

JUSTICE RICHARD TUCKER

The Accused

The following document asks the question why the Crown allowed its Prosecution to hinder the pre-trial of Asil Nadir in 1992-93 by incriminating the Judge, Richard Tucker, with the unsubstantiated allegation initially of bribery and then conspiracy.

It further seeks to question why Justice Richard Tucker permitted such unprecedented proceedings to continue over a period of six months without any credible evidence from the Prosecution. Should he not have halted the proceedings for contempt of his court, or demanded absolute evidence from the Prosecution of their bribery/conspiracy allegation, or simply stood down himself. Did he seek direction from a higher level and, if so, from whom?

Was Justice Tucker an unwitting tool of this higher authority, used to frustrate the true course of justice in the Nadir proceedings or was he himself unwittingly playing a part in that frustration through seeming ineptness?

This document has been compiled directly from the text of daily court transcripts with eye witness corroboration, and statements from the text of the lifting of reporting restrictions (The Independent and Section 4 (2) Application) held in front of Justice Tucker on 29th November 1993.

In November 1993, the Independent newspaper applied to the courts for the lifting of reporting restrictions (section 4 (2)), in respect of the pre-trial hearings of Regina -V- Asil Nadir. It was during these hearings that the unprecedented accusations of bribery and then conspiracy were levelled by the SFO and the DPP at the trial judge, Mr Richard Tucker.

Presiding judge: Richard Tucker
Representing the SFO: David Calvert Smith QC
Representing the DPP: Alun Jones QC
Representing the Independent: Andrew Nicol QC
A representative of the Attorney General was present in court

Newspaper reports after the hearing:

.....November 1993 - following lengthy investigations, the Crown Prosecution Service has announced that

".....there was 'no evidence to support the allegation'"

.....29th November 1993 - Mr David Calvert-Smith representing the SFO, said,

".....it was now realised the allegations against Mr Justice Tucker were 'spurious and groundless'"

.....29th November 1993 - Receiving the apology, Mr Tucker said

".....I have known from the start it was arrant and outrageous nonsense - I thought that if anything leaked out about the so called unsubstantiated allegations of bribery, I felt Mr Nadir could not have a fair trial"

*** 16th February 1994 — George Staple, the Director of the Serious Fraud Office was obliged to apologise to the Commons Home Affairs Committee for allowing lawyers to suggest that a judge had been bribed

It is expected that the reader has a background knowledge of the PPI/Asil Nadir case history, therefore, it is only necessary at this moment of time to backtrack on some of the hard points which led up to the point of the pre-trial hearings in front of Justice Tucker.

The Serious Fraud Office raid on South Audley Management in September 1990 produced a situation whereby the SFO attacked the private company of the Chairman & CEO and major shareholder of Polly Peck International and, by not informing the Stock Exchange in advance, created a situation which led to the collapse of the shares of PPI. No charges had been forthcoming from that raid and thereafter the SFO mounted a campaign to "find" evidence that would substantiate their original attack and, therefore, eliminate their responsibility for the sudden collapse of PPI.

On the 30th October 1990, six days after PPI went into Administration, the SFO mounted another highly publicised raid on PPI's headquarters in Berkeley Square. The press had been informed and astonished office staff was told that they (the Press) were there by invitation of the SFO. What is not generally known is that there were SFO appointed staff from ~~Touche Ross~~ ^{KPMG} already working in the building investigating PPI, with Mr Nadir's prior knowledge and consent. It was during this raid that privileged documents were first seized and later circulated to unauthorised bodies also involved in the fall of PPI.

Mounting further pressure, the authorities implemented another high-profile exercise when they elected to arrest Nadir on his return to the UK in December 1990. His aircraft was diverted from Luton to Heathrow by air traffic control, and armed police with police dogs surrounded the aircraft in combat style and arrested everybody on board. Asil Nadir was held in custody for over 24 hours whilst the SFO decided what they were to charge him with. He was then detained in Wormwood Scrubs Prison for four days until the highest bail in history of £3,500,000 was provided.

History shows that throughout what could be referred to as the 'Nadir Abuses Saga', the SFO conducted themselves in a draconian and sometimes illegal fashion not only through their highly publicised raids, arrests, and constant seizure of defence papers but also in their abuse of power by conferring with other regulatory authorities and indeed full-scale circulation of Mr Nadir's privileged documents. It took three years - and the loss of a senior politician (Michael Mates MP) - before one of these abuses of law was exposed, resulting in the Attorney General (Sir Nicholas Lyle) being obliged to make an apology, albeit economical with the facts, to the House of Commons concerning the distribution of privileged documents.

In addition, the SFO were seen to prevaricate and indeed use "bully-boy" tactics throughout the duration of more than one year (1991) whilst the case remained in the

Magistrates' Courts. Their aim seemed to be to confuse and delay with regard to the number and type of charges they would ultimately submit for trial.

At one stage towards the end of the magistrates' hearings in 1991, a Chief Magistrate expressed his annoyance at the time the case was taking and ordered the case papers to be ready by a particular date. The SFO bluntly informed him that it was for the director of the SFO to decide when the transfer to High Court would take place and not the Chief Magistrate.

