

Visit to Velva Liquids

Summing up

WITNESSES FOR THE DEFENCE

Adolphus CLARKE, the Defendant - (Sworn)

(The court adjourned for the day at 4.15 p.m.)

Wednesday June 11, 1980

Adolphus CLARKE, the Defendant - (Recalled)

(The court adjourned for lunch at 12.14 p.m.)

B (Following submission by the Crown His Lordship ruled that the following should visit the site at which the torso of Eileen McDougall was found at Velva liquids and that a tour of inspection of Velva Liquids should be made.

C HIS LORDSHIP and the Clerk of the Court and shorthandwriter
Mr. Walsh, Q.C. and his learned junior
Mr. Potts, Q.C. and his learned junior
The Officers in charge of the case namely
Detective Superintendent Anderson and his Assistant
The Defendant and his instructing solicitor
The Jury members travelling in a separate special coach.

D A tour of inspection was led by police officers in charge of the case and areas referred to in evidence were all visited and examined by the members of the jury and by the learned judge, a shorthand note being taken of the discussions and proceedings, on site.

(The court reassembled at 3.30 p.m. and adjourned for the day at 3.40 p.m.)

Thursday June 12, 1980

E (Mr. Walsh, Q.C. addressed the Jury on behalf of the Crown)

(Mr. Potts, Q.C. addressed the Jury on behalf of the defendant, Ernest Adolphus Clarke)

S U M M I N G U P

F HIS LORDSHIP: You may think that the person who murdered the girl whose body was found in Tank No. one was extremely wicked and extremely callous - and notice that I said person. I did not say man - but you might say that, particularly having seen the site and particularly bearing in mind the detailed evidence of the pathologist, you can only conclude it was a man and you might also conclude that that man had a fair amount of strength and a fair amount of skill with a knife. You might also think that he was as cunning a man as there has been as regards the disposal of his victim.

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H You know from your ordinary experiences in life that when a person is found murdered the Police flock to the scene with their cameras with their scientists, and with their doctors and

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without regard to the hour of the day or the days of the week and there is put into operation, as they did in this case from twenty-fourth of June, a mammoth enquiry. You might think that the man who killed that girl, whoever he was, meant to prevent an enquiry as to her death and whoever that person was may well have succeeded, so you find yourselves trying a man for murder years and years after the crime has been committed and the Police, by reason of the cunning of the killer, have been deprived of that freshness of approach and detailed analysis of the movements and denied the accurate recent recollections of witnesses and of friends of the girl, so years after the killing you are appointed to decide whether that callous, cruel, cunning man is the man in the dock, Ernie Clarke. When I say he was a callous man who killed this girl, a cruel man, cold blooded too when it came to the dismemberment, I am not inflaming your passions in order to reach a verdict against the Accused. Part of the reason for my introduction to this summing up is to emphasize to you this: that so filthy, so shocking, and so callous a crime you would not attribute to Ernest Clarke - there he is - (indicating the dock) unless you are sure that he is the man who did the killing. That is the first principle and the most important principle that I isolate in this summing up. Whatever the state or whatever the degree of vileness and cruelty and callousness of the crime, approach your task on this basis: that the Crown has the burden of proving guilt against Ernest Clarke and of all the people in South Shields in January 1970 who are presumed innocent of the killing of Eileen McDougall those rights surrounding Clarke will emphasize to you at this stage that he is presumed innocent of the crime of killing Eileen McDougall and the Crown has to prove him guilty.

When is a man proved guilty? That is a question easily posed and the answer is very easy. You will find Clarke guilty of this murder if on the whole of the evidence you have been made sure of his guilt. If you have not been made sure of his guilt, you must acquit. Notice that in the speeches and indeed in the evidence, particularly in the final speeches, the people who were addressed were you. Nobody paid any attention to me; neither should they, because I am not the person who is trying Ernest Clarke. You are. I am only

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presiding at the trial and ensuring it has been the task of skilled learned counsel to ensure that the trial is conducted according to law. I merely tell you the law which is simple in this case. I remind you of the main points of the evidence, but I do not do that and I hope I shall not do it, to attempt to influence your minds as to the verdict you should reach.

If, in the course of the summing up you detect by way of a phrase I use that I may have a view upon the evidence, do not attribute to any words of mine importance which they cannot in law deserve. I may only be making comment to lure your minds to a particular line of thought and I would not be seeking to persuade you to come to any conclusions which I think you may have reached. You will in your juryroom tomorrow reflect upon what I include in the summing up and you may well say - as you might say about Mr. Walsh in certain respects, or Mr. Potts in certain respects - but, certainly you can say it against me: Well, the poor fellow went round in circles, that is to say, was just talking a lot of nonsense when he made that particular comment.

Now, that is how sure you are and that is how sure you will remain throughout your deliberations. You are the people - the jury - who decide on the whole of this evidence whether guilt has been proved. If it has been, it is your duty to bring in a verdict of guilty of murder; if it has not, you say not guilty. It is your foreman who will tell us what your verdict is. When he does tell us, as I hope he will be telling us tomorrow, he will be speaking on behalf of each and every one of you and I hope a unanimous verdict and it has to be a unanimous verdict until I tell you to the contrary and I would hope very much that you are able to reach a unanimous verdict without resort to the majority verdict, which I can accept in certain circumstances, but I will not accept a majority verdict until I tell you so. If we reach that stage, and I hope we do not, I will explain the law to you about majority verdicts, but for the moment, for every moment until I tell you to the contrary you must try to reach a unanimous verdict.

This man whom you are trying for the most serious crime in the criminal calendar is now at this moment a man of good character. You will utilize his status in society, enjoying

a reputation - a good reputation, as you think fit. This, of course, is not a case of conflict where possibly you may think good character with honest reputation can be very helpful, but however in this trial you must as you wish utilize in your estimation of the evidence particularly his evidence the fact that he is a man of good character. You will in your deliberations have to resolve many issues which arise between the Defendant and the Crown and that word "Issues" was contained in the oath which you took, that you would resolve the several issues joined - created - that is arising between the Crown and the Defendant and give a true verdict according to the evidence..

Let me highlight one of the issues. Tomorrow you will be considering the girl called Elizabeth McDougall - Anne Peralta - sexual intercourse with him four times. "I used to give her a few pounds," said that Defendant to the Police, "but she wasn't a prostitute". That is what he told the Police. I have not given the exact words, but that is what it comes to and four times with a young girl called Anne. He does not recall the occasion when he had intercourse, if he had it, with Elizabeth, or the circumstances. You have seen Elizabeth. You have heard her give her evidence. You have heard her denial and you heard the measured way, you may think, in which Mr. Potts put suggestions to her and without being absolutely accurate in my recollection he put it in this way. "I suggest to you you did have intercourse with Clarke" and "I suggest I didn't said Elizabeth". Mr. Potts did not go on to suggest where intercourse had taken place, how it came about and how many times, at what time of the day, or in what circumstances and the Defendant, himself, did not give you any further help, you may think.

Whether Elizabeth had intercourse with the Defendant or not may not be the most important issue in this case, but you may think that it will have eventually some importance, certainly you might conclude if you believe Elizabeth and disbelieve the Defendant that the Defendant was being a liar to the Police. If the Defendant was being a liar with the Police you might also conclude and you might find that the Defendant had reasons for his lie. I have chosen Elizabeth because she may be remembered by you perhaps more clearly than any

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other witness in this case to demonstrate to you what an issue is and there are many of these issues. You might also recall, indeed possibly never forget, Mr. McDougall, the brother. There has been a lot said to you about the McDougalls in this case by the Defendant to the Police, that Elizabeth was having intercourse with him and it would seem from what he said that there was a reward of money. Eileen is said to have been a teaser, which is a vulgar way - when I say vulgar I mean using it I hope in its purest sense - a common way of describing sexual desires and possibly she is a lascivious girl. Mr. Potts mentioned and quoted accurately from the evidence that on a certain examination that "this girl was not a virgin" and the latin term is Virgo Intacta, if one is a virgin, but that was related to the doctor's evidence. Certain witnesses and there were more than one, have spoken about the sexuality of Eileen and you know she had played truant and you know there had once been a time when she was young when she stole a handbag and you know that from time to time more than once she, using an ordinary expression, ran away from home. She did not run to Paris, London or Glasgow and never returned. You might linger on the McDougalls and having seen a couple of them, Elizabeth and her brother, you might think that possibly although the McDougalls had a number of children perhaps these children would become very good members of society and having seen Elizabeth and the photographs of Eileen you might think that Eileen herself must have been a good looking lass, using a term so attractively used in your own county.

