

1958

Judgment

IN THE PRIVY COUNCIL

No. 15 of 1958

ON APPEAL

FROM THE COURT OF CRIMINAL APPEAL OF BRITISH GUIANA

B E T W E E N

SURUJPAUL called DICK ... Appellant

- and -

THE QUEEN ... Respondent

RECORD OF PROCEEDINGS

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IN THE PRIVY COUNCILNo. 15 of 1958

ON APPEAL

FROM THE COURT OF CRIMINAL APPEAL OF BRITISH GUIANA

B E T W E E NSURUJPAUL called DICK ... Appellant

- and -

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ON APPEAL
FROM THE COURT OF CRIMINAL APPEAL OF
BRITISH GUIANA

BETWEEN:-

SURUJPAUL called DICK, ... Appellant

- and -

THE QUEEN ... Respondent

RECORD OF PROCEEDINGS

No. 1.

INDICTMENT

THE QUEEN V. SURUJPAUL called DICK

IN THE SUPREME COURT OF BRITISH GUIANA
(Criminal Jurisdiction)
(COUNTY OF BERBICE)

In the
Supreme Court
of British
Guiana

No. 1.
Indictment -
8th July 1957.

INDICTMENT BY THE ATTORNEY GENERAL

SURUJPAUL also called Dick, Nickram also called Chandie, Kisoorn also called Baljit, Samaroo Karmaia also called Battle Boy and Ivan Jagolall are charged with the following offence:-

STATEMENT OF OFFENCE

Murder, contrary to Section 100 of the Criminal Law (Offences) Ordinance, Chapter 10.

PARTICULARS OF OFFENCE

SURUJPAUL also called Dick, Nickram also called Chandie, Kisoorn also called Baljit, Samaroo Karmaia also called Battle Boy and Ivan Jagolall, on the ninth day of March in the year of Our Lord One thousand nine hundred and fifty-seven, in the county aforesaid, murdered Claude Allen.

A.M.I. Austin
Attorney-General.

2. 2.

No. 2.

In the
Supreme Court
of British
Guiana

PROCEEDINGS
relating to the empanelment of the Jury
(NOT REPRODUCED)

No. 2.

Prosecution
Evidence

No. 3.

EVIDENCE OF JAMES WILLIAM DONALD FERDINAND

No. 3.

DR. JAMES WILLIAM DONALD FERDINAND sworn states:-

Dr. J.W.D.
Ferdinand
8th July 1957
Examination.

On the 14/3/57 I was the Prison Surgeon, New Amsterdam.

On that day I carried out routine examination of the 5 accused at New Amsterdam Prison. 10

They usually are stripped.

I recorded my findings on appropriate cards kept in the Prison.

I now refresh my memory from those cards that I filed in at time of examination.

I examined Surujpaul (No.1 accused). I was examining him for his physical health. I examined too for any marks or peculiarities about their bodies. 20

I found him in good condition. I found no external signs of injury.

It is my custom to ask the prisoner if he has any complaint or if he is feeling well. That is my routine. I must have asked No.1. I always do.

I don't recall if No.1 made any complaint. I would have recorded it. There is no record of any complaint.

If No.1 accused Surujpaul had been beaten between the 11th and 12th March I would have expected to find external signs of injury. 30

What I found was not consistent with infliction of violence on No.1 accused.

I followed the same procedure in regard to No.2 accused, Nickram also called Chandie.

He had abrasions on the left shin - those were scratches. A scratch is a normal bruise.

I found no signs of injury consistent with his having been beaten between 11th and 12th.

10 There is no record of any complaint. I don't recall any complaint.

I also examined No.3 accused Kissoon called Baljit.

I found no external weals or injury.

If he had been subjected to violence between the 11th and 12th March I would have expected to find some injury and I would have recorded it.

I also examined Samaroo Karmaia, No.4 accused.

20 He had abrasions or scratches on the right side of his abdomen and two contused wounds or swellings on the chest.

I don't recall the size of the injuries.

I examined No.5 accused, Ivan Jagolall.

I found no external marks or injury.

If he had been beaten between 11th and 12th March I would have expected to find marks on his body.

30 My findings as to No. 1, 2, 3 and 5 accused are the same, 4 inconsistent with infliction of violence between 11th March and 14th March when I examined them.

Cross-examined by Misir for No.1 accused.

I am the G.M.O. attached to New Amsterdam Prison.

I don't think the accused could find anything in his cell to injure himself.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 3.

Dr. J.W.D.
Ferdinand
8th July 1957
Examination -
continued.

Cross-
Examination
by Misir.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 3

Dr. J.W.D.
Ferdinand
8th July 1957
Cross-
Examination -
continued.

I would not be surprised if No.1 was found with injuries after my examination.

I would not be surprised if No.1 had injuries before my examination.

I have seen a prisoner flogged with a "Cow Pistle" - a weal is left "upwards" on the body. Those could be seen for a few days after infliction depending on the degree of the injury.

It could disappear after a week.

I must have examined the right arm and right ribs. 10

I did not see weals on those parts of body of No.1 accused.

My examination of No.1 accused took a few minutes - don't recall how long his examination took.

I don't think those marks could have been on his body without my seeing them.

I would not be surprised to see weal marks on the accused now.

(Counsel asks Doctor to examine arm of No.1 in Court.) Doctor examines. 20

I have examined in Court the right arm of No.1 accused. I have not seen any weals but dark marks.

(Counsel asks Jury to look at the arm - does so.).

I cannot say if the dark marks are weals.

I did not see those marks on the 14th March when I examined.

They might have been at the time. Old discoloured marks and I might not have made any record of them. 30

Cross-
Examination
by Adams.

Cross-examined by Adams No.2 accused.

This is the first occasion I am giving evidence in this case. I was in U.K. I did not give evidence at the Preliminary Enquiry.

I was flown out from United Kingdom to B. G. from my holiday.

I was brought out to give evidence specially in this case.

The nature of my evidence is confined to the physical condition of the 5 accused on the 14/3/57.

I have no actual recollection of my examination of the 5 accused persons on the 14th March.

10 I make records after the examination after each prisoner.

I can't recall whether my cards were written up after all 5 accused were examined.

I can't recall if there were other prisoners than the present ones that I examined that day.

I have based my answers in examination in chief from what I have seen written on the cards and not on my memory.

20 It never entered my head that I would be called upon to give evidence about the results of my examination at the time of my examination that day.

Nothing is recorded whether No.2 was examined with his clothes. I can't recall if he was.

The scratches on the shin could not have been caused by kick from boot as one would have expected a swelling or a contusion.

If the kick was a glancing kick one could expect to find a laceration.

I can only say what is written that they were scratches.

30 Depending on amount of force it would be painful if a blunt object struck the shin bone.

Violence can be applied to a person without leaving prominent external marks.

Pressure on the testicles can cause pain - a peculiar type called testicular pain.

I don't recall asking No.2 accused if he had bullets in him or any of the 5 accused.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 3

Dr. J.W.D.
Ferdinand
8th July 1957
Cross-
Examination -
continued.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 3

Dr. J.W.D.
Ferdinand
8th July 1957
Cross-
Examination -
continued.

I would rule out the possibility of other marks being on the No.2 accused other than the ones I have recorded.

From my memory I can't rule out the possibility of there being other injuries.

I am a specialist in mental diseases or disorders.

A person suffering from fever or ague might have the ability to resist anyone forcing them to do a particular act - against will. I would say Yes and No. I would say in some cases Yes. His resistance would be weakened.

10

I was in charge of Highbury area as far as New Forest area. My District took in the Reliance Police Station.

I don't recall seeing No.2 accused before the 14th March at the Reliance Police Station.

I only recognize one of the accused.

I don't think I would see No.2 accused at Reliance Police Station.

20

Fear and inconvenience to a person's comfort can at times weaken a person's will to resist.

Adjourned 9 a.m.

9th July 1957 9 a.m. 9/7/57 trial resumed.

DR. FERDINAND sworn:

Cross-
Examination
by Haynes,

Cross-examined by Haynes for No.3 accused.

I examined routinely the accused No. 3, from head to foot. He must have had his clothing off. The clothes of No.3 were off when I examined No. 3 accused. With regard to No.2 accused I think he had them off.

30

I usually examine routinely the prisoners with their clothes off but I cannot recall now if the clothing of No.3 accused was off or not.

When I examined No. 3 accused I knew he was

one of the men arrested in this case - and that it involved gun shots.

I did not record any old scars or marks.

I cannot remember if I saw any old scars or marks on No.3.

I saw no scar or marks recently healed on No. 3 accused.

Some might have escaped my notice.

10 A linear abrasion $1\frac{1}{2}$ " long across the left side of the face - a blunt instrument such as a whip could cause that, a small rod also could have caused that.

I saw No.3 accused (Baljit) on the 14th. If he had such an injury, partly healed on his face on the 11th one may or not see it on the 14th depending on the amount of healing and the injury.

I would not expect on the 14th to see evidence of that partially healed abrasion.

20 It may not show any mark at all. It could have healed between the 11th and 14th and show no mark at all.

It depends on the degree of violence as to whether one could see a mark after 2 or 3 days.

An old scar may be about a month or 6 weeks.

Striking a blow on the neck with a fist or gun could cause a swelling to the neck.

There may be such swelling on the 11th and not found or seen on the 14th.

30 It is possible for force to be applied to the body without any sign of it being seen 3 or 4 days after.

The pressing of a person's testicles enough to cause pain may not be seen after 3 or 4 days.

Hitting a person's ears with both hands may not show signs even a day after.

Blows like that around the ears violently for

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Prosecution
Evidence

No. 3.

Dr. J.W.D.
Ferdinand
9th July 1957
Cross-
Examination -
continued

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Guiana

Prosecution
Evidence

No. 3

Dr. J.W.D.
Ferdinand
9th July 1957
Cross-
Examination -
continued.

5 to 10 minutes could cause pain and the person may become dizzy.

Striking a person under the sole of the feet with a policeman's baton may not show any observable signs of it 3 or 4 days after

Twisting the ears for periods or intermittent periods of 5 minutes may not be shown on the body 3 or 4 days afterwards.

A linear abrasion $1\frac{1}{2}$ " long on left side of face could not be caused by a sharp cutting or pointed instrument. 10

Putting the hands to a person's neck may or not leave marks in 3 to 4 days depending the pressure exerted.

Enough pressure could be exerted to interfere with breathing without leaving marks.

On the 14th when I examined No.3 accused I saw no indication of the application of violence but I am not prepared to say that violence had not been applied to No.3 accused within 96 hours of my seeing him. 20

Throwing cold water 2 or 3 times at night when a man is sleeping in the cell would not show any marks.

Cross-
Examination
by Prasad.

Cross-examined by Prasad for No.4 accused.

From my records I can't say the length of the two contusions or any one I found on the No. 4 accused. Also true of the abrasions I found on the right side of his abdomen.

The clothes of No.4 accused were taken off i.e. Samaroo Karmaia also called Battle Boy. 30

I saw no other abrasions or scratches on No. 4 accused that would indicate any other injury.

The injuries I saw on No.4 accused could have been caused a few days before at least 4 days before, i.e. contusions across the chest and abrasions on right side of abdomen.

If there were other abrasions or contusions I would have seen them.

If the accused was examined by a doctor on the 10th and 11th the injuries I saw on the 14th would have been seen by that doctor.

Contusions across the chest could have been caused by blows from a blunt object such as a policeman's baton or a fist or a fall on a hard surface.

On No.4 accused.

10 The abrasions on right side of abdomen could have been caused by scratches by twigs or brushes.

They could have been there about 4 days - or 5 days.

I would not be able to say 6 days - as I can't recall how old they were when I saw them, but they were recent abrasions.

I would not be able to go further than that.

On the 14th I did not see any scratches over the left shoulder blade of No.4 accused, nor over the right shoulder blade.

20 I would not be able to say the injuries I had observed on No.4 were caused subsequently to the 10th March.

Even if Dr. Rucskinski did not see them on the No.4 accused on the 10th March - the injuries to the right side of abdomen.

I saw no injuries to the face of No.4 accused.

I would not be definite how many days before my examination the injuries on No.4 accused could have been inflicted.

30 Cross-examined by Rawane for No.5 accused.

I recall examining No.5 accused on the 14th.

The prisoners are usually examined with their clothes off.

Any marks found on his body would have been recorded.

If there was a contusion on the outer aspect

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Prosecution
Evidence

No. 3

Dr. J.W.D.
Ferdinand
9th July 1957
Cross-
Examination -
continued.

Cross-
Examination
by Rawane.

In the
Supreme Court
of British
Guiana

of the left ankle I might have been able to see it on the 14th if it was large enough.

Prosecution
Evidence

I do not recollect No.5 accused making any complaint that he was feeling pains on his shoulder, waist and hips.

When a complaint is made I examine to see if there are any marks relative to that complaint.

No. 3

Dr. J.W.D.
Ferdinand
9th July 1957
Cross-
Examination -
continued.

I usually record the complaint and put Nil if I find nothing.

It would depend on the degree of force applied for me to see marks of injuries inflicted 3 days before. 10

Re-examina-
tion.

Re-examined

Yesterday No.1 accused showed me in Court a few marks of discoloration on his right upper arm. I said I could not give any definite opinion as to what those marks were.

If those marks had been inflicted on the 11th March I would have seen them on the 14th. They would have been very noticeable. 20

I could not have avoided seeing those marks on No.1 accused.

It is not likely I would have examined one of the accused with his clothes off and the others with their clothes on.

No questions by Jury.

Cross-
Examination.

Cross-examined by Adams by permission.

It could not have been that I examined any of the accused with their clothes on.

There was no record on the chart to show that the accused persons were examined together. 30

By the Court

By the Court.

I know No.5 accused.

I knew him on the 14th March. He made no complaint. No record of any such complaint.

The fact that I knew No.5 does not bring back

any thing to my mind with regard to my examination of the others.

I don't recall anything unusual with regard to the examination of those prisoners.

Cross-examined by Haynes by permission.

I don't recall No.3 accused being brought to me for any injury or illness between the 14th and the 25th March - the day I left New Amsterdam. If he was a record would be made of it.

10 I have not got that record with me.

(The record is sent for).

I now produce this record from the Prison. Remand Prisoners Book - re period 14th March to 25th. There is no record of it and any subsequent injury or illness to a prisoner would be placed on his card and there is none on No.3 accused's card.

The book is tendered in evidence and marked J.W.D.F.

20 As far as I know there would be no other book in which a complaint would be entered in.

By the Jury.

Q. How often do Doctors examine the prisoners in the Prison?

A. On admission, on discharge and whenever they make any complaint.

Q. Where are they examined?

30 A. In the Dispensary - a room at the prison and also in the prison infirmary. There is always a bright light in the Dispensary room. The infirmary is an open ward - with beds and lights.

Q. Who keeps the records?

A. The records are written up either by the warder or charge officer.

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Prosecution
Evidence

No. 3.

Dr. J.W.D.
Ferdinand
9th July 1957

Cross-
Examination.

In the
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Guiana

There are the cards I have mentioned called
Prison charts - J.W.D.F.1,2,3,4,5, respectively.

(Only each back of chart in evidence.)

Prosecution
Evidence

My signature appears in the Prisoners Romand
Book but I am not sure what officer writes it up.

No. 3.

When a complaint is made to the Dispenser where
the record is kept.

Dr. J.W.D.
Ferdinand
9th July 1957
Cross-
Examination -
continued

The Dispenser would not be empowered to record
information on those Prison charts - Exhibits J.W.D.F.
1,2,3,4,5.

10

There are other books kept in the Prison in
which is recorded the treatment ordered by the Doc-
tor for the prisoners.

The book is not here today but should be
available at the Prison.

I don't think that New Dam is in my Medical
District.

I don't recall treating any of the prisoners
prior to the 14th March.

The only parts of the chart I write on the
Back page headed "State of Health when initialled
G.M.O." except that the weight is recorded by offi-
cer who weighs the prisoner.

20

I now produce this book, Casual Case Book, for
period 14/3/57 - 25/3/57 - marked J.W.D.F.6 in evi-
dence.

I also produce the Medical Record Book for
prisoners for period 14/3/57 - 25/3/57 - marked
J.W.D.F.7 in evidence.

Cross-
Examination.

Cross-examined by Haynes by permission.

30

There is nothing in the Prisoners Charts or
in the Books recorded to show that the No.3 accused
Kissoon also called Baljit was suffering from faint-
ing spells or epilepsy - except entry on J.W.D.F.7
complaints by Kissoon No.3 accused of pain in chest
and abdomen on admission and on examination nothing
found. Don't know date.

All Counsel say they do not wish to ask the

Doctor any further question, nor does Farnum for the Crown - Court informs Counsel Doctor intends leaving Colony - no objection.

Doctor allowed to leave Colony if he desires.

Adjourned to 1.30 p.m.

1.30 p.m. trial resumed.

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Supreme Court
of British
Guiana

Prosecution
Evidence

No. 3.

Dr. J.W.D.
Ferdinand
9th July 1957
Cross-
Examination -
continued.

No. 4.

EVIDENCE OF DESMOND DHAJOO.

No. 4.

Desmond Dhajoo
9th July 1957
Examination.

DESMOND DHAJOO sworn:

10 I am 18 years old. I was born at Rose Hall Village. I went to Roman Catholic School Port Mourant.

In March '57 I was living at home but boarded at Ivan Jagolall's home - the No.5 accused.

I recall the week ending Saturday 9/3/57.

I can remember on Wednesday 27/2/57 I was bailed at New Amsterdam Court House. My brother bailed me and accompanied him was Ivan Jagolall accused.

20 Myself and my brother and Ivan Jagolall went to a Hotel and had drinks.

I left New Amsterdam 10.30 p.m. but before I left Ivan Jagolall told me that he won't be coming home tonight. I went to his home situate at Rose Hall Village, Corentyne.

When I got there I saw Surujpaul - No.1 accused, Baljit - No.3 accused and Battle Boy - No.4 accused.

They were sitting under a jamoon tree in the yard where Ivan Jagolall (No.5) lives.

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Supreme Court
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Prosecution
Evidence

No. 4

Desmond Dhajoo
9th July 1957
Examination -
continued.

I delivered the message to Ivan Jagolall's wife. I went away.

I can remember again seeing them the following Wednesday (the same 3 accused) at the same spot (No. 1, 3 and 4). They were talking amongst each other. I don't know what they were talking about.

On Thursday morning I went to Ivan Jagolall's home to take my tea.

There is another apartment near where Ivan Jagolall lives. He lives in a rented room under a big house. That other room is not occupied. The door is always kept locked. I saw that door open and I went in. 10

I saw No.1 accused with some clothes. He did not wait for me to ask him anything. He had 4 short pants - 4 long sleeved shirts and 4 masks.

He told me I must keep my mouth shut that they are going to rob New Dam Pay Roll money.

No one else was in the room - (only No.1 accused and myself). 20

I said I don't understand what you are talking about.

He then told me that I must wait till tonight I going know everything.

I waited until 11.30 p.m. that Thursday night.

Coming from the back yard I saw Battle Boy - No.4 accused; Baljit - No.3 accused.

They came to the bottom of the house.

No.1 accused told them that I am alright don't be afraid. 30

No.4 accused Battle Boy had a small shoulder bag over his shoulder.

No.3 Baljit was carrying a large bag.

Out of the large bag that Baljit carried - he took out three guns. One gun was Mosberg (a gun carrying 3 loads) - one a double-barrel and one a single barrelled gun.

Baljit showed them to Surujpaul and Surujpaul (No.1 accused) examined them.

Battle Boy took out a bottle of rum from the small bag and they started to drink.

Battle Boy, Baljit and Surujpaul drank.

No.1 accused went in the room and brought out the clothes. He emptied them out of a bag and showed them to Baljit and Battle Boy.

They examined them.

10 They continued the drinking.

After the rum was finished No.1 packed up the clothes in the shoulder bag and Baljit put the guns in the shoulder bag and the 3 of them went away.

On Friday morning I went to Ivan Jagolall's home to take my tea. Surujpaul was lying on the ground in front of Ivan Jagolall's home.

I asked No.1 accused what happened. He told me that they only went and hid the guns but tonight they would be travelling on New Dam.

20 He told me that they have to leave early tonight as they cannot carry the guns in daylight.

I went in Ivan Jagolall's home and took my tea.

On Friday afternoon 6.30 p.m. I went to Ivan Jagolall's home to take my dinner.

Surujpaul was there.

Myself and Surujpaul took dinner together - 7.30 p.m.

30 He told me after he was finished eating that he will have to leave now - that himself and Battle Boy and Baljit had arranged to meet where the guns and clothes were hidden at 8 p.m. sharp.

He left.

I went away too.

Saturday morning I went to Ivan Jagolall's

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Prosecution
Evidence

No. 4.

Desmond Dhajoo
9th July 1957
Examination -
continued.

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Prosecution
Evidence

No. 4.

Desmond Dhajoo
9th July 1957
Examination -
continued.

home. I did not see No.1 accused there.

That was about 8 a.m.

Ivan Jagolall was at home. Myself and Ivan Jagolall (No.5 accused) took tea together.

Ivan Jagolall and I went to Mr. Primo's gambling house.

We left the gambling house about 3.30 p.m.

We went to Jagolall's to take breakfast.

About 5 minutes after we reached P.C. Vanviddt and 2 other constables came to Jagolall's home. 10

He spoke to Jagolall.

P.C. Vanvielddt went away.

Myself and Ivan Jagolall took breakfast.

Jagolall asked me to accompany him to backdam to go fishing.

Jagolall told me that it looks like them boys got thro' and we will meet them up and we are only carrying the cast net for "Just-so"!

Jagolall and I went along the Rose Hall back dam. 20

Jagolall told me that we must wait under the sandkoker tree, because them boys will pass right here.

We waited till about 6.30 p.m. and Jagolall told me let's go away - that them boys must be shoot that's why them don't come - they will come later.

We went home. We took dinner.

Myself and Jagolall went back to Primo's gambling house - that was the Saturday night.

Jagolall was gambling. 30

We stayed there till after midnight. We left. I went home and Jagolall went to his home.

I went to my brother's home where I slept.

On the Sunday I went to Ivan Jagolall's home about 8.30 a.m.

On Monday morning I went to Jagolall's home to take my tea.

His wife spoke to me.

Myself, Cecil, Babe and David went to the Albion Police Station to take Tea for Ivan Jagolall.

10 As we stood in the Guard Room waiting for the tea things (wares) I saw Ivan Jagolall making some signs to Cecil - (Cecil lives with Ivan Jagolall's step-daughter named Rene).

Witness shows signs

(with fingers as if counting money - two hands pushed forward as if throwing away something.)

After these signs Cecil left the Guard Room in a haste and I followed behind.

I reached Ivan Jagolall's home and I saw Cecil searching Ivan Jagolall's mattress.

20 I helped him search the mattress and he found 7 bundles of money.

They were tied in cloth strung like they are now - (around the bundles).

There are the bundles of the money - E² to E⁸ inclusive.

Cecil brought this Barlova cup and we put the bundles of money in this tin - Exhibit E⁹.

30 Myself and Cecil went to the waterside called Dutch Pond. We dug a hole and hid the tin with the money inside.

We did not count the money.

Myself and Cecil returned to Ivan Jagolall's home.

Cecil brought out a shirt and pants from Ivan Jagolall's bedroom. The shirt and pants belong to No.1 accused.

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continued.

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Myself and Cecil placed the shirt and pants in a pipe and threw it in the latrine of Jagolall's home - Exhibit G¹ - 2

This is the pipe - Exhibit G³ ,

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Evidence

This is the basket and net Jagolall and I went fishing with - Exhibit H¹, 2

No. 4.

This is the mattress in Jagolall's home - Exhibit F.

Desmond Dhajoo
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Examination -
continued.

We had cut the twine and emptied the grass out of the mattress.

10

This is one of the four pants I saw No. 1 accused with when he brought out the 4 pants, 4 shirts and 4 masks. Ex. "J" in evidence.

I showed one Mr. Chan, Surveyor, where we buried the money in the tin.

It was the afternoon of the day before the hearing of New Amsterdam Court.

I also showed Mr. Chan the place where myself and Ivan Jagolall waited on the Saturday 9.3.57.

Cross-
Examination
by Misir.

Cross-examined by Misir for No.1 accused.

20

I work at a factory at Rose Hall. I worked there long time not regular - almost 4 years. I am working there now.

I was born 24/11/1939.

27/2/57 I had been charged with offence of robbery with violence - with 5 others - all 5 were not put on bail on the 27/2/57. The others had already been on bail.

I gave the police one full statement and I did not make all one day. I gave my statement in instalments. 5 instalments.

30

On Tuesday afternoon the 12th March I gave a statement to the Police.

On the 12th March my charge of robbery with violence was reduced to common assault and larceny from the person.

The 27th February was the first time I saw No.1 accused. I did not see him every day afterwards.

No.1 accused was there on the 27th and on the other dates that I have mentioned.

No.1 was there in a room in Jagolall's house.

I did not see Surujpaul (No.1 accused) with guns - I saw Baljit with guns and Surujpaul examined them.

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Cross-
Examination
by Misir -
continued.

10 I did see No.1 accused with the clothes I have mentioned.

No.1 accused did tell me to keep my mouth shut.

No.1 did tell me that "I would know everything tonight".

I am speaking the truth. It is the truth that I saw them with guns and clothes etc.

Not cross-examined by Adams.

Cross-examined by Haynes for No.3 accused.

Cross-
Examination
by Haynes.

20 It was the Saturday the 9th I heard of the "Hold-up".

I was at Rose Hall in front of Appollo Cinema.

It was on the Monday about 9.30 a.m. that I found the money in the mattress.

I did not know where the money had come from when I took it out of the mattress.

Cecil and I took out 7 bundles but I can't tell how much money was in them.

They contained dollar bills - 10 and 20 dollar bills.

30 My own mind told me to go with Cecil.

I saw these "signs" being made. Cecil did not draw my attention to it.

I only saw the signs made one time.

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Cecil went right away. He said nothing to me.

I went to the Station to take tea for Ivan Jagolall.

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We were waiting for the wares.

I left about 10 minutes after Cecil.

No. 4.

I went to see what Cecil had gone there for and what he was doing.

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Cross-
Examination
by Haynes -
continued.

Ivan made some signs and I did not understand. I understand the finger signs nothing else.

I met Cecil searching the mattress. He asked me and I helped him to search. 10

I hid the money because Cecil told me that warrant is coming to search Ivan's home in connection with the same shooting and stealing matter. Cecil told me that the money came from the same story.

I had some information then from where the money had come.

I did not realize that it was something wrong I was doing - despite the fact that a charge for robbery with violence was hanging over my head. 20

In my case it was alleged that a man had been held down and money had been taken away by me and other boys from his person - that was not true.

I had been to Onderneeming Reformatory for breaking and entering a shop - that was in 1954.

I remained 27 days at that Reformatory.

I pleaded guilty to that charge.

I had broken a glass case and did not take anything. I ran away. 30

Carpenter's tools were in the glass case.

I was put on \$250 bail for the robbery with violence.

I did hide the money.

I was only trying to make Ivan Jagolall's side clear.

I knew I was doing something wrong in trying to make Ivan Jagolall's side clear.

I knew that a man had been killed.

We hid the money about $\frac{1}{4}$ mile from Ivan Jagolall's home.

I marked the spot with a bunch of grass.

10 I did not intend to go back and take it out some time afterwards.

I threw the shirt and pants in latrine because Cecil told me a warrant is coming out against Ivan Jagolall.

The pants and shirt belonged to Surujpaul Accused No.1. More other clothing belonged to No. 1 accused in the house.

I did not enquire if the people involved had on shirt and pants.

I had heard the men had on shirt and pants.

20 No.1 accused told me to wait the night and he told me everything that night - in the presence of Baljit and Battle Boy (Accused No. 3 and 4). I waited to hear about the plan because I really wanted to know what was going on. I was not taking part in it.

I went back to the Albion Police Station about 11 a.m. to take Jagolall's breakfast. I left.

I took dinner the same night 8.30 and the Police arrested me then.

30 Up to the time the Police arrested me I had told no one about hiding the money and shirt and pants.

The policeman told me that I had hidden part of the money stolen at the back dam.

I thought a little trouble would be hanging over my head.

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Cross-
Examination
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continued.

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Cross-
Examination
by Haynes -
continued.

I denied it and told them it was not true.

The Police told me that I was telling lies.

I insisted that I knew nothing about it.

That Monday night I was kept at the Police
Guard Room.

I slept.

The same Monday night I was questioned by the
Police for about $2\frac{1}{2}$ hours. That was upstairs
the Police Station.

I still insisted that I knew nothing about the 10
money.

Upstairs up to mid-night.

After mid-night I was brought to Guard Room
where I slept.

Tuesday no one told me that the money had
been found.

The Tuesday I made a statement to the Police.

I realized that some trouble was hanging over
my head again.

That same 12th March I had to appear in Magis- 20
trates Court in my own case.

My case was not finished on the 12th.

On that day my case was reduced from robbery
with violence to common assault.

My case was not tried on that day.

I told the Police on that Tuesday for the
first time about hearing the plan to rob.

I was not easing myself out of trouble and it
is true that I heard the plan to rob the Pay Roll
money. 30

The charge was reduced since the morning.

It is not to ease myself why I have given false
evidence today.

I do not give false evidence involving Baljit and Battle Boy.

I gave a statement on the 12th (Tuesday) and another on the Wednesday.

I slept at Police Station on the Tuesday night.

I made another statement on the Wednesday.

After the second statement I was allowed to leave the Station and go home.

10 On the Thursday the Police took me to the Station and I made another statement.

I was sent away after that statement.

The Friday Police came to me again and I went and gave another statement - and went back home.

And Saturday I was taken back to the Police Station. I signed a statement again.

And Sunday I was taken to Police Station and I signed a statement again.

This letter commencing "Dear Van my friend" containing 4 pages, was written by me.

20 I delivered that letter to Guy Jagolall a brother of No.5 accused.

He asked me to write it.

When I wrote it it was not my own letter - Guy Jagolall's. I was writing it on behalf of someone else. I did not know to whom the letter was to go.

I am his friend.

It was written during April '57.

30 I did not realize it was intended for the accused Ivan Jagolall.

I did not ask him to whom the letter was going.

He gave me a copy to copy from.

He told me that his eyes not good and it was an

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Examination
by Haynes -
continued.

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old soiled up letter and he wanted me to rewrite it so that he could read it.

I was not employed at end of February and early March '57 - nor from the beginning of January.

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I cannot say how long before January I had been working

No. 4.

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9th July 1957
Cross-
Examination
by Haynes -
continued.

In April I was working at the Abbabil Lemonade Factory. I started to work about a week after the 17th March (Sunday).

Still working there. 10

This is the letter - Exhibit L.

Read to Jury.

Adjourned 9 a.m.

10/7/57 9 a.m. trial resumed.

10th July 1957
Cross-
Examination
by Haynes.

DESMOND DHAJOO sworn:

Cross-examination by Haynes continued.

I was not asked questions about robbery or killing on the Monday night at the Police Station.

I was asked questions only about money during that 2 $\frac{1}{2}$ hours. 20

The Police told me that they had information that I had hidden money at the Waterside.

I was not questioned about my movements during Saturday, the 9th.

The Police did not tell me that the money that they thought I had hidden was a part of the money from the robbery.

But in my own mind I thought it was so.

All they asked me about is whether I had hidden the money. 30

The Police did speak to me about a policeman being shot during the Monday night - it was mentioned to me that money was stolen at the time the policeman killed.

No policeman asked me if I knew anything about the robbery or the killing.

I did not tell the Police on that Monday night about the plans I had known of to rob the Pay Roll money.

No one asked me to take part in it. I just happened to overhear it.

No one had asked me to take part in it.

10 Between 12 and 2 p.m. on the 9th (Saturday) I was at Primo Gambling House.

Between Friday night and whole of Saturday I did not see any of the accused except Jagolall (No. 5) nor on the Sunday. On Monday night I saw No. 1 at the Albion Police Station.

After 1954 coming from the Reformatory I tried to behave until 1956. Until February I had kept myself out of trouble.

I did not tell the policemen about the plans to rob because they did not ask me.

20 I told the Police I knew nothing about the money that came from the robbery.

The Policemen told me that Cecil and I had taken the money from Ivan Jagolall's house and hidden it after the stealing of the money and killing of a constable at the New Dam.

I was not asked if I knew where Jagolall got the money from.

30 The Police asked me about accused Jagolall's movements on the Saturday. I was asked if I knew Surujpaul.

I was asked about Surujpaul also. I told the Police I had seen him on the 27th. I did not mention the names of the other 2 (No. 3 and No. 4) as I was not asked.

Friday the 8th March I told the Police was the last time I had seen Surujpaul.

The Police did not ask me any questions about No.2 nor No. 3 accused, nor about Battle Boy (No.4).

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Examination
by Haynes -
continued.

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Desmond Dhajoo
10th July 1957
Cross-
Examination
by Haynes -
continued.

The Police first asked me on the Thursday what I knew about those Boys - (all the accused).

No Policeman offered to get a job for me during March or April.

On the 25th April 1957 I did not throw this letter - Exhibit L- to Ivan Jagolall in the Court yard or cell.

This letter is not my letter - Exhibit L. I only wrote it from a copy given me by Guy Jagolall - the brother of Ivan the accused.

10

I was helping Cecil. Cecil told me about it while we were going to hide the money $\frac{1}{4}$ mile from Jagolall's home.

I was hiding the money to help Jagolall.

I ate but never slept at Ivan Jagolall's house.

Sometimes Cecil works at the Abbabil Lemonade Factory.

Cecil is Ivan's stepson.

I was Ivan's friend.

No Inspector told me that I was a nice intelligent boy.

20

That was not told me to assist me to talk and assist by giving evidence.

I was not afraid to tell the Police what I knew about the accessed in connection with this matter.

$5\frac{1}{2}$ days work I get at the Abbabil Lemonade Factory.

In letter "L" this part "this is lies" is not my hand-writing.

30

Re page 2 Exhibit "L" the words not in my hand-writing are:-

(1) this is lies;

(2) you have to tell lies on your self now.

Page 1

The whole of page (1) is in my hand-writing.

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Page 3

The whole of page 3 is in my hand-writing.

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Page 4

has been cut off but what is now left of it
partly in my hand-writing.

No. 4.

"God bless you" is not in my hand-writing
and the word "lie" on the 2nd line is not in
my hand-writing.

Desmond Dhajoo
10th July 1957
Cross-
Examination
by Haynes -
continued.

10

Some scratchings out were made by me and some
not.

On Page 1 - There are no scratchings out.

" 2 - There are no scratchings out.

" 3 - The 2 lines at the bottom are not
scratched out by me.

" 4 - The scratchings out circled by me now
are not scratched out by me.

Exhibit inspected by Jury.

20

I don't know any one named Tickle.

I know Cecil Debedin. He lives at Rose Hall -
not along the same dam that Jagolall lives.

Known him a year now.

I know Bettygall - Tackle's wife. He is
called "Tackle".

On Page 4 - I did not write lie which is mentioned
or tell a lie at the top of the page.

I told the Police that I saw Jagolall making
a sign to Cecil.

30

It is true that when Cecil left the Station I
went after him.

Cecil did not ask anyone else to assist him.

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Cross-
Examination
by Haynes -
continued.

Exhibit L: It is not any letter I was writing trying to make up a defence for someone and that I would be willing to support the lies.

I alone helped Cecil to take the money out of the mattress.

I copied out the scratches that I saw on the letter, I copied the scratches also.

I did not make all the scratches. The letter was not put in my hand at the Prelim. Enquiry.

It was shown to me from a far place where Mr. Luckhoo is standing in Court at Preliminary Enquiry and I told him "Yes".

I copied some of the scratchings out from the letter to this letter Exhibit "L".

Guy told me he wanted to copy it exactly as it was.

I did not write that letter for myself.

I did not take the Police and show them where I had hidden the money.

The Police never told me that they had found the money. I did not know they had brought in money to the Station.

I told the Magistrate at Prelim. Enquiry that after they found the money and came back I made a statement.

When I gave a statement I only saw No.1 and No.5 (not all 5 accused).

I did not give a statement to prevent myself from being charged with this very charge myself.

I knew beforehand that the robbery was going to take place.

I knew beforehand that guns were going to be used.

I knew that short pants and masks were going to be used.

I knew that 4 persons were going to take part.

10

20

30

I knew that guns were to be hidden but I did not know where.

2 days after I hid money from the robbery in the ground.

Saturday afternoon I went at the back dam to await the men who were taking part in the robbery - I accompanied Ivan Jagolall.

A letter in my hand-writing was not setting out a defence for Jagolall to make.

10 I did not know it was going to Ivan.

I did not know if it was for this matter.

I have friends that I know about well - more than 5 of them.

It is not true that I made a statement to save myself from being charged with this offence.

Cross-examined No.4 accused by Prasad.

20 I was bailed on the Wednesday. 10 p.m. I got home by a car from New Amsterdam to Rose Hall - 27/2/57. I don't know where the driver of car was going.

It is true I saw the accused Nos.1, 3 and 4.

The last car leaves at 8.30 p.m. after the boat.

4 persons and chauffeur travelled in the car. Ricardo Perkins of Rose Hill travelled in that car that night - 27th February.

Indall Persaud also in the car - my brother.

David of Rose Hall.

Chauffeur and myself.

30 I left Jagolall on the road in New Amsterdam near Globe Cinema - in company with a girl.

Those boys Ricardo and Indar Persaud live in the same house with me - not David.

Jagolall used to supply me with money to gamble - whenever I wanted money to gamble Jagolall gave me.

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Examination
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continued.

Cross-
Examination
by Prasad.

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Cross-
Examination
by Haynes -
continued.

Whenever I use his money to gamble I don't lose.

My only work was to gamble and eat.

I would not prepare a false defence to assist my friend Jagolall.

I did not speak to Nos. 1, 3 and 4 accused on the 27th at Jagolall's home.

I did not know No.1 accused that was the first time I had seen him.

I knew the other 2 before that night well. 10
They used to come to Ivan Jagolall's home.

I did see No.1, No.3 and No.4 that night.

On Friday the 8th I had tea 8 a.m. at Jagolall's home.

No.1 accused and I went to waterside for wood for Ivan Jagolall, about 9 a.m. to mid-day.

I had breakfast at Ivan and went home and slept at my brother's home at Rose Hall.

4 p.m. - I went out on the road - at Primo's Gambling House. I met Jagolall there after 4 p.m. 20

6.30 p.m. I left the Gambling House to Ivan Jagolall's house for dinner.

I can't recall if Ivan and I gambled there till 11.30 a.m. - that would not be correct.

I can't recall if I told the Magistrate that we gambled till 9 p.m. and then we went home for dinner.

That was my movement on Thursday that I returned from Primo's Gambling House at 9 p.m. for dinner. 30

Thursday the 7th. I can't say what time I had dinner there on the Thursday. Can't recall if it was afternoon or night.

I did see No. 1, 3 and 4 accused with guns and masks at Jagolall's that Thursday night.

I did see Surujpaul on the Friday the 8th about

6.30 p.m. and he left me about 7.30 p.m.

Friday morning I met No.1 accused and asked him what happened.

I was not expecting to see No.1 on that Friday morning from what he and the others told me.

On the Friday morning I did not see No.3 nor No.4 that morning.

10 I did see No.1 at Ivan's house on the Thursday morning about 8.30 a.m. to 9 a.m. Midday I saw No.1 accused there. Ivan and I left and went to the Road - can't recall what time we returned.

On the 11th I knew that a policeman was killed.

For 2½ hours I had been telling the Police lies at Albion Station.

I told them I don't know anything about money being hidden at waterside.

I only answer what they ask me and I answer lies.

20 I am not telling lies today.

I have not seen the masks or short pants - shirts after the Thursday night.

I was not telling Ivan to tell his brother Guy to give me some money.

Guy said that he could not read the letter Exhibit "L" as he was not seeing well with his eyes and the letter was an old soiled up letter so he asked me to do him a favour to rewrite the letter so that he could read it properly.

30 What I have "scored out" has been clipped out.

At Page 3 the scoring out in last 4 lines but 2 shown in blue were written by me but someone else has scored out my writing.

The parts scored out that I copied from the other letter have been cut out in this letter.

The bottom of page 3 has been cut off not by

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Cross-
Examination
by Haynes -
continued.

Cross-
Examination
by Rawane.

me, and the 4th page has been cut in two.

I wrote 4 full pages.

I have not fabricated this story to put No. 4
accused into trouble.

Cross-examined by Mr. Rawane for No.5 accused.

In April I was aware I would be giving evi-
dence against all 5 accused.

In the Magistrate's Court I did not say that
Jagolall said - "It look like them boys got thro'
and that we must wait under this sandkoker tree
because them boys will pass here."
but I have given that evidence in this Court.

10

That is an important bit of evidence.

I cannot answer why I did not tell that to the
Magistrate at the Preliminary Enquiry.

It is not true that I have now fabricated that
bit of evidence against Jagolall.

Saturday 9th - I went to Primo's Gambling House and
returned with Ivan Jagolall to his home 3.30 p.m.
or a little after.

20

About 2 minutes after I got there Constable
Vanvieltdt and two other Constables arrived.

Constable Vanvieltdt asked Jagolall where he
was the whole morning and Jagolall said he was
at Mr. Primo's Gambling House.

The Constable did not say why he was making
those enquiries.

Ivan and I had lunch at home after that.

I knew then that the Police were making some
enquiries as to some crime committed.

30

After the Police left Jagolall said: "It
looks like dem boys get thro'."

Jagolall and I left and went out.

I did not think the Police was watching me.

Known Cecil about 2 years now. He works but not regular - a friend of mine a little.

Jagolall's door was open on the Monday and Cecil said, "Yes, come in" - on the Monday.

I cannot go in the house any time.

I have never been in his house in Jagolall's or his family's absence.

Jagolall's wife was not there on the Monday.

10 Jagolall and his wife (Babe), Cecil and Rena (Cecil's wife) and a little boy named Lall - 6 or 7 years old live in the house.

Mr. Samuel Johnson owns the house - I don't know who pays the rent.

It is not untrue that I found money in the mattress in that house.

I admit writing the last page of Exhibit "L". The word "lie" is in script but is not in my hand-writing.

20 I cannot remember what was the word I had before it was scratched out.

The "I" on the first line of Page 4 is not in my hand-writing nor the word "lie". I had written words there in the letter which now have been scored out and can't be read. I don't recall what I had written there before nor the words "tell a lie".

The other 'I's' are mine such as "I went after him to find out what was going on".

It is not a lie that Cecil did find money in the mattress.

30 My father and mother are dead since I was a little baby. I live with my brothers, the Persauds - who are older than I am. I am keen on gambling.

Re-examined

I gave a statement to the Police 15/3/57. It is not a recent fabrication that Jagolall said, "It looks like them boys got thro' and that we must wait under the sandkoker tree because them boys will pass here."

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Cross-
Examination
by Rawane -
continued.

Re-examination

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Re-examination
- continued.

In that statement I told the Police that which I have again sworn today. This is the statement I made on 15th March.

(Mr. Rawane objects to the statement - on the ground that it is made in the absence of the accused)

(Court rules statement admissible to re-establish the credit of witness)

Statement marked Exhibit D.D. in evidence.

By the Jury

By the Jury.

I understand that when I swear to do anything I know I must tell the truth but I do not understand the word "bath". 10

I did not know any of the accused to own guns.

I don't know where Baljit got the 3 guns from.

I was standing near to No.1 accused while he was examining them but I did not touch them nor examine them.

The 3 kinds of guns were -

One was a Mosberg carrying a magazine near to the trigger - the gun can hold 3 loads - 2 in the magazine and 1 in the breech. 20

One gun carried 2 barrels and one gun carried 1 barrel.

Q. What bore?

A. I cannot tell what bore.

All the guns used cartridges not bullets.

Q. Can you describe the masks?

A. I can describe the masks. The masks were made from the bottom of a long pants cut short. It carries a piece on top. It carries 3 holes, one small hole on left side, one below and one opposite to the top one big and square. 30

They different colours - 2 of them were blue - green colour - old and fadish; the other 2 made from old khaki drill.

14 or 15 inches in length.

I reached 6th standard in school.

It did not appear to me that the letter Exhibit "L" was intended to involve me.

I now write my name at request of Jury in "joining up" and in script. - Exhibit D.D.²

I had seen many Mosberg guns - first about 1954. That one belonged to one "Arthur" living at Rose Hall.

10 I did not look so keenly to see if there was any writing on the Mosberg gun.

I was almost touching No. 1 when he was examining the guns.

The guns were all in one piece. The shoulder bag that Baljit was about 4 ft 6 ins - no part exposed.

20 Battle Boy said that as everything else is as we discuss - Chandie said the van would be passing near the bridge. These guns we will all occupy one each and we will get away quite safe. They started to make other plans. They started to ask me about my case.

Present then were - myself, Battle Boy No. 4; Baljit No. 3 and Surujpaul No. 1.

Ivan Jagolall was not there he had gone out to the road somewhere. Chandie was not there.

None of them said anything about shooting at all or when shooting should take place.

Adjourned to 11/7/57

30 11/7/57 Trial resumed 11/7/57

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 4.

Desmond Dhajoo
10th July 1957

Examination by
Jury -
continued.

In the
Supreme Court
of British
Guiana

No. 5.

EVIDENCE OF EDGAR CHARLES

Prosecution
Evidence

EDGAR CHARLES sworn

No. 5.

Sub-Inspector of Police and N.C.O. in charge of
Criminal Investigation Department, Berbice Division.

Edgar Charles.
Examination,
11th July 1957

Monday 11/3/57 I was at Albion Police Station
carrying out investigations into murder of Constable
Allen.

Albion Police Station is a building with two
flats - the upper flat comprised :

10

the Barrack Room
Dining Room
Lavatory
Bath Room
Kitchen

Barrack Room is about the width and length of
this Court Room. The Dining Room adjoins it. The
ground floor there is the Court Room, the Engineer's
Office the Magistrate's Court Room. Those rooms
communicate with each other. The lock up is con-
nected to the Enquiries Room.

