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FATAL ACCIDENT AND SUDDEN DEATHS INQUIRY
(SCOTLAND) ACT, 1976.

REPORT OF PROCEEDINGS

into the

B

LOCKERBIE AIR DISASTER

before

JOHN S. MOWAT, Esq., Q.C.,
Sheriff Principal of South Strathclyde,
Dumfries and Galloway

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within

Easterbrook Hall, Crichton Royal Hospital,
Dumfries, Scotland

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on

FRIDAY, 26th OCTOBER, 1990.

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APPEARING:- THE LORD ADVOCATE (THE RT. HON. THE
LORD FRASER OF CARMYLIE, Q.C.), with
MR. ANDREW R. HARDIE, Q.C., Advocate
Depute, and MISS FRANCES J. McMENAMIN,
Advocate, for the Crown.

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(Thomas M. Brisbane, David B. Healy
and Jack H. Chalmers, shorthand
writers, sworn).

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MR. B. GILL, Q.C., and Mr. C.M. CAMPBELL, Q.C.,
for the Lockerbie Air Disaster Group;

MR. G.C. KAVANAGH, Solicitor, Glasgow, MR. LEE S.
KREINDLER, Attorney, U.S.A., MR. S.
POUNIAN, Attorney, U.S.A., MR. FRANK H.
GRANITO JNR., Attorney, U.S.A., and MR.
FRANK H. GRANITO III, Attorney, U.S.A., for
the American Relatives Group;

B

MR. J.A. BAIRD, Advocate, for Mrs. Mouna Abdallah,
mother of Khaled Nazier Jaafar;

MR. F. ROSENKRANZ, husband of Marie Nieves
Larracoechea;

MR. P. ANDERSON, Solicitor, Edinburgh, and MR. M.
WOOD, Solicitor, Edinburgh, for Pan
American World Airways Incorporated, Etc.;

C

MR. G.N.H. EMSLIE, Q.C., and Mr. M.C.N. Scott,
Advocate, for the British Airports
Authority;

MR. J.N. WRIGHT, Advocate, for the Civil Aviation
Authority;

MR. C.N. McEACHRAN, Q.C., and MR. R.A. DUNLOP,
Q.C., for the Department of Transport;

D

MR. H.R. DONALD, Solicitor, Edinburgh, for Hull
War Risk Insurers.

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FRIDAY, 26th OCTOBER, 1990.

SIXTEENTH DAY.

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THE CLERK: Proceedings under the Contempt of Court Act, 1981 for alleged contempt of court against Trevor Grove and Robert Toby Helm. Are you Trevor Grove?

MR. GROVE: I am.

THE CLERK: Are you Robert Toby Helm?

MR. HELM: I am.

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MR. J.G. MITCHELL, Q.C.: My lord, on Tuesday 23rd October of this week your attention was drawn to an article which appeared in the Sunday Telegraph newspaper on the 21st October, and having considered the terms of that article and in light of representations that were made your lordship ordained the editor of the Sunday Telegraph and the author of the article to appear at this court to give an explanation for the article. As my lord is aware, both the editor Mr. Trevor Grove and the author of the article Mr. Robert Toby Helm are present here in court and I have been instructed on their behalf.

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My lord, my first task on behalf of my clients is to afford the court an explanation for the terms of the article in question and its background./

A background. My lord will recall that when the
matter was discussed in Tuesday's proceedings the
Lord Advocate at the time expressed some bafflement
as to the terms of the article and I think Mr. Gill
himself on behalf of some of the relatives made
B it clear that he thought an explanation was required
in relation to the article. Of course, your lordship's
direction was that the editor and the author should
appear to give an explanation for the article.
C Dealing then with that: first of all, as I understand
it, what is difficult in the first place is to
comprehend from the terms of the article as to why
that article, which appears to be founded on complaints
attributed to some relatives and to what are described
as several specialists in security and intelligence,
D that the issue of security at Heathrow Airport was
not being focussed in the present Inquiry, and
particularly, that the lawyers -- that is both
solicitors and counsel acting on behalf of some
relatives -- had advised against pursuing or leading
E such evidence. The difficulty as I understand it
that was being alluded to by the Lord Advocate in
the first instance is that the complaint was being
made at a stage in the Inquiry when, as the Lord
F Advocate put it, the Crown is only half way through
the/

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the presentation of its case and the chapter to do with security at Heathrow had not yet begun. Of course, the Lord Advocate went on also to say "There are no circumstances in which these lawyers acting for the relatives could possibly have adduced evidence to deal with these matters". Certainly on the face of the article it is fair to say the complaint seemed to be that evidence has not been led and it appears on the basis of what the Lord Advocate said at the stage this Inquiry has reached that article, on the face of it, appears to be premature.

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Against that background, if I may, I would like to explain in general terms how the report came to be written. The matter first came to the attention of Mr. Helm, the author, because the matter was raised with him by a relative of one of the deceased who was seriously concerned in what he saw as the interests of justice or in the interests of obtaining the complete truth as to what happened. He was concerned that the Inquiry should consider, as obviously only one of many complicated issues before it, the question of airport security at Heathrow Airport. The concern that was expressed to Mr. Helm at that time was it appeared that the Inquiry was/

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was not going to consider that matter, certainly not going to consider it in any depth.

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It appears that concern being expressed to Mr. Helm really arose from two separate sources. The first source was that it appears that so-called experts -- and I don't mean that in any derogatory sense -- the so-called experts in security and intelligence matters appeared to have what they considered and what may perhaps have been considered by others to be relevant and pertinent evidence to give and were according to their own information not going to be called in this Inquiry by the Crown. I entirely accept that that view on their part or on the part of others may have been premature but apparently their perception, the perception of the experts was that it was clear, given the timing of the Crown case, that in point of fact at that time there was no prospect they would be called by the Crown, so the relative approached Mr. Helm and expressed the view first of all it appeared the Crown was not going to lead such evidence.

Secondly, the perception this issue was not going to be dealt with at all arose from information conveyed by the relative that in discussions it had been clear to them certain legal advisers acting for/

A for some of the relatives of the deceased, the advice
they were giving was that the question of Heathrow
Airport security should not be pursued at least
in any depth. So from two situations it appeared
B to this person that the indication was that the
Crown would not be dealing with Heathrow Airport
security on the one hand, and the picture that was
emerging in relation to at least some of the
representation of the relatives of the deceased
was that it seemed unlikely that they would advise
C that the issue should be pursued.

It was against that background that the
person raised the matter with Mr. Helm, and I should
say the situation then moved on because some of
the people who appeared to have expertise in security
D and such matters also expressed the view -- and
I see one of these is quoted in the article itself
-- that they were surprised their evidence had not
been taken on this issue and they considered it
to be a matter which should be relevantly considered
E by this Inquiry.

My lord, it was against that background
that the decision was taken to publish the article
in question focussing this concern and the decision
was taken that to publish such an article focussing
this concern was not only proper but more specifically
F -- and this was after obtaining legal advice in
England -- that such an article would not in any
way constitute improper interference with the
deliberations of this Inquiry and certainly did
not constitute a contempt of court.
In/

A In that connection I should make it clear that
those responsible for the article are conscious of
the heavy responsibility on this Court and those
appearing before the Court, and did not in any way
B wish to improperly interfere with these
deliberations.

Now, my lord, against that background I
would turn to two matters concerning the article
itself. Firstly, I have already alluded to the
C fact that when one reads the article it is
difficult to understand on the face of it why the
complaints are being made at the time they are
being made, and it does appear that the article is
in that sense premature; but I hope I have
D already explained how that came about: the
perception was that one decision had already been
taken and the other decision was likely to be
taken that the issue of Heathrow security would
not be examined, and although the article perhaps
reads strangely, that is why that was the case.

E Secondly, my lord, concerning the
article itself, concern has been expressed to the
Court that there was in this article what has been
described, perhaps rather loosely, as an innuendo
F in relation to the reference in the article to the
payment/

A payment of costs at this Inquiry: I deliberately
do not make more specific reference to these
passages, because to do so would be only perhaps
to repeat them. I wish to make it absolutely
B clear to the Inquiry tht no such innuendo as has
been suggested was in any way intended either by
the publishers or the author of the article. I
can only say if the references were read in the
way suggested I am authorised to unreservedly
apologise for any distress caused by that
C innuendo.

My lord, that then completes what I
propose to say strictly regarding the terms of the
article itself, but I think my second task is to
address the issue of whether or not this article
D constitutes a contempt of court, as was I think
suggested, although not positively submitted, to
your lordship on Tuesday; that is whether the
article in its terms contravenes the provisions of
the Contempt of Court Act 1981. It is my
E submission that this article does not contravene
the terms of that Act and that accordingly the
article does not constitute a contempt of court.

My lord is familiar with the terms of
the Act, and of course I begin with Section 1 of
F the/

A the Act, which imposes the strict liability rule.
it states: "In th is Act, the strict liability
rule means the rule of law whereby conduct may be
B treated as contempt of court as tending to
interfere with the course of justice in particular
legal proceedings, regardless of intent to do so".
I should say in connection with that definition I
accept -- and I do not think this could be really
in dispute -- that the present Inquiry falls
C within the definition of "legal proceedings"
contained in the Act.

If one turns to Section 2, my lord,
which imposes limitations on the scope of strict
liability, Section 2(1) provides: "The strict
D liability rule applies only in relation to
publication, and for this purpose 'publication'
includes any speech, writing, broadcast or other
communication in whatever form which is addressed
to the public at large or any section of the
E public". I think my lord will be aware that the
whole purpose of this Act and these provisions was
to deal with the broadcasting or publication
situations and seeking to impose strict liability
in relation to these sorts of publications, with
F certain restrictions. Of course, the first
restriction/

A restriction is contained in sub-section (2), which provides "The strict liability rule applies only to a publication which creates a substantial risk that the course of justice in the proceedings in question will be seriously impeded or prejudiced".

B Now, my lord, that sub-section imposed by the 1981 Act in my understanding did not greatly change what was in Scotland at least the common law as already dealt with by the Court in the case of Hall v. Associated Newspapers Ltd.,
C which is reported in 1978 Scots Law Times p.241, nor the proposition of law as pronounced in the case of Atkins v. London Weekend Television Ltd., again reported in 1978 Scots Law Times at p.76.
D The twofold test that is referred to in that sub-section is really the approach the Court had in giving effect to the question of contempt of court arising from publication, and the twofold test is that there must be a substantial risk, and
E the second test is that the course of justice in the proceedings in question will be seriously impeded or prejudiced, and it is my submission that the article in question simply cannot be said in all the circumstances to give rise to a
F substantial risk that the course of justice in these/

A these proceedings will be seriously impeded or prejudiced.

B The matter was discussed to some extent on Tuesday, and I think the Lord Advocate himself in his opening remarks made it clear that a contempt of this sort most normally arises in relation to allegations that the publication in question was likely to influence a jury in their deliberations in a criminal or civil trial, or perhaps less likely that the publication might influence a judge sitting alone.

C Now, my lord, in my submission that really does not arise here. In my submission by its very terms it is evident that the article is not in any way seeking to influence the Court: no such attempt could ever be made in regard to a Sheriff such as your lordship sitting alone, but it certainly is not on any fair reading of it an attempt to influence the decision of the Court.

D There are dicta in various cases. There is a case -- I won't take the time of the Inquiry by referring your lordship to it in detail -- the case of Aitchison v. Bernardi, reporting in 1984 Scots Law Times p.343, where the Court says even lay magistrates must be presumed to be able to deal/

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A deal with pressures of this sort and not be
influenced by it. My primary submission is that
that does not arise here, because the article on a
fair reading of it is not setting out to influence
B the Inquiry itself or influence your lordship, and
in my submission it does not give rise to any
substantial risk that your lordship would be in
any way influenced, thereby resulting in some
serious impediment to the proceedings or prejudice
to them.

