

[1] I was engrossed in what I was doing.  
 [2] **Q:** Anyway, I think you know where I stand in relation to  
 [3] those two letters, do you not?  
 [4] **A:** I know --  
 [5] **MR HOBBS:** Excuse me, I have just heard some more muttering.  
 [6] **MR COX:** I am sorry if my learned friend heard my  
 [7] muttering. It was not intended to be heard.  
 [8] I simply said to myself that, as I understood the  
 [9] position, my learned friend has no position. It is his  
 [10] client who has the position. It may simply be a  
 [11] conflict of styles which exist in different division.  
 [12] But it was not intended to be heard and, if he heard it  
 [13] and it upset him, I apologise.  
 [14] **MR JUSTICE LADDIE:** There is one system of civil justice.  
 [15] There is no difference between different courts. We  
 [16] will play this one absolutely with a straight bat,  
 [17] Mr Cox and Mr Hobbs. Please try to keep your feelings  
 [18] to yourselves, both of you.  
 [19] **MR COX:** I apologise to my learned friend. If it upset him,  
 [20] then I do regret it.  
 [21] **MR HOBBS:** Mr Donovan, you understand my client's position,  
 [22] do you, in relation to these two letters, which are  
 [23] dated 24th July 1990 that we have been discussing for  
 [24] some period of time?  
 [25] **A:** Yes, I do, and I have made my position clear as well:

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[1] until the last few minutes of yesterday's trailing of  
 [2] this extraordinary issue not one single notice or  
 [3] mention has been made to the claimant that it was going  
 [4] to be suggested that these letters were fraudulent.  
 [5] That may or may not be improper or wrong, but this is  
 [6] the first time the claimant has understood that these  
 [7] letters are questioned in the sense that they were not  
 [8] sent to Shell at the material times or to Sainsburys.  
 [9] So, my Lord, in our submission, whatever my  
 [10] learned friend is about to say would be unsafe and wrong  
 [11] admit and it may be that I have to consider a course in  
 [12] this trial which could cause considerable delay by  
 [13] application to your Lordship if it were to be admitted  
 [14] or taken seriously.  
 [15] **MR JUSTICE LADDIE:** Mr Hobbs, you may think, in view of  
 [16] Mr Cox's interjection, the best thing to do is to say  
 [17] nothing more. If you want to subpoena somebody --  
 [18] **MR HOBBS:** I certainly do not want to abort the trial.  
 [19] **MR JUSTICE LADDIE:** No, I am not going to allow anything to  
 [20] happen to abort this trial, Mr Hobbs. So you may decide  
 [21] the best thing to do is to say nothing more about it.  
 [22] **MR HOBBS:** I will say nothing more and I will address the  
 [23] matter with my solicitors over the short adjournment and  
 [24] decide what is the appropriate action.  
 [25] **MR JUSTICE LADDIE:** Let us leave it like that.

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[1] that they were written at that time.  
 [2] (12.30 pm)  
 [3] **Q:** Well, my Lord will be the judge of your answers now.  
 [4] **MR JUSTICE LADDIE:** Mr Hobbs, I understand in the bundles  
 [5] there were no acknowledgments by either Shell or  
 [6] Sainsburys in the files. That, so far as discovery  
 [7] goes, none of this material was found in Shell's files,  
 [8] but there are documents missing from Shell's files. Let  
 [9] us not worry about that for the moment. Has anybody  
 [10] made enquiries or sought to subpoena Sainsburys,  
 [11] **MR HOBBS:** Before I answer that I need to speak to my  
 [12] solicitor.  
 [13] **MR JUSTICE LADDIE:** Mr Hobbs, before you say any more, if  
 [14] this is a matter which you want to address at a time  
 [15] more convenient to the presentation of your case, please  
 [16] do not let me change the sequence.  
 [17] **MR HOBBS:** I am going to answer your Lordship's question  
 [18] now. What I wanted to check was that I was able to do  
 [19] it. That is why I have just spoken to my solicitors. A  
 [20] representative of DJ Freeman, who is the young lady  
 [21] solicitor sitting in front of me --  
 [22] **MR COX:** I object to this. We have had no notice of it. It  
 [23] sounds very much like hearsay piled upon hearsay. That  
 [24] of course is a matter for your Lordship to judge.  
 [25] I quite understand that. May I also make this plain:

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[1] **MR HOBBS:** There is one point I should perhaps respond to --  
 [2] **MR JUSTICE LADDIE:** What did Mr Lazenby say? My  
 [3] recollection is that Mr Lazenby gave evidence about  
 [4] these letters, did he not?  
 [5] **MR HOBBS:** He does give evidence. It is in several places.  
 [6] I cannot remember more than the gist of it. On this  
 [7] question of no notice or warning, the authority which  
 [8] immediately springs to mind is John Walker in which it  
 [9] was held specifically that, if a case of this kind  
 [10] emerges during the course of a trial, the court can take  
 [11] (inaudible) and counsel can raise it properly and  
 [12] consistently with the evidence which emerges.  
 [13] **MR JUSTICE LADDIE:** Carry on.  
 [14] **MR HOBBS:** Would your Lordship give me two seconds to  
 [15] consult with those in front and behind as to what I need  
 [16] to do?  
 [17] **MR JUSTICE LADDIE:** Yes. Would you like me to rise for five  
 [18] minutes? I have very acute hearing. I am deliberately  
 [19] not listening, but I am also immensely inquisitive and  
 [20] I am finding it hard. Would you prefer me to rise?  
 [21] **MR HOBBS:** I think I have finished and my point is that I am  
 [22] trying to find out whether anyone thinks there is more  
 [23] I should put. I think I have finished, but something  
 [24] has just been said to me which would make me ask  
 [25] your Lordship not to in fact release the witness, but

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[1] perhaps I can stop for the moment.