On 28th February 1992 Mr Justice Tucker, the High Court Judge appointed to take the case through to trial, stated at the outset of this new stage of the proceedings that the maximum number of charges he would like to see would be six but that he would contemplate ten. These comments were prompted by the collapse of the second Guinness trial two weeks before and the length, expense and complexity of the Blue Arrow case. In fact the SFO ignored this dictum by maintaining their right to pursue 76 charges.

On 18th May 1992 Mr Nadir and his Counsel travelled to Stafford Criminal Court where Justice Tucker was sitting as a circuit judge only to find the case adjourned after a short time.

On 8th June at Birmingham CC Justice Tucker dismissed forty-six of the Prosecution's charges of theft totalling #119m against Mr Nadir on a jurisdiction premise.

On 22nd June the SFO mounted a concentrated challenge to Tucker's decision to dismiss those charges. Robert Owen QC for the SFO accused Tucker of setting up a "fraudsters' charter" and said that contrary to the Judge's ruling, Mr Nadir did not have the authority for* the transfers of money from PPI to Unipac, a subsidiary company. Again an example of the Prosecution contesting the Justice Tucker's ruling.

As a result of their submission the Prosecution won the right to appeal against the decision of 8th June, culminating in their invidious right to reinstate those charges should they feel inclined.

A lot of time was spent therefore at the next hearing on 7th September trying to clarify exactly which charges the defence were to prepare for, given that the SFO were now in a position to alter the counts on indictment at whim.

Later that month on 25th September (1992) the Defence advised the court in advance of the next hearing that it would seek a bail variation to allow Mr Nadir to travel to Northern Cyprus to gather his defence evidence.

*** On 2nd October 1992 the first indication of what was to become known as the "*allegation of a bribery plot*" came to light. It is not proposed to discuss at this moment, the quality or substance of the so called evidence which the SFO produced and subsequently passed on to the police. Suffice to say that in late 1993/early 1994 the CPS said there was "*no evidence to support the allegation*" and George Staple, Director of the SFO, apologised to a House of Commons committee for allowing lawyers to suggest that a Judge had been bribed or was about to be bribed.

2nd October was the date set for a bail variation hearing. Mr Nadir and his Defence Counsel together with Robert Owen QC for the Prosecution awaited the appearance of Judge Tucker only to find that he was not going to appear in the court, but was in fact in his chambers and in good health. His non-appearance was on the instruction of Lord Chief Justice Taylor and Sir Nicholas Lyell (Attorney General), as a result of a certain document which the SFO had said had come to hand the previous day. This document appeared to relate to the payment of £3,500,000 in the event of Asil Nadir leaving the UK, and was allegedly signed by Mr Nadir's sister, Bilge, and his mother, Safiye. The SFO's contention was that this sum of money was to be paid to the Judge subject to a successful variance of bail, enabling Mr Nadir to retrieve his passport and leave the country. To the surprise of the court, Mr Justice Pill emerged to replace Judge Tucker-- Anthony Scrivener (Mr Nadir's Counsel) felt unable to continue with the variation application in front of a new judge who was not versed with the details of the trial. A new hearing date was set for 6th November.

COMMENT

The scenario on 2nd October sets the stage for what will be seen as an unprecedented accusation against a High Court Judge over a period of six months, without evidence, as was to be admitted later (see lifting of reporting restrictions November 1993).

The SFO, by their own admission, had received a telephone call from one Michael Francis (alias Kent, Adams, Stuart Waverley, and others), as far back as 29th July 1992. They had passed this "*information*" over to the Metropolitan Police at New Scotland Yard and after eight weeks, and just one day before a bail hearing application, they

produced *"the document"* (a Photostat A4 sheet of paper with blanked out witness signatures and dubious writings both typed and handwritten) - This document (which did not exist according to the CPS at a later date) was the only evidence that the police could offer as so called proof of an alleged bribery plot against a judge of the highest court in the land. Their informant was a known criminal with a long record of violence, who had been known to the police for over 10 years. However, the Attorney General (Sir Nicholas Lyell), Lord Chief Justice Taylor, Barbara Mills, Head of the DPP, and George Staple, Director of the SFO, all decided with senior police officers that Justice Tucker should be made aware of the allegation, hence his non-appearance.

*** On the 6th November, Justice Tucker decided to appear in court to give his reaction to being served with an SFO document concerning the allegation. Owen (SFO) opened the proceedings by-requesting Tucker to order the Contempt of Court Act (reporting restrictions) to be put in place concerning what he (Owen) was about to reveal. Tucker agreed to do so and continued,

"It is an astonishing document and an astonishing suggestion".

Owen replied,

"It is only right that I should mention that those responsible for the investigation (police) instruct those instructing me (SFO) that there is a probability that officers involved in that investigation would wish to interview your Lordship. My Lord, I am obliged to mention that, because it may be relevant to the question of your Lordship's view of continuing to preside over this matter".

Tucker expressed concern about the impending trial date (7.3.33) and Owen said that he thought the Prosecution would be able to resolve the problem of the allegation *"within two weeks or thereabouts"*.

