

Judgment  
14, 1968

JUDICIAL COMMITTEE OF THE  
IN THE PRIVY COUNCIL

No. 20 of 1967

ON APPEAL FROM  
THE FEDERAL COURT OF MALAYSIA

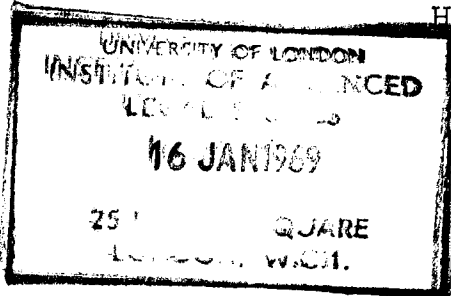
B E T W E E N :

OSMAN BIN HAJI MOHAMED ALI and  
HARUN BIN SAID alias TAHIR Appellants

- and -

THE PUBLIC PROSECUTOR Respondent

CASE FOR THE RESPONDENT



10 1. This is an appeal by special leave granted the  
7th day of June, 1967 from a judgment of the  
Federal Court of Malaysia (Wee Chong Jon C.J., Tan  
Ah Tah F.J. and Ambrose J.) dated the 5th October,  
1966 which dismissed an appeal by the Appellants  
against their conviction in the High Court of  
Singapore (Chua J.) on the 20th October 1965 on  
three charges namely of murdering Susie Choo Kay  
Hoi, Juliet Goh Hwee Kuang and Yasin Bin Kesit all  
on the 10th March 1965. The Court of Appeal  
20 affirmed the Appellants' convictions and sentences.

2. The relevant statutory provisions are:-

Evidence Ordinance (Laws of Singapore revised  
edition 1955 cap. 4 as amended by No. 17 of 1960):

Section 25. "No confession made to a Police Officer  
below the rank of Inspector by a person  
accused of any offence shall be proved  
as against such person."

30 Section 26. "Subject to any express provision in  
any written law, no confession made  
by any person whilst he is in the  
custody of a Police Officer, unless it  
is made in the immediate presence of a  
Magistrate, shall be proved as against  
such person."

Criminal Procedure Code (Laws of Singapore revised edition cap. 132 as amended by No. 18 of 1960)

Section 121. "(1) Save as herein provided, no statement made by any person to a Police Officer in the course of a police investigation made under this chapter shall be used in evidence."

"(5) Where any person is charged with an offence any statement, whether such statement amounts to a confession or not or is oral or in writing, made at any time, whether before or after such person is charged and whether in the course of a police investigation or not, by such person to or in the hearing of any Police Officer of or above the rank of Inspector shall be admissible at his trial in evidence .....

Geneva Convention Relative to the Treatment of Prisoners of War (Geneva, 12th August, 1949): 20

Part I. - General Provisions

Article 3. "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction .....

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: 40

(a) violence to life and person, in particular, murder of all kinds, mutilation, cruel treatment and torture;

..... "

Article 4. "A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:

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(1) Members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces;

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(2) Members of other militias and members of other volunteer corps, including those of organised resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organised resistance movements, fulfil the following conditions:

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(a) that of being commanded by a person responsible for his subordinates;

(b) that of having a fixed distinctive sign recognisable at a distance;

(c) that of carrying arms openly;

(d) that of conducting their operations in accordance with the laws and customs of war;

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(3) Members of regular armed forces who profess allegiance to a government or an authority not recognised by the Detaining Power;