Why would anybody want to kill Eileen? Was Eileen as bad as she was painted in the evidence? You may not be so sure. Mr. Potts in his comments commented about the disappearance of Eileen. He is justified in doing so. He asked you to recall perhaps the situation where a girl or young lady, in the cultivated atmosphere of a vicarage and superintended by her devoted father, suddenly disappears, there is a hue and cry and he never would say that as regards Eileen. Well, if nobody has heard of her since seventeenth January you must not draw any inference from that to show that Eileen on what you have heard in the evidence was the sort of person whou would have run away from South Shields

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A or she would have been, if she had not, at pains to be fixed up in
fixed place of living over the weekend of sixteenth to
B eighteenth January and at least stayed in her own native
town. These are matters that you will have to ponder, but
I am now going to introduce you to my summary of this
case and the questions which you have to answer. Do
remember this: It is my formulation of the summing up that
you will hear. If another judge were here trying this
C case you would adopt his formulations and do not think that
there is anything magic in the way I am going to formulate
questions and marrying what I hope will be the main evidence
which you will consider. In answering those questions in
your deliberations tomorrow do not say to yourselves: Well,
the judge did not put that as a question. The judge may
not have done. You consider all the evidence. Do not
restrict yourselves to what I have raised in the summing up.
D Do not think that your deliberations have to be on the lines
which I am formulating questions for you rather than questions
which you have to answer. Tomorrow when you come into court
tomorrow to give us your verdict. you merely say guilty or
not guilty and you do not ever tell us, or indeed tell
E anybody else, if you have any wisdom and I am sure you have,
how and why you reached your verdict. Just reach your
verdict.

Mr. Potts, and I am coming now to the evidence, has not
formally admitted in this case and this is only by way
of assertion, that the girl whose body was found in tank one
F was Eileen McDougall. So, the matter has to be proved and
the first question I put to you and it is one that you will
answer I am sure most easily; Who was murdered? Your answer.
I would expect, will be: It was Eileen McDougall. I do not
propose to spend a lot of time in the summing up dealing
G with what you may think was brilliant evidence, brilliantly
collected by the Police and the doctors to establish the
identity of the girl whose torso was found in the tank.

Let us mention them, because some of them at least
deserve a mention in the summing up:

H Dr. Jackson, the Orthodontist of Newcastle University:
Look how hard he worked in scrutiny of the teeth of the body -
of the torso - teeth from the head - how he explained

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A cusps - the unusual features of the teeth - how he examined the rest of the McDougall family and found them corresponding.

Dr. Robinson: You did not see him. He told us that the girl had a fractured clavicle.

Dr. Tait: You did not see him - told us that Eileen had an appendix operation in September '69.

B Joan Dawson - you did not see her - produced, I think it is called a school report form.

C Dr. Ranasinghe: You may have been happy to see him and to listen to him, and to observe the work that he did in the establishment of the identity of this girl and he demonstrated with painstaking proficiency and you may think, brilliance, all the features that remained of the head and the torso, and finally the girl's finger having been cut from her hand, an officer - I do not think you saw him, - I think his name was mentioned, - told you with confidence and with certainty that the ridges of, I think it was the thumb, was it not? - the ridges of the thumb from the hand of the bit of the torso matched all the ridges. They were found to match with her fingerprint in Eileen McDougall's school report form, which she had to handle when she went into an upper class. As the evidence showed you will say perhaps that she - Eileen McDougall - it was, who was murdered.

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H Now, I have used the term and learned counsel throughout the case have used the term "murder" for this particular crime. Nobody suggests that the person who carried out the crime did not commit murder. Obviously then I leave it with you. The person who did batter Eileen to death you may conclude with ease, either intended to kill or to cause her grievous bodily harm and indeed did kill her. These are elements which constitute a murder and nobody here suggests you can bring in any lesser verdict than guilty of murder, or not guilty of murder, so I presume now in this part of the summing up that when you deliberate tomorrow you will conclude that she - that girl who was murdered - was Eileen McDougall, but you might then, and notice that I say might. I am not saying you must then, but you might then say to yourselves. What is the next question that we have to decide?

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You might say to yourselves: When did Eileen disappear on this evidence and when was Eileen McDougall murdered? An indictment is a charge sheet. The charge here is murder and the charge sheet, that is the indictment, reads that this man murdered Eileen McDougall between the seventeenth of January and the twenty-fourth of January and that is the period within which the charge is laid and that is what has to be proved before you bring in a verdict of guilty of murder. Now, who helps you on the evidence to decide that question: When did Eileen disappear and when was she murdered?

You remember Anthony William McDougall. "I brought Eileen back from the South - Maidstone - on Friday sixteenth January. We parted at the station between twelve o'clock and two o'clock. I can't help" says he "on what she was wearing. She had a couple of plastic bags with her" and he could not help you as to what was in the bags.

Elizabeth McDougall, that is Elizabeth Peralta: "I loaned Eileen a coat when she went to Maidstone. The last time I saw her alive was at Latino's. She was wearing a black coat. I must have got my coat back from her on the Friday. I had seen Eileen in the Douglas Vaults and that is when I got my coat back." She said, "I think, it was Saturday," then she said; "It must have been Friday I got my coat back." Then she said, "I think I saw her at the Vaults on a Saturday and I also saw her at Latino's." Of course, there is uncertainty in her evidence and she has cast her mind back on matters which may not at the time have been of any great materiality and she has cast her mind back nine years, but you get a bit more help as I go on, when I come to deal with the evidence of Mrs. Summerly on this point which I shall do now.

This girl, Mrs. Summerly, was Mary Bell. She said: "I am sure it was Friday I saw Eileen at the house. She was there when I came home from work and it is because I was working and I had come home from work that I say it was a Friday. She was there when I came home. She was wearing a brown shift dress," shift being the girl's term to describe this see-through dress. She had two carrier bags. I lent her my coat that day. It was a black coat. It had velvet

A cuffs. It had a velvet upright collar. The bag that she had left at our house she took with her. I have not seen her since! If Eileen had her sister's coat on Friday you may think that there was no reason to borrow Mary Bell's coat. It may be you will be able to resolve any difficulties occasioned by the uncertainty in Elizabeth's evidence by B Mary Bell's evidence. Who else saw her? Mrs. McDougall. You did not see this lady. Her evidence was read and she said in her evidence: "The last time I saw Eileen was Saturday the sixteenth of January. I am not making a C mistake when I relate in evidence Saturday sixteenth of January. Saturday was not the sixteenth January; it was the seventeenth." That is what Mrs. McDougall originally put in her statement. She was told later the sixteenth D January was a Friday, "for it was a Friday I saw her, namely sixteenth January. The time that I saw her would have to be between twelve and twelve-thirty which is my lunch break from work." Later she said; "I am absolutely sure I saw E her Saturday afternoon. She was wearing the mustard and navy striped dress. She was wearing black boots and carrying a handbag. As regards Saturday night, Friday night E and Saturday night, you may with ease conclude that Eileen was in the company of Graham Aitken, who is now a mature man of twenty-nine or thirty. You will recall him. He is now happily married and a fireman somewhere in the South and I only tell you this to bring your mind back. "I met Eileen", says he, "in the Douglas Vaults on Friday the sixteenth. F I went back with her to my house and of course as to nature they indulged in intercourse in the house - in his house - some part of his house. "I saw her at Latino's on Saturday. I left Latino's and went home at 2 o'clock in the morning G on Sunday. I was in fact put out of bed. Eileen was outside and she was looking for shelter. She was distressed. It was raining heavily. I seem to remember Eileen was wearing jeans or trousers, type or colour I cannot recall. I took her into my house, indeed she came into my bed. We, of course, then indulged in each other" and they were roused by Graham's father at seven o'clock. The girl got dressed and H left the house. Aitken has never seen her since or heard of her since, apart from this case.

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The last you will hear of Eileen in South Shields is seven o'clock in the morning of Sunday eighteenth of January. Lynn Telfer was a sister of Eileen. She said she saw Eileen on Saturday the seventeenth wearing a see-through dress. The only other relevant witness that was called said that she saw Eileen and she thinks, and that is how it was put: "I think it was Monday."

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Well, you may conclude with what evidence is before you that Leslie is probably wrong. I was speaking about Leslie Hall's thinking that she saw her sister on Monday. There is no evidence before you of Eileen being seen after seven o'clock on Sunday morning the eighteenth of January. Now, when was Eileen murdered, as distinct from what is the last time that we hear of Eileen in South Shields? This matter has importance, because of course of the period alleged in the indictment. If she was murdered after the twenty-fifth of January this man could not be responsible. Certainly, this man left his employment on the twenty-seventh of January, in other words never worked on the premises again from the twenty-seventh and plainly he could not be putting a body in the tank, or a torso in the tank after the twenty-seventh January. You may think Mr. Potts raised with the pathologist only a few questions about it's importance about photographs, of course, in Mr. Potts' final speech to you it was put that Eileen could have been murdered at any time in 1970. The body would have been preserved just the same if she had been in the tank nine years, eight years and I think Mr. Potts got as low as seven years in questioning and then I raised a question. Of course, you bear in mind that there is evidence from the pathologist, expert evidence, from which doctors are able to give the presumed age of a person when there has been pathological examinations of the body after death. There was not much in the pathologists, you may think, about the work they did. You may also think there was Ranasinghe. You recall Dr. Ranasinghe told you about the development of certain radial bones and how in the torso and the wrists of this girl whom they examined after death they came to the conclusion that the girl was about sixteen years

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of age and you may think that if Eileen McDougall, knowing about her South Shields background, knowing that she had been brought back to South Shields by her brother and not having in the evidence any suggestion that she ever lived anywhere else but South Shields, that she would be likely to remain in the South Shields area after she left Aitken, and do you think, considering the uncertainty of her life at that time, that she would have appeared somewhere if it was only for a bed, if it was only for a meal, if it was only for help and it may be - it may not - you may answer it differently; it may be that you will conclude that she did disappear on the seventeenth of January after she had seen Aitken.

