

STATE OF NEW YORK  
SUPREME COURT COUNTY OF OSWEGO

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JAMES SHUTTS, JR. and J. PENNY SHUTTS,

Plaintiffs,

-vs-

REMINGTON ARMS COMPANY, INC., FREDERICK G.  
MATHIS, HAROLD HANEY and DAVID HANEY, Indi-  
vidually and d/b/a MARCELLUS GUN SHOP,

Defendants.

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Examination Before Trial of JOHN LINDE  
held at the offices of SUGARMAN, WALLACE,  
MANHEIM & SCHOENWALD, Attorneys at Law,  
Syracuse, New York, on January 27, 1983,  
before Kenneth H. Crewell, Jr., Certified  
Shorthand Reporter and Notary Public of  
the State of New York.

APPEARANCES:

For the Plaintiffs: LEONARD H. AMDURSKY, ESQ.

For the Defendant : SUGARMAN, WALLACE, MANHEIM & SCHOENWALD  
(Remington) BY: GEORGE E. DeMORE, ESQ.

For the Defendant : BOND, SCHOENECK & KING  
(Mathis) BY: S. PAUL BATTAGLIA, ESQ.

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I N D E X

WITNESS:

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SUBMITTED BY

DATE

WITNESS

(It is hereby stipulated by and between Counsel for the respective parties, that this Examination Before Trial is held pursuant to the provisions of the Civil Practice Law and Rules; that the presence of a referee is waived; that the signing and filing of the minutes are waived; that the witness may be sworn by a Notary Public present; that all objections, except those as to form, are reserved until the time of trial.)

\* \* \*

The Witness, J O H N L I N D E having been previously sworn, testified as follows:

BY MR. AMDURSKY:

Q You are still under oath and the testimony of Mr. Linde is continued. I went over your testimony, Mr. Linde, and so we won't be starting from noplac, I'll go over it quickly with you. I assume you have read the minutes, too. I note that the gun involved here was a 700 ADL 270 number 6638819 and it was established that it was manufactured in '73. Mr. Sperling told me you could tell from that the month, can you?

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A Yes, you can.

Q And will you tell us.

A I don't know. I think it was May, but I am not sure.

Q All right. Will you write a letter to Mr. DeMore?

A Sure.

Q Tell him.

A We can check that.

THE WITNESS: If you will write it down, George, so I won't forget.

MR. DeMORE: Okay.

BY MR. AMDURSKY CONTINUED:

Q And we went over the various rifles that Remington makes, and you told us they made the 700, they made, in the past, the 600 and the 660. They made the 725 and they made the 788. Now, that's all correct and I guess there might have been some more.

A Yes, there were.

Q But these generally are what we are talking about here?

A That is correct.

Q And I think, I know you told us that you have heard discussed the question of the two-position safety as against

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the three-position safety, you have heard that discussed, I assume, for many years.

3 A Yes, I have.

4 Q Yes, the relative merits of that, that's been  
5 discussed, I assume, in the industry for many years.

6 A That is right.

7 Q And long prior to 1973.

8 A Right.

9 Q And I did note in reading the notes that before  
10 you became production, I guess, head of production, you were  
11 in the research department, maybe the head of the research  
12 department, or close to it.

13 A No, I was a manager, though, in the research  
14 department.

15 Q All right. How long were you in the research  
16 department?

17 A Thirteen years.

18 Q And at one time, I note you were the manager of the  
19 manual firearms design.

20 A That is right.

21 Q And when was that?

22 A That would be like '75 to '78.

23 Q And I assume over the many years being interested in

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research, were you generally familiar with the competition in the rifle industry, you were, were you not?

2 A That is right.

4 Q Knew what they were doing, what guns were  
5 manufactured, and how they were manufactured generally?

6 A Yes.

7 Q And that was so long prior to 1973, was it not?

8 A Yes, on certain models.

9 Q You told us that the 700 was first manufactured in  
10 somewhere between 1962 and 1964, you weren't quite sure, but  
11 is that correct?

12 A That is right, yes.

13 Q And the 700, you told us, was manufactured before  
14 the 600, a year or two, is that correct?

15 A That is right.

16 MR. AMDURSKY: Off the record.

17 (Whereupon an off the record discussion  
18 was held.)

19 BY MR. AMDURSKY CONTINUED:

20 Q You also told us about the 700 trigger assembly  
21 design and subsequent changes.

22 A That is right.

23 Q As I recollect it, there were no -- do I recollect

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it correctly, that you said there were no changes in trigger design on the 700 until about 1976 or were there some before that?

A Well, there were minor changes, yes.

Q Were there major changes in '76 and '77?

A Not on the 700.

Q All right.

A So actually, the trigger assembly was, any changes were minor all the way through from the time it was originally manufactured.

A That is right.

Q You told us that the difference between the 600 and the 700 models was basically, let me take out the basically, was in the length of the barrel, one you said had a shorter, the 600 had a shorter barrel than the 700, is that correct?

A Well, that was one of the major ones.

Q What other differences between the 600 and the 700 were there as they existed in 1973?

A Okay. The receivers were different, the stocks were different, the barrels were different, the bolts were different, the fire controls were different, the trigger guard floor plate was different, all the major parts were different.

Q I note that you said, and I would like to have you

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1 tell us a little bit about it, the volume of sales of the 600  
2 declined, is that so?

3 A Yes, they did.

4 Q And when was that?

5 A Oh, there was a couple declines. When we introduced  
6 it, it went good for a while and then it was restyled and called  
7 the 660 and that boosted sales for a while, that started to  
8 decline again, then we brought it back out and called it the  
9 Mohawk 600, which we sold to big wholesalers.

10 Q When was that?

11 A The last would be like in '76-'77 kind of in that  
12 time frame. I am not sure when the changes were made, but it was  
13 restyled and it was, we went to a birch stock and we targeted  
14 more for the big wholesalers like K-Mart, a company called  
15 TG & Y, people like this, who would come in and take a big shot  
16 of them and use them in specials and promotions, what have you.

17 Q You eventually recalled them and then took them out,  
18 the 600's.

19 A We recalled it and then took it off the market  
20 completely.

21 Q There was some problem with the safety on that, was  
22 there not, wasn't this the basic problem?

23 A Well, we had a recall.

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Q What was the basic problem with the safety?

A The safety on the model 600 was such that you could take the rifle and you could put, take the safety and put it on the on-safe position. The on-safe position is a position between on-safe and off-safe, it's what they called a dynamically unstable position, because it doesn't want to stay there, it's --

Q It was --

MR. DeMORE: Let him finish the answer.

MR. AMDURSKY: Of course I will.

A -- it's in a position where it doesn't want to stay there by itself. In most cases, to do this you have to physically position it with your thumb or hold it with your finger in that position. Then when you have the safety in this position, then you pull the trigger hard to the back and then you take the safety and you move it from that dynamically unstable position to the fire position and in some cases, the firing pin would fall.

BY MR. AMDURSKY CONTINUED:

Q The only two positions that it was designed to have was a fire position and a safe position, is that not correct?

A That is right.

Q But it's so operated that it got on the place where

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it wasn't supposed to be.

A No, you actually had to actually manipulate it to get it to that position.

Q In other words, you had it someplace -- in other words, you had no intention when you designed and manufactured the gun that somebody would manipulate it so it would get in that position.

A That is right.

Q All right. And as a result of that, the lagging sales, I assume, you recalled them and took them right off the market.

A That is right. We actually took it off the market because when we had the recall, we needed a big slew of the trigger assemblies for the recall. We had guns in the warehouse and we pulled the guns down, took the trigger assemblies out of them so we had nothing to ship, that's really why we took it off the market.

Q As I recollect it, Mr. Sperling told us that you had a toll line and you communicated with all your gunsmiths and you got to the holders of the 600, you got in communication with the holders of the 600's.

A Yes.

Q You knew who held the 600's. Did you have the names

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of the holders of the 600's?

A No, we never did.

Q All right. You had to do it through publication?

A That is right.

Q And through the toll lines.

A Right.

Q And you set up a specific toll line for this, I think Mr. Sperling told me.

A That is right.

Q And you also told us now about the unloading procedure of the 700 and I some time ago made a note of this, so if you don't agree with what I am doing, we will go back to the transcript, but you said the first thing you do is to point the gun in a safe direction.

A That is right.

Q And the second thing you do is to put the safe on the fire position.

A That is right.

Q And the third is open the bolt by rotating the bolt handle up.

A That is right.

Q And the fourth is draw bolt back, this releases the cartridge from the chamber.

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1 A Yes.

2 Q And the fifth is to nudge bolt forward a half an  
3 inch. Is there anything else you do in unloading it?

4 A Yes, you could, if you wanted to, it would be up to  
5 the operator, but he could put the gun back on safe after he  
6 opens the bolt.

7 Q Except that you said there was no need to.

8 A No, not if you follow the procedures, there's no  
9 need to.

10 Q All right. There was no need to if he followed the  
11 procedures.

12 A That is right. The only time that you would have  
13 that is if you -- let's say that you had like five cartridges in  
14 it and you wanted to have remain two cartridges or actually  
15 retain a cartridge or two in the gun, then you would want to  
16 put the safe on in the on-safe position.

