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34,1950

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UNIVERSITY OF LONDON
No. 39 of 1949. V.C.1.
28MAR1951
INSTITUTE OF ADVANCED
LEGAL STUDIES

In the Privy Council.

ON APPEAL

**FROM THE PORT HARCOURT JUDICIAL DIVISION OF THE
SUPREME COURT OF NIGERIA.**

BETWEEN

**SUNDAY KALA ALAGBA,
ISAAC ENYI NGERI,
SELE ORUAMABO,
SATURDAY KWANI,
JONATHAN GUN,
SUNDAY NABUAYE KIRI,
DIGBANI BAMSON,
URIAH OBIKE KALIO and
AMATAMUNO ORUBOKO**

- - - - - *Appellants*

AND

THE KING - - - - - *Respondent.*

RECORD OF PROCEEDINGS

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KING WILLIAM STREET,
LONDON, E.C.4,
*Solicitor for the Appellants.***

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9 BISHOPSGATE,
LONDON, E.C.2,
*Solicitors for the Respondent.***

In the Privy Council.

ON APPEAL
 FROM THE PORT HARCOURT JUDICIAL DIVISION OF THE SUPREME COURT OF NIGERIA.

UNIVERSITY OF LONDON
 INSTITUTE OF ADVANCED LEGAL STUDIES

17 JUL 1953

INSTITUTE OF ADVANCED
 LEGAL STUDIES

BETWEEN

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 SUNDAY NABUAYE KIRI,
 DIGBANI BAMSON,
 URIAH OBIKE KALIO and
 AMATAMUNO ORUBOKO

Appellants

AND

THE KING

Respondent.

RECORD OF PROCEEDINGS.**INDEX OF REFERENCE**

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In the Privy Council.

ON APPEAL FROM THE PORT HARCOURT JUDICIAL DIVISION OF THE SUPREME COURT OF NIGERIA.

BETWEEN

10 SUNDAY KALA ALAGBA,
ISAAC ENYI NGERI,
SELE ORUAMABO,
SATURDAY KWANI,
JONATHAN GUN,
SUNDAY NABUAYE KIRI,
DIGBANI BAMSON,
URIAH OBIKE KALIO and
AMATAMUNO ORUBOKO

Appellants

AND

THE KING - - -

Respondent.

RECORD OF PROCEEDINGS

20 No. 1.
INFORMATION.

INFORMATION : Statement of Offence.

Murder contrary to section 319 of the Criminal Code.

Particulars of Offence.

Sunday Kala Alagba, Isaac Enyi Ngeri, Sele Oruamabo, Saturday Kwani, Jonathan Gun, Sunday Nabuaye Kiri, Digbani Bamson, Uriah Obike Kalio and Amatamuno Oruboko on or about the 11th day of March, 1949, at Elemiama (Old Shipping) in the Rivers Province murdered Douglas Obene Marian Braide.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

No. 1.
Informa-
tion,
23rd May
1949.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

No. 2.
Pleas,
23rd May
1949.

No. 2.
PLEAS.

PLEAS :	Accd. 1 :	Sunday Kala Alagba	Not Guilty.	
	” 2 :	Isaac Enyi Ngeri	” ”	
	” 3 :	Sele Oruamabo	” ”	
	” 4 :	Saturday Kwani	” ”	
	” 5 :	Jonathan Gun	” ”	
	” 6 :	Sunday Nabuaye Kiri	” ”	
	” 7 :	Digbani Bamson	” ”	
	” 8 :	Uriah Obike Kalio	” ”	10
	” 9 :	Amatamuno Oruboko	” ”	

The names are written down as given by the Accd. themselves. Counsel on both sides say there is no need to amend the Information, Mr. Briggs saying that it is, under the English rule, corrected by the plea.

No. 3.
Mr. Briggs,
Crown
Counsel's
opening
remarks,
23rd May
1949.

No. 3.

Mr. BRIGG'S, CROWN COUNSEL'S OPENING REMARKS.

Mr. BRIGGS, Crown Counsel, opens :

Quotes Dean, C.J., in *R. v. Jonah*, 2 W.A.C.A. 120. Four elements to be proved—

- (A) that a common design was formed—in this case I suggest 20 stealing, though it is not necessary for me to suggest any motive ;
- (B) that in the execution of that design violence was used ;
- (C) as a result of that violence death ensued ; and
- (D) that the persons charged were the persons or some of the persons who took part in the raid.

No. 4.
Evidence
of Simon
Ezievuo
Onwu,
1st witness
for prosecu-
tion,
23rd May
1949.
Examina-
tion.

No. 4.

EVIDENCE of Simon Ezievuo Onwu, 1st Witness for Prosecution.

P.1 SIMON EZIEVUO ONWU : sworn :

Medical Officer i/c at Degema Hospital. On 14.3.49 I held a post mortem and made a note at the time of what I found. The body was 30 identified to me as that of Douglas Obene Marian by Opono Marian, who said he was a brother of deceased.

Externally : the body was that of an adult male of about 36 years of age ; it was stiff and bloated up due to decomposition. I saw two harpoon-like or spear-like instruments sticking out of the body, of which instruments I took possession.

(Tendered ; put in together as Exh. " A ".)

One was sticking out of the inner aspect of the right arm—a little distance from the armpit—the other from the outer aspect of the left forearm—between elbow and wrist. There was a cut wound about 3-in. long on outer aspect of right forearm ; also a slight bruise on left side of neck.
10 The lower lip and the left ear appeared to have been nibbled away *post mortem*, probably by animals or insects.

On internal examination : the mouth, gullet, windpipe, lungs, liver, spleen, stomach, heart, in fact all the internal organs I examined in turn. They all had a pale appearance. The liver and the spleen were reduced in size, and the heart was empty of blood.

I examined by dissection the wounds caused by the spear-heads. In each case the wound penetrated deep into the muscle, about 1½ in. ; around the wounds there was general blackness of the tissues. In case of wound of right arm there was a large area of redness in radius 3-ins. The right
20 brachial artery was completely severed. I formed the opinion that death was due to the severance of this artery caused by the harpoon-like spear.

About that time I attended this woman shown me now for a cut on the head and a deep bruise on the back. I think it was before the post mortem. (The woman gives her name as Dora Ekine Will Braide.)

I also attended this man now shown me, named Hamilton George (this name is given by the man also) for very serious multiple cut-wounds, about the same time.

X-~~ad~~ : I had to dissect these harpoon-heads out of the body ; they were held fast in the body.

30 The man had been dead at least three days before I examined his body. The body was whole, head included, and could have been identified.

The wound in the right arm could have been inflicted in a fight. These harpoon-heads were driven into the arms *ante mortem* as the reaction round the wounds makes certain. There was some slight retraction but the wounds were not gaping.

I treated Dora Will Braide for a long time at the hospital.

I concluded that death was from hæmorrhage because the internal organs were pale. If death is due to anæmia or chronic debilitating
40 conditions, organs might look pale after death. In this case I am definitely of the opinion that death was due to hæmorrhage.

Re-X~~ad~~ : Nil.

(Witness is released.)

In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.

—
No. 4.
Evidence
of Simon
Ezievuo
Onwu,
1st witness
for prosecu-
tion,
23rd May
1949,
Examina-
tion,
continued.

Cross-
examina-
tion.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

No. 5.

**EVIDENCE of Dora Ekine Will Braide, 2nd Prosecution Witness.
(Wife of the deceased.)**

P. 2 DORA EKINE WILL BRAIDE : sworn :

I live at Fuji Town, Bakanah. Douglas Obene Marian Braide was my husband. I remember his death. I was present. It occurred on a Friday. We were going to Bile—my husband, myself and two children in one canoe. One Douglas was going with us in a separate canoe. We did not reach Bile.

On our way to Bile we called at Elemiama (which means Old Shipping). 10
My husband and the other Douglas landed ; I and the children remained in the canoe.

I saw a canoe coming in my direction—not one, four canoes coming together. I sent the two children to call those who had gone ashore as people were coming.

I belong to Bakana ; my husband spoke Kalabari as I do now ; so does the other Douglas. I sent the children to call the others because I could not recognize those coming ; they did not belong to our town. Their canoes were fishing-canoes. When I saw them, I landed too.

When they arrived they wanted to land. At that point of time my 20
husband arrived and asked them what they came to do (my friends, what have you come to do ?). They said, we have come to cut some coco-nuts. He said to them, you haven't got any coco-nuts here, this is our old town.

When he said so, they all went back into one canoe and began to shout Ada osue inye, and then they pulled ashore. Those words are a war-cry of the Okrika people. When they landed and surrounded my husband. I saw eleven of them when they came in the canoe. All the men in the canoe landed from it. All the Accd. here I recognize as being those men and there were another two besides. They encircled my husband and hit 30
him with a stick and cut him with a knife ; they threw a spear at him. He died instantly.

When we saw death we ran away. Douglas and myself and the two children were escaping. They chased us and cut Douglas with a knife. They struck me down with a club and cut my head with a knife. It was Jonathan Gun—Accd. 5—who did it to me. I did not see who injured Douglas. I ran and fell down somewhere. By then Douglas and one of the children swam across the river ; the younger child had been beaten into the mud and was lying in mud. These people—our assailants—went and took our canoes and went off with them and all we had in them. 40

After they were gone I struggled on to my feet and went up to the child and dragged him out of the mud, tied him onto my back and swam across. I did not find Douglas. Before leaving I went up to my husband, looked at him and went away. I merely wanted to make sure he was dead. I did not examine his body. It was at Degema I noticed these spear-heads, after the doctor removed them from his body.

After swimming across I walked through the mangrove bush until I got to Bile river. It was night and I stopped in bush until next morning,

No. 5.
Evidence
of Dora
Ekine Will
Braide, 2nd
prosecution
witness,
23rd May
1949.
Examina-
tion.

Saturday. Saturday evening I saw some Bonny people passing and I called out to them and they took me to Bile. From there I was taken on to Bakana. My husband's corpse and I and the younger child in the same canoe went from Bakana to Degema, where I found Douglas and the elder child. I went to the hospital at Degema and the doctor attended to my wounds.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

10 Of the articles in Court these were in our canoe and were taken with it by our assailants—a gun, a small iron-pot with three short legs, a bundle of fish-racks, a straw-sail (here marked in that order B, C, D, E for identification).

No. 5.
Evidence
of Dora
Ekine Will
Braide, 2nd
prosecution
witness,
23rd May
1949,
Examina-
tion,
continued.

When these people surrounded my husband, they started to hit him ; they did not quarrel at all. It was Isaac—Accd. 2—who began to strike my husband with a long stick. All of them had something in their hands. After Accd. 2 knocked him down, the others went here and there to get sticks or to the canoe to get something ; some got sticks, some knives, some spears fixed to bamboo-poles, similar to these spears here. It was Sele—Accd. 3—and Saturday—Accd. 4— who had the spears.

X-nd. : My husband was older than I. During the first war when we fought the Germans in the Cameroons, my breasts were just developing.

Cross-
examina-
tion.

20 My husband was lying face downwards. They had killed him before they started to chase us. The distance between where he lay and where I fell is from the dock to the path outside the court (say the width of the Court and half as much again—about 35ft or a little more).

30 When I first saw the four canoes coming they were as far as from here to the building I can see at a distance (Counsel agree to 75 yards and so it looks to me). It was when they came closer that I could distinguish they were not fellow-townsmen of mine. I was then in the canoe by the shore. I did not, with any others, throw sticks or stones at them. None of us did. My husband did not fire this gun at them. I wasn't holding the gun and standing on the shore ; I don't know how to fire one. It is not true that on seeing them I called my husband and gave him the gun and he fired it at them.

I first saw these people at the Police Barracks.

(Counsel meant the Accd.) at Degema. There I was taken to identify the persons who had killed my husband and from among other prisoners I identified four ; and my small son who was with me identified five. The four I identified there that day were Sunday Kala Alagba (Accd. 1), Saturday Kwani (Accd. 4), Sunday Kiri (Accd. 6), and Digbani Bamson (Accd. 7).

40 When my son identified persons I was at some distance. I cannot tell you who they were.

At the Magistrate's Court I said I was not myself that day and if I was able to identify two, three or four, the rest will mention themselves. When he asked me to pick out those I knew I picked out the same persons as I have done here.

(Mr. Briggs points out that Counsel is cross-examining on the wrong assumption that she picked out persons at the Court. Mr. Rhodes-Vivour says he is asking about those she identified at the prison.)

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

No. 5.

Evidence
of Dora
Ekine Will
Braide, 2nd
prosecution
witness,
23rd May
1949,
Cross-
examina-
tion,
continued.

Cross-examination continued : At the prison I did not pick out Jonathan Gun (Accd. 5) ; I picked him out at the Magistrate's Court.

At the prison I did not pick out Uriah (Accd. 8). At the Court I was not asked to identify them.

I did not say to the Magistrate that I was so confused that I could not tell who the assailants were. I did know some of them.

I next saw Douglas at Degema Hospital. I did not see either him at Bakanah or the child that was with him ; the corpse I did see at Bakanah.

The iron pot I identified is mine ; I identified from amongst articles Police showed me. The lid is mine and one of the legs is shorter than the 10 others. All these fish racks are mine. I had forty double-bundles of fifty each bundle with me. I can distinguish these fish-racks as my own. This said came from my canoe. These were all the fish-racks shown me at the Magistrate's Court ; they were there like this here.

Re-xd. : Nil.

Adjd. till Wednesday morning.

(Sgd.) V. R. BAIRAMIAN,
J.

Resumed Wednesday the 25th day of May, 1949.

Mr. Briggs ; Mr. Rhodés-Vivour ; All Accused.

20

No. 6.

Evidence of
Chamber-
lain, 3rd
prosecution
witness,
25th May
1949.
Examina-
tion.

No. 6.

EVIDENCE of Chamberlain, 3rd Prosecution Witness.

P.3 CHAMBERLAIN : says he is son of Omuso and Dora Braide (P.2).
Makes an unsworn statement, being a little boy :—

I know Douglas Obene and remember day of his death. I was there. He was beaten with a stick, cut with a knife and a spear was thrown at him. I saw all that. They were Okrika people who did it. In this Court I see.

This man I have touched—Isaac, Accd. 2—got a stick and went and hit him with it.

30

This one—Jonathan, Accd. 5—beat everybody, beat me too, with a stick.

This one—Sunday Kiri, Accd. 6—beat my mother with a stick on the shoulder, the back and the chest.

I was beaten with a stick ; nothing else happened to me.

X-xd. : Nil.

No. 7.

EVIDENCE of Hamilton George, 4th Prosecution Witness.

P.4 HAMILTON GEORGE : sworn :

(Lord Gogo : sworn as an Interpreter for Kalabari and English.)

Witness in chief : I am also known as Douglas. I am a trader, living at Bakana. I knew Douglas Obene Marian Braide. I remember the day he died. That day I was at the Old Shipping, Kalabari. It is a Kalabari place. With me there were Obene (deceased), his wife, and two children. There were no other Kalabaris with us.

10 When we got there deceased and I took a stroll into the interior of the town. We two were in the town. Dora was at the waterside. Dora sent us one of her sons with a message. When we got back we saw Okrika men just landing. We distinguish them by the way they paddle ; they paddle in a different way from us. We told them not to land because it is our old town. Deceased spoke to them. I also spoke to them telling them not to land. I spoke to them in Kalabari. I do not understand Okrika language.

I did not throw anything at these Okrikans ; I did not see anyone of those with me throw anything at them.

20 After we told them not to land, they landed. Four canoes were coming. When we gave our notice to them, they collected into one canoe and uttered some words—Adu osu nye—and forthwith landed. Then they attacked deceased and struck him on the head with a big stick.

They had said they came to collect coco-nuts and we told them not to.

They had a big stick and a spear ; this is it (shown Exh. " A " in Court). After hitting deceased with the stick, they threw the spear at him ; the spear hit him—one in the right forearm and the other about the left breast (on the side, as shown by witness). Deceased fell forward
30 on his face.

When I saw how things were I began running away to save myself ; they chased me and hit me with a small axe on the back (this is the scar) and on the head with a big stick and gave me three knife-wounds on the head. Then I fell into the swamp ; they thought I was dead and left me.

Here I show Accd. 4—Saturday Kwani ; he was the first to strike deceased ; he did so with a stick like this (a blow from above down, stick held with both hands).

40 I was nearer when deceased was struck with a stick, farther when the spear was thrown. (This in answer to a question whether he can point out the man who threw the spear.)

It was this man—Sunday Kiri (Accd. 6) struck me on the head with a stick. This other man—Isaac Ngeri (Accd. 2) struck me on the head with a matchet. As blood flowed from my head I could not see who struck me with the axe on the back. The blow with the stick was before that with the axe.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

—
No. 7.
Evidence of
Hamilton
George, 4th
prosecution
witness,
25th May
1949.
Examina-
tion.

*In the
Supreme
Court of
Nigeria
helden at
Port
Harcourt.*

I don't know what happened to Dora. After they were all gone I got up and made my escape into the interior part approaching Ado. Before leaving I saw deceased dead on the ground but I could not examine his body because of my being wounded.

I went with my canoe, before these events, to Old Shipping. I did not find it later. In it I had a mirror, a demijohn. This pot is not mine, mine was bigger. I also had fish-racks like these, and a box. I have not recovered the canoe or what I had in it.

No. 7.
Evidence of
Hamilton
George, 4th
prosecution
witness,
25th May
1949,
Examina-
tion,
continued.
Cross-
examina-
tion.

I eventually got to Degema and was treated at the hospital, I was there for 55 days about. 10

X-~~ad.~~ : Deceased did not take his gun with him when he and I went inland ; he held nothing. Nobody lives in town at Old Shipping now.

Okrika people used to buy things from me, and I used to tell them in Kalabari the price ; that is simple. Not every Okrika man understands Kalabari, but they do understand and exchange business.

Deceased knew Okrika well. I only speak Kalabari.

He spoke to them in Okrika. I asked him what he had said ; he said to me it was that they must not land, and I told them the same thing.

I have seen this sort of spear before. It is mostly used by Okrika men, for killing mighty fish. Kalabari men also kill fish ; they do not use this type of spear. After I was struck I fell on my face. 20

Deceased was the first attacked, and he died at the spot. So soon as I saw him fall down and dead I began to run away.

When I got up later there was a little boy who went with me. I fell into swamp—where the edge of the river is and the land ; you can call it river or swamp. At the Magistrate's an Okrika man interpreted.

Whilst at hospital I saw these men (Counsel points to Aced.) ; also D.O. Mr. Newington. He came with five men I was still a little unconscious then. I told the D.O. I could not then identify them because the blood that had rushed into my eyes had not quite cleared, but that I would be able later when it had completely cleared. I have not been to Bakana after the offence. 30

I know this demijohn is mine ; I bought it and have used it ; it has a little crack down the side but does not leak.

I had the mirror in my box with pieces of cloth—two fathoms in measure ; two handkerchiefs make one fathom. I bought the mirror and know it.

Re-~~ad.~~ : Nil.

To Court : I left hospital about three weeks ago. I have not recovered my old strength fully. 40

No. 8.

EVIDENCE of Godwin Brown, 5th Prosecution Witness.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

P.5 GODWIN BROWN sworn. (Ibo):

I live at Okrika; a native of Diobu, near Port Harcourt. I am a fisherman. I see the Accd. persons; know them all; they are fishermen, belonging to Okrika.

I remember a day in March. I was going to fish. My master is Sunday Kiri—this one, Accd. 6; he was with me in the same canoe, just the two of us. Besides our canoe, there were another three canoes, and in
10 each of them two men. Witness points to all Accd. except No. 6, when asked about the men who were with them and says

The people I have pointed out we were all fishing in the river. One Friday we went out to fish and we got to sea we met these two men I touch (Accd. 7 & 8—Digbani and Uriah). Before meeting Nos. 7 and 8, I was with my master in our canoe, Isaac Enyi (Accd. 2) was in his own canoe, Sele (Accd. 3) in his, and Jonathan Gun (Accd. 5) in his; we were fishing together. Isaac (Accd. 2) was in his canoe with his partner, who is not here and whose name I do not know. Sele was with his partner Sunday (points to Accd. 1). Jonathan Gun (Accd. 5) was with his partner,
20 whose name I do not know but he is this Accd. (points to Saturday Kwani—Accd. 4).

We met Digbani and Uriah (Nos. 7 and 8) beside a mangrove swamp, without a canoe. They spoke to us; they said some Kalabari men had driven them there and taken away their canoe. When we rescued Nos. 7 and 8, they said two of their partners were left behind. Nos. 7 and 8 were taken into canoe of Jonathan Gun (Accd. 5). We went back and rescued the two men left behind; they are not in Court. My master told me to paddle towards Elemiama; and the other canoes went there too. My master, on my asking him why go there, said they were going to capture
30 two canoes there belonging to Kalabaris.

When we got to Elemiama, the party landed with my master as leader, he holding a spear and a matchet. When I saw him thus armed I warned him that we had come out to fish, not to fight and kill. He silenced me saying I was a boy and must carry out his instructions. Before landing I saw five persons on the shore—two men, one woman and two children—that was all. I did not see any canoes other than ours.

On getting out my master speared one Kalabari—I cannot say whether man or woman. When we got to Elemiama, my master landed from our canoe and speared a Kalabari person. This was his spear (Note :
40 it is separated from the other and marked "A.1"). Sele (Accd. 3) is the owner of the other spear; he also used his spear to spear someone—I can't say whether the same person as was speared by my master (points to Accd. 6, Sunday Kiri).

All of the party landed—all these nine Accd. I did not land; I was in the canoe. I saw what was happening.

Accd. 1 had a matchet (points out Sunday Alagba); I saw him use it on someone.

No. 8.
Evidence of
Godwin
Brown, 5th
prosecution
witness,
25th May
1949.
Examina-
tion.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

No. 8.
Evidence of
Godwin
Brown, 5th
prosecution
witness,
25th May
1949,
Examina-
tion,
continued.

Isaac Ngeri (Accd. 2) had a matchet and I saw him cut someone with it.

Saturday (Accd. 4) had a stick ; I saw him hit someone with it.

Jonathan (Accd. 5) had a stick ; I saw him hit someone with it.

Digbani (Accd. 7) had a matchet ; I saw him cut someone with it.

Uriah (Accd. 8) had a stick ; I saw him hit someone with it.

Amatamuno (Accd. 9) had a matchet ; I saw him cut someone with it.

During the incident the Kalabaris were crying raising alarm. The woman was cut with matchet. I can recognise her. She was this lady 10 shown to me here (Dora—P.2).

After these events these men got into their canoes and went home. I was alone in the canoe. My master went with the others and I saw them paddling off the two Kalabari canoes. I went home in their company. On the way back we stopped at a creek and the party shared what the Kalabari canoes had in them. I did not receive a share ; my master did not give me anything. I saw the goods shared. I recognise this little iron pot (Exh. " C "), these fish racks (Exh. " D "), this gun (" B "), this straw-sail (" E "), also this bigger iron pot (now to be marked " H " for identification), this demijohn and this mirror (now to be marked as " F " 20 and " G " in that order for identification).

At Elemiama I remained behind in the canoe ; in the other canoes none of the party remained behind.

I cannot understand or speak Okrika. My master speaks in Ibo to me.

The incident took place I think about 10 in the morning. I cannot tell how long it lasted.

Cross-
examina-
tion.

*X-*ad.** : My master is Accd. 6 ; I am not in his regular employment ; but he asked me to go with him on a fishing expedition and said on our return would give me a third of the catch. He did not give me my share that day. 30 When we came back that day he gave me some fish for my shop but none I could sell and get money. I asked him for my share but he said no, he would give me money after selling the fish. He has not given me that money. I have reason to be cross with him. But I have not given this evidence because I am cross with him.

I did not report at Okrika because where they shared the Kalabari canoe goods, they administered an oath to me that I would not report to Police or chiefs. The others spoke in their language and my master interpreted it (the oath) to me.

I was arrested by Police after this incident ; taken to Degema and put 40 in cell ; released after preliminary investigation ; in cell for eight days. I was released by Police after I made my statement to Magistrate on his orders ; up to the time I made my statement I was in the cell.

I know this man but not his name (the man gives it as Ekensikimama Luke). I don't remember seeing him that day at Elemiama. I saw him at Magistrate's Court ; Degema.

I said to Magistrate about Diagbani (No. 7) that he had a matchet and used it on someone. I did not say he used a club or stick.

