

25

IN THE PRIVY COUNCIL

No. 51 of 1970

ON APPEAL
FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N:

RUPERT ANDERSON

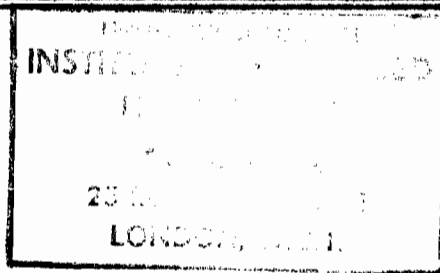
Appellant

- and -

THE QUEEN

Respondent

R E C O R D O F P R O C E E D I N G S



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5th July 1969

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21st July 1969

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20th March 1970

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ON APPEAL
FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N:

RUPERT ANDERSON

Appellant

- and -

THE QUEEN

Respondent

R E C O R D O F P R O C E E D I N G S

No. 1
INDICTMENT

In the Circuit
Court

10

The Queen v. Rupert Anderson
In the Supreme Court for Jamaica
In the Circuit Court for the parish of Saint Mary

No. 1
Indictment
7th March 1969

IT IS HEREBY CHARGED on behalf of Our Sovereign
Lady the Queen:

Rupert Anderson is charged with the following offence:-

STATEMENT OF OFFENCE

Murder.

PARTICULARS OF OFFENCE

20 Rupert Anderson on either the 23rd day of December,
1968, or the 24th day of December, 1968, in the
parish of Saint Mary, murdered one Huie Foster.

(Sgd.) ARTHUR REID
for Director of Public Prosecutions,
7th March, 1969.

In the Circuit
Court

No. 2
Proceedings
30th June 1969

No. 2
PROCEEDINGS

PORT ANTONIO CIRCUIT COURT,
PORTLAND

MONDAY, 30th JUNE, 1969

REGINA v. RUPERT ANDERSON.

CROWN COUNSEL: As Your Lordship, please. The accused man before the Court is Rupert Anderson. He is charged on an indictment for murder. He is represented in the conduct of his defence by M'Learned colleague, Mr. Kipling Douglas and I appear for the Crown. 10

REGISTRAR: Rupert Anderson, please stand. Rupert Anderson, you are charged with murder, for that you on the 23rd day of December, 1968, or the 24th day of December, 1968, in the parish of St. Mary, murdered Huie Foster. How say you, are you guilty or not guilty?

ACCUSED: Not guilty, sir.

REGISTRAR: Rupert Anderson? 20

ACCUSED: Yes, sir.

REGISTRAR: These persons whom you shall now hear called are the jurors who shall try your case?

ACCUSED: Yes, sir.

REGISTRAR: If therefore you wish to challenge them or any of them you must do so as they come up to be sworn and before they are sworn and you shall be heard.

JURY EMPANELLING

No 29	Ivanhoe McLeary	Sworn (Foreman)	30
No 25	Robert Mitchell	Sworn	
No 64	Cecil Phynell	(No answer)	
No 59	Othniel Cousin	Sworn	
No 53	Maurice Bingham	Challenged by Def.	
No 39	Mrs. Beatrice Smith	Sworn	
No 57	Joseph Barker	Challenged by Def.	

No 51	Lafayette Byron	Sworn	In the Circuit Court
No 36	Abraham Stephens	Sworn	
No 5	Mrs. Doris Barrett	Sworn	_____
No 41	Stephen Thompson	Sworn	No. 2
No 4	Walford Biggs	Sworn	Proceedings
No 21	James Mangaroo	(No answer)	30th June 1969
No 19	John Lowe	Challenged by Def.	(continued)
No 65	Neville Flynn	Sworn	
No 37	Lynford Speed	Challenged by Crown	
10 No 27	Aston Marshall	Sworn	
No 63	Cecil Fyffe	Sworn	

REGISTRAR: Members of the Jury -- Mr. Foreman, Members of the Jury, the prisoner at the bar stands indicted under the name of Rupert Anderson, for that he, on the 23rd day of December, 1968, or on the 24th day of December, 1968, in the parish of St. Mary, murdered Huie Foster. To this indictment he has pleaded not guilty. It is your charge, therefore, having heard the evidence to say whether he be guilty or not.

P R O C L A M A T I O N

USHER: All witnesses in this case, keep out of hearing.

CROWN COUNSEL OPENS TO THE JURY from 10:27 to 10:52 a.m.

No. 3

LINETTE WALKER

Prosecution Evidence

No. 3

LINETTE WALKER: SWORN: EXAMINATION-IN-CHIEF BY CROWN COUNSEL:

Linnette Walker

Examination

Q. What is your name: A. Linnette Walker.

Q. Speak up so that the jury can hear. What work do you do? A. Bar-tender.

Q. Where is this bar that you attend? A. Trinity Port Maria.

Q. Is that in the parish of..... A. St.Mary.

Q. Now, do you know a man by the name of Huie

In the Circuit
Court

Prosecution
Evidence

No. 3

Linnette
Walker

30th June 1969

(continued)

Foster? A. Yes, Sir.

