

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL  
ON APPEAL FROM THE COURT OF CRIMINAL APPEAL IN  
THE STATE OF TRINIDAD AND TOBAGO

17/81

B E T W E E N :

PETER CHANDREE

No. 8 of 1981

Appellant

and

THE STATE

Respondent

and

No.13 of 1981

DENNIS FLETCHER

Appellant

and

THE STATE

Respondent

and

No. 9 of 1981

LINCOLN NOREIGA

Appellant

and

THE STATE

Respondent

---

RECORD OF PROCEEDINGS

---

Ingledeew Brown Bennison & Garrett  
51 Minorities  
London EC3N 1JQ  
Solicitors for the Appellants  
Peter Chandree and Lincoln Noreiga

Charles Russell & Co.  
Hale Court  
Lincoln's Inn  
London W2  
Solicitors for the  
Respondents

Gasters  
44 Bedford Row  
London WC1  
Solicitors for the Appellant  
Dennis Fletcher

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and  
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THE QUEEN

V.

PETER CHANDREE,  
DENNIS FLETCHER  
LINCOLN MOREIRA

IN THE HIGH COURT OF JUSTICE

PORT OF SPAIN

INDICTMENT BY THE ATTORNEY GENERAL

PETER CHANDREE, DENNIS FLETCHER and LINCOLN MOREIRA are charged with the following offence:

STATEMENT OF OFFENCE

M U R D E R

PARTICULARS OF OFFENCE

PETER CHANDREE, DENNIS FLETCHER and LINCOLN MOREIRA on the 24th day of May, 1974 at Tabaquite Road, Rio Claro in the County of Nariva acting together with one Rudy John murdered Andrew Britto.

B.I. Basil Pitt,  
Attorney General.

I hereby appoint Mr. Ainslie Lucas, Barrister-at-Law  
and Messrs. Gittens and Smart, Solicitors, to represent the  
accused Dennis Fletcher, Mr. Stanley John Barrister and  
Messrs. Clarke, Hannays & Co., Solicitors to represent  
Peter Chandree and Mr. Selwyn Richardson, Barrister and  
Messrs. Malcolm Milne & Co., Solicitors, to represent the accused  
Lincoln Noreiga, at their trial which is listed for  
Monday 9th February, 1976.

Isaac Hyatali,  
Chief Justice.

9.2.76

MARINE (J)

Mr. S. John for # 1.

Mr. Guerra for # 2.

Mr. Lucas for # 3.

Miss Seepaul for the Crown

Adj'd. to Next Assizes

K. Joseph  
9.2.76

3RW  
9.2.76

I hereby appoint Mr. Arthur Lawrence, Barrister-at-Law  
and Mrs. Glenda Morean, Solicitor, to represent the accused  
Lincoln Noreiga at his trial, which is listed for  
Monday 15th March, 1976.

Isaac Hyatali,  
Chief Justice.

15.3.76

MARINE (J)

Mr. Allum for # 1.

Mr. Guerra for # 2.

Mr. Lawrence for #3.

Mr. Benjamin for Crown

Adj'd. to Next Assizes

K. Joseph  
15.3.76

R.V.  
15.3.76

THE QUEEN

V.

PETER CHANDREE  
DENNIS FLETCHER  
LINCOLN NOREIGA

IN THE HIGH COURT OF JUSTICE

PORT OF SPAIN

WHEREAS on an indictable information charging Peter Chandree with the offence of the murder of Andrew Britto at Fyzabad, in the County of Nariva on the 24th day of May, 1974 the said Peter Chandree was on the 6th day of September, 1974, at Rio Claro, in the County of Nariva committed for trial, and on an indictable information charging Dennis Fletcher and Lincoln Noreiga with the offence of the murder of Andrew Britto at Fyzabad, in the County of Nariva on the 24th day of May, 1974, the said Dennis Fletcher and Lincoln Noreiga were on the 17th day of October, 1974 at Rio Claro in the County of Nariva, committed for trial and whereas but for Section 3(5) of the Criminal Procedure Ordinance Ch.4 No.3 the criminal case of the indictment preferred against the said Peter Chandree, Dennis Fletcher and Lincoln Noreiga consequent upon the committals referred to would be triable at San Fernando, I BENJAMIN LLEWELLYN BASIL PITT, Attorney General, considering that the ends of Justice so required do enter the said criminal case for trial at Port-of-Spain pursuant to the said section 3(5) of the Criminal Procedure Ordinance, Ch.4, No.3.

B.L. Basil Pitt,  
Attorney General.

2nd October, 1975

S 94/74

S 132/74

175/75



IN THE HIGH COURT OF JUSTICE

No: 4/76

REGINA

V

- 1. PETER CHANDREE
- 2. DENNIS FLETCHER
- 3. LINCOLN MOREIGA

FOR

MURDER

Before the Honourable Mr. Justice

J. Braithwaite

Mr. Stewart for the Crown.

Mr. John for the First Accused.

Mr. Guerra for the Second Accused.

Mr. Lawrence for the Third Accused.

# # # # # # # # # # # # # # # #

NOTES OF EVIDENCE

# # # # # # # # # # # # # # # #

Accused arraigned and pleads Not Guilty.

Jurors:

- (4) Krishna Balgobin
- (18) E. Guerra
- (30) B. Maharaj
- (3) H. Arjoon
- (43) T. Redhead (Foreman)
- (23) C. Kassie

/(25) C. Lochan...

- 6-
- (25) C. Lochan
  - (14) D. Frazer
  - (31) E. Mc David
  - (45) Trevor Roberts
  - (44) N. Roach
  - (12) A. Edwards
  - (50) H. Stewart

DENNIS THOMPKNIN, Sworn on the Bible States:-

I live at San Pedro Poole. Plumber with Works Department, Rio Claro. I recall 24th May, 1974. On receiving certain information I went to Tabaquite. I made an observation. I saw Corporal Britto Lying on the ground. I saw him wounded in his face and blood on the ground. He was my step-son. I looked after him from age of six. Later I went to Mayaro Mortuary and in presence of Sergeant Papin, I identified body to Dr. Rajack who performed post mortem on said body. I received body said day and took it to a funeral home.

Body was buried on 27th May, 1974 at Rio Claro Lapeyrouse Cemetery.

No questions.

P.C. DELANO ROSS, Sworn on the Bible States:-

C.I.D. San Fernando. One of Official Police Photographers. On 24th May, 1974 I accompanied A.S.P. Clarke to Tabaquite Works Department Office. He gave me certain instructions. On these premises there was a Government Building wooden structure. I took three photographs. (D.R.1 - outside of building). D.R.2. - inside of building). Picture No. 1 shows building of wooden structure - a government building - D.R.2. shows inside of that said building with part of gate lying on the floor. I was told something about this gate. There is also a desk and a table in front of a barred place also there is a hole between top and bottom section of barred place. Aperture appears to be cashier's hole.

On 5th June, 1974 I went to Rio Claro Police Station. I took two photographs of White Kingwood Car. I printed these

/photographs....

0

photographs myself.

D.R.3. shows car with camera facing west. I was told something about it. (Left front door and part of left front fender dented).

D.R.4. shows rear-view of car with camera facing east.

To John. No questions.

To Lawrence. No questions.

To Guerra. No questions.

SERGEANT WINSTON CORNEAL, Sworn on the Bible States:-

Official Draughtsman of Police Service. On 22nd July, 1974 I went to Princes Town at request of Assistant Superintendent Clarke. About 2 p.m. I went to 23 mile mark in Works Department Compound. Clarke showed me certain spots. I prepared a plan with two different scales. (W.C.1.) (Plan and key). The north of plan is as arrow points. Drawing on lower left reflects drawing marked office building equal three rooms. In middle room there was office equipment. Certain spots were shown to me and I made measurements.

No questions.

CORPORAL CECIL BECKLES, Sworn on the Bible States:-

Specialist Armourer for seventeen years. On 11th July, 1974 I received certain things from A.S.P. Clarke - two spent cartridges, three wads and three pellets for examination. These are the two spent cartridges. There were indentations on percussion cap - fired from twelve gauge firearm. These are the three wads and three pellets all component parts of cartridge. I later handed the articles back to Clarke.

("X") for identification.

No questions.

SERGEANT RUFUS ARTHUR PAPIN, Sworn on the Bible States:-

On 24th May, 1974 I went to Works Department, Jeffers Crossing. I saw body of Corporal Britto dead. I went to Mayaro Mortuary and there witnessed post-mortem at between 5.00 to 5.30 p.m. by Dr. Rajack. I was given lead pellets and wadding by Dr. Rajack. I handed them to A.S.P. Clarke. These are the waddings and the pellets taken from body of Corporal Britto. (R.A.P.1).

/No.....

No questions.

ARJOON, Sworn on the Bible States:- (Evidence of this witness not pursued).

CLYDE RAJACK, Sworn on the Bible States:-

Registered Member of the Medical Board of Trinidad and Tobago D.M.O. of Mayaro on 24th May, 1974. On that day I went to Works Department pay-yard at Tabaquite. There I saw dead body of Corporal Andrew Britto. I gave certain instructions. Body was removed to district mortuary at Mayaro where about 7.15 p.m. I performed post-mortem on that body. I made notes. (Court permits reference to notes). The body was identified by Dennis Thompkin as that of his step-son Andrew Britto aged 38 years of San Pedro Poole. The body was that of a well-built and healthy looking young man - fully dressed. The face was covered in blood and there were several wounds about face, right axilla (under-arm) and abdomen. There was a punched out area over the left temporal region and this could be traced to left nostril. The left zygomatic arch, jaw, nose-bridge were all fractured and underlying tissues extensively damaged. Half inch laceration on right side of mouth. Several punched out areas in right axilla and adjoining chest wall. Pellets and wadding were removed. There was a punched out area about one inch in length on right chest. A piece of wadding was removed from this wound. The right lung was ruptured and blood and pus in right plural cavity. There was a punched out area about one inch in diameter just above the umbilicus. Abdominal cavity contained blood. Extensive rupture of intestine.

Lacerations of:-

- (1) At right index finger.
- (2) Tip of middle finger.

Those were the findings.

I handed pellets and wadding to Sergeant Papin who was present.

Death had occurred within ten to twelve hours before post-mortem.

Wounds consistent with a gun-shot. There was an entry wound through temple and other wound entry through abdomen.

/Death.....

9.

Death was due to shock and haemorrhage as a result of ruptured right lung, ruptured guts and head injury.

Death was instantaneous.

R.A.P.1 is wadding and pellets I removed from the body.

No questions.

KADIR SHAH, Sworn on the Bible States:-

Paymaster on 24th May, 1974 - Ministry of Finance. I was then stationed at Marabella. On 24th May, 1974 at 8.15 a.m. I went to Barclay's Bank with S.R.P. Constable to collect money for a pay roll to pay at Tabaquite and Mayaro. I travelled by car PM 1809 - Holden Kingswood - white with \$20,000.00 in brief case in car trunk, first to Princes Town where I picked up a Corporal Britto and then to Tabaquite Pay Station where I was to pay workers attached to Ministry of Works. I arrived about 9.15 a.m. Escorts carried revolvers. They were not in uniform. I parked car in front of pay-station took out pay sheets, brief-case and change-box. There were about fifty to sixty workers in pay yard. I proceeded to pay office. I look at exhibits D.R.1 and D.R.2, D.R.3 which show pay-office, payable and my car. My car was not then damaged as shown in D.R.3. There were a number of persons in the pay-office whom I had known like checkers, supervisors, and road overseers. Britto remained just outside pay-office. I could not have seen him. I started to put change in change-box, 25¢, 10¢ 5¢. I passed sheets onto the checkers. I then heard two gun-shots. Fairly near in the front of the building. I heard a male voice say something. I pushed brief-case aside. I saw two gun barrels pointing into the office through a window and I went down on the floor on my belly with arms outstretched. (Witness demonstrates on D.R.2.). I heard foot-steps on the table. I heard another male voice say something. I pulled out my car keys and threw it on table and they fall outside. I heard the car start and drove away. It was my car. I got up and ran outside. I saw Corporal Britto bleeding on the ground. He appeared to me to be dead. My car was not there. The bag of money

/and....

and money-box were missing. It was a gate with bars (used to prevent entry) that I heard break. It was on the table. (Witness points to gate on D.R.2). (Witness shows on D.R.2 how he threw keys through the arch and shows on D.R.2. the arch through which he pays workers). Money was property of Trinidad and Tobago. I saw car about eleven days after about 1½ miles from pay-station in a teak field in the position shown in D.R.3. I gave no one permission to take car or money. I was very frightened. This is the gate that I spoke about (Y,) and (money box. "Z").

No questions. (1) No - John

No questions. (3) No 2 - Lawrence

To GUERRA (for No.2)

When I first saw gate it was on table. (Witness, points on D.R.2 to table at left of picture). It was resting flat on the table. I do not know what caused it to be in the position that it is in D.R.2.

LIONEL STEPHENSON, Sworn on the Bible States:-

I live at Tableland. I am a labourer at Works Department - Tabaquite Section. On 24th May, 1974 about 8.30 a.m. I was at pay-yard to collect my wages together with about fifty to sixty other people. I saw a certain strange person in the pay yard. I had never seen him before. I am not too sure but I think he had on a brownish pants. He was about 5 to 6 feet away from me. About 9.20 a.m. paymaster arrived at pay yard with his car - a white car. He was accompanied with a constable he normally came with and Corporal Britto. I knew Britto before. He was sitting at the back of his car. Paymaster took out the money bag and went into the office. Britto was outside of the office. Other constable went inside of the pay office. I recognize D.R.2. (Witness shown entrance) and says entrance is made up of slats of board. In the office were Chief Overseers, checkers etc. I was about twenty-five feet away from paymaster. I heard two echoes like gunshots. I look around and saw Britto hold his abdomen. As soon as I look at Britto I ran to workshop about

25" to 25' away. Britto held abdomen. I saw negro fellow shot him. He had a double barrelled shot gun. He came by Corporal Britto and two other fellows came with shot guns from west side of building. A second fellow kicked down the gate and he went inside the paymaster's office. Third fellow put his gun through the window shown in D.R.1. The fellow who went into office had money bag in his hand. The fellow who was over Britto took revolver from Britto and shot him in his ears. The Indian fellow who I first saw drove the car away, that fellow was the accused No.1. He had no beard at the time.

On 27th June, 1974 I went to C.I.D. San Fernando. I there identified accused No.1 as the person who was in yard and who drove car. The second man I spoke about is No.2 accused.

On 11th September, 1974 I went to C.I.D. San Fernando. I identified No.2 accused as person I saw in pay yard and who kicked down the gate and who had a gun at the time.

To JOHN:-

When I first saw strange man I was about 6 to 7 feet away from pay office. When I heard echo I was the same distance away from pay office. I ran instantly as I realised it was a shot gun. I ran to workshop. I stayed there for some time. I cannot really estimate time I was in workshop. I was in the workshop. There is no door to workshop which is an open shed covered with galvanize - no doors. When I came out of shed I saw paymaster, Chief Overseer - and persons who had run away started coming back, On 27th June, 1974 I was living at Tableland. I went to San Fernando by Police Jeep which I met at Tableland Junction. Corporal Steele was in jeep - the driver, policeman and another fellow. Apart from police constables I saw Puchoon Dookie and Arjoon. I sat in back of jeep. So were Dookie and Arjoon. We stopped at Princes Town Police Station and then went on to San Fernando Police Station. I Can't remember if any of the others came out. The policeman continued to San Fernando. I cannot remember if anybody else joined or not. I cannot recall what time we got to San Fernando. Puchoon and Arjoon are co-workers. We talked between ourselves. Make we little jokes

/and.. .

and so on. I knew why I was going to San Fernando on identification parade. Corporal Steele told me so. We did not talk about parade or the case. Neither did Dookie or Arjoon. We went to San Fernando Police Station. It was the first time I went there. We were sitting in room at back of room and Corporal Steele. We talked about the parade. I said, "Well, boy, we have to be sure about what we say and what to do." We were there for more or less two hours. When I left that room I was accompanied by person (it would have been Corporal Steele) to another room. There I saw an Inspector and a set a fellows in a line standing. I was told by Inspector what I came there for. I pick'd out the fellow I saw in the pay yard on the morning in question. All were not Indians. They were mixed. There were douglas there. They were various heights. Some might have been shorter than others. Some were slimmer than others. I walked along once from right to left. I cannot tell you where the accused was standing. He had no beard. Nobody on parade had beards. Man I pointed out had no beard.

At Magistrate's Court I did not use word negro. I cannot remember saying accused had beard. I did not say his face was puffed-up. When I gave evidence in Magistrate's Court I was upset.

I went to pick out the person whom I told the Police I had seen driving the paymaster's car away from the scene of incident.

I am not mistaken about the accused No.1 being in the pay yard. I am making no mistake at all. On identification parade accused face was not puffed-up. That is not what attracted me to him on that day.

No questions by Lawrence.

To GUERRA:-

I answered questions in Magistrate's Court. I signed my deposition in Magistrate's Court. I signed them as being true. That is to say the corrected deposition. I said "four appeared to be negro." When I told the ~~clerk~~ that "some of the men had beard" it was not true. I was worried all the time about the accident. I was confused. Yes.

/(Counsel....

(Counsel shown the state of deposition). I could not have said that. Seeing these men together now it brings back forcibly to me what happened that morning. I went to three identification parades. I cannot remember when was the first or the second. On the third I picked out nobody. The first and second were at San Fernando. The third was at Siparia. First gun-shot sounded close to me. I first thought it was a blow out. I was scared when I saw the gun and Britto holding stomach. I wanted to get some place to hide. I kept peeping to see what went on. I saw the man with the gun. Britto fell on second shot. I ran into carpenters shed. I was not behind board. I hide to the corner of the board. (Counsel refers to page 5 of second set of depositions). "I run in carpenters shop and hid behind with some boards." (I said I ran in carpenters shop). It had boards on the ground. It might be true: What I told the magistrate was true. (Witness shown deposition). The second parade they took me from my home by jeep. One P.C. Nathaniel said we are about to go to San Fernando. I did not ask him why. I thought it was concerning the affairs. It was not first time I had seen that Police. It was only when I got to San Fernando I realised what I was going there for. When I reached charge-room I was told by a police constable why I was there. I waited in a room where many came in and out. Puchoon Dookie, Arjoon and myself were in the room. Arjoon went after me. None of those policemen were in identification parade room. The description was the same as the fellow I pointed out. All of them had face bandaged. Some were tall (some short) some short - negroes, can't remember if any Indians. I can't remember if one had blood-stained bandage. I did not pick out man with a blood-stained bandage. All were bandaged alike and all had bandages. Man I picked out had no blood-stained bandage over eyes. It would be impossible that I knew the man I was to pick out. It was only when I got to San Fernando I got to know the real mission of the parade. The evidence about the beard had not been corrected but it ought to have been. I told Clarke several times that the man had a beard. I saw Britto being shot twice. The other fellows

/were.....

were coming in a line behind one another. The man who shot Britto was standing when he shot. The shots were in quick succession and from the time I heard the second shot I took off. Where I ran office building would be behind back. Gate is behind the door when closed. (Witness shows door on D.R.1). Doorway is where the arrow is). Man went through that door way and returned through that doorway. I was shocked that day and I panicked and was naturally afraid. I was terrified.

Accused remanded 19th May, 1976 (in custody)

Resumed 19th May, 1976.

LIONEL STEPHENSON, Sworn on the Bible States (Continuing):-

As soon as I got into room I was spoken to by the Inspector. Then I went up to line of men. I went up to No.2 accused and touched him. I did not observe that part of left head of accused was shaven. I cannot say what position he was occupying. The man who went into office had no beard. None of the men had a beard.

All of them had on a kind of khaki uniform. I cannot remember if any had anything on their head. People who are not workmen are in yard on pay day. A number of strangers whom I know came to sell cloth etc. They are not strangers to me. I know them. Only workmen play a little "Romy" between themselves.

None of the people I identified had beards.

Reading of deposition commenced. (Clerk unable to decipher depositions and Court to call clerk who took depositions).

Re-examination:-

I said yesterday that I was nervy. I am always nervous (even now) seeing the accused. No.2 accused kicked the gate down. The top half opens upwards. The bottom half (on D.R.1) appears open. What was kicked down was the gate which is put in to prevent people getting into the paymaster's office.

PUCHOON DOOKIE, Sworn on the Bible States:-

I live at Tabaquite Road. I work with Public Works. On 24th May, 1974 (a pay-day) about 8 to 8.30 I was in the pay-yard. There were plenty people in the pay-yard. I saw a strange person in the /yard..

yard. The strange person is the accused No.1. I saw three persons come from back of pay-booth. I know the paymaster. The persons came after paymaster arrived. Paymaster came in a car with two constables. He went into the pay-booth. They had three guns. One had a double-barrelled and the others single-barrelled. I saw Corporal Britto before men arrived. He was outside the pay-booth. Paymaster was about to pay: man with double-barrelled gun shot Mr. Britto I was <sup>about/</sup> 10' away. They had no masks on their face. Mr. Britto held his belly and put his hands in his pocket to get his revolver and he got another shot from the double-barrelled gun. Britto fell to the ground. The man with double-barrelled gun stood over Mr. Britto. Two with guns went into pay-booth - one kick the gate and entered: No.2 accused is that man. The one who stood outside is No.3 accused. No.2 took handbag with money and tray and he come outside. The man who was standing over Britto took the revolver from him and shot him in his ears. No.1 accused drove off the car with the three other men. Later next month I went to San Fernando Police Station to an identification parade. I picked out No.1 accused. He had very small hairs not like he has now. (Assused has full beard).

In September I picked out No.2 at an identification parade. On 13th September, 1974 at Siparia Police Station I picked out No.3 accused.

To JOHN (for No.1 accused).

I went to pay-yard about 8.30. Paymaster came around 9.30 a.m. I was sitting by the shed until paymaster came - the carpenters shed. I was sitting in the shed - cover with galvanise. There were a number of people in pay-yard. No vendors were there. He was moving around in the yard (the strange Indian man). The people were moving about the yard. I sat under the shed. I work on the road. I was nearer to pay-booth when paymaster came. We do not line up. Our names are called. Corporal Britto was outside. I as well as many others were facing the pay-booth. The men came from back of the pay-booth. People were around me. Men came from left side of the building. I was still standing. Britto was standing near the door.

I remain standing after the shot. I never moved. I remained there all the time standing up. Indian man had on a brown shirt. Police convey us to San Fernando to identification parade. Stephenson and Arjoon were in the jeep. At San Fernando they carried us into a room with a constable. We did not talk to one another. I stayed in room about half hour. A next constable call me and took me to a next room and then to yet a next room. People were in that room standing. I picked out No.1 accused after being invited. All were Indians, same size, same height, brown shirts - blue and red shoes. All had small hairs over their face. Not a beard. Accused No.1 face was not swollen and his eyes were not swollen.

(Further cross-examination reserved).

Resumed 12.15 p.m.

MICHAEL JOSEPH, Sworn on the Bible States:-

On 23rd August, 1974 I was clerk attached to Magistracy at Rio Claro. I took deposition in matter of A.S.P. versus Chandree. I took a deposition from a witness called Lionel Stephenson. It was read over to him - he signed it and the Magistrate signed it as well. I look at this deposition. This is deposition I took. Corrections were made at certain points to clarify Crown Counsel's. Put in and marked N.J.1. (Deposition read to the Jury).

To GUERRA:

I read document back to the witness. He made corrections. (Refers to cross-examination by Allum in lower Court). "Some of the men had beard". No correction. "I recognize accused had beard." Not corrected.

To Mr. Stewart:

In some cases questions put forward by Crown Counsel were not fully understood by witness. As a result questions were rephrased and the witness answered rephrased questions.

At end where there are several crossings-out Counsel put questions to the witness in a long drawn-out and complicated manner. I as a result had to write the answers in reported speech. I had

/difficulty.

difficulty in doing same. In fact I wrote an answer to said question which was not in the opinion of Mr. Allum and the Magistrate a true (clear) representation of the question put forward. As a result the question was rephrased and the answer re-written.

That was not the only occasion in which rephrasing, re-answering and re-writing took place.

To Court:-

Q. Can you show us any other occasions in which the phenomenon took place?

A. As far as I can recall, this is the only example.

This took place when I was reading over deposition to witness.

Court rules - over-rules Lawrence. Objection to state of feeling of witness Stephenson.

PUCHOON DOOKIE (Continuing)

To JOHN:

What I told the Magistrate is true. I cannot remember if statement was read over to me. When I say a beard I mean a long beard (witness demonstrates). What No.1 accused is wearing now I call a short hair. The men on the parade were shaved.

(John refers to page 8 of depositions.)

I did say four or five had short hairs. I remember I said some had 2 or 3 inch beard. I said in Magistrate's Court some did not have beard. I cannot remember saying if face was swell. I said he had a beard but I meant a short beard. No.1 accused face and eyes were swollen at first identification parade. He was not the only one with swollen face and eyes.

Adjourned to 20th May, 1976.

Resumed 20th May, 1976.

PUCHOON DOOKIE, Sworn on the Bible States:-

To Court:

I am 48 years of age. I hardly went to school. I cannot read. I cannot write. I am from a poor family. I have been doing garden work only. I do not understand the use of big words. I am an ordinary simple country person.

→ To LAWRENCE:...

To LAWRENCE:

I remember day Britto got shot. There were more than sixty - about sixty - not a hundred. I cannot remember if I said a hundred people before. I did not discuss evidence with anybody between yesterday and today.

I was standing in the yard. It could be a mistake I made when I said I was sitting in the shed. Only the strange Indian person I saw there that morning. He was the only strange person I saw that morning. The first time I saw Indian fellow was when he got into the car. (Counsel refers to page 7 of deposition).

"A next fella, an Indian fella got into the car that morning. I did see him before that morning. (Counsel refers to p. 10 - I did not say "I never see him no time.") I saw everything standing up there. I cannot say what happened inside when I was outside. (Reads from p. 7 of deposition). I went to two identification parades on 11th and 12th September respectively. I went twice to San Fernando and once in Siparia.

On 18th September - about 11 a.m. I, Cooke, Arjoon, Stephenson were taken by police jeep with two policemen. One was driving and other sitting in the back. I did not know the police were coming. They told us that they came for us to take us to an identification parade at Siparia. At Siparia we were put in a room for about a minute. A police constable took me to next room to a door and told me to knock on it. It was closed. It was not slightly open. Inspector asked me who is that? I answered. Inspector did not say anything else. I could not have heard what was going on inside. The inspector open the door and I went in. I saw a set of people in room. Inspector was in uniform and some constables in plain clothes. A good few about twenty to twenty-five were inside. Inspector told me to walk along line. I took my time and I walked along twice. I pointed out one person. All of their right feet were bandaged. There was no blood. All bandages were the same. There was no blood on any bandage. Six times or two times I cannot say.

/To Court...

To Court:

I do not know things like height in feet or numbers.

I told the Inspector this (Noreiga) is the man who shot Britto.

To GUERRA:

Sometimes I cut a little more than a task. I do not know measurements. Driver measures for me. I do not know what 10 feet is. I am accustomed digging grave.

On the second occasion, police got me at work. Police pick me up at 9 o'clock. Police told they want to go to San Fernando on a parade. Lionel was there. They told him the same thing. Four of us went to San Fernando, Arjoon, Stephenson, Cooke and myself. They bring me straight San Fernando. Police put me in a room. They told me sit down here till they ready. A lot of police came in and go back out. We did not talk in room. We did not talk from time we left Tabaquite. I was in room for about ten minutes. He tell me he wanted me to go to next room. He did not tell me anything.

I go to a next door and knock on it. The Police told me to knock. He did not tell me to do anything else. The room had no window. It had one or two police inside that room. I had not seen them before. They had on no police clothes in the room that I went. To my average it had fifteen or sixteen of them. All of them were one height. There was nothing strange. They had on medium clothes. Nobody had anything covering their head. I walked about five times. The police were by the table. It was after five times that I pick out somebody. I did not talk to the police at all. Bandage had no blood on it. The one I picked out had no blood on it. His head was not shaven. I got frighten, If it was you self you would frighten. Up to now I frighten. I was not looking to brakes for myself. It was more than one. I am not honestly mistaken.