C It does not however really end there,
my lord, because as I understand it, in the short
discussion before the Court on Tuesday Mr. Gill
brought the matter to your lordship's attention,
and as I understand his position he did so simply
D for that purpose and regarded himself thereafter
as functus on the matter. In the short
discussion that then took place he appeared to
focus not on the question of whether the
publication was likely to prejudice the Inquiry in
E the sense of affecting the final conclusion or
final deliberations of the Inquiry, but his
proposition was that this Section was aimed at a
wider concern, and that anything that could be
said to be likely to impede or prejudice the
F conduct/

A conduct of the Inquiry in its wider sense as an
on-going Inquiry could be a breach of the Section.
I do not think I dissent from that general
proposition: it is clearly not just aimed at
B conduct which could prejudicially affect the final
result, but anything which directly prejudices the
progresses of an Inquiry of the conduct of it
could in the appropriate circumstances constitute
an offence or a breach of the Section.

C In my submission, however, my lord,
that really is where the matter ends, because Mr.
Gill then went on as I understood the argument to
suggest that the article was objectionable because
what it did was to put some sort of undue
D influence or pressure on solicitors and counsel,
and the proposition in its most general form was
that to do that in proceedings will constitute
contempt of court.

E At the outset, my lord, I should say in
my submission that is a novel proposition, but in
dealing with it I presume what is being said is
that a publication may give rise to the
possibility that those solicitors or counsel
acting had taken some adverse decision or might be
F influenced to take some adverse decision as to how
they/

A they should conduct the case.

B One could deal with this by way of an
analogy, my lord. If one deals with a situation
where counsel and solicitors concerned in any
litigation, be it a criminal trial, an Inquiry or
a Proof, are directed to a particular line of
enquiry which they had not thought of by a
publication and they indeed then pursue that line
of enquiry to their benefit and to their success,
it is hard to see that such an article, which may
C have caused them to pause and consider their
position, could be said to be likely to cause
serious impediment or prejudice to the conduct of
a trial. I presume the proposition must be that
D this in some way improperly influences or might
improperly influence counsel or solicitors to act
wrongly in representing their clients.

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A Now, in my submission the article simply does not
do that. I should say this, I have sought to
discover any authority for the proposition that
publication which had that effect could constitute
contempt of court, and I have been unable in my
B researches to find any authority whatever for the
proposition that appears to be being advanced.
The proposition then of course runs into perhaps
the same difficulty as a suggested contempt that
might influence the court confronts, because is
C it to be said that an article of this sort, even
if it does in some way raise criticisms of the
conduct of solicitors and counsel or point them
in a different direction from that which they may
otherwise have gone -- can it be said that
D responsible solicitors and counsel would in fact
be influenced by that, bearing in mind the test
is that the court would have to be satisfied that
there was substantial risk that the proceedings
would be serious impeded or prejudiced by the
E article, and in my submission it cannot be said
that responsible counsel or solicitors would be
improperly swayed or influenced by such an article.

The proposition really, as I understand
it, is an extreme one. It is that interested
F parties, /

A parties, perhaps either in this case third parties
who are not represented, so-called experts, or
indeed some parties who are perhaps part of a group
are represented as a block at the Inquiry, are not
allowed to make public their view and other parties
B are not allowed to publish that view that certain
areas should be investigated in a Public Inquiry
of this sort, and if they do that they will be at
least maybe guilty of contempt of court. In my
submission that is really quite an extraordinary
C proposition. This is a Public Inquiry and it is
well recognised that Public Inquiries of this sort
do give rise to many serious concerns on the part
of different parties, particularly relatives of
deceased persons in a tragedy such as this. One
D can think of other examples where in other
Inquiries relatives have made fairly forceful
representations during the course of Inquiries,
not only personally by perhaps demonstrations at
the door of the Inquiry but also through appearing
E on television and being quoted in newspapers in
that a certain area should be investigated, and
it has never, in my submission, been suggested that
that constituted a contempt of court or in some
way interfered with the proper running of the
F Inquiry, /

A Inquiry, and to add further gloss if these people -
then go off and express some difference of opinion
with their own solicitors that that will then
constitute the contempt of court is, in-my
submission, an extraordinary proposition and in
B my submission it is ill-founded.

My lord, for all these reasons, dealing
with the second part of my task, it is my
submission to the court that this article does not
constitute a contempt of court and I would so invite
C my lord to hold, particularly in the light of the
explanation I have given.

In conclusion I would say I have sought
to explain the background of the article and to
explain its content. I have apologised for any
D distress which may have arisen from the so-called
innuendo. Secondly, I submit, for the reasons
given, the article does not constitute contempt
in terms of the Act. Finally, while still
maintaining my clients were entitled to publish
E this article, I do however apologise for any
inconvenience which the article has caused to the
deliberations of this Inquiry.

My lord, unless there are other matters
which my lord wishes me to deal with, I think my
F lord/

A lord has my explanation and my primary submission .
that it is not a contempt of court.

 MR. GILL: My lord, my learned friend's
 explanation is somewhat less than complete, and
 I observe that my learned friend has followed the
B newspaper's policy shown in this article, of
 anonymity. He speaks of a relative who he says
 was seriously concerned and whom he says got in
 touch with the newspaper, and I would invite my
 learned friend, if he thinks it would be of
C assistance to this court, to say who that person
 is.

 My lord, as to the advice which was
 apparently given in this case in England that this
 did not constitute a contempt, I would submit that
D advice was plainly wrong, for the reasons which
 I will describe. My learned friend has referred
 to me as having described this loosely -- his word
 was "loosely" -- as an innuendo, and then a moment
 ago he referred to it as a "so-called innuendo".
E My lord, it is a plain and obvious innuendo and
 I will describe it more precisely, it alleges
 firstly that decisions relating to the evidence
 to be led in this Inquiry were related also to the
 source of funding and it alleges, secondly, that
F the/

A the priority of lawyers representing the families.
was to expedite the progress of this Inquiry even
if it meant the omission of relevant and significant
evidence. If Mr. Helm, the author of this
article, does not appreciate the obvious innuendo
B in his words he ought not to be working for the
Sunday Telegraph, nor should that newspaper be
publishing it. My learned friend's protestations
have a somewhat hollow ring when we compare the
article published in Scotland with the same article
C as published in England. In the English version
the heading is "Lockerbie Lawyers avoid Heathrow
Security Issue" and in the Scottish edition the
headline is "Lockerbie Whitewash Warning". It
is pretty plain what that article was intending
D to convey all along.

Turning to the law in the matter if I
may, my learned friend says that the article would
not have the effect of influencing the court in
any decision the court would make. My lord that
E is not a relevant consideration in this case. My
concern is with the probable or possible effect
of this article upon my clients and their advisers.
In the present case it is in the interests of the
court that counsel and solicitors in this Inquiry
F are/

A are not to be deflected from their duty by outside pressures in the form of media criticism of alleged decisions which they may or may not have made. It is also in the interests of this court that the families who are represented in this Inquiry should have confidence in their solicitors and counsel and that that confidence ought not to be undermined. My lord, in the present case the pressure which this article applies will not succeed so far as the legal advisers are concerned, but nevertheless if there is an objective risk that could have occurred the statutory test is satisfied.

As to the second matter, your lordship will realise that the families whom my learned colleague and instructing solicitors represent number several hundreds, and I cannot be at all certain that those of them who read it or heard of it have not had their confidence in their advisers undermined. They have been made to feel that they are not being properly represented and that this Inquiry has been wrongfully speeded up. In certain respects which I have discussed the article was clearly and obviously untruthful since there could have been no possibility of those witnesses/

A witnesses being led at this stage, and it is also,
as will be obvious, defamatory, the article having
created a risk that the bond of confidence between
client and counsel would be undermined.— There
is therefore a risk that the course of justice in
B these proceedings could have been seriously
impeded or prejudiced and on that basis the
statutory test set out in Section 2(2) is satisfied.

Certain of the matters my learned friend
has referred to may very well relate to penalty.
C All I am concerned at the moment to indicate to
your lordship is that applying the statutory test
this undoubtedly constitutes a contempt, and what
happens after that is a matter for your lordship.

MR. HARDIE: My lord, I wonder if I
D can intervene. My learned friend Mr. Mitchell
in his address to your lordship outlined the
background to this matter and indicated that there
were two sources of concern, and I think one of
them related to the fact that so-called experts,
E to use his phrase, were not going to be called by
the Crown. Lest there be any misunderstanding
in any quarter, the Crown has never been asked by
any parties to this Inquiry to aduce security
F experts, nor has the Crown been given any name for
consideration/

A consideration as to whether that witness will be adduced by the Crown.

B I say that, my lord, against the background of a meeting which took place in Crown Office on 11th July, where the Lord Advocate presided and everyone here present was represented, apart from the newspapers. At that meeting the Lord Advocate outlined the main areas of evidence, being seven in number. The seventh matter to be considered by this Inquiry was passenger and baggage handling at London Heathrow on Flight PA103, including relevant security arrangements. At the meeting the Lord Advocate asked if there were any other chapters of evidence which parties might seek to lead, and my learned friend Mr. Campbell, who appears for the Lockerbie Group, along with my learned friend Mr. Gill -- Mr. Campbell was present and he, according to the Minute I have, said that it was likely his group would wish to lead other matters, he was not able to say what they might be but he undertook to give further notice of that, and he indicated it was likely they would put matters before your lordship.

E Against that background, my lord, I am anxious that there be no criticism of the Crown for/
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A for not adducing evidence because the Crown, as I have all along indicated, is prepared to consider witnesses submitted to it. As I have said, they have never been given a name.

B As to the question of contempt, the Lord Advocate's position was set out on day 14 at page 2003, where he indicated that it would seem to him that an explanation was required, although he did not reach any view as to whether this was necessarily contempt, and that is the position of
C the Crown.

The question of the legal argument is a matter entirely for your lordship.

MR. MCEACHRAN: My lord, I wonder if I might say something as we have been mentioned.
D I think we accept what has been said on behalf of the newspaper. We submit that the test set out in the Contempt of Court Act is a high test, that the course of justice will be seriously impeded, and our submission is that that high test has not
E been met in this particular case and the court should not hold that there has been contempt.

MR. MITCHELL: My lord, I am slightly surprised that my learned friend Mr. Gill sought to address the court. I had understood his
F position/

A position to be that having brought the matter to the attention of the court he regarded himself as functus, but having done so I should deal with some matters raised. He suggests I am following the course of the newspaper in adopting anonymity in relation to the source and asks me whether I wish to reveal the name of the relative in question, B and the way he puts it is I should do so if I think it would be of assistance. I do not, my lord, think it would be of assistance.

Secondly, he took issue with my description of what I have referred to as a "so-called innuendo": with respect to my learned C friend, I think he was misunderstanding the thrust of my comments in that regard. In my submission "innuendo" is a legal term and as I understand the concept of "innuendo" it is as an article with particular content may be read in a particular way by parties having specialist knowledge outwith the terms of the article, and what I was trying to D convey when I described it as a "so-called innuendo", is that the passage in question in this article does not fall to be properly described as "innuendo". If the meaning attributed to it can properly be read it would be a direct inference from the words of the article and would not depend on any particular knowledge and would not therefore E be innuendo, and that was the only reason I referred to it as a "so-called innuendo" and I did not mean by doing that to in any way detract from the seriousness of the allegations that the words were said to convey. I repeat my position in relation to that.

F I/

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I repeat my position in relation to that, that no adverse meaning or criticism as was read into the article was intended and if it was so read I unreservedly apologise for any distress caused.

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Finally, my lord, in relation to the question of contempt: I am surprised at my learned friend. He said it is a contempt but advanced no authority whatsoever for the proposition that a contempt could be constituted by a publication in these terms.

C

He founds on the proposition that the bond between counsel and client is a very important one and he says that must not be undermined but he does not see further to elaborate the argument. Is he saying that the relationship can never be criticised?

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In my submission, that is not correct and criticism may be fairly made in certain circumstances.

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I don't, with respect, my lord, intend to address you at length on this matter. In my submission, my learned friend has not advanced any convincing argument in relation to the contempt point. Prima facie the article is not a contempt and there is no authority for such a publication constituting a contempt. I would repeat my submission; my lord should hold that it does not constitute a contempt.

