

Monday, 12th November, 2001

PROSECUTION OPENING SPEECH

MR LEWIS: Members of the jury, I, together with my learned friend, Caroline Paul, appear on behalf of the Crown in this matter, and my learned friends, Richard Ferguson and Trevor Burk, appear on behalf of the defendant, Peter Lawrence Buck, who is a world-renowned guitarist, (you may or may not know), and belongs to a group called REM, or R.E.M. He is charged with the offences which the clerk has related to you. I will pass you copies of that indictment, together with a diagram of the aircraft showing the seats which are relevant to this case, and also a final-warning notice. Perhaps if they can be passed, please. That is the indictment, that is the final warning, and that --- (same handed).

JUDGE CROCKER: (Note received by judge). Go on, Mr Lewis. When the ---

MR LEWIS: Yes, thank you.

JUDGE CROCKER: Show that to counsel, both sides. (Same handed) (Pause) Mr Ferguson, Mr Burk, you saw the note that I have just handed down. I wondered if, out of courtesy if nothing else, you would like me to adjourn just so that further enquiries can be made?

(The court to adjourned for a short time)

MR LEWIS: Members of the jury, I hope you now have a copy of the indictment - have you got that? Shall we have a look at that first of all? The first count is drunkenness on an aircraft. That really speaks for itself, members of the jury. Someone is drunk if he has consumed intoxicating liquor to the extent that he has lost the power of self-control. We all know when somebody is drunk or not - it is common sense usually. In any event, the Crown say that Mr Buck was drunk on this flight from Seattle to London Heathrow, and whilst he was indeed intoxicated he assaulted --- and an assault, members of the jury, is an act in which a person intentionally or recklessly applies unlawful force to the complainant, and the offence will have been committed, indeed, however slight that force.

There are two separate counts there: Mario Ageas, who is a longstanding employee of British Airways - he was the cabin services director - and Holly Ward, who was a stewardess working for BA, and after that assault, indeed, so furious was Mr Buck, in his (inaudible - voice distant), as it were, he then tipped over a trolley in the First Class cabin, sending crockery, cereals, milk and everything flying.

In rather a little longer than a nutshell, but in as much of a way as I can make it, Mr Buck, the Crown say, who is, as I have already said, a renowned pop icon, boards a flight from Seattle to Heathrow at, indeed, about 6:10 in the evening (6 o'clock or so)

Seattle time, 2:00 am British time, accompanied by his entourage, and he settles in with - I think it may be his tour manager - Mr Whittaker, into the First Class cabin.

If you have a look at the blown-up version of the front of the aircraft - may we call that exhibit 1, please?

JUDGE CROCKER: Yes.

MR LEWIS: The large, blown-up version. He goes to sit with his tour manager in seats 4E and 4F. He is exhausted, he later told the policemen, from overwork, and felt that this trip was rather like going on holiday. So he orders, the Crown say, glass upon glass of red wine, which he consumes too rapidly, becoming drunk not that long after take-off. More and more wine is consumed, and his behaviour deteriorates to that of a drunkard. But when the time comes to switch off the tap (if I can put it colloquially), his mood changes, and he becomes more and more of a nuisance, he gets himself literally stuck between two seats from which position he had to be dislodged by the crew - almost comical. When issued with a yellow card - and that, members of the jury, I am going to --- before I do so, the one plan that you have - could you get that one, showing a sort of cigar-shape, the (inaudible)? Let us call that exhibit 2 so that, to some extent, follows on from the other one? The final-warning notice, you have got that, have you? Exhibit 3, please. That is what I was just about to refer to. When issued, as I say, with the yellow card - it is a final warning to behave himself really, not to drink any more alcohol - he simply tore it up in front of the crew and the captain, as I understand it.

After that, he kept on wandering in and out of the Club Class section, where two of the other members of his band were.