MR. WALSE: The eighteenth.

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HIS LORDSHIP: On the eighteenth of January after leaving Aitken you might think, particularly, the girl, from the number of years she lived at South Shields in her life, apart from the Kent holiday, did not have many clothes. Talking about January she borrowed one coat from her sister and then had to borrow another coat from Mary Bell. You might think at least that Mary Bell would eventually have been in touch with Eileen or vice versa fairly soon after the lending of the coat, according to Mary Bell on the Friday.

So, you are left with the question: When did she disappear and when was she murdered? You answer it in your room tomorrow.

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But, next comes one of the most important questions in this case, you may think. When I say most important you might not think so. This is the question: Was Eileen murdered by somebody closely connected with Velva Liquids? The Crown says "yes". Let me marshal the evidence which may point to the murderer having a close connection with Velva. Do you think that the disposal of the torso and the head in tank one was an extremely cunning attempt to conceal the murder, in other words prevent investigation. You might say to yourselves in your room tomorrow: Who would chose tank one? Having seen the route to tank one, which has to be achieved by a platform and over tanks and by a walkway a short way to another tank and having

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yourselves seen the area which, of course, is not exactly like this lovely model in front of you (Indicating). I mean there are no pipes to clamber in that model as you had yesterday. Who would choose tank one as a place of concealment and you may think complete concealment? You might think that it would hardly be a stranger to Velva, but you might think it could be a stranger to Velva, who could have lived in the area and knew the site, but what about the head? What about Eileen McDougall's head? There is no dispute that was found wrapped in canvas which according to the foreman, Fenwick, is normally seen on the Velva Site and that canvas packing which housed the head of Eileen was tied with a substance described as gland packing. I referred to it as being equivalent to a washer. You know the stuff without going to look at it now; that thinnish, but strongish black cord-like substance and that gland packing the evidence says was used at the site and the Defendant agrees it was, of course, the canvas which housed the head is that - if that be the term - of Eileen, and is a type said the manufacturers and the experts, that is only used on ship joints. It was on the evidence, the canvas which was used at the Velva Site. It does not follow that the canvas which surrounded the head found in the tank was the canvas which was taken from the site. It could have been taken from a ship.

The next point that may help you in your deliberations concerns the pieces of clinker, or coke, or stone - they have been given these three titles - which were found in the torso and which matched paint or surround at the site.

The garments found at the site may or may not help you in your task on this particular question. It depends what you make of the evidence of Embleton and the evidence of the other witnesses regarding the clothing when you come to review tomorrow morning, but like the cuts in the boucle of the garment, Exhibit 28, do they help you in answering this question? Remember that nobody has said that any particular garment or article found at Velva belonged to Eileen. Her sister and friends say; "Well, the jumper," Exhibit 28 "and the blouse are similar to what we all wore at that time" and Mrs. Cooper, the Boutique Buyer,

told you about fashions at that particular time and how the blouse and boucle wear were worn I think together round about that time.

It may be when you come to deal with this question as to whether or not the person who murdered Eileen was closely connected with Velva it may well be that you will say to yourselves: "Well, the concealment of the body and the choice of the place for the body, for the torso, and the head shown on the particular 'photos here are according to conflict. It is true that there is no evidence in the case which directly said that the Defendant, Clarke, knew the terms under which these tanks were let to customers like in the sense of using their petrol and using their chemicals. It is true and Mr. Potts is absolutely right, there is no evidence that the Defendant knew that a particular tank would be empty. Mr. Moon said that tank number one - I think he mentioned another tank - really were not in the running at all being empty for the foreseeable future and every tank contained from time to time I think 930,000 gallons of petrol, on the other hand, there was a witness called, I think, Dinning. You did not see Dinning. He left the premises I think sometime about 1967, or '68, but his evidence was read and he paid great compliments to the Defendant as other people have done in this case, that really he was a very fine workman, highly regarded and looked upon really as the most expert person at Velva. Of course, that description does not contribute - I think that was the term "expert" was it not?

MR. WALSH: Experienced.

HIS LORDSHIP: Most experienced man at Velva. Of course, that estimation by Dinning does not prove that this man in the dock knew that tank number one was not due for cleaning in the foreseeable future, but you may think to ask yourselves, assuming you conclude that the murderer was connected - I am not saying employed - but connected with Velva. You may have to consider who are the people who were connected with Velva.. Well, there are very many. There are visiting tanker drivers. You have not seen any. The crews from the visiting tankers. You have not seen them and members of the crew - oil inspectors who were present during the

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discharge of vessels. You have not seen any oil inspectors. Security officers, who on the evidence work from eleven till six and possibly strange intruders and certainly the office staff.

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You may decide to concentrate in your assessment on who was connected with Velva with those who have or would have had a detailed and a likely detailed and intimate knowledge of the actual site, its running and the contents of the tank. Now, who are these people? On the evidence they are Mr. Moon, the Manager. You might exclude him with the greatest ease. He said he did not know Eileen McDougall and I am sure nobody intends to suggest that he did. Brian Fenwick, the foreman: "I do not think I have ever seen Eileen McDougall." Embleton, who figures very much in this case: "I never knew a girl called Eileen McDougall. There is no one on the Wedding photographs which you show to me, whom I know." Dennis McManus, whom you did not see. He was not called so the evidence was read and he said the he did not know Eileen. The last employees over the period before 1970 were included I think in the evidence Fenwick - they include Charlie and Mallenby - who had ceased to work before the relevant period during which you are investigating, so you are left with Ernie Clarke, the Defendant. Did he know Eileen? Of course he did. There is an abundance of evidence, you may think, of his knowledge of and acquaintance with Eileen. He denied to the Police, did the Defendant, that Elizabeth and others ever baby sat for his children. That denial to the Police apart you may conclude with ease that certain girls, Elizabeth, Anne and Mary Bell visited Clarke's house frequently during '69 and certainly well into the Autumn of '69 according to them for the purposes of baby sitting and that Eileen at least visited Clarke's house often. Even Eileen's brother who brought her from Maidstone visited Clarke he said, and "it must have been after October '69, because, I went with my wife. Eileen was with me and thinks after October 1969, because of the presence of his wife, whom apparently he had married in October '69, so there is plenty of evidence that this man knew Eileen and that she had been to his house and you might infer that Eileen

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would know the house and would know the Defendant and would know the circumstances in which he lived. Do be careful though; an acquaintanship with Eileen McDougall away in 1969, or early 1970, even knowledge of Eileen in no way connects the Defendant, Clarke, with guilt. Many people in South Shields knew Eileen and some men, certainly two, on the evidence knew her sexually, to put in in not too rough a way. There is nothing, you may think, absolutely nothing indicative of guilt in being an acquaintance of Eileen if it be the fact that Clarke is the only person at Velva who knew Eileen, that may well be your view. You may conclude that by reason of the ignorance of Moon, of Fenwick and McManus and Embleton of Eileen, that these people whom I have just mentioned, Moon, Fenwick, McManus and Embleton can be excluded and excluded with ease as potential killers of Eileen.

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Of course the killer of Eileen could have been a stranger at Velva as regards employment, yet having knowledge of the site, it's tanks, it's access, but you might say to yourselves: Would a stranger have used the canvas to cover the head and the gland packing to tie the canvas? You decide.

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I come to my next question which I have formulated for you. What is the evidence that may point to the guilt of the Defendant? You must bear in mind the days set out in the indictment, between the seventeenth and twenty-fourth and you will have to consider at that period Clarke worked, if the hours of the Duty Book are accurate and nobody suggests they are not, subject to one observation from Embleton: you never go to your entry(?) unless it happens to be open you find Clarke working on Sunday eighteenth from seven o'clock till two, on Monday nineteenth from six o'clock to two, on Tuesday from six o'clock to two and Wednesday the same, Thursday the same, Friday the same and Saturday which was the twenty-fourth he did not work. Sunday he did not work. Monday he worked from eight to four-thirty and on Tuwsday the last day that he ever worked at Velva it was from eight o'clock in the morning till four-thirty and his only call at the works is presumed about then, I think the second of February when he collected two weeks wages which

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had been mentioned in Exhibit one, which is the first and only letter from Mr. Moon, so you will concentrate on the period I told you and you will no doubt consult that Exhibit in order to remind you of the times that he worked and you will be particularly comparing his hours of work and the hours of work worked by Embleton from his own evidence. There is no evidence from anybody except Embleton of the Accused having done anything suspicious while he was there at Velva and indeed Embleton, himself, was not related to any particular incident as being suspicious or criminal incidents. He just recalls certain incidents, which you may think coordinates Embleton's evidence to show there is nothing in Embleton's evidence which is a pointer to guilt.