Resumed 12.18 p.m.

Jury roll called:

Depositions of Puchoon Dookie read to the Court.

Michael Joseph (affirmed).

Reads first deposition of Puchoon Dookie. (Put in and marked N.J.2).

/To L. J. BRUNCE:.....

To LAWRENCE:

Witness gave distances of 200 feet and 10 feet.

To GUERRA:

Mr. Arman was the presiding magistrate. He gave usual warning. That applied to Puchoon as well as Stephenson. I read depositions slowly and clearly. I look at his deposition and say witness would have answered questions put by counsel.

To STEWART:

Witness reads passage "Corporal Britto was not standing there." -

"normally forty to fifty people come on pay day."

Second deposition ("A") read and put in.

SELVYN RUSSELL, Sworn on the Bible States:-

Corporal of Police #6211. C.I.D. Port-of-Spain. On 25th June, 1974 I received certain information. I went to Ghurahoo Trace, Delhi Road, Fyzabad with other policemen. I went to home of No.1 accused. About three to four minutes after my arrival I saw No.1 accused. I spoke to him. I told him that I had received information that he was present at Corporal Britto's death in the Rio Claro district on 24th May, 1974. I was in plain clothes. He made no reply. I cautioned him. I asked him to accompany me to C.I.D. office San Fernando. He did so. He went of his own free will. I spoke to the sentry on duty. Chandree was put in an enclosed room in C.I.D. I then left for my station - Oropouche Station.

To JOHN:

Offices of the Flying Squad are at St. Joseph. I was based at Oropouche Station. I had been there about a week before. Before that I was at Fyzabad. Other members of Flying Squad including Corporal Millington were with me. I was then a constable. He was in charge of the Police party. P.C. Beddoe was also in party. No one else. Beddoe was also a member of Flying Squad. We left station about 7.15 p.m. We arrived about 7.45 p.m. We went in an unmarked police car. I was in left front of vehicle. Corporal Millington was at back. We were armed. We were all in plain clothes. I had a revolver. Corporal Millington had a S.M.G. Beddoe had a revolver.

There was another S.M.G. in trunk of vehicle. It was not assigned to me. It was assigned to three men at Oropouche. We wanted accused for questioning. I was not involved in the involved in the investigations. I would not be able to say if Millington was involved in investigations. Millington did not tell me if he was involved in the investigations. I knew we were going to look for Peter Chandree. Nobody called, "Peter! Peter!" The accused was called from inside. We did not go into the yard. Accused was placed in the back seat. Corporal Millington was in the back with him. Sentry accompany me to room to unlock the room. The sentry closed and locked the room.

Adjourned to 21st May, 1976.

Resumed 21st May, 1976.

CORPORAL HAROUN BAKSH, Sworn on the Bible States:-

On 26th June, 1974 about 6.45 a.m. I was at C.I.D. Office, San Fernando guarding Peter Chandree, accused No.1 who was then detained there. We were speaking together. We were speaking about life in Fyzabad while I was stationed there about eight years ago. Suddenly he stopped talking and shook his head. He said "Baksh boy, I know you long time now since you were stationed down by we. I don't want to get mix up in this business because anytime I think about that Britto killing, I does feel guilty, but I fraid those fellows plenty." I asked him who were those fellows he referred to. He said "Briggs, you don't know Briggs - Rudy John and his boys; Dinky and Malcolm but who is the big man here? Let me talk to the big man?" I told him the big man is not here yet but as soon as he comes I would get him to talk to you. I asked him where were the fellows who he was speaking about. He told me "about a week before Britto got killed I dropped them at Rio Claro and went back down. The day before he went up and met the boys at Kildare Trace as was arranged. That same night they started to walk through the bushes. Rudy had a double-barrelled gun, Dinky a long gun, and Malcolm a revolver." At that stage I cautioned him. He said "Baksh you go hear me?" I said "yes" and he continued "we walked a good way /through...

through the bushes until we reach a big bridge. All of us went under that bridge and Rudy began to talk about a plan to hold up the paymaster and pointed to a house up on a hill. Rudy said that I would lime about in the yard and the three of them would go under the house and when the paymaster come I would give them a signal. Before morning clear the three of them went under the house at about 8 to 9 a.m. I went and lime about in the yard with the crowd. When the paymaster come, I gave them a sign and the three of them came out. Rudy said "nobody move." Same time the Corporal go to draw and Rudy shoot him down. Dinky went and took up the money, rest his gun on the Corporal head and shot him again and took his revolver and give it to me. Rudy started to curse and get on and demanded the key from the paymaster. They paymaster threw the key. Rudy took it up and gave it to me. All of them jump in the car and I drove straight to the forest. I remained there for about four days with them. Rudy gave me \$200.00 and I went back down." I saw and spoke to A.S.P. Richards at C.I.D. San Fernando that day. As a result we both went to room where Chandree was detained. Richards spoke to him and he replied. Richards returned later. We all went to another office. Richards again spoke to Chandree and sometime during the conversation cautioned him. Richards eventually recorded a statement from him. I was present throughout the taking of the statement. I affixed my signature to the statement. He signed statement and affixed a certificate in terms of a copy of Judge's Rules given to him by Richards. On completion of statement we returned back to the C.I.D. Office (Chandree and I) and thence to room where he was originally detained. No threat, force, beating or inducement of any kind was used to him. He appeared to understand and he signed it. I know Mr. Rahamut Khan - a Justice of the Peace attached to the High Court, San Fernando. I was in the room still guarding No.1 accused when I heard a knock at the door. I asked who it was and Richards and Khan entered the room. Richards spoke to the accused and then to Mr. Khan and handed him the statement. Mr. Khan identified himself to the accused and that he was requested to

/witness.....

witness a statement he gave to the Police. The accused replied. Khan read statement slowly and loudly to the accused. After which Mr. Khan wrote on it and handed it back to Richards. Khan and Richards left me with the accused. This is the statement. (Statement "Z" for identification).

To JOHN:

The office is a room 10' x 10' with two doors one facing the East and one facing West. Used for identification parades and detaining suspects who are for identification parade. I cannot say if he was free to leave. He was not under formal arrest. I went into room to him. Prior to 6 a.m. I was on leave for one day. I was not at C.I.D. nor at Police Station on 25th June. I was involved in investigation in Britto killing. The accused is known to me. I was stationed in San Fernando for two years. I was at C.I.D. for four years. I relieved another police officer. I did not caution him until I thought he was about to incriminate himself. Conversation lasted ten to fifteen minutes. I left accused to go for Richards. I left accused alone. I spoke to Richards in his office. Two other persons were in room between the time Richards left us and when we all left to take the statement. The room we went into had a door and one window. I witnessed statement at instance of Richards.

To Corporal BAKSH:

Q. Did you at any time that morning inform the accused as to his rights to communicate with any person?

Court disallows question.

Accused face was not swollen. His eyes were not swollen. He did not appear to have been beaten. He did not tell me that he had been beaten the night before. I was not at station the night before. His face was not puffed up. I did not tell him "Don't mind that, I would fix it up when the big man come."

Accused did speak to Richards about statement. The conversation with Richards was reduced into writing. We did not threaten to fix up the accused if he reported what had happened to him. I saw Khan about 12.30 p.m. I knew him. Khan was in room for fifteen

/to....

to twenty minutes. Khan asked his name and if he had signed it in several places and if he had written certificate at the end - whether the police had beaten him, threatened, promised him anything or induced him in any way to make that statement and that he had witnessed it. I was relieved that day around 2.30 p.m. At all material times I was guarding the accused. After we returned to room, I gave him his lunch. We did not beat accused on the 26th May, 1974. The conversation with Khan took place. We did not force accused to affix signature to several parts of the document. We did not force accused to copy certificate from a book.

To LAWRENCE:

I cautioned him after he mentioned about the men having guns. I did not reduce it into writing right away.

To STEWART:

My principal duty was to guard and feed No.1 accused.

PETER RICHARDS, Sworn on the Bible States:-

Assistant Superintendent of Police. In June, 1974 I was at C.I.D. San Fernando. On 26th June, 1974 about 8 a.m. I was in office C.I.D. San Fernando. Corporal Baksh came to me and spoke to me. I went to closed room in C.I.D. Office and there I saw No.1 accused. I told him that Corporal Baksh had informed me that he wanted to talk to Inspector in charge. I told him I was Inspector in charge. He said that he will talk to me. I left that room and later I returned. I took accused No.1 with Baksh to another room near Superintendent's Office. I told accused that it was my intention to record in writing whatever he had to tell me. I cautioned accused at a point in conversation. He continued speaking then he stopped and told me that was all. I write what he told me. I did not threaten nor induce him to give the statement. I handed statement to No.1 accused. I invited him to read it. He read it, told me it was correct. I requested him to sign and date it. He did that. I showed a certificate in Judge's Rules. He read it and wrote it at end of statement. He signed and dated certificate. I requested Corporal Baksh to affix signature and date. He did that. I returned No.1 accused to room

/I took.....

I took him from. I got in touch with Justice of the Peace Rahamut Khan of High Court San Fernando. Khan came over to office and I took him to the accused where I told accused that I had brought Justice of the Peace in connection with statement. I told Justice of the Peace that accused was the man who gave statement. Khan identified himself, spoke to accused, read the statement loudly and after asking accused a few questions wrote certificate at end of statement and he signed it. His face was not swollen nor his eyes swollen or puffed up. We did not beat accused. This is the statement "Z" put in P.R.1 and read. (No objection to statement by way of Counsel for the accused).

To JOHN:

When I went into room it was the first time I saw No.1 accused. I did not know Chandree was detained until Baksh told me. I was officer in charge of C.I.D. San Fernando. I reported for duty at about 8.15 a.m. Baksh spoke to me in my office. Accused face was not swollen neither were his eyes. I did not contact Justice of the Peace before statement. I had recorded statements before from accused. There were no persons in the second room when I went there. Accused did give statement. Statement is not my fabrication. He was not forced to affix signature to document. He was not beaten by me and Baksh and other policemen. I did not threaten him to sign certificate. Nothing appeared to be unusual with the accused.

To LAWRENCE:

I do not know where I was on the 25th but I was not at Headquarters. Had I been I would have known accused was there. I submitted report to Assistant Commissioner (South). As far as I recall I did not attend Court at Rio Claro on 30th August, 1974. I would have done anything within the law to solve case. I knew Britto very well. About 90 per cent of service was on alert.

REHAMUT KHAN, Sworn on the Koran States:-

Justice of the Peace attached to High Court, San Fernando.  
On 26th June, 1974 about 12.15 p.m. I was at office. I went to

/C.I.D.....

C.I.D. (San Fernando) as a result of a call from Inspector Richards. I met him at his office and he took me at back of the office to a room. I entered room and saw two persons, the accused and Corporal Baksh. It was No.1 accused. Richards told me that accused had given statement and he wanted me to authenticate that statement. Richards handed me this statement. (P.R.1). I asked the accused if he had given that statement. I ascertained his name. I told him I was a Justice of the Peace. He said his name was Peter Chandree. He said he did give statement to Inspector. I showed him various signatures on the statement and he said they were his. I asked him if the statement was voluntary. He said he gave it voluntarily and freely. He said he had initialled certain parts of statement. There was also a certificate. He agreed that he wrote certificate from a book Richards had given him. I read the statement slowly and loudly. I attached my own certificate and signed it. His face was not swollen or puffed up. If he told me he was beaten I would have recorded it in my certificate.

To JOHN:

I have been a Justice of the Peace for ten to twelve years. I have witnessed many statements. It is customary to affix the certificate I affixed to this statement. Richards told me why he wanted me. I knew Richards before that day. I was in Richard's office for four or five minutes. He did not then show me the statement. I see two words crossed out. His eyes were not puffed up. His face was not swollen. He looked then as he looks now. I did ask him if statement was voluntary.

To GUERRA:

I have witnessed several statements. Accused person had never told me that they were beaten. I would record statement if accused said he was beaten. I would report matter to Senior Police Officer.

MELIUS MURRAIN, Sworn on the Bible States:-

Acting Assistant Superintendant of Police attached to Southern Division. On 27th June, 1974 I was at C.I.D. San Fernando. I saw No.1 accused. I spoke to him. I told him that I was assigned to conduct an identification parade with respect to a report about

/murder....

murder of Corporal Britto and robbery of \$20,000.00 at Rio Claro pay-yard. I told him that he was a suspect and I wanted to place him on an identification parade. I told him it was a suspect and I wanted to place him on an identification parade. I told him it was his right to refuse to be on parade; should he do so, it would be to his disadvantage and I would be forced to bring witnesses to see him alone but if he agreed I would place him on that parade with eight other men of similar racial output and build as he. I told him he could have a solicitor or friend present while that parade was being conducted. He made no objections or requests. I selected eight Indian men of similar features and build as Chandree. His eyes were not swollen nor puffed up. These men I placed them in a secluded spot at back of San Fernando compound away from the public and from witnesses to be called. I placed policemen to see that my instructions were carried out I prepared a room at South-western corner of building. Room had two doors one on the eastern wall (which I used as entrance) and a door on the southern wall (which I used as an exit). There were one or two windows of glass and wood. These windows I secured by means of mattresses and wood to prevent any external communication by sight during course of parade. I took the eight Indian men together with No.1 accused. I told the accused that he should look at faces of men and see if he knew them. Further he had his right to object to anyone. He did not object. I pointed out to him that he was wearing a brown jersey with short sleeves and a long brown pants with stripes and a black shoes and that the other men also wore similar clothing with the exception of one or two that wore brown jerseys with long sleeves, which I made them roll up to the length of the accused sleeves. I instructed men to form line facing east. I told accused that it was his privilege to take up any position he wanted. Accused went to position No.1. I told him he could change clothing with any of the men. He did not change. At this stage I began to take notes - names and address of persons on parade on prescribed forms. I called the name Arjoon. I heard

/name.....

name repeated by policemen. I had been stationed there for that purpose. Shortly after I heard knock on the western door. I enquired who it was and a voice replied "Arjoon." I opened that door and admitted "Arjoon" and closed back the door. I made him stand in the middle of the room and asked him to say loudly what he saw on 24th May, 1974 about 9 a.m. I like wise faced the parade. I invited him to examine that parade to see whether person or persons he spoke about were on that parade. He began watching up the line from No.9 and as he got in front of No.1 accused and said "Inspector, this is one of the men who was there at the shooting with the Corporal that morning." I asked him who he referred to and instructed him to touch the man who he was speaking about. He rested his hand on the accused shoulder and said this is the man. The accused said nothing and remained motionless. I opened the south door and directed Mr. Arjoon to back of station away from other witnesses. I closed the door. I cautioned him and he said nothing. I repeated all the privileges I had mentioned at the beginning of the parade. He made no requests or objection. He did not change his position. He said nothing at all. I called the name "Lionel Stephenson." Lionel Stephenson gave his account of what he saw. I invited him to examine that parade. He looked at parade and after a short while said "Inspector, this is the man who drove the car." 'He was together with the men who shoot Corporal Britto in the yard.' The accused said nothing. I directed him outside. I repeated the procedure formerly adopted and accused said, "I am staying right where I am." I called name "Puchoon Dookie." He entered and repeated to the paraded his account. He walked up and down about three times - finally he stood in front of the accused and said "Inspector, this is the man who drove the car and was with the three gun-men who shoot Corporal Britto that morning." Accused said nothing. I cautioned him, told him he was identified by three witnesses called. I handed accused over to A.S.P. Clarke.

To JOHN:

I was not one of the officers investigating Britto's murder.

/Shortly..

Shortly before parade I was in possession of certain information - about half hour before. It was told to me by one of the Senior Officers in the division. I had seen accused for first time about 2.05 p.m. at C.I.D. I saw other men at 2.55 p.m. at San Fernando Divisional Headquarters. Room is away from the main building. The canteen was closed at that time. Other men went into room before accused. All the men were Indians. They were all unshaven but not bearded. I did not see eyes swollen. Neither eyes or face were swollen. His face was not puffed up. If he had swollen eyes or face I would not have conducted the parade. As the incidents took place I took notes. I never told Dookie to look along the line and see if he could recognise man who drove the car.

Resumed 1.05 p.m.

(Continuing)

Stephenson left room after pointing out the man. I saw witnesses after the parade in the room they had first been placed before the parade. Policemen were also there. None of the men wore beards. They were as nearly as possible the same size. One had black and white sneakers. The others had black shoes. Accused had black shoes. No one had red and green shoes.

DILLON LOG.N, Sworn on the Bible States:-

I am a Police Constable #7446 attached to Princes Town Police Station. On 10th September, 1974 I was on guard duty at Ward 10 at San Fernando Hospital guarding No.2 accused. I received certain instructions about 10.15 a.m. and I escorted No.2 accused from the hospital in a police car to C.I.D. Office San Fernando after he was discharged. On arrival I placed him in an enclosed room where there was a bed, a chair and a bench. I then reported to one of my senior officers.

To GUERRA:

Ward 3 is a public ward. There are several beds. I had a revolver but no handcuffs. I did not know how long Fletcher was in hospital. I had guarded him two days. It was around 10.15 a.m. when he was discharged. I did not permit accused to change clothes.

/I.....

I cannot remember if he changed clothes. He had bandages on his head and part of head was shaven. There was a bandage across the eyes. I cannot remember if there was a bandage. I heard that he had been shot.

MELVILLE KING, Sworn on the Bible States:-

Police Inspector. On 11th September, 1974 I conducted an identification parade at San Fernando Police Station in an enclosed room. Eight men of negro decent comprised the parade. I lined them up and spoke to them. After speaking there I caused an eye patch with two pieces of plastic across each person's eyes. I called the name Dennis Fletcher. This name was relayed. About one minute later I heard knock at closed room. I admitted Fletcher - No.2 accused. He had an eye-pad with two strips of plastic on the left eye. I spoke to him and said that there was a report that on 24th May, 1974 at Rio Claro about 9.20 a.m. 9.30 a.m. while paymaster was about to pay a negro man came out from back of building all armed with shot guns. Corporal Britto was shot by one of these men while the other two men robbed paymaster of pay roll. They then with an Indian man made their escape with paymaster's car. I told Fletcher that he was suspected to be one of the persons who took part in shooting and the robbing of the paymaster. I pointed out further to him I was having parade. I told him if he wanted to call lawyer or any friend or to change clothes or get fresh clothes, he was free to do so. He made no request and took up position at No.9. Stephenson was brought to the room. He came in. I repeated report to Stephenson. Nobody could see inside from outside this room. I told Stephenson about the parade and its purpose. I told him I would like him walk along the line and see if he could recognise any person who took part in shooting and robbing of paymaster. Stephenson walked along line and on reaching No.9 touched the accused (No.2) and said this is one of the men. The accused said nothing. I allowed Stephenson to go by southern door. He had entered by eastern side door. I called name Puchoon Dookie. He arrived and I repeated the procedure having asked accused if he wanted to make any changes - he

/moved....

moved from No.9 to No.4, but kept his clothes on. I told Dookie the purpose of the parade and that I wanted him to walk along the line to see whether he could identify any person or persons who took part in the shooting and robbery on 24th May, 1974. I walked along line returned to No.4 touched No.2 accused and said "this is one of the men I saw that day who took part in the incident." The accused did not say anything. Dookie left by south door. I took accused to C.I.D. Office and eventually handed him over to A.S.P. Clarke.

No questions by Lawrence and John.

To GUERRA:

I got instructions from Superintendent to hold parade. I went into room where parade was to be kept. About eight or nine men were in room. I do not know how men got there or where they were before. I asked at the C.I.D. who was to be put up. I went with the officers before parade was started. I had seen the accused before the parade in an enclosed room. I saw him in passing through the offices. I went to see him because of information I received. I caused the strips of plaster across an eye-pad to be placed on each man's head. It was not necessary to have the other men's head shaven. I did not see his head shaven. He had no bandages - he had only an eye-pad and his one piece of plaster. I make my own notes. I did not put on caps on the men. I did not know where the witnesses were. I did not know who was outside the door.

PAUL PREMDASS, Sworn on the Bible States:-

I live at 2 Ogerally Street, San Fernando. I knew Arnold Vivian Premdass. He was my father. He died on 24th October, 1975 and was buried at Paradise Cemetery San Fernando. I attended his funeral. The signature on the deposition shown to me is that of my father.

(Application made s.38 of Indictable Offences (Preliminary Enquiry). Ordinance Chapter 4 No.1 to have deposition of the late Arnold Premdass read) to be put in evidence and marked "A" and read to the Jury.

The death certificate relates to the death of my father. (P.A.1.).

(Guerra.....)

Guerra objects on ground that accused did not cross-examine in the Magistrate's Court and deposition goes to the very root of the matter as to whether the accused signed the statement. Prejudicial value outweighs probative value. Stewart refers <sup>to/</sup> A. Lindley (1959) C.L.R. p. 123. Only one bit of evidence. Not substantially case for the Crown.

Adjourned to 25th May, 1976.

Resumed 25th May, 1976.

Jury roll called. All present 9.10 a.m.

Stewart: Says no longer pursuing the application.

D. VID Mc MILLAN, Sworn on the Bible States:-

Sergeant of Police. On 11th September, 1974 I went to Gowers Well Road Fyzabad with a party of policemen. I went to home of No.3 accused. I spoke to two young men and a woman. I carried out search in that house. I found the accused in back of house. He was bare-backed - wearing a shorts. He had a bandage around his instep and toes. I told him who I was. I asked him if he was Lincoln Noreiga. He said yes. I told him I was detaining him on enquiries in connection with murder of Corporal Britto. I cautioned him, he said nothing. I took him to C.I.D., Siparia. At C.I.D. I placed him in closed room and summoned Dr. Baird who came with a nurse and attended to his injured right foot. I later handed him over to A.S.P. Clarke.

To Mr. Lawrence:

He was bareback. He had bandage on his instep and toe. Bandage covered all the toes. I do not doubt bandage had blood. His foot was injured. I heard about nature of the injury. I did not hear he lost a toe. I do not know if he lost a toe. He was still injured when I saw him. The doctor came the same day. It was not because I thought injury was serious. I summoned doctor because he was injured.

CHESTERFIELD SMALL, Sworn on the Bible States:-

Ex. Inspector of Police. On 13th September, 1974 I carried out an identification parade in a closed room at Siparia, Police Administration. No.3 accused was suspect on parade. There were

/eight.....

eight persons other than the accused - similar in height, structure, appearance and age to the accused. The accused had a bandage across his right instep and toes. I caused right foot of every other person to be bandaged like that of the accused. I then spoke to the accused. Nobody could see from inside outside or outside inside. I told the accused that on the 24th May, 1974 three armed men entered Rio Claro, hold up paymaster, one of whom shot Corporal Britto who was standing guard in the compound and the office next to the building robbed paymaster of over \$20,000.00 in cash demanded keys for car and made good their escape - that he is a suspect in the matter and that I am holding an identification parade, that he can refuse to go on the parade could have solicitor or friend present or could object to any person on the parade. He said he had no objection and I told him witnesses would be called to identify any person or persons in connection with incident on 24th May, 1974. I invited him to take up any position. He took up No.5. He made no requests or objections. I caused name Puchoon Dookie to be called. Dookie was admitted. At my request Dookie repeated his account of the incident. He did so. I then invited him to walk along line of men and to see whether he saw any person or persons on the parade whom he saw at Rio Claro. He walked down the line and touched No.3 accused and said this is one of them. To this Noreiga said nothing. I dismissed the parade and handed accused to A.S.P. Clarke.

To JOHN: No questions.

To LAWRENCE:

No.3 accused did not change clothes. He had bandage covering instep and toes. There was no blood on his bandage. I called Puchoon Dookie and he was admitted. Two other persons with myself were in the room. I think he went up once and came back down once. It could not have been six times. There was no blood on the bandage. He did not say this was the man who shot Britto. He said this is one of the men. None of them had beard. No one had high afro head style. Their faces were clean.

/ADOLPHUS CLARKE,...

ADOLPHUS CLARKE, Sworn on the Bible States:-

Assistant Superintendant of Police now of Southern Division. On 24th May, 1974 I was at South Eastern Division based at Princes Town. On the morning of that day I was at Princes Town Police Station. Corporal Britto was also stationed there. About 8.45 a.m. he left Princes Town Police Station armed with a service revolver loaded with five rounds of ammunition in company with Kadar Shah, paymaster in Shah's car PN 1809. Michael Ramsey was with them as an escort. About 10.15 a.m. I was still at Princes Town Police Station. I received a report and went with a party of policemen to Tabaquite Road, Rio Claro, to Works Department yard and saw body of Corporal Britto lying on ground in front of building in a pool of blood on its right side with head facing east and a large hole in the temporal region of the head. I made observations - about 20' from where body was lying I found two spent cartridges "X" are the cartridges. (A.C.1). I went into the building, I saw lying on the floor a small wooden gate. This is the gate now shown to me (A.C.2). I interviewed certain persons - Puchoon Dookie, **Lionel Stephenson and others**. I summoned Police Constable Ross, photographer who took photographs at my instructions. I looked at A.R.1 and say that is the building I referred to and D.R.2 is the office I entered. Sometime after Dr. Rajack came to the scene, viewed body and gave certain instructions. The body was removed to mortuary to Mayaro. Later I saw Sergeant Papin who handed me these three pieces of wadding and three pellets (R.A.P.1). On 5th June, 1974 I went to Charuma Forest in teak Cultivation with Shah and other police officers and there I saw PN 1809 with left side badly damaged. This was Shah's car. P.C. Ross took these photographs (A.R.3 and A.R.4). On 27th June, 1974 I went to C.I.D. San Fernando. There I saw No.1 accused - Peter Chandree. I spoke to him. I told him of the report. I was in uniform. I told him I was investigating. He remained silent. I cautioned him and he continued silent. I formally charged him with the offence. On 11th July, 1974 I took (R.A.P.1) to Corporal Beckles who gave me a report

/about.....

about them. On 27th July, 1974 I went back to scene with Police Draughtsman to whom I pointed out certain spots. He took certain measurements. He drew his plan of the area. (W.C.1.)

On 10th September, 1974 I went to C.I.D. San Fernando I saw accused No.2 - Dennis Fletcher. I spoke to him. I was in plain clothes. I told him who I was. I told him of report of 24th May, 1974 and that I was investigating and I cautioned him. He said he would tell me what happened. I asked him if he wanted to give a statement in writing. He said "yes." I asked him if he wanted to write it himself and he asked me to write it for him. I did so. He said it was correct and he signed it. Inspector Franklyn who was present witnessed it. I invited him to attach his certificate that he gave statement voluntarily. He wrote it and signed it. I did not threaten him or induce him by any means to give the statement. Mr. Premdass was a Justice of the Peace who lived in Sar Fernando. Premdass is now dead. After accused had attached certificate I summoned Premdass to C.I.D. San Fernando. (Guerra Counsel is trying to get into evidence the same evidence excluded yesterday. Having withdrawn application: not fair to get evidence in this way). On ground of fairness.

STEWART:

(Certain rules Court bound by: anything said in presence of accused is admissible if relevant).

(Court rules evidence admissible).

In the presence of the accused Mr. Premdass asked the accused if he had given police any statement. This is the statement I took.

(A.C.3.). (No objection by any counsel for the defence to the statement). Premdass read statement over to accused and certified it. (Statement read to jury - up to line 3).

Jury put out of hearing.