Tucker declared he found his position *"most unsatisfactory and unsettling"* and after further comment from Owen about difficulties for the Prosecution to proceed he declared

"It is unprecedented".

Counsels then proceeded to discuss the implications of the allegation and its effect on the proceedings.

Scrivener (for Mr Nadir) said

"I invited the Attorney General personally today to conduct an inquiry into the way this case has been prosecuted and he has said he will undertake that task"

(this was to be refuted by Lyell a few days later). He also felt that the trial date of 7th March was *"unrealistic"* but urged Tucker to remain in charge of the case.

Further discussion then took place about the differing times of the disclosure letter from the Attorney General concerning the allegation Tuckers' s letter was faxed to him at 10.30 am the previous day and Scrivener's at 5.28 pm. thus giving him no time to prepare for the next day.

Because of the probable delay of the trial due to the allegation; Tucker said

"I am beginning to wonder who is in charge of this case Mr Owen, whether it is me or whether it is the Prosecution".

Upon further pressure from Owen concerning timing, Tucker continued,

"...what alarms me is the suggestion that someone may come and wish to interview me".

Scrivener said that he hoped the Attorney General would do something about it and Tucker replied

"I think he had better do something about it".

Finishing, Tucker said he would also take advice concerning his own position.

Owen explained that Staple and Lyell had consulted each other from the outset, but /Tucker said "I feel very unsettled about the whole thing" and stated again that it was *"a day wasted"*.

(Adjourned)

COMMENT

The attitude of Tucker was one of annoyance and expressed surprise at the Prosecution's advice that he might have to consider whether* to remain in charge of the trial. He was very concerned about the almost inevitable change in the trial date and he obviously looked forward to the Attorney General doing something to ease the situation.

Owen had managed to invite (persuade) Tucker to order reporting restrictions, not as Tucker was to say later, for the benefit of the Defendant (Nadir), but in fact for the benefit of the SFO, who could now hide from the public arena the oncoming onslaught of unfounded allegation which was to continue throughout the next six months of pre-trial hearings.

Owen continued to remind Tucker of his possible precarious position for the future and played the apologetic but firm hand of a Prosecution backed by the DPP, Attorney General and Lord Chief Justice.

Without doubt Tucker felt *"very unsettled"*.

Also on 6th November Scrivener wrote to Sir Nicholas Lyell a strong letter of protest saying that he considered the *"information available"* with reference to the bribery allegation *"would not justify interviewing anyone, let alone a High Court Judge"*. He complained about the different timings of the AG's disclosure of the matter to the various parties saying that either the Defence were to be given the shortest possible warning or, as the Judge remarked, the Defence might contact the Judge. He expressed extreme concern with the Prosecution's handling of the case, the SFO's denial of obvious major PPI assets in Turkey and N Cyprus, Mr Nadir's extraordinary public arrest at Heathrow airport together with the record bail of £3,500,000, and many other bizarre and unreasonable events surrounding the trial proceedings.

On 13th November the Attorney General was to reply, saying he thought Scrivener was under a misconception about the role of the SFO. He did not think it bizarre that the police should seek to interview Tucker if necessary and that Owen had been most careful in his wording to Tucker. Furthermore he denied that he would undertake an inquiry into the allegation affair and was unaware that he (Scrivener) had made a substantive request for such. He felt that any anxiety in the present case did not relate to any actions of the SFO. (This reply was a complete denial of responsibility by the AG, and a passing of the buck to George Staple of the SFO. It was tantamount to an assault on the integrity of the Judge, the Court, and British Justice).

*** The 15th December was another bail variation hearing and Owen again opposed the application very strongly. He declared that if Mr Nadir was allowed to go to Cyprus, he may not return for his trial, and that he might interfere with witnesses and material documents. Added to this, was the issue of the bribery allegation document. Tucker

said,

"I shall want to hear some evidence about that. That document remains a mystery to me".

Owen replied that he would be calling Chief Superintendent Glendenning from Special Operations Department at New Scotland Yard to deal with the matter. Tucker noted that Mr Nadir and his sister Bilge were arrested on 5 November (one day before the bail variation hearing) on the premise that they were both involved in a plot to bribe him. (They were both subsequently released without charge).

Scrivener said he had not been shown an original of the alleged bribery document. Chief Sup Thomas Glendenning was sworn in and said that he had difficulties in concluding his inquiries by virtue of the absence of the source of information. Scrivener cross-examined Glendenning about the arrest and questioning of Mr Nadir on the 5th November and ascertained that during two interviews (the second being on 10th December) no questions were asked concerning the alleged corruption charge. Glendenning agreed that NO such questions were asked, and that Mr Nadir was bailed for three months. He also agreed that the search warrant and subsequent arrest of Mr Nadir were executed the day before the hearing of 6th November, and that the evidence of the document had been known to the police nearly five weeks before that date. Scrivener asked whether the timing of the arrest had been anything to do with the bail application. Glendenning answered,

"It may have been".

and confirmed that a valuable painting was involved as a known asset-He also confirmed that the police would be interviewing witnesses in the jurisdiction. Scrivener then asked about the originality of the allegation document and Glendenning replied that it was a photocopy, and that he thought the original was in Switzerland. He confirmed that he had NO signed statement from the informant or from any other witnesses and that his further inquiries might be concluded *"within a three month period"*.