Q. You know what work he used to do? A. Yes, sir, he works by the gas station, Clark's Gas Station.

Q. Where is that? A. Trinity.

Q. Is that far away from your bar? A. No, sir.

Q. About how far? A. About a chain or chain and a half.

Q. Do you know the accused Rupert Anderson? A. Yes, sir.

10

Q. About how long have you known him? A. Not very long, about four or five months.

Q. From when? A. To the time when the accident happene.

Q. By that you mean the death of Huie Foster? A. Yes, sir.

Q. Does he visit your bar, Rupert Anderson? A. Not very often.

Q. Do you remember a day in October, last year? A. Yes, sir.

20

Q. You remember the date? A. No, sir, but I know it was on a Monday around noon.

Q. Around what? A. Around noon.

Q. Was that accused Rupert Anderson in your bar on that Monday noon? A. Yes, sir.

Q. Were there other customers in the bar? A. No, sir.

Q. Only yourself? A. Myself and the owner for the bar.

Q. And Rupert Anderson? A. Came in and saw both of us there.

30

Q. Where he was? A. He came in from outside and came straight in the bar and draw a stool and sit on it.

Q. You spoke with him or he spoke with you?
 A. He said how-di-doo to me and I answered him and he rest his head on the counter like this (demonstrates)

In the Circuit
 Court

Q. You say he rest his head on the counter?
 A. Yes, sir.

Prosecution
 Evidence

Q. And did you hear him say anything? A. He was looking worried to me and I asked him what is wrong.

No. 3

Linnette
 Walker

30th June 1969

10 Q. Yes? A. He said that his girl friend came down from Highgate on the bus and instead of her coming straight to him, she stop by the gas station with Huie, and Huie told her a lot of things about him.

(continued)

Q. Anything else? A. And I said to him what it is but he did not say the things that Huie told the girl and his remark was "a fucker like that want to kill because him mek him mouth bother him too much".

20 Q. Did you happen to know the girl he was speaking about? A. No, sir.

Q. And did you know which Huie he was referring to?
 A. He said the Huie at the gas station.

Q. What happened, did he remain there or.....
 A. Well, he did not remain there much longer.

Q. Did he have a drink or anything: A. No, sir.

CROSS-EXAMINATION BY DEFENCE COUNSEL:

Cross-
 examination

30 Q. Miss Walker, you knew Huie Foster for quite a long time? A. Just as what I say, about four or five months.

Q. As a matter for fact you were very friendly with Huie Foster? A. No, sir, not very much friendly, only he come to the bar and buy there.

Q. A few months before this event didn't you have a quarrel with a woman by the name of Lor over Huie? A. No, sir.

Q. Did you know where Rupert Anderson lived?

In the Circuit
Court

Prosecution
Evidence

No. 3

Minnette
Walker

Cross-
examination

30th June 1969

(continued)

A. Yes, sir.

Q. As a matter of fact he moved out the room when you moved in? A. Yes, sir.

Q. You took over the room from him? A. I wanted a room and when he was leaving he came to the bar and told me I could have the room.

Q. I am suggesting to you that Huie Foster got you that room? A. No, sir, Huie did not even know when I was going to move.

Q. I am suggesting that Huie told you about the room? A. No, sir.

10

Q. You are telling us that this man just came in the bar and say he is going to kill....
A. He did not say he is going to - I did not say that, sir.

Q. Your words were: "a fucker like that want to kill"? A. Yes, sir.

Q. You are sure it is not that he is going to get fucked, that he did not say he is going to get fucked?

20

A. If I am sure he did not say so?

Q. That he is going to get fucked? A. Yes, sir.

Q. And not that he is going to get killed?
A. He did not say he is going to kill him, he said he want to get killed - a fucker like that want to get killed because he mek his mouth bother him too much - that is what he said.

Q. I am suggesting to you that nothing went so at all. A. Well I am telling you it went so, sir.

Q. I am suggesting to you that you are making this up. A. No, sir, Rupert is no enemy of mine that I would tell a lie on him.

30

Q. May I refer Your Lordship to page 5 of the depositions, five lines from the bottom.

(To witness): Madam, did you give evidence when this thing came up at Port Maria? A. Yes, sir.

- Q. And did you give this evidence under oath? A. Yes, sir. In the Circuit Court
- Q. And when you were finished your evidence, didn't the learned Judge read it over to you? Prosecution Evidence
- A. Yes, sir, I think so.
- Q. Didn't she tell you to correct her if there was anything wrong? A. Yes, sir. No. 3
- A. And didn't you sign this as being correct? Linnette Walker
- A. Yes, sir. Cross-examination
- 10 Q. Didn't you on that occasion say that she stopped at the gas station with Huie and Huie tell her a lot of things about me and he is going to get fucked as he mek his mouth bother him too much - isn't that what you said? A. Yes, sir. 30th June 1969 (continued)
- Q. And you did not say anything about a fucker like that want to kill? A. I said it, sir, so if you don't see it in the paper that is what they don't put, but I talk it.
- 20 Q. Didn't you sign it as being correct? A. Yes, but I did not read it.
- Q. Wasn't it read to you? A. Yes, sir.
- Q. And you signed what was read to you as being correct? A. Yes, sir.
- Q. You see, I am suggesting to you you are not speaking the truth at all? A. Say I am not doing what?
- Q. Speaking the truth. A. I am speaking the truth, I have no reason of telling a lie.
- 30 Q. Please just answer the question. I am suggesting to you that this one-way conversation never took place at all? A. Yes, sir, that is what you are saying. Well what you have there or what I say is just what I say, I have no reason of telling a lie at all neither on either party.