20

During the investigations in this case we had
many persons there - persons including suspects and
witnesses.

I used the Barrack Room for the purpose of in-
vestigating witnesses, suspects there and Policemen
collecting statements and typewriting going on.
People coming and going.

Those conditions obtained on the night of the
11th March.

30

10 p.m. 11/3/57, No. 1 accused. Surujpaul, was
brought to the Police Station by Detective Constable
Vanvioldt accompanied by Inspector Elcock. At that
time No. 5 accused, Ivan Jagolall and Desmond Dhajoo
also were both at the Police Station.

No. 1 accused was brought to me upstairs.
Dhajoo and Jagolall (No. 5 accused) were downstairs.

I questioned No. 1 accused. I brought in Babe reputed wife of No. 5 accused and Verma called Lillian. I brought up the accused Ivan Jagolall.

In the presence of No. 1 accused I asked Jagolall if this is the Surujpaul he told me about. He said "Yes". I then caused Jagolall to be taken back downstairs.

10 I spoke to No. 1 accused. I told him that on the 9th March about 1.15 p.m. a Policeman was killed on the New Dam. Pay Roll was robbed at No. 50 Reliance. I further told him that I suspected that he and others had committed the crime.

No. 1 accused said:

"Ah so them say. All a we neck rass go broke. Bring pen and paper and write. I will tell you the whole story. This shirt and pants a Jagolall give me to go to Georgetown."

I thereupon cautioned the No. 1 accused.

20 (Mr. Misir objects to this evidence as inadmissible. The Prisoner was in custody and had not been cautioned.

Mr. Farnum: Where a person is brought in for enquiries before the officer has had time to caution him does not make the statement (verba) inadmissible. Asks to be allowed to ask a question.

Witness continues evidence.

30 At that stage I had not decided to charge the No. 1 accused then with murder. I was just enquiring into the charge at that stage. I had no evidence against No. 1 accused.

I had no time to caution the accused before he answered. As soon as he said that I cautioned him. He made a statement which I reduced to writing.

Court rules verbal evidence admissible in the circumstances deposed to.)

Witness continues:

I read it over to him. He said it was true and correct and he signed his name in the presence of Detective Inspector Elcock and Det. Sgt. 4728 Bacchus.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 5.

Edgar Charles.
Examination,
11th July 1957
- continued.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 5.

Edgar Charles.
Examination,
11th July 1957
- continued.

This statement was taken at the upper flat of the Albion Police Station used as a Dining Room and temporarily converted to Enquiries room for the purpose of these enquiries.

A senior Police Officer was present when I was taking that statement. He was - Detective Supt. Isaacs - officer in charge Corentyne District.

During the taking of the statement Mr. Isaacs came into the Room. He was actually looking on while I took the statement - part of the time. 10

Mr. Digby, Asst. Commr. of Police was at the Station on the lower flat. It was a free and voluntary statement. I at no time held out any inducement or held out any threat to the accused Surujpaul and used any violence to him.

This is the statement - Exhibit R.4.

(Mr. Misir objects to the admissibility of the statement on the following grounds:

- (1) that the statement was not free and voluntary; 20
- (2) that it was made under duress;
- (3) the accused No. 1 was not the maker of the statement.

Misir asks for permission to cross-examine and call witnesses as to the issue in absence of the Jury but states his witnesses as to this issue are absent and will be in attendance by 1 p.m.

Solicitor General informs Court that he decides to call witnesses also on this issue.

(At this stage Jury retire.) 30

Court decides evidence in this issue to be taken by shorthand writers.

Mr. Haynes asks that as all Prisoners are objecting to admissibility of their statements that the whole question be gone into at the same time in the absence of the Jury in which application other Counsel join.

Mr. Haynes refers to The Queen v. Leslie Walter Haund (1941 26 C.A.R. p.84).

There would be no harm to interests of Justice or to the accused and would be more convenient.

Solicitor General

To adopt the procedure advocated would not in fact result in saving of time. These statements were taken by the same person on different days, different time and places. If the application had been made at an earlier stage one could have called the witnesses in a different order.

10 Court rules evidence as to admitting other statements also be heard now.

IN ABSENCE OF JURY

Witness's evidence continues:

Cross-examined by Misir.

Constable Vanvieldt brought accused No. 1 to the Station. Inspector Elcock accompanied.

20 He was not brought in hand-cuffed. He was brought in about 10 p.m. I started to take the statement at 10.30 p.m. I was with No. 1 accused all the time. There is a large table in the Barrack Room.

I did not hear anyone say "Where you been all this time. I been waiting for you a long time."

I did not hear Inspector Elcock say so. 6 or more Policemen were in the room at that time - not as much as 20. I would not doubt that I said to Magistrate 'plenty'.

30 I did not see Inspector Elcock hold the No. 1 accused by his shoulder. Constable Vanvieldt was present. I did not see Vanvieldt kick No.1 accused in his chest. He did not fall down. Myself and Inspector Elcock did not pick him up and put him on the table. He was not handcuffed - not brought in hand-cuffed.

No Policeman had revolver in holster. While on the ground no one cuffed and kicked the accused - by Policemen.

No. 1 was not put braced on the wall by Vanvieldt - a chair was not put on his head. 2 pairs

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 5.

Edgar Charles.
Examination,
11th July 1957
- continued.

Cross-
Examination
by Misir.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 5.

Edgar Charles.
Cross-
Examination
by Misir,
11th July 1957
- continued.

of Police Boots not hung on his shoulders. No. 1 accused not made to stand on one leg.

I once saw a Cow Pistle - once - not on the night of the 11th. I saw no Cow Pistle at the Station. I did not see Vanvieldt with a Cow Pistle.

Vanvieldt did not cuff the accused - not hit him at back of his neck with his hand. Elcock did not take the Cow Pistle from Vanvieldt.

Elcock did not start to lash No. 1 accused on his right arm. No such violence was applied to accused before the statement was taken. 10

I asked No. 1 accused why he went to Georgetown. No. 1 accused did not refuse to answer. He answered me. He said: "I went to Georgetown to sport."

I sat down by the side of the accused at the table. Elcock was standing at the side of the accused.

From 10.30 to 11.15 p.m. Vanvieldt was there in upper flat but can't say where he was standing.

I did not push a statement to the accused and tell him to sign at the bottom. 20

I told him to sign at the bottom after he finished the statement. He did not refuse to sign.

I did not rub the ears of the accused. I don't know if that would leave no mark.

When he refused to sign I did not hold on to his testicles. I did not say "if you don't sign I will kill you."

I can't recall telling the Magistrate that Det. Supt. Isaacs was present when the statement was being taken. I was not asked if Det. Supt. Isaacs was present. 30

No. 1 accused had no lawyer at the Preliminary Enquiry when statement was tendered.

The No. 1 accused made a statement to the Magistrate that he was beaten by the Police after he was cautioned.

I saw No. 1 accused's right arm when first brought before the Magistrate. He had no marks on

his right arm. I saw no marks on the 10/5/57. I did not see him shew the Magistrate his right arm. The Magistrate was Mr. A.J. De Souza. I would have seen them if there were marks on his right arm.

In the
Supreme Court
of British
Guiana

I was in Court on the 10th May. I can't recall the accused shewing the Magistrate any marks on his body.

Prosecution
Evidence

10 I was present on the 13th March when No.1 accused was brought before the Magistrate. Mr. Arthur Chung. The Clerk of the Court was Mr. Griffiths attached to New Amsterdam. He is in the Colony.

No. 5.

Edgar Charles.
Cross-
Examination
by Misir,
11th July 1957
- continued.

I did not examine the right arm of the accused after that statement to the Magistrate. I was not in charge of the Prisoners.

No. 1 accused was arrested at 10 p.m. on Monday 11/3/57. He was brought in to Albion Station. I can't say if he was arrested. At no time he was handcuffed.

20 At 10 p.m. I was interrogating witnesses and suspects. I had already read the statement made by Jagolall. I had taken the statement from No. 5 accused at 8.40 p.m.

11th Monday Vanvieltdt had been in attendance at Supreme Court. I saw Vanvieltdt at 5 p.m. that day at Albion Police Station. Not at New Amsterdam or Reliance that day the 11th.

I told the Magistrate that I saw Vanvieltdt at New Amsterdam or Reliance on the 11th at 5 p.m. That was a mistake.

30 I saw no marks or weals on No. 1 accused at any time.

Re-examined by Farnum

Re-examination
by Farnum

I first heard No. 1 making allegations of ill-treatment on the 10th May 1957 when he was committed for trial.

40 The room upstairs has a door which leads into Dining Room. The stairs from lower flat lead to Barrack Room. Table is in Dining Room. The Statement was taken in the Dining Room. Some suspects and members of staff were in the Barrack Room. Policemen were in the Dining Room. People were coming to and fro.

In the
Supreme Court
of British
Guiana

No. 6.

EVIDENCE OF HUBERT NEIL MALCOLM ISAACS

Prosecution
Evidence.

HUBERT NEIL MALCOLM ISAACS Sworn:

No. 6.

Hubert Neil
Malcolm Isaacs
Examination,
11th July 1957.

In March '57 I was stationed at Whim in charge of Corentyne Sub-division. I have to do with investigation to murder of Constable Allen.

From Sunday 10th to Thursday 14th March I was in charge of the investigation.

Night of Monday 11th March I went to Whim Station and then to Albion Station at about 10.45 p.m. I was there earlier on in the afternoon. I had left there at 9 p.m. Mr. Digby, Asst. Commissioner of crime was with me. 10

No. 1 accused, Surujpaul, was at Albion Station while I was there very soon after we arrived there.

We stayed at Albion about 20 minutes after he came in. We left for Whim. 10.45 p.m. we returned to Albion.

I noticed Surujpaul with Sgt. Charles in the lower part of the building in the Court Room. 20

The whole building was being used during the Enquiries.

The Dining Room is upstairs. Other people were being interviewed.

No complaint was made to me that the Prisoner Surujpaul was ill-treated.

I remained there until just after 2 p.m.

No. 1 accused did not appear to me in any way distressed.

I did not hear chair put on his head, boots put on his shoulders. I did not hear that he was being kicked or cuffed about on the floor upstairs. 30

I did not hear he was beaten by a Bull Pistle.

I have not seen one at Albion.

If No. 1 accused was being beaten it is most likely that I would have heard or any unusual sort of noise I would have heard.

On Tuesday the 12th I stopped at Albion and went to Reliance Police Station.

10 I saw No. 1 accused at Reliance that morning in the Enquiries Office at the Station. A very tiny room, only room on ground floor there. He made no complaint to me. He saw me both at Albion and at Reliance.

A couple of days ago was the first time I knew that No. 1 accused was alleging that he was beaten.

Cross-examined by Misir.

I was rather busy making enquiries. I was moving up and down all the time.

No. 1 accused arrived about 9.20 or 9.30 p.m. He was not handcuffed. Vanvieldt and Elcock walked in with No. 1 accused.

20 Can't say where No. 1 accused was taken at that immediate time. I left about 9.40 p.m. I returned at 10.45. At that time he was sitting with Sub-Inspector Charles at a table downstairs.

I don't think other Policemen were there. Sub-Inspector Charles was about with No. 1 accused. That was in the Magistrate's Court. I spoke with Charles. I stayed there for about 5 or 10 minutes. Speaking to Charles.

30 The Police had revolvers in their pockets when they were going out from the Station. Vanvieldt and Elcock had no hand cuffs.

Re-examined

Plain clothes do not usually have hand cuffs.

By the Court

After speaking to Charles I moved around the Station - one building.

When I was speaking to Charles he was then taking the statement from the accused.

In the Dining Room there were other Detectives interviewing other persons at the time.

40 I would say that I am not certain if I spoke to Charles upstairs or downstairs.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 6.

Hubert Neil
Malcolm Isaacs
Examination,
11th July 1957
- continued.

Cross-
Examination
by Misir.

Re-examination

By the Court

In the
Supreme Court
of British
Guiana

No. 7.

EVIDENCE OF SIDNEY DARRINGTON DANIELS

Prosecution
Evidence

SIDNEY DARRINGTON DANIELS Sworn :

No. 7.

I am clerk and store keeper of New Amsterdam Prison.

Sidney
Darrington
Daniels.
Examination,
11th July 1957.

I admit prisoners into Prison. On 13/3/57 I admitted Prisoner No. 1 Surujpaul.

This is the Prison Chart in relation to No. 1 accused - Exhibit J.W.D.F.¹

I make notes on the Chart from the Prisoners. I ask for age, occupation, address etc. 10

I take marks for identification purposes.

I wrote up this chart.

I examined him stripped.

I found the following marks:

Mole on forehead

faint tatoo marks under and above
right fore arm

superficial scars (scratches)
right upper arm. 20

The scars seemed to have been recent marks.

I saw no swellings or bruises nor black and blue marks. Nothing to shew he had been beaten or kicked.

Cross-
Examination

Cross-examined

My normal duty to examine prisoners.

The marks looked like scratches - like if pins would scratch one - not large scars - as if one has grazed against something. They appeared to me to be superficial. 30

Crown's case on this issue.

Mr. Misir applies for adjournment till 1 p.m.

Jury return and adjournment taken.

1 p.m. jury retire.

Evidence for defence as to the statement continues.

No. 8.

EVIDENCE OF SURUJPAUL

In the
Supreme Court
of British
Guiana

SURUJPAUL Sworn:

Defence
Evidence.

No. 8.

No. 1 accused also called Dick. Monday 11th March '57 at about 9 p.m. I was at Albion Station and another constable, Police Constable Vanvieldt arrested me at 8.45 p.m. at Rose Hall.

Surujpaul
Examination,
11th July 1957

10 Vanvieldt and Elcock arrested me. Vanvieldt cuffed me on both sides of arms and dragged me on the ground and threw me in ambulance. They hand-cuffed me in the ambulance.

They beat me in the ambulance. Vanvieldt and Elcock and more Police. They took me to the Albion Police Station in the Magistrate's Court Hall.

Vanvieldt kicked me in my belly. I fell on the ground. They beat me and kicked me on the ground. They picked me up and put a chair on my head and 2 police boots over my shoulders and put me against the wall to stand up with one foot.

20 They tell me if the chair or boots fell down they will beat and kill me in there.

The left side boots fell down from my shoulder.

Vanvieldt ran and cuffed me on my belly.

They cuffed me, kicked me and took me to a table.

Constable Vanvieldt had a whip tied on a stick. He said: "This name Cow Pistle. This will make you talk about how you kill the Policeman."

30 They put me to sit down on the table. Mr. Vanvieldt, Sub-Inspector Charles sitting on a bench. Elcock took the whip from Mr. Vanvieldt.

Inspector Charles asked me when I go down to Georgetown.

I asked him why.

Elcock then took his hand and hit me behind my neck about 8 times like this - side of head.

In the
Supreme Court
of British
Guiana

Defence
Evidence.

No. 8.

Surujpaul.
Examination,
11th July 1957
- continued.

Inspector Charles threw some paper and pen and said sign your name at the bottom of the sheet.

I refused to do so.

Elcock and Charles and Vanvieldt talked.

Charles held me at my testicle and said take the pen and paper.

I refused.

Elcock started to beat me with the whip on my right arm.

It is a fine long thing tied on a stick handle - a short piece of wood. 10

I can't bear it and said, "I will do what they say."

I signed the statement.

I had marks on my body on my right arm here.

The same marks I shewed to Dr. Ferdinand in this Court.

After I had signed Mr. Elcock struck me with the Cow Pistle on my stomach.

I shewed these marks to Dr. Ferdinand. I complained about it that Police beat me. 20

Mr. Ferdinand asked me if no bullets do not get me.

I complained to the Dispenser Prison the day before.

Dr. Hannoman and Dr. Panday and Dr. Annamantadoo both G.M.O.'s.

I can't recall the date they examined me.

Dr. Hannoman sent me to X-Ray Department at New Amsterdam Public Hospital. 30

I told the Magistrate that I had been beaten when the Preliminary Hearing was finished.

I heard No. 2 reported his foot to him and

Magistrate said he was not a medical officer. He had nothing to do with that.

That is the reason why I did not report it to him.

I gave no statement to the Police.

I signed a written paper.

In the
Supreme Court
of British
Guiana

Defence
Evidence.

No. 8.

Cross-examined by Farnum

10 I had a blow on my chin - hard punch. Can't tell how he hit me. I was cuffed on both jaws. I shouted loudly when I was being beaten all the time.

No one tried to stop me from shouting.

Supt. Isaacs came into the Magistrate's Court and went away while the Police was beating me and while I was shouting. I was shouting for "Help, murder. They killing me."

He just came in and went out. He saw them doing it.

20 My face was not swollen. I reported to Dr. Ferdinand that I was cuffed on either side of the face.

It was painful, the blows with the Cow Pistle. I can't recall how long they were beating me to get me to sign the paper.

There was a swelling about my right arm - not black and blue. Where the "lash" hit me it left marks - brands.

My arm was swollen where the lashes caught me.

On the 13th my arm still swollen.

I did not shew the Prison Officer the swelling.

30 I knew he was examining me for marks. Mr. Daniels looked at the same arm.

I saw the Dispenser the same day. I saw the Doctor next day.

I told the Doctor that I was beaten by the

Surujpaul.
Examination,
11th July 1957
- continued.

Cross-
Examination
by Farnum.

In the
Supreme Court
of British
Guiana

Defence
Evidence.

No. 8.

Surujpaul.
Cross-
Examination
by Farnum,
11th July 1957
- continued.

Police. I shewed him the marks on my arm when I was going to take off my shirt. He said: "Don't worry".

The Doctor refused to look at my arm.

The marks I have shewn today on my arm are the result of blows I received on the 11th March.

I also told him I was cuffed about the face and pointed out the spots.

They were still painful. Doctor did not look.

I saw he had a book in front of him.

10

I signed the Prison Chart - Exhibit J.W.D.F.¹

It is not my signature on this card J.W.D.F.¹

This is my signature on the Depositions.

I don't know what is in the statement. They gave me a copy of what I had signed - a typed sheet - the same week.

I don't know what is in the paper.

Re-examination

Re-examined

The Police gave me a typed written copy of what I was supposed to have signed afterwards.

20

No. 9.

No. 9.

Dr. Robert
Hanoman.
Examination,
11th July 1957.

EVIDENCE OF DR. ROBERT HANOMAN

DR. ROBERT HANOMAN Sworn:

Registered Medical Practitioner in B.G. I have my office at 4 Main & King Sts., New Amsterdam.

16 years a Medical Practitioner.

On the 7/5/57 I examined No. 1 accused, Surujpaul, at the New Amsterdam Prison accompanied by two other doctors - Dr. Panday, Dr. Annamanthado, the Prison Surgeon acting. I issued a certificate.

30

I found as follows -

- (1) a contusion approximately 5" long and $\frac{1}{2}$ an inch in breadth on the upper third of the right arm across its anterior and lateral borders;
- (2) a contusion approximately 4" long and $\frac{1}{2}$ an inch in breadth on the middle third of the right arm across the anterior and lateral surfaces;
- 10 (3) a contusion approximately 4" long and $\frac{1}{2}$ in breadth on the lower third of the right arm across its anterior and lateral surfaces;
- (4) a contusion approximately 4" long and $\frac{1}{2}$ " in breadth at the level of the right elbow across the anterior and lateral surfaces.
- (5) a bony prominence about the size of a small marble at approximately the level of the second rib on the left side about $1\frac{1}{2}$ "
20 to 2" of the breast bone.

I requested an X-ray of it which was taken. I do not know the result of the X-ray.

I requested an X-ray because the accused complained that he was struck at that point and complained of pain there.

In my opinion the contusions I have mentioned are compatible with lashes administered with a dull and flexible instrument.

30 Those contusions were old and at least 2 weeks old or more - between 2 and 10 weeks old.

Cross-examined by Farnum

I made the request in the presence of Prison Surgeon, Dr. Annamanthado and Dr. Panday who was the Medical Officer attached to Public Hospital, Berbice.

I now look at the accused's arm.

There are the contusions I saw and now pointed out on his body in Court.

In the
Supreme Court
of British
Guiana

Defence
Evidence.

No. 9.

Dr. Robert
Hanoman.
Examination,
11th July 1957
- continued.

Cross-
Examination
by Farnum

In the
Supreme Court
of British
Guiana

Defence
Evidence.

No. 9.

Dr. Robert
Hanoman.
Cross-
Examination
by Farnum,
11th July 1957
- continued.

There is a considerable difference in appearance now to those marks.

The colour of the contusion is a guide to the age of the contusion but a rough guide indeed.

I would expect if the blows were given on the 11th March upon an examination on the 14th, to see: reddish discoloration due to extravasation of blood. I would expect to see marked black and blue discoloration if the extravasation was just under the skin and not only of the deeper tissues. 10

I have never seen a Cow Pistle.

I would expect to see extravasation of blood under the deep tissues if a person received heavy blows.

Those would be quite discernible to any layman and will at any medical examination.

It takes a more severe blow to cause extravasation of blood in deeper tissues which is caused by the rupturing of the capillaries or very small blood vessels. 20

A heavy blow is likely to rupture, but not necessarily, the subcutaneous tissues.

Where the subcutaneous tissues are ruptured one gets a black and blue.

A heavy blow with a blunt instrument is likely to cause a black and blue if blow is delivered on the 11th, on the 13th or 14th March.

Any medical man would see those injuries without any minute examination.

I indicated the injuries to the other doctors. 30

The appearance now - they are hardly recognizable now. They were in the last stages of discoloration when I saw them on the 17th.

Dr. Annamanthadoo undertook to look after the X-ray. He is here in Court.

By the Court

By the Court

2 days after, such blows to give the appearance I saw them on the 7th May, could not be the same injuries if they were correctly then described as scratches - such as superficially made by a pin. 40

Pin scratches would cause a break on the skin. They were too smooth in outline and too broad in width and too long covering both surfaces to have been ever regarded as pin scratches.

No. 10.

EVIDENCE OF DR. HENRY ANNAMANTHADOO

In the
Supreme Court
of British
Guiana

HENRY ANNAMANTHADOO Sworn:

Prosecution
Evidence

I examined with Dr. Robert Hanoman the No. 1 accused on the 7th May 1957.

No. 10.

I am the Prison Surgeon at the New Amsterdam Prison.

Dr. Henry
Annamanthadoo.
Examination,
11th July 1957.

I have not got my notes with me. They are at my house not far from the Court House.

10 (Witness asked to go for his notes)

Called by
the Court.

Witness returns and states to Court that he can't find his notes now - but should find them by tomorrow.

(Jury brought back and adjournment taken to 8.30 a.m. tomorrow 12/7/57)

12/7/57 Jury retire.

12th July 1957.

Evidence continues.

(At this stage Farnum asks for Dr. Hanoman to be recalled. Dr. Absent.)

20 Dr. Annamanthadoo Sworn:

I have not been able to find my notes. We have moved into a new house and we have had the builders and painters in and things are topsy-turvy. We moved in 7 months ago.

I recall the incident when I examined Surujpaul, No. 1 accused.

On the 7th May '57 I examined No. 1 accused with Drs. Hanoman and Panday. I found that he had

30 3 linear discolorations on the outer side of his right upper arm.

He had a lump on his upper right chest.

I found it very difficult to come to any

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Supreme Court
of British
Guiana

Prosecution
Evidence

No. 10.

Dr. Henry
Annamanthadoo.
Examination,
12th July 1957
- continued.

Cross-
Examination
by Misir.

Cross-
Examination
by Farnum.

definite conclusions as regards the age of these injuries.

I have not seen it again since.

X-ray was taken in New Amsterdam and I discussed it with Dr. Hanoman and it was sent to Government Radiologist, Dr. Lowe, for further report.

The report can't be found. But a duplicate could be had from the Government Radiologist.

My notes are lost and the X-ray report mislaid. 10

Cross-examined by Misir

I have been a Medical Practitioner for 3 years.

Cross-examined by Farnum

I have never been called upon to say the age of an injury.

I came to no conclusion as to the cause of those discolorations.

The discolorations were still marked. 6 weeks after being in prison. 20

I examine the prisoner now.

I can't say that the marks I see now were changed in any way appreciably from those I saw on the 7th May.

(1) I would not say the first mark was a contusion 5" long.

(2) I would not say that the second mark was a contusion 4" long;

(3) nor the third mark a contusion 4" long. 30

No contusions at all but discolorations the cause of which I don't know.

I did not think the bony lump was a fracture nor from X-ray report.

No. 11.

EVIDENCE OF DR. DAMADOR PANDAYIn the
Supreme Court
of British
GuianaCalled by the CourtProsecution
EvidenceDR. DAMADOR PANDAY Sworn:

No. 11.

G.M.O. stationed at Public Hospital, Georgetown.

On the 7th May 1957 I was instructed to examine the accused No. 1 and 4 others at New Amsterdam Prison with 2 other doctors - Dr. Annamanthadoo and Dr. Hanonan.

Dr. Damador
Panday.
Examination,
12th July 1957

10 I examined No. 1 Surujpaul.

I found 4 areas of pigmentation, $\frac{1}{2}$ " wide.

3 to 4 inches long -
the lateral aspect of right shoulder,
upper arm and elbow.

I also found a swelling in the cartilage of
the second right rib. $\frac{1}{2}$ " from the mid line.

I could not form any opinion as to the age
of those injuries.

20 At the time of examination there were no contusions.

I now examine the accused No. 1.

The marks on his hand now are the ones I refer
to as discolorations.

The 4 areas of pigmentation are not much
different now from then.

Cross-examined by Misir:

Cross-
Examination
by Misir.

I can't express an opinion as to the cause of
discoloration.

They are more in the nature of tatoo marks.

30 Not tatoo marks but sub-cutaneous deposit of pigment.

The marks vary 3 to 4 inches long.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 11.

Dr. Damador
Panday.
Cross-
Examination
by Misir,
12th July 1957
- continued.

I saw Dr. Hanoman making notes.

I have been qualified for a little more than
3 years.

Practising 3 years in 3 days' time.

I did not form an opinion as to the cause of
the swelling of the cartilage.

I now examine No. 1 accused again.

There is a very small swelling at the same
spot. It is very much smaller now.

I cannot commit myself to Dr. Hanoman's ex-
perience. 10

I know he was practising for some time. The
chances are he has considerable experience if he
practised for 7 years.

I cannot agree with Dr. Hanoman. I cannot
commit myself quite as definitely as Dr. Hanoman
seemed to have done - is compatible with infliction
by a dull and flexible instrument.

It is possible that those marks are compatible
with blows but very unlikely. 20

Were those marks the result of blows delivered
on the 11th March they would have been very visible
and very tender on the 14th March and would be very
discolored too - and not possible for anyone examin-
ing to have overlooked.

Evidence on this issue continued.

Mr. Misir addresses Court.

Mr. Farnum addresses.

Misir asks Court to reserve ruling until other
evidence as to other prisoners. 30

Court rules evidence admissible.

Jury brought back into Court.

Trial resumed in presence of Jury.

No. 12.

EVIDENCE OF EDGAR CHARLES (recalled)

EDGAR CHARLES Sworn. Evidence continues:

This is the statement made by accused No.1 and it was freely and voluntarily given.

(Statement read to Jury)

10 On the Sunday the 10th March at 10.30 a.m. at Reliance Police Station Constable Vanvieldt arrived at the Police Station with No. 4 accused.

I spoke to No. 4 accused.

I told him that on the 9th March 1957 at about 1.15 p.m. a Policeman was killed and the New Dam Pay Roll was robbed.

I further told him that I would like him to give me a detailed account of his movements on Friday 8th March '57 6 p.m. to the time he was detained by the Police.

20 At that stage I had not decided to charge No.4 accused.

I was then making enquiries.

The No. 4 accused elected to make a statement. I searched him.

I proceeded to take a statement.

I took off his shirt. I saw scratches about his body - shoulder, back.

I asked him how he got those scratches.

The No. 4 accused explained that between the 6th and 7th March '57 he went ...

30 (Mr. Prasad at this stage objects to admissibility of the statement made orally as the usual caution had not been admonished as No. 4 accused was in custody of the Police and

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 12.

Edgar Charles
(recalled)
Examination,
12th July 1957.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 12.

Edgar Charles
(recalled)
Examination,
12th July 1957
- continued.

there was ample opportunity for him to caution the accused after having searched him and ordered him to take off his shirt and pants.

Court rules evidence admissible as at that time the Police making enquiries and had no intention then to charge the accused).

that he went aback at Port Mourant fishing and he got them either by cane trashes or blades.

I took a statement from the accused.

I did not caution the accused.

10

It was a free and voluntary statement.

This is the statement.

Prasad objects to admissibility of the statement on the grounds of -

(a) It was not a cautioned statement;

(b) the accused never made the statement.

He refused to sign it and not free and voluntary in that portion of the statement was obtained under duress.

Cross-
Examination

Cross-examination continues in the presence of the Jury.

20

I concluded the statement at 12.30 p.m. day-time 10/3/57.

After I had concluded the statement I took No. 4 accused to the Public Hospital, Berbice. He was seen by Dr. Rucskinski at 4.30 p.m. Dr. Rucskinski examined him in my presence.

That statement was witnessed by Constable Vanvieldt and Constable Elcock. No threat or violent act to accused. No inducement held out to the accused. It was free and voluntary.

30

Cross-
Examination
by Prasad.

Mr. Prasad cross-examined at this stage as to admissibility.

Accused No. 4 was at Whim Police Station at 9.20 a.m. when Constable Vanvieldt spoke to me on the telephone on the Sunday the 10th.

18 miles from Reliance Police Station where I was I gave instructions for No. 4 accused to be brought to Reliance Police Station. 9.20 a.m.

On the 9th March I gave instructions to detain No. 4 accused. I did not say where to take him.

No. 4 accused was not free to leave Whim Police Station the 10th; nor when he was brought to Reliance Police Station. From then to 12th March he was in Police Custody.

10 I started 10.30 a.m. and finished 12.30 p.m. During the time I was taking the statement I questioned the accused No. 4 thoroughly and cleared up ambiguities.

I did not form any intention of charging No. 4 accused that is why I did not caution him.

There were about 8 policemen at Reliance Police Station.

I saw no injuries on his face when No. 4 accused was brought to Reliance.

20 I did not see a contusion on the left side of his chest or on any part of his body. I saw scratches in front of his body and back - scratches here and there.

I cannot be positive where I saw the scratches. He did have scratches when he attested.

The statement was taken in the Charge Room in Enquiries Office - a large counter and small portion for members of the public.

30 Constable Vanvieldt and Constable Elcock were present when the statement was taken and other Police.

Karmaia in front of me sitting. Elcock was there listening to the statement nothing else.

Constable Vanvieldt was also listening doing nothing else. They were standing.

I did not say to No. 4 accused: "You are the person we want. You must know who kill."

No. 4 did not say he did not know anything

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 12.

Edgar Charles
(recalled)
Cross-
Examination
by Prasad,
12th July 1957
- continued.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 12.

Edgar Charles
(recalled)
Cross-
Examination
by Prasad,
12th July 1957
- continued.

about killing as he was in Port Mourant the whole Saturday.

I cannot recall hearing the No. 4 accused say that "I do not know who kill him."

I did not ask him when he arrived there if he knew who killed the Policeman.

I did not ask him if he knew who kill or if he knew anything about the killing.

I was concerned about his movements.

The Police Lock-up adjoins the Charge Room. The Eastern wall of Lock-up has ventilation but no windows.

10

I did not take him into Lock-up before taking the statement.

I know what a Cow Pistle is. I did not cuff No. 4 accused under his right eye and say he must talk.

I did not see Constable Vanvieldt strike No. 4 accused with Cow Pistle across his body. That is not true.

20

No one there had any Cow Pistle.

I did not see any injury below the right eye before taking No. 4 accused to Dr. Rucskinski or below the right cheek bone.

No. 4 accused never fell on the floor of the lock-up on that Sunday.

P.C. Jagnandan did not drag the accused on the floor of the lock-up when he fell.

In the Reliance lock-up I cannot say if Padi is ever stored there.

30

10th May '57 I was at Reliance Magistrates Court.

I don't know if padi was brought from the lock-up and tendered in evidence before the Magistrate.

I was not in the Court all the time.

It was not after No. 4 accused was beaten he was brought back into Charge Room to give a statement.

I would sign my name if I was giving a voluntary statement.

It is not true that the accused refused to sign the statement.

The No. 4 accused affixed his mark and I witnessed it.

10 It would not be strange if he can sign his name and did not sign but made his mark.

The accused No. 4 said he could not write his name.

He did not refuse to sign a certain part of it. He did not say to the Police I don't know if Constable Vanvieldt or Elcock went into the lock-up.

20 He was taken to the Doctor about 3 p.m. No. 4 did not cry for any pain. He never requested me to take him to the Doctor.

Re-examined

I took accused to the Doctor because of the scratches I saw on his body.

No. 13.

EVIDENCE OF EDGAR VANVIELDT

CONSTABLE EDGAR VANVIELDT sworn:-

I am stationed at Whim Police Station. On the 10/3/57 I witnessed this statement made by accused No. 4 at Reliance Police Station.

30 I did not at any time use any violence to the accused. No one used any violence to him or any threats.

It was a free and voluntary statement.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 12.

Edgar Charles
(recalled)
Cross-
Examination
by Prasad,
12th July 1957
- continued.

Re-examination

No. 13.

Edgar Vanvieldt
Examination,
12th July 1957.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 13.

Edgar Vanvieldt
Cross-
Examination
by Prasad,
12th July 1957

Cross-examined by Prasad for No. 4 accused:

I took accused into building at 9 a.m. on Sunday 10th March to Whim Police Station. I took him to Reliance Police Station.

Inspector Charles did not ask the No.4 accused if he knew anything of the murder of the Policeman or if he shot the Policeman.

Inspector Charles told him that he was making enquiries into murder of P.C. Allen and would like him to account for his movements. 10

No. 4 accused did not say he knew nothing about the murder or the story.

The statement was taken in the Enquiries Room. I was sitting there. Nothing else. Other policemen were there - about 2 others. Other Policemen doing routine duty.

I did not hear Inspector Charles say, "You must know something about the story."

P.C. Jagnandan was not in the Enquiries Room. I did not see him. 14 x 12 Room. 20

It is not true - was not taken into the lock-up. I have seen a Cow Pistle. Don't know if there is any at Reliance Police Station.

The No.4 was not given a sound beating in the lock-up by Inspector Charles and other constables.

I did not see Inspector Charles strike him in his face with his fist. I did not strike him with a Cow Pistle. I don't know if padi was stored in the Reliance Police lock-up.

No objection made by the No. 4 to parts of the Statement. 30

He did not object to sign the statement.

He said that he could not sign his name.

I would sign my name to my statement if it made out.

The accused did not ask to be taken to the Doctor.

The accused signed his name to the depositions.

(Farnum - no further evidence on this issue).

(Prasad calls the No.4 accused on this issue). 40

No. 14.

EVIDENCE OF SAMAROO KARMAIA

In the
Supreme Court
of British
Guiana

SAMAROO KARMAIA sworn:

Defence
Evidence

No. 14.

Prisoner No. 4. I can sign my name. I signed the depositions in this case. This is my signature.

(Jury see signature)

Sunday 10th March I was taken to Whim Police Station by Constable Vanvieldt to Reliance Police Station.

Samaroo Karmaia.
Examination,
12th July 1957.

10 At Reliance Police Station Inspector Charles asked me that I was the only man can help him to tell him who murder the Police.

I told him I know nothing about it.

Inspector Charles - they took me into lock-up - also Constable Vanvieldt and P.C. Jagnandan.

In the lock-up they beat me. Vanvieldt had a Cow Pistle in his hand. He lashed me across my chest and hand with it.

20 Inspector Charles cuffed me on the right side of my face.

I fell on the ground. P.C. Jagnandan dragged me in and said "Get up."

He asked me my whereabouts. I was not cautioned. I told them.

There was something in the statement that I did not tell them.

I refused to sign the statement but I can sign my name.

30 Later that day I was taken to Dr. Rucskinski and examined.

7th May I was examined by Dr. Hanoman.

In the
Supreme Court
of British
Guiana

Defence
Evidence

No. 14.

Samaroo Karmaia
Cross-
Examination
by Farnum,
12th July 1957.

Cross-examined by Farnum:

The Police start to beat me before I had started to tell them any part of the statement.

I did not sign the statement because a part of it was not true.

If the whole statement was true I would have signed it.

The part of it that was not true came about $\frac{3}{4}$ of the statement.

I was willing to give the police a true account of my movements. 10

When Inspector Charles asked me to give account of my movements they had slapped me up.

The Police beat me because I did not agree with the parts to put in.

They beat me before and they beat me to sign my name.

The Police took me to Dr. Rucskinski. I asked Inspector Charles to take me to the Doctor.

Vanvioldt beat me with Cow Pistle across my chest. It pained me. I cannot say if the blow to face was swollen. It was hurting me. 20

I told the Doctor I have been beaten with Cow Pistle and showed him the marks - that was Dr. Rucskinski.

Re-examination

Re-examined:

I told the Doctor I had been beaten across the face. I told and showed to both Doctors my injuries.

By the Court

By the Court:

At Reliance lock-up on the 12th. There were 5 prisoners in the lock-up. 30

(Statement held to be inadmissible).

Adjourned to 9 p.m. 15/7/57.

15/7/57. Trial resumed on general issue.

No. 15.
EVIDENCE OF SUB-INSPECTOR EDGAR CHARLES (recalled)

In the
Supreme Court
of British
Guiana

SUB-INSPECTOR EDGAR CHARLES Sworn: Evidence continues

Prosecution
Evidence

After taking a statement from Surujpaul (No. 1 accused) I gave certain instructions.

No. 15

Edgar Charles
(recalled)
Examination,
15th July 1957.

10 2.30 a.m. on morning of the 12th Detective Constable Vanvieldt brought the No. 2 accused Nickram called Chandie to Albion Police Station upper flat. Inspector Elcock also present and Detective Constable Haynes and Detective Constable Chester also present.

I noticed that No. 2 had a piece of cloth tied around his forehead and it had a strong smell of Limacol.

I spoke to No. 2 accused and told him that on the 9th March 1957 at about 1.15 p.m. the policeman was shot and the New Dam Pay Roll was robbed.

20 I cautioned the accused. He said, "Me sick me go give statement later."

The same day I took No. 2 accused (Chandie) to Central Police Station at New Amsterdam, arriving at 4.05 a.m. on 12th.

At 6.35 a.m. same day I took the No. 2 accused Chandie to Albion Police Station. 8.30 a.m. I took the accused No. 2 Chandie and No.1 accused Surujpaul to Reliance Police Station. I returned to Albion Police Station and later same day I went back to Reliance Police Station about 10.30 a.m.

30 I had received a message at Reliance Police Station. I saw No. 2 accused, Chandie.

At the Enquiries Office I took No.2 from there to the Court Room about 50 feet away.

I again told Chandie of the report and I cautioned him. I said, "You are not obliged to say anything unless you wish to do so but whatever you do say will be taken down in writing and will be used in evidence."

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 15.

Edgar Charles
(recalled)
Examination,
15th July 1957
- continued.

The No. 2 accused Chandie elected to make a statement which I reduced to writing.

I read it over to him. He said it was true and correct and he signed his name in the presence of Detective N. Ramjattan, Detective B.G. Chester.

The Reliance Court Room is a separate building - apart from the Police Station.

The building is about 52 feet from the Public Road. Public Road runs North to South. There is a rum shop leading to Station Compound. 10

There is an Estate Dam East to West on the Northern side of the Court Room about 50 - 60 feet away.

It is a regular dam used by labourers. Houses are there.

I completed No. 2 Chandie's statement about 12.45 p.m.

People are about at that time of day.

Western side there are 3 or 4 windows - glass windows. 20

On Sunday last 14th I went to Reliance Police Station and Court Room along with Supt. Griffith and Police Photographer Rollins No.5883 and certain photographs were taken.

This is the statement I took from Chandie - Exhibit R.6.

I never used any inducement nor threats to obtain this statement. I did not use any violence to the accused. It was a free and voluntary statement.

Mr. Hope objects to admissibility of the statement on the grounds that - 30

- (1) it was not free and voluntary;
- (2) that the statement was not made by the accused;
- (3) it was obtained by violence, threats and inducement;
- (4) it was obtained as a result of torture;
- (5) no caution was given to the accused.

Witness cross-examined by Hope for No. 2 accused in the presence of the Jury.

When I first saw the accused No.2 he appeared ill. He said he was ill. He did not say he was suffering from headache for hours before he was brought.

His forehead was tied with a handkerchief and saturated with Limacol. I know Limacol is used for soothing head pains.

10 2.30 a.m. the accused had been taken to Albion Police Station upper flat. Accused Chandie was left there at 3.40 a.m. I was with him but not all the time. I was with him about 10 minutes. I did not ask him anything. I was cross-examined in the Magistrates Court at Preliminary Enquiry.

I told the Magistrate No. 2 accused was asked for a statement as soon as he arrived. No. 2 did not refuse. He said - "Me sick". I did not get a statement then.

20 I did not cuff the No. 2 accused.

I did not slap both his ears like this (both hands). I did not tell him you must talk you must give a statement.

He never said he knew nothing about the story.

I took No. 2 accused in my car from Albion Police Station to New Amsterdam Police Station. I went along with him.

30 On my way I had to pass the Borlam Public Road - that Bolan Road is not a deserted area. Large Bridge there.

There is the Hicken House a mile away - only one cottage between the Bridge and Hicken House 100 yards from the Bridge. Open pasture land there.

It is lonely area. Not so dark.

The car did not stop at the Borlam Public Road with the No. 2 accused.

Constable Vanvieldt was not in the car. Constables Ramjattan and Chester were in the car.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 15.

Edgar Charles
(recalled).
Cross-
Examination
by Hope,
15th July 1957.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 15.

Edgar Charles
(recalled).
Cross-
Examination
by Hope,
15th July 1957
- continued.

No. 2 accused was not again beaten there and I did not on several occasions slap his ears together.

The accused was not taken out of the car and thrown on the ground.

He was not told by me that he must make a statement.

It is 30 miles from Albion to New Amsterdam.

No other car passed us on the way.

When the lights of the car flashed I did not take No. 2 accused from the ground and put him back in the car. 10

I said nothing to No. 2 accused during the journey.

No. 2 accused was very sick.

I handed him over to N.C.O. in charge at New Amsterdam.

I was the person specially carrying out those investigations.

I took him from New Amsterdam Police Station back to Albion Police Station. I left there at 6.35 a.m. arriving at Albion at 7.25 a.m. 20

I had arrived at New Amsterdam Police Station at first at 3.30 to 4 a.m. I went to have a rest. No. 2 was still ill - actually helpless at 6.35 a.m.

I did not ask No. 2 anything then. When I reached Albion again there were other policemen there.

I did not ask him for a statement again at Albion, and he did not refuse. 30

He spent about $\frac{3}{4}$ hour at Albion Police Station then.

I was at the Station but not with the No. 2 accused.

At that time I was having breakfast.

I did not threaten the accused and I did not take him to Reliance because he refused.

I caused him to be taken to Reliance Police Station.

I did not want him to get in contact with any of the witnesses nor suspects and that is why I took him to Reliance Police Station from there.

He still appeared ill.

10 At Reliance the accused was in the Enquiries Office. I did not speak to him.

Constable Vanvieldt was not there when I arrived but Constable Vanvieldt had taken the accused to Reliance Police Station.

Vanvieldt came back to Albion Police Station.

The accused was brought to Court Room at 12.15 p.m. from the Enquiries Office at Reliance 8.30 to 12.15 p.m. 3 hours before taken to Court Room.

The Court Room was room to take statements when it is not being used as a Court Room.

20 The accused did not complain to me that he was hungry. I did not give him anything to eat or drink.

Vanvieldt did not offer him cigarettes and Pepsi Cola. After he had taken a sip I did not give him a piece of paper and ask him to sign, saying that I had to give an account to Government for the expenditure of cigarettes and Pepsi-Cola.

Accused did not refuse to sign any such paper.

Constable Ramjattan was there.

30 Ramjattan did not in my presence hold him by the neck and did not throw the accused on the floor, and Constable Chester did not squeeze his testicles.

I did not keep on saying you bound to sign this document.

The accused was not crying and groaning during this.

It was not so.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 15.

Edgar Charles
(recalled)
Cross-
Examination
by Hope,
15th July 1957
- continued.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 15.

Edgar Charles
(recalled)
Cross-
Examination
by Hope,
15th July 1957
- continued:

He was not begging me not to ill treat him as he was sick.

Accused did not complain to me that Vanvieldt kicked him on the shin and then compelled him to sign the paper - That is not so.

I did not see his foot bleeding.

I did not see Vanvieldt hold his right hand behind his back.

He was not then forced to sign the document.

I cannot recall with which hand he signed it. 10

It is not true that his right hand was held and he had to sign with his left hand.

No money was found on the accused.

He was not given 50 cts by Vanvieldt under the pretence that he was going to go home, and on the step he was not seized again and the 50 cts. taken away from him by Constable Chester. That is not true.

I was in Court on the 13th March. The accused No. 2 was brought before the Magistrate Mr. Arthur Chung. 20

No. 2 did not tell the Magistrate that he was kicked on his shin nor beaten.

I saw the No. 2 accused showing the Magistrate his foot.

(The Magistrate, Mr. Arthur Chung, is now out of the Colony.)

The accused said, "Look, sir. Look sir." and showing his foot.

He never said the Police beat me and kick me on my shin. 30

The Magistrate said: "I am not here for that".

Before the accused was brought into Court I did not know of any report made that he was beaten to Asst. Supt. Carmichael on the morning of the 13th.

I left Albion for Reliance at 10 a.m. I returned to Albion at 2.35 p.m.

I did caution the accused.

I cautioned the accused and asked him for a statement at 12.15 p.m. at Reliance Police Station.

No.2 accused was in custody from the time I picked him up on the morning of the 12th when Vanvieldt brought him to Albion Police Station.

10 The accused had greatly improved at 12.15. He did not appear as I first saw him.

He was not seen by any doctor.