[2] **MR JUSTICE LADDIE:** You want not to have Mr Cox re-examine,  
[3] or what?

[4] **MR HOBBS:** He would say that he should not re-examine until  
[5] I have made my position clear.

[6] **MR JUSTICE LADDIE:** There are such serious issues in this  
[7] case, Mr Hobbs. I would not want either your client or  
[8] Mr Donovan to be in the position where an attempt to  
[9] find the truth or full facts is impeded. Mr Cox has to

[10] re-examine anyway. How many more witnesses do we have  
[11] today? Mr Cox, I got a message through the grapevine  
[12] that one of the witnesses that you hope to have here  
[13] today is not going to be here and we may run short.

[14] **MR COX:** The grapevine has worked.

[15] **MR JUSTICE LADDIE:** I just wondered whether it would be more  
[16] convenient to the proper conduct of this case for me to  
[17] rise now and start again at 1.45 pm. I will do whatever  
[18] counsel want, as long as it is reasonable.

[19] **MR HOBBS:** I understand. I am being given to understand  
[20] that there is material that I might wish to put to this  
[21] witness, but I am being also given to understand that it  
[22] cannot be brought here for certain by 2 o'clock. That  
[23] is the reason why I am in this dilemma.

[24] **MR JUSTICE LADDIE:** Mr Hobbs, this is your  
[25] cross-examination. You have to be prepared to

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[1] re-examination, you should not take it as granted that

[2] I will allow you to have Mr Donovan back in the witness  
[3] box. You will have to make out strong grounds for it.

[4] Do you understand that? I do not want you to say it is  
[5] a foregone conclusion. Basically, once Mr Donovan has  
[6] been in and out --

[7] **MR HOBBS:** -- the normal rule will apply. My Lord, I will  
[8] now sit down and stop.

[9] **MR JUSTICE LADDIE:** Thank you very much. Mr Cox, is it  
[10] convenient for you to start now or would you prefer  
[11] to --

[12] **MR COX:** I would infinitely prefer to take the adjournment  
[13] now.

[14] **MR JUSTICE LADDIE:** And start again at 1.45 pm?

[15] **MR COX:** If your Lordship pleases.

[16] **MR JUSTICE LADDIE:** For this afternoon, any idea how much --

[17] **MR COX:** Twenty minutes.

[18] **MR JUSTICE LADDIE:** Are we going to take up the whole  
[19] afternoon?

[20] **MR COX:** It very much looks so now. I do not have any  
[21] criticism about that at all. But it now looks as though  
[22] we shall not have any difficulty at all in so doing.

[23] **MR JUSTICE LADDIE:** Thank you very much.

[24] (1.45 pm)

[25] (The luncheon adjournment)

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[1] cross-examine.

[2] **MR HOBBS:** Your Lordship --

[3] **MR JUSTICE LADDIE:** There are faxes, you know,

[4] **MR HOBBS:** I am sorry, my Lord, this is completely  
[5] unforeseeable from my perspective, no less than from  
[6] anybody else's perspective. The dilemma I am in is what  
[7] I am being told cannot materialise, if it can be made to  
[8] materialise, before 2 o'clock.

[9] **MR JUSTICE LADDIE:** If it is very important and you have  
[10] cross-examined Mr Donovan and Mr Cox has re-examined  
[11] Mr Donovan, and if you have seen new material which you  
[12] think is crucial, you can always make an application for  
[13] leave to have Mr Donovan put back in the witness box,  
[14] I will consider such an application on the merits and  
[15] bearing in mind the weight or significance of any  
[16] additional material you may have.

[17] **MR HOBBS:** My Lord, yes,

[18] **MR JUSTICE LADDIE:** I can do that. What I do not want is to  
[19] let this case go on one minute longer than necessary,  
[20] because both Shell and Mr Donovan are paying a lot of  
[21] money for it.

[22] **MR HOBBS:** My decision, as captain of the ship, is to say --

[23] **MR JUSTICE LADDIE:** Before you say anything, I want you to  
[24] understand, Mr Hobbs, that, if you finish your  
[25] cross-examination and Mr Cox finishes his

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[1] (1.45 pm)

[2] Re-examination by MR COX

[3] **MR COX:** Mr Donovan, one or two things, please. Could you  
[4] turn to file E2, page 635?

[5] **MR JUSTICE LADDIE:** Sorry, what page was that, Mr Cox?

[6] **MR COX:** 635, my Lord.

[7] **MR JUSTICE LADDIE:** Right.

[8] **MR COX:** At least, I hope it is. I am going to try to get  
[9] there before others to see that it is. It is 634.

[10] **A:** I have that letter.

[11] **Q:** E2?

[12] **A:** Yes.

[13] **Q:** 634.

[14] **A:** A Shell letter to Senior King.

[15] **Q:** That is it, dated 20th November 1995.

[16] **A:** Fine.

[17] **Q:** Let us just have a look at it together for a moment.

[18] Plainly, it is not a letter that you would have seen  
[19] until discovery; correct?

[20] **A:** Correct.

[21] **Q:** It is a letter to Mr Grahame Senior of Senior King from  
[22] Mr Pirret, the General Manager of Retail, and he is  
[23] answering, plainly, the theme on which Mr Hobbs was  
[24] asking you questions, the claim made by Senior King. Do  
[25] you understand?

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