

Neutral Citation No. [2005] NICC 53

Ref: MCLC5427

*Judgment: approved by the Court for handing down
(subject to editorial corrections)*

Delivered: 06/12/05

IN THE CROWN COURT IN NORTHERN IRELAND

—————
THE QUEEN

v

MICHAEL GERARD ROGAN
—————

McLAUGHLIN J

[1] The defendant, Michael Gerard Rogan, is charged on Bill of Indictment No. 17/05 with three counts as follows:

FIRST COUNT

STATEMENT OF OFFENCE

Causing explosions, contrary to section 2 of the Explosive Substance Act 1883.

PARTICULARS OF THE OFFENCE

Michael Gerard Rogan, on the 7 October 1996, in the County Court Division of Craigavon, the defendant unlawfully and maliciously caused by certain explosive substances explosions of a nature likely to endanger life or to cause serious injury to property.

SECOND COUNT

STATEMENT OF OFFENCE

Collecting information likely to be useful to terrorists, contrary to section 31(1)(a) and section 31(2)(d) of the Northern Ireland (Emergency Provisions) Act 1991.

PARTICULARS OF OFFENCE

Michael Gerard Rogan on a date unknown between the 11 April 1994 and 28 February 1995, in the County Court Division of Belfast, the defendant without lawful authority or reasonable excuse collected information with respect to persons to whom paragraph (a) of section 31(1) of the Northern Ireland (Emergency Provisions) Act 1991 applied, namely persons employed for the whole of their time in the Prison Service in Northern Ireland, which was of such a nature as was likely to be useful to terrorists, namely British United Provident Association records containing details of a number of such persons who were in 1992 customers of the said Association;

THIRD COUNT

STATEMENT OF OFFENCE

Collecting information likely to be useful to terrorists, contrary to section 31(1)(b) of the Northern Ireland (Emergency Provisions) Act 1991.

PARTICULARS OF OFFENCE

Michael Gerard Rogan, on a date unknown between April 1994 and 28 February 1995, in the County Court Division of Belfast, without lawful authority or reasonable excuse the defendant collected information which was of such a nature as was likely to be useful to terrorists in planning or carrying out an act of violence, namely British United Provident Association records containing details of customers of the said Association having a connection with the Security Forces.

[2] At the conclusion of the case for the prosecution Mr Barry McDonald QC, who appeared for the defendant with Mr O'Rourke, submitted the defendant had no case to answer and that I should enter verdicts of not guilty in respect of each count. I indicated on the day following the application that I had decided I should accede to the application and that I would give my reasons as soon as possible: I now do so.

[3] The first count arises from the detonation of two very large explosive devices at Thiepval Barracks, Lisburn, Co Antrim, which is the headquarters in Northern Ireland of Her Majesty's Forces. The explosions occurred within approximately twelve minutes of each other. The first was at an area known as the Movement Control Centre car park and the second was at the Medical Centre a short distance away. It is obvious from the large scale nature of the damage, and the scientific evidence, that large scale injury, damage and potential loss of life was intended by those responsible for causing these explosions. Indeed it is obvious that the intention in setting the explosions at different times was that casualties, and those who came to their assistance, of

the first explosion at the Movement Control Centre would be likely to gravitate towards the Medical Centre by the time the second explosion should occur. There was therefore little room for doubt that those responsible for the setting the explosive devices intended to endanger life or cause serious injury to property.

[4] Following on the explosions detailed forensic and police investigations took place. Enquiries quickly focused on the remnants of two motor vehicles which had been effectively destroyed and which were judged to be the seats of the respective explosions. In each case the engine blocks were found within a matter of yards of the craters left in the road surface by the explosions. The engine block numbers had survived in each case and so it was established quickly that they came from the following vehicles:

- (i) a gold coloured Volvo registration VXI 4612 (found at the Movement Control Centre car park), which I shall hereafter refer to as “the gold Volvo” and;
- (ii) a red Volvo registration number MIB 8939 (found at the Medical Centre), which I shall refer to hereafter as “the red Volvo”.