HIS LORDSHIP: All right, madam.

CROWN COUNSEL: No re-examination, M'lord.

In the Circuit
Court

No. 4
CARMEN WALDEN

Prosecution
Evidence

CARMEN WALDEN: SWORN: EXAMINATION-IN-CHIEF
BY CROWN COUNSEL:

No. 4
Carmen Walden
Examination
30th June 1969

- Q. What is your name? A. Carmen Walden.
- Q. Please speak up loudly that the jury can hear you, and the accused man has the right to hear you. Where do you live? A. Esher.
- Q. Is that in the parish of St. Mary? A. Yes, sir.
- Q. What work do you do? A. I am not working now, sir, I used to work as an hospital assistant only part time work, I am not working now, sir. 10
- Q. Hospital Assistant, what is the nature of that work? A. Helping nurses.
- Q. Do you know Huie Foster, the deceased? A. Yes, sir.
- Q. H w long had you known him? A. I know him for a long time, plenty years, I really don't remember how many years but I know him from I was small. 20
- Q. How old were you when you knew him? A. From I was about twelve going up, sir.
- Q. Were you friends with him? A. Yes, sir.
- Q. Intimate friends? A. Once, sir.
- Q. Do you know the accused Rupert Anderson? A. Yes, I met him once.
- Q. Speak up. A. I saw him once, sir, in Highgate.
- Q. Did you speak with him? A. Yes, sir.
- Q. What you said to him? A. Well, to the quality clothes I saw him wearing I asked him where does he work and he told me he worked in Port Maria at the hospital and I asked him what was his name. 30
- Q. And did he say? A. Yes, he told me his name is

Rupert Anderson.

In the Circuit
Court

Q. What name he gave you? A. Rupert Anderson.

Q. When was this you had the conversation with him? A. It was in October, last year, 1968.

Prosecution
Evidence

Q. And what else did you say, if anything, to him? A. I asked him how the hospital is situated and if anybody can get work in the holidays and he told me no but I should come and he would take me to the matron.

No. 4

Carmen Walden
Examination

10 Q. Did he say anything about the job that he does there? A. Yes, sir, he said he is the head Porter there, sir.

30th June 1969

(continued)

Q. What day of the week was this that you spoke with him? A. It was on a Friday, sir.

Q. Did you go to the hospital? A. Yes, sir, I went to the hospital.

Q. When was it that you went? A. I went on a Monday.

20 Q. The Monday after the Friday or more than that? A. The other week Monday, sir. About a week, sir.

Q. About a week after? A. Yes, sir.

Q. Did you see him? A. Yes, I saw him.

Q. Where? A. I saw him on the road when I coming from the hospital.

Q. You went to the hospital and you saw the accused on the road? A. Yes, sir.

Q. Which road is that? A. Going into Port Maria.

30 Q. Is that the main road leading into Port Maria? A. Yes, sir.

HIS LORDSHIP: That is after you left the hospital? A. Yes, sir, and come out on the main road.

CROWN COUNSEL: Did you say anything to him or he

In the Circuit
Court

Prosecution
Evidence

No. 4

Carmen Walden

Examination

30th June 1969

(continued)

said anything to you? A. Yes, sir, he spoke to me, sir.

Q. What he said? A. He asked me: don't he did tell me was to come a different day and he asked me: don't you don't see the matron because you come the wrong time? And I asked him say what is the difference between today and another day and he spoke and say don't you don't see the matron?

Q. Did he say anything further to you? A. Yes, 10
sir.

Q. What he said? A. He said, well, he could get me into the job.

Q. You wanted a job at the hospital? A. Yes, sir.

Q. He said that to you and what? A. And I asked him in what way; he said that he and Mr. Wilson are friends and he could go to Mr. Wilson and get a pink card and get me into the job but I must go over the house with him, and I say No, I would not go over there. He say Yes, I must go over there and I said to him--- 20

HIS LORDSHIP: Who is Mr. Wilson?

A. I don't know what he is at the hospital but he works at the hospital.

HIS LORDSHIP: He would get a card from him but you must go over the house with him? A. Yes, sir.

CROWN COUNSEL: What you told him? A. Well, I told him that the only way I would go over the house with him is unless he go up and get the card I would go over his house and sit down and sign it. 30

Q. Did he say what he wanted you to go over the house with him for? A. No, sir, he never tell me but to his argument and to how I saw him....

DEFENCE COUNSEL: I am objecting.