Tucker then questioned Owen about some of the content of the document and Owen asked Glendenning for some explanation. He replied,

"...at the moment, we have NO evidence whatsoever to support what is alleged in that letter",

and went on to say

"...that he had NO signed witness statement concerning the police speculation that large sums of money had been moved with the probability that they might be used in connection with the bribery allegation"

Scrivener continued by asking Glendenning if it was ever his intention to interview Tucker (as Owen had inferred on 2nd October) Glendenning replied

"We have NEVER declared that intention, my Lord".

Scrivener asked further,

"the answer is that you have never suggested, on your part, that you had sufficient evidence to warrant interviewing the person named in that passage (Tucker)".

Glendenning replied,

"I NEVER had any evidence that would suggest such a course of action".

(Hearing adjourned)

COMMENT

At this hearing Owen still strongly objected to bail variation and called Glendenning to the witness stand to give the court details of the police progress in their inquiries of the bribery allegation- Glendenning admitted that they had no witness statements at all. The only evidence was a Photostat copy of the said document, and that he now expected his inquiry to extend from the original two weeks, stated at the outset on 6th November, to a probable THREE MONTHS, He agreed that the timing of Mr Nadir's arrest may have been coincidental with the next day' s bail application hearing and that Mr Nadir was arrested and bailed for three months but that no questions concerning the bribery allegation were asked of Mr Nadir or of his sister during their interviews. When it came to Owen's previous intimidatory proposal that Judge Tucker might be interviewed, Glendenning completely denied that he had any evidence to suggest that the Judge might be interviewed by police.

What had been achieved at this hearing was another voluminous waste of time, and the

bail application being subject to further delay thus denying Mr Nadir the right to travel to N. Cyprus to collect evidence for his defence.

Justice Tucker, although happier with the fact that Glendenning had told him he was not going to be interviewed, was still further intimidated by the prospect of an extended inquiry by the police into the allegation, thus destabilising the future trial date.

Mr Nadir however was now under additional bail reporting conditions. Both he and his sister had been further smeared by the media whilst under supposed questioning in police cells, and his character as an *"innocent until proven guilty"* person was being eroded by the media on a daily basis- *"Guilty by allegation"* was fast becoming the norm.

*** During the course of the next two days (16th-17th December 1992) the Court was to hear much discussion as to the number of counts on the indictment which the SFO deemed necessary for the trial. Tucker had previously asked for a lesser number of charges and reached agreement with the Prosecution and set a new trial date for 13th September 1993. Tucker asked for more details about the bribery allegation and was told that it is an on-going OPERATIONAL enquiry. He remained puzzled by the allegation and Scrivener told him again that neither his client (Nadir) nor seemingly anyone else had been interviewed by the police on this matter.

Scrivener said,

"There has been no interview. They have got no statement from the witness. They have nothing".

However, Tucker still refused to give Mr Nadir his passport back for a short term escorted trip to N. Cyprus.

**** The next hearing on 8th March was to prove the climax of abuse by the SFO, Police and DPP towards the Judge.

In court that day was Mr Nadir and Anthony Scrivener, Mr Robert Owen QC for the SFO, and - surprisingly - Mr Alun Jones QC for the DPP. Jones arrived a few minutes before Justice Tucker was about to appear and beckoned towards Scrivener. He told Scrivener that the allegation of bribery was now to be upgraded to that of *"conspiracy to pervert the course of justice"*. Scrivener was visibly shaken as he returned to his place and explained the new position to Mr Nadir.

Tucker entered the court and Owen explained to him that Mr Alun Jones was present to represent the DPP. Tucker confirmed his understanding that Scrivener was going to apply to have him (Tucker) discharge himself, but Scrivener asked for Alun Jones to be heard first. Jones said,

"Mr Nadir is appearing before a Judge who the Crown says he was conspiring to bribe".

Although Jones did not suggest an approach had been made to Tucker, he said the matter had been considered very seriously by those instructing him, and he told Tucker that he (THE JUDGE), Mr Nadir, Anthony Scrivener and Wynn Jones, ex Assistant Commissioner of the Metropolitan Police, were ALL implicated in a charge of conspiring to pervert the course of justice -

Tucker astounded gasped,

"Me!!!"

and then asked Alun Jones to repeat the names for clarity. Jones went on to say that he was representing the DPP (Barbara Mills) and that he knew a good deal more about the details of the new allegation than he could disclose in court. But, he stated,

"The police have got to the stage from which it is reasonable to conclude that this allegation is not a hoax or a prank".

Jones continued by assuring the Judge that he himself felt that the allegation was not true, but persisted in pointing out the difficulties that such an allegation could bring if further evidence was to be forthcoming- He opined that Mr Nadir, or those on his behalf, might be trying to destabilise the trial, or possibly it was an attempt to do so by his enemies.

Tucker asked,

"Where does that take me Mr. Alun Jones?"

Jones again said that the police did not dismiss the allegation as a hoax or a prank, and that further investigations would take at least two months or possibly more.