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THE/

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THE SHERIFF PRINCIPAL: Well, it seems to me that Mr. Gill has some ground for suggesting that fairly read the article in question may be defamatory of him and those assisting and instructing him. That it seems to me is a matter for him and it is not a matter for this court to adjudicate on. I am also reasonably confident that the implied allegation in the article that I am conducting a "whitewash operation" does not create a substantial risk that my own judgement will be affected by it so as to impede the course of justice.

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I reject Mr. Gill's submission that the fact that the article may damage confidence between clients and those representing them and amounts to contempt of court.

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My concern is more with this question: is it likely that the publication of this article will put pressure on those whose activities are described in the article in such a way as to inhibit them from properly performing their duty both to their clients and in the way in which they present their case, and whether this could amount to a serious impediment or prejudice to the course of justice in these proceedings. It would seem to me there is no doubt that the effect of the article would be to put pressure on Mr. Gill and those assisting and/

A and instructing him but I am not satisfied that
there is a real risk that its effect upon them will
be such as to impede or prejudice the course of
justice. In this case I therefore am not prepared
B to find, although I held at the outset that it was
a prima facie contempt of court, I am not on further
consideration of what has been said today prepared
to hold that there was such a contempt.

MR. MITCHELL: I am obliged, my lord.
C In these circumstances I would propose to withdraw
along with my clients.

EVIDENCE FOR THE CROWN CONTINUED.

D JOHN WILLIAM BEDFORD (50) Sworn

EXAMINED BY MR. HARDIE: I reside at 5
Chesterton Terrace, Kingston, Surrey.

Now, are you employed by Pan American
Airways at Heathrow Airport as a loader/driver?

E - I am.

And how long have you been employed by
them? - 10 years last August.

Did you start work with them in a different
capacity and become a loader/driver some time in
F January, 1981? - Yes sir.

Is/

A

Is there a particular area in the airport where you perform your duties? - Yes.

Where is that? - The interline area.

B

What are your duties in connection with being a loader/driver at the interline area? - They are to take bags off the interline belt, place them by the x-ray machine, and when they come off the other end we load them and take them out to the aircraft.

C

Do you require to work shifts in connection with your employment? - Yes sir.

What are the hours of your shift? - My shift is 7 o'clock until 6.30.

So you are on that shift constantly? - Yes.

D

On 21st December, 1988 were you working on that shift? - Yes sir.

And when you arrived for work that morning what time would it be you actually got to the interline shed? - Round about 7.15.

E

Do you need to go somewhere else first to check in then go to your place of work? - Yes.

F

In the course of that morning how many loaders would there be employed by Pan Am at the interline shed at the beginning of the day? - Round/

A Round about 10 or 11.

Did that position change in the afternoon after 2 o'clock? - Yes sir.

After 2 o'clock how many loader drivers would there be? - Just one.

B And who was that? - Myself.

And apart from Pan Am employees at the interline area were there members of Alert Security?
- Yes sir.

C Is that a company which is concerned with the security arrangements for Pan Am? - Yes.

How many employees of Alert were working in the interline shed that day particularly after 2 o'clock? - Two.

D Was that a Mr. Parmar and Mr. Kamboj?
- Yes.

E Can you tell me about the arrival of luggage into the interline shed that day, that is 21st December, 1988. First of all, prior to 2 o'clock in the afternoon had any luggage arrived in the shed for the Pan Am flight PA 103? - Yes sir.

How many items had arrived? - I think one.

F Now, when was the first time that you noticed this item of luggage? - I can't remember that.

When/

A

When you first saw it where was it? -
At the end of the x-ray.

We have heard that once luggage has been
x-rayed and a security label attached it is ultimately
placed into a luggage container; is that right?

B

- Yes sir.

I think you have told us that that really
is part of your duty? - Yes.

C

Now, can you recall whether there was
a luggage container available for that piece of
luggage at 2 o'clock or shortly after 2 o'clock?

- Yes sir.

And where did that container come from?

- Just outside the building.

D

Who fetched it? - I did.

Can you tell us what the number of that
container was? - 4041.

How is it that you remember that? -
It is the date of birth of my wife and myself.

E

Is that 1940 and 1941? - Yes.

Can you tell us a wee bit more about the
system of choosing containers. I think you said
you fetched it from outside the shed? - Yes.

F

Is there an area where there are a number
of empty containers for use of baggage handlers?

- Yes.

And/

A

And when you collected the container that day 4041 did you choose that one or did you just.....?

- No sir, I just picked the first container I came to.

B

Was there anything in it at that stage?

- No sir.

Once you had chosen that container did you take it into the interline shed? - Yes sir.

C

And after that what did you do as far as the item of luggage was concerned? - Put it into the container.

D

This may be quite important. Can you recall whereabouts in the container you placed that item of luggage? - The far left-hand side. At the back of the container there is a sloping edge, and I would have placed it at the back by the side of the sloping edge.

E

F

Now/

A

Now, can you indicate whether the case or whatever it was was upright or flat? - It was upright, sir.

B

How is it you remember that? - That is the way I normally load containers.

Were you asked about this matter soon after the disaster? - Yes, sir.

C

Would you look at Production No. 41, photograph 4? I think tht is a photograph of an empty container; is that right? - Yes, sir.

Can you point to the place where you put the case? - There.

D

You are pointing to the back corner at the front end or the left-hand end as we look at the photograph; is that right? - Yes, sir.

Now, do I understand the case was upright, with the base of the case resting on the flat floor as opposed to the angled floor in the container? - Yes.

E

Would the back of the case be against the back wall of the container? - This side. The end of the case would be.

The end of the case? - Yes, sir.

F

If we look at photograph 5, is that a photograph? - Yes, sir.

Do/

A

Do we see that the container there had luggage in it? - Yes, sir.

B

Now, in reference to that luggage could you indicate what is the closest piece of luggage to the position you say you put this first item of luggage into? - There.

C

You are pointing to what looks like a grey or silver-coloured suitcase which is upright and to the right of two items which are on an angled section; is that right? - Yes, sir.

D

Now, you say this is the way you always load the container. Do you always start from the left end moving to the right or moving forward? - I personally start from the left-hand edge and move to the right.

E

Do you then fill the back of the container, and what do you do after that? - If I have got any soft luggage I put it to the left of the first suitcase which is in the angle of the container.

F

Like we see in photograph 5, where there is a holdall and some other items of soft luggage underneath the holdall; is that right? - Yes, sir.

I wonder if you could look at Production/

A Production 162 and tell us what it is? Perhaps it could be put up on the screen? - It is a load plan for an aircraft.

B Do we see it is described in the top left-hand corner as a B747 Cool Plan? - Yes, sir.

And the flight number if shown? - Yes.

C Now, from that can you see where container 4041 is? - Yes, sir.

Where is it? - Just there.

In what position? - 14 left, sir, I think.

D Can you tell us a little about this Cool Plan? Is this an item which is completed by you or by others? - By others.

But you are familiar with this sort of document, are you? - I have seen them, sir, yes.

E Once you had put this one bag into the container did some more luggage arrive in the course of the afternoon for that flight? - Yes, sir.

Can you remember roughly how many items of luggage arrived then? - Six or seven.

F Can you recall what happened to that luggage/

A luggage when it arrived? - It was X-rayed, and then I put it in the container, or some of it.

You say you put it or some of it in the container? - Yes.

B Can you recall if you put it all into the container or not? - I didn't put it all into the container, sir.

Are you quite sure about that? - Yes, sir.

C Of the six or seven items how many did you place into the container? Can you remember?
- Not exactly, sir: it was possibly four or five.

D Can you recall where in the container you placed it? - At the back of the container, by the side of the original case.

E Again looking at photograph 5 of Production 41, you have indicated the location of the first case. Under reference to this photograph can you point out where the other cases would be that you loaded into this container? - They would have been along here, sir.

F Indicating along to the right of the first case and at the back of the container, at the bottom; is that right? - Yes.

Are/

A Are they upright or flat or what? -
They would have been upright.

So they would all be on the floor of
the container; is that right? - Yes.

B I think you said to me a few minutes
ago that you did not load all of the luggage into
the container. Do you know who did load the
other pieces of luggage into the container 4041?
- Yes, sir.

C And who was that? - Mr. Kamboj.
Now, how do you know that? - He told
me, sir.

Did you see him doing it? - No, sir.
Why not? - I wasn't there at the
time, sir.

D Where had you gone? - I had gone over
to our office in the departure building to see my
supervisor.

Was your supervisor at that time Mr.
Peter Walker? - Yes, sir.

E Can you recall what time approximately
you went to see Mr. Walker? - Round about 10 to
4, 4 o'clock, I think, sir.

How long were you away from the shed?
- 20 minutes or half an hour.

F When/

A

When you came back what happened? -
Mr. Kamboj told me he had put two bags in the
container for me.

B

Did you see whether there were two
additional bags in the container, that is extra
bags over and above the ones you had loaded? -
Yes, sir.

C

And where were they placed? - At the
front of the container, laying down in front of
the bags I had placed in already.

D

Lying flat? - Yes, sir.

Again would you look at photograph 5 of
Production 41? We see in that photograph a
number of bags at the back standing upright and
two bags lying flat, taking up the whole of the
floor of the container; is that right? - Yes,
sir.

E

Is that how they were, or were they in
some other position? - That is how they were.

Are you quite sure about that? - Yes,
sir.

F

So when looking at that photograph it
would appear that the whole of the floor of the
container, the flat floor as opposed to the angled
floor, is covered by luggage; is that right? -
Yes/

A Yes, sir.

And is that your recollection of events that day? - Yes, sir.

B Now, was that an unusual occurrence, for employees of Alert to undertake duties which you would normally undertake? - Sometimes they would help us, sir.

C Now, these two cases that Mr. Kamboj said he had loaded: had you seen these cases arriving in the shed? - No, sir.

BY THE COURT: So do I understand that when you said earlier that six or seven cases came in you in fact only saw four of them arriving? - Four or five of them, yes, sir.

D And it was after you had gone to see Mr. Walker that the other two came in and were put straight into the container by Mr. Kamboj; is that right? - Yes, sir.

E EXAMINATION CONTINUED BY MR. HARDIE: After that did you put anything else into the container? - No, sir.

F What did you do with the container after this interline luggage had been loaded into it in the way you have described? - I took it round to the departure area, sir.

Again/

A

Again can you assist us as to what time that would be, approximately? - 10 to 5; something like that.

B

Now, you have told us that your shift finished at 5 o'clock; is that right? - Around about 5 o'clock, sir.

C

Once you took the container out of the shed did you perform any other duties in connection with your employment that day? - I went down to the clock-out and then I went home, sir.

D

Can you tell us where it was you took the container? Where precisely did you take it? - I took it round to the departure building and left it outside the office of our supervisor and our restaurant.

E

Could we go back in time slightly to the point in time when the luggage was all loaded in the way you describe under reference to photograph 5 of Production 41? Could you look at another photograph, which is Production 42, photograph 1? - Yes, sir.

F

You/

A You see there that there appear to be five cases at the back in an upright position and two lying flat with a black holdall lying in the angled area; is that right? - Yes, sir.

B Can you just tell me -- maybe it is the angle of the photograph -- can you tell me whether the case which is between the black holdall and the tall black and brown case, the small case, whether that is in fact standing in the upright position? - That one there, sir.....?

Yes? - Yes, it looks like it is.

C Assuming it is in the upright position and ignoring the black holdall, would that arrangement be consistent with the arrangement that you have explained to us? - Yes, sir.

D Now, I think you had told us you had taken the container round to another area and you say you left it outside the manager's office? - Yes, sir.

E I wonder if you would look at Production, first of all, 154: could you just put this up on the screen, please: do you recognise that sketch? - Yes.

What is it a sketch of? - The departure area, sir.

F Under reference to that sketch can you indicate/

A indicate where it was that the container 4041 was left by you? - Approximately about here, sir.

You are pointing to an area in the top half of the sketch,--just below the words "Baggage Transit" where we see two arrows; is that right?

B - Yes, sir.

Were you asked by police officers to indicate on a sketch of this type where you had left the container? - Yes, sir.

C Would you look at 153: do we see that is a copy of the first sketch, except now to the left of the arrows you have indicated there is a rectangular box; is that right? - Yes, sir.

What does that rectangular box represent?
- Container 4041, sir.