Judge removes lines one to thirteen of statement. Jury recalled. Witness reads from "about the first week in May, 1974" line 13 and continues. On 11th September, 1974 I was again at the San Fernando Police Station at request of Inspector King who said that accused

No.2 had been identified by two witnesses at identification parade. I cautioned accused and he remained silent. On 12th September, 1974 I received certain instructions. I went to Siparia Police Station and there I saw No.3 accused. I spoke to him and cautioned him and he told me "I going to tell you what happen." He agreed that I should write statement for him. I recorded what he had to say. He signed the statement which he said was correct. I made no threats to him nor in any way did induce him to make this statement. This is the statement (Put in and read and marked A.C.4.). (No objection to the statement - but Court removes from statement lines one to thirteen in the absence of the Jury).

Continuing:

Mr. O'Brien Justice of the Peace came to station, read statement over to the accused and he certified the statement. On 13th September, 1974 I went back to Siparia Police Station where Small handed over No.3 accused to me. I cautioned the accused and formerly charged him.

Resumed 12.35 p.m.

Jury roll called.

To JOHN:

I saw No.1 on 27th June, 1974 at San Fernando C.I.D. His face did not appear to be swollen neither eyes.

To LAWRENCE:

I went to Siparia, some time between 12 and 1 p.m. I saw accused Noreiga there about fifteen minutes after. I told him first of report of 24th May, 1974. I do not know if he was under arrest. Superintendent Brown was Senior Officer at the station. I would say he was detained I do not know if I asked him if he had lunch. I cautioned him. He said he would tell me what happened. I did not know him before that day. I asked him if he would like to give a statement in writing. He said yes. He told me he would like me to write statement for him. No.3 was fully clothed. One of his feet had a bandage.. He did not look as if he has been crying. Bandage had no blood. Franklyn and myself had notete-a-tete. I did not ask him to sign a statement that was already prepared. I did not start

/his....

his foot. He did not cry out. I did not see anybody armed. I was not armed. Franklyn did not pull out gun. Franklyn did not say that he would shoot him, push him through a window and say he was trying to escape. I was in uniform. I did not tell him that men in room had to do what I said. It was not with gun at head and threat in my mind, he signed the statement. I arrested him on the 13th June, 1974: nobody told him to copy from a book. Franklyn did not tell me that Justice of the Peace would be coming. The gun was not at head. Franklyn did not tell him that he must tell the Justice of the Peace that he gave the statement freely because if he said anything else to the Justice of the Peace he would still get shot. Court is about 250 yards away. It is not the normal practice to have Justice of the Peace before signing of the statement. No force or intimidation was used. I would know teak when I see it. I wrote Noreiga's statement at his dictation. I do not find it strange that words "five shooter" appear in both statement of Fletcher and Noreiga. I took statement in September. There was no prompting. The fact that date 24th May, 1976 occurs twice in both statement does not appear strange. I wrote statement that Noreiga gave and signed. It was in his presence. Smart handed over accused to me after lunch. I made no further inquiries.

To MR. GUERRA:

Britto took a revolver .38. Six is usual number of revolver shots. Each revolver has a quota. If a round is used it remains until all rounds are used up, The first information I laid was on 28th June, 1974. By 18th July, 1974 I had cited all the witnesses. I would not say by 18th July, 1974 I had all information in this case. Up to 10th September, 1974 I cannot remember if I got to know the name Fletcher, I was acting on information when I spoke to Fletcher. I do not agree that I had no evidence against Fletcher up to the 10th September, 1974. I was called to C.I.D. San Fernando between 3 and 4. A member of the C.I.D. called me. I did not know the person I was going to see. Up to 10th September, 1974 no one had pointed out No.2 as having been at Rio Claro. I had aliases and

/addresses....

addresses. I did not try to get warrant for person with aliases at their addresses. I read over statement slowly and loudly. He said it was correct. (Reads from certificate at bottom). I am speaking the truth. I did not make Fletcher part of this story. I and other policemen did not trick him into signing it. The Preliminary Inquiry against Chandree was completed when I saw Fletcher.

Re-examination:

I had taken statements from people like Puchoon. Enquiries had not then been completed.

MALCOLM O'BRIEN, Sworn on the Bible States:-

I am an Immigration Officer. On 12th September, 1974 I was a Justice of the Peace for County St. Patrick: I went to C.I.D., Siparia about 3.30 in the afternoon. I met ~~A.S.P.~~ Clarke, Frankly met Lincoln Noreiga. I was given a statement which I read over to him. He said he agreed with it. I asked him whether he had signed it. He said yes. I asked him whether any force or violence was used on him or whether any promises or threats were held out to him when he gave and signed the statement, He said "No". I wrote out certificate at the foot of the statement in my own handwriting. This is statement (A.C.4.) I read to him.

(Reads certificate to Court).

He did not appear to me to be afraid. If he had told me that he was beaten, I would not have written the certificate. He made no complaint to me.

To LAWRENCE:

I just looked at first paragraph and then at my certificate. I was Justice of the Peace at Siparia about one month. I would not have any objection to witnesses signature of statement. Inspector Franklyn was there so was Clarke. A lot of police were there. It is a big room. He could have told me had he wanted to tell me anything. He said he had signed it. I was sitting on opposite side of a table.

To Court:

I look at this statement and say this is the statement that I authenticated on that date.

/PUCHGON DOOKIE.....

PUCHOON DOOKIE, Sworn on the Bible States:- (Recalled)

To LAWRENCE:

I remember what I said about No.3 accused. It was not a beard No.3 had. It was one-one hairs. He had an afro in Tabaquite yard. The man with head and hair very high I do not see here today.

CASE FOR THE CROWN CLOSED

Adjourned to 26th May, 1976:

Resumed 26th May, 1976:

The foreman announces that the jury would like to visit the scene.

Adjourned to 27th May, 1976:

Resumed 27th May, 1976:

Jury roll called.

Marshalls sworn to take care of Jury!

Court moved to scene! (Court reconvenes 3 p.m.)

Questions by Jurors through the Judge: (All distances measured by tape-measure).

To DOOKIE:

At the time of the paymaster's arrival I was at a spot (shows spot) measuring 23' north-east of the pay-office. The paymaster's car was parked in the same position as white Kingswood PT 2100 was parked today - that is to say 15' from the east of the building. The men came from (witness pointed to a direction on the north side of the pay-office). I was standing on a spot 23' from the office.

When Britto got shot - I was at a spot - 36' from where Britto fell - on the north-east of the building. Just before the man kicked the gate he was standing at a spot 3' 9" from the building on the east side. I was then at a spot - 22' from the man who kicked the gate down.

To STEPHENSON:

I was standing on spot in the carpenters shed 34' from the pay-office. When the paymaster arrived I was 9' facing north of building. When Britto got shot I was standing 22' south from where you were

/standing.....

standing I was 27' from spot where Britto fell. The Boards on the day in question were 11" high.

KADIR SHAH, Sworn on the Bible States:-

I pointed out where gate was in middle of building. I demonstrated by lying down on the ground and then I threw the keys through the archway outside the building. It was 3' from me. It was through window on east side that guns were pointed. The room was furnished with a table 4' x 2'x11" by 2' 6" right up against the partition. Two chairs at the side. One chair on north side. There was a desk 3' 6" from table. 4'x6" x 2' 6" x 2' 6". Footsteps were on the desk. I found gates in place when I went there. Height of braces - 2' 10½". The jury had a look at the braces. I was present when jury was shown how gate fits.

Remanded 28th May, 1976: (Witnesses Stephenson and Dookie to be paid).

Reserved question of recalling witnesses:

CASE FOR PROSECUTION CLOSED

Chandree called upon for his defence elects to make statement from dock:

My name is Peter Chandree. I live at Delhi Road, Fyzabad. On 25th June, 1974 I was under my parents home relaxing in a hammock and I heard a car-horn. I looked around and I saw a car in front of the house and I heard my name called out Peter! Peter! I then walked towards the car. On reaching about - 10' to the car I was ordered to stop right where I was. On doing so I was then sticked up by two armed men. I was placed in back seat of a car, then one man sat on right side and the other to my left. There were two other persons in the front seat of the car. I then asked them what this is all about. One of them replied that they want me. I asked them for what? I was ordered to shut my mouth. I was then taken to Fyzabad Police Station. There two of the men went into the station while the other two kept me in the car. The other two went to the station came back in the car about four to five minutes after. The other two went into the same station and came back in car four to five minutes also. I was then taken to San Fernando C.I.D. There I was placed in a room.

/that.....

~~A~~

That room had a number of black boxes. I was then hand-cuffed - both hands were hand-cuffed to two separate boxes. I was then asked about a number of crimes. I told them that I do not know anything about what you all are talking about. Then one of the men told me that how I am only pretending that I do not know anything about what they are talking about. I told them no I am not pretending. Then the same man told me that if I do not want to talk the easy way that I would have to talk the hard way. At that stage I was burnt with a lighted cigarette on the left side of my mouth and they began beating me. This beating went on regularly through the night of 25th June, 1974. I was also beaten on the morning of the 26th June 1974 by Baksh and others to sign two pieces of yellow paper. I told him that if the beating stop I would sign them. The beating was stopped. Two yellow sheets of paper and a pen were handed to me, and I did sign them. After signing them a book was shown to me to write something from the book on the paper and I did so. After signing these papers the rest of men left the room. Baksh remain in room together with me. After some time there was a knocking on the door. Baksh opened the door and two men came in the room. One was earlier on in the room beating me and the other identified himself as a Justice of the Peace. I was asked by the Justice of the Peace that if the signature was mine. I told him "yes"! He also asked me if I wrote the certificate there and I told him "yes"! He also asked me if I gave that statement. I told him "No"! I then showed him the burn I got on left side of mouth, my face where I was beaten during the night of the 25th and the night of the 26th. I also showed him all over my body where I was beaten by those men. He then write something on the paper and I gave to the man which he did come in the room together with. I was not allowed to read what was on the paper. After handing the man the paper, both of them left the room, leaving Baksh in the room with me. Sometime on the 27th June I was placed in a dark room and on the morning of the 28th June I did show one Michael Lewis all over my body which I was beaten by the Police on the night of the 25th and 26th June, 1974. I've been standing trial here concerning one policeman which I knows nothing about and on 25th May

/I.....

I was nowhere around the Rio Claro District. I cannot remember where I was on that day but for sure I was nowhere around Rio Claro district. That's all.

MICHAEL LEWIS, Sworn on the Bible States:-

I know Peter Chandree. At the moment I am on remand at Golden Grove. I recalled seeing Chandree at San Fernando on 28th June, 1974 in No.1 cell. I was placed there because I was due to appear at La Brea. On the night of 27th June, 1974 I saw him when he was placed in cell between 7.30 to 8 p.m. Later in the night he appeared to be sort of intoxicated. He spoke incoherently. It was during that time that one of the other occupants of the cell whispered to me it was our Peter. This meant that it was Peter Chandree of Fyzabad. I then left where I was on the bunk and went over to where Peter was. I saw on his face swelling over eyes and a mark on the left side of mouth. I asked him what happened. He told me he was beaten by the Police in connection with a murder. I try to converse with him further but he said all he wanted to do was to sleep. He appeared to me to be high like he was drinking rum.

On the following morning after Peter had taken off his brown jersey I observed several marks on his body. He told me those were the marks he had got after having been beaten by the police. He left that morning when police came to carry him over to Court. I left later that morning to be taken to Court at La Brea.

To STEWART:

There were others in the cell. One came and whispered to me it was our Peter. They were Hinds, Alexander, Shamrock and Nelson. They all saw what I saw. Peter is a good friend of mine. I first got to know I was coming here when Mr. John came to see me. I remembered it vividly. I do not dislike policemen. I have been at Golden Grove for two years. I have been convicted for assaulting and resisting policemen. I am now on a charge for murdering a policeman. I am on a charge of ammunition involving Corporal Raymond in front of Traffic Office - Port-of-Spain. (Court tell Counsel that it is not right to mention the name Rudy John as it is a name figuring in

/this case).....

this case). I have been charged with other people for armed robbery at Barclays Bank. Also robbery of Brinks Guard with firearms and ammunition. My evidence is not a fabrication. My purpose here is to relate truth. I had mentioned this to officers of Royal Gaol on 29th June, 1974.

CASE FOR CHANDREE CLOSED

Adjourned to 31st May, 1976.

Resumed 31st May, 1976.

A.B.P. CLARKE, Sworn on the Bible States:- (Called by the Court)

I saw No.2 accused on 10th September, 1974 in connection with his offence. He appeared to be suffering injuries from his head. I did not investigate how he came by those injuries. He did in fact report how he got those injuries.

To GUERRA:

Certain people were charged with shooting him. It was not necessary to investigate. I gave him refreshments during the taking of the statement. I have nothing further to do with him that day. It is not true to say that I led No.2 accused to believe that his statement was in support of the report that he was shot.

To STEWART:

He made a report at Siparia District. I am attached to Princes Town. Wounds were treated by nurse of San Fernando Hospital.

No.2 accused called up and elects to give statement from dock.

On 24th August, 1974 I was returning from visiting some friends. On reaching Premier Consolidated Oilfield gate about 45 yards from gate I heard gun shot blast on the side of me which had hit me on my left leg. I fell to the ground got up and my left side seem to be paralysed. I then heard another gun shot blast which hit me at back of my head. Apparently I was unconscious. Some time afterward I felt as though I was being lifted and placed into a car. Car drove off. All that time I did not know what was happening and feeling pains in head and leg. Some time after, a little while, I was taken out of the car, placed on my back on the ground. Whilst lying there I heard a number of voices. Then after I was being kicked on my legs, ribs and abdomen by some people. I then heard that they were police because they were asking me about certain people who were on the

wanted list. After that pressure was applied to me, they then picked me up and put me back in the car which drove off. I did not know where I was then being taken but on reaching the destination everything went totally blank. Some time afterwards I found myself lying on a bed. I observed some people dressed in pink and white clothes. Some time afterwards I noticed that I was being attended to by these people who afterwards I tried to speak but my tongue was a bit heavy.

I didn't understand that this was the hospital. Everything seemed to be a dream. I could not have eaten the meals which they used to give me. All that time I received or was receiving injections. Then one day a gentleman whom I had known for some time took me over to a place where I was told was the C.I.D. (San Fernando). I was then being taken into a room which had some boxes. I was then being told to make myself comfortable on one of the boxes. At this time I was feeling very weak. Then after some men in plain clothes whom I believe were police, they then started to fill around the room, opening the boxes and taking out papers. They left, closed the door. I was left alone. Some time afterwards, A.S.P. Bobb came into that room. He asked me how I was feeling. I told him that I was not feeling well at all. He then told me to cool it and that everything is going to be alright; because they were going to help me. He then told me that a gentleman have to speak to me and whenever he come you are going to tell him about the incident which took place at Premier Consolidated Oilfield gate. He said that, sometime afterwards a day or two I saw the gentleman who he had told me about. He came into the room with four other policemen. He then told me (A.S.P. Clarke) that he wanted to know about the killing of one policeman who I was later told was Andrew Britto. I then told him that I do not know anything about no killing of no Britto. The other four men started using all sort of remarks concerning all sort of crimes and that I had known about these crimes. I then told Mr. Clarke that I don't know anything about these crimes. He then told me alright "you just sign these documents and everything is going to be alright because he don't want to go any further with what they were talking about - these crimes." He told me that these documents which we have fixed is concerning the incident where I got shot. He then

told me don't be afraid. Everything is going to be alright - alright. I then signed my name. He then told me that I am going to be a witness for the Crown. He turned his back and left - got up - thank me.

thank you, that's all.

CASE FOR NO.2 ACCUSED CLOSED

LINCOLN NOREIGA, Sworn on the Bible States:-

My name is Davis Noreiga alias Lincoln Noreiga, of Gowers Well Road, Fyzabad born 31st January, 1957 (L.N.1. is my birth certificate). I remembered 11th September, 1974 I was at home with my mother about 4.30 to 5 p.m. I was arrested by a number of policemen and soldiers at my mother's home. On their arrival one of them told me that he had a warrant for me in connection with robbery and murder that took place at Tabaquite, Ministry of Works. On 24th May, 1974 I made an attempt to tell that police constable where I was that day. He told me he did not want to hear anything from me because he was sent with a warrant to arrest me. I was then ordered into a car and taken to Siparia Police Station. The policemen and soldiers were armed with S.L.Rs, S.M.Gs and revolvers. I was placed into a cell at Siparia Police Station immediately. There I slept the night. 12th September, 1974 a.m. I were escorted by three armed policemen to C.I.D. Office Siparia. I was hand-cuffed. They took me into a room where I saw three other men who began asking me about some men and how it is I got my foot injured. I knew one of the men and I told them it is a long time now I have not seen that man - Rudi John. Then Inspector Franklyn came into that room with a number of papers in his hand. He brought papers to me and told me to sign my name on those papers. I took these papers and began reading one of them before attempting to sign them. Franklyn then told me he did not give me those papers to read - only to sign my name. I told him, I have already seen my name on that paper. He then said he wanted me to sign my name for myself. I told him I am not signing anything if I do not know what I am signing. He began washing my sick feet saying "Sign there!"

/Sign....

Sign there!" then Mr. Clarke walked in that room. I felt pain. Then Inspector Franklyn went to Clarke and they spoke. Clarke came to me and said that I was to sign both papers. I told him No! he then said if I know what is good for me I better sign both papers and began jumping on my sick foot. I began to bawl. Franklyn then pulled gun out of pocket and pointed to my head and said sign or else he would put shot in my head and throw me through the window and would say I tried to escape and was shot. The way Inspector Franklyn was getting on and trembling I became afraid and signed both papers. Then one of the men, a Sergeant Richards brought a book and showed me something to write on every sheet of those papers. I wrote it. Inspector Franklyn then told me in a while the Justice of the Peace would be coming here and will ask me certain questions. He did ask me if those signatures were mine. I was to tell him yes. He'd ask me if I gave those statements of my own free will and if they were correct and true- I was to tell him yes or when the Justice of the Peace left I would still get shot. When the Justice of the Peace came, I told him just what Inspector Franklyn told me to say.

I told police my age. My feet were under the table. I put it there myself so that I would not get them injured. The Justice of the Peace was opposite me across the table. I was put on an identification parade. Dookie told the police that that is the man who shot Corporal Britto.

On 24th May, 1974 I was at La Brea Magistrate Court within the hours of 8 to 12 noon. I was there to listen to a case when Lewis and Alexander were charged jointly. The case was adjourned. I spoke to Lewis and he spoke to me. I have never had a beard on my face. I have never shaved. Neither have I had hair cut off from my face.

To MR. STEWART:

My right foot was struck by fork in the garden. That foot was stamped upon by Franklyn the following day. I saw Clarke the following day. He stamped on my foot. Pain lasted while they jumped on it and then it went away. I never complained because I knew nothing about Court. Justice of the Peace spoke the truth. What Clarke told

/Magistrate.....

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Magistrate was a lie. I never asked Clarke no question in Magistrate's Court. I did not tell Clarke I live at Gowers Wells Road, Fyzabad. I know No.1 and 2 accused and Rudi John. I was not with No.1 and No.2 at La Brea Magistrate's Court. I was not at pay-yard on 24th May, 1974. I know nothing about the shooting of Corporal Britto.

I did not give A.S.P. Clarke written statement.

Jury roll called 12.45 p.m.

MICHAEL LEWIS, Sworn on the Bible States:-

Prisoner on remand. I know accused who comes from Fyzabad. On 24th May, 1974 I was at La Brea. I arrived between 9 to 10 a.m. I saw No.3 in the Court. Court rose little after 11 a.m. When I left Court he was still in Court. I spoke to him.

To STEWART:

I came here on behalf of No.1 accused. I admitted all the charges you put to me. At one time I saw accused No.1 and then No.3. Both Chandree and Noreiga are friends of mine. I remember that day because of conversation I had with a C.I.D. man. I remember 25th June because of circumstances in which Chandree was brought to C.I.D. (San Fernando). I first knew when in September 1974 I got to know that No.3 was charged. I was then on remand. I met Chandree in remand yard as well as Noreiga. We spoke about this incident. He No.3 told what he was charged with. A newspaper article refreshed my memory. It was this morning that I knew I had to give evidence on behalf of the accused. I am speaking the truth.

To LAWRENCE:

It was when the police spoke to me about report of Britto's death that I remembered the date. I was not present at reception.

CASE FOR NO.3 ACCUSED CLOSED

Jury return 5 p.m.

Verdict No.1 Guilty

No.2 Guilty

No.3 Guilty

/Allocutus.....

Allocutus 1. I knew absolutely nothing about the Court.

2. No reply:

3. From beginning wrong removing case from San Fernando:

Sentence - No.1 - Death by hanging:

No.2 - Death by hanging:

No.3 - Remanded for sentence for investigation into  
age at 15th June, 1976 (in custody).

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Exhibit P.R.1  
/s/ M.N.B. Arman  
Sn.Mag. - Rio Claro  
30. 8. 74.

S T A T E M E N T

Name: Peter Chandree            Sex: Male            Age: 26 years.  
Occupation: Labourer and Chauffeur    Address: Ghurahoo Trace, Fyzabad  
Investigating Officer taking Statement:    Insp. Peter Richards.  
Others present: 6725 Cpl. Baksh.  
Date: 26.6.74    Time Commenced: 10.55 a.m. to 12.05 p.m.  
Place: San Fernando Police Station.

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You are not obliged to say anything unless you wish to do so  
but what you say may be put into writing and given in evidence.

/s/ Peter Chandree - 26/6/74.

I, Peter Chandree, wish to make a statement. I want someone to write  
down what I say. I have been told that I need not say anything unless  
I wish to do so and that whatever I say may be given in evidence.

/s/ Peter Chandree - 26/6/74.

Well Chief, I wanted to come to all you all the time, but I was  
afraid of Biggs, who is Rudy John and them other fellows, Conrad and  
Youth. Conrad is Dinkie and Youth is Squirrel. That is the name I  
know them by. I can't remember the date but it is about a week  
before the scene at the Pay yard in Rio Claro when the Police get kill,  
that was in the middle of May, 1974. I take me father car and drop  
Biggs, Conrad and Youth up in Kildaire Trace and I come back down  
with the car, but we had arrange to meet the same place way I drop  
them. Well according to arrangements I travel up to Kildaire Trace  
different cars and meet the fellars and we rap; that was the day  
before the scene play at Rio Claro way the Police get kill in the  
pay yard. That same night me, Biggs Conrad and Youth left that  
place and we started to walk through the bush. Conrad had a long  
gun, Biggs had a double barrel gun and Youth had a small gun; I  
didn't have anything like gun. We walk, we walk, we walk and when  
cock start to crow we reach by a bridge, with a house on a hill and  
Biggs say, you see that place dey at the same time he was pointing  
to another low building side the house and he say that is the place  
way we talk about so we go cool it here till day break. When it

/was....

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was coming to morning, Biggs, Conrad and Youth move up by the house. They tell me that I must mix up with the people way coming for pay and they will remain under the low building and when I see the pay car come I must make a signal to them. When they left me they carry dey gun with them. All around 8 to 9 in the morning when people started to move up for pay I too move up and started to lime around. When it was around 9 to 10 the same morning I see a white Kingswood motor car pull up in front the pay place. It had three fellars in the car and when the car stop, the three fellars come out from the car and take out a bag from the trunk and went in the low house just where dem boys were hiding under. I made me signal and Biggs and them come out from under the house with dey gun and run up in front the pay office and Biggs say something about a hold up, and one of the creole fellars who had come from the pay car turn around and dip as if he wanted to shoot, well Biggs shoot him one time and the fellar take the ground. Conrad then break down a window in the pay office and he take the bag are money. Biggs started cussing and getting on and calling for the key for the Kingswood. The same time somebody in the pay office pelt out some keys and Biggs take it and hand me. The same revolver that Conrad take from the man way Biggs shoot I take it from him and all ah we jump in the car and I pull out and we went in the Teak where we leave the car and head for the bush. We remain for some days in the bush and then we split. I left the gun they give me with them and I pull out for Fyzabad until last night Tuesday 25th June, 1974 when all you pick me up home and I eh hold back anything; way I tell all you here is just way happen. Me eh shoot nobody; all I get is \$200.00.

/s/ Peter Chandree - 26/6/74.

I have read the above statement and I have been told that I can correct, alter or add anything I wish the statement is true I have made it of my own free will.

/s/ Peter Chandree  
26/6/74.

Witness: H. Baksh Cpl. 6725 - 26/6/74.

/I.....

I hereby certify that I read this statement over to Peter Chandree at the C.I.D. San Fernando on 26th June, 1974 at 12.45 p.m. He admitted the signatures "Peter Chandree" and dates as made by him and that the statement was a voluntary one which he made to Insp. Richards. He further states that no promises was holden out to him or any threats or violence made to him so as to give this statement.

/s/ Rahamut Khan  
Justice of the Peace,  
T'rad & Tobago.  
26/6/74 - 1.00 p.m.

Put in as A.C.2.  
Kelvin Ali  
16.10.74

S T A T E M E N T

Name: Dennis Fletcher                      Sex: Male                      Age: 20 years.

Occupation: Labourer.    Address: Delhi Rd. Fyzabad.

Investigating Officer taking statement: Asst. Supt. Clarke.

Others present: Insp. Franklyn

Date: 10.9.74    Time Commenced 4.10 p.m.

Place: San Fernando Police Station.

You are not obliged to say anything unless you wish to do so but what you say may be put into writing and may be given in evidence.

/s/ Dennis Fletcher 10.9.74

Witness ??

Insp. 10.9.74.

I, Dennis Fletcher, wish to make a statement. I want someone to write down what I say. I have been told that I need not say anything unless I wish to do so and that what ever I say may be given in evidence.

/s/ Dennis Fletcher 10.9.74.

/Witness.....

Witness ??

Insp. 10.9.74.

I will tell you how I come on the scene. I was living in Delhi Road, Fyzabad with my chick Jacquelyn Charles and I know that sometime late last year that is 1973, Bogu who they does call Lester Joseph and Freddie who they does call Lennox Daniel was on scene and I used to carry things for them. Then some old talk come up saying that I was a police informer, and they start to threaten me and give me a lot of horrors. After that Bogu and Freddie come one day to shoot me. They would not stop giving me horrors so I get on to Rudy John and tell him I want to join them and he say all right. I joined them just before the Christmas last year, 1973, in Fyzabad. I went from place to place with them and the scenes start getting hard until we reached Moruga. Sometime the early part of this year - 1974, the scenes still was hard and we move around until we reach Rio Claro. About the first week in May, 1974, Rudy John, Squirrel, who they does call Lincoln Noreiga and also Socaro, and me was still in Rio Claro and Rudy send a message to Fyzabad and call Peter Chandree to come up to Rio Claro and meet us. At that time I had a shot gun which Lance Madoo give me. Squirrel had a five (5) shooter and Rudy John had a double barrel shot gun. Well, Peter Chandree come up to Rio Claro and meet Rudy, Squirrel and me and in the same first week in May, 1974, all of we went by the works Department pay yard at Tabaquite Road on a scene. The paymaster reached that day late with the pay so we call off the scene. I, Rudy, Squirrel and Chandree move around from place to place in Rio Claro until the 24th May, 1974. Early in the morning the same day, 24th May, 1974, may be about 7 o'clock, Rudy, Squirrel, Chandree, and me went back in the Works Department yard on the Tabaquite Road. Rudy, Squirrel and we had guns. Chandree did not have any gun. I had a shot gun, Squirrel had a five (5) Shooter and Rudy had a double barrel all the guns was loaded and ting with shots. Nobody was in the yard when we reach there. Chandree remain in the yard as it was arrange that he will give we a signal as soon as the paymaster reach. Rudy, Squirrel and me went down in the bush at the

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back of the building where we could see Chandree as he made the signal. About half past nine o'clock in the morning Chandree give we a signal so we know the paymaster had come and Rudy, Squirrel and me come up in front of the building. Rudy was in front and as though Rudy know Britto before he went up face to face with Britto and Britto shoot one time and missed and Rudy shoot Britto in the stomach and as Britto drift Rudy shoot him again and Britto fall to the ground. Squirrel kicked down the small wood gate by the door and went in the office saying money, money, money. I was saying we come for the money. I make a lot noise and I was standing by the door. It was at this time Rudy went over Britto who was lying on the ground and shoot Britto in the head with the double barrel gun. Squirrel then come out of the building with the bag and tray with the money and Rudy start to make noise saying who have the key for the car and after Rudy make a lot of noise somebody throw out the keys and give them to Chandree who was still in the yard. I then look at Britto on the ground and see him wearing a watch and I take the watch from his hand. I give Chandree the watch and he lost it. We get in the car and Chandree drive and we went in some teak with the car and leave the car there and went in the forest for about three (3) weeks. We throw the bag in the forest. After we leave the forest we went back to Fyzabad.