Tucker asked,

"Would you mind telling me what the alleged connection between Mr Nadir, me, Mr Scrivener and Mr Assistant Commissioner Wynn Jones is?"

Jones replied,

"I cannot tell your Lordship that. It is an operational matter. The identity of informants is an important consideration I have in mind".

He then continued in a long diatribe of legal jargon which meant that Tucker could end up with a conflict of interest in the event of possible disclosures and find it hard to know what to do. (In real terms he would have to discharge himself.)

Continuing to press his case, Jones said the informants might have cause to be frightened and submitted that,

"On behalf of the DPP, there are serious problems foreseeable and dangers in your Lordship presiding over the trial".

Scrivener told Tucker that Mr Nadir was unwell and submitted a doctor's report. He continued by saying that he hoped the trial date would not be affected by the Prosecution's on-going saga of the conspiracy claim and withdrew his application to discharge Tucker.

Owen then rose and explained that neither he nor Jones had actually asked the Judge to stand down, but went on to say that he shared with Jones the anxiety of the Crown in this matter.

Tucker replied, "So far as I am concerned, I am staying with this case, Mr. Owen".

Owen still persisted in giving another long winded pros and cons argument as to the Judge staying or going, ending with the words,

"...the Crown is greatly concerned that any such attempt, if that is what it be, to destabilise the trial should succeed. The implications of it succeeding and becoming public knowledge are horrendous. That we see as a very strong argument that your Lordship should think long and hard before consideration of disqualifying yourself from this trial"-

Tucker replied quickly,

"I am not thinking about disqualifying".

Yet again Owen persisted in his words

"If your Lordship were to discharge yourself, then that would certainly not necessarily be the end of the matter".

COMMENT

Here we have a day when the SFO and the DPP send two eminent QC's into Court and Alun Jones (DPP) told Tucker of the upgraded charge from bribery to conspiracy.

It appeared that no evidence of such a serious charge was available to the court except that the *"no known evidence"* was being diligently investigated by Glendenning and his operationally sensitive team.

Are we to believe that the informant's (Francis) welfare was more important than the reputation of a High Court Judge, let alone the others accused?

We are told that the head of the DPP and other senior authorities had agreed to allow Jones to inform Tucker of their anxieties.

On what evidence?

Why did both Owen and Jones persistently tell the Judge that they themselves felt that there was no substance to the allegation but still kept using the inference that Tucker ought to consider his position?

Tucker, by now had become increasingly disturbed by the conspiracy charge and was clearly unsure of his legal standing as a presiding judge. He asked what would happen if he stood down. He said there was inference of a conspiracy, but no evidence. He also talked of destabilisation.

It would seem that Mr Nadir's enemies, who were possibly trying to destabilise the proceedings were already in Court, namely the SFO and DPP.

*** 12th March found Justice Tucker and Scrivener in chambers discussing the arrest and bail of Mr Nadir on 10th March by Glendenning in connection with the conspiracy charge. Scrivener confirmed the arrest without charge, and added that the police must have reached a level of reasonable suspicion to proceed with the arrest.

Tucker confirmed that he had never met Mr Nadir or vice versa outside of the court room.

Scrivener then said that he was in an embarrassing position but, because of the arrest, he felt obliged to apply for Tucker to be discharged. He felt that if Mr Nadir and Tucker were alleged to be involved in a plot to pervert the course of justice then it would be odd for that Judge to try the case.

Tucker asked Owen to state his position and heard,

"My Lord, we saw strong arguments why your Lordship should remain in control of this trial, but we did identify what we saw as possible dangers".

Alun Jones confirmed the same line as Owen, and Tucker replied,

"Mr Alun Jones, I know absolutely nothing about these matters save what I have heard from you. Are the other three parties to be interviewed?"

Jones said he could not say but there seemed no immediate prospect of that and enquiries were continuing.

Tucker said,

"I am minded to stay with the case. I would only leave it if very cogent grounds were shown and, I am bound to say, after taking advice from other quarters".

Jones then launched into another long speech in which he reiterated that the police have been investigating since October 1992 and there was more than a danger, a sensible possibility that *"something else will happen which will impel an application (discharge) to be made"*. Jones also warned of adverse Press coverage and mentioned Private Eye magazine.

Tucker hit back and said,

"Until this matter was raised in October, indeed raised with me, I think in November, I had not the slightest idea what was going on, and I still do not".

He continued,

"....it is outrageous that a Judge should have to say such things. I wish to make

my position plain. I have not the slightest idea of what is going on and I am completely unaware of any approach, attempt, anything at all".

Jones then made a statement concerning the responsibility of his brief.

"I do not make my observations of Monday without VERY CAREFUL and anxious considerations, not just professionally, but at a VERY HIGH LEVEL".

Tucker proceeded to point out that Scrivener was now applying for his (Tucker's) discharge, a role reversal of what the Prosecution had implied might be necessary the previous November but which they now felt was not necessary. Jones launched off again with a foreboding of a real threat *"to the integrity of the independence of the British justice system"* and that weighed heavily with them.

Tucker expressed his view that he would not embark on this trial until he knew his position in relation to the DPP.