..... "

|                       |   |    |
|-----------------------|---|----|
| <u>Record</u>         | 3. The trial of the Appellants took place before Chua J. sitting alone under the Emergency (Criminal Trials) Regulations 1964 between the 4th and 20th October 1965. A claim by the Appellants to be treated as prisoners of war was tried as a preliminary issue, and at the outset Chua J. intimated that he would assume the existence of a state of armed conflict at the material time. On this issue the first Appellant testified that he was a member of the armed forces and gave inter alia the designation of his unit, and his date of enlistment which he stated to be 22nd February 1960. Under cross-examination he stated that he and the second Appellant had been in uniform when taken out of the sea on the 13th March 1965. He described how he came to be in the sea on the 13th March 1965 in the following terms: | 10 |
| p.9, 11.7-12.         |   |    |
| pp. 3-149.            |   |    |
| p.10, 1.33.           |   |    |
| p.11, 11.1-20.        |   |    |
| p.13, 11.21-30.       |   |    |
| p.14, 11.4-12.        | "On the 13th March at 2.00 a.m. I was ordered to leave Pulau Merchan, and to proceed to Pulau Dua. About half an hours travelling, there was a leak in the boat, resulting from a collision with an object. When the boat was full of water it sank. I took a piece of plank from the keel of the boat to save ourselves."  | 20 |
| p.20, 11.19-29.       | He stated that he and his co-accused had placed their military Identity Cards in plastic bags and that the bags had been lost in the sea.   |    |
| p.23, 11.10-28.       | Re-examined he said that his wet uniform had been taken from him by the Police and that he had been given trousers and a singlet in exchange. Questioned by the Court, he said that on setting out he had had with him a light automatic rifle and that the object of his mission had been to exchange the boat he was in for a boat belonging to a local resident of Pulau Dua; that what he alleged to be his uniform (produced) bore neither his name nor number, and bore badges of rank which were apparently inappropriate to his own rank. He said that the name Mun followed by the letters K.K.O., printed on the trousers, was his own name.  | 30 |
| p.26, 11.25-26.       |   |    |
| p.27, 11.22-25.       |   |    |
| p.28, 1.1 to 29, 1.7. |   | 40 |
| p.30, 1.10.           | 4. The second Appellant gave evidence similar to that of the first Appellant. He gave his date of enlistment as 15th April 1964. He said that on the relevant day he had been wearing uniform without shoes or hat and that his uniform had been  |    |
| p.31, 1.34.           |   |    |
| p.35, 11.7-10.        |   |    |

|    |   |                 |
|----|---|-----------------|
|    | confiscated after his rescue because it was wet.      | <u>Record</u>   |
|    | In cross-examination he denied suggestions that he    | p.32, 1.10.     |
|    | and his co-accused had been in civilian clothes       |                 |
|    | when taken from the sea or that the uniform which     |                 |
|    | they claimed to have been wearing had been given to   |                 |
|    | them in prison by other Indonesian prisoners, or      |                 |
|    | that he and his co-accused had claimed to be          | p.36, 11.15-24. |
|    | fishermen. He admitted having been issued with a      |                 |
| 10 | metal identity disc but said that his commander,      |                 |
|    | for reasons unknown to him, had forbidden him to      | p.38, 1.20 to   |
|    | wear it on the 13th March 1965. In answer to the      | 39, 1.4.        |
|    | Court, he admitted that the uniform which he          |                 |
|    | claimed to have brought from Indonesia bore           |                 |
|    | neither his name nor his number.                      | p.48, 11.20-24. |
|    |   |                 |
|    | 5. The Crown called nine witnesses on the pre-        |                 |
|    | liminary issue. Lee Ah Paw, a bum-boat man,           |                 |
|    | described how he had rescued the accused from the     | p.50.           |
|    | sea on the morning of the 13th March, 1965, both      |                 |
| 20 | accused had been bearing civilian clothes, not        |                 |
|    | uniform, though the first Appellant was naked to      | p.51, 1.8 to    |
|    | the waist. The second Appellant had said that he      | 52, 1.25.       |
|    | and the first Appellant were fishermen. Marine        | p.53, 11.17-22. |
|    | Corporal Mohamed Dali Bin Abu testified that he in    |                 |
|    | a Police boat had been hailed by Lee Ah Paw, had      | p.62, 11.25-27. |
|    | approached the bum-boat, had been told by both        |                 |
|    | Appellants that they were fishermen and had taken     | p.63, 11.20-27. |
|    | both of them to the Marine Police Station; both       |                 |
|    | had been wearing civilian clothes. P.C. Tan Tee       | p.64.           |
| 30 | Cheow said that both Appellants had been wearing      |                 |
|    | civilian clothes when they were handed over to him    |                 |
|    | by the previous witness. Sergeant Ahmad Bin           | pp.73-74.       |
|    | Mohamed Amin said that on arrival at Clifford Pier    |                 |
|    | both Appellants were then wearing civilian clothes.   | pp.65-68.       |
|    | Inspector Mahmud Bin Haji Ali said that when the      |                 |
|    | Appellants arrived at Cavenagh Bridge (in custody     |                 |
|    | of the previous witness) they were in civilian        | pp.81-82.       |
|    | clothes; the first Appellant had said he was a        |                 |
|    | fisherman and the second Appellant that he was a      |                 |
| 40 | farmer. Wong Kee Huat, a rehabilitation officer       |                 |
|    | attached to Outram Road Prison, testified that on     |                 |
|    | arrival at the prison at 4.50 p.m. on the 29th        |                 |
|    | March, 1965, both Appellants had been wearing         |                 |
|    | civilian clothes; that on the 9th April 1965 a        |                 |
|    | batch of Indonesian prisoners had been brought in     |                 |
|    | of whom about 10 had been in uniform and that         |                 |
|    | subsequently he had seen the Appellants wearing       |                 |
|    | uniform. Inspector Hill testified as to the           | pp.84-86        |
|    | civilian clothing worn by the Appellants at 1.15 p.m. |                 |
|    | on the 13th March, 1965 and said that that evening    |                 |