/s/ Dennis Fletcher - 10.9.74.

Witness ???

Insp. 10.9.74.

I have read the above statement and I have been told that I can correct alter or add anything I wish. This statement is true I have made it of my own free will.

/s/ Dennis Fletcher

10.9.74: 6 p.m.

/s/ A. Clarke A.S.P. 10.9.74

6.04 p.m.

Witness: ??

Inspector 10,9.74.

/I.....



Myself, Rudy John, Dennis Fletcher, Lennox Daniel, Bogie and Clarkie hi-jack a car sometime in March, this year, 1974, and we went in Kildare Trace in Rio Claro and we stop around there for about 3 months. Then Bogie, Clarkie and Lennox Daniel split the scene. After that Rudy send a message by his girl, Barbara and tell Peter Chandree to come up in Rio Claro and meet we. Peter Chandree come up and early in the month of May, 1974, me, Rudy, Peter and Fletcher went on a scene in the Works Department yard on Tabaquite Road. Fletcher had a single barrel shot gun. Rudy had a double barrell shot gun and I had a five shooter. We did not carry out the scene because the paymaster come late. We move around from place to place and Rudy John family in Rio Claro used to give us food. He family have shop and a car. Then about 12 o'clock Thursday night 23rd May, 1974 Rudy, me, Chandree and Fletcher went back in the Works Department yard on the Tabaquite Road on another scene. We went at the back of the building and stop there until the morning of the 24th May, 1974. Rudy tell Chandree to go in the yard and give we a signal when the paymaster come and Rudy went up in the yard, leaving we behind the building. At about 9.15 to 9.20 in the morning of the 24th May, 1974 the paymaster come and Chandree give we the signal. I had a five shooter. Rudy had a double barrel shot gun and Fletcher had a single barrel shot gun all of we guns was loaded. Rudy move off to go to the front of the building as soon as we get the signal from Chandree, Fletcher was next and I was behind. As soon as Rudy get to the end of the building near the front he fired off a shot and the people that was in the yard start to scatter and I run back to the back of the building and cover the back. Before I come back to the front I hear another shot went off and when I reached to the front I see Britto on the ground. Rudy was then reloading his gun. I keep guard on the outside and Fletcher kicked down the gate and went inside the building and come out with the money in a bag and a wood tray. Rudy then rub down Britto when I say rub down I mean he Rudy take away Britto revolver and a watch Britto was wearing. Rudy then start to make noise for the key for the paymaster car and somebody threw out

/the.....

the keys from the building. Rudy then bend down over Britto and shoot him in the head with his shot gun. Rudy give Chandree the keys for the paymaster car and we get into the car and Chandree drive we in Rio Claro in some teak and leave the car there and went in the forest up there for about two (2) weeks. We use to come out from the forest sometimes and go by Rudy family in Rio Claro and Rudy family use to give us food. After two weeks in the forest we come back to Fyzabad in Rudy Datsun car. Sometime in July, 1974, I get to realize that Rudy was using me and I decided to be away from him and I take Britto revolver and gave it to Marilyn Wright. She is Bagie girl friend.

Wit. OL Stewart P.C. 7425

/s/ Lincoln Noreiga 12.9.74.

12.9.74

I have read the above statement and I have been told that I can correct, alter or add anything I wish. This statement is true I have made it of my own free will.

/s/ Lincoln Noreiga 12.9.74

2.45 p.m.

A. Clarke A.S.P.

12.9.74 2.48 p.m.

Witness O. Stewart Pc. 7425.

12.9.74.

I Certify that Lincoln Noreiga affirms that no threats, force, promises or violence was used on him by the Police when he gave and signed this statement. He further affirms that this signature "Lincoln Noreiga" is his own handwriting:

Affirmed this 12th day of September, 1974 at C.I.D. Office, Siparia.

/s/ ???

Justice. 12.9.74.

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REGINA

VS

PETER CHANDREE

DENNIS FLETCHER

AND

LINCOLN NOREIGA

FOR

MURDER

This is the transcript  
marked "B" referred  
in the Declarations of  
CARL V. ADAMS, YVONNE  
THORNE and ANTOINE DE  
SOBERS, dated 9th  
September, 1976.

Ex off. Comm. of Officers

Summing-up of The Honourable Mr. Justice J.A. Braithwaite,  
at the Port-of-Spain Assizes, on 3rd June, 1976.

MR. FOREMAN AND MEMBERS OF THE JURY:

We have now arrived at the stage of this case when it is my duty to sum up the evidence with you that has been led by the Crown and by the Defence, and to give you such directions on the law applying to the charges for which the three accused have been indicted. Now today is the fourteenth day that you have been with us here. It has been, as trials go, a comparatively long trial. You have been very attentive - and for your attention I thank you very much - but I shall ask you to bear with me for perhaps another hour or two while we review together what has taken place over the past thirteen days or so.

You have now heard all the admissible oral evidence. You have seen all the physical evidence available in this case, that is to say, things like the pellets which were extracted from the deceased Cpl. Britto's body, the wadding; you have been shown a gate which was attached to a portion of the building which you visited last Thursday. You have been shown some photographs which were not, in my view, at all helpful, and a plan which was even less helpful; and, as Counsel for the Crown indicated to you yesterday, you showed a very keen interest in the case by making the request to visit the scene, and I think that visit is going to be of tremendous importance to you when you come to look at certain aspects of the evidence in this case.

Now, Members of the Jury, your function is that of being judges of the facts in this case. I am the judge of law. Any directions I give you on the law you will have to accept; but so far as the facts of this case are concerned, you are the sole judges. It will be you and you alone who will have to determine what witnesses you can believe. It will be open to you, if you so desire, to reject part of the evidence of one witness and accept the rest of the evidence. In this particular case, you will have to determine what weight you attach, if any at all, to certain statements that will be presented to you again.

If, in the course of this summing-up, I venture an opinion on the facts, or if I make any suggestions as to how the evidence should be interpreted, if you find that those suggestions or those opinions are worthwhile, you may adopt them and use them as your own and they will then cease to be my opinion and my suggestions and they will become your own.

On the other hand, Members of the Jury, you are not bound to accept anything from me at all so far as the facts of this case are concerned. If you do not agree with any opinion or any suggestion I make on the facts, you can reject it completely. Nobody, but nobody can interfere with you when it comes to the determination of the facts of this case. That is your sole responsibility and nobody is permitted to trespass on that particular property of yours.

The function of the Crown in this case is to establish the guilt of the accused, and to establish that guilt in such a way as to make you feel sure and certain of that guilt. So that, Members of the Jury, if at the end of the day, so to speak, you find yourself in a position where you are not made to feel sure about the guilt of the accused, if you find yourself in any such position, you will have to resolve any such uncertainty or unsureness in favour of the accused and acquit them.

There is no corresponding duty on the accused to prove their innocence. They were given three choices: they may have

remained where they were and said nothing; they could have stayed there and make a statement, which two of them did; and they could have come into the witness box and given evidence, which one of them did. Now, Members of the Jury, if what they have said in their defence leaves you in a state of doubt as to whether the Crown has established their guilt or not, you will resolve any such doubt in their favour. But they did choose a course, which I will refer to a moment, and what they have said, both from the dock and from the witness box, is now evidence in this case. So that when you come to consider in your deliberations, you will consider all of the evidence in the case. Nonetheless, Members of the Jury, the responsibility on the Crown, and that responsibility does not shift, it cannot shift to the accused.

Now, perhaps one last word on the carrying out of your functions. This particular murder has been, in my experience and, I daresay, in other's as well, one of the most brutal, cold-blooded, bestial slayings that I have come across for a long time. A young police corporal was shot to death, and after having apparently been shot to death, as a mark of arrogance - it is not quite clear whether it was his own revolver or the shotgun, but from the physical evidence two of the cartridges were shotgun cartridges, they were found on the spot; but whatever it was, the arrogant behaviour of whoever was responsible for this killing was of such a nature that even for the dead body of the deceased corporal there was no respect (he was shot through his abdomen) - if the evidence is correct, after he had fallen on the ground he was shot through his head.

Now I have put that in that language as strongly as I have done for this reason: however brutal, however cold-blooded, however bestial this murder is, the cruelty, the cold-bloodedness, the bestiality is not to influence you in your determination of the case at all. However sympathetic you may feel towards the unfortunate corporal and his family, you are not to permit sympathy to enter into your deliberations for one moment at all. The accused are, it appears

to me, young men. You are not to permit the fact that they are young men and find themselves here on the charge for which they are indicted, again to influence you. Your approach to your work must be cold-blooded, completely detached, completely uninfluenced from any extraneous matter that may come to your mind. You are the judges of the facts in this case. Nothing outside the evidence which has been admitted in this case must be permitted to influence you in any way whatsoever.

Now with that, Members of the Jury, perhaps we can get on with the case. There are going to be one or two directions in law that I will like to give to you at the outset, and as we go along I will again refer to them. The first thing is this: the three accused are charged jointly with another man who is not here, for the murder of Cpl. Britto. Now even though they are jointly charged, you have to deal with each accused separately. As I believe Counsel for No.2 Accused told you yesterday, you have to put each case in completely separate compartments, and you have to consider the evidence against each of them separately. Now that is the first thing.

The second thing is this: each of the three accused is alleged to have given certain statements to the police. You will have to determine in due course whether they gave those statements at all. But if you do come to the conclusion that they gave those statements, each of those statements is going to be evidence only against the person who made that statement, and not against the others.

Now, Mr. Foreman and Members of the Jury, you have to be very careful about that, because, you see, when you read the statements again you will see that each accused, by his statement, implicates other accused, so you have to bear in mind, and keep it in the forefront of your mind, that the statement by No.1 Accused affects No.1 Accused and No.1 Accused alone. It does not affect No.2 Accused or No.3 Accused. Similarly, the statement given by No.2 Accused, if you find that he gave it - because that is what is going to be one of the chief considerations you have to find - No.2 Accused's statement is

evidence only against him, and against nobody else. Similarly, No. 3 Accused, his statement, if you do find as a fact that he made that statement, will be evidence against him, and against him alone.

Now there is this other point: If you do find that these accused gave these several statements, then you will have to inspect those statements and decide what weight you are going to give them because, you see, Members of the Jury, as I will be explaining to you in a moment, if you accept that those statements were made by the accused, and you give them their full value and their full weight, it means that each one of these accused, by those statements, will be telling you that they took part in the murder of Britto; and if you give those statements their full weight, without any more evidence at all, Members of the Jury, you can convict the accused.

That is why, you see, I am labouring this point about these statements. Because No. 1 Accused is saying - if you believe that he did in fact give this statement - he is saying, "I was there. I was a party to the planning of this matter. It is true I was afraid, but I went there, I mingled with the crowd, I gave a signal at an appropriate time, the other three men came up, did the shooting of Cpl. Britto, completed the robbery, and I drove away the paymaster's car." Now if you give that statement its full value - as I shall be dealing with the law in a moment - its full value, he was party to the planning of an armed robbery, the planning and the execution of an armed robbery, in the course of which Cpl. Britto was shot, he will be guilty of murder.

So, Members of the Jury, you have to approach this question of the statements very carefully. You have heard Counsel address on these three points, and the statements in this case alone, and I repeat it, alone, without any other evidence whatsoever, if you accept that they were made by these three accused, and you give the full weight and value to them, I say, and I repeat it, you need not attend to any other bit of evidence in this case at all, you will have sufficient evidence on which you can convict the accused of the offences for which they are charged.

What the accused are saying is, "We did not make the statements at all. We were forced to sign them, either by violence or trickery but we did not make them." In these circumstances I think it is a matter of fact for you to decide whether the accused did make the statements.

Now then, I will read from the book itself: "A free and voluntary confession of guilt by a prisoner, if it is direct and positive, and is duly made and satisfactorily proved, is sufficient to warrant conviction without any corroborative evidence."

In the cases in which the accused says that he was forced to make the statement, the law says that the Judge must determine whether the statement was given voluntarily, and if he so decides, it is up to the Jury to determine what (if any) weight they give to the statement, and in my view, if what the accused are saying is that they did not (a) make the statements at all, and (b) that they were forced or tricked to sign them, both of these issues are for you to determine. For no objection was made by Counsel to the introduction of these statements in evidence on any ground whatever. It will therefore be for you, not for me, to decide (a) whether they gave the statements, (b) whether they signed them voluntarily, and (c) what weight and value you give to their statements.

Now, Members of the Jury, having dealt with that aspect, let us look at another aspect of the law; and I will probably be repeating myself from time to time, but you will have to forgive me. If a number of people set out to commit an offence, like armed robbery, and in the course of the commission of that robbery a person is killed, as Cpl. Britto was, our law in Trinidad says, as I see it, that all of them are guilty of that murder. It does not make any difference which one pulled the trigger, which one drove away the get-away car, which one entered and stole the twenty thousand dollars, and which one kept the shotgun on the paymaster, they are all, in our law in Trinidad, equally guilty of murder.

Now let us deal first, Members of the Jury, with the statements again, and we are going to deal with them now in a little more detail. We will deal first with the statement of No. 1 Accused, and the circumstances under which it was taken. First of all we will deal with it from the point of view of the Prosecution, then we will deal with it from the point of view of the Defence, bearing in mind that you have, primarily, to decide whether he gave the statement at all.

Now according to the Prosecution's case as I remember it - we are dealing with Accused No.1 for the time being, and with the taking of his statement - on the 26th June, 1974, about 8.00 a.m., Inspector Peter Richards was at the office of the Criminal Investigation Department San Fernando. A Cpl. Baksh who gave evidence here, had, from his evidence been guarding No.1 Accused for a certain period of time, about 25 minutes, and the evidence is, for what it is worth and for what you find it to be worth, that on a certain point in the talks - they were talking about old days in Fyzabad where Baksh was stationed at one time - the No.1 Accused told him that he had known Baksh for a long time and that he, did not want to get mixed up in this business because any time the No.1 Accused, thought about that Britto killing, he felt guilty, and he was afraid of those fellers plenty.

Cpl. Baksh then asked the No.1 Accused who were the fellers he referred to, and No.1 Accused told him, "Biggs. You don't know Biggs: Rudy John, and his boys Dinky and Malcolm?" Then he asked Baksh, "Who is the big man here? Let me talk to the big man." According to Baksh, he told him that the big man was not there yet, but as soon as he came in he would get him to talk to No.1 Accused.

Cpl. Baksh's evidence continues like this: He asked where were the fellers whom No.1 Accused was speaking about, and he told him, (Baksh), "About a week before Britto got killed I brought them at Rio Claro and went back down. The day before we went up and met the boys at Kildaire Trace as was arranged." That same night they started to walk through the bushes. Rudy had a double-barrelled gun, Dinky a long gun, and Malcolm a revolver.

At that stage Baksh said he cautioned him, and then No.1 Accused is alleged to have said, "Baksh, you are going to hear me?", and Baksh said yes, and No.1 Accused continued his story: "We walked a good way through the bushes until we reached a big bridge. All of us went under that Bridge, and Rudy began to talk about a plan to hold up a paymaster, and point to a house up on a hill. Rudy said that I would lime about in the yard and the three of them would go under the house, and when the paymaster come I would give them a signal. Before morning clear the three of them went under the house. About 8 to 9.00 a.m. I went and lime about in the yard with the crowd. When the paymaster come I gave them a ? shout

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and the three of them came up. Rudy said, 'Nobody move!' Same time the Corporal go to draw and Rudy shoot him down. Dinky went and took the money, rest his gun on the Corporal's head and shot him again, and took his revolver and gave it to me. Rudy started to curse and get on and demanded the key from the paymaster. The paymaster threw the key. Rudy took it up and gave it to me. All of them jump in the car and I drove straight to the forest. I remained there for about four days with them. Rudy gave me \$200.00 and I went back down." Now that is what Crown is saying that transpired between Baksh and No.1 Accused.

Now Baksh continues, Members of the Jury, like this: After he got this piece of information from No.1 Accused, he went and saw Supt. Richards, and they both came to the room where Chandree, No.1 Accused, was detained. Richards spoke to him, and he spoke to Richards. Richards returned later, then they all went to another room. Richards again spoke to No.1 Accused. Some time during the conversation he cautioned him. Richards eventually recorded a statement from him.

Now after the statement was taken, Members of the Jury, you remember the evidence was that they sent for a Justice of the Peace, a Mr. Khan who was employed in the Supreme Court in San Fernando. We will deal with Mr. Khan's evidence in a moment. What I want to deal with now is the statement itself. Now I will read the statement to you, it is not long, and you may wish to think that what is in the written statement is more or less the same as what the No.1 Accused is alleged to have said to Cpl. Baksh. Now this is how that statement reads:

"Well Chief, I wanted to come to all you all the time but I was afraid of Biggs who is Rudy John and then other fellows, Conrad and Youth. Conrad is Dinkie and Youth is Squirrel. That is the name I know them by. I can't remember the date but it is about a week before the scene at the pay yard in Rio Claro when the police get kill; that was in the middle of May, 1974. I take me father car and drop Biggs, Conrad and Youth up in Kildare Trace and I come back down with the car, but we had arrange to meet the same place way I drop them. Well according to arrangements I travel up to Kildaire Trace with different cars and meet the fellars and we rap ...." (whatever that is;) "...that was the day before the scene play at Rio Claro way the police get kill in the pay yard. That same night me, Biggs, Conrad and Youth left that place and we started to walk through the

"bush. Conrad had a long gun, Biggs had a double barrel gun and Youth had a small gun; I didn't have anything like gun...." (I shall be commenting on that a little later.) "...We walk, we walk, we walk and when cock start to crow we reach by a bridge, with a house on a hill and Biggs say, 'You see that place dey...', at the same time he was pointing to another low building side the house, and he say, '...that is the place way we talk about so we go cool it here till day break.' When it was coming to morning, Biggs, Conrad and Youth move up by the house. They tell me that I must mix up with the pe way coming for pay and they will remain under the low building and when I see the pay car code I must make a signal to them. When they left me, they carry dey gun with them. All around 8 to 9 in the morning when people started to move up for pay, I too move up started to lime around. When it was around 9 to 10 the same morning I see a white Kingswood motor car pull up in front the pay place. It had three fellars in the car and when the car stop, the three fellars come out from the car and take out a bag from the trunk and went in the low house just where dem boys were hiding under. I make me signal and Biggs and them come out from under the house with dey gun and run up in front the pay office and Biggs say something about a hold up, and one of the creole fellars who had come out from the pay car turn around and dip as if he wanted to shoot, well Biggs shoot him one time and the fellar take the ground. Conrade then break down a window in the pay office and he take the bag ah money, Biggs started cussing and getting on and calling for the key for the Kingswood. The same time somebody in the pay office pelt out some keys and Biggs take it and hand me. The same revolver that Conrade take from the man way Biggs shoot I take it from him and all ah we jump in the car and I pull out and we went in the teak where we leave the car and head for the bush. We remain for some days in the bush and then we split. I left the gun they give me with them and I pull out for Fyzabad until last night, Tuesday 25th June 1974 when all you pick me up home and I eh hold back anything; way I tell all you here is just way happen. Me eh shoot nobody, all I get is \$200.00."

Now that statement was taken by Inspector Richards. It was witnessed by Cpl. Baksh. The Accused No.1 is alleged to have attached his certificate to it, and he was made to copy from the Judges' Rules, I think they call them, and then Mr. Khan, who gave evidence here, read over his statement to him. He asked him whether he had signed it; he said yes; (that is according to the Crown's case); and the question is whether it was a voluntary statement. According to Khan, he again said yes. And

then, if Khan's evidence is accurate, if you accept it, Mr. Khan himself then read it loudly and slowly to him, read over the statements and then Mr. Khan appended his signature.

Now that, Mr. Foreman and Members of the Jury, is so far as the Prosecution's story as far as No.1 Accused is concerned. The Defence story is an entirely different matter.

The Defence story is that on the night that No.1 Accused was brought to the Police Station, he was beaten on the night in question. On the morning when Inspector Richards and Cpl. Baksh took over the control of the proceedings, so to speak, he was again beaten by both Baksh and Richards, and then after, what he says, prolonged beating, he was unable to take it any further; he did not give any statement at all; what he was requested to do was to sign the statement in certain places and it was in those circumstances, as he said he could not take any more, that he appended his signature.

He is saying, Members of the Jury, he gave no statement at all. He is not saying he was beaten to give a statement. He is saying he gave no statement at all, that this document which was signed by him, and witnessed by Baksh, and taken by Richards, and witnessed by Mr. Khan, he is saying that he did not give that at all. It was a fabrication from the beginning to the end. It proceeded out of the fertile brain of Inspector Richards, and he was forced to sign it.

Now, Members of the Jury, that is going to be a question of fact for you. You are the jury. You are the judges of the facts. It is going to be for you to decide whether he gave the statement. Now the Crown has got to make you feel sure through the witnesses in support of this statement, that is, Inspector Richards, Cpl. Baksh told Mr. Khan, that this statement was given by the Accused No.1. If, Members of the Jury, after looking at all the evidence relevant to this statement of No.1 Accused, you are left in a state of doubt as to whether he gave this statement or not, well it means, Members of the Jury, you would not be able to give this statement any value; you

will have to reject it. Of course, if you find that he never gave it at all, then even worse; you follow what I mean. But the Crown has, and let me repeat it, the Crown has got to make you feel sure, through its witnesses, that this statement was given by the accused, that it was given voluntarily, it was signed by him, and no pressure of any type was brought to bear on him.

TAKE II FOLLOWS

Now, Members of the Jury, let us consider in that connection the position of Mr. Khan, the Justice of the Peace.

Now it has been suggested, so far as Mr. Khan is concerned, that the accused No. 1 was told, "Look, have you told the Justice of the Peace anything about being beaten again? When he leaves we are going to heat you again". You follow? Now, then, it is in that context that we look at Mr. Khan's evidence, and Mr. Khan is going to be very important so far as this particular statement is concerned. Because it has been suggested - while not directly - that Mr. Khan was part of this grand overall conspiracy by the police - because that is what it must be - this overall conspiracy to get No. 1 accused in trouble. That has not been suggested to Mr. Khan at all.

Mr. Khan came and he told you that he read this statement over to the accused, he asked him if it was voluntary, he said yes, and he signed it. He again read it over to him.

Now, Members of the Jury, you have got to use your knowledge of your fellow human beings in order to assess the weight that you are going to give to Mr. Khan's evidence.

It has been suggested, Members of the Jury, that the accused was afraid to tell Mr. Khan anything about the beating. It is for you to say, Members of the Jury, it is a matter entirely in your hands. But here is a man before a person like the Justice of the Peace, the man has been beaten all the night and all the morning in order to give a signature, (mind you, not the statement) and you find yourself before the Justice of the Peace and you do not tell that Justice of the Peace one word? These are matters entirely in your hands.

It may very well be, that he would be afraid to tell him anything, because when the Justice of the Peace departed he may fear that there may be a continuation. It may very well be. It is a matter entirely for you.

Let us say that the Justice of the Peace was a little bit too lowly a person, but when the Preliminary Inquiries began before the Magistrate, a man who has told you how badly he was beaten up, at least, Members of the Jury, you might think, it is a matter entirely for you, that here now is a Magistrate, he has been beaten, and beaten badly, and before the Magistrate - we have no evidence that there was any complaint before the Magistrate, well, I have not heard it - but this is a matter entirely for you. But that, Members of the Jury, is not the end of the Defence on this particular aspect.

The witness Lewis, or some name like that, he Mr. Foreman and Members of the Jury, is in the same cell with the accused, he the accused did not show Mr. Khan, but he picks Mr. Lewis, and he bares all his bruised, battered and bleeding body to Mr. Lewis and Mr. Lewis in turn does not report it to anybody in San Fernando, but he reports it when they come back to Port-of-Spain to the Royal Gaol.

Now, Members of the Jury, if you accept what Mr. Lewis said on that aspect - because he was here on another aspect as well Mr. Lewis said about these beatings and so on, there is evidence from which you may well want to say you are not sure whether he was beaten or not. If you are not sure whether he was beaten or not, any such unsureness you will have to resolve in his favour. Because you see, Members of the Jury, if he was beaten to append his signature it means that this statement is no good at all. So you have to be sure if in some doubt that he was beaten.

Another thing you have to be sure of as well, is that he made the statement. So Members of the Jury, there you are. Now that is one aspect of the case as to that statement. I will read it for you. If you believe that the No.1 accused gave this statement and it was taken down in writing by Inspector Richards and read over to him, he signed it as being a voluntary statement. If you believe Mr. Khan's evidence and you give full weight and value to this

statement of his in which he admits, confesses, Members of the Jury that he took an active part in the planning and carrying out of this armed robbery, in the course of which Corporal Britto was killed, without any further evidence at all it will be well within your power to convict him for the offence for which he is charged. You have to review all the other evidence. You are supposed to do that, but I am dealing with the statements first because of their immense importance in this case.

Now then, let us turn to No. 2 accused.

In the case of No. 2 accused, he was brought from the Hospital in San Fernando by the police. He was brought some No. 1 accused was apprehended. I think he was brought by a police officer called Constable Logan. Now at the time he was brought from that Hospital, Members of the Jury, I think it is common ground, and I do not think there is any challenge about that, he was suffering from a wound in his head, and from what I can gather it was somewhere in the region in the back of his head. He was brought there by Constable Logan, and Constable Logan told you that at that time he was wearing a bandage across his eye. His position so far as the statement is concerned is like this.

There is no question of the police on this occasion behaving in this disgustingly brutal manner in which they were all said to have behaved towards No. 1 accused. In Logan's case the police immediately abandoned their harsh and unconscionable behaviour; it was very docile and co-operative. He, according to his evidence, was brought there, he was told to make himself comfortable, that is according to him, and he was lulled, so to speak, into a state of false anticipation, that he was going to be assisting them in solving his own injury. What he is saying is that the police got him there under false pretences, fooled him into thinking that he was signing documents relating to the infliction of the wound on his back, and handed him some papers and told him to sign them and he so signed them, and it was as a result of that trick that the statement which you have before you was so taken.

Now again, Members of the Jury, if you feel that there has been any trick employed on No. 2 accused to sign these documents, it would mean that there would be no value to anything that appears above his name, and because even though violence was not alleged to have been used in his case, any such trick would be sufficient to make that statement completely worthless. And if you find that there was no trickery or you are in any doubt as to whether there was or not, I would suggest to you - and I think it is a suggestion that will have to follow, you will have to reject the statement altogether.

The Crown on the other hand is saying this: There is no question of any trickery. The accused is saying it was. It is difficult for me to know what words to use; whether arrest or detain because it does not seem to me to be very clear what is arrest or what is detention. Anyhow, I prefer to use, he was brought, according to the Crown, to the Police Station. He was placed in a room and he was seen by Assistant Superintendent Clarke.

Now Members of the Jury, may I try to put this as fairly as possible. Assistant Superintendent Clarke was subjected to a severe cross-examination in the course of which, at one stage it was suggested to him that he was an absolute liar. Very strong language, but still it means the same thing, whether he was an absolute liar or he was not speaking the truth. He was subjected to that, and then in the address to you day before yesterday, even his ancestry, even the place where he was born was not left alone. There was nothing wrong with Counsel attacking Mr. Clarke's credit at all. Because you see, Members of the Jury, if he did not attack Mr. Clarke's credit in this case he would hardly have any defence at all. So he had to do it. The method perhaps might not have been the best. I was feeling very very worried and concerned about the extravagance of the language used by Counsel but he has tried his best. I did not stop him because I would have been stopping him every single minute. The case would have gone into next week. You follow what I mean.

