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*(subject to editorial corrections)**

IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

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THE QUEEN

-v-

EUGENE LEWIS

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Before: Higgins LJ, Coghlin LJ and Deeny J

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HIGGINS LJ (giving the judgment of the Court)

[1] At Omagh Crown Court on 27 May 2011 following a trial before His Honour Judge Babington and a jury the appellant was unanimously convicted of eleven counts of indecent assault. He appealed against all the convictions. At the conclusion of the appeal we allowed the appeal in part and dismissed the remainder and stated that we would give our reasons later which we now do.

[2] The acts of indecent assault were alleged to have occurred on dates unknown in different periods between August 1963 and September 1973. The complainants were three sisters who then lived with their parents on the family farm in the west of Northern Ireland. Counts 1–3 related to D, Counts 4 to 10 related to P and Count 11 related to G. Counts 1–3 and 11 were specific counts and Counts 5 to 10 were specimen counts. Count 1 alleged indecent assault between 27 August 1963 and 26 August 1965 when D was 7–8 years of age and involved having D on his knee and moving her until his erect penis was between her legs. Count 2 was between the same dates and involved him telling her a bedtime story whilst moving her up and down against him and moving his erect penis against her stomach. Count 3 was between 27 August 1965 and 27 August 1967 and involved him telling her a bedtime story and feeling her chest under her nightie and putting his penis against her stomach and ejaculating over her nightie. Count 4 alleged indecent assault between 23 May 1965 and 22 May 1969 when P was 7 or 8 years of age and involved him telling her a bedtime story and at the same time putting his hand inside her pants and rubbing and digitally penetrating her vagina. Counts 5 to 7 are specimen counts between 23 May 1967 and 22 May 1970 and involve him on each occasion placing P on his knee and pulling her tight to him so that she felt his erect penis. Counts 8 to 10 are specimen counts between 23 May 1970 and 30 September 1973 and alleged the

same conduct as Counts 5 to 7. Count 11 is a specific count alleging indecent assault of G between 25 April 1965 and 24 April 1967 and involved touching G over her clothing and pushing his erect penis against her when she was 11 or 12 years of age. All these offences are alleged to have occurred at the family farm.

[3] The appellant who was born in 1934 was ordained a Roman Catholic priest in the White Fathers Order in 1958. Between 1960 and 1967 he was a lecturer at St Augustine's Seminary College in Blacklion and between 1967 and 1970 the Rector of the College. Blacklion, which is in County Cavan in the Republic of Ireland, lies on the border at the western end of Lough Macnean Lower on the main road between Enniskillen and Sligo. The brother of the complainants' mother was also a member of the White Fathers and based at Blacklion. The appellant became friendly with the family in particular with their father and was a not infrequent visitor to the family farm. It was not disputed that he told stories to the girls but he denied the assaults and that he had them on his knee and that he was ever in their bedroom telling them bedtime stories.

[4] In addition to the incidents alleged to have occurred in Northern Ireland evidence was also led of a serious assault against D which was alleged to have occurred on successive nights at the White Fathers headquarters at Templeogue in Dublin, to which the appellant moved for a period after he left Blacklion. In addition the jury also heard evidence from P about an alleged indecent assault in the library of the College at Blacklion and from another sister W of an alleged indecent assault which was said to have occurred at the Grotto in the grounds of the College. This evidence was introduced under the Criminal Justice (Northern Ireland) Order 2004. The premises at Blacklion were sold to the Ministry of Justice in the Republic of Ireland and the Ministry took possession in April 1972.

[5] The girls were aged between 7 and 12 at the dates alleged in the indictment. They progressed to grammar school and at least two of them went to University in Dublin. Each of them advanced into noteworthy employment and at the time of the trial were mature ladies of good character. The catalyst for the disclosure of their evidence appears to have been the finding of a photograph which was shown to D who was then living in the Republic of Ireland. This brought back memories of what she said occurred. She contacted a solicitor and later made a complaint to the Garda Siochana and commenced civil proceedings. She contacted P to obtain an address in order to advance her civil claim and thus P became aware of her complaints. P sought information from G about the appellant's whereabouts. G said in evidence that she had forgiven the appellant and when she was then living in Belfast and the appellant was based in a Belfast parish, the acquaintance with the appellant was renewed and the appellant regularly visited her and her husband. As time went on she found it difficult to maintain her stance of forgiveness because she saw no regret or shame on his part. The appellant was at that time also the Chaplin to St Louise' Girls School in Belfast. He was heard to describe it on a number of occasions as "his [little] girls' factory". This alarmed G and made her feel uncomfortable and as a

