

ROYAL COURT

20th June, 1988

Before: the Bailiff,
assisted by
Jurats Hamon and Gručhy

Her Majesty's Attorney General

- v -

Marguerite Anne Irwin
and
Veronica Hill

Appeal against conviction in respect
of one count of larceny

Advocate S.C. Nicolle for the Crown
Advocate T.J. Le Cocq for Marguerite Irwin
Advocate M. St. J. O'Connell for Veronica Hill

JUDGMENT

BAILIFF: We can sympathise, Mr Le Cocq, and Mr O'Connell, with the predicament in which your clients found themselves; however, whether we apply the test of would a tribunal of fact, properly directed, have, inevitably, had to reach the conclusion it did; or whether we regard this matter as a rehearing on the transcripts, we are quite satisfied that the appeal fails. The learned Magistrate was entitled, having heard the

witnesses, to prefer one testimony to another. So far as we can ascertain, the main arguments and the main thrust of the appeal arguments are that doubt was cast on the evidence of Mr Saunter. The fact remains that this piece of paper on which Mrs Irwin said she wrote immediately the transaction had taken place was not mentioned until later; indeed during the trial; and even if one accepts (and we make no pronouncement on this) that she was very upset and in pain and discomfort when she was seen by Mr Saunter, (and in passing let me say that if she were, it was a fairly long interview having regard to the circumstances) one had to ask oneself why it was that this bit of paper was not produced when she was seen by the police for the first time at Police Headquarters. There is also the reading of the first statement of Mrs Irwin which in our opinion is unequivocal; we cannot read into it the equivocations and doubt which counsel would suggest we should. In our opinion, the Magistrate was perfectly entitled to read into the first statement of Mrs Irwin what was in fact a confession.

The question was canvassed very forcibly and fully by both counsel that the Magistrate should have given more weight to the explanation that there had been a perfectly proper arrangement under which it was Mrs Irwin's intention to pay for the goods in her teabreak. But that was not mentioned either in her first statement; it was mentioned in her second statement; it was mentioned in Miss Hill's third statement, but by that time both parties had had the opportunity to talk to each other. The Magistrate was entitled, if he wanted, to draw the inference that they had been able to decide what they were going to say. We cannot, therefore, find that the Magistrate either misdirected himself as regards fact, nor that he misapplied the law. The appeals are therefore dismissed.