D Can you indicate how it was parked.
First of all, was it still open in the sense that the sheet had been pulled down or what? - Yes, sir.

E What position did you leave it in. You told us the geographical position, but where was the open end facing? - It was facing the build-up area. The open side was this side.

So it was facing towards the words "Baggage Transit"; is that right? - Yes, sir.

F Is/

A Is this an area which is air side? -
Yes, sir.

Did you leave it in the custody or care of anyone in particular? - I informed my supervisor it was there, sir.

B Who was your supervisor at that time.
Was that the Mr. Walker you told us about? - Yes, sir.

Once you had informed him did you go and clock off and go home? - I went down to the office,
C clocked out and went home.

I think you told us earlier that there were a number of baggage loader/drivers working in the interline area up to 2 o'clock. I wonder if you would look please at Production 155: can
D you tell us what that is? - Yes, sir; it's a workforce sheet.

For Wednesday, 21st December, 1988; is that right? - Yes, sir.

E From that are you able to indicate which of the employees were working in the interline shed up to 2 o'clock? - Yes, sir.

Would you just give us the names, please?
- Mr. Kernahan, Mr. Bannon, myself, Mr. McLeod, Mr. Bell, Mr. Braithwaite, Mr. Clarke, Mr. Burberry,
F Mr./

A Mr. O'Leary and Mr. P. Hawkins.

Mr. -- who? - Sorry. Mr. T. Sahota.

Do you know what your supervisor did in respect of the container once you told him it had been parked in that position? - No, sir.

B I wonder if I can ask you a little about the practice of loading containers: do you know what would normally fill the rest of a container, such as 4041, if it was for Pan Am 103? - Yes, sir; it would be transferred baggage from the flight which comes from Frankfurt.

C That was the practice, you put your interline luggage in this used container and took transferred luggage from the Frankfurt connecting plane; is that right? - Yes, sir.

D I realise you were not involved, from what you said, in the operation on 21st December, 1988, but were you involved in that exercise? - Yes, sir.

E What was the general procedure when you were involved in that exercise? - I would take my container from the interline area straight out to the in-bound flight and load the bags for New York from Frankfurt into my container.

F When you say you would load them, was there/

A there some system, conveyor belt which took baggage from the hold of the aircraft and transferred it into the container? - Yes, sir.

At any time prior to 21st December, 1988 when you undertook that exercise was there any question of examining the luggage that was being transferred by way of X-ray or anything else? -
B No, sir.

Now, if after you had taken the container from the interline shed to the location we have indicated, at "Baggage Transit", additional luggage came into the interline shed for a flight, do you know what the procedure would be to deal with that luggage? - Yes, sir.

C What would be the procedure? - A man from the late crew, a man from the departure area, would go round to the interline area and check to see if there were any bags.

Somebody from the late crew of the departure area would go round to interline and check? - Yes.

D And if there was luggage what would he do then? - He would get it X-rayed and put it on a trailer or tug and take it out to the out-bound.

Again were you ever involved in such an exercise? - No.

E BY THE COURT: When you say he would take it to the out-bound, would that luggage be put into a container which had been used for the other luggage? - No, sir.

F EXAMINATION/

A

EXAMINATION CONTINUED BY MR. HARDIE:

Where would you expect it to be? - In the bulk area of the aircraft.

B

How would luggage be transferred from the ground to the bulk area? - It would be sent up the conveyor belt.

C

Can you recall whether on 21st December, 1988 any of the luggage that you dealt with or saw at the interline shed destined for Pan Am 103 was a bronze Samsonite case? - Yes sir.

Well, did you see a bronze Samsonite case? - A marooney brown Samsonite case, yes.

Where was that when you saw it? - In the front of the container lying down.

D

Again in relation to the photograph that we have looked at in Production 42, photograph 1, can you point to where that case was when you saw it? - Just there.

E

Indicating the left-hand case which is lying flat on the floor in the front of the container? - Yes sir.

F

Now, I wonder if I could get in a bit more detail the colour. What is your recollection about the colour of the case that was lying in that position? - I think it was a brown or marooney colour/

A colour hard backed suitcase.

I also used the word "Samsonite". What is your position about that? - I couldn't say that it was Samsonite, only that it was a hard backed suitcase, a Samsonite-type.

B But as far as colour is concerned, can you be any more precise than you have been in your evidence? - No sir, I am sorry.

C I think it is fair to say that you have been seen on a number of occasions by police and other investigating agencies; is that right? - Yes sir.

D And as far as the colour of that particular case is concerned, have you always expressed the same view as to what the colour was? - To my knowledge I have.

E Isn't it fair to say that on different occasions you thought it was brown or maroon and at one point you were certain it was maroon? - Yes.

F Again this is no criticism of you, but I am anxious to know what the state of your evidence is about colour. In view of the different expressions of view over the period are you able to be clear at all as to what the colour of that case was?

- No sir.

BY/

A

BY MR. CAMPBELL: Until the disaster on 21st December, 1988, was it a perfectly normal day so far as you were concerned? - Yes.

B

Nothing remarkable happened during the course of the day until the disaster; is that right? - That's right.

You saw nothing suspicious or nothing to cause you to take any particular note; am I right? - Yes sir.

C

I dare say trying to think back now as to details of what happened on that day must be a fairly difficult exercise; am I right? - Yes sir.

D

Nothing that actually occurred would cause you to take a particular note of the colour of any particular bag, for example; am I right? - Yes sir.

E

So far as the bags which were in the container when you took it away from the interline shed is concerned, would I be right in saying that they were all interline bags? - Yes.

So they would all have passed through the x-ray machine? - Yes.

F

And it would all have had security tape stickers upon them? - Yes.

Can/

A

Can I ask you to look at the actual photographs again. First of all, could you look at photograph 42(1). Just to remind ourselves, I think you have told us that if we leave out of account the black holdall in the angle at the back left, if we leave that out of account or ignore it, this photograph would represent the luggage as you recall it when you took away the container from the interline shed area; is that correct?

B

- Yes sir.

C

Again, keeping the photograph in mind, can you also please have a look at photograph No. 4 of Production 41. Am I right in saying this is a photograph of a container identical to the container that you were dealing with that afternoon 4041? - Yes sir.

D

And if we look at the floor of the container and then look to the left-hand side of the floor of the container do we see an upstand, a vertical upstand some inches in height, maybe three or four inches in height, before the container side begins to slope off to the left? - Yes sir.

E

If we look back to the previous photograph, photograph one of No. 42, and the front left suitcase, that is the one lying flat at the front left, would I/

F

A I be right in assuming that the left-hand side of that suitcase is resting against or almost resting against that vertical upstand? - Yes sir.

B And to the best of your recollection was that the position so far as that case was concerned on the day in question? - Yes sir.

C Just so it is clear, if we look at Production number one of 42, the front two cases are lying flat side by side; am I right? - Yes sir.

D The last matter I want to ask you about relates to one of the Productions that we looked at, Production 153 please. You have indicated to us the position of the container when you left it outside your supervisor's office on the afternoon in question -- the little rectangle which we can see in about the middle of the diagram? - Yes sir.

E How far away would that be from the supervisor's office in very general terms? - 15 feet.

Is there a window in the supervisor's office? - Yes.

F Would that window look out over the general area in which the container was placed? - Yes sir./

A sir.

Not quite immediately beside but to the left of that same building as we look at this diagram am I right in saying there is also a British Airport Authority security post? - Yes sir.

B Would that security post also have a view out over that container area? - Yes sir.

Is that security post continuously manned?
- Yes sir.

C BY MR. KREINDLER: When you brought the container 4041 into the interline shed it was empty; isn't that correct? - Yes sir.

And when you placed the first suitcase that you did place in the container the container was empty -- correct? - Yes sir.

D Now, when you brought the container AVE 4041 over to the build up area what was the total number of bags or suitcases in the container? - Six or seven bags.

E We can be certain that the maximum number of suitcases in the container was seven -- correct?
- Yes.

With regard to those six or seven suitcases, did those suitcases have security tape on them indicating that they had been x-rayed; correct?
F - Yes sir.

At/

A

At any time did any unauthorised person have access to that container before you left the container at the build up area? - I don't understand the question.

B

Were there any people other than you or Mr. Kamboj who could have put suitcases on container AVE 4041 to your knowledge? - Yes sir.

Who were those persons? - Anyone that works in the airport.

C

Did you see anyone put bags in there?
- No sir.

And as far as you know only yourself and Mr. Kamboj placed these six or seven suitcases in the container? - Yes sir.

D

And that you placed the majority of the suitcases in the container? - Yes.

E

With regard to the suitcase that you saw lying down flat to the left side of the container, I would like you to think back as best you can. Could that suitcase have been a blue suitcase with a maroon or brown trim? - I couldn't say.

You don't know whether it was or not?
- No sir.

F

But it could have been? - It could have been.

Within five days of the disaster on December 21st 1988 did you speak to a Mr. Michael Jones from the Pan Am Security Department? - I can't remember that.

Do/

A

Do you remember speaking to someone from the Pan Am Security Department within a week of December 21 1988? - No, sir, I can't.

B

Within the week following the disaster did you have occasions to be questioned by various people within the Pan Am organisation, who were asking you what you did and what you observed that day? - No, sir.

C

You didn't speak to anyone at all? - No, sir.

D

Did you speak to any of your co-workers about the events of December 21 1988 within a week of the disaster? - Yes, sir.

E

Who did you speak to? - My colleagues that I work with.

F

Do you remember who those were? - No, sir.

Do you remember if in your presence any of your colleagues were questioned or interviewed by someone from the Pan Am Security Department? - Not to my knowledge.

You don't know one way or another? - No, sir.

You don't remember whether you were questioned by someone from the Pan Am Security Department/

A Department? - No, sir.

You may have been or you may not have been; you don't recall as you sit here today: is that right? - I don't recall, sir.

B BY MS. LARRACOECHER: In your experience with Pan Am since 1980, given that you work in the interline luggage area, were you ever told of any warnings or special lookouts or alerts in that time? - No, ma'am.

C Is there any reason that you should be told or would that exclusively be for people from Alert? - I think it would be for security people, Alert.

D So if there had been you would never have been told? - No, ma'am.

Okay. Could you point out in the room what you understand a maroon colour to be, if you see it? - That gentleman's tie (indicates Mr. Donald).

E What would be your understanding of a bronze colour? - This is brown. Oh, bronze? A £1 coin.

F Okay. Now, if we go to Production No. 42, photograph 1, the last time you saw the container was there any other piece on top, or is that/

A

that how you saw it the last time? - That is how I saw it the last time.

B

BY MR. ANDERSON: You were asked by the American gentleman, Mr. Kreindler, whether the bag you were seeing in the container at the front left position might have been blue with red or brown trim? - Yes, sir.

C

It may just be me, but Mr. Kreindler didn't tell us what he meant by a red or brown trim. Can you tell me what you understand that to be? - It would be a blue bag with a maroon or red or brown trim going down the centre or along the edges.

D

What sort of width or dimension would this trim have? - I don't really know.

E

I am just trying to get an understanding of the impression evidence you have given. When you are being asked to imagine a red or brown trim, can you tell me approximately what you are talking about and whether we are talking about a fraction of an inch, an inch wide or what? - Maybe 3 or 4 ins.

F

If you put that out of your mind for a moment, using your best recollection, sitting here today, thinking back to 21st December, 1988, what colour/

A colour do you think that bag front left was? - I think it was a brown or maroon bag.

B We have made various attempts to try and judge what colour you might mean by that. It may not be of any help at all, but perhaps if you could look at Production 42/1. Do you see a bag which would even approximately correspond to the colour that you remember from that day?

C MR. HARDIE: I hesitate to interrupt, but I think from the evidence we have heard already it is clear this witness does not remember, and the question from its terms seemed to suggest we would be getting more accuracy from his evidence than he has given.

D THE SHERIFF PRINCIPAL: I think I will allow the question to be answered, but I do appreciate the point you are making.

MR. ANDERSON: I have only asked for the witness's best recollection.

E BY MR. ANDERSON CONTINUED: What was it most closely corresponds to the colour you remember seeing? - I really can't be certain.