Record  
pp.137-138.

he had given the first Appellant a shirt to wear. Two police photographers gave evidence of having taken photographs of the two Appellants on the 15th March, 1965.

pp.139-148.

6. After hearing submissions by counsel on behalf of the Appellants, the learned Judge ruled that the trial should proceed. The Appellants had failed to discharge the onus of proving that they were regular members of the Indonesian Armed Forces, and in any event he had no doubt that they were not so. Even had they been so, they had, by assuming civilian guise, divested themselves of the character or appearance of soldiers and thereby disentitled themselves from being treated as Prisoners of War.

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pp.240-249.

7. The Crown called a large number of witnesses to prove that on the afternoon of the 10th March, 1965 a violent explosion had taken place in a building known as McDonald House, Orchard Street, Singapore, a building the ground and mezzanine floors whereof were occupied by the Hong Kong and Shanghai Bank, the 1st to 8th floors inclusive, being occupied by various tenants. The explosion caused serious damage to the building, mainly at the level of the ground, mezzanine and first floors and caused injury of a greater or less severity to nine persons, three of whom were the deceased named in the charges, and all of whom were civilians. In addition 26 victims were treated as out-patients, 19 of whom were tended by the Crown for cross-examination by Defence Counsel. The evidence further showed that the explosion had taken place at a few minutes after 3.00 p.m., probably at 3.07 p.m., and resulted from the detonation by means of an ignited safety fuse of 20-25 pounds of explosive; that the point of the explosion was on the mezzanine landing of the staircase near the flight of stairs up to the first floor, a point at which there had been seen a few minutes earlier a soft "airways" bag emitting smoke and a hissing noise; that it had been raining at the time.

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pp.265, 266.

p.219, 1.11.  
p.224, 11.11-18.  
p.247, 11.9-11.  
pp. 231, 232.

p.240, 11.1-8.

p.169, 1-20 to  
170, 1.20.

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8. The further evidence directly concerning the Appellants was to the following effect:-

p.270.