A. To how I saw him.

HIS LORDSHIP: Wait a minute. You say he never told

you what he wanted you to go over the house for?
A. No, sir.

In the Circuit
Court

HIS LORDSHIP: What did you think he wanted you to go
over there for? A. I told myself it must be
sex for all he told me was a lie for nothing
go like how he told me.

Prosecution
Evidence

HIS LORDSHIP: You thought he wanted you to go for
sex? A. Yes, sir.

No. 4

Carmen Walden

Examination

10 CROWN COUNSEL: Now, did you get the job at the
hospital? A. Yes, sir.

30th June 1969

(continued)

Q. When you got the job? A. In December, sir, the
first week, going into the second week in
December I got a job there - in December, sir.

Q. You say either the first or second week of
December? A. Yes, sir, but not with him
knowing of me getting a job at the hospital

Q. Just a minute. You remember a day in November,
last year? A. Which day sir?

20 Q. Did you see the deceased Huie Foster? A. Which
month, sir?

Q. In November. A. I don't remember the direct
day you are speaking of but I know I met him
plenty time.

Q. You met the deceased plenty times? A. Yes,
sir.

Q. Where you always meet him? A. The deceased?

30 Q. Yes. A. Sometimes I saw him in Port Maria and
sometimes at the gas station. We never make
any date to meet but sometimes I am going on
and I see him.

Q. Do you remember any occasion when Foster and
yourself are together that you see the
accused Anderson? A. Yes, sir, once.

Q. You remember what month that was? A. No,
sir, but it is between November and December,
sir.

Q. Where were you? A. In Port Maria.

In the Circuit
Court

Prosecution
Evidence

No. 4

Carmen Walden

Examination

30th June 1969

(continued)

Q. What part, where - at a home or walking along the street: A. Going in Port Maria on the street.

Q. Foster and yourself were walking together?
A. Both of us were walking.

Q. Where did you see the accused man? A. I saw him in a truck sitting down.

Q. Did you speak with him? A. No, sir, I never spoke with him from the day I spoke to him at the hospital road.

10

Q. Did the deceased speak to him? A. Yes, sir.

Q. He went to the accused or Anderson came to him?
A. He went to Anderson, sir.

Q. Huie Foster, the deceased, went to Anderson?
A. Yes, sir, went across the street.

Q. Did they have a conversation? A. Yes, sir, but not very long, very short, it was a short conversation.

Q. Did you hear what they said? A. No, sir, I never stand up to listen, I was going on and the deceased come and catch me up.

20

Q. Now, do you know one Olive Reynolds? A. Yes, sir.

Q. Do you sometimes visit Olive Reynolds home?
A. Yes, sir.

Q. Where is that, where does she live? A. She live on the street going to Port Maria.

Q. Do you remember Saturday the 21st December, last year? A. Yes, sir.

Q. Were you at Olive Reynolds' home? A. Yes, sir, I was in the yard standing up.

30

Q. Did you see the deceased? A. Yes, sir.

Q. Where was he when you first saw him? A. He was on a bicycle coming up the road.

Q. Did you call to him or did he call to you?

A. I called to him, sir.

Q. Did he come to you? A. Yes, sir, he come across the street and lean on the bank.

Q. He came across the street and lean on the bank?
A. Yes, sir, lean the bicycle and stop, just to stop.

Q. Where were you exactly? A. I was on the break of the street - just a little thing behind - the street over this way and a little walkway and I stand up right there.

Q. And you were speaking, you were talking - you spoke with the deceased? A. Yes, sir.

Q. While you were speaking did you see the accused Rupert Anderson? A. No, sir.

Q. Did you see him at any time? A. No, sir.

Q. While you were there? A. No, sir.

Q. You know one Norman Beckford? A. Yes, sir.

Q. Did you see her that day? A. Yes, sir.

Q. Did you see her when you were having this conversation with the deceased? A. I never take any notice at that time, sir.

Q. Did you see her at all? A. She was there when I went there; I saw her in the yard.

Q. That is Olive Reynolds' yard? A. Yes, sir.

Q. Now you say you got the job at the hospital either the first or second week in December?
A. Yes, sir.

Q. Are you still working there? A. No, I am not working, I got the work only for two weeks, part-time work, I got it the ninth of December.

Q. And when you left - after Christmas or New Year or in January? A. Well, I leave - this occurrence with Anderson and Foster took place and I leave that day, that was the day I leave the hospital.

In the Circuit
Court

Prosecution
Evidence

No. 4

Carmen Walden
Examination
30th June 1969
(continued)

10

20

30

In the Circuit
Court

Prosecution
Evidence

No. 4

Carmen Walden

Examination

30th June 1969

(continued)

HIS LORDSHIP: That is the day when Foster was found dead? A. Yes, sir.

