

R E G I N A

v.

BRIAN RONALD McDONALD

QUESTION FROM JURY AT 4.20 p.m.

(JUDGE READ OUT QUESTION)- to the/effect:- following

"Disposal of rifle, quilts, magazine, Speck's conversation, McDonald's conversation."

Regarding Speck when dealing with the disposal of the rifle, quilts and magazine, I read from p.119:-

"Let me go back a bit, when you got out of the car at the bottom of Myers Park, did you see who had the rifle? McDonald.

After you had run down back to the car, did you see who had the rifle then? McDonald had it, I jumped in the passenger side door, he threw me the gun and I threw it over the back.

Where did the car go then? McDonald hopped in the driver's side and drove out of Myers Park up towards the University to the turn up near or before Symonds St., up to Symonds St. and along the motorway.

And you drove along the motorway to where? To Panmure. To the Bridge, the Panmure Bridge. We stopped the car in the middle of the bridge, or about the middle, McDonald reached over and got the gun and told me to throw it over, I threw it over, the quilt and the clothes he started passing out to me were rolled up, just bundle wrapped up so I threw those too."

At p.120:-

"When you got back to Howard Hunter having disposed of those articles you mentioned, how many of you were in the car? Just the 4 of us.

You, accused and the two Bloors? Yes.

Did you all go into Howard Hunter unit? Yes.

Did the Bloors remain there for a while or not? I think they got into their own car which was parked there and they went home, or they left the unit anyway.

O'Connor, from what you've told us, you hadn't seen him since you left him somewhere up the park? Yes."

A little further down:-

"... McDonald told me to change my clothes which I did, I couldn't say how long we were there, maybe 10 minutes or quarter of an hour.

Then where did you go after you changed your clothes? Went into the car, McDonald, we both left, McDonald and I, went out to Half Moon Bay, I was told to throw my clothes away which I did, and then we come back to Howard Hunter."

At p.135:-

"I put it to you there were 5 of you then that went to the Panmure Bridge where you dumped the rifle at your own instigation? Not true. I dumped the rifle under McDonald's instructions.

Wiped, you wiped it down before throwing over the bridge? No I just threw it.

And that you then drove off to Half Moon Bay? No.

It was then that O'Connor asked where the magazine was? O'Connor was't there.

I put it to you that McDonald indicated that it was on the top of the dash board and that O'Connor then wrapped bits and pieces together and you were changing your clothes in back of the car? I just said O'Connor wasn't there at all it's all wrong.

But when you got to Half Moon Bay, obviously O'Connor then got rid of the clothing, you say he still wasn't there? Yes."

That is really all Speck has said about disposing of quilts, covers and things like that. When it comes to McDonald's evidence about that, at p.218, he said this:-

"Did you travel along the motorway? Yes.

Where did you go from there? To the Panmure Bridge from the Mt. Wellington/Ellerslie Highway.

At this stage did you know anyone had been shot? No I didn't.

What occurred when you got to the bridge? As we drove past the Panmure Basin, Speck took the rifle from the back of the car.

Was it still in the back of the car then? Yes.

Carry on? He started to wipe it down using the wrapping.

What did he do with it? As I drove across the Panmure bridge, Speck indicated to me to slow down and then as we neared the Pakuranga side of the bridge he told me to stop.

You stopped the car, did he get out? Yes.

Did he have the rifle with him at that time? Yes he did.

Did you see what he did with the rifle? No I only saw him take it from the car.

Did he then get back into the car? Yes.

How did he do that? He was running, he ran back to the car and got back into the car and we drove out to Half Moon Bay.

O'Connor in the car then? Yes, right next to me. Not familiar with that area, out that way, it is all built up now.

Did you then drive to an area known as Half Moon Bay? Yes I did.

What did O'Connor say to you then, did he enquire anything of you? He asked me where the magazine was, it was still on the dashboard held with the piece of rag then.

What did O'Connor do with that? Placed the rag on his lap, placed the magazine inside the rag and then started taking bullets from his jacket pocket and placing them in a rag and making a bundle of it and tying up the edges.

Did you notice what Speck was doing then? Yes he was changing his clothes to the ones that were on top of the dashboard.

You then reached Half Moon Bay? Yes.

Is there a marina at Half Moon Bay? Yes there is.

Is there some sort of carpark there? Yes.

Did you stop there? Yes I stopped in the carpark and again Speck left the car taking the clothes.

How long was he away for? About 5 minutes.

What about O'Connor, what had happened to the bundle he wrapped up? He had passed it to Speck.

So Speck came back to the car, where did you drive to then? Back to Howard Hunter, to the unit."

That is what McDonald said there. He mentioned, while being cross-examined, at p.234:-

"Quite happy to go back that second time though were you?
Yes.

When that rifle got thrown over the bridge, did you ask them about what happened? At that stage tension and excitement in the car was thick and when Speck threw the rifle down, I then thought they must have used it to hit someone."

This again is McDonald, at p.214:-

"We now go back to the situation where the rifle had been obtained, you were still in the car I take it? Yes.

... Did you make any comment to the others at about that time? Yes, I said that we may need some petrol.

Was the car short of petrol at that stage? Yes, we continued on to Howard Hunter Ave."

This is all before they went back to Queen Street:-

"For what reason? Originally it had been for Speck to get some clothes, and then I noticed when in Mt. Wellington we didn't have much petrol so the reasons were twofold.

There was petrol at Howard/Hunter? Yes we stored it in 4 gallon tins.

What did you do at Howard/Hunter? I backed the car up the drive, Speck and O'Connor went into the unit, I tried to syphon some of the petrol from the 4 gallon drums into the car, I got a mouthful of petrol.

