

## The Angus Sibbet murder

### People in the case

Angus Sibbet	murder victim	Geoffrey Rhodes	MP for Newcastle East
Michael Luvaglio	charged with murder	David Lewis	authors of <i>Most Unnatural</i>
Dennis Stafford		Peter Hughman	
Lord Justice O'Connor	trial judge	Joseph Stafford	father of Dennis Stafford
Rudolph Lyons QC	defence counsel (Stafford)	Sir David Napley	solicitor for Luvaglio
Raymond Dean QC	defence counsel (Luvaglio)	Leslie Parker	coal miner; defence witness
Henry Scott QC	prosecution counsel	Alan Wood	coal miner; defence witness
Vince Landa	club-owner; Luvaglio's brother	James Golden	colliery blacksmith; witness
Dr John Hunter	local GP	Arthur Bowman	consultant engineer
Dr Jack Ennis	police pathologist	Patricia Walpole	defence witness
Tom Leak	coal miner who discovered the body	Doreen Hall	girlfriends of Sibbet
Selena Jones	cabaret singer; girlfriend of Stafford	Joyce Hall	
Pat Smithson	former wife of Stafford	Nora Burnip	farmer's wife; witness
Matthew Dean	doorman at Bird Cage Club	PC John Ainsworth	police constable; witness
Dorothy Brady	visitor to Bird Cage; defence witness		
Robert Anderson	near neighbour of Luvaglio; defence witness		
Francis Camps	Home Office pathologist		

At 5.15 a.m. on a cold morning in January 1967, Durham coal miner Tom Leak was cycling home from his night's shift at the local pit.

In South Hetton, just past Pesspool Bridge, he noticed a Mark X Jaguar saloon car, poorly parked, about fourteen inches from the kerb, and also damaged. Snow covered the back window, bonnet and much of the top. He cupped his hands and peered into the car through the near-side passenger window. A man was lying across the back seat.

Leak opened the door, said loudly, 'Hey, mate, you can't park there,' and shook his left leg. As he did so, Leak realised that the man was dead. He hailed three passing colleagues, also going home, and they called the police. A local GP, Dr John Hunter, was then summoned, though the police advised him not to touch the body. It was clear that the man, who had been shot three times, was a murder victim.

Seventeen hours later, Michael Luvaglio and Dennis Stafford were taken in for questioning.

Luvaglio, a devout Roman Catholic, was born into an Anglo-Italian family just before the outbreak of the Second World War. He was the second son; his brother, Vince, was four years older. Vince changed his surname to Landa and made a fortune in the north-east, largely through profiting on one-armed-

bandit machines. Through his company, Social Club Services Ltd, he also owned a number of night clubs. He lived in some style, on an estate just outside Bishop Auckland, and had persuaded his parents and his brother to join him in the north-east. By then, in the mid-sixties, Michael had done national service in the RAF and subsequently worked as a printer.

Dennis Stafford had a rather more chequered history. Born in 1934, the son of a well-to-do London bookmaker, he left school at 16 and started his own fruit-machine company. He quickly made his mark on the club scene, but was arrested after becoming involved in a burglary. The car he was driving at that point was found not only to be stolen but also to contain a Luger pistol, and he received a harsh seven-year sentence. He was then only 22. (He always maintained that the Luger, a relic of national service days, which he said he kept at home, had been planted in the car.)

However, he went over the wall of Wormwood Scrubs on 8 November 1956, and escaped to Newcastle, where he passed himself off as the managing director of a buying agency. He began to prosper, and in February 1957 moved to Trinidad. After 136 days of freedom, he was arrested there. He fought the extradition order, unsuccessfully, and arrived back in England in a blaze of

publicity on 10 June 1957.

He had to answer further charges in Newcastle - of conspiracy to defraud and obtaining goods by false pretences - and was jailed for an additional 18 months. He was sent to Dartmoor. After 6 months, he escaped from there also, in company with another prisoner who was later found drowned in a reservoir. There was evidence that Stafford had tried hard to resuscitate him.

Six weeks later, he was recaptured in Leicester Square, London. This time he served out his sentence, although he was allowed out in October 1962 to marry a Gateshead girl, Pat Smithson. In March 1964 he was freed, but later that year he received fresh sentences for stealing a car and possessing a pistol within five years of release from prison.

When he came out he returned to Newcastle with Selena Jones, a leading cabaret singer. Landa appointed him manager of his newly opened Piccadilly Club, which was soon gutted by arson in what was assumed to be an act of gang warfare. Landa then gave him alternative employment, booking acts into his clubs.

Another of Landa's employees was Angus Sibbet. A well-known personality on the north-east club circuit, he counted Tom Jones and Engelbert Humperdinck among his friends. He had once served in the army in Korea but, like Stafford, had a prison record, having

been sentenced to twelve months for receiving. He was employed collecting the takings from Landa's fruit-machines - a job which seemed to support a comfortable lifestyle and which was, as Sir David Napley has noted, 'pregnant with possibilities'. Just so; it was Sibbet's body which Leak discovered in the back of the Mark X on that morning in January 1967.

On the third day of the new year Luvaglio and Stafford returned together from Majorca, where they had spent a holiday with their girlfriends, Luvaglio's parents, and his brother Landa at Landa's villa. Michael Luvaglio immediately made arrangements to see Sibbet, a close colleague, over a business matter. They talked the next afternoon, though without finalising their plans. A further meeting was therefore arranged for 12.30 a.m., on what would by then be 5 January, at the Bird Cage Club.