result she began to distance herself to some extent from the appellant. The appellant did not deny referring to the school in such terms but maintained that it occurred only once and that it was a joke. G gave a party to which the appellant was invited. P attended also and was surprised to see him there. There was a suggestion that the appellant left early after seeing P there, but this was denied. After this party P told G that she had been abused and G said she had had a phone call from D also. Thus the whole matter became disclosed within the family and the police became involved and statements were made both in Northern Ireland and in the Republic of Ireland.

[6] Each of the sisters was cross-examined closely by Mr Barlow who appeared on behalf of the appellant at trial and on this appeal. He suggested to each of them that they were telling lies and that they may have colluded to do so. It was suggested to D that she was motivated by compensation and that the others were simply supporting her. Their affront that they would tell lies about such matters and their clear rejection of such a suggestion was evident from the cold print of the transcript of their evidence. In his summing up the trial judge quoted what P said at this suggestion - "the idea that I would come to a court of law and sacrifice my personal and professional integrity is reprehensible to me". Later he quoted her as saying that the suggestion that she had come to court to commit perjury was reprehensible and "that she would not bring injustice to another human being". There were differences in the evidence about the precise details and sequence as to how the disclosures were made by each of them around the same time. The trial judge gave the jury a clear direction about this issue. He told them "you must be satisfied that the girls did not put their heads together to make false accusations against Father Lewis."

[7] The appellant gave evidence denying all the offences alleged against him on both sides of the border. Many witnesses gave character evidence on his behalf, including fellow priests, former pupils and parishioners. It was clear that he was highly regarded by all of them, not just as a person but also as a priest, seminary lecturer and missionary. His brother also gave evidence as to his habits in relation to visiting his parents in Dublin.

[8] The grounds of appeal may be summarised as –

1. The trial judge was wrong to admit as evidence of reprehensible behaviour the comment that St Louise's School was a 'little girls' factory'.

2. The trial judge should have acceded to the submissions made by the defence at the close of the case on behalf of the prosecution.

3. That after a period of 43–47 years it was not possible for the appellant to receive a fair trial.

4. An application to adduce fresh evidence relating to victim impact statements and D's medical notes and records.

Ground 1 The trial judge was wrong to admit evidence of reprehensible behaviour

[9] The prosecution applied to admit two matters in evidence from G one of which related to the comment about a particular school in Belfast as being "the little girl factory". The trial judge ruled against the other matter. The application was made under the Criminal Justice (Northern Ireland) Order 2004. The trial judge was satisfied that this evidence was relevant and that it amounted to reprehensible behaviour under Article 17 and that it was admissible under Article 6(1)(c) as important explanatory evidence as it was a contributory factor to G's change of mind about forgiving the appellant leading to her making a statement of complaint to the police. He also ruled that it was admissible under Article 6(1)(f) as correcting a false impression arising from the assertion of the appellant in interview that he was of good character and under Article 6(1)(g) as the appellant had made an attack on the character of D and P that their allegations were the result of a family conspiracy. He refused the application that it was admissible under Article 6(1)(d) – propensity. When the evidence was given the word 'little' was omitted. Mr Barlow revisited his application to exclude this evidence but the Judge was of the view that the word 'little' did not add much to the expression 'girl factory' and the omission of it made no difference to his ruling. It was submitted that this evidence was not relevant and should not have been admitted under Article 6(1)(c). Furthermore Article 6(1)(f) relates to giving a false impression about previous convictions which the appellant had not done during his police interviews. Equally the trial judge was not justified in admitting the evidence under Article 6(1)(g) as the appellant was simply challenging the allegations and robustly. It was submitted that this evidence was designed simply to create prejudice against the appellant. The trial judge should have stepped back and considered, under Article 6(4), the length of time between the date of the offences and the remark about the school. Furthermore he submitted that the judge should have directed the jury on the reason for the admission of this evidence and the use they could make of it following R v C Hamilton [2011] NICA 56 and R v D, P & U [2011] EWCA Crim 1474.