Once this information had been obtained the police traced details of the history and ownership of the vehicles. I shall deal with each of these individually.

[5] The red Volvo was registered to a Mr Euan Shilliday who lived in Belfast and it transpired in evidence that he had sold the vehicle on 4 June 1996 after advertising it in the local press. He was unaware of the name or other details of the purchaser and received payment in the sum of £5,100 in cash. The purchaser drove off with the vehicle after paying for it and no trace of the vehicle was noted until the engine block relating to it was found at the scene of the explosion in Thiepval Barracks. In his statement of evidence, which was put before me by agreement without the necessity of oral evidence Mr Shilliday stated he had sent a notification of change of ownership to the Divisional Vehicle Licensing Office shortly after the sale. The evidence, again not in dispute, was that an application was made soon after for a tax certificate for a period of six months. This was made on a document in the apparent name of Mr Shilliday. Clearly the document was a forgery. I shall return to the evidence in respect of that in due course. It was the Crown case that the application for the tax certificate was written by the accused.

[6] The gold Volvo was owned by a person described in the depositions as Witness A but who was described in the course of the hearing as Mr John Taylor. He lived in Co. Down. In his witness statement, which again was admitted without formal proof by agreement, he stated that he had placed an advert in *Autotrader* in September 1996 at an asking price of £3,900. He

received a call from an interested party at about 11.30pm one evening and made arrangements for the person to call at his home about 10.30am the following day to inspect it. After a test drive the person agreed to buy the car for £3,850 which he paid in used notes. Mr Taylor gave the purchaser a receipt, in the name of Mr Simpson but no address was given. The only detail he had of the man was that he said he was from East Belfast.

[7] The parties agreed a document which contained matters which were admitted in evidence without formal proof. I shall set out this document, in so far as it is relevant to the gold Volvo, in full:

- (i) On 12 September 1996 at approximately 8.40 am the defendant was in Royal Avenue, Belfast in a silver Volkswagon Jetta car, registration number DDZ 2481;
- (ii) the defendant while there withdrew in cash from the Abbey National Bank the sum of £2,200, the withdrawal slip from which is exhibited as Exhibit 15 WB1. He also went to a First Trust ATM at the same location;
- (iii) on 12 September 1996 at approximately 10.40 am the defendant was in an area standing at the road verge beside the passenger door of a stationary silver Volkswagon Jetta registration number DDZ 2481. This is a short distance from the location where a witness met the buyer of the Gold Volvo VXI 4162 at around 10.30 am on 12 September 1996;
- (iv) at the said time as stated in paragraph (iii) above there was a female in the driver's seat of the Volkswagon Jetta;
- (v) on Thursday 12 September 1996 at approximately 12.00 mid-day the defendant was present in the said Volkswagon Jetta car registration number DDZ 2481 in the car park at Belfast Castle;
- (vi) the defendant was accompanied by a woman sitting in the driver's seat of the same car;
- (vii) the defendant left the Volkswagon Jetta and walked towards and got into a gold coloured Volvo 740 Estate registration number VX1 4162. He did not make any adjustment to the seat or mirrors; he put his collar up and put on a pair of glasses, thought to be sunglasses. He was wearing a black bomber jacket. The defendant drove away in the said Volkswagon vehicle;

- (viii) there is no issue in relation to the confirmation of the engine numbers on the red and gold Volvo cars and the vehicles to which they relate.

[8] The gold Volvo was not observed at any point after it left the car park at Belfast Castle until the engine block was found close to the crater in the roadway at the Medical Centre of Thiepval Barracks on the day of the explosion. The Crown case was that the accused had been involved intimately in the purchase of the gold Volvo which was carried out some three and a half weeks before the explosion.