He refused to sit down; he thumped the wall of the plane in anger, he tried to sit next to a lady, whom he claimed was his wife, in Club Class. Told to desist, at this time he was holding a pot of yoghurt, and he was told to desist by the cabin services director, Mr Ageas, who is the complainant in count 2. And he filled his spoon - as I understand it, I think a metal spoon (we will hear) - with yoghurt and went towards the cabin services director. Of course, Mr Ageas, seeing this, made a grab for the spoon, and when he did that, the tub of yoghurt exploded all over them, covering the defendant and Mr Ageas, and, indeed, Holly. Holly is the complainant in count 3 (Holly Ward), who was a stewardess and who could see what was happening, and tried, in fact, to intervene and stop the defendant doing what she thought he was going to do.

The defendant, in fact, assaulted Mr Ageas then after this explosion by tightening his tie round his neck and grabbing Holly Ward's arm and yanking it back as she tried to stop the defendant from really attacking Mr Ageas.

From there, he walked back to the First Class compartment, and in his fury overturned a trolley full of breakfast crockery, sending it all, as I say, flying.

It was considered whether cuffs at this stage ought to be got so that they could be used, but it was felt more prudent that he be persuaded, or his friends be persuaded, to try and calm him down and to sit with his friend.

He behaved, the Crown, say - and, indeed, in his own words - like the transmogrification of Dr Jekyll into Mr Hyde. He referred to his behaviour on hearing it as being likened to that of Jekyll; he probably meant Hyde. But clearly that turning and transformation may well have been triggered, he claimed, by being (a rather hackneyed phrase) sleepless in Seattle and drinking too quickly without any food.

After the event, he was, not unnaturally, mortified by his conduct. He was extremely apologetic and extremely embarrassed. He did not remember what he actually had done.

He now claims - and this is the defence - that he did not know what he was doing because he took a number of powerful sleeping pills with his wine. The Crown say to that he was paralytic from choice, and whether or not he took the pills makes no difference whatsoever to his culpability. It may be mitigation, but it is not, the Crown would suggest, a defence.

Just a little bit more detail. That, effectively, is quite a long nutshell, but he boarded the jumbo - and this, indeed, I think, was one of the original jumbos, an old craft, and I do not think they fly any more, but I hope that tomorrow we will have a photograph of one that has been kept in (inaudible) somewhere else and we will be able to see what exactly that First Class cabin looked like, and I hope pictures of the Club Class area. I do not promise it, because it may not happen tomorrow, but I hope that during the Crown's case you will have some photographs to assist you.

An eight-and-a-half-hour journey, he, as I say, boarded with Robert Whittaker, and they were allotted those seats, while the other two members of the crew were confined (inaudible) Business Class. It took off at 2:20 am, 6:20 pm Seattle time the day before, and that is why in the indictment we have the charges being laid as between the dates simply because this is an overnight flight and it spans two days.

It is right to say that identity is, to an extent, in issue, and therefore we will have to hear what the witnesses say as to whether it was Mr Buck, in fact, that was the person who was misbehaving. The Crown say that on hearing the evidence and the totality of it you will find as a fact that the person we are talking about was Mr Buck and not Mr Whittaker. But to that extent, therefore, when I am opening this case, I am saying that Mr Buck is the person who, for example, Mr Martin, who was the steward who looked after them both in First Class from the off, noticed and suggests that when he boarded, he seemed to have had a few drinks, which on the face of it, if that is right - and it would seem to be correct - as soon as they did board, they sat down, both Mr Buck and Mr Whittaker, and asked for some red wine, which the

steward replenished in relation to Mr Buck - that is what the Crown say, and we will have to hear how he knows this is Mr Buck, or what - 15 times during the first three hours or so of the flight. So really from 2:20 am to 5:20 am, 15 refills.

Mr Buck - or the gentleman that the Crown say is Mr Buck - apparently remarked when asking for more: "Another glass, please - I'll collapse after this one."

The purser, Janice Hawkins, made a mental note of this gentleman, too, who I suggest is Mr Buck, but made, in fact, a mental note of both Mr Buck and Mr Whittaker before taking off, as they were downing wine pretty rapidly. Even though Mr Buck's glass was being replenished frequently by Mr Martin, that, it would appear, was not enough for Mr Buck, for 20 minutes into the flight the Crown say that he was seen to go into the galley for more, and a stewardess - a Miss Inetchi - noticed this gentleman was drunk, slurring his words, and unsteady on his feet, and his eyes were half-shut. Despite this state of obvious intoxication, she gave him a glass, and then went to see the purser; because she was concerned about his level of intoxication, she went to see a lady called Janice Hawkins.