[10] It was submitted by Mr McMahon QC who with Mr Steer appeared on behalf of the Crown that this evidence was rightly admitted. It was highly relevant to the evidence of G to explain her change of mind about the appellant. Mr McMahon stressed that Mr Barlow had persuaded the trial judge that no specific direction be given in relation to this evidence as it was not evidence of propensity. It was hardly right for counsel now to criticise the judge for not giving a particular direction in those circumstances. If the evidence amounted to bad character evidence the appellant had the advantage of a full good character direction.

[11] This evidence was clearly relevant as explanatory evidence about G's change of mind about the appellant. It was not disputed that the appellant used the expression. He stated that it was a joke and referred to the physical appearance of the school building as it is approached from the road. In his summing up the trial

judge linked this to the evidence of G at the same time reminding the jury of the evidence of C K called by the defence relating to this remark and other evidence from persons of note about the appellant's good work and standing at this particular school. There was clearly an issue for the jury as to the meaning to be attributed to this remark. But even if it was considered a joke by the appellant it explained G's change of mind. In the course of the summing up the trial judge placed this evidence in the context of Gs' forgiveness of the appellant and her subsequent change of mind. He explained G's view that it was a derogatory remark which implied girls 'on tap'. It was not in dispute that the remark was made on at least one occasion. The appellant explained in his evidence what he meant by it. The judge rightly did not admit the remark as evidence of propensity and did not suggest such in his summing up. Looking at the issue as a whole we do not consider he was wrong to admit this evidence and once admitted he left it to the jury in the context in which it was relevant reminding them of the evidence called on behalf of the appellant. The admission of this evidence does not raise any issue of concern or unease about the safety of the convictions in particular those based on the evidence of G.

Ground 2 Application at close of prosecution case

[12] At the close of the case for the prosecution Mr Barlow made a lengthy application that the trial judge should stay the proceedings and/or direct the jury to find the appellant not guilty. This application was based on a number of different and at times connected issues. The first was the application of the R v Galbraith test in the context of an historic abuse case and inconsistencies in the evidence of the complainants. The second related to delay and the prejudice caused to the defence as a result of which a fair trial was not possible. The third related to Article 12 of the Criminal Justice (Northern Ireland) Order 2004 and the question of contamination of the evidence of the complainants. The principal submission by Mr Barlow under this ground related to the unavailability of certain potential witnesses in respect of the allegations by D relating to a serious assault by the appellant at the White Fathers premises at Templeogue. The appellant's case was that it was his practice to stay with his parents in Dublin on Wednesdays when his brother was working in Kilkenny. He contended that he would not have been present in Templeogue on the night in question. His brother did give evidence about this. In addition it was contended that although the appellant accepted that he gave D a lift to Templeogue from Northern Ireland he handed her over to Brother Paddy who arranged her accommodation. He contended that he had nothing to do with arranging her room and taking her to it. Brother Paddy was deceased at the time of trial.

[13] Counts 8 to 10 were specimen counts alleging indecent assault of P between May 1970 and September 1973. In addition P had alleged an indecent assault in the College library in Blacklion which was alleged to have occurred during the same period. It was agreed that the appellant left Blacklion in July 1970 and went to Templeogue and remained there until 1972 when he attended Trinity College Dublin to read for a Master degree. Between 1973 and 1978 he was a missionary in Ghana.

His evidence was that his last visit to the family farm was a farewell visit in June 1970. The teaching side of the College in Blacklion was closed in July 1970 and only a limited number of members of the Order remained on the premises thereafter for a period. In January 1972 the Order moved out and in April 1972 the Ministry of Justice took possession of the premises. It was contended that the passage of time created great prejudice for the appellant in that he had no diaries or other documents available to him at the time of trial and could not effectively meet the prosecution suggestion that he had returned to Blacklion.

[14] The third element of this application was the suggestion that there was significant contamination of some of the evidence given by two of the sisters. In relation to P it was suggested that her evidence relating to Counts 8–10 and the alleged offence in the library was contaminated as she spoke to her mother about when the College at Blacklion closed down as a result of which she changed her evidence as to her age when these events occurred. As a result her evidence was different from what it otherwise would have been. The trial judge accepted that her evidence was contaminated. It was submitted by Mr Barlow that as the trial judge in his ruling accepted that her evidence could be contaminated he should have stopped the trial in accordance with Article 12 of the 2004 Order and R v C [2006] EWCA Crim 1079. Alternatively the trial judge should have withdrawn this evidence from the jury or at least directed them to ignore it on the issue of cross-admissibility. In the course of his oral submission to this court Mr Barlow stated that he was not relying on the submissions set out in his skeleton argument relating to contamination between P and D and between W and her former husband but relied on the remainder.