[9] Another central piece of evidence established by the prosecution related to the finding of a Royal Ulster Constabulary warrant card. This was found at Knox Road car park which is part of the Thiepval Barracks complex. The warrant card bore a photograph of a person and the name "Euan Shilliday" together with details of date of birth, height, hair colouring, complexion, etc. It also bore the purported signature of Mr Shilliday. Further scrutiny of it showed it to be a forgery. The photograph was proved to be that of Constable David McMeechan who had reported his warrant card stolen on 15 January 1994. On that day he had parked his car whilst he went training in the grounds of Castle Park, Bangor. On returning to this car it had been broken into and numerous items, including his warrant card, had been stolen. He was shown the warrant card recovered at Thiepval Barracks and identified the photograph on it as his but the name, date of birth and signature had been changed. The card was scrutinised by Mr Stephen Maxwell of the Forensic Science Agency for Northern Ireland and he was able to establish it was a forgery. He said that it had been altered using an off-set lithographic printing process with photograph substitution. This evidence was not disputed. There would appear to be little room for doubt that the forged warrant card had been used to assist the passage of someone and probably the red Volvo into the Thiepval complex.

Counts 2 and 3

[10] The prosecution case may be summarised in the following manner. Mr Rogan had worked for the British United Provident Association (BUPA) from 11 April 1994 to 28 February 1995 - a period of approximately ten months. Oral evidence about this matter was given by Ms Julia Ann Hurst who was the Human Resources Manager in 1996; by the time she gave evidence she was the Director of Human Resources. She established that Mr Rogan had been offered his position based on his CV and an interview which took place on the 23 March 1994. He accepted the offer of employment on 28 March 1994. Company procedures required him to submit a formal written application which he did on 21 April 1994. It transpired on later investigation that the qualifications which he claimed to have, and which he set out in his Curriculum Vitae, were false, at least in part, and that he had

obtained that position on the basis of fraudulent representations. During the course of his employment however there is little doubt that he was authorised to handle company documentation of a diverse kind including lists of companies and individuals who were members of the Association. Members included the Prison Officers' Association of Northern Ireland, who were listed under the name of their leader Mr F. Spratt. Ms Hurst said Mr Rogan would not have had any reason to have access to information about various United Kingdom Civil Service departments, which ran schemes for their employees through BUPA, but would have been entitled to have access to information relating to government departments, organisations, companies and individuals within Northern Ireland which was the territorial base of his employment responsibilities.

[11] Additional evidence on the BUPA documentation was also given by Mr Graeme Weymes who is the Regional Business Manager of BUPA in charge of the regions of Scotland, Northern Ireland and the North East of England. He confirmed Mr Rogan's dates of employment and that he had been shown Exhibits 18-25 at the Forensic Science Agency premises on 9 November 1996. He said that he had taken up his post at the end of 1994 and the accused was one of the employees he "inherited". He said there was no reason why the accused should have Exhibits 18-25 (the BUPA documents) after he left the employment of the company. He confirmed he had written a letter to the defendant upon the termination of his employment, which became Exhibit D1, and in view of its importance I shall set it out in full.

"Dear Michael

Thank you for the message which you left with Ruth Imrie on Tuesday of this week, regarding your departure from BUPA. Our Human Resource Department will be writing to you under separate cover to confirm this.

We have made arrangements to have your car stored temporarily and I would be grateful if you would arrange to leave the care at the following address by Monday 27th February 1995:

WILSON'S AUCTIONS
NEWTON ABBEY
COUNTY ANTRIM

Any other property i.e. files, fax, mobile phone etc. can be left locked in the boot of the car accordingly.

Should this cause you any out of pocket expense
i.e. taxi home; please submit the same to the
Edinburgh office as normal.”

[12] In cross-examination Mr Weymes confirmed that there was no system of compiling an inventory of documents given to an employee on taking up employment or of documents returned by him on leaving. Whilst Mr Weymes was unaware of any documents having been returned he was unable to make the positive case that no documents had in fact been returned. He was aware that the company car, mobile phone and laptop were returned but was unable to say authoritatively what the position was about any other items. This was probably because they were the items of no significant monetary value. He agreed his letter had directed Mr Rogan to return the company car to Wilson’s Car Auctions, where it had been left in fact, but was unable to say how long it had stayed at those premises: indeed he was unable to say whether the car had been sold or otherwise disposed of.