*Re-*ad.** : Nil.

EVIDENCE of Ekensikimama Luke, 6th Prosecution Witness.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

P.6 EKENSIKIMAMA LUKE: sworn (Okrika):

My nickname is Panga; a native of Ogoloma, part of Okrika. I am a fisherman.

I remember 11th March last. I went out of Okrika fishing between Elemiama and Obomakri-Boko. Accd. pulled towards me when I got to that spot. I was with Accd. 9 (Amatamuno) my partner. The other accused here came up to us in three canoes. They asked me where
10 I was going to; I said fishing. They told me not to go farther; the two men lying in their canoe they said had been chased by Kalabaris and they went and rescued them. The two men rescued were these—points to Digbani and Uriah, Accd. 7 and 8. They asked me to accompany them and meet the Kalabaris at Elemiama to ask them some questions. All of them spoke to me. They did not look excited. Elemiama belongs to the Kalabaris. I went with them in my canoe. I knew them to see before but not their names. We went to Elemiama.

No. 9.
Evidence of
Ekensiki-
mama
Luke, 6th
prosecution
witness,
25th May
1949.
Examina-
tion.

Before we landed those ashore began throwing stones at us. I saw five ashore—two grown up men, a woman, and two children—no more.
20 We were eleven in all, the Accd. and myself. We asked those ashore—now you are throwing stones at us, do you know what we have come for? Those ashore said whether they knew or not what we had come for, they would not let us land, and brought out a gun; it was fired before we landed; and when it was fired, we all dropped into the water. I saw who fired the gun but don't know him; he is not my fellow-townsmen; I have not seen him here to-day. None of us was hurt by the shot; the sticks and stones thrown at us fell into canoes; none was wounded by them.

When we got out of the water we saw the man reloading the gun and before he fired it again one of us ran up and cut him with a knife.
30 It was this one (points out Accd. 1—Sunday Alagba).

The other Kalabari man holding a machet chased an Okrika man with it. The Okrika man ran away and got hold of a spear—this man (points out Sele—Accd. 3). This man shown to me here (witness Hamilton George P.4) was the one who fired the gun; the man with the machet was another. Accd. 3 threw the spear at the man with the machet and hit him. I don't know what happened to the man hit with the spear. We took their canoe and went away. All of us landed just at the water-side. When this fight took place with those two Kalabari men, the rest of us did nothing.

I did not see the woman attacked, nor the children. This man—
40 Godwin Brown witness 5—shown to me was in our party.

One of us bought one of the canoes; it was this man (points to Accd. 8—Uriah) whose canoe had been taken by the Kalabaris. I don't know whom he paid, but I was given some money and told it was my share of it.

There were yams and coco-yams, a straw netting, the gun—this straw-sail also. (The straw netting is now put in as "J" for identification.)

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

I went to Elemiama with these men ; they told me—these men were robbed of their canoe ; we have seen Kalabaris going there ; let us go and ask them if they know anything about these men whose things have been seized.

I learnt Police were looking for me and went to them and was detained at Degema and released after giving my deposition—that very day.

Adjd. till tomorrow.

(Sgd.) V. R. BAIRAMIAN,

J.

Resumed Thursday, the 26th day of May, 1949.

10

Mr. Briggs ; Mr. Rhodes-Vivour ; Accd.

EKENSIKIMAMA LUKE : reminded of his oath :

X-ad. : When I met Accd. they did not tell me in which direction the canoes of Accd. 7 and 8 (who were rescued) were taken.

The gun when fired by the Kalabaris was aimed at us. When we went ashore we were not armed. Dora was on land when gun was fired. I did not see her do anything. It was the men with her who threw sticks and stones at us.

Godwin Brown went ashore with us. I cannot say what he did in particular as we went in a group.

20

We left Old Shipping in leisurely style. Accd. 3 (Sele) did not recover his spear before leaving. I saw his spear when he took it up from his canoe ; the spear-head was fixed to a bamboo. It is used in spearing big fish when hooked. Kalabaris also use a spear similar to this. I cannot definitely say it was this spear (-head) Accd. 3 used.

I only saw one canoe taken away. No oath of secrecy was taken among us.

Accd. 9 was my canoe-boy. Apart from the two I have mentioned, none other did anything.

Re-ad. : Nil.

30

To Court.

To Court : I was present when coco-yams and plantains were divided and got my share. The straw articles were left in the canoe and Uriah (Accd. 8) pulled them away with him. Articles were shared by canoe ; and the canoe in which Godwin Brown was got its share.

The man who fired the gun was cut with the matchet and ran away ; the other man with the matchet was speared and he also ran away. The wife and children were left untouched and remained there. I only saw one spear thrown at the man with the matchet ; he ran away with it sticking in his body.

No. 10.

EVIDENCE of Bereburuka Martins, 7th Prosecution Witness.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

P.7 BEREBURUKA MARTINS: sworn (Okrika):

A fisherman; of Okrika. I know Isaac Ngeri Accd. 2; he is my fishing partner.

I remember 11 March; the two of us went out fishing. There were other canoes with us—three, with ours four in all. Accd. 2 and I were in ours. In the other three canoes were Accd. 1, 3, 4, 5, 6, and one man outside the Court.

No. 10.
Evidence of
Bereburuka
Martins
7th
prosecution
witness,
26th May
1949.
Examina-
tion.

10 (Sunday Alagba, Sele, Saturday, Jonathan, Sunday Kiri.) That man was an Ibo—he is the man shown to me now (Godwin Brown).

Accd. 1 and 3 were in same canoe;

Accd. 4 and 5 in same canoe;

Accd. 6 and the Ibo man in same canoe (Godwin Brown).

As we were fishing we heard shouts from mangrove swamp; we went up and rescued them—four in all. Two of them are here—points to Accd. 7 and 8 (Diagbani and Uriah). These two said to us that some Kalabaris had fired gun at them and they all dropped into the water and there were still some ahead. We went and rescued the other two;
20 so we rescued four in all.

We then paddled towards our town but on seeing some canoes across the water, Jonathan (No. 5) told us we should go and ask them what had happened. My canoe-companion went into another canoe, and I paddled the men rescued—two of them—the ones not here—to Bumokiri. The other canoes went to Elemiamana.

Later that day I saw Accd. 1 to 6 and the Ibo man—but not Accd. 7 to 9—at Bumokiri. Inside the canoe were some foodstuffs—coco-yams and plantains—straw sail, a demijohn: that was what I saw them sharing canoe by canoe. My canoe partner received a share in respect of our
30 canoe and gave me something out of it—some coco-yams, some plantains and the straw sail (Exh. "E"). Later I gave the sail to the Police; the coco-nuts and plantains I had eaten. My canoe-partner did not say where they came from; I did not ask him. At the share-out I was not told their provenance; I did not ask.

X-xd.: The two men I paddled off to Bumokiri asked me to take them away.

Cross-
examina-
tion.

Re-xd.: Nil.

To Court: I did not see the goods shared. I was not there when the goods were distributed among the canoes; I said my partner gave me the
40 articles I mentioned as my share. I did not see a demijohn but fishracks in canoes of Accd. 3 (Sele), Accd. 5 (Jonathan) and Accd. 6 (Sunday Kiri).

To Court.

(Adoki, the interpreter, says it was not demijohn witness said but drink; and the interpreter said demijohn.)

*In the
Supreme
Court of
Nigeria
helden at
Port
Harcourt.*

No. 11.

EVIDENCE of Rosaline Martins, 8th Prosecution Witness.

P.8. ROSALINE MARTINS : sworn (Okrika):

A fisherwoman ; wife of Jonathan Gun (Accd. 5) ; married to him according to native law and custom ; we live in same house.

Police came to our house ; I gave them this small iron-pot (Exh. " C ").

No. 11.
Evidence of
Rosaline
Martins,
8th
prosecution
witness,
26th May
1949.
Examina-
tion.

*X-*ad.** : I do not know the owner of the pot. I was not well and was away. When I came back my husband had been arrested. He was not with the Police.

*Re-*ad.** : Nil.

10

No. 12.

EVIDENCE of Nwina Martins, 9th Prosecution Witness.

P.9. NWINA MARTINS : sworn (Okrika):

A fisherwoman ; wife of Sunday Kiri (Accd. 6) married according to native law and custom ; we live in same house. I remember he was arrested. Shortly before that he brought home a mosquito-netting—this in Court (Exh. " J "). I did not ask him where he got it from ; he did not tell me. Later I handed it to Police.

No. 12.
Evidence of
Nwina
Martins, 9th
prosecution
witness,
26th May
1949.
Examina-
tion.
Cross-
examina-
tion.

*X-*ad.** : I do not own a mosquito net. They came to me, arrested me and asked me to give them a mosquito net, so I gave them this. I was arrested so that I should produce the mosquito net. My husband was not with the Police. They took me to the Court-yard, and threatened me with a stick.

*Re-*ad.** : Nil.

No. 13.

EVIDENCE of Paul Abokiri William Koko, 10th Prosecution Witness.

P.10 PAUL ABOKIRI WILLIAM KOKO : sworn (Okrika):

A fisherman. I know Accd. 1 (Sunday Kala Alagba). I did not know his name before this case. Some time ago he came to see me ; I bought from him a gun—this one here—for £1 11s. 6d. He wanted £3. The bargaining was in his compound and there were people there, but I don't know them as I had nothing to do with them. I know the man I bargained with well.

I was at the fishing-port ; learnt my wife had been arrested ; I took gun to Sgt. Omile ; she was released.

Accd. 1 did not say where he got the gun from ; I didn't ask him.

*X-*ad.** : Some of my relatives came and gave me information and took me home. I know the gun as I bought it.

*Re-*ad.** : Nil.

No. 13.
Evidence of
Paul
Abokiri
William
Koko, 10th
prosecution
witness,
26th May
1949.
Examina-
tion.
Cross-
examina-
tion.

To Court.

To Court : I belong to Ogoloma, my wife to Ibaka, where we live. I had the gun for a month and a week before handing it to Police.

No. 14.

EVIDENCE of Opuene Marian Braide, 11th Prosecution Witness.

P.11 OPUENE MARIAN BRAIDE : sworn (Kalabari, interpreted by Lord Gogo) :

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

No. 14.
Evidence of
Opuene
Marian
Braide, 11th
prosecution
witness,
26th May
1949.
Examina-
tion.
Cross-
examina-
tion.

A fisherman ; of Bakana ; knew Douglas Obene Marian Braide ; he was my brother. I went with a search-party as far as Elemiama, where I saw him dead, lying face downwards. We examined his body ; I saw spears in it and a knife cut. These were the spear-heads in his body ; they were removed by the doctor. We took the body with them
10 in it to Degema. I identified the body to the doctor. When we found the body it had in it spear-heads only, without shafts. One of his ears was eaten away and his tongue swollen.

X-ad. : The body was my brother's. He had a wound on the back of his head and I could have identified him by that even. I heard of his having been murdered and of his wife's escape. All the doctor asked me at Degema was whether the body was my brother's. He was not old, had no grey hair, Dora here is his wife ; she is not old. We did not insert the spear-heads. We were many. I did not see anyone put spear-heads in the body.

20 *Re-ad.* : Nil.

To Court : We found the body on Sunday and I identified to the doctor on Monday. To Court.

Mr. BRIGGS : I have here Ibani Braide, the other boy present at the murder.

Mr. RHODES-VIVOUR : I do not want him.

No. 15.

EVIDENCE of Joachim Omile, 12th Prosecution Witness.

P.12 JOACHIM OMILE : sworn :

No. 15.
Evidence of
Joachim
Omile, 12th
prosecution
witness,
26th May
1949
Examina-
tion.

No. 5130 Sgt. ; P.H. stationed ; belong to Oka ; an Ibo ; I
30 investigated this case. As a result I arrested Accd. Nos. 1-8 on 21st March at Okrika and charged them with the murder of Douglas Obene Marian Braide. I charged them individually in Okrika through C. M. Augustus as interpreter, to whom I spoke in English. He is a Native Court Messenger in Okrika. I cautioned them individually through Augustus. Each volunteered a statement. This was in the Native Court.

Accd. 1 (Sunday Afialabari Alagba) made a statement, which I recorded. He spoke in Okrika ; C. M. Gilbert Iga interpreted what Accd. 1 said into English and I wrote it down in English. When I recorded it I read it out in English and Gilbert Iga interpreted it to Accd. 1, who
40 said it was correct and made his thumb-impression. (Tendered ; put in as " K. ")

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

(Read out and interpreted to Accd. 1.)

On same day, 21st March, I also saw Accd. 8 Uriah Kalio. I charged him and cautioned him ; my interpreter was Chief Frederick Nimgbatuboni. This was also in the Native Court. Accd. 8 spoke in Okrika ; I wrote in English. When I finished I read it out in English and it was interpreted to Accd. 8, who said it was correct and put his thumb-mark to it.

No. 15.
Evidence of
Joachim
Omile, 12th
prosecution
witness,
26th May
1949,
Examina-
tion,
continued.

(Tendered ; put in as " L " ; read out and interpreted to Accd. 8.)

On that same day I went with Accd. 7 Digbani and Accd. 8 Uriah to a creek to recover the canoe Accd. 8 said he had bought. We did not find one.

10

On same day I charged Accd. 3 and cautioned him and I asked C. M. Augustus to write it down in the language of Accd. 3 (Sele Oruamabo).

That same day I took Accd. 1 to 8 to Degema. Next day there I charged Nos. 2, 4, 5, 6, and 7 with C. M. Augustus as interpreter. They made voluntary statements, which Augustus wrote down in Okrika, in my presence and that of Okrika Chiefs.

On 25 March I went to scene of crime—Sunday Alagba (No. 1) and Uriah (No. 8) took me there. Amatamuno (No. 9) went with us in the launch ; there were other persons.

On our return No. 1 and No. 8 took us to their houses, but in neither 20 did we find anything.

Accd. 1 took us to his father's house in Okrika, and there we found this jar or demijohn (" F ") and this larger iron-pot (" H "). I took them. Accd. 1 said these articles were taken from the Kalabari people and he bought them from his partners.

(Put in now as Exhibits—" F " for the demijohn and " H " for pot.)

That day I was taken to the house of Bereburuka (the wit. P.7), who produced a raffia-sail, which I took and now produce (now put in as Exh. " E ").

I was also taken to house of No. 5 (Jonathan Gun). His wife Rosaline 30 produced a small iron-pot, which I took and now produce it (now put in as " C ").

Also to house of Nwina Martins, said to be wife of Accd. 6 (Sunday Kiri). She produced a raffia net, which I took and produce (now put in as " J ").

On 26 March I arrested No. 9 (Amatamuno) at Native Court, Okrika and charged with murder of Douglas Obene Marian Braide. I used C. M. Augustus as interpreter. I cautioned Accd. 9 and he made a statement in Okrika, which I wrote down in English as interpreted. I read it out and it was put back into Okrika by Augustus. Accd. 9 agreed it 40 was correct and put his thumb mark to it.

(Tendered ; put in as " M " ; read out ; interpreted to No. 9.)

On 3 April I went to river with Accd. 9 and two witnesses and others—D.O., A.D.O., five Okrika chiefs, 2 p.cs. We were taken there to recover fishracks and a canoe said to have been sunk. Accd. 9 told me fishracks

were thrown in bush and canoe sunk and offered to show spot. At a creek shown by Godwin Brown we found fishracks and these here are those I took and now produce (put in now as " D ").

There were many fishracks in bundles but we could not collect them all. It was ebb and we saw a big canoe sunk in a narrow creek, but we could not pull it out.

I know William Koko (wit. P.10). He came to me and gave me a gun and said something. I took it and now produce it (put in as Exh. " B ").

- 10 *X-xd.* : Godwin Brown (P.5) was arrested on 31 March. He was charged with this murder and made a statement. The charge was withdrawn against him during the preliminary investigation. Likewise Ekensikimama Luke.

I took Accd. 1 to 8 to Degema on 21 March. I charged them with murder at Okrika, did not at Degema again.

On 25 March I had not decided yet to arrest No. 9. Accd. 1 made his statement at Okrika ; also No. 8 ; also No. 3.

When taking down the statements I produced I did not ask the Accd. persons any questions, or at any time.

- 20 When I went to Nwina Martins, her husband was at Degema ; this applies to Rosaline's husband. Their husbands had been arrested before I visited their houses.

Re-xd. : Nil.

No. 16.

EVIDENCE of Augustus Ibidukobofori, 13th Prosecution Witness.

P.13 AUGUSTUS IBIDUKOBOFORI : sworn :

Court messenger of Okrika Native Administration. On 21 March I was at Okrika ; saw Sgt. Omile ; he asked me and I took some statements in Okrika.

- 30 I took that day a statement from Sele Oruamabo (Accd. 3). Omile charged him and cautioned him, both of which I interpreted. Accd. 3 said he would voluntarily make a statement ; spoke in Okrika, and I wrote it down in Okrikan.

Mr. RHODES-VIVOUR : I object to it going in. It was not made voluntarily—I mean it was in answer to a series of questions. What is being produced does not contain what Accd. really said.

Mr. BRIGGS : See sec. 31 of Evidence Ordinance. I offer witness for cross-examination on the point.

- 40 *X-xd.* : I wrote down everything Accd. told me in Okrikan. Accd. 3 did not tell me when they got there they found a lot of people. I do not remember his saying they saw two canoes at Elemiama. He did not say he went there on Thursday. He said it was Sunday Kiri who threw the spear.

Mr. RHODES-VIVOUR : I wish to call Accd. 3 to give evidence on the admissibility of the statement ; he wishes to give evidence on it.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

No. 15.
Evidence of
Joachim
Omile, 12th
prosecution
witness,
26th May
1949,
Examina-
tion,
continued.
Cross-
examina-
tion.

No. 16.
Evidence of
Augustus
Ibiduko-
bofori, 13th
prosecution
witness,
26th May
1949.
Examina-
tion.

Cross-
examina-
tion.

*In the
Supreme
Court of
Nigeria
helden at
Port
Harcourt.*

No. 17.

EVIDENCE of Sele Oruamabo, Accused 3, interposed.

Interposed : SELE ORUAMABO : sworn :

Accd. 3 ; I made a statement to witness Augustus in Okrikan in presence of Sgt. I said we left Okrika about midnight of Wednesday and got to Elemiama on following day Thursday. I told him we saw many people at Elemiama. I did not say anything about a spear. I said I saw two canoes there manned by Kalabris.

X-~~ad~~ . : Augustus is an Okrikan ; I was afraid of him, smaller though he is. No other Okrikans were there when I made my statement ; only man Sgt. This was not read before the D.O. I was taken before D.O. 10 It was not interpreted to me. I was present at Magistrate's. It was read out to me and I said it contained some things I hadn't said.

Re-~~ad~~ . : I was afraid of Augustus because he is a Government employee.

Mr. RHODES-VIVOUR : Accd. 3 was afraid of Augustus because he is a Government employee ; he also says there were some inaccuracies in it.

Mr. BRIGGS: The only objection seems to be that there were omissions. Accd. 3 being afraid may affect the weight but does not make statement inadmissible as no threat was used.

Ruling : See sec. 28 of Evidence Code. I see no reason for excluding 20 the statement ; it may be put in as " N ".

No. 17.
Evidence of
Sele
Oruamabo,
Accused 3,
interposed,
26th May
1949,
Examina-
tion.
Cross-
examina-
tion.
Re-examina-
tion.

Ruling.

No. 16.
Evidence of
Augustus
Ibidukobori,
13th
prosecution
witness,
26th May
1949,
Examina-
tion,
continued.

No. 16.

EVIDENCE of Augustus Ibidukobori, 13th Prosecution Witness—continued.

AUGUSTUS IBIDUKOBORORI resumed : *Continuing in Chief* :

I also produce an English translation I made " N1 " myself of " N " and say it is correct. (Put in as Exh. " N.1 ").

(" N " is read out and is translated by clerk Adoki, who corrects as follows :—

" that they had left with one canoe taking along our two canoes " for antepenultimate line on p. 1, stones for sticks on p. 2 ; 30 also " when we were going ashore they shot at us and we jumped into water ".)

Adj. till tomorrow.

(Sgd.) V. R. BAIRAMIAN,
J.

27th May
1949,
Examina-
tion,
continued.

Resumed Friday, the 27th day of May, 1949.

Mr. Briggs ; Mr. Rhodes-Vivour ; Accused.

AUGUSTUS IBIDUKOBORORI : *Continuing in Chief* : Reminded of his oath :

I remember 22nd March ; I was at Degema ; I was present when the 40 Sgt. (Omile) charged and cautioned Accd. 2 (Isaac Ngeri), Accd. 4 (Saturday Kwani), Accd. 5 (Jonathan Gun), Accd. 6 (Sunday Kiri) and Accd. 7 (Diagbani Bamson). I interpreted the charge and the caution to each one of them.

Accd. 2 volunteered a statement in Okrikan, which I took down and read over to him; he said it was correct and put his thumb-mark to it. I have made translation of it into English, which is correct.

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(Both are put in; statement as "O," translation as "O1"; "O" read out and clerk Adoki translates into English correcting as follows:—

"some time during the *night* of Thursday . . . the tide was ebbing . . . called us to rescue them . . . other two canoes were at Olumama" (no epithet of "Kalabari" before the two canoes).

10 "a gun was in the canoe we seized, and this canoe Uriah etc." —corrections of substance only).

No. 16.
Evidence of
Augustus
Ibiduko-
bofori, 13th
prosecution
witness,
27th May
1949,
Examina-
tion,
continued.

Accd. 4 volunteered a statement in Okrikan, which I took down and read over to him; he said it was correct and put his thumb-mark to it. I have made a translation, which is correct. (Statement put in as "P"; translation as "P1"; read out and clerk Adoki translates—corrections of substance:—

"During the night, about midnight . . .

"We overpowered them with our throwing of sticks and the Kalabaris ran away . . .

"seized one canoe which had a gun in it.")

20 Accd. 5 volunteered a statement in Okrikan, which I took down and read over to him; he said it was correct and put his thumb-mark to it. I have made a translation, which is correct.

(Statement put in as "Q"; translation as "Q1"; read out and clerk Adoki translates—corrections of substance only:—

30 "Some time on Thursday we left Okrika to fish (not on 11.3.49); not 'some people' but 'one canoe told us'; 'by then it was break of day and we drifted along on the ebbing tide'; 'it was Uriah who called us' 'we agreed among ourselves and got into two canoes'; 'on our way crossing to Olomama they threw sticks at us'; . . . 'when we got ashore, they ran,' 'I did not see any of the persons who fought us sustain any injury'.")

The C/M below my signature means Court Messenger.

Accd. 6 volunteered a statement, which I wrote down and read over to him and he put his thumb-mark to it as correct. I made a translation, accurate to the best of my ability.

(Statement put in as "R"; translation "R1"; read out and clerk Adoki translates—corrections of substance:—

40 "when we were near the shore . . . we picked up the sticks they threw and threw them back at them" . . . "we persisted and landed and threw sticks at them; when we had the better of them with our throwing of sticks, they ran away").

Accd. 7 volunteered a statement, which I wrote down and read over to him and he said it was correct and put his thumb-mark to it. I made an accurate translation to the best of my ability.

*In the
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Court of
Nigeria
helden at
Port
Harcourt.*

No. 16.

Evidence of
Augustus
Ibiduko-
bofori, 13th
prosecution
witness,
27th May
1949,
Examina-
tion,
continued.
Cross-
examina-
tion.

(Statement put in as "S"; translation as "S1"; read out and clerk Adoki translates—corrections of substance:—

"they stayed inside their canoes and started to throw sticks at us and we picked them up and threw them back at them" . . .
"we persisted and chased them to Olumama. They all ran; we took their canoe with a gun in it. Sunday Kiri cut a Kalabari man with a matchet. Uriah and I bought the canoe . . .").

I remember 26 March; at Okrika I acted as Interpreter for Okrikan to Sgt. Omile. This is my signature on Exh. "M" (statement of Accd. 9). I translated accurately into English what Accd. 9 who made the statement 10 said.

X-xd. : At Okrika when Sele (Accd. 3) made his statement he was alone; the others were in the lock up.

As regards the other Accd., they were all together; they sat down and the statement of each was taken in turn. I read each one's statement to him and he said it was correct and put his thumb-mark to it. I did read his statement over to each one of them before asking him to put his thumb-mark to it.

Re-examina-
tion.

Re-xd. : They could hear what one stating. None of them protested about what anyone said when making his statement. It was in a small 20 house that the statements were taken.