Dinner was served after 40 minutes into the flight, and the purser noticed - that is Miss Hawkins now - that both Messrs Buck and Whittaker were continuing to drink red wine. Their tablecloth was by this stage a bit of a mess - it looked as though wine had been spilt on it - and although they were in high spirits at this early stage of the flight, they were indeed still polite and gentlemanly.

Shortly after dinner, Miss Hawkins noticed the person the Crown say is Mr Buck stagger towards the lavatory, and when he returned to his seat he asked again for more wine, and she felt that as this person, who we say is Mr Buck, was not aggressive but seemed to be merely still enjoying his wine, he should be allowed to continue. On reflection, it might not have been the wisest of decisions. However, one has to remember the difficulties, you may think, that can arise when the tap is, in fact, shut off, and whether perhaps hope that they might go to sleep.

Anyway, a complaint was made to this lady, and she went to check it out, and discovered that the lavatory floor was wet.

Two hours into the flight, the cabin crew director became aware of this problem that was presenting itself (Mr Ageas) and he felt that they would monitor the situation rather than create a possible fuss.

Three hours into the flight, still drinking, Mr Buck and his colleague, but when the purser began to, I suppose, diplomatically ignore requests for more wine, he would get up, go to the galley, pick up a bottle and pour it unsteadily into his glass. An empty bottle was, in fact, observed also in front of them both at this time. They tried their best (the crew) to ignore requests for more drink, and according to the

statements, the gentleman that we say is Mr Buck was told: "Well, we've run out," which perhaps was not the best thing to say, that you have run out of wine on a --- well, I suppose you do. Anyway, that is what they said, and then when he asked for whiskey they said: "We've run out of that." Then he asked for a Glen Morangey, and at this stage, when he was asking it, he was drunk, the Crown say - he was stumbling up the aisle and bumping into passengers' seats, and sometimes, indeed, landing on them. Right.

He would return every 15 minutes to the galley to try and get some more, but he was rebuffed. Indeed, on one occasion he was seen, the Crown say, opening a locker in the galley and took out a bottle for himself, and the stewardess had to grab that bottle off him, and he then stumbled off again.

So it seems that at some stage the defendant had asked Mr Ageas, the cabin services director, if his friends could join him in First Class, and that request was refused unless he was prepared to pay the difference. After this, Messrs Buck and Whittaker kept going back and forth into Business Class to talk to their friends.

Regrettably, they rather played the fool, and acted like naughty children. Whittaker took his shirt off but was not really causing any real problem, and they were asked to keep the noise down, which they did.

The defendant, however, proved a little bit more of a problem; he was getting up and returning to Business Class, and he had to be coaxed back into his seat. He was clearly drunk, unsteady on his feet, and a lot of the staff were at this stage --- he was becoming really a pain in the neck, and many staff were diverted from their duties just to sort of try and cool things down, but it was getting beyond a joke and something had to be done.

So the captain was informed, and he came down and spoke to both Mr Buck and Mr Whittaker, and he told them that they could not have any more drink and to behave themselves. Unfortunately, the defendant did not behave, and he kept getting up and talking to his friends. He tried every ruse to get some more drink, even offering the crew money to get some more, and at one point he picked up some Champagne, which another stewardess had to take back from him. On another, a stewardess saw him, the Crown say it was him, Mr Buck, going towards the door near 4K. Could you look at the exhibit, members of the jury, and if you look, 4K is the seat which is on the right-hand side --- (counsel confer). On the right-hand side (I was bound to get it wrong, I was going to say the starboard side, no doubt wrong), but you can see it there, members of the jury, 4K, can you - do you see it? The door is the thing actually behind where it has got 5K - that is the door, and there are doors each side - do you see? Anyway, somehow he got stuck between the rear of seat 4K, and it may have meant 5K, but he got stuck between that and the crew seat, because as I understand it, looking at the crew seat here, it looks as though it is the seat next to 5K, those two bits there - do you see what I am saying? It is one that actually is just

a pull-down seat, I think. Anyway, we shall learn which one it was, but he got stuck - that was the point - and, as I say, if it were not quite so tragic it would be hilarious.