CROWN COUNSEL: What are your hours when you are working there, what hours you work? A. Well, I work from 6.00 - 10.00 or from 10.00 - 2.00

Q. 6.00 p.m. to 10.00 p.m. A. From 6.00 in the morning until 10.00 in the part day and go off and come back 2.00 and work back till 6.00 and sometimes I work from 2.00 until 6.00 and come 10.00 to 2.00. 10

Q. When you say 10.00 to 2.00 what do you mean - 10.00 - 2.00 at night? A. No, sir, from 10.00 in the morning until 2.00 in the afternoon

Q. Do you work at night? A. No, sir.

Q. Did Huie Foster know that you were working there? A. Yes, sir, he know.

Q. And did Rupert Anderson know? A. I did not know whether he knew, sir.

Q. Have you ever seen him on the hospital compound? A. No, sir, at no time. 20

Q. Where you were on the night of the 23rd December, do you remember? A. Yes, sir, I went to Port Maria I and a friend and after I came home I went up to Olive Reynolds' home.

Q. You went to Port Maria with a friend and afterwards you went to Olive Reynolds' home? A. Yes, sir.

Q. Is that in Port Maria? A. Yes, sir.

Q. Did you remain there that night? A. Yes, sir. 30

Q. Do you know where Olive Reynolds live -- where you were is that near to the entrance to the hospital? A. No, sir.

Q. How far away that is. Q. It is about half a mile.

Q. Is that on the main road Olive Reynolds' home is? A. Yes, sir.

Q. On the Port Maria side of the hospital or the Highgate side? A. Going down Olive Reynolds' home is on the left hand side and the hospital is on the right hand side, but far up.

HIS LORDSHIP: Is it on the Port Maria side of the hospital gate or the Highgate side, the Trinity side? A. On the Highgate side, sir.

(Crown Counsel sits).

CROSS-EXAMINATION BY DEFENCE COUNSEL:

- 10 Q. Miss Walden, you were one of Huie Foster's girl friends? A. Just a friend, sir.
- Q. Huie gave you presents, didn't he? A. Yes, from I was small.
- Q. As a matter of fact you went out with Huie quite often? A. No, sir, I never went out with Huie.
- Q. I am saying you have been intimate with Huie? A. Once, I told you, sir.
- 20 Q. Now, you did not know the accused before that day at Highgate? A. No, sir.
- Q. You have never been intimate with the accused? A. No, sir.
- Q. And you would not be intimate with him? A. No, sir.
- Q. Did you ever give him any reason to feel that you would be intimate with him? A. No, sir.
- Q. As a matter of fact you would even go to his home to sign the card? A. That is what I told you I would do.
- 30 Q. Huie was what you called a handsome chap? Good looking? A. Not very much, sir.
- Q. You call him handsome? A. Well he was very kind and it never matter about the handsome.
- Q. He was very generous and he had money? A. I really don't know.

In the Circuit Court

Prosecution Evidence

No. 4

Carmen Walden Examination

30th June 1969

(continued)

Cross-examination

In the Circuit
Court

Prosecution
Evidence

No. 4

Carmen Walden

Cross-
examination

30th June 1969
(continued)

Q. The day you were walking with Huie, he just went across without being called and spoke to the accused? A. He just went across without being called to who sir? Do you mean the accused?

Q. The accused never called him? A. No, sir, he said "you see that man, he owe me some money" - that is what he said and he went across to him.

Q. And you never saw this accused person again after that? A. No, sir. 10

Q. Now the night of the 23rd, you say you were in Port Maria? A. Yes, sir, I went to Port Maria.

Q. You did not have any dates that night? A. No, sir.

Q. You did not arrange to meet anybody? A. No, sir.

Q. As a matter of fact you were staying with a girl friend? A. When? At what time - when I went to Port Maria?

Q. Yes. A. No, is me and a boy-friend - just a friend. 20

Q. You went with a boyfriend? A. Yes, he works at a part of the hospital.

Q. But after that you went to your girlfriend? A. The friend follow me come to her home.

Q. About how long before this did you know Huie, a long time? A. It was a long time. My Grand Aunt used to break stones when I was small and whenever time she went for the money and Mr. Clarke was not there he was the one that was there. 30

Q. So you knew Huie from that time? A. Yes, sir.

Q. All right, thank you.

CROWN COUNSEL: No re-examination, M'lord.

No. 5
NORMA BECKFORD

In the Circuit
Court

Prosecution
Evidence

NORMA BECKFORD: SWORN: EXAMINATION-IN-CHIEF BY
CROWN COUNSEL:

No. 5

Norma Beckford
Examination
30th June 1969

- Q. Is your name Norma Beckford? A. Yes, sir.
- Q. Could you speak so that the gentlemen at the end can hear you? A. Yes, sir.
- Q. What work do you do? A. I was going to school, sir.
- 10 Q. What work do you do now? A. I am an Accountant now, sir.
- Q. Where are you employed? A. At a store at Port Maria - I was working at a store, in Port Maria but I am not working at the moment.
- Q. Where are you living? A. 86 Stennett Street, sir.
- Q. Is that in Port Maria? A. Yes, sir.
- Q. In St. Mary? A. Yes, sir.
- 20 Q. Do you know Olive Reynolds' home? A. Yes, sir.
- Q. Is that where she lives? A. Yes, sir.
- HIS LORDSHIP. The same yard? A. Yes, sir.
- Q. Does she visit the home where you live? A. Yes, sir.
- Q. You remember the 21st of December? A. Yes, sir.
- Q. Last year? A. Yes, sir.
- Q. Was she there? A. The twenty-first
- 30 Q. Yes, the 21st of December last year. A. Yes, sir.
- Q. Did you see him on that day, the 21st December?