Now, it was Assistant Superintendent Clarke who took this statement. Now he told you how he took it. He said he went to Fletcher and Fletcher said he wanted to give a statement, and he wanted somebody to write it down for him, and Fletcher gives Clarke the statement.

Now the suggestion - it was a serious suggestion that was put to Assistant Superintendent Clarke in this case - that having got the help of No. 1 accused's statement, No. 2's statement and the alleged statement of No. 3 had emanated from the brilliantly fertile mind of Clarke. In other words, Clarke fabricated both of the statements, made them up out of his own mind, having got No. 1's statement, he transcribed the other two from that - this exceptional brilliant, clever detective superintendent.

Now, it is a suggestion that you have to take very seriously. It is a suggestion that you have to examine very carefully. Because if you have any doubt in your minds that these statements were voluntarily given by these people, and it was taken, you have any such doubt, you resolve that doubt in favour of the accused. What you have been asked to say is this, Members of the Jury, that this whole aspect of these accused statements, has been an overall total conspiracy by Clarke, his subordinates, and even the Justices of the Peace, that this is a wholesale conspiracy by these two men in order to vindicate the death of a comrade in arms.

Now let us look at the statement. Before I go on Members of the Jury, when you retire you can have these statements. You will have the opportunity to peruse them, analyse them, and if necessary, to parse them. I will do as much as I can.

"About the first week in May, 1974, Rudy John, Squirrel, who they does call Lincoln Moreiga and also Socoro and me was still in Rio Claro and Rudy send a message to Fyzabad and call Peter Chandree to come up to Rio Claro and meet us. At that time I had a shot-gun which

Lance Madoo give me, Squirrel had a five (5) shooter and Rudy John had a double barrel shot-gun. Well Peter Chandree come up to Rio Claro and meet Rudy, Squirrel and me and in the same first week in May, 1974 all of we went by the Works Department Pay yard at Tabaquite Road on a scene. The Paymaster reached that day late with the pay so we call off the scene. I Rudy, Squirrel and Chandree move around from place to place in Rio Claro until the 24th May, 1974. Early in the morning the same day, 24th May 1974, may be around 7 o'clock, Rudy, Squirrel, Chandree and me went back in the Works Department yard on the Tabaquite Road. Rudy, Squirrel and me had guns. Chandree didn't have any gun. I had a shot gun, Squirrel had a five shooter and Rudy had a double barrel. All the guns was loaded and ting with shots. Nobody was in the yard when we reach there. Chandree remained in the yard as it was arrange that he will give we a signal as soon as the paymaster reach. Rudy, Squirrel and me went down in the bush at the back of the building where we could see Chandree as he make the signal. About half past nine o'clock in the morning, Chandree give we a signal so we know the paymaster had come and Rudy, Squirrel and me come up in front of the building. Rudy was in front and as though Rudy know Britto before he meet up face to face with Britto and Britto shoot one time and missed and Rudy shoot Britto in the stomach and as Britto drift Rudy shoot him again and Britto fell to the ground. Squirrel kicked down the small wood gate by the door and went in the office saying, money, money, money. I was saying we come for the money. I make a lot of noise and I was standing by the door. It was all this time Rudy went over Britto who was lying on the ground and shoot Britto in the head with the double barrel gun. Squirrel then come out of building with the bag and tray with the money

and Rudy start to make noise saying who have the key for the car and after Rudy make a lot of noise somebody throw out the keys outside and Rudy take the keys and give them to Chandree who was still in the yard. I then look at Britto on the ground and see him wearing a watch and I take the watch from his hand. I give Chandree the watch and he lost it. We get in the car and Chandree drive and we went in some teak with the car and leave the car there and went in the Forest for about three (3) weeks. We throw the bag in the forest. After we leave the forest we went back to Fyzabad."

Now that statement was read over again the presence of a Justice of the Peace who was not here to give evidence, because he is now dead, and I did not permit his deposition to be read.

Now Members of the Jury, that is the statement that the Crown is saying that No. 2 accused gave voluntarily to the Police and it was read over to him, signed by him and that he knew fully well the contents of it.

What the Defence is saying, nothing like that all. No. 2 accused did not tell the Police a single word of this, this statement has come from Clarke's mind and is a total fabrication. The Counsel thinks that the Crown's case against No.2 accused is a mighty frameup, all this was done by Clarke who fooled the accused into thinking that he was signing some papers relative to his own shooting. And remember, Members of the Jury, it is for you to decide, you are the sole judges of the facts. There is nothing very much that I can help you <sup>with</sup> on that point. As far as the law is concerned, I will do my best, but this is question of fact for you.

You see, as I said earlier, why I am stressing the importance of this statement, is that if you accept what the Crown is asking you to accept, that this statement by No. 2 accused was given by him voluntarily, and signed by him voluntarily, you give it its full weight and value. What he is telling you in this

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statement - if you accept that to be the truth - he was a party to the murder of Corporal Britto, and you find that again on the robbery, without any further evidence in this case, you are at liberty to convict him of the offence of murder.

You see, why I am stressing this is, because of the matter of the statement; for the Crown has no other evidence at all in this case but these statements, and you, Members of the Jury, it is for you to accept that they were free and voluntary statements, given without pressure of any kind. They do not have to bring a single other perhaps except the Doctor, to prove the cause of death in this case. That is why it is so important, and that is why I am dealing with it before I deal with other evidence.

On the other hand, Members of the Jury, if you feel, or you have some doubt in your minds about there being a trick that caused No. 2 accused to sign these documents, and that he did not know the contents, if you feel or you have any doubt about that, any such doubt you have to resolve in favour of the accused. So these are matters entirely in your hands. Now with that we will turn to the position of No. 3 accused.

Now in the case of No. 3 accused, the police returned to the role of violence. Having taken a vacation from violence in the case of No. 2 accused, they have now returned to the violence in full force. Because you will remember, Members of the Jury, No. 3 accused was taken from his mother's home in Fyzabad, I think it was, and at the time he was suffering from a wound on his toe, and Sergeant McMillan having get him there, and having seen - I do not think there is any question about this at all - the wound on his foot, he immediately sends for a Dr. Baird and his nurse to dress the tow of No. 3 accused. Rather extraordinary humane with the type of atmosphere that we are going to have in a murder.

Now, having got No. 3 accused at the Police Station, Assistant Superintendent Clarke again enters on the scene. Not the Assistant Superintendent Clarke who was the architect of the last

statement, and the architect of the docile and co-operative behaviour which he showed towards No. 2 accused, but this <sup>is</sup> now the brutal part of the Assistant Superintendent Clarke, where a man has a serious injury to his toe.

The suggestion in No. 3 accused's case is, that Asst. Superintendent Clarke, as you see, is a relatively well built man, stamps on his toe. Counsel who appeared for No. 3 accused nearly caused an earthquake in the MedHouse when he demonstrated how much power was put into Asst. Superintendent Clarke's stamp; and it was in those circumstances, Members of the Jury, that the No. 3 accused signed his statement. He was in anguish, although it was a temporary type of anguish. According to his evidence, it was only when Clarke stamped on his foot that he felt some pain, but as soon as Clarke took his foot off, the pain stopped. That is how I remember it in the evidence.

Members of the Jury, nearly all of us have feet, and nearly all of us have hurt our toes at some time in our lives. And it has been my experience, this is a matter for you, that an injury to a toe can be an extremely painful matter.

You see, Members of the Jury, this has to be looked at both ways. If you believe that Asst. Superintendent Clarke did do what No. 3 accused said he did, and stamped on his toe, it means that No. 3 must have been in severe pain, and it could very well be, Members of the Jury, that in order to prevent that pain from returning, he signed those documents. What he is saying, is a matter entirely for you. But then, Members of the Jury, as human beings, and as citizens of Trinidad and Tobago, you have to use your knowledge of your fellow citizens. If what No. 3 accused is saying is correct, as I have said a moment ago, he must have been in severe pain when he signed.

Now you are going to have in his case the Justice of the Peace from Siparia. He came on the scene.

Members of the Jury, pain is a very serious thing. What do

you think? It is a matter for you. Would you not think, Members of the Jury, that you having been exposed to severe pain of having your foot stamped on by Assistant Superintendent Clarke, that the first opportunity you got to tell somebody who could relieve you of the probability of the continuation of that pain, would you not try to remove yourself or have yourself removed somehow or the other from the area of the infliction of the pain?

TAKE III FOLLOWS.....

It may, as I said, very well be that he, No. 3 Accused was afraid of a repetition of the pain and that is why he signed the document and did not report to the Justice of the Peace. Those are areas of fact and questions of fact for you to resolve.

But, again, Members of the Jury, if you find that the Crown's case with respect to this third statement is correct on the facts, and that there was no question of any pressure or pain, and that No. 3 Accused voluntarily and freely gave this statement and signed it; it was read over to him; certified by the Justice of the Peace; if you find that it is a free and voluntary statement Members of the Jury, the same conclusion arises as arises with the other two statements.

And he, in his statement - I wouldn't tire you with reading it - but what he says in his statement is that he did not shoot. Rudy shot. Not him! You follow? You may read his statement if you wish.

Now, one last thing about these statements before we look at another aspect of this case. It appears to me, but it is a matter for you - and that is why I am inviting you - you can have the type-written copy if necessary - to look at these statements - it appears to me, but it is a matter for you, that all three of these accused in giving these statements their main anxiety was: "I did not shoot Britto. I did not shoot Britto." Somebody else shot him. What they said: "Oh, yes, we went there to rob; we didn't go there to kill." All three of them are saying that

Now, Members of the Jury, if Assistant Superintendent Clarke was the clever man that he was said to be, and he wanted to force confessions to this shooting out of these accused, don't you think Members of the Jury - it is a matter entirely for you - that in the case of these three people, these three accused taking themselves out of the shooting scene, to use some of their language, altogether, that he would have had a statement which implicated them even more deeply into the murder of Britto than we have here? That is

a matter in your hands.

So, there you are. Those are the statements. They are important documents. Very important. I will repeat myself again at the expense of being nauseating: if you find that these were statements which were freely given and taken in the way that the Crown says they were taken, and if you give the full value to these statements, the full face value, you will have no other alternative but to convict the accused of the charge for which they have been indicted. If, on the other hand, you have some doubt in your mind as to whether these statements were given voluntarily, or if you think that they were not given voluntarily, or at all, any such doubts or any such feeling of unsureness you will have to resolve in favour of the accused.

So that is the first aspect of the matter, Members of the Jury, that you have to pay very serious attention to; because without any more evidence, if you come to the conclusion that these statements were given and given voluntarily, that is the end of the case. If you have some doubt in your minds, perhaps you now would like to look at the rest of the case.

Now, on the morning of the 24th of May, 1974, a paymaster by the name of Mr. Shah, left his headquarters with a sum of money, I believe it was twenty thousand dollars and some cents (\$20,000.--.) in order to pay the workers at the Tabaquite pay office - which you visited together with me last Thursday.

Now, on his arrival there, he was accompanied by a policeman called Ramsay and by Corporal Britto. Both of these escorts carried revolvers. They were in plain clothes. He parked his car in front of the pay-station, on a spot that was occupied by another of his cars on the day we visited the place. He took out his pay-sheet, his brief-case and his change box, etc. In his opinion, there were about 50 or 60 workers in the pay-yard.

And he proceeded to his pay office. There were a number of people in the office, people like checkers and supervisors and



road overcoats, and so on. While he was in there preparing his various denominations of money, 25¢, 10¢, and 5¢, etc., he passed the sheet to the checker. And then he heard two gun-shots fairly near, in the front of the building. He heard a male voice say something, and he pushed his brief-case aside. He thought he saw two gun-barrels through the window, pointing into his office; and he went down on the floor on his abdomen with his arms outstretched. You remember, Members of the Jury, when we visited the scene last Thursday he demonstrated to you what position he took on the floor. And he also showed you, and he did in fact throw his keys out of the - remember? - the little archway through which he pays.

He then told you, Members of the Jury, that he heard some footsteps on the table. He heard another male voice say something, and, as he demonstrated to us, he threw his car-keys outside of his office. He heard his car start up and drive away. He got up and ran outside, and of course, he saw Corporal Britto bleeding on the ground. He then appeared to Mr. Shah to be dead. His car had gone, and so had all the money and the money-box.

And then he gave you evidence about this gate which you saw here day before yesterday, and he told you that that gate was on the table. You remember, Members of the Jury, when we visited the scene there was a table and there was a desk some - I believe it was about - 3 feet 6 inches away. It was on the desk that he said he heard these footsteps and so on; on the table.

He told you that the money was the property of the Government of Trinidad and Tobago. And eleven days afterwards, Members of the Jury, he recovered his car about a mile and a half from the pay-station in a teak field. He gave no person any permission to take his car away. And he was very frightened.

Now, Members of the Jury, if you accept his story, you have the beginning of the crime, so to speak. Because if you accept what he said, it means that the Crown would have satisfied you that this was a robbery, an armed robbery, a robbery committed by armed

men in which they took away twenty thousand dollars. And if, Members of the Jury, you accept Mr. Shah's evidence that there was that type of robbery, with the use of arms, and if you believe that Corporal Britto is dead (I don't think there is very much doubt about that), then you will have the armed robbery migrating from a station in life, so to speak, to the more serious station of murder. So, you see, it was necessary, Members of the Jury, for the Crown to lead Mr. Shah's evidence to show you that there was this armed robbery and that the killing was done in the course of the robbery.

Now, that was Mr. Shah's evidence. We will look now, Members of the Jury, at the evidence of the two eye-witnesses, Mr. Stephenson and the unfortunate Mr. Fuchoon. Now, before I read their evidence I want to read to you - you see, because a lot has been made in this case about the question of depositions taken in the Magistrate's Court. What I would like to say off the record - but it will have to appear in the summing-up - is that this archaic, ancient method of taking depositions no longer obtains in forward-looking legal countries. It certainly doesn't happen in the United Kingdom. In the United Kingdom what happens is that the statements taken from witnesses are circulated to counsel, and that is that. But we still have this lamentable, cumbersome system of preliminary enquiries; and while we still have them we will have to live with them and I will have to give you directions on them.

Now, as long ago as 1875, in a case against a man called Wainwright, this question of depositions taken in the Magistrates' Court and the value in the High Court was gone into by one of the more learned Judges of the High Court in England. And while the Attorney-General in the particular case was putting some questions to a witness with reference to a variation - you see, a change between his evidence before the coroner, it was in that case, and that which he was giving at the trial in the Supreme Court - the Lord Chief Justice (his name was Cockburn), interposing said, that he did not attach

much importance to the accordancy between what a witness said at the trial and what he was reported in his deposition to have said in the Police Court - that is, the Magistrates' Court - or before the coroner. He knew from his own experience how difficult it was to take down a witness' exact words. A witness expressed himself in a long sentence, the magistrate's clerk struck out a particular word and with that omission it went down in the notes; and it was not the whole sentence. The whole meaning of the sentence which the witness had uttered will therefore be entirely altered. Too much importance ought not therefore to be attached to such variations; and if there is a substantial agreement between the evidence at the preliminary enquiry and that adduced at the trial, that was sufficient.

Now, Members of the Jury, there is another point that I wish to take up with you at the same time. If, however, Members of the Jury, the difference between what the witness said in the Magistrates' Court and what he says up here is a question of inconsistency: for example, if a witness says in the lower court that the man had a beard - and there are a lot of beards figuring in this case - and in this court he says that the man had no beard, and provided that the witness knows what he is describing as a beard, there you have an inconsistency. Because, you see, Members of the Jury, in the Magistrates' Court he takes an oath to tell the truth. He takes the same oath here.

So if you find yourself in that position, with an inconsistency on a material particular, then you will have to reject that aspect of his evidence entirely. You wouldn't know which one to believe. You would have to ask yourselves: was he telling the truth when he was here? or was he telling the truth when he was in the Magistrates' Courts? But you wouldn't know which one to believe. Therefore, on that particular aspect, that you find him to be inconsistent, this irreconcilable inconsistency, you will have to reject his evidence.

But that doesn't mean, Members of the Jury, because you reject his evidence on that point, that you reject his evidence on every other point. It will be open to you, as is your function as Members of a Jury,

to accept part of his evidence and reject the other part. Because if you genuinely feel that he is not telling the truth on one point it doesn't mean that right away he is branded as a liar for the rest of his evidence. It is well within your power to say "I believe this, I reject that" of one witness, or any other number of witnesses. But those are matters for you to handle.

Now, it is in that context that we look at the evidence of Mr. Stephenson and Mr. Puchoon. Now, these two men, Members of the Jury, were held out to you by the Crown as eye-witnesses. The Crown is holding them out as people who were there on the spot and who saw and heard everything that transpired at that spot on the 24th of May 1974. Now, if you believe they were there, then you will have to look at the evidence with great care.

Let us take Stephenson in the first place. What he said was this: that he lives at Tableland; he is a labourer, and he works at the Works Department in Tabaquite.

On the 24th of May, he said, about 8.30 a.m., he was at the pay-yard to collect his wages, together with about 50 to 60 other people. He saw a strange person in the pay-yard. He had never seen him there before. He said he wasn't too sure, but as far as he could remember, he had on a brownish pants. He was about 5 to 6 feet away from him.

About 9.20 a.m., the paymaster arrived with his car. He was accompanied by the constable who usually accompanied him, and with Corporal Britto. He knew Britto before. And Britto, on the morning in question was sitting at the back of his car. The paymaster took out the money-bag and went into the office. Britto, he said, was outside of the office. The other police constable went inside the pay-office.

And then he went on, Members of the Jury, to describe the pay-office. Well, I don't think we need go into that in detail because we went and we saw it ourselves.

Anyhow, inside the office there were the chief overseer, checkers, etc. He was about 25 feet away from the paymaster. And he

described it like this, Members of the Jury: he heard two echoes like gunshots. He looked around and he saw Britto holding his abdomen. As soon as he looked at Britto, he ran to the workshop about 20 to 25 feet away (and you saw where that was) and he saw a negro fellow who had shot him. The negro fellow had a double-barrelled shot-gun. He came by Corporal Britto, according to his evidence, and two other fellows came with shot-guns from the rest of the building. A second fellow kicked down the gate and went inside the paymaster's office. The third fellow put his gun through the window shown in the picture and which we saw at the scene - and the fellow who went into the office had the money-bag in his hand. The fellow who was over Britto took the revolver from Britto and shot him in his ears. The Indian fellow who I first saw, drove the car away. That fellow was No. 1 Accused. He had no beard at the time.

On the 27th of June, Stephenson said that he went to the C.I.D., San Fernando, and there he identified No. 1 Accused as the person who was in the yard and who drove the car.

The second person he spoke about, Members of the Jury, was No. 2 Accused. He said that on the 11th of September, he went again to the C.I.D., San Fernando, and there he identified No. 2 Accused as the person he saw in the pay-yard, who kicked down the gate, and who had a gun at the time.

Now, that is his evidence-in-chief before you.

So you see, Members of the Jury, the Crown is holding this man out as an eye-witness to you; and he is telling you in his evidence-in-chief: "I was there. I saw No. 1 and No. 2 Accused. No. 1 was the man who was mingling in the yard. No. 2 was the man who kicked down the gate and went into the office and took the money away."

Now, we have heard a lot of references to Mr. Stephenson and Mr. Fuchoon as simple country men. I believe I was the person who first diagnosed their condition and since then they have been

referred to as simple country men. Members of the Jury, you belong to Trinidad and Tobago. You know your country. You know your people. You will judge them according to what your knowledge is. You know these country areas. Some of you must have spent some time in the country, and it is for you, with your knowledge of your people, with your knowledge of your country, to assess the two witnesses, STEPHENSON and PUCHOON. It would be for you to decide whether they are simple-minded, or whether they have complicated minds. It would be for you to decide from what you have seen of them whether they are just country bumpkins, so to speak, or whether they are soft in their heads. Those are matters entirely for you. Nobody can decide matters but you. And when you have assessed their capacity, their ability, it is then, when you have done that, you will apply your minds to what they have said in this case, and how they have said it.

Now, then, he was cross-examined by Counsel for No. 2 Accused. His evidence concerns only No. 1 and No. 2 Accused. And what he was first asked, Members of the Jury, was: when he first saw a strange man, how far was he away from the pay-office? Well, he told you that was 6 to 7 feet. Then he continued to say that when he heard the echo he was at the same distance away from the pay-office. He ran instantly, as he realised it was a gunshot. He ran to the workshop. He stayed there for some time. He cannot really estimate the time that he was in the workshop.

There is no door to the workshop. It's an open shed covered with galvanise, and no doors. Well, you have seen the workshop, and it will be for you to say from where the workshop is to where this thing happened, whether there was any obstruction - on the day we went there, anyway - of the view of any person who was in the workshop of the yard. You will remember, Members of the Jury, it is a very small yard. The photograph made it a lot bigger than it was. It WAS a very good thing we did go and see this place, because that photograph definitely was misleading. It is a small yard.

So it would be for you to say whether you accept the evidence

of Stephenson, and to a lesser extent, Fuchoon, when they say what they said they saw. There is no mystery. You have been on the spot. You have seen these various places and you have first-hand knowledge of the locus and the locality. It would be for you to address your minds towards the evidence that these people gave, in the light of what you saw down there, to be in the position, and ask yourselves then, whether you can accept what they are saying. There is no mystery in it. If you find that you could accept what they are saying, well, that is the end of the matter. Because what Stephenson said is that he saw No. 1 and No. 2 Accused there. He saw No. 2 Accused there with a gun; he went inside the place; he took (illegible) He saw No. 1 Accused there; No. 1 Accused had been hanging about early in the morning.

And another point, Members of the Jury, if you look at the one part of the evidence given by Stephenson, that is to say, he saw this strange man in the pay-yard, you may want to ask yourselves Members of the Jury: when you are living in remote - and indeed it was a remote place when we went there - villages, what do you feel, Members of the Jury, a stranger, a person who doesn't belong to the district, would he stand out? or would he be just like any other person in the crowd on a pay-day? You have to decide that. Counsel for the Crown yesterday suggested that he would stand out like a sore thumb (something that he borrowed from Counsel for No. 2 Accused)

Now, it is for you to say. If you feel, Members of the Jury, that he would stand out, he would be outstanding, then you will have to ask yourselves what is wrong with Stephenson being able to recognise a stranger as quickly and as efficiently as he did. Would you, Members of the Jury, if you were in one of our country villages would you have any difficulty in making out a stranger in your district. Those are matters entirely in your hands. I am not answering any of these questions for you. I am leaving them entirely in your hands.

Well, let us go on with the cross-examination here. The suggestion of Counsel for No. 1 Accused was that Stephenson was not

in a position where he could see what was going on that day. And if you accept the suggestions made by Counsel in the cross-examination and in his address, that Stephenson was unable to see what he said he saw, well, you will reject any evidence that he gave about being able to see these various things.

Now, another aspect of the cross-examination by Counsel for No. 1 Accused was the question of the journey from Rio Claro I think it was - San Fernando, to the identification parade. It was put to Stephenson that they talked on the way down, and he said "Yes, we did talk." And one of the things that he said he did say was: "Well, Boy," (talking to Puchoon or Arjoon) "well, Boy, we have to be sure." You will remember that when Puchoon came into the witness box and he was asked whether there was any conversation, Puchoon said: "No, we didn't say a word to one another."

Now, Members of the Jury, it is for you to determine, if there is conflict between what Stephenson said (that there was conversation) and Puchoon said (there was no conversation), it is for you to say whether on that aspect of conflict, whether because of that you are going to reject everything that Puchoon said, or everything that Stephenson said. It is a matter for you.

/TAKE IV FOLLOWS..

If you feel this conflict with people on whose word you cannot rely, well you will reject them. If, on the other hand, you say, well, look, that is not really important, the question is whether they talked or not. And what was wrong with talking? What was indeed wrong with talking from Rio Claro to San Fernando? It is a matter for you.

Now, Members of the Jury, we come to one aspect of his evidence to which this authority that I read to you is relevant. Let me again repeat to you: if, Members of the Jury, you find ~~that~~ what has been said in the Magistrate's Court is totally inconsistent on a material particular with what is being said here, well reject it take it right out. You may want to deal with other aspects of the evidence, but you can take that one out of it. There is no difficulty because, you see Members of the Jury, in the Magistrate's Court this is what he said, talking about No.1 Accused - this is the identification parade - "I saw eleven men in the C.I.D. office, some indian, some negro. About four appeared to be negro. Some of the men had beard. I recognized the accused had a beard." Now he said that in the Magistrate's Court, for what it is worth.

Now then, what he says here in this Court is this, Members of the Jury: "I can't remember saying the Accused had beard in the Magistrate's Court. I didn't say his face was puffed up. When I gave evidence in the Magistrate's Court I was upset." But in answer to Mr. John, what he said in this Court is that the Accused No.1 had no beard.

So now, Members of the Jury, it is going to be for you to determine. You heard the Magistrate's clerk come here and read the depositions. You heard how he read them. You saw how he read them. You may look at the depositions themselves. What are you going to make of Stephenson's evidence on that point? As I say, Members of the Jury, there is no mystery. If you find that he did say this thing in the Magistrate's Court, that the accused did have a beard, and he

comes here and he says something else, and you find that he is not to be relied on, you can dismiss Mr. Stephenson's evidence on that point from your minds. It does not mean because he has erred, or whatever he has done or whatever you will find that he has done, that he is totally unacceptable. It does not necessarily mean that. It is for you, and for you alone to decide what value you are going to put on his evidence. He implicates No.1 and No.2 Accused.

Mr. Puchoon Dookie, he gave evidence implicating all the three accused. Now, Members of the Jury, you have seen Puchoon in the witness box, and you and you alone can assess Puchoon. He gave evidence that on the morning in question he was present; and on the day that we visited the scene he showed us where he was. Now, Members of the Jury, he, too, talks of seeing this strange man in the yard, and he told you straight-away that the strange man was Accused No.1. Then he told you, Members of the Jury, how the men came from the back of the pay booth. On the day that we visited the place he showed us the direction from which they came.

He said, Members of the Jury, that they had three guns: one had a double-barrelled, and the other a single-barrelled gun. And then he told you, Members of the Jury, they had no masks on their faces. After the shot was fired Mr. Britto, he said, held his belly, put his hand in his pocket to get his revolver, and he got another shot from the double-barrelled gun. Britto fell to the ground. The man with the double-barrelled gun stood over Britto. Then the two with guns went into the pay booth, one kicked the door and entered. And he said the man who kicked the door was No.2 Accused. The man who stood outside, he said, was No.3 Accused. No.2 took the handbag with the money and the tray and he came outside. The man who was standing over Britto took the revolver from him and shot him in his ears. No.1 Accused drove off the car with the other three in it. Now he went to these various identification parades and he pointed out No.1, No.2 and No.3 Accused.

Well that is his evidence in chief. What do you think about it, Members of the Jury? Do you believe what Puchoon said in his evidence in chief? Because if you do believe that, again you have evidence of an eye-witness nature in which he positively identifies all three accused as people who took part in this robbery and in the killing of Cpl. Britto.

But you see, he was subjected to cross-examination, and then he gave to Counsel for No.1 a number of answers. The cross-examination of Counsel for No.1 Accused was directed towards the ability of Puchoon to be able to see from the spots that he said he was occupying on that morning.

Members of the Jury, you heard the cross-examination, you heard what Puchoon said. You heard what Puchoon told us at the scene where he was. It is for you to decide whether Puchoon was in a position to see what he said he saw..

And then, Members of the Jury, we had Puchoon on the identification parade. You heard the number of various answers he gave. If you feel, Members of the Jury, to remove Puchoon completely from the scene, in your deliberations, I do not think that there would be any reason not so to do, because it is for you to decide what the mental capacity of the witness is. He has given us some answers, Members of the Jury, I do not know how to reconcile them with good answers. For example, at one stage he said one of the accused - it does not make any difference which one it is at this stage - had blue and red shoes. Then when he was asked what the others had on, he said they all had on blue and red shoes.