[15] It was submitted by Mr McMahon QC that in his ruling at the close of the prosecution case the trial judge had correctly set out the law and applied it to the issues of inconsistencies and the question of delay. In relation to delay it was submitted that the question was not whether the delay was justified but whether a fair trial was possible and whether there was any prejudice to the defendant which could not be addressed in the trial process. This was not a case of missing documents which could specifically prove a matter in the appellant's favour. In relation to the potential witnesses who were deceased there was no evidence as to what Brother Paddy did or did not do, it was merely suggested to D that if someone showed her to her room it was probably Brother Paddy. In his interview with the police the appellant did not mention any routine of visiting his parents on a Wednesday. In his ruling the trial judge stated that there was no reason why they would remember this particular occasion. In any event it was submitted by Mr McMahon that the appellant's brother was able to give evidence of a general pattern of visits by the appellant to the family home and his mother, who was in advanced years at the time of trial, was not called to give evidence. In relation to contamination Mr McMahon QC submitted that there was nothing out of the ordinary in P inquiring from her mother when the College at Blacklion closed. It was normal for a thoughtful witness to make such an enquiry. It would be unthinkable

for a judge to stop a case because a witness had made such an enquiry. The trial judge had alerted the jury to this issue and warned them to be careful about it.

[16] Undoubtedly a substantial period of time had elapsed between the date of the alleged offences and the date of trial and this had the potential to create a difficulty for the appellant in relation to diaries and other documents and the availability of witnesses. However this has to be viewed in the context of the case as a whole. The prosecution case was based on the evidence of three siblings well known to the appellant. It was common case that he visited the family farm when it was alleged these offences occurred. The central issue in the case for the jury was the reliability of these sisters in the context of the suggestion that they had conspired to falsely accuse the appellant, D for the purposes of obtaining compensation and the other two sisters as supporting her in doing so.

[17] It is clear from the transcript of the evidence of the complainants that a prima facie case had been established. The issue for the trial judge was whether the difficulties created by the passage of time and the contacts between the sisters should lead to the case being withdrawn from the jury. There is no limitation period in this jurisdiction relating to the commission of criminal offences. Whether a case is stopped on the grounds of the passage of time will always be fact-sensitive, taking into account the length of the delay. Such a course would be the exception rather than the rule. While acknowledging the potential for difficulties we do not consider that the circumstances of this case, in view of the significant evidence of the complainants about the conduct of the appellant, were such as to warrant a withdrawal of the case from the jury at the close of the evidence of the prosecution, on the grounds of delay or the contacts between the complainants. We consider that the trial judge ruled correctly that a prima facie case had been made out and that there was no justifiable reason to withdraw the case from the jury at that stage. It was then incumbent on the trial judge to deal with those matters in his summing- up to the jury about which we observe no complaint is made.

Ground 3 No fair trial possible

[18] The appellant relied on his submissions in Ground 2 above relating generally to the question of delay but also in relation to the evidence of D about an alleged serious assault in Templeogue and the evidence of P concerning Counts 8–10 and the alleged assault in the library of the College at Blacklion. The allegations relating to Templeogue and the library at Blacklion were not the subject of any count on the indictment. For the reasons set out above relating to Ground 2 of the appeal we consider that the appellant would receive a fair trial on the issues contained in the indictment, particularly if the jury were directed carefully on the issue of delay, its consequence for the defence, the effect of the passage of time on the reliability of the evidence of the complainants and the means to combat it available to the defence. Thus a careful direction to the jury was required. In the course of his summing-up

the trial judge dealt with the issue of delay and in particular the difficulties that this can create for the defence and did so in these terms -