Luvaglio's own car was undergoing repair, but he was able to borrow his brother's E-type Jaguar, for which Stafford fortuitously possessed a spare key. The E-type, too, was at that time in the garage, having been serviced. Landa wouldn't be needing it himself as he had returned to Britain with the others only for discussions with his accountant in London and was due to fly back straightaway to Majorca.

At 11.30 that evening, Luvaglio and

Stafford left Stafford's home in Peterlee and drove to Luvaglio's house in Chelsea Grove, Newcastle to collect an international telephone call from Landa at midnight. Had Landa placed that call, his brother would not have spent eleven unhappy years in prison. Since he didn't, Luvaglio and Stafford merely drove on to the club for the appointment with Sibbet.

It wasn't their night, for Sibbet didn't show up either. Luvaglio tried to reach him by telephone, though without success.

At 2.00 a.m. Stafford went to get some duty-free cigarettes from the car, and noticed that it had been damaged by a car running into the back of it. He mentioned this to Matthew Dean, the doorman, who recollected hearing a noise some twenty minutes earlier. The two discovered tyre tracks in the snow in the road, from which it appeared that a vehicle had collided with the Jaguar outside the club, and then reversed out into the middle of the road. Thus: Dean had heard the noise; he had seen the damage to the car within seconds of Stafford; and he had noticed the tyre marks. This was important independent evidence.

Subsequently, at about 2.15 Luvaglio and Stafford gave up and went home - first to Luvaglio's place in Chelsea Grove to check if Landa had called (he hadn't); and then back to Peterlee,

where Luvaglio spent the rest of the night.

In the light of morning, Stafford thought the damage to the car not too severe, but he knew that Landa would be upset, so he put it back into the garage in Sunderland from which he had collected it only the previous day. He also took some clothes in for cleaning: suits, shirts and his laundry from the Majorca trip.

During the day, at Landa's company offices, they learned from newspaper reporters - trying to contact Landa - of the murder of Sibbet. They went to the flat of the garage proprietor to watch the early-evening news on television. Afterwards, Luvaglio felt ill, and at 7 o'clock he went to bed.

Meanwhile the police had received a phone call which enabled them to focus their inquiries. The caller, who declined to give his name, told them that they would be well advised to inspect a damaged, red E-type in a Sunderland garage. The police took the hint, and discovered that damage on the E-type corresponded to some of the damage on Sibbet's car.

It is sound professional practice for the police sometimes to rely on what is nebulously described as 'information received'; but in this instance they seem never to have suspected that the information might not have been wholly disinterested.

Luvaglio and Stafford were taken in for questioning at 10.20 that evening, the former being roused from bed. Both wore the same suits they had worn throughout the previous day. They were subsequently charged with murder.

The case came to trial unusually speedily and opened at Newcastle assizes on 7 March 1967 before Lord Justice O'Connor. The prosecution case was thought to be weak, and Luvaglio and Stafford were assumed to have an unbreakable alibi.

The Bird Cage Club is 16 ½ miles from South Hetton, and a police car had covered the distance in 46 ½ minutes. Although it was suggested that an E-type could have done it faster, the pathologist estimated the time of death at between midnight and 4.00 a.m., and gave evidence to this effect at the committal proceedings. Since Luvaglio and Stafford had arrived at the Bird Cage within a few minutes of 12.30, this meant that they had an alibi for the period during which the murder was committed.

The only way the prosecution could make headway, therefore, was by somehow introducing even more elasticity into the already imprecise medical evidence tendered regarding time of death. This, with the assistance of the judge, it managed to do. In an extraordinary part of the trial, the police pathologist, Dr Jack Ennis, at first

reiterated his original time-of-death estimate of midnight-4.00 a.m., and then went on to state, 'If you wish to pin me down to a time, I would say round about twelve o'clock.' During the course of his testimony, he effectively contradicted himself; if midnight was the mean time, why was his estimate not 10.00 p.m.-2.00 a.m.? In conclusion, and at the judge's suggestion, he did change his estimate to 11.00 p.m.-2.00 a.m. (The judge actually noted down 11-3, and later had to be corrected.) Dr Ennis explained to Rudolph Lyons QC, Stafford's counsel, that he had changed his estimate for two reasons: 'one was the remarkable rate of cooling which had taken place in this particular body and secondly I was not aware at the time I completed my report that in fact *rigor mortis* was confirmed at 6 o'clock in the morning [i.e. by Dr Hunter].'

By the "remarkable rate of cooling" he meant that the body had cooled less quickly than one would expect, given the weather conditions. (There were still 6°F of frost at 8 o'clock in the morning.) This was because it was 'in a car which must have been warm for the first part of the cooling period'. He imagined that the interior was warm for 'two to four hours' after the car stopped. How did he explain that? 'The heater was still functioning ... that is yet another of the peculiar air conditions in the car.' How long had the heater been blowing hot

air through the car after the engine cut out? 'At least half an hour.'

Even Jaguar cars are not capable of that. A company expert reckoned the period would be 'a minute'.

So Ennis was completely wrong about the heater. In his assessment of the "peculiar air conditions" in the car, he was also wrong about the windows. He did not realise, until it was pointed out to him in cross-examination, that both off-side windows were open to the elements (one shattered by a bullet, the other wound right down). These were two serious errors. As a pathologist, he was professionally negligent in three other respects. Although he arrived at the murder scene at 8.05 a.m., he did not take a body temperature until he began his postmortem examination at 1.15 p.m.; and he estimated Sibbet's weight, instead of taking it accurately (body weight being another important factor in cooling).