17 Q There is no question about it, as the 700 was  
18 manufactured in 1973, there was a bolt lock.

19 A That is right.

20 Q And in order to open that, unload it, you had to  
21 open the bolt, right, before 1974 now?

22 A I think you made a little mistake there.

23 Q Well, if I did, you correct me.

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1 A Okay. Before you could open the bolt, if the gun  
2 was on safe, you had to move the gun from on-safe to off-safe.

3 Q To fire it.

4 A To the off-safe position.

5 Q Well, the off-safe position is fire, isn't it?

6 A Well, yes, you could say it is fire, yes.

7 Q All right. That permitted you to open the bolt.

8 A Open the bolt.

9 Q And in order to unload it, you had to open the bolt.

10 A That is right.

11 Q So to do that, you had to put the gun on fire  
12 position.

13 A That is right.

14 Q Was there any difference in unloading an ADL and a  
15 BDL as they were manufactured in 1973?

16 A Yes. With the ADL, you can unload it as we said, and  
17 the BDL with the first round, but with succeeding rounds, you  
18 don't have to actually cycle the bolt, you can open the floor  
19 plate in the bottom and turn the rifle around --

20 Q Is it true --

21 MR. DeMORE: Wait a minute, let him

22 finish.

23 MR. AMDURSKY: Yes, I am sorry.

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(11)

A -- turn the rifle around and all the cartridges will drop into your hand.

BY MR. AMDURSKY CONTINUED:

Q Is it true that on both the ADL and the BDL, that you had to put the safe on fire position to start unloading?

A That is right.

Q I think you told us that you ceased to manufacture the 600's or 660's sometime in 1979.

A Yes, it would have been like '78-'79 right in that area.

Q Now, for years you told us that you manufactured a 725, model 725.

A Yes, we have made a 725.

Q And when did you start making a 725?

A It would had to have been in the late '50's, around 1958 in that time frame.

Q In the beginning, that had a three-position safety?

A Yes, it did.

Q And there you had an intermediate position that you call an unlocked position, as I remember your testimony, so that there you did not have to put the gun on the fire position to raise the bolt.

A That is right.

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Q Am I correct on the unlocked position -- is that what you called it?

A I don't know, but that is as good as any.

Q That is what it would have been.

A That is as good as any.

Q It is a medium, a middle position.

A Intermediate position, yes.

Q So what you did to unload the 725 was to put it on the middle or unlocked position.

A That is right.

Q And then you could lift the bolt that released the bolt lock.

A That is right.

Q Was the trigger assembly on the 725 generally the same as the 700?

A It was similar.

Q The 700's are high-power rifles, are they not?

A That is right.

MR. DeMORE: Is there such a thing as a low-power rifle?

THE WITNESS: Yes, like a rim fire 22 rifle.

MR. AMDURSKY: You better tell me that

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off the record.

(Whereupon an off the record discussion  
was held.)

BY MR. AMDURSKY CONTINUED:

Q You also made a 788 model, did you not?

A Yes.

Q And when did you first make the 788?

A That would have been, oh, '64-'65, in that time  
frame.

Q And you are still making them?

A Yes, we are.

Q Is there any essential differences between the 788  
and the 700's?

A Yes. I don't think there is any interchangeable  
parts at all.

Q Well, what are the essential differences, if any?

A Well, essentially every part on the gun, on the  
rifle, is different.

Q Tell us.

A The barrel is a different contour; the receiver is  
different, it locks up different; the breach bolt is different;  
the magazine is altogether different; the trigger guard and  
floor plate is different; the trigger assembly is different;

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the take-down screws are different; the butt plate is different; the stock is different; a different wood, even the plastic parts are different.

Q Is the 788 a cheaper gun?

A Yes, it is less expensively priced.

Q By much?

A Yes, fairly significant, maybe 100-150 dollars, you know, at retail.

Q Not really very significant.

A What?

Q Not very significant.

A Oh, yes, it is. It is a different market segment.

Q All right. Now, the 788 had a three-position -- a two-position safety just like the 700?

A Yes, it does.

Q So the 788 had a bolt lock.

A At one time it did, yes.

Q Yes. In 1973 to unload a 788 you had to put the safety on the fire position just like you did the 700.

A That is right.

Q And for the same reason?

A That is right.

Q The reason being that there was a bolt lock on.

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1 A That is right.

2 Q And in order to raise -- you had to raise the bolt  
3 to unload both the 700 and 788?

4 A That is right.

5 Q And in order to raise the bolt on both the 700 and  
6 the 788, you had to put the gun on fire position.

7 A That is right.

8 Q Had you known the practice of Remington gunsmiths,  
9 as Mr. Sperling told me he did, of, over the years, of removing  
10 the bolt locks from 700's in order not to have to put the gun  
11 on fire position to unload?

12 MR. DeMORE: I object to the form of the  
13 question.

14 Q Had you heard of that?

15 MR. DeMORE: I object to the form of the  
16 question.

17 A I have heard of it. I have never seen it.

18 Q You have heard of it.

19 A I have heard of it, yes.

20 Q And that was going on for a long time, wasn't it?

21 A No.

22 Q Well, when did you first hear of it, sir?

23 A I have heard about it in passing that people have

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done that.

Q Why have you heard they have done that?

A Well, we had a gunsmith network and they will say what they are doing in the field and they will list all the problems and they will tell you what the gunsmiths have done. I have heard this, but --

Q Why did they do that, do you know?

A Well, when it comes to it, gunsmiths, like gunsmiths say, you can always tell a gun nut, but you can't tell a gun nut anything. They are always telling you things they are doing to these guns and --

Q I am talking about --

MR. DeMORE: Let him finish his answer.

A And just because they say something to you they have done this or that, that doesn't mean it's significant or not.

Q Well, when they removed the bolt lock, that permitted the 700 to be unloaded without the necessity of putting it on the fire position, did it not?

A That is right.

Q The bolt locks were taken off the 788's in 1974, were they not?

A I think it was '75.

Q Well, either in 1974 or 1975.

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1 A Yes.

2 Q All right. And who made that determination or  
3 decision?

4 A Well, it started as a suggestion from the final  
5 assembly engineers.

6 Q From who?

7 A The final assembly engineers. These are some  
8 engineers that work on the, assist production on the assembly of  
9 rifles.

10 Q Was that in Ilion?

11 A Yes. This --

12 Q So it came to you first?

13 MR. DeMORE: Why don't you let him

14 finish the answer.

15 A -- this started as a suggestion. We were making both  
16 the 541 custom sporter, which is a rim fire rifle, and the 540XR,  
17 which is a rim fire rifle, and when we brought the 788 into the  
18 line, we brought the rim fire rifles into the line at the same  
19 time. They were a common group that used common equipment, that  
20 is how we justified the tremendous investments with having a line  
21 of center fires, and a line of rim fires, they shared a common  
22 trigger assembly. When we brought out the target rifles, we  
23 needed what we called a block sear safety because of the nature

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of the target rifle. As it turned out, we had two models, we had the 540XR and the 541 custom sporter and we had these two models with one trigger assembly and we had the 788 and the 580 series with another trigger assembly and our assembly procedures and subassemblies of putting them together, well, we had a much better situation with the 541 custom sporter and the 540XR than we had with the 788 and the 580's. The 788 trigger assembly, the kind of safety it had on it because the trigger was real hard in its assembly, we had to come and drill this plunger hole just perfect every time. If you got a little bit off, then you had to discard that assembly. On the other type of trigger assembly, we never had this real touchy operation and we had much better success, so they made the suggestion that let's make it common, let's go to this target-type trigger assembly, because in the end, it would cause us less problems, you know, assembling the guns.

Q But the change was taking the bolt-lock off the 788.

A No, the change was, the change was a change in the trigger assembly. They wanted to go with this other trigger assembly. Now, this other trigger assembly was originally designed for the target rifles, the rim fire rifles, where you had no need for a bolt lock. The question of the bolt lock was

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would it cheapen the product in the marketplace and, as I understand it, at that time the marketing, or the people in research did not have any problem with that, because they said it's an inexpensive rifle, the 788 is an inexpensive rifle anyway, so even though we don't have that feature, it should not present us with a problem.

Q So somebody decided, I gather, I don't mean to break in, and you can go right back where you were, somebody decided that they would take the bolt lock off the 788, did they not?

A Yes, they decided --

Q Who?

MR. DeMORE: Let him finish his answer.

A The basic decision had nothing to do that much with the bolt lock, it was whether we wanted to change trigger assemblies.

Q But you did take the bolt lock off?

A Sure, because the trigger assembly that was put on it did not have a bolt lock, that is right.

Q All right. Well, did you know during this discussion that if you did take the bolt lock off that it would have the results of removing the necessity of putting the gun on the fire position in order to unload it?

A You know that is the result, but that wasn't the

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reason why the change was made.

Q But it did have that result?

A Sure.

Q Now, somebody said that your market research showed that there was a lessening interest in bolt locks in the buying public, is that right?

A That came on later, that had nothing to do, it had nothing to do with the 788 change.

Q Well, was there or wasn't there a lessening interest in the bolt lock that you knew about in your consumer reports?

MR. DeMORE: Excuse me, when are we talking about in point of time?

MR. AMDURSKY: I am talking about the 788 in 1974.

THE WITNESS: Okay.

MR. DeMORE: So we understand one another, then, any time frame reference right now, unless you say otherwise, is addressed to 1974?

MR. AMDURSKY: Sure.

A There was no consideration to any marketing interest in bolt locks at that time.