F Do you recollect the approximate dimensions of this suitcase that we are talking about as front left? - No, sir. I think two suitcases/

A suitcases together filled up the floor of the container.

I suppose -- correct me if I am wrong -- that at least the width would depend upon the size of the bag that was standing upright behind it? - Yes.

Do you remember the dimensions of the bags standing upright? Were they particularly large or particularly small? - Oh, I can't remember that, sir.

C In your experience, after a container such as 4041 is taken out of the interline area and bags are added to it, perhaps usually at the incoming flight, does it ever happen that the bags are reorganised within a container? - Not when I am doing it personally, no, sir.

Have you ever known it to happen so that a bag which is on the floor originally gets moved? - It is possible, sir.

E Do you recall approximately what time it was that you took 4041 and left it at the position outside the supervisor's office? - Round about 10 to 5, I think, sir.

F I think you said you clocked off just after 5; is that correct? - Yes.

Was/

A

Was 10 to 5 the last time you saw the container or did you see it as you left at 5? - I didn't look for it when I left at 5, sir.

B

Perhaps if you have Production 153 in front of you for a moment, this area is described as a baggage transit area. Is this a place where only one or two people work, or is it a place where a lot of people work? - It is a place where a lot of people work.

C

Is it a place to which many people have access? - Yes, sir.

Would people other than Pan Am employees have access to this area? - Yes, sir.

D

Would it be common for people to walk through this area carrying bags or suitcases? - No, sir. Maybe lunch breaks.

Does it happen that people carry bags through that area? - Yes, sir.

E

BY MR. EMSLIE: While you have got 153 in front of you, you have marked on that drawing the approximate location as I understand it where you left the container 4041? - Yes, sir.

Was that a place where containers might regularly be found? - Yes, sir.

F

So far as you can remember, on the afternoon/

A

afternoon in question would there be other containers in the vicinity? - There would be other containers in the vicinity, yes, sir.

B

Now, before you went and clocked off duty can I just be clear about who you spoke to at the departure building area? You have told us you spoke to your supervisor, Mr. Walker: what did you tell him? - That my interline container was outside.

C

Did you point it out to him? - I gave him the number, sir.

D

So far as you can remember did you speak to anybody else before clocking out? - I can't remember for definite, sir, but it is likely I said goodbye to a few people.

E

What I am trying to get at is, who apart from yourself and Mr. Walker would know that that particular container had come from interline and was destined for PA 103? - I should think the relief crew who were working in the area.

F

They would be aware of that? - Yes.

RE-EXAMINED BY MR. HARDIE: On that last matter, would people who are familiar with such containers know where that particular container was destined for? - Yes, sir.

How/

A

How would they know that? - Mr. Walker would tell them it was the interline container, and it was for the 103 destination.

B

I can understand that would be one way people would get to know where that container was destined for: but if you were working in that area and saw a container, without speaking to anyone, would there be any documentation on the container which would indicate to you what flight it was destined for? - Yes, sir, there would be a flight card telling you the destination.

C

D

And apart from the destination what else would it tell you? - It would have the flight number.

E

So someone who knew the system as it were would be able to tell from looking at a container (a) its destination; and (b) its flight number? - Yes, sir.

F

You/

A You were asked a number of questions by Mr. Anderson on behalf of Pan Am about people being in this area known or shown as the baggage transit area, and I think you have told us you would expect a lot of people working there from different organisations; is that right? - Yes, sir.

B First of all I think we know that area is air side, so what sort of people would you expect to find there. Would that be the general public, for instance? - No, sir.

C What class of people would you expect to be there? - Just airline workers, sir.

D I think you were asked about people walking in that area or it may be working, I don't know, but with luggage. If anyone was in the area with luggage, can you explain what you would expect them to be doing as far as luggage is concerned? - I don't understand, sir.

E It was a very badly put question and perhaps I can withdraw it and start again. You were asked about the baggage transit area and people being there with luggage; do you remember being asked about that? - With bags....?

F With bags, yes? - Not luggage necessarily.
What sort of people would you expect to be/

A be there with bags? - People that worked for airlines, just coming on shift, walking through with lunch bags, or maintenance workers.

B You have mentioned lunch bags and you have also mentioned maintenance workers: what sort of bags are you thinking of in connection with maintenance workers? - They would have a tool bag.

C But, as far as any item of luggage was concerned, would you expect people to be walking in this area with luggage? - Only Pan Am employees, sir.

D Why do you say that? - Well, it's the Pan Am baggage loading area, sir, and it would be mostly Pan Am employees that are carrying bags around in the area.

E With people carrying bags -- what -- in connection with loading them into containers. What would they be doing with them there? - It would be a bag that's lost its tag or carrying it to Mr. Walker's office so he could find out where it was destined for.

F MICHAEL/

A MICHAEL KERNAHAN, Sworn,

EXAMINED BY MR. HARDIE: Is your name
Michael Kernahan? - It is.

How old are you? - 33. -

B What's your present address? - 8 New
Road, Staines.

Are you employed by Pan Am World Airways
Incorporated? - I am.

In what capacity? - FSl.

What is an FSl? - A foreman.

C I wonder if you can speak in the
microphone. You say it is a foreman -- what? -
It's like a foreman; it's a lead agent.

Is that related to the baggage handling?
- It is.

D Have you been employed by the company
at Heathrow since March, 1977? - I have.

Is that employment always related to
baggage handling? - Yes.

E Have you been a supervisor or lead had
for five years or more? - Approximately, five
years.

On 21st December, 1988 were you working
in the interline shed area? - On the early shift.

F What hours are encompassed by the early
shift?/

A shift? - Starting at 5 o'clock and finishing at 1.30.

Were there a number of other baggage handlers of different grades working in the shed with you at the same time? - That's correct.

B Did you also see members of the Alert staff, including Mr. Parmar? - Yes.

Do you remember if you saw Mr. Kamboj at that time? - I can't remember.

C What would you be doing in the interline shed, what were your duties? - My duty was to designate work, other personnel to do the work.

On 21st December, 1988 what time did you finish work before going home? - About 1 o'clock.

D I think that evening you learned from the television of the Pan Am 103 disaster; is that right? - That's correct.

E At that point in time did you cast your mind back to events of earlier that day to see what you had been doing in connection with that flight? - I did.

Were you able to recall doing anything in respect of luggage for that flight? - I only saw one suitcase then.

F Clearly that must have been before 12.30.
Can/

A Can you be any more precise as to when you saw it?

- Approximately, midday.

Where was it when you saw it? - I left it by the X-ray machine.

B When you say you left it by the X-ray machine, are you saying you actually handled it?

- Yes; it had been X-rayed and it was placed by the X-ray machine.

C Would you look at Production 43 please, photographs 58 and 59: both of these in fact show the area of the X-ray machine in the interline shed; is that right? - That's correct.

Can you indicate under reference to either of those photographs where, approximately, you left the suitcase? - (Indicates).

D You are looking at photograph 58 and you are pointing to an area -- is that behind and to the left or to the corner, the back corner, of the X-ray machine as we look at the photograph, and that is the right-hand corner? - The right-hand corner at the front, there.

E Why did you leave it there? - There was no container available within.

F As far as that piece of luggage is concerned, did it go through the X-ray machine? - It/

A It had been X-rayed, yes.

As far as that bag is concerned, you said there was no container available. Did you take steps to get a container or order someone else to get a container? - That, I can't remember.

B Was it quite normal to leave the occasional bag on the floor near the machine? - Interline, yes.

Can you tell us anything about that bag. Can you recall anything about its colour or size or anything of that nature? - No, not really.

C Can I just ask one other matter: did you recall anything unusual happening that day as far as your duties or -- -- ? - No.

D Did you see any sign of strangers in the interline shed? - No.

Are there areas within the shed designated for Pan Am? - There are.

E Did you see any sign of any people other than Pan Am employees or Alert employees within that area designated for Pan Am? - I don't remember.

If you had seen personnel other than Pan Am or employees of Alert, would you have done something about it? - I usually question them.

F BY/

A BY MR. CAMPBELL: Mr. Kernahan, can I ask you about one matter: if baggage for Pan Am 103 arrives in the interline shed early in the morning what happens to that baggage? - If a bag arrives for 103 very early it's presumed it missed the night before's flight and in those days we would place it on the first available legal flight.

B Despite if on the tag it says "Pan Am 103"? - Yes.

C By "very early" what do you mean? - Usually it's before 7 o'clock.

D If a bag arrives say between 7 o'clock in the morning and 8 o'clock in the morning with a Pan Am 103 label on it what would happen to it? - It would possibly go on the 101, the first legal flight.

BY THE COURT: Is this on the basis it's regarded that it should have in fact have caught the 103 flight the night before? - That's right, yes.

E BY MR. CAMPBELL CONTINUED: Is any check made of that? - In those days, no.

But, now there is such a check? - Yes.

F Was there a flight coming in from Oslo arriving about 7 o'clock in the morning back in December, /

A December, 1988, a Pan Am flight from Oslo? - I can't remember now.

But, if there was such a flight and baggage came off it into the interline area shed with a Pan Am 103 label on it, do I understand the practice was it would then be sent on the first available flight? - No; that would go on the 103.

B How would that happen? - That would be placed on one side.

How would you differentiate between that particular bag and other bags coming in early with Pan Am 103 labels on them? - Are you asking about Pan Am bags, transit bags....?

C I take your point, Mr. Kernahan. If a plane came in from Oslo which was not a Pan Am flight and an interline bag came from that from some other carrier, with a Pan Am 103 destination label upon it, what would happen to that bag? - We wouldn't know where the bag had come from; there's no original destination, original station.
D If it arrives there early it is placed on the first available.

You would only know the originating airline carrier and destination? - Yes.

E And you would simply put that bag on the first available flight? - If it was very early in the morning, yes, if it was taken it was missed from the night before.

F Is it possible that prior to the disaster happening a loader might see a 103 bag in the interline area in the first part of the morning, let's say, the early part of the morning -- I am not talking about very early but just the early part of the morning -- and load it on to the 101 baggage? - He wouldn't load it without asking me; they would come to me first.

Is/

A

Is it within your knowledge that that might have happened without you being told? - No.

B

Do you remember giving a statement to an officer of the police, a Detective Constable Head, on 11th January, 1989? - I remember giving a statement.

C

Do you remember signing that statement? - Yes.

I take it you read that statement before you signed it? - Yes.

D

Can I put it to you in that statement you said "Prior to 21st December, 1988 it could have happened that a loader would see a 103 bag in interline in the early part of the morning and load it with the 101 baggage without letting me know."? - I don't remember saying that but if it is in my statement -- I can't remember. More often than not they do ask me.

E

But sometimes they don't? - It could slip by.

Of course, if that was to happen the result would be that the bag would travel on the 101 unaccompanied by the owner? - Correct.

F

BY MS. LARRACOECHER: Where would you be/

A

be working when you started on the day? Where would you go first? - To the baggage build up to assign manpower and then to interline.

And then where would you be for the rest of the day? - Interline.

B

What was the procedure to check for Pan Am employees and Alert employees and verify that no strangers would get into the area prior to December 21st? - Are you asking me do I check on everybody that comes into the area?

C

Yes. Were you able to check thoroughly or was there pretty free access to the controlled areas? - There is access to the interline area, but if anybody comes round looking at the bags they are questioned.

D

Would you have known of any people that were not employees if they had been there. Would you have been able to distinguish them? - Yes.

E

But it seems to be quite a busy area with people from other airlines also; I understand that is correct? - Yes, but I would recognise them.

You would recognise them all? - Yes, all the Pan Am staff.

F

I am speaking of prior to 21st. You would/

A

would do? - (No answer).

How many people in total would you think approximately worked in that area? - At the interline area then -- say about ten Pan Am.

B

Yes, but with all the other airlines, let us say during the day when all the airlines are busy with their own business, how many people do you think there would be there? - I suppose about 50.

C

And you would have been able to recognise the people that were not employees? - Yes, because they are mainly the same people working in the same area.

D

That first suitcase that arrived around mid-day you say, do you remember where it came from? - No.

Or what airline? - I can't remember.

Do you remember what it looked like?

- No.