[13] A search of premises in Belfast, occurred on 7 November 1996 and documents were seized there which included the “BUPA documents.” They were referred to in the course of the trial as items RM67–69 (exhibits 18, 19 and 20) and items RM69–RM74 inclusive (respectively exhibits 20–25). Forensic examination of the documents revealed the presence of Mr Rogan’s fingerprints/palm prints on many of these.

[14] Item RM67/exhibit 18 contained eight pages. Each page is headed “Display Group/Company Links” and set out details of the Civil Servants’ BUPA scheme with long lists of various government and quasi-government/public authority clients. Of particular interest were references to “NI Prison Officers Association” “the Maze Cellular” “Magilligan Prison” “Maze Compound” “Maghaberry Male”. There were no fingerprints found on these documents.

[15] Item RM68/exhibit 19 contained two documents relating to the Ulster Industrial Explosives BUPA Group Scheme. There were no fingerprints on those documents.

[16] Item RM68/exhibit 20 consisted of 33 pages. These all related to the Northern Ireland Prison Officers BUPA Scheme. Five fingerprints were found on the 33 sheets all of which related to the accused.

[17] Item RM71/exhibit 22 consisted of two pages containing details of the company’s BUPA scheme of Karl Construction Limited. Five fingerprints belonging to the accused were found on these.

[18] Item RM72/exhibit 23 consisted of 15 pages referring to the Northern Ireland Electricity Plc Group BUPA Scheme. Like the others it contained lists

of the members' names, dates of birth and other information relating to underwriting considerations. Two fingerprints of the accused were found in this bundle.

[19] Item RM73/exhibit 24 consisted of 15 pages. These were also BUPA documents and related to several well known Northern Ireland businesses and contained names of the individual members of their respective BUPA schemes. Organisations involved included:

- (i) Old Bushmills Distillery;
- (ii) L'Estrange and Brett;
- (iii) Tyrone Brick Limited;
- (iv) Farmfed Chickens;
- (v) Lodge Hotel Limited;
- (vi) Desmond and Sons;
- (vii) Boxmore International Limited;
- (viii) Maxol Oil.

A total of 15 fingerprints of the accused were found on these documents.

[20] Item RM74/exhibit 25 consists of six documents and these are all BUPA documents relating to the company scheme of Karl Construction. Subscriber names and other minor personal details were contained in the documents. No fingerprints were found. This document appears to have existed prior to the defendant becoming employed with BUPA.

[21] The prosecution case is that the accused had "collected" these documents for the purposes of terrorism in the period 11 April 1994 - 28 February 1995, which were the exact dates of his period of employment.

[22] The prosecution sought to establish a link between the accused and the red Volvo through the medium of the application for a tax disc made to the Motor Vehicle Licensing Department, and by way of supplementary support, the forged RUC warrant card. The application form is Item MA1/exhibit 17. The document was considered by Mr Brian William Craythorn, who gave evidence verbally, and who is a senior scientific officer at the Forensic Science Agency for Northern Ireland. He had available to him an extensive number of documents written by the accused for the purposes of comparison of the handwriting on the tax application form. He based his conclusions on a comparison between the application and four documents in particular. The accused had made three applications for a firearm certificate in his own name which were dated respectively 21 April 1990, 10 June 1993 and 22 June 1996 and together with a portion of a letter which was found with eight Northern Bank cheques, comprised in item WDM42/exhibit 36, and these were used as comparators. Mr Craythorn used these documents to compose exhibit 51 for my benefit in order to illustrate his work. Exhibit 51 consisted of a composite

of separate portions of the firearms certificate application dated 22 June 1996 and the top portion of the letter which accompanied the Northern Bank cheques. On the opposite page of the exhibit he set out a copy of the tax application. He then drew my attention to similarities between the letters, number designs and other graphic features such as layout, punctuation and date styles on the two documents.