When he was in this position, actually stuck, he then noticed, rather like a child, the control panel which is on the wall, and which operates the cabin lights and the call bell, and one of the stewardesses shouted at who we say is Mr Buck to stop, and she went to get help, for he was still stuck, and she was a bit concerned that he might be able to open the aircraft door. But, in fact, at this stage then, the purser alerted the captain, he was dislodged from his position and he was taken back to his seat.

So far as timing is concerned, we are at sort of breakfast-time coming up now. The defendant simply would not desist in messing about, and so the captain decided to give Mr Buck a written warning, and that is the warning that we have here, a copy of it, and you have seen the tear marks there. It was torn up. You can see what it says: "You have already been told by the cabin crew that your behaviour on board the aircraft is unacceptable and may have been in violation of UK law. With immediate effect you must not drink any alcohol, you must hand all the alcohol in your possession to a member of the cabin crew - it will be returned to you when you leave the aircraft. You must not behave in a manner likely to endanger the safety of the aircraft or cause concern to the crew or other passengers. You must comply with the crew's instructions, and if you fail to comply, the captain may decide to land the aircraft at the nearest available location and offload you. You will be liable for diversion costs, and your ticket will be invalidated for further carriage.

"On arrival, the details of your conduct will also be reported to the police for possible prosecution.

"On conviction in the UK, you can be fined or imprisoned. This notice is (inaudible - coughing in court) by the captain of the aircraft," and it is signed there, dated, and the time there, 7:30, which is 7:30 British time, as I understand it. So that was five hours or so into the flight.

In fact, when the captain descended - just to go back a little on this - when he came down, because he is upstairs in the cockpit, and the cockpit is above, as you will see, with the sort of Upper Class section (I am not sure what it is on a Boeing) --- the upper deck, it is called, thank you. He appeared, anyway, did the captain, and the defendant was at this stage in the First Class galley, and he grabbed a bottle of (inaudible), and Mr Ageas, I think, took it from him; apparently when he did so, he just stood there with an expression like a little boy losing his toy.

The captain appeared and presented him with this written warning. He took it, and immediately ripped it - ripped it up and threw it on the floor; a very deliberate action. The captain considered whether he should divert the aircraft, but decided in the light of the position of the aircraft at the time - I do not know whether we were over the sea or whatever - but fuel, and so forth, the best thing was to continue to Heathrow.

The drama was about to begin. The defendant continued to misbehave, he refused to comply with the request to sit down when the seatbelt lights, for example, came on. He asked for a CD player; he was given one - that was after, in fact, trying to put one of his CDs into a trolley thinking it was a CD player. It was, to an extent, farcical, but not. He was given a CD player; however, despite this, thinking that that may appease him and to sit down and shut up, he returned to First Class. He was staggering around, he refused to sit down, and at one point punched the wall in anger.

The cabin services director then found him, as I have already told you, by the wrong seat - 12B. If you have a look, 12B is in the Club Class. "G" stands for, members of the jury, "galley", so those are the galleys there. And A, B - miss out C because that is an aisle - so 12A, there was a lady there, an American lady, sitting there, minding her own business, when Mr Buck, the Crown say, appeared and tried to sit down there with her.

The unfortunate victim of his attention, the cabin services director could see what -- well, what he thought might happen, and the defendant then pretended to explain that he wanted to sit there because it was next to his wife. He was told: "Look, this isn't your wife, you can't sit there," and he was asked to return to his seat. He then said to that, aggressively: "You can't fucking tell me what to do," and advanced towards the cabin services director, as I say, filled his spoon with yoghurt, and he thought he would be covered in yoghurt (the CSD), so he grabbed the spoon, and the tub of yoghurt exploded and went all over them both and Holly Ward. Not funny really. Mr Ageas's jacket and trousers were covered in yoghurt, and threateningly, the defendant said to him: "I can fucking take you out any time," and with that tightened his tie round his neck and grabbed his shirt. The defendant is quite a tall man; the cabin services director, you will see, is a shorter man.