Basing his calculations on this series of misconceptions and inadequate information, Ennis estimated a rate of cooling of 2.6°F per hour, which gave a time of death of about midnight. Even on a figure of 3.0°F, death would have occurred at 2.00 a.m., and Luvaglio and Stafford would have been in the clear. At that time, the rate of cooling of bodies per hour in snow was calculated by the leading pathologist, Dr Keith Simpson, at 3.6°F.

Ennis' fifth blunder was not to ascertain the precise nature of the tests which "confirmed" *rigor mortis*. Had he done his homework on this point, he would have learned that, according to Dr Hunter's evidence to the magistrates court in Peterlee, no test for *rigor mortis* was made. At the trial, Hunter changed his evidence. He said that he took hold of the left leg and 'raised it to ascertain the presence of *rigor mortis*'. Hunter, though, was a GP, not a pathologist. He was specifically asked not to interfere with the body, so it is regrettable that he felt obliged to exaggerate the thoroughness of his inspection.

It is more than likely that *rigor mortis* had not set in when Hunter looked at the body. Tom Leak said that the left leg was stretched along the back of the seat and that he moved it. By the time the police photographer arrived on the scene, the left leg was bent. As David Lewis and Peter Hughman wrote:

Whether Leak or somebody else bent it is beside the point. What matters is that if *rigor mortis* had been present in the leg at 5.15 and if, some time before Dr Hunter's examination, the limb was bent, *rigor mortis* would have been destroyed and could not have been felt in the left leg, the only limb used by Dr Hunter to test for it.

Professor Francis Camps, the distinguished pathologist, later confirmed, 'There must be some error here.'

So this aspect of the prosecution case - the time of death - was based on wholly erroneous medical and scientific assumptions. Its other main stanchion was the apparent collision between Sibbet's Mark X and the E-type which Luvaglio and Stafford had borrowed. Six-tenths of a mile along the A182 from where the Mark X was discovered police found fragments of glass, metal and plastic in the road. The glass had come from the Mark X offside window and the plastic perspex from the E-type. At this scene there were also five spent cartridges; three of the bullets had been fired into Sibbet, and the other two, one of which had shattered a rear window, into the car. Further debris - glass and plastic - was found a little way up a small lane leading off the main road.

Subsequent forensic tests showed that specks of green paint on the red E-type had come from the green Mark X; and that particles of red paint on the Mark X had come from the E-type. Luvaglio and Stafford were able to offer no explanation of this, the piece of circumstantial evidence which ultimately damned their case.

With this ammunition, metaphorically speaking, the prosecution put forward its interpretation of events: the two cars

were driven in convoy south along the A182 and collided; either Luvaglio or Stafford got out and fired five shots at Sibbet, killing him; one of them then drove Sibbet's car, with his body in it, and the E-type behind, or in front; they turned down Pesspool Lane to clean out the murder car and dispose of incriminating evidence and then returned to the main road. The Mark X, due to overheating caused by radiator damage in the collision, stalled at the bridge in South Hetton; Luvaglio or Stafford, whoever it was, then abandoned the car and got back into the E-type; they drove together to the Bird Cage Club.

Three factors, which had nothing to do with the evidence itself, handicapped the chances of the successful presentation of the defence case. The first was the fact that the trial was held in Newcastle, where feelings were running high about what many felt to be the city's rising tide of gangsterism. 'There was much press comment both before and after the murder about the corruption of club officials by people hiring out fruit-machines. Social clubs had been burnt down and there was talk of gangland warfare ... public comment before the trial showed all the traces of a typically Northern puritanical backlash,' wrote Geoffrey Rhodes MP in the *New Statesman*.

Then, there was Stafford's public

profile as a notorious criminal, of which the jury would inevitably have been aware. His exploits had been extravagantly publicised, and in 1965 Pat Smithson had sold the story of their high-life together to *Tit-Bits* (in those days a magazine with a healthy circulation and a scandal-sheet reputation).

Thirdly, the judge, realising that his own peroration fell plumb on 15 March 1967 - the Ides of March - found gratuitous historical allusions irresistible. In a summing-up which affronted traditional concepts of British justice, he referred to the betrayal of Julius Caesar by Brutus - '*Et tu, Brute?*' - and of Christ by Judas Iscariot, mentioning these as parallels of the violently sundered friendship between Sibbet and Luvaglio.

Luvaglio and Stafford were found guilty, and sentenced to life imprisonment, the death penalty having been abolished in November 1965.

Had the jury been more accurately directed, they would surely have been acquitted straightaway. The most obvious gap in the prosecution case was the absence of motive. Why would Luvaglio have wanted to kill his friend and colleague? Henry Scott QC, prosecuting, admitted that he could offer no reason, but added that 'whoever killed Sibbet had a very real and sinister motive for doing so'.

Rudolph Lyons QC pointed out other

omissions in the case against the defendants: there was no suggestion that either of them had a gun; or that either behaved in anything other than a normal manner in the hours after the murder; and there was no forensic evidence at all.

The clothes which Stafford took in for cleaning on the morning of 5 January were recovered by police. Among them were three suits. In one of the jacket pockets of one of these, forensic experts discovered traces of red paint and plastic. Stafford explained in court that he took his laundry to the car in the morning, put it in the boot, then inspected the previous night's damage to the car, and tried to straighten the number-plate. After that, he went through the pockets of the suits he was taking to the laundry to make sure they were empty. The forensic scientist giving evidence for the Crown agreed that this was an entirely acceptable explanation of the presence of the paint particles.