Re-examined by Farnum

After I had taken the statement from No.2 accused I sent him back to the Enquiries Office. The Station consists of one room downstairs. The Court Room is upstairs. I came downstairs. I saw Mr. Isaacs in the Enquiries Office downstairs - No. 2 accused there and No. 1 accused there also and No.5 accused, Ivan Jagolall there too.

20 I told Mr. Isaacs in the presence of the accused that I had taken a statement from him.

The accused made no complaint and said nothing to Mr. Isaacs.

Mr. Isaacs was in uniform.

I saw Mr. Isaacs about 1 p.m.

I am speaking the truth. At 1 p.m. I was not taking another statement from another person. I started to take another statement at 1.12 p.m.

30 I left the Magistrates Court Room with No. 2 accused for the Enquiries Room to bring the No. 3 accused to the Court Room.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 15.
Edgar Charles
(recalled)
Cross-
Examination
by Hope,
15th July 1957
- continued.

Re-examination
by Farnum.

In the
Supreme Court
of British
Guiana

No. 16.

EVIDENCE OF EDGAR VANVIELDT (recalled)

Prosecution
Evidence

EDGAR VANVIELDT Sworn:

No. 16.

Constable No. 4885.

Edgar Vanvieldt
(recalled)
Examination,
15th July 1957.

In the early hours of the 12th March I received instructions. I took No. 2 accused to the Police Station at Albion at 2 a.m.

When I got to No. 2 accused's house it was closed. I knocked on the door. I heard a female voice. 10

After 4 minutes the door was opened. I went into the house with Detective Constables Chester and Haynes. Inspector Elcock had accompanied me to the house. He was under the house.

I saw the No. 2 accused standing in the Hall. He had a piece of cloth tied around his forehead. I told him that I had a search warrant to search his house.

I read the warrant to him. This is the Warrant - Exhibit M² I found nothing. 20

No. 2 accused said, "Oh God ma".

At this stage Mr. Adams objects to admissibility as it does not affect admissibility of statement - Exhibit R⁶.

Farnum in reply

Trying to shew state of mind of prisoner at time of arrest.

This statement admitted.

The No. 2 accused said, "Oh God ma, me done now. Give me some Limacol." 30

His mother handed him a bottle of Limacol. He poured some of it on his forehead. He appeared to be ill.

Inspector Elcock told the accused in my presence that he was taking the accused to Albion Police Station for enquiries in connection with the murder committed on P.C. Allen, back of Rose Hall.

In the
Supreme Court
of British
Guiana

On our way out to the Public Road the accused said, "If me been follow me mind me no been go deh in this."

Prosecution
Evidence

Inspector Elcock then cautioned him, "Be careful of what you are saying, whatever you do say may be given in evidence."

No. 16.

10

He said, "When me meet a Station me going tell you the whole story."

Edgar Vanvieldt
(recalled)
Examination,
15th July 1957
- continued.

When he got to the Albion Station the No. 2 accused said to Inspector Charles something.

Inspector Charles told No. 2 accused that he was enquiring into the murder of P.C. Allen and he would like him to give him a statement in connection with his movements.

20

The accused said that he was not feeling well and that he would give him a statement tomorrow.

I did not assault or threaten the No. 2 accused at any time nor at any place.

I did not purchase any aerated drinks or cigarettes nor give him any money.

Cross-examined by Mr. Adams for No. 2 accused

Cross-
Examination
by Adams.

The accused did say what I have sworn he says.

I can't give any reason why he made that statement to me.

30

I have not read over my depositions which I gave to the Magistrate.

I never beat No.2 accused nor in any way ill-treated him.

On the 13th March when the accused was brought before Mr. Chung the No.2 accused had an injury to his foot on his shin.

I did not know he had any such injury.

This is the first time I am hearing it.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 16.

Edgar Vanvieldt
(recalled)
Cross-
Examination by
Adams,
15th July 1957
- continued.

I was at door at Reliance Court on the 13th March - the northern door.

I could have seen the accused from that position. Mr. Chung was the Magistrate.

I did not hear the No. 2 accused ask the Magistrate to look at his foot, and lift up his pants.

14 feet away.

I did not hear the Magistrate say he was not a doctor and it was not his business.

I did not hear it. I am not saying it did not take place. 10

No. 2 accused appeared ill.

I never heard No. 2 accused giving a statement to the Magistrate 12.45 p.m. Tuesday 12th March. I was present at Court Room at Reliance Police Station when statement was being taken from No. 2 accused.

No. 2 accused did make a statement.

I had no gun when I went to accused home but another policeman had one. 20

Only on Saturday I carried a gun. Corporal Cruickshank took it from me.

Constable Chester had a revolver. I did not see Elcock with a revolver.

I did not hand cuff - No. 2 accused was not hand-cuffed. All suspects were not hand-cuffed.

I was not annoyed over the murder of a policeman. I was not in a temper.

I don't know if No. 2 accused was at Albion Police Station for the whole night or balance of the night of the 12th. I can't say if he was taken to New Amsterdam Police Station. 30

No. 2 accused was taken into Enquiries Room at Albion Police Station - The Dining Room which was being used as Enquiries Room.

I did not threaten to kill him if he did not speak.

Inspector Charles was upstairs in the Dining Room. Policemen were there. Other policemen brought them Albion Police Station Headquarters for these enquiries.

In the
Supreme Court
of British
Guiana

I remained at that Station. The Lower Flat has Magistrates Court and regular Police Guard Room.

Prosecution
Evidence

The upper flat is Barrack Room and Dining Room.

No. 16.

I was resting in Magistrates Room in hammock.

Edgar Vanvieldt
(recalled)

10 I did not take No.2 accused to Central Police Station. I can drive a car.

Cross-
Examination by
Adams,
15th July 1957
- continued.

On that Tuesday I took him from Albion Police Station to Reliance at 9 a.m. with No. 1 accused.

I was not interested if he had given a statement.

I was one of the Police active investigators into the matter.

He was brought before the Court on the next day at Reliance - the 13th.

20 I would not know what he was taken to Central Police Station for. I don't know if he was taken there.

Albion Police Station is 14 miles from Reliance. New Amsterdam to Albion 12 miles.

New Amsterdam to Reliance is 2 miles. Reliance Station is situate on the Canje Road. Magistrates Court is 11 feet off the ground. No enclosure below that building. Upstairs 24 x 18 feet.

The road from the building is about 30 feet.

30 The Police Station on to the south of the Magistrates Court Room. The house on eastern side is about 50 feet from Magistrates Court Room. The road is about 18 feet.

There is a bridge over canal running East to West - 2 dams at side of the dam - no one lives on the dam.

The Road makes a bridge which crosses the East to West canal.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 16.

Edgar Vanvieldt
(recalled)
Cross-
Examination by
Adams,
15th July 1957
- continued.

There are two cottages at back of the Police Station compound to the West about 15 feet.

No Police quarters intervening.

Only Police present at taking of statement - Charles, Chester, Ramjattan and myself.

I was then stationed at Whim, Chester at New Amsterdam, Ramjattan at New Amsterdam, Charles at New Amsterdam.

The same distance from Road is Albion Police Station and Court Room. There the Police Station is on the Eastern end and there are houses on and about the Albion Police Station compound. On that morning there were a lot of persons at Albion Police Station. It was a Court day - the 12th was a Court day at Albion. 10

The next day a Court day at Reliance.

I have been 15 years in Police Force. I have heard of allegations of persons being beaten by Police to get them to sign statements.

Statements could have been taken upstairs in the Dining Room. 20

I don't know why accused was sent from Albion to Reliance Police Station.

It is not true that he was sent to Reliance Police Station in order to use force on the accused. He was placed in Enquiries Room downstairs at Reliance. Statements are sometimes taken there.

I don't know if he was given food or water.

I left him then and returned to Albion at 9 a.m. I met Charles there. He was taking a statement from No. 5 accused at Albion Police Station. 30

I returned to Reliance with Inspector Charles and No. 5 accused.

I don't know if there were other suspects at Albion Police Station.

When I arrived at Reliance Police Station there were No. 1, No. 2 and No. 4 accused and I came with No. 5.

No. 3 accused was brought to Reliance Police Station shortly after we arrived with No. 5 accused - at 10.45 a.m.

Inspector Charles has a car, blue green Austin.

I did not see Inspector Charles speak to No. 2 accused. I did not speak to No. 2 accused.

I met Inspector Charles in the Magistrates Court Room with No. 2 accused.

I did not hear him say he was hungry.

10 I did not offer him a pepsi-cola and packet of Lighthouse cigarettes.

Inspector Charles did not say he had to account for the money they spent so he should sign a paper.

No.2 did not then refuse to sign such paper.

No.2 accused then did not look shaken. He was looking better than when he was taken in.

20 Constable Ramjattan did not lock him around the neck and throw him to the floor. I did not strike him under soles of his feet with Police Baton.

Chester did not hold him on his testicles and say he had got to sign the paper or he will kill him today.

No. 2 was not crying and groaning.

Inspector Charles did not have a revolver on the chair. I did not slam his ears up and down with both hands.

30 Constable Ramjattan did not pull back his hand at no time.

I did not kick him on his left shin.

The pen was not then pushed into his hand.

I can't recall what hand he signed with.

I did not give him 50¢. Charles did not run down the steps and nabbed him and said "Now I get you."

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 16.

Edgar Vanvieldt
(recalled)
Cross-
Examination by
Adams,
15th July 1957
- continued.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 16.

Edgar Vanvieldt
(recalled)
Cross-
Examination by
Adams,
15th July 1957
- continued.

Re-examination
by Farnum.

I was not in a temper.

Inspector Charles swore to the information. I was present before the Magistrate.

I don't know if the No. 2 accused had an injury to his shin.

I was not at Magistrate's Court on 10th May when Preliminary Enquiry terminated.

I did not hear that he was beaten at the Central Station at New Amsterdam.

As far as I know no Doctor saw him until the 10th 13th March.

Re-examined by Farnum

Albion Police Station is in Berbice Police District.

The cases from No. 50 Reliance are heard at Reliance Magistrates Court.

Inspector Elcock gave evidence at the Preliminary Enquiry. I saw him give evidence before His Worship Mr. De Souza on 3/5/57. The depositions were read over to him by the Magistrate and he signed them.

He is not in the Colony.

I believe he has gone to England to attend a course of instruction. On the 4th June, 1957, I was at Atkinson Field and I saw him leave by plane. He has not returned to the Colony. I have made enquiries. I would know if he had returned to duty.

By the Court

By the Court

No. 4 accused was in the Enquiries Room when the statement was being taken from No. 2 accused in the Magistrates Court Room at Reliance. Upstairs is a separate building. No. 1 accused was also in the Enquiries Room.

30

No. 17.

EVIDENCE OF DR. DAMODAR PANDAY (recalled)In the
Supreme Court
of British
GuianaDR. DAMODAR PANDAY Sworn:Prosecution
Evidence

No. 17.

G.M.O. on the 7th May '57. In the presence of Dr. Annamanthadoo and Dr. Hanoman I examined No. 2 accused, Nickram.

I found that he had a scar on the left shin about $1\frac{1}{4}$ " long and $\frac{1}{4}$ " wide in front.

Dr. Damodar
Panday (recalled)
Examination,
15th July 1957.

10 The age of it: I could not give any indication of the age of the injury that caused the scar.

If a man is severely beaten with a Police Baton on soles of feet depending on the violence of blows and the number I would expect if beaten violently enough and tho' there is no breach of the skin there may be contusion of the underlying tissues. I don't think he would be able to walk at the time. My evidence must be very vague I must say on this matter.

20 I also examined No. 5 accused Ivan Jagolall. He had:

- (1) an area of hyper-pigmentation about 2" long and $\frac{3}{4}$ " broad on the left scapula on shoulder blade - running from above downwards.
- (2) He also had a healed scar oval in shape on the outer aspect of the left heel bone $\frac{3}{4}$ " long and $\frac{1}{2}$ " broad.

I could not tell the age of the injuries that caused those scars.

Cross-examined by Adams for No. 2 accused.Cross-
Examination
by Adams.

30 3 doctors also present at the examination. No. 2 was examined on the 7th May '57 in the afternoon.

By the Court

By the Court.

It was a small scar. The injury could have occurred in any way. The position in which it was - not impossible to have occurred from a lash.

He did not appear to me to be obviously ill.

In the
Supreme Court
of British
Guiana

Cross-examined by Rawana for No. 5 accused

The area of hyper-pigmentation could be the result of beating.

Prosecution
Evidence.

The healed oval scar to left heel bone - that too could be caused by beating but it could have occurred in any other way as it is in an exposed part of the body.

No. 17.

Dr. Damodar
Panday (recalled)
Cross-
Examination
by Rawana,
15th July 1957.

No. 18.

Hubert Neil
Malcolm Isaacs
(recalled)
Examination,
15th July 1957.

No. 18.

EVIDENCE OF HUBERT NEIL MALCOLM ISAACS
(recalled)

NEIL ISAACS Sworn:

10

Deputy Superintendent of Police, stationed at Whim, Corentyne.

Tuesday the 12th March 1957 I left Albion Station at about 8.30 a.m. and went to Reliance. I stayed there until about 10.30 a.m. when I left for Rose Hall Estate office. From there I went to New Amsterdam town and from there I returned to Rose Hall Sugar Estate office.

I remained there until 1 p.m. and went to Reliance Police Station arriving there about 1 p.m. Few hundred yards away.

20

At Reliance Police Station I went into the Enquiries Office - Mr. Digby, Asst. Commissioner was with me.

There were 3 accused, namely Surujpaul No. 1, Jagolall, No. 5, Nickram No. 2, sitting on a bench in the Enquiries office at the Police Station.

Inspector Charles came in from the direction of the Magistrates Court Room.

Inspector Charles told me that he had taken a statement from the accused Nickram No. 2 accused - 3 to 4 yards off. No. 2 accused said nothing to me or to Asst. Commr. of Crime, Mr. Digby. We were both in uniform.

No. 2 accused did not appear distressed or ruffled in any way. This was about 1 p.m.

10 When I left Reliance at 10.30 the three accused (No.1, No.5 and No.2) were there. No.2 accused nor any of them made any complaint to me.

They looked no different at 1 p.m. from what they appeared to me at 10 a.m.

Cross-examined by Adams for No. 2 accused.

We did not "breeze" in and "breeze" out. We spent about 15 minutes at Reliance Police Station.

At 10.30 a.m. I spent an hour - not in a hurry on that occasion. The accused were there when we arrived.

20 I did not give evidence at the Preliminary Enquiry. I was not in Court during any time at Preliminary Enquiry.

I did not know that the statement was being objected to there - Preliminary Enquiry.

I was asked about 2 weeks ago to give evidence.

I did not make a record of my movements minute by minute or hour by hour.

I am certain of my movements on that day. I am positive I am not saying so merely to support the prosecution.

30 I have never had any report to me of accused persons making reports to me of blows administered to them.

Between 2.20 a.m. and 6 a.m. on Tuesday 12th I was at Whim Police Station having left Albion Police Station at 2.20 a.m.

I returned to Albion Police Station at 8 or 8.30 a.m. I remained about 20 minutes and left for Reliance.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 18.

Hubert Neil
Malcolm Isaacs
(recalled)
Examination,
15th July 1957
- continued.

Cross-
Examination
by Adams.

In the
Supreme Court
of British
Guiana

I can't remember seeing No. 2 accused at
Albion Police Station at 8.30 a.m.

At 2.20 a.m. I had seen the No. 2 accused at
Albion Police Station. He had come in about 2 a.m.

Prosecution
Evidence

There are lock-ups nearby. I am in charge of
Corentyne area and not the Reliance Police Station
area. Mr. Digby has his office in Georgetown.

No. 18.

Hubert Neil
Malcolm Isaacs
(recalled)
Cross-
Examination
by Adams,
15th July 1957
- continued.

I looked at the accused as a matter of inter-
est. A counter divided me from the accused. I
looked at them going in and while I was sitting in
the Enquiries Room.

10

I did not hear some of the suspects were
being beaten at Reliance.

I heard that one of the accused had drawn the
Magistrate's attention to something wrong with him.

I was not in Court.

No re-examination

No. 19.

No. 19.

Asst. Supt.
Oscar
Carmichael,
Examination,
15th July 1957.

EVIDENCE OF ASST. SUPT. OSCAR CARMICHAEL

ASST. SUPT. OSCAR CARMICHAEL Sworn:

20

I know No.2 accused Chandie also call Nickram.
I was present on the 13th March in the Magistrate's
Court when the 5 accused were taken before His Wor-
ship, Mr. Chung.

No. 2 accused (Chandie) made a request to the
Magistrate to have his foot examined by the Magis-
trate. The Magistrate declined. He said that was
not his function. Upon the accused No. 2 arriving
at the Enquiries Office at Reliance I enquired from
him as to the nature of his request.

30

He said one of the policemen who cleaned the
lock-up that morning had mashed his foot. I asked
him to show me who was the policeman in question.
He pointed out P.C. Jagnandan.

I asked him to allow me to examine his left foot. I examined it.

I told him I did not see any sign of an injury. He said I was not there to see what had happened.

I suggested to him if he was desirous I would let him see a Doctor. He made no comment to my suggestion. I investigated his complaint and reported to Supt. Griffith and passed it on to Col. Mathieson, Commissioner of Police. Mr. Whittingham, Deputy Commr. of Police was on the spot and I told him and the accused was within hearing distance. I was told to have the matter investigated. Mr. Whittingham saw the accused persons including No. 2 himself.

The accused made no complaint to Mr. Whittingham.

The Reliance Magistrates Court is within easy ear shot of the Public Road.

One can see thro' the glass window from the Public Road into the Magistrates Court Room right up to the Bar and table.

Both dams are used by estate workers and the Public Road by vehicles and pedestrians.

Cross-examined by Adams for No. 2 accused

I was stationed in New Amsterdam in March '57. I took over that district 2/2/57 - Berbice No. 1 including Reliance.

The midday is not the quietest time of the day at Reliance.

Between 7 and 8 a.m. I was at Albion Police Station on the 12th. I went to Tain Village and returned 10.30 a.m. to Albion. I saw No.5 accused there. I think I spoke to Inspector Charles. I left after 11 a.m. for Rose Hall Corentyne and returned after 2 p.m.

I gave evidence on 9th May '57 at Preliminary Enquiry.

First time I heard of injury when No.2 was calling attention of the Magistrate to his foot.

The Enquiries Room has windows and doors.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 19.

Asst. Supt.
Oscar
Carmichael.
Examination,
15th July 1957
- continued.

Cross-
Examination
by Adams.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 19.

Asst. Supt.
Oscar
Carmichael.
Cross-
Examination
by Adams,
15th July 1957
- continued.

They could have heard Mr. Whittingham and myself speaking - a yard away.

I am not certain if Dr. Ferdinand testified.

No Doctor was taken to examine the accused.

On the 13th they were remanded at Reliance Magistrates Court to New Amsterdam Prison. Dr. Ferdinand lives very near to the Police Station, New Amsterdam.

I was in the Enquiry Office before the accused taken to Court - the 13th (Wednesday).

10

I did not receive a report from No. 2 on the 13th that he was beaten and kicked by the Police - 8 a.m.

I would admit it could be very bad for the force.

I was sitting at the Bar table. I could not have seen the injury in Court.

The Magistrate did not interfere. He said that was not his function.

On the 10th May, 1957 at the Preliminary Enquiry at the conclusion I did not hear the No. 2 accused say anything. I was not there then.

20

The accused pointed to the instep of his foot when he said the constable mashed him. I did not examine his left shin. I did not raise his pants up.

I never heard that Tuesday that the men were being beaten at Reliance Police Station. 22 years in the Force.

Inspector Charles showed me a statement from No. 1 accused at 9 a.m. on the Tuesday - not from No. 2 and No. 3. I saw the statement during the evening of the 12th.

30

I told the Magistrate I returned to Albion between 9 and 10 p.m.

I did say to Magistrate that Charles told me at Albion that he had statements from No.2 and 3.

I saw him taking a statement from No. 5 accused. It was 2.30 to 3 p.m. Inspector Charles told me at Albion that he had statement from No. 2 and No. 3 accused.

40

By the Court

By the Court

I did tell the Magistrate that the accused said it was a constable who had mashed his foot while cleaning the lock-up.

No. 20.

EVIDENCE OF SIDNEY DARRINGTON DANIELS (recalled)

In the
Supreme Court
of British
GuianaSIDNEY DANIELS Sworn:Prosecution
Evidence

No. 20.

On the 13th March, 1957 I was Clerk and Store-keeper of New Amsterdam Prison. The Prisoner No. 2 called Nickram was brought in on that day. I examined him for distinctive marks and peculiarities:

Sidney
Darrington
Daniels (recalled)
Examination,
15th July 1957.

- 10 (1) tiny mole on right jaw;
(2) mole front upper right leg;
(3) 3 scars below left knee;
(4) long ears;
(5) scarry buttocks;
(6) left-handed.

I found no swellings on the No. 2 accused. No contusions. I did not observe any other sign of injury.

Subsequently Dr. Ferdinand examined No.2 accused.

- 20 I look for distinctive marks.
No. 2 accused made no complaint to me.

Cross-examined by Adams for No. 2 accused.

Cross-
Examination
by Adams.

If he complained that he was beaten by Det. Inspector of Police I would have noted it and the Police would have to be present.

No policeman was present when I examined No.2 accused.

It is the first time in my career I am giving evidence of this nature.

Nearly 20 years as Prison Officer.

- 30 This card Exhibit is a Prison Record
(J.W.D.F.2).

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 20.

Sidney
Darrington
Daniels (recalled)
Cross-
Examination
by Adams,
15th July 1957
- continued.

The first page of the Chart has to be written up and is really for purposes of identification e.g. if a prisoner escapes.

There are printed questions. I am not concerned with the medical aspect. I am not a doctor nor a dispenser. I was asked to give evidence quite recently - last week some time.

I did not give evidence in the lower Court.

I see many prisoners daily. I can only recall by the card unless one knows the prisoner.

10

There is no question as to recent injuries.

No form has the prisoner's signature.

No words were added subsequently.

On the 13th March I observed no recent injuries on him. If there were any the prisoner would have been referred to the Dispenser.

I can't recall in detail as to everything I saw on the 13th. 3 & 4 p.m. he was brought in. I was not present when the Doctor saw him. The doctor has not filled in the form as to the class of labour and restrictions he was fit for.

20

(Counsel asks for card to be shown to Jury)

(Exhibit shown Jury).

Re-examination

Re-examined

Prisoners on remand on capital charge are not required to work.

By the Court

By the Court

Exhibits J.W.D.F.¹ & 3 The Prisoners Nos. 1 & 3 were entered by the doctor as to class of labour fit for. They were also on remand for capital offence.

30

No. 21.

EVIDENCE OF DR. HENRY ANNAMANTHADOO (recalled)

In the
Supreme Court
of British
GuianaDR. HENRY ANNAMANTHADOO Sworn:Prosecution
Evidence

Registered medical practitioner, Acting Prison Surgeon. On the 7/5/57 I examined the No.2 accused called Chandie along with Dr. Panday and Dr.Hanoman.

No. 21.

10 I found that as far as I could remember he complained of being injured on his left shin. When I examined him he had a scar there - a small scar. Less than an inch. I could not tell the age of it.

Dr. Henry
Annamanthadoo
(recalled)
Examination,
15th July 1957.

I think that if the prisoner had been beaten by baton on soles of feet and kicked on the 12th March on the 14th there would have been signs of them - a doctor who saw that injury on the 14th would be more likely to describe it or give some indication as to its possible cause.

Cross-examined by Adams for No. 2 accused.Cross-
Examination
by Adams.

I took no notes. I go by my memory. $1\frac{1}{4}$ " long and $\frac{1}{4}$ " would be an accurate description of the scar.

20 I now look at the shin of the No.2 accused.

(Jury inspects scar)

That pointed out was the scar I saw on the 7th May.

The injury was at least 2 weeks old.

Marks shown are in ratio to force applied.

Hitting the ears by slapping them would cause pain and dizziness but would not necessarily leave mark afterwards.

30 The sole of a person's feet to leave marks would depend on the force used and time of examination.

Re-examined

Re-examination

I cannot say if the appearance of the marks is different from then to now.

In the
Supreme Court
of British
Guiana

On the 14th I would expect to see a laceration if the injury was caused by a kick on the 12th. I would expect to find an abrasion.

Prosecution
Evidence

By the Court

No. 21.

Dr. Henry
Annamanthadoo
(recalled)
Re-examination
15th July 1957
- continued.

In a laceration the skin is severed and in an abrasion is more superficial. The skin might be severed but superficially.

The healing process is different. In a laceration one gets scar bruise and in abrasion there may not be any visible marks remaining.

10

By the Court

It is possible for it to have been caused by a "mash" on the foot.

It is more a longitudinal mark than a horizontal mark. It is possible if both persons are standing for a mash to cause the injury.

The foot is from ankle downwards as distinct from the shin.

Crown closes case on the issue.

Defence calls on this issue prisoner, Chandie.

No. 22.

No. 22.

20

Inspector
Edgar Charles
(recalled)
Examination,
15th July 1957.

EVIDENCE OF INSPECTOR EDGAR CHARLES (recalled)

INSPECTOR EDGAR CHARLES sworn recalled - continues evidence.

On Monday, 11th March, 1957, No.5 accused, Ivan Jagolall was at Albion Police Station. He was there in connection with some money found on him at Yhap's restaurant at Rose Hall.

During that afternoon Jagolall spoke to me. He made a statement. At that time I had no intention of charging Jagolall (No. 5 accused).

30

It was a free and voluntary statement. No promise held out to him. The statement was not given after a caution. Exhibit R.5. This is the statement.

I recorded what the accused said. I took it down in writing. I read it over to him. He said it was true and correct. He signed his name.

10 The statement was completed at 8.40 p.m. on the evening of the 11th. I saw Mr. Isaacs come in- to the station after that.

Mr. Rawana objects to the admissibility of the statement on the following grounds:

- (1) that the statement is not the statement of the accused Jagolall;
- (2) that it is not free and voluntary;
- (3) that the accused was subjected to threats, assaults and pressure;
- (4) that the usual caution had not been administered.

20 Evidence continues

Cross-examined by Crown * (sic)

Jagolall was brought in connection with money found on him at Yhap's restaurant at Rose Hall.

He said he would like to tell me how he got the \$82 the Police found on him.

When No. 5 accused was brought in I was not aware that it was in connection with any crime.

This statement is a record of what he then told me.

30 Cross-examined by Rawana for No. 5 accused

I had just come from Whim Police Station. I arrived at 12.30 p.m. on the 11th. Jagolall was brought into custody the Sunday night (day before) 10th.

No. 5 accused was not brought there on my instructions.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 22.

Inspector
Edgar Charles
(recalled)
Examination,
15th July 1957
- continued.

Cross-
Examination
by Crown.

Cross-
Examination
by Rawana.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 22.

Inspector
Edgar Charles
(recalled)
Cross-
Examination
by Rawana,
15th July 1957
- continued.

Constable 5190 Chester brought him. He was the investigating Constable. I don't know if other constables were with Chester.

I received the information about the money on the 11th.

Jagolall was free to leave on the Sunday night. He slept at the Police Station at Albion that night.

9 a.m. was the first time I saw Jagolall at the Albion Police Station. I left for Whim Police Station. He was sitting on a bench in passageway to the lock-up. 10

Constable Vanvieldt was engaged in the Supreme Court that morning.

I did not speak to the accused No. 5 at 9 a.m.

I left no instructions with respect to No. 5 accused.

He was detained for questioning.

I met Baljit No.3 accused at Whim. I took a statement from Baljit at Whim. I started at 10 a.m. and finished at 11 p.m. 20

I did not ask No. 5 for a statement.

5.30 p.m. I removed No. 5 accused to upper flat of Albion Police Station. To the upper flat there is a separate Police Station. No internal connection between upper and lower flat.

Other constables up there.

There is a dining table. I took the statement by that dining table.

It was not a Court day - other constables occupying the lower flat. 30

No other constables around the table but other constables were there. There is a door with a distinct section.

There were not 16 other detectives surrounding Jagolall.

I did not produce a few written documents and

I did not tell him to attach his signature to them.

He did not refuse.

One of the constables did not hold him around his neck whilst another cuffed him about his body and his head while others kicked him.

That is not true.

Those injuries were not inflicted under my instructions.

10 He was not ill-treated until he was in a dizzy condition.

I did not then at that stage tell the constables to ease it off nor that they did so.

I did not again ask him to sign his name to those documents.

He did not again refuse.

I did not instruct a constable to hand-cuff him both hands below his back. He was never hand-cuffed.

20 We did not throw him on the table with his back upwards and not subjected to beating at my instructions.

A baton was not used to beat him on the soles of his feet.

I was not at that time questioning him.

He told me a story. I took it down in writing. I did not tell him he must sign those documents.

His left side ankle did not start bleeding. He did not then sign under compulsion.

No. 5 was not crying downstairs.

30 No. 5 accused did not say he will not tell lies on anybody.

I remained at Albion Police Station the whole night.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 22.

Inspector
Edgar Charles
(recalled)
Cross-
Examination
by Rawana,
15th July 1957
- continued.

In the
Supreme Court
of British
Guiana

No. 23.

EVIDENCE OF HUBERT NEIL MALCOLM ISAACS
(recalled)

Prosecution
Evidence

NEIL ISAACS sworn:

Deputy Superintendent of Police.

No. 23.

Hubert Neil
Malcolm Isaacs
(recalled)
Examination,
15th July 1957

On the night of Monday 11/3/57 I was at Albion Police Station at 9 p.m. I know No. 5 accused. I saw him there. He was not crying. He showed no signs of having been beaten a short time before my arrival. I left there at about 9.45 p.m. and returned at about 10.45 p.m. and remained there until after 2 p.m. the next day.

10

No. 5 said nothing to me and did not appear to be in distress.

Cross-
Examination

Cross-examined:

I know that he had given a statement.

No. 5 accused had been taken to the Police Station for enquiries.

He was in Police custody.

Re-examination

Re-examined

I do not know at what time the Police had sufficient information as to charge him with this offence and so that any further questioning of him would require a proper caution.

20

Case closed on the issue

No. 24.
SUBMISSION BY MR. RAWANA

In the
Supreme Court
of British
Guiana

Rawana submits inadmissible

cites Archbold 33rd Ed. page 414

Judges Rules - Rule 3

p. 269 Phipson on Evidence.

Court does not agree.

Rawana states he proposes to call evidence to rebuttal.

10 Court adjourns to 17.7.57, 9 a.m.

Trial resumed 17.7.57

17th July 1957

Mr. Rawana calls on this issue.

No. 25.

EVIDENCE OF INSPECTOR EDGAR CHARLES (recalled)

Prosecution
Evidence
(continued)
No. 25.

INSPECTOR EDGAR CHARLES sworn: recalled -

This is the Statement (read to Jury).

Exhibit R³ in evidence.

Inspector
Edgar Charles
(recalled)
Examination,
17th July 1957.

20 Words eliminated - "both of us were in George-
town Prison" - 8th line, and "Prison" in last line
at bottom.

Tuesday 12th March 9 a.m. I was at Albion
Police Station. The accused No. 5 was there.

At that time I did not intend to charge him
with any offence.

No. 5 accused Jagolall said to me - "Inspector
Charles me been left out something me want to tell
you and I want to make another statement."

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 25.

Inspector
Edgar Charles
(recalled)
Examination,
17th July 1957
- continued.

I did not make any promise nor did I threaten him nor did I use any violence to him.

I took down what he wanted to say in writing. I read it over to him; he said it was true and correct and he signed his name. It was not a cautioned statement.

While taking this statement I was called to Reliance Police Station. I then took the accused to Reliance Police Station where I completed the statement.

10

This is the statement - Exhibit R.⁵

Mr. Rawana objects to admissibility of this statement on the ground that -

- (1) the usual caution was not administered;
- (2) that it was obtained under duress.

Cross-
Examination
by Rawana.

Cross-examined by Rawana for No. 5 accused:

No. 5 accused had voluntarily made a statement. He was free to leave.

I made up my mind to charge him on the 12th in the afternoon when I received certain information.

20

I had already taken a statement from No.1 accused Surujpaul.

It was completed in the Court Room at Reliance Police Station - over building there.

A few constables in that building about 2 or 3 - can't recall the names. No other accused there beside No. 5.

I took about 1 $\frac{3}{4}$ hours to complete that statement at Reliance.

I can't recall if I went to Whim on Tuesday.

30

Constable Vanvieldt is a witness to this statement.

I made a mistake - Whim I wrote. I changed it to Albion. 3.45 p.m. is struck out and 12.10 is substituted.

The shade of the ink is different.

The signature of witness Vanvieltd. The substitution of word "Albion" and the time "12.10" - are written in same shade of ink, that shade of ink is different from other parts of statement.

The accused No. 5 was not ill-treated by me at Albion and Reliance Police Station. He was not forced to sign his name on written documents.

Re-examined

10 The alteration occurred because my pen ran out of ink when I was checking the statement and I had to use another pen.

The accused was in custody pending enquiries but I did not intend to charge him.

By the Court

The accused No. 5 was never taken to Whim Police Station.

Case on this issue

Adjourned to 1 p.m.

20 1 p.m. trial resumed

Defence on this issue.

Rawana states that he closes his case on this issue.

Rawana addresses:-

The circumstances of the statement show grave suspicion and of doubt.

Solicitor General does not wish to address.

Statement ruled admissible in evidence.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 25.

Inspector Edgar
Charles (recalled)
Cross-
Examination
by Rawana,
17th July 1957
- continued.

Re-examination

By the Court

In the
Supreme Court
of British
Guiana

Edgar Charles - evidence continued

Prosecution
Evidence

EDGAR CHARLES sworn:

That same afternoon of the 12th March - about 6 p.m. I then intended to charge No.5 accused with this offence of murder.

No. 25.

I told him that on the 9th March 1957 at about 1.15 p.m. a policeman was shot and the payroll was robbed.

Inspector Edgar
Charles (recalled)
Examination.
17th July 1957
- continued.

I further told him that I was in receipt of certain information that on the 12th March '57 while he was at Albion Police Station he Jagolall told one Cecil to do something - that he told one Cecil to remove the money from his mattress.

10

I told him to be careful about what he says and cautioned him.

I said you are not obliged to say anything unless you wish to do so but whatever you do say would be taken down in writing and will be used as evidence.

No. 5 accused was shown this Barlova tin with current money of the colony of British Guiana - given as \$632.

20

Tin and Notes Exhibit E² - 9.

The accused No.5 made a statement which I reduced to writing. I read it over to him. He said it was true and correct and he signed his name in the presence of Constable Ramjattan.

This is the statement - Exhibit R.⁷

No threat nor promise or reward offered or held out to accused to get him to give this statement. No violence against the accused - a free and voluntary statement.

30

No objection to the statement.

Read to the Jury.

On the 11th March Monday when No. 1 accused, Surujpaul, was brought in No.5 accused was in the Enquiries Office and I took No.5 accused upstairs.

I asked No. 5 accused in the presence of No. 1 accused if this is the Surujpaul he told me about.

Surujpaul No. 1 accused said - "Since me come a Berbice a he house me live."

I then took the No.5 accused back downstairs.

This shirt and this pants No. 1 accused was wearing when he was brought to Albion Police Station on the 11/3/57.

10 These are the shirt and pants No. 1 said that Jagolall gave him to go to Georgetown.

Exhibit S¹ & 2.

At Whim Police Station on the 11th March 1957 the No. 3 accused Kisson called Baljit was brought in for enquiries.

He gave a statement. That statement was a free and voluntary statement.

It was not a cautioned statement - R.²

No objection by Haynes.

Read to Jury.

20 On Saturday the 9th March '57 I went to Rose Hall, Canje, at about 2.35 p.m. On my arrival at Rose Hall at the Dispensary I saw Land Rover A.A.428 there. A crowd was around it. In the Land Rover I saw P.C. 5527 Claude Allen in uniform lying inside the Jeep at the back. He was lying on his right side and blood was oozing from gun shot wounds on the right jaw and right arm.

I saw Asst. Supt. Carmichael there. I also saw Ashraf called Maloney.

30 The Constable was then dead.

A party of men went to No. 50 Reliance at a bridge on the Middle Walk dam. We disembarked.

I saw traces of blood leading from the western end of the bridge along the bridge spanning a trench. It stopped at a spot where I saw a large spot of fresh blood.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 25.

Inspector Edgar
Charles (recalled)
Examination,
17th July 1957
- continued.

In the
Supreme Court
of British
Guiana

About 6 feet from the eastern end of that bridge I saw a spent 16-bore cartridge.

This is it - Exhibit T³ in evidence.

Prosecution
Evidence

No. 25.

Inspector Edgar
Charles (recalled)
Examination,
17th July 1957
- continued.

In that area there is a barbed wire fence separating the canefield with cultivated canes from the dam. This fence had an opening in the form of a gateway. On the western side of this fence there are young growing canes 5 and 6 feet tall. I went into the canefield and between 10 and 16 feet from this fence I saw a disturbed spot - the young canes were lying flat on the ground as if some one had been lying on them.

10

From that spot it is a clear view to the middle wald dam on which the Jeep had travelled.

The bridge is about 6 to 8 feet from the level of the water.

Persons can hide under that bridge.

On the 7th July '57 I pointed out to Percy Chan a Land Surveyor the residence of (accused) Ivan Jagolall, (accused) Kissoon, (accused) Samaroo Karmaia, and (accused) Nickram.

20

Budhia's house was also pointed out to Mr. Chan. The bridge in my presence, was pointed out by Mr. Walter Cameron.

Cross-
Examination
by Misir.

Cross-examined by Mr. Misir for No. 1 accused generally.

I first obtained information from Jagolall before sending for No. 1 accused. He had already given a statement to me - No. 1 accused statement was in the making then.

30

Constable Vanvieldt brought No. 1 accused in on the 11th March about 10 p.m. to Albion Police Station.

I was present when Mr. Isaacs gave evidence as to admissibility of No. 1 accused's statement.

I heard him say that No. 1 accused was brought in about 9.20 and 9.30 p.m.

I started taking the statement from No. 1 at 10.30 p.m.

I took that statement in the upper flat of Albion Police Station in the Dining Room - there is a long table there - Inspector Elcock was present.

I did not see him put his hand on shoulder of No. 1 accused. I did not see Vanvieldt there at the time. I had about 10 or 12 Police Constables. No. 1 accused was not hand-cuffed.

10 I did tell the Magistrate there were plenty Police Constables - most of whom were detectives. On Thursday last I did say Vanvieldt was present.

I did not see P.C. Vanvieldt kick the No. 1 accused on his chest.

No. 1 accused did not fall down. Vanvieldt and I did not pick him up and put him on the table.

Constable Vanvieldt had no revolver.

I did not see Vanvieldt cuff No.1 in his chest and No. 1 did not fall down.

I did not kick and stamp him.

20 I was not annoyed but was in sympathy.

I did not swear to get the perpetrators of that crime by one means or the other.

I have seen a bull pistle once. Never saw any at Reliance. It was not on the 11th I saw it.

When No. 1 accused was brought in I had no evidence against him. I was not anxious to get a statement.

30 I wanted a statement from him. It would not have eased up my work. I did not force him to give me a statement.

I did not see Vanvieldt with a cow pistle tied on to a piece of stick.

I did not see Vanvieldt hit the No.1 accused at the back of his neck 8 times - no softening up process.

I examined No. 1 accused. I did not see his right arm with any marks.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 25.

Inspector Edgar
Charles (recalled)
Cross-
Examination
by Misir,
17th July 1957
- continued.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 25.

Inspector Edgar
Charles (recalled)
Cross-
Examination
by Misir,
17th July 1957
- continued.

On Thursday in Court I was not called to see any marks. I see some marks on his arm.

On the 11th he had no marks.

Elcock did not take the Bull Pistle from Vanvieldt and beat the accused on his arm and chest.

No.1 was not beaten into giving a statement.

That is not how I got the statement - Exhibit J.W.D.F.1 from him. The accused was not put to sit on the table. I did not say that I sat next to the accused on the table. Inspector Elcock was not far from the accused. I cannot recall saying that Vanvieldt was standing below the accused.

10

I finished the statement at 11.15 p.m.

As far as No.1 accused, I did not cease all enquiries. I continued my investigations.

On the 10th May 1957 I heard No.1 accused tell the Magistrate that the Police "beat me and up to now I have marks on my skin".

I was never alone with No. 1 accused.

I heard Mr. Isaacs say that I was downstairs in the Magistrate's Court Room with the accused.

20

I made up my mind to charge the No. 1 accused when he said there, "Oh so them say. All a we neck rass go bruk. Bring pen and paper and write. Me go tell you the whole story. This shirt and pants Jagolall give me to go to Georgetown."

I had not asked any questions when No. 1 accused said that.

When I told him about the crime and I told him that he and others were suspected - he made that remark.

30

No. 1 accused did use those words.

That is not part of my technique.

I did not see Vanvieldt take a chair and put it on No. 1 accused's head, and tie two policemen boots over his shoulders and put him to stand on one leg. He was not told that if they came off he would be beaten to death.

Monday 11th March. I left Reliance Police Station at 7.30 a.m. I went to Albion Station and spent 30 minutes there. I was interviewing witnesses and suspects when No. 1 accused was brought in. That was the first time I had known him or seen him.

I did not force No. 1 accused to give a statement by beating him.

No questions by Adams generally.

10 No questions by Haynes generally.

Cross-examined generally - Bhairo Prasad for No. 4 accused

A statement was taken from one George Rawana.

That was after I had taken a statement from No. 4 accused.

I know where No. 4 lives. He lives with his brother - (married brother).

I don't know his name.

I don't know if No.4 has more than one brother.

20 From Police investigations I am aware that No. 5 accused was not at the New Dam at 1 p.m. on the 9/3/57.

Cross-examined by Rawana for No. 5

I saw Yhap on Monday the 11th March. Later in the day I heard that the Police had \$82 taken from Ivan Jagolall, No. 5 accused.

No. 5 said he won \$60 from Samuel Yhap. Samuel Yhap confirmed it.

By the Jury

30 In signing Police statement it is the procedure for the person to sign at the bottom of each page.

Dep. Supt. Isaacs came up and was leaning over me and perhaps reading the statement of No. 1 while I was taking No. 1's statement from him.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 25.

Inspector Edgar
Charles (recalled)
Cross-
Examination
by Misir,
17th July 1957
- continued.

Cross-
Examination

Cross-
Examination
by Rawana.

In the
Supreme Court
of British
Guiana

No. 26.

EVIDENCE OF WALTER CAMERON

Prosecution
Evidence

WALTER CAMERON sworn:

No. 26.

Field Assistant employed at Rose Hall Estate.

Walter Cameron.
Examination,
17th July 1957.

On Saturday 9.3.57 I received from Mr. Greaves the Pay Envelope to pay the workers at New Dam Estate of Rose Hall. Estate belongs to Bookers Demerara Estates Ltd.

I left the Estate at 1.10 p.m. I went to Reliance Police Station. Constable Claude Allen joined me as escort.

10

He was armed with a pistol and holster.

We were being driven by Ashraf also called Maloney in a Land Rover.

A part of the money was in a wooden box and part was in a canvas overnight bag.

We left Reliance and left Public Road and proceeded along East Rose Hall middle walk dam until we reached a high bridge known as Reliance No. 50.

The Land Rover crossed the Bridge and in order to turn south across another bridge it was necessary to stop. When we stopped two men came out from the canefield almost in front of the Land Rover.

20

There was a small wire fence with an opening in the fence.

The two men were both masked and had on dark clothing.

As they came out of the canefield they were shouting, "Hold up! Hold up!"

The first man carried a stick and the man behind had a single barrel shot gun.

30

The man with the stick stood beside me and the one with the shot gun ran around to the back of the Land Rover.

I was sitting in the front next to the driver and Constable Allen was sitting right behind me.

After that I heard a slight movement in the Land Rover behind me and directly after that I heard a shot fired.

I turned to the driver and spoke to him.

I threw the box with the money and the bag with money on the ground beside the Land Rover.

10 The man with the stick picked up the box and the bag and disappeared behind the Land Rover.

After that I heard someone behind the Land Rover saying, "Take his gun. Take his gun."

There was a slight pause. I saw 4 men running away in a southerly direction. They went directly to my right in the direction of the other bridge and turning left to the New Dam direction.

The masks were either dark blue or black with 2 holes for eyes and it covered their whole faces about a foot in size.

20 The men were average height.

I turned around and saw that Constable Allen was lying down in the Land Rover and his face was bleeding.

I gave Ashraf instructions. We retraced over the High Bridge.

After crossing the High Bridge we stopped.

I looked to see if the Constable still had his revolver on him.

30 The revolver was still under his holster on his body. I took it from the holster. In doing so I had to break the hang on cord tied to his shoulder.

I stood up inside the Land Rover and looked over and still saw the 4 men running on the dam in the direction of the New Dam.

I discharged 4 shots in their direction.

I went back to the estate and sent the driver with Constable Allen to Dispensary.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 26.

Walter Cameron.
Examination,
17th July 1957
-- continued.

In the
Supreme Court
of British
Guiana

We were held up about 1.20 or 1.25 p.m.

On the 13/3/57 and 7/7/57 I saw Mr. Chan Surveyor and I pointed out the spot where the Land Rover was held up.

Prosecution
Evidence

And the direction in which I saw the men running away.

No. 26.

I indicated the route taken by the Land Rover.

Walter Cameron.
Examination,
17th July 1957
- continued.

I understand that the Constable died the same afternoon.

We had a little over 3½ thousand dollars to pay labourers on the New Dam. 10

All 4 of the men had on masks.

The other 2 men had either guns or long sticks the same size.

Not cross-examined by Misir.

Not cross-examined by Adams.

Not cross-examined by Haynes.

Not cross-examined by B. Prasad.

Cross-
Examination
by Rawana

Cross-examined by Rawana for No. 5 accused

It was over \$3600. I am certain. I could not say exactly if it was over \$3700. 20

Re-examination

Re-examined

The money was in sealed envelopes - money like this. The money was currency notes like these - Exhibits E² - 8.

By the Jury

By the Jury

The first 2 men both had dark clothing. I could not be sure if they had short pants or long pants.