BY MR. AMDURSKY CONTINUED:

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Q One way or the other?

A No, that wasn't a factor at all.

Q But there wasn't any interest one way or the other,  
I mean, you didn't think it would make any difference to the  
consuming public.

A I don't think so.

Q Do you think it made the gun safer?

A No.

Q Why not? If the very thing we are talking about in  
this case came from having to put the safety on the fire  
position and this obviated that, why didn't you think it made  
it safer, Mr. Linde?

MR. DeMORE: I object. I am not going  
to let him answer that question. He's already  
answered. He says it's not unsafe.

MR. AMDURSKY: I beg your pardon?

MR. DeMORE: His answer was, it was not  
unsafe.

MR. AMDURSKY: I am asking, if you will  
let him answer, do you think this made the  
gun safer, so far as the safety was concerned  
by removing the bolt locks in 1974.

MR. DeMORE: He's already answered it.

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MR. AMDURSKY: Do you mind having him answer it so I can understand it and he can say yes or no.

THE WITNESS: I can answer it if you want me to.

MR. DeMORE: Sure.

THE WITNESS: What you are doing here, you are talking about --

MR. DeMORE: Just answer, does it make it safer?

BY MR. AMDURSKY CONTINUED:

Q Just answer. In your opinion, did it make the gun safer?

A No, in fact, it could have made it unsafe.

Q All right. Well, did it make the gun safer when you took it off in 1982?

MR. DeMORE: I object to the form of that, don't answer that.

Q You took the bolt lock off again in 1982, off the 700's this time, didn't you?

A That is right.

Q What lead up to that?

A Well, I understand that on the model 700, of course

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I was in production at this time, we got the drawings on it. The way I understand it, there was some marketing analysis, this is essentially what you were saying in your preceding question, there was some marketing analysis on, really, what are the advantages to the consumers, you know, the advantages and disadvantages of a bolt lock, and this lead up to the change where they said they did not feel that the bolt lock was advantageous to the consumer, that they didn't really seem to care whether they had the bolt lock or not.

Q Well, they didn't seem to care in 1974 either, did they?

MR. DeMORE: Oh, I object to the form, don't answer that.

Q Did they seem to care, if you know, in 1974?

MR. DeMORE: I think he's already answered that. He's already told you about 1974 as to your understanding of the consumer reports, he's already answered the question.

Q Now, in 1973 and for some time before that, you said you were familiar with the guns, generally your main competition is Winchester.

A One of the competitors. It's not the main competitor, no.

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Q Winchester has always had a three-position safety.

A Not always.

Q Well, for how long?

A They had one model.

Q What is that model, model 70?

A Yes, model 70. That saved you a lot of work, you don't even have to go and investigate it, do you, you can just get our records and go ahead and read them. (Indicating).

Q Well, these are your --

A That is right, I remember, I have seen copies of that. That is what I say, you don't have to look it up.

MR. AMDURSKY: I guess we marked one.

MR. BATTAGLIA: Did we mark that specific document yet?

MR. AMDURSKY: I am going to mark this one.

(Whereupon plaintiff's Exhibit 73 is marked for identification.)

BY MR. AMDURSKY CONTINUED:

Q You are familiar with the fact that Remington had a study made, a safety study made of safety positions, did you know that?

A No.

Q All right. But generally you knew what the other competitors did have or didn't have.

A That is right.

Q Were you familiar with the fact for several years prior to 1973 that Ithaca Gun had a tang safety with no bolt lock which permitted the unloading with the safe on, did you know that?

A No, no, I never did, but it makes sense.

Q You didn't know that?

A No, I didn't realize they made any center fire high-powered rifles.

Q All right. Well, these are high-powered?

A Yes. I can get the sheets and look.

Q Did you know from, say 1970 on, that Western Field made a gun, a central slide type of safety on a Colt housing that had no bolt lock on it which permitted unloading with the safe on, did you know that?

MR. DeMORE: At what time?

MR. AMDURSKY: Prior to 1973.

MR. DeMORE: Okay.

BY MR. AMDURSKY CONTINUED:

Q Did you know that?

A I have read the sheet, so I have known it, yes.

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7-1-73  
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(10-1-73)

Q What?

A I said I have read the sheet, I have looked at the sheet you are talking about, so I know that that's the case, but--

Q Whether you know it or not, can you tell us?

A No, that is an insignificant model, I can't remember it.

Q All right. And who is BSA?

A That is a British outfit, they made, they have made different rifles over the years.

Q And they had no bolt lock on it which permitted unloading with the safe on, did you know that?

A Yes.

Q And prior to 1973.

A If that is what it says.

MR. DeMORE: "That" being Exhibit 73?

THE WITNESS: Yes.

MR. DeMORE: Okay.

BY MR. AMDURSKY CONTINUED:

Q Well, I am asking you independent of that, I want to know what you knew. Now, if Exhibit 73 refreshed your recollection, fine, but I am asking you what you knew, sir.

A I know what the leading models have.

Q All right. And knew it prior to 1973?

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A Yes.

Q All right. And Newton, they made a high-powered rifle?

A No, they don't. Well, they did, but they went out of business something like '25 or '26.

Q But their gun --

MR. DeMORE: 1925?

THE WITNESS: Yes, they were actually made in Buffalo.

BY MR. AMDURSKY CONTINUED:

Q I withdraw it. I'm not talking about, I'm talking about, I meant to talk about Herters. Did you know, prior to 1973, that Herters made a gun, high-powered gun with a no-bolt lock on it which permitted the unloading with the safe on?

A Yes, Herters made all different kinds.

Q Well, did you know that they made --

A Whatever model that is, if there is a model there, it says that, but Herters has made them with and without three-position and two-position safeties.

Q They made three-position safeties, two-position safeties, and a gun, at least one gun with no bolt lock on it, I assume that is a two-position safety which permitted unloading with the safe on.

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1 A Yes, they have. They have probably even made them  
without safeties.

2 Q You know that?

3 A I know Herters has made everything.

4 Q You knew that prior to 1973?

5 A Yes.

6 MR. BATTAGLIA: Excuse me, are you  
7 getting all of this? They are talking over  
8 each other.

9 BY MR. AMDURSKY CONTINUED:

10 Q Now, Centurian made a high-powered rifle, I gather.

11 A I think that is a trade name. I think it is a  
12 trade name for --

13 Q They had a rotary tang safety, I gather.

14 A Geez, I don't know. I think that was one that was  
15 made by Whetherby Centurian.

16 Q But did you know that they had no bolt lock which  
17 permitted unloading with the safe on?

18 A Yes.

19 Q You knew that prior to 1973?

20 A If it is on the sheet, we did, sure.

21 Q A Mauser 3000 could be opened, could it not, with  
22 the safety on, which remained on during the entire bolt  
23

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operation, did you know that prior to 1973?

A If the Mauser 3000 -- there's been a tremendous number of Mauser's -- now, a member had a three-position safety mounted right on what they call the bolt plug, if that is the one, then, yes, it could be operated with the gun in the intermediate position.

Q The Colt Saurer, you could open the bolt with the safety on?

A Yes.

Q You knew that before 1973?

A Yes.

Q Was there no bolt lock on it or was it a three-position safety?

A It's neither, they had like a disconnecting member in there where it had a bolt lock, but it was a two-position safety.

Q You knew that?

A Yes, I knew that.

Q And you knew it before 1973?

A Well, I don't know on that. They have made a number of different variations. I don't know if that is the latest Colt or not.

Q All right. The Winchester 670 and the Winchester

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70 had three-position safeties?

A No, the Winchester 70 had a three-position safety. The Winchester 670 had a two-position safety.

Q Well, you say the Winchester 670, it had a two-position safety, but the safe position didn't lock the bolt.

A That is right.

Q How was that done?

A I don't know. The model 70 Winchester had a safety on the bolt plug, a three-position safety on the bolt plug. The model 670 was an inexpensive rifle that they brought out for a while. They cheapened up their model 670 and they had a safety that was on the right rear tang of their receiver and it was a two-position safety, it was altogether different than their three-position safety. In fact, it was very similar, it would be very similar to our 788 safety.

Q But the safe position didn't lock the bolt on the 670.

A Well, not that I recall. I don't believe that it did.

Q All right. All these things you knew prior to 1973, I gather.

A If the sheet is dated --

Q Never mind the sheet, I want your independent recollection.

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A No.

MR. DeMORE: You are asking him to sort through in his own mind when he learned these various facts?

MR. AMDURSKY: Yes, I am asking him.

MR. DeMORE: Can you do that?

THE WITNESS: No.

MR. AMDURSKY: I am asking him to tell me what he knew prior to 1973. If this refreshed his recollection, fine, but I don't care about having him base it on this.

THE WITNESS: Well, if that sheet --

MR. DeMORE: Wait a minute, John. I don't quite understand your mode of questioning. The impression I have is, you wanted to know if Remington knew if other manufacturers had three-position safes.

MR. AMDURSKY: Sure.

MR. DeMORE: There's no question, they did know that, but to say to this man, when did you first learn that Mauser came out with this, that, or the other thing, or Winchester--

MR. AMDURSKY: I am perfectly satisfied

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that they did know it, and I am merely asking him, he was the head of research --

THE WITNESS: No, I wasn't.

MR. AMDURSKY: -- whether he knew these things without looking at this sheet.

MR. DeMORE: I don't feel that is a very fair question of the man.