So I am not ridiculing the witness, but you have to have evidence before you that can make you feel sure. You follow what I mean. If, in spite of all the things that Puchoon has said here - and he has said, in my view, some strange things; it is a matter for you - if you feel that on other points you can still accept his evidence, by all means you can accept it.

And then there was the question of the beard. Puchoon says he knows what a beard is: "It is a long thing down to here." He demonstrated to you. And then he said in the Magistrate's Court he did say that some of these people had beard. Here he comes and says nobody had beard, they were all close-shaved. It is for you to decided what you do about Puchoon. I do not propose to waste much time with him. You have other evidence in the case.

When a witness comes and tells you, for example, that the person to be identified in the identification parade had blue and shoes, and then, when asked about it he said everybody had on blue red shoes, and when the Inspector who carries out the parade said, was no question of any red and blue shoes at all. Everybody had on black shoes.", how far can you go with him? These are matters entirely in your hands.

In answer to Counsel for No.3 Accused he said that in the Magistrate's Court, on the identification parade, I believe in respect to No.3 Accused, he told the Magistrate that he told the Inspector in charge of the parade, after he had pointed out No.3 Accused, that, "That was the man who shot Cpl. Britto." Then he comes here, he said, "No, I did not say that at all." There you are. You see, Puchoon is a witness whom you have to think very very seriously about, if I say so with great respect, because I do not want to trespass on your preserves at all. You would have to think very carefully about Puchoon's evidence before you accept it in its entirety. There is no point trying to close your eyes to this. There are clear inconsistencies in my humble view - but it is a matter for you - between what Puchoon said in the Magistrate's Court and what he said here on material point on the points of identification parade. So it is for you to deal with Puchoon as you think fit.

Now, Members of the Jury, we come rightaway to the question of the identification parade. Now these identification parades, and you will have heard in recent times - as Counsel for No.3 Accused and Counsel for the Crown referred to some newspaper reports - these

identification parades have come in for some very adverse criticisms, not only in Trinidad and Tobago, but in places all over the world. There is a great deal of concern in legal circles about the reliability of these parades. Now it is not being suggested in this case by any Counsel that there was anything improper, not a single word about any impropriety on behalf of the officers conducting the parades. The point that most of the articles worried about is the chance of witness making a genuine mistake in that identification parade. Counsel for No. 3 Accused is setting up - and the trend of thought seems to be that without any other evidence it is risky, on an identification parade alone, to convict certain people.

Well, Members of the Jury, you have seen and you have heard all the Inspectors who conducted the parades in this case. You have heard the evidence that they have given. I shall refer to one or two of them in a moment. It is for you, notwithstanding the modern thought on identification parades, it is for you to say, Members of the Jury, whether you can accept the evidence given by these police officers with respect to the identification parades.

Now the first such officer, I believe, was Inspector Murraine. Now he conducted an identification parade on the 27th June, 1974. He saw No. 1 Accused. He spoke to him. He told him that "I was assigned to conduct an identification parade with respect to a report about the murder of Cpl. Britto and the robbery of twenty thousand dollars at the Rio Claro pay yard." He told him that he was a suspect, and that he wanted him placed on an identification parade. He told him that it was his right to refuse to be on the parade. Should he do so it would be to his disadvantage and that he would be forced to bring witnesses to see him alone; but if he agreed, that he would place him on that parade with eight other men of similar racial origin and build as he. "I told him that he could have a solicitor or friend present while that parade was being conducted. He made no objections and made no request." He selected eight Indian men of similar features, build as Chandree. His eyes were not swollen, nor were they puffed up. The

men he placed in a secluded spot at the back of the San Fernando police compound away from the public and from the witnesses to be called. He placed policemen to see that his instructions were carried out. He prepared a room on the southwestern corner of the building. The room had two doors, one on the eastern side and the other on the southern side. He used one as an entrance and the next as an exit. There were one or two windows of glass and wood. The windows he secured by means of mattresses and wood to prevent any external communication by sight during the course of the parade.

He took the eight Indian men together with No.1 Accused. He told the Accused that he should look at the faces of the men and see if he knew any of them. Further, he had the right to object to anyone of them. He did not so object. "I pointed out to him that he was wearing a brown jersey with short sleeves, and a long brown pants with stripes, and black shoes, and that the other men wore similar clothing, with the exception of one or two that wore brown jerseys with long sleeves, which I made them roll up to the length of the Accused's sleeves."

He instructed the men to form a line facing east. He told the Accused it was his privilege to take up any position he wished. The Accused went to position No.1. "I told him that he could change his clothing with any of the men. He did not change. At this stage I began to take notes, names and addresses of persons on the parade, on the prescribed form."

He called the name, "Arjoon". He heard it repeated by relays by other policemen, and then Arjoon came. He closed the door and he made Arjoon repeat what he said happened on the 24th May. He did that and, at the invitation of the Inspector, Arjoon began walking up the line from No.9. As he got in front of No.1 Accused he said, "Inspector, this was one of the men who was there at the shooting of the Corporal that morning." I asked him whom he referred to, and instructed him to touch the man about whom he was speaking.

He rested his hand on the shoulder of No.1 Accused and said, "This is the man."

Well he disposed of Arjoon, and then Mr. Stephenson was called, and Stephenson was invited to inspect the parade. Then coming up to No.1 Accused he said after a little while, "Inspector, this is the man who drove the car and was together with the man who shoot Cpl. Britto in the yard." The Accused said nothing.

For the third time, then, he spoke to No.1 Accused and told him of the various things he could do. Then he called Mr. Fuchoon Dookie, and Dookie, he said, walked up and down three times, and finally he stood in front of the Accused and said, "Inspector, this is the man who drove the car and was with the three gunmen who shoot Cpl. Britto that morning." The Accused said nothing to that. And of course, he cautioned the Accused, and he handed him over afterwards to Supt. Clarke.

Now he was cross-examined by Counsel for No.1 Accused. Members of the Jury, the whole purpose of Counsel's cross-examination, as I saw it, was to indicate to you that the face of Accused No.1 was swollen and, as I say, was puffed up, and because of that he was conspicuous, standing out among the other people whose faces were neither swollen nor were puffed up.

Members of the Jury, it is for you to say what conclusion you are coming to. You bear in mind that Mr. Khan, who had seen the accused very soon after he gave his statement, he, too, said there was nothing wrong with his face, and it is for you to ask yourselves, Members of the Jury, there has been no real criticism of the way in which Inspector Murrain conducted this parade. All that was put to him by Counsel for No.1 Accused, of course, is that his eyes were puffed up. He has denied that.

Now it is for you to say what weight you are going to give to Murrain's evidence. It is true, Members of the Jury, that you have Puchoon saying one thing in the Magistrate's Court, and another thing here about this identification parade; but even if you obliterate

Puchoon altogether, is there anything in the manner in which Inspector Murrain conducted this identification parade to make you feel uncertain of his ability and his honesty in carrying out this parade? Nothing has been suggested to him at all.

So again you have to decide what value you are putting on Murrain's evidence. He has told you No.1 Accused was identified and identified positively by these three men, that is to say, by Stephenson, Arjoon, who was not called as a witness in this case. and Puchoon. He has told you that. What are you going to do about it? What value are you going to give it? Does it mean that because he may not be able to rely on Puchoon's evidence on one particular aspect of the case that you are going to say that Inspector Murrain did not carry out that parade properly? It may very well be, as Counsel for No.3 Accused said, that Puchoon is making a genuine mistake. Those are all things that you have to determine as judges of the facts in this case.

Now let us look briefly at the parade conducted by Inspector King. He conducted the parade on the 11th September, 1974, and in that parade No.2 Accused was put up for identification. Now you remember, Members of the Jury, that No.2 Accused had been injured in his eye and he had, at least when they took him from the hospital, he had a bandage around his head and his eye. Inspector King, in order, in his way at any rate, to see that there was no question of the accused being outstanding in this parade, he put an eye pad with plaster on the eyes of the other men in the parade.

Now Counsel for No.2 Accused, yesterday I think it was, in his address put it to you, and it is a matter for you to consider, that the eye-patch and strips put on No.2 Accused were done by professional people at the hospital in San Fernando, whereas Inspector King himself was the person who was responsible for the putting on of these eye-pads and the bandage and, in those circumstances, the eye-pads and the strips of plaster on the eye of No.2 Accused would stand out because of its being put there by professional people, and

for another thing, because it had been there for some time before these new ones were put on.

Now, Members of the Jury, if you are of the view, if you feel any doubt about the complete impartiality of the identification parade, its complete fairness to the Accused, it is a matter for you; but it would seem to me that you will have to put these identification parades out of your mind if you think that anything was done in order to make - I don't say deliberately, and I don't think Counsel is suggesting deliberately either - but if anything happened that makes the suspect stand out, I suggest, Members of the Jury, but it is matter for you, that you reject the evidence of that identification parade. It would be a risky thing for you, Members of the Jury, to accept that evidence if you find that there is a possibility of their being any untoward or any unfair thing to the suspect in question.

TAKE V FOLLOWS .....

Mind you, nobody is suggesting, and it has not been suggested that there is anything deliberately improper. It might be carelessness. It might be negligence. It might be indifference. Nobody is suggesting that the Police in the Identification Parade did anything improper. But that is not necessarily the end of the matter. Things may have happened not planned for, that would attract the suspected person to the person identifying, as what Counsel in this case for No. 2 accused suggested. That here you have an eye pad with pieces of plaster which were put there by skilled persons, people trained to do those things, nurses and doctors. Whereas the others were by a police officer, and in those circumstances, there is the possibility that he might have been more outstanding than had all of them gone to the doctor and got patches on their eyes. If you feel there is any chance on his being easily outstanding, well you will deal with the Identification Parade accordingly.

The same thing with the evidence of, I believe, Inspector Chesterfield Small. He was the person who carried out the Identification Parade of No. 3 accused. Now he too, had a problem. Because No. 3 accused had a bad toe of some sort or the other and it was bandaged, and Inspector Small was faced with the position of having to put bandages on the feet of the other men in the parade.

Now if you find, and according to Inspector Small's evidence, he did not find that there was anything outstanding in the appearance of No. 3 accused, But it is for you to remember again in the case of No. 3 accused, that his foot was attended to by the Doctor, where bandages were put on by the police themselves. It is for you to say, Members of the Jury, You have heard the evidence. It would be virtually impossible for me to go into every aspect of it. But you have heard the evidence. It is for you to say whether there is anything in the evidence of Inspector Small to indicate to you that there was some unfair dealings with No. 3 accused when he was picked out by the witness who was called. So Members of the Jury, that is as far as the



Now, I said that was the traditional definition of murder. It is couched in most antique language which I will have to translate to you as best I can.

The first phrase is where a person of sound memory and discretion. Well all of us are presumed to be of sound memory and discretion. We are all sane people until we are proved insane, and so long as we are under, before we become a Republic, up to then we are all under the Queen's Peace up to that stage. So that would satisfy one of the several parts of the definition.

Now the killing must be unlawful. That is to say, the killing must be without any just cause or lawful excuse. There ~~is~~ <sup>is</sup> no suggestion in this case at all that there is a possibility of killing being anything else but unlawful. Now the person who is killed has to be what the law calls a reasonable person in being. Again, all of us are reasonable persons in being, and certainly Corporal Britto who was the person killed was no exception.

Now the intent in cases of murder has to be with malice aforethought, implied or expressed. All that means, Members of the Jury, is that the person who does the killing must intend to kill or to do really serious bodily harm, and it does not seem to me to be a shadow of a doubt in this case. It is a matter entirely for you, that whoever killed Corporal Britto, intended to kill him or to do him really serious bodily harm, and therefore that is the ingredient and malice aforethought seems to me to be satisfied.

Finally, the death must follow within a year and a day. Well the evidence of Dr. Razack is that Corporal Britto's death was instantaneous. So it seems to me, and I don't think you can have any doubt at all, that Corporal Britto was murdered, and murdered in a most brutal fashion.

Now the next point is this, Members of the Jury, bear in mind what I tell you about the law relating to this kind of murder. If you find there is evidence of what is called in the law as common design or purpose on the part of these three accused together with another person to carry out a robbery and to use arms in order to

perpetrate that robbery, and in the course of that robbery which was planned by all of them, as in this case Corporal Britto was killed, they are all guilty of murder. It does not make any difference whether the man who shot Corporal Britto is here with us or not, and the evidence is that he is not here with us. You follow what I mean.

Now that is the second thing I want you to bear in mind. The third thing is this, and most important of all, Members of the Jury, the accused are charged jointly with this other man who is not here. That is Rudy John. But you have to consider the evidence of each one of them separately. You have to take No. 1 accused's case and ask yourself what it is the Crown is saying that he has done

In the case of No. 1, that he was the signal man on the morning in question, to signal the other ones on, and he was the driver of the get-a-way car. The Crown has asked you to say, if you accept his statement, that he was a party to the planning and the execution of the robbery. And if you so find, and you must find that Corporal Britto was killed in the circumstances described by the Crown, it would be your firm duty, however unpleasant it may be, to convict No. 1 accused.

Similarly in the case of No. 2 accused. If you accept that what the Crown has set out as their case, and that he was armed with a gun and he pushed down this door, went inside, took the money and went away with it, and Corporal Britto was shot in the course of that operation, again it does not make any difference whether he shot or not, he would be equally guilty.

The same thing with No. 3 accused. If you are satisfied that he accompanied them and that he had a gun and held this gun at the Faymaster, it would not make any difference whether he pulled the trigger of the double barrel gun or not, he would be equally guilty. And then, Members of the Jury, there is this. The statement alleged to have been given by these three accused. And to each aspect of the matter you have to give your very serious and earnest consideration. And if you remember what I said earlier. If you find that these

statements were given voluntarily without any pressure or trickery if you find that is so, then Mr. Foreman and Members of the Jury, without any other evidence in this case at all whatsoever, there is sufficient evidence on which you can convict the accused for the offence with which they have been charged; So you will think on those things.

Now lastly, Members of the Jury, I have now to put in detail the defence and it should not be long. We have had a very long session indeed, and in about another half an hour or so, I hope that everything will be over so far as inside this Court is concerned. What you do outside is something else. First of all, I want to read the statement given from the dock by No. 1 accused. It is not very long, and it is his defence in this case.

Members of the Jury, there is no responsibility on the accused to prove his innocence. He has elected to give a statement from the dock. It is now part of the evidence in this case. It is part of the evidence that you will have to take together with the other evidence which you are reviewing, in coming to your decision. There is absolutely no responsibility on him to prove his innocence. If what he has said here either convinces you that he had nothing to do with this offence or what he said leaves you in some doubt on the totality of the evidence as to his guilt or not, you will resolve that doubt in his favour.

He tells you that "his name is Peter Chandree and that he lives at Delhi Road, Fyzabad, that on the 25th June, 1974, he was in his parents' home relaxing in a hammock and he heard a car horn. He looked around and he saw a car in front of the house and he heard his name being called, "Peter; Peter;" He then walked towards the car and on reaching about 10 feet to the car he was ordered to stop there where he was. On doing so he was then "sticked up" that is his language, by two armed men. "I was placed" he said, "in the back seat of the car, then one man sat on the right

side and the other on his left. There were two other persons in the front seat of the car. I asked them what this is all about. One of them replied that they want me. I asked for what, I was ordered to shut my mouth. I was then taken to Fyzabad Police Station, there two of the men went into the Station while the other two kept me in the car. The other two went into the Station, came back in the car about four to five minutes afterwards and the other two who went into the same Station came in the car four to five minutes also. I was then taken to the San Fernando C.I.D. where I was placed in a room. That room had a number of black boxes." He was then hand-cuffed, both of his hands were handcuffed to two separate boxes. "I was then asked about a number of crimes. I told them that I don't know anything about what you all talking about. Then one of the men told me that I am only pretending that I don't know anything about what they are talking. I then told them no, I am not pretending. Then the same man told me if I don't want to talk the easy way that I would have to talk the hard way. At that stage I was burnt with a lighted cigarette on the left side of my mouth and they began beating me. This beating went on regularly through the night of the 25th of June. I was also beaten on the morning of the 26th June by Baksh and others to sign two pieces of yellow paper. I told them if the beating stopped I would sign them. The beating was stopped, two yellow pieces of paper and a pen was handed to me and I did sign them. After signing them a book was shown to me to write something from the book on the paper and I did so. After signing these papers the rest of the men left the room, Baksh remained in the room together with me and after sometime there was a knocking on the door, Baksh opened the door, two men came into the room who was earlier on in the room beating me and the other identified himself as a Justice of the Peace. I was asked by the Justice of the Peace if the signatures were mine I told him yes. He also asked me if I gave that statement, I told him no. I then showed him the burn I got on my mouth and face where I was beaten during the night of the 25th and the morning of the 26th. I also showed

him all over by body where I was beaten by these men. He then wrote something on the paper and gave the man who had come in the room together with him and I was not allowed to read or see on the paper. After handing the man the paper, the both of them left the room leaving Baksh in the room with me. Sometime after the 27th of June I was placed in a dark room, and on the morning of the 28th I did show one Michael Lewis all over my body where I was beaten by the police on the night of the 25th and 26th June. I have been standing trial here concerning one policeman which I knows nothing about."

Now Members of the Jury, let me stop there for a moment.

This is what he said. "On the 25th of May I was nowhere around the Rio Claro district, I cannot remember where I was on that day, but sure I was nowhere around Rio Claro district. That is all".

Now, he says he knows nothing about it. That he says on the 25th of May he was not in Rio Claro district, that is the thing I have here and I believe that is what he did say. Now I think that what he was saying was, he did not mean the 25th of May, he is not charged for anything on the 25th of May, he is charged for the 24th of May. So that, Members of the Jury, it is a matter for you, that you can take that as a genuine mistake on his part when he referred to the 25th of May. The day that he was setting up his alibi for is the 24th, even though he said the 25th. It would not make sense otherwise. What is the point setting up an alibi for a day on which you are not accused of anything. Even though he did say the 25th he means to tell you he was nowhere in the Rio Claro district on the 24th of May.

Now, Members of the Jury, that is his statement from the dock and it is evidence in the case. Now what he is doing among other things is this. He has now - so far as the Justice of the Peace is concerned - told you in his statement, that the Justice of the Peace it's no use using any fine language about that - is a liar, that

Mr. Khan came here from San Fernando and deliberately lied in that witness box. You remember what Mr. Khan said, that he read over the statement to him, he asked him if he was beaten, he said no. If any pressure was brought to bear on him, he said no, and that Mr. Khan read the statement to him and he put the certificate. That is what the accused is saying in his evidence. "Mr. Khan then asked me if I gave that statement, I told him No. I then showed him." This is what he is putting at the feet of Mr. Khan. "I then showed him the burn on the left side of my mouth and my face where I was beaten the night of the 25th and the morning of the 26th. I also showed him all over my body where I was beaten by those men". Mr. Khan said nothing of the kind transpired at all. He did not see this man with any kind of injuries whatsoever. In fact, he told you, Members of the Jury, that his face was in the same condition on the day that he gave the statement as it is now, apart from the fact that he now has hair on his face.

Now, this is a very serious accusation against the Justice of the Peace. What is more, even a more serious accusation from this point of view; because it means now, not only the police conspired among themselves to get this accused in trouble, but Mr. Khan, who has nothing to do with the Police Force, and is an officer of this Supreme Court, that he has been roped into this magnificent conspiracy in order to get the No. 1 accused in trouble. There is nothing short of that. There is no half way house in this business at all. What No. 1 accused is saying is Mr. Khan is a liar, when he said that nothing was wrong with him in the box. That is for you to decide, Members of the Jury.

It is true that there is no responsibility on him to say a single word, but he did say this, and in saying this he has implicated a public officer in the alleged overall conspiracy by the police in this case.

So Mr. Foreman and Members of the Jury, it seems to me, is a matter for you, that you look at that piece of evidence very carefully

Mr. Khan is saying there is nothing wrong with this man at all. Because he is saying, not only was something wrong with me, I had my burnt face, I had bruises all over my body, and I showed them to Mr. Khan the Justice of the Peace.

It is a matter for you to decide what you are going to do about that aspect. The other aspect of the defence, Members of the Jury, is what I already referred to. He is saying here he gave no statement at all. The police wrote this statement to him and he was forced to sign it by the application of this severe beating which he showed Mr. Khan which Mr. Khan did not see.

If you find that the statement was written by the Police and he had nothing to do with it, well this is the end of the matter, and a matter entirely in your hands. On the other hand, if you find, Mr. Khan himself told you that it was done and he read it over to him, he asked him if he signed it, he asked him if there was any pressure, he said no. If you find Mr. Khan is correct, that you have evidence that the statement is a free and voluntary statement, you can act on that evidence.

Anyhow, Members of the Jury, he calls as his witness, Michael Lewis. Now Lewis gave evidence to this effect, that on the 28th of June he saw Peter Chandree at the San Fernando Police cells. He was placed there because he was due to appear in La Brea. On the night of 27th he saw when the No. 1 accused was placed in the cell, between half past seven to eight. Later in the night he appeared to be intoxicated. He spoke incoherently. It was during this time that one of the other occupants of the cell whispered to him Lewis, that the new-comer to the cell was, "our own Peter". What he meant by that He said it was Peter Chandree of Fyzabad. He then left where he was on the bunk and he went over where Peter was. He saw on his face swelling over his eyes and marks on the left side of his mouth. He asked him what happened, he told him that he was beaten by the Police in connection with murder. "I tried to converse with him further, but he said that all he wanted to do was sleep. He appeared to me to be high, like if he was drinking rum. On the following morning after

Peter had taken off his jersey, I observed several marks on his body. He told me those marks he got after he had been beaten by the police. He left that morning when the Police came to carry him over to the Court. I left/that morning to be taken to the Court at La Brea  
later

He was cross-examined by Counsel for the Crown on a number of charges which are now preferred against him; they were put to him and he admitted all of them. He also admitted having been convicted of assaulting and beating the Police. He said that he did not dislike policemen, but he did not like the things that they do.

So what he is saying, Members of the Jury, is that despite the fact that he had a couple of convictions for assaulting and beating the Police, and despite the fact that he was on these numerous occasions that he was a witness that you ought to believe. Well if you believe him, that is you accept what he said, it means that you have evidence that will support No. 1 accused in his statement that he was beaten on this occasion, and you must also bear in mind, Members of the Jury, that it may seem odd to you that No. 1 accused is willing to show his beaten and battered body to a person who cannot help him at all, a fellow inmate like himself; and if Mr. Khan is to be believed, a person who is in a position to help him, he did not show it to him, and there are matters all for you to decide.

.....  
TAKE VI FOLLOWS.....

Now, then, No. 2 Accused, he also gave a statement from the dock (as indeed did No. 3). Now, briefly, what No. 2 Accused said is that on the 24th of August, 1974 he was returning from seeing some friends, and on reaching the Premier Consolidated Cilfield gate, about 45 yards from the gate, he heard "a gunshot blast on the side of me, which had hit me on my leg." He fell down, got up, and his left side seemed to be paralysed. He then heard another gunshot blast, which hit him at the back of his head. Apparently, he said then he was unconscious.

Sometime afterwards he felt as though he was being lifted and placed into a car. The car drove off. All that time he didn't know what was happening, but he was feeling pain in his head and in his leg. Sometime afterwards, a little while, he was taken out of the car; placed on his back on the ground. While there he heard a number of voices. After that he was being kicked on his leg, ribs and abdomen by some people. He then heard that they were police "because they were asking me about certain people who were on the Wanted List."

"After that pressure was applied to me, they then picked me up and put me back in the car, which drove off." He did not know where he was being taken, but on reaching the destination everything went blank. Sometime afterwards he found himself lying on a bed. He observed some people dressed in pink and white clothes. "Sometime afterward I noticed that I was being attended to by these people, to whom afterward I tried to speak, but my tongue was a bit heavy. I didn't understand that this was the hospital. Everything seemed to be a dream. I could not have eaten the meals which they used to give me. All that time I received, or was receiving injections.

"Then one day a gentleman whom I had known for sometime took me over to a place where I was told was the C.I.D., San Fernando. I was then being taken into a room which had some boxes. I was then being told to make myself comfortable on one of the boxes. At the time I was feeling very weak. Then after some men came in plain

clothes, whom I believed were police. They then started to fill around the room, opening the boxes and taking out papers. They left closed the door. I was left alone.

Sometime afterward ASP Bobb came into that room. He asked me how I was feeling. I told him I wasn't feeling well at all. He then told me to cool it, and that everything is going to be all right, because they were going to help me. He then told me that a gentleman have to speak to me, and whenever he comes 'you are going to tell him about the incident which took place at P.C.O. gate.' He said that.

"Sometime afterwards, a day or two, I saw the gentleman whom he had told me about. He came into the room with four other policemen. He then told me that he wanted to know about the killing of one policeman, who I was later told was Andrew Britto. I then told him that 'I do not know anything about no killing, or no Britto.' The other four men started using all sorts of remarks concerning all sorts of crimes, that I had known about these crimes. I then told Mr. Clarke that 'I don't know anything about these crimes.' He then told me: 'All right, you just sign here, these documents, and everything is going to be all right, because we don't want to go any further with what we were talking about.' (That is to say, those crimes.)

"He then told me that 'these documents which we have fixed is concerning the incident', where I got shot. He then told me: 'Don't be afraid, everything is going to be all right, all right.' I then signed my name. He then told me I am going to be a witness for the Crown. He turned his back and left, and got up.

"Thank you. That's all."

/COURT ADJOURNED FOR LUNCHEON INTERVAL  
AT 12.05 P.M./

/COURT RESUMED AT 1.35 P.M./

Now, Mr. Foreman, Lady and Gentlemen of the Jury, at the adjournment we were dealing with the statement from the dock given by No. 2 Accused. He is the accused, Mr. Foreman and Members of the Jury, who, if you would bear in mind, said that he was induced by a trick to sign the document which has been put in evidence and which is his statement. So, in considering his defence, Members of the Jury, you will have to give thought, serious thought to what he said.

Now, specifically, he has not set up an alibi - like for example set up by another accused. All he has dealt with in his defence - and indeed he need not have dealt with anything at all - is the circumstances under which he was persuaded to sign the documents, as he called them. Now, if you feel, as I said before, that he was tricked and fooled into signing this, what you may call highly incriminating document, or if you are not sure that he gave the statement, gave it voluntarily and freely, if you feel that way, you will have to resolve any such unsureness, or uncertainty in his favour. He has not, as I say, specifically said that he was not there. Perhaps you may wish, Members of the Jury, to say that by implication, by natural implication that is what he is saying: that he was not there; he knows nothing about this matter at all.

But let me tell you, generally, Members of the Jury, how you deal with alibis. Perhaps I may best start by telling you that an alibi is an excellent defence: because we haven't got to the stage yet when we can be in two places at the same time. So, therefore, Members of the Jury, when you come to look at the alibi aspect of the defences, what you have to say to yourselves is this: if you accept the alibis, that is to say, that the accused were not there at the material time, you will have to acquit them. Secondly, if you, on the overall view of the evidence, if you are not sure whether they were there or not, again, you will have to acquit them. It is only

when, Members of the Jury, you are made to feel sure that they were there that you can reject their alibis. But even if you reject the alibis, even if you say you don't believe them at all, then you have to go back to the Crown's case and ask yourselves: has the Prosecution made you feel sure about the guilt of the accused. At that stage, if you are made to feel sure, then it will be your firm duty to convict the accused.

We turn now, Members of the Jury, to the evidence given on oath in the witness box by Lincoln Noreiga, No. 3 Accused. All this is what he said: his real name is David Noreiga. As far as is concerned, 'Lincoln' is an alias. He lives, he said, at Gowerswell Road, Fyzabad. And he told you that he was born on the 31st of January, 1957.