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Two facts are certain and accepted by the Accused, himself, if the wall behind tank four was built up it was a pointless building up and was unauthorized, if five tons of chemical were allowed to flow into the cavity beneath tank four there was no possible explanation or justification for that five ton wastage. Carelessness there could be in letting a valve run if the exterior has been heated but as to taking off five tons is too much even for carelessness. So, you may start your deliberations in this way:

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Firstly, was the wall built up behind tank four? You might wish to use the expert evidence from a witness you did not see. It is very brief and said this: His name was Cooke. "I have examined Exhibits 58 and 59. 58 are bricks from the over part of the wall. 59 from lower down. The mortar present in the upper bricks shows a general difference in colour to that in the lower bricks. This indicates that the mortar courses in the upper and lower courses have been made from different mortar mixes, however no significant features have been found by chemical or physical analysis, which suggests that one mortar was mixed at a greatly different date from the other;"

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So, his evidence does not point, or rather does not help you to decide whether the particular courses were put in as recently as the period laid in the indictment is what it comes to - Pringle it was, I shall be corrected if I am wrong, well before demolition. Give the Police

A their due they did photograph the wall before demolition.
Here you look at photograph nine from your coloured bundle
and the most helpful photograph, you may think, is
B photograph nine. You see the photograph and you saw
underneath the tank when you visited the site yesterday,
but this is 1980 and this photograph was taken some time
C in July 1979 and it was taken before demolition of the
upper wall courses. He told you, did Pringle, that there
was a difference between the upper courses and the lower
courses. The mortar appeared to be different here. You
D can see that it would appear to you to be different or
different to the expert as well and here Pringle said
E number three or four courses on the bricks were not tight
You can see the wall bricks are not tight and they
seem to have been laid without mortar out there; this is
built. Now, you may conclude - you may stop to look at the
F photographs - that somebody, on the evidence of Moon and
D Fenwick, without authority and indeed pointlessly at some
time built up that wall, but what is some time? Well,
I am telling you on the evidence that it is any time before
the wall was examined by Pringle, which is July the
thirteenth of 1979. There is no pointer from the evidence
E of Pringle or the expert that that wall was built up
pointlessly as it was built up some time - at any time -
within the period laid in the indictment, but there is no
doubt that behind the bricked up wall was five tons of wax-
like chemical which had obviously been flooded into the
F cavity from the tank four, which used that particular
chemical and that chemical had a particular quality. I
was going to use the term crystallization, which is probably
G wrong, but solidified like wax - one that has viscosity -
and the Police took out all the five tons and they sifted
all the five tons - you may think a formidable task - and
the taking and sifting was done in July '79, so at some time
before July '79 the flooding of the cavity took place.
Flooding may not be the right term; the flow into the cavity
must have taken place obviously at any time and at some
time before July '79.

H The next question, you may think, may be this: Who
was responsible for bricking up and who was responsible for

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the release of chemical into the cavity and this is where Embleton comes into the case and comes into it in an important way, you may think. Embleton says in terms it was Clarke. Clarke says in terms: It was not. "I did not do it." I think indeed in cross-examination he said that Embleton was a liar. It is because of Embleton's evidence, of course, that the Police took the trouble to investigate tank four, knocked down the wall and took out five tons and put it in plastic bags to sift it - on Embleton's evidence, but that is a point which will take more than a few minutes. I will conclude on my resumption of the summing up tomorrow morning at ten-thirty, so I shall now break off. Would you be good enough to come back at ten-thirty tomorrow.

(The Court adjourned for the day)

Friday June 13, 1980

D HIS LORDSHIP: Ronald Embleton, a plant operator, told you he had worked at Velva fourteen years come the twenty-fifth of February, 1980. He was offered, he said, the post of foreman somewhere around 1969. One day he came to work he asked somebody, I think he said it was McManus, E "Where is Ernie? I then went to tank four. Ernie was behind it and he was in the process of shutting the valve off. He had flooded underneath. It was flooded up the wall at the far end. On another occasion he was bricking up at the back end of tank four. I saw him do this" and then he said F "the front end of the tank he saw. You each saw the front end and you saw the front end when you went to the site. "I couldn't say which was first, the bricking up or the running of the wax. I couldn't see any reason whatsoever for bricking up the wall or filling the chemical into underneath the tank. 'Why have you done that?', I asked. G "That's nothing man", came the reply. "I took the matter no further, nor did I report it to the management. The incident occurred two to three weeks before Ernie left." Having given that answer he explained "It's a long time ago", in other words his memory had to work hard to give H his estimate. Then he added; "It wasn't long before Ernie packed up. The whole incident was a month before he left,

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I guess, in that distance of time it could have been less, it could have been more." He told you that he had been asked to dig a hole six feet approximately by three to four, by two to three feet wide, and leave the hole and "I was going to make it bigger on coming to work the next day!" He may not have said "next day", but after he dug the hole "I was met by Ernie who said; 'I filled in the hole Ronnie'. I didn't go and check the hole. I didn't ask why. That was it." Then he said "This explanation was a month before he left, I guess, and that distance of time could have been less, could have been more." He, himself, in August started to dig the hole. He wanted to see what was in it. "I didn't know at the time what the Police had found in tank four. I dug approximately for an hour, maybe two, with a couple of young boys with me. The management got to know and they said it should be reported to the Police!" He had not by that time found anything. "The digging of the hole came after the bricking up of the wall and the running of the chemical. I don't think I was foreman during the incidents of the running wax and the digging of the hole. I can't say whether I was chargehand or I hadn't been foreman for three or four months when the letter was sent to the management by Ernie about me. I was foreman just before Ernie wrote the letter" which you know is probably the twenty-ninth of January, 1970 "it was during the shift we were both working on we continued (following word rendered inaudible by noise outside court)...

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He was then referred, as you would have expected, to the chart which is Exhibit thirty-three and is a convenient extract from the time book kept at Velva. Look at Exhibit thirty-three. He said the incident could not have occurred on Sunday eighteenth or Monday nineteenth, but the incidents did take place. Pressed, he said, looking at the chart. "It must have been before the eighteenth of January and the digging of the hole was after the other two incidents, the bricking up did happen and I did find him running off liquid. We don't report everything. It's not ethical to do so, above Ernie's head to someone else." Looking at the

A time chart, or time book, he said that you wrote the times when you started and finished work in the book yourself and the overlapping had occurred with him and Ernie "when I was on the back shift. I would go in half-an-hour before he was due to start work." That was his evidence; not every word, but I hope I have given you the highlights, of course, unless the bricking up occurred between the eighteenth and twenty-seventh of January those incidents you will say are of no consequence. Embleton is talking about incidents which did not deserve report. It is an estimation after a nine and a half year lapse - further you would not attach any significance to the needless bricking up and the needless flooding if the sifting of the flooded wax revealed nothing of consequence, but, did the sifting reveal anything of consequence? This is a matter for you. The blue boucle jumper, which I think is Exhibit twenty-eight, and the piece of gaberdine which virtually forms a trouser, leg were found, but there was rubbish found as well and you will recall that one witness, I think it was Fenwick, said that rubbish is thrown in the tanks from time to time - not ethical, but you cannot stop it. There were also found in the wax two pieces of brown stained cloth to which the Crown attaches no significance, one piece of red material. You might, or you might not think that finding rubbish even a cast off lady's garment or the leg of a trouser, or even a man's garment, because one was found in the trench, is of no great consequence, but, is it? It is a matter for you. Significant - that the jumper was in the opinion of the fashion lady whose name escapes me, from Binns, (sic. Mrs. Cooper) it does not matter, was size ten and that it was in fashion ten years ago. Mrs. Cooper was the lady. Is it significant, or is it not that, that jumper had been cut in a particular fashion according to the expert evidence by a sharp knife? You might say; well, perhaps the cut garment may be important if there is a reason connected with the killing of Eileen McDougall. Whether the point is good or not, you will say, but the Crown says that this jumper, Exhibit twenty-eight, when pieced together makes a complete garment, as the photographs of the model adorned with this garment showed. The cut, you

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might think is a blunt cut and cutting down the back from top to bottom and a cut along each shoulder unless - I say the back - I think the case was opened it was cut down the front.