> "Secondly, you should make due allowance for the way in which the passage of time may have created difficulties for all the witnesses in this case. Remember that the complainants say they were very young, when they say the incident complained of happened. However, it may be particularly difficult for the defendant to remember things that may have been important, when he was responding to the allegations being made against him. You will be aware from your own experience that memories can fade with the passage of time, and that recollections may change, or may become confused, as to what did or did not happen at a particular time. Use your own experience in that regard.
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> In this case, remember we are dealing with matters that occurred between, on my calculation, thirty-seven and forty-seven years ago. Thirdly, you should also bear in mind that the passage of time since these events are alleged to have occurred, may have created particular difficulties for the defendant because it is no longer possible for him to rely on evidence (he says) would have been available to disprove these allegations if they had been made sooner. In that regard consider such things as the White Fathers, who remained at Black Lion after the defendant had left for Dublin – all now being deceased. He said, it's agreed, he left in 1970. Secondly, the fact that his parents are now deceased and, therefore, cannot provide an alibi in relation to events in Dublin. Also, Brother Paddy (to whom the defendant said he handed D over to in Dublin) also now having passed away. There may be other things. These are just examples I'm giving you. If you consider that some, or all of these matters, have placed the defendant at a real disadvantage in defending himself on these charges, then you should take them into account in his favour when deciding whether the Prosecution have proved his guilt beyond reasonable doubt."

Mr Barlow also emphasised alleged or apparent inconsistencies in the evidence of the three sisters. In the context of an historic case of alleged sexual abuse this was

hardly surprising but nevertheless important. However when the judge came to sum up the case to the jury he was conscious of this and warned the jury again in clear terms –

> "It is for you to judge the extent and importance of any inconsistency. If you conclude that any of them has been inconsistent on an important matter, you should treat their accounts with considerable care."

The trial judge then went on to warn the jury to exercise caution before acting on the unsupported or uncorroborated evidence of a witness in the case. He said –

> "Some of the evidence in the case is unsupported or uncorroborated as well as happening many years ago. So exercise caution."

While the passage of time was very considerable we consider that the trial judge was correct to leave the case to the jury and that his directions to them both in relation to delay and the question of inconsistencies were commendable in the circumstances of this difficult case. No complaint is made about the directions relating to delay nor indeed about any part of the summing up nor did counsel requisition the judge at the time.

Ground 4 Fresh Evidence

[19] This ground of appeal had two aspects. Firstly, the victim impact reports obtained after the trial and before sentence and secondly, medical records in respect of D. The evidence was admitted de bene esse. It was submitted by Mr Barlow that the reports on P demonstrated significant contact between the sisters around the time of and after the disclosures of the abuse. That P told the Forensic Psychologist that 'her memory of the actual abuse is vague'. He contrasted this with the transcript of her evidence which he submitted was clear. He also asserted that her account to the Psychologist of being sent to Dublin when she was about twenty years of age after she disclosed to her father that she was in love with a married policeman differed from that given at trial.

[20] G gave evidence about a particular day when the appellant called at the farm when the family were preparing to go to the seaside for the day. G offered to remain behind with the appellant and make him something to eat. After she had washed the dishes he called her over to join him on the sofa where he was lying outstretched. She lay sideways on the sofa and he started feeling the top of her chest on top of her clothes and she could feel him pushing his erect penis against her. She did not recall how it had ended or anything else about that day or ever seeing the appellant in the house again. G was the eldest in the family and thought she was about 11 or 12 or possibly 13 years of age when this occurred. She recalled being at a White Fathers'

Ordination when she was in her early twenties and deciding to speak to the appellant, who was present, about what had occurred and for him to say sorry. She went looking for him but found he had left early. She did not see him again until she was in her forties and living in Belfast and he was attached to St John's Parish. By then she had forgiven him. She invited him to the house and he became a regular visitor. Further evidence was given about the death of her father and how the appellant participated in the mass on the occasion of his Month's Mind, about gifts to him and a party for a visiting African White Father. However over time she had a tremendous sense that there was no regret or shame on his part. She recalled the reference to the school as 'a girls' factory' and that it was made in a derogatory tone. In the course of cross-examination her statement to the police was put to her. This statement was consistent with her evidence except she had said in it that he called her over only once to join him on the sofa. When it was suggested that he had not touched her in an indecent manner she stated "I am not telling lies. This process has caused tremendous anguish and pain to my mother, to the good name of the White Fathers and to myself". Following the trial she was interviewed by a Clinical Forensic Psychologist for the purpose of the Victim Impact Report. Mr Barlow submitted that when G gave evidence that she had talked about one incident only and that her description to the psychologist suggested more than one incident and that the description of the abuse was different. The report of the psychologist recorded her describing how the appellant "would masturbate above her whilst she lay on the sofa". It was submitted by Mr Barlow that this account was very different from that given to the jury and that it implied more than one incident. The main emphasis was placed on the fact that she had not used the words 'masturbating over her'. Mr McMahon submitted that there was nothing in the report to suggest that the incident occurred more than once.