He remembers, he said, the 11th of September, 1974. He was at home with his mother. Between half-past 4 and 5 in the afternoon, he was arrested by a number of policemen and soldiers at his mother's house. On their arrival, one of them told him that "he had a warrant for me in connection with robbery and murder that took place at Tabaquite, in the Ministry of Works' yard on the 24th of May, 1974."

He continued, Members of the Jury, to say that he made an attempt to tell that police officer where he was that day and "he told me that he did not want to hear anything from me because he was sent with a warrant to arrest me." He was then ordered into a car and taken to Siparia Police Station. The policemen and soldiers were armed - and these are his own words: "with SLRs, SMGs, and revolvers." I gathered that 'SLR' means 'self-loading rifle', and 'SMG' means 'sub-machine gun', and a revolver obviously is a revolver.

He was placed in a cell at the Police Station, Siparia immediately. There he slept the night. The next morning he was escorted by three armed policemen to the C.I.D. Office, Siparia. He was handcuffed. They took him into a room where he saw three

other men who began asking him about some men and "how it is I got my foot injured." He knew one of the men, and he told him: "It's a long time now I haven't seen that man, Rudy John."

"Then," his evidence goes on, "Inspector Franklin came into the room with a number of papers in his hand. He brought papers to me and told me sign my name on those papers." The accused took the papers and began reading one of them before attempting to sign them. Inspector Franklin then told him that "he did not give me the papers to read, only to sign my name." He then told the Inspector "I have already seen my name on that paper." The Inspector then said that he wanted him, Noreiga, to sign the name for himself. Noreiga told him: "I am not signing anything if I do not know what I am signing. (Which seems to be a very reasonable thing to do in this day and age, not to sign something when you don't know what the contents are. We have heard from another accused that he was willing, having been tricked, to sign papers the contents of which he didn't know, because, of course, there were things in that document which were in his interest. Those are matters for you.)"

And then Inspector Franklin began mashing his sick foot, saying: "Sign here, sign here." It was at this stage that Mr. Clarke entered the room. He told you, Members of the Jury, that he felt pain (as indeed one would expect he would). And then Inspector Franklin went to Clarke and they had a small conference. Clarke came to him and said that "I was to sign." He was to sign both papers. He told Clarke "no." "Clarke then said if I knew what is good for me I had better sign both papers." And then, again he started jumping on his sick foot. The accused said he began to bawl.

Inspector Franklin, at that stage, then pulled a gun out his pocket and pointed to his head and said: "Sign here," or else "he would put a shot in my head and throw me through the window and then he would say I was trying to escape and was shot. The way Inspector Franklin was getting on," the accused went on, "and trembling, he, the accused, became afraid and he signed both papers."

Then, his statement goes on, one of the men, a Sergeant Richards got a book and showed him somethin to write on every sheet of those papers. He wrote it. "Then Inspector Franklin told me in a while a Justice of the Peace would be coming and he would ask me if I gave those statements of my own free will, and if they were correct and true. I was to tell him 'yes' or when the J.P. left I would still get shot. And when the J.P. came I told him just what Inspector Franklin told me to say.

He told the police his age. His feet, he said, were under the table. He, himself put his feet there so that he would not get them injured. The Justice of the Peace was opposite to him, across the table.

And then he refers to his identification parade. And he said that at that parade Dookie told the police that "this is the man who shot Corporal Britto."

And then he sets up his alibi. What he said in connection with that alibi was this: "On the 24th of May I was at the La Brea Magistrates' Court within the hours of 8 to 12 noon. I was there to listen to a case when Lewis" (his witness) "and one Alexander were charged jointly. The case was adjourned." He spoke to Lewis and Lewis spoke to him.

He went on, Members of the Jury, to say that he has never had a beard on his face in his life. He has never shaven, neither has he had any hair cut off his head.

Now, Members of the Jury, that was his evidence-in-chief from the witness box. There are two aspects of his evidence which you will consider, if you wish. The first aspect is with respect to the statement: he did not give that statement; it was not his statement; it was prepared for him; it was written for him; he knew nothing about it. He signed it under the pressure of pain. He signed it and he told the Justice of the Peace he signed it and he gave it voluntarily, because he feared that there would be an additional supply of the pain when the Justice of the Peace left.

Members of the Jury, if you believe what he says, or if what he has said with respect to the statement leaves you in some doubt as to whether he gave that statement, it would be your duty to reject the statement. It is only, Members of the Jury, when you feel sure, so far as his statement is concerned, that he gave the statement and that he was under no pressure whatsoever to give that statement, that you can entertain the thought of examining the statement.

Now, that's one aspect of his defence. The second is his alibi: he was not there; he was elsewhere. I have already told you how to deal with an alibi: if you accept it, you acquit him; if you are in some doubt as to whether his alibi is correct or not, again, you acquit him. Even if you reject his alibi, you go back to the case for the Crown and ask yourselves whether the Crown has made you feel sure of the guilt of the accused.

Now, then, he was cross-examined; and these were his answers in cross-examination: "My right foot was stuck by a fork in the garden. That foot was stamped upon by Inspector Franklin the following day. I saw Clarke on the following day. He also stamped on my foot. The pain lasted while they jumped on it and then it went away. I never complained because I knew nothing about court.

"The J.P. spoke the truth. What Clarke told the Magistrate was a lie. I never asked Clarke any questions in the Magistrates' Court. I did not tell Clarke I lived at Gowerswell Road, Fyzabad. I know No. 1 and No. 2 Accused, and Rudy John. I was not with No. 1 and No. 2 Accused at the La Brea Magistrates' Court. I was not at the pay-yard on the 24th of May, 1974. I know nothing about the shooting of Corporal Britto. I did not give Assistant Superintendent Clarke a written statement."

So even under cross-examination, Mr. Foreman and Members of the Jury, he has adhered to his original story. Now, Members of the Jury, that is part of his defence.

And now, Members of the Jury, he is supported in his alibi by the same person (I don't think I am making any mistake about this at all), who gave evidence on behalf of No. 1 Accused; evidence to the effect that he, Mr. Michael Lewis, was shown evidences of the beating that No. 1 received. And now, you have Mr. Michael Lewis at La Brea on the 24th of May - the same person - supporting this alibi.

Now, these would be matters for you when you sit down in your room to assess the value of this evidence. It is true that Lewis, in his answers to Counsel for the Crown, admitted all the charges; it is true that he admitted one or two convictions; nevertheless, Lewis is asking you to regard him as a witness of truth. You may think that he is a bit ubiquitous; that is to say that he finds himself in spots at times to support evidence of two different accused. You may think that; but it depends what view you take of his ubiquity. Those are matters entirely in your hands. It is for you - you saw him here; you heard him give his evidence, and it is for you to decide whether his evidence can be believed in support of No. 3's alibi.

He told you that he was a prisoner on remand. And he knows the accused, No. 3, who comes from Fyzabad. On the 24th of May, that is the day that Corporal Britto was killed, he was at La Brea. He arrived at the La Brea Magistrates' Court between 9 to 10 a.m. He saw No. 3 Accused in the Court. The Court rose a little after 11 a.m. When he, Lewis, left the Court, No. 3 Accused was still in the Court and he, Lewis, spoke to the Accused.

Now, Members of the Jury, again, if you believe Lewis' evidence here, you have to acquit No. 3 Accused. Because what Lewis is saying is that No. 3 Accused was in La Brea at the time that the Crown is saying that he was in the backwoods of Tabaquite. It is humanly impossible for the Accused to be in those two places at the same time. So if you accept what Lewis said in support of

No. 3 Accused, that is the end of the case so far as he is concerned. If you are left in some doubt as to whether or not he was at La Brea, again, that would be the end of the case; because the Crown would not have made you feel sure that he was at Tabaquite assisting in the robbery, and killing of Corporal Britto.

Now, even if you reject it and say to yourselves, we don't believe it, you will still have to ask yourselves, Members of the Jury, whether the Crown has made you feel sure that this accused at the Tabaquite pay-yard, taking part in this robbery and murder. So there you have it, Members of the Jury. That is the defence of No. 3 Accused.

Now, what I would like to say briefly to you about the statements from the dock: if my notes are accurate, it seems to me so far as the identification parades are concerned, that none of these three accused has complained about the irregularity of these parades. That is so. I have read these statements from the beginning to the end, but there is no such suggestion here. That doesn't mean, Members of the Jury, that you don't have to consider the evidence given by the witnesses for the Crown and the cross-examination of those witnesses. On the whole, so far as the identification parades are concerned, you have to feel sure whether they have been criticised by the three accused in their statements and their evidence from the witness box. You have to feel sure that they were conducted properly and regularly.

If you, after looking at all the evidence, you feel any unsureness or any uncertainty about the conduct of those identification parades, you will resolve any such doubt in favour of the accused. Now, that is insofar as the identification parades are concerned.

/TAKE VII FOLIO 3....

Next, Members of the Jury, and at the expense of being boring now, again you have to look at the statements of the Accused. As I said earlier this morning, if you feel that it was the Accused who gave those statements freely and voluntarily, without any pressure of any kind, whether by way of force or by trick, you have evidence before you which, without any corroboration whatsoever, will be sufficient for you to find all three Accused guilty as they are charged.

But I urge you, Members of the Jury, to look very *care fully* at all of the aspects of this case, all of the evidence - perhaps some of it I have not even mentioned, but you perhaps would remember and ask yourselves whether the Crown has made you feel sure about those statements, and that they were free and voluntary; because, you see, as I said earlier, if once you come to the conclusion that those statements were given freely and voluntarily by these Accused, that is the end of the case. But, on the other hand, if you are *left* in any state of doubt as to whether they gave them, or you feel they did not give them, any such doubt or any such feeling will have to operate in favour of the accused.

Finally, Members of the Jury, bear in mind your functions. You are the judges of the facts. You and you alone determine what witnesses you believe and what witnesses you do not believe. You and you alone determine what part of the evidence of each witness you believe and what part you reject.

As I told you earlier, you have heard about the depositions taken in the Magistrate's Court. Now those depositions are not evidence in this Court. What you can use them for is to compare certain aspects brought to your attention of what was said in the Magistrate's Court, as against what was said in this Court. If, Members of the Jury, you feel that so far as the use of the depositions is concerned, if you feel that on material aspects there is

inconsistency between what was said in the Magistrate's Court and what was said here, if you feel that way you can eliminate from your mind that part of the evidence, because it is not reliable evidence.

You have got to feel sure of the guilt of the Accused. You have to feel sure that the Crown have established that guilt. If, at the end of your deliberations, you do not feel sure, you do not feel certain, you will have to acquit the Accused.

Your task is just about to begin. You are supposed to be twelve reasonable persons. In going about your task it may very well be that there will have to be a measure of give and take between the opinions you may form of the evidence. What I would suggest is that when you consort together, keep open minds, hear the other man's point of view while putting your own, and try as far as possible to come to a unanimous verdict. If, of course, the opinions of one or the others are so irreconcilable with those of others and you cannot come to a unanimous verdict, well you will have to so indicate.

This case, Mr. Foreman and Members of the Jury, has lasted, today is fourteen days, the evidence has been long, you have been very patient; what I would like to ask you at this stage is to be a little more patient with yourselves, and examine the evidence as carefully as you can.

Justice is not a one-way street, Mr. Foreman and Members of the Jury. You have not only got to do justice to the Accused in this case; you have to do justice to your Country. You have to analyse the evidence and examine it as minutely as you can. Look at every facet of what has gone on in the last fourteen days and consider maturely and carefully and as best you can, and a true verdict give according to the evidence.

Let me once again thank you for your patience, not only with me but with all of us in this case. Yours is a sacred duty. You are here to judge your fellowmen. It is not to be taken lightly. All I can ask you now with those few injunctions, which I hope you remember is to consider your verdict.

VERDICT: Accused No.1 - Guilty.

Accused No.2 - Guilty.

Accused No.3 - Guilty.

PRISONER No.1 CALLED UPON.

Prisoner No.1 (Peter Chandree): This trial which I am facing here today, I know absolutely knothing about the murder, Sir.

PRISONER No.2 CALLED UPON.

Prisoner No.2 (Dennis Fletcher) remains silent.

PRISONER No.3 CALLED UPON.

Prisoner No.3 (Lincoln Noreiga): I knew from the beginning that : was the verdict of this Court, because the main reason for the Crown moving this case from San Fernando and bringing it to Port-of-Spain is because they are aware that the San Fernando jurors is totally aware of police brutality. They had experience of this on "bloody Tuesday". They knew that Port-of-Spain jurors have no experience of police brutality.

HIS LORDSHIP: So far as No.3 Accused is concerned, Mr. Stewart, he gave evidence that he was born on ...

SENIOR CROWN COUNSEL (Mr. G. Stewart): My Lord, I think I know what you were referring to. In his evidence from the dock a birth certificate was tendered. My Lord, in cases where age plays a part, my submission is age has to be strictly proved. I do not accept, My Lord, a man can tender a birth certificate with respect to himself as to proof of his age. My Lord, if, as in his evidence, he said that he lives with his mother, his mother is available, and from the proper quarter I am sure that that proof or non-proof can be obtained. So far as this Court is concerned, I would submit that that document which was put into evidence by the man himself is not strict proof of his age.

HIS LORDSHIP: That may very well be so, but I have to be certain when I pass the sentence that I am about to pass, that the person upon whom I am passing it was over the age of eighteen years at the time of the commission of the offence. That is my responsibility. He will be remanded for sentence until ....

SENIOR CROWN COUNSEL: My Lord, probably his Counsel may assist in this matter, if he said he could support this document.

DEFENCE COUNSEL (Mr. A. Lawrence): I do not know if the document needs support, My Lord. In the first case the document is admissible, and in the second place, My Lord, his mother is here in Court.

HIS LORDSHIP: I have to be sure. For investigation into his age I am remanding him in custody to the 10th June, 1976. No.3 Accused can be removed from the dock.

(No.3 ACCUSED REMOVED FROM THE DOCK.)

HIS LORDSHIP PASSES SENTENCE OF DEATH ON ACCUSED No.1 and No.2.

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THURSDAY, 10TH JUNE, 1976

Before The Honourable Mr. Justice J.A. Braithwaite.

Appearances: Mr. G. Stewart (Senior Crown Counsel).

Mr. A. Lawrence (Defence Counsel).

PRISONER LINCOLN NOREIGA BEFORE THE COURT.

SENIOR CROWN COUNSEL: My Lord, you will recall this matter was adjourned to today for sentence.

HIS LORDSHIP: Yes.

SENIOR CROWN COUNSEL: I conceive it my duty, My Lord, to assist the Court in determining the age of the Accused who was found guilty of murder. My Lord, I caused certain enquiries to be made in this matter. I have got the mother of the accused here, one Josephine Noreiga, and a Sergeant of Police, Sgt. Davis Douglas, who has known this family for some years. They are here at your disposal, My Lord, for whichever you want to call first, probably the mother, My Lord.

HIS LORDSHIP: Yes.

MRS. JOSEPHINE NOREIGA SWORN ON THE BIBLE.

HIS LORDSHIP: Yes, Mrs. Noreiga.

SENIOR CROWN COUNSEL: Your name is Josephine Noreiga?

MRS. NOREIGA: Yes, Sir.

SENIOR CROWN COUNSEL: Do you know the Accused, Lincoln Noreiga?

MRS. NOREIGA: Yes, Sir, he is my son.

SENIOR CROWN COUNSEL: Has he any other name besides "Lincoln"?

MRS. NOREIGA: David Noreiga.

SENIOR CROWN COUNSEL: How old is he, Mrs. Noreiga.

MRS. NOREIGA: He is nineteen (19) years now.

SENIOR CROWN COUNSEL: And what is his date of birth?

MRS. NOREIGA: He was born on 31st January, 1957.

SENIOR CROWN COUNSEL: I will show you a document, Mrs. Noreiga; at that document, you know what it is?

MRS. NOREIGA: That is his birth paper, Sir.

SENIOR CROWN COUNSEL: When he was born, you gave him the name "David"?

MRS. NOREIGA: When he was born his name "David" was registered.

SENIOR CROWN COUNSEL: But "Lincoln" is a home name?

MRS. NOREIGA: Yes, Sir.

SENIOR CROWN COUNSEL: And he was born on the 31st January, 1957?

MRS. NOREIGA: Yes, Sir.

SENIOR CROWN COUNSEL: And you registered his birth at Fyzabad: he was born at Fyzabad?

MRS. NOREIGA: Yes, Sir.

SENIOR CROWN COUNSEL: That is all, My Lord.

HIS LORDSHIP: Mr. Lawrence, would you like to ask this lady any question?

DEFENCE COUNSEL: No, My Lord, only that I just indicated to my friend that I was the one who produced this document in the first place, and I am very glad for the assistance.

HIS LORDSHIP: Thank you very much. Thank you very much Mrs. Noreiga.

SENIOR CROWN COUNSEL: My Lord, in the face of this evidence it is not necessary to call the Sergeant.

HIS LORDSHIP: That's right.

SENIOR CROWN COUNSEL: Because of this evidence, he would be below eighteen (18) years at the time.

HIS LORDSHIP: It appears to me that at the time when the offence was committed the Accused was under the age of eighteen years. In those circumstances the only thing I can do is to sentence him to be detained during Her Majesty's pleasure.

TRINIDAD AND TOBAGO

## IN THE HIGH COURT OF JUSTICE

No.4 of 1976

PRESIDENT:- The Honourable Justice J. Braithwaite on the 17th, 18th, 19th, 20th, 21st, 24th, 25th, 26th, 27th, 28th and 31st, days of May, 1976, and on the 1st, 2nd, 3rd and 10th days of June, 1976

OUR SOVEREIGN LADY THE QUEEN

AGAINST

1. PETER CHANDREE
2. DENNIS FLETCHER
3. LINCOLN MOREIRA

for

M U R D E R

Mr. Stewart for the Crown  
 Mr. John for No.1.  
 Mr. Guerra for No.2.  
 Mr. Lawrence for No.3.

The Cause was called on-the accused was placed at the Bar-the Act of Indictment was read aloud by the Registrar, to which the accused pleaded not guilty Mr. Stewart joined issue for the Crown-the following Jurors were called and sworn; Trevor Redhead, Boysie Marajh, Heeralal Arjoon, Krishna Balgobin, Clive Kassie, Esau Charles, Cecil Laban, Ethelbert Mc David, Trevor Roberts, Michael Roach, Angela Edwards and Hamilton Stewart. Lucille O'Brien and Margaret Britto were challenged by Mr. John. Pauline Golding Manning, and Irvin Arthur King were challenged by Mr. Guerra. Gerald Alamedez, Donald Fraser and John Mathura were challenged by Mr. Lawrence.

Mr. Stewart stated the Case for the Prosecution, and in support thereof called the following witnesses:- Dennis Thompson, Dr. Clyde Rajack, Kadir Shah, Lionel Stephenson, Puchoon Dookie, Michael Joseph, Cpl. Selwyn Russell, Cpl. Haroun Baksh, Asst. Supv. Peter Richards, Rahamut Khan, Insp. Amelius Murrain, Insp. Melville King, Ag. Insp. David Mc Millan, Retired Insp. Chesterfield Small, Asst. Adolphus Clark and Malcolm O'Brien. Mr. Stewart had sought to put into evidence the deposition of Arnold Fremdass a witness at the Preliminary Inquiry who had since died. Mr. Guerra objected on the ground that the witness was not cross-examined at the Preliminary Inquiry after which Mr. Stewart withdrew the application. Mr. Guerra objected to any reference from the deposition of Arnold Fremdass. He submitted that Mr. Stewart had earlier withdrawn his application to tender the

deposition/...

deposition and it will be very unfair to the accused if any reference is made of it now. Mr. Stewart replied stating that he was confining himself to the rules of evidence and said that it was relevant to the case. His Lordship ruled the evidence admissible. The statements of all three accused were admitted into evidence and read to the jury with parts expunged.

CASE FOR THE CROWN CLOSED

THE ACCUSED were informed of the three courses of defence open to them and elected as follows:

Peter Chandree made a statement from the dock and called one witness - Michael Lewis.

Dennis Fletcher made a statement from the dock and called no witnesses.

CASE FOR PETER CHANDREE AND DENNIS FLETCHER CLOSED

Lincoln Noreiga elected to give evidence on oath and called one witness Michael Lewis.

CASE FOR LINCOLN NOREIGA CLOSED

Mr. John, Mr. Guerra and Mr. Lawrence addressed the Jury. Mr. Stewart replied for the Crown.

His Lordship the Judge then summed up the evidence and stated the Case to the Jury, whereupon the Jury returned a verdict of Guilty in respect of all three accused.

When the prisoners were called upon by the Registrar to state if they had anything to offer why judgment should not be awarded against them, Declared they had not.

Lincoln Noreiga was remanded in custody to 10th June, 1976 for sentence.

His Lordship then pronounced the following sentence: That the prisoners Peter Chandree and Dennis Fletcher should suffer the penalty of death by hanging.

On the 10th June, 1976, His Lordship pronounced the following sentence that the prisoner Lincoln Noreiga be detained at the Royal Gaol during Her Majesty's Pleasure.

Dated the 10th day of June, 1976.

S. Cross,  
Asst. Registrar.

TRINIDAD AND TOBAGO

IN THE COURT OF APPEAL

Criminal Appeal  
Nos. 28, 29 & 35  
of 1976.

PETER CHANDREE )  
DENNIS FLETCHER )  
LINCOLN NOREIGA )

v.

THE STATE

Coram: Sir Isaac E. Hyatali, C.J.  
M.A. Corbin, J.A.  
G.A. Scott, J.A.

~~June~~  
July 15, 1977.

Desmond Allum and Selwyn John - for Peter Chandree.  
T.R. Guerra - for Dennis Fletcher.  
A. Lawrence - for Lincoln Noreiga.  
J.A. Wharton, Q.C. & Oka Seepaul - for the State.

J U D G M E N T

Delivered by Sir Isaac Hyatali, C.J.:

The appellants Peter Chandree, Dennis Fletcher and Lincoln Noreiga, were jointly charged with the murder of Andrew Britto (the deceased) a Corporal of Police. The indictment against them alleged, that acting together with one Rudy John, they murdered the deceased on 24 May 1974 at Tabaquite Road, Rio Claro. Each appellant was found guilty by a jury at the Port-of-Spain Assizes, where the case was entered for trial in pursuance of an order made to that effect by the Attorney General, under s.3(5) of the Criminal Procedure Ordinance Ch. 4 No.3. Chandree and Fletcher were sentenced to death but Noreiga who was under the age of 18 years when the offence was committed was ordered to be detained during Her Majesty's, but now the State's pleasure.

/On 24 May 1974

On 24 May 1974, Kadir Shah, a paymaster attached to the Ministry of Finance, was robbed of \$24,000.00 at the Tabaquite Pay Station at Rio Claro by four bandits, three of whom were armed with shotguns. In the course and furtherance of the robbery, the deceased, who had accompanied Shah to Rio Claro as one of his armed escorts was killed. He was shot twice by one of the bandits and, as he lay helpless on the ground thereafter, the same bandit relieved the deceased of his revolver and shot him through the head with it. The bandits escaped in Shah's car, after compelling him to hand over its ignition keys to one of them.

The case for the prosecution against Chandree, was based on an oral confession made to Cpl. Haroun Baksh on 26 June 1974, a written confession made to Inspector Richards on the same date, and the evidence of two witnesses, Lionel Stephenson and Poochoon Dookie, who pointed out Chandree on 27 June 1974, at an identification parade as one of the bandits referred to; as against Fletcher, it was based on a written confession made to Asst. Supt. Clarke on 10 September 1974, and the evidence of Stephenson and Dookie, who pointed out Fletcher at an identification parade held on 11 September 1974, as another of the said bandits; and as against Noreiga, it was based on a written confession made to A.S.P. Clarke on 12 September 1974, and the evidence of Dookie, who pointed out Noreiga at an identification parade on 13 September 1974, as yet another of the bandits aforesaid.

At the trial no objection was taken to the admissibility of either Chandree's oral or written confession. Following the testimony of witnesses for the prosecution that both confessions were made voluntarily, the learned judge allowed them in evidence and had the written confession read to the jury. In cross examination however, it was suggested by his counsel in relation to the written confessional statement (a) that Chandree made no such statement; (b) that it was fabricated by Inspector Richards; and (c) that he was beaten and forced to affix his signature to it. All these suggestions were denied. In an unsworn statement from the

/dock at the close

dock at the close of the prosecution case, Chandree, inter alia, supported the allegations put in cross-examination to the witnesses for the prosecution.

In the case of Fletcher also, no objection was taken at the trial to the admissibility of his confession. After the prosecution had led evidence to show that it was made voluntarily, the learned judge admitted it in evidence and had it read to the jury, with the exception of the first thirteen lines thereof which he considered prejudicial to Fletcher.

In cross-examination however, it was suggested to, but denied by, Asst. Supt. Clarke, that Fletcher was tricked into signing the confession - the trick alleged being, that Fletcher who was suffering from gun shot injuries to his head at the time of his arrest, was falsely led to believe that he was signing a statement containing his report of the shooting incident in which he was involved.

In his unsworn statement from the dock at the close of the prosecution's case, Fletcher referred to the gun shot injury he had received, his loss of consciousness thereafter, his realisation that he was lying on a bed when he came to, and his transfer thereafter to the police station at San Fernando where he was placed in a room with boxes. While there, he said, the police asked him about the killing of a policeman and other crimes. He denied knowledge of them. Asst. Supt. Clarke then presented some documents to him for his signature, stating that they concerned the incident when he was shot, and that he should not be afraid as everything was going to be all right. He then signed the documents, after which Asst. Supt. Clarke told him, he was going to be a "witness for the Crown".

In Noreiga's case, as well, no objection was taken to the admissibility of his confessional statement. Following the testimony of two prosecution witnesses that it was made voluntarily, the learned judge admitted it in evidence and had it read to the jury, with the exception of the first thirteen lines thereof which he considered prejudicial to Noreiga. It was suggested in cross-examination to, but denied by, Asst. Supt. Clarke, that Noreiga was handed /a prepared statement,

a prepared statement, and that he signed it in consequence of violence applied and threats made to him. In an unsworn statement from the dock Noreiga supported the allegations put to and denied by Asst. Supt. Clarke in cross-examination.

There were inconsistencies in the evidence of both Poochoon and Stephenson which made them unreliable witnesses. The learned judge so advised the jury in his summing up, but he directed them that the confessional statements of each appellant, if given their full weight and value, was sufficient to convict each of them of the murder of the deceased.

Mr. Allum argued five grounds of appeal against the conviction of Chandree. He contended that the trial judge (1) erred in law in failing to conduct "a trial within a trial" to satisfy himself that Chandree's confession was a voluntary one before admitting it in evidence; (2) erred in law in leaving it to the jury to determine whether Chandree's confession was voluntary; (3) misdirected the jury on the evidence, in reference to Chandree's allegations of the violence applied to and injuries sustained by him; (4) summed up unfairly, by urging too strongly and too often, that they need only consider whether the statement was given by Chandree and that that alone, would be a sufficient basis to convict him; and (5) failed to give any guidance to the jury on the proper approach to take in considering Chandree's alibi.

We agree with counsel's submission that the learned judge erred in leaving to the jury the question whether Chandree's confessional statement was voluntary. His direction on this point was based on a statement of the law in R. v Bass (1953) 1 All E.R. 1064, 1066. In delivering the judgment of the Court of Criminal Appeal, Byrne, J. said, inter alia, that the trial judge should firstly direct the jury to apply to their consideration of a statement made by an accused, the principle enunciated by Lord Sumner in Ibrahim v R. (1914) A.C. 599, 609, and secondly, that "if they are not satisfied that it was made voluntarily, they should give it no weight at all and disregard it."

/In Chan Wei-Keung v R.