Scrivener concluded succinctly,

"The problem is that the harm may already have been done. The allegation having been made, it may come up during the trial. Meanwhile, even if the allegation is dropped, if it is maintained against Mr Nadir, then the thought must be there - How can the judge, who was the target of this, caused all this embarrassment, try the case?"

COMMENT

Here is indeed a day of role reversal- Prosecution now seemingly support Tucker against Scrivener's application for discharge. Albeit with further hints of fresh evidence (*"no evidence"*) Jones felt responsible towards the integrity of British justice but reserved the right to apply for discharge should something new come to light. Prosecution could now play the white man having painted a black picture of foreboding at earlier hearings and be seen to be acting as honest traders concerning the judge. Robert Owen was to break that myth at the very next appeal hearing.

*** Appeal Court Hearing on 1 April 1993. The Defence has not yet been able to procure the court transcripts of this appeal by Scrivener to remove Tucker, who had refused Scrivener's application on 12 March to stand down. The three Appeal Court Judges were faced by Scrivener and Owen and it was Owen who throughout the hearing eloquently

spoke with praise and legal argument for Tucker to remain in charge of the trial. Suffice it to say that Scrivener lost his appeal and Tucker was re-confirmed as trial Judge.

Seemingly, Owen should have been satisfied with the decision, but in an extraordinary outburst he submitted that in fact the SFO did not think that Tucker should remain in charge of the impending trial. He began to quote some of Scrivener's previously heard submissions but was soon interrupted by the Appeal Judges and told that he (SFO) had won the appeal. Unsilenced he applied for LEAVE TO APPEAL to the House of Lords for the removal of Tucker. There were moments of near farce as the three Appeal Judges peered down on Owen and told him again that he had won the case during which he had spoken so highly of Tucker. When Owen continued to press for appeal against the verdict, he was coldly told "NO!", and it was only then that he left a very bewildered and bemused courtroom.

Robert Owen had in fact, in a moment of truth, clearly shown that the real intentions of the SFO had been to remove Justice Tucker, possibly in the hope of a protracted re-trial, and in failing to do so were left with a Judge who had already drastically reduced the original charges, and who might grant a favourable bail variance order to Mr Nadir.

CONCLUSIONS

One of the first understandings that the reader should have is that the majority of the hearings described in this document were subject to the law of sub-judice and therefore unavailable to the media and public at the time.

However "*leaks*" derogatory to Mr Nadir were systematically reported throughout the whole period of the court hearings as had happened on so many other previous occasions. The sub-judice rule (Sect 4(2)) was applied, as Judge Tucker was to say on 29 November 1993 during the Independent newspaper application to lift reporting restrictions, not to protect him but to ensure that Mr Nadir had a fair trial. In fact the Prosecution used that rule to cloak their own activities in court regarding their "*spurious and groundless*" allegations of bribery against Mr Nadir and the Judge over a period of six months. Even now the transcript for the Appeal hearing on 1st April 1993, regarding the Defence application for Tucker to stand down, is not available.

Tucker says more (29/11/93),

"There must be no reference at all to the order made on 1 April 1993 by the Court of Appeal".

Why not? Is it because it clearly shows that Owen for the SFO called for leave to appeal to the House of Lords against the decision he had just won (Tucker to REMAIN). This extraordinary reaction from a learned QC indicates that in real terms he was sure that the three Appeal Judges would, with the evidence brought before them, decide that Tucker could no longer try the case. All the efforts of Owen and Jones to destabilise the Judge would have paid off, but they themselves would be able to say (as indeed they did thereafter) that

".....we have never asked your Lordship to step down".

Why would the Prosecution go to these unbelievable and dangerous lengths?

On the 29th July 1992 the SFO had received the bribery allegation "*information*" from their informant (Francis). They had passed it to the Police (Glendenning) and then, believing more hard evidence would follow, they informed the Judge of their suspicions. Here was an opportunity to slow down the pre-trial hearings, prevent Mr Nadir from securing a bail variation to travel to Cyprus, increase the loss of his credibility, and with a bit of luck remove a Judge who had already dismissed 46 charges.

One reason for the Prosecution's actions could have been to just purely waste time, probably with a view to collection of more evidence either by themselves or with the help of the Administrators.

Owen said on 8th March,

"If it came about that the application (to discharge Tucker) was renewed the whole trial would come to an end and the whole process, the whole trial would have to start again a new Judge would have to start from the beginning and make fresh orders".

^ In other words, a re-trial, with a new Judge, more charges, more time wasting, and a defendant additionally smeared with a possible bribery allegation.

It should not be forgotten that all this time the Administrators, far from trying to keep PPI alive, were still laying off staff and most questionably disposing of company assets throughout the world.

The whole scenario of the bribery and conspiracy allegation was amazing in its conception.

Who would actually dream up a plot to bribe a judge (something never achieved in 400 years of legal history) and expect to get away with it?

In court it was suggested that Mr Nadir might have tried to destabilise his own proceedings, but how and why?

There is ample evidence to show that Michael Francis (the informant) was in fact well-known to the police before July 1992 and hatched the allegation during early 1991 with the help of "others". Mr. Nadir had only come out of Wormwood Scrubs in December 1990 and would have needed a crystal ball to plan the events of the future (indeed a judge, i.e. Justice Tucker, was not appointed until late in 1991).