Tan Boh Eng, a bus conductor, testified that at 1 or 2 minutes past 3.00 p.m. on the 10th March, 1965 his bus had stopped at a bus stop close to the

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Hong Kong and Shanghai Bank. The bus stopped again at the junction of Orchard Road and Penang Lane where the traffic lights were against it and two male Malays boarded the bus. At an identification parade held on the 18th March, 1965 the witness picked out the two Appellants as being the two men who had boarded the bus at the traffic lights. Cross-examined, the witness said that he checked the time of arrival at the Hong Kong and Shanghai Bank by looking at a watch belonging to a passenger. He had particularly noticed the accused because he was annoyed with them for having boarded the bus at traffic lights.

p.271, 11.15-30.

p.272, 11.21-28  
p.273, 11.19-21.

p.278, 11.10-16.

p.286, 11.11-23.

After Lee Ah Paw (the bum-boat man) and Marine Corporal Mohamed Dali Bin Abu had given evidence to the like effect as they had done on the trial of the preliminary issue, Chua J. intimated that the evidence given on the trial of that issue need not be reiterated so far as the prosecution were concerned though Defence Counsel might further cross-examine if he so wished.

p.304, 1.19 to  
305, 1.16.

Inspector Mahmud Bin Haji Ali (recalled) said that at about 11.35 a.m. on the 13th March 1965 he charged both Appellants with having entered a controlled area. Inspector Hill (recalled) gave evidence of an interview with the first Appellant under caution, each question and answer being recorded as the interview proceeded and the record being signed inter alia by the first Appellant. Thereafter the witness charged the first Appellant with the three offences of murder under section 302 of the Penal Code and recorded a statement volunteered by and signed by the first Appellant after caution. The interview was concluded at 1.55 p.m. on the 13th March 1965 and the statement was concluded at 3.15 p.m. the same day.

p.308, 1.37 to  
312, 1.30.

pp.320-322.

p.323.

p.324.

Assistant Superintendent of Police Jernal Singh Khosa testified that he conducted a similar interview with the second Appellant following which the second Appellant was similarly charged and he too volunteered a statement after caution. This interview started at 4.20 p.m. on the 13th March 1965 and the statement was concluded at 5.40 p.m. the same day.

pp.333-336.

Ching Boei Chhi, a medical officer at the General Hospital, testified that at 5.10 p.m. and

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pp.374-376.

against at 7.05 p.m. on the 13th March 1965 he carried out a thorough examination of the first Appellant and that at 6.45 p.m. and again at 7.45 p.m. the same day he examined the second Appellant. Neither Appellant showed any sign of injury or made any complaint of injury or assault.

pp.390-393.

Donald Yeo, 3rd District Judge, at the material time a Magistrate, said that starting at 6.15 p.m. on the 13th March 1965 the first Appellant had made a statement to him after caution and after specific enquiry as to whether the first Appellant had received any inducement threat or promise, which question the first Appellant answered in the negative. The first Appellant had made a correction in the statement after it had been read over to him and had signed the statement and the correction.

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pp.466-474.

9. Defence Counsel made objection to the admissibility of each of the said records of interview and the said statements alleging that the answers given at the interviews and the statements made were not given or made voluntarily but had been obtained by violence or threats thereof on the part of the police and of the interpreter. Both Appellants testified in support of this objection and after submission by Defence Counsel Chua J. admitted the evidence.

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pp.615-625.

The five accounts of the matter, three by the first Appellant and two by the second Appellant tallied in all material respects and were to the following effect. The Appellants had landed in Singapore on the 10th March 1965 then, after certain activities during the morning which were described with varying amounts of detail, the Appellants had lunched and thereafter had gone to a big building and placed two bundles on the staircase; the second Appellant had ignited a fuse; both Appellant had left the building and boarded a bus; it had been raining when they boarded the bus. According to the first Appellant they had spent that and the following night in a taxi; according to the second Appellant they had spent the night in a junk. The accounts given by the Appellants respectively as to their purpose in acting in the manner described were according to the first Appellant:

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"I was instructed by Lieutenant Paulus Subekti to cause trouble in Singapore." .....



"According to my friend the building where we should put the explosives was the most suitable place. I do not know what kind of building it was. I was told by my friend the building belonged to a European concern."