Miss Ward was next to them, thought the defendant might use the spoon to hurt Mr Ageas, she grabbed the defendant's right arm to pull it away, at which the defendant deliberately reached over, took hold of her right arm and wrenched her hand away with quite a lot of force.

The cabin services director went off then to get the captain and ask for permission to use cuffs. He thought (the captain), in fact, thought better and thought that it would be wiser to enlist the help of the defendant's friends.

Another crew, Mr Singh, witnessed part of the incident and tried to calm down the person who we say is Mr Buck. He did not. He took hold of the gentleman - Mr Buck, we say - with both arms, and took him into the galley to be cleaned up. He went with him, slurring his words and stinking of drink. He is alleged to have said: "Him, her, all of these are on drugs and been drinking and assaulted me." So that is what he was saying in his defence at that stage.

He walked back then into First Class, muttering: "This is bullshit, this is bullshit," and in his fury bent down, grabbed the bottom of the trolley, flipped it over, sending all the breakfast paraphernalia flying - 20 side-dishes, 15 plates, 15 soup, and so forth, honey, marmalade, sugar cubes, the lot.

Two stewardesses then started picking up all this, and Mr Buck, maybe realising what an idiot he had been and what a nasty thing it was to do, then started helping, too, but as he was doing so, as he was picking --- or going to the floor, one of the stewardesses, the Crown say, saw him slip a knife up his sleeve, but it was grabbed away from him.

The captain returned. The crew now appealed to his friends to calm him down. They tried their best, but were unable to do so. The captain asked him to sit on a crew seat next to door 1. Those are the --- I am not sure which is door 1, either the right or the left side, but the crew seats are those little seats that one sees in between, for instance, 5A and the door there, I think. The defendant refused, and claimed he had been harassed by the crew and that he would be taking British Airways to court for assaulting him. He again was asked to sit down, he refused, the captain told him that if he continued the police would be called to the airport, and the defendant is alleged to have said - this gentleman is alleged to have said: "I am REM" - whether he said that or "R.E.M." - "and I can make up a story that I was assaulted." The crew, he said, were to blame for the whole incident.

His friends eventually persuaded him to sit down with them, and after going back and forth a few times he fell asleep, to everyone's relief.

Not quite the end of the story, but almost, members of the jury. At 10:50, the plane lands, three hours or so after that, and the cabin services director, who was assaulted, directed the police to where the person he claimed had assaulted him was sitting and pointed him out. The officer relayed the allegations made to Mr Buck - indeed, he asked him who he was - and Mr Buck said: "Yes, I'm Mr Buck."

When asked for an explanation, he said: "I'd had a few drinks, and so far as I can remember, I slept all the way from Seattle."

Asked if he was taking any medication, he replied that he was not.

He was arrested at 11:23 am for assault, threatening behaviour and being drunk on an aircraft. He was cautioned, told he did not have to say anything. "I understand," he said.

He was ushered off. He had difficulty in walking straight, and in one instance bumped into the wall, and one of the officers' view was that this person was still drunk, was drunk.

The police station: arrive at 12:00, and he is seen by the doctor at 1 o'clock. No medical problems, not taking any medication so far as the questions that would have been normally put by the doctor and which he would have asked, and he was obviously told no medication taken.

He said he boarded the plane the day before at 18:00 hours - that is 6 o'clock Seattle time. His last drink, he claimed and told the doctor, was at 21:30 hours - that is three-and-a-half-hours later, so on the face of it, it would seem that he remembered that he had been drinking for that time. He said within that time he had consumed four glasses of wine.