Why would Mr Nadir encompass Commissioner Wynn Jones in the so called plot?

He had never met him, didn't know him and certainly had nothing to gain by implicating him. There were others, however, who at the time were plotting against the Commissioner and were later to be successful in removing him from office, despite his being cleared of any involvement with Mr Nadir by the then head of the DPP, Sir Allan Green (shortly thereafter ironically replaced by Barbara Mills).

Another theory was that the plot was real and was the work of conmen and fraudsters. The "*no evidence*" factor and later "*apologies*" seems to dispel that.

The third possibility was that the "enemies" of Mr Nadir might be trying to embarrass him. This may be a little nearer to the mark, after all there has to be some logical reason for Chief Sup Glendenning and his team earnestly investigating what was not a "*hoax or a prank*" for such a long period of time, even though they were to say later they had no evidence.

Bearing in mind the abortive raid on South Audley Management in September 1990 by the SFO (no charges were raised from that raid), and their subsequent high profile raids and arrests, who better an "*enemy*" for Mr Nadir* to have than the SFO themselves?

Who better to affect a plot like that and use other established authorities to help their cause?

They had tried all manner of questionable tactics in other cases (e.g. the David Steel

letter covered up as an April Fool's joke). They had a "gung ho" Director in Barbara Mills, who had made it clear that she was out to get White Collar fraud using all means (fair or foul) including the onerous Section 2 interview procedure

She also had the power backing of the fifth floor of New Scotland Yard, which included an MI6 representative (Derek Maynard), Special Operations (SO1 & SO6 - Glendenning), and the might of the Metropolitan Police. The SFO had also seemingly won a major "crime busting" success in the Guinness affair (still under appeal in 1995-96) and in 1990 were steamed up and bullish about their abilities.

Polly Peck PLC was to be the next target, but it all went wrong for them after the raid on SAM. From thereon it was downhill and an arrested Mr. Nadir, along with 25,000 shareholders, to pay a possible compensation bill of upwards of two billion pounds, was unthinkable for the SFO-

GET NADIR was the answer!

Put him in jail on any count so that he would come to his trial already a convicted criminal. With the help and connivance of other Government bodies, including the Administrators and the Trustees in Bankruptcy, the SFO had built up a case to try Mr Nadir.

Their case, however, had been frustrated by Justice Tucker in that he had dismissed and effectively reduced the 76 or so original charges to a count of 13. This came only after much prevarication on the part of the SFO concerning the type and substance of the charges and took over two years to finalise. Mr Nadir meanwhile had produced the Binder Hamlyn accountant's report on the operations in N. Cyprus to aid his defence. Early indications were that this report, together with the weakness of the Prosecution charges, might be decisive against the SFO case.

As it transpired the SFO chose to reject this report.

So why not try and ALLEGE that Mr Nadir was attempting to bribe the Judge.

It wouldn't be a case of actually PROVING that the Judge ACCEPTED a bribe-

All that was necessary was to show ENOUGH EVIDENCE that Mr Nadir had TRIED to arrange to bribe the Judge. A subtle difference from actually succeeding.

IF the Prosecution could produce enough evidence that there was indeed a plot to

bribe, then Mr Nadir would undoubtedly have gone to prison for a long time.

THEY NEARLY SUCCEEDED!

Unfortunately for them, NO further corroborating evidence was forthcoming from their informant (Francis), and the SFO were left with one piece of unsubstantiated Photostat "evidence" of a possible bribery attempt.

Now they were in the position of having told the court (and the press) about "serious allegations" but had nothing to back it up.

The Prosecution (Owen), on the 6th November advised Tucker he might be interviewed and his position as trial Judge might be in question. He later stated that Glendenning's inquiries would be extended from two weeks to THREE MONTHS.

HOWEVER, at the 15th December bail hearing Glendenning said he had NO evidence to support the allegation, and he NEVER had any intention of interviewing Judge Tucker.

WHAT WAS GOING ON?

How could the Prosecution say on 6th November the Judge might be interviewed and five weeks later the Police deny that intent totally? What information were they working on to even suggest interviewing the Judge?

WHAT WERE THE SFO TO DO NOW?

On the 16th and 17th December hearings Owen still used the allegation accusation to convince Tucker not to allow Mr Nadir to have his passport back, even though they had arrested Mr Nadir and his sister (5th November) and not questioned either of them concerning the "serious" allegation.

On 8 March Alun Jones for the DPP entered the court and told Tucker /about the new charge of CONSPIRACY, even though at the later hearing on 29th November 1993 he was to state that the police were "deeply sceptical" about the allegation. This did not stop him from pressurising Tucker again and again as to the "foreseeable dangers" of his continuing to preside. He also said that the police had reached a reasonable stage to conclude this was not a hoax or a prank, and that he (Jones) knew a good deal more than he could disclose about the matter.

WHAT DID HE KNOW, and if he knew something, WHO TOLD HIM?

What was it that the Prosecution claimed to be *"operational and highly sensitive"*?

What is known is that Glendenning's investigations were inconclusive and apparently NEVER produced any further evidence.