When Accd. 7 said "Sunday Kiri cut a Kalabari man with a matchet," in his statement, Sunday Kiri did not say anything.

No. 18.

Evidence of
Gilbert Iga,
14th
prosecution
witness,
27th May
1949.
Examina-
tion.

No. 18.

EVIDENCE of Gilbert Iga, 14th Prosecution Witness.

P.14 GILBERT IGA : sworn :

A court messenger at Okrika. I know Sgt. Omile; also Accd. 1 (Sunday Alagba), for whom I interpreted when he made his statement. This is my signature on Exh. "K." I interpreted accurately into English what he said in Okrikan. 30

Cross-
examina-
tion.

X-xd. : I am a Kalabari. When Accd. 1 made his statement, there were other persons present but I cannot say if any of the Accd. After the statement was finished, Sgt. read it out and I interpreted it into Okrikan. I can speak Okrikan small. It was read over at the end and I interpreted it to him.

Re-xd. : Nil.

To Court : I understand more than I can speak. I understood everything Accd. 1 said. When I was putting back into Okrikan what Sgt. read out in English, Accd. 1 did not ask me any questions. At the end I asked him "are you satisfied?" ; he said "yes." 40

No. 19.

EVIDENCE of Chief Frederick Ningbatuboni, 15th Prosecution Witness.

P.15 Chief FREDERICK NINGBATUBONI: sworn:

I acted as Interpreter for Sgt. Omile on 21st March for Uriah Kalio (Accd. 8). I put into English correctly what he said in Okrikan. I am an Okrikan. This is my signature on Exh. "L."

X-xd.: There were many others present when Accd. 8 made his statement; none of them was anyone of the Accd.

10 After the statement was taken down, the Sgt. read it over and I interpreted it back to Accd. 8.

Re-xd.: Nil.

(Case for Prosecution closed.)

Mr. Rhodes-Vivour is called upon for the Defence.

Accd. 1 wished to give evidence on oath.

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Court of
Nigeria
holden at
Port
Harcourt.*

No. 19.
Evidence of
Chief
Frederick
Ningbatu-
boni, 15th
prosecution
witness,
27th May
1949.
Examina-
tion.
Cross-
examina-
tion.

No. 20.

EVIDENCE of Sunday Kala Alagba, Accused 1.

Accused 1 D.1 SUNDAY KALA ALAGBA: sworn: (Okrikan)

Accd. 1; a fisherman; an Okrika-man. I have heard the evidence of the prosecution in this Court.

20 One day we left Okrika and went out to fish, about two and a half months ago. Sele (No. 3), myself and Jonathan (No. 5) met on the river; Sele is my canoe-partner. Jonathan and Saturday (No. 4 here) were together in a canoe. Isaac (No. 2 here) and Bereburuka (wit. P.7) were in their canoe. Sunday Kiri (No. 6 here) and his canoe-man, whose name I don't know, were in a canoe; his canoe-man is this (Godwin Brown Wit. P.5). We were all in one company on the river. We did not set off from Okrika together; we met them on the river, and being acquaintances went together to fish.

30 We also met a canoe before broad daylight and did not know how many were in it. We met these two (points to Diagbani and Uriah—No. 7 and 8); they hailed us from the mangrove swamp. We went and rescued them. They said they had been chased by three Kalabari canoes, who nearly killed them; that they fired a gun at them (the Accd. 7 and 8) and they (7 and 8) jumped into the swamp; and that their canoes and their contents were taken by the Kalabaris. Nos. 7 and 8 also said there were some other Okrikans who were nearly killed by those Kalabaris and that they also jumped into the swamp, and were still there. We searched and rescued them—two men.

No. 20.
Evidence of
Sunday
Kala
Alagba,
Accused 1,
27th May
1949.
Examina-
tion.

*In the
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Court of
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holden at
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No. 20.
Evidence
of Sunday
Kala
Alagba,
Accused 1,
27th May
1949,
Examina-
tion,
continued.

These two related that they had suffered and also said that one Kalabari canoe took their two canoes, and the other two Kalabari canoes went in direction of Elemiama. We said we would ask these Kalabaris why they had done such a thing, seeing that Okrika chiefs and Kalabari chiefs had signed to maintain peace.

The last two rescued felt exhausted and Bereburuka (P.7) took them away in a canoe. We went in direction of Elemiama. Before getting there we saw the Kalabaris who had seized the canoes. Before sighting them, we met Panga Luke and his partner (Accd. 9 here) in a canoe. We told them what had happened and said we would go and ask 10 those Kalabaris ; and they joined us.

Before getting to Elemiama we met the Kalabaris in two canoes on the river ; we saw them, I mean ; they were not paddling in any direction. We asked them while they were on the river—one of us said to them : It has been said that Kalabaris and Okrikas should stop fighting and why is it that you people have come and chased away Okrikas and tried to kill them and taken their property ? They said : Is that all you have come to ask us ? And as soon as they finished saying this they took some sticks from their canoes and began throwing them at us. Many of the sticks fell into our canoes ; we picked them up and threw them back at them. 20 As they threw sticks they paddled towards Elemiama and we followed them.

As we got near the bank they got a gun and fired it ; we dropped into the water. They fired it while still in the canoe, before landing. We got back into our respective canoes. The Kalabaris landed. We pulled to the bank and landed, all of us. They went on throwing sticks at us and we threw back. Afterwards we took one of their canoes, which was very near us, and went away with it. I did not count the Kalabaris. I did not see anyone of us throw a spear at a Kalabari. The canoe we took away had a gun in it ; it is this in Court. It is the one fired at us. The canoe 30 we seized also had in it two iron-pots, a demijohn, straw-net, straw-sail, mirror—the articles in Court are they—and nothing more.

We returned to Okrika. We sold the gun and shared the money ; also the canoe.

I made a statement to Police ; the statement read here as mine contains some things I did not say. Iga (P.14) interpreted what I said and Sgt. wrote. When he finished interpreting he asked me to put my mark ; he held my finger, pressed it on something black and put it next on the paper. I was next taken to the cell.

I saw this man (Hamilton George—P.4) at Degema hospital. D.O. 40 took us there—eight of us—to be identified by those we fought with—Accd. 1 to 8 ; Accd. 9 was not there. Hamilton George said none of us was from those who fought them that day.

Cross-
examina-
tion.

X-~~ad~~. : I had known Digbani (Accd. 7) before that day but not his name ; Uriah (Accd. 8) I had known as well as his name before that day. When rescued they came into my canoe. After that we rescued two others, who were paddled away ; they did not come into my canoe. When Digbani and Uriah came into my canoe, I only saw Uriah have a sail.

Uriah said they had nearly been murdered by some Kalabaris. The other two said they could not join us to go and ask the Kalabaris what they had done; they were too exhausted. We wanted them to join us. It was not in order to increase our numbers that we asked them to join us. Our idea was after meeting the Kalabaris and asking them some questions, to take them all away.

We had not seen what had happened and wished to verify first before reporting to our chiefs. We wanted to see the Kalabaris ourselves to find out whether they had actually attempted to kill these persons. I believed
10 Uriah's story myself but I wanted to find out the truth so as to speak it. It was not for revenge that we went to find the Kalabaris.

Uriah mentioned three canoes of Kalabaris. With Panga's we were four canoes as we went to find the Kalabaris. We found him on the way. He did not join us in order to increase our numbers. He volunteered to join us, as the men nearly murdered were Okrikans like him. We did not ask him to join us.

From where we picked up Uriah it did not take us long to get to Elemiama. It was full daylight when we picked him up. We were not going to Elemiama in a rage.

20 We met two Kalabaris canoes and spoke with them. There were more than two persons in a canoe. I did not count how many and cannot say whether the Kalabaris were more or we Okrikans. I saw neither women or children. Re passage in my statement that about fifteen Kalabaris manned the two canoes. I did not say so but Sgt. Omile put it to me as a question.

I have never used a spear before. These spears are common amongst fishermen in Okrika. I do not use one in fishing. I had no such spear in my canoe that day. Uriah was with me in my canoe after being rescued. I do not know what he saw. Godwin Brown was with us,
30 but not in my canoe; he lied when he said I had a matchet.

Re passage in my statement "we all fight them to the bank at Olumana," is correct. We fought on the water until we got there. We did all land—all our party. We went to find out whether it was these canoes who had fired at Uriah and why. We never found out what we went for. We did not accuse them of firing or doing harm to Uriah and others, when we went up to them. We asked them some questions.

Uriah told us it was those two canoes which had attacked them.

They (the other side) were a sufficient number and we were afraid they might come back and kill us canoe by canoe; that was why we landed.
40 I cannot recognise any one of the Kalabaris we fought, as it was a fight and I had no time to recognise anyone in particular. I did not see any Okrikan hurt but later Sele said his thumb was injured by a stick.

I saw a woman give evidence here. She did not see me there at Elemiama, because I saw no woman there. At Degema several Kalabaris came to identify us; she may have been one of them. This woman Dora did identify me as one of the men at the fight at Elemiama.

I saw this gun and got it from one of the people at the fight. We were stronger than they and we took it—not stole it. Not because they

*In the
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No. 20.
Evidence
of Sunday
Kala
Alagba,
Accused 1,
27th May
1949,
Cross-
examina-
tion,
continued.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

No. 20.
Evidence
of Sunday
Kala
Alagba,
Accused 1,
27th May
1949,
Cross-
examina-
tion,
continued.

were two men and a woman and two children were we stronger. It is right to take what is theirs when you overpower your adversaries. It was a fight we had. There was no leader; each canoe had its principal man; in mine it was Sele.

This gun was used; it was fired at us by someone I couldn't distinguish. I did not pick it up; we took it with the canoe in which it was. I don't know who put it there; the owner of the canoe must have run down and put it in.

When we got back that evening we did not conceal what had happened. The Chiefs asked us and we told them; what I said here to-day was what I said to them. 10

This was not an Okrikan expedition in revenge. We did not kill anyone or stole anything. I know the place is called Olumama; it is not Okrikan. We fought along until we got there; and we were the victors.

Re-xd. : Nil.

(Case for Accd. 1 closed; no witnesses for him.)

Counsel states Accd. 2 wishes to give evidence on oath.

No. 21.
Evidence
of Isaac
Enyi Ngeri,
Accused 2,
27th May
1949.
Examina-
tion.

No. 21.

EVIDENCE of Isaac Enyi Ngeri, Accused 2.

20

Accused 2 ISAAC ENYI NGERI: sworn: (Okrika):

A fisherman. We went out to fish—Bereburuka (witness P.7) and I. Sele (No. 3) and Sunday Kala Alagba (Accd. 1) were in another canoe; Saturday (No. 4) and Jonathan (No. 5) were in another; Sunday Kiri (No. 6) and an Ibo man (identified Godwin Brown, witness P.5) in another. We were together. It was three days before our arrest. We met on the river. We went to Chokorocho river to fish. When we got to Tambolosonjo we heard a call and found Accd. 7 and 8 (Digbani and Uriah) in mangrove swamp and rescued them; also another two Okrikans and rescued them too. They said they had been chased by some Kalabaris and driven into the swamp and their two canoes taken off by one of the three canoe-chasers, the other two canoes going towards Elemiama. We said we would go and ask the Kalabaris why they had done this seeing the Chiefs of Okrika and Kalabari had signed to maintain peace. 30

Two of those rescued said they were too tired; I gave my canoe and Bereburuka paddled them away. We—Accd. 1 to 8—went to find the Kalabaris and ask them. When crossing the river we met Panga Luke and Accd. 9 in their canoe, and told them what had happened, and they joined us for inquiry. We saw the Kalabaris and asked them peacefully, why did you people chase Okrika men and take their canoes seeing that Okrika and Kalabari Chiefs have signed to keep peace? They said, 40

Is that what you have come to inquire of us? They began throwing sticks and we picked up those which fell into our canoe and threw them back at them.

We went on towards the bank; before they or we landed, they fired a gun at us. They landed first. We also landed after getting back into our canoes from the water into which we had dropped when the gun was fired.

10 On land they continued throwing sticks at us and we picked them up and threw them back. One Kalabari had a machet. I did not throw a spear at any of them nor did anyone of the other Accd. During the fight they ran away and we took their canoe with a gun in it—one canoe. We went back to Okrika. In the canoe were this mirror, this demijohn, these two iron-pots, this gun, and this straw-net. We kept these articles.

I know this Court messenger (Augustus shown); also this Sgt. (Omile shown). At Degema he took a statement from me. Augustus interpreted; a policeman—not here—took the statement on Sgt's orders. After that they took my thumb and put it to the paper. Before that no interpretation was made to me. What Augustus read here as my statement is not correct.

20 *X-ad*. : I know Okrika and Kalabari Chiefs made a peace. We did not go intending to fight them, but peacefully to ask them some questions. They threw sticks at us and that was the cause of the fight.

I sent my canoe off with two of those rescued. I wanted to verify what they had told us. I did not go because there was going to be a fight. I was in the fight. We had no weapons ourselves; fought them by throwing at them the sticks they threw at us. I do not take a machet with me when I go out fishing; nor do I use a spear.

30 After they landed, we did too. I threw back sticks at them. I did not hit anyone. One Kalabari had a machet. I also heard a gun fired. There were many Kalabaris—more than Okrikans. We would have gone away if we had been unable to withstand. We won the fight.

40 I saw this Dora (shown) give evidence. She was wrong in saying she recognized me there doing what she said; why she should lie I don't know. This Godwin Brown (shown) was of our party; it was untrue his saying I used a machet. Hamilton George lied when he said I gave him a machet-wound on the head. I cannot recognize any of the Kalabaris there. This demijohn was part of the booty. I do not know whether it belongs to Hamilton George. We took the canoe and what it had after the fight—it is not theft, but in a fight. Elemiama is not Okrikan. We did not have this fight for the fun of it and for booty's sake. I did get something to keep.

Re-ad. : Accd. 7 and 8 said to us the Kalabaris had gone in the direction of Elemiama.

Adjd. until 5.00 p.m.

(Intld.) V. R. B.

5 p.m. *As before*.

Mr. Rhodes-Vivour : Case for Accd. 2 closed.

Accd. 3 wishes to give evidence on oath.

*In the
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Court of
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holden at
Port
Harcourt.*

No. 21.
Evidence
of Isaac
Enyi Ngeri,
Accused 2,
27th May
1949,
Examina-
tion
continued.

Cross-
examina-
tion.

Re-examina-
tion.

EVIDENCE of Sele Oruamabo, Accused 3.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

No. 22.
Evidence
of Sele
Oruamabo,
Accused 3,
27th May
1949.
Examina-
tion.

Accused 3 SELE ORUAMABO, sworn : (Okrikan) :

A fisherman ; at that particular time I was on the Chokorocho River ; it was about 2½ months ago, on a Thursday. We went out to fish. Accd. 7 and 8 here (Digbani and Uriah) hailed us from the bush. There were another two in the mangrove-swamp. We rescued them. When we got Uriah, he told us that three Kalabari canoes had chased them, fired at them and drove them into the mangrove-swamp, and took two canoes from two sets of persons. He also said one of the three canoes took the two canoes 10 off, and the other two canoes were going towards Elemiama.

We were together—by “ we ” I mean Accd. 1 to 8 and witnesses Godwin Brown and Bereburuka (P. 5 and P.7). The last two we rescued said they wouldn't be able to go with us because they were too exhausted and we asked Bereburuka and he took them away in a canoe. We others paddled towards Elemiama and on way met Accd. 9 and Panga Luke, to whom we told that some fellow-townsmen of ours—Uriah and Digbani and the other two—had been chased into the mangrove-swamp by Kalabaris, and we were going to verify from them. Panga said if it was true that we would verify from them he would come with us. He came 20 along with Accd. 9 in their canoe. On our way we saw two canoes with Kalabaris in them. When we drew near them we asked them—one of us spoke to them and said—Okrika Chiefs and Kalabari Chiefs have signed to keep peace, why is it that when you see Okrikans, you chase them into the swamp and seize their things ? They said : Is that all you have come to ask us ? They then threw sticks at us ; we picked them up as they fell in our canoes and threw them back at them.

They were going towards Elemiama and we were going after them. One of them got a gun and fired it ; we dropped in the water. It was a Kalabari who fired ; they were still in the canoe ; they hadn't gone ashore. 30 When we got back into our canoes from the water, we chased them and then they went on land. We also went ashore, after the Kalabaris landed.

On the shore they threw sticks at us and we threw them back at them. When they were at some distance from us we returned and took one of their canoes, which had a gun. I did not see anyone use a spear. I did not, nor had one. We took the Kalabari canoe to Okrika ; in it were a gun, a demijohn, two iron-pots, a straw-sail, a straw-net, a mirror—they were the articles here in Court.

At Okrika we sold the gun, also the canoe. The other things were kept by someone. 40

I saw Hamilton George (Witness P.4) at Degema Hospital. I don't know him. After our arrest we were taken there and he was asked to identify. Eight of us there were—Accd. 1 to 8 who were charged—taken to hospital to be identified. He looked at us all round but said he couldn't identify any one of us.

Cross-
examina-
tion.

X-ad. : I was at Elemiama the day I spoke to ; there was a fight between Okrikans and Kalabaris, and after it we took a canoe with these

things in it. I don't know whether these things belong to Dora and Hamilton George.

After landing all I did was to throw a stick at the Kalabaris generally. I didn't count the Kalabaris ; can't say they were more or less than we.

From spot where we picked up Uriah to Elemiama was from here to those white pillars outside (say 75 yards). Elemiama was not visible from that spot ; there is a sudden bend to go round and then you see Elemiama. It would not mean very many strokes of the paddle, but I can't say how long in time.

10 Uriah came into my canoe, of which I was the head. I was not satisfied with information he gave, so I wanted to verify. It was no use our taking him to the Chiefs at Okrika before verifying. There was also Digbani, and the other two who were gone off. I want to verify with my eyes. It is not true I went to Elemiama to exact revenge.

My thumb was sprained by a stick. In my statement I did not say " none of Okrika people sustained wound."

I had no weapons, no matchet, no spear in my canoe ; only fishing-nets. Uriah's saying to the Police I had a spear was not true. I did not throw a spear as Godwin Brown said. He was there. I don't know how they 20 managed to see that. I didn't fight with anyone as Panga said, or throw a spear at one and not recover it ; I didn't throw a spear.

We took their canoe because they had taken an Okrika canoe. After we sold the canoe I had some money. I had a share because the canoe was taken in a fight, in which we defeated them.

On getting back we conversed—likewise told people on our way home—and it got to the ears of our Chiefs and they spoke to us. I was not the leader of the party. Uriah came into my canoe, because mine was the first to get to him of the four that went to rescue.

30 *Re-~~ad~~*. : From where we picked up Uriah to where we met Panga Luke is from here to P. & T. building (say 150 yds.).

From where we met Panga Luke to where we met the two Kalabari canoes was about the same distance.

From where we found Uriah and Digbani to where we found the other two we rescued was from here to that cement building farther than P. & T. (say 200 yds.). We did not go past Elemiama to find the other two.

Elemiama is inside creek ; coming down river one must go round a bend to see it. We never bent round but went a straight course to find the other two.

(Case for Accd. 3 closed.)

40 RHODES-VIVOUR : Accused wishes to give evidence on oath.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

No. 22.
Evidence
of Sele
Oruamabo,
Accused 3,
27th May
1949,
Cross-
examina-
tion,
continued.

Re-examin-
ation.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

No. 23.

EVIDENCE of Saturday Kwani, Accused 4.

ACCUSED 4 SATURDAY KWANI : sworn (Okrikan) :

No. 23.
Evidence
of Saturday
Kwani,
Accused 4,
27th May
1949.
Examina-
tion.

A fisherman ; heard the evidence for prosecution. I was at that time on Chokorocho River ; it was about 2½ months ago. It was a Thursday. I was with Accd. 1 to 6, Godwin Brown and Bereburuka going fishing. At Tambolosunju some persons hailed us ; we picked up Accd. 7 and 8 from mangrove-swamp. We also picked up another two Okrikans from swamp. These Okrikans had been chased by Kalabaris into swamp.

The last two picked up said they were too tired and were taken away 10 by Bereburuka in a canoe. We others went towards Elemiama and on our way we met Panga Luke and Accd. 9 and told them some Kalabaris had chased some townsmen of ours into swamp and we were going to make inquiry ; and Panga said, if so he would come with us.

On our way we met two Kalabari canoes ; when we entered Elemiama creek we saw them lying in readiness. One of us stood up and asked them ; he said, Okrika chiefs and Kalabari chiefs signed to keep peace, and now you have chased Okrikans, driven them into the mangrove-swamp, tried to kill them and seized their canoes, is that good ? One of them said to us, is that what you have come to inquire from us ? Then they began 20 throwing sticks at us ; we had to revenge ourselves by picking up these sticks and throwing them back, The Kalabaris pulled towards Elemiama. We followed them. They landed first ; we also went ashore. Before they got ashore they got a gun and fired it and we dropped into the water. When we got out of the water we saw they were re-loading the gun and hurried after them and landed. It was this gun that was fired.

On the shore the throwing of sticks continued. I did not see anyone throw a spear ; did not mention a spear in my statement ; used none myself. None of us used a matchet ; I did not mention any matchet in my statement. The Kalabaris I did not see use a matchet. 30

After the fight we took one Kalabari canoe and went to Okrika ; in it were this gun, this straw-net, this straw-sail, these two iron-pots, this mirror, this demijohn, here in Court. We kept these articles in someone's custody ; the canoe was with Uriah.

This Augustus (P.13) I saw at Okrika, also Sgt. Omile. Augustus interpreted for me my statement to Sgt. After that he took my thumb and pressed it on something black and put it on the paper. My statement was read over to me and translated to me after I put my mark to it. I said it was correct. Augustus read it out in this Court. It was what I said. 40

Adjd. to 9 tomorrow, Saturday.

(Sgd.) V. R. BAIRAMIAN,
J.

Resumed Saturday, 28 May, 1949.

Mr. Briggs, Mr. Rhodes-Vivour, Accused.

SATURDAY KWANI: *Continued*: reminded of his oath:

X-nd.: These events occurred on the day we left Okrika. I was with Jonathan Gun (Accd. 5) in same canoe; he was the principal man. I saw Uriah (Accd. 8) picked up from bank. To get to Elemiama we did not have to cross the river; it is on the same side of the bank. It is in the same river—Tambolo-sunju. Elemiama is round the bend.

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10 Our party were Okrikans except Godwin Brown. I landed at Elemiama. I witnessed a fight. I threw sticks at the opponents, of those they had thrown at us. Hamilton George and Godwin Brown were not correct when they said I hit someone with a stick. I picked up a stick to throw it back—merely to throw at them, not to hit the Kalabaris. I didn't count the Kalabaris. I did not see the gun being reloaded; I saw a gun in the Kalabari midst. I had no gun. I had no more than a stick. I wasn't angry with Kalabaris. I only went to make inquiry of them. We approached peacefully but they threw sticks. We did not run away when they began throwing sticks because they might have chased us and got at us one canoe by one. We were four canoes; they two.

No. 23.
Evidence
of Saturday
Kwani,
Accused 4,
28th May
1949,
continued.
Cross-
examina-
tion.

20 On getting back we reported to Chiefs. We did not go back home after picking up Uriah because we wanted to verify his story. After the Kalabaris began throwing sticks at us we believed him. I was angry when they began throwing sticks.

We left Okrika at night. From there to where we went to fish is a long way; and we meant to get there at break of day. We did not intend to be away from Okrika the whole day but to get back the same day. When we finished fishing we would return. We did not mean to be away for two or three days.

Elemiama is far, but I don't know whether it is Okrikan or Kalabari. It is in Chokorocho River.

Not re-examined:

30 Case for Accd. 4 closed.

Mr. Rhodes-Vivour: Accd. 5 wished to give evidence.

No. 24.

EVIDENCE of Jonathan Gun, Accused 5.

Accused 5 JONATHAN GUN, sworn: (Okrikan):

A fisherman. Have heard prosecution witnesses.

At that particular time I was on the Chokorocho River; it was about 2½ months ago, on a Thursday. I live at Obobo in Okrika. I remember meeting on river Accd. 1 to 3, Accd. 6, Godwin Brown and Bereburuka, I being with Accd. 4.

No. 24.
Evidence
of Jonathan
Gun,
Accused 5,
28th May
1949.
Examina-
tion.