Like the dog that didn't bark in the night, this fact should have been of fundamental significance in the analysis of the crime. Had Stafford been guilty, then surely his motive in taking clothing to the cleaners immediately afterwards was to destroy forensic evidence linking him to the crime. If so, he was thwarted because police recovered the clothes in time. There was nothing, however, to link him to the crime. Altogether, police took

for examination 62 items of Stafford's clothing and 11 of Luvaglio's; nothing at all was found. Further, it was unchallenged in court that, when taken in for questioning, both men were wearing the suits they had worn the previous evening.

There was simply no evidence to link Luvaglio and Stafford with either Sibbet, or the Mark X, or the scene of the crime. There was no mud or grass on them, though a great deal on Sibbet. Nor was there anything to link Sibbet with their E-type (there was not even recent grass debris on the car wheels). The conditions were ideal for the gathering of weighty forensic evidence. The absence of any at all was so telling it should not merely have acquitted Luvaglio and Stafford; it should have ensured that all charges against them were dropped at the outset.

In the circumstances, it is not surprising that the rest of the prosecution scenario was riddled with illogicalities. Robert Anderson, a company director who garaged his car near Chelsea Grove, testified that he noticed the E-type outside the house at midnight, a time of which he could be certain since it was ten minutes after television close-down. Angus Sibbet did not leave another club, La Dolce Vita, until about 11.20, so that even on the basis of the Crown evidence he could hardly have arrived in South Hetton before midnight.

Luvaglio and Stafford, according to the prosecution theory, committed the murder and then raced at breakneck speed to arrive at the Bird Cage Club in time for their prearranged 12.30 appointment, and thereby establish an alibi. A number of people were up and about on that cold January morning. No one saw an E-type being driven at 70 mph or over - a speed which, given the snow-covered roads, would have been practically suicidal.

Both cars were damaged visibly and, in the case of the saloon, audibly as well. According to the Jaguar company expert, it would have developed a knocking noise after the collision. It would also have a body in it. Why would the defendants have turned off a small dark lane on to a well-lit main road to drive through a village which, because so many of its inhabitants were employed at the local coal mine, generated an unusual level of night-time activity? Why, in any case, the desperate rush to establish an alibi when, for all they knew, the body might be discovered straightaway? Had Luvaglio and Stafford committed the murder, and accordingly realised the significance of the damage to the car, is it likely that they would have drawn the attention of the garage proprietor to the crime by watching news of it on his TV set?

Luvaglio and Stafford were never able

to explain how the two cars could have tangled. One theory is that the E-type could have been taken while they were both inside the Bird Cage. Was there any evidence for this?

There was. It was provided by Mrs Dorothy Brady, who explained that she had been called because her daughter worked in a solicitor's office and had been able to inform the defence of her evidence. That night, Mrs Brady, with a friend, had visited the club at 12.35 and noticed the red E-type outside. When she left at 1.15, it was no longer there. Most people probably notice an ostentatious car like a red E-type anyway. It was especially likely that Mrs Brady would have done so, since she worked at the garage where the car was frequently cleaned. She had even remarked as she left, 'Mr Landa's car is not there now.' The prosecution was unable to persuade her that she had got her dates confused; she was adamant that she could remember the night exactly because of its proximity to the New Year celebrations.

Taken together, the evidence of Mrs Brady and of Matthew Dean, the club doorman, should have exonerated Luvaglio and Stafford. It is astonishing that the judge placed such little weight on their combined testimony.

Luvaglio and Stafford's application for leave to appeal against conviction was

dismissed on 26 July 1968. They were also refused leave to call further evidence. Lord Justice Edmund Davies, who heard the appeal application together with Lord Justice Fenton Atkinson and Mr Justice Waller, did criticise aspects of the judge's summing-up - rebuking him, for example, for his emotive references to Christ and Julius Caesar. and averring that overall it 'could have been expressed in more balanced terms'. However, he found the circumstantial evidence relating to the collision between the two cars adequate to sustain the prosecution case.

Prior to the appeal, Luvaglio had turned for assistance to David Napley, plain 'Mr' in those days, yet already established as one of the country's pre-eminent solicitors. With characteristic assiduity, he set to work on behalf of his client. Over months and years, a mass of fresh evidence was brought to light, all of it extremely persuasive of the innocence of the two convicted men.

In October 1969, Joseph Stafford delivered a petition on behalf of his son to 10 Downing Street. *The Times* noted the solicitous attitude of the prison authorities at Parkhurst, where the Staffords were given the use of an interview room to draw up the petition and a 50-page dossier of fresh evidence. However, Prime Minister Harold Wilson was unable to be of assistance.

In 1971, the public pressure was

stepped up. Napley argued in the *Law Society Gazette* in June that he was certain of Luvaglio's innocence and that there was a need both for a public inquiry by the Home Office, and for a parliamentary debate, to secure the reform of judicial review procedures. 'Michael Luvaglio, however, must not be left behind prison bars while the slow processes of reform fashion a means to justice,' he concluded.