Shirt and pants were dark. They were not my size - smaller. 30

I did not see if it was the other man with the gun who gave the shot.

I only saw the other 2 when they were running away. 4 came from behind the Land Rover and all 4 ran away.

No. 27.

EVIDENCE OF MORRIS GREAVESIn the
Supreme Court
of British
GuianaMORRIS GREAVES sworn:Prosecution
Evidence

On the 9.3.57 I was Assistant Secretary Rose Hall Estate.

No. 27.

On 9.3.57 I handed our Pay Envelopes to Mr. Walter Cameron for labourers pay on New Dam Rose Hall Estate.

Morris Greaves.
Examination,
17th July 1957.

10 I handed over \$4,500 to start with and before he left he paid out roughly \$1,100.

The notes were in \$20, \$10, \$5, \$2, \$1 bills and silver and copper.

The \$20 bills

I refresh my memory from one of the reconciliation sheets made up at the time the Pay Envelopes were being made up.

I can say that there were at least \$1500 in \$20 bills, \$690 in \$10.

20 There is one other reconciliation sheet not produced.

Mr. Walter Cameron left in a Land Rover driven by Ashraf. In the Land Rover was Constable Claude Allen. Subsequently I heard of the death of Constable Claude Allen that day.

Not cross-examined by Misir

Not cross-examined by Adams

Not cross-examined by Haynes

Not cross-examined by B. Prasad

Not cross-examined by Rawana

30 No questions by Jury

In the
Supreme Court
of British
Guiana

No. 28.

EVIDENCE OF ROBERT PRIMO

Prosecution
Evidence

ROBERT PRIMO sworn:

No. 28.

I live at Rose Hall village. I am a Licensed Horse Trainer. In the bottom flat of my building people play cards.

Robert Primo.
Examination,
17th July 1957

I know No. 1 accused 6 weeks before the 9th March '57. I also knew Ivan Jagolall from boyhood and I know No. 4 accused (Battle Boy).

On the Friday the 8th March Ivan Jagolall came to my place in company with Surujpaul (No.1). 10

Ivan Jagolall remained till about 4.30 p.m. No. 4 accused I met at Appollo Cinema advertisement board about 4.30 p.m. He was coming from Port Mourant direction. He stopped at my side and called No. 5 accused Jagolall. He came out and they were behind the Engine Room of the Theatre for a few minutes. Jagolall returned to my place.

No. 1 was in my room lying on a box in lower flat. 20

No. 5 remained there until midnight. No.1 had gone earlier.

On Saturday 9th March 7.30 a.m. I saw No.5 accused. He was there playing cards. He was wearing a kind of yellow shirt and dark pants.

This is the shirt - S¹

It was a darker pants than S²

After the Saturday night I saw No. 1 accused Surujpaul on the Public Road in a car at about 8.30 p.m. - it's Monday night the 11th - by the Rose Hall gasoline station. He was in company with one Lillian and I live at Rose Hall. 30

Cross-
Examination
by Misir.

Cross-examined by Misir

I do not remain when the cards are being played all the time. The card games go on in my absence.

On Friday No. 1 accused remained a fairly good time. 2 p.m. they came. No. 1 accused left about 6.30 p.m.

I can't recall telling the Magistrate that they left together. I now saying that they go and come together that Friday and before that.

On Friday night I told the Magistrate that No. 5 accused remained there 9.30 - to 10 p.m. that was true.

10 I said a while ago midnight. It was about 10.30 p.m.

The men sometimes sleep on the box in the room there.

On Friday 8th I saw No.1 accused sleeping on the box.

The accused No.1 sleeps regularly on the box. 7 to 7.30 p.m. he returned after leaving at 6 p.m. At about 7.30 p.m.

I went upstairs about 10 p.m. Friday night.

20 I can't say what time No.1 accused left that night.

The next time I saw No. 1 accused was the Monday night in the car with Lillian.

On the 25th April when I gave evidence to Magistrate the incident was fresher in my mind.

If I told the Magistrate it was Sunday the 10th March I saw No. 1 accused on the Public Road at night time - that was not true. It was on the Monday.

30 I signed the deposition. Probably I made mistake in saying the 10th, it was the Monday the 11th.

After I studied the days I say it is the 11th - the Monday because I was at upper Corentyne on the Sunday.

Nobody made me remember.

On the 25th April I could have checked but I was only informed the day before to give evidence. I was seeing about fish and various things.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 28.

Robert Primo.
Cross-
Examination
by Misir,
17th July 1957
- continued.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 28.

Robert Primo.
Cross-
Examination
by Misir,
17th July 1957
- continued.

I am a licensed Horse Trainer. I have no licensed gambling house. I was not at home all day Saturday 9th. I left home at 10.30 p.m. on Saturday 9th and returned home 6.30 p.m. The No.5 accused was then in my gambling house. I can't recall everybody who came to my gambling shop There are times people may be there and I may not hear them.

I could have seen No. 1 accused as he does no gaming as he come he goes to the box and lies down. 10

Thursday the 7th March No.1 accused was there - but I can't recall when he arrived. I saw him during the day - morning hours.

I can't recall if No. 1 accused was there in the afternoon.

I did not see No. 1 accused on the box on Thursday night - while I was there. He may have been there.

Not cross-examined by Adams

Not cross-examined by Haynes 20

Cross-
Examination
by Prasad

Cross-examined by B. Prasad for No. 4 accused

At 4.30 p.m. I did not see No.4 accused speaking to No. 1 accused the Friday.

No. 4 accused did not enter my place.

The advertising board is not in front of Cinema but to the side where there is a -

The street runs north to south and Cinema runs north to south. Street 4 feet from side of Cinema. The Poster is front of the street. Street is means to houses at back of Cinema - a few houses to north of Cinema. My gambling shop is about 8 rods from the Cinema. There are cross streets further down. I was alone when I was looking at advertising board. No. 4 and No. 5 were out of my view. 30

The Engine room is at back of the Cinema.

In the position that I was standing I would have seen them even if they were walking right through the street.

The poster is situate in the corner of the street and where I was standing I could see right through the street. The poster was higher than me.

I can't say the width of the Cinema nor length.

No. 5 returned to my shop and remained till midnight (Friday). I left No. 1 accused and No. 5 accused and went upstairs at about midnight. No. 1 and No. 5 left and went for dinner. No. 1 accused and No. 5 went and came at intervals. I can't recall if anyone of them left for any length of time. For $\frac{1}{2}$ hour departure I would not have observed it.

No. 1 and No. 5 left together during the day. I can't recall any specific hour.

9.30 to 10.30 p.m. - I referred to that as midnight. I said I left them there.

Cross-examined by Rawana

On 9th I was in my shop 7.30 a.m. I saw No. 5 accused there then. I can't recall if he came alone. Other fellows were there. Desmond Dhajoo came there about 7.30 or 8 a.m. I can't recall if he came with No. 5 accused. There was Races on that day. I left for Races 10.30 a.m. and returned after the Races 6.30 p.m. I left No. 5 accused there 10.30 a.m. He was gaming. I saw No. 5 accused again that Saturday at about 7.30 p.m. He told me that Constable Vanvieldt came to him and showed him a revolver and said that you all went and rob up the people and shoot up the policeman and steal the money - like this. It may be threat or may be jocularly. I did not know what happened until the No. 5 came and told me. He said Vanvieldt came to him at 6 p.m. or so. No. 5 was laughing when he was telling me.

No. 5 accused told me that he told Constable Vanvieldt that he knew nothing.

I can't recall how long No. 5 remained after that.

I said the No. 5 accused remained on my premises until I went upstairs about 12 o'clock.

The accused No.5 remained from 7.30 p.m. till midnight when I went upstairs.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 28.

Robert Primo.
Cross-
Examination
by Prasad,
17th July 1957
- continued.

Cross-
Examination
by Rawana

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 28.

Robert Primo.
Re-examination,
17th July 1957.

By the Court

By the Jury

Cross-
Examination
by Haynes.

ROBERT PRIMO sworn - Evidence continues :-

Re-examined by Farnum:-

On the Friday 8th the last time I saw No.1 accused was about 4.30 p.m.

At request of Misir:-

By the Court:-

I have no license to run a gambling shop. Nothing is sold there. I permit these lads to game there if they want to.

Q. - Was the No. 1 accused and No. 5 accused present at your gambling shop on Friday the 8th March, 1957 when you went upstairs to bed. 10

A. - Yes.

By the Jury:-

I was standing right outside the car when I saw No.1 accused on the Monday night at about 8.30 p.m.

I can't recall what clothes he, No.1 accused, had on in the car that Monday night.

I have seen No. 5 before that day with that yellow shirt. After the Monday I did not see No.5 accused until at New Amsterdam Court Room. 20

(Mr. Haynes asks permission to put a question to witness through the Court.)

Mr. Haynes:-

Q. Did you see No. 1 accused in your gambling shop on the night of Friday the 8th March this year from 7.30 p.m. on to 10.30 p.m. and when you witness went upstairs to rest?

A. I did not see him, No. 1 accused right on from 7.30 p.m. till 10.30 p.m. 30

No. 29.

EVIDENCE OF CECIL DABYDEENIn the
Supreme Court
of British
GuianaProsecution
Evidence

No. 29.

Cecil Dabydeen.
Examination,
17th July 1957.CECIL DABYDEEN sworn:-

My father is Seepersaud Dabydeen. I drive my father's Hire car.

10 On the morning of Sunday the 10th March, Ivan Jagolall came home about 4 a.m. He asked me if I could take a job to Georgetown. I agreed. I told him \$30. We then agreed on \$25. He paid me with a \$20 and \$10 note and I gave him \$5 change.

He said he was sending a boy and that the person would wait for me by the Gasolene Station at Rose Hall. A few minutes later I went to the Gasolene Station. I picked up a man No. 1 Surujpaul. That was the man. I crossed by the 6 a.m. Boat and came to Georgetown.

No. 1 accused told me to drop him by the hospital. I dropped him by the Train Station.

Cross-examined by Misir:-

20 Myself, my wife and No. 1 accused went to Georgetown in the car.

I did not take up two other passengers at Rosignol.

No. 1 accused did not pay me any money.

My wife and Jagolall's wife are two sisters.

Veerma called Lillian's mother is a sister of my wife.

Not cross-examined by Adams.

Not cross-examined by Haynes.

30 Not cross-examined by Prasad.

Cross-examined by Rawana for No. 5 accused:-

I have been living with my wife for five or six years now. I can't say how long No. 5 accused has been living with his wife.

Cross-
Examination
by Misir.Cross-
Examination
by Rawana

In the
Supreme Court
of British
Guiana

Myself and No. 5 accused do not visit one another. Not since I have been living with my wife. No. 5 never visit me.

This is the first time that he came to me.

Prosecution
Evidence

Only my wife and I were there when No. 5 came.

No. 29.

The money was handed to me. I gave him the \$5 change.

Cecil Dabydeen.
Cross-
Examination
by Rawana,
17th July 1957
- continued.

I had the \$5 change on a table in my house. It was a small table. No. 5 and my wife were there too by the table.

10

No. 5 accused and I have no contention over anything. He don't come to my place and I don't go to his.

He and I have no contention and no trouble at all.

It is true that he did come to my house.

About three months before the 9th I was not charged for disorderly behaviour.

I do not feel that No. 5 accused reported my behaviour to the Police.

20

Nothing like that from that man. We are not on terms. I know Lilian, about 3 years ago.

I don't know if Lilian was ever the reputed wife of Jagolall.

No Re-examination

By the Jury

By the Jury:-

No.1 accused sat on the back seat of my car. No.1 accused wore, I believe a light green pants and I believe a lemon colour shirt, one like the one I have on.

30

No. 30.

EVIDENCE OF GLADYS KISSOON

In the
Supreme Court
of British
Guiana

GLADYS KISSOON sworn:-

Prosecution
Evidence

I live at Skeldon, Corentyne. I know No. 5 accused. I know Police Constable Chester.

No. 30.

10 I remember Thursday Constable Chester took me to Albion Police Station. On that day I was not in company with anyone. I was standing in a Restaurant at Rose Hall - Yhap's Restaurant. No. 5 accused took me there.

Gladys Kisson.
Examination.
17th July 1957.

I had some food. He rapped on the door. Ivan gave me two \$20 bills and two loose dollars and said I must not talk say he gave me that money.

The Police took me to the Station at Albion along with No. 5 accused.

I was asked who gave me and I handed the money over to the Police at the Station.

Notes like these Ex. "E¹"

Not Cross-examined by No.1, No.2, No.3, and No.4.

20 Cross-examined by Rawana for No. 5:-

Cross-
Examination
by Rawana.

I don't know Samuel Yhap's restaurant.

I don't know whose restaurant was that.

That was about 10 p.m. but I don't know time.

No.5 accused and another girl and plenty men were there. Two girls and plenty men sat down. Gambling was going on. I was not gambling. Ivan Jagolall was there gambling with another man, Samuel Yhap - a little Chinese fellow.

30 Jagolall win some money. He win plenty and lose back two times. He had plenty money he won from Samuel Yhap.

I felt glad he was winning money. The money was on the table. I kept two \$20.00 and two loose notes for him.

In the
Supreme Court
of British
Guiana

He won that money. I was not afraid when
Police came there. I don't think gambling with
cards is something wrong.

Prosecution
Evidence

The \$42:00 were on the table. All the money
he won was on the table. He was going to put the
money in his pocket but he left it on the table.

No. 30.

I live at Skeldon. I am not married. I am
living with my husband at Skeldon. I don't have
my own home there. I live in a rented house. I
don't know if the house has a name. I know a place
called 'Cashmir'.

10

Gladys Kissoon.
Cross-
Examination
by Rawana,
17th July 1957
- continued.

My husband beat me and I leave and went to
Rose Hall to my mother.

Re-examination

Re-examined:-

When the Police came in the money that No. 5
had won was on the table.

No. 5 took the money from the table to give
me.

No. 5 had more \$20:00 notes.

No. 31.

No. 31.

20

Robert Primo
(recalled)
Cross-
Examination
by Rawana
17th July 1957

EVIDENCE OF ROBERT PRIMO (recalled)

ROBERT PRIMO sworn:-

Cross-examined by Rawana:-

I know Earl Brushe. He visits my gambling
shop. I see him there occasionally for a few months
well. His father and myself are friends and Earl
Brushe comes there often.

He sometimes plays in my absence. I can't re-
call seeing Earl Brushe there on the Saturday the
9th.

30

No. 32.

EVIDENCE OF OSCAR CARMICHAEL (recalled)

In the
Supreme Court
of British
GuianaOSCAR CARMICHAEL sworn recalled:-Prosecution
Evidence

No. 32.

Oscar Carmichael
(recalled)
Examination,
17th July 1957

Assistant Superintendant of Police. In charge No.1 Sub-Division, Berbice. Reliance Police Station is included in my Sub-Division. I knew Constable Claude Allen who was under my command at Reliance.

10 On the 9th March, 1957, I went to Dispensary at Rose Hall Canje. There I saw the dead body of Claude Allen clothed in the uniform of British Guiana Police Force. This was about 1.45 p.m.

20 I went to No.50 Reliance about 2 p.m. There is a field aback $1\frac{1}{2}$ miles from the Rose Hall Public Road. There is a Bridge which runs East to West. I saw a trail of fresh blood. I followed it which led across the Bridge and there I saw another Bridge which runs North to South. At a spot between the two Bridges I saw a large pool of fresh blood. East of that spot was a field of young Sugar Canes. I searched the area. I picked up this empty 16 bore cartridge Ex. "T3", a couple of feet away from the large pool of blood. I also found a piece of denture - Constable Allen's - Ex. "W1".

I went into field of young sugar canes. I saw a spot that gave the impression of human beings presence. There was the presence of recent human excreta. There I found a piece of paper that had some roti.

30 I found this felt hat Ex. "W2" and this cap Ex. "W3". I found a Pepsi Cola bottle and this bowl Ex. "W4" and "W5".

12th March, 1957, I visited the 'Dutch Pond' between Rose Hall and Port Mourant on the northern side of the Public Road.

We searched the area. First the sea-shore and then the 'Dutch Pond' and assisted by Constable Chester we found this Barlova tin dug from the earth.

40 This is what it contained:- \$632 in notes as they are now. They were in seven bundles "E2" to "E3".

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 32.

Oscar Carmichael
(recalled)
Examination,
17th July 1957
- continued.

(1) This bundle has \$100	-	eight \$10 ten \$ 2	
(2) This bundle has \$ 43	-	Thirty-one \$1 One \$10 One \$2	
(3) This bundle has \$ 99	-	Seventy-five \$5 Twenty-four \$2	
(4) This bundle has \$100	-	Twelve \$2 Twenty-one \$1 Eleven \$5	10
(5) This bundle has \$101	-	Thirty-four \$1 Twenty-one \$2 Three \$5 One \$10	
(6) This bundle has \$100	-	Six \$10 Two \$20	
(7) This bundle has \$ 90	-	Twenty-two \$1 Four \$2 Four \$5 Four \$10	20
		Total	\$632.00

On 14th March, I revisited Reliance and made a wider search of the canefield and there I found an empty 'Pepsi Cola' bottle Ex. "W6" and empty 'Jucee' bottle Ex. "W7". On the 16th I searched a rice field at the back of Rose Hall, and there I saw a burnt out spot which appeared as if cloth had been burnt there. I dug up some of the ashes Ex. "W8".

I also picked up Ex. "J" this Khaki pants about 20 yards from the ashes. 30

I don't know whose pants.

Q. Is Samaroo Karmaia, No. 4 accused licensed to hold a shot gun.

A. He is not licensed to carry and have in his possession any firearm at all.

Misir:-

Cross-examined by No. 1 accused generally:-

Tuesday the 12th was the first time I saw No.1 accused at Albion Police Station - morning hours. It could be about 9 a.m.

No. 1 accused did not complain to me that Police were throwing water in the cells.

No. 1 accused made no complaints to me.

10 None of them complained of that on the 12th to me.

No. 1 did not tell me that Constable Jagnandan threw water in the cell every half hour.

I made investigations about the cells being wet.

No. 2 accused made a complaint to me.

20 I found that the cell in which all five accused were was wet. Cecil was present when I went to the Dutch Pond. Cecil did not point out the spot where the money was found. Four or five Policemen were there.

We surrounded the area and searched.

Is not a large Dutch Pond.

Cecil was not standing near to Chester.

No. 1 accused never complained to me that he was beaten in the lock-up.

No. 1 accused did not tell me that Police Constable Vanvieldt and Inspector Elcock beat him with a 'Bull pistle'. He never spoke to me.

I did not examine his right arm.

30 I was present and gave evidence at Court on 10th May, in Court before Magistrate De Souza.

I have no recollection hearing No. 1 accused telling the Magistrate that "from the time the Police arrested me they beat me up and now I have weals on my skin."

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 32.

Oscar Carmichael
(recalled)
Cross-
Examination,
17th July 1957

In the
Supreme Court
of British
Guiana

I was not present all day in the Court, nor when the accused was being committed for trial. I was then at Enquiry Office at Reliance Police Station.

Prosecution
Evidence

This is not the first rice field I have ever visited.

No. 32.

I know trash is usually burnt on rice field.

Oscar Carmichael
(recalled)

It is not strange to see rice trash burnt on rice fields.

Cross-
Examination,
17th July 1957
- continued.

Pieces of cloth could be found in a rice field. 10
I have seen a scare crow dressed like a man in the field in shirt and pants. Sometimes Khaki pants.

The rice had already been cut. I would not expect scare crow to exist with them.

I can't say if it is March the Planters' prepare their Rice lands. There are two crops of rice.

I can't tell about Rice Crops.

I don't know much about Rice Fields and Rice Crops.

Cross-
Examination
by Haynes.

Cross-examined by Haynes:-

20

When I picked up the empty cartridge it was about 3 p.m. It was found a couple feet from the pool of blood and 16 feet from the High Bridge.

Cross-
Examination
by Prasad.

Cross-examined by B. Prasad:-

10th March to 13th Police Constable Jagnandan was stationed at Reliance Police Station.

All five accused were kept at Reliance Police Station on night of the 12th March.

On the morning of the 13th I saw the floor of lock-up wet and mopped up. It was cleaned on the morning of the 13th. 30

I would not be able to say the condition of the same cell on Sunday the 10th March.

No. 4 accused was kept at Reliance Police Station from Sunday 10th until Wednesday the 13th.

10th May I was asked by Magistrate to accompany the No. 4 accused to that lock-up.

In my presence No. 4 stretched to ledge and took down some padi grains.

I don't know why he gave the order.

These are the grains of Padi Ex. "Z".

There were no cots there on 10th May. There should have been five beds or cots but I can't say if they were there between 10th and 13th.

10 They were not there on the 13th when I went to the Lock-up with respect to complaint made by No. 2 accused about his foot.

Cross-examined by Rawana:-

On the 12th, I was aware No.5 accused had made a statement. I saw Desmond Dhagoo there at Albion Police Station. I did not ask him about any money.

In the morning he did not tell me about any money.

20 I saw Cecil there. I spoke to Cecil - about money.

It was before I found any money I took Cecil and Babe the wife of No.5 to No.5's home.

Constable Chester accompanied me. Constable Chester accompanied me from Albion Police Station.

Myself, Chester, Babe, Cecil and another man left Albion Police Station for No. 5's home.

Later that day Cecil took us to the waterside.

The money we found at 'Dutch Pond' was by chance.

30 The place was open and accessible.

Re-examined :-

Information I received made me go to the 'Dutch Pond'.

I learnt how the Paddy got to the ledge in lock-up.

By the Jury:-

Two empty cartridges have been found; (one by me, one by Nicholson). Sub-Inspector Charles was with me when I found the empty cartridge case.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 32.

Oscar Carmichael
(recalled)
Cross-
Examination
by Prasad,
17th July 1957
- continued.

Cross-
Examination
by Rawana

Re-examination

By the Jury

In the
Supreme Court
of British
Guiana

No. 33.

EVIDENCE OF HUBERT NEIL MALCOLM ISAACS
(recalled)

Prosecution
Evidence

NEIL ISAACS sworn:- recalled

No. 33.

Hubert Neil
Malcolm Isaacs
(recalled)
Examination,
17th July 1957

Deputy Superintendent, stationed at Whim. I recall the night of 11th March, 1957. I was at Albion Police Station. I went there at about 9 p.m. I left at 9.45 p.m. same night. I returned at about 10.45 p.m. same night to Albion Police Station. At that time a number of people were being interviewed including No. 1 accused, from whom a statement was being taken by Detective Sub-Inspector Charles.

10

There was no beating of No. 1 accused during the course of the taking of that statement.

I remained there until after 2 a.m. the following morning when I left. During that time there was no beating of the No. 1 accused.

Cross-
Examination
by Misir.

Cross-examined by Misir:-

No. 1 accused came in while I was at Albion Police Station.

20

About 15 or 20 minutes after I arrived No. 1 accused was brought in.

I can't tell you the names but he came in with Constables and a woman.

Constable Vanvieldt and Inspector Elcock may have been there.

No. 1 accused was not handcuffed. No. 1 accused may have been downstairs or upstairs when I left. I paid no further attention to him.

I did say in Court last week that when Surujpaul's statement was being taken he was downstairs. I did not say in the Magistrate's Chambers.

30

I did say that Inspector Charles and the accused were alone sitting at a table. Not actually with them. That was about soon after I arrived - 10.45 p.m. There were a lot of Police and witnesses and people about the Station being interviewed and so on.

I went up and down that Albion Police Station that night. I was all the time in the station, sometimes in the upper flat, sometimes in the lower flat.

Inspector Charles and No. 1 accused were together and alone. I spoke to them. I think, but I would not be positive, that it was downstairs that I saw Inspector Charles and No. 1 accused when the statement was being taken.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 33.

Not Cross-examined by No.2, No.3, No.4 and No.5

10 No Re-examination.

No questions by Jury:

Hubert Neil
Malcolm Isaacs
(recalled)
Cross-
Examination
by Misir,
17th July 1957
- continued.

No. 34.

EVIDENCE OF DR. HENRY ANNAMANTHADOO (recalled)

No. 34.

DR. HENRY ANNAMANTHADOO sworn:- recalled.

Dr. Henry
Annamanthadoo
(recalled)
Examination,
17th July 1957.

Government Medical Officer. In May, 1957, I was acting Prison Surgeon.

20 On the 7th May, 1957, in company with Dr. Panday and Dr. Hanoman, I examined No. 1 accused Surujpaul. I found three linear discolorations on the outer side of his right upper arm. He had also a lump on right side of the upper chest more to the mid-line. I was not able to tell the age of discolorations.

We could not tell what it was or what caused it.

Misir

Cross-examined by No.1 accused:-

Cross-
Examination
by Misir.

30 I examined with Dr. Hanoman and Dr. Panday on 7th May, 1957. I did not find any contusions on his right upper arm. I saw scars a while ago but they were discolorations.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 34.

Dr. Henry
Annamanthadoo
(recalled)
Cross-
Examination
by Misir,
17th July 1957
- continued.

By the Jury.

I made notes but they can't be found. They have been misplaced. What I am saying is from memory. My memory is not infallible.

Dr. Hanoman recommended that he should be x-rayed with respect to chest enquiry. The x-ray was taken. The x-ray report has been received at Berbice.

I have heard of the Cow Pistle. If those marks could have been caused by a blunt flexible instrument I don't know. I don't know what caused those marks.

10

I am not prepared to venture an opinion as to the cause.

No questions by any other Counsel.

By the Jury:-

My record at the time was taken on a piece of paper which has been misplaced. That is the only record lost as far as I am concerned also the missing x-ray report. They were not together. The x-ray report was at the prison and my notes were at my home.

20

I am not responsible for the x-ray report.

Originally the x-ray report would be in Georgetown.

An examination now shows that the size has been considerably diminished and a growth can diminish in size.

By the Court

By the Court at request of Misir:-

A growth can diminish of its own accord without being treated. I can't say if this particular bump was a growth.

30

I did not form any opinion as to the cause of this bump. I would have expected to see marks if the injury was inflicted on the 11th and examined on the 13th.

A Medical man would have seen the evidence of such blows if inflicted with a cow pistle on the 11th when examining on the 13th.

I would not describe those marks that I saw on the 7th as contusions.

40

This is the chart which shows that at the time he was physically fit Ex. JWDF¹.

Adjourned to 22/7/57

Trial resumed 22/7/57

No. 35.

EVIDENCE OF EDGAR VANVIELDT (recalled)In the
Supreme Court
of British
GuianaEDGAR VANVIELDT sworn:- recalled.Prosecution
Evidence

Constable No. 4885.

No. 35.

9th March, 1957, I read a report 2.30 p.m. In company with Constables Greavesande and Douglas I went to accused Samaroo Karmaia's home at Miss Phoebe, Port Mourant. 2.45 p.m. I arrived No. 4 accused.

Edgar Vanvieldt
(recalled)
Examination,
22nd July 1957.

10 The accused No.4 was not at home. I went to the home of No. 3 accused at 3.15 p.m. at Miss Phoebe, Port Mourant.

The No. 3 accused was not at home. I met his wife. I spoke to her (Sookdia).

At 3.30 p.m. I went to home of No. 5 accused at Rose Hall Village, Corentyne. I met him washing his face in the yard.

20 I spoke to him. I asked him where he went during the early part of the day. He told me that he was at Robert Primo's gambling house at Rose Hall and that he had just come from there at 7 p.m. the same day. I went back to No. 4 accused's home at Port Mourant in company with Constables Gravesande and Hooper. No. 4 accused was not at home. I spoke to David Karmaiah his brother. I remained in ambush back of accused's house, until 7 a.m. the following morning.

30 No. 4 accused did not return during the night. At 7 a.m. I left for Whim Police Station. 9 a.m. Sunday 10th March, 1957, I was standing in No. 4's yard in company with Constable Duff.

No. 4 accused came on a cycle. He entered the yard. I told him that I had a Search Warrant to search his house. I read the Warrant to him and asked him if he had any of the articles, there mentioned. He did not reply. I searched the premises in his presence. I found nothing.

40 After search was completed I told him that I was taking him to the Station for enquiries into the murder of Constable Allen at Rose Hall, Canje on 9th March, 1957.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 35.

Edgar Vanvieldt
(recalled)
Examination,
22nd July 1957
- continued.

The accused said:-

"Let ah we go, you know me no fraid of nothing".
I took him to Whim Police Station. I spoke to Sub-
Inspector Charles. I took the No. 4 to Reliance
Police Station about 10.30 a.m.

10th March, 1957, I handed him over to Sub-
Inspector Charles.

On the 11th March, 1957, at 6 p.m. I saw Ivan
Jagolall at Albion Police Station. He told me:-

"The money the Police find on him is Surujpaul 10
give him".

After he told me that I reported to Sub-Inspector
Charles. I left for Rose Hall, Corentyne, with Det.
Haynes and Constable Augustus.

9 p.m. I was standing at Rose Hall Public Road.
I saw a car coming from west - P9396 - and stopped.
That dam there is the Rose Hall Village Office dam.

I saw an East Indian woman Lillian come out of
the car, come out with an East Indian man No. 1 ac- 20
cused Surujpaul it was - they were proceeding north.

I went behind them. I asked No. 1 accused for
his name. He said Surujpaul. I asked him where he
came from. He said he had travelled up from George-
town. I told him that I was taking him to the
Police Station for enquiries, in connection with
murder of Police Constable Allen on 9th March.

He said:- "Me na know about that me been a
Georgetown all the time and a now
me a come."

He was searched. I took the No.1 accused and 30
Lillian to Albion Police Station.

Cross-
Examination

Cross-examined by Misir for No. 1 accused:-

Rose Hall Corentyne to Albion Police Station
is two miles. By car it would take 10 minutes.
That distance I travelled in a Police Van. I did
not have a revolver. Bare hands and no handcuffs.

No. 1 accused gave me his name readily without
hesitation.

I had not already had a statement made by No.5
accused Jagolall. 40

I did not know that Jagolall had given a statement. I knew that on the following day 12.10 p.m.; that was the 1st statement that I knew of.

The words "all the time" were mentioned by No.1 accused though not added in those words. I arrived about 9.30 p.m. at Albion Police Station with No.1 accused.

I took him to Enquiries Room downstairs. I met Sub-Inspector Charles upstairs. I took No. 1 upstairs.

I did not remain. I handed him over and left immediately.

Inspector Elcock and other Policemen were upstairs about 8 or 9. No others there at that time.

I did not take No.1 accused to the Magistrate's Court room.

I did not put on handcuffs on No.1 accused.

I have seen a Cow Pistle, not on night of the 11th.

I don't know how a Cow Pistle is used.

Never seen a Cow Pistle in preserved state.

I did not hear Inspector Elcock say :- "Eh eh where you been only now you come."

Inspector Elcock did not hold him by his shoulders.

I was not present when No.1 was giving his statement in the room.

I was not present, I only handed him over.

Its not that I do not want to put myself out of the room. I did not hand No.1 accused a kick in his chest.

I was in the room before the statement was taken. I handed him to Inspector Charles and I left immediately after.

I did not cuff the No.1 accused. I did not put him to stand up against a wall on one leg. I did not take two pairs of Police long boots and hang them across his shoulders.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 35.

Edgar Vanvieldt
(recalled)
Cross-
Examination
by Misir,
22nd July 1957
- continued.

In the
Supreme Court
of British
Guiana

I did not upturn a chair on his knees. I did not have a Cow Pistle that night. Myself and Inspector Elcock did not beat No.1 accused with the Cow Pistle.

Prosecution
Evidence

I did not see any marks on his right arm when he was searched on night of the 11th. I did not look for any. I did not examine No. 1 accused.

No. 35.

Not Cross-examined by Adams, for No. 2.

Edgar Vanvieldt
(recalled)
Cross-
Examination
by Misir,
22nd July 1957
- continued.

Cross-examined by Haynes for No. 3:-

I don't know how many suspects. I only know about these five accused. I have not heard of any other suspects in this matter who were looked for or detained. 10

Cross-
Examination
by Haynes.

I don't know when No.1's statement was begun.

I don't know all the witnesses who are to give evidence - some or most.

I don't know if any of them were at Whim Police Station before I was telephoned to by Inspector Charles. I went to look for No. 3 at 3.15 p.m. within 2½ hours I went to look for No. 3 and No. 4 accused of the crime. 20

Cross-
Examination
by Prasad.

Cross-examined by Prasad for No. 4.

No. 4 was first of the accused I went to look for within 1½ hours after the allege commission of the crime.

From 9 a.m. on Sunday, 10th No. 4 has been in custody till now.

I did not go to his sister Babe at Bloomfield. I did not take any statement from her.

I was not told by the accused No. 4 that he had spent the night of the 9th at his sister Babe at Bloomfield. No. 4 gave a statement to Inspector Charles. No. 4 did say to Inspector Charles he spent Saturday night at the home of his sister Babe at Bloomfield. 30

That was the night I was watching the house of his brother David for him (No. 4 accused).

I did not personally check whether he slept on Saturday night on the 9th at Babe's house. I don't know if that was checked on.

Nothing was found in the house of the No. 4 accused.

Cross-examined by Rawana for No. 5 accused:-

2 hours after alleged shooting I went to home of accused No. 5. I found him at home in an open yard.

10 Thickly populated area.

Desmond Dhagoo and No. 5's reputed wife Babe.

The Constables were together.

I had a revolver there. I did not take it out at the accused.

No. 5 said he was at Robert Primo's gambling shop. I checked there. No. 5 had been there (as a result of my enquiries). He said he had just left the gambling shop.

I did not search No. 5's house.

20 No Re-examination.

By the Jury:

I do not carry a revolver all the time only on that occasion I had one on me.

No. 1 accused had on a grey pants and a shirt, I think creamish colour. I am not sure.

By Court:- No.5's home is about 100 rods from Robert Primo's shop.

The Scotch Church by the Public Road to Robert Primo's shop is about 100 rods.

30 Dharry's Hardware store at Rose Hall is about 75 rods from Robert Primo's shop. Dharry's Hardware store is about 75 rods to No. 5's house.

To get from Primo's gambling house to 50 Reliance one would go by the Public Road west to Industry Public Road to New Dam, - turn left - for 3 miles then turn right on to a dam leading into New Dam a distance about 12 miles.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 35.

Edgar Vanvieldt
(recalled)
Cross-
Examination
by Prasad,
22nd July 1957
- continued.

Cross-
Examination
by Rawana.

By the Jury.

In the
Supreme Court
of British
Guiana

No. 36.

EVIDENCE OF DR. DAMADOR PANDAY (recalled)

Prosecution
Evidence

Dr. DAMADOR PANDAY sworn:-

No. 36.

Dr. Damador
Panday (recalled)
Examination,
22nd July 1957.

Government Medical Officer. On 7th May, 1957 in company with Dr. Anamantadoo and Dr. Hanoman I examined the prisoner Surujpaul (No. 1 accused) at the New Amsterdam Prison.

I found that he had four areas of Pigmentation $\frac{1}{2}$ " wide, 3" to 4" long in the lateral aspect of right shoulder upper arm and right elbow. 10

He had also a tender swelling in the cartilage on 2nd rib on right side about $1\frac{1}{2}$ " from the mid-line.

I could not give any opinion of the age of the pigmentation I saw or any definite causes. I did not find any contusions on the No. 1 accused.

The nature of the pigmentation seemed to me to be deposits of pigment under the skin. I have not come across it very often. I have seen examples of it. The swelling I could not say what it was. 20

Cross-
Examination
by Misir.

Cross-examined by Misir - for No. 1 accused.

I would call those marks pigmentation or discoloration. I believe the more correct term is area of pigmentation. Discoloration is not the correct term but I would call it discoloration in a loose sort of way.

They were not linear - $\frac{1}{2}$ " wide, and straight. I would not venture to attribute any definite cause. It is possible to have been caused by infliction by a dull flexible instrument. At the time I saw them I would not describe them as contusions. There was no break of the skin. 30

Re-examination

Re-examined:-

At the time I saw the injuries I would not commit myself to give any definite opinion as to the cause.

Assuming the marks are result of beating on

that area by blunt flexible instrument on the 11th and assuming the weals were received on the 14th March, I would expect to see that the entire upper limb would be extremely painful, and the areas of the injury would be tender and discoloured - of the nature of a black and blue mark and very likely a swelling.

10 The external signs would be very evident and almost inescapable to a Medical man examining the accused. In stripping and examining the body for marks on the 14th no one could have missed them - a Medical man or Layman. They would have been very very evident.

By Misir by permission:

I don't think they could have been referred to as 'Pin' scratches.

By the Court:

20 On the day I examined No. 1 accused in Court I found the pigmentations almost of about the same condition as on the 7th May, when I examined him and I can give no opinion as to how they were received there in that condition.

By the Jury:-

I have my findings with me in my own notes.

No.1 complained that the Police beat him, as a result of my examination I cannot say the No. 1 accused was beaten.

The areas could have been left from being beaten but I don't think it likely.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 36.

Dr. Damador
Panday (recalled)
Re-examination
22nd July 1957
- continued.

Cross-
Examination
by Misir.

By the Court

By the Jury

In the
Supreme Court
of British
Guiana

No. 37.

EVIDENCE OF SUB-INSPECTOR EDGAR CHARLES (recalled)

Prosecution
Evidence

SUB-INSPECTOR EDGAR CHARLES sworn:- recalled.

No. 37.

Today I pointed out to the last witness Mr. Chan at Rose Hall Corentyne:

Sub-Inspector
Edgar Charles
(recalled)
Examination,
22nd July 1957.

- (1) Church of Scotland school.
- (2) Dharry's Hardware.
- (3) Mendonca's shop.
- (4) The house where Cecil Dabydeen lives.
- (5) Primo's gambling house.
- (6) Ivan Jagolall's house.

10

No. 38.

No. 38.

Lillian.
Examination,
22nd July 1957.

EVIDENCE OF LILLIAN

LILLIAN sworn:-

I am called Veerma. I live at Rose Hall. In March, 1957 I was living in Georgetown at London Hotel at Holmes Street with my husband.

I know No.1 accused. I saw him in March a Sunday night. The same night Policeman get shot at Rose Hall. 7 p.m. He came into hotel. He and I were talking. No.1 accused tell me that I must look out for (Ivan Jagolall wife) my auntie and her husband as they would be coming down on the Monday.

20

He asked for Lillian. No. 1 was talking to me on the step when the news came over the radio. He said "no man, not 3 shots is 2 shots, one in his face and one cross his stomach." I asked him how he knew. He replied that the shooting happen 5 miles from Rose Hall. The next morning (Monday) No. 1 accused came back and asked if No. 5 and his

30

wife had come. I told him no. He left. He came back and asked me if we could get any boat crossing at night from Rosignol to New Amsterdam. I told him yes a boat goes across at 7 p.m. if he had got any messages for his wife he could give me the message as I was going to Rose Hall the same Monday. He gave me no message. That afternoon I caught the afternoon train to New Amsterdam. When I reached almost Mahaica I saw No. 1 accused on the train. I went to New Amsterdam. No. 1 and I found the private car. Several people in the car including No. 1 accused Surujpaul.

We left for Rose Hall. Police Constable Vanvioldt picked up me and Surujpaul and carried us to the Police Station.

Cross-examined by Misir for No. 1 accused:-

I spent a week at Georgetown that same week. Macwonsha is my husband. Sometime ago I was living as husband and wife with No. 5 accused. He is now living with my aunt as man and wife.

I know No. 1 accused about a week and a half when he was living at No. 5's house.

I left on the Sunday before the 9th March Rose Hall for Georgetown. I did not visit No. 5 accused when he started living with my aunt while I was at Rose Hall.

I just saw No. 1 accused on the dam walking. I heard he was living at No. 5's house.

I had never spoken to No. 1 accused before the 10th March in Georgetown.

No. 5 accused talked to me up to the Saturday before I left to go to Georgetown.

I don't go to No. 5's home but we talk.

I was not annoyed when he left me to live with my aunt. He can't work to mind me.

It's not true that the first time I saw No. 1 accused was when we joined the same car at New Amsterdam.

The conversation did take place at London Hotel. It is not a fabrication of my own. He was on the step at Hotel from 1 hour to 1½ hours. He came at 7 to 7.30 p.m.

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 38.

Lillian.
Examination,
22nd July 1957
- continued.

Cross-
Examination
by Misir

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

No. 38.

Lillian.
Cross-
Examination
by Misir,
22nd July 1957
- continued.

I was carried to the Station. I can't say if it was an arrest. I spent the whole night there and whole day (Tuesday) - I left Tuesday afternoon after Court.

I did not see Constable Vanvieldt with gun or handcuffs.

They told No. 1 to go in the jeep, they didn't "throw am".

When Radio was playing the announcer said a Police shot and how much shot he got. No. 1 say "no man it is two shots not three shots." 10

I said to Magistrate that I heard the news and that they shot the Police three shots.

I used the words three shots before when you ask me the question.

I heard the radio Demerara say 'three shots'. I did not hear any other news that night. I can't tell if it was male or female voice. My story is not untrue.

Not Cross-examined by No. 2, No. 3 or No. 4.

20

Cross-
Examination
by Rawana.

Cross-examined by Rawana for No. 5:-

I never went home to No. 5 since we separated - about 6 to 7 years now.

I know No. 1 was living there. I live opposite on the dam. No. 5 accused used to come where I am.

No. 1 accused said my auntie was sick - he told me that on the Monday not on the Sunday night.

No. 39.

EVIDENCE OF SIDNEY DARRINGTON DANIELS (recalled)

In the
Supreme Court
of British
Guiana

Prosecution
Evidence

SIDNEY DARRINGTON DANIELS sworn: recalled, at re-
quest of Misir for No. 1 accused.

No. 39.

I am Clerk and Storekeeper attached to New
Amsterdam Prison. I admit prisoners in the New
Amsterdam Prison - part of my duty.

Sidney
Darrington
Daniels (recalled)
Cross-
Examination,
22nd July 1957

10 I write the charts for prisoners admitted. I
wrote this chart for No. 1 accused Surujpaul Ex.
J.W.D.F.¹

The marks on him were:-

"mole on forehead. Faint tatoo's anchor
and chains right forearm. Superficial
scars (scabs) right upper arm. Three
large vaccination scars left upper arm
under left shoulder blade. Scars upper
right groin.

20 These superficial scars appeared to be recent.
They were several ordinary scratches. They did
not look like weals then just scratches. There were
several, close together.

Re-examined:-

Re-examination

The scratches looked like they were scratched
by some canes.

I asked him if he had gone through cane fields.
He did not answer.

In the
Supreme Court
of British
Guiana

DEFENCE EVIDENCE

No. 40.

SURUJPAUL (STATEMENT FROM THE DOCK)

Defence
Evidence

No. 40.

Surujpaul,
Statement from
Dock,
22nd July 1957.

No 1 accused SURUJPAUL given his rights:-
Elects to make a statement from the dock, as follows:-

I am innocent of the charge.

I am from Plantation Uitvulgt.

I was living at Rose Hall, Corentyne.

I never planned to go and rob the Rose Hall
Pay Roll on the 9th March or no other day.

10

I was never present at No. 50 Reliance on the
9th when they say the Pay Roll was robbed.

I know nothing about the robbery and how the
Police got shot. I was informed that my friend
Haniff was ill at Pakistan Hotel, Georgetown.

9th March, 1957 in morning 5.45 a.m. I went to
the Public Road and I saw Cecil Dabydeen with his
car on the road.

I asked him how far he was going. He said
that he was going to Georgetown. I told him that
I also was going to Georgetown.

20

He told me he is waiting for his wife. I went
in the car and his wife came in the car with a boy
already in the back seat sitting down.

Myself, Dabydeen, his wife and the boy
travelled to Georgetown. As I reached Georgetown
I came out the car, and he told me \$2.40 is the
fare. I paid him. I went to Pakistan Hotel. I
stayed there until 11th March, 1957, 3.15 p.m. then
I left for train station.

30

It is not true that Veerma called Lillian said
that I went to London Hotel on the 10th March, 1957.
It is not true that I went to London Hotel on the
11th March.

It is not true that I told her that it is two shots hit the policeman not three.

I bought a ticket and I travelled to New Amsterdam. As I reached New Amsterdam I went in a car. I saw Lillian and a lady and two other men came in the car. I travelled to Rose Hall, Corentyne. As I reached Rose Hall the car stopped. Lillian came out before me and went away. I came out after her from the car.

In the
Supreme Court
of British
Guiana

Defence
Evidence

No. 40.

10 I was standing on the Public Road lighting a cigarette. Inspector Elcock and Constable Vanvieldt came and arrested me. Mr. Vanvieldt started cuffing me on my jaw and dragged me and throw me into the ambulance.

Surujpaul
(recalled)
Statement from
Dock,
22nd July 1957
- continued.

He handcuffed me and beat me. Mr. Vanvieldt and Elcock and other Policemen beat me in the ambulance.

5 minutes after the Police brought Lillian into the ambulance.

20 They took me to the Albion Police Station. As I reached there they took me into the Court Hall.

Vanvieldt kicked me in my belly. I fell on the ground. They beat me on the ground, kicked me on the ground. Vanvieldt picked me up and put me to stand against the wall. He turned a chair on my head and two pairs of Police long boots hanging.

30 I was made to stand on one foot. Vanvieldt told me if I made the chair fall down he would beat me and kill me. The left side boots fell on the ground. Vanvieldt ran and start cuffing me on my belly. I fell down on the ground. Vanvieldt took me to the table and showed me a whip tied on a stick. He told me that it was a Cow Pistle, that I know to shoot policeman but this going to make me talk or do what they say. They put me to sit on the table. Mr. Charles sat on the left side of me on the chair. Mr. Elcock took the whip from Mr. Vanvieldt and Mr. Charles when I went to Georgetown.

40 I asked him why he asked me that. Mr. Elcock took his hands and hit me about eight times on my neck.

Inspector Charles told me to sign my name on the bottom of the sheet. I refused. Mr. Charles held my "stones". Mr. Elcock took the whip and beat me on my arm - these marks.

In the
Supreme Court
of British
Guiana

Defence
Evidence

No. 40.

Surujpaul
(recalled)
Statement from
Dock,
22nd July 1957
- continued.