40 We met Accd. 7 and 8, who hailed us from swamp. Sele (Accd. 3) and Sunday Kala Alagba (Accd. 1) took them in their canoe. Accd. 7 and 8

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No. 24.
Evidence
of Jonathan
Gun,
Accused 5,
28th May
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tion,
continued.

said they had been chased by three Kalabari canoes and when they (Kalabaris) fired a gun at them they (Accd. 7 and 8) jumped and dived and got to swamp and walked to where we found them. Accd. 7 and 8 also said some others, who were in front, had been chased likewise. We went and picked them up from swamp. These said three Kalabari canoes chased them and took their canoe and its contents. We asked them to tell us where the three Kalabari canoes who had done that to them were. They said one canoe took away their two canoes, and the other two canoes were going down river towards Elemiama.

Then we said to them it would be better if we went and asked these 10 people why, seeing the Okrika and Kalabari Chiefs had signed peace, they should chase and drive Okrikans and take their property. The last two rescued said they were too exhausted to come with us ; we sent them off with Bereburuka in a canoe. We went towards Elemiama to ask those people. On our way we met Accd. 9 and Panga Luke, who asked us whither we were going. We pointed to Accd. 7 and 8 and told Accd. 9 and Panga Luke what they had said ; and we said we were going to meet those people and make inquiry. If that be so, said Accd. 9 and Panga Luke, they would come with us.

We set off towards Elemiama and saw people in two canoes at the 20 entrance of the creek leading to Elemiama ; and we asked them, why is it that after Okrika Chiefs and Kalabari have signed a peace you continue chasing Okrika people and looting their property and firing at them ? They said : Is that all you have come to ask us ? And at once began throwing sticks at us. We picked up those that fell into our canoes and threw them back ; those which fell into water drifted away with the tide. As this throwing and counter-throwing went on, they continued going towards Elemiama shore ; when they were very near it they shot at us and we dropped into water and when we got back into our canoes we 30 pulled hard to shore. By then they were on land. We pulled hard so as not to give them time to reload the gun and fire at us again. We all went ashore.

On land it was no longer a joke. What ever we could pick up we threw at them hard. No Okrikan used a machet. The Kalabaris were in a group ; I don't know if they had matchets. No Okrikan used a spear like this shown to me. I did not ; I had none.

We took away one of their canoes with a gun in it and returned to Okrika. The canoe also contained all the exhibits here except the fishracks. Uriah (Accd. 8) bought the canoe. Someone else bought the gun.

We told our people we had fought with some persons who had seized 40 Uriah's canoe, and for that our Chiefs called us round and detained us, and later handed us over to Police and D.O. ; we were taken to Degema. Accd. 1 to 8 were taken at Okrika. I made a statement to Police at Degema ; Augustus recorded it ; Sgt. Omile wasn't there ; another p.c. was, not an Okrikan. After recording it Augustus took my thumb and pressed it on the paper. The D.O. then took us to the hospital. Our town chiefs were there ; also Sgt. Omile and Augustus—in the party that went to hospital. We were Nos. 1 to 8 ; Accd. 9 wasn't there.

Hamilton George said some of his customers were amongst those who fought him. We were put in a line and marched round him. He said none of us here did him any injury.

Before Magistrate when Augustus read out my statement I said it was not correctly recorded.

To Court : When it was read here, I did not hear it said that when they fired the gun we fell into the water, though I said this in my statement. I said there was no woman where we fought, nor children. There may be other mistakes I don't remember.

- 10 *X-nd. :* At Elemiama there was on the shore a fight between Okrikans and Kalabaris, and I was there. We got these properties of theirs just after the fight. I heard two witnesses claim those properties as theirs and say they were there. Injuries could have been sustained easily the way the fight was conducted. We fought but not at arm's length. Sticks thrown could not have wounded Hamilton George with cuts on back and head. It was not in the fight we had that he sustained those injuries.

I threw a stick at a Kalabari, to hit him but it hit nobody. Little Chamberlain lied when he said I hit him with a stick. He did pick me out and identify me as one of those at the fight.

- 20 Sunday Kiri (Accd. 6) did not get into my canoe. When Uriah and Digbani were picked up they did not speak to me in particular but to us generally and I heard what they said. They said Kalabaris chased them and took their canoe. There was peace made between Okrika and Kalabari chiefs. We did not take them to Okrika chiefs because they would not have believed us unless we had seen. Uriah's canoe was not there. I believed what he told me about his being chased and nearly killed and his canoe taken. I was annoyed ; cannot say whether the others were. We did not go to take revenge but to verify facts, not to take a canoe in place of Uriah's. We did take one canoe of theirs. We threw sticks
30 one party at the other. On getting back we spoke of what occurred. I did not report to a Chief. I don't think there were any Police at Okrika at the time.

Re-nd. : Nil.

(Case of Accd. 5 closed.)

Mr. RHODES-VIVOUR : Accd. wishes to give evidence.

No. 25.

EVIDENCE of Sunday Nabuaye Kiri, Accused 6.

Accused 6—SUNDAY NABUAYE KIRI : sworn : (Okrikan):

- 40 A fisherman. I was on Chokorocho River with Accd. 1 to 5, Bereburuka, and my partner Godwin Brown. It was about 2½ months ago. I left Okrika ; met others on river ; on getting to Tambolo sunjo Accd. 7 and 8 hailed us and we picked them up from swamp. They said three Kalabari canoes chased them, fired a gun at them, so they

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No. 24.
Evidence
of Jonathan
Gun,
Accused 5,
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Examina-
tion,
continued.
Cross-
examina-
tion.

No. 25.
Evidence
of Sunday
Nabuaye
Kiri,
Accused 6,
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No. 25.
Evidence
of Sunday
Nabuaye
Kiri,
Accused 6,
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1949,
Examina-
tion,
continued.

dived and got to swamp and walked to where we found them. They also said others had been chased and were in swamp, and we went and picked up another two.

They said of the three canoes which had chased them one went off with their two canoes they seized, and the other two canoes were going towards Elemiama. We decided to go and inquire of the Kalabaris who had done it seeing the Okrika and Kalabari chiefs had signed to keep peace. The two last rescued said they were too tired with running through swamp, so we sent them off with Bereburuka.

We went towards Elemiama ; on way we met Accd. 9 and Panga Luke, 10 and told them what had happened to Uriah and Digbani and that we were going to verify the facts from those Kalabaris. They said if so they would come with us for the inquiry.

At creek entrance to Elemiama we met those people and asked them why they had chased these men and taken their canoes after the peace signed by Okrika and Kalabari Chiefs. They said is that all you have come to ask us ? and at once began throwing stones at us ; we picked up those falling in our canoes and threw them back. While throwing they were pulling towards Elemiama and we were following. On nearing shore they picked up a gun and when it flashed we dropped in water. 20 When we got back into our canoes we pulled very hard but they got ashore first.

Ashore, the throwing continued ; whatever we could pick up from ground, sticks they threw and aught else, we threw at them. I saw no Okrikan use a spear ; I did not. I did not see any Kalabari use or have a machet. I did not use one. After the fight we took one of the Kalabari canoes and left ; it had all these exhibits in it except the fish-racks. At Okrika we asked people to keep these things ; we sold canoe to Uriah. We sold the gun.

I made a statement to Augustus, at Degema ; some constable—not 30 Omile—was present. Augustus read it out here. It has both omissions from and additions to what I said. When I finished making my statement he pressed my thumb to it. I was then taken before a European D.O., who took us to hospital.

I am not friendly with Godwin Brown. On returning he asked for his share and would not wait for me to bath and we had a fight.

Cross-
examina-
tion.

X-ad. : My fight with Godwin Brown was after the incident. On day of incident we were out fishing ; caught some fish in day-time, also before day-break some ; it was before we got to Uriah. We meant to fish and return home same day. We do not usually spend two or three 40 days out as fish caught first day would go bad. Where we went to fish was not far from home.

I did not use a spear as Godwin Brown said. I did not have a fight with a Kalabari man as Panga says ; nor hit Hamilton George on the head with a stick as he says ; nor use a machet on someone as Digbani said in his statement ; nor took accd. spear as stated in his statement to Police. Uriah's statement to Police that he saw me take spear is not true. I don't know why Panga should lie against me. He is an Ogoloma man. I belong to Okrika. Ogoloma men are Okrikans ; Panga is Okrikan.

It was not the idea of anyone of us in particular this going to inquire of the Kalabaris. All of us went. We picked up Panga on way. He is an Okrikan, of Ogoloma; that is what he had to do with Uriah's canoe. We did not invite him to increase our numbers. He came along. From where we picked up Uriah to spot of fight was near and on same side of river, at middle of up-stream and down-stream, at junction. From where we picked up Uriah we went towards the sea to go to Elemiama. I have paddled to P.H. from Okrika. The distance from spot we found Uriah to Elemiama is not so far as P.H. to Okrika. The distance is about
 10 same as from Police Barracks, P.H. to Okrika. We took the canoe because we defeated them, not in order to replace Uriah's; but that was not theft.

There were about 11 Kalabaris in the fight; the only weapon I saw with them was a gun. Dora was not there.

Re-xd. : I did not count the Kalabaris.

(Case for Accd. 6 closed.)

Mr. RHODES-VIVOURE: Accd. 7 wishes to give evidence.

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Evidence
of Sunday
Nabuaye
Kiri,
Accused 6,
28th May
1949,
Cross-
examina-
tion,
continued.
Re-examin-
ation.

No. 26.

EVIDENCE of Digbani Bamson, Accused 7.

20 Accused 7 DIGBANI BAMSON, sworn: (Okrikan):

Fisherman; of Okrika. I and Uriah went in a canoe from Okrika, about $2\frac{1}{2}$ months ago; left at night to fish. In mid-stream we met some other Okrikans and we went together—four in two canoes we were in all. Three Kalabari canoes chased us; we pulled away hard; they fired; we dived and got ashore and climbed into mangrove-swamp. Our canoe they took off, also that of the other two. They sent our two canoes off with one of theirs, and their other two canoes went towards Elemiama. We hailed passing canoes and Accd. 1 to 6 rescued us and the other two. We told our rescuers how Kalabaris chased us and tried to kill us and
 30 we escaped into swamp. They said it was not true and they wanted to see with their eyes. We said, those people are going along on the other side. Godwin Brown I saw that day for the first time, also Bereburuka. Bereburuka paddled the other two rescued away as they said they were too exhausted.

We went towards Elemiama and on way met Accd. 9 with Panga Luke; our rescuers told them what had happened; they said they would accompany us.

We saw the canoes that took away our canoes. One of us stood up and said to them, why is it that after Okrika and Kalabari Chiefs have
 40 signed to keep peace you people when you see Okrika-men on the river you chase them and try to kill them and loot their property? They

No. 26.
Evidence
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Accused 7,
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No. 26.
Evidence
of Digbani
Bamson,
Accused 7,
28th May
1949,
Examina-
tion,
continued.

Cross-
examina-
tion.

answered not gently saying, what have you come to do? They began throwing sticks at us, and we returned those falling in our canoes. During this throwing they pulled along towards Elemiama; and when close to shore they picked up a gun and fired it, and we dropped into water. We at once got back into our canoes and pulled hard and chased them. They landed first and we landed immediately after.

They threw sticks, we picked them up and threw them back. Eventually they ran up the town. We then took one of their canoes and left. It had a gun in it. Godwin Brown landed with us and he also threw sticks; so did Panga Luke. 10

The Exhibits here, barring the fishracks, were in the canoe we seized. We went to Okrika.

I made a statement to this Augustus, present a constable, not Omile; at Degema. After I made it he blackened my thumb and pressed it on the paper; he did not read it over to me before my thumb-mark was made. After that he asked me whether I did not see anyone inflict a matchet-wound. I said I did not. He said I did. We dragged in this dialogue until we went to D.O. Before him my statement was read and I said, when I heard that I was supposed to have stated that I had seen someone inflict a matchet-wound, that I never said so. At the fight I did not see any Okrika-man use a spear; I did not myself. I went with bare hands. Uriah had a sail he had been able to recover from the canoe. I did not see any Okrikan use a matchet. I did not see any Kalabari with a matchet. 20

X-ad. : I am Uriah's canoe-boy. It was not long before we were picked up. I was annoyed as the people came to kill me. Our rescuers said they would like to see them and ask them. I asked them to take me to Okrika. They said they would verify so as to tell people at home what truly happened. One canoe went home. If I and my partner had gone on it there would be no one to point out the people who had chased us. 30 I had gone away, there would be no one to point them out. Everybody said they wanted to go and verify; we all agreed to go. We did not go so as to get a canoe. I landed at Elemiama with the others; we all did. I was in (Accd. 1) Sunday Alagba's canoe; saw no weapon in it. On landing I threw sticks at Kalabaris as others did. I cannot say how many the Kalabaris were, whether about same number as we, or more or less. I did not see any women amongst the Kalabaris. Dora did say here she saw me there. She did not. I was there at the fight at Elemiama.

On getting back we told people about what had happened. Our Chiefs asked our rescuers, who told them. I was not present. 40

There was a peace declared between Okrika and Kalabari Chiefs, after Government intervention. We did not go with a mind to fight. Had they dealt with us peacefully we could have gone away. They threw sticks. We had a fight, won, and took their canoe. I did not myself report to my own Chief, because his house was far away. We were not the aggressors. The Kalabaris were not only five, one a woman and two children—but many men.

Re-ad. : Nil.

(Case for No. 7 closed.)

Mr. RHODES-VIVOUR : Accd. 8 wishes to give evidence. 50

No. 27.

EVIDENCE of Uriah Obike Kalio, Accused 8.

*In the
Supreme
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Accused 8 URIAH OBIKE KALIO : sworn :

10 A fisherman ; of Okrika. Digbani and I went out fishing and were chased and fired at by Kalabaris and driven into swamp, where later we were rescued by Accd. 1 to 6. We told our rescuers what had been done to us—that Kalabaris had chased us into swamp and took our canoe and what was in it—eight nets, four sets of hooks, two fair-sized basins with our clothes and garri, eight calabashes, paddles. Our rescuers said they would like to see those people. I told them of another two, and they went and rescued them and these were paddled away by Bereburuka.

20 On our way to Elemiama we met Accd. 9 with Panga Luke. Godwin Brown was with us as Sunday Kiri's (Accd. 6's) canoe-boy. I pointed out the Kalabari canoes. One of us stood up and asked them, your townsmen and ours have signed peace, why is it you go about the river chasing people? They said, is that all you have come to ask us? They threw sticks at us and we threw back at them those that fell in our canoe. They took up a gun and fired it when they got close to the shore. We jumped into water and got back into our canoes and both parties got ashore, the Kalabaris first. All of us of one party went ashore.

There the throwing of sticks continued. When they went up inland we took one of their canoes and went away.

I made a statement and Chief Gabriel Oputibeya was interpreter—not this Chief Frederick. I remember seeing Sgt. Omile. A corporal, not this Sgt., was present when I made my statement. It was read back to me ; I disputed some portions but they pressed my thumb by force to the paper nevertheless.

30 At the fight at Elemiama I did not see any Okrikan throw a spear ; I did not. I did not see any Kalabari use a machet, or Okrikan use one ; I did not.

I bought the canoe taken from the Kalabari after the fight.

40 *X-xd.* : I was with (Accd. 7) Digbani. I was afraid when first chased by the Kalabaris, and annoyed. I told my rescuers that we should go home ; two men did go. I went with the others to show them the people ; I did willingly. Everybody talked ; no leader. To get to Elemiama we did not cross river ; it is on same bank as where we were picked up. We did not discuss this matter. On seeing the Kalabari canoes I recognized them ; they were the ones that had chased us. There were many people in them. One of us Sunday Nabuaye Kiri (Accd. 6) spoke to them when we approached them.

No. 27.
Evidence
of Uriah
Obike
Kalio,
Accused 8,
28th May
1949.
Examina-
tion.

Cross-
examina-
tion.

On way we picked up Panga's canoe. We were four canoes in all and those who wished went to verify by seeing them and asking them. They had a gun ; we had none in the canoe I was in and I did not see any gun in any of our canoes. We believed they would not be able to do anything to us, so we went ; we made up our minds.

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We landed at Elemiama after falling into water and reboarding our canoes. I too landed. I threw sticks like everybody. I did not hit any one. I did not fight at arm's length. I paddled the canoe taken on way back.

My fellow men were detained and I went to Court before my Chief returned ; so I never reported. I thought I would wait for my turn for evidence instead of putting any question to Sgt. Omile or Chief Frederick regarding their taking or interpreting my statement. I did tell the Magistrate that my thumb was forced to the paper but he said he wasn't trying the case.

10

No. 27.
Evidence
of Uriah
Obike
Kalio,
Accused 8,
28th May
1949,
Cross-
examina-
tion,
continued.

Re-~~ad.~~ : Nil.

(Case of Accd. 8 closed.)

Mr. RHODES-VIVOURE : Accd. 9 wishes to give evidence on oath.

No. 28.
Evidence
of Amata-
muno
Oruboko,
Accused 9,
28th May
1949.
Examina-
tion.

No. 28.

EVIDENCE of Amatamuno Oruboko, Accused 9.

ACCUSED 9 AMATAMUNO ORUBOKO : sworn (Okrika):

A fisherman ; of Okuru village ; canoe-boy to Panga Luke. I remember day when these Accd. met me with him fishing, about two and half months ago. All these Accd. met us ; Godwin Brown was there. On meeting us, we asked them where they were going to. They said some Kalabaris had chased Okrikas into the swamp and they were going to verify. I did not say anything but my partner Panga Luke said if so we would follow ; and I had to steer the canoe whither they went. 20

As we went along we saw some Kalabaris in two canoes. One of us asked them—Your townspeople and ours have agreed there should be no more trouble ; why is it that you have made attempts to kill Okrikas and taken their canoes and property ? They answered—Is that all what you have come here to ask us ? After that they threw sticks at us ; we picked up these sticks and threw them back at them. As we were throwing, they were pulling ashore ; one of them picked up a gun and fired it ; we dropped into water and we got out again and into our canoes and paddled very hard and pressed on them. The Kalabaris landed first ; we landed too, everyone of us. When we landed, the throwing of sticks continued until we overpowered the Kalabaris and they ran up, inland. I did not see any Okrikan use a machet ; I did not. No Okrikan had a spear. I did not see any Kalabari with a machet. After the Kalabaris ran inland we took a canoe of theirs, with a gun in it. Uriah and his partner Digbani (Accd. 8 and 7) brought the canoe to Okrika. 30

I know this Augustus. I made a statement to a Kalabari policeman. Augustus was there ; I don't know if he interpreted. The policeman understood my language ; we talked together. Both the policeman and 40

Augustus wrote. After they finished writing the policeman took my thumb, inked it and pressed it on paper. I went back to the cell after that at Okrika. They did not read over to me what they wrote. Next day I was taken to the D.O.; they read out a statement as mine; I denied some portions; the A.D.O. said they should take me back and take a fresh statement from me. Sunday Alagba (Accd. 1) was present at this. I also told the D.O. in the launch as we were coming to P.H. when he read out my statement. Another statement was not taken from me.

10 *X-ad.*: I have heard the other eight Accd. give evidence. Last night I was with them. We did not discuss this case together, as the keepers of our cells do not allow us to make a noise and talk. I have said what I saw. I was with Panga. Before I made my statement some of the Accd. had been put in the cells, and I was put in the cell. It is not true that when we got to Elemiama we saw four men and a woman on the shore, who told us not to land. I did not say so to the Police. What I told the Police was the same as what I told the Court. What was read out here as my statement was not correct; in about three places I said that I had not stated so. I told the Magistrate that. I said I was at the place where the fighting took place. I took part in the fight. I did not state
20 to the Police I did not take part in the fight, or that I did not land. I had a share from the money when gun and canoe were sold; I said so to Police. The other articles were not sold yet. I received some money—not I but my wife Grace Somiari, as I heard after my arrest. I made my statement before she told me that she received some money. I said in my statement I hadn't received any money. Re passage that they told us they would go and seize Kalabari canoes in my statement, I did not say so; I said to go and inquire. Re passage that my master said would it not bring trouble and they said Okrikas would come to our aid, I did not say so. My master said we should go with them and told me to steer the
30 canoe whither they went. My evidence here is the truth.

Re-ad.: Nil.

To Court: I married this year. I do not know my age. Panga Luke was going to give me a third of the catch. I went to see my wife and I had to go out with him to the fishing.

Adjd. till Monday morning for address by Mr. Rhodes-Vivour.

Case for Accd. 9 closed.

Defence closed.

(Sgd.) V. R. BAIRAMIAN,

J.

*In the
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holden at
Port
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—
No. 28.
Evidence
of Amata-
muno
Oruboko,
Accused 9,
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Examina-
tion,
continued.
Cross-
examina-
tion.

ADDRESS of Mr. Rhodes-Vivour, Counsel for Accused.

*In the
Supreme
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Nigeria
holden at
Port
Harcourt.*

Mr. RHODES-VIVOURE addresses :—

Prosecution witnesses say they were present and saw what happened at Old Shipping, where murder is alleged.

No. 29.
Address of
Mr. Rhodes-
Vivour,
Counsel for
Accused,
30th May
1949.

Dora says Accd. 5 cut her with knife ; Accd. 2 first struck deceased with long stick ; Accd. 3 and Accd. 4 had spears ; at Degema Police identified Accd. 1, 4, 6 and 7. She did not identify Accd. 5 or Accd. 2, or Accd. 3. It was at Magistrate's Court Dora says she was able to identify Accd. 5.

10

Chamberlain is too young ; his evidence is useless. It is true Accd. 5 admitted being identified by the little boy as present at the fight. Hamilton George says Accd. 4 first struck deceased with stick—not Accd. 2—as Dora said. Accd. 6 struck him with a stick on head ; No. 2 used matchet on my head. (See manuscript p. 10, top.) (Copy p. 11, ll. 6-8.) He could not identify anyone when at hospital.

Godwin Brown is a liar. He says they were all armed. He landed too. He has malice against Accd. 6, and his evidence affects all Accd. He talks of an oath of secrecy ; but this Panga Luke denies.

Accd. reported on return to Okrika ; Sgt. Omile says Chiefs handed 20 them to him.

Panga Luke says it was Accd. 1 ran up and cut deceased with a knife because he was reloading his gun ; and a Kalabari with a matchet chased Accd. No. 3, who ran and got a spear and threw it at him. The others did nothing, though they all landed in a body.

The making of a deposition by Godwin Brown and Panga Luke was the price of their release.

Panga Luke says here they were not armed when they landed.

Question A—Were these Kalabaris—deceased and H. George and Dora and two children—the Kalabaris the Accd. fought ?

30

Accd. admitted in their statements that these exhibits were in the canoe they seized. Sgt. Omile says they were recovered after the statements of the Accd. were made. It is not impossible that Accd.'s statements were read to Dora and Hamilton George and then they claimed these articles. It was natural for them to claim them when they were asked.

Accd. said they met a number of Kalabaris on the river, who attacked them and fought them. Accd. could not say how many. Godwin Brown and Panga Luke should not be believed on Kalabaris being five.

Question B is said to begin here : I say the Kalabaris had the gun on land also ; see Panga Luke's evidence about Hamilton George re-loading 40 it. It is certain Kalabaris fired to cover their landing.

Panga Luke agrees that they went peacefully to inquire of the Kalabaris about the seizing of the Okrikan canoes as said by Accd. 7 and 8 and the others rescued. Accd. wanted to verify this incredible breach

of the peace signed between the two sets of Chiefs. This was a lawful purpose ; but sticks were thrown at them and a gun was fired at them. Accd. had to persist as the others had a gun, which they had to take.

In this portion of the argument I am assuming that the Kalabaris were deceased and Hamilton George and Dora and two children.

There is no evidence of an identification parade, as usual.

Dr. Onwu says deceased was bloated and decomposing and died of hæmorrhage.

10 Accd. should have been charged with manslaughter : Sect. 318 of Criminal Code. Provocation. See 4 W.A.C.A. p. 110 *R. v. Ekpo* Heat of clan affray, on land. 16 N.L.R. *R. v. Ojifo* or Okoro at p. 63, 65 ; judge by standard of Accd.'s level of mental ability. They had to go ashore and defend themselves.

See *R. v. Aba Ganna & two others* decided by W.A.C.A. on 1.5.48. They went to kill in revenge. Different from this case.

Sec. 287 of Criminal Code : self defence. Accd. could not have retreated as Kalabaris had a gun. Kalabaris began attack.