MR. AMDURSKY: I certainly don't want to ask anybody any unfair questions, but I just want to know what he knows.

MR. DeMORE: May I make my speech now?

MR. AMDURSKY: Yes, sir.

MR. DeMORE: All right. He's already told you that Remington knew that other manufacturers had three-position safeties --

MR. AMDURSKY: Well, he had one of his own. Go ahead.

MR. DeMORE: Thank you.

MR. AMDURSKY: That is not important.

MR. DeMORE: But as to specific rifles, when he knew that, he's told you that that document, if that was prepared in 1974, he's seen that document and he probably would agree

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with the contents, but when he sifts through his own mind to say when he learned it, I don't see how he can possibly answer that.

MR. AMDURSKY: Well, if he tells me he doesn't know, that is the answer. I didn't tell him the answer. I asked him a question.

MR. DeMORE: All right. The point is, that he has told you that he's aware of these other guns.

MR. AMDURSKY: I want to know if he was aware of them in 1973.

MR. BATTAGLIA: Could we ask him that, but first find out what his position was in 1973. I am not sure I recall what his position was.

MR. AMDURSKY: He was the head of manufacturing, probably. What were you?

THE WITNESS: No, in 1973, I was the manager of, I guess I was a supervisor of design working on the 3200.

MR. AMDURSKY: Yes, that is what I thought.

THE WITNESS: But I wasn't really

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actively involved in the center fire bolt-action  
rifles at that time.

BY MR. AMDURSKY CONTINUED:

Q All you have to do is tell us what you knew or what  
you didn't know, I'm not suggesting the answer.

A Listen, I know about some of these rifles, I am one  
of the few people that have fully seen that one that was made in  
Buffalo that you are talking about here. They only made about,  
you know, 50 of these things and I happened to have one at one  
time, so I knew about it.

Q All right. And prior to 1973, did you know that if  
you took the bolt lock off on a two-position rifle as one, two,  
three, four, five, that I have asked you, did you know that that  
permitted "unloading with the safe on" and I am using Remington's  
words in the question, did you know that prior to '73?

A I am sure somebody did, yes.

Q You don't know if you did?

A I don't know. I don't even know if I was concerned  
about that in 1973.

Q All right, I will accept your answer, you are sure  
somebody in Remington did.

MR. AMDURSKY: May it be stipulated that,  
I don't want to bring you back again,

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Mr. Sperling, but can it be stipulated that Exhibit 73 was a commercial bolt action high-powered safety study made by Remington?

MR. SPERLING: This was a study made by an outside expert that we retained for a particular case.

MR. AMDURSKY: Very good. All I was doing was identifying it and all I was doing was, the other day, identifying it, but I just didn't want to have it marked unless I knew where it came from.

BY MR. AMDURSKY CONTINUED:

Q When we left the other day, Mr. Linde, Mr. Sperling told me he would see that you were able to tell us who made the decision to remove the bolt lock from the 788 in 1974, whenever it was removed; are you able to tell us that?

A Who made the decision?

Q Yes.

A Yes, it was made in the design area by Mike Walker and Wayne Leak, because they were responsible --

Q Was Mr. Walker one of the designers of the gun?

A No, he was not. He was a designer of the model 721 and 700.

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Q He designed the 700?

A Yes, but he did not design the 788.

Q Who designed the 788?

A The 788 was done by a group that was working for Wayne Leak.

Q Did you get a manufacturing change order from Bridgeport on that?

A No. No, it was being made right in Ilion.

Q How was it changed, orally?

A No, the people in design -- I already went through it with you -- once the people in the manufacturing that was assembling the trigger assemblies --

Q You told me that. I want to know whether there was any writings on it.

A Well, I am telling you.

Q I want to know if there was any writings on it, because if there was, I would like them.

A There was a DCR on it. When the proposal went back to research, research made up samples and they tested it. They said it's okay to do it and they put through what they called a design change request and, yes, we have a design-change request.

Q Will you submit it to me, please.

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1 A Yes, if you want.

2 Q I do. Where is it?

3 A Damned if I know, but we can sure get it for you.

4 It would be the DCR on the change on the model 788 from the  
5 block trigger to the block sear safety.

6 MR. DeMORE: You can send that to me  
7 at some point.

8 THE WITNESS: Yes, I can.

9 BY MR. AMDURSKY CONTINUED:

10 Q Was there any reason for changing it, taking the  
11 bolt lock off the 788 in 1982, other than what your consumer  
12 reports said that it was, that there was no consumer interest in  
13 the presence or absence of bolt locks, was there any other  
14 reason?

15 A We never took the bolt lock off the 788 in 1982.

16 Q Off the 700.

17 A Okay. Would you rephrase the question.

18 Q Sure. Take the question as I gave it to you and  
19 substitute 700 for 788.

20 A Was there any other overriding reason? No.

21 Q Will you get me the change order on that?

22 A Yes. You want the DCR for the changing of the model  
23 700, the change in the safety arm.

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Q We looked at Exhibit 72. Did you ever see Exhibit 72 before that's now in 1982 on the 700's?

A No, I haven't.

MR. DeMORE: Let me see it.

Q Well, that was apparently a letter from Remington to recommended gunsmiths, a bulletin.

A Yes, that is right.

Q Is that correct in all its parts?

MR. DeMORE: What do you mean?

Q I mean, is it correct?

A I don't know if it is correct in all its parts.

Q Well, read it and see if there's anything you disagree with, with it.

A Yes, I guess you could say, I don't know if it is correct in English and spelling and everything, but overall --

Q But factually overall it is correct?

A Yeah, to the best of my knowledge.

Q Sure. And did it simplify loading and unloading?

A In my mind only --

Q Did it simplify loading and unloading?

MR. DeMORE: Why don't you let him finish the answer. You may start and answer the question.

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Q Say yes or no.

MR. DeMORE: If you can't answer it yes  
or no, don't.

MR. AMDURSKY: If he can't answer it  
yes or no, he can tell us.

A In some cases, it never would; in some case, it would.

BY MR. AMDURSKY CONTINUED:

Q Did it simplify, taking the bolt lock off, loading  
and unloading when you took them off the 788's?

A It just depends upon the condition whether it  
simplifies it or not.

Q In other words, you are telling us that on both,  
when you took the bolt locks off in 1974 and in 1982 on the  
700's, that it simplified loading and unloading in some  
instances and some not, is that what you are saying?

A No.

Q What are you saying?

A No, I am saying --

MR. DeMORE: Don't answer that.

THE WITNESS: Okay.

Q Well, you have already told me that in respect to  
1977, it simplified loading and unloading in some instances and  
in some instances not, is that correct, or do you want to change

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your testimony?

A No, that isn't the question you asked me.

MR. DeMORE: Don't answer it. Go on to something else.

Q I am back to 1974, I want to know when you took the bolt lock off the 788 whether it simplified loading and unloading?

A When we did that in '74, it had nothing to do with that --

MR. DeMORE: I object to the form of the question, don't answer it.

Q Did it simplify loading and unloading when you took it off the 700's in 1982?

MR. DeMORE: I object to the form of the question, don't answer it.

Q But outside of that, this is a correct thing so far as you know, "this" meaning Exhibit 72?

A Yes.

Q Since 1974, you have been manufacturing 788's without bolt locks?

A '75, I think it is.

Q Well, I took Mr. Sperling's statement, you probably would know.

MR. AMDURSKY: Anyway, you are going to

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get me all the writings that lead up to the decision to remove the bolt locks off the 788, I gather, Mr. DeMore.

MR. DeMORE: I am going to get you the DCR for the model 788.

MR. AMDURSKY: All right. I would like to have the writings on it.

MR. DeMORE: That is what it is.

MR. AMDURSKY: Okay.

MR. DeMORE: I can't get you something oral.

MR. AMDURSKY: If it is oral, you can't get it for me. All you have to do is tell me there was no writing on it and I will be satisfied.

MR. DeMORE: He's already told you that there was.

MR. AMDURSKY: Well, then, I want the writing.

MR. DeMORE: All right.

MR. AMDURSKY: Good. You are going to get me the manufacturing order, I assume.

MR. DeMORE: I'm going to get you the

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DCR for the model 788.

MR. AMDURSKY: And the DCR on the model  
700.

MR. DeMORE: Sure.

BY MR. AMDURSKY CONTINUED:

Q Let me ask you, do you think a three-position safety  
was ill-advised for the model 700?

MR. DeMORE: I object to the form, don't  
answer it.

Q Would the three-position safety place Remington arms  
at any price disadvantage with customers?

MR. DeMORE: I object to the form, don't  
answer it.

A I don't know --

MR. DeMORE: Wait a minute. I am not  
going to let you answer it.

MR. BATTAGLIA: On what grounds is the  
objection being made?

MR. DeMORE: I am not going to let him  
render any expert opinions.

BY MR. AMDURSKY CONTINUED:

Q Well, did you know that in interrogatories  
Remington's position is set forth by Mr. Sperling in the

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following language: "Remington contends -- Remington Arms contends that the three-position safety for the 700 rifle is ill-advised, the added cost of the three-position safety would not place Remington Arms at a price disadvantage with customers but a two-position safety is more safe and more well-designed than a three-position safety." Do you agree with that?

A It sounds good.

Q You do?

A Yes.

Q All right. And now, having agreed with it, why is it more safe?

MR. DeMORE: I am not going to let him answer that. He's already answered it.