What happened then? I explained to Gary that I couldn't get the petrol under the car without getting mouthfuls so he took over the job.

What about the Bloor brothers? Where were they at this time? At the back of the car and Speck was inside the unit at this time.

Did he bring anything out from the unit? Yes bundle of clothes.

What did he do with them? When he got into the car he put them on the dashboard on the passenger's side."

That deals with how some quilts came to be in the car. I think that is all that there is in the evidence from Speck and McDonald in answer to that question; the disposal of the rifle, quilts and magazines. Your next question, Mr Foreman and members of the jury is in reference to the loading of the rifle by O'Connor and then another question regarding Speck. As far as O'Connor is concerned, there is no direct reference to the loading of the rifle but I will read passages which indicate possibly an opportunity for the loading of the rifle.

At p.102:-

"But it's true you were the one who got the rifle out of Harris Rd? Yes that's right.

And did that rifle have ammunition wrapped up in it? I think so, last time I saw the ammunition it was."

Although it is not loading, what he is saying is that the ammunition was wrapped up in the rifle, or the last time he saw it, that was the position.

At p.106:-

"I'm putting it to you that the accused took the magazine from the rifle off you down in the car, that right? Don't think so.

You had bullets in your pocket, what do you say to that? No, he unwrapped the gun."

MR HART:- I wonder if the next part could be read; it forms the context of the matter.

THE JUDGE:-

"I'm putting it to you that the accused took the magazine from the rifle off you down in the car, that right? Don't think so.

You had bullets in your pocket, what do you say to that? No, he unwrapped the gun.

This is significant, about you having let it slip out that you unwrapped the gun, that is recorded in your evidence? You're now saying you can't remember about that? No."

That is the additional part Mr Hart wanted read. At p.91:-

"What happened when you, he, got back? He got in the car and he drove out the way we come in and we come back down and then went down the side of the bridge into Myers Park.

See the way you went on that photo? Yes (indicates route taken - beside the bridge).

When you got there which way did you go? Turned right, went under the bridge and parked down by the toilets.

And what happened there? Then, when we got there, he told us to get out of the car, me and Bruce got out of the passenger's door.

What happened to weapon? Brian got out the other side of the car with the gun and he unwrapped it and put the blanket back on the front seat and told me to go up into Queen Street to watch out for the pigs."

So really, I think I can say that there is nothing there from O'Connor of seeing anybody actually loading the rifle or the magazine. Now Speck, reading from p.118:-

"After everyone had got back in, where did the car go? To Myers Park.

Who drove? McDonald.

And whereabouts in Myers Park did McDonald drive to? Down the bottom end, as you first drive into it.

What happened down there? Well McDonald was under the seat, don't know what he was doing, he reached over the back, got the gun out from the back and said, let's go. So we all got out of the car and he pointed up towards the park."

At p.132:-

"... it was O'Connor I put it to you who leaned over the back, unwrapped the rifle from blanket and removed magazine from the gun, you see that occur? No.

I put it to you that it was O'Connor who loaded the magazine with bullets from his leather jacket, took bullets from his pocket? I never ever saw a magazine, I never heard of the magazine.

At that stage, I suggest to you that McDonald said, what the hells going on and you said, I was just going to scare somebody? Thats a lot of bull.

That's what you intended to do initially, scare someone? No, I intended to go home to bed, I didn't intend to do anything.

I put it to you it was then that accused McDonald put the magazine, took the magazine off O'Connor, right? I told you I didn't see any magazine at all, don't know if the rifle has magazines, I'm not familiar with rifles."

At p.130:-

"... you say it was McDonald who took the rifle from the back seat? Yes, why it is so important because it was the first chance I got to know there was a rifle there.

You've already said you thought it was a rifle somewhere back at Harris Rd? No, when McDonald pulled it out from the floor at the back, it wasn't covered then.

So as far as your evidence is concerned on thatpoint, you've got clear picture, be sure of this, of McDonald leaning over the back and taking rifle from the back, what, unwrapping it? No I don't know about unwrapping it, it was unwrapped when it come over.

Where was O'Connor at this time? Still in the front.

I suppose you had gone over in your mind many times this particular incident, being a forerunner of what occurred later? Don't know what you mean.

You've thought about it so you've got clear picture that it was McDonald picked the gun up from the back? I don't have to go through it all the time.

I suggest to you on previous occasion of giving evidence on this subject you said, when we got to Myers Park the quilt was brought over from the back, McDonald or Gary brought it over, I don't know but it wasn't me? It was McDonald who brought it out."

That is from Speck's evidence and once again, I think it can be said that he did not say that hesaw anybody in fact loading it.

Have I covered these matters as far as counsel are concerned?

MR GRIEVE:-

Just at the bottom of p.133, the cross-examination of Speck.

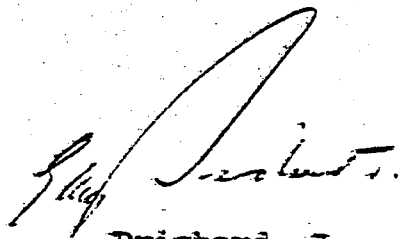
"I suggest to you that this is what happened, that you firstly got out of the car with O'Connor and did reconnoiter to see what the best place to get view of Main Street? Not true.

Spent about 15 minutes from the car, came back, then O'Connor got the rifle from back of the car, loaded up the magazine, right? Untrue.

McDonald took the magazine from O'Connor because he wanted no part of that? Untrue again.

Bit of an argument that you said you were just going to scare someone? All wrong."

I think those are the only passages in the notes of evidence where these matters are mentioned. I do not think there is anything more I can tell you in answer to your questions.



Prichard, J.
30.9.80