In the Circuit
Court

Prosecution
Evidence

No. 5

Norma Beckford

Examination

30th June 1969

(continued)

A. Yes, sir.

Q. Where you saw him? A. At the gate talking to Carmen, sir.

Q. Speak up madam - at the gate speaking to...
A. Carmen, sir.

Q. Do you know the accused Rupert Anderson?
A. Yes, sir.

Q. Did you see him that day? A. Yes, sir.

Q. When did you see him? A. About 1.30 the Saturday, sir, pass when Carmen and Huie was speaking at the gate, sir.

10

Q. Passed near to them or far away from them?
A. Near, sir.

Q. About how far away he passed? A. About two yards, sir.

Q. Did you see where he went, what direction?
A. Into the shop at our home, sir.

Q. He went into a shop? A. Yes, sir.

Q. At the same 86 Stennett Street? A. Yes, sir.

Q. Did he remain in the shop or he came out back?
A. He came out after, sir.

20

Q. When he came out was Huie Foster and Carmen still talking? A. Yes, sir.

Q. Where did he go to, the accused Rupert Anderson?
A. Housing Scheme, same place where he came from, sir.

Q. Went to a Housing Scheme? A. Yes, sir.

Q. Is that nearby? A. Yes, sir, before our home, sir, the housing scheme is before the house where we live, sir.

30

Cross-
examination

CROSS-EXAMINATION BY DEFENCE COUNSEL:

Q. While Huie was talking to Carmen, did other people pass? A. Yes, sir

Q. Other people aside from the accused? A. Yes, sir.

Q. Other men too? A. I don't know if is men but I know people pass because it is a main road, sir.

Q. Now, the accused did not say anything when he passed? A. No, sir.

Q. And this was the 21st? A. Yes, sir, the Saturday.

10 Q. The Saturday? A. Yes, sir.

In the Circuit Court

Prosecution Evidence

No. 5

Norma Beckford
Cross-examination

30th June 1969
(continued)

No. 6

STANFORD LYNCH

No. 6

Stanford Lynch
Examination

30th June 1969

STANFORD LYNCH: SWORN: EXAMINATION-IN-CHIEF
BY CROWN COUNSEL:

Q. What is your name? A. Stanford Lynch.

Q. Now, Mr. Lynch, I will have to ask you to speak loudly so that you can be heard both by the jurors and the accused man. A. All right, sir.

Q. What work do you do? A. I am a farmer, sir.

20 Q. And where do you live? A. Trinity.

Q. Is that in the parish of St. Mary? A. Yes, sir.

Q. Do you know the deceased Huie Foster? A. Yes, sir.

Q. How long have you known him? A. Plenty of years now, sir.

Q. Do you know the accused man, Rupert Anderson? A. Yes, sir.

Q. Do you remember in 1967 where they were living? A. Yes, sir.

30 Q. Where? A. By the hospital gate.

In the Circuit
Court

Prosecution
Evidence

Stanford Lynch
Examination

30th June 1969
(continued)

Q. Do you know where Huie Foster and Rupert Anderson were living? A. At Trinity.

HIS LORDSHIP: In the same house or different house?

CROWN COUNSEL: Were they living in the same house or different houses? A. I guess in the same yard.

Q. I don't want you to guess. A. I don't certain.

Q. Do you know whether they were friends or not? A. They were friends, sir.

Q. Do you know a time when they were not so friendly? A. Yes, sir. 10

Q. When you noticed that, that they were not so friendly? A. Well, I really don't know how long since they break off but I know they were friends and afterwards they break off, but I did not study it.

Q. Do you remember how long ago you noticed although you did not study it, that they were not so friendly, what month or year? A. From 1937, sir. 20