[23] He next pointed out that he had not got access to the original tax application form. It appears that when these arrive in the Vehicle Licensing Office they are scanned to enable them to be stored in microfiche fashion. If retrieved they are then printed in the style of a photocopy. Once scanned the original is disposed of. He therefore had to carry out his comparison by using a reproduction of the original obtained from microfiche records. As a result of his comparison he was able to find what he described as exact matches for all the letter and number designs and other graphic features – such as layout, punctuation and date style. He found good correspondence between the item JH1 (microfiche copy of tax application form) and the samples, but he was hampered by the former being a scanned document. His conclusion was that the evidence “supported the proposition” that the defendant had written the tax application form.

[24] In cross-examination Mr McDonald established that Mr Craythorn had a number of potential descriptions available to him when categorising the strength of his opinion. These were, in descending sequence:

- (i) where he could state that in his opinion the suspect person had written the document;
- (ii) where in his opinion the evidence “strongly supports the proposition the suspect had written it”;
- (iii) where in his opinion the evidence “supports the proposition the suspect had written it”;
- (iv) where in his opinion there was “weak evidence to support the proposition the suspect had written it”;

The classifications continued with a description of the findings as being “inconclusive that the suspect had written it” and finally to the conclusion that he had not written it. Taking the Crown case at its height at this stage I shall assume the defendant did write the application.

The application for a direction

[25] Based on those facts Mr McDonald submitted to the court there was no case to answer that I should stop the case and that his client must be acquitted on all three counts. This has been resisted by Mr Creaney QC, who appeared with Mr C. Murphy. Mr McDonald relied upon the well known statement of Lord Lane LCJ in R v Galbraith [1981] 2 All ER 1039 as follows:-

“(1) If there is no evidence that the crime alleged has been committed by the defendant there is no difficulty - the judge will stop the case. (2) The difficulty arises where there is some evidence but it is of a tenuous character, for example, because of inherent weakness or vagueness or because it is inconsistent with other evidence. (a) Where the judge concludes that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict on it, it is his duty, on a submission being made, to stop the case. (b) Where however the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness’s reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence on which the jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury.”
(*per* Lord Lane CJ at p. 127).

[26] In support of his submissions Mr McDonald argued the prosecution evidence could not establish that either Volvo car was the seat of either explosion. He said both had been badly damaged but so had many other cars and pointed by way of example to those shown in photograph 3 of exhibit 42 and photographs 3 and 24 of exhibit 28. There was, he said, no eye-witness evidence that either car had exploded, as opposed to being severely damaged by an explosion close by. He argued further that there was no expert evidence a bomb had exploded in either vehicle. He said the agreed evidence of Dr Murray of the Forensic Science Agency dealt solely with the nature of the explosions, the size of same, the explosive and other components used and the detonating mechanism. He also pointed to the fact that Mr Stephen William Quinn, did not relate the cars to the explosion either, save where in his statement he referred to the fact that only one Volvo car was in the centre or immediate vicinity of either explosion.

[27] Mr McDonald said I should dismiss Mr Craythorn’s evidence, which tended to link Mr Rogan with the red Volvo, as being of no significant probative value because establishing a connection between him and one of the vehicles some weeks or months before could not establish the ingredients of

the offence of causing an explosion with intent to cause serious injury or damage to property.

[28] In respect of counts 2 and 3 he argued this was a case where the defendant was employed by BUPA to carry out work with its clients and he did so over a period of ten months and it was therefore entirely natural that he should handle documents which related to the client base. He pointed to the absence of any evidence from BUPA officials, or otherwise, which might, as perhaps one would expect, have shown security sensitive clients were dealt with separately from persons in ordinary commercial organisations. The effect of the evidence was that he was entitled to have access to materials relating to the Northern Ireland client base, including Civil Servants, Prison Officers and the various companies which had given rise to the third count.

[29] Both of these offences, as drafted in their original statutory form, refer to possession of documents “without lawful authority or reasonable excuse” the proof thereof is then cast upon the defendant. Both counsel agreed that the literal reading of the statute had been overtaken by the advent of the Human Rights Act and so should be read down in such a manner that it was necessary only for the accused to adduce evidence “to raise the issue before the court” there being no burden on him to prove his innocence. I accept that interpretation of the authorities.