Accd. went out to fish. Prosecution evidence conflicting and fails to prove case beyond reasonable doubt.

20 All the Accd. went ashore in a body and took part in a fight against Kalabaris. I have no ground for distinguishing between one Accd. and another's liability.

Adjd. to this afternoon.

(Intld.) V.R.B.

Afternoon :

Mr. Briggs ; Mr. Rhodes-Vivour ; the Accd.

No. 30.

JUDGMENT.

Judgment in R. v. Sunday Kala Alagba and eight others.

30 Delivered on 30th May, 1949.

The nine Accd. in this case are charged with murdering Douglas Obene Marian Braide at Elemiama (Old Shipping) on or about the 11th of March last.

The body of the deceased was examined by Dr. Onwu at Degema on the 14th March ; it was identified to him by Opune Marian, a brother of the deceased. In it were embedded two harpoon or spear-heads without their shafts—one in the inner aspect of the right arm not far from the armpit ; the other in the outer aspect of the left forearm between the elbow and the wrist. There was also a cut about three inches long

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

No. 29.
Address of
Mr. Rhodes-
Vivour,
Counsel for
Accused,
30th May
1949,
continued.

No. 30.
Judgment,
30th May
1949.

*In the
Supreme
Court of
Nigeria
holden at
Port
Harcourt.*

No. 30.
Judgment,
30th May
1949,
continued.

on the outer aspect of the right forearm, and a slight bruise on the left side of the neck. On dissection the internal organs were found to be pale and the heart empty of blood. The spear-heads had penetrated about an inch and a half into the muscle, and the right arm brachial artery was completely severed, which severing the doctor thought was the cause of death. The spear wounds had been inflicted before death, he was sure from the reaction he saw there; it was the hæmorrhage that caused the death.

The doctor attended to Dora Ekine Will Braide, who had a cut on the head and a deep bruise on the back; also to Hamilton George for very serious multiple wounds. (They are Pros. witnesses 2 and 4.) 10

Dora, wife of the deceased, says it was a Friday when she went with him and two children to Elemiama on their way to Bile in one canoe, accompanied by Hamilton George (to her known as Douglas) in another. (Elemiama means "Old Shipping"; it seems to be pronounced also as Olumama.) There the deceased and Hamilton George landed, whilst she and the children remained in the canoe. She saw four canoes coming up, so she sent the children to call the two men back and she landed too.

The newcomers, strangers to her, wanted to land. Her husband, back by then, asked them what they had come to do, and they said to cut some coco-nuts; to which he said that they had no coco-nuts there, that being an old town of his and his fellows. Upon this they uttered a war-cry of theirs and pulled ashore in one canoe in a body and landed and surrounded her husband—eleven of them. They hit him with a stick and cut him with a knife and threw a spear at him; he died instantly. 20

Then, says Dora, she and Hamilton George and the children tried to escape and were chased. He was cut with a knife; she was struck down with a club and cut on the head with a knife by Accd. 5 (Jonathan Gun). She ran and fell down somewhere. When the assailants were gone, she struggled to her feet and dragged one child out of the mud, tied him to her back and swam across. Hamilton George and the other child were not there. Before leaving the spot she had a look at her husband to make sure he was dead. She spent the night in the bush, was picked up by some Bonny passers-by and eventually went to Degema in a canoe carrying her husband's body, and there she found Hamilton George and the other child. 30

Their two canoes with what was in them had been taken away from Elemiama by their assailants. She identified sundry articles in Court as being in her canoe. The Accused themselves admit taking only one canoe; but they admit taking all the articles in Court, some of which were claimed by her and others by Hamilton George as being in his canoe. 40

According to Dora it was Isaac—Accd. 2—who began striking her husband with a long stick and knocked him down; Sele (Accd. 3) and Saturday (Accd. 4) had spears with their bamboo-shafts; the others each had something.

At Degema prison Dora says she identified four of the assailants—Sunday Kala Alagba (Accd. 1), Saturday Kwani (Accd. 4), Sunday Kiri (Accd. 6) and Digbani Bamson (Accd. 7); at the Magistrate's Court she says she also identified Jonathan Gun (Accd. 5). In this case it does not really matter which of the Accused did what. 50

Her little son Chamberlain made an unsworn statement ; he identified in Court, Accd. 2, Isaac, as hitting the deceased with a stick, and Accd. 5, Jonathau, as beating everybody with a stick, and Accd. 6, Sunday Kiri, as beating his mother with a stick. Little Chamberlain was beaten—that was all.

Hamilton George spent more than two months in hospital ; he showed me the scars of knife-cuts on his head and a long scar on his back, marks of the wounds he was given with an axe and a knife while running away after the deceased fell forward on his face after the assailants hit him with
 10 a stick and threw two spears at him. The first man to strike the deceased was Saturday Kwani—Accd. 4. Hamilton George was left as dead ; later he found his canoe was gone ; he saved himself with the other boy. He says these spear-heads in Court belonged to spears used by Okrikaman to kill big fish. He agrees with Dora that none of his company fired a gun ; they did not take it out of the canoe. His evidence is in substance the same as Dora's.

Of the other witnesses for the Crown I shall take first Bereburuka Martins (Pros. No. 7), the canoe-partner of Isaac Ngeri (Accd. 2). He says they went out to fish ; there were three more canoes with Accd. 1 and 3
 20 in one, Accd. 4 and 5 in another, and Accd. 6 with Godwin Brown (Pros. Wit. 5) in the third. They were hailed from the swamp, and rescued Accd. 7 and 8, who said some Kalabaris had fired at them, and said there were another two ; these they rescued too. Then they paddled towards their town but on seeing some canoes across the water Jonathan (Accd. 5) said they should go and ask them what had happened. Accd. 2 left his canoe, and he Bereburuka paddled the two last rescued to Bumo-kiri at their request. The other canoes went to Elemiama. Later that day his canoe-partner gave him some coco-yams, some plantains, and the straw-sail (an exhibit) as his share ; the straw-sail he gave to the Police.

30 Godwin Brown (Pros. Witness 5) was in a canoe with Sunday Kiri, Accd. 6, that day—a Friday in March. His evidence may be taken up at the point where Accd. 6 told him to paddle towards Elemiama. On his asking why, Accd. 6 said they were going to capture two canoes there belonging to Kalabaris. On getting there, the party landed with Accd. 6 as leader, holding a spear and a matchet. On the shore there were two men, a woman and two children. Accd. 6 speared one of them ; Sele (Accd. 3) also speared someone. Accd. 1 (Sunday Alagba) used his matchet on someone ; so did Isaac Ngeri (Accd. 2), Digbani (Accd. 7), and Amatamuno (Accd. 9). Saturday (Accd. 4) hit someone with a stick,
 40 so did Jonathan (Accd. 5) and Uriah (Accd. 8). Godwin Brown says he was the only one who did not land ; he recognises Dora as being there and saw her cut with a matchet. His party took the two Kalabari canoes with what was in them.

What Godwin Brown said about each particular person of his party is not of importance in this case ; nor what Ekensikimama Luke (nicknamed Panga) said either, about any particular member of the party. These two were in the party of the Accused and landed with them in a body to attack. Incidentally, Godwin Brown is an Ibo who wishes to keep himself out of the actual attack, and Panga Luke is an Okrikan, who wishes to
 50 favour his fellow Okrikans, the Accd., by representing that his party went

*In the
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No. 30.
Judgment,
30th May
1949,
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Port
Harcourt.*

—
No. 30.
Judgment,
30th May
1949,
continued.

in a cool frame of mind to ask some questions at Elemiama but those ashore began by firing a gun and throwing sticks and stones at them before they landed and were reloading the gun. Their evidence does, however, confirm Dora and Hamilton George that they and the deceased and the two children were the ones ashore and that the assailants had sticks and spears and matchets. It has been suggested by Counsel for the defence that these two witnesses—Godwin Brown and Panga Luke—should not be believed because their giving evidence in the case was the price of their release. Their evidence, however, is not vital in the case. The vital evidence is that of Dora, who recognised four of the assailants, and Hamilton George, who confirms her regarding the events at Elemiama. In addition, the Accused themselves admit taking one canoe with certain articles in it which were produced in Court and which the Accused say were the articles in the canoe they took away from Elemiama. These articles were identified by Dora and Hamilton George as their own and as being in their canoes that day, and I am fully satisfied of the truth of the evidence given by Hamilton George and Dora and with their identification of their goods. 10

Little need be said about the statements made by the Accused to the Police. Some of them suggest that the Kalabaris were on the water, 20 others that they were on land; some of them say that nobody was hurt on either side and it was a mere throwing of sticks this way and that. That of Accd. 7 mentions a matchet; that of Accd. 3 mentions Sunday Ipuku (apparently Accd. 6) throwing at a Kalabari a spear belonging to Accd. 1; that of Accd. 9—the Benjamin of the Okrikans—is to the effect that his companion Panga Luke hesitated in accepting the proposal that they two should follow the others to Elemiama to ask the Kalabaris and to seize the Kalabaris' canoes, but was reassured that in case of trouble ensuing the Okrika people would come to their aid, and Panga with Accd. 9 agreed and followed them; at Elemiama Accd. 9 saw four men 30 standing on the bank with a woman, who told them not to land but the Okrikans landed by force; and he goes on to describe the fight with weapons on either side.

Accused 9 gave evidence to another effect, on the same lines as Accd. 1 to 8. Insofar as their evidence did not tally with their statements they repudiated them saying they were not faithfully taken down or read over in all cases. For my part I believe their statements were recorded faithfully (and his own read over to each Accd. and agreed to). As to their evidence in Court, it takes up almost half the record but comes to this, briefly: Accd. 1 to 6 with Bereburuka and Godwin Brown met on the 40 river, being four canoes out to fish; Accd. 7 and 8 hailed them; they rescued Accd. 7 and 8 from the swamp, as also two others; the men rescued told them how they had been driven into the swamp and robbed of their canoes and what was in them; they decided to verify this story by inquiring of the two Kalabari canoes which went into the Elemiama creek; the two men last rescued were sent away in a canoe with Bereburuka because they were too exhausted to come; on the way they met with Panga Luke and Accd. 9 in a canoe, who joined them; the party went on and spoke to the Kalabaris but these threw sticks at them; some of the sticks fell into their canoes and these they threw back; they followed the 50 Kalabaris to the bank, who fired just before landing; they jumped into

the water and got back into their canoes and paddled hard to land, as some said to forestall a reloading of the gun and a second shot. On land the stick-throwing continued but the Kalabaris were defeated and ran inland; the Okrikans came away with one of their canoes and what was in it. According to this account it was a harmless throwing of sticks begun by the Kalabaris in the water and continued on land until the Kalabaris gave it up; the gun-shot was an interlude at landing. Nobody was hurt. The Okrikans were unarmed; they went to make a peaceful inquiry, were attacked and retaliated, with no more than stick-throwing though on land, as Accd. 5 put it, it was no longer a joke and his party threw hard whatever they could pick up.

As to the numbers of the Kalabaris they were a sufficient number but the Accd. could not say how many, but there were no women or children. Accd. 1 admitted being identified by Dora at Degema as one of the men at Elemiama. Accd. 5 also admitted being picked out by the little boy Chamberlain. Accd. 7 went the length of admitting he was annoyed as the Kalabari people came to kill him, but he did not go with the others for revenge. Accd. 8 was annoyed when first chased and went willingly to show the others the people who had chased them; and his party made up their minds to find them; believing the other side would not be able to do anything to them. Accused 9 denies what was given from his statement to the police and insists he took part in the fight.

This is a review of the evidence that seems to me important. My view of the facts in this case is as follows:—

When Accd. 1 to 6 with Godwin Brown and Bereburuka rescued Accd. 7 and 8 and the other two from the swamp and were told by these four men how they had been chased and fired at by three Kalabaris canoes and driven into the swamp and deprived of their two canoes, they were all, as Okrika-men, furious at this act of aggression and wanted to have their own back on the Kalabaris and set out with that purpose. They wanted to be as many as they could; but they had to send away with young Bereburuka the two men last rescued from the swamp as these were far too tired and would be useless and a deadweight; however they found on the way another canoe with two Okrikans—Panga Luke with Accd. 9 who joined them willingly in their expedition into the Kalabari region. They saw two canoes at Elemiama waterside—a Kalabari place—and went for them. They knew quite well, at any rate on approaching, that these could not be the Kalabaris who had chased the four men rescued from the swamp; it was broad daylight and they could see a woman and two children and old Hamilton George with the deceased, a younger man, on the shore. That however did not matter; they wanted to have reprisals for the act of Kalabaris who had nearly murdered four Okrikans and taken their canoes; those on the shore were Kalabaris and that was enough. They therefore landed in a body and went for them; they killed the deceased and wounded his wife and Hamilton George badly, and left them there as dead; they beat the children down into the mud and perhaps thought that would be the end of them too. Then they took their two canoes with their contents and went away. It was a punitive expedition on Kalabaris, whoever they might be. Those ashore were unarmed and helpless; they neither fired a gun—the gun was in the canoe—nor threw

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—
No. 30.
Judgment,
30th May
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Court of
Nigeria
holden at
Port
Harcourt.*

No. 30.
Judgment,
30th May
1949,
continued.

sticks or stones or anything. The suggestion that the Okrikans acted in self-defence or under provocation is completely unfounded. I have believed Dora and Hamilton George and I have not believed the fabricated story of the Accused. To the question whether or no it was these Kalabaris—namely deceased, his wife, the two children, and Hamilton George—the answer is without any doubt it was these and no others. Counsel for the defence says he cannot suggest any distinction among the Accused. I am afraid there is none that can be made; they are all equally guilty of the murder of the deceased. The law on the point is clear in Section 8 of the Criminal Code, with which may be read the judgments in 10 *R. v. Coney & ors.* (1882), 8 Q.B.D. 534; *R. v. Betts & Ridley* (1931), 22 Cr. App. R. 148.

All the Accused are hereby convicted of the murder charged in the Information.

Mark
Oruboko,
examina-
tion, 30th
May 1949.

MARK ORUBOKO: sworn: I am the brother of Accd. 9 Amatamuno; he is fifteen years old. I cannot say which year he was born.

Mr. BRIGGS: I am prepared to accept that evidence.

No. 31.
Allocuti,
30th May
1949.

No. 31.
ALLOCUTI.

20

Accused are addressed in turn: *allocuti*:

Accused 1: argues he is not guilty; appeals for leniency.

All are told how they may appeal.

Accused 2: appeals for leniency.

Accused 3: also.

Accused 4: also.

Accused 5: also.

Accused 6: also.

Accused 7: also, and says not guilty.

Accused 8: leniency and did not kill.

30

Accused 9: leniency; nobody died at the fight.

No. 32.
Sentence,
30th May
1949.

No. 32.
SENTENCE.

Accused 9: ordered to be detained during His Majesty's pleasure under section 368 of the Criminal Procedure Ordinance—Amatamuno Oruboko.

Sentence of death passed on Accused No. 1 to No. 8, all the other accused in the case in terms of section 367 of that Ordinance.

(Sgd.) V. R. BAIRAMIAN,
J.

40

Certified True Copy,

30th May, 1949.

(Sgd.) J. NGO CHUKWURAH,
Registrar.

No. 33.

**NOTICE OF APPLICATION for Leave to Appeal against a Conviction by
Accused 1, Sunday Kala Alagba.**

*In the
West
African
Court of
Appeal.*

Filed at 10 a.m. on 11/8/49.

Appeal filed 8/6/49.

(Intld.) J.N.C.

(Sgd.) ? ?

Reg.

Supt. of Prisons.

No. 33.
Notice of
Application
for Leave
to Appeal
against a
Conviction
by
Accused 1,
Sunday
Kala
Alagba,
8th June
1949.

Form V.

NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST A CONVICTION.

IN THE WEST AFRICAN COURT OF APPEAL.

10 **REX v. SUNDAY KALA ALAGBA and 8 Others.**

To the Registrar of the Court of Lagos.

I, SUNDAY KALA ALAGBA having been convicted of the offence of Murder and now being a prisoner in His Majesty's Prison at Port Harcourt and being desirous of appealing against my said conviction, DO HEREBY GIVE YOU NOTICE THAT I hereby apply to the Court for leave to appeal against my said conviction on the grounds hereinafter set forth.

(Signed) SUNDAY KALA ALAGBA His R.T.I.
(or mark) Applicant.

20 **Condemned Convict No. V.470**

Signature and address of
Witness attesting mark { (Sgd.) L. I. AWANYAI
2nd Class warder,
H.M. Convict Prison,
Port Harcourt.

Dated this 8th day of June, 1949.

PARTICULARS OF TRIAL AND CONVICTION.

1. Date of Trial—30th day of May, 1949.
2. In what Court tried—Supreme Court, Port Harcourt.
3. Sentence—Death.

30 **Grounds of application—**

(1) I did not plead guilty before the Court.

(2) I in company of Sele went for fishing on the day in question, suddenly we heard Uriah and Digbani asking us to come and rescue them from the swamp which we did. They told us that there

*In the
West
African
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Appeal.*

No. 33.
Notice of
Application
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Conviction
by
Accused 1,
Sunday
Kala
Alagba,
8th June
1949,
continued.

were two others who were driven to the swamp somewhere and we went and rescued them. That they later explained to us the circumstances which caused their been driven to the swamp. We then proceeded on peaceful enquiry, to the contrary, the Kalabaris began to thrown stick at us and we retaliated.

(3) I am not satisfied with the decision of the trial Judge on the following grounds :—

(A) No eye-witness to give substantial evidences to justify my conviction.

(B) That admissible evidences were rejected by the trial 10 Judge.

(C) The decision was unjustified—the trial Judge believed devised and contradictory evidences of the witness for the Crown which were unwarranted and unreasonable.

PARTICULARS OF TRIAL AND CONVICTION.

1. Date when sentence passed—30th day of May, 1949.

2. In what Court tried—Supreme Court, Port Harcourt.

(1) If you desire to be present when the Court considers your application for leave to appeal, state—Yes.

(A) Whether or not you are legally represented, and—Yes. 20

(B) The grounds on which you submit that the Court should give you leave to be present thereat—To prove the fact of my case.

(2) The Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal—
I desire to be present at the final hearing of my appeal.

No. 34.

NOTICE OF APPLICATION for Leave to Appeal against a Conviction by Accused 2, Isaac Enyi Ngeri.

In the West African Court of Appeal.

Filed at 10 a.m. on 11/6/49.

Appeal filed on 8/6/49.

(Sgd.) ? ?

(Intld.) J. N. C. Reg.

Supt. of Prisons.

Form V.

No. 34. Notice of Application for Leave to Appeal against a Conviction by Accused 2, Isaac Enyi Ngeri, 8th June 1949.

NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST A CONVICTION. IN THE WEST AFRICAN COURT OF APPEAL.

10 REX v. SUNDAY KALA ALAGBA and 8 Others.

To the Registrar of the Court of Lagos.

I, ISAAC ENYI NGERI having been convicted of the offence of Murder and now being a prisoner in His Majesty's Prison at Port Harcourt (or now living at) and being desirous of appealing against my said conviction, DO HEREBY GIVE YOU NOTICE THAT I hereby apply to the Court for leave to appeal against my said conviction on the grounds hereinafter set forth.

(Signed) ISAAC ENYI NGERI His R.T.I.

(or mark)

Applicant.

20

Condemned Convict No. V.467.

Signature and address of Witness attesting mark { (Sgd.) L. I. AWANYAI 2nd Class Warder H.M. Convict Prison, Port Harcourt.

Dated this 8th day of June, 1949.

PARTICULARS OF TRIAL AND CONVICTION.

- 1. Date of Trial—30th day of May, 1949.
2. In what Court tried—Supreme, Port Harcourt.
3. Sentence—Death.

30 Grounds of application—I pleaded not guilty before the Court. Godwin Brown and Panga Luke gave evidences as price of their release. On the day of the incident I, in company of Gbere Gboruka went for fishing. While we were fishing we heard Uriah and Digbani hailing on us, we rescued

*In the
West
African
Court of
Appeal.*

No. 34.
Notice of
Application
for Leave
to Appeal
against a
Conviction
by
Accused 2,
Isaac
Enyi Ngeri,
8th June
1949,
continued.

them from the swamp. They narrated to us all that had happened they showed us two others who were driven to the swamp and we rescued them. We proceeded on peaceful enquiry. We met some Kalabaris in two canoes. The Kalabaris began to throw sticks at us and we jumped into the water. There was no loss of life in either side. There was no eye-witness to give evidence against us. The evidences of Dora and young Chamberlain could not be relied on as they were son and wife of the deceased. The three witnesses Hamilton, Godwin Brown, and Panga Luke did not throughout their evidences state that I killed the deceased. There was no cause to be forearmed as peace-treaty had been signed by Kalabari people. Nobody had spear amongst us to my knowledge. Properties were claimed after statements were made to Police and there were no trade marks to show that properties claimed belonged to the deceased and his party. I am not satisfied with the decision of the Trial Judge in view of devised and contradictory evidences of the witnesses for the Crown. 10

PARTICULARS OF TRIAL AND CONVICTION.

1. Date when sentence passed—30th day of May, 1949.
2. In what Court tried—Supreme, Port Harcourt.

(1) If you desire to be present when the Court considers your application for leave to appeal, state—Yes. 20

(A) Whether or not you are legally represented—Yes.

(B) The grounds on which you submit that the Court should give you leave to be present thereat—To prove the fact of my case.

(2) The Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal—
I desire to be present at the final hearing of my appeal. 30

No. 35.

NOTICE OF APPLICATION for Leave to Appeal against a Conviction by Accused 3, Sele Oruamabo.

In the West African Court of Appeal.

Appeal filed on 4/6/49.

(Sgd.) ? ?

Supt. of Prisons.

Form V.

No. 35.
Notice of Application for Leave to Appeal against a Conviction by Accused 3, Sele Oruamabo, 4th June 1949.

Filed at 10 a.m. on 11/6/49 (Intld.) N.N.C. Reg.

**NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST A CONVICTION.
10 IN THE WEST AFRICAN COURT OF APPEAL.**

REX v. SUNDAY KALA ALAGBA and 8 Others.

To the Registrar of the Court of Lagos.

I, SELE ORUAMABO having been convicted of the offence of Murder, and now being a prisoner in His Majesty's Prison at Port Harcourt (or now living at) and being desirous of appealing against my said conviction, DO HEREBY GIVE YOU NOTICE THAT I hereby apply to the Court for leave to appeal against my said conviction on the grounds hereinafter set forth.

20 (Signed) SELE ORUAMABO His R.T.I.
(or mark) Applicant.
Condemned Convict No. V.472.

Signature and address of Witness attesting mark { (Sgd.) L. I. AWANYAI,
2nd Class Warder,
H.M. Convict Prison,
Port Harcourt.

Dated this 4th day of June, 1949.

PARTICULARS OF TRIAL AND CONVICTION.

- 30 1. Date of Trial—30th day of May, 1949.
2. In what Court tried—Supreme, Port Harcourt.
3. Sentence—Death.

Grounds of Application—

- (1) I pleaded not guilty before the Court.
(2) The evidences of the two witnesses were based on devise— inasmuch as they were once charged with murder of the deceased

*In the
West
African
Court of
Appeal.*

No. 35.
Notice of
Application
for Leave
to Appeal
against a
Conviction
by
Accused 3,
Sele
Oruamaho,
4th June
1949,
continued.

along with me and they were on remand for two months and two weeks ere their acquittal. They were later taken as Crown witnesses, with that object in view, they bore false evidences against me. The deceased was unknown to me and how he managed to meet his death is still a mystery to me. In the circumstances, I am not satisfied with the decision of the trial Judge.

(3) The Trial Judge was misdirected by believing the evidences of the two witnesses who were once charged with "Accomplice before the fact"; and with ultimate hope of being set free, they devised with the Police to give evidences against me.

10

PARTICULARS OF TRIAL AND CONVICTION.

1. Date when sentence passed—30th day of May, 1949.
2. In what Court tried—Supreme, Port Harcourt.

(1) If you desire to be present when the Court considers your application for leave to appeal, state—Yes.

(A) Whether or not you are legally represented—Yes.

(B) The grounds on which you submit that the Court should give you leave to be present thereat—

To prove the fact of my case.

(2) The Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal—
I desire to be present at the final hearing of my appeal.

No. 36.

**NOTICE OF APPLICATION for Leave to Appeal against a Conviction by
Accused 4, Saturday Kwani.**

Appeal filed on 6/6/49.