Q Well, did you agree with the Remington position in interrogatories that the following: "The two-position safety is easier for hunters to understand, more hunters, more users are knowledgeable about the two-position safety. Since most bolt-action center-fire rifles have the two-position safety, the two-position safety is less likely to be caught in shrubbery." Do you agree with that?

A Yes.

Q Is there any other reasons that you think the two-position safety is safer than the three-position safety?

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MR. DeMORE: I am not going to let him answer that.

Q How many 700's are there in the hands of the public, have you got any idea?

MR. DeMORE: At the present time?

MR. AMDURSKY: Yes.

BY MR. AMDURSKY CONTINUED:

Q In 1978.

MR. DeMORE: Now, wait a minute.

Q From the period 1974 to 1978, just give me your best judgment, if you have got any.

A There must be over a million.

Q How many 788's are there in the hands of the public during that same period?

MR. DeMORE: You are talking from '74 through '78?

Q '74 through '78.

A You are talking now accumulative, all we made up to '78, is that what you are asking?

Q Well, I assume so.

A What was your question then?

Q I want to know how many, if you can tell us, or make us a judgment, how many 788's there were in the hands of

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the public for the period between 1974 and 1978?

A How many we produced in those years, in that four years?

Q Well, you can tell us that and you can tell us how many you produced before.

MR. DeMORE: Now, wait a minute, that is where I have a problem with your question.

Q All right. Tell me how many you produced in those four years.

MR. DeMORE: You want to know how many, to this man's knowledge, how many of these 788's were in the marketplace as of 1978 from the day they first sold them up until that time? That is one question. The other question is how many were sold.

Q All right, give me that, we will ask them in separate questions.

A Okay. Which question would you like first?

Q First, tell me how many did you manufacture between 1974 and 1978 without the bolt lock?

A This would be the model 788?

Q Yes, sir.

A '74 to '78?

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MR. DeMORE: You are talking from the time they changed the design on that through 1978.

A I would say it might be, like, one hundred to one hundred twenty thousand guns.

Q And how many did you manufacture, 788's, before from the date they were first manufactured until 1974?

MR. DeMORE: Or whatever the date is, the change order went into effect.

MR. AMDURSKY: Correct.

A Oh, probably around two hundred fifth thousand of them.

BY MR. AMDURSKY CONTINUED:

Q A tang safety generally is, what, something further back toward the shooter on the barrel?

A No, it normally would be centered on the back behind the breach bolt on what they call the tang or the neck section of the rifle.

Q He took the bolt lock off the pistol, too, didn't you, XP100?

A I believe so, yes.

Q When did you do that?

A I am not sure on that, but I think it was the same

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time we did it on the 700.

Q Up until then, I assume, you had -- I withdraw that. Well, there was a bolt on the pistol, prior to the fact of taking the bolt lock off there was, it was a bolt-action pistol, was it not?

A That is right, yes.

Q And it had a safety, a two-position safety, did it not?

A That is right.

Q And like the 700's, in order to lift the bolt, you had to put the safety on the fire position.

A That is right.

MR. DeMORE: Haven't we been through all of this before?

MR. AMDURSKY: No, and I am going to be finished in a minute.

MR. DeMORE: It sounds awfully familiar.

MR. AMDURSKY: No, I don't think so, but it might have been.

BY MR. AMDURSKY CONTINUED:

Q On Exhibit 72, was that Mr. Hillberg's signature?

MR. DeMORE: Let's take a look at it.

That is '73, you mean. You are talking about

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Exhibit 73.

MR. SPERLING: Yes.

Q '73, excuse me. Who is Mr. Hillberg? Either of you  
can answer that.

MR. DeMORE: No, you are under oath. Who  
is Mr. Robert Hillberg?

THE WITNESS: He's a firearms designer.

Q What?

A He's a firearms designer.

Q Located in Ilion?

A No.

Q Where?

A Someplace in Connecticut.

MR. AMDURSKY: I think that's all, and  
if you will defer, I am going to ask Mr. Sperling a  
couple of questions so that if you are long, he can  
go any time he wants to.

MR. DeMORE: Now, wait a minute.

MR. AMDURSKY: Any objection?

MR. DeMORE: Let's go off the record.

Yes, I do.

(Whereupon a discussion was held off the  
record.)

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1 MR. AMDURSKY: As I went through the  
2 23 files that you gave me, it contained  
3 litigation in 23 cases of 700's and some 600's.  
4 Was any 725's involved in any litigation that  
5 you had?

6 MR. DeMORE: You can read that stuff as  
7 well as he can, can't you?

8 MR. AMDURSKY: Yes, I can, but I don't  
9 recollect any, maybe he will tell me I am  
10 wrong.

11 MR. DeMORE: Well, you have got all the  
12 documentation.

13 MR. AMDURSKY: Yes.

14 MR. DeMORE: In other words, you want us  
15 to expedite your review.

16 MR. AMDURSKY: Yes. I don't think it  
17 makes very much difference. There it is and  
18 I want to ask him if he had any accidents  
19 with 788's since they took the bolt off, bolt  
20 lock off. I will ask him that sometime, so  
21 he might as well tell me now.

22 MR. DeMORE: What do you mean "sometime"?

23 MR. AMDURSKY: Well, I may have to put

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him on the stand.

MR. DeMORE: Well, that's all right.

MR. AMDURSKY: I will do it, I don't care, but have I made my point with you?

MR. DeMORE: Off the record.

(Whereupon a discussion was held off the record.)

MR. DeMORE: The answer to question number one is, no.

MR. BATTAGLIA: Is that on the record from counsel or the witness?

MR. DeMORE: From counsel. Off the record.

MR. AMDURSKY: I am finished with Mr. Linde.

MR. DeMORE: Do you have anything you want to ask John?

BY MR. BATTAGLIA:

Q Mr. Linde, in the beginning of Mr. Amdursky's last session with you, you indicated that you were superintendent of product engineering and control; is that your present title?

A Yes, it is.

Q How long have you held that position?

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Q What was your position before that?

A I was a manager of Manual Firearms Design.

Q Does that include the area that controls the manufacture of 700 rifles?

A Which time?

Q Prior to '78 when you held that position of manager of Manual Firearms?

A        No, it was the design of the firearms.

Q Was the 700 a rifle for which you had design responsibility in that position?

A That is right, yes, it was.

Q How long did you have design responsibility for the 700 in that position?

A Since '75 to '78.

Q What position did you hold before that?

A I was a supervisor in, I don't really know what the title was, but I was the supervisor in the design area.

Q And for how long did you have that position?

A      Oh, five or six years.

Q Who was the chief, or head of the design function under whom you worked in those five or six years prior to '75?

A Since about '68, I worked for an individual called

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Wayne Leak.

Q What was his title?

A He was the manager of firearms design.

Q Were you immediately under Mr. Leak or were there other people?

A For the majority of the time, I was, yes.

Q Can you tell me what the function of that organization or that branch of the company was in terms of design?

A Yes, product design and development.

Q Did the group design new weapons as part of its function?

A Oh, very much so.

Q And did it modify or re-evaluate the design of the existing weapons that you were marketing?

A Made improvements to them, yes.

Q How many people were employed in that section of the company?

A Totally in the section, there were like 50 to 60 people.

Q Okay. Now, is this section totally a design function section?

A No, there were people who were involved there like model makers and tool makers and computer programmers and this

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type of support facilities.

Q How many individuals were specifically employed as design personnel concerned solely with design matters?

MR. DeMORE: Excuse me, what time period.

MR. BATTAGLIA: '68 through '75.

A There would be, like, 20 to 30 people.

BY MR. BATTAGLIA CONTINUED:

Q Were most of those people engineers?

A The majority of them, yes.

Q Did you have supervisory authority over all of those people other than Mr. Leak?

A No.

Q Were there other supervisors who were on a coordinate level with you?

A Yes, there were.

Q How many were those?

A One.

Q What was his name?

A Jim Martin.

Q How did your duties and that of Mr. Martin's differ?

A He had the auto-loading and pump shotguns and I had the rifles.

Q You would have had the 700 even in that capacity?

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1 A That is right.

2 Q All right. With regard to Exhibit 73, which we have  
3 marked today, can you tell me whether the model 700 rifle had a  
4 safety which was on when the rifle was cocked or uncocked?

5 A I don't understand your question.

6 Q Do you have a copy of Exhibit 73? Do you have a  
7 copy? The witness can look at this, this is the marked exhibit.  
8 I would like to direct your attention to Exhibit 73 and to the  
9 last column on that exhibit which is headed "Safety on either  
10 cocked or uncocked." Can you tell me what that means?

11 A That means that on some rifles, if you fire the rifle  
12 and the striker is down, you cannot put the safety on; on some  
13 rifles you can.

14 Q If you fire the rifle and the striker is down, the  
15 safety will not go on?

16 A It is inoperative.

17 Q What must you do to put the safety on, on such a  
18 rifle?

19 A You have to open the bolt and in some of them, you  
20 have to recock the rifle and some of them, all you have to do is  
21 just open the bolt.

22 Q How do you cock a model 700 rifle?

23 A You just open the bolt and close the bolt and it will

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cock.

Q In a model 700 rifle after a shell is fired, if the bolt were opened and closed to bring another shell into the chamber, would that automatically cock the rifle?

A Yes, it would.

Q And then the safety would be able to be put on at that time?