MR. POTTS: My Lord, yes, that garment, the wrong way round.

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HIS LORDSHIP: The case was opened that it was cut down the front. There is a difference, of course, between what was opened and what was proved. The garment was cut down the back and you may conclude in a straight line from the presumed position of the label to the bottom of the garment. Is that of any significance? Yes, says the Defence, because Mrs. Cooper said this was not a garment that would be worn back to front, therefore, says the Defence, the cut is not of any significance. The highest the evidence goes, you may think, regarding connecting the jumper with Eileen is like this: Well, it would have fitted her and was the sort of garment in fashion, worn by young people at that time, namely 1969 and 1970. Of course, the garment would have fitted thousands of sixteen year olds in 1970. It would be worn no doubt by hundreds and hundreds, possibly thousands, of young girls round about that time, however, you will want to come to a conclusion and you might think the best approach is to look at all the circumstances. If you say to yourselves: We believe Embleton and we disbelieve Clarke, you might say: Why did Clarke brick up and why did he flood? If you also say: He is telling lies about this, you might wonder why he would be telling lies. There would be possibly other reasons besides the concealment of evidence for bricking up and the flooding. If there are, no doubt you will think of that now set against the jumper and trouser leg, what are the other pieces of material which had been discovered, those which were found in the sifting of the wax and you will conclude I have no doubt that they are rags. You may conclude that they have no salient significance in this particular case. What about the trench? What was found in the trench was a blouse - a little blouse that would fit a size ten. I do not think in women's fashions you get any smaller, but this is an observation perhaps I should not have made. It is not in the evidence, but it is a small

A size, size ten, which buttons down the back and has a sort of titillating opening at the front and the sort of blouse that it is said in the evidence could be worn with the jumper which I have mentioned as Exhibit twenty-eight. There was also found Exhibit seven, which is a vest found in the trench, a piece of canvas, and the couple of pieces of rags, and a piece of hemp rope. The rags and the hemp rope are not related by the Crown as being of any significance, but the Defence say: Take that into account and you probably will take it into account.

B "It is all very well," says Mr. Potts, he does not use this blunt language, he puts it more attractively, "to pick out of the trench a girl's blouse, or young lady's blouse, attach significance to that and disregard the rubbish that was also found, or the vest - man's jumper..(Interrupted)"

C MR. POTTS: Tee shirt, My Lord.

D HIS LORDSHIP: Tee shirt. It was a Tee shirt. The Defendant's evidence is that he has no recollection about his filling of the hole. Of course, he denies that he flooded underneath tank four. He denies emphatically that he did any bricking up, but if Embleton is to be believed that is one of the fundamental matters. You may think that Embleton was suddenly curious once the Defendant had been arrested to start to dig the hole at the site where you were yesterday, or the day before, and until he was stopped by the management. You decide what to believe, what to believe about anything found, whom you believe, whether there is any significance in what you accept from a particular witness. Is Embleton relevant in another aspect? Embleton was about to be made chargehand, said the Accused, when the Accused wrote to the management complaining at the appointment. "I" said Ernie "thought Fenwick should be appointed." Moon wrote a letter on the thirty-first of January, 1970, to Ernest Clarke dismissing him.

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G You need not look at the letter and the first paragraph of the letter which had been written by the Accused to Moon - the letter dated the twenty-ninth of January. That letter is not available it is only because it is not available that evidence - what lawyers call secondary evidence - has been admitted into the case, as the content

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of the Accused's letter of the twenty-ninth of January and detail is not before you, you may conclude with ease that the complaints in the letter and the terms used referring to Embleton and the relative merits of Fenwick were such that the management dismissed a man who on all the evidence was capable, reliable and experienced and who had worked at Velva a number of years. The Defendant's last day of work at Velva was the twenty-seventh and if this is a point - if it is a point - you decide whether it is a point or not. I am making no further comment. Was the Accused glad to leave Velva? Was he glad to find a justification for his leaving, namely engineering for himself a dismissal by making the formal complaints about Embleton. I pose it as a question. I make no further comment. You may dismiss it with ease. You may not.

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I come to another heading in my summing up in the review of the evidence with this introduction. You will want to consider the utterances made by the Accused. The utterances made by the Accused fall into two categories. Utterances prior to the trial and the evidence on them, utterances prior to trial can again be subdivided according to the identity of the listener and they are: Mrs. Stott (Scotts) the former wife of the Accused, Eric Swallow, a person serving a life sentence for murder at Durham jail and finally Anderson - the Police. These utterances by the Accused of which I shall remind you, you see, may not be of any significance, save in favour of the Defence. When I say "save in favour of the Defence" I mean that to be an illustration of the observation. Let us get this absolutely plain. Scott: Mr. Potts obtained from her the clearest answer, that at no time did the Accused utter to her any word which implicated him in the murder. That is a blanket assumption of the cross-examination. Mr. Potts obtained from Swallow an equal answer: At no time was the Defendant implicating himself in the murder. Here is the third blanket assertion: At no time in the Accused's utterances to the Police has he made any admission of being implicated in the murder, indeed his denials were quite emphatic, you may think, from the start and they were

A clear, further, let me emphasize this: From the outset of the questioning which went over a number interviews spread over, either two days or three days.

MR. POTTS: Three days.

B HIS LORDSHIP: Three days. It is stated and has to be stated that the Defendant did not conceal in his answers his knowledge of and acquaintanship with, and I am saying acquaintanship rather than friendship with the girl Eileen, so what is the point of reminding you of what the Defendant has said to the Police? Well. the point may be that in the Accused's atterances to the Police he has told an important lie - may not be. That is where Elizabeth comes in. It may be that he has betrayed or shown naivty, simplicity, on matters upon which he was expert and it may well be, it may not, that in certain aside observations to the Police he has tried to lay down as assent which the Police made, which may be to pacify the Police or may justify a Jury and it may not, but do bear in mind before I remind you of the evidence and of what he has said, that there has throughout the investigation been an emphatic denial by the Defendant as to his in the death of this girl and for the sake of completeness only, let me tell you, and it was said very plainly by Mr. Walsh for the Crown: There is not a grain of evidence regarding any admission by the Defendant, or the conversation, which was opened by Mr. Walsh, with a prisoner whom we now know was very seriously mentally affected, does not exist. It is not before you. Disregard it utterly and completely. What did the Defendant say about Stott? Did I say Stott? I think you knew who I was talking about. Yes, it is Scott. I am sorry. Lynda Christine Scott: "In October '71 I married Clarke. We separated in '75; divorced in '76. Last October when Clarke was released from custody," in other words he was put on bail; he came to see me. He talked about the discovery of the body add of the crime and he said its sort of looked like anybody who worked for Velva. The girl Eileen, or the body that was found, was having a boyfriend. She was a bit of a rum lass. He told me her sister baby sat for him. He told me that Eileen had been

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to where he, "Clarke," worked, with a boyfriend and asked could she come to his house with the boyfriend" and Clarke had said it was all right. He did not know the name of the boyfriend. He had mentioned Elizabeth while we were living together, but he did not mention Eileen. He, I think, mentioned the dead girl for the first time last October.

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Swallow's evidence: That took a fair time to be given. You might think it was given in the way that you would pick pods out of pomegranate. At the end of it all what was it? It was a conversation between a life prisoner and Clarke who was in custody. The witness was speaking of a recollection of months ago and if it be of relevance I come to the main parts, but you may conclude that Swallow does not give you salient assistance. "Clarke told me that he knew the girl's sister," that is Elizabeth", and that he was associating with the sister who was the elder of the two. Three girls used to come up to baby sit for him, two sisters and a friend. He told me that having come back from court one day that identification of the girl had been shown by a finger print. I cannot remember anything else other than the finger print. He told me that he had been associating with the sister of the dead girl; having sexual intercourse with her; over what period he did not say. He told me that he used to go night clubbing himself with his (sic the) elder sister"- a piece of evidence that is denied by the Defendant. "He mentioned the club, but I cannot remember the name and he mentioned is as being in South Shields. He told me he had a white car. He also said the younger sister used to baby sit for him. Clarke did not say when the murder had been committed anyway I am giving my evidence on a conversation that happened ten months ago. He said the he had left the area before the girl went missing and whoever did it would have a job proving it." That really does not make sense, but that is my note. Perhaps the impression was given by the Defence when the comment was being made by the Defence that whoever did it they will have a job in proving that the prisoner did it.