(Sgd.) ? ?

Supt. of Prisons.

Form V.

Filed at 10 a.m. on 11/6/49 (Intld.) J.N.C. Reg.

NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST A CONVICTION.

10 IN THE WEST AFRICAN COURT OF APPEAL.

REX *v.* SUNDAY KALA ALAGBA and 8 Others.

To the Registrar of the Court of Lagos.

I, SATURDAY KWANI having been convicted of the offence of Murder and now being a prisoner in His Majesty's Prison at Port Harcourt (or now living at) and being desirous of appealing against my said conviction, DO HEREBY GIVE YOU NOTICE THAT I hereby apply to the Court for leave to appeal against my said conviction on the grounds hereinafter set forth.

(Signed) SATURDAY KWANI His R.T.I.

20

(or mark) Applicant.

Condemned Convict No. V.466.

Signature and address of Witness attesting mark { (Sgd.) L. I. AWANYAI
2nd Class Warder, H.M. Convict Prison,
Port Harcourt.

Dated this 6th day of June, 1949.

PARTICULARS OF TRIAL AND CONVICTION.

1. Date of Trial—30th day of May, 1949.
2. In what Court tried—Supreme, Port Harcourt.
3. Sentence—Death.

30

Grounds of application—

(1) I pleaded innocent before the Court.

(2) I am not satisfied with the decision of the Trial Judge on the following grounds :—

(A) I pleaded alibi.

*In the
West
African
Court of
Appeal.*

No. 36.
Notice of
Application
for Leave
to Appeal
against a
Conviction
by
Accused 4,
Saturday
Kwani,
6th June
1949.

*In the
West
African
Court of
Appeal.*

No. 36.
Notice of
Application
for Leave
to Appeal
against a
Conviction
by
Accused 4,
Saturday
Kwani,
6th June
1949,
continued.

(B) I went a fishing and while I was fishing, I overheard my townspeople shouting that Kalabari had seized their goods and were chasing them. Messrs. Digbani Bamson and Uriah Obike Kalio begged me to come for their rescue with my canoe which I did.

(C) There was no eye-witness to give substantial evidence to justify my conviction; and the only two hearsay witnesses were those who were charged along with me.

(D) As there was no eye-witness, the Police had no alternative than to devise with these two men, and they were assured that if they could plot against me and 8 others, they, the witnesses could be set free. These two witnesses were on remand for two months and two weeks, and it was when the Police found that there was no eye-witness, that the Police devised with them to give false evidences against us and the result of this false evidences against us was their acquittal. 10

PARTICULARS OF TRIAL AND CONVICTION.

1. Date when sentence passed—30th day of May, 1949.
2. In what Court tried—Supreme, Port Harcourt.

(1) If you desire to be present when the Court considers your 20 application for leave to appeal, state—Yes.

(A) Whether or not you are legally represented—Yes.

(B) The grounds on which you submit that the Court should give you leave to be present thereat—To prove the fact of my case.

(2) The Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal— 30
I desire to be present at the final hearing of my appeal.

No. 37.

NOTICE OF APPLICATION for Leave to Appeal against a Conviction by Accused 5, Jonathan Gun.

*In the
West
African
Court of
Appeal.*

Appeal filed on 8/6/49.

(Sgd.) ? ?

Supt. of Prisons.

Form V.

No. 37.
Notice of
Application
for Leave
to Appeal
against a
Conviction
by
Accused 5,
Jonathan
Gun,
8th June
1949.

Filed at 10 a.m. on 11/6/49. (Intld.) J. N. C. Reg.

NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST A CONVICTION.

10 IN THE WEST AFRICAN COURT OF APPEAL.

REX *v.* SUNDAY KALA ALAGBA and 8 Others.

To the Registrar of the Court of Lagos.

I, JONATHAN GUN having been convicted of the offence of Murder and now being a prisoner in His Majesty's Prison at Port Harcourt (or now living at) and being desirous of appealing against my said conviction, DO HEREBY GIVE YOU NOTICE THAT I hereby apply to the Court for leave to appeal against my said conviction on the grounds hereinafter set forth.

(Signed) JONATHAN GUN. His R.T.I.

20

(or mark)

Applicant.

Condemned Convict No. V.468.

Signature and address of Witness attesting mark : (Sgd.) L. I. AWANYAI
2nd Class Warder,
H.M. Convict Prisons,
Port Harcourt.

Dated this 8th day of June, 1949.

PARTICULARS OF TRIAL AND CONVICTION.

30

1. Date of Trial—30th day of May, 1949.
2. In what Court tried—Supreme, Port Harcourt.
3. Sentence—Death.

Grounds of application—

- (1) I did not plead guilty before the Court.

*In the
West
African
Court of
Appeal.*

No. 37.
Notice of
Application
for Leave
to Appeal
against a
Conviction
by
Accused 5,
Jonathan
Gun,
8th June
1949,
continued.

(2) I, in company of Saturday Kwani went for fishing on the day in question, we saw Uriah and Digbani in the swamp, we rescued them. On enquiry they explained the circumstances—chase and unlawful seizure of properties. The two rescued men showed us where two others were in the swamp and we rescued them too. There is no eye-witness to give substantial evidences as to whether I threw spear at the deceased or with what instrument I used in killing the deceased. I was not identified in the identification parade and not until I was described to her that she reluctantly identified me at the Magistrate Court. The deceased son, an infant stated that I hit the deceased but he did not state with what and whether I hit the deceased while alive or after his death. The deceased's wife failed to mention whether I hit the deceased after his death so that as it stands their evidences varied. She said that she examined the corpse and made sure it was lifeless before she left but could not see any instrument on it. I actually participated in the fight of stone throwing "in self defence"—I could say for certain that there was no loss of life on either side. We went on peaceful campaign as peace treaty had been signed by Kalabari and Okrika People so that there was no cause to be forearmed. One of the wounded did not identify me as one of the assailants. I am not satisfied with the decision of the Trial Judge who was misdirected by believing the devised and contradictory evidences of the witnesses for the Crown.

PARTICULARS OF TRIAL AND CONVICTION.

1. Date when sentence passed—30th day of May, 1949.
2. In what Court tried—Supreme, Port Harcourt.

(1) If you desire to be present when the Court considers your application for leave to appeal, state—Yes.

(A) Whether or not you are legally represented—Yes. 30

(B) The grounds on which you submit that the Court should give you leave to be present thereat—To prove the facts of my case.

(2) The Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal—
I desire to be present at the final hearing of my appeal. 40

No. 38.

NOTICE OF APPLICATION for Leave to Appeal against a Conviction by Accused 6, Sunday Nabuaye Kiri.

In the West African Court of Appeal.

Filed at 10 a.m. on 11/6/49.
(Intld.) J. N. C. Reg.

Appeal filed on 8/6/49.
(Sgd.) ? ?
Supt. of Prisons.

No. 38.
Notice of Application for Leave to Appeal against a Conviction by Accused 6, Sunday Nabuaye Kiri, 8th June 1949.

Form V.

NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST A CONVICTION.
IN THE WEST AFRICAN COURT OF APPEAL.

10 REX v. SUNDAY KALA ALAGBA and 8 Others.

To the Registrar of the Court of Lagos.

I, SUNDAY NABUAYE KIRI having been convicted of the offence of Murder and now being a prisoner in His Majesty's Prison at Port Harcourt (or now living at) and being desirous of appealing against my said conviction, DO HEREBY GIVE YOU NOTICE THAT I hereby apply to the Court for leave to appeal against my said conviction on the grounds hereinafter set forth.

(Signed) SUNDAY NABUAYE KIRI His R.T.I.
(or mark) Condemned Convict No. V.473.

20

Signature and address of Witness attesting mark

(Sgd.) L. I. AWANYAL,
2nd Class Warder,
H.M. Convict Prison,
Port Harcourt.

Dated this 8th day of June, 1949.

PARTICULARS OF TRIAL AND CONVICTION.

- 1. Date of Trial—30th day of May, 1949.
- 2. In what Court tried—Supreme, Port Harcourt.
- 3. Sentence—Death.

Grounds of application :—

30

(1) I did not plead guilty before the Court.

(2) On the day in question, I, in company of Godwin Brown went to catch fish and we heard Uriah Obike Kalio and Digbani Bamson hailed on us to come and rescue them, which we did. They related

*In the
West
African
Court of
Appeal.*

No. 38.
Notice of
Application
for Leave
to Appeal
against a
Conviction
by
Accused 6,
Sunday
Nabuaye
Kiri,
8th June
1949,
continued.

the incident to us, and we went on peace campaign as Kalabari and Okrika had signed peace treaty. Kalabarians began to throw stones, we retaliated in self defence and subsequently they shot at us and we jumped into the water. I did not see any one wounded on either side. Godwin Brown and I went on fishing so that there was no need to arm ourselves with either spear or any harmful weapon. There was no living witness to give evidence to the effect that she or he saw me hitting the deceased and to my best knowledge, I did not, even though I took part in stone throwing in self defence. Godwin Brown and Panga Luke were once arrested and remanded 10 along with us and as there was no eye-witness to give substantial evidence against us they were assured of release provided they could adduce their devised statements to justify our conviction.

PARTICULARS OF TRIAL AND CONVICTION.

1. Date when sentence passed—30th day of May, 1949.
2. In what Court tried—Supreme, Port Harcourt.

(1) If you desire to be present when the Court considers your application for leave to appeal, state—Yes.

(A) Whether or not you are legally represented—Yes.

(B) The grounds on which you submit that the Court should 20 give you leave to be present thereat—To prove the fact of my case.

(2) The Court will, if you desire it, consider your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal—
I desire to be present at the final hearing of my appeal.

Certified True Copy.

(Sgd.) J. NGO CHUKWURAH,

Registrar.

No. 39.

**NOTICE OF APPLICATION for Leave to Appeal against a Conviction by
Accused 7, Digbani Bamson.**

*In the
West
African
Court of
Appeal.*

Filed at 10 a.m. on 11/6/49.
(Intld.) J. N. C. Reg.

Appeal filed on 6/6/49.
(Sgd.) ? ?
Supt. of Prisons.

No. 39.
Notice of
Application
for Leave
to Appeal
against a
Conviction
by
Accused 7,
Digbani
Bamson,
6th June
1949.

Form V.

NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST A CONVICTION.
IN THE WEST AFRICAN COURT OF APPEAL.

10 REX *v.* SUNDAY KALA ALAGBA and 8 others.

To the Registrar of the Court of Lagos.

I, DIGBANI BAMSON having been convicted of the offence of Murder and now being a prisoner in His Majesty's Prison at Port Harcourt (or now living at _____) and being desirous of appealing against my said conviction, DO HEREBY GIVE YOU NOTICE THAT I hereby apply to the Court for leave to appeal against my said conviction on the grounds hereinafter set forth.

(Signed) DIGBANI BAMSON His R.T.I.
(or mark) Condemned Convict No. V.469.

20

Signature and address of
Witness attesting mark

(Sgd.) L. I. AWANYAI,
2nd Class Warder,
H.M. Convict Prison,
Port Harcourt.

Dated this 6th day of June, 1949.

PARTICULARS OF TRIAL AND CONVICTION.

1. Date of Trial—30th day of May, 1949.
2. In what Court tried—Supreme, Port Harcourt.
3. Sentence—Death.

Grounds of application :—

30

I did not plead guilty before the Court.

I am not satisfied with the decision of the Trial Judge inasmuch as I am innocent of the alleged murder. There was no eye-witness

*In the
West
African
Court of
Appeal.*

No. 39.
Notice of
Application
for Leave
to Appeal
against a
Conviction
by
Accused 7,
Digbani
Bamson,
6th June
1949,
continued.

to adduce evidence to the effect that he or she saw me killing the deceased. I did not know the deceased prior to his death, and I did not know how he met his death. The two Crown witnesses stated before the Trial Judge that I participated in the murder of the deceased but I flatly denied the allegation. The two hear-say witnesses who were charged with murder and were on remand for 2 months and 2 weeks were acquitted and subsequently taken as Crown witnesses with the ultimate aim of being set free. They devised their evidences to suit their plans.

PARTICULARS OF TRIAL AND CONVICTION.

10

1. Date when sentence passed—30th day of May, 1949.
2. In what Court tried—Supreme, Port Harcourt.

(1) If you desire to be present when the Court considers your application for leave to appeal, state—Yes.

(A) Whether or not you are legally represented—Yes.

(B) The grounds on which you submit that the Court should give you leave to be present thereat—To prove the fact of my case.

(2) The Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right your case and argument in support of your appeal. 20

State if you desire to be present at the final hearing of your appeal—
I desire to be present at the final hearing of my appeal.

Certified True Copy.

(Sgd.) J. NGO CHUKWURAH,
Registrar.

No. 40.

NOTICE OF APPLICATION for Leave to Appeal against a Conviction by Accused 8, Uriah Obike Kalio.

In the West African Court of Appeal.

Filed at 10 a.m. on 11/6/49. (Intld.) J.N.C. Reg.

Appeal filed on 6/6/49

(Sgd.) ? ?

Supt. of Prisons.

Form V.

No. 40.
Notice of Application for Leave to Appeal against a Conviction by Accused 8, Uriah Obike Kalio, 6th June 1949.

**NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST A CONVICTION
10 IN THE WEST AFRICAN COURT OF APPEAL.**

REX v. SUNDAY KALA ALAGBA and 8 Others

To the Registrar of the Court of Lagos.

I, URLAH OBIKE KALIO having been convicted of the offence of Murder and now being a prisoner in His Majesty's Prison at Port Harcourt (or now living at) and being desirous of appealing against my said conviction, DO HEREBY GIVE YOU NOTICE THAT I hereby apply to the Court for leave to appeal against my said conviction on the grounds hereinafter set forth.

20

(Signed) URLAH OBIKE KALIO His R.T.I.

(or mark)

Condemned Convict No. V.471.

Signature and address of Witness attesting mark

(Sgd.) L. I. AWANYAI
2nd Class Warder, H.M. Convict Prison,
Port Harcourt.

Dated this 6th day of June, 1949.

PARTICULARS OF TRIAL AND CONVICTION

1. Date of Trial—30th day of May, 1949.
2. In what Court tried—Supreme, Port Harcourt.
3. Sentence—Death.

30

Grounds of application :—

(1) I pleaded not guilty before the Court.

I am innocent of the alleged murder. There is no eye-witness to give substantial evidence to justify my conviction, except

*In the
West
African
Court of
Appeal.*

No. 40.
Notice of
Application
for Leave
to Appeal
against a
Conviction
by
Accused 8,
Uriah
Obike
Kaliu,
6th June
1949,
continued.

evidences of the two witnesses who were charged with murder along with me and were on remand for 2 months and 2 weeks. There was no witness with the result that Police devised with these two witnesses and assured them that they would be set free inasmuch as they manufactured their evidences to suit their purpose. The witnesses could not say for certain, with what instrument I used in killing the deceased nor what part I played during the murder of the deceased.

I did not know that the deceased died as the result of wound-spear pointed on him. In the evidences of the two witnesses, one stated that the spear was attached to bamboo stick, while another stated that there was no bamboo stick attached. There was variations in their evidences which proved that their evidences were nothing short of fabrication of envy and edifice of falsehood. 10

In view of their fished evidences, I am not satisfied with the decision of the Trial Judge.

PARTICULARS OF TRIAL AND CONVICTION

1. Date when sentence passed—30th day of May, 1949.
2. In what Court tried—Supreme, Port Harcourt.

(1) If you desire to be present when the Court considers your application for leave to appeal, state—Yes. 20

(A) Whether or not you are legally represented Yes.

(B) The grounds on which you submit that the Court should give you leave to be present thereat.—To prove the fact of my case.

(2) The Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal— 30
I desire to be present at the final hearing of my appeal.

Certified True Copy.

(Sgd.) J. NGO CHUKWURAH,
Registrar.

No. 41.

**NOTICE OF APPLICATION for Leave to Appeal against a Conviction by
Accused 9, Amatamuno Oruboko.**

*In the
West
African
Court of
Appeal.*

Appeal filed 11/6/49.

(Sgd.) ? ?

Supt. of Prisons.

Filed at 10 a.m. on 13/6/49. (Intld.) J. N. C. Reg.

Form V.

No. 41.
Notice of
Application
for Leave
to Appeal
against a
Conviction
by
Accused 9,
Amata-
muno
Oruboko,
11th June
1949.

NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST A CONVICTION.

10 IN THE WEST AFRICAN COURT OF APPEAL.

REX *v.* SUNDAY KALA ALAGBA and 8 Others.

To the Registrar of the Court of Lagos.

I, AMATAMUNO ORUBOKO having been convicted of the offence of Murder and now being a prisoner in His Majesty's Prison at Port Harcourt (or now living at) and being desirous of appealing against my said conviction DO HEREBY GIVE YOU NOTICE THAT I hereby apply to the Court for leave to appeal against my said conviction on the grounds hereinafter set forth.

(Mark) AMATAMUNO ORUBOKO. His R.T.I.

Convict No. V.465.

20

Signature and address of } (Sgd.) L. I. AWANYAI
Witness attesting mark } 2nd Class Warder, H.M. Convict Prison,
Port Harcourt.

Dated this 11th day of June, 1949.

PARTICULARS OF TRIAL AND CONVICTION.

1. Date of Trial—30th day of May, 1949.
2. In what Court tried—Supreme Court, Port Harcourt.
3. Sentence—Detained at King's Pleasure sec. 368 C.P.O.

Grounds of application :—

30

(1) I did not plead guilty before the court.

(2) I pleaded " alibi " which was proved by the witnesses for the Crown. I came to Okrika to pay my tax and there I was

*In the
West
African
Court of
Appeal.*

No. 41.

Notice of
Application
for Leave
to Appeal
against a
Conviction
by
Accused 9,
Amata-
muno
Oruboko,
11th June
1949,
continued.

and charged with the murder of the deceased, and I flatly denied the allegation.

(3) No eye witness to adduce substantial evidence to the effect that I did take part in the fight much more of killing. I am not satisfied with the decision of the trial Judge on the following grounds—

(A) that admissible evidences were rejected by the trial Judge.

(B) that there is no sufficient admissible evidence to support the decision of the trial Judge.

(C) that in absence of admissible evidence, the decision of 10 the trial Judge is erroneous, unwarranted and unreasonable.

PARTICULARS OF TRIAL AND CONVICTION.

1. Date when sentence passed—30th day of May, 1949.
2. In what Court tried—Supreme Court, Port Harcourt.

(1) If you desire to be present when the Court considers your application for leave to appeal, state—Yes.

(A) Whether or not you are legally represented—Yes.

(B) The grounds on which you submit that the Court should give you leave to be present thereat—To prove the fact of my case.

(2) The Court will, if you desire it, consider your case and argument 20 if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal—
I desire to be present at the final hearing of my appeal.

Certified true copy.

(Sgd.) J. NGO CHUKWURAH,
Registrar.

No. 42.

JUDGMENT of West African Court of Appeal.

IN THE WEST AFRICAN COURT OF APPEAL.

Holden at Lagos, Nigeria.

Tuesday the 2nd day of August, 1949.

Before their Honours :

Sir JOHN VERITY, Chief Justice, Nigeria—Presiding Judge.

CECIL GERAIN T AMES, Puisne Judge, Nigeria.

CHARLES THEODORE ABBOTT, Puisne Judge, Nigeria.

*In the
West
African
Court of
Appeal.*

No. 42.
Judgment
of West
African
Court of
Appeal,
2nd August
1949.

10 WACA.3081.

THE KING

versus

1. SUNDAY KALA ALAGBA
2. ISAAC ENYI NGERI
3. SELE ORUAMABO
4. SATURDAY KWANI
5. JONATHAN GUN
6. SUNDAY NABUAYE KIRI
7. DIGBANI BAMSON
8. URLAH OBIKE KALIO
9. AMATAMUNO ORUBOKO.

20

Leave to appeal refused.

(Sgd.) JOHN VERITY,
Chief Justice, Nigeria,
Presiding.

*In the
Privy
Council.*

No. 43.

ORDER IN COUNCIL granting special leave to appeal.

No. 43.
Order in
Council
granting
special
leave to
Appeal,
21st
December
1949.

AT THE COURT AT BUCKINGHAM PALACE

The 21st day of December, 1949

Present

THE KING'S MOST EXCELLENT MAJESTY

LORD PRESIDENT

Mr. Secretary SHINWELL

Mr. Secretary NOEL-BAKER

Mr. STRAUSS

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 13th day of December 1949 in the words following, viz. :—

L.S.

“ Whereas by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of (1) Sunday Kala Alagba (2) Isaac Enyi Ngeri (3) Sele Oruamabo (4) Saturday Kwani (5) Jonathan Gun (6) Sunday Nabuaye Kiri (7) Digbani Bamson (8) Uriah Obike Kalio (9) Amatamuno Oruboko in the matter of an Appeal from the Port Harcourt Judicial Division of the Supreme Court of Nigeria between the Petitioners Appellants and Your Majesty Respondent setting forth (amongst other matters) : that the Petitioners were tried in the Port Harcourt Judicial Division of the Supreme Court of Nigeria by Mr. Justice Bairamian sitting without a Jury on a single Information of murder contrary to section 319 of the Criminal Code : that the Petitioners were charged that on or about 11th March 1949 at Elemiama (Old Shipping) in the Rivers Province they murdered Douglas Obene Marian Braide : that all the Petitioners pleaded 'Not Guilty' : that in a Judgment delivered on 30th May 1949 the trial Court convicted all the Petitioners of the charge of murder and sentenced the first eight of them to death : that upon evidence being tendered on behalf of the ninth Petitioner that he was fifteen years old (which evidence was accepted by the Prosecution) he was ordered to be detained during Your Majesty's Pleasure under section 368 of the Criminal Procedure Ordinance : that all the Petitioners applied to the West African Court of Appeal for leave to appeal which was refused : that the Petitioners were members of the Okrikas Tribe which had been engaged in hostilities with the Kalabaris Tribe but that peace had been restored between the Tribes shortly before the events in issue in this case : that the case for the Prosecution was that on or about 11th March 1949 the Petitioners were among eleven members of the Okrikas Tribe who in revenge for treatment of some of their members by the Kalabaris congregated in canoes travelled down the river saw on land a party of Kalabaris and without provocation attacked the whole party and that in the course of such attack one Braide was killed : that the case for the Petitioners was that Petitioners 1, 2, 3, 4, 5 and 6 together with a Prosecution witness found in the water Petitioners 7 and 8 who

10 told them that they and two others had been set upon and attacked by members of the Kalabaris: that Petitioners 1 to 6 decided to investigate the matter and to go down the river to find the Kalabaris bringing along numbers 7 and 8: that on their way they met another Prosecution witness and his canoe-boy Petitioner Number 9 whom they invited to join them and who did so: that when they got to Elemiama they saw a party of Kalabaris who fired at them whereupon the Petitioners sheltered in the water and then landed and engaged in a stick throwing fight with the Kalabaris whom they defeated and put to rout without any serious injury being caused to either side: that it is submitted that a substantial miscarriage of justice was caused to the Petitioners or at least some of them by the learned trial Judge wrongly considering that all the Petitioners were engaged upon an unlawful purpose with a common design and by his finding that there was from the outset a common design on the part of all the Petitioners to use violence without provocation: that the learned trial Judge should have considered the position of each of the Petitioners separately and should in such event have found a separate verdict in respect of each which verdict should have acquitted each of the Petitioners on the charge of murder: And humbly praying Your Majesty in Council to grant the Petitioners special leave to appeal from the Judgment of the trial Court dated 30th May 1949 or for such other Order as Your Majesty in Council may deem fit:

20

30 " The Lords of the Committee in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioners to enter and prosecute their Appeal against the Judgment of the Port Harcourt Judicial Division of the Supreme Court of Nigeria dated the 30th day of May 1949:

" And Their Lordships do further report to Your Majesty that the authenticated copy under seal of the Record produced by the Petitioners upon the hearing of the Petition ought to be accepted (subject to any objection that may be taken thereto by the Respondent) as the Record proper to be laid before your Majesty on the hearing of the Appeal."

40 HIS MAJESTY having taken the said Report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor or Officer administering the Government of Nigeria for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

E. C. E. LEADBITTER.

*In the
Privy
Council.*

No. 43.
Order in
Council
granting
special
leave to
Appeal,
21st
December
1949,
continued.

No. 44.