On 30th June 1993 the Attorney General made it clear that investigations had uncovered NO CREDIBLE evidence, to which Tucker was to later reply (29th November 1993), *"I don't like 'credible' - There is NO evidence"*.

There can be no doubt that the Prosecution and the DPP had utilised the unsubstantiated evidence of one telephone call and a piece of Photostat paper (from an informant they claim they did not know before) to *"advise"* the Judge over a period of six months that he should consider the possibility of standing down. Without doubt, this continual *"advice"* from such a *"very high level"* put Tucker *"temporarily off balance and perhaps I shouldn't have been told"* (see 29th November 1993 hearing). His words alone show clearly that he was destabilised by the allegations and that his judgement of events concerning the hearings might well have been affected, e.g. particularly the issue of bail variation, and trial date.

One of the explanations given by the Prosecution concerning the interviewing of Tucker by the Police (see 6th November 1992 hearing) was that they expected to hear a negative statement from him. Yet they did not use this qualification when they suggested he may be interviewed.

Looking at the words directed by Owen to Tucker,

"I am obliged to mention that (interview) because it may be relevant to the question of your Lordship's view of continuing to preside over this matter".

Why should it be relevant if they were expecting a negative reply?

Surely only if Tucker had any involvement would he need to consider his position?

It seems, however, that the Police never asked for any statement. WHY NOT?

Why did the Prosecution wait till 8 March 1993 to accuse Tucker, Mr Nadir, Scrivener and Wynn Jones of conspiracy, when they were *"aware"* of it as early as October 1992?

What was it that made them *"aware"*? More *"no evidence"*?

The transcript of the application hearing by The Independent newspaper (to lift reporting

restrictions) before Justice Tucker on 29 November 1993 - when compared to the facts as per the pre-trial transcripts - shows only too clearly the Prosecution's (SFO) cover up of their unfounded allegations and manipulation of Tucker. It glosses over totally the disruptive nature of their unprecedented activities during that six month period.

Interestingly Owen was not present, and Alun Jones contradicted his own words spoken during the trial period. Tucker seemed to accept without question the explanations and apologies given by the DPP and SFO. It is questionable why he did not press home the fact that he himself had been accused - without ground — of conspiracy in his own court by the highest authorities. Rather he brought the entire hearing - which was a cosmetic job - to as smooth a conclusion as possible - as if by pre-design?

Alun Jones said that in July 1992 Francis telephoned and gave detrimental information about Mr Nadir but that "*nothing came of that*". He continued by saying that Francis had been arrested in SEPTEMBER 1992 and that "*he had in his possession the document Y/L has seen*". Shortly afterwards he describes the document as having being "*found*" by the Police in OCTOBER of that year. *been*

What document? How many documents were there? One for each month and, if so, where are they now?

The only "*serious evidence*" (*spurious and groundless*) that came to light was a Photostat piece of paper on 5 November 1992 which lead to the "*sudden*" arrest of Mr Nadir and his sister, nearly five weeks after being "*found*".

Could Jones then explain WHO the "higher level of authority" was and WHY it was decided to arrest Mr Nadir and his sister, and begin the six months of harassment, veiled as "*advice*" to Justice Tucker?

The unprecedented accusations against Tucker, Mr Nadir, Anthony Scrivener and Wynn Jones by the SFO, the DPP and the Police represent an incredible and sinister undertaking by the Authorities to attempt to destabilise the trial, remove the Judge, and smear Mr Nadir and his defence team with an accusation of attempting to bribe the Judge - in effect, to pervert the course of justice.

The SFO, the DPP, the Attorney General - and perhaps even higher Authorities - have much to answer for in this matter. Perhaps Mr Robert Owen and Mr Alun Jones would be prepared to take the stand under oath *and* answer some of the searching questions

highlighted in this document - or lead us to those who can?

Moving on to February 1996 it is unbelievable to note that the same judge, Justice Richard Tucker, was to preside over the trial of Elizabeth Forsyth at which she was found guilty on two counts of knowingly handling stolen goods (money).

Tucker sentenced her to a DISPROPORTIONATE 5 years in prison on each count, to run concurrently.

30 January 1997

On 30 January 1996 at Forsyth's Appeal one of the Appeal judges, Lord Justice Beldam, said "*this sentence cannot stand*", and immediately released Forsyth on bail.

Did Tucker see Asil Nadir in front of him during that trial and sentencing?

Had he come to his own conclusions as to Nadir's guilt or otherwise prior to Elizabeth Forsyth's trial?

Was his objectivity impaired by his experience of presiding over the Nadir trial in addition to the Authorities' unfounded accusations of bribery and conspiracy?

Had he somehow been convinced by these same Authorities that Asil Nadir was in fact behind the allegations and, therefore, entered Forsyth's trial with preconceived ideas?

Tucker and the Prosecuting Authorities appear to have a lot of questions to answer concerning these abuses and irregularities.

The ultimate question must be ... "*if the SFO's case against Asil Nadir was sound why did it need to embark on such a dangerous, unprecedented and scandalous course of action which could only result, as indeed it did, in the destruction of the natural course of justice*"?