I said I don't able any more I going to do what you say. I signed the paper. I know nothing whatsoever that was written on the paper - written in pen.

After I finished signing the paper Mr. Elcock took a stick and punched me in my stomach and held me on my neck and told me that I have a stiff and hard handsome neck for the rope.

I showed Doctor the marks I had on my arm and I also showed the Magistrate. They took me into the lock up with my hands hand-cuffed. In the morning they gave me a cup of tea and bread on the ground. I asked for some water to wash my face. No one gave me. They took me to Reliance Police Station and put me in the Guard Room sitting on the bench for the day. 10

They gave me no breakfast. They put me in the lock-up in the evening. The lock-up had no cot or bench to rest on. They gave me tea at 6.30 p.m. They put the bread on the ground and kicked it and told me to take it and eat it. 20

Every half hour they beat me and wet the lock-up. I reported to Asst. Supt. Carmichael in the morning that the Police beat me in the lock-up and every half an hour they throw water in the lock-up. He told me that he agreed with the Police to beat me but not to wet the lock-up, that he is going to see if the lock-up is wet.

It is not true that Desmond Dhajoo said that he knows me at No. 5 accused home and that he saw me there with gun. He knows me at Robert Primo's gambling shop. I informed by my Counsel that Haniff died on the 1st July, 1957. 30

Thank you.

No. 1 accused calls witness

No. 41.

EVIDENCE OF DR. ROBERT HANOMAN (recalled)

In the
Supreme Court
of British
Guiana

Dr. ROBERT HANOMAN (recalled) :-

Defence
Evidence

No. 41.

Registered Medical Practitioner. My office at 4 Main and King Streets, New Amsterdam. On the 7th May, 1957, in company with Dr. Panday and Dr. Annamanthadoo I visited the New Amsterdam Prison. In their presence I examined the No.1 accused Surujpaul. I found as follows:-

Dr. Robert
Hanoman (recalled)
Examination,
22nd July 1957.

- 10 (1) A contusion approximately 5" long and $\frac{1}{2}$ " wide on the upper third of right arm across the anterior lateral borders.
- (2) A contusion approximately 4" long and $\frac{1}{2}$ " in breadth on the middle third of the right arm across the anterior and lateral surfaces.
- (3) A contusion approximately 4" long and $\frac{1}{2}$ " wide on the lower third of the right arm across its anterior and lateral surfaces.
- 20 (4) A contusion approximately 4" long and $\frac{1}{2}$ " wide at the level of the right elbow across the anterior and lateral surfaces.
- (5) A bony prominence about the size of a small marble at approximately the base of the 2nd rib on the left side and about $1\frac{1}{2}$ " to 2" from the middle of the breast bone.

I ordered an x-ray with regard to the bony prominence because:-

- 30 (1) The accused complained of pain in that region informing me that he was struck there.
- (2) On examination I found this knobly appearance.

I wanted to exclude therefore the possibility of a fracture or rather traumatic effect.

If one is struck in any bony part particularly in front region there can be other consequences besides a fracture.

In the
Supreme Court
of British
Guiana

Defence
Evidence

No. 41.

Dr. Robert
Hanoman (recalled)
Examination,
22nd July 1957
- continued.

I have not received any written notification of it. I made two or three attempts to get it. On my last attempt I was told there was nothing wrong.

I made those requests from Dr. Anamanthadoo. Those marks on the right arm I would not describe them as areas of pigmentation nor as resulting from pin scratches.

I could not give the age of those marks with exactness but - approximately.

I now look at the arm of the No.1 accused in Court. 10

Since I testified in the trial two weeks ago the marks have shown further evidence of disappearing.

I would not say they show the same condition as I saw on the 7th May.

I would say that in my opinion those marks which I saw on the 7th May were consistent with injuries received from a dull instrument that is flexible. When I saw them on the 7th the colour was bluish brown. In my opinion then they were about two to ten weeks old. 20

I have been practising Medicine for 16 years.

No Cross-examination by other Counsel.

Cross-
Examination
by Farnum.

Cross-examination by Farnum:

Those contusions were unmistakably clear and unambiguous. If those marks were residue of a beating on the 11th, I would not say there would be disablement but pain and tenderness. Not necessarily considerable swelling. 30

There would necessarily be clear signs on the 14th not clearer than on the 7th May.

If a person is struck heavily to bring about extravasation of blood into the deeper tissues, if a person is strong, if the tissue is not lax as under eye lids or scrotum there might be no extravasation of blood in the subcutaneous tissues until five or six days after or not at all.

The extravasation is caused by rupture of deeper blood vessels. The blood may rupture the not deep tissues. 40

If a person gets an injury to his arm, very thin and bony there might be injury to the deeper tissues without extravasation of blood into the subcutaneous tissues. It would cause a blue black discoloration if the injury is under the skin, if to the deeper tissues one may not see any discoloration at all or may see a reddish discoloration.

No. 1 accused had a reasonably fleshy right arm and not a bony arm.

10 It is likely that if a person is injured by blows on the 11th that there would be black and blue marks on the 14th.

We examined the No. 1 separately on the 7th in the presence of all three of us Doctors.

After the examination we did not discuss the matter between us. Each Doctor made his own notes. No comparison of notes.

20 I can't for the moment think of anything else that could have caused these contusions except lashes.

It is most likely that a Doctor could have examined the accused on the 14th and not seen the contusions but he could have.

Both Dr. Panday and Dr. Anamanthadoo describe the marked areas of pigmentation as areas of discoloration.

If they said they did not see any contusions on the 7th May 1957 it would be very much surprising to me.

30 I did not have any discussion about the age of these marks as far as I can remember.

It may have been described by Dr. Anamanthadoo and Dr. Panday but my suggestion of collaboration was refused by them.

I called the attention of the two doctors to the contusions on the arm - Dr. Panday and Dr. Anamanthadoo.

No Re-examination

By the Jury:

40 Those marks could not have been caused by using the cane field and hitting himself on any other object.

In the
Supreme Court
of British
Guiana

Defence
Evidence

No. 41.

Dr. Robert
Hanoman (recalled)
Cross-
Examination
by Farnum,
22nd July 1957
- continued.

By the Jury.

In the
Supreme Court
of British
Guiana

No. 42.

EVIDENCE OF RAFIQ KHAN.

Defence
Evidence

No. 42.

Rafiq Khan
Examination.
22nd July 1957.

RAFIQ KHAN sworn:-

I live at 25 Green Street, Georgetown. I am the Programme Director at Radio Demerara.

In March this year I was holding that position. My duties are the over-all responsibility of all Broadcasting matter. News items must pass through my hands. That was so on Sunday 10th March, 1957. I recall the 9 p.m. News of Sunday the 10th March which referred to the Policeman being shot. I could give you the gist of it. 10

I have with me the News Item record. I did not hear it. One of our announcers read it, but I have not got the specific announcer.

The news was read on my instructions. This would have been the Sunday before the actual Broadcast about 6 p.m.

When I have checked it can't be altered by announcer unless I am consulted about the alteration. The announcer must read the exact lines I have okayed. 20

This is the news item. Ex. RK¹. There is no mention of shots fired. I have no News Cast at 7 p.m. on Sunday 10th March, Local News Cast was at 12.25 p.m. at 9 p.m.

Not Cross-examined:

By the Court.

By the Court:

I did not write Ex. RK¹, it was written by one Paul Persaud. 30

It could have been substituted by some one, but not possible.

There is an initial by General Manager Mr. Peter Heskett, which could have been done the next day had he not read it after it had been announced.

By the Jury

By the Jury:

This is the one and only record written on

Sunday. This was the only announcement made between 7 p.m. and 9 p.m. that I know of.

There are emergency Broadcasts but this would not be regarded as emergency.

There could have been another announcement between 7 p.m. and 9 p.m. but that could be checked.

There was an announcement at 12.25 p.m. about this shooting of Constable Claude Allen.

10 An emergency broadcast would have had to be approved. There could have been an announcement between 7 and 9 p.m. approved by the General Manager in my absence.

In the
Supreme Court
of British
Guiana

Defence
Evidence

No. 42.

Rafiq Khan.
By the Jury,
22nd July 1957
- continued.

CASE FOR NO. 1 ACCUSED

No. 43.

SUMMING UP.

SUMMING UP OF THE HONOURABLE MR. JUSTICE
PHILLIPS

No. 43.

Summing up of
Phillips J.
29th July 1957.
(sic)

20 Mr. Forman and Members of the jury, this case has lasted a long time and I must, at the outset, commend you for the undivided attention and unremitting interest that you have displayed throughout this case. The case has created a lot of interest before and during the trial. There have been radio broadcasts and newspaper reports. I have no doubt you are unruffled and unperturbed by the flourishes and blandishments of the Press. In no British Colony is it tolerated, what is known as trial by the Press. In this case they have even published photographs of the prisoners. In some places this

In the
Supreme Court
of British
Guiana

No. 43.

Summing up of
Phillips J.,
29th July 1957
- continued.

is prohibited by law. My duty, however, is to warn you that you must discard from your minds anything that you may have read or heard outside of this Court and only concern yourselves and come to your conclusions on the evidence that you heard in this Court and the arguments and submissions made here.

The indictment originally charged five persons named No.1, Surujpaul; No.2, Nickram, called Chandie; No. 3 Kisson, called Baljit; No. 4, Samaroo Karmaia, called Battle Boy; and No. 5, Ivan Jagolall.

10

The second-named prisoner on the indictment, Nickram called Chandie, has been discharged by you. There are, therefore, only four other prisoners left.

The No. 3 accused Baljit, for convenience and to save confusion, during the course of my remarks I will refer to him as the No. 3 accused, that is the man originally on the indictment named as the No. 3 accused, merely to prevent confusion. When I refer to the No. 3 accused I mean Kisson, called Baljit, who is sitting second in the dock.

20

The prisoners are charged with the crime of murder, for that they on the ninth of March this year, in this County, murdered Claude Allen.

Now, murder is the unprovoked killing of another person without lawful excuse and with the intention of causing death or serious bodily harm likely to cause death and from which death results.

In murder three points must be proved. First-ly, that the prisoner or prisoners killed the deceased. Secondly, that he or they did so with intention. Thirdly, that he or they killed the deceased and they were unprovoked by the dead man.

30

Now, in this case, there is no question of any provocation by the dead man Claude Allen to any of the prisoners. There is no suggestion that there was any accident. The allegation of the Crown is that during the course of and in pursuance of the crime of robbery with violence or robbery under arms the prisoners caused the death of Claude Allen.

40

In every criminal case the prisoner --- and when I say prisoner I mean the plural prisoners ---

is presumed to be innocent until he is proved guilty. The burden is on the Crown to establish the guilt of the accused by the evidence they adduce and to prove to your complete satisfaction their guilt. There is no corresponding burden on the accused to establish their innocence. Your duty, therefore, is to examine the evidence led by the Crown, as also the evidence adduced by prisoners, and then ask yourselves the question whether the Crown has established their case to your complete satisfaction, so that you feel sure, of their guilt. If not, then you will acquit them, one or any of them, or all of them.

10

20

30

40

Now, at the close of the prosecution's case you heard me tell each prisoner of his rights, that he could remain silent or he could be sworn like any witness in the witness-box, or he could make a statement from the dock. They are not obliged to enter upon a defence, but they may do so if they wish to, and each of the accused made a statement from the dock and some of them, or all of them, called witnesses as to one or other of the issues in the case.

You are to examine the evidence of the witnesses called by the defence in the same scales as the witnesses called by the prosecution and come to your decision as to who is speaking the truth. You are quite at liberty to accept part of a witness's testimony and to discard another part.

In fact, the prisoners' defence is what is known as an alibi. They are denying that they were on this New Dam on the ninth of March and say that they were elsewhere, and, therefore, could not commit this offence. So, you will examine also their defence and the witnesses they have called. If, by the witnesses they have called, or by their cross-examination of the Crown witnesses, they establish that they were not there then, of course, you will acquit them, or if you are in any doubt about it you will also acquit them, one or either of them. If you do not believe their defence --- when I say their defence I mean each individual prisoner, his or their defence ---- then the case does not end there. You have to go back and consider the case for the Crown and come to your conclusion whether the Crown has proved to your complete satisfaction that the offence has been committed and that he or they have committed it.

In the
Supreme Court
of British
Guiana

No. 43.

Summing up of
Phillips J.,
29th July 1957
- continued.

Now, your particular task as judges of the

In the
Supreme Court
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Guiana

No. 43.

Summing up of
Phillips J.,
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facts is to say which of the witnesses you believe, or what parts of their testimony you believe and what parts you reject. You will observe the demeanour of the witnesses, their conduct in the witness-box before you, and, as men of commonsense and men of the world, you will come to your conclusion what witnesses' testimony you accept. You are judges of the facts. You take the law implicitly from the Judge, but with regard to the facts of the case that is peculiarly within your province.

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Counsel for each of the prisoners, as also Counsel for the Crown, have made addresses to you and made submissions and arguments and comments upon the facts. So also will the Judge. In the course of my remarks I will make observations on the facts of the case. Those observations of Counsel and of the Judge in relation to the facts are merely done with the object of assisting you in arriving at the proper conclusion and the proper verdict. You are not at all bound to accept any observations on the facts that I may make. Though you take the law implicitly from the Judge, you are not bound to accept his view on the facts.

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There have been a number of legal matters in this case and it is my duty, at the outset, to explain them to you so that it may guide you in your deliberations throughout the case.

Now, statements have been tendered, statements made by the prisoners to the Police. A statement made by a prisoner is only evidence against him if it is a free and voluntary statement and you know, gentlemen, what that means, that the prisoner gives the statement of his own free will and, of course, without any compulsion, force, duress or threat. If you come to the conclusion that any of the statements made by the prisoners in this case was not made freely and voluntarily then you discard it completely from your minds. If you come to the conclusion that they were made freely and voluntarily to the Police and they signed them as their own statements, then you go on to consider what weight you will attach to the statement. If in a prisoner's statement he mentions the name of any other person or persons, prisoner or prisoners, you will discard any intimation that he gives with regard to the others, or any information that he wishes to tell the Police about the others. You will only consider the statement against the man

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himself who makes it, because it would be very unfair indeed to consider it as evidence against the others whose names are mentioned in the statement when they were not even there to refute it. I will admit that in applying that principle to the statements in this case it is very difficult to discard from your minds references made by one prisoner to other prisoners, but you must try and do so because it is the only fair way.

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10 I have told you what comprises the offence of murder. I propose to tell you now what you possibly would or should want to know what is the offence of robbery, robbery with violence, robbery under arms or, as it is sometimes called, robbery with aggravation.

20 Robbery consists in the felonious and forcible taking from the person of another, or in his presence, against his will of any money or goods to any value by violence or putting him in fear. That is the offence of robbery. Then, the more serious offence of robbery with violence. That means that at the time of, or immediately before, or immediately after the robbery the prisoner did use personal violence. Then the much more serious offence is that of robbery under arms. Under Section 222 of Chapter 10 of our Ordinance here, it states:-

30 "Every one who being armed with a dangerous or offensive weapon or instrument, (such as a loaded gun), robs any person, shall be guilty of felony and shall be liable to imprisonment for life and a whipping or flogging."

I mention that, members of the jury, to show you that it is a very serious offence indeed, robbery under arms.

40 Now, I must tell you what is a principal in the commission of this offence, because there are more than one prisoner charged here. It is alleged that these prisoners acted together in concert, in a plan, a concerted design, to commit this offence and whilst you will consider the evidence in that light, you must also consider the evidence in regard to each individual prisoner as to what part he took, if any, in it and then you will come to the conclusion whether he is guilty or not guilty. You must consider whether they acted together in planning and plotting and contriving this offence and

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then you consider the evidence against each one individually and you come to your conclusion whether he is guilty or not.

Now, there are two types of persons who are termed principals in the commission of an offence. A principal in the first degree is he who is the actor or actual perpetrator of the fact, the man, for instance, who actually takes the gun and fires it. He is a principal in the first degree. A principal in the second degree is he who is present at the commission of the offence and aids, abets its commission. In other words, he does not actually do the act or fire the gun for instance, but he is there near enough to give assistance or to help in the commission of that offence. He is a principal in the second degree and the point is that he is equally guilty of the offence. A man who aids and abets cannot offer as a defence that it was not his hand that fired the gun, he is equally guilty of the offence. He must be present, but presence in this sense may be either actual or constructive. It is not necessary that a party should be actually present as an eye-witness or an ear-witness at the transaction. He is in the construction of the law at present aiding and abetting if with the intention of giving assistance is near enough to afford it should the occasion arise. Like, for instance, a man who is outside the door aiding by watching when a burglary is being committed upstairs. He is equally guilty with the man who steals in the house.

Now, with those principals, the chief actors in a crime, you have the accessory before the fact and the accessory after the fact. An accessory before the fact is one who being absent at the time when the felony is committed yet procures, counsels, commands or abets another to commit the felony. In other words, he is not present at the time when the crime was committed, but he instigates, procures, commands other persons to commit it. He is an accessory before the fact and he is equally guilty with those who commit it. In other words, you cannot stay at home and send a man to go and commit a crime and think it is a defence to say you were not there. An accessory before the fact can be tried and convicted of the same offence and sentenced as a principal. An accessory to murder, as in this case, you will have to consider is as guilty and as liable to be punished equally with the person who actually commits the murder.

10 However, an accessory after the fact is not so liable to be convicted on the trial of the indictment for the principal felony. An accessory after the fact is one who, knowing that an offence has been committed by another receives, relieves, comforts or assists the felon after it has been committed. If, in this case for instance you find any of the prisoners were merely accessories after the fact, after the fact to murder, they merely hid money or gave clothes to assist him to go away, then he will be an accessory after the fact and will not be guilty on this indictment. Whilst you can convict an accessory before the fact on this indictment, you cannot convict of an accessory after the fact, and that direction will be particularly referable to the No. 5 accused Jagolall. If you find that he was, though not present, yet he procured, counselled, commanded, assisted or abetted the crime before it was committed, then he will be an accessory before the fact and liable to be convicted equally with the others. If you find, for instance, that he never knew about it but merely assisted after the crime has been committed, he will be an accessory after the fact and would be not guilty on this indictment.

30 Now, if several persons combine together for an unlawful purpose, for example, the carrying out of some forcible and atrocious crime such as robbery with violence or under arms, and one of them, in the prosecution of that felony, kills a man, it is murder in all who are present whether they actually aided or abetted or not. In other words, if all these prisoners were there on the dam, having combined to commit such a felony, and death resulted as a result in the furtherance of that crime, all who were combining in the robbery with violence when death resulted as a result of that, are guilty of murder. He who uses violent measures in the commission of a felony involving personal violence, such as robbery with loaded guns, does so at his own risk and is guilty of murder if those violent measures result in the death of the victim. If the loaded firearm is used for the purpose of frightening in the commission of some serious offence such as robbery with violence and death results, it is murder. So serious does the law regard this crime of robbery under arms that if it is being committed and death results, it is murder in those who commit it.

In this particular case one of your great

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difficulties would be to assess the evidence of the witness Desmond Dhajoo. He is undoubtedly an accomplice and, therefore, I have no doubt you will like to know who is an accomplice. An accomplice includes persons who are taking part in the commission of a particular crime charged -- persons who are acting as principals or accessories before or after the fact; persons who aid and abet the commission of some crime.

In this case, you are concerned with the felony of robbery with violence. If Desmond Dhajoo was concerned in the perpetration of this crime; or if he was implicated either before its commission or after its commission, then he will be an accomplice. By his own evidence he said he was told by Cecil why the money should be removed was because it was stolen money from the New Dam payroll and that the pants and shirt should be hidden also; he assisted in hiding them, to use his words, "I was only trying to make Jagolall's side clear". So that, by his own words, whether you accept it or not, he will be an accomplice at least after the fact. In regarding him as an accomplice, it is my duty to warn you that it is exceedingly dangerous to convict any of the accused persons on the uncorroborated evidence of the accomplice Desmond Dhajoo. It is the law that you may convict upon the evidence alone of an accomplice if you find his evidence so convincing or truthful, but it is exceedingly dangerous and very unsafe to do so; and it is my duty so to warn you. It is your task, therefore, to examine the evidence and the demeanour of the witness and other surrounding circumstances and come to your decision whether in this particular case you would be able to convict upon the evidence alone of the accomplice Desmond Dhajoo. If you say you would not convict upon his evidence alone, then you have to look to find some corroboration of his testimony before you could convict. Corroboration in this regard is some independent testimony which affects the prisoner by tending to connect him with the crime; that is, evidence direct or circumstantial which implicates the prisoner, which confirms in material particular not only the evidence given by the accomplice that the crime has been committed, but also the evidence that the prisoner committed it. In other words, you are to look to see if in the evidence there is any corroboration in some material particular - some important circumstance - which does not only show that the crime has been committed, but that it was committed by the prisoner. In other words, it must be some additional

evidence which tends to support the evidence of the accomplice.

10 Now, if you find there is corroboration of the accomplice in regard to one prisoner but not as to others, then you will acquit those others, if you are not prepared to accept the evidence of the accomplice alone. If there is corroboration as to one prisoner, that does not necessarily mean that that corroboration is sufficient corroboration with regard to another prisoner. It is quite unnecessary for me, members of the jury, to tell you at this stage why it is dangerous to convict upon the evidence of an accomplice; it is very obvious to you that an accomplice might himself be one of the perpetrators of the crime; he would know all the details and he would be able to substitute some other person as having committed the offence which he himself had done and to exculpate himself and implicate someone else. So that it is very unsafe to convict upon his evidence unless you could find some corroboration.

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The corroboration may not be direct evidence, but it may be evidence of a circumstantial nature, what is described as circumstantial evidence, that is, evidence of circumstances connected with facts to be proved from which an inference of the existence of that fact can be logically drawn. In regard to these circumstantial bits of evidence, you must be satisfied not only that the circumstances are consistent with the prisoner having committed the act alleged, but also that the facts are consistent with no other rational conclusion than the prisoner is the guilty person. In other words, it is not necessary that you should have an independent witness who gives evidence of everything that the accomplice says, if that were so it would be unnecessary to have the accomplice at all. But his evidence may be corroborated by circumstantial evidence of numerous bits of evidence. Your task is to say, in this case, whether the bits of circumstantial evidence adduced by the Crown are sufficient or are of sufficient importance for you to say that they corroborate the accomplice; or that they tend to show that his evidence is true.

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Finally, members of the jury, I must tell you in these general directions that you are quite at liberty to draw inferences of fact; a fact may be proved, and from that proven fact you may draw a

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reasonable inference. You are not entitled to draw unreasonable or fantastic inferences, but reasonable inferences of fact. If in a given set of circumstances, an inference can be drawn in favour of the Crown equally balanced with an inference in favour of the accused. Those are general directions, members of the jury, I will now turn to the particular facts of the case.

Mr. Walter Cameron, Field Assistant of Rose Hall Estate belonging to Bookers Estate, Ltd., said that on Saturday 9th of March this year, he received pay envelopes to pay workers of the New Dam Scheme, Rose Hall, from Mr. Morris Greaves, Asst. Secretary, at about 10 minutes past 1 o'clock and he went to the Reliance Police Station with the sum of \$4,400, took up Constable Claude Allen in the land rover and proceeded to this New Dam on the estate to pay the workers. In the land rover were the driver, himself, Mr. Cameron, and the Constable Claude Allen, now deceased. He said they proceeded along the public road and turned east into the middle walk dam and passed under the high bridge known as Reliance Number 50 and crossed it, turned south and entered another bridge which, apparently, was not easy to negotiate so they stopped, and as the land rover stopped two men came out of the canefields in front of the land rover just about where there is a small wire fence. The two men were both masked and they wore dark clothing. As they came out they shouted: "hold up, hold up"; the one man had a stick and the other had a single-barrelled shot gun. The man with the stick stood up beside Mr. Cameron and the man with the gun ran around the back of the land rover. Mr. Cameron said he was sitting in front next to the driver and the Constable was sitting behind on the left of the driver. He said he heard a slight movement behind in the land rover and after that he heard a shot fired and someone shouted "take his gun, take his gun." He said he threw the box with the money out of the land rover and the man with the stick picked it up and ran away followed by the man with the gun. He turned around and saw Constable Allen lying in the land rover bleeding from his face. He tried to take away the revolver from the constable because he wanted to fire at the escaping bandits. He said he fired four shots at the escaping, masked and armed men. He said he did not see their faces because they were masked and they wore dark clothing. The men ran directly to the right, turned left into the New Dam direction and ran away. He said the masks were either

dark blue or black and covered the whole of their faces with holes at their eyes; the men were of average height. He then told the driver to drive the land rover to the Rose Hall estate and he sent the constable to the dispensary where shortly after the constable died.

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10 The witness by the name of Boodia - (you remember the old lady who gave evidence) said she was going to the office with another lady, who was not called as a witness - Pangelalaia - on the middle walk dam; she crossed one bridge and came across another. It was about midday time and she saw three men sitting on the bridge; they had nothing in their hands. Then, later, when she was returning she saw four men running on the dam, three had guns and the other had a bag on his shoulder; she could not see their faces, their faces were covered with mud and dirty cloth; they wore short pants.

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20 The Solicitor General was at pains to tell you you should discard the evidence of Constable Charles Henry who was attempting to tell you that Boodia said something about the identification of the men. I do not think it will be necessary for the Solicitor General to ask you so to do; it is obvious from the evidence that that was false, there is no other word to describe it. The woman herself said that she could not recognise the faces of the men, how then could she go to the Police Station and identify them.

30 Solicitor General: To a point of correction, My Lord, the first time she saw the men they had no masks.

40 Judge: Yes, it is true indeed that when she saw three men under the bridge they had no masks but the men she was asked to identify were obviously men who were alleged to have committed the crime. Three men were placed with two other men at the Police Station and she did not identify them. Since it has been brought to my attention, I will read from the evidence she gave:

"I been ah walk ah the middle walk dam and come to a bridge. I cross another bridge, a high bridge, I don't know the name. After me go ah office and coming back I see three men, I don't know who they were; they sat down at the bottom of the bridge; they had nothing

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in their hands. I don't know the three men, I didn't see their full faces; they had on dirty clothes."

That is the evidence she gave: "I did not identify them."

Oscar Carmichael, Asst. Supt. of Police, Number One Division Berbice, said he received certain information at about 1.45 to 2 o'clock and he went to the scene that Saturday afternoon and saw Claude Allen who was then dead. He said he went about 1½ miles from the public road to a field called No. 50 Reliance and saw a pool of blood. A couple of feet away from this pool of blood he said he picked up an empty 16 bore cartridge, a denture belonging to the deceased, and in the field of young canes he took up a paper with some roti, a felt hat and a Pepsi Cola bottle.

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Supt. Carmichael said he returned on the 14th to the scene and re-visited the area in the cane-field and there found some more empty bottles. On the 16th he searched a ricefield at the back of Rose Hall and there he saw a burnt spot as if some cloth had been burnt there; he took up some ashes and he also found a pair of khaki pants. That short pants, Dhajoo says, was one of those that were taken by Surujpaul in the house of Ivan Jagolall, Thursday, 7th of March.

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Now, a young man by the name of Tickchand said he was travelling along the dam - the Middle Walk dam - around half past two and he found a wooden box (which has been identified as the box in which the money was in the land rover) and two cartridges, one loaded and one empty. You will remember he said he spoke to a boy and then he went to the Reliance Police Station where he saw a policeman and spoke to him; he then hurried back to the scene and found another shell - an empty cartridge.

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Dr. Rucinski said that on the 16th of March he performed a post mortem examination with dissection on Constable Claude Allen at about 9 o'clock in the morning, the body was identified by Charles Allen, brother of the deceased. He said the body was in a generally good condition, well-nourished. Externally, he saw:

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- (1) An irregular oval-shaped wound 3" by 2½" with charred edges and blackened surroundings. The wound was situated on the right

shoulder and penetrating down to the shoulder joint;

- (2) An irregular oval-shaped wound 2" by 2½" with charred and blackened edges on the right side of the face. The other organs were normal.

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10 After dissection he saw in the right shoulder two pellets somewhat flattened and embedded deep in the head of the humerus. One other pellet was
20 found in the lacerated tissue of the arm. Secondly, the right side of the face on dissection showed extensive laceration and charring of the soft tissue with comminuted fracture of ascending ramus of the right mandible and fracture of maxilla (fracture of ascending branch of lower jaw and fracture of upper jaw). Several pellets were found also small pieces of wadding. There was no fracture of the base of the skull. The wound was extending under the base
of the tongue. He saw no exit wound. He came to
20 the conclusion that the cause of death was due to shock and haemorrhage following gun shot wounds. The Police took charge of the burial of Constable Allen. He said that in his opinion, the person who fired the shot would have been about 5 to 6 feet away from Allen.

30 Members of the jury, on that evidence, you will be justified in coming to the conclusion that the person or persons, whoever they were, responsible for that fatal shot or shots would be guilty of murder. Your task therefore, is to find out and to come to your conclusion whether these four men were the persons who were on that dam, one or any of them; or whether they counselled, procured, or commissioned any other man or men or someone of them with others to commit that offence; in which case, they will be equally guilty of murder or an accessory before the fact to murder. So, you have to enquire what is the evidence against each and every one of them.

40 The chief witness in the case is the accomplice Desmond Dhajco, and so important is his evidence that it will be necessary for me to recount to you in detail what he said. It has been some days ago since he gave his evidence so I will read to you what he said: "I am eighteen years old", he says.

"I was born at Rose Hall Village and I went to the Roman Catholic School at Port Mourant. In March, 1957, I was living at home, but boarded

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at Ivan Jagolall's home, the No. 5 accused. I recall the week-end Saturday, the 9th of March. I can remember Wednesday, the 27th of February. I was bailed at the New Amsterdam Court-house. My brother bailed me and accompanying him was Ivan Jagolall. Myself and my brother and Ivan Jagolall went to a hotel and had drinks. I left New Amsterdam at 2.30 but before I left Ivan Jagolall told me that he won't be coming home tonight. I went to his home situated at Rose Hall Village, Corentyne. When I got there I saw Surujpaul, the No. 1 accused, Baljit, the No. 3 accused, and Battle Boy, the No. 4 accused. They were sitting under a jamoon tree in the yard where Ivan Jagolall lives. I delivered the message to Ivan Jagolall's wife and I went away. I can remember seeing them the following Wednesday. I met the three accused at the same spot, the No. 1, the No. 3, and the No. 4. They were talking amongst themselves, but I do not know what they were talking about. On Thursday morning I went to Ivan Jagolall's home to take my tea. There is another apartment near where Ivan Jagolall lives. He lives in a rented room of the big house. The other room is not occupied. The door is always kept locked. I saw that door opened and I went in. I saw the No. 1 accused with some clothes. He did not wait for me to ask him anything. He had four short pants and four long-sleeve shirts and four masks. He told me I must keep my mouth shut, that they are going to rob the New Dam payroll money. No one else was in the room, only the No. 1 accused and myself. I said I don't understand what you are talking about. He told me that I must wait till tonight, I am going to know everything. I waited till 11.30 that Thursday night. Then, coming from the back yard I saw Battle Boy, the No. 4 accused, and Baljit, the No. 3 accused. They came to the bottom of the house and the No. 1 accused told them that I am alright, don't be afraid. Battle Boy had a small shoulder bag over his shoulder. Baljit was carrying a large bag. Out of the large bag that Baljit carried he took out three guns. One was a Mosberg gun carrying three loads, one a double-barrel and one a single-barrel. Baljit showed them to Surujpaul. Surujpaul examined them. Battle Boy took out a bottle of rum from the small bag and they started to drink. Battle Boy, Baljit and Surujpaul drank. The No. 1 accused

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went in the room and brought out the clothes. He emptied them out of the bag and showed them to Baljit and Battle Boy. They examined them. They continued drinking. After the rum was finished, the No. 1 accused packed up the clothes in the shoulder bag and Baljit put the guns in his shoulder bag and the three of them went away. On Friday morning I went to Ivan Jagolall's home to take my tea. Surujpaul was lying on the ground in front of Ivan Jagolall's home. I asked the No.1 accused what happened. He told me that they only went to hide the guns, but tonight they will be travelling on New Dam. He told me that they have to leave early tonight as they can't carry the guns in daylight. I went in Ivan Jagolall's home to take my tea. On Friday afternoon about 6.30 I went to Ivan Jagolall's home to take my dinner. Surujpaul was there. Myself and Surujpaul took dinner together up to 7.30. The No.1 accused told me after he was finished eating that he will have to leave now, that himself and Battle Boy and Baljit had arranged to meet where the guns and clothes were hidden, at 8 o'clock sharp. He left and I went away. On Saturday morning I went to Ivan Jagolall's home. I did not see the No. 1 accused there. That was about 8 o'clock. Ivan Jagolall was at home. Myself and Ivan Jagolall took tea together. Ivan Jagolall and I went to Mr. Primo's gambling house. I left the gambling house at 3.30 and I went to Jagolall's home to take my breakfast. About five minutes after we reached Police Constable Van Veildt and two other constables came to Jagolall's home. Van Veildt spoke to Jagolall. Van Veildt went away."

That is up to the afternoon of Saturday, 3.30 o'clock. I will pause there in his evidence.

In the statements from the dock the accused persons have denied being at Jagolall's house and though evidence has been led by them in relation to Friday and Saturday afternoon, no evidence has been led by the defence - and they are not obliged to do so, as I have told you - with regard to Thursday the 7th of March. They have denied being there, but there has been no sworn evidence led with regard to the Thursday, the day that Dhajoo is speaking about, when they were contriving, plotting and planning to rob the pay-roll money.

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Now, Robert Primo, the owner of this gambling house, says that Surujpaul is a person that he had seen six weeks before and he had seen him coming into his gambling house and there was a box there, you remember that the No.1 accused had apparently appropriated to himself and he was seen sleeping on it. He says on this Friday afternoon about 4 o'clock Surujpaul and Jagolall came into his gambling house, as they had done frequently. So, up to that Friday there had been, according to Primo, an association between the No.1 and the No.5. He had seen them come frequently into his gambling house together. At 4 o'clock on this Friday afternoon he says the No. 4 accused, Battle Boy or Karmaia, came to the gate and called Jagolall and they went behind the engine room of the Apollo theatre at Rose Hall, not very far from Primo's gambling house. He did not know what they were saying, but they had some conversation there and Jagolall returned to the gambling house, and the No. 4 went his way. That was the Friday. The Saturday afternoon about half-past one or thereabout this robbery took place. 10

Mr. Primo says that at half past seven he saw the No. 1 and the No. 5 come into the gambling house. He had seen them come at six and about half-past seven he saw them come back. 20

Dhajoo had said that on that afternoon he and the No. 1 accused, Surujpaul, at about six had had dinner and he left at about half-past seven saying that he expected to meet the others at 8 o'clock sharp. He did not say where he expected to meet them, whether at Primo's or behind the theatre or where, but that is what Dhajoo says and Mr. Primo says he saw the No. 1 and the No. 5 at about that time. 30

In the meantime, you will remember, Dhajoo says that Jagolall asked him to accompany him to the back-dam fishing. To use his own words:-

"Jagolall told me that it looks that them boys get through. He will meet them up and he is only carrying the cast net for just so. Jagolall and I went along the Rose Hall backdam. Jagolall told me that we will wait under the sand-koker tree because them boys will pass right here. We waited until 6.30 p.m. Jagolall told me 'Lets go away, that them boys must be shoot thats why they don't come. They 40

will come later'. We went home and we took dinner. Jagolall and myself went back to Primo's gambling house."

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10 In the meantime Constable Van Veildt and other constables had gone to Jagolall's house at about 3.30 and Jagolall was there and told him that he had just come from the gambling house. So after Van Veildt left, Jagolall and Dhajoo not being scared about the Police movements, possibly you may say, or
20 being exceedingly anxious if they were in league with the others to inform the others that Van Veildt had come to his (Jagolall's) house. So, it is a matter for you, members of the jury. As I told you, you are not bound to accept any observations on the facts that I make. It is for you to draw your own inferences. You can accept my observations on the facts, or reject them as you please. It is for you to consider whether Van Veildt, having gone to Jagolall's house, whether you accept the evidence of
30 Dhajoo that at that hour they went to this sand-koker tree and for what purpose because, if Dhajoo is speaking the truth then Jagolall and Dhajoo himself would have been aware that the Police had come to his house checking up on his movements, or they may have thought that this is very suspicious and so they find themselves at the sand-koker tree where, it is alleged by Dhajoo, they would pass. Whether to assist or otherwise it is for you to say.

30 Further, there is the evidence by the man Brusche that he saw them at that spot by the Scots Church. Dhajoo said they waited for some time, from half-past three to half-past six. I think you will say they were very patient and they did not wait anymore.

40 Well, Mr. Primo says that he saw Ivan Jagolall at half-past seven at his house. Though he went to bed around half-past ten to midnight, he saw Surujpaul in the gambling house and he left Jagolall gambling and Jagolall had told him something, that Van Veildt had come to his house and jocularly he was suggesting that Van Veildt had asked him about this robbery and he was telling Primo about it. You may think, members of the jury, that up to this time there has been some association between Surujpaul and Jagolall, but when you read his statement, if you accept the statement of Jagolall, it would not, perhaps, leave that impression.

Now the movements of this Saturday night or the

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early Sunday morning move on apace. According to Jagolall in his statement, he meets up with Surujpaul, not by arrangement but by some surprise. He is being called from the hardware store of Dharry or near Mendonca's shop and you remember the evidence of the giving of the dollars and the exchanging of the clothes. In a moment I shall read to you the statement, but after the giving over or exchanging these clothes you remember Jagolall makes it appear that Surujpaul went away with the changed clothes. Jagolall went home and brought this shirt and this pants and gave them to Surujpaul and Surujpaul who, it was stated, was with a gun and a bag, went away with these changed clothes. But early in the morning again, about 4 o'clock, when one reads the statement it appears that the No. 1 accused arrives somewhat unexpectedly again at Jagolall's house and asked Jagolall to get him a hire car to get to Georgetown. Now, this is not evidence that is being given by Dhajoo. This is evidence which is elicited from the statement given by Jagolall, if you accept the statement as being free and voluntary, for what reason you may ask did Jagolall get out of his bed at four o'clock in the morning to go and get a taxi for Mr. Surujpaul? And it is in his own statement that he went to Dabydeen. You may ask why to Dabydeen, but it appears that Dabydeen's wife is a sister of Jagolall's wife. Well, you may ask yourselves if it is quite legitimate for a man wanting a taxi to go to his relative, or it may be that if anything happens the relative will not speak, but he gives the thirty dollars, a twenty-dollar note and a ten-dollar note, and he gets back five dollars in change. That, of course, is disputed by the defence and I will read to you in a moment what they had to say on that. Dabydeen said that Ivan Jagolall it was who brought this money and he gave back five dollars change to Jagolall. Dabydeen says that he arranged to meet Surujpaul at some place. He picked him up and took him to Georgetown and left him there. That is the early morning of Sunday.

Well, the No. 1 accused finds himself in Georgetown and where does he go? He alleges that he went to look for one Haniff, but Lilian says that he came to see her at the London Hotel and you remember her evidence, that they were having a conversation on the steps. He gave her a message from Jagolall and they heard over the radio the announcement of this robbery and she said that the radio announced three shots and the No. 1 accused said "No, not three shots, but two shots."

The defence has brought a witness, Rafiq Khan, who showed you the slip of paper with the announcement, but that part of it about two shots or three shots was not there at all. It is a matter for you to say whether Lilian is, therefore, speaking untruly, but the point is that the No. 1 denies seeing Lilian at all. She said he came to her the next morning and when she was on the train some where at Mahaica she saw the accused there and they got into a car and they came to New Amsterdam and from New Amsterdam they came to Rose Hall.

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In the meantime, whilst this conversation was going on between Lilian and the No. 1 accused in Georgetown at the London Hotel, apparently Mr. Ivan Jagolall had gone back to his favourite resort, one or either of them. This time it was not Mr. Primo's gambling shop, but to Mr. Samuel Yhap's. Jagolall is there seen by the witness Rupert Smith with nine twenty-dollar notes. It seemed to be a matter of some surprise to Mr. Rupert Smith seeing Jagolall with this roll of twenty-dollar notes. You saw him in the witness-box, how he said he put his elbow down on the table and was eyeing this wad of notes. He gave one the impression that he was so surprised that he went outside and as soon as he went outside the Police arrived. The Police, however, did arrive and there was some money on the table which the accused Jagolall said, of course, were winnings from Yhap and Yhap agreed with that.

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However, in the meantime, Jagolall had passed over to Miss Gladys Kissoon some forty-two dollars containing two twenty-dollar notes. For what purpose it is not quite clear.

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Well, Surujpaul arrives in his taxi. In the meantime Jagolall had been taken along with Gladys Kissoon and Samuel Yhap and others to the Police Station on the Sunday evening and whatever investigations the Police were making at that time however when the car arrived at Rose Hall with Lilian and Surujpaul the Police were there and they took him away to the Albion Police Station. When Surujpaul therefore arrived at the Albion Police Station it is a matter for you now to consider the scene there at the Albion Police Station. This is on the Monday night. Dhajoo had been taken there. Babe, Jagolall's wife had been taken there. Cecil and Jagolall had been taken there the night before. So, when Surujpaul arrives it is not unlikely that having been told by Sub-Inspector Charles of this alleged

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robbery and that he was suspected of being one of the persons, and seeing the other persons I have mentioned in the Police Station the incident referred to by the Police, you may think, is a truthful account, or you may think it is false. It is purely a matter for you, but this is what Sub-Inspector Charles says that Surujpaul is supposed to have said:-

He said:-

"ah so dem say, all ah we four neck rass going bruk, bring me pen and paper and write, me going tell you the whole story. This shirt and pants Jagolall give me to go ah Georgetown"

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Then, the Sub-Inspector said he cautioned the accused. You will remember the story as to how the statement was taken. The number one accused said he signed the statement but he had been beaten badly, he did not give that statement at all. You will remember that evidence, members of the jury, but I shall refer to the evidence dealing with this statement separately. On this point however, you will remember that he says it was not his statement; that he was beaten and that the statement was not a free and voluntary statement at all. However, it is for you to say whether this incident occurred in this way. It may seem to you to be quite truthful, that the sub-inspector came in and saw these persons and told him that he was suspected. It is a matter for you whether he said so or not, but what is a fact is that he did sign the statement. That is what the Sub-Inspector says.

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I was just about to deal with the statement of the number one accused but, members of the jury, I think this is a proper time to take the adjournment. Arrangements have been made for you to have lunch downstairs, here, but I think it may be more convenient when you retire to consider your verdict later that you do so upstairs. It is only necessary for me to warn you again that you must see to it that there is no communication with you or any interference with you whilst you are having your lunch. Will you please return here at 1 o'clock.

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Court adjourned to one o'clock.

On the resumption, the Judge said: Members of the jury, at the adjournment, I was about to deal with the statement to the Police by the number one accused, Surujpaul - the statement R4. You will recall that on the Sunday night Ivan Jagolall was taken in custody to the Police Station but he did not give his statement until 8.30 on the Monday night, 11th March. After Jagolall had given his statement, Surujpaul gave his statement about 11.15 that same Monday night, so that the Police would have knowledge of what Jagolall said in his statement when taking the statement from Surujpaul. This is what Surujpaul says in the statement R4.

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"Week before the last Friday 1st March, 1957, at about half past seven I was taking dinner at Ivan Jagolall house at Rose Hall Village and Chandee, Baljit and Battle Boy come home at Jagolall house. Jagolall tell he wife to gie am money to buy flour, aloo, and salt fish. Jagolall wife go foh the goods, and she mek roti and currie. Jagolall rap up the roti and currie in a parcel and hand one of them outside. About half past nine to ten in the night, Jagolall go under he bed and tek out two long gun. Battle Boy receive the guns from Jagolall and hand all two to Chandee; them been tie up in a piece of bag. Jagolall change he clothes and he, Battle Boy, Baljit and Chandie went out pon the dam together. I ain't see Jagolall them back till Saturday night 2.3.57 about half past eight. When Jagolall came home back he tell he wife the thing nah wok out, is Albion money dem bin foh but too much people deh round the place. On Friday, 8th March, 1957, around 10 o'clock, Chandie, Baljit, Battle Boy and Jagolall went back to rob Albion money at the pay office. Them return about 2 o'clock Saturday morning, 9th March, 1957. When they come back, Jagolall say he mind nah give he to go back foh rob no way. Chandie say he will get a boy in the place. Chandie left soon after and come back with Arokium. Baljit, Battle Boy, Chandie, Arokium, Jagolall and me went to the public road. We had roti and currie, four Pepsi and a big bottle rum. We arrange to go to New Dam, Canje, to rob the payroll money. The gun dem bin hide a bush. When Chandie come back Sunday morning 10.3.57 about 5 o'clock, he and Jagolall begin to gaff, and Jagolall ask Chandie weh he shoot the man and

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Chandie say when I say stick it up the man put he hand pon the revolver foh draw am out and then Chandie and Battle Boy shoot am. Chandie tell Jagolall that dem part up the money at the backdam. Sunday 10.3.57 at about quarter to six in the morning I ask Jagolall to go and walk ah Georgetown, and he lend me this shirt and pants me got on. Me tell he that me go come back either Monday or Tuesday. I join a car at Rose Hall gasolene station and I cross with the first steamer. I lef house with seventeen dollars and I bring back two dollars and some cents change. I buy a yatching boots, a armless singlet and a pocket kerchief, nothing more." 10

Surujpaul
11.3.57

As I told you, that statement is only against Surujpaul himself, if you accept it as a free and voluntary statement. Now, at this stage, I will proceed with the balance of the evidence given by the witness Dhajoo. This is what he says: 20

"Myself and Ivan Jagolall tek breakfast. Jagolall then ask me to accompany him to go fishing at the backdam. Jagolall told me it look like dem boys get through and he will meet them up; we only carrying the cast net for 'just so'. Jagolall and I went along the Rose Hall backdam, Jagolall told me we must wait under the sand-koker tree because dem boys will pass right here. We waited until about 6.30 then Jagolall told me 'let's go away, dem boys must be shoot that is why dem dont come, they will come later.'" We went home and take dinner. Myself and Jagolall went back to Primo's gambling house. That was the Saturday night. Jagolall was gambling, we stayed until after midnight. We left, Jagolall went to his house and I went to my brother's house and slept. On the Sunday I went to Jagolall's house about 8.30 a.m. Then I went to Jagolall's house the Monday morning to take tea. His wife spoke to me. Myself, Cecil, Babe and David went to Albion Police Station to take tea for Ivan Jagolall. As we stood in the Guard Room waiting for the tea wares, I saw Jagolall make some signs with his fingers to Cecil who lives with his step-daughter named Renie. After those signs were made by 30 40

Jagolall, Cecil left the Guard Room in a haste and I followed behind him. When I reached Ivan Jagolall's house I saw Cecil searching Jagolall's mattress. I helped him search the mattress and we found seven bundles of money tied with cloth strings like they are now in Court. Cecil brought this Barlova tin and put the bundles of money in the tin. Myself and Cecil went to the waterside called 'Dutch Pond'. We dug a hole and hid the tin with the money inside. We did not count the money. Myself and Cecil then returned to Ivan Jagolall's home, Cecil brought me a shirt and pants from Ivan Jagolall's bedroom. The shirt and pants belong to the number one accused. Myself and Cecil then place the shirt and pants in a pipe and threw it in the latrine of Jagolall's house (this is the pipe, exhibit G3). This is the basket and net that Jagolall and I went fishing with exhibit H1 and H2. This is the mattress from Jagolall's home, exhibit F, we had cut the twine and emptied the grass out of the mattress. This is one of the four pants, I saw the number one accused with when he brought out the four pants, four masks and shirts. I showed one Mr. Chan, Surveyor where we buried the money in the tin. I also showed Mr. Chan the place where myself and Ivan Jagolall waited on Saturday, 9 of March, 1957."