At the end of the month, Home Secretary Reginald Maudling met an all-party group of peers and MPs who were disturbed about the case. The deputation was led by Geoffrey Rhodes who, as Labour MP for Newcastle East, represented Luvaglio. Writing in the *New Statesman*, Rhodes argued the need for inquiries into both the police investigation of this case and the methods of operation of the Court of Appeal. David Lewis and Peter Hughman collaborated on the illuminating book, *Most Unnatural: An Inquiry into the Stafford Case*, which was published as a Penguin Special and serialised in the *London Evening News*. Just prior to his death in 1970, Bertrand Russell described the imprisonment of Luvaglio and Stafford as 'intolerable'. Thirty-six criminologists, meeting in conference at York University, signed a petition to the Home Secretary.

The case became a *cause célèbre*, especially in the north-east. Geoffrey

Rhodes disclosed that he had received anonymous correspondence advising him to pursue his interest in the case no further. A letter, postmarked Leeds, said, 'Do not interfere with this matter of the Luvaglio-Stafford conviction. There are very big fish involved. It is nothing to do with an MP.'

Rhodes said he had only decided to make this public after learning that similar threats had been made to BBC personnel investigating the case for the late-evening programme, *24 Hours*. It was alleged that members of the team had been tailed; that one had been told by telephone to 'lay off'; and that hotel rooms had been ransacked.

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On 23 August 1971 Napley sent the Home Secretary a detailed memorandum. Maudling, who had personally given much support to the Luvaglio and Stafford campaign when a shadow minister, now adhered dutifully to the Home Office practice of never providing a reply the next day or week if it is possible to provide one the next year.

After he had been prodded yet again, via a letter in *The Times* signed by a number of distinguished figures (Lords Chorley, Donaldson, Foot, Norwich and Willis; Baroness Wootton and Dame Irene Ward; Tom Sargant, of Justice; the Bishop

of Wakefield; Richard Crossman and C. H. Rolph, editor and deputy editor respectively of the *New Statesman*), Maudling finally acceded to the growing public clamour. Not, however, by ordering a public inquiry. On 11 February 1972, the Home Office announced that it had been decided to refer the case back to the Court of Appeal.

Luvaglio and Stafford were thus obliged to resubmit their petition to the same legal process which had already failed them, but with one significant difference. Whereas the Appeal Court had previously declined to hear fresh evidence, this time it was virtually instructed to do so.

However, on 12 May 1972 Mr Justice James ruled that the new evidence should be heard, prior to the appeal itself, before an appeal judge sitting as an examiner. There was provision for this procedure in the 1968 Criminal Appeal Act, but to call it unusual fails to drive home the point: the last time it had been used was in 1924 (under a previous appeal act). Moreover, the examiner, Mr Justice Croom-Johnson, decided that it should be a closed hearing. Accordingly, even before this stage of the appeal process could begin (and by this time nine months had passed since the Home Office had referred the case back), counsel for the appellants had to go to appeal to plead that all this new evidence should be heard in open

court.

This was one argument which Lewis Hawser QC for Stafford, and John Mathew QC for Luvaglio, did win. Lord Widgery, the Lord Chief Justice, sitting with Mr Justice Melford Stevenson and Mr Justice Brabin, ruled that 'the principle to be applied is that the examination should take place in open court unless the examiner thinks that the ends of justice will not be served by sitting in open court'. The critical test, let it be noted, was which method best served 'the ends of justice'.

So, Croom-Johnson was overruled. The new evidence from sixty-three witnesses was heard from 14 to 30 November 1972, and it was heard in public.

The most important body of evidence came from thirty-three witnesses, nearly all of them miners, who said they had noticed the Mark X Jaguar parked in South Hetton in the early hours of the morning. Yet, prior to Tom Leak, no one had either spotted any damage to the car, or seen a body in it.

The damage, though not extensive, was certainly apparent: the radiator grille was badly punctured, the offside head-lamp smashed, the bonnet cover pushed in and the rear offside window broken. Leslie Parker, a miner, said it was an event to see a Mark X Jaguar in the village. He noticed it parked near the railway bridge while cycling to work, but

it was undamaged and unoccupied. Another miner, Alan Wood, said that he looked into the car from several positions while on his way home from work. There was no one in it. The windows were not broken or wound down, and the bonnet was warm. Similarly, a long-distance lorry driver and a colliery deputy both said there was no damage to the car when they saw it parked at 2.30 a.m.

Of these thirty-three witnesses, all of whom were available for cross-examination by Crown counsel, fourteen said there was no damage, although they might not have noticed if there had been; ten claimed they thought they would have noticed damage, but were uncertain whether there had been any; nine, however, said they were positive that they would have noticed damage, and that they did not notice any. Moreover, four of these nine said they had inspected the car with care. Some had been car enthusiasts. Alan Wood had memorised all but one figure of the vehicle's number from the registration plate which was immediately below the supposedly damaged radiator grille.

The two most individually important witnesses were James Golden, a colliery blacksmith, and Nora Burnip, a farmer's wife, both of whom appeared for the prosecution at the original trial. Golden was cycling home from work when he was passed by two Jaguar cars (one, an E-type, the other a saloon). However, he

could say no more than that. He neither saw nor heard anything unusual; nor did he overtake a stationary car. The Crown attempted to explain this gap in the evidence of one of its main witnesses by alleging that Golden would not have been able to see the Jaguars turning off the main road into Pesspool Lane. Chief Superintendent Kell, in charge of the murder inquiry, gave evidence on this point. However, the defence brought forward Norman Bennett, a respected local surveyor, who confirmed that Golden would undoubtedly have been able to see the cars turn off the road.