ORDER IN COUNCIL granting leave to prosecute Appeal in forma pauperis.

AT THE COURT AT BUCKINGHAM PALACE

The 26th day of June, 1950

Present

THE KING'S MOST EXCELLENT MAJESTY

LORD PRESIDENT

Mr. GAITSKELL

Mr. Secretary GRIFFITHS

Sir RONALD IAN CAMPBELL

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 6th day of June 1950 10 in the words following, viz. :—

“ Whereas by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of (1) Sunday Kala Alagba (2) Isaac Enyi Ngeri (3) Sele Oruamabo (4) Saturday Kwani (5) Jonathan Gun (6) Sunday Nabuaye Kiri (7) Digbani Bamson (8) Uriah Obike Kalio (9) Amatamuno Oruboko in the matter of an Appeal from the Port Harcourt Judicial Division of the Supreme Court of Nigeria between the Petitioners Appellants and Your Majesty Respondent setting forth (amongst other matters) : 20 that on the 21st December 1949 Your Majesty in Council having taken into consideration a Report of the Lords of the Judicial Committee of the Privy Council dated the 13th December 1949 granted the Petitioners special leave to appeal from the Judgment of the Port Harcourt Judicial Division of the Supreme Court of Nigeria dated the 30th May 1949 whereby all the Petitioners were convicted of murder and the first eight named of them were sentenced to death : that the Petitioners being very poor as by the affidavit annexed appears are by reason of their poverty unable to prosecute their Appeal unless admitted by Your Majesty in 30 Council to do so *in forma pauperis* : And humbly praying Your Majesty in Council to grant the Petitioners special leave to prosecute their Appeal *in forma pauperis* :

“ The Lords of the Committee in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and the Solicitors for the Respondent having consented in writing to the prayer thereof Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioners to enter and prosecute their Appeal *in forma pauperis* against the Judgment of the Port Harcourt 40 Judicial Division of the Supreme Court of Nigeria dated the 30th day of May 1949 ”

HIS MAJESTY having taken the said Report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor or Officer administering the Government of Nigeria for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

E. C. E. LEADBITTER. 50

In the
Privy
Council.

No. 44.

Order in
Council
granting
leave to
prosecute
Appeal
*in forma
pauperis*,
26th June
1950.

L.S.

EXHIBITS.

" K. "

STATEMENT of Accused 1, Sunday Kala Alagba.

Exhibit " K " tendered by prosecution in case P/17C/49 Rex vs. Sunday Kala Alagba and 8 Ors.

(Sgd.) H. S. ADOKI,

R/S 27/5/49,

Police Station Camp,
Okrika,*Exhibits.*

K.

Statement
of
Accused 1,
Sunday
Kala
Alagba,
21st March
1949.

10

Name—Sunday Afiabalari Kala Alagba.

Nationality/Tribe—Okrika/Ijaw.

Age—30 years.

Occupation—Fishing.

Religion—Christian.

Address—Kwani compound, Ogbogbo, Okrika.

21/3/49.

I, SUNDAY A. KALA ALAGBA, having been duly cautioned in my language through c/c that this statement may be used in evidence voluntarily elect to state as follows :—

20

I remember 11 days to-day (Friday 11/3/49) Sele Oruamaba and I left Okrika by night time for fishing on Kalabari River, Isaac Anwonemika, his canoe boy, Saturday Kwani, Jonathan Gun, and others accompanied us, we were in 4 canoes each canoe manned by 2 men. As we were going along, we heard a call from mangrove bush at Tamgbolo Sunju, we went there and saw one Uriah Obike Kalio and his canoe man, they told us that Kalabari people drove them to the mangrove bush and seized their canoe and properties, both of them entered in Sele's canoe in which I was. Uriah told us that some Okrika men were in another part of the bush, we went and saw 2 Okrika men who are here now but I do not know their

30

names. These two men entered to Jonathan's canoe, when we got to a certain place, we asked the people that we rescued, where were the Kalabari people who pursued them put ahead their canoes, these men (Dick and Simeon) said that they were weak. We decided for Isaac canoe boy to take them back. Sele Oruamabo, Uriah Kalio, Degbani Bamson and I in one canoe, Jonathan Gun, Isaac and Saturday in one canoe, Sunday Kiri and one Ibo man name unknown to me in one canoe total 9 of us left to Olomama (old shipping) when we got there, we saw 2 canoes manned by about 15 persons, they at once started to throw sticks at us, this was about 11 a.m., we all fought them up to the bank at Olomama.

40

I had a spear which was taken by Sunday Kiri, but I do not remember what he did with it. The Kalabari people ran in one canoe, we all at once drew their one canoe to the water with one gun and paddled away with it straight to Okrika and landed at Ogbogbo—Okrika waterside. We also saw

Exhibits.
 K.
 Statement
 of
 Accused 1,
 Sunday
 Alagba,
 21st March
 1949,
continued.

2 Ogoloma people at Olomama river, they joined us in the fight and they returned to Okrika with us. We sold the Kalabari canoe to Uriah Kalio for £1.15 and sold gun to one man whose name I do not know for £1.11 this was after a day or two we returned. I kept the gun, all of us gathered in my house, and sold the gun to the purchaser who paid it to us on my table. Uriah also brought £1.15 for the canoe total amount £3.6.11 all of us were present and shared it equally.

SUNDAY AFIABALARI KALA ALABGA.

his R.T.I.

The above statement was made in Okrika language and was interpreted 10 by c/m Gilbert Iga, from Okrika to English, it was read over to the maker and same was interpreted to him, he seems to understand and made his right thumb Impression.

Written down by me—(Sgd.) J. I. OMILE sgt. 5130.

Interpreter—(Sgd.) GILBERT IGA.

The statement was read over to the accused in the Kalabari language at Okrika and he agreed that it was a correct statement made. Voluntarily. Read over in my presence.

(Sgd.) W. F. H. NEWINGTON,

D.O.

20

29/3/49.

(Sgd.) ? BRAIDE.

Sworn Interpreter.

Certified True Copy.

(Sgd.) J. NGO CHUKWURAH,

Registrar.

" L."

STATEMENT of Accused 8, Uriah Obike Kalio.

Exhibit " L " tendered by prosecution in Case P/17C/49 Rex. vs. Sunday Kala Alagba and 8 Ors.

(Sgd.) H. S. ADOKI,

R/S 27/5/49.

Native Court,
Okrika.

21/3/49.

Exhibits.

L.

Statement
of
Accused 8,
Uriah
Obike
Kalio,
21st March
1949.

- 10 Name—Uriah Obike Kalio (m)
Nationality/Tribe—Okrika/Ijaw.
Age—30 years.
Religion—Christian.
Occupation—Fishing.
Address—c/o Chief Johnson Kalio.

I, URIAH OBIKE KALIO, having been duly cautioned in Okrika language that this statement may be used in evidence voluntarily elect to state as follows :—

- I remember early morning before cock crow on Friday a week ago
20 (11-3-49) I left Okrika with my canoe boy Digbani by my canoe for fishing in Kalabari river. We had reached at Pambadubaya river at the dawn of the day. There I saw Dick Adoki and Simeon fishing on Olomama river, at the same time Dick and Simeon stopped fishing and pulling hard to the direction of Forupakama. We became afraid and suddenly we saw 3 canoes manned by many people pulling towards us from direction of Bakana. We at once pulled hard to the side of Forupakama, while they were pursuing us, they gave us one shot of gun, we jumped in to the water, dived and burst to the bank then enter the mangrove bush from where we footed to Tamgbolo Sunju and saw 4 canoes from Okrika and called them
30 to rescue us. They came and we entered in Sele's canoe. The following men were in these canoes Isaac Onyi and Bereburuka in one canoe, Sunday Kiri and one Ibo man in a canoe, Jonathan Gun and Saturday in one canoe Sele Oruamabo and Sunday Kala-Alagba in one canoe. I told them that there were 2 men from Okrika in mangrove bush, we went and picked them, their names are Dick Adoki and Simeon Olologbolo. These 2 men entered in Jonathan's canoe. They paddled us to Forupakama Fishing port. There Dick Adoki and Simeon complained of being tired. This was when Sunday Kiri said that he saw 2 canoes manned by some people
40 pursued us. I and my canoe man complained of having no paddle. Sele told us to stay in his canoe, that if they overpower us he could paddle us safely. Dick and Simeon insisted to go, Isaac Onyi instructed his canoe boy to paddle them to a certain fishing port which I do not remember now, the boy paddle them away and we too left for Olomama as follows : Sele Oruamabo, Sunday Kala Alagba, Jonathan Gun, Saturday Kwani, Sunday

Exhibits.
 L.
 Statement
 of
 Accused 8,
 Uriah
 Obike
 Kalio,
 21st March
 1949,
continued.

Nabuaye, 1 Ibo man, "name unknown" Isaac Onyi, Degbani Bamson and I in 3 canoes, while crossing to Olomama we saw one Panga and his canoe man both of Ogoloma Okrika who joined us. We were 11 in number in 4 canoes. We got at Olomama (old ushing) and saw 2 canoes manned by some Kalabari people. Sele Oruamabo asked them why they seized Okrika people's canoes, they replied thus : Wabo tie mie me-bo ? meaning Is it what you come for ? They at once threw sticks at us, thus fighting ensued, this was on the water, but while fighting we landed at Bank, there on the land, Sunday Kiri took machete and cut one Kalabari man at his back. Panga of Ogoloma threw a spear at one man at his arm, Sele and Sunday Kala Alagba had spears but I cannot remember how they used them, the victims were running at the time while, the blood was gushing out, there was too much sun at the time. We all eleven men drew their one canoe with 1 gun to the river, Sele gave me one paddle to pull it, and I pulled it to Okrika with my canoe man, I bought the canoe from my colleagues for £1 15s. and we all were present when the gun was sold to one Ibakaman at £1 11s. 6d. but he paid only £1 11s. this was in the house of Sunday Kala Alagba. We all divided the money there, my share was 6s. 6d. We told the man who bought the gun, that we got it from Kalabari people, he said that he would buy and paid us the money. The canoe was in my possession, but for being detected taken to Court, I took it and hid in a creek where I took the constables but it could not be seen again. The Kalabari people fired at us at Olomama while fighting. 10

URIAH IBIKE KALIO his R.T.I.

The above statement was made in Okrika language and was interpreted from Okrika to English. I read it over and same was interpreted to the maker from English to Okrika he seems to understand and made his right thumb Impression for its correctness.

Written down by me (Sgd.) JOACHIM OMILE.

Interpreter : (Sgd.) CHIEF FREDERICK NIMGBA. 30

2/4/1949.

(Sgd.) ? BRAIDE

Sworn Interpreter.

5/4/49

The above statement was read over to the accd. in the Okrika dialect in the District Office, he agreed that it was a correct statement made voluntarily.

(Sgd.) W. F. H. NEWINGTON,

D.O. 5.4.49

Certified True Copy.

(Sgd.) J. NGO CHUKWURAH,

Registrar. 40

" M. "

STATEMENT of Accused 9, A. Oruboko.

Exhibit " M " tendered by prosecution in Case P/17C/49 Rex vs. Sunday Kala Alagba and 8 ors.

(Sgd.) H. S. ADOKI.

R/S 27/5/49.

Native Court,
Okrika.

26/3/49.

Exhibits.

M.

Statement
of
Accused 9,
A. Oruboko,
26th March
1949.

10 I, AMATAMUNO ORUBOKO(M) of Okrika, fisherman, aged about 20, Christian, residing at Okuru's village having been duly cautioned in Okrika language that this statement may be used in evidence Voluntarily elect to state as follows :—

On Friday, 2 weeks ago (11/3/49) I was fishing on Kalabari River in the morning with my master Ekiasikimama Luke alias Panga, I saw 3 canoes manned by 10 Okrika men whose names are Sunday, Uriah, Digbani, Isaac, Jonathan, another Sunday whose fathers' names I do not know and also I do not know the names of the other people but I know them in persons. This was in big River, at first we thought they were
20 Kalabarians, but when they pulled closely to us, we found them to be Okrikans, Jonathan asked us whether we heard that Kalabari people seized canoes from Okrika people, they told us at the same time that we should follow them to Olomama to ask the Kalabari people also to seize their canoes, my master asked them whether it would not bring trouble if we go there. They replied us, and said if such thing happened to us, will Okrika people not come for our aid. We agreed and followed them, when we got to Olomama I saw 4 men standing on the bank with a woman, they told us not to land our canoes, the Okrika men in 3 canoes landed their canoes by force, we were last and a bit far from them. I saw one Kalabari
30 man shot a gun at them, at the same I saw Jonathan ran after the man who fired them and took the gun from him, there and then they started to fight with sticks. I saw Kalabari people brought 2 machetes and Okrika people brought 1 spear. I saw Jonathan threw spear at one Kalabari man, Sunday cut one Kalabari man with machete at his back shoulder, then Kalabari people ran away, Jonathan brought the gun and put in a canoe, they seized the Kalabari people canoe, I saw in that canoe the following articles 15 bundles of plantains, cocoyams, garri (half bag) yams, 1 empty jar, 2 iron pots, 1 mosquito net (made of Raffia) 6 bottles of Illicit gin, 1 tin Guinea Gold cigarettes, the gun seized from the Kalabari
40 people. While returning we shared cigarettes and Illicit gin and consumed, I did not fight with them, I did not go down to the bank. The following day we sold the gun to one Okrika man whom I do not know his name but I can identify him, at £1.11., Uriah bought the canoe for £1.15. Sunday bought small pot for 3/-, Jonathan bought 1 pot but I do not remember well the amount. Sunday bought jar for 8/-. Another Sunday bought the Raffia mosquito net for amount unknown now, we shared the plantains, yams, cocoyams and garri at a place called Akankoloma near Okrika. I was present in Sundays house after the sale of the booties when the

Exhibits.
 M.
 Statement
 of
 Accused 9,
 A. Oruboko,
 26th March
 1949,
continued.

money was about to be shared one Nwayiuku Okuru came and told me that my mother was sick, I at once left them for my village. I told my wife Grace Somiari to get my share from my master, I had not returned when my brother Mark Oruboko came and took me to police at Okrika. I do not know who is with my share now.

AMATAMUNO ORUBOKO his R.T.I.

Interpreted by me—(Sgd.) AUGUSTUS IBIDUKOBOFORI C/M.

Witness—(Sgd.) MARK ORUBOKO.

The statement of Amatamuno Oruboko was made in Okrika language and was interpreted from Okrika to English by c/m Augustus Ibidukobofori, I read over and it was interpreted to him from English to Okrika, he seems to understand and made his Right thumb Impression for its correctness. 10

Recorded by me. (Sgd.) JOACHIM OMILE Sgt. 5130.

26/3/49.

Read over to the accused in the Kalabari language. The accused agreed that it was a correct statement made voluntary without any pressure mental or physical. Read over on board S.L. Dorothy.

(Sgd.) W. F. H. NEWINGTON,

D.O.

28/3/49. 20

(Sgd.) ? BRAIDE,

Sworn Interpreter.

28/3/49.

Certified True Copy.

(Sgd.) J. NGO CHUKWURAH,

Registrar.

" N."

STATEMENT of Accused 3, S. Oruamabo in Okrikan.

Exh. " N " tendered by prosecution in Case P/17C/49—Rex vs. Sunday Kala Alagba and 8 ors.

(Sgd.) H. S. ADOKI.

R/S 27/5/49.

Okrika Police Station—Rivers Province.

Name—Sele Oruamabo. Nationality/Tribe—Okrika/Ijaw.

Age—38. Occupation—Fishing. Religion—Christian.

10 Address—c/o Chief Fred Oba of Okrika.

I SELE ORUAMABO having been duly cautioned in my own language that this statement may be used in evidence voluntarily elect to state as follows :—

Bo boro sa church sona din one, wa Okrika wori so din ogbo sa inju ba yo won my me. Mine tere aru ye-e. Ara bie sime apu ani, Iri Sele Oruamabo be na Sunday be na gbori aru ye-e. Jonathan na Saturday Kwani be na gobri are ye-e. Piki Isaac be na Sunday Kiri be na gbori aru ye-e. Wa mu Kalabari toru tolu paka, ani gbori Kirike ni aru duko wa piri ye na Kalabari tere aru Ikiriko fari ma idiri abe. Wa mimi na siki wa bari dokuke, mengi me ngeri was fono ideri abe wa tamgbolo sonju lasiki wa pulo na me, wa chin oloku, Iyo obo wa sein. Ani wa doku mu ye-wa my lasiki Uriah na ora rubo Degbani ani wa ori ye bu bie. Wa bo ini sein se ini gbela nde owengi oku, ani in duko wa piri ye. Kalavarani tere aru toruogbo ini duko se ini debubie koromame se inia bara aru ma oki me. Ani Uriah be duko wa piri ye na ini piki jim apu fomu bubie koroma warabe chukuju. Wa doku mu piki inia pu ma sein me. Ani wa bo ini gbela ye ofomu apuma ndeanya ini omi, ani ini wa pekereye na gbori aru ini wo se so sam ini oki mama aru mama, kirikon mama aru ma Olomuama ini omi ye. Wa ini be me obo wa mu ini gbela, Dick be na Isaka ni bobbe na oki beme inia bu inyo fa sam, ana tibi in mangi ma bo yon bolome. Ani mine mama aru saba Olomuama mu ye mama aru ma bie nine apu ani omi ye-e, ani mioku Police apu ma bara sime apu maye. Wa mu ogbo ani wa mu Panga be na ora arubo be na ori ye, Ini so was suko mume. Wa mu poku mi lasiki ani ini kiri ogono sime mgbelema se wa gbin ye, ani mine so deki deki ini gbin ye, ani ini se wa gbin mgbele ma ye. Wa mu Olomuama mi sosiki ini mangi me, agiji ma na, Alagba mana, mgbele ma na, ini wa bo ini duko ye. Wa mua siki ini alagba se wa tein me, wa fin mengi koro me. Ani mina bubie gbori bo wa ini duko asiki Sunday Ikpuku suba se inia bu bie gbori bo gbin me, ani my obara kongo so me. Ere me ni bo inia bie ofori ye. Suba mi ani Sunday Kala-Alagba ye. Ye Kirike nibo la ke. Wa Kalabarani bara oki aye ani : Gbori alagba na, gbori anu, aru mi Uriah be bara omi ye. Alagbami wa se Ibaka ni bo derime. Igbiki mi wa mine oyi apu dia okime.

SELE ORUAMABO R.T.I.

Witness by me—(Sgd.) No. 244 2c.c. URIAH TORINYE.

Signed—AUGUSTUS IBIDUKOBOFORI.

21/3/1949.

Exhibits.

N.

Statement
of
Accused 3,
S. Oruam-
abo in
Okrikan,
21st March
1949.

Exhibits.
 N.
 Statement
 of
 Accused 3,
 S. Oruam-
 abo in
 Okrikan,
 21st March
 1949,
continued.

This statement was taken in the Okrika language and read over to the Accused in language in my presence and hearing.

Recorded by—(Sgd.) AUGUSTUS IBIDUKOBOFORI.

21/3/1949.

Time taking of statement commenced—3.30 p.m.

Time taking of statement completed—5 p.m.

Witness—(1) (Sgd.) J. I. OMILE SGT. 5130.

(2) „ JOSEPH S. UGWU 9063.

The statement was read over to the accd. in Kalabari at Degema. He agreed that it was correct and made voluntarily. 10

(Sgd.) W. F. H. NEWINGTON, D.O.

23/3/49.

(Sgd.) ? BRAIDE,

Sworn Interpreter.

Certified True Copy.

(Sgd.) J. NGO CHUKWURAH,

Registrar.

N.1.
 Transla-
 tion of
 Exhibit N
 in English.

“ N.1.”

TRANSLATION of Exhibit “ N ” in English.

Exhibit “ N1 ” tendered by prosecution in Case P/17C/49 Rex vs. 20 Sunday Kala Alagba and 8 Ors.

(Sgd.) H. S. ADOKI,

R/S 27/5/49,

Native Court,
 Okrika,

21/3/49.

Name—Sele Oruamabo (m).

Nationality—Okrika /Ijaw.

Age—38 years.

Occupation—Fishing. 30

Religion—Christian.

Address—c/o Chief Fred Oba, Okrika.

I, SELE ORUAMABO having been duly cautioned in my own language that this statement may be used in evidence voluntarily state as follows :—

That on Friday being two weeks to-day (11/3/49) midnight we left Okrika for fishing place. We were three canoes, in this three canoes

we were six in number namely Sele Oruamabo and Sunday in one canoe, Jonathan and Saturday Kwani in one canoe, Isaac and Sunday Kiri in one canoe. When we reached to Kalabari river one Okrika canoe man told us that, three Kalabari canoes past here and beating drum that past down. When we heard this we stopped pulling, the water only carrying us down until we reached Tamgbolo Sonju. On our reaching there we heard a voice that shouted to us (Iyo) come and pick us, and then we went. On our reaching there we saw Uriah and Digbani in the mangrove swamp. We picked them and asked them "how do you move?" They told us
 10 that three Kalabari canoes pursued them and drove them to the mangrove swamp and seized all their canoes. And Uriah told us that, there were another people in the mangrove swamp. We then left and picked those people whom they told us about. We then asked them, "where are those people that beat you." Then they replied us that, they have left with our two canoes which they seized from us, and the other two canoes are at Olomu-ama. We then asked them to accompany us to Olomu-ama, as to asked them. Then Dick and Isaka man said they are tired in that, they will not be able to go, because where they came from was too far. Then we two canoes cross to Olomu-ama, we were eight men in the canoes, those
 20 are the present people in the hand of the police. When we were crossing we met Panga and his canoe man. They also accompanied us to Olomu-ama. When we near to Olomu-ama, Kalabari people threw us sticks on the ground and we also throw them, with the sticks which they threw us. When we landed at Olomu-ama, they ran away with their matchets, guns, and sticks. We then pursued them. When we were going they shot us with gun, and we jumped into the water. During the time we are pursuing them one man among us by name Sunday Ikpuku threw a spear on one of the Kalabari people which it reached on his arm. There was no woman among them. The spear belongs to Sunday Kala-alagba. None
 30 of Okrika people sustained wound. The things we took from Kalabari people are: One canoe, and a gun, the canoe is in possession of Uriah, the gun was sold to one Ibaka man. The money was divided among ten of us.

Exhibits.
 N.1.
 Translation of
 Exhibit N
 in English,
continued.

Translated from Okrika to English by me :—

(Sgd.) AUGUSTUS IBIDUKOBOFORI,

c/m.

Certified True Copy.

(Sgd.) J. NGO CHUKWURAH,

Registrar.

Exhibits.

" O."

STATEMENT of Accused 2, Isaac Enyi in Okrikan.

O.
Statement
of
Accused 2,
Isaac
Enyi, in
Okrikan,
22nd March
1949.

Exh. " O " tendered by prosecution in Case P/17C/49 Rex vs. Sunday Kala Alagba and 8 ors.

(Sgd.) H. S. ADOKI.

R/S. 27/5/49.

Rivers Province.

Name—Isaac Enyi.

Age—30. Nationality/Tribe—Okrika/Ijaw.

Occupation—Fishing. Religion—Christian.

10

Address—c/o Elijah Iyo of Okrika.

I, ISAAC ENYI having been duly cautioned in my own language that this statement may be used in evidence voluntarily elect to state as follows :—

Wo boro sa chochi inia din ene din wa Kirike mi koroma so inji ba yon wo mu me. Ani chokorocho toru. Wa mu tolu paka siki mengi mi omo abe, wa bari doku ke. Wa idiri mu Tamgbolo Sonju la siki, ani ini wa chin ye anga bie, wa bo ini sein ye. Wa mu ini sein me. Ini piki duko wa piri me jin apu toroko ju omi ye. Wa mu piki inia pu ma sein me. Uriah be duko wa piri me gbori aru inia mama aru ma se idiri wa ra be, Isi mama aru ma Olomuama ari omi ye. Wa bo Olomuma ini dama mu me. Mine mama aru ye, ara bie sime apu ani (1) Jonathan Gun, (2) Saturday Kwani, (3) Sele Oruamabo, (4) Sunday Kala-alagba, (5) Sunday Kiri, (6) Uriah Kalio, (7) Digbani Bamson na piki iri na, ani Olomuama mi mu ye. Wa mu lasiki wa ini gbela me che paka, okuma ini berenike wa mu so. Ini mgbelema deki deki wa gbin me, mine so piki deki deki ini gbin me. Wa owu mi so so siki wa inia aru mi won okime, ana bie gbori alagba omiye. Uriah be mi aru mi se Kirike bo ye. Mine na owu so Kalabarani ma bu ye labo ofori ye. Kirikeni ma bu ye labo ofori ye. Alagba mi wa deri me okuma arumi Uriah be bara omiye.