E

BY MR. ANDERSON: Just so that I can be quite clear: in the event that a bag arrives in interline after 8 o'clock in the morning with a 103 label on it, what would be the usual handling procedure for that bag? - If it was determined for the 103 it would be placed on the one side.

F

Would/

A

Would it be correct to say there would be no attempt to put that unaccompanied on 101?

- Correct.

No further cross-examination.

No re-examination.

B

ROBERT VINCENT PATRICK BANNON (22) Sworn

EXAMINED BY MR. HARDIE: I reside at 165 Bath Road, Hounslow, Middlesex, England.

What is your present occupation? -

C

I am a student doing fine woodwork at a building crafts college in London.

Were you employed by Pan American World Airways in their baggage handling department at Terminal 3 at Heathrow from May 1988 until 9th January, 1989? - I was.

D

What did your duties involve? - That day I was at interline on the early shift, and that is basically taking bags off the belt that comes in from incoming flights of passengers who are going forward on to another flight, and we separate them and put them in the right tins for the right flights.

E

You say "that day". Are you talking about 21st December, 1988? - That is the day, yes.

F

What/

A

What shift were you working, what hours?

- I was working the early shift. I don't remember which one it was. I think it was called the A shift where we start at 6 o'clock. That is the shift I think I was on.

B

What time did you finish roughly? - About half one-ish.

C

Now, can you remember that day when you got to the interline shed whether there were other people from Pan Am working there? - Offhand I can't really remember who was there but normally we would -- if there was only two other people on the same shift as me we would all go over.

D

I am not really asking you to remember the names of people. Can you remember if you were working there and if there were others there at the same time? - Yes, there was.

E

At that time what happened when an aircraft arrived, and landed at Heathrow. What happened so far as the luggage was concerned? - Well, if you were in interline the tins would come in from the plane and you would have to separate them to the ones going to San Francisco, Maimi, New York, etc., so basically you would pick the bags out of the tins and put them into the single tin for the right flight.

F

As/

A

As far as luggage coming to interline is concerned, would you deal with luggage which was also on-line? - I really can't remember.

B

Well, do you recall whether it was a different procedure as far as dealing with baggage which was interline and which was on-line? - You see, there would be tins set up around about at interline and the bags would be pulled off from the belt and you would take them off and put them in the right tin.

C

As far as putting them in the right tin is concerned, how were these tins sub-divided?

- They are marked Miami, JFK, San Francisco.

You just sorted it out as to destination?

D

- Well, when the bags came up they are also marked which flight and you just put them in the same tin for the same flight.

E

At the interline area were you aware that some luggage was not screened? - Not really, no, I wasn't aware of that.

F

Can we go to something else just now. On that day as far as Flight PA 103 is concerned, can you remember seeing any item of luggage which was destined for that flight? - No, not specifically. I can't remember exactly.

Do/

A

Do you have any recollection of that day at all? - Just roughly the general procedure of the day, just sorting out the bags. That's about it, really, much else the same as any other day.

B

But after the disaster presumably you would think back to what you had been doing? - Yes, I did.

C

Did you recall whether you had been involved or had seen any of the luggage for that flight?

D

- No. the only thing which I said in my statement was that when bags -- when there are so many bags coming off the belt at interline, sometimes a bag after it has been screened, there always isn't enough tins for the bags to go into, so the bag sometimes -- we put them aside after they are screened and they gather them for a later flight, say the Detroit flight, or the 107 Washington flight. We put the bags in the tins when we get time to get rid of them all at once.

E

Did you remember that happening so far as PA 103 is concerned? - I remember a bag but I don't remember -- I couldn't tell you if it was a later flight or if it was the 103 flight.

F

If you got into the position of not having the tins for a later flight would they simply be left for attention by a later shift? - They could be, yes -- depends.

A Do you remember being asked about seeing one bag in particular which was not in a tin? - Yes.

Was that a bag which was destined for PA 103? - I can't remember.

B Can you remember anything about that bag as far as its colour or anything of the sort is concerned? - I remember it was a deep red, burgundy-type bag.

C Can you remember anything else about it? - Not really.

Where was it when you saw it? - It was like at the side. It had been through the machine, and it had been put at the side, by the X-ray machine.

D BY MR. CAMPBELL: Did on-line baggage come into the interline shed area? - You will have to recall for me what on-line baggage is. Is that when it comes off the plane and goes on to the belt, or is that when it comes off the Frankfurt plane?

E I am talking about transferred baggage coming through Heathrow coming from a Pan Am flight and going on to another Pan Am flight, as opposed to interline baggage, which as I understand/
F

A understand it is baggage coming from a carrier
other than Pan Am and going on to a Pan Am flight
from Heathrow: does that coincide with your
understanding? - When you says "on-line" do you
mean when you go out to a plane and take the bags
B off the plane and then go to the plane it is
flying out on?

Did bags come into the interline shed
area from a Pan Am flight, off a Pan Am flight,
going on to another Pan Am flight? - Yes, they
C did.

Were those bags X-rayed? - As far as
I know they were, yes.

Do you have any knowledge on the matter
one way or the other what bags at interline were
D taken off an X-rayed? - They came off the belt
and went through the machine.

What do you mean by interline bags? -
I mean, baggage which would be put on to a belt on
the other side, on the outside section of
E interline, an they would come round, and you would
take them off -- well, security would take them
off, and put them through, and once they had gone
through you would pick them up an put them into
the tin.

F Was/

A

Was there a separate system for interline bags? - There was an outside system. Someone would come in with the bags from the outside, and you would load the bags up into tins from the outside. This is outside interline.

B

There would be some bags which would come to the shed but not come from the shed? - No, they would come from the outside.

Would they all simply be put into tins?

- Yes.

C

What would determine whether a bag came into the shed for X-ray or was simply put straight into a tin without X-ray? - Different flights, I think, offhand.

D

Do you remember giving a statement to a police officer on 13th January 1989, Detective Sergeant Downie? - Yes.

Do you remember signing that statement?

- Yes.

E

Could I read to you my information as to what you said on that occasion, for your comments? "The only exception to baggage going through the screening machine is the on-line baggage which is taken out of its tin and put into a new container labelled up for its next flight without/

F

A

without going through the screening machine".

Now, do you recall saying that? - yes, roughly.

That is what I meant by what I was saying before.

B

Is that statement true and accurate to the best of your recollection? - To the best of my recollection it is about right, yes.

C

Can you clarify something which you said in answer to a question from the learned Advocate Depute? As I noted you, you were discussing the situation where there were many bags coming off the belt? - Yes.

D

And you said that sometimes a bag after being screened, you found there were not enough tins to accommodate that bag; is that right? - Yes. If it is a later flight and there is a lot of bags coming through for flights which are coming up you would sometimes put that one to the side and get rid of the flights which were mixed.

E

BY MR. ANDERSON: I just want to clarify one or two things with you if I may. Firstly, it would be helpful if we tried to define the terms "on-line" and "interline". Can I put to you something, and then you tell me whether you think I am right or not? - Yes.

F

Is an on-line bag one which arrives on a/

A a Pan Am flight and is due to come through London Heathrow to go out again from London Heathrow, again on a Pan Am flight? - It has been two years since I worked there. I can't remember how to define the terms; I just know what I did at the time.

B If you take it from me for a moment that that is on-line, and that interline is a bag which has arrived on another airline, be it Air France, Lufthansa or whatever, that has to be taken out of London Heathrow on a Pan Am flight, that would be an interline bag? - Yes.

C You worked on 21st December in the interline area? - Yes.

D Do you remember that? - Yes.

Is it your recollection that on-line bags as I have described them to you came into that interline area? - I can't remember that, no.

E Is it not the case that on-line bags were just put into a container and taken immediately from one plane to another or were left in the containers and put to one side until their outgoing flight was available? - Yes.

F Perhaps at best it comes to this, that you/

A you only worked for Pan Am for about seven months,
and tht was all two years ago? - Yes.

- After an adjournment for
lunch.

B

JAMAIL SINGH GILL (50), Sworn:

C EXAMINED BY MR. HARDIE: My address is
28 Melbury Avenue, Norwood Green, Southall,
Middlesex.

I think you are employed by Pan
American Airways as a loader/driver at Heathrow
Airport; is that correct? - Yes, sir.

D How long have you been employed at
Heathrow in that capacity? - Nearly 11 years.

Were you working at Heathrow as a
loader/driver on 21st December, 1988? - Yes, I
was.

E Can you tell us what time did you start
work that day? - I started on the morning shift,
half-past 6 in the morning.

When did you finish? - I finished
quarter-past 6 in the evening.

F Where were you working that day? What
part/

A part of the airport were you working in? - I was working in the build-up area.

Is that at the rear of Terminal 3? -
That is it.

B At the build-up area, is that where passenger baggage arrives from a conveyor belt, having come from the check-in area? - Yes, sir.

C Is the baggage directed to particular spurs or areas according to which flight it is going on to? - At that time it was only N spur in the afternoon time.

Is that Spur 4 or 5? - 7 or 8: it is called N spur.

D Were you working there with a number of other people, including a supervisor called Peter Walker? - Yes.

And a Mr. Sahota an a Mr. Sidhu or two Mr. Sidhus, Balwant Singh Sidhu and Amarjit Singh Sidhu and Talwinder Singh? - Yes.

E Can you remember when it was the baggage for PA 103 started to arrive in your area? - Generally it started after half-past 2.

F What happened to the baggage when it arrived? What did you and your colleagues do with baggage which arrived in your area from a flight/

A flight? - When it come on the belt we put it in the containers.

Is that the containers which we see in Production 41, photograph 4? Is that the type of containers that you were putting the luggage into that day? - Yes, sir.

I think there is also a fibreglass type container of a similar shape; is that right? - Yes, but I don't remember fibreglass container on that day.

C Once a container is filled with luggage what happens? What do you do with it? - When they are full we pull them to the aircraft.

D Do you take them out one at a time or do you take all of the containers to the aircraft at once? - Sometimes we take two, sometimes three and sometimes we take four.

E So when you have filled one container at your workplace do you then go on to start pulling another one until you have got all the baggage into a container or more than one container? - No, sometimes we start the containers going straight way to New York, and we start a second one, which we call K containers, going to different destinations, then we start a third/

A third one, which is First Class and Clipper Class.

You have different containers for different classes of passenger; is that right? - Yes, sir.

B Can you remember how many containers you filled that night for Pan Am PA 103? - I don't exactly know the numbers, but if you filled up the first two containers, then we asked our Mike (?) to pull two containers out.

C You asked someone to pull two containers out? - Yes, to make room for the other containers for loading.

Were you told to drive two containers out to Kilo 14 for the PA 103 flight? - No, sir.

D Did you take any containers out to the aircraft that day? - No, sir.

Apart from loading containers do you sometimes drive containers out to the aircraft? - Yes, sometimes we do drive.

E That day did you drive, tow any containers out? - No, that day I didn't drive any containers to the aircraft.

Are you quite sure about that? - Yes, I am sure. I don't remember particularly.

F I am sorry? - I can't exactly remember: but so far as I am concerned I didn't drive.

Do/

A Do you remember speaking to a policeman, Detective Constable Adrian Dickson in London on 7th January, 1989? - Yes.

And did he ask you questions as to what you had done that day as far as PA103 is concerned?
B - Yes; I've done PA103, but I don't remember if I drive the containers there.

When he was asking you questions about that did you tell him what you had done? - I was most on loading that day.

C I appreciate that, but I am asking about when the policeman spoke to you. Did you tell him what you had done on the 21st December? - Yes. I don't remember all the things now but I think I tell him I've been busy most of the time loading
D on the N spur.

Did you not also tell him that Mr. Sahota told you to drive two tins or containers out to K14 for PA103? - I don't remember for the containers. I do remember one thing, when the
E flight was nearly to be finished he asked me to go to the interline area, and that's why I went there.

Before going to the interline area do you remember being asked to lift some containers
F out/

A out of the aircraft? - I don't remember, sir.

You say that you went to the interline area, but Mr. Sahota told you to go to the interline area? - Yes, please.

How did you get to the interline area?

B - I went there on a tug.