In Chan Wei-Keung v R. (1967) 1 All E.R. 943 however, the Privy Council did not accept the validity of the second limb of the direction suggested by Byrne, J. and accordingly, did not follow it. Instead the learned Lords thereof expressed their preference for and adopted the dictum of the High Court of Australia, in Basto v R. (1951) 91 C.L.R. 628, 640, in which Dixon, C.J. said, inter alia:

"The jury is not concerned with the admissibility of evidence; that is for the judge, whose ruling is conclusive upon the jury and who for the purpose of making it must decide both the facts and the law for himself, independently of the jury. Once the evidence is admitted the only question for the jury to consider with reference to the evidence so admitted is its probative value or effect. For that purpose it must sometimes be necessary to go over before the jury the same testimony and material as the judge has heard or considered on a voir dire for the purpose of deciding the admissibility of the accused's confessional statements as voluntarily made."

That statement of the law was adopted and applied by the Court of Appeal (Criminal Division) in R. v Ovenell (1968) 1 All E.R. 933, 938 and in R. v Burgess (1968) 2 All E.R. 54 n. In the latter case, Lord Parker speaking for the Court said that -

"the position now is that the admissibility of a confessional statement is a matter for the judge; that it is thereafter unnecessary to leave the same matter to the jury; but that the jury should be told, that what weight they attach to the confession, depends on all the circumstances in which it was taken and that it is their right to give such weight to it as they think fit."

That passage, in our view, neatly summarises in apt language the decision of the Privy Council in Chan Wei-Keung v R. (supra) and for present purposes we respectfully adopt it. The question for consideration nevertheless, is whether the direction complained of was prejudicial to the appellant. The fact is, that it was not. Indeed, it was unduly favourable to him. Counsel, quite rightly, conceded this and in the circumstances it is only necessary for us to repeat the admonition that to direct the jury, that unless they are convinced that a confessional statement is voluntary they must disregard it, is to disregard the principle that "voluntariness is a test of admissibility; not an absolute test of the truth of the statement". (Chan Wei-Keung v R. (supra per Lord Hodson at p. 951).

The complaint that the learned judge summed up to the jury unfairly, because he urged too strongly and too often that if they found that the confessional statement was given by Chandree, it was sufficient to convict him is, in our view, without merit. A trial judge in the impartial and fearless discharge of his responsible functions, is required to have regard not only to the interests of the accused, but also to the interests of the prosecution which represents the community. In perfect fairness to Chandree, the learned judge quite properly pointed out and stressed to the jury, the deficiencies of the evidence of the prosecution witnesses, Poochoon and Stephenson. And in perfect fairness to the prosecution, the learned judge quite properly stressed to the jury, that the unreliability of these two witnesses was no reason to reject the prosecution's case, since the confession of Chandree, if found to be made by him and given its full weight and value, was sufficient to convict him. It is true that the learned judge adverted to both these points in his summing up on more than one occasion, but the fact that he did so, lends no support whatever to the complaint that he summed up unfairly.

The submission that Chandree's defence was inadequately put to the jury was founded on the omission of the learned judge to give in relation to Chandree specifically, the directions which he gave on the alibis set up by Fletcher and Noreiga. It is to be noted however, that after the learned judge told the jury in reference to Chandree, that he had set up an alibi and, in reference to Fletcher, that he had set up a possible alibi, he directed the jury as follows:

"But let me tell you generally members of the jury how you deal with alibis. Perhaps I may start by telling you that an alibi is an excellent defence because we haven't got to the stage yet when we can be in two places at the same time. So therefore when you come to look at the alibi aspect of the defences what you have to say to yourselves is this: if you accept the alibis, that is to say, that the accused were not there at the material time you will have to acquit them. Secondly if you, on the overall view of the evidence, . . . are not sure whether they were there or not you will have to acquit them. It is only when . . . you are made to feel sure that they were

/there that you

"there that you can reject their alibis.  
But even if you reject their alibis. . . .  
you have to go back to the prosecution  
case and ask yourselves: has the prosecution made you feel sure about the guilt of the accused."

In that passage, the learned judge made it abundantly clear, in our judgment, that his directions were general in scope and intent, and that they were applicable to all the alibis set up in the trial. It cannot be maintained with any justification therefore, that the principles set out in those directions, were not applied by the jury to Chandree's alibi, or that the alibi which he set up as his defence, was not adequately put to the jury.

The evidence relating to the alleged violence applied to Chandree, came from his unsworn statement from the dock and his witness Michael Lewis. Rahamut Khan, a Justice of the Peace however, who certified Chandree's confessional statement as a voluntary one, denied the suggestion put to him in cross-examination that Chandree had complained to him of being beaten, or bore signs of being beaten. In dealing with Khan's evidence, the learned judge directed the jury that they had to use their knowledge of their fellow human beings in order to assess the weight of Khan's evidence, and after doing so he proceeded as follows:

"It has been suggested members of the jury, that the accused was afraid to tell Mr. Khan anything about the beating. It is for you to say, Members of the jury, it is a matter entirely in your hands. But here is a man before a person like the Justice of the Peace, the man has been beaten all night and all the morning in order to give a signature, (mind you not the statement) and you find yourself before the Justice of the Peace and you do not tell that Justice of the Peace one word? These are matters entirely in your hands."

Counsel submitted that the learned judge misdirected the jury on a very material issue in the case, since in these directions he assumed and by implication so told the jury, that Khan's testimony was true, and that Chandree's statement from the dock was untrue. We do not agree. When read in their context as they ought to be, the meaning of the learned judge's directions was quite clear. They not only contained salutary advice to the

/jury, to use their

jury, to use their knowledge of human beings to assess the weight of Khan's testimony, but embodied a perfectly proper reminder to them, that in the light of his testimony that no complaint was made to him by Chandree, it was a matter entirely for them whether they believed Chandree's allegation, that he signed the statement under reference, in consequence of the beating he received at the hands of the police.

In reference to Lewis' evidence in support of the violence applied to Chandree, the learned judge said that Chandree did not show Khan any injuries, but picked out Lewis who was in the same cell as Chandree, to show Lewis his "bruised, battered and bleeding body". That description of his injuries was undoubtedly an exaggerated one, because Lewis' evidence was, that he saw some swelling over Chandree's eyes, a mark on the left side of his mouth, and several marks on his body. Chandree himself had said from the dock, that he showed Lewis "all over his body where he was beaten by the Police".

Counsel submitted that the effect of that direction, was to tell the jury to disregard Lewis' testimony, since there was no evidence that Chandree had bared his "bruised and battered body" to Lewis. We are unable to accept that submission. That direction, even though exaggerated in its description of the alleged injuries, was intended to indicate to, and must have been so understood by the jury, that Chandree, (who according to Khan made no complaint to him), had conveniently chosen his cell mate as a witness, to support his story that he was badly beaten all over his body by the Police. In our view, it was a legitimate observation to make in the circumstances.

There remains for consideration the contention that the learned judge was wrong to admit Chandree's confession without first conducting a 'trial within a trial', or a voir dire as it is otherwise called, to satisfy himself that it was a voluntary one. This was a point relied on by all the appellants. The submissions made on it by Mr. Allum were adopted by Mr. Guerra for Fletcher, and Mr. Lawrence for Noreiga. Before dealing with it however, it would

be convenient to

be convenient to consider the other grounds of appeal, argued on behalf of Fletcher and Noreiga.

In reference to Fletcher, the only other ground advanced was that the learned judge erred in directing the jury, to determine whether his confessional statement admitted in evidence was voluntary. This was undoubtedly an error on the part of the learned judge but as already pointed out in the case of Chandree, it was in the circumstances favourable and not prejudicial to Fletcher.

In Noreiga's case, only two complaints fall for consideration, as the others notified in his grounds of appeal were abandoned. They are (1) that his defence was not put adequately to the jury; and (2) that the jury were not directed that in law, a statement made by one accused in the absence of and implicating his co-accused, was not evidence against the latter. In answer to the prosecution's case, Noreiga set up an alibi. The learned judge dealt adequately with it in his directions, but in the course of so doing he referred to the evidence of Lewis in support of the alibi and stated:

"if you believe Lewis' evidence here you have to acquit Noreiga. Because what Lewis is saying is that Noreiga was in La Brea at the time when the Crown is saying that he was in the backwoods of Tabaquite."

Mr. Lawrence submitted that by using the expression "if you believe" in that passage, the learned judge by implication directed the jury that there was a burden placed on Noreiga to persuade the jury to believe his alibi. It is only necessary for us to say, that the mere statement of counsel's proposition, suffices to condemn it as illogical and unsound.

With respect to the other complaint, it is wholly incorrect to say that the learned judge failed to direct the jury that the statement of one accused in the absence of and implicating his co-accused, is not evidence against the latter. The learned judge did so direct the jury, but when this was pointed out to counsel, he replied that his complaint was that the learned judge did not mention that principle often enough in his summing up. In our judgment it was a preposterous complaint and we were left to wonder why it was ever argued or pursued.

/For the validity of

For the validity of his contention that the learned trial judge erred in not holding a trial within a trial to determine the admissibility of Chandree's confessional statement, Mr. Allum relied on these propositions: (1) where no objection is taken to the admissibility of a confessional statement, the trial judge has a duty nevertheless to satisfy himself that the statement was made voluntarily; and that that duty, could only be discharged by conducting a trial within a trial; and (2) where an allegation is made that an accused was beaten and forced to append his signature to a confessional statement which he claims he did not make, the issue of voluntariness is raised thereby, which the trial judge is obliged to determine by holding a trial within a trial.

In support of these propositions he quoted the unreported decision of the Guyana Court of Appeal (Haynes, C., Bollers, C.J. and V. Crane, R.H. Luckhoo and Jhappan, J.J.A.) in the The State v Gobin and The State v Griffith Crim. Appeals Nos. 62 and 86 of 1975, dated 31 March 1976. That decision, it was said, was at variance with R v Charles (1961) 3 W.I.R. 534; R v Farley (1961) 4 W.I.R. 63; (decisions of the former Federal Court of the West Indies); Williams v Ramdeo and Ramdeo (1966) 10 W.I.R. 397; and Dookeran and Herrera v R (1967) 11 W.I.R.1 (decisions of this Court) and in the result we were asked to rule that they were wrongly decided. After reserving our judgment, the unreported decision of the Jamaica Court of Appeal in R v Glenroy Watson Crim. Appeal No. 195/74 dated 24 November 1974 was brought to our notice. As it is relevant to some of the issues raised in this appeal, we have thought it convenient to refer to it at this juncture.

Having regard to the nature of the submissions we think it would be useful to re-state some fundamental principles. It is trite law that in trials by jury, the general rule is that questions of law are for the judge whereas questions of fact are for the jury to determine (Metropolitan Railway Co. v Jackson (1877) L.R.A.C. 193). In jury trials, the duty of a judge presiding thereat is fourfold: first, he must decide all questions respecting the admissibility of evidence; secondly, he must instruct the jury in the rules of law, by which the evidence, when admitted is to be weighed; thirdly, he /must determine, as a

must determine, as a legal question, whether there be any evidence fit to be submitted to the jury for their consideration; and lastly, he must explain and enforce those general principles of law that are applicable to the point at issue. (See Taylor on Evidence (12th Edn.) 23).

The first of those duties constitutes an exception to the general rule formulated above, since facts affecting the admissibility of evidence must be determined by the judge alone. To do otherwise would be equivalent to leaving it to the jury to say whether a particular thing was evidence or not. (See Bartlett v Smith (1843) 11 M. & W. 493). The principle under reference was correctly stated in these terms in Doe d. Jenkins v Davies (1847) 10 Q.B. 314 by Lord Denman at p. 323:

"There are conditions precedent which are required to be fulfilled before evidence is admissible for the jury. . . . .  
The judge alone has to decide whether the condition has been fulfilled. If the proof is by witnesses, he must decide on their credibility. If counter-evidence is offered, he must receive it before he decides; and he has no right to ask the opinion of the jury on the fact of a condition precedent."

(See Cross on Evidence (4th Edn.) 58).

A condition precedent which must be fulfilled before a confession can be admitted in evidence is, that it must be proven beyond a peradventure that it was made voluntarily. The leading authorities and case law on the subject are unanimous in saying, that no confessional statement by an accused is admissible in evidence against him unless it be shown affirmatively on the part of the prosecution that it is free and voluntary, in the sense that it was not obtained from him either by fear of prejudice or hope of advantage exercised or held out by a person in authority or by oppression. (See Judges Rules 1965; R v Harz & Power (1967) 1 All E.R. 177, 182, 185; R v Thompson (1893) 2 Q.B. 12, 15; Ibrahim v R (1914) A.C. 599, 609; and in particular D.P.P. v Ping Lin (1975) 3 All E.R. 175 where the headnote accurately and clearly states the principle, under reference thus:

"Where an objection was raised in criminal proceedings to the admission of an alleged confession by the accused the onus is on the prosecution to satisfy the judge that the statement in question had been made voluntarily by showing that it had not been obtained either by fear of prejudice or hope of advantage excited or held out by a person in authority. The judge had

/to determine the

"to determine the issue as one of fact and causation, i.e. whether the prosecution had proved that the statement had not been made as the result of something said or done by a person in authority."

In Glenroy Watson (supra) J.A. Luckhoo, P. in an illuminating judgment, demonstrated from an analysis of Lakhani v R (1962) E.A. 644; Asare alia Fanti v The State (1964) G.L.R. 70; and Nyardo v The Republic (1974) 1 G.L.R. 206, that the Courts in East Africa and Ghana take the view that where an accused repudiates or denies making a confession attributed to him, it is incumbent on the trial judge to hold a trial within a trial to determine whether the accused had in fact made it. The learned President also referred to the case of R v Mulligan (1955) O.R. 240, in which the Ontario Court of Appeal decided that where objection is taken to the admissibility of a statement, the trial judge had to determine two factors: firstly, whether or not the statement was made; and secondly, if made, whether it was made voluntarily; and further to the case of Campbell v R (1969) 14 W.I.R. 507 in which Fraser, J.A. who delivered the judgment of the Court, rejected the decision in Mulligan's case (supra) and said it was not the Court's view of the law and that the course pursued by West Indian Courts had been different.

The learned President then said in reference to the issue raised that the accused did not make the statement attributed to him, that "once the prosecution adduces evidence that the accused did make the statement, sufficient prima facie proof has been given that he did and a trial within a trial is not to be embarked on." But then he added (and as we said in Knott v The State C.A. 44/75 dated 22 June 1977 we did not see how this could arise) that "if a further issue is raised that the statement was not voluntarily made or given then a trial within a trial should be held on that issue so that the judge could give his ruling thereon.

In his analysis of the decisions of the Court of Appeal of Guyana, the learned President did not examine (presumably because it was not brought to his attention) The State v Ramsinoh (1972) 20 W.I.R. 139. In that case however, the Guyana Court of Appeal took the same view as it did in Fowler's case (supra), but in The State v

Gobin (supra)

Gobin (supra) the said Guyana Court presided over by Haynes, C., took the view that Fowler's case (supra) and Ramsingh's case (supra) were wrongly decided, because in each of them the issue of voluntariness was raised and that reliance was misguidedly placed on Williams v Ramdeo and Ramdeo (supra) and Herrera and Dookeran v R (supra).

In Gobin's case (supra) evidence was given that the accused had made and signed a confessional statement voluntarily, in the sense that no one had held out any threats, promises, or inducements to him. His counsel thereupon, in the presence of the jury, objected to its admissibility on the ground that -

"the statement about to be tendered was not made by the accused or on the instructions of the accused. But due to threats of violence and actual violence he was forced to sign and write on that statement."

The trial judge took the view that the issue raised by the objection was that the accused did not make the statement attributed to him and consequently left it to the jury to determine whether or not he had made it. The learned judge did not consider that any issue as to voluntariness had been raised and so did not hold a trial within a trial to determine its admissibility. The accused was convicted, but on appeal, it was held that the issue of voluntariness was in fact raised by the terms of the objection, and that the learned judge erred in not holding a trial within a trial to determine it.

In the course of an instructive and learned judgment in which all the relevant authorities were reviewed, Haynes, C. held that where it is alleged that -

"a written [confession] is signed under compulsion . . . . the issue is not merely whether it was made at all; it is whether he was forced by his signature to accept as true and correct a confession he did not make - a clear issue of voluntariness."

In the course of his judgment he supported that conclusion by this statement which Mr. Allum specifically relied on:

"If the confession of an accused in writing must be voluntary then the signature that makes it his must be voluntary also. For when the prosecution puts in a signed statement, what they seek to rely on is not the words of an oral confession spoken to the recording policeman; it is what is adopted as true and correct 'in black and white' by

/the signature.

"the signature. The signature therefore, must not be obtained in violation of the rule as formulated by Lord Sumner over sixty years ago."

At the end of his judgment, the learned Chancellor expressly reserved for future consideration whether it was obligatory for a judge to hold a trial within a trial to determine the admissibility of a confessional statement, where the only objection is limited to the narrow issue that the accused did not make it.

Jhappan, J.A. simply concurred in the judgment of the learned Chancellor, Bollaers, C.J. while adhering to the views he expressed in Ramsingh's case (supra) and Fowler's case (supra) agreed that the issue of voluntariness had in fact been raised by the terms of the objection made on behalf of the accused. V. Crane <sup>and</sup> / R.H. Luckhee, J.J.A., agreed with the conclusion of the learned Chancellor that the issue of voluntariness had been raised and that the appeal should be allowed.

It is clear to us, that the controversy which has developed in the Courts of the West Indies and Guyana, is not one over the principles governing the admissibility of confessions, since all the Courts agree and rightly so, that whenever an issue is raised as to whether or not an accused made a confession voluntarily, it is the duty of the trial judge to determine that issue on the voir dire. The essential point of the controversy, poses the question whether an issue of voluntariness is raised when an accused alleges that he was beaten and forced to append his signature to a statement which he alleges he did not make. It is, in our judgment, a pure question of the interpretation of the objection made.

If the true and correct answer to that question is in the affirmative then the decision in Gobin's case (supra) cannot, in our judgment, be faulted. It is otherwise however, if the answer is in the negative, because if voluntariness is not in issue for the reason that the prosecution's evidence in support of it is not challenged or contested, then there is nothing for the trial judge to determine on the voir dire.

With the utmost respect to the Court of Appeal of Guyana, we find ourselves unable to agree with the proposition that the allegation /of an accused

of an accused that he was forced to append his signature to a confessional statement which he did not make, is tantamount to an allegation that he was forced to accept as true and correct a confessional statement which he did not make. That proposition, in our judgment, is self-contradictory. It is founded, if we may say so with respect, on a strained and illogical construction of the objection which cannot be justified. It is of vital importance to note, that an objection in the terms under reference, does not allege that the accused by duress was forced to say what is contained in the statement; and further, that by duress he was forced to append his signature to what he was forced to say in the statement; but rather he was forced by duress to sign a statement containing facts which were fabricated and of which he is not the author. Accordingly, if his allegations are true, his mind did not go with his signature on the statement nor his signature with its contents. In contemplation of law therefore he did not sign the statement nor accept its contents as his. In other words, whenever an accused alleges that a confessional statement purporting to be his was in fact a fabrication, it is immaterial for the purposes under consideration that he alleges in addition that he was forced to append his signature to it.

The two situations referred to are, in our judgment, fundamentally different from each other. Indeed the first is the antithesis of the second and vice versa. In the first example, the accused was forced to confess and in fact did so; but in the second he never did. This fundamental difference, it seems to us, was not sufficiently appreciated by the Guyana Court of Appeal in Gobin's case (supra). The instant case clearly falls within the second example, and we are therefore unable to agree that the objection under reference, raised the issue of the voluntariness of Chandree's confession. In our judgment, the interpretation placed on the objections made in Williams v Ramdeo and Ramdeo (supra); Dookeran and <sup>Hennra</sup> Harris v R (supra) and Ramsingh v The State (supra) was correct, and the conclusions at which the respective Courts arrived in consequence thereof in those cases, were clearly right.

/The submission that a

The submission that a trial within a trial is required to be held to determine admissibility when the objection is confined to the allegation that the accused did not make the confessional statement attributed to him, conflicts, in our judgment, with the general rule stated in Metropolitan Railway Co. v Jackman (supra) that questions of fact are for the jury to determine. Such an objection does not go to admissibility. It raises a pure question of fact as to whether it was made or not; and for the judge to rule on that question would be tantamount to an unauthorised usurpation of the functions of the jury. The African cases referred to in Watson's case (supra) are in conflict with the general rule referred to and accordingly the principle enunciated in them cannot be accepted. We agree with the opinion expressed by J.A. Luckhoo, P. in Watson's case (supra) that where the prosecution adduces evidence that the accused did ~~not~~ make the statement, sufficient prima facie proof has been given that he did, and a trial within a trial is not to be embarked on. This opinion is in complete accord with R v Farley (supra) and R v Charles (supra) which we hold were rightly decided on this point. Shaw, J.'s dictum in R v Robson (1972) 2 All E.R. 699 at 701 makes the same point in different language. He said:

"It is perhaps worth noticing that if in regard to an alleged confession the question is not whether it is voluntary, but whether it is made at all, that question is solely for the jury's determination. The trial judge has no part to play except to sum the matter up to them."

It was said that Sparks v R (1964) 1 All E.R. 720 supported the case for a determination on the voir dire that a confessional statement was made. We do not agree. In that case, the accused who was too intoxicated to know or remember what he had done the day before, was persuaded to accept that he had committed an indecent assault on a four year old girl. He accordingly signed a statement to that effect to which objection was taken at the trial on the ground that it was not voluntarily made. The same objection was taken to an oral confession made by the accused. The trial judge determined on the voir dire that they were voluntary, and admitted them, but the Privy Council held he was wrong to hold they /were voluntary.

were voluntary. It was not the case of the accused that he never made the statements attributed to him. Rather it was clear that there was a persuasion of his will to make the statements and he yielded to it. For these reasons we reject Mr. Allum's submissions and dismiss Chandree's appeal.

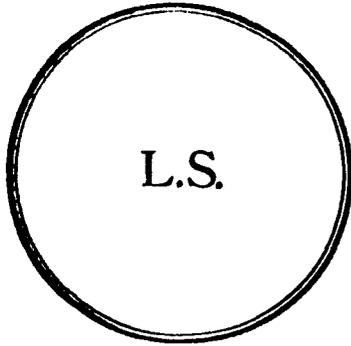
Noreiga's case is the same as Chandree's in relation to the admission of the confessional statement attributed to him. His appeal is therefore dismissed for the reasons we have given.

Fletcher's objection to the confessional statement attributed to him was founded on different grounds. His allegation was that he signed the confessional statement attributed to him in consequence of a false representation made by the Police that it contained his report of a shooting incident in which he was involved. He denied making the statement, and alleged that it was fabricated by the Police. His objections did not raise any issue as to its admissibility and it was rightly left to the jury as questions of fact for their exclusive determination. In the result his appeal is also dismissed.

Isaac E. Hyatali  
Chief Justice

Maurice A. Corbin  
Justice of Appeal

Garvin M. Scott  
Justice of Appeal



## At the Council Chamber Whitehall

The 27th day of March 1980

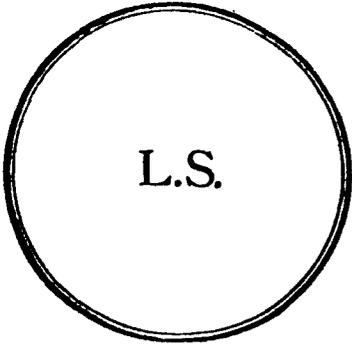
BY THE RIGHT HONOURABLE THE LORDS OF THE JUDICIAL  
COMMITTEE OF THE PRIVY COUNCIL

WHEREAS by virtue of the Trinidad and Tobago Appeals to Judicial Committee Order 1976 there was referred unto this Committee a humble Petition of Peter Chandree in the matter of an Appeal from the Court of Appeal of Trinidad and Tobago between the Petitioner and The State Respondent setting forth that the Petitioner prays for special leave to appeal *in forma pauperis* to the Judicial Committee from a Judgment of the Court of Appeal dated 15th July 1977 which dismissed the Petitioner's Appeal against his conviction at the Port of Spain Assizes of murder: And humbly praying Their Lordships to grant the Petitioner special leave to appeal *in forma pauperis* to the Judicial Committee against the Judgment of the Court of Appeal dated 15th July 1977 or for further or other relief:

THE LORDS OF THE COMMITTEE in obedience to the said Order have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do grant special leave to the Petitioner to enter and prosecute his Appeal *in forma pauperis* against the Judgment of the Court of Appeal of Trinidad and Tobago dated the 15th July 1977.

AND THEIR LORDSHIPS do further order that the proper officer of the said Court of Appeal be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy of the Record proper to be laid before the Judicial Committee on the hearing of the Appeal.

E. R. MILLS,  
*Registrar of the Privy Council.*



## At the Council Chamber Whitehall

The 27th day of March 1980

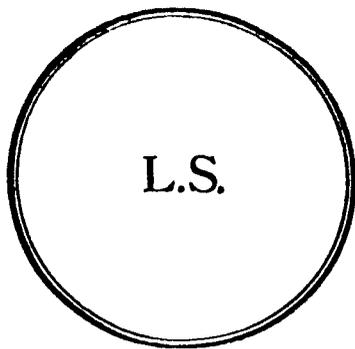
BY THE RIGHT HONOURABLE THE LORDS OF THE JUDICIAL  
COMMITTEE OF THE PRIVY COUNCIL

WHEREAS by virtue of the Trinidad and Tobago Appeals to Judicial Committee Order 1976 there was referred unto this Committee a humble Petition of Dennis Fletcher in the matter of an Appeal from the Court of Appeal of Trinidad and Tobago between the Petitioner and The State Respondent setting forth that the Petitioner prays for special leave to appeal *in forma pauperis* to the Judicial Committee from a Judgment of the Court of Appeal dated 15th July 1977 which dismissed the Petitioner's Appeal against his conviction at the Port of Spain Assizes of murder: And humbly praying Their Lordships to grant the Petitioner special leave to appeal *in forma pauperis* to the Judicial Committee against the Judgment of the Court of Appeal dated 15th July 1977 or for further or other relief:

THE LORDS OF THE COMMITTEE in obedience to the said Order have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do grant special leave to the Petitioner to enter and prosecute his Appeal *in forma pauperis* against the Judgment of the Court of Appeal of Trinidad and Tobago dated the 15th July 1977.

AND THEIR LORDSHIPS do further order that the proper officer of the said Court of Appeal be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy of the Record proper to be laid before the Judicial Committee on the hearing of the Appeal.

E. R. MILLS,  
*Registrar of the Privy Council.*



## At the Council Chamber Whitehall

The 27th day of November 1980

BY THE RIGHT HONOURABLE THE LORDS OF THE JUDICIAL  
COMMITTEE OF THE PRIVY COUNCIL

WHEREAS by virtue of the Trinidad and Tobago Appeals to Judicial Committee Order 1976 there was referred unto this Committee a humble Petition of Lincoln Noreiga in the matter of an Appeal from the Court of Appeal of Trinidad and Tobago between the Petitioner and The State Respondent setting forth that the Petitioner prays for special leave to appeal to the Judicial Committee from a Judgment of the Court of Appeal dated 15th July 1977 which dismissed the Petitioner's Appeal against his conviction at the Port of Spain Assizes of murder: And humbly praying Their Lordships to grant the Petitioner special leave to appeal to the Judicial Committee against the Judgment of the Court of Appeal dated 15th July 1977 or for further or other relief:

THE LORDS OF THE COMMITTEE in obedience to the said Order have taken the humble Petition into consideration and do grant special leave to the Petitioner to enter and prosecute his Appeal against the Judgment of the Court of Appeal of Trinidad and Tobago dated 15th July 1977.

AND THEIR LORDSHIPS do further order that the proper officer of the said Court of Appeal be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy of the Record proper to be laid before the Judicial Committee on the hearing of the Appeal.

E. R. MILLS,  
*Registrar of the Privy Council.*