Investigations subsequent to the trial confirmed both that police evidence on this matter was totally inaccurate, and - the central point - that the defence was able to establish, mathematically, that Golden must have been cycling past the scene at almost the instant when, according to the prosecution, Luvaglio and Stafford murdered Sibbet; yet he saw and heard nothing. (Nor did the driver and conductor of a late-night bus perceive anything strange on their journey.)

At about midnight, Nora Burnip's husband switched off the bedside light and glanced at the alarm clock. Twenty minutes later, still awake, she heard two sharp cracks outside the house. They were so startling that she got up to look out of the window. She could see nothing, but a haystack obscured her

view of the main road. The next day, after hearing of the murder, she volunteered a statement to police, who accordingly conducted an inch-by-inch search of the road outside the farm. There they discovered the pieces of plastic and glass debris from which they ascertained that the two cars had collided. They determined that the accident and Sibbet's murder took place on the stretch of road hidden from Mrs Burnip's view by the haystack.

Once they leapt to that conclusion, what Nora Burnip didn't hear became more important than what she did. The prosecution alleged that the murder was committed at 11.50. At that time, she and her husband were still awake. Neither heard anything - no shots, no car accident.

Of the additional witnesses, one man, driving past the stationary Mark X at about 12.45 a.m., said that he was waved on to overtake the car - i.e. that at that time someone was sitting in the driver's seat. Patricia Walpole corroborated the earlier testimony of Robert Anderson, saying that she and her mother saw Luvaglio's E-type parked in Chelsea Grove after midnight.

A ballistics expert affirmed that the only realistic explanation for the position of the cartridges in the road was that they were deliberately placed there. Arthur Bowman, a consultant engineer, observed that some of the damage to

the E-type was malicious and not impact damage.

The pathologist, Dr Ennis, stated that he varied his original estimate of time of death after being informed that *rigor mortis* was confirmed at 6 a.m. On the other hand, Dr Hunter, the man who supposedly "confirmed" it, was recalled, and had to agree that no question of *rigor mortis* arose when he looked at the body. Professor Francis Camps, offering retrospective pathological advice as best he could in the circumstances, concluded from the available evidence that the mean figure for time of death was 1.30 a.m.

The appellants' counsel complained that the police had been selective in passing on information. The prosecution dropped some witnesses because their evidence did not tally with its case, and their statements were never served on the defence. Prime amongst them was Tom Leak, the man who had discovered the body, though the defence had managed to find out about him in time for the original trial. More witnesses of whose statements the defence had not previously been aware were traced by Napley; others only came to light from 1972 when the Newcastle police finally did begin to surrender to the defence statements they had taken during their 1967 inquiries.

The appeal proper should have been heard on 15 January 1973. It wasn't,

because two of the three judges due to hear it were ill. Lord Widgery, the Lord Chief Justice, recovered to be able to take his place alongside Lord Justice James the following day; but Mr Justice Croom-Johnson remained indisposed and Mr Justice Eveleigh was drafted in instead. The one judge who had heard all the fresh evidence did not hear the appeal. The three who did were provided with transcripts of the testimony of the sixty-three witnesses.

On 23 January Lord Widgery dismissed the appeals. The Lord Chief Justice argued that the fresh evidence had not disturbed the prosecution case. He agreed that there were 'improbable features' and 'unanswered questions' on both sides, but averred that 'the verdicts are not held to be unsafe or unsatisfactory merely because certain elements of the prosecution case have not been fully established'.

That James Golden must have been cycling past at the moment when the murder must have been committed; that the weight of medical evidence now suggested that Sibbet was killed after, not before, midnight; that a witness like Alan Wood, who was not only observant but interested in cars, should have noticed no damage to the Mark X Jaguar: all these points, Widgery conceded, did enhance the case for the defence. He reasoned, however, that it was fundamental to any

consideration of the crime that there was a collision between the cars. Accordingly, he concluded, 'the inference of guilt is irresistible'.

The nub of the prosecution case was that Sibbet was murdered at almost precisely 11.50 p.m. His car, with his body in it, was abandoned by Pesspool Bridge, having by then been in collision with Luvaglio's E-type. That was the argument which the jury accepted. Two factors crucial to it are: the time of death; and the state of the car in those hours before Tom Leak arrived. Any evidence which cast serious doubt on the reliability of either automatically undermined the entire prosecution case.

The defence sent such prosecution props flying like skittles. They were replaced by judicial sophistry, always more than a match for logical argument in the Court of Appeal.

'Great effort has been put into challenging the pathological evidence,' Widgery noted, 'but the circumstances of the case were never such as to enable pathologists to give a time of death which could have a conclusive bearing on the case.' If the judge at the assizes had said that, the case against the two men - depending, as it did, on a more-or-less exact time of death - must surely have collapsed.

Thirty-three witnesses had noticed no body in the car. 'The Court had not been surprised,' said Widgery. 'The body was

pushed well down, and no one was looking for a body. They were looking for a sick or perhaps drunken man sitting in the car.' In the absence of testimony to support his judgment, Widgery was using his imagination to construct some.

Neither had the thirty-three noticed any damage to the car. 'It is odd to say the least of it that all these men, some of whom were interested in motor cars and paying close attention to this car, should have walked past it and not seen the damage. But we do not find it an impossible proposition to put forward.' At a stroke, the evidence of thirty-three witnesses was dismissed.