A Well, actually before that time.

Q On a model 700, when can you put the safety on?

A The minute you open the bolt, if the rifle has been fired, the minute you open the bolt you can put the safety on.

Q If you attempted, that is, if a gun owner fired a gun and attempted to put the safety on immediately after firing, would there be any resistance to the safety travelling to its safe position?

A Yes, you couldn't do it.

Q It wouldn't move?

A It wouldn't move.

Q Now, on the third sheet of Exhibit 73, it is indicated -- strike that -- make it the second sheet, the model 700 and the model 725 and 788 as well, both had the feature that the safety could not be put on unless the gun was cocked, is that correct?

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A That is right.

Q To your knowledge, did Remington perform any test or experiments relative to safety mechanisms on weapons similar to the model 700 prior to 1978?

A What do you mean "perform any tests"?

Q Any studies of any kind as to safety mechanisms?

A Sure.

Q Were any of those studies reduced to writing?

A I would imagine so in some cases.

Q Do you know how many studies there were between 1968 and 1978?

A I have no idea.

Q Where would those records be, if they exist?

A They would be in our test facility.

Q Do you know what kinds of studies would be included among those tests of the studies that were performed?

A Yes, I do, some of them I was responsible for. We cycled the safety on and off like fifty thousand times to see if there was anywhere in the mechanism. We checked the detent springs. We tried all sorts of different detent springs to see what defective springs there were with plunger diameters, plunger shapes on parts, if there were production changes, for example, they were going to go to a different heat treatment on

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a part, we would check it to make sure the heat treatment was adequate, this sort of thing.

Q Were any studies ever performed by Remington of which you are aware, that consisted of human factors engineering studies?

A Not directly.

Q Well, indirectly were any done?

A Well, indirectly we had some of our rifles and shotguns had been used by the military, and I don't know what kind of studies, you know, they would conduct, but I have been told they looked at this sort of thing, so, you know, I don't know.

Q Was the model 700 ever used by the military?

A Yes, it was.

Q And when was that?

A It was used in the Viet Nam War as a sniper rifle.

Q Was any study produced as a result of their experience with that gun that came into Remington's possession?

A Not that I am aware of.

Q From the time -- strike that. When was the model 700 first designed and put into production?

A It was designed in the early '60's, like in 1960-61, and put in production in '62-'63.

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Q At the time that it was initially designed, did the designers themselves or Remington conduct any human factors engineering study with regard to whether to use a two-position or three-position safety?

A I don't think that would have been a factor in human design engineering.

Q Well, the question wasn't whether you thought it was a factor, was any such study done?

A I don't believe so.

Q Do you know if any study was ever done with regard to human factors -- strike that. Do you know if any human factors engineering study was ever done with regard to the mechanisms of loading and unloading the gun at any time from the initial design up to '73?

A I know there was studies done and tests conducted.

Q These are studies -- when I say "human factors engineering studies", I am speaking of studies done by people trained in behavioral matters or psychology as to the manner in which hunters in the field, your potential customers, would use and manipulate the weapon as it was delivered to them by Remington, were any such studies ever done up to '73 that you know of?

A Not studies that were labeled "human factors

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engineering", no.

Q        Regardless of what the label was, was there any such study ever done?

A        Yes, there was testing of all the changes, necessary changes, there is testing, field testing and this sort of thing, yes.

Q        Can you tell me how many studies you are aware of, of that kind were conducted in between '62 -- strike that. You said it was first produced in '63?

A        '62 or '63.

Q        Let's say '63. How many studies of the kind I have described were conducted between '63 and '73, if you know?

A        I don't know how many there would be.

Q        Do you know if any were conducted?

A        I know some were, yes.

Q        How many are you aware of?

A        Well, like what you would be talking about, I don't know. Like I know on the model 600, before it was introduced, there was up to like thirty rifles were shipped out to Wyoming and Montana and they were checked under field conditions, in pick-ups and out of pick-ups, in scabbards and out of scabbards, this sort of thing, all sorts of game were shot with these rifles.

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Q Under what department or division of Remington were such studies conducted?

A That was done under the research department.

Q Were reports produced of these studies?

A I don't know. I think there were reports and letters. I know there was correspondence.

Q Are those reports and records, if they are still in existence, be among the records of the research department?

A I have no idea on that. A lot of that stuff like that with our retention schedules would have been thrown away.

Q What is the retention schedule of Remington?

A On something like that, it would be three years, normally.

Q With regard to the studies themselves, who was given the rifle to use in the field to conduct these studies?

A In this case, these rifles were sent to a guy by the name of Les Bowman, who was like an expert in the firearms industry at that time.

Q And what did he do with the rifles?

A He owned a big ranch and had like a guide service in Wyoming and he wrote for various gun magazines and what have you and he used these rifles himself to hunt with and also had certain people try them to get their experiences with them.

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Q After the gun itself was marketed, did Remington ever survey customers of the weapon to determine their satisfaction or dissatisfaction with the gun?

A Directly, yes.

Q And who in Remington was responsible for that function?

A Well, like our survey, we continually, our network of salesmen and people that call on the gunsmiths, they are continually talking to the gunsmiths about their experiences, about the experiences they are having with our product. The salesmen are continually talking to the customers about their experiences with the product.

Q Does Remington have any formalized system for reducing whatever comments are made to writing so they can be transmitted back for normal consideration as to whether design changes are required?

A Not so much design change, per se, it's more of a needs, like the customer will say "I am having this kind of problem" or "I am having that kind of a problem", the customer doesn't really say "You ought to design this or design that", they normally come in with their experiences or needs.

Q Did Remington ever survey customers to determine if use of the weapon in the field was resulting in injuries

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1 between '62 and '73?

2 A Not that I am aware of.

3 Q Do you know who made the decision to remove the  
4 bolt lock on the pistol XP100?

5 A No, I don't.

6 Q When was that?

7 A That was done at the same time, I think, I'm not  
8 positive on this, but I am pretty sure it was at the same time  
9 we did it on the model 700 rifle.

10 MR. BATTAGLIA: Mr. DeMore, in our last  
11 session with Mr. Sperling, I asked about plant  
12 and company operating rules that deal with  
13 product quality or product safety.

14 Mr. Sperling indicated that he believed there  
15 were such documents and I requested those at  
16 page seventy of the EBT. Have you, in the  
17 three months since our last EBT, located those  
18 and have those available here?

19 MR. DeMORE: Yes, I guess I do.

20 MR. BATTAGLIA: I would like to take a  
21 look at that, if you have got it.

22 MR. DeMORE: Okay. Off the record.

23 (Whereupon an off the record discussion

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was held.)

MR. BATTAGLIA: You have indicated, Mr. DeMore, that you do not have that presently, but you will obtain a copy and forward that to us.

MR. DeMORE: I will take that under advisement.

MR. BATTAGLIA: Well, wait a minute. Do we have your agreement, Mr. DeMore, to do that or not? Let's get that clear, because we made that request three months ago and I didn't realize there was an objection then, I thought you were going to comply with that.

MR. DeMORE: I think I have already answered.

MR. BATTAGLIA: All right.

BY MR. BATTAGLIA CONTINUED:

Q Mr. Linde, have you testified in any other depositions concerning litigation involving the 700 rifle?

A Yes, I have.

Q How many others have you testified in?

A Two or three.

Q Were they -- would they be the Land and Stark cases?

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1 A Yes.

2 Q How many others have you testified in?

3 A Well, depositions, I don't know if I actually had  
4 a deposition in the Stark case; but in the Lang case, yes, and  
5 in, I have had depositions for what they call a See case.

6 Q How do you spell that?

7 A S-E-E.

8 Q Any others?

9 A I think there is one other one, I don't know what  
10 the name of it is, Lugo.

11 Q Did you testify at the trial of any action involving  
12 a 700 rifle?

13 A Yes, in the Lang I did.

14 Q Do you have copies of the testimony that you have  
15 given either in pretrial proceedings or at trial in any of  
16 those cases at which you testified?

17 A No.

18 Q Does anyone?

19 MR. DeMORE: Lugo is not a 700 case.

20 We supplied them with all the material on the  
21 six and seven hundreds.

22 Q Do you know anyone that has copies of that testimony?

23 A No.

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Q Was any of the trial testimony which you gave reduced to a transcript?

A I don't know.

Q I take it that the depositions were produced in transcript form.

A Yes. I have no need to save any of that.

MR. BATTAGLIA: Mr. DeMore, in our last examination of Mr. Sperling, we requested copies of any prepared written reports sent by experts retained in litigation connected with the 21 cases that we have been advised of to Remington, and you indicated that at that time you would consider our request. Can you tell us now in the three months that have passed whether you have that material and whether you are willing to produce it.

MR. DeMORE: I told you then, I would consider it. My considerations often take longer than I anticipate.

MR. BATTAGLIA: Well, we will take that as a rejection in as much as you are aware this case is rapidly approaching trial, and will be guided accordingly.

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With regard to L. S. Martin, there was a question concerning a report by Mr. Martin, and Mr. Sperling's response was that he wasn't aware that Mr. Martin's analysis in the Hanson litigation had been reduced to writing. I requested that he search his files to determine if that had been reduced to writing. Has he had an opportunity to do that and be in a position to tell us whether that is so?

MR. DeMORE: I haven't discussed it with him. I will ask him right now.

MR. BATTAGLIA: I would appreciate that.