He was cross-examined by each Counsel as well as by Counsel for the number one accused showing that Dhajoo was not a reliable person and one who was not truthful. It came out in cross-examination that Dhajoo went to Onderneeming Reformatory School and after he remained there a while he came back out and got into some trouble and was charged with robbery with violence. On the 27th February, when these men came to Jagolall's house he was under that charge. He was further cross-examined on the fact that on the 12th March, when he gave a statement to the Police that he had appeared in Court and the charge of robbery with violence was reduced to one of larceny from the person and common assault. It was suggested that he was induced by the Police to give evidence in this matter and that they made certain promises to him, that they influenced him - they told him he was a nice and intelligent boy and, therefore, the charge was reduced. But, according to him, he was later acquitted of those charges. He said that he went to the Police Station on the Monday night, he was taken

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there by the Police and he was questioned by the Police and then he was let free. Then he gave this roaming statement. It was suggested to you that all this was extracted from him from day to day until eventually on the 12th March he gave this story. It was also suggested that he knew that this money had been in Jagolall's house, that he was aware of the robbery, but only after three or four days questioning and being kept remanded in custody that he was inclined to give the Police this story, alleged to be a false one. That is the effect of the cross-examination by Counsel.

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It is for you to weigh what credit you can give to this witness' story and whether you think his evidence has been convincing enough to rely upon it without any corroboration. Certain questions were asked of him by the jury and I think it is my duty to remind you of his answers. He said in answer to the jury:

"When I swear to do a thing I know I must tell the truth but I do not understand the word 'oath'. I did not know any of the accused to own guns. I don't know where Baljit got the three guns from. I was standing near to number one accused while he was examining them, but I did not touch them or examine them. The three kinds of guns were one a 'Mosberg' carrying a magazine to the trigger; the gun case holds three loads, one in the magazine and two in the breach. One carried two barrels and the other carried one barrel."

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You will recall, members of the jury, that Counsel suggested to this witness that he appeared to have quite a good knowledge of guns. I must confess myself that it did appear so to me at the time, that he gave quite an intelligent account of the guns he saw. Anyway, he was asked what bore were the guns and he said he could not say; all the guns, he said, used cartridges, not pellets. He was asked to describe the masks and he described that they were made from the bottom of a long pants cut short. They carried a piece at the top; they had three holes, one small one on the left side and one below and one opposite to the top one big and square. He says they were of different colours, two of them were blue-green in colour, old and fadish and the other was made from old khaki drill about 14 or 15 inches in length.

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In this regard, you will remember Mr. Walter

Cameron said the masks were either dark blue or black with two holes for eyes; but he could not see the men's faces.

In answer to the jury this witness, Dhajoo, said:

"I reached the sixth standard in school. It does not appear that the letter Exhibit 'L' was intended to involve me."

10 Then at the request of the jury, he wrote his name in "joining-up" and script writing which you could see, if you wish members of the jury. He further said to the jury:

20 "I had seen many Mosberg guns, first about 1954, one belonging to a man named Arthur living at Rose Hall. I did not look so keenly to see if there was any writing on the Mosberg gun. I was almost touching the number one accused when he was receiving the guns; the guns were all in one piece. The shoulder bag that Baljit had was about 4 feet 6 inches, no part was exposed. Number four accused, Battle Boy, said that as everything else is as we discussed - Chandee said the van would be passing near the bridge. These guns we will all occupy one each and we could get away quite safe. They started to make jokes, and they started to ask me about my case. Those present were: myself, Battle Boy, Baljit, Surujpaul. Ivan Jagolall was 30 not there, he had gone to the road somewhere. Chandie was not there. None of them said anything about shooting at all or where the shooting should take place."

40 That members of the jury, is his evidence. So, if you regard the number one accused, Surujpaul's statement as being free and voluntary, then it will appear that he was saying that he was among others who arranged to go to the New Dam and hold up the payroll. If you remember the observations made by Mr. Misir, Counsel for the number one accused, that it was not a genuine statement by Surujpaul but that Inspector Charles, having got the statement from Jagolall and also having had what Dhajoo was saying, he falsely inserted into the statement these words: "We arrange to go to New Dam to rob the payroll money", to convict the number one accused. Obviously, if he was aware of the arrangement

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to go to the New Dam and hold up the payroll and take away the money, then it is a matter for you to say whether that which Surujpaul said was free and voluntary - that it was tantamount to a confession; it is a matter for you to say whether you think the Police wickedly inserted anything into this statement and got him, Surujpaul, to sign it. It would certainly be some corroboration of Dhajoo's statement, if you think Surujpaul was saying that he, Surujpaul, at least, arranged to go to the New Dam estate to hold up the payroll.

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Now, what was the statement that the No. 5 accused Ivan Jagolall had made to the Police which Sub-Inspector Charles would have had in his possession? This statement from Jagolall it is also contended that it was not a free and voluntary statement and that he was beaten as well but, members of the jury, you can look at the statement yourselves. It is quite a long and lengthy statement and you must ask yourselves whether you think that the Inspector could have manufactured this in such great detail. This is what Ivan Jagolall said:- Statement Exhibit R3.

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"I am living at Rose Hall, Corentyne, with my reputed wife Baby. I know Samaroo Karmaia, called Battle Boy, of Miss Phoebe. Kissoon, called Baljit of Miss Phoebe is my first cousin. Surujpaul, called Dick, I know him since 1952. Both of us were in Georgetown. About three weeks ago I saw him regularly at Rose Hall Village."

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Primo had said that he had seen him there fairly regularly six weeks before the 9th of March. Jagolall is saying that he has seen him three weeks ago at Rose Hall Village.

"He told me that he is stopping at one Basdeo at Port Mourant. Since we met both of us visited Robert Primo's gamble shop oft-times".

That is also supported by Robert Primo.

"During his stay he goes to the theatre at Rose Hall about three times a week and we will see each other. On Friday the 8th March, 1957, at about 3.30 p.m. Surujpaul met me standing in front of the Apollo Cinema at Rose Hall."

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And I must here remark again that even in the

statement to the Police there is no reference to their whereabouts on the Thursday, the 7th. In the statements from the dock, of course, they merely denied. I will read the statement in a minute, as well as Surujpaul's.

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10 "On Friday the 8th March, 1957, at about 3.30 p.m. Surujpaul met me standing in front of the Apollo Cinema at Rose Hall. I was looking at the posters. He asked me what is happening and I told him that I am looking at the posters. He told me that he will be leaving Port Mourant Sunday night 9.3.57. I asked him if he is making a joke. He said 'No man this aint no joke'. He said 'well boy I got a grade to make between three of we'. I said which three and he said himself, Battle Boy and Baljit. I asked him how he knows Battle Boy and Baljit. He told me that he got to know Battle Boy at Georgetown when he, Battle Boy, went there to hear his appeal case and Battle Boy introduced him to Baljit at Port Mourant since he is here. He said to me 'before I leave Port Mourant to go home I will give you a few cents'. I asked him where they were going to strike and he said 'don't ask me too much questions' ".
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30 Well, here, he apparently is trying to make out that the No.1 accused Surujpaul is preparing to make a grade somewhere in which he, Jagolall, is not taking part and he says before he leaves Port Mourant he will give him a few cents. It does not appear what for or why. Of course, Dhagoo is saying that Surujpaul was staying at Jagolall's place, and, like himself, having tea and probably breakfast at Jagolall's home. He is saying "I am going to give you a few cents."

40 "About half an hour after he left me and went towards Port Mourant walking alone. On Saturday, 9th March, 1957, at about 8 p.m. myself and Desmond, called Castro, of Rose Hall Village went to Primo's gamble shop. I had a dollar to gamble. On our arrival I saw Robert Primo, George Small of Rose Hall, Phagee of Williamsburg, Esar of Rose Hall, Parker of Rose Hall and many other around the gambling table. I paid fifty cents each time and I lost. The game was called card. I remained there about fifteen minutes after and I went home leaving Desmond and the other men. It

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was about 9 p.m. then. I walked west towards Dharry's Hardware Store and I heard someone said 'hey man'. I looked around but saw no one. As I continued I heard 'eh you skunt'. I looked back again and I saw Surujpaul coming out of the passage way east of Mendonca's Spirit shop. By the aid of Dharry's Store light I saw that Surujpaul was wearing a blue short pants and an armless singlet".

Now, he apparently here - and it is a matter for you - is trying to make out that he just met up Surujpaul here, whereas Robert Primo, if we understand his evidence, says that these two have been coming in and out of his place. 10

He goes on:-

"the pants was a long pants and it was cut below the knee".

That is somewhat significant. He is telling the Police about Surujpaul's pants. It seems to be a matter of some importance. He is telling them that the No.1 pants was cut below the knee. 20

"I went up to him and as I reached near he said 'hold on to this lil thing and try know how you use am' ".

Again, it is not shown why he should want to give Jagolall this lil thing. He may be very philanthropic, you may think.

"I saw it was notes and I took it. I checked them and saw three twenty-dollar notes and four five dollar notes in a roll. The notes were new. I asked him where they made the grade. He replied 'man don't ask me no rass question' I said alright and he shook my hands and told me that I am not going to see him anymore in Berbice. The clothes he had on had dry mud and I asked him if he is travelling to Georgetown like that." 30

He seems to be very much interested in No.1's appearance in Georgetown. Why, it is not stated. 40

"He said man try get some sort of clothes and give me man. I told him that I only have two shirts and two pants. Surujpaul

said 'man you talking rass, and you get eighty dollars' ".

Now, apparently he is getting a bit annoyed, having given this man eighty dollars for nothing he does not want to get him some clothes.

"I was wearing a flannel pants and a lemon short-sleeve silk shirt and I asked him if he would wear them."

10 It seems to me that it was a very kind act merely to meet a man behind a shop and, without any knowledge of what he wants, ask him if he would wear his clothes. It may be, gentlemen, you know that these people act like that, but to me it sounds rather strange, but it may not be so to you.

20 Now, he went home and he left Surujpaul there, but if we understand the nature of the evidence by Dhajoo it would appear that Jagolall's home would be just as convenient a place in the room there to change, but Jagolall says that he left him there and went home to change.

"I took off the shirt and pants and I wore this red shirt and blue tropical pants. On my return I met him at the same spot and I gave him the shirt and pants I took off."

30 Is it that he did not want to go to Jagolall's home? He may be seen there. Is Jagolall trying to help Surujpaul to get away quickly, having known all about it? It is a matter for you. It seems, however, that he was being very extremely kind. Nevertheless, he goes to his home and changes.

"On my return I met him at the same spot and I gave him the shirt and pants I took off. He took off the singlet and pants he wore in my presence and he dressed himself in the shirt and pants I gave him and he went to the Public Road".

40 This might be a usual thing to do but, evidently, he wants to go to Georgetown and so he is dressing himself up.

"He walked towards Port Mourant and with the singlet and pants he made in a bundle and I went home."

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The point I want to make here, members of the jury, is that these two men, Jagolall and the No. 1, are sufficiently friendly to either exchange their clothes at Jagolall's home, or Primo's shop or anywhere else, but apparently Jagolall is trying to make it appear that this is a sudden meeting with Surujpaul on the road and is exchanging his clothes without knowing anything of this affair, whereas if he did not know anything about it there is no reason why Surujpaul could not change his clothes in the room in his house or Robert Primo's shop or ask him there to lend him the shirt and pants, but he says that this is done in this surreptitious way. He goes and brings the clothes. 10

"It was ten o'clock then, that is the Saturday night. I did not tell anyone about the money Surujpaul gave me and the conversation we had. On Sunday 10th March, 1957, at about 10 a.m. I went to Primo's gamble shop with the money Surujpaul gave me and I lost two dollars of the amount. I left the gamble shop about 11 a.m. and I went home. I took breakfast at about 11.15 a.m. and I joined the bus to New Amsterdam. I came off at Albion and went to a money lender named Boodhoo". 20

Now, apparently, he has got slightly improved in fortune, having been given eighty dollars by Surujpaul. So, he goes very early the Sunday morning to the money-lender Boodhoo. 30

"He had redeemed some gold jewellery belonging to my wife and I went to pay him but he was not at home. I had to pay him about thirty-seven dollars. I soon after joined a car and I went to New Amsterdam. I spent about fifteen dollars at a house at St. Ann Street where Samaroo lives and at Harry Ganpat boarding house at Main and Pitt Streets. I bought rum both places also beer. I left New Amsterdam about 4.30 p.m. and travelled by a car. On my way back home I stopped again at the money-lender but I did not do any business because his wife was not at home. I waited some time for conveyance and I had to walk some distance. A bus came up and I joined it at Williamsburg. I came off at Rose Hall gasoline station and I went home. It was about 7.15 p.m. I took dinner and about half an hour after I left home to go to the Public 40

Road. On my way I saw Gladys Kissoon. I asked her what she was doing at Rose Hall. She told me that she had come to see her mother. She asked me to buy something at a cakeshop for her. I then asked her if she was hungry and she said yes. I invited her to Yhap's restaurant at Rose Hall and she accompanied me; I bought two plates of beef and rice and I paid Samuel Yhap seventy-two cents."

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10 I pause there, members of the jury, to ask the question whether you think that this Sub-Inspector Charles would have manufactured all these details, or was it a fact that this was a voluntary statement being given by Jagolall in which he is attempting to tell of incidents in relation to the No. 1 accused but making himself appear rather as a disinterested and unknowing spectator.

20 "While eating I saw Johnny Bigaree, Samuel Yhap, an East Indian man from Williamsburg and a red man from Rose Hall gaming with cards. I don't know their names. They were playing for money. I asked them to change the game called Brag to Call Card and they agreed. I put a twenty-dollar note on the table and the East Indian man from Williamsburg had three twenty dollar notes in my twenty-dollar note and I asked Samuel Yhap to change it and he did so".

30 You remember that this bit of evidence was supported by the witness Rupert Smith, who was describing the gambling that he saw happening at Samuel Yhap's place the Sunday night the 10th March.

"I continued to play and the red man, Smith, the East Indian man and the black man lost all their money".

Maybe, if this is so, that is the reason why he Smith possibly went and told the police. All these matters are for you members of the jury.

40 "The game then was between myself and Samuel Yhap. I won Yhap about sixty dollars or more. I had all my money on the table and during the time I was gambling I gave Gladys Kissoon two twenty-dollar notes. It was about eleven o'clock then and I heard a rap at the restaurant door."

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Now, it may be that these gamblers are rather free with their money, but it is not very clear why he gave these two twenty-dollar notes to Gladys. It may be for reasons that do not appear, but he certainly was being quite philanthropic.

"The men who had lost their money peeped and said 'Police'. Samuel Yhap said don't open the door yet until I put away these cards. I saw Samuel Yhap went towards the kitchen with the pack of cards and he returned without them. Yhap picked up his money and I picked up mine and put it into my pocket. One of the men opened the door and three Policemen came in. Constable Chester asked me for the money I had and I took it out of my trousers pocket and put it on the table. He asked me when I got all the money. I told him that I gamble here and won Samuel Yhap. He asked Yhap, who was present, if it was true, and Yhap said yes. He checked the money and gave me back; it amounted to eighty-two dollars and seventy-six cents. The Policeman brought myself, Samuel Yhap and Gladys to Albion Police Station. I made a statement concerning the money in gambling from Samuel Yhap. I did not tell the Policemen that I had given Gladys Kissoon \$42:00 at the gaming table." 10 20

He may have had some reason for not doing so, but there you are, he is saying that he did not tell the Police about it. 30

Constable Bernel Chester, who gave evidence said that when he went at eleven o'clock on this Sunday the 10th March to Samuel Yhap's restaurant he found the accused with \$82:76. Gladys Kissoon had \$42:00 and Yhap had \$24:56. The accused Jagollall goes on in his statement:-

"When I saw Surujpaul on Friday afternoon, the 8th March, 1957, he was wearing a white long-sleeve shirt, dark fawn pants, bare-footed and bareheaded. When Surujpaul changed the clothes he had on and wore the clothes I gave him I saw him go to a paling and pick up something leaning against it in a bag. The stalk was showing through the bag. The barrel was attached to the stalk, but I could not see whether it was a single or double-barrelled gun." 40

Now, he is trying here, rightly, truthfully or

otherwise, to put the gun in the possession of No.1 accused.

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10 "I did not see him with any cartridges. He carried the gun in the bag when he left me. On Saturday 9th March, 1957, at about 5 p.m. I heard at the gamble shop and in the street from persons that the police walking with guns and revolvers as if somebody was robbed. At that time I did not hear that they had a pay-roll robbery and that a Policeman was killed. It was about the time when I went home to sleep at about 9.45 p.m. I heard the true story about the Policeman's death and robbery from listening from passers-by on the dam."

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Now, on the Tuesday at about 12.10 p.m. he gave another statement to the Police and this is what he said:-

20 "That some of the things I told you in my first statement are not true. A few weeks ago I saw Surujpaul at Rose Hall Public Road. I can't remember the day or date. It was about mid-day. He called at me and said 'how man'. I saw him off and on. I asked him what he is doing at Rose Hall. He told me that he came to see Samaroo Karmaia, called Battle Boy. He told me that he is stopping at one Basdeo at Port Mourant. I asked him where he knows Battle Boy and he told me that he knew him in
30 Georgetown. The conversation ended and he told me that he will see me another day. About a week after he came to my home during the day-time. I can't remember the day, date or time."

Well, he is at least saying here that the No.1 accused Surujpaul came to his home.

40 "I asked him how he found where I am living and he told me that he asked persons. I offered him some food and he accepted it. When he was finished he told me that he will like to live at my house because the people quarrelling with him saying that he staying out too late. I told him that my house is not comfortable but if I allow you to live here you got to come early and wake up early because my wife will row with me. I told him

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he can sleep in the kitchen. He slept at me the same night. He drank tea and he left to go for a walk. He returned for breakfast. Since Surujpaul came to Rose Hall he slept at my home for about four or five nights."

Now, members of the jury, if you can possibly think that the police had heard that Jagolall was a little more friendly with Surujpaul than he wanted to make out in his statement, and may have, it is a matter for you to draw the inference. They may have asked him "how is it we hear that Surujpaul was at your house or living there," so he is giving an explanation. It is a matter for you. It is an inference that you may or may not draw. The observations that I make on the first statement seem to indicate that he merely saw Surujpaul one night behind this theatre. Here he is explaining how he slept in his house.

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"Some nights he slept out and whenever I see him he would tell me that he slept at Port Mourant. On Thursday 7th March, 1957, about 9.30 a.m., I asked Surujpaul to go for wood and he and Desmond left for the waterside. Surujpaul brought a green piece of courida wood and Desmond brought a bundle of dry wood. These men returned from the waterside about 12.30 p.m. I gave both of them breakfast. Surujpaul went to the public road as soon as he was finished eating. About 3 p.m. myself and Desmond went to Primo's Gamble Shop at Rose Hall. I met Surujpaul there sleeping."

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Primo seems to have said also that he frequents that place and that he sleeps on a box there.

"I spent about an hour and myself and Desmond and Surujpaul and some other men came to the public road. Surujpaul left the company and went towards Port Mourant. On Friday 8th March 1957 at about 8 a.m. Surujpaul came to my home. He took tea and went away; he returned about 2 p.m. Myself, Babe and Desmond were at home. He took breakfast and when he was finished eating Surujpaul told me that he will like to speak to me and I accompanied him in the yard."

40

Now on that Friday morning Dhajoo says, and this corroborates him that Surujpaul was there as far as that goes, and Surujpaul, you will remember,

told him, Dhajoo, that they only went to hide the guns the night before and tonight they will be travelling on the New Dam. So, Jagolall is saying that on that Friday both Dhajoo and the No. 1 were there in the yard.

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10 "He told me that he has a grade to make between himself, Battle Boy and Baljit. I asked him where they going to make the grade. He said 'man don't ask me that, but before I leave Berbice I am going to give you something that cause me to come to Berbice' ".

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The Crown has asked you to read into that statement that Jagolall knew very well at that time on the Friday what the others were going to do, as stated by Dhajoo. He is, however, saying that the No.1 accused Surujpaul is saying that he Surujpaul is going to make a grade along with Battle Boy and Baljit, but did not tell him where.

20 Now, do you believe that Surujpaul staying in Jagolall's house and Jagolall, being so friendly and hospitable to him, he Jagolall did not know this grade that they were talking about, what they were going to do? The No.1 is saying that the three were going to make a grade. Dhajoo is saying that what Surujpaul said the night before was that they only went to hide the guns. Did Jagolall know of it? This thing, alleged by Dhajoo, is concocted and planned on the Friday in his Jagolall's own house, according to the accomplice Dhajoo, who says
30 that he was always trying to clear Jagolall. It is a matter for you whether you think that this is not part of the clearing of him and that he Jagolall was actually there. He was at the house. He was in the yard when Surujpaul was talking about the grade, but Dhajoo, whenever they were speaking about this New Dam Payroll puts Jagolall away from his house, either on the dam or in the gambling shop.

40 He further said: "I may come back for dinner or I may not." I told him alright and he left. It was about 3 p.m.; he came back for dinner about 6 p.m., he ate and he told me that he will fix me up before he goes away. About half an hour after he went away. Surujpaul had on white long sleeve shirt and a striped blue long pants, barefooted and bare-headed."

Well, members of the jury, Jagolall says that Surujpaul left about 6 p.m., Dhajoo says that he left about 6.30 p.m. Primo says he arrived at about

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7.30 at his gambling shop, having left at 6, but Dhajoo is saying that the number one accused said he would leave then because he had to meet the others - Baljit and Battle Boy at 8 p.m. sharp.

You will remember, Mr. Primo said whilst he said it was about 7.30 that Surujpaul arrived at his shop, between 7.30 and 10.30 he went upstairs and he could not be sure that Surujpaul was there between those hours or not. But you will remember that he had said earlier that at 4 o'clock he had seen Jagolall and Surujpaul going to the shop and Jagolall and the number four accused went behind the Cinema and had some talk. There is no evidence as to what they talked about. You are to examine these facts, members of the jury, and say whether you can rely on the testimony of Dhajoo. It is certainly corroborated by this statement by Jagolall in some respects: Statement Exhibit R5

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"On Friday night 8th March, 1957, myself, Babe and her four-year old child name Dala slept on the same bed. Saturday the 9th March, 1957, at about 6.30 I woke up. I took tea about half an hour after, and soon after I went to the public road. I shaved my hair at Poonsam barber shop at Rose Hall then I went to Primo's gamble shop. I did not see Surujpaul for the whole day. I was at the gamble shop, from the time I left the barber shop at about 3.30 p.m. and went home. Desmond Dhajoo was at the gamble shop when I left. Before I began to eat my food, I saw Police Constable Vanvieldt coming towards my room. I was in the yard washing my face and hands. He was in company with two other men in plain clothes. Police Constable Vanvieldt ask me where I just come from and I told him from the gamble house carried on by one Primo. He told me alright and he and the two men left the yard. About an hour after I went back to the gamble house and I remained there until 5 p.m. when myself and Desmond went to my house for dinner. After taking dinner I asked my reputed wife Babe for a dollar and she gave me."

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Up to this point, members of the jury, he does not agree with Dhajoo as Dhajoo says that after the constable left he and Jagolall went to the Sandkoker tree and remained there until 6.30 to 7, but he is saying, in that statement, that he remained at the

gamble shop until 5 o'clock, then went alone for dinner.

He goes on:

"About 7.30 p.m. myself and Desmond returned to the same gamble shop. I bet fifty cents each time and lost. I spent about 15 minutes watching on, and myself and Desmond went to the public road. I told Desmond that I am going home to sleep, and both of us walked west along the public road. Desmond called in at his home and I continued. As I reached opposite Dharry's Hardware Store, I heard someone say: 'hey man'. I looked back, and continued my way. I heard another call, I looked back and saw Surujpaul in a passageway east of Mendonca's Spirit Shop. I went up to him. He said: 'Look man I cant stay too long, look this lil thing.' I saw that notes were in a coil. I took it and checked it. The money was made up in three twenty-dollar notes, and four five dollar notes. I asked him where he made the grade and he told me: 'man dont ask me too much question.' He shook my hand and said: 'man this is the last you would see me in Berbice."

Number one accused is saying that Jagolall knew about this grade where it was to be made on the Saturday and now he was asking where they were going to make the grade; that he knew all along when using his house as a meeting place where they were going to rob. He goes on and describes the clothes that Surujpaul had on; armless singlet and a blue three quarter pants. It was cut just a little over his knee. He said :

"The clothes Surujpaul wore had dry mud and I asked him if he is leaving Berbice like that. He said 'man try and get some sort of clothes for me.' I told him that I only got two shirts and two pants, those I am wearing, with another shirt and pants I have home. He said 'man you talking about two shirts and pants and you got eighty dollars on you.' I said, "Alright man, this shirt and pants I have on will suit you?" He said: 'Yes'. I then tell him that I going home and come back.'"

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Whilst this is only evidence against Jagolall, Surujpaul has, in his statement, said to the Police that "we arranged to rob the payroll", and if you accept the evidence, having done so, is now leaving Berbice.

He goes on:

"I went home and put on this maroon shirt and grey pants and I gave him the shirt and pants Surujpaul is now wearing. He changed the clothes in my presence and I saw him wrap the pants in the singlet. I asked him what he is going to do with the singlet and pants. He said: 'I know what to do with it.' I saw Surujpaul made a step backwards near to a paling and he picked up a rice bag with something inside. I saw it was a shot gun. I could not see the barrel. I asked him where he was taking it. He said 'Chandee borrow it from somebody at Tain Settlement and lend Battle Boy and he going to carry back to Battle Boy now.' As he made a few steps he stopped and called me. He said 'man if you cannot get a cart to carry me down to New Amsterdam tomorrow morning.' I told him that cars does pass early and he said: 'I want a hire car.' I told him alright I going to get a car for you. He told me that he would come back soon in the morning. I left him and went home, and he went towards Port Mourant with the shot gun and his bundle."

Now, according to Dhajoo, the shirt and the pants and the pipe belong to Surujpaul the number one accused. If Jagolall is saying that the No.1 accused went away how did the shirt and pants get into Jagolall's house? Do you think that Surujpaul exchanged these clothes when he went to Jagolall's? It is a matter for you. It is a matter for you also to consider whether he gave those signs to Cecil that it may be known those pants and shirts were there. Whether that was known by Dhajoo or not is a matter for you to consider. He is saying that Surujpaul went away with them. Surujpaul may have gone to the house where he used to go and left them there or Jagolall may have taken them there. But all that is a matter for you to consider, members of the jury, you don't have to accept my view on the statement.

Continuing, Jagolall in the statement said:

"I told him no, that I would go now to get it."

Why get out of bed at that hour of the morning to go and get a car for Surujpaul. Probably, you might think, Jagolall a very kind fellow, but that is a matter for your consideration. However, he said he did. In his statement from the dock which I will read to you later on, he denies that; he says those who said so are not speaking the truth.

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The statement continues:

"I asked him how much he would pay for the car. He gave me thirty dollars - a ten dollar note and a twenty dollar note. He told me to carry this and find out how much it is to take him to Georgetown. He had a newspaper parcel on a dam near to him, and as we were leaving to go for the car he picked up the parcel. I went in front of him and went to Cecil Dabydin called Tickle, the owner of the car at Rose Hall. I spoke to Cecil Dabydin in the presence of his wife. I told him a man will like to go down to Georgetown and how much he will charge. He said if he alone he got to pay twenty-five dollars. I gave him thirty dollars, and he gave me back five dollars change. I was present when Cecil Dabydin drove the car and took in Surujpaul.

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Cecil Dabydin corroborated this and he says that on that morning he got \$5 change gave it to Jagolall and then he went to pick up the number one accused at some place at Rose Hall where Jagolall agreed he would pick him up. He did not take up the No. 1 accused at his, Cecil Dabydin's house, but it was arranged by Jagolall that Cecil Dabydin, who married the step-daughter of Jagolall, should pick up the number one accused at some spot and Dabydin says that he did pick Surujpaul up and took him to Georgetown. But, of course, the No. 1 accused said in his statement from the dock that he had only paid a fare of \$2.40 and not \$25 or \$30 with \$5 change. That is a matter for you, it is what Jagolall says in his statement.

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Continuing again in his statement, Jagolall says:

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"It left en route to New Amsterdam. I went home back about 5.30 in the morning. I gave back Surujpaul his five dollars in change. Surujpaul never paid me any money for his meals, and the time he lodged at me. Desmond does not pay for food but whenever he win at gambling he would give me money. Whenever Desmond go to fish with my cast net he give me the fish."

Later that day Jagolall makes another statement in which he says: Statement Exhibit R7 10

"Saturday night 9th of March, 1957, at about half past nine when I leave Primo gamble shop at Rose Hall Village, I been with Desmond. He call in home and I continued my way home. When I meet opposite Dharry's store I hear a call 'hey man'. I turn back and watch and I aint see nobody. As I continued to walk away I hear a next call again. I see Surujpaul show heself in the passage. He call me and I went to him. As I reach there he gave me eighty dollars and told me that he left some money home and he will come back any time during the week for it. When I go home my wife Babe tell me that Surujpaul bring some money and leave it here in a cup. I ask she where this money deh and she tell me the money deh in the house. She show me where the money deh, but she aint handle it. I see a Barlova cup in a corner. I open it. I see a quantity of notes and I cover it back with the lid. I ask Babe when Surujpaul gwine come back foh this money. She say any time during the week. I aint go out back that night." 20

Well, members of the jury, what do you make of that? Do you feel you can infer from this evidence that Jagolall knew what these men were going to do on the dam and that he was expecting to keep secret the proceeds of this robbery, if you believe that the proceeds of this robbery went there. Counsel for the No. 1 accused says that this evidence is only against Jagolall: "I ask Babe when Surujpaul gwine come back foh this money, she say any-time during the week. I aint go back out that night. Sunday morning I wake up about 6.30 I forget to tell you about the car story for Surujpaul. I left the money in the Barlova cup. I aint trouble it." 40

That may or it may not be true, that he did not trouble it. But if you accept Dhajoo's evidence, the money found its way into Jagolall's mattress.

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The statement continues:

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10 "Today, Tuesday 12.3.57, I see the Police with the same cup at the station and it had in plenty of notes. Me aint know nothing about what Surujpaul tell me in you presence, that is something he mek from he brain. An afternoon sometime last week, was Friday, the 8th of March, 1957, Surujpaul tell me in the presence of Desmond Dhajoo that himself, Battle Boy and Baljit going to make a raid to-night. I was on Rose Hall dam opposite where I live. It was about half past four to five o'clock in the afternoon."

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20 That is what Jagolall told the Police. Now, I shall read to you what Jagolall told you from the dock. He said:

30 "I am a fisherman living with my wife and child at Rose Hall Village, Corentyne. On Saturday, 9th of March, 1957, I was at Primo's gambling shop from morning till about 3.30 p.m. I went home. Constable Vanvioldt and two other Policemen 'hands' me up with a revolver. They asked me where I was the day and where I just came from. I told them I was at Primo's gambling shop and that I just come home. I left Primo's gambling shop about 6 p.m. the said Saturday. I stayed there until midnight. I never hid money in mattress. I never passed signs to Cecil or Desmond Dhajoo at the Albion Police Station.

40 I win plenty of money from Samuel Yhap and other boys the Sunday night. Desmond Dhajoo lie on me, also Cecil Dabydeen, Earl Brushe and Rupert Smith. They lied on me. I never planned with anyone to rob the New Dam Payroll.

I am innocent of this charge. That is all. I have no witnesses.

This accused said he had no witnesses, but he had called Albert Jairam with regard to the issue of admissibility of the statements to the Police

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which I will deal with in a moment. So, leaving out for a moment the evidence in relation to the admissibility of the statement with regard to the No. 1 and the No. 5 accused, that is the evidence against them.

I may as well, members of the jury, deal with that issue right away. Sub Inspector Charles said that on Monday, the 11th of March, Ivan Jagolall was at Albion Police Station and during the time that he spoke to him Jagolall made a statement but he had no intention of charging him at that time; it was a free and voluntary statement, no promise was held out to him; the statement was not given under caution.

10

Sub-Inspector Charles was cross-examined by Mr. Rawana and he said that Constable Chester who was the investigating Constable brought in Jagolall. That is what Sub-Inspector Charles said:

"I received the information on the morning of the 11th about 9 o'clock. It was the first time I saw Jagolall at the Albion Police Station and at about 5.30 p.m. I removed the number five accused to the upper part of the Station - the upper flat. I did not produce to him any written document. I did not tell him to attach his signature, he did not refuse. One of the Constables did not hold him around the neck while another cuffed him about the body and head and others kicked him. That is not true. Those injuries were not inflicted on my instructions, he was not ill-treated. He was not in a dizzy condition. I did not at this stage say: 'Constable ease him up' and then I asked him to sign his name on the written document. I did not ask the constable to handcuff him behind his back; he was never handcuffed. No one ever threw him on the table and with his back upwards. He was not subjected to a beating on my instructions. No baton was used to beat him in the soles of his feet. I did not at that time question him; he told me his story and I took it down in writing. I did not tell him he must sign this document. His left ankle did not start bleeding; he did not then sign the document because of any promise;"

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Mr. Neil Isaacs gave evidence and said: "On

the night of Monday, the 11th of March, I saw the No. 5 accused with Sub-Inspector Charles. He was not crying. He showed no signs of having been beaten." He said he left there about 9.45 and about 10.45 he returned. He remained until 2 a.m. the next day. The No. 5 accused said nothing to him and did not appear to be in any distress. "I knew that he had given a statement. He was in Police custody," the witness said.

10 The accused himself, Ivan Jagolall, gave evidence and he said that on the 9th of March about 3 p.m. Constable Van Vieldt came to his house. On Sunday, the 10th of March, he was at Samuel Yhap's. Then he was taken away about 11 p.m. He was asked a question by Constable Chester.

He says:

20 "He asked me for a statement and I told him I am capable enough of writing a statement concerning my whereabouts and signing my name to it. He said that he had to get further instructions to find out whether I could write it out myself or not. Several other constables were present and I was left there that night in the guard room. On the 11th Sub-Inspector Charles approached me for a statement about six o'clock. I told him I was capable enough to write my own statement. I did not write any statement that morning. Sub-Inspector Charles saw me again at four o'clock on the Monday afternoon. He said that he wanted me upstairs in the upper flat. I went with him. Other constables were present. Sub-Inspector Charles put me to sit down in the dining-room. He told me that he wanted me to give evidence in the matter. I asked him what matter. He told me concerning the murder. I told him I can't do such a thing. He asked me if I mean what I am saying. He then handed me his pen and told me that he wanted me to sign my name to some documents that he produced. I told him I refused to sign and he told the other policemen to "Open fire". A policeman from the back locked me off from behind round my neck, whilst other policemen were cuffing me with their fists around my body. Constable Van Vieldt was beating me with a baton on the soles of my feet, whilst

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Sub-Inspector Charles was standing near to me telling me that whensoever I make up my mind to sign I must shake my head."

Then, he called one witness, Albert Jairam, who said that he was the dispenser at the New Amsterdam Prison. On the 13th of March the No. 5 accused was in prison. He was admitted that day. He spoke to him. He complained to him.

"I now look at exhibit J.D.W.F. He complained three days after of something to his ankle, but on admission there were no external signs of injuries on him. On the 13th there were no external signs of injuries, but he complained of pains about his body and I gave him a sedative."

10

Dr. James Ferdinand gave evidence for the Crown and he said that on the 14th of March when he examined Ivan Jagolall he saw no injuries to him at all. That is evidence with regard to his statement. It is for you to say whether it was a free and voluntary statement or not.

20

There was evidence similarly given with regard to the Police statement of the No.1 accused, Surujpaul. Dr. Ferdinand says with regard to him that he saw no signs of injury, but the witness Daniels said that he saw superficial scars, scratches, on the right upper arm. You remember that he said that they looked very much like pin scratches.

Dr. Anamanthado and Dr. Panday, you remember their evidence. They examined marks on his body and they thought it was some pigmentation or discoloration, but they could give no indication as to the age of it. They did not think it was any contusion. They examined him on the 7th of May.

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Dr. Hanoman, called by the defence, said that he examined him in the presence of the two doctors on the 7th of May. He saw what he considered to be contusions and he described them to you. The other two doctors, Drs. Panday and Anamanthado, did not agree that they were contusions, but mere pigmentations or discolorations. You saw the marks yourselves on his arm. He claimed that he was badly beaten.

40

Sub-Inspector Charles was recalled, members of the jury. He was asked questions by Mr. Misir, for

the No. 1 accused. It was suggested that the accused was badly beaten and he said:

10 "I did not see Van Vieldt there at the time. I did not see Van Vieldt kick the No.1 accused in his chest. The No. 1 accused did not fall down. Van Vieldt and I did not pick him up and put him on a table. Van Vieldt did not have two revolvers. I did not see Van Vieldt kick anyone in his chest. The No.1 accused did not fall to the ground. I did not kick and stamp him. Elcock did not take a bull pistle from Van Vieldt and beat the accused on his arm and chest."

20 Sub-Inspector Charles denied those allegations. In his depositions Inspector Elcock also denied that the No.1 accused was beaten. It is for you to say, members of the jury, whether you think that the No. 1 accused gave his statement, as I told you this morning, freely and voluntarily when he saw those other persons there in the Police Station or whether you think he was beaten by the Police. It will be open to you to reject the statement entirely. There is no evidence that these prisoners went into the canefields. Nobody saw them in any canefields, but if they did it is more than likely that they would have scratches and it may also appear to you that those scratches on his hand might even have been there as a result of beating prior to this 9th or 10th of March.

30 Dr. Ferdinand did not see any injuries and he said if there were contusions such as would be seen by Dr. Hanoman on the 7th of May he Dr. Ferdinand would have seen them on the 14th and he would have made a note of them. He saw no such injuries. He said that if he had seen those injuries that were shown to him on the accused he would not have made any note of them because they would not be as a result of beating three days before. That was the effect of his evidence and it seems fairly reasonable to me. However, it is a matter for you what you think of it. You are the judges of the facts.

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Now, we move to the case against the third-named accused Kissoon, called Baljit. He gave a statement to the Police. Now, the main witness against the No. 3 accused is the same witness Dhajoo and I have read to you the whole of the evidence given by Dhajoo, but in addition there is the evidence of Sumaire, who said that he saw him about the

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first week of February with this Mosberg gun. It is not necessary for me, members of the jury, to repeat to you all that he said. You heard these things yourselves. You remember that he said that he saw this accused on or about the first week in February with this Mosberg gun. What do you make of his evidence?

The defence has called a witness by the name of Rampersaud, otherwise called Puru Boy, who said that he never saw Sumaire when the accused was walking with any gun. His evidence is very short. He says: 10

"I alone am called Puru Boy. I know Baljit, the No. 3 accused. During February, 1957, I was living at Miss Phoebe district. I know Sumaire. I do not know what is a Mosberg gun. During February, 1957, I do not remember seeing Baljit anywhere. I do not recall seeing Baljit anytime with a gun in February month. The Police came to me about this matter. I spoke to the Police. I never was walking with Baljit in February, 1957, with a gun and seen by Sumaire. That is not true." 20

He was cross-examined by Mr. Farnum and he said: "It would not be true that I carried a gun and showed it to Baljit."

In his statement from the dock the No.3 accused says this:

"I am innocent of the charge. I gave the Police a statement which is read in Court. That statement is true. Perhaps, I made a mistake in the time when the songsters came in. I never planned with anybody to use a loaded gun to rob anywhere. Desmond Dhajoo's evidence is not true. I never went to Ivan Jagolall's home the Thursday night before the robbery." 30

This is what I was telling you, members of the jury. This is the only evidence where he has denied the Thursday night, but there is no evidence on oath about it. 40

"The two scratches the doctor saw on my face I got one by a razor and the baby scratched my face. On the Sunday I was shaving and I got cut by the razor. The statement of Sumaire is

not true. I never asked Sumaire for any load at any time. I never own or handle a Mosberg gun in my life. In the early part of last year I talked to Sumaire at times. Early in February I was going on Tain water-side for wood in company with a man who had a gun. He showed me and I looked at it. I was still walking and I gave him back the gun. Perhaps, that is the time that Sumaire saw me with the gun. I never saw Sumaire. I am innocent of the charge. I never handle a gun in my life. That is all."

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So, he is saying that in February he was walking in company with a man who had a gun. The man showed him the gun and Sumaire may have seen him at that time with the gun, whereas Sumaire says that when going to Tain water-side to shoot "I had my gun, 12 - bore cartridges. On the way I met Baljit, the No. 3 accused, and another boy called Puru Boy. The accused Baljit had a Mosberg gun on his shoulder. He asked me if I could give him a load. I told him the cartridges could not fit his gun because his gun was a 16-bore gun.

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Well, members of the jury, what do you make of it, if Sumaire's evidence is true and he was seen with a Mosberg gun? Does that in any way help you in deciding whether the No. 3 accused was present in Jagolall's house on the Thursday night, the 7th of March planning with the others to rob the New Dam pay-roll money?

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Mr. Haynes, for the accused, has suggested to you that Sumaire was a false witness. Well, that is purely a matter for you. He has asked you to consider the fact that Sumaire having a gun with 12-bore cartridges and the accused having a Mosberg gun that carries 16-bore cartridges, the accused would never ask Sumaire to give him some cartridges for a gun which uses different cartridges.

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Well, there is another aspect that you may consider. Dhajoo says that the man was there with the gun and it is reasonable for you to think that this planning must have taken some days and weeks. Mr. Primo, a witness who appears to me to be truthful - he may not appear to you to be so - said that he had seen the No. 1 accused with others about six weeks before and if these persons were planning to rob this pay-roll money they would have had, it is reasonable to expect, to examine the route that

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these estate men roughly take, to plan how and what hour of the day they should get to the spot. They would have had to plan how they could escape, both themselves and with the booty. They would have had to plan how they could dispose of it and they would have had to plan, if they so intended, to protect themselves, if they were attacked, to have some guns and cartridges and if they knew that the constable was armed I suppose any reasonable man who wants to attack a pay-roll is not going to attack it without being armed, especially when he may have observed that there was a constable with a gun. They would have, if they are lads who do not own guns or licences to use or keep or carry guns, to go and acquire guns and cartridges. So, if it is true that Baljit saw Sumaire on the dam he may have had sufficient cartridges for himself and he may have known or seen that Sumaire's gun uses 12-bore cartridges and if it is true that he had agreed with the others to do this thing with other guns and those other guns use 12-bore cartridges, he may have been asking for cartridges not for himself but for the others as well. So, he sees Sumaire with a 12-bore gun, he asks him for some cartridges. That is a matter for your consideration. Was he asking for cartridges for the Mosberg gun or for the others? Is Sumaire lying, or is he speaking the truth? If he is speaking the truth, why then are they disputing that they were not seen with a Mosberg gun? Whilst it would be insufficient to say that that alone would corroborate the accomplice, still it is a matter for your consideration in dealing with the whole circumstances of this case.

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Now, the Crown called Ramrajie, the witness who said that she was at Nanan's house at ten. You will remember that she gave evidence and she had given a previous statement in which she had said this:

"About eleven o'clock I left Nanan's house for Port Mourant Pay-Office and at that time Baljit did not come to Nanan's house. I went back to Nanan's house about 6 p.m."

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Now, in her evidence before you she made it appear that she had only gone to the shop and she had not left there very long and that the accused was never there from the morning until the evening. It is a matter for you whether she purposely lied here or she made a mistake. You saw the witness, members of the jury.

The Crown also called the songster, a man who himself arrived at nine o'clock and he said that he saw Baljit there for the first time when he went into the kitchen to get some food, but he had not been there before so Baljit might have been there.

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10 The defence called a man named Mansraj who said that he saw the accused by his window at about three o'clock with a baby in his hand. Then the defence called Nanan who said he saw Baljit sometime between three and four o'clock. He also told you about the ceremony of the house opening to which men and women were invited, the women in the day and the men in the night from 9 o'clock. It is a matter for you to consider whether you think Baljit was there or he was not there. But the witness Hansraj said he was passing Baljit's house and saw him looking through his window about three o'clock.