Q. How much? A. I really don't remember the year now, sir, I can't remember.

Q. Do you know where the accused worked? A. Yes, sir.

Q. Where? A. At Mr. Clarke's gas station.

Q. The accused man I am asking you, Anderson? A. No, sir, I don't know where he was working.

Q. Do you know where the deceased Huie Foster worked? A. Yes, sir.

Q. Where? A. At Mr. Clarke's gas station. 30

Q. Where is that? A. At Trinity, sir.

Q. Do you remember the 23rd December, last year? A. Yes, sir.

Q. About 8.00 o'clock at night? A. Yes, sir.

- Q. Did you go to the gas station? A. Yes, sir.
- Q. Is that the gas station where the deceased Huie Foster used to work? A. Yes, sir.
- Q. Did you see him there? A. Yes, sir.
- Q. Who? A. Rupert Anderson, sir.
- Q. You noticed anything happening between them? A. Yes, sir.
- Q. What? A. They were talking.
- Q. Did you hear what they said? A. No, sir.
- 10 Q. How long did you observe them talking for? A. Well, I rode up and when I go up I see them was talking and Rupert Anderson come to me and tell me that....
- Q. All right, I asked you how long you observed them talking. A. As I rode up I see them talking and....
- Q. Did you ride up same time? A. Please allow me to tell you.
- Q. No, no. How long they talk for man? Was it five minutes, half hour? A. Not so long.
- Q. Two minutes you saw them? A. Around that they were speaking to each other.
- Q. Were they standing up face to face talking? A. Yes, sir, they stand up talking to each other I don't know what they were talking about.
- Q. Did you remain there for any time at the gas station? A. Yes, a short time, sir.
- 30 Q. When you left was the accused man, Rupert Anderson, still there? When I go up there---
- Q. Listen and answer my question. A. He leave.
- Q. He leave you? A. He leave me there.
- Q. How did he go away, ride, walk or drove away? A. A car take him up from there.

In the Circuit
Court

Prosecution
Evidence

Stanford Lynch

Examination

30th June 1969

(continued)

In the Circuit
Court

Prosecution
Evidence

Stanford Lynch
Examination
30th June 1969
(continued)

- Q. You know whose car? A. Yes, sir
- Q. Whose? A. We call him 'Toby'.
- Q. Toby? A. Yes, sir.
- Q. What direction did the car leave to? A. Towards Highgate direction.
- Q. Towards Highgate? A. Yes, sir.
- Q. About what time of night was it when he left?
A. Between eight to half past eight, sir.
- Q. Now, you remember what kind of clothes the accused Rupert Anderson was wearing when you saw him in the gas station? A. Yes, sir, suit of khaki. 10
- Q. When you say suit, what do you mean? A. Shirt and trousers.
- Q. At that time in December do you know where the deceased Huie was living.
- A. In Trinity, sir.
- Q. Still in Trinity? A. Yes, sir.
- Q. In December? 20
- HIS LORDSHIP. Where?
- CROWN COUNSEL: In Trinity in December.
(To witness): And where was the accused Anderson living, do you know, in December?
A. I hear them say he live at Highgate.
- Q. No, do you know? A. I don't know where him living, sir.

Cross-
examination

CROSS EXAMINATION BY DEFENCE COUNSEL

- Q. You knew Huie Foster very well? A. Yes, sir.
- Q. As a matter of fact he used to do business for you? A. No, sir, I do my own business. 30
- Q. He taught you to sign your name and things like that? A. Do what? Sign my name? No, I can sign my name.

In the Circuit
Court

Prosecution
Evidence

Stanford Lynch

Cross-
examination

30th June 1969

(continued)

- Q. Huie taught you? A. My parents taught me.
- Q. I see, beg your pardon. Now, Huie was a very popular man wasn't he? A. I don't know if him popular or not, I know him working at the gas station.
- Q. You know he has a lot of girl friends?
A. Yes, sir.
- Q. One name Joyce? A. Well ---
- Q. Carmen? A. I know him have Carmen.
- 10 Q. And Peggy? A. I don't know no, I don't know.
- Q. You know Ena? A. No, sir.
- Q. You know one called Pleasant? A. No, sir.
- Q. You don't know their names? A. No, sir.
- Q. You know one called Miss Lue? A. No, sir.
- Q. You don't know that one? A. No, sir.
- Q. Now, the night at the gas station you say these two men were talking? A. Yes.
- Q. The accused got a lift? A. Yes.
- 20 Q. Now Huie walked with him to the car? A. Two of them go towards the car.
- Q. And Huie closed the door for him when he got in?
A. I don't know.
- Q. You don't know? A. I know that both of them go towards the car, I don't go to the car with them.
- Q. You did not notice whether Huie closed the door for him when he got in? A. No, I don't know if he closed the door for him.
- 30 Q. And that was about eight-thirty? A. Around that, sir.
- Q. Could have been a little later? A. No, if anything, it must be earlier.

In the Circuit
Court

Prosecution
Evidence

Stanford Lynch

Cross-
examination

30th June 1969

(continued)

- Q. May be a little earlier: A. Yes.
- Q. But just around 8.30? A. Between eight-thirty
between -- call it eight.
- Q. Between eight or call it eight? A. Well,
sir, I did not have any time on me to be truth-
ful and everything I say here is the truth.
- Q. Now you -- sometimes you and a friend don't get
on so well? A. Me and my friends get along
well.
- Q. You get on with all your friends? A. All my
friends, me and them get along. 10
- Q. You never quarrel with anyone of them yet?
A. No, sir.
- Q. And make up? A. No, sir, I never have to make
up, sir.