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Now, what about the Police: Well, you might take it for certain, because Mr. Potts said so, I think, in terms

A that the Police notes of the interviews are accurate. There is no dispute about what the Defendant said to the Police. There is a minor dispute created by the Defendant, himself, as to the context of the talk and conversation and the context of that part of the conversation which Clarke says has not been properly put before the court is this:

B "When I was talking to the Police immediately after the arrest telling that I liked white women and that I worked for women and sex, that I liked my women to be good women, not bad women, and to be ages between sixteen and twenty-one, well, the conversation was not like that. It was just a social conversation with the Defendant." C As you know, it so often happens that men, I do not know whether you may do it or not, from time to time speak of their own particular prowess and preferences as regards sexual matters, perhaps much of which you can take with a pinch of salt, although that is not an appropriate metaphor, but Clarke did say those things to the Police too D about his desires regarding women and his preferences and he also said that he had had intercourse, not once but four times, each with Anne and Elizabeth, but he had never had intercourse with the girl who was dead and anyway E she was under sixteen. She was a nice enough girl, but he never fancied her and did not want to fancy her. It had come out in this way.

"Have you had many white girlfriends?" "Yes, I had two girlfriends in South Shields. They were called Liz and Ann. They were very pretty girls." "Did you have sex with them?" "Of course, man, many times." On arrival at the Station he was asked further questions, which unless F Mr. Potts makes special request to have them included in the defence I shall not relate, because much of the earlier questioning of the Defendant was on matters of common ground: what G happened at Velva when the Defendant worked there; what his job was; what he did and matters of that sort about which there is no dispute and to which there is no great significance and no great significance can be attached to that conversation.

H The Police were obviously probing deeply into his knowledge of Velva. "Was there any special girls who

A came to your house?", asked the Police at one interview.
"There were two very good ones. I don't want to embarrass
any of their family. One girl, the girl Elizabeth, she
had a friend called Ann. Ann was older." "Where did they
live?" "...At the top, at the rear of Velva Liquids, they
had a flat." "Did you have intercourse with them?" "Yes."
B "Did both girls come to the house together?" "Yes." "Where
did you have sex with them?" "I would have sex with one
while the other went into the kitchen." "Did any other
girls come to your house (sic home)?" "I think Elizabeth's
sister Eileen, Eileen McDougall or Dougall. Is she missing?
C Elizabeth and Eileen leave home. In 1972 I had seen her
missing person in Sun newspaper..." "Did you have sex with
Eileen?" "No; not under age. I never fancy her."

He was asked about his other relations with other women
and he mentioned some other person without a name. "Did you
D give Elizabeth and Ann any money?" "I give them five pounds
each on many occasions." "Did you give them money to touch
their legs?" "Definitely not, either I have intercourse or
nothing at all." "Did you love the girls, Elizabeth or
Ann?" "I wouldn't say I love them." "Did Elizabeth or Ann
E have a boyfriend at the time you say you were having inter-
course with them?" "I think Elizabeth have a boyfriend. I
can't remember his name." "Do you mean to tell me that
Elizabeth was allowing you to have intercourse with her
when she had a boyfriend?" And this is actually his answer:
"Yes. I was giving her money but Mr. Anderson she was a
F nice girl. She wasn't a prostitute." Did you have intercourse
with Eileen? Never. "Did Eileen ever come to your house
alone?" "No never. She have no reason." He was asked about
the model. "How did you get on top of those tanks?" "I am
almost certain all have walkways." "Is there anything
G peculiar about the top of the tanks?" "Peculiar? No, nothing
I can remember." "Did you see any girls in Velva Liquids
going on ships?" "Many girls. They came as far away as
Middlesbrough." "Do you know the identity of the body in
the tank?" "I think it must be one of the girls who used
to come to my house." "Why do you think it is one of the
H girls who used to come to your house?" "I just think."
"But, why?" "Because Ernie Clarke suspect." "If it is one

Summing up

A of the girls, which one?" Answer: "It can't be Eileen. The papers say she was nineteen to twenty-five years. It could be either Ann or Elizabeth." "Would you agree that the person responsible for putting the body in the tank had a knowledge of Velva Liquids?" "I agree it is possible that person could have knowledge of compound, but I would say to you, Mr. Anderson, the whole of South Shields had knowledge of the tank(sic tanks)."

B Later on: "From enquiries I have reason to believe that girls did baby sitting for you. Is that right?" "No baby sit. Nobody baby sit for Ernie Clarke's children." "Did any of these girls ever demand money from you?"

C "Look, Mr. Anderson, they weren't prostitutes. They were nice girls from a good family. I did give them money but only because I wanted to have sex with them." "Did you ever give Eileen money?" "No. I tell you Eileen under sixteen. I never fancy her. I never have sex with her." "When did you last see Elizabeth?" "November or December."

D "Do you mean November or December 1969?" "Yes about then." "What about the other girls?" "Ann, Elizabeth and everybody else stopped then. If it was Elizabeth that was in the tank I don't want to think about it, if it was."

E "What do you mean?" "Well, if it was Elizabeth I might have reason to be worried as I have sex with her." "Can you remember when you last saw Eileen McDougall?" "Somewhere around."

F There must have been a pause;"think", said the Police. "It could have been possible at a night club." "Which night club?" "It could be a possibility, the one beside the Town Hall." "Where(exactly)"do you mean?" "The one opposite the Town Hall...." "Was that Latino's?" "Yes, I think that was the name". "Did you ever take her home from there?"

G "Never take anyone home from a night club." "When did you see her there?" "Saturday night in October...." "Are you sure it was in October...?" "Yes, definitely." "Why are you so definite...?" "Because I am sure."

H Later on: "From our enquiries" say the Police, "you are the only person who knew or had any connection with Eileen.." "You are telling me that I am the only one at Velva that had any connection with Eileen... I am a worried man now." Now, it is not an admission. He would be worried.. You

Summing up

A would be worried if you were being questioned in respect
of a crime which had been committed, if though you were
there you had not committed it. He said they never ever
came to see him at Velva. That may not be of any great
importance, but there is evidence - not a great deal - but
B that the girls did come down to the place at least once
looking for money for baby sitting and I think one of them
said "We didn't get it." I think it was Anne Summerly.

MR. WALSH: Mary Summerly.

C HIS LORDSHIP: Mary Summerly. "It appears strange to me"
said Anderson, "that the last time you remember seeing
Eileen was at Latino's Night Club and the last time she
was seen alive was at that Night Club in January 1970."
Now, in fairness to the Defendant there is not the slightest
evidence that the Defendant was at the Night Club at any
material time between January the eighteenth and that other
time. "Do you want me to tell you that I'd kill her?"
D "Well, did you?" "No. Definitely not. Nothing like that is
on my conscience. You are not going to tie me up. I will
never admit. I would rather go to the gallows than go to
prison for a long time." "...I am searching for the truth",
and he made this comment. "Don't kid me that there is any
evidence after nine years." Well, you decide whether there
E is any evidence.

F Later he denied again that he had had any baby sitters
and he said that he had never worked on Sundays, well, "maybe
once or twice." Towards the end of the interview, the last
interview, the Police showed him a model saying; "What other
materials were stored in the tanks ..?" "They were all
different chemicals," said the Defendant. "Can you describe
these chemicals?" "In one tank there was some white chemical.
It went hard like icecream." "What tank was that?" He
G pointed to tank number four on the model. "Is the tank you
are talking about on a brick platform?" "Yes, it's on bricks.
You can operate the boiler from underneath." "Did you ever
work on the channels underneath?" "No, just inside, not
underneath, never." "Are you sure that you didn't ever work
under Tank Four?" "No. I see no reason for anyone to go
H there and work." "Have you worked on the tank?" "I sitters

Summing up

A anything under the tank Ernie Clarke has nothing to do
with it." At that time said the Police there had not
B been any excavation of the wax in tank four and the
Police then were ignorant of what ultimately was found
C in tank four, but later on Sunday fifteenth July the
Police excavated under tank four. They had sifted the
wax. They had obtained the exhibits which I have
D mentioned earlier."Items of what appear to be women's
clothing have been recovered from the channel under tank
four, which you were seen flooding with chemical. The
E clothing appears to have been cut as if it had been
removed from a dead body. Have you anything to say about
F that?" He bowed his head, say the Police, put his hands
to his face and wept. The murder was put to him and he
denied it. "You are wrong. I never kill anyone," and he
had nothing to say: to the charge. he replied not guilty.
G Of course, he need not have said anything at all, but
the name of the dead girl, Eileen McDougall was
made public and the next day, that is the day after the
H charge and prior to that the Police had kept the information
to themselves included it in the interview and I have not
added to your tedium by giving you details. The Defendant
in the early part of the interview had suggested means
of disposing of the body other than putting it in the
tank. You may conclude with ease obviously when the body
was put in the tank, or the torso was put in the tank
through the hatch cover which you see from a distance situated
behind shop number one that was stuck on the top of tank
one, but the suggestion is made by the Defendant regarding
how he would have disposed of the body assuming he had done
the killing, where he suggested the river and he suggested
the furnace and that is how the furnace comes into the case
and indeed it is the only way in which you may think it has
come into the case. We had men called indeed we had a
couple in; never mind about their names; you need not
clutter up your minds with names - a couple of men were
called who told you that the furnace was changed in 1971 -
not the whole furnace, but the mechanism on the front, but
the real point regarding the furnace is the width of the
opening into the furnace which we now know is twelve inches

A and was twelve inches at the material time to get to the part that really does the furnacing you have through an airway a burning distance of three feet and then if you do want to burn something in the furnace you have got to take the door off, in fact, that means taking off bolts. - I think the furnace was changed-with the furnace door by the time you got to the works - but, it was something similar on the evidence and I think the job took on the evidence about an hour, was it not?