MR. DeMORE: I certainly wouldn't want to delay this any further. Did you have a chance to look for that study, Mr. Sperling?

MR. SPERLING: I looked in my file and I couldn't find any. I can't say that he hasn't reduced it, but I don't have a copy of it.

MR. DeMORE: Okay.

BY MR. BATTAGLIA CONTINUED:

Q Mr. Linde, are you aware of testing done on the model 700 bolt-action rifle by the Consumer Guide organization of Skokie, Illinois?

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1 A Yes.

2 Q When was that performed?

3 A I don't know, but I remember they bought some of our  
4 rifles and tested them.

5 Q And did they submit a report or publish a test  
6 report of their activity?

7 A Yes, they had an article in the magazine, as I recall,  
8 if this is the one you are making reference to.

9 Q Do you recall what the content of that article was?

10 A As I recall, they had a rifle that had been damaged  
11 in shipment and actually that the trigger was binding on the  
12 trigger guard, and this could cause the rifle to fire off-safe.

13 Q Had that rifle been involved in litigation?

14 A Not that I am aware of.

15 Q Had it been a rifle allegedly involved in an accident  
16 causing personal injury?

17 A Not that I am aware of.

18 Q When is the first time that you became aware of the  
19 exhibit we have marked as Exhibit 73, which is this study?

20 A I don't know. It would be like probably in '75 or  
21 '76.

22 Q Were you consulted by Remington counsel from time to  
23 time prior to becoming aware of this study with regard to pending

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JULY 1977

claims or lawsuits concerning rifles manufactured by Remington?

A Not on bolt-action rifles, not at that time.

Q When is the first time that you became involved in any litigation or claim against Remington concerning bolt-action rifles?

A It would be when I took over the bolt-actions in '75.

Q Okay. Did Remington, prior to '73, contend that there was some feature in the manufacturing or assembly process of the 700 model which made it impossible or impracticable to incorporate a three-position safety?

A Not that I am aware of.

Q Did Remington ever perform any studies prior to '73 with regard to the feasibility or advisability of removing the bolt lock on the model 700 rifle?

A Not that I am aware of.

Q Mr. Linde, in our last session, Mr. Sperling was directed to an interrogatory which appears on the Hanson litigation, I believe -- excuse me -- in the Stark litigation which asked Remington, "Has the trigger used in the model 700 rifle been changed subsequent to the date of the memo of February 21, 1973" and the answer in the interrogatory was "Yes." Mr. Amdursky asked Mr. Sperling about the memorandum and

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Mr. Sperling didn't know. Do you know what memorandum is referred to as the memorandum of February 21, 1973?

A No, I don't.

Q Now, can you tell me how the 788 differs, if at all, from the 725?

A Yes, there is essentially no similarity at all, every component on the rifles is different.

Q No interchangeable parts?

A The extractor might be, now that I think about it, maybe one.

Q Aside from the manufactured parts and assembly, is there any difference in design?

A Oh, yes.

Q What are the differences in design?

A Well, the design of all the parts are different, how the things function and actuate is different.

Q What is the difference in the function of the bolt?

A Okay. The model 700 is a bolt-action that locks up at the front, the lugs at the front of the bolt. The 788 locks up at the back, there are locking lugs at the back of the 788 with a 60 degree rotation to unlock and the model 700 is a 90 degree rotation to unlock. The magazine box is staggered on the 700 and the 788 is all in line and actually has a magazine box

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in it that is detachable.

Q How do the safeties differ?

A The safeties on the 788 and the 700, the safety on the 788 is a zinc dye casting and it's a molded part, then the parts are put into it. The 700 is two pieces of metal and it's put together, it's a riveted assembly.

Q Is there any particular functional difference in the operation of the safeties?

A Yes. The safety, they both, you know, to the eye, look like they actuate the same on the outside, but like the sear and the camming and the angles and what have you are altogether different on the 788 than on the 700.

Q Are those differences intended to produce a difference in performance?

A No, I think more than anything else, it was, there was one set of designers who designed the 700, and another set of designers who designed the 788.

Q Can you tell me the difference between a right angle safety and a slide center tang safety?

A Yes. The right tang safety, when you are pointing the gun away from you, the right tang safety would be on the right of the receiver actually on the right of the metal part. A center tang safety would be right in the center of the tang

right behind, directly behind the breach bolt.

Q In normal operation, would both of those be operated by thumb, or would you operate one with the forefinger?

A No, both would be operated by thumb.

Q What is a rotary tang safety?

A I don't know. I would imagine it would be something that has actually a rotating member.

Q What is a swing right tang safety?

A That would be one that would go back and forth probably perpendicular to the action of the gun.

Q Do you know which kind of a safety the model 700 had of those that I have mentioned?

A It would be a right tang safety.

Q What is a wing bolt safety, wing bolt sleeve?

A That would probably be something that goes on the bolt plug and be like a sliding member on the bolt plug.

Q Where would that be located on the rifle itself?

A That would be on the bolt plug, it would be right behind the bolt handle on the plug, the bolt assembly itself.

Q How would that be actuated?

A Normally by the thumb.

Q What would be the result of actuation, would it stop the bolt from sliding, is that the intent of it?

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J. LINDE

A It could be either way, it could block the firing pin or it can block the firing pin and stop the bolt from being unlocked.

Q What kind of ammunition does the model 700 use?

A It depends which caliber you are talking about.

Q The point two seventy.

A Two seventy Winchester is the name of the cartridge and it would use, you know, a center fire high-velocity, high-pressure cartridge.

Q Can the gun use any other kind of cartridge?

A No, only the two seventy.

Q How about the muzzle velocity, what is the muzzle velocity of the weapon using that ammunition?

A Like for a 140 gram bullet or thereabouts, it would be around 3000 feet per second.

Q What is the maximum range of the weapon fired at, say a 45 degree angle?

A I don't know what it would be, but you are talking about a mile and a half to two miles, probably.

Q With the rifle in use as a big game rifle, do you know what it's killing distance is?

A Yeah, it would be like 350 yards. You could shoot something out to 500 yards with it, but it would be questionable

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(10-1111)

after you get out to a certain range.

Q Have you reviewed any documents before testifying here today?

A No.

Q Did you review any documents before testifying at the earlier session conducted by Mr. Amdursky?

A No.

MR. DeMORE: He did say earlier that he looked at his transcript.

THE WITNESS: I did that this morning before testifying this morning, yes.

BY MR. BATTAGLIA CONTINUED;

Q Before this session, you looked at the transcript of your testimony from the last session?

A That is right.

Q Have you looked at any other documents?

A No.

Q No records from Remington?

A No.

Q Reports or prior testimony?

A No.

Q While employed by Remington between '68 and '78, did you maintain any file containing memoranda concerning

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recommendations for design changes?

A No.

Q Did anyone at the company, to your knowledge, maintain such a file?

A Not that I know of.

Q Did anyone at the company ever have a position which required that he consider or be responsible for considering such recommendations for design changes?

A Not that I am aware of.

Q It would be the function of Mr. Leak, I think you said it was --

A Yes.

Q -- between '68 and '75, to make all decisions as to whether to implement design changes in weapons, is that right?

A Yes, he would be the one who had the authority as far as the research department was concerned depending upon the complexity of the change whether he would have to take it to a higher level or not.

Q Can you tell me the procedure that was followed whenever a design change was implemented in an existing weapon?

A Yeah, I could. A design change can be initiated by the people in the research department, it can be initiated by the people in marketing, or it can be initiated by people in

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production.

Q If it is initiated, if the request was initiated by the people in research, for example, can you tell me what the procedure would be?

A Yeah, if there would be some reason, say for example, they would be working on whether it was a complaint or whether there was a production problem or regardless, they would be assigned to work on something, so now that they are working on it, if they would come up with something like, you know, if you remove this corner, if you change this, or if you alter this, it would make the gun function better, then they would go ahead and initiate the change and then it would have to be approved by the research manager.

Q Mechanically, I take it, the first thing that would be done in the research department, was someone would reduce this recommendation to a writing of some kind?

A No, that is kind of a misconception I think people have of, that everything is reduced to writing. Like in the research department, they would come out to you, their boss would come out and say "You know, John, they are having a problem over there on the job. Would you go over and take a look at it." And you go over and you take a look at it and you've started to investigate it, you might have a quality control problem or

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(NY 100)

Q For example, with the change in the 788 in 1974, removing the bolt lock, was that change -- strike that -- by what department, if you know, was that change initiated?

A It was initiated by the production department by these two final assembly engineers that were wrestling with this problem out there, putting these guns together.

Q And you described that to Mr. Amdrusky earlier?

A Yes.

Q When that change was initiated, was that communicated to your boss for his approval?

A Yes, he signed, he would have signed the DCR.

Q Did he have to take that to any higher level?

A I don't believe he did.

Q Now, you indicated that there is an Operations Committee. Can you tell me in 1973, who that consisted of?

A No, I don't know who would be on it at that time.

Q Was your supervisor, your boss, a member of that committee?

A Yes, he was.

Q Can you tell me what the function of the committee was at that time?

A Yes, it's a committee to coordinate the introduction of new models.

Q How large a committee is it?

A Oh, six or eight people.

Q Is it composed of specific department heads?

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A Yeah, the introduction of new products you coordinate with research, production, and marketing.

Q So it would be the department head of each of those departments that would be members.

A Yes, normally.