[21] While the language used to describe this incident is not identical we do not consider, on a fair reading of the report that she was stating or implying that it occurred more than once. Furthermore if, as she alleged, his penis was erect and that he was moving against her, it was a reasonable inference that he was masturbating in that manner. We did not consider that this description to the psychologist undermined the evidence of G that she was indecently assaulted by the appellant nor does it cause us to doubt the safety of the conviction based on that evidence. Equally it was unsurprising that there was contact between the sisters after the disclosures as indeed was acknowledged. The extent of it was not significant in the overall context of the case and did not create any sense of unease about the safety of the convictions. Therefore we rejected the grounds of appeal based on the evidence contained in the victim impact reports prepared by the psychologist.

[22] The other aspect of the case based on the application for the admission of fresh evidence related to the medical records of D who lived in the Republic of Ireland. GP records relating to this witness had been disclosed at the trial. It emerged that other records relating to D existed in the Republic of Ireland which had not been disclosed. The issue of disclosure of the medical records and its history

was set out in the affidavit of Mr McVeigh, which was not disputed by the respondent. Many of the records related to medical problems experienced by the witness relating to incidents of serious trauma at her place of work and the repercussions of those incidents and the nature and location of her treatment, partly in a psychiatric hospital. Much of this material was not relevant to the proceedings in this case. However the issues raised in her medical treatment prompted investigation about her past in the course of which she stated that she had not in the past been the subject of sexual abuse. This was in one sense, depending on the context referred to, a complete contradiction of her evidence in this trial. Of equal importance was the fact that during the course of this medical investigation she had not disclosed any of the allegations made against the appellant. Mr Barlow submitted that the nature of these disclosures was such that the safety of the convictions based on the evidence of D was undermined.

[23] While there may be explanations about the nature and circumstances of this disclosure, the fact that she had stated on an occasion that she had never been subjected to sexual abuse was a matter which was capable of affecting the reliability and quality of her evidence that she had been sexually abused by the appellant. Most of the records relating to her medical treatment in the Republic of Ireland were largely irrelevant to these proceedings however the statement that she had never been subjected to sexual abuse was central to the allegations alleged against the appellant. If defence counsel had been aware of this information his cross-examination of this witness would have been materially different. It would have involved cross-examination about the contents of the report and the meaning to be attached to them. That cross-examination may well have given the jury a very different view or indeed a doubt about all or part of her evidence. Consequently we admitted this statement as fresh evidence under Section 25 of the Criminal Appeal Act (Northern Ireland) 1980.

[24] The test on an appeal against conviction is whether the conviction is unsafe. In R v Pollock [2004] NICA 34 Kerr LCJ reviewed the authorities and stated at para 32 that the following principles could be distilled from them.

> 1. The Court of Appeal should concentrate on the single and simple question 'does it think that the verdict is unsafe'.
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> 2. This exercise does not involve trying the case again. Rather it requires the court, where conviction has followed trial and no fresh evidence has been introduced on the appeal, to examine the evidence given at trial and to gauge the safety of the verdict against that background.

> 3. The court should eschew speculation as to what may have influenced the jury to its verdict.
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> 4. The Court of Appeal must be persuaded that the verdict is unsafe but if, having considered the evidence, the court has a significant sense of unease about the correctness of the verdict based on a reasoned analysis of the evidence, it should allow the appeal.

Where fresh evidence has been admitted, as in this appeal, the Court must consider the potential effect of that material on the evidence heard by the jury. In the instant appeal that involved a consideration of the effect of the disclosures on the evidence of D and in particular principle 4 above.

[25] In view of the inconsistent statement by D referred to above, which was not disclosed to either the defence, the trial judge or the jury, we entertained that sense of unease about the safety of the convictions based on D's evidence about the allegations of indecent assault in Northern Ireland and concluded that Counts 1-3 were unsafe. Accordingly we allowed the appeal in respect of those counts on the indictment. We felt no such sense of unease about the remainder of the convictions and dismissed the appeals in respect of them.