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and according to the second Appellant:

10 "My instructions as a sworn soldier were to carry the given parcel and light it at the electric power station in Singapore or any other building." p.620.

10. Both Appellants testified again saying that they were members of the Indonesian Armed Forces and described substantially as before their mission allegedly beginning in the early hours of the 13th March 1965 and recounted its premature end by reason of the boat being wrecked shortly after setting out, leading to their being picked up by the bum-boat.

pp.497-499,  
525-530.

20 11. On the 20th October 1965, after hearing submissions by Counsel on behalf of the Appellants and for the Crown, Chua J. convicted both Appellants and sentenced them to death. In giving his grounds of judgment, Chua J. outlined the circumstances of the explosion leading to the deaths of the three deceased, narrated the rescue of the Appellants by the bum-boat and reviewed the evidence led by the Crown concerning the interviews with and the statements made by the Appellants. He examined the

pp.579-570.

p.584 to  
p.585, 1.21.

30 evidence of the Appellants on the issue of the admissibility of the records of interview and the statements and found all to have been made voluntarily without the offer of any force inducement threat or promise. He outlined the evidence of the bus conductor Tan Boh Eng and said "Tan Boh Eng had a good opportunity to identify the two accused while in the bus and I was satisfied that the

p.585, 1.22 to  
590, 1.10.

identification parade was properly conducted. I could say that Tan Boh Eng's identification of the two accused was reliable and I accepted it." .....

p.590, 1.11 to  
592, 1.5.

40 "There is no doubt that whoever placed and set off those explosives in a busy building like McDonald House must know that that act of his was so imminently dangerous that it must in all probability cause death or such bodily injury as was likely to cause death and he is guilty of murder. The main question in this case is: Who was responsible for planting the explosives and setting it off?"

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The learned Judge reviewed the evidence given by the Appellants and continued:

"I did not believe the story of the two accused and it threw no reasonable doubt whatever on the prosecution case. I was convinced on the evidence of the bus conductor Tan Boh Eng that the two accused boarded a bus near McDonald House, Singapore, round about 3.00 p.m. on the 10th March, 1965.

"I was satisfied that the two accused made their confessions voluntarily. I regarded these confessions with great care and after considering the whole of the evidence before me I was convinced that the confessions made by the two accused were true. These confessions proved clearly that the two accused were the persons who placed the explosives in McDonald House and set them off on the 10th March, 1965, and I found them guilty of the charges."

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pp.598-600.

12. The Appellants appealed to the Federal Court of Malaysia on the grounds, inter alia: that they were "Protected Persons" under the Geneva Convention Act 1962; that their confessions should not have been admitted in evidence; and, that no weight should have been given to those confessions.

pp.601-611.

p.601 to  
p.602, 1.10.p.603 to  
p.606, 1.19.p.606, 1.20 to  
607, 1.15.

13. The Federal Court of Malaysia (Wee Chong Jin C.J., Tan Ah Tah F.J. and Ambrose J.) dismissed the appeals of both Appellants and confirmed the convictions and sentences in a judgment delivered the 5th October, 1966. The judgment first summarised the circumstances and the results of the explosion on the 10th March 1965, also the rescue of the Appellants from the sea on the 13th March 1965 and then recounted the statements made by the Appellants to the Police Officers and the Magistrates. The Federal Court Judges referred to the Appellants' retractions in their evidence of the confessions which they had made and outlined the evidence of the bus conductor Tan Boh Eng. The Federal Court declined to decide the question as to whether or not the 1949 Geneva Convention Relative to the Treatment of Prisoners of War was applicable in Singapore and made reference to the case of Stanislaus Krofan v. The Public Prosecutor 1967 1 M.L.J. 133, wherein they had taken a similar

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course and proceeded to deal with the appeal on the assumption that the Convention was applicable.