Although he was not drunk at this stage, at 13:05, according to the doctor, his breath smelt of stale alcohol, his lower coat was covered in dried yoghurt and he had slight nystagmus, which is a rapid oscillation of the eyeball movement, indicative of intoxication, and he had two red bruises on the back of his right hand - no doubt, the Crown would say, as a result perhaps of hitting the wall. Other than that, he was mentally fine, it would appear.

The doctor also saw Miss Ward at 4:20 or so - 16:24 - and she had two bruises, albeit feint, on her right lower arm. And Mario Ageas, who was still --- 16:35 he was seen (4:30), he was a little anxious and shaken. His neck was tender, and there was redness that could be seen.

The interview did not take place until 5:17, and I think before that time it seems some statements had been taken from the witnesses who had seen what had happened on the plane, and they were put to, as I understand it, the defendant in his interview. What he said - and he was, in all fairness, absolutely apologetic and could not have been more apologetic - but he did say: "I really can't remember a damn thing about this." He was told: "We really just want your side of the story - obviously we've got statements from crew members and other passengers," and the first thing he said before anything was put to him really - he had obviously been told what the allegation was on the plane before he was arrested, or at the time when he was arrested - and he says then, before the details of any statements are put to him: "I'm deeply sorry about it, first of all. I got on the plane, having worked 18-hour days, no sleep, didn't see my kids, hadn't eaten that day. I kind of decided that I'm on some sort of vacation for me even though I'm working, and I had three or four wines very quickly, and fell asleep. And the next thing I know, I was being bundled off the plane, for damage and threats, and I am completely sorry about that. Something woke me up, and I'm covered in cream" - yoghurt - "was involved, and that's all I know, because I've never done anything like this before, and I'm just appalled and shocked at my behaviour and apologetic to the people who had to deal with me."

The allegations were put, part of which I have already relayed to you, and he was told what he had allegedly been doing, and he says: "I don't remember any of this - it's so embarrassing." Question: "Do you want to comment on it?" Answer: "No - I

don't remember any of it. Honestly, if someone tells me to be quiet in a movie, I'd stop breathing." Question: "Do you remember any?" Answer: "No - I'm just appalled," and so forth.

He goes on in the same vein: "I've never done anything like this in my life - I'm so --- I really want to give other people my apologies."

Then when it was put to him that the captain thought, when he came down initially and just told them off, at that point it was put to him: "He decided that it was under control" - that is the captain - "so he returned to the flight deck, because he was happy with your behaviour." That is the first time he came down. The answer to that was: "Well, how little he knew." That is what he said.

Then there was a bit about a mobile phone, and then he said: "I must have been out of my mind."

And finally, members of the jury: "There's no excuse for my behaviour. All I recall is sitting down, having two glasses of wine, and mostly was no food, no sleep, lots of stress and just trying to do two or three things at once - family, two different business things - and sleep wasn't on the picture that day, on that week, and I guess I acted like an idiot, a jerk, going on vacation - you know, a couple of quick drinks and I'll be fine. I thought I quickly fall asleep. I thought that I did, but I apparently woke up and became like a Jekyll, like Jekyll. I'm really ashamed about it." Question: "Any medication before the flight?" Answer: "No, none."

That is it, members of the jury. At that stage you may think really an open-and-shut case. Of course, he is charged with a serious offence. His defence, which he will give, is that this is not an open-and-shut case at all: "I'm not criminally responsible, owing to the fact that I was in a state of drug/alcohol-induced automatism, and prior to and/or during the flight I took up to 35 milligrams of powerful sleeping pill - Zolpidem." Apparently this was given to him by a friend the day before he was travelling, and the defendant was not told and did not appreciate that no alcohol was to be consumed in combination with the drug. The consequences of mixing the drug with the wine made him incapable of forming any criminal intent.

That is, as I understand it, the defence in this case. Quite apart from the issue --- there is an issue, clearly, on identity, which you will have to deal with.

The Crown say that even if this story may be true, it is not a defence in relation to these charges, for his intoxication was self-induced - he was reckless in the taking of the pills even if you accept what he said about that, or if what he says may be true, but he must have realised, as we all do, that sleeping pills and alcohol do not mix at the best of times.

That is my address to you.