B MR. POTTS: Two men I think or a man about an hour or two hours.

C HIS LORDSHIP: You may think that the furnace has nothing to do with this case and you may think it has been introduced or taken up a little time - these words are not detrimental to anyone - taken up a little time, because the Police have related it to the incident of the furnace have properly and with diligence justifiably investigated the furnace and the matter arose in this way, because the theory is put forward by the Crown, and you might conclude that it can only be theory, as to why an attempt was made to split the torso in two by cutting. That is where I come to Dr. Ranasinghe's evidence:

D Without going into details this girl had five good bangs on the head with a hammer that had the shape and the dimensions of I think it is Exhibit twenty-nine on my note four, Exhibit four, Members of the Jury, the commonest hammer you have in England. Probably every house in England has one. Probably every tool shed has one. Probably every factory has at least one and that hammer was found in July 1979. It is only put before you as an example and largely as an example of the sort of weapon that Dr. Ranasinghe said would be used. He has come to the conclusion because of the shape of the depressions on Eileen's head and the manner of the depressions (indicating) and as an expert pathologist he says that the blows were delivered to the head by something similar to this particular hammer.

E
F
G
H The Crown cannot say and do not say that this hammer was used. Theories have been put forward that it is similar and is the way that the murder was committed on the bone because an indentation is there. You may think it does not

A follow. It was suggested also at one time the murder
took place on Sunday. You may think it does not follow
that it took place on Sunday. It may not have taken
place at Velva. It could well have taken place at a
point remote from Velva. Once the body was dead it may have
been such an embarrassment to the killer that he would
want to get rid of it. If he wanted to get rid of it,
B one can carry a five foot four inch corpse alone through
South Shields and on doing it, it may well be - I am not
suggesting to you a theory that can be applied to the case -
if you are going to get rid of the corpse and you do not
want to bury it, or you cannot bury it, and you cannot burn
C it, I think you have to break it up. You have to make it
smaller. You have to make it into convenient packages and
it is possible that the murder took place away from Velva,
but parts of the body were taken to Velva, but perhaps not
all the parts of the body, but still without any evidence
as to what has happened to the girl's legs and the part
D of the body which is above her thighs.

There has been no evidence as to what other clothing
she may have, or whether there were clothes, but there are
points to be made by the Defence and Mr. Potts has made
them regarding the findings of the pathologist.

E This torso was preserved by reason of the chemical
composition of the petrol and by reason too, of course,
of the absence of air reaching the torso. Dr. Ranasinghe
said the probability is that this torso was put into the
F tank within four days of the death. The time of the death
has relevance regarding what would happen to the body when
the body was cut and it was cut by a very sharp knife and
considerable force was necessary, said Dr. Ranasinghe.
If you are cut while you are alive, blood which is pumping
round your body all the time when we are alive, escapes.
G Of course there is a flood of blood immediately you die if
somebody pierced your body. To use an example, if anybody
dies and his body is pierced straightaway, the Doctor said:
"Yes, you will get blood." "How much?" "It depends how long
the body has been dead." If, of course, all the parts of
the body have stopped working and have stopped working
H for two or three days, the amount of blood that escapes

A varies. It is very, very small the longer the corpse
has been a corpse, but once the murder was committed with
something like the hammer with five heavy blows upon
B the girl's head and this was really the cause of her
death - fractures of the skull - and a terrible escape
of blood, there may be a lot of blood which would splutter
and from the conclusions, Mr. Potts makes the point and
I bring it to your attention and it is one that has
validity, if the girl was wearing clothes and she was
standing up and Dr. Ranasinghe says it looks as if she was
standing up, there would be an escape of blood and the
C blood would be on the clothing there on examination.

Let us go back to the trench, and let us go back to
the liquid in tank four and those garments it is admitted
D have been forensically examined. I give you a simple
assessment of that evidence without going through detail.
Nothing has been found of any significance whether blood
or otherwise on any of the garments. I hope that is
sufficient, Mr. Potts?

MR. POTTS: My Lord, yes.

HIS LORDSHIP: There we are, so let us get back to the tank or
E rather the furnace. You may think the furnace has, or has
no significance at all, but if you do, the opening into the
furnace was twelve inches and it is said by the Crown that
F a torso that measures fifteen inches from tip to tip of the
shoulders would not go into the furnace - nobody has ever
tried - but this is the theory put forward and so it is
said that the murderer was seeking to conceal the corpse
and attempted to carve the body down the centre to reduce
G it's size, failed and having failed had to look for an
alternative hiding place and that hiding place was the
front hatch which was easily opened on the top of tank one
one more hammer was found but that hammer which was a brass
hammer I do not think anybody has seen and the doctor
said: "Well, that sort of hammer would not be the weapon
that was used or a weapon like that," so he told us.

H There is one matter and man I have not mentioned and
I should have mentioned him yesterday when I was chronicling
the employees at Velva Liquids and his name is Peterson.
You saw a young gentleman, a mature gentleman, who has no

A connection, he said, whatsoever with Eileen McDougall.
His times were erratic outside his ordinary working
hours as regards visits to Velva Liquids and you know
if you are on the staff of a company they expect you to
work more or less day and night in emergencies. I am
not arousing any anti-employer feelings. You really get it
so far if something goes wrong you have to go there or
B if there is some emergency they come and no doubt you
get a gold watch after twenty-five years, but you do
not get any overtime. I am just summarizing, perhaps in
a way that is over entertaining, but not meant to be
humorous. In Mr. Peterson's evidence the point is that
C he could have visited the factory at any time at all.
If there is a point in favour of the Defence that is it.
There were a couple of ships came to the depot that weekend.
I am going through the weekend here. No doubt counsel will
correct me if I am wrong. One of the ships was something
D like the Tillerman which arrived at half-past two on the
Saturday afternoon and was discharging till about nine-
thirty and it left at eight o'clock next morning, a
Sunday. I think the same ship had the good fortune to
return on Monday at about half-past four, so a ship
departed on Sunday night at eight o'clock. Peterson says:
E "I cannot say that I was there during the discharge", but
he could well have been. He was a regular attender at work
and his hours were eight o'clock to five. That was Peterson.
I ought to have included him when I was going through the
employees of Velva Liquids.
F You will be relieved to know that there is not a great
deal left in this summing up, but when I say that it is
not to make any adverse comment on the Defence, because
I have not yet given to you, but I am going to give now, the
G detail of the Defendant's own evidence. You remember that
he has given his evidence on oath like every other witness
and he has subjected himself to cross-examination by
Mr. Walsh and you will pay attention to all that he has
said. At the outset I will say again that he is a man of
good character. He is a man who has been in regular employment.
H He is a man of some experience. He is from a different area.
He has also worked as a plumber's helper. He lived originally

at forty-six Heddley Street. He had three children.
A I think two of them were twins.
He had then the misfortune to be separated from his
wife in 1969 and during that period he had Elizabeth and
Ann come to his house and apparently for baby sitting.
B He had managed to have intercourse with a couple of them
a number of times but the circumstances he could not give
to you. The girls started to come in June '69 and it was
during that period he, on his evidence, went on to meet
Eileen. "In '69 I went to Barcelona for a couple of weeks
C holiday". Like many another Englishman going abroad in the heat
he found it rather unpleasant, so he broke off his
holiday and he had a change from Barcelona to Dublin. He
had to pay, of course, for his hotel in Barcelona. He
was short of money and went to the Midland Bank and got
a hundred pounds, returned to South Shields, and when he
D returned he discovered that his children had told him
that they had made friends and the next day Elizabeth came
to his house."I asked them whether they thought of leaving
that till my earlier job in Velva. I told them I would
like them to baby sit for me. I went to book a seat for
E Dublin and it was some time after that I met Eileen at my
home. She had come with her sister and then on the same
occasion. None of them ever came to my house alone. I
never went out with Eileen or with anyone else. I had no
sexual relations with Eileen"and when he was interviewed
F by the Police:"I did say I had sex with Elizabeth and Ann.
I don't conceal that fact and I did not try to conceal
that the girls had visited the house. The last time I saw
Eileen was just after my birthday and my birthday is
G December the sixth, 1969. To the Police he had said that
he was sure it was October or September, but he explained
that since he had been interviewed by the Police he had
reflected very carefully upon that answer and had decided
that he had seen Eileen on his birthday on December sixth.
"I did not see Eileen after she went to Maindstone. I was
H sacked in January 1970, giving up work on the twenty-seventh.
I got sacked because of my letter regarding the promotion
of Embleton and I had thought that Embleton was not suitable