Why were you going to the interline area at that time? - Because the late bags coming to interline area, I put them on the aircraft, the late arrival bags that come in the interline area, I take them from there and put them on the aircraft.

C When you went to the interline area did you get any baggage there? - Yes; I got nearly five pieces from there, four or five.

D Who was it who gave you that or showed you where that was? - It was the security man, Mr. Kamboj.

Mr. Kamboj of Alert Security? - Yes.

What did you do with these four or five pieces of luggage? - I put them on my tug.

E And where did you take them? - To the aircraft.

What did you do at the aircraft? - I put them on the rocket myself.

F Where would that mean that that baggage was /

A was loaded in the aircraft? - It was in Belly 5.

By using the rocket does that result in the individual pieces of baggage going directly into the aircraft? - Yes, sir.

B There is no question of the pieces of baggage being put into a container first? - No, because when the last bag is coming out of the interline area or in the build-up area all the containers are gone and we put them in Belly 5.

C Do you remember that day seeing a Mr. Bedford, John Bedford? - Yes, sir.

D Where did you see him? - I was working in the build-up area and he came with the container into the build-up area, after 4 o'clock -- I don't know the time -- he brought the container to the build-up area and left the container outside the supervisor's office.

E You say he came to the build-up area and he brought a container with him which he left outside the supervisor's office; is that right? - Yes, sir.

You say you do not remember the time, but was that container meant to be loaded on to PA103? - Yes, sir.

F Did you see what was in that container at/

A at that time? - No, sir; it was covered.

It was covered? - Yes, sir.

When do you say you first saw it. Did you see it arriving there or was it parked at the time you first saw it? - No; Mr. Bedford came with the container, he came in the office and told us "Here is the container from the interline area"; that's what I know.

When you say he came into the office, is that the office where the supervisor, Mr. Walker, was? - Yes; it was opposite Mr. Walker's office.

C You spoke about loading these four or five pieces of baggage that you picked up from the interline area into, I think you said Belly 5; is that right? - Yes.

D Would you look at Production 40, photograph 17: can you indicate under reference to that photograph where it was that you put the four or five pieces of luggage? - Here.

E You are pointing to the conveyor belt at the back, to the left of the photograph, which shows the luggage that goes into the small hold who's door we see open; is that right? - Yes, sir.

F I should have asked you this: the luggage that you picked up, the four or five pieces of/

A of luggage, from the interline shed, which was pointed out to you by Mr. Kamboj, where was that luggage? - It was luggage opposite the scanning machine.

Was that on the floor of the shed beside the scanning machine? - Yes.

B Did you notice if there were any security tags attached to the luggage? - Yes, sir.

What was the position, did each piece have a security tag? - Yes, sir, each piece has a security tag on it.

C Apart from the four or five pieces that you picked up from the floor of the interline shed, did you get any other piece of luggage before going on to the plane? - Yes; when I was coming from the interline area, near the build-up area, Mr. Sahota gave me a sign to stop and I stopped there and he gave me another baggage; he told me "This is large baggage checked from build-up area".

D How many pieces of baggage did he give you? - He's wrapped the pieces in one.

There were pieces of baggage....? - Wrapped, this was a wrapped piece.

Wrapped together? - Wrapped together.

E Where did you put those pieces of luggage. Did you put those along with the four or five? - Mr. Sahota put this package on the back of my tug and then I drove to K16 to go to K14 and then I put that baggage with the rest of the interline baggage, on the back.

On the rocket going into Belly 5? - Belly 5.

F And/

A

And was that the only involvement that you had in loading luggage on to PA 103? - That was the only stuff which I have put on myself: the rest, I was working in the build-up area.

B

Can I just ask you this? As far as the container that Mr. Bedford left outside the office is concerned, can you tell us how far away roughly from the office it would be? - It would be 20 to 40 ft.

C

Can you tell us whether the side which would be the open side of the container was facing towards the office or away from the office? - The store side was towards the office.

D

Can we be quite clear what you mean by that? If we look at Production 41, photograph 4, that is an empty container, and at the side nearest the camera there is an open area which can be closed by the blue curtain which we see at the top of the container; is that right? - Yes, sir.

E

And if the photographer were standing at the office is that the view of the container that he would have? - Yes, sir.

F

Can you tell me whether that office is always occupied or not? - Yes, sir, most of the time/

A time: our supervisor is there, our leading hand is there.

Your supervisor is Mr. Peter Walker: is that right? - Yes.

B And the leading hand is Mr. Sahota? - Yes.

Is that the one you described as your ringleader? - Yes, sir.

C After you saw Mr. Bedford just after he had left the container outside the office did you do anything as regards the container? Did you put anything into that container? - Nothing, sir.

D Did you see anyone else putting anything in? - Nothing, no. I was busy on the N spur.

E BY MR. CAMPBELL: Mr. Gill, you told us about your trip to the interline shed area where you picked up some bags from Mr. Kamboj. You then told us that on your way back from the interline shed you were stopped by Mr. Sahota, who gave you some further baggage; is that correct? - Yes, sir.

F Am I right in saying that that baggage, that is the baggage given to you at that time by Mr./

A

Mr. Sahota, came from the baggage build-up area?

- Yes.

So that was not interline baggage? -

No, sir.

B

So far as the bags which you did collect from the interline baggage area are concerned, you have indicated that you think now there were about four or five items of luggage? -

Yes, sir.

C

I dare say it must be difficult now to recollect whether it was four or whether it was five? - I don't remember, sir.

D

Do you remember giving a statement -- I think you have already said that you do remember giving a statement -- to Detective Constable Dickson on the 7th January 1989? - Yes, sir.

Did you sign that statement? - I signed that statement.

E

Would I be correct in thinking that your recollection of details at that time would be better than it is now? - Yes, sir.

F

So far as the number of bags which you collected from Mr. Kamboj is concerned can I ask you this: so you recall saying to Detective Constable Dickson at this time: "Mr. Kamboj told me/

A me there were five bags for Pan Am 103. I first saw them when they were being screened by the X-ray machine. I can be certain that there were only five bags"? - I told you four or five were there: I don't remember the count now.

B As I read that to you, do you have any recollection of saying to Detective Constable Dickson five bags? - Yes, I told him that time, but I don't remember the exact number now.

C The only other matter I would like to ask you about is this, just to be clear about it: could you look again at photograph No. 17 of Production No. 40? You have pointed to the conveyor belt which is used for the loading of the baggage brought from the interline area, and the baggage given to you by Mr. Sahota. Is this conveyor leading to Belly 5, as you call it? - Yes.

D Is Belly 5 at the back of the plane? - Yes.

E It is the tail area of the plane? - Near the tail area.

F BY MS. LARRACOECHER: Would it be possible for you to point out where is the baggage build-up area in Production No. 36, please? - (Indicates)/

A (Indicates).

BY THE COURT: Are you pointing to the top of the plan? - Yes, sir.

B BY MS. LARRACOECHEA CONTINUED: I want to know first of all about the baggage build-up area and then Spurs 7 and 8? - You can't see properly here, because it is a bit typical drawing here, but I can see this is roughly the build-up area.

C Four lines vertical, five vertical platforms, it would be the one to the left? - Yes, sir.

It would be Spurs 7 and 8? - We call it N spur.

D Was Pan Am luggage the only luggage going there? - No, I was not the only one; there were two more chaps working with me at that time.

E No. Let me repeat the question again, because perhaps I didn't put it too well. Would there be other airlines putting their luggage around this area? - Yes, please.

What other airlines? - QANTAS and
Zambian Airlines.

F Zambian Airways? - Yes.

A/

A

A little further to the left of the Production there is Iran Air: where did that luggage go? - Iran Air coming twice or three times maybe -- I can't remember how many times they come there, but they do come three times or two times a week.

B

C

Where would the luggage go? Would it go near to where you were working or would it go to a completely different place? - Sometimes it will be opposite us.

D

Opposite you, or else.....? - Opposite to 7 and 8: they call it N spur.

E

Where would be opposite? Can you point opposite in this Production? - There (indicates).

F

Now/

A Now, you said in your statement that you were certain that there were five pieces of luggage: is there any reason why you would remember that so clearly? - Yes, please. -

B What would be the reason? - Because I don't remember as it's so long. It's long time -- I don't remember the exact number -- that time was.

C Probably your recollection was a lot more accurate and fresher closer to the events, and then you stated you were certain there were five pieces of luggage? - Yes. When I went to the interline area I asked Mr. Kamboj to help me put the bags on the back of my tug, so we brought together and put those pieces on the back of my tug.

D Is there any reason why you would recollect so clearly five pieces? - Yes, because when we were loading those bags, because we were putting together on my tug.

E Would there be any others involved with the luggage near where you were working? - Which area, please?

F I am referring to the part that you pointed out to me before? - Near to us, twice or three times, will be Iran Air, because as far away from/

A from us -- I can't remember which airline at that time.

Let us go to a different subject now.
On December 21st when you arrived and you had started your day, where would you go first. Where would you report that you were starting your day?
B - We always put in the sheet which area we are to work, and on that day my name was in the build-up area.

But, when you arrived, in order to receive that sheet of work for the day would you have gone to your supervisor's office first thing in the morning? - Yes; when we come in in uniform to start our work we go to supervisor's office and then ask him where my duty is, and that day I was told my
D duty is in the build-up area.

In order for you to have started did you require anything to enter this area. Did you have to present an I.D. card? - When I come in in the morning there's British Airway's Authority security and they check our I.D. card so we enter inside
E the airport area, so I showed him my I.D. card and I went in the build-up area.

Was the British Airport Authority security check-out next to Mr. Walker's office; is that
F correct?/

A correct? - That's correct.

What was the security like before and after December 21st? - Security was in routine way, in an everyday-normal way. -

B Can you explain "routine" a little bit please? - When we come in in the morning time the security man is at the gate and if we are in an area we have to show our I.D. card. The security man was there and I showed him my I.D. card and went in the office.

C How many security members were there on December 21st? - I don't remember how many people were there, but I do know there was one security man who checked my I.D.

D Was that very strict up to December, 21st? - They are always strict.

E BY MR. ANDERSON: Mr. Gill, just one or two questions, if I may: you were asked by the lady just a few moments ago about bags for Iran Air which would be collected opposite the N spur where you were working; do you remember that? - Yes.

Do you remember whether on 21st December, 1988 there was any Iran Air flight that day? - No, sir, I don't remember.

F Just/

A Just in case it is asked of you by someone else, is English your first language? - It isn't my first; it's my second language.

Your first language is....? - Punjabi.

B Were you born in Britain or did you come here more recently? - I come a long time ago.

Can you just tell us, when did you arrive in Britain? - 1966.

C At that time did you also have relatives in England or Scotland? - I did have relatives in Scotland at that time, but I come to London.

TALWINDER SINGH KAINTH (32), Sworn,

D EXAMINED BY MR. HARDIE: Mr. Kainth, is your full name Talwinder Singh Kainth? - That's right.

How old are you, please? - 32.

E What is your address? - 77 Trinity Road, Southall, Middlesex.

Are you employed by Pan American World Airways as a loader? - That's right.

How long have you been employed by Pan Am? - Two and a half years.

F Sorry....? - Two and a half years.

Do/

A Do you work at Terminal 3 at Heathrow Airport? - That's right.

What does your job involve? - We just lift the bags and put them in the tin. -

B Are there any particular areas where you have to work? - No; it all depends on supervisor, where he put us.

So that the supervisor tells you where to work on a particular day; is that right? - That's right.

C Is Mr. Sahota your foreman? - Yes; he's the team leader.

And are the other people in your team Balwant Singh Sidhu...? - That's right.

D And Jamail Singh Gill...? - That's right.

And Armarjit Singh Sidhu? - That's right.

And yourself? - Yes.

On the 21st December, 1988 were you working at the airport from about 6.30 in the morning? - That's right.

E When did you finish for the day? - 6 o'clock.

Where were you working that day? - In the build-up.

F That is, the build-up baggage area? - That's/

A That's right.

Were you there all day? - Yes, that's right.

Does that involve taking passengers' bags from the conveyor belt and putting them into containers which go into the cargo holds of the plane? - Yes, that's right.