[30] Mr Creaney QC provided me with a detailed and comprehensive written reply to the arguments of Mr McDonald which he supplemented orally. He pointed to the fact that Mr Rogan had been connected in a significant manner to both vehicles, that they had not been seen from shortly after their purchase –respectively three and a half weeks and four and a half months - prior to the explosions at the Thiepval complex. His connection with the red Volvo, and thus with Mr Shilliday, created a connection with the RUC warrant card which was found at the Knox Road carpark shortly after the explosion took place. He linked the forged tax application form and the forged warrant card to the accused, both through the connection with Mr Shilliday and the obvious attempt to maintain Mr Shilliday’s apparent connection with the red Volvo by means of the road tax application. These indicated, it was said, that Rogan had played an essential role in the weeks and months leading up to the planting of the devices. Emphasis was also placed on the fact that the accused had drawn a large sum of money from the bank to purchase the gold Volvo and that a substantial sum of money was involved in the purchase of both vehicles – some £9,000 approximately. This showed the intention was not to buy vehicles which were valueless and could be disposed of with abandon, rather it showed an intention to acquire cars of good quality which would not attract attention or suspicion and indeed were of a type that were often used by army officers – as was referred to by the witness Lyndsay Kennedy in her evidence.

[31] It was then sought to connect the BUPA documents charges to Count 1 by showing that over a period of time it had been demonstrated the accused was involved in gathering information and preparing acts of terrorism in an essential and coordinated fashion. Further, he suggested the fact that the accused had made the application for the tax disc in respect of the red Volvo led to the inference that he remained in control of the vehicle after its purchase and that it must be assumed at this stage of the trial he was connected with it at the time of the explosion. In those circumstances it would be inconceivable that he was unaware of the purpose for which the vehicle was to be purchased and used ultimately. If that connection could be maintained it was argued, the necessary intention was established to prove Count 1 as there was no dispute that an explosion in the circumstances in which they occurred was likely to endanger life or cause serious injury to property.

[32] As to counts 2 and 3 the Crown maintained the position that the accused had collected the BUPA documents in the course of his employment and passed them to another person or had himself brought them to the place where they were found. It was said that in the absence of any explanation for his fingerprints being on these documents the inevitable inference was that he had collected them for the purposes of terrorism.

Conclusions

[33] The evidence available at the end of the prosecution case is, I am satisfied, sufficient for me to draw the inference at this stage that both Volvo vehicles were used to carry the devices which exploded at Thiepval Barracks on 7 October 1996. The proximity of the engine blocks to the craters, the absence of any other vehicle so extensively destroyed, the observations, such they were, of persons like Lyndsay Kennedy and Mr Sartorius assist in that process. The former had observed a red Volvo estate car, similar to the one purchased from Mr Shilliday, parked in the bay outside the plant room of the Medical Centre shortly before the explosion and this had replaced vehicles she had noticed there earlier. She considered it matched the profile of cars frequently driven by army officers and others using the Barracks legitimately. Mr Sartorius saw the engine block on fire at the plant room of the Medical Centre which caused a plume of smoke and the flames which were penetrating the building immediately after the explosion. The expert analysis by SOCO and detectives at the scene focussed on the Volvo cars and there was no other basis upon which the devices could have been planted based on the observations which they made. The evidence of Dr Murray and Mr Quinn does not state specifically that the cars were the seats of either explosion but it is not obvious to me that the purpose of their evidence was to do so. Their evidence individually and jointly shows that these were explosive devices of an improvised nature and of a type frequently used by terrorists. I am therefore of the opinion that I should reject the submission of Mr McDonald

to the effect that there is no evidence, or no sufficient evidence, from which a jury could properly infer that both vehicles were involved in carrying the devices and were the seats of the respective explosions.

[34] That however is a long way from establishing the connection between the accused and either car so as to prove the elements of count 1. I have come to the conclusion that the evidence at this stage is too ambiguous and vague to enable me to draw an inference that the established connections between the accused and the red and gold Volvo cars is sufficient to say that he has a case to answer. The accused has not been shown to be the man who purchased the red Volvo. His sole connection was with the tax application form, and perhaps in some oblique way, with the warrant card. There is in my opinion, however, no evidence to show that when he applied for the tax disc, through the medium of the forged application, that he was at that stage contemplating the use of the motor vehicle for any criminal purpose, let alone a terrorist purpose involving the causing of such devastating explosions.