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20 Members of the jury, you have seen the plan that was made by the Surveyor. You will observe on that plan the Apollo Cinema, Dharry's Hardware Store, Primo's gambling house and you will see also the bridge and the route that was taken along the dam. It is suggested that these persons remained about the canefields at night after the offence had been committed around 1.30 in the day and that in doing so they may have received scratches or injuries about their bodies from the canefields. You have heard Dr. Hanoman in his evidence say that the injuries could have been received from a razor or from child scratches. But, gentlemen, do you as reasonable men put much reliance on that type of evidence? These men are labourers - I hope I am not insulting their occupation - and they may have been working in the canefields and receive those scratches from the cane leaves. The mere fact that they did have some scratches at the time they were arrested is neither one way nor the other. In my view, it could be as equally consistent with their having got them before they were arrested. So, I would not place much importance upon this evidence - the possible manner in which they may have got those scratches. You have, in regard to Baljit's case, (to forget Dhajoo's evidence for a moment) George Gangaroo's evidence which is very short. He says he lives at Whim and he knows the number three accused. He says on the Saturday the Policeman got shot he went to Nanan's house opening around 9 p.m., the No. 3 accused arrived there between 10 and 11 p.m.

40 What is more important, members of the jury is where he was on the Thursday night. There is no

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evidence other than the witness Dhajoo that he was in Jagolall's house conspiring with the others. There is no evidence to connect Baljit with being on the dam; nor to connect him with the other bits of evidence which I have related to you. So you will have to rely upon Dhajoo's evidence in respect of the No. 3 accused. If you accept the evidence of the accomplice; if you think it is convincing to do so, then you may convict him. But if you are looking for corroboration of the accomplice's evidence, the possession of a Mosberg gun does not implicate him in the conspiracy to rob the payroll money. It may have implicated him if the offence had been having unlawful possession of firearms or guns. But the evidence to corroborate the accomplice must not only corroborate the accomplice in respect of the commission of the crime but it must corroborate or implicate the accused in taking part in the crime, that is, that he was agreeing to rob the payroll money. That fact that he denied doing so is something, in my view, for you to consider. Certainly, possession of the Mosberg gun is not corroboration of Dhajoo's evidence that Baljit was plotting to use the gun to rob the payroll. It may be very suspicious; it is a matter for you to consider with the other evidence I have been speaking about with regard to Surujpaul and Jagolall. But as a matter of law, if you are looking for corroboration of the accomplice, it does not corroborate the accomplice in the crime of plotting the conspiracy to commit the crime.

Now, members of the jury, in considering the case of Baljit and the case of the No. 4 accused Karmaia, called Battle Boy, which I am about to deal with, if you have to accept the evidence of the accomplice and you feel that they were the ones who plotted this payroll robbery: if you accept the evidence of the accomplice alone, then you may convict either of them as an accessory before the fact. In other words, that they were plotting to rob with arms those who were carrying the estate money. But then you will have to say whether you will convict them upon the evidence of Dhajoo alone and they conspired, agreed and contrived to rob the men. So you may say there is no evidence that they were present on the dam and you cannot convict them of murder but you may convict them, if you accept Dhajoo's evidence, that they were accessories before the fact to murder.

Now, I will deal with the evidence of the No.4

accused. Here, again, you have the evidence of Dhajoo and of Dr. Rucinski. The No. 4 accused made some explanation that the scratches he had were from some padi that the Police allowed to remain in his cell. The doctor said that it was possible for the number four accused to have received the scratches by going through the canefields. Well, again, as far as I am concerned, I do not consider that evidence of much weight since the men could have got the scratches anywhere at all. Even though they might have been in the canefields all night after robbing the payroll, they might have got those scratches anywhere else and, I think as far as this case is concerned, the scratches are of little importance. You may disagree with me in my observations with regard to the scratches.

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The Crown called the witness Paul Jadoo who said that the No.4 accused came and asked him to say that he had worked on the Saturday when the Policeman got killed, whereas the No.4 accused did not work on that day. The Crown had called upon a witness who, in a previous inconsistent statement, told the Police that the No. 4 accused had worked with him on the 9th of March. Three days later he said he had thought it over and changed his statement to say that it was true that the No. 4 accused did not work with him on the Saturday.

Well, first of all, can you rely on the testimony of a person who can change his statement so quickly? A person who changes ones statement like that could not be a person of much credit or a person who could be relied on. However, members of the jury, you may think he is a reliable person, in your view, by his demeanour in the witness box; and you may accept the reason he gave for changing his statement; but it is my duty to warn you that a person who gives evidence of that calibre and then changes his statement could be regarded as one of little credit. You have seen him in the witness-box and, as I say, members of the jury, you may think you could rely on the witness in what he says, but that is a matter for you. It is of importance because if he did ask Baljadoo to say that he worked on the Saturday, you may ask yourselves why did he ask him to say so? Was it because he found himself involved in this robbery and he wanted an alibi? Baljadoo said:

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"On the Sunday after Saturday 9th of March, the number four accused, Battle Boy, came to my

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premises about 8 o'clock and said that if the Police came to me and asked if he was home with me on Saturday I must tell them yes."

"He was not with me on that Saturday," Baljoo said, "he has worked with me from time to time."

When Baljadoo was cross-examined he said he owned a motor car. He also said that the No. 4 accused had worked the previous week Tuesday but he did not work on Saturday the 9th. The witness said he did not have any particular reason for remembering that the accused had worked on the Tuesday. You remember him saying that he was not the type of person to tell a lie, but he admitted that he told the Police a lie and he maintained before you that it is true that Battle Boy came to him on the Sunday morning and asked him to say that he did work on the Saturday before. If he did, is it because he was frightened when he heard that the Police had gone to his place and that he was suspected? Is it because he was afraid of the Police and because of other reasons that he was trying to make an easy way out by having his employer say that he was there? Or was it that he knew he was implicated in this robbery as far as he is concerned, members of the jury, you have to consider whether he was an accessory before the fact; whether you accept Dhajoo's evidence; whether he was there on the night of the planning. There is no evidence that he was seen on the dam.

He called the witness David Karmaia who said that on Friday, 8th March, the accused was at his home about 6.30 p.m., he never left his home after he went home that night. Then Babe otherwise called Papaima said that on the Saturday March 9th, the No. 4 accused went to her house about 8.30 and slept there the whole night.

If you accept the evidence of David Karmaia, then the No. 4 accused could not have been in the canefields the Friday night before the crime was committed. But the relevant time when the crime was alleged to have been committed was 1.30 or shortly after that. Baljit, the No.3 accused, called witnesses to say that he was seen at his house between the hours of 3 and 3.30 p.m. It is a matter for your consideration, members of the jury. I will now deal with the statement the accused, No. 4, Karmaia, made from the dock. This is the statement.

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10 "I am a goldsmith. I am innocent. I did not
go to the New Dam. I know nothing at all of
how the Police was shot. I am not friendly
with any of the accused. I never owned a
gun. I never asked anyone for ammunition.
The Friday night I slept at my brother, David
Karamaia's house. On Saturday morning I did
some work for Baljadoo. Baljadoo spoke the
truth to the Police in his first statement
but he lied against me in the other statement
when he heard that the Police locked me up.
I left Baljadoo's work at 11.30 a.m. the Satur-
day morning and went and had my breakfast. I
came out on the road at 1 p.m. and met a
friend named Rawana and we drank rum until
7.30 p.m. I slept that night at my sister
Babe's home and returned to my brother David
Karamaia's home at 9 that morning - Sunday
20 morning. The Police arrested me and took me
to Reliance Police Station. The scratches
and injury I had on my body I got from cuff-
ing, beating and kicking and dragging at
Reliance Police Station. There were padi
husks and grains on the floor of the lock-up.
I collected a handful of grains and hid it
in the lock-up. I showed the Magistrate in
the presence of Mr. Carmichael. Desmond
Dhajoo is framing me because he heard the
Police suspect me. I did not go to the house
30 of Jagolall. I never made any plans to rob
New Dam Payroll. The evidence of Primo is
not true. My Lord, Gentlemen, of the Jury, I
am innocent. Thank You."

The witness Arjune, for the Crown, said that
the No. 4 accused sometime between the first and
eight of March had met him and asked to lend him
some cartridges but he said he told him that he did
not have any. That was denied by the defence. It
is a matter for you whether you believe him or not.

40 Well now, Mr. Foreman, members of the jury,
with regard to the No. 3 accused, Kisson called
Baljit, he said that the statement which he gave
to the Police is true, and therefore, I have to
read it to you. It is a very long statement, but
we are nearly at the end of the summing-up. This
is the Statement - R2 :-

"I am also called Baljit. I live at Misphoebe
Port Mourant, with my wife Sundar called
Sookdai. She has a child for me name

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Parbatie about seven months old. I am a cane cutter, and worked at Port Mourant estate only. I can do a little gold smith work. My brother Balnain a goldsmith employ me sometimes. I have not worked anywhere for about six months. I borrowed thirty dollars from one Jagdat of Mispheobe about a month ago, and my wife brother gave me twenty dollars. From these amounts totalling fifty dollars, I only have ten dollars left, and I lent it to my brother Vernon of Tain Settlement. 10

On Friday 8th March, 1957, at about 7.30 p.m. myself, wife and child slept in the same room. I got up about 6 a.m. and I found my wife in the kitchen cooking. I took tea at home. I had tea, roti, rice and currie, but I cannot remember what currie my wife had prepared. That was about 7 a.m. I slept on Friday night 8.3.57 with a singlet, (armless) and a cocoa brown long pants. When I was finished taking tea I changed the pants, and wore a khaki drill long pants, a cream shirt, white yatching shoes. I was bare headed. I went to the public road and stood up for a few minutes then I went to Nanan called Razor at Tain Settlement. Nanan had Jandi. I met Nanan, his wife, his mother-in-law and sister-in-law there at the ceremony. I do not know their names. A maraj man was carrying on the ceremony. I do not know his name. I only spoke to Nanan, and he asked me to help him cook food. Myself, Nanan and a strange East Indian man did the cooking. I do not know the man, Nanan should know him. Nanan wore a khaki long pants, but I cannot remember the colour of the shirt. He was barefooted. I do not know what clothing the strange man had on. About 10 a.m. the same day we were finished cooking and I told Nanan that I am going home. I only ate persaud there but not food. I left Nanan's home about 10.30 a.m. and went home walking alone on the public road. I passed many persons on my way home but I do not know them. On my arrival home I met my wife. I took about fifteen minutes from Nanan's home to mine, and a few after I took breakfast. It was rice and greens, no meat or fish. Either shrimps or salt fish was mixed with the greens. About 11.30 a.m. when I was finished eating I played with my child for a few minutes and I slept in my house. I woke up at about 4 p.m. My wife was at home and my uncle Cootchoor had 20
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come to see Balnain. I do not know what time he came. He told me that he came to see my brother Balnain. Cootchoor lives at Mispheobe, Port Mourant. About 4.15 p.m. I left my home in company with Cootchoor for Tain Settlement. Cootchoor called in somewhere and I went to Nanan's house. I do not know who Cootchoor went to at Settlement.

10 On my arrival I saw the same company except the Maraj. Nanan gave me food. It was rice, dholl, English potato, currie and chowry bhagee, also chutney made from mango. I took about fifteen minutes to eat the food, and I began to talk with Nanan and the strange man. The conversation lasted about half an hour, and it was about expecting songsters Saturday night 9.3.57. I did not tell my wife where I was going when I left home in the morning and afternoon hours on Saturday 8.3.57. She knew
20 when I left both times.

After I heard that songsters were coming at Nanan's home I decided to remain and hear them sing. Daddy of Whim was the first songster who came around 6 p.m. He spoke to me and said "Boy you deh yah". I said "yes". He said nothing else. Sambaj, Vernon, Basil Da Costa of Mispheobe and Tain came a few minutes after and we spoke. That was about seven
30 o'clock. The singing began and we started to drink rum and dance. I drank with Vernon, my brother Basil, Nanan and Sambaj for the whole night until 7 a.m. on Sunday 10.3.57. I took tea at Nanan and drank a bottle of rum with Vernon, Basil, Sunny Eton and Nanan and three other men whom I do not know. I left Nanan's house in company with Basil of Port Mourant, Vernon Da Costa, Sunny Eaton of Tain Settlement, Sambaj of Mispheobe and went to Vernon's
40 house. Vernon bought a big bottle of rum. The company except me sub to buy it. I drank about three or four schnapps and I got sweet and lie on a couch. It was about 11 a.m. I dropped asleep, and I woke up about 3.30 p.m. feeling sober. Vernon's wife Jeanette gave me food. I ate it, and I went home in company with Vernon who slept with me. About two o'clock this morning Monday 11th March, 1957, about six policemen came to my home and took me to Whim
50 Police Station.

When I went home on Sunday afternoon 10.3.57 my wife told me that Policemen were

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asking about me and I told why she did not tell them that I was at Settlement. I know Samaroo Karamaia called Battle Boy of Mispheobe. We were never friendly. The last time I saw him was Friday 8th March, 1956, I was at home and I saw him going towards the latrine. We did not speak to each other. He had on a navy blue short sleeve shirt and a grey long pants, no shoes, barefooted. Since then I have not seen him, and I was never in company with him on Saturday 9th March, 1957, at any time.

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Well, in this statement, he has taken care of the period when the robbery occurred on the New Dam. He is saying that during that time he was at home playing with his child, he slept and woke up at 4 p.m.

Now, members of the jury, the No. 1 accused: If you find that the Crown has proved to your complete satisfaction, and you feel sure of it, that he was one of those on the New Dam who fired the shot, or was aiding and abetting others, it does not matter which others, that he was on that afternoon aiding and abetting them to commit this robbery with violence with loaded guns, then it is your duty to convict him. If you have a reasonable doubt in the matter you would acquit him. If you feel sure that the evidence does not prove that he was there on the dam, but that he conspired with others to rob this pay-roll money and to commit this crime of robbery with violence with loaded guns, then you may convict him of the offence of an accessory before the fact to murder. In his case there is corroboration of the accomplice, If you accept his statement, because he is supposed to have said in his statement that he with others were going to rob the pay-roll money.

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With regard to the third-named accused in the indictment, Kisson called Baljit, I have related to you the evidence given by the Crown and the evidence given by the defence. His case depends upon the evidence of the accomplice alone, in my view. Therefore, to convict him of any offence you must feel sure that that is a case where you will accept the evidence of the accomplice alone. If you feel this is a case that you do not require any corroboration of Dhajoo's evidence, that his evidence is worthy of credit, that his evidence is convincing, then you may convict him also of an accessory before the fact to murder - that he along with others conspired to rob with loaded guns this pay-roll money.

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With regard to Karmaia called Battle Boy, the No.4 accused the same applied. You can convict him only as an accessory before the fact if you are prepared to rely upon the testimony of Dhajoo alone, because the accomplice's evidence is not corroborated, as to him, sufficiently in law, in my view. With regard to Karmaia, to convict him of being an accessory before the fact you must accept the evidence implicitly of the accomplice Dhajoo, because there is no corroboration of his evidence sufficiently in law, that is corroboration not only as to the crime itself, but implicating the accused in the commission of it.

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With regard to Ivan Jagolall, the No.5 accused, you have to consider firstly, whether the evidence against him is not only, that he may be an accessory after the fact. If you find that he is merely after the fact that he did not know about it before and merely was assisting Surujpaul after he became aware of the robbery, assisting him by giving him clothes, and assisting him to get a car to go away and assisting in disposing of the money, you will acquit him; because you cannot convict of an accessory after the fact upon this indictment. Then, you go on to consider whether you will convict him of being an accessory before the fact as well. You will have to consider whether the evidence proves to your complete satisfaction that Jagolall was well aware of this plan to rob with violence and with loaded guns, concocted in his house, where the money was eventually found, to rob the pay-roll money on this 9th of March. In his case there is some corroboration of the accomplice in the statement that he gave to the Police. You do not, therefore, have to rely solely upon the evidence of Dhajoo. Dhajoo, for the most part, was trying, in his own words, to clear Jagolall.

I have not, members of the jury, referred to the letter which Dhajoo admitted having written in his own hand but which he has denied that it was his letter or that he was the author of it, but that it was copied: because it has been dealt with in so much detail by Counsel for the defence and by the Crown and further is not evidence in the case against either of the accused. It is only a document tendered in evidence to test the credit of the witness Dhajoo, so I have not read it to you because it mentions the names of others and may further confuse you. It was tendered in evidence merely to test the credit of Dhajoo. It does not implicate

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or is in any way evidence against any of the accused. So, I have not dealt with it. I think you have had enough of it and the exhibit is there for you to read, if you wish.

There is no evidence, therefore, with regard to the fifth-named accused, Ivan Jagolall, that he was present at the scene, so he could not be convicted of being a principal. You will only consider whether in Jagolall's case he is an accessor before the fact. If you think he is merely an accessory after the fact, then you will acquit him and you are not to confuse the evidence dealing with an accessory after the fact with that of an accessory before the fact. The evidence in relation to the statement of Jagolall is only to be used by you in considering whether he knew and was quite aware and was himself part of the conspiracy and one of the conspirators.

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The Solicitor General: My Lord, Surujpaul in his statement here said that he went to town on the 9th of March. I cannot remember whether your Lordship dealt with that part of his defence, the statement from the dock.

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The Judge: Have I not?

Mr. Misir: If the accused said, My Lord, that on the 9th of March he went to Georgetown it is obviously a mistake, because he agreed that Cecil took him down with his wife. That is agreed to. So, if he said the 9th of March, it is obviously a mistake.

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The Judge: Members of the Jury, it has been brought to my attention that I may have omitted to read the statement from the dock made by the No.1 accused. I now propose to read it. That is what he said:-

"I am innocent of the charge. I am from Plantation Uitvlugt. I was living at Rose Hall, Corentyne. I never planned to rob the Rose Hall pay-roll on the 9th March or any other day. I was never present at No. 50 Reliance on the ninth day of March when they say the pay-roll was robbed. I know nothing about the robbery and how the Police got shot. I was informed that my friend Haniff was ill at Pakistan Hotel, Georgetown. On the ninth day of March, 1957, in the morning about quarter to six I went to the public road and I saw

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Cecil Dabydeen with his car on the road. I asked him how far he was going. He said that he is going to Georgetown. I told him that I also going to Georgetown. He told me that he is waiting for his wife. I went to the car and his wife came in the car with a boy, who was already present in the car sitting in the back seat. Myself, Dabydeen and his wife and the boy travelled to Georgetown. As I reached Georgetown I came out of the car and he told me \$2.40 is the fare. I paid him and I went to the Pakistan Hotel, Georgetown. I stayed there until the eleventh day of March, 1957, until quarter past three, then I left for the train station. It is not true that Veerma, called Lilian, said that I went to the London Hotel on the 10th of March, 1957, and it is not true that I went on the eleventh day of March at the London Hotel and it is not true that I told her it is two shots hit the Police and not three. I bought a ticket and I travelled to New Amsterdam. As I reached New Amsterdam I went in a car. I saw Lilian, a lady and two other men came in the car and I travelled to Rose Hall, Corentyne. As I reached Rose Hall the car stopped and Lilian came out before me and went away. I came out after her from the car. I was standing on the public road lighting a cigarette and Mr. Elcock and Mr. Van Vieldt came and arrested me. Mr. Van Vieldt start cuffing me on my jaw and drag me and throw me in the ambulance. He handcuffed me in the ambulance and beat me. Mr. Van Vieldt and Mr. Elcock and some other policemen beat me in the ambulance. About five minutes after I saw the Police brought Lilian into the ambulance and took us to the Albion Police Station. As I reached Albion Police Station they took me into the Court-house. As I reached into the Court-house Mr. Van Vieldt kicked me on my belly and I fell on the ground. He beat me on the ground and kicked me on the ground. Van Vieldt picked me up and placed me to stand against a wall and he turned a chair on my head and two pair of Police long boots on my shoulder hanging and make me stand on one foot. Van Vieldt told me if the boots or the chair fall down he would beat me and kill me. The left side boots fell down on the ground and Mr. Van Vieldt run and start cuffing on my belly. I fell down on the ground and Mr. Van Vieldt took me to a table and showed

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Supreme Court
of British
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No. 43.

Summing up of
Phillips, J.,
29th July 1957
- continued.

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Summing up of
Phillips, J.,
29th July 1957
- continued.

me a whip tied on to a stick. He told me it is a cow pistle, that I know to shoot policeman, but this is going to make me talk or do what they say. They put me to sit on the table and Mr. Charles stood on the left side of me on a chair and Mr. Elcock took the whip from Mr. Van Vieldt and Mr. Charles asked me when I go to Georgetown. I asked him why he asked me that. Mr. Elcock took his hand and hit me about eight times behind my neck and Mr. Charles throw a pen at me and told me to sign my name at the bottom of a sheet. I refused and Mr. Charles held my stones and Mr. Elcock took the whip and beat me on my arm. I said I don't able any more. I going to do what you say and I signed this paper. I know nothing whatsoever written in the paper. It was written by pen. After I finished signing the paper Mr. Elcock took the stick and hunched me on my stomach. He held me on my neck and told me that I have a stiff and hard, handsome neck for the rope. I showed the doctor the marks that I had on my arm and I also showed the Magistrate. They took me into the lock-up with my hands handcuffed. In the morning they gave me a cup of tea and bread on the ground. I asked for some water to rinse my face. No one gave me the water and they took me to Reliance Police Station. They keep me to the guard-room sitting on the bench for the day. They gave me no breakfast. They put me into the lock-up for the evening. The lock-up had no cot or bench to rest on. They gave me tea about half-past six. They put the tea on the ground in the cup and the bread and throw it and kick it and say eat it. About every half hour they beat me and wet the lock-up. I reported to Assistant Superintendent Carmichael in the morning that the Police beat me in the lock-up every half hour and throw water in the lock-up. He told me that he agree with the Police to beat me, but not to wet the lock-up, that he is going to see if the lock-up is wet. It is not true what Desmond Dhajoo said that he knows me at the No. 5 accused and saw me there with a gun. He knows me at Robert Primo's gambling shop. I am informed by my counsel that Haniff died on the first of July, 1957."

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That was his statement from the dock - Surujpaul's statement:

Mr. Prashad: My Lord, may I be permitted to mention something just one point, My Lord.

Judge: Yes.

10 Mr. Prashad: The point, My Lord, is that the Judge should warn the jury that it is unsafe to convict on the uncorroborated testimony of an accomplice. That is a direction which Your Lordship has upon which to advise the jury.

Judge: That is what I have done.

Mr. Prashad: Yes, My Lord, and to point out that it is dangerous to convict on the accomplice's evidence alone; that the jury should not convict unless they are perfectly satisfied with the evidence as a whole in the case. I thought I should bring that to Your Lordship's attention.

20 Judge: Mr. Foreman, members of the jury, as I have told you before, you may convict upon the evidence of the accomplice alone, if you think it is a fit and proper case to do so. I must tell you and warn you that there is no corroboration of the accomplice's evidence in the case against the accused Baljit and the accused Battle Boy. And I should warn you that it is unsafe and dangerous to convict them upon the evidence of the accomplice Dhajoo alone.

30 Members of the Jury, there is litte more which I can say to assist you. You are about to be asked to consider your verdict and you must not allow yourselves to be dissuaded or be influenced in your verdict by reason of any sympathy for the deceased or his relatives. Nor should you have any prejudice against the accused or any of them. You are asked to give your verdict according to the evidence which you have heard.

Please consider your verdict.

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No. 44.

VERDICT.

No. 44.

29/7/57 (sic)

Verdict.

Jury retire 3.50 p.m.

* 29th July 1957.

Jury return 8.45 p.m.

* (sic)

Verdict - unanimous:-

No.1 Surujpaul guilty of accessory before the fact
to Murder.

Not guilty as Principal.

Unanimous:-

10

Kissoon No. 3 not guilty of accessory before the
fact.

Not guilty as Principal.

Unanimous:-

Karmaia No.4 not guilty of accessory before the
fact.

Not guilty as Principal.

Unanimous:-

Jagolall No.5 not guilty of accessory before the
fact to murder.

20

Not guilty as Principal.

Accused Surujpaul (No.1) called upon states: "I am
innocent of this charge."

No. 45.

No. 45.

Sentence.

SENTENCE

29th July 1957.

(sic)

Sentence of death passed in due form of law on
Surujpaul (No.1 accused).

Other persons discharged.

Court adjourned 9 p.m.

Jurymen discharged for further service at this

30

No. 46.

NOTICE OF APPLICATION FOR
LEAVE TO APPEAL

In the Supreme
Court of
British Guiana
Court of
Criminal Appeal

IN THE SUPREME COURT OF BRITISH GUIANA
COURT OF CRIMINAL APPEAL

No. 46.

NOTICE OF APPLICATION FOR LEAVE TO APPEAL

Notice of
Application for
leave to appeal
1st August 1957

FORM VI

CRIMINAL APPEAL ORDINANCE, 1950.

Notice of Application for Leave to Appeal
against a Conviction under Section 5 (c)

10

To the Registrar of the Court of Criminal Appeal.

I, Surujpaul called Dick having been convicted
of the offence of being an accessory before the fact
of murder and being now a prisoner in His Majesty's
Prison at Georgetown (or now living at)
and being desirous of appealing against my said con-
viction do hereby give you notice that I hereby
apply to the Court of Criminal Appeal for leave to
appeal against my said conviction on the grounds
hereinafter set forth.

20

Dated this 1st day of August, 1957.

(Signed)

(or mark)

Appellant.

Surujpaul

Signature and address of
Witness attesting mark

PARTICULARS OF TRIAL AND CONVICTION

- 1. Date of trial 29.7.57 (Sessions 2.6.57)
- 30 2. In what Court tried S.C.C. Berbice.
- 3. Sentence To be hanged by the neck
until dead.

In the Supreme
Court of
British Guiana
Court of
Criminal Appeal

No. 46.

Notice of
Application for
leave to appeal
1st August 1957
- continued.

GROUNDS FOR APPLICATION

You are required to answer the following questions:-

1. If you desire to apply to the Court of Criminal Appeal to assign you legal aid on your appeal, state your position in life, amount of wages or salary, etc., and any other facts which you submit show reasons for legal aid being assigned to you.

2. If you desire to be present when the Court of Criminal Appeal considers your present application for leave to appeal, state the grounds on which you submit that the Court of Criminal Appeal should give you leave to be present thereat. 10

3. The Court of Criminal Appeal 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.

1. I would like to have a lawyer to argue my appeal. I was working at No. 2 Canal Polder, West Bank Demerara as a labourer dragging wood, and my wages were \$2.50 a day. The work was not steady and I have no property.

2. I would like to go to court to hear my case, and I am asking for the same lawyer I had as he knows my case. 30

3. I would like to be present at the final hearing of my appeal.

GROUNDS

I am innocent, and cannot read and write good and would like a lawyer to come and see me and help me with the grounds of the appeal.

No. 47.

FURTHER NOTICE OF APPLICATION FOR
LEAVE TO APPEAL

IN THE SUPREME COURT OF BRITISH GUIANA
COURT OF CRIMINAL APPEAL

Further Notice of Application for Leave to Appeal
against a conviction under Section 5 (c)

In the Supreme
Court of
British Guiana
Court of
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No. 47.

Further Notice
of Application
for Leave to
Appeal.
6th August 1957.

To the Registrar of the Court of Criminal Appeal.

10 I, SURUJPAUL also called Dick, male East Indian,
having been convicted of the Offence of Murder, con-
trary to section 100 of the Criminal Law (Offences)
Ordinance, Chapter 10 and now being a prisoner in
Her Majesty's Prison, at Georgetown, and being
desirous of appealing against my said conviction do
hereby give you notice that I hereby apply to the
Court of Criminal Appeal for Leave to Appeal against
my said Conviction on the Grounds hereinafter set
forth :-

- 20 1. The verdict of the Jury was unreasonable and
could not be supported having regard to the
evidence inasmuch as inter alia:
the evidence of the prosecution did not
establish beyond reasonable doubt the commis-
sion of the offence alleged.
2. The learned trial Judge failed to direct the
jury fully and adequately on the law applica-
ble to the facts of the case on the indict-
ment and otherwise misdirected the Jury.
- 30 3. A specific illegality affecting or which may
have affected the verdict of the Jury was
committed during the course of the trial to
wit:-
(a) the failure of the trial Judge to grant
the application of the jury to visit the
locus in quo which said application was
made by the Foreman on the 24th day of
July, 1957.

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- continued.

(b) certain jurors were sworn in by the Clerk of Court under the direction of the Trial Judge before the challenge by Counsel for defence were made or completed.

4. The learned trial Judge in the course of the trials of the issues of the challenges for cause misdirected the Jury in every trial as to the test to be applied in determining whether a challenge was supported or not by the evidence and thereby good in law. 10
5. The learned trial Judge did not fully and clearly put to the jury the Defence of the Appellant and its relation to the facts of the case.

Surujpaul

Appellant.

1. Date of Trial From 8th July, 1957 to 29th July 1957.
2. In what Court tried. Supreme Court held at Colony House, New Amsterdam, in the Berbice Criminal Assizes. 20
3. Sentence. Death.

GROUNDS FOR APPLICATION

1. I do desire the Court of Criminal Appeal to assign me legal aid.
2. I desire to be present when the Court of Criminal Appeal considers my present application.
3. I desire my case to be presented orally by my Counsel.
I desire to be present at the final hearing. 30

Surujpaul

Appellant.

Georgetown, Demerara.

Dated the 6th day of August, 1957.

No. 48.

JUDGMENTIn the Supreme
Court of
British Guiana
Court of
Criminal AppealBEFORE STOBY, C.J. (Ag.), LUCKHOO and DATE, JJ.

No. 48.

1957: November 8, 9.

S. Misir for appellant.

G.M. Farnum, Solicitor-General with F.W.H. Ramschoye,
Clerk to the Attorney-General, for respondent.Judgment.
8th January
1958.JUDGMENT

10 The appellant Surujpaul was, along with four
other men - Nickram called Chandia, Kissoon called
Baljit, Samaroo Karmaia called Battle Boy and Ivan
Jagolall - indicted of the murder of Claude Allen,
a police constable. At the end of the case for
the prosecution Chandie was, on the direction of
the trial judge, acquitted by the jury. At the end
of the case the jury acquitted the remaining accus-
ed except the appellant who was found guilty of
being an accessory before the fact to murder and
was duly sentenced to death. From his conviction
20 and sentence the appellant has appealed.

The evidence for the prosecution disclosed
that on the 9th March, 1957, Walter Cameron, a field
overseer of Rose Hall Estate, was proceeding to a
place called New Dam in a land rover with the sum
of \$4,400 for the payment of estate workers. With
Cameron in the land rover were the driver and Police
Constable Allen, the latter acting as escort and
armed with a pistol. In attempting to cross a
bridge, the driver brought his vehicle to a stop.
30 Thereupon two masked men, one armed with a stick
and the other with a double-barrelled shot gun came
from a nearby canefield shouting, "Hold up!" The
masked man who was armed with a stick came up to
Cameron who was sitting next to the driver and
Cameron threw the money in the containers onto the
ground. The other masked man armed with the shot
gun went to the rear of the vehicle where P.C. Allen
was sitting. Cameron then heard the sound of a
shot and found Allen lying in the vehicle bleeding
40 from the face. Allen's pistol was still in its
holster. Cameron then saw four masked men running
away from the direction of the vehicle.

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No. 48.

Judgment,
8th January
1958 - continued.

Allen, who was wounded by gun-shot on the left shoulder and the right side of his face, died later that day from shock and haemorrhage resulting from his wounds.

The case against the appellant centred in the main around the evidence of Desmond Dhajoo, a witness for the prosecution, and two statements, one verbal and the other written, alleged to have been made by the appellant to the Police.

Dhajoo testified that on Thursday, 7th March, 1957, he went to the house of the accused Jagolall. In premises near to Jagolall's he saw the appellant with certain articles of clothing and four masks. The appellant told him that he must keep his mouth shut and that "they" were going to rob New Dam payroll money. He then saw the accused Baljit and Battle Boy come up and the appellant told them that he (Dhajoo) was alright and that they must not be afraid. Baljit was then carrying a large bag out of which he (Baljit) took three guns and showed them to the appellant who examined them. The appellant, Baljit and Battle Boy had drinks together and the appellant showed Baljit and Battle Boy the articles of clothing which Dhajoo had earlier seen in the appellant's possession. The appellant placed the clothing in a bag while Baljit placed the guns in that bag. On the following day, 8th March, 1957, Dhajoo said that he returned to Jagolall's home where he saw the appellant and asked him what had happened. The appellant told him that "they" had only hidden the guns and that on that night "they" would travel on New Dam. The appellant further told him that "they" had to leave early that night as "they" could not carry the guns in daylight.

Sub-Inspector of Police Charles, a witness for the prosecution testified that on the 11th March, 1957, he was at Albion Police Station carrying out investigations into the murder of P.C. Allen when the appellant was brought to him by other police officers. He questioned the appellant and then confronted him with the accused Jagolall. He asked Jagolall in the appellant's presence and hearing whether the appellant was the person named Surujpaul he had told him about. Jagolall replied in the affirmative and was taken away. He then told the appellant that on the 9th March at 1.15 p.m. a policeman had been killed on New Dam; that the payroll had been robbed at No. 50 Reliance, and that he suspected the appellant and others had committed

the crime. The appellant thereupon said, "Ah so them say. All a we neck rass go broke. Bring pen and paper and write. I will tell you the whole story. This shirt and pants a Jagolall give me to go to Georgetown." He thereupon cautioned the appellant who made a statement which was taken down in writing by him and read over to the appellant who then signed his name to it in the presence of two other police officers. At the trial objection was taken by counsel for the appellant to the admissibility of the verbal statement on the ground that no caution had yet been administered to the appellant. In evidence, Inspector Charles stated that at that stage he had not decided to charge the appellant with murder but was enquiring into the matter and had no evidence implicating the appellant; that he had no time to caution the appellant before he made the verbal statement and that as soon as he had made that statement he cautioned him.

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The trial judge thereafter ruled that the verbal statement was admissible in evidence. Counsel for the appellant also objected to the admissibility of the written statement alleged to have been made by the appellant on the ground that the statement was not free and voluntary; that it had been made under duress; and that the appellant was not the maker of the statement. After evidence had been taken on this issue, the trial judge admitted the statement on evidence.

30

In this written statement, Exhibit "R4", the appellant stated inter alia that he arranged with Chandie, Baljit, Battle Boy and Jagolall (the other accused) to go to New Dam, Canje, to rob the payroll money and that the guns had been hidden in a bush; that on the morning of the 10th March, in his presence and hearing Jagolall asked Chandie why he shot the man and that Chandie said that when he held up the man he placed his hand on his revolver, whereupon he (Chandie) and Battle Boy shot the man.

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Mr. Misir, Counsel for the appellant, submitted that a specific illegality affecting or which may have affected the verdict of the jury was committed during the course of the trial because the trial judge failed to grant an application by the jury to visit the locus in quo.

In connection with this issue, Counsel for the appellant and the Solicitor-General with leave of the Court submitted an agreed statement which is in the following terms:-

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- (a) A plan of the relevant area had been tendered by the prosecution through a Surveyor and certain places thereon had been identified and certain routes indicated.
- (b) Subsequent to the tendering of the plan and towards the end of the trial the jury through their foreman expressed a desire to visit the locus in quo. The learned trial judge stated that he would consider their request at a later stage. 10
- (c) Subsequently the learned trial judge informed the jury that he did not consider that there was any necessity to visit the locus in quo.

The Court, acting under the provisions of rule 14 of the Criminal Appeal Rules, Chapter 8, requested the trial judge to furnish to the Court his report on the point raised. This the trial Judge has done. He has stated among other things that:- 20

- (i) The Plan admitted in evidence was detailed and explicit. There were also photographs.
- (ii) In this case there was no serious dispute as to the fact of the robbery having been committed by masked men, or that the deceased had been shot in pursuance of the crime of robbery. The main issue was the acceptance or rejection of the evidence of an accomplice. 30
- (iii) In his judgment, this was not a case where a view of the locus in quo would have assisted in any material way the jury in the proper determination of the issues involved, and he so informed the jury.

Provision for a view by the jury of a place connected with the cause is made by section 45 of the Criminal Law (Procedure) Ordinance, Chapter 11. Under the provisions of sub-section (i) of that section - 40

"Where in any case it is made to appear to the Court or a judge that it will be for the interests of justice that the jury who

are to try or are trying the issue in the cause should have a view of any place, person, or thing connected with the cause, the Court or judge may direct that view to be had in the manner, and upon the terms and conditions, to the Court or judge seeming proper."

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10 Obviously the object of a view is to enable the jury to appreciate certain aspects of the evidence which may not be clear to them without a view. A juror may wish to see for himself the density of the cane cultivation and thereby assess the chances of an accused person being identified while escaping through the cultivation. There are other examples which could be given. Here, however, a view could serve no useful purpose. The appellant was never on the scene; whatever part he played took place at a house some distance from the scene; nor could a view assist a jury in deciding whether
20 his confession was true or not.

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continued.

We are of opinion that the judge rightly exercised his discretion in refusing to permit a view.

Counsel for the appellant also submitted that a specific irregularity affecting or which may have affected the verdict of the jury was committed at the trial in that certain jurors were sworn by the direction of the trial judge before challenges by Counsel for the defence were made or completed.

30 Under the provisions of section 42(i) of the Criminal Law (Procedure) Ordinance, Chapter 11, as soon as the jury is chosen the jurors shall be counted in the box by the Registrar, who shall at once proceed to swear them. The provisions of that subsection contemplate that a full jury of twelve should be drawn before any of the jurors is sworn.

40 The Solicitor-General stated and Counsel for the appellant agreed that what took place was that after certain peremptory challenges and challenges for cause had been made, and the latter tried, there were about six jurors remaining unchallenged in the jury box. These were then sworn on the direction of the judge and the remaining six jurors were sworn after other peremptory challenges had been made and challenges for cause tried in relation to the remaining jurors drawn.

Counsel for the appellant stated that his sole

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complaint was that he was not afforded an opportunity of challenging the juror Robert Matheson, it having come to his knowledge after the full panel had been sworn, that Matheson was a rural constable, and though not a person exempt from serving as a juror, was likely to be biased against the accused persons.

It follows from Counsel's statement that even if the provisions of subsection (1) of section 42 of the Criminal Law (Procedure) Ordinance, Chapter 11 had been observed, he would not have been in a position to challenge juror Matheson before the swearing of the jury was completed, and indeed Counsel concedes this.

10

We were informed by Counsel, though it is not apparent from the record, that Matheson was in the second batch of six jurors sworn. If that be so, Counsel had ample opportunity to challenge him before he was sworn. On the other hand, if he was in the first batch, Counsel ought not to have stood by without demur and allowed him to be sworn although he had not exhausted his peremptory challenges.

20

It is to be observed that in the local case of Dick v. The Queen (1955) (unreported) but commented on in the "Law Times" of 4th March, 1955, at page 109, the Privy Council refused an application for leave to appeal against a conviction for murder where one of the grounds was that it had been discovered after the jurors had been sworn that one of the jurors was related to a witness for the Crown.

30

We are of the view that although the provisions of section 42 (1) of the Criminal Law (Procedure) Ordinance, have not been observed in this case, in so far as the appellant is concerned, failure so to do could not and did not in any way affect the result.

Counsel for the appellant further submitted that the trial judge failed to direct the jury fully and adequately on the law applicable to the facts of the case on the indictment and otherwise misdirected the jury.

40

Counsel contended that the trial judge should have directed the jury that the appellant could not be found guilty as an accessory before the fact to murder where the other persons charged with the commission of the crime and whom the prosecution

alleges were acting in complicity with the appellant, are themselves acquitted in the indictment.

In this connection, reference should be made to the provisions of sections 24 and 25 of the Criminal Law (Offences) Ordinance, Chapter 10 -

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10 "(24) Everyone who becomes an accessory before the fact to any felony, whether it is a felony at common law or by virtue of any statute for the time being in force, may be indicted, tried, convicted, and punished in all respects as if he were a principal felon."

20 "(25) Everyone who counsels, procures, or commands any other person to commit any felony, whether it is a felony at common law or by virtue of any statute for the time being in force, shall be guilty of felony, and may be indicted and convicted, either as an accessory before the fact to the principal felony together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon has or has not been previously convicted, or is or is not amenable to justice, and may thereupon be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished."

30

It is clear therefore that on an indictment for murder, a person, though an accessory before the fact to that murder, may be indicted, tried, convicted and punished in all respects as if he were a principal felon and whether or not the principal felon has or has not been previously convicted or is or is not amenable to justice.

40 It was argued, however, that although indicted as a principal felon he was convicted of being an accessory, and as the persons mentioned in his confession as principals were acquitted, he could not have procured them to commit the crime.

The Solicitor-General submitted that the acquittal of the other accused forms no bar to the conviction of the appellant as accessory before the

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fact to murder by those other accused. He contended that the jury had been properly directed to consider the case of each accused person separately taking into consideration only the evidence legally admissible in respect of each accused. In respect of the appellant, the jury had for consideration the verbal as well as signed statement alleged to have been given by the appellant to the Police and the evidence of the witness Dhajoo whom the trial judge rightly asked the jury to consider an accomplice. The Solicitor-General further contended that the trial judge gave the jury full and adequate directions in relation to their approach to the evidence admissible in respect of the appellant. The Solicitor-General submitted that the jury must have come to the conclusion that on the legally admissible evidence in respect of the appellant he was an accessory before the fact to murder committed by the other accused mentioned by him in his signed statement in pursuance of an agreement to commit the crime of robbery with violence. Further, the jury must have come to the conclusion that they were not satisfied on the legally admissible evidence in relation to the other accused that the Crown had discharged the burden of proof against those accused bearing in mind that the case against each accused person was to be considered separately.

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The Solicitor-General drew an analogy with the fact that a respondent may be found guilty of adultery with a co-respondent in a divorce petition while the same co-respondent is found not guilty of adultery with the respondent

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We are in entire agreement with the submissions of the Solicitor-General on this ground. By virtue of the Ordinance the appellant alone could have been indicted with committing the substantive felony. After his conviction the principals could then have been indicted. If they were acquitted the conviction of the accessory could not thereby be impeached. (R. v. Wallace (1841) 2 Mood C.C. 200).

40

We fail to see how the guilt or innocence of the accessory could depend on the stage at which the principal is acquitted though we appreciate that where the evidence shows not only that the principal is not guilty but that no crime has been committed the position would be different. We are accordingly of the view that in the circumstances of this case it was quite competent for the jury to have returned the verdict they did against the appellant, and that the trial judge gave the jury

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full and adequate directions on the law applicable to the facts of the case in respect of the appellant. This disposes also of the further ground of appeal that the verdict of the jury was unreasonable and could not be supported having regard to the evidence.

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10 Counsel for the appellant also submitted that the trial judge did not fully and clearly put to the jury the defence of the appellant and its relation to the facts of the case.

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continued.

Counsel contended that when the trial judge read to the jury the statements made by the accused Jagolall in dealing with the case as it affected that accused, he unduly stressed Jagolall's association with the appellant; further that the defence of the appellant was put as an afterthought by the judge.

20 It seems clear to us that the trial judge was under the impression that he had already dealt with the appellant's statement from the dock when the Solicitor-General mentioned that he could not remember whether the judge had dealt with the appellant's statement from the dock. The judge then read the appellants statement from the dock, verbatim. In that statement the accused set up the defence of an alibi and related details of his ill-treatment at the hands of the Police. Previous to this, the trial judge had dealt with the evidence of the witnesses called by the appellant and had told the
30 jury -

40 "In fact, the prisoners' defence is what is known as an alibi. They are denying that they were on this New Dam on the ninth of March and say that they were elsewhere, and, therefore, could not commit this offence. So, you will examine also their defence and the witnesses they have called. If, by the witnesses they have called, or by their cross-examination of the Crown witnesses, they establish that they were not there then, of course, you will acquit them, or if you are in any doubt about it you will also acquit them, one or either of them. If you do not believe their defence - when I say their defence I mean each individual prisoner, his or their defence - then the case does not end there. You have to go back and consider the case for the Crown and come to your conclusion whether the Crown

In the Supreme Court of British Guiana Court of Criminal Appeal

No. 48.

Judgment. 8th January 1958 - continued.

has proved to your complete satisfaction that the offence has been committed and that he or they have committed it."

We are of the view that the appellant's defence was adequately put to the Jury.

At the hearing of this appeal counsel for the appellant abandoned one further ground of appeal, that the trial judge in the course of the issues of the challenges for cause misdirected the jury in every trial as to the test to be applied in determining whether a challenge was supported or not by the evidence and therefore good in law.

10

At the hearing of this appeal, Counsel for the appellant sought the Court's leave to amend the grounds of appeal by the addition of certain other grounds. Leave so to do was refused.

In these proposed amended grounds exception was taken to the fact that the trial judge had permitted the Registrar to ask the foreman of the jury whether or not the appellant was guilty as an accessory before the fact to murder.

20

A further ground sought to be introduced was that "inadmissible evidence was wrongly admitted by the learned trial judge in that the weight of evidence indicated that the statement of the prisoner Surujpaul was not free and voluntary."

Lastly, it was sought to be shown that inadmissible evidence was wrongly admitted by the learned trial judge in that the verbal statement purported to have been made by Surujpaul to Sub-Inspector Charles was made without any caution being administered.

30

In our view the first two of the proposed amended grounds are unarguable and devoid of merit. Having regard to what appears on the record, the third proposed ground is misconceived and also without merit. For those reasons we declined to give appellant's counsel leave to amend the grounds of appeal.

The appeal is dismissed and the conviction and sentence affirmed.

40

KENNETH S. STOBY
Puisne Judge.

J.A. LUCKHOO
Puisne Judge.

W.A. DATE
Puisne Judge.

No. 49.

In the
Privy Council

ORDER IN COUNCIL GRANTING SPECIAL LEAVE
TO APPEAL IN FORMA PAUPERIS

No. 49.

L.S.

AT THE COURT AT BUCKINGHAM PALACE

Order in Council
granting Special
leave to Appeal
in forma
pauperis.
7th May 1958.

The 7th day of May, 1958.