Q When the actual modification is made to the design, what unit or area prepares the working drawings for the changes?

A The research department.

Q Then those drawings are transmitted to the production department?

A That is right.

Q In your capacity between '68 and '75 and in your changed capacity from '75 to '78, were you aware of claims brought against Remington alleging injury as a result of just bolt-action rifles?

A Yes, I was.

Q And how did you become aware of those claims?

A I was aware of, like this, whatever this case was here, because they had an outside consultant, Bob Hillberg, come in and go through the gun museum and catalog all these different rifles, you know, so you would see activity like this every so often.

Q Was there a custom or practice in the company, if

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not an established procedure, whereby you were specifically made aware of claims so that you would be aware of claims regarding design problems?

A Not per se, no.

Q When the bolt lock was taken off the 788 in 1974 or '75, was any written notice given to customers who had purchased the weapon prior to that time?

A Gee, not that I know of.

Q Was any notice sent to gunsmiths advising of the change?

A I don't know if the change was sent out at the time or a notice was sent out at the time of the change, but after that, at some period of time, the field service manual, which, you know, is sent to gunsmiths, would have been updated to incorporate the change in it.

MR. BATTAGLIA: I just have a couple of more questions.

BY MR. BATTAGLIA CONTINUED:

Q How much pressure on the 700 trigger is needed to fire the rifle, according to its design?

A Approximately three to five pounds.

Q Does the amount of pressure needed vary with the speed with which the trigger is pulled?

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1 A No.

2 Q What is the distance of trigger travel on the gun as  
3 designed?

4 A Oh, probably it would be like twenty eight-thirty  
5 thousandths, something like that, you know, depending on where  
6 your travel is taken on the bow of the trigger.

7 Q What area does Remington use on the trigger to  
8 measure the trigger travel distance?

9 A We measure the distance right underneath where the  
10 trigger engages what we call the trigger connector engages the  
11 sear and that is eighteen to twenty thousandths.

12 Q To what point, to the point of firing?

13 A Yes, from engagement, that is how much engagement  
14 we have between the two.

15 MR. BATTAGLIA: That's all I have.

16 BY MR. AMDURSKY:

17 Q Mr. Linde, did Remington, prior to 1973, ever make  
18 any studies or tests as to the use of a trigger safety that  
19 would prevent the weapon from firing while the safety was on the  
20 fire position in order to open the bolt, a third safety?

21 A A third safety?

22 Q Yes. Or a second safety?

23 A Not that I am aware of.

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BY JAMES J. J.  
SYRACUSE, NEW YORK  
JANUARY 1974

1 Q Have you ever heard of a trigger safety?

2 A Sure.

3 Q Now, then, your answer to the question is, so far  
4 as you know, Remington never made any studies or tests of the  
5 use of such a trigger safety?

6 A No, I didn't say that.

7 Q All right, tell me what you did say.

8 A Sure. We have studied trigger safeties.

9 Q Have you studied and considered using a trigger  
10 safety?

11 A Yes.

12 Q Over and above your ordinary safety?

13 A No.

14 Q That would prevent the firing of the gun while the  
15 safety was on fire position in order to open the bolt?

16 A No.

17 Q Do you understand what I am asking you?

18 A I do now. No we haven't.

19 Q That would have been relatively simple, wouldn't it?

20 MR. DeMORE: Don't answer that.

21 MR. AMDURSKY: I beg your pardon?

22 MR. DeMORE: Don't answer that.

23 BY MR. AMDURSKY CONTINUED:

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Q All right. Did you ever give any -- Remington ever give any consideration for such a trigger safety in such a situation?

A Like what you are talking about?

Q Yes.

A No.

Q Two or three things. I will have this marked afterwards. Take a look at that and see if you can tell us what it is.

A It says "Remington Field Service Manual for the Model 725."

Q Apparently it is an official document of Remington?

A I don't know.

Q Well, take a look at it.

A It looks official.

Q It doesn't make very much difference, I'm going to mark it.

A Okay.

(Whereupon Plaintiff's Exhibit 74 is marked for identification.)

Q That's the 725. If you look at it, as I just did, it looks like it came out in 1960 at the introduction of the 725's, doesn't it?

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A I don't know where you see that. Model 725 introduction. Where does it say 1960?

MR. DeMORE: You are asking him about the publication date of Exhibit 74?

MR. AMDURSKY: Sure.

MR. DeMORE: Do you know when that was published?

THE WITNESS: No, I don't.

MR. DeMORE: Okay.

MR. AMDURSKY: I will show him.

MR. DeMORE: He's already answered the question.

BY MR. AMDURSKY CONTINUED:

Q Ever hear of a man by the name of J.F. Finnegan?

A Yes.

Q Who is he?

A He is a man that used to work in Remington research.

Q That is about the time, 1960 is when the 725's came out, isn't it?

A I would think so, in that area.

Q All right. Did you ever hear of a fellow by the name of C.S. Campbell?

A Campbell?

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Q Yes.

A Yes.

Q Who is he?

A He was the guy that worked in the research division  
for a number of years.

Q In Ilion or someplace else?

A In Ilion.

Q Did you ever see any of his writings?

A No, I haven't.

Q Did you ever see this document, if it is a document,  
before?

A No, I haven't.

MR. DeMORE: Why don't we mark it.

MR. AMDURSKY: All right.

BY MR. AMDURSKY CONTINUED:

Q What does it appear to be, if you can tell us?

A I don't know. It looks like a sketch pad to me.  
We don't make any, like on the top it says "bolt action" with  
a thumb hole, but these bottom rifles, of course, we don't make  
anything like that. Where did you get that?

Q I don't know.

MR. DeMORE: Why don't you have it marked.

MR. AMDURSKY: All right, I will have it

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marked.

(Whereupon Plaintiff's Exhibit 75 is  
marked for identification.)

BY MR. AMDURSKY CONTINUED:

Q Did you ever hear of a gentleman by the name of  
W.H. Foster?

A No, I don't know who Foster is.

Q Who is M.H. Walker? He was a gun designer, wasn't he?

A Yes.

Q Didn't he design the 700?

A Yes, he was one of them, of the people that designed  
it.

Q Did you ever hear of Mr. J.D. Mitchell?

A Yes.

Q Who is Mr. J.D. Mitchell?

A He was in advertising and sales.

Q Did you ever see, you probably never say that  
document before (handing).

MR. DeMORE: Can we get that marked, too.

MR. AMDURSKY: I don't think so.

MR. DeMORE: Yes, as long as you showed  
it to him, he's going to have to mark it.

(Whereupon Plaintiff's Exhibit 76 is

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marked for identification.)

MR. AMDURSKY: Haven't we --

MR. DeMORE: Wait a minute.

BY MR. AMDURSKY CONTINUED:

Q That last exhibit, does that mean anything to you at all?

A No, it doesn't.

Q All right. Couldn't have a better foundation than that.

MR. DeMORE: Where did this document come from?

MR. AMDURSKY: I don't know.

MR. DeMORE: This is not something we supplied you with.

MR. AMDURSKY: Say that again.

MR. DeMORE: This is not something we have supplied you with, is it?

MR. AMDURSKY: No.

MR. DeMORE: I would like to know where you got it from.

MR. AMDURSKY: Well, apparently, it's apparently an official document. I don't know.

MR. DeMORE: My question is, where did

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you get it from?

MR. AMDURSKY: Well, I didn't break in,  
in Bridgeport.

MR. BATTAGLIA: May I take a look at  
that?

MR. DeMORE: Sure. You are not going to  
tell me where you got it?

MR. AMDURSKY: No.

MR. DeMORE: Okay.

MR. AMDURSKY: Last question. In 1974,  
shortly after May 6, 1974, the instruction  
manual on unloading a 700 was changed. Would  
you mark this.

(Whereupon Plaintiff's Exhibit 77 is  
marked for identification.)

MR. DeMORE: What do you call that change?

MR. AMDURSKY: Read it and tell me if  
you ever saw it before and what it means to  
you. Mr. Sperling can if you can't.

THE WITNESS: No, I have never seen this  
before.

MR. DeMORE: Let me see it.

MR. AMDURSKY: Do you remember this

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change?

THE WITNESS: No, I don't remember that change per se.

MR. AMDURSKY: I just want to know what lead up to it. Take a look at that and see if you can tell us what lead up to it and let Sandy read it, nothing earth-shaking.

MR. DeMORE: Well, I am not inclined to let Mr. Sperling testify anymore.

MR. AMDURSKY: I am not going to ask him anything else.

MR. DeMORE: I am not going to let him answer that. You have had plenty of time to question him.

MR. AMDURSKY: All right. I will ask it at another time. Do you want to read it?

MR. DeMORE: Let me make a copy, then he can read it.

MR. AMDURSKY: All right.

MR. DeMORE: This is everything that's been marked.

MR. AMDURSKY: That's all I have.

(Whereupon the Examination before Trial was concluded.)

SYRACUSE COUNTY COURT  
JULY 1964  
CLERK OF COURT  
J. LINDO

## CERTIFICATION

This is to certify that I am an  
Official U. S. Court Reporter and Notary Public in the State  
of New York; that I attended and reported the above-entitled  
proceedings; and that it is a true and correct transcript of  
the proceedings had therein, to the best of my knowledge and  
belief.

Kenneth H. Crewell, Jr.  
KENNETH H. CREWELL, JR.

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