[35] Equally, although he has clearly been shown to be intimately connected with the gold Volvo, there is nothing to show that at the time he acquired it, and taking the case at its height by assuming it was he who purchased it, should lead to any inference that he did so with the purpose of making it available for criminal or terrorist purposes, or that it should be used for planting a bomb in this fashion. The difficulties of the prosecution are further compounded by the lapse of time which occurred from the dates of purchase to the dates of the explosions and to which I have already referred.

[36] I must also bear in mind the necessity, where circumstantial evidence is involved, to ensure that it points towards one conclusion i.e. the guilt of the accused and is not capable of multiple interpretations. That being so I consider myself compelled to the conclusion that whilst there is evidence connecting the accused to both motor vehicles and, taking the Crown case at its height, linking both vehicles to the explosions, the necessary bridge between the original connection to the vehicles and the necessary intent to cause the explosions is missing. The evidence is sufficiently ambiguous that it is not possible to say the connection of the accused to each car is proof of involvement in causing the explosions. I shall therefore direct a not guilty verdict in respect of count 1.

[37] The evidence in respect of counts 2 and 3 shows that the accused handled many of the documents comprised in the exhibits referred to collectively as the BUPA documents. Both charges allege that the accused collected information with respect to the specified persons and organisations between 11 April 1994 and 28 February 1995. The Crown therefore attempts to show that during the period of his employment with BUPA he "collected" this information and that it was of such a nature as to be useful to terrorists. The difference between handling such materials and collecting it is an

important one and has a direct bearing on the outcome of the case. A person who handles sensitive information, such as that held by BUPA in respect of groups and individuals vulnerable to terrorist action in Northern Ireland, may do so entirely innocently. Everything will depend on the circumstances. In this case it is clear that, given the dates during which the offences are alleged to have occurred, the accused could have handled the information exclusively when he was employed by BUPA. All of the documentation, on the evidence of Ms Hurst, was of a type which he was entitled to access, there is no suggestion that he handled any documents which were in a special secure category, or beyond the range of documents which he ought to have available to him. There is no evidence he did anything beyond handling the documents at a time when he was employed by BUPA.

[38] It was suggested at one point that some of the documents in Item RM67/Exhibit 18 were beyond his remit in that they referred to Imperial Civil Service Departments which were not based in Northern Ireland. These documents however did not contain any information about any person and there is no basis upon which they could be said to have been useful to terrorists. Further there has been no evidence presented to me which I consider is capable of proving that the accused "collected" these documents. The evidence is simply far too vague or ambiguous to enable me to do that. The presence of his fingerprints is entirely explicable on the basis of his employment within the organisation. The fact that he had obtained the employment by fraudulent means may give rise to some added suspicion but it cannot help close the gap which exists between the case sought to be made by the prosecution and that which can be established by hard fact. Therefore whilst his fingerprints have been found on many of these documents I am unable to say there is any evidence he "collected" them or that he was in anyway responsible for passing them on to persons who were responsible for placing them in the house in Belfast where they were found. The defence submissions were given added weight when the evidence of Mr Graeme Weymes is considered. As the Regional Business Manager of BUPA he accepted that he had written the letter to the accused (Exhibit D1) to the effect that on termination of his employment he should take the company car to Wilson's Car Auctions, Newtownabbey and leave locked in the boot any company property he held. Since there is no inventory of the contents of the car when he handed it over, no information about the date on which it was searched or checked by BUPA officials or any official from Wilsons, and since any number of persons might have had access to the key, I am unable to make any inference about the matter adverse to the accused. In the circumstances therefore I shall direct verdicts of Not Guilty in respect of counts 2 and 3 also. I therefore direct that verdicts of Not Guilty to all three counts should be recorded. There being no other outstanding charge against the accused I directed he should be released from custody.