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

LORD PRESIDENT

MR. MACLEOD

MR. SECRETARY MACLAY

SIR HARRY HYLTON-FOSTER

10 WHEREAS there was this day read at the Board a
Report from the Judicial Committee of the Privy
Council dated the 15th day of April 1958 in the
words following, viz :-

20 "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 Suruj-
paul called Dick in the matter of an Appeal
from the Court of Criminal Appeal British
20 Guiana between the Petitioner and Your Majesty
Respondent setting forth (amongst other matters)
that on the 8th July 1957 the Petitioner to-
gether with four others namely (1) Nickram call-
ed Chandie (2) Kissoon called Baljit Samaroo
(3) Karmaia called Battle Boy and (4) Ivan
Jagolall appeared before the Criminal Assizes
for the County of Berbice in British Guiana
charged with the murder on the 9th March 1957
of one Claude Allen: that on the 29th July
30 1957 the Court found the Petitioner not guilty
as a principal to the said murder but guilty
as an accessory before the fact and found the
Petitioner's co-accused (other than Nickram
called Chandie who had earlier been discharged)
not guilty and the Petitioner was sentenced to
death: that the Petitioner appealed to the
Court of Criminal Appeal of British Guiana but
on the 8th January 1958 the Appeal was dis-
missed; And humbly praying Your Majesty in
40 Council to grant the Petitioner special leave
to appeal in forma pauperis from the Judgment
dated the 8th January 1958 of the Court of
Criminal Appeal for British Guiana or for fur-
ther or other relief:

In the
Privy Council

No. 49.

Order in Council
granting Special
leave to Appeal
in forma
pauperis.
7th May 1958
- continued.

"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 Petitioner to enter and prosecute his Appeal against the Judgment of the Court of Criminal Appeal British Guiana dated the 8th day of January 1958 in forma pauperis: 10

"AND THEIR LORDSHIPS do further report to Your Majesty that the authenticated copy under seal of the Record produced by the Petitioner 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." 20

HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her 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 the Colony of British Guiana for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly. 30

W.G. AGNEW.

Exhibits"R.1" - STATEMENT OF SAMAROO KARMAIA

"R.1"

Statement of
Samaroo Karmaia.
10th March 1957

BRITISH GUIANA POLICE FORCE

, Reliance Police Station

10th March, 1957.

STATEMENT OF SAMAROO KARMAIA

I live at Mispheobe, Port Mourant with my brother David Karmaia, who has a wife called Lilbetty. She has no children. On Friday night 8th March, 1957, I slept at David Karmaia's house in the hall. I do not know the time I went to bed. I woke up about 7 a.m. or 8 a.m. the following day. I cannot say if I saw my brother David Karmaia or my sister-in-law Lilbetty. I took tea there, but I cannot remember what was prepared. I left my brother's home about 9.30 a.m. I had seen my sister-in-law Lilbetty and my brother before I left. I did not have any conversation with them. I just said good morning. On my way to Baljadoo's home at Mispheobe, Port Mourant I passed many persons, but I did not speak to anyone. Baljadoo called me, and when I went he asked me to make up the chisels, and bellows, and he told me to start to work with him on Monday 11.3.57. I sharpened the tools, and put a piece of chamois leather on the bellows. I finished the work about 11.30 a.m., and I went back to David Karmaia's home and took breakfast. I dished it out, but I cannot remember what was prepared.

10

20

I cannot remember if I met my brother or sister-in-law at home. The house was open when I went for breakfast about mid-day.

30

I remained at David Karmaia's home until 1.30 p.m. and I went to the public road. I rode a bicycle east going towards the direction of Tain public road. I did not speak to anyone. While passing George Rawana's home, George Rawana called me and I jumped off. He asked me for a drop to Port Mourant Pay Office and I towed him to the office. It was between 1.30 p.m. and 2 p.m. when I reached the office. I returned home with the bicycle soon after. I left it home and walked back to Port Mourant Pay Office where I met George Rawana. I saw George Rawana with a big bottle of rum in his

40

Exhibits"R.2" - STATEMENT OF KISSOON

"R.2"

Statement of
Kissoon.
11th March 1957.

BRITISH GUIANA POLICE FORCE

Whim Police Station
11th March, 1957.

STATEMENT OF KISSOON,

I am also called Baljit. I live at Mispheobe Port Mourant with my wife Sundar called Sookdai. She has a child for me name Parbatie about seven months old. I am a cane cutter, and worked at Port Mourant Estate only. I can do a little gold smith work, my brother Balnain a goldsmith employ me sometimes I have not worked any where for about six months. I borrowed thirty dollars from one Jagat of Mispheobe about a month ago, and my wife brother gave me twenty dollars. From these amounts totalling fifty dollars, I only have ten dollars left, and I lent it to my brother Vernon of Tain Settlement. 10

On Friday 8th March, 1957, at about 7.30 p.m. myself, wife and child slept in the same room. I got up about 6.00 a.m. and I found my wife in the kitchen cooking. I took tea at home. I had tea, roti, rice and currie, but I cannot remember what currie my wife had prepared. That was about 7 a.m. I slept on Friday night 8.3.57 with a singlet, armless and a cocoa brown long pants. When I was finished taking tea I changed the pants, and wore a khaki drill long pants, a cream shirt, white yachting shoes. I was bare headed. I went to the public road and stood up for a few minutes, when I went to Nanan called Razor at Tain Settlement Nanan had (Jandi). I met Nanan, his wife, his mother-in-law and sisters-in-law there at the ceremony. I do not know their names. A maraj man was carrying on the ceremony. I do not know his name. I only spoke to Nanan, and he asked me to help him cook food. Myself Nanan and a strange East Indian man did the cooking. I do not know the man, Nanan should know him. Nanan wore a khaki long pants, but I cannot remember the colour of the shirt. He was bare footed. I do not know what clothing the strange man had on. About 10 a.m. the same day we were finished cooking and I told Nanan that I am going home. I only ate persaud there, but not food. I left Nanan's home about 10.30 a.m. and I went home 30 40

Exhibits

"R.2"

Statement of
Kissoon.
11th March 1957
- continued.

walking alone on the public road. I passed many persons on my way home but I do not know them. On my arrival home I met my wife. I took about fifteen minutes from Nanan's home to mine, and a few after I took breakfast. It was rice and greens, no meat or fish. Either shrimps or salt fish was mixed with the greens. About 11.30 a.m. when I was finished eating I played with my child for a few minutes and I slept in my house. I woke up at about 4 p.m. My wife was at home, and my uncle Cootchoor had come to see Balnain. I do not know what time he came. He told me that he came to see my brother Balnain. Cootchoor lives at Mispheobe Port Mourant. About 4.15 p.m. I left home in company with Cootchoor for Tain Settlement. Cootchoor called in somewhere and I went to Nanan's house. I do not know who Cootchoor went to at Settlement.

On arrival I saw the same company except the maraj. Nanan gave me food. It was rice, dholl, English potato, currie and chowry bhagee, also chutnees made from mango. I took about fifteen minutes to eat the food, and I begun to talk with Nanan and the strange man. The conversation lasted about half an hour, and it was about expecting songsters Saturday night 9.3.57. I did not tell my wife where I was going when I left home in the morning and afternoon hours on Saturday 8.3.57. She knew when I left both times.

After I heard that songsters were coming at Nanan's home I decided to remain, and hear them sing. Daddy of Whim was the first songster who came around 6 p.m. He spoke to me and said "Boy you deh yah" I said "yes". He said nothing else. Sambaj, Vernon, Basil Da Costa of Mispheobe and Tain came a few minutes after, and we spoke. That was about seven o'clock. The singing begun and we started to drink rum and dance. I drank with Vernon my brother Basil, Nanan and Sambaj for the whole night until 7 a.m. on Sunday 10.3.57. I took tea at Nanan and drank a bottle of rum with Vernon, Basil, Sunny Eton and Nanan and three other men whom I do not know. I left Nanan's house in company with Basil of Port Mourant, Vernon Da Costa, Sunny Eaton of Tain Settlement, Sambaj of Mispheobe and went to Vernon's house. Vernon bought a big bottle of rum. The Company except me sub to buy it. I drank about three or four schnapps and I got sweet and lie on a couch. It was about 11 a.m. I dropped asleep, and I woke up about 3.30 p.m. feeling sober. Vernon's wife Jeanette gave me food. I ate it, and I went home

Exhibits

"R.2"

in company with Vernon who slept with me. About two o'clock this morning Monday 11th March, 1957, about six Policemen came to my home and took me to Whim Police Station.

Statement of
Kissoon.
11th March 1957
- continued.

When I went home on Sunday afternoon 10.3.57, my wife told me that Policemen were asking about me, and I told why she did not tell them that I was at Settlement. I know Samaroo Karmaia called Battle Boy of Misphebe. We were never friendly. The last time I saw him was Friday 8th March, 1957. I was at home and I saw him going towards the latrine. We did not speak to each other. He had on a navy blue short sleeve shirt, and a grey long pants, no shoes, barefooted. Since then I have not seen him, and I was never in company with him on Saturday 9th March, 1957 at any time.

10

Kissoon 11.3.57

Witnesses:

1. E. Charles Det. S.I. 4573
2. N. Ramjattan Det. Const. 5353
3. H.E. Chester D.C. 4733

20

Taken by me at Whim Police Station at 12.30 p.m. on Monday 11.3.57 I read it over to Kissoon who said it is true and correct and signed his name in our presence.

E. Charles Det. S.I. 4573
11.3.57

"R.3"

"R.3" - STATEMENT OF IVAN JAGOLALL

Statement of
Ivan Jagolall
11th March 1957

BRITISH GUIANA POLICE FORCE

Exhibit "R3"
A.J.S.
Magistrate
2.5.57

Albion Police Station
11 March, 1957.

30

STATEMENT OF IVAN JAGOLALL,

I am living at Rose Hall, Courantyne with my reputed wife Baby.

I know Samaroo Karmaia called Battle Boy of Misphebe. Kissoon called Baljit of Misphebe is

my first cousin. Surujpaul called Dick I know him since 1952.

Exhibits

"R.3"

About three weeks ago I saw him regularly at Rose Hall Village. He told me that he is stopping at one Basdeo at Port Mourant. Since we met both of us visited Robert Primo's gamble shop oftentimes.

Statement of
Ivan Jagolall.
11th March 1957
- continued.

10 During his stay he goes to the theatre at Rose Hall about three times a week, and we will see each other. On Friday 8th March, 1957, at about 3.30 p.m. Surujpaul met me standing in front of the Apollo cinema at Rose Hall, I was looking at the posters. He asked me what is happening, and I told him that I am looking at the posters. He told me that he will be leaving Port Mourant Saturday night 9.3.57. I asked him if he is making a joke. He said "no man this ain't no joke." He said "well boy I got a grade to make between three of we." I said which three, and he said "himself, Battle Boy and Baljit." I asked him how he knows Battle Boy and 20 Baljit. He told me that he got to know Battle Boy at Georgetown when he Battle Boy went to hear his appeal case, and Battle Boy introduced him to Baljit at Port Mourant since he is here. He said to me "before I leave Port Mourant to go home, I will give you a few cents." I asked him where they were going to strike and he said "don't ask me too much questions."

30 About half an hour after he left me and went towards Port Mourant walking alone. On Saturday 9th March, 1957, at about 8 p.m. myself and Desmond called Castro of Rose Hall Village went to Primo's gamble shop. I had a dollar to gamble. On our arrival I saw Robert Primo, George Small of Rose Hall, Phagee of Williamsburg, Esar of Rose Hall, Parker of Rose Hall and many others around the gambling table. I bet fifty cents each time and I lost. The game was call card. I remained there about fifteen minutes after and I went home leaving Desmond and the other men. It was about 9 p.m. 40 then. I walked west towards Dharry's Hardware store and I heard someone said "hey man." I looked around but saw no one. As I continued my way I heard "eh you skunt." I looked back again and I saw Surujpaul coming out of the passage way east of Mendonca spirit shop. By the aid of Dharry's store light I saw that Surujpaul was wearing a blue short pants, and an armless singlet. The pants was a long pants, and it was cut below the knee. I went up to him and as I reached near he said "hold on to this lil thing,

Exhibits

"R.3"

Statement of
Ivan Jagolall.
11th March 1957
- continued.

and try know how you use am." I saw it was notes and I took it. I checked them and saw three twenty dollar notes, and four five dollar notes in a roll. The notes were new. I asked him where they made the grade. He replied "man don't ask me no rass question." I said alright and he shook my hands, and told me that I am not going to see him anymore in Berbice. The clothes he had on, had dry mud, and I asked him if he is travelling to Georgetown like that. He said "man try get some sort of clothes and give me man." I told him that I only have two shirts and two pants. Surujpaul said "man you talking rass, and you get eighty dollars." I was wearing a flannel pants and a lemon short sleeve silk shirt, and I asked him if he would wear them. He said alright and I left him standing near the passage way where I had seen him, and I went home. I took off the shirt and pants and I wore this red shirt and blue tropical pants.

10

On my return I met him at the same spot and I gave him the shirt and pants I took off. He took off the singlet and pants he wore in my presence and he dressed himself in the shirt and pants I gave him, and we went to the public road. He walked towards Port Mourant with the singlet and pants he made in a bundle, and I went home. It was about ten o'clock then. I did not tell anyone about the money Surujpaul gave me, and the conversation we had.

20

On Sunday 10th March, 1957, at about 10 a.m. I went to Primo's gamble shop with the money Surujpaul gave me and I lost two dollars of the amount. I left the gamble shop about 11 a.m. and I went home. I took breakfast about 11.15 a.m. and I joined a bus to travel to New Amsterdam. I came off at Albion, and went to a money lender name Boodhoo. He had redeemed some gold jewellery belonging to my wife, and I went to pay him but he was not at home I had to pay him about thirty seven dollars. I soon after joined a car and I went to New Amsterdam. I spent about fifteen dollars at a house at St. Ann Street where Samaroo lives, and at Harry Ganpat Boarding House at Main and Pitt Streets. I bought rum both places, also beer. I left New Amsterdam about 4.30 p.m. and travelled by a car. On my way back home, I stopped again at the money lender, but I did not do any business because his wife was not at home. I waited some time for conveyance and I had to walk some distance. A bus came up and I joined it at Williamsburg. I came

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Exhibits

"R.3"

Statement of
Ivan Jagolall.
11th March 1957
- continued.

10 off at Rose Hall gasoline station, and I went home. It was about 7.15 p.m. I took dinner and about half an hour after I left home to go to the public road. On my way I saw Gladys Kisson, I asked her what she was doing at Rose Hall, she told me that she had come to see her mother. She asked me to buy something at a cake shop for her. I then asked her if she was hungry and she said "yes" I invited her to Yhap's restaurant at Rose Hall and she accom-
panied me. I bought two plates of beef and rice and I paid Samuel Yhap seventy two cents.

20 While eating I saw Johnny Bigaree, Samuel Yhap, an East Indian man from Williamsburg, and a red man from Rose Hall gaming with cards. I do not know their names. They were playing for money. I asked them to change the game called "Brag" to "Call card" and they agreed. I put a twenty dollar note on the table, and the East Indian man from Williamsburg had three dollars in my twenty dollar note, and I
asked Samuel Yhap to change it and he did so. I con-
tinued to pay and the red man Smith, the East Indian man and the black man lost all their money.

30 The game then was between myself and Samuel Yhap. I won Yhap about sixty dollars or more. I had all my money on the table and during the time I was gambling I gave Gladys Kisson two twenty dollar notes. It was about 11 o'clock when I heard a rap at the restaurant door. The men who had lost their money peeped and said "Police" Samuel Yhap said don't open the door yet until I put away the cards. I saw Samuel Yhap went towards the kitchen with the pack of cards and he returned without them. Yhap picked up his money, and I picked up mine and put it into my pocket.

40 One of the men opened the door and three Policemen came in. Constable Chester asked me for the money I had, and I took it out of my trousers pocket and put it on the table. He asked me where I got all the money. I told him that I gambled here and won Samuel Yhap. He asked Yhap who was present if it is true and Yhap said yes. He checked the money and gave me back. It amounted to eighty two dollars and seventy six cents. The Policemen brought myself, Samuel Yhap, and Gladys Kisson to Albion Police Station. I made a statement concern-
ing the money I won in gambling, from Samuel Yhap. I did not tell the Policeman that I had given Gladys Kisson Forty dollars at the gaming table.

Exhibits

"R.3"

When I saw Surujpaul on Friday afternoon 8th March, 1957, he was wearing a white long sleeve shirt, dark fawn pants, barefooted and bareheaded.

Statement of
Ivan Jagolall.
11th March 1957
- continued.

When Surujpaul changed the clothes he had on, and wore the clothes I gave him I saw him go to a nearby paling and picked up something leaning against it in a bag. The stalk was showing through the bag. The barrel was attached to the stalk, but I could not see whether it was a single or double barrel gun. I did not see him with any cartridges. He carried the gun in the bag when he left me.

10

On Saturday 9th March, 1957, at about 5 p.m. I heard at the gamble shop, and in the street from persons that the Police walking with guns and revolvers as if somebody was robbed. At that time I did not hear that they had a payroll robbery and that a Policeman was killed. It was about the time when I went home to sleep at about 9.45 p.m. I heard the true story about the Policeman's death and robbery from listening to passers by on the dam.

20

Ivan Jagolall

11.3.57

Witness

1. N. Ramjattan P.C. 5303.

Taken by me at Albion Police Station at 8.40 p.m. on Monday 11th March, 1957. I read it over to Ivan Jagolall who said it is true and correct and signed his name in our presence.

E. Charles Det. S.I. 4573

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11.3.57

"R.4" - STATEMENT OF SURUJPAUL

Exhibits

"R.4"

BRITISH GUIANA POLICE FORCE

Statement of
Surujpaul.
11th March 1957

10.30 p.m.

Albion Police Station
11.3.57STATEMENT OF SURUJPAUL called Dick having been duly cautioned:

10 Week before the last Friday 1st March, 1957, at about half past seven (7.30 p.m.) I was taking dinner at Ivan Jagolall house at Rose Hall village, and Chandee, Baljit and Battle Boy come home at Jagolall house. Jagolall tell he wife to gi am money to buy flour, aloo, and salt fish. Jagolall wife go foh the goods, and she mek roti and currie. Jagolall rap up the roti and currie in a parcel and hand one of them outside. About half past nine to ten in the night, Jagolall go under he bed and tek out two long gun. Battle Boy receive the guns from Jagolall and hand all two to Chandee. Them been tie up in a piece of bag. Jagolall change he clothes and he, Battle Boy, Baljit and Chandie went out pon the dam together. I ain't see Jagolall them back till Saturday night 2.3.57 about half past eight (8.30 p.m.) When Jagolall came home back he tell he wife the thing nah wok out, is Albion money them been for but goo much people deh round the place. On Friday 8th March, 1957 around ten o'clock (10 p.m.) Chandee, Baljit, Battle Boy and Jagolall went back to rob Albion money at the pay office. Them return about 2 o'clock Saturday morning, 9th March, 1957.

30 When they come back Jagolall say he mine nah give he to go back fo rob no way. Chandee say he will get a boy in he place. Chandee left soon after and come back with Arokium, Baljit, Battle Boy, Chandee, Arokium and Jagolall and me went to the public road. We had roti and currie, four pepsi and a big bottle rum. We arrange to go to New Dam, Canje to rob the pay roll money. The gun them been hide a bush. When Chandee came back Sunday morning 10.3.57 about five o'clock, he and Jagolall begin to gaff, and Jagolall ask Chandee why he shoot the man, and Chandee say

40 when I say stick it up the man put he hand pon the revolver foh draw am out, and then Chandee and Battle Boy shoot am. Chandee tell Jagolall that them part up the money at the backdam. Sunday 10.3.57 at about quarter to six in the morning I ask Jagolall

Exhibits

"R.4"

Statement of
Surujpaul.
11th March 1957
- continued.

to lend me the shirt and pants that I want to go and walk in Georgetown, and he lend me this shirt and pants me got on. He tell me that me go come back either Monday or Tuesday. I join a car at Rose Hall gasoline station and I cross with the first steamer. I left house with seventeen dollars and I bring back two dollars and some cents change. I buy a yachting boots, an armless singlet and a pocket kerchief nothing more.

Surujpaul

10

11.3.57.

1. E. Charles Det. S.I. 4573
2. Henry Elcock Det. Insp.
3. B. Bacchus Det. Sgt. 4728.

Taken by me at Albion Police Station at 11.15 p.m. on Monday 11th March, 1957. I read it over to Surujpaul who said it is true and correct and signed his name in our presence.

E. Charles Det. S.I. 4573
11.3.57

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"R.5"

"R.5" - STATEMENT OF IVAN JAGOLALL

Statement of
Ivan Jagolall.
12th March 1957

BRITISH GUIANA POLICE FORCE

Albion Police Station
12.3.57

STATEMENT OF IVAN JAGOLALL:

That some of the things I told you in my first statement are not true. A few weeks ago I saw Surujpaul at Rose Hall public road. I cannot remember the day or date. It was about midday. He called at me, and said how man. I say I am off on. I asked him what he is doing at Rose Hall. He told me that he came to see Samaroo Karmaia called Battle Boy. He told me that he is stopping at one Basdeo at Port Mourant. I asked him where he knows Battle Boy, and he told me that he knew him in Georgetown.

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Exhibits

"R.5"

Statement of
Ivan Jagolall.
12th March 1957
- continued.

The conversation ended and he told me that he will see me another day. About a week after he came to my home during the day time. I cannot remember the day, date or time. I asked him how he found where I am living, and he told me that he asked persons. I offered him some food, and he accepted it. When he was finished he told me that he will like to live at my house, because the people quarrelling with him saying that he staying out too late. I told him that my home is not comfortable, but if I allow you to live here you got to come early and wake up early because my wife will row with me. I tell him he can sleep in the kitchen. He slept at me the said night. He drank tea, and he left to go for a walk. He returned for breakfast. Since Surujpaul came to Rose Hall he slept at my home for about four or five nights. Some nights he slept out, and whenever I see him, he would tell me that he slept at Port Mourant. On Thursday 7th March, 1957, about 9.30 a.m. I asked Surujpaul to go for wood, and he and Desmond left for the waterside. Surujpaul brought a green piece of corida wood and Desmond brought a bundle of dry wood. These men returned from the waterside about 12.30 p.m. I gave both of them breakfast. Surujpaul went to the public road as soon as he was finished eating. About 3 p.m. myself and Desmond (M.E.I.) went to Primo's gamble shop at Rose Hall. I met Surujpaul there sleeping. I spent about an hour, and myself, Desmond, and Surujpaul and some other men came to public road. Surujpaul left the company and went towards Port Mourant.

On Friday 8th March, 1957, at about 8 a.m. Surujpaul came to my home. He took tea and went away. He returned about 2 p.m. myself, Babe and Desmond were at home. He took breakfast, and when he was finished eating Surujpaul told me that he will like to speak to me, and I accompanied him in the yard. He told me that he has a grade to make between himself, Battle Boy and Baljit. I asked him where they going to make the grade. He said "man don't ask me that, but before I leave Berbice, I am going to give you something, that cause me to come to Berbice."

He further said "I may come back for dinner or I may not." I told him alright and he left. It was about 3.00 p.m. He came back for dinner about 6 p.m. He ate it, and he told me that he will fix me up before he goes away. About half an hour after he went away. Surujpaul had on a white long sleeve shirt, and a striped blue long pants, bare-footed and bareheaded.

Exhibits

"R.5"

Statement of
Ivan Jagolall.
12th March 1957
- continued.

On Friday night 8th March, 1957, myself, Babe and her four year child name Lala slept on the same bed. Saturday morning 9th March, 1957, at about 6.30 a.m. I woke up. I took tea about half an hour after, and soon after I went to the public road. I shaved my hair at Poonsam Barber shop at Rose Hall, then I went to Primo's gamble shop. I did not see Surujpaul for the whole day. I was at the gamble shop from the time I left the barber shop and I left there at about 3.30 p.m. and went home. Desmond was at the gamble shop when I left. Before I began to eat my food I saw Police Constable Vanvieldt coming towards my room. I was in the yard washing my face and hands. He was in company with two other men in plain clothes. Police Constable Vanvieldt ask me where I just come from and I told him from the gamble house carried on by one Primo. He told me alright and he and the two men left the yard.

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About an hour after I went back to the gamble house and I remained there until 5 p.m. when myself and Desmond went to my home for dinner. After taking dinner I asked my reputed wife Babe for a dollar and she gave me. About 7.30 p.m. myself and Desmond returned to the same gamble shop. I bet fifty cents each time and lost. I spent about fifteen minutes watching on, and myself and Desmond went to the public road. I told Desmond that I am going home to sleep, and both of us walked west along the public road. Desmond called in at his home and I continued. As I reached opposite Dharry's Hardware store, I heard someone said "hey man". I looked back, and continued my way. I heard another call, I looked back and saw Surujpaul in a passage way east of Mendonca spirit shop. I went to him. He said look man I can't stay too long, look this lil thing. I saw that notes were in a coil. I took it and checked it. The money was made up in three twenty dollar notes and four five dollar notes. I asked him where he made the grade. He said "man don't ask me too much question." He shook my hand and said "man this is the last you would see me in Berbice." He had on an armless singlet and a blue three-quarter pants. It was cut just a little over his knee. The clothes he wore had dry mud, and I asked him if he is leaving Berbice like that. He said "man try and get some sort of clothes for me" I told him that I only got two shirts and two pants. Those I am wearing with another shirt and pants I have home. He said "man

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Exhibits

"R.5"

Statement of
Ivan Jagolall.
12th March 1957
- continued.

you talking about two shirts and pants and you got eighty dollars on you." I said "alright man this shirt and pants I have on will suit you?" He said "yes". I then tell him that I am going home and come back. I went home and put on this maroon shirt and grey pants, and I gave him the shirt and pants Surujpaul is now wearing. He changed the clothes in my presence, and I saw him wrapped the pants in the singlet. I asked him what he is going to do with the singlet and pants. He said "I know what to do with it." I saw Surujpaul made a step backwards near to a paling and he picked up a rice bag with something inside, I saw it was a shot gun. I could not see the barrel. I asked him where he was taking it. He said "Chandee borrow it from somebody at Tain Settlement and lend Battle Boy, and he goin to carry back to Battle Boy now." As he made a few steps he stopped and called me. He said "man if you cannot get a car to carry me down to New Amsterdam tomorrow morning." I told him that cars does pass early, and he said "I want a hire car." I told him alright I going to get a car for you. He told me that he would come back soon in the morning. I left him and went home, and he went towards Port Mourant with the shot gun and his bundle. Sunday 10th March, 1957, at about 4 a.m. Surujpaul came to my home and called me. I opened my door. He asked me if I get the car. I told no, that I would go now to get it. I asked him how much he could pay for the car. He gave me thirty dollars, a ten dollar note a twenty dollar note. He told me to carry this, and find out how much it is to take him to Georgetown. He has a newspaper parcel on a dam near to him, and as we were leaving to go for the car he picked up the parcel. I went in front of him and went to Cecil Debedin called Tickle the owner of a car at Rose Hall I spoke to Cecil Debedin in the presence of his wife. I told him a man will like to go down to Georgetown and how much he will charge. He said if it he alone he got to pay twenty-five dollars. I gave him thirty dollars, and he gave me back five dollars change. I was present when Cecil Debedin drove the car and took in Surujpaul. It left en route to New Amsterdam. I went home back about five thirty the morning. I gave back Surujpaul his five dollar change. Surujpaul never paid me any money for his meals, and the time he lodged at me. Desmond does not pay for food but whenever he win at the gambling he would give me money. Whenever Desmond go to fish with my

Exhibits

"R.5"

Statement of
Ivan Jagolall
12th March 1957
- continued.

cast net he give me the fish. I use the fish for home purpose.

Ivan Jagolall
12.3.57

Witness:

1. E. Charles Det. S.I. 4573
2. E. Vanvieldt Det. Const. 4885.

Taken by me at Albion and Reliance Police Station on Tuesday 12.3.57 at 12.10 p.m. I read it over to Ivan Jagolall who said it is true and correct and signed his name in our presence.

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E. Charles Det. S.I. 4573
12.3.57

"R.6"

"R.6" - STATEMENT OF NICKRAM called CHANDIE

Statement of
Nickram called
Chandie.
12th March 1957.

12.15 p.m.

Reliance Police Station
12th March, 1957.

STATEMENT OF NICKRAM called Chandee duly cautioned:

I did deh home at Williamsburg Friday night 8th March, 1957. At about 10 o'clock, Battle Boy, Surujpaul and Baljit came to my home. Me been ah sleep, and them wake me up. All ah them say leh we go and rob New Dam money, and me join the company. Me did not want to go and them threaten me with gun. Surujpaul been got two gun. Well all awe start foh New Dam, awe tek cross dam and when awe reach ah high bridge at Canje backdam awe stop and awe go in some young cane with lil height. Awe sit down in the cane and me tell them we want go way, and them threaten to shoot me. Them tell me that

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when the jeep stop, we must assist them to carry away the money. Awe deh deh till day clean, and about 1 o'clock time the jeep come over the bridge with a overseer, and East Indian Chauffeur and a Police been inside. The jeep stop near the fence and Battle Boy, Baljit and Surujpaul run out the cane to the jeep. Battle Boy and Surujpaul had a loaded single barrel gun, and hands up the jeep when it stop to turn at the bridge. Battle Boy point the gun pon the police and fire it. Surujpaul point the gun at the overseer and he hand over the canister and bag with the money. The overseer throw the canister pon the ground, and Surujpaul put down the gun and tek the money. Battle Boy tek up the gun and Surujpaul and all awe run away together. All four awe been got on cloth mask in the cane. Them other chap put mud all over them skin. Awe run down the dam and went in some big cane. Me tek off me mask when me been running down the dam. The place get dark and the money nah divide up. Surujpaul, Battle Boy and Baljit go them own way and me go home.

Exhibits

"R.6"

Statement of
Nickram called
Chandie.
12th March 1957
- continued.

Chandie

12.3.57

Witnesses:

1. E. Charles Det. S.I. 4573
2. N. Ramjattan Det. Const. 5353
3. B.G. Chester D.C. 4733

Taken by me at Reliance Police Station at 12.45 p.m. on Tuesday 12.3.57. I read it over to Chandie who said it is true and correct and signed his name in our presence.

E. Charles Det. S.I.4573

12.3.57

Exhibits"R.7" - STATEMENT OF IVAN JAGOLALL

"R.7"

BRITISH GUIANA POLICE FORCE

Statement of
Ivan Jagolall.
12th March 1957.

5.55 p.m.

Reliance Police Station
12.3.57

STATEMENT OF IVAN JAGOLALL duly cautioned:

Saturday night 9th March, 1957, at about half past nine when I leave Primo gamble shop at Rose Hall Village. I been with Desmond. He call in home and I continued my way home when I meet opposite Dharry store I hear a call hey man. I turn back and watch and I ain't see nobody. As I continued to walk away I hear back a next call again. I see Surujpaul show heself in the passage. He call me and I went to him, as I reached there he gave me eighty dollars, and told me that he left some money home and he will come back any time during the week for it. When I go home my wife Babe tell me that Surujpaul bring some money and leave it here in a cup. I ask where this money deh and she tell me the money deh in the house. She show me where the money deh, but she ain't handle it. I see a Barlova cup in a corner, I open it and saw a quantity of notes, and I cover it back with the lid. I ask Babe when Surujpaul gwine come back foh this money. She say anytime during the week. I ain't go out back that night. Sunday morning 10.3.57 I wake up about 6.30 a.m. I forget to tell you about the car story for Surujpaul. I left the money in the Barlova cup, and I ain't trouble it. Today, Tuesday 12.3.57, I see the Police with the same cup at the station and it had in plenty of notes. Me ain't know nothing about what Surujpaul tell me in you presence, that is something he mek from he brain. An afternoon sometime last week, was Friday 8th March, 1957, Surujpaul tell me in the presence of Desmond that himself, Battle Boy and Baljit going to make a raid tonight. I was on Rose Hall dam opposite where I live. It was about half past four to five o'clock in the afternoon.

Ivan Jagolall.
12.3.57

Witnesses:

1. E. Charles Det. S.I. 4573
2. N. Ramjattan Det. Const. 5353

Taken by me at Reliance Police Station at 6.30 p.m. on Tuesday 12.3.57 I read it over to Ivan Jagolall who said it is true and correct and signed his name in our presence.

E. Charles Det. S.I. 4573
12.3.57.

OTHER DOCUMENTSDEPOSITIONS OF HENRY ELCOCK ON PRELIMINARY
ENQUIRY BEFORE MAGISTRATEDepositions of
H. Elcock on
Preliminary
Enquiry before
Magistrate
3rd May 1957.HENRY ELCOCK on oath saith :-

I am an Inspector of Police and I am stationed at C.I.D. Headquarters at Georgetown. On Saturday 9th March, 1957, I travelled to Berbice. On the following day I was at the mortuary at New Amsterdam at 8.00 a.m.

10 I examined the dead body of Police Constable Allen which was lying in the mortuary. He was dressed in uniform. I saw he had two wounds one on the right jaw and one on the right shoulder. The right side of the face was charred. There was a hole in his shirt by the right shoulder where one of the wounds were. At 9.00 a.m. Dr. Marian Rucinski and Dr. J.W.D. Ferdinand arrived at the mortuary. Constable 5289 Allen identified the dead body as that of his brother. The uniform was taken off.

20 This is the pants and this is the shirt of the said uniform tendered, admitted and marked Exhibits U¹ and U². The shirt had to be cut on the right side to take it off the body. Dr. Rucinski then performed a post-mortem examination with dissection in the presence of Doctor Ferdinand. Five pellets were taken out from the wound on the right shoulder and two of these pellets were imbedded in the bone of the right shoulder. These are the five pellets in this tin - and this tin containing these five

30 pellets tendered, admitted and marked Exhibit "V¹".

Twenty-six pellets and some wadding were taken out of the wound on the right jaw. These are the twenty-six pellets in this tin and this tin contains these twenty-six pellets, tendered, admitted and marked Exhibit "V²".

This is the wadding and tin containing the wadding, tendered, admitted and marked Exhibit "V³".

After the post-mortem examination, the body was handed over to Constable 5289 Allen for burial.

40 On Monday the 11th March, 1957, about 10.15 p.m. I was present at Albion Police Station when Sub-

Depositions of
H. Elcock on
Preliminary
Enquiry before
Magistrate.
3rd May 1957
- continued.

Inspector 4573 Charles told the accused Surujpaul that a Policeman was shot dead aback of New Dam and the New Dam Pay roll was carried away and that he and others were suspected of committing the offence. Surujpaul said "Ah so them say all ah we neck rass goin brook bring paper and pen me goin tell you the whole story, this shirt and pants me got on Jago-
lall give me to go to Georgetown." Sub-Inspector Charles cautioned him and he elected to make a statement which was taken down in writing by Sub-Inspector Charles, it was read over to him and he said it was true and correct and he signed his name. This is the statement, Exhibit "R4" and was witnessed by me. As a result of the statement Surujpaul made Constable 4885 Vanvieltdt obtained a Search Warrant and I accompanied Vanvieltdt and two other constables to the home of the accused Nickram called Chandie situate at Williamsburg, Corentyne. We arrived at his home around 1.45 to 2.00 a.m. Vanvieltdt and the two Constables went up his step situated on the western side of the house while I remained to a window downstairs. Constable Vanvieltdt called "Chandie, Chandie," whilst rapping at the door. A few minutes passed and the door was opened. I went into the house. Constable Vanvieltdt pointed out the accused Chandie to me. I asked Vanvieltdt if he read the warrant and he said yes and I searched. Nothing was found. I told the accused Chandie that a Policeman was shot aback of New Dam on Saturday 9th March, 1957 and that the New Dam Pay roll was carried away and I was taking him to Albion Police Station for enquiries in connection with that offence. He said nothing and as we were leaving the house his mother asked me in his presence why we were taking him. I told her that he had followed bad company and we left the house. On our way to the public road where I had my car parked Chandie said "If I did follow me mind me na been go deh in dis" I told Chandie to be very careful with what he said because whatever he said will be given in evidence. He said "when me meet ah station me goin talk the whole story." I took him to Albion Police Station. At Albion Police Station Sub-Inspector Charles in my presence told Chandie that a Policeman was shot dead and the New Dam pay-roll was carried away and he was suspected of committing that offence with others. He said "Me sick me going give me statement later." When I had gone into the house Chandie had a white cloth tied around his forehead and he was taken to the station the same way. He was then placed in the charge room to sit at Albion Police Station. On Tuesday 12th March,

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1957, acting on certain information I went to the accused Jagolall's home at Rose Hall, Corentyne and one Cecil pointed out that pipe Exhibit "G3" in a latrine in the said yard where Jagolall lives. I took exhibit "G3" out of the latrine and in it I found a blue shirt and a blue pants Exhibits "G1" and "G2".

Depositions of
H. Elcock on
Preliminary
Enquiry before
Magistrate.
3rd May 1957
- continued.

Cross-examined by No. 1 accused:- Declined.

Cross-examined by Mr. Dharry for No. 2 accused:

10 I would not be able to remember in detail my movements on Monday the 11th March, 1957. It is difficult as I did not make a note of it. I was at Albion on Monday. I was at Albion Police Station on more than one occasion and it is difficult for me to say how many times I left and returned.

I cannot remember the first time I was at Albion on Monday the 11th March, 1957. It was during the morning hours. As far as I can remember Sergeant 4728 Bacchus of C.I.D. Headquarters,
20 Georgetown was with me.

As far as I can remember the accused Jagolall was at Albion. I cannot remember the exact time I first saw Jagolall but it was during morning hours and soon after I arrived. He was sitting in the Charge room. I went upstairs. I cannot remember seeing any of the accused upstairs.

I think Surujpaul was brought in to Albion Police Station around 10.00 p.m. Surujpaul was brought in around 10.00 p.m. on Monday 11th March,
30 1957 by Constable Vanvieldt and others.

When Surujpaul was brought in I was upstairs. Also upstairs were Desmond Dhajoo, Babe, Sub-Inspector Charles, and about four or five other N.C.Os. and Constables.

There is a step leading upstairs from south as you get to the platform there are two doors. One door leads to the barrack room and the other door leads to the kitchen, toilet and bath. Going into the barrack room, there is a door leading to a
40 recreation room and in the recreation room there is another door which carries you to the kitchen, toilet and bath.

Adjourned for lunch at 11.30 a.m.

Depositions of
H. Elcock on
Preliminary
Enquiry before
Magistrate.
3rd May 1957
- continued.

Continued:

Witness still on oath and being cross-examined by Mr. Dharry at New Amsterdam.

The Barrack is twice the size of the Eastern portion which forms the recreation room.

I was there when Surujpaul was brought into the recreation room which we had as a temporary enquiry office for the purpose of the investigation.

Between 10 to 15 minutes after he arrived there Inspector Charles told him that a Policeman was shot aback of New Dam and the New Dam payroll was carried away and that he and others were suspected of committing the offence. Inspector Charles said "He and others". I don't remember if Inspector Charles spoke to him before them. I was there all the time for the 10 or 15 minutes. Surujpaul said "So them say". I would say that those words did not convey to my mind that somebody had said something about Surujpaul. I would say that those words could have meant that he was accused by someone of committing this offence. Inspector Charles and I were investigating this offence. I was aware that Jagolall had given a statement. Having seen Exhibit "R3" the first statement of Jagolall I would say that I knew then that Jagolall had made a statement implicating Surujpaul Kissoon called Baljit and Karmaia called Battle Boy. I had already seen and read this statement Exhibit "R3" when I saw Surujpaul. I did not form an opinion as I had not investigated it

I can't say if Sub-Inspector Charles had this statement Exhibit "R3" at the time. I did not see Exhibit "R3" the statement of Jagolall after 10.00 p.m. on Monday night for that Monday. It is not true that Surujpaul was beaten before a statement was taken from him. I knew when Surujpaul was brought in and made his statement but I cannot say what happened to him before he was brought in. Jagolall was at Albion Police Station the whole of Monday night. I can't remember if I saw him on Monday afternoon at 5.30 p.m. but I might have seen him. I did not see Jagolall in hand-cuffs behind his back on Monday night. He was in the charge room in the lower flat.

During the night there were witnesses there in the Court room giving statements and waiting to

give statements. I can't remember the names of the witnesses.

Policemen were sleeping in the barrack room at Albion Station on the Monday night. It is untrue that I gave instructions to Sub-Inspector Charles or others to beat the accused Jagolall. It is untrue that I told Charles and others to punish him where the Doctor won't find marks.

Depositions of
H. Elcock on
Preliminary
Enquiry before
Magistrate.
3rd May 1957
- continued.

10 I cannot remember being present when other statements were taken from Jagolall. The house that Chandie lives in rests on five or six feet blocks that I can remember.

20 I remained downstairs for about ten minutes, when I entered the house Detective Constable Vanvieldt and the other Policemen had just started searching the house. I did not hear when the Warrant was read out to him. Chandie appeared to me to be too ill to make a statement when he arrived at 2.30 a.m. in the morning at Albion Police Station as he was trembling. I came downstairs about 7.00 to 8.00 a.m. on Tuesday 12th March, 1957. I can't remember seeing Chandie. The only time I drove with Detective Constable Vanvieldt was when we took Chandie from his home to Albion Police Station and that was in my car.

30 I don't know if Vanvieldt left the station early that morning. I left Albion about 9.30 a.m. for Whim Police Station in company with P.C. Ramjattan and I took Baljit from Whim Police Station to Reliance Police Station where I left him with P.C. Ramjattan and I returned to Albion Police Station. I spoke to Sub-Inspector Charles before I left for Whim Police Station. Sub-Inspector Charles was sending down some of the accused to Reliance and I can't remember which accused and I went to Whim. We spoke about making arrangements to bring the accused persons to Reliance. I had no discussion with Sub-Inspector Charles in respect to the accused Chandie. Chandie said "Me sick, me going give me statement later" and this was said
40 around 2.30 a.m. that morning. Surujpaul in his statement had implicated Chandie. I was looking forward for a statement from Chandie when he said he would give a statement later. The earlier he made a statement it would have assisted in the investigation. I was not in charge of the investigation. I did not ask Sub-Inspector Charles why he did not take a statement from Chandie as he had promised to make a statement later.

Depositions of
H. Elcock on
Preliminary
Enquiry before
Magistrate.
3rd May 1957
- continued.

Court adjourned at this stage for ten minutes, for the justices of the Licencing Board to give a decision.

Cross-examined by Mr. E.V. Luckhoo for No.3 accused:

I have heard of the expression third degree. I have been 17 $\frac{1}{2}$ years in the Police force. I have heard of the allegation of its practice in the Police Force of this Colony. I do not know of its existence on occasions of my own knowledge. I was at Albion Police Station for the better part of Monday 11th March, 1957. I know the Magistrate's lunch room at Albion Police Station. The room on the southern side of the Court room is reserved for the Magistrate's Chambers. I did see Baljit No. 3 accused sitting in a chair in the Magistrate's Chambers on that day. It was some time after 1.00 p.m. that I saw him on that chair. I did not see whether any whitish substance was coming out from his mouth. I would not say he was in a distressed state. I was not alarmed at his condition. I did not ask anyone to tell me how that man got in that condition. I was dressed in clean clothes. I never got a bottle of Pepsi Cola and put it on his lips. I never saw any Pepsi Cola coming out of his mouth. I did not say "You are going to mess up all my clothes. I was not there when he was taken to the Doctor. He was taken to the Doctor as far as I can remember after 5.00 p.m. He was taken to the Doctor because of scratches on his face and neck. I know this of my own knowledge. I saw scratches on his face and neck when he was taken to Whim Police Station on Sunday night. I know P.C. Duff but I cannot say if P.C. Duff was in the Magistrate's chambers with the accused. I did not observe any trace of anger from anyone investigating this crime. I was co-ordinating all the statements. I did not know on Monday that Baljit had made a statement. I knew that Baljit had made a statement on Tuesday morning around 8.00 a.m. I don't know why Baljit was brought from Whim to Albion. I knew that Baljit was sent back to Whim on Monday night. I knew why Baljit was sent back to Whim on Monday night. The reason is that all the suspects could not be kept in one place. As far as I was concerned I regarded Baljit as a suspect on the Monday night when he was sent back to Whim. I can't say why he was brought from Whim to Albion. When I told Chandie's mother that he had followed bad company I was making a statement of fact. That statement of

fact arose from reading the statement of Surujpaul. I was giving the mother a conclusion I had reached from reading Surujpaul's statement without knowing whether it was true or false.

Depositions of
H. Elcock on
Preliminary
Enquiry before
Magistrate.
3rd May 1957
- continued.

Cross-examined by Mr. Poonai for Mr. B. Prasad for
No. 4 accused:

10 The words "Ah so them say" the English expression to me is "Did they say so!" I would say those words "Ah so them say" is an exclamation. The words
20 "Ah so them say" conveyed to me that Surujpaul having been brought in and having seen Jagolall and other persons in the Charge room might have felt that they had something in connection with this crime and that is why he said so. It is not true that I put my hand around Surujpaul's neck and it is not true that I told him that he has a tough and nice neck for the rope. The conversation between myself and Charles it was decided that I should go to Whim for Baljit and take him to Reliance and that Charles should go later to Reliance.

Cross-examined by No. 5 accused: Declined.

Re-examination: Declined.

Henry Elcock.

30 Taken by me in the presence of the accused and read over to the above-named witness who declared the same to be correct and signed it at the Court of New Amsterdam on this 3rd day of May, 1957, the accused, the witness and I being all present, together at the time of the reading and signing hereof and the accused having had full opportunity of cross-examining the witness.

A.J. de Souza
Magistrate
Berbice Judicial District.

No. 15 of 1958

IN THE PRIVY COUNCIL

ON APPEAL
FROM THE COURT OF CRIMINAL APPEAL
OF BRITISH GUIANA

B E T W E E N

SURUJPAUL called DICK Appellant

- and -

THE QUEEN ... Respondent

RECORD OF PROCEEDINGS

LAWRENCE JONES & CO.,
Winchester House,
Old Broad Street,
London, E.C.2.
Solicitors for the Appellant.

CHARLES RUSSELL & CO.,
37, Norfolk Street,
Strand, London, W.C.2.
Solicitors for the Respondent.