B I think we have heard different classes of baggage go into different containers; is that right? - Yes, that's right.

Now, as far as transfer passengers' bags are concerned, are they kept separate in a container of their own? - Yes, a separate container.

C I think apart from luggage there are other items of cargo, including couriers' baggage; is that right? - Yes; that's a separate container as well.

That is a separate container? - Yes.

Are the containers labelled to show the destination of the container and the flight number?

D - That's right.

Does it also disclose what class of baggage or passenger whose baggage is contained within the container? - Yes.

Now, when the containers are full are they removed from the baggage build-up area? - Yes; it depends if a container is full up, and the check-out man take to the plane.

E Can you remember who took any of the full containers out to PA103 that day? - No.

F Did/

A

Did you take any containers to PA 103?

- Yes, I took two containers to PA 103.

Did anything unusual happen that afternoon? - Yes, my tug broke down.

B

Your tug broke down? - Yes.

Where did it break down? - In front of the Alert office.

When the tug broke down how many containers were attached to it? - Two.

C

Had these containers come from the baggage build-up? - That is right.

So when the tug broke down did you require to get help? - Yes, I told my team leader, and they sent another man to give me help.

D

When the containers are full are they secured, shut? - Yes, properly locked shut.

Had the containers you drove out that day been properly secured? - Yes, properly locked, near the front of the Alert office.

E

Did you actually leave the containers unattended while you went to get help, or what was the position? When your tug broke down did you have to go away to get help? - Yes.

F

How long were you away? - A minute, two minutes.

When/

A

When you came back to it did you notice anything about them? - No.

Were they still locked? - Yes.

Did you in fact get assistance from Mr. Sidhu? - Yes, that is right.

B

Do you know if Mr. J.S. Gill took any containers out to PA 103 that day? - No, I don't remember.

C

Apart from putting pieces of baggage into the containers at the baggage build-up area and your towing these two containers you have told us about did you have anything further to do with loading the luggage or containers on to PA 103? - No, we just dropped at the front of the plane, and they would do that.

D

Did you see any strangers in the baggage build-up area at all? - No, everything is normal.

E

An as far as you are aware did you see anyone interfering with the baggage containers in any way? - No.

F

BALWANT/

A

BALWANT SINGH SIDHU (37), Sworn:

EXAMINED BY MR. HARDIE: I live at
41 Mornington Crescent, Cranforth, Middlesex.

B

Are you employed by Pan American
Airways at Heathrow as a loader/driver? - That
is correct.

How long have you worked for them? -
11 years.

C

Do you work in different areas of the
airport, depending on the instructions of your
supervisor? - No.

Do you only work in the interline area?
- Yes, sir.

D

Do you sometimes work in other areas?
- Yes, that is build-up and interline.

The build-up area or the interline
area; is that right? - Yes.

Are you told which part to work in on a
particular day? - I am in build-up.

E

Perhaps we can ask you about 21st
December 1988. Were you working in the baggage
build-up area with Mr. A. Sidhu, Mr. J. Gill, Mr.
T. Kainth and Mr. Sahota? - Yes, sir.

F

What time did you start work? - On
the late shift, at half-past 2.

What/

A What time did you finish that day? -
About half 9. I don't remember.

B When you got to the build-up area were
the other men already loading tins or containers
in relation to Flight Pan Am 103? - They were
set up, the containers, not to start unloading
the.....

 They had the containers set up? -
Yes.

C Could you look at Production 157?
What is that document? Do you recognise what it
is? - Yes, that is a container card, an ID card
with the container numbers on it.

 Is this known as a baggage flight card?
- Yes.

D In the first column do we see the
heading "Build-Up" and under that there are 12
lines filled in with "JFK": is that the
destination airport? - Yes, 12 for JFK.

E Is JFK the airport the container was
going to? - Yes.

 "Category" is the next column, and we
see DB.T.F.T.K.D.H.L. Are D.H.L couriers? -
Yes.

F What about containers with B? - That
is/

A is economy bags for New York.

What is TK? - On-line bags travelling on Pan Am.

And F? - F are First Class.

B And BTK? - That is a mix up for the State of New York and on-line bags.

In the next column you will see the weight: are the containers weighed when they have been filled? - Yes. We usually put 700 kilos in.

C The next column is the identification number of the container? - Yes.

Can we tell from that number what containers were filled that day for that flight? - Yes, that is right.

D If we look at the seventh one we see AVE 4041? - Yes.

And in the final column which has INT -- what is that? - That is interline bags, interline container.

E That is the only container of the 12 which is written in in the column for interline, and that is the 727, is it? - Yes, that was interline container going on 727.

F Does that mean that of the 12 containers/

A containers only one, that is 4041, contained luggage from the 727? - Yes.

Do you know where the 727 came from? -
From Frankfurt.

B Now, did you in fact see container AVE 4041 before it was loaded with luggage from the 727? - No, not really: just point my container going to 727.

C You are saying you didn't really see it, but did you say it was pointed out to you as a container going to the 727? - Yes.

Who pointed it out to you? - The Number One or the supervisor, Mr. Walker.

No. 1 is Mr. Sahota? - Yes.

D And your supervisor Mr. Walker? -
Yes.

One of these people pointed a container out of the containers to go to the 727? - Yes.

E When it was pointed out to you where was it? - It was in front of the office, the supervisor's office.

Is that Mr. Walker's office? - Yes.
That is the whole build-up office there.

F The whole office for the build-up area?
- Yes.

When/

A

When it was pointed out to you can you remember if the side cover was up or down? - No, I don't remember.

B

Did you take container 4041 to the 727?
- Yes, I did.

C

Are you able to give us any idea as to the time that that was done? - No, I can't remember now.

D

What time does the incoming flight from Frankfurt, the 727, normally arrive? - I think half 5 or 5.25.

E

Have you done this exercise before, taking a container out to that flight to have the luggage transferred? - You mean the same day?

F

No, on any other day? - Yes, sometimes we do, when the supervisor asks.

What/

A What is the practice. Do you take it out before the plane arrives or do you wait until the plane arrives and then take the container out?
- It depends on the time; sometimes it could be before.

B Are you sure that you took the container out yourself? - Sorry...?

Are you sure that you took the container out yourself? - I didn't take any container out.

C Sorry. It is perhaps me on a Friday afternoon, Mr. Sidhu. Did you see what happened to the container then? - No; I don't remember.

Can we go back to the point when it was pointed out to you by Mr. Walker or Mr. Sahota;
do you remember saying that? - Yes.

D When it was pointed out to you what was the reason for pointing it out. Why did they point it out to you? - Because I was doing the card.

Just to fill out the card? - Yes.

E Did you have any involvement in loading that container at all? - That one container, no.

How many pieces of luggage would the container normally hold? - About 40; it depends on the size.

F This has all to do with the weight, has it, /

A it, the weight of the container and contents. It is 700 kilos; is that right? - Yes, a full container is 700 kilos.

But it is of the order of 40, -depending on the size of the items and their weight? - Yes.

B BY MR. CAMPELL: Could you look again please at Production 157: did you have any responsibility for filling this in? - Yes.

Which parts did you fill in? - This container.....?

C Which parts of this document did you fill in? - I fill all in myself.

You filled it all in yourself? - Yes.

D Is there any part of this document which you did not fill in. Is there any item there which you did not write? - No; all write, I write myself.

I am sorry, I am not catching you? - I done all the writing.

You did all of it? - Yes.

E So far as the AVE which contained the interline bags is concerned, do I understand as you give evidence here today you have no specific recollection about the number of bags that were in it or anything like that? - No, I don't know anything.

F Do/

A Do you remember giving a statement to a Detective Sergeant Ronald Knox on 11th January, 1989? - Yes, but I can't remember the name; I give statements, I give them a couple of times.

B Would it be fair to say, Mr. Sidhu, that you would have had a better recollection of events on 11th January, 1989 than you do now some considerable time later; would that be fair? - I don't remember.

C What I am asking you is this, is it likely you would have had a better recollection then, just some days after the disaster, than you do now? - I don't remember anything, no.

D Can I ask you this, do you recall saying to the policeman who took the statement from you on that occasion that you ^{did}/recall seeing the container with its side rolled up and you did recall seeing about five or six bags in it? - I don't remember.

E If you did say that to the police officer is it likely that at that time you would have had a recollection which may have escaped you now? - Maybe, but I don't remember anything.

F BY MR. BAIRD: Mr. Sidhu, the document you have been referred to, Production 157, I think we/

A we have been told, is called a container build-up record card; is that right? - Yes.

You filled all of that out? - Yes.

B What did you do with it once you had filled it out? - When the flight finish give it back to supervisor.

Where were you when you filled that document out? - In the build-up when checking container.

C Do I understand you to mean as you fill up each container you would fill up the relative line for each in that document or do you complete that document all at the same time? - Not same time, but start three or four and then start others when they fill up.

D As you fill up a particular container do you put a line in this document in front of you relating to that particular container? - I can't understand. When we start we start two or three containers, like what class, first class, and fill up, and then some bags come in and start some more containers.

E What I am asking you is when do you fill that up? - As soon as we start containers, the same time as we start the container.

F At/

A At the same time as you start the container you will go to this document which is attached to the stand and fill that document up; is that right? - Yes.

B So that means you write down all the information which is contained in that document, including the weight? - Yes, fill up and put weight on it.

BY THE COURT: Do I understand that the weight column really is just an approximation? -
C Yes.

You just put down "700" for each container without actually weighing it; is that the position?
- Full container is 700.

D It is just accepted that a full container will be 700 kilos? - Yes.

BY MR. BAIRD CONTINUED: This is one of the things I was just about to ask you: 700 kilos is an estimate, isn't it. Do you know what I mean by that? - The company give us that.

E The company tell you that a full container will weigh about 700 kilos; isn't that right? -
Yes.

F If you have a container which is filled up with baggage it will weigh roughly 700 kilos; is/

A is that right? - Yes, full up.

You do not actually weigh that, do you?

- No, we don't weigh.

B The other aspect about this I want to ask you about is this: you will notice that line 7 of that document relates to container 4041: do you see that? - Yes.

That is shown as weighing 700? - Yes.

Do you see that? - Yes.

C What I want to ask you about is this, did you fill that card in showing the weight of that container as being 700 while it was still sitting outside the supervisor's office? - I don't remember now. I can't remember who told me, No. 1 or supervisor, full container 727.

D Does that answer mean then that container had already gone from the supervisor's office out to 727 and then over to Flight 103? - Yes.

You were not involved in that, were you?

E - No.

That must mean therefore you were told by someone that that is what had happened to that container, is that right? - Yes, someone tell me that's 700 kilos.

F Which/

A Which means it was full? - Yes, full container.

And you were told it was full after it had been to 727; is that right? - I don't remember.

B Is that what it means. In order for you to fill in that chart that that particular container was full -- i.e. that it weighed 700 kilos -- somebody would have to tell you it had already been to 727; is that correct? - Yes, that's right.

C And that it was going to be taken over to Flight 103 as a full container; is that right? - Yes.

Do you know who it was who told you that? - I didn't take the container.

No, but do you know who it was who told you that it was now a full container and it was going to Flight 103? - No, I can't remember. Maybe supervisor or No. 1.

D I just want to be clear about this, Mr. Sidhu: is it not the case you filled that chart in before that container went out to the 727? - No.

You were told that is where it had gone and thereafter you filled it in; is that right? - Yes.

E BY MR. ANDERSON: Mr. Sidhu, do you remember at what time of the afternoon you had the interline bag container pointed out to you? - No, I don't remember.

F Would/

A

Would that be early or mid or late afternoon? - Maybe mid afternoon, 4 o'clock, 5.

And it was to go to the 727 when it arrived at half-past 5; is that right? - I can't remember what time that flight that day.

B

Are you able to give us any help and tell us for how long might the container have been stationary outside the supervisor's office? - I don't remember.

C

No re-examination.

EVIDENCE FOR THE CROWN ADJOURNED.

D

Adjourned until Monday,
29th October, 1990 at
10 o'clock a.m.

E

Certified as correct,

Thomas A. Risher
Don B. Auld
Jack H. Chalmer

F

Shorthand Writers.