Record  
p.607, 11.16-47

As to whether or not the Appellants were members of the regular armed forces of Indonesia they said "we have examined the record with considerable care and are satisfied that there was ample evidence to support the trial Judge's finding." They continued:

10           "However, in view of the fact that the appellants are Indonesians and were apprehended when there was a state of "confrontation" amounting to armed conflict between that country and Malaysia of which Singapore was then a part, we think it desirable to consider this question on the assumption that they were members of the regular armed forces of the Republic of Indonesia. The facts as found by the trial judge were that they were rescued in Singapore waters and captured in civilian clothing.

20           There can be no doubt at all, assuming they were the persons who placed and set off the explosives at MacDonald House, that they entered and left that building in civilian clothing and were so attired throughout their presence in Singapore. Nor can there be the least doubt that the explosion at MacDonald House was not only an act of sabotage but one totally unconnected with the necessities of war. It seems to us clear beyond doubt that under

30           International Law a member of the armed forces of a party to a conflict who, out of uniform and in civilian clothing, sets off explosives in the territory of the other party to the conflict in a non-military building in which civilians are doing work unconnected with any war effort forfeits his right on capture to be treated as a prisoner of war. In our opinion on the facts of this case the appellants, assuming they were members of the regular

40           armed forces of the Republic of Indonesia, are not prisoners of war within the meaning of Article 4 of the 1949 Geneva Convention Relative to the Treatment of Prisoners of War."

The learned Judges then referred to the Appellants' argument that their statements should not have been admitted in evidence and upheld Chua J.'s ruling that they were admissible. They then

p.608, 1.47 to  
609, 1.20.

Record

dealt with the contention that, the statements having been retracted, the Appellants should have been acquitted as no weight could be attached to their statements and that there was no other evidence to prove the charges. In rejecting this and the allied contention that a retracted confession should not be the sole basis of a conviction unless the same is corroborated they adopted the following passage in the judgment of the Malayan Union Court of Appeal in the case of Yap Sow Keong v. The Public Prosecutor 1947 M.L.J.90: 10

"In our view the law as to the admissibility of retracted confessions in evidence is clear, and put shortly it is that an accused person can be convicted on his own confession, even when it is retracted, if the Court is satisfied of its truth. We do not agree that those Indian decisions which lay down that before a person can be convicted on his retracted confession there must be corroborative evidence to support it." 20

p.609, 11.21-46. The judgment concluded:

"Applying this principle to the facts of the present case we cannot but arrive at the same conclusion as the trial judge who after considering the whole of the evidence 'was convinced that the confessions made by the two accused were true'. Let us examine the facts. There was the evidence of the bus conductor, which the trial Judge accepted, who identified the appellants as being near MacDonald House at the time of the explosion. There was the evidence that they were found in Malaysian waters, where there was no valid reason for them, as Indonesians, to be at a time when Indonesia was confronting Malaysia. They gave evidence that they had been ordered by a superior officer to proceed to an island off Singapore in Malaysian territory to meet a Chinese who would give them a boat laden with goods to take back to Indonesia and that while on this journey their small boat collided with an object and sank. This was a most improbable story having regard to the fact of armed confrontation and one which the trial Judge disbelieved. We then have this picture. At a time when Indonesia was confronting Malaysia, 30 40

a non-military building in Malaysian territory was badly damaged as the result of an explosion in which between 20 to 25 lbs. of explosive of the nitro-glycerine group had been used. At the time of this explosion and very near the scene of this explosion were two Indonesians. Two Indonesians were rescued three days later in Malaysian waters. They turned out to be the same two Indonesians, whom a witness,

10 accepted as a witness of truth by the trial Judge, saw near the scene immediately before the explosion occurred. They confessed that they were responsible for this explosion. Later on in Court they retracted their confessions and gave a reason why they were in Malaysian waters at the time of their capture, which reason to say the least was highly improbable. They also gave reasons why they confessed to something

20 untrue, which reasons were disbelieved by the trial Judge, who also held that their confessions had been voluntarily made. From this picture we are satisfied that the trial Judge, notwithstanding the confessions were retracted, was entitled to come and amply justified in coming to the conclusion that the confessions were true and in convicting the appellants."