Summing up

A
to me. I proposed Fenwick. I worked after the letter but I am not too sure how long. The days and dates are hard to remember. It is unlikely dealing with Embleton's evidence that he and I were on the same shift and as regards the opening of the valve you just do not open the valve and let the liquid run out and the bricking up is not likely unless there are instructions for the bricking up. I had no recollection of filling in any trench referring, of course, to Embleton's evidence that he told Embleton that he had. I have no recollection of the events of the eighteenth of January nor seen Eileen McDougall for a long time before that day. I have no recollection of any of the other days. I certainly did not kill anyone. B
I did not dispose of the body. After the girl had gone missing I continued to live in South Shields at the same address in Anderson Street until September 1970. It is true that I have not asked Elizabeth to baby sit again and I would do it myself anyway the children went to nurseries. C
I cannot remember who made the running regarding the sexual encounters with Elizabeth, but Elizabeth has told lies. I know Elizabeth had a boyfriend. I cannot remember how sex developed. I didn't mean it that way when I said to the D
Police about liking my women between sixteen and twenty-one. There is no significance in that observation. It was made just in ordinary talk with the Police when I was, the Accused E
says, with them. Well, when you have sex with these girls you usually do one at a time. Of course, that is to follow, F
but I went while she was in the kitchen he said to have sex. He said to you I would have sex in reverse order. Elizabeth did bring her boyfriend to the flat, but I never discussed with Elizabeth her boyfriend's position relative to my relationship with her. As for Mary Bell, I could not even remember her when she came into the witness box. The G
possibility is that the murderer knew his way around Velva, Yes, I climbed up tank one, he said, I remember walking up to tank number one. If he has given the impression that there was a ladder on tank number one nobody else supports him upon that point, which may not be very important. He H
dealt with his evidence, did he, regarding the sack. Other than that I think I have already highlighted his denials and the

Summing up

A

points that he made regarding all the evidence. Mr. Walsh then in a series of questions took longer, pressed questions, put exhibits to him, was pressing him and he gave answers which you may think are of no significance and do not add anything to the case, indeed a fair part of the latter part of the cross-examination was involved in argument upon the evidence which had already been given. I did not interfere. There is nothing really wrong with it and Mr. Potts did not object, but no new facts came out of the latter part of the cross-examination.

B

C

Well, there it is. I have kept you for a couple of hours in summing up this case, which is an important case, and one in which there was a considerable volume of evidence, some of which I have not included in this summing up, because one knows at the end of the case when a lot of time has been spent one can never foresee those points which eventually disappear and I have not taken you through the balance. You will probably never forget Velva. I am not going to do so. I have not taken you through the photographs. I have not taken you through every detail, but I trust I have covered for you the important points in this case.

D

E

Now, one final point. Do remember, as Mr. Potts, invited you to remember, that this trial is not an enquiry as to who killed Eileen McDougall - definitely not - dismiss it - of course it is not. It is the trial of Ernest Clarke and the Crown has assumed the burden of proving that Ernest Clarke murdered Eileen McDougall and if Ernest Clarke be convicted of this it would be murder. You, as a jury, have to be made sure on the whole of the evidence - everything that you have heard - that he is guilty. If you have any doubt about it you must find him not guilty and subject to agreement as to the exhibits which you should take with you in your retirement that is my summing up. It may well be that you reach a verdict immediately you retire to your room but if you are still out during the luncheon adjournment you will remain out, but some nourishment will be sent to you but your orders should be given to the usher who will be sitting outside your jury room while you are considering your verdict. As soon as you have returned your verdict inform the usher and you will return into court and we shall attend upon you ladies and gentlemen.

F

G

H

(The Jury Bailiffs were sworn)

A

HIS LORDSHIP: Are there any special requests regarding exhibits. Certain exhibits cannot be handled. Certain exhibits smell terribly in a hot jury room. I am afraid it would be very uncomfortable, however anything that you say should be given, Mr. Potts, will go.

B

MR. POTTS: My Lord, I do not wish anything other than perhaps that the best way to deal with them would be for the jury to send out.

C

HIS LORDSHIP: The point is if the jury send out I have to know and I have to bring them back. I do not have anything done in a criminal trial unless the jury is present.

MR. POTTS: My Lord, I see no reason why the jury should not take with them what was in the jury box.

D

HIS LORDSHIP: I think they should take the jumper, Exhibit twenty-eight. That is not terribly smelly and the man's garment which I did not include in the summing up.

MR. POTTS: In the trench.

HIS LORDSHIP: I have not told the jury.

MR. POTTS: Your Lordship referred to a Tee shirt.

E

HIS LORDSHIP: I did say to you that it was size forty. I think we should give you some garments and certainly Exhibit 28 and give you the hammer for the members of the jury can see that. I think that Exhibit six should go, the blouse found in the trench and the new gland packing should go and the package with the old gland packing in it.

F

MR. POTTS: Now the gland packing is Exhibit seventeen.

HIS LORDSHIP: Yes and the gland packing used to tie the head in the canvas is Exhibit twenty.

MR. POTTS: My Lord, that should not be opened by the Jury.

HIS LORDSHIP: They know. There is a label on it. What about the coke?

G

MR. POTTS: Well, My Lord, it would help the jury if they saw some of it. They may want it.

HIS LORDSHIP: Exhibit twenty-eight will go. Elizabeth's Herringbone coat which I did not tell the jury was eventually used to make a cushion with a kind of French name. The sample of canvas, Exhibit thirty-five. That is the new canvas. The asbestos packing. The new type

H

is Exhibit thirty-seven. That could go. They do not want the bricks. Do they want rags?

A MR. POTTS: My Lord, yes.

HIS LORDSHIP: I think they should have the rags.

MR. POTTS: Exhibit forty-four.

HIS LORDSHIP: Exhibit forty-four. Have you got all that? Do you think you could assemble those in a bag and give them to the Jury.

B MR. WALSH: My Lord, I think it right the Jury should have Exhibit forty, the gabardine.

C HIS LORDSHIP: The gabardine trouser leg. I do not think that was originally asked for but if the Crown would like that to be included, yes.

D I have with the assistance of Learned Counsel given instructions for the assembly of certain exhibits. Tell me if, from your recollection, during my summing up, there is any special exhibit that you feel you need: Will you please pass a note to me and I will bring you back into court and see that you have the particular exhibit, alternatively I may have to bring you back into court depending on what the request is and in court we can make arrangement for the despatch of the particular exhibit.

E Do not let yourselves get hungry. Thank you very much, ladies and gentlemen. You have the list of exhibits have you not?

THE MEMBERS OF THE JURY: Yes.

(The Jury retired from court at 11.43 a.m.)

F HIS LORDSHIP Mr. Potts, I am sorry to bring you back into court, but since minor matters which should not necessitate bringing the Defendant back have arisen, and as I told you this morning I think everything regarding a criminal trial should be known publicly. I have a note from the Jury, which is ordering their lunch. Regrettably the a la carte at Moot Hall does not meet their demands.

G MR. POTTS: I am sorry, sir.

Verdict
Sentence

A HIS LORDSHIP: I do not want to disclose what they have ordered. The dishes which are available are somewhat limited and I propose to permit an usher to hand in to the jury room a note saying what dishes are available, with regret that certain dishes today are not available. That is obviously the best thing to do.

(To the usher) Would you do that usher.

B (At 5.03 the Jury sent another note asking that Exhibit fourteen, the Book, be sent in to their jury room. This request was complied with.)

(The Jury returned into court at 5.15 p.m.)

C THE CLERK OF THE COURT: Members of the Jury, will your foreman please stand.

Will you please confine yourself to answering my first question yes or no.

Members of the Jury have you reached a verdict upon which you are all agreed?

THE FOREMAN OF THE JURY: Yes.

THE CLERK OF THE COURT: Members of the Jury, do you find the Defendant, Ernest Adolphus Clarke, guilty or not guilty of murder?

THE FOREMAN OF THE JURY: Guilty.

THE CLERK OF THE COURT: You find him guilty. That is the verdict of you all?

E THE FOREMAN OF THE JURY: Yes.

MR. WALSH: Does your Lordship require to hear Superintendent Anderson on the antecedents?

HIS LORDSHIP: I see no point. Mr. Potts?

F MR. POTTS: I do not want it.

MR. WALSH: My Lord, Your Lordship really knows everything there is to know.

HIS LORDSHIP: Yes.

S E N T E N C E

G HIS LORDSHIP: Will you stand please.

Ernest Clarke, this Jury has convicted you of murder of a girl called Eileen McDougall.

The sentence of the court is fixed by law, as no doubt you know, and therefore I do not need to justify it, nor need I comment and the sentence of the court is that you will be a prisoner for life.

H