

R v McEvilly & Lee 1973

‘Agent Provocateur and offences ‘Laid on’

The defendants in this case were concerned in an offence of conspiracy to steal by means of entering a warehouse and taking a lorry and its load of alcohol. They, through an informant, met an undercover police officer prior to the theft and asked him if he was interested in purchasing the stolen spirits after the offence. He agreed to this course of action and the theft then took place. The offence revolved around the act of Agent Provocateur i.e. the offence was completed after the agreement between the undercover officer and the appellants.

This case clarifies the position of where an agreement has been reached and the offence is ‘laid on’ and as such where the police are entitled to continue with involvement.

Lord Justice Roskill held that:

‘In a case where, as here, the police evidence shows that an offence had been ‘laid on’ and a plan for carrying it out was already clearly contemplated, the mere fact that there was a possibility that the offence, as it was ultimately committed, might not have taken place but for the intervention of police, is not itself a ground for the Trial judge to exercise his discretion to exclude evidence’

He stressed: *‘Each case must turn upon its own facts - and may always be the subject of criticism with hindsight’.*

*The interpretation and comments made within this document are not to be considered as legal advice.
Reference should always be made to the original case.*