14. The Respondent respectfully submits that the appeal was correctly dismissed. It is submitted that the learned trial Judge was fully entitled on

30 the evidence to be satisfied that neither Appellants was a member of the Indonesian regular armed forces. The additional material relating to this issue which has been proffered on behalf of the Appellants, if properly a matter to be considered in this Appeal, is inherently unsatisfactory in nature, is inconsistent with evidence given at the trial by the Appellants and affords no ground for disturbing the finding of Chua J. Even if the Appellants were or ought to be regarded as being members of the Indo-

40 nesian regular armed forces they had, in consequence of divesting themselves of their uniforms and even (it would appear) of their identity discs, before landing in Singapore, no right to the status of Prisoners of War on capture. Both the laws and customs of war and the relevant Geneva Convention expressly or by implication extend such a right only to those wearing uniform or at least having a fixed distinctive sign recognisable at a distance and who, in addition, carry arms openly.

15. In any event, the Respondent respectfully submits that the right to such status depends also on the observance by those claiming it of the laws and customs of war. Those laws and customs, it is submitted, prohibit killing or injuring peaceful civilians taking no active part in the hostilities and the destruction of civilian property. There was evidence to support the conclusion of the Federal Court that MacDonal House was a non-military building, nor was any suggestion advanced by or on behalf of the Appellants at the trial that any activity of military significance was carried on in any part of that building. The only evidence as to the Appellants' reason for causing the explosion in that particular building consisted of statements by the Appellants themselves, namely: by the first Appellant, "I was instructed by Lieutenant Paulus Subekti to cause trouble in Singapore....." and "I was told by my friend that the building belonged to a European concern"; by the second Appellant, "My instructions as a sworn soldier were to carry the given parcel and light it at the electric power station in Singapore or any other building".

16. The Respondent respectfully submits that at the material time the law of Singapore regarding the reception of statements made by accused persons was substantially different from the law of India. The learned trial Judge, it is submitted, was fully entitled to convict solely on the confessions of the Appellants, notwithstanding that they were retracted, if he was satisfied, as he was, of their truth. The Indian rule it is submitted does not go so far as to require corroboration of a retracted confession in all cases before a conviction can be founded on it. In any event, there was in the present case ample corroboration of the confessions and of the Appellants' guilt.

17. The Respondent respectfully submits that the judgment of the Federal Court of Malaysia was correct and should be upheld, and this Appeal should be dismissed, for the following (among other)

#### R E A S O N S

- (1) BECAUSE the Appellants were not members, regular or otherwise, of the Indonesian armed forces:

- (2) BECAUSE if, contrary to the Respondent's contention, the Appellants were members of the Indonesian armed forces, by divesting themselves of their uniforms, by assuming civilian clothes, and by attacking a civilian target and causing death and injury to peaceful civilians they had forfeited any right to treatment as Prisoners of War:
- 10 (3) BECAUSE the confessions made by the Appellants did not in law require corroboration:
- (4) BECAUSE if, contrary to the Respondent's contention corroboration was required, then there was ample corroboration.
- (5) BECAUSE of the other reasons given in the judgment of the Federal Court of Malaysia:
- (6) BECAUSE the Appellants have suffered no miscarriage of justice.

CHRISTOPHER FRENCH.

GERALD DAVIES.

No. 20 of 1967

JUDICIAL COMMITTEE OF THE  
IN THE PRIVY COUNCIL

ON APPEAL FROM THE FEDERAL  
COURT OF MALAYSIA

B E T W E E N :

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- and -

THE PUBLIC PROSECUTOR  
Respondent

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CASE FOR THE RESPONDENT

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CHARLES RUSSELL & CO.,  
37 Norfolk Street,  
Strand,  
London, W.C.2.  
Solicitors for the Respondent.