcription Agency hereby certifies that the above is an accurate and complete recording of the proceedings or part thereof.

E

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F

G

H