It is worth studying this aspect of the case from the opposite point of view. The prosecution case was predicated on the basis that a damaged Mark X Jaguar was parked by a railway bridge in South Hetton for over five hours. It was the middle of the night, but so many local people were working night shifts that there was a considerable amount of pedestrian activity. During that time, no one noticed any damage to the car. The prosecution could bring forward *not one witness* to say the car was damaged.

Patricia Walpole's recollection that the E-type had been parked outside Luvaglio's house when she returned home from work just after midnight was very persuasive because her precise movements that evening were

corroborated by supplementary testimony (for example, from the manager of the bowling alley where she had been working late). Widgery observed that 'such a respectable witness, speaking so directly in favour of the defence, is a matter of consequence, and we have treated it as such'. Hardly; the evidence was disregarded on the basis that the jury had already disregarded parallel testimony and 'you do not necessarily improve the strength of your evidence merely by multiplying the numbers', a quaint legalistic notion.

Fresh arguments were advanced regarding the entire absence of any forensic evidence, such as the transfer of fibres. The Court did not consider this 'a potent factor'.

There was no attempt even to deal with Arthur Bowman's evidence: 'this is largely a technical matter and it is very difficult for us to take an accurate view'. The ends of justice will never be served if judges refuse to consider matters because they are "technical" or "difficult". In any case, the arguments were straightforward enough, and had already been painstakingly and properly explored in the Lewis/Hughman book.

The defence had not called a witness on this matter at the trial, because its importance was not then appreciated. Bowman, however, detailed nine separate aspects of the prosecution

collision theory which were not explained by the evidence. The original prosecution case was that the cars had collided on two occasions. Bowman averred that there must have been three separate bumps, and that even then there was some damage for which he could not account; for example, the obliteration of the rear light and flasher lenses on each side of the sports car when the surrounding areas were unmarked. He felt this - the aspect which most directly linked the E-type with the Mark X - could only be explained by a deliberate action, like striking them with a hammer. Similarly, there was no possibility that the E-type could have caused all of the damage to the Mark X radiator.

At the trial, Nora Burnip's evidence became an embarrassment for the prosecution, which was unable to account for it and yet could hardly dismiss it. She said what she had to say clearly, consistently and unequivocally; and she had led the police to vital evidence. Yet the decision of the jury effectively relegated her evidence to the side-lines; it became maverick testimony. Highly trained legal minds, surely, would restore it to a central position, where it belonged. Widgery's verdict? 'Mrs Burnip should stay where she was at the trial - she is an unanswered question.'

Altogether, there was, as Hugo Young

wrote in the *Sunday Times*, 'no subtle forensic examination - just the blunt instrument of judicial assertion'.

In their prolonged efforts to demonstrate that they were wrongly convicted, Luvaglio and Stafford encountered two formidable obstacles. The first was that the police had in their possession an additional piece of evidence which pointed to their guilt. Fleet Street knew of this too, and it is inconceivable that the judiciary would have been unaware of it.

The evidence was a note left by Sibbet for one of his girlfriends, Doreen Hall, saying that he had a meeting with Luvaglio on the night in question - which was already known; but that the meeting was at 11 o'clock.

The note could not be produced in court because Sibbet could not be cross-examined about it. It might even have predisposed those undertaking the murder inquiry to consider Luvaglio and Stafford as the guilty men and to ignore other leads. Perhaps it is one of the ironies of the case that a piece of hearsay evidence which could not be admitted in fairness to the defendants played a part in securing their convictions. Had it been admitted, it could easily have been disposed of.

Although married, Sibbet had several mistresses and was in the habit of leaving misleading notes to allay the suspicions

of one or another of them. (The defence did make sure that this aspect of his behaviour was revealed in open court, but the apparently incriminating note could not be referred to.) In another piece of unexplained trial testimony, to which insufficient attention was paid, Joyce Hall (sister of Doreen, and another of Sibbet's conquests) revealed that when she arrived home that morning at 2.20 a.m., the bed was disturbed. She later learned that Sibbet had arrived there from La Dolce Vita with a girl in tow. Two men who lived in the same house agreed that Sibbet arrived there after leaving the club - another indication that he could not have been murdered in a spot sixteen and a half miles away before midnight.

The other problem was that Luvaglio and Stafford were never able to offer a complete and convincing alternative version of how the E-type which they were using had collided with Sibbet's Mark X; or, indeed, of how Sibbet might have died. No theory was advanced either at the trial or on appeal before Mr Justice Edmund Davies. One was put forward at the 1973 appeal, but Widgery had little difficulty unpicking it.

On 26 February 1973, Luvaglio and Stafford went back to the Court of Appeal, seeking leave to appeal to the House of Lords against the decision of the court a few weeks earlier not to

quash their convictions. Only if a case has raised some specific point of law which requires clarification by the House of Lords, the ultimate legal authority in the British constitution, may appellants be granted leave to take their suit there. The ruling of the three appeal judges - Widgery, James and Eveleigh - in this matter was as bewildering as the appeal verdict itself. They ruled that the Luvaglio and Stafford appeal *did* raise a point of law of general public importance; but they nevertheless declined to allow the men to pursue it in the Lords.

The only option now open to Luvaglio and Stafford was to petition the appeal committee of the House of Lords. The point of law which required clarification was whether or not the Appeal Court was right to attempt to fit the fresh evidence into the framework of the whole of the evidence originally called at the trial. Many lawyers argued that, if weighty new evidence emerged, either the appeal should be upheld or, at the least, the case sent for retrial before a jury. On 12 April the appeal committee did rule that it was a proper case in which to grant leave to appeal.