30

ISAAC ENYI. R.T.I.

(Sgd.) AUGUSTUS IBIDUKOBOFORI.

22/3/49.

This statement was taken in the Okrika language and read over to the Accused in Okrika language in my presence and hearing.

Recorded by : (Sgd.) AUGUSTUS IBIDUKOBOFORI.

22/3/1949.

Witness at the time of making statement

(1) (Sgd.) J. I. OMILE Sgt. 5130.

(2) (, ,) JOSEPH E. UGWU 9063.

40

Time taking of statement commenced : 9.30 a.m.

Time taking of statement completed : 10.30 a.m.

The statement was read over to the accd. in the Kalabari language at Degema he agreed that it was correct and made voluntary.

(Sgd.) W. H. NEWINGTON.

(Sgd.) ? BRAIDE,
Sworn Interpreter.

D.O. 23/3/49.

Certified True Copy.

(Sgd.) J. NGO CHUKWURAH,
Registrar.

Exhibits.

O.

Statement
of
Accused 2,
Isaac
Enyi, in
Okrikan,
22nd March
1949,
continued.

“ O.1.”

10 TRANSLATION into English of Exhibit “ O.”

Exh. “ O.1 ” tendered by prosecution in Case P/17C/49 Rex v. Sunday Kala Alagba and ors.

(Sgd.) H. S. ADOKI.

R/S 27/5/49.

Police Station,

Degema.

22/3/49.

Name—Isaac Enyi (m).

Nationality/Tribe—Okrika/Ijaw.

Age—30 years. Occupation—Fishing.

Religion—Christian.

20 Address—c/o Chief Elijah Iwo of Anyungubiri Okrika.

I, ISAAC ENYI having been duly cautioned in my own language that this statement may be used in evidence voluntarily elect to state as follows :—

That on Thursday being two weeks to-day (11/3/49) we left Okrika for fishing at Chokorocho River. When we reached that place it was neep tide, we did not pull again, water carried us until we reached a place called Tamgbolo sonju some one called us at the side. Then we went to that place and picked them. They then told us that, there were another people at the front, we then went and picked those people. Uriah told us that, one of their canoe took two of our canoes and went away with them. The other Kalabari two canoes at Olomu-ama, we then went as to meet them at Olomu-ama. We two canoes left for Olomuama with the following people in them namely (1) Jonathan Gun, (2) Saturday Kwani, (3) Sele Oruamabo, (4) Sunday Kala-alagba, (5) Sunday Kiri, (6) Uriah Kalio, (7) Digbani Bamson and myself went to Olomu-ama. When we reached there we asked them what was the matter ? But they did not allowed us to land at Olomu-ama. They started to throw us sticks, and we also threw them. After the fight we seized one canoe from them and a gun. Uriah pulled down the canoe to Okrika. None of Kalabari people sustained wound, and none of Okrika people sustained wound. The canoe is in possession of Uriah but we sold the gun.

Translated from Okrika to English by me :

(Sgd.) AUGUSTUS IBIDUKOBOROFI.

Certified true copy.

c/m

(Sgd.) J. NGO CHUKWURAH,
Registrar.

Exhibits.

" P. "

P.

STATEMENT of Accused 4, Saturday Kwani in Okrikan.

Statement
of
Accused 4,
Saturday
Kwani, in
Okrikan,
22nd March
1949.

Exh. " P " tendered by prosecution in Case P/17c/49 Rex vs. Sunday
Kala Alagba and 8 Ors.

(Sgd.) H. S. ADOKI.

R/S 27/5/49.

Degema Police Station—Rivers Province.

Name—Saturday Kwani.

Nationality/Tribe—Okrika/Ijaw.

Age—32. Occupation—Fishing. Religion—Christian.

Address—c/o Chief Eze Adetumaro of Okrika.

10

I SATURDAY KWANI having been duly cautioned in my own language
that this statement may be used in evidence voluntarily elect to
state as follows :—

Chochi inia din ene bie din ogbo mi ani be mama week wa so
Chokorocho toru kon mu ye. Wa mu tamgbolo sonju lasiki ani ini wa
chin ye, wa bo ini sein. Wa mu ini sein me, ini piki duko wa pirime jim
apu bubie omi ye. Wa piki mu inia pu ma sein me. Se ini duko wa
piri me na Kalabarani tere aru ini duko se ini fomu bubie koroma me, piki
inia aru ma okime. Mimi gose ani wa olomuama ini dama mu ye se
mu ini gbela bia ye gose. Wa mu ini na kpeki mu ogbo ani ini mgbelama
deki deki wa gbin ye, mine so piki deki ini gbin ye. Ini piki alagba se
wa tein me, wa fin mengi koro me. Ani so wa gbin bu ini gbin mangi ma
me. Se inia gbori aru oki so me ana bie gbori Alagba omi ye. Aru bie
gin ye ofori ye e. Kalabani ma bu ye labo ari orike, piki Kirike ni ma bu
so ari orike. Aru mi Uriah be bara omiye, okuma Alagba mi wa deri me.
Ini deri siki ari ofori ye.

SATURDAY KWANI R.T.I.

Signed : AUGUSTUS IBIDUKOBOFORI.

22-3-49.

This statement was taken in the Orkika language and read over to the
Accused in Okrika language in my presence and hearing.

Recorded by : (Sgd.) AUGUSTUS IBIDUKOBOFORI

22-3-49

Witnesses :

(1) (Sgd.) J. I. OMILE Sgt. 5130.

(2) (,) JOSEPH E. UGWU 9063.

Time taking of statement commenced : 12 noon

Time taking of statement completed : 12.30 p.m.

Read over to the accd. in the Kalabari language in my presence at
Degema and he agreed that it was a correct statement made voluntarily.

(Sgd.) W. H. NEWINGTON,
Magistrate Grade II

23.3.49

Interpreted by me : (Sgd.) ? BRAIDE.

Certified True Copy

(Sgd.) J. NGO CHUKWURAH
Registrar.

" P.1."

TRANSLATION of Exhibit " P " in English.

Exhibits.

Exh. " P.1 " tendered by prosecution in Case P/17c/49. Rex vs. Sunday Kala Alagba and 8 Ors.

P.1.
Translation of
Exhibit P
in English.

(Sgd.) H. S. ADOKI

R/S 27/5/49

Police Station,
Degema

23-3-49

10 Name—Saturday Kwani (m).

Nationality/Tribe—Okrika/Ijaw.

Age—32 years.

Occupation—Fishing.

Religion—Christian.

Address—c/o Chief Eze Adetumaro Okrika.

I, SATURDAY KWANI (m) having been duly cautioned in my own language that this statement may be used in evidence voluntarily elect to state as follows :—

That on Thursday being two weeks to-day (11/3/49) we went to
20 Chokorocho river for fishing. On our reaching to Tamgbolo Sonju we heard a voice who called us to come and pick them. We went and picked them. They told us that there were another people in the mangrove swamp. We went and picked them, and they told us that, three Kalabari canoes pursued them and drove them to the mangrove swamp, and seized all their canoes. In account of this we went to Olomu-ama, as to ask them. When we near to Olomu-ama, Kalabari people threw us some sticks. We also threw them the sticks which they threw us. Kalabari people also shot us with gun, and we jumped into the water. We started to throw sticks to others, and Kalabari people ran away. When they ran away after the fight, we
30 seized one canoe and a gun. No other things in the canoe. No Kalabari people sustained wound, and no Okrika people also sustained wound. The canoe is in possession of Uriah Kalio, and we sold the gun but I was not present when they sold it.

Translated from Okrika to English by me.

(Sgd.) AUGUSTUS IBIDUKOBOFORI

e/m.

Certified True Copy

(Sgd.) J. NGO CHUKWURAH

Registrar

Exhibits.

" Q."

STATEMENT of Accused 5, Jonathan Gun in Okrikan.

Q.
Statement
of
Accused 5,
Jonathan
Gun, in
Okrikan,
22nd March
1949.

Exhibit " Q " tendered by prosecution in Case P/17C/49 Rex vs.
Sunday Kala Alagba and 8 Ors.

(Sgd.) H. S. ADOKI,

R/S 27/5/49.

Degema Police Station. Rivers Province.

Name—Jonathan Gun.

Nationality/Tribe—Okrika/Ijaw.

Age—33.

10

Occupation—Fishing.

Religion—Christian.

Address—c/o Chief Fred Oba of Okrika.

I JONATHAN GUN having been duly cautioned in my own language
that this statement may be used in evidence voluntarily elect to
state as follows :—

Wo boro sa church inia din ene din wa Okirike koro ma so se inji
ba yon mu me. Toru mi ere ani Chokorocho toru. Wa mun toru mi
tolu paka siki ani gbori apu duko wa piri ye Kalabarani Ikiriko fari idiri
wa be. Beremi duko wa piri apu ma ani Kirikeni ye. Okuma wa ini 20
nemike. Ani wa bo doku ogboku pakaya, ani siki ene ba sam. Wa
omo na idiri ma mu tamgbolo sonju la ye. Wa mu Tamgbolo sonju
lasiki ini wa chin me obo wa sein. Wa mu siki Uriah be mi wa chin ye.
Wa mu ini sein me, ini piki duko wa piri me inia aru ma Kalabarani oki
me. Wa bipi se gbo chua se mama aru we sein me. Aru ma bie sime apu
ani : Jonathan, Saturday, Isaac, Degbani, Sele, Sunday, Uriah na Sunday
Kiri be na ye. Wa saba Olomuama mi mu ogbo ani ini mgbelema deki
deki wa bgin ye. Mine so piki deki deki in gbin ye, wa mu Olomuama mi
so siki, ani ini mangi ye. Inia gnori aru wa wo sin oki me ana bie tbori
alagba omi ye. Aru mi Uriah be bara omi ye, Alagba mi wa deri me. 30
Okuma ini se deri bo be ari elekirike. Alagba mi ani la ye Gbori pamu
na oyi gbori silingi finji na six pemce. Mine na owu so apuma bu ye la
apu ari orike. Mine Kirikeni ma so ye la bo ofori ye. Inia bie ereminibo
ofori ye. Apiki ori ke Sunday Kiri be suba se weni gbin. Aru mi bie
fiaye oforiye alagbami sikima okuma.

JONATHAN GUN. R.T.I.

Signed—AUGUSTUS IBIDUKOBOFORI.

22/3/1949.

This statement was taken in the Okrika language and read over to the
Accused in Okrika language in my presence and hearing.

40

Recorded by—

(Sgd.) AUGUSTUS IBIDUKOBOFORI.

22/3/49.

Witness :

(1) (Sgd.) J. I. OMILE sgt. 5130.

(2) ,, JOSEPH UGWU 9063.

Time taking of statement commenced : 8 a.m.

Time taking of statement completed : 9 a.m.

Read over to the aced. in the Kalabari language at Degema who agreed that it was correct and made voluntarily.

Exhibits.

Q.

Statement
of
Accused 5,
Jonathan
Gun, in
Okrikan,
22nd March
1949,
continued.

(Sgd.) W. F. NEWINGTON,

D.O. 23/3/49.

10 Interpreted by me—(Sgd.) ? BRAIDE.

Certified true copy.

(Sgd.) J. NGO CHUKWURAH,
Registrar.

“ Q.1.”

TRANSLATION of Exhibit “ Q ” in English.

Exhibit “ Q1 ” tendered by prosecution in Case P/17C/49 Rex vs. Sunday Kala Alagba and 8 Ors.

Q.1.
Transla-
tion of
Exhibit Q
in English.

(Sgd.) H. S. ADOKI,

R/S 27/5/49,

20

Police Station,

Degema.

22/3/49.

Name—Jonathan Gun.

Nationality/Tribe—Okrika/Ijaw.

Age—33 years. Occupation—Fishing.

Religion—Christian.

Address—c/o Chief Fred Oba, Okrika.

I, JONATHAN GUN having been duly cautioned in my own language that this statement may be used in evidence voluntarily state as follows :—

30 It was on (11.3.49) we went to Chokorocho river for fishing. On our reaching to the river, some people told us that some Kalabari people beat drum and pass. The people who told us this were Okrika people, but we did not know them. We then pulled to the middle of the river,

Exhibits.
 Q.1.
 Translation of
 Exhibit Q
 in English,
continued.

by then the day was cleared. Then the water carried us to Tamgbolo Sonju. On our reaching Tamgbolo Sonju somebody called us, we then went and picked them, there and then, they told us that, there were another people in the mangrove swamp, we went and picked those people also. After picking them, they told us that their two canoes were seized by Kalabari people. They then in that same place made arrangement of two canoes with men and went to Olomu-ama to meet the Kalabari people. These are the people in the canoe namely :—(1) Jonathan, (2) Saturday, (3) Isaac, (4) Digbani, (5) Sele, (6) Sunday, (7) Uriah, and Sunday Kiri. Our reaching to Olomu-ama Kalabari started to throw us sticks, we also 10 threw them sticks. When we reach to Olomu-ama they ran away. Of which we seized one of their canoes with a gun in it. The canoe is in possession of Uriah, but we sold the gun. I did not know the person who bought the gun. The amount which the gun was sold was £1 11s. 6d. (one pound eleven shillings and six pence). Among all the persons that, took part in the fight I did not see any person who sustained wound. None of Okrika people sustained a wound. There was no woman among them, and I never saw Sunday Kiri threw spear to anybody. There was nothing like food in the canoe, besides the gun.

Translated from Okrika to English by me,

20

(Sgd.) AUGUSTUS IBIDUKOBOFORI,

C/M.

Certified True Copy,

(Sgd.) J. NGO CHUKWURAH,

Registrar.

“ R.”

R.
 Statement
 of
 Accused 6,
 Sunday I.
 Kiri, in
 Okrikan,
 22nd March
 1949.

STATEMENT of Accused 6, Sunday I. Kiri in Okrikan.

Exh. “ R ” tendered by prosecution in Case P/17C/49.

Rex vs. Sunday Kala Alagba and 8 ors.

(Sgd.) H. S. ADOKI,

30

R/S 27/5/49.

Degema Police Station

Rivers Province.

Name—Sunday Inibuaye Kiri.

Nationality/Tribe—Okrika/Ijaw.

Age—32. Occupation—Fishing.

Religion—Christian.

Address—c/o Chief Edward Kiri of Okrika.

I SUNDAY INIABUAYE KIRI having been duly cautioned in my own language that this statement may be used in evidence voluntarily elect to state as follows :—

Gbori ene wa Kalabarani toru kon mu me. Wa mu tamgbolo sonju la mi Uriah be wa chin ye. Wa mu me wa oyeri anga ani bu bie, ani 40

wa ogbelaye che paka ? Ani ori okobe me na Kalabarani tere aru ini de bubie koroma me. Obo mi duko so ani wa obeye bukulo ani obo Jonathan aru bukulo ye. Opiki duko me jin apu bubie omiye. Wa mu piki ini sein me. Ani mine okobe me oye wa mu Oloku-ama ini gbela. Wa mu me. Wa mu poku mi kpeki siki ani ini mgbele ma deki deki wa gbin ye. Mine so piki deki deki ini gbin ye. Kalabarani ma bie gbori bo Alagba deki se was tein me, mine mgba fin mengi korome. Ani so wa bere ni ke wa mu soma me, se ini na gbia me. Mina bara inia bara nengi me siki ini mangi me. Wa bo inia gbori aru wo sin se so me, and
 10 bie gbori Alagba omi ye. Ari ori ke Kirikenibo suba se Kalabaranibo gbin. Kirikeni anga ye labo ari ori ke, piki Kalabarani anga ye la bo ari ori ke. Uriah be mi aru mi doku Kiri-ke mi boye. Alagba mi wa derime.

Exhibits.
 R.
 Statement
 of
 Accused 6,
 Sunday I.
 Kiri, in
 Okrikan,
 22nd March
 1949,
continued.

SUNDAY INIABUAYE KIRI, R.T.I.

Signed : AUGUSTUS IBIDUKOBOFORI.

22.3.49.

This statement was taken in the Okrika language and read over to the Accused in Okrika language in my presence and hearing.

Recorded by : (Sgd.) AUGUSTUS IBIDUKOBOFORI.

20 22.3.49.

Time taking of statement commenced : 10.30 a.m.

Time taking of statement completed : 11 a.m.

Witness at the time of statement :

(1) (sgd.) J. I. OMILE sgt. 5130.

(2) ,, JOSEPH E. UGWU 9063.

This statement was read over to the accused in the Kalabari language in my presence at Degema and he agreed that it was correct and made voluntarily.

(Sgd.) W. F. NEWINGTON,

D.O. 23.3.49.

30

(Sgd.) ? BRAIDE,

Sworn Interpreter,

23.3.49.

Certified True Copy,

(Sgd.) J. NGO CHUKWURAH,

Registrar.

Exhibits.

R.1.
 Translation of
 Exhibit R
 in English.

" R.1."

TRANSLATION of Exhibit " R " in English.

Exhibit " R1 " tendered by prosecution in Case P/17C/49.

REX v. SUNDAY KALA ALAGBA and 8 others.

(Sgd.) H. S. ADOKI.

R/S 27/5/49.

Police Station,
Degema.

23/3/49.

Name—Sunday Iniabuaye Kiri (m).

10

Nationality/Tribe—Okrika/Ijaw.

Age—32 years. Occupation—Fishing.

Religion—Christian.

Address—C/o Bezekiah Kiri, Okrika.

I, SUNDAY INIABUAYE KIRI having been duly cautioned in my own language that this statement may be used in evidence voluntarily elect as follows :—

One day we went to Kalabari river for fishing. When we reached Tamgbolo sonju, Uriah called us in the mangrove swamp, when we reached there we asked them what was the matter? Then he explained to us that, three Kalabari canoes pursued them and they ran into the mangrove swamp. Then we told them to join Jonathan's canoe. He also told us that they were another people in the mangrove swamp. We went and picked those people also. We arranged to go to Olomu-ama and asked them what was the matter? We went, when we near to Olomu-ama, they started throwing us sticks, we also threw them. One of Kalabari people shot us with gun, we all jumped into the water. Still yet we did not agree and went to Olomuama and throwing with them, and all ran away. After fighting we seized their canoe, with a gun. I never saw Okrika man threw a spear to Kalabari man. None of Okrika men sustained wound, and none of Kalabari also. Uriah pulled down the canoe to Okrika, but we sold the gun.

Translated from Okrika to English by me—

(Sgd.) AUGUSTUS IBIDUKOBOFORI.

Certified True Copy.

(Sgd.) J. NGO CHUKWURAH,

Registrar.

"S."

STATEMENT of Accused 7, Digbani Bamson in Okrikan.REX *v.* SUNDAY KALA ALAGBA and 8 others.

(Sgd.) H. S. ADOKI.

R/S 27/5/49.

Statement of Accused.

Rivers Province.

Nigeria Police,
Degema Police Station.*Exhibits.*

S.

Statement
of
Accused 7,
Digbani
Bamson,
in Okrikan,
22nd March
1949.

10 Name—Digbani Bamson.

Nationality/Tribe—Okrika/Ijaw.

Age—29.

Occupation—Fishing.

Religion—Christian.

Address—c/o Chief Isaiah Bamson of Okrika.

I DIGBANI BAMSON having been duly cautioned in my own language that this statement may be used in evidence voluntarily elect to state as follows :—

- Gbori ene wa Kirike mi koroma so Kalabarani toru kon my me.
- 20 Wa mu toru ogbo la se toru piki ogonoju diki oku ma Kalabarani tere aru wa duko abe, wa doku anga kpeki ani ini Alagba se wa tein ye. Mi wa tin bu koro ye. Wa wengi my Tamgbolo sonju la ani wa ini ori se ini chin se ini bo wa sein ye. Wa piki duko ini piri ye jim apu bu bie omi ye. Ini mu piki ini sein me. Mi wa mun ini gbela mu ye toru ogbo. Ini dein bipi pekereke, se inia aru bie sime mgbele ma deki deki wa gbin ye, mine so, piki deki deki ini gbin me. Kalabani ma piki Alagba se wa tein me wa fin mengi korome, ani so wa bere nike se ini de mu olomuama lane. Se ini mgba ini mangi me. Ani wa inia aru mi oki ye, gbori alagba ana bie omiye. Sunday Kiri ani agiji se gbori Kalabanibo gbogbo ye.
- 30 Aru mi Uriah be na iri na fe me okuma Alagbami wa deri me.

DIGBANI BAMSON R.T.I.

Signed—AUGUSTUS IBIDUKOBOFORI.

22/3/49.

This statement was taken in the Okrika language and read over and translated to the Accused in Okrika language in my presence and hearing.

Recorded by (Sgd.) AUGUSTUS IBIDUKOBOFORI.

22/3/1949.

Time taking of statement commenced—11 a.m.

Time taking of statement completed—11.30 a.m.

Exhibits.

S.
Statement
of
Accused 7,
Digbani
Bamson,
in Okrikan,
22nd March
1949,
continued.

The statement was read over to the accd. in the Kalabari language. He agreed that it was a correct statement except that he had not seen Sunday matchet a Kalabari man. He had made this statement because a constable had kicked him. The Okrika Court messenger recording his statement and when the accd. admitted was present throughout denied seeing any application of force. Read over at Degema.

(Sgd.) W. F. NEWINGTON.

D.O. 23/3/49.

(Sgd.) T. LULU BRAIDE,
Sworn Interpreter.

10

Certified True Copy.

(Sgd.) J. NGO CHUKWURAH,
Registrar.

S.1.
Transla-
tion of
Exhibit S
in English.

“ S.1.”

TRANSLATION of Exhibit “ S ” in English

Exh. “ S1 ” tendered by prosecution in Case P/17C/49 Rex vs. Sunday Kala Alagba and Ors.

(Sgd.) H. S. ADOKI,

R/S 27/5/49,

Police Station,
Degema.

20

22/3/49.

Name—Digbani Bamson (m).

Nationality/Tribe—Okrika/Ijaw.

Age—29 years.

Occupation—Fishing.

Religion—Christian.

Address—c/o Chief Isaiah Bamson.

I, DIGBANI BAMSON, having been duly cautioned in my own language that this statement may be used in evidence voluntarily state as follows :—

One day we left Okrika and went for fishing at Kalabari river. When we boat to the river, and turned back to the upper part of the river, we saw three Kalabari canoes pursuing us. When we near to the mangrove

swamp they shot us with gun, and we jumped into the mangrove swamp. When we reached a place called Tamgbolo Sonju we saw Okrika canoes and called them to come and pick us. They came and picked us, and we told them that there were another people in the mangrove swamp. They went and picked those people also. Then we went and asked them on the river, but they never answered us in good way. They started to throw us with sticks, and we also threw them with sticks. Kalabari people shot us with gun, and we jumped into the water, still yet we did not agree. Then we pursued them and reached Olomuama. And all ran away, and we seized one canoe and a gun inside. Sunday Kiri caught a machet to one Kalabari man. The canoe is in possession of Uriah, and myself, but we sold the gun.

Exhibits.
S.I.
Translation of
Exhibit S
in English,
continued.

Translated from Okrika to English by me :

(Sgd.) AUGUSTUS IBIDUKOBOFORI,
C/M

Certified true copy,

(Sgd.) J. NGO CHUKWURAH,
Registrar.

In the Privy Council.

ON APPEAL

FROM THE PORT HARCOURT JUDICIAL DIVISION OF THE
SUPREME COURT OF NIGERIA.

BETWEEN

SUNDAY KALA ALAGBA,
ISAAC ENYI NGERI,
SELE ORUAMABO,
SATURDAY KWANI,
JONATHAN GUN,
SUNDAY NABUAYE KIRI,
DIGBANI BAMSON,
URIAH OBIKE KALIO and
AMATAMUNO ORUBOKO - - - - - *Appellants*

AND

THE KING - - - - - *Respondent.*

RECORD OF PROCEEDINGS

HARRY F. STROUTS,
MONUMENT STATION BUILDINGS,
KING WILLIAM STREET,
LONDON, E.C.4,
Solicitor for the Appellants.

BURCHELLS,
9 BISHOPSGATE,
LONDON, E.C.2,
Solicitors for the Respondent.