The appeal opened on 11 July, and ended six days later when their lordships decided to ponder their verdict over the summer holidays. Judgment was delivered on 18 October. The appeals were unanimously rejected. Furthermore, the Lords effectively broadened the

powers of the Court of Appeal by arguing that appeal judges were correct in determining for themselves the evidential value of new testimony, in the context of the whole case.

'The 1968 Act gave wide powers to the Court of Appeal,' emphasised Viscount Dilhorne, 'and it would be wrong to place any fetter or restriction on its exercise. The Act did not require the court, in making up its mind whether or not a verdict was unsafe or unsatisfactory, to apply any particular tests.

'Parliament had in terms said that the court should only quash a conviction if, there being no error of law or material irregularity at the trial, "they think" the verdict was unsafe or unsatisfactory.' In other words, the Court of Appeal was a law unto itself, and that was right and proper.

Dilhorne then turned to the case under discussion. 'The House had to consider, as had the Court of Appeal, whether there was any possible explanation of the proved facts which was consistent with the appellants' innocence.' Really? The onus seemed to have changed. No longer was it a question of proving guilt, but of proving innocence. The law was being turned inside out: by the highest constitutional authority in the land.

Dilhorne said that because the jury returned a verdict of guilty, 'it followed

that the damage to the car and Sibbet's death must have occurred before 12.30 a.m., However, he continued, 'the evidence by Mr Golden and calculations based on it were *wholly insufficient* to raise any doubts.' (Author's italics) This was interesting, since it contradicted the Court of Appeal. Even Lord Widgery had admitted that Golden's evidence 'did go into the scales for the defence', which presumably meant, if it meant anything at all, that it was of sufficient weight to raise *some* doubts.

Dilhorne concluded by saying that all extra evidence availed the appellants nothing - his conclusion being that 'the E-type and Sibbet's car collided and Sibbet was murdered on the A182 where the debris was found shortly before midnight'.

The whole thing had been an extraordinary exercise in judicial myopia. Dilhorne said that while he had of course striven to reach his own opinion on the basis of the facts, he 'was fortified in his conclusion by the fact that the Lord Chief Justice and five Lord Justices reached the same conclusion'. Lord Diplock said he had 'no doubt' as to the appellants' guilt. Lord Cross averred that 'the balance remained overwhelmingly in favour of the Crown and on the totality of the evidence a doubt as to the appellants' guilt would be unreasonable'. Lords Pearson and

Kilbrandon gave their assent to these astonishingly sweeping judgments.

It is hard to say which causes more sadness: that two innocent people can spend twelve years in prison; or that the English law can be reduced, *in extremis*, to such sublime and pompous foolishness. Sir David Napley has written: 'It is legalistic dogma of this sort which has done so much to lower the reputation of our courts among laymen, and as a result contributed to an increasing disrespect for the rule of law generally.' In the case of Luvaglio and Stafford, the Appeal Courts entirely failed to perform their specific function. Far from serving 'the ends of justice', the judicial system was used to frustrate them.

Any one of a number of threads of evidence should have been sufficient to exonerate Luvaglio and Stafford. There are abundant persuasive factors in addition to all those already discussed. Fresh blood stains were noticed on a directory in the telephone kiosk near where the Mark X was abandoned. These were grouped as A MN; blood which matched Sibbet's. The prosecution had said nothing about his making a phone call. Also, there was fresh blood on the carpet covering the transmission tunnel of the Mark X. This was group A MM: not Sibbet's, then. Neither was it Luvaglio's (group O); or Stafford's (again, group O). This was evidence only an

unusually obtuse investigative team could have disregarded. A quantity of cigarette stubs was found with the debris in the lane - though of a brand which none of those presumed to have been there smoked. Headlamp glass was discovered on the main road by the Burnips' farm with the debris from the supposed collision between the Jaguars; but this was not glass fitted to Jaguars.

Even two policemen gave testimony that refuted the prosecution theory. At 12.20 that morning, PC John Ainsworth saw a Jaguar saloon turn out of Pesspool Lane with a red Mini behind it. No one else gave evidence concerning a red Mini, but it is a model about which a policeman is unlikely to be mistaken. Another police officer reported from the scene of the crime that blood was still dripping from Sibbet's body at 5.30 a.m.; evidence which, if true, also demolished the prosecution theory about time of death.

The murder of Angus Sibbet remains one of the unsolved mysteries of English crime. At the 1967 trial, Raymond Dean QC showed great prescience in describing it as a riddle which would never be solved. 'There are too many pieces of the puzzle missing,' he said, 'and too many that do not fit.'

Such a wretched business had an unsavoury postscript. In June 1979 the two men were released, Luvaglio having obtained an Open University degree

during his imprisonment. On 7 September 1980 the *News of the World* published a "confession" by Dennis Stafford, who said he'd killed Sibbet after Luvaglio had gone to bed.

The story had a veneer of credibility. On closer examination, though, it was revealed to be spurious. Napley and Luvaglio put out a press statement drawing attention to some discrepancies. This assessment was confirmed three weeks later, on 28 September, when the *Sunday People* revealed that Stafford had invented the entire confession because the *News of the World* had paid him handsomely to do so; £10,000 was the figure mentioned. 'I only did it for the money,' explained Stafford, 'and to prove how hypocritical the system is and how people will believe what they want to believe. We did not commit the murder and the evidence and facts of the case remain as they were.'