No. 7

Exford Neil

Examination

30th June 1969

No. 7

EXFORD NEIL

EXFORD NEIL: SWORN:

Examined by Crown Counsel:

- Q: What is your name? A: Exford Neil. 20
- Q: Now, Mr. Neil, I will have to ask you to speak
loudly so that we can all hear you: Yes, sir
- Q: What work do you do, Mr. Neil? A: Headman for
Mr. Creary, sir.
- HIS LORDSHIP: What work you do?
- A: Headman for Mr. Lenville Creary.
- CROWN COUNSEL: And where do you live? A: At
Trinity, sir.
- Q: You know the deceased man, Huie Foster?
A: Yes, sir. 30

Q: How long have you known him? A: Well, I know him from about - between fifty-five - fifty-six - somewhere around there.

In the Circuit Court

Q: And you also known the accused, Rupert Anderson?
A: Yes, sir.

Prosecution Evidence

Q: How long have you known him? A: Fifty-five - some time in fifty-five, sir.

Exford Neil Examination

Q: Now, do you know the gas station at Trinity?
A: Yes, sir.

30th June 1969
(continued)

10 Q: Where the deceased Huie Foster used to work?
A: Yes, sir.

Q: Do you live near the gas station? A: Not that near, sir, maybe about five chains - maybe - I don't certain.

Q: Now, you remember Monday the 23rd of December, were you near the gas station? A: Well, I was on the right side in front of the gas station.

20 Q: You were on the right side in front --- you were at the side of the road opposite to the gas station? A: Yes, sir, in going to Port Maria the gas station on the left and I was on the right where the bus park, right in front.

Q: Now, about what time were you there? A: It was around 7.30.

Q: Seven-thirty, night or morning? A: In the night, sir, night, sir.

Q: Did you see the accused at the station?
A: Yes, sir.

30 Q: What was he doing? A: A chair was over here and Huie was down this end and Rupert go towards Huie -- what he says, I don't know and.....

CROWN COUNSEL: Just a moment. Yes?

A: I don't know what....

Q: Rupert Anderson went towards Huie? A: Yes, sir, after he went towards Huie he go over towards

In the Circuit
Court

Prosecution
Evidence

No. 7

Exford Neil
Examination

30th June 1969
(continued)

Huie's ear and Huie go over to that end and him come up there and him go back.

HIS LORDSHIP: Just a minute. Went and what?

A: And after him come up and go down him still following Huie, but what him was saying, I don't know, so the watchman was sitting here.

CROWN COUNSEL: Now, what happened after he followed him? A: The second time?

Q: Huie being going up and coming.

A: Going up and coming, just going up and coming. 10

Q: What about Anderson, was he following him at that time? A: He seem to be saying something to him, but what - I don't know.

Q: What time did you leave -- or did you leave, first of all? A: Yes, sir, I leave.

Q: About what time? A: Well, I really couldn't tell what time I leave.

Q: About how long after? A: About how long after I see the man?

Q: Yes, that you leave - half an hour, an hour? 20
A: Less than half an hour I leave there - less than half an hour.

Q: Thirty minutes? A: Well, I really couldn't tell you the time.

Q: When you left, was Anderson still at the gas station? A: Right, sir.

Q: And Huie Foster was still there? A: Yes, sir.

Q: You remember what type of clothes.....
A: Yes, sir.

Q:the accused Rupert Anderson was wearing? 30

Q: Yes, sir.

Q: What type of clothes? A: A red khaki.

Q: Was it the trousers or the shirt? A: Shirt and pants, sir.

CROSS-EXAMINED BY DEFENCE COUNSEL:In the Circuit
Court

Q: Huie Foster was working that night? A: Yes, sir.

Prosecution
Evidence

Q: Serving gas? A: Yes, sir.

No. 7

Q: And this is what he was walking up and down doing? A: Who?

Exford Neil

Q: Foster was walking up and down doing? A: Walking up and down serving gas. When Rupert came there he wasn't serving any gas.

Cross-
examination

30th June 1969

10 Q: He wasn't serving any gas, but whilst Rupert was there he served gas? A: He served gas when two cars came, one to the left and one to the right. Rupert leave like him coming up towards my yard direction. After the two cars get service and go, him turn back to the gas station.

Q: Was Huie serving both cars? A: Sure, pay attention to both cars - eh - him leave and turn back to the gas station.

20 Q: Now, you were - you say, on the other side of the road? A: Right - on the other side of the road where the bus park and on the wall leaning like this (demonstrates).

Q: And the road is how far from the station? A: I don't know how far.

Q: The road is wide at that point? A: Yes, sir.

Q: And the station is in from the road? A: I don't know about how far.

30 Q: The station has a big front yard, isn't it? A: Well, I should not think the front yard is that big to me.

Q: How far would you say the station - the pump is from the road? A: I couldn't tell you that. I never measure.

Q: You are sure you saw that station? A: I saw it all the while, but I don't have any idea of the measurement.

Q: And you wouldn't point out how far? A: I

In the Circuit
Court

Prosecution
Evidence

No.7

Exford Neil

Cross-
examination

30th June 1969

(continued)

wouldn't do that because I might be wrong.

Q: You couldn't tell us how far? A: No, sir.

Q: Let me suggest to you that it was about from here to the sea? A: I couldn't tell you that - I couldn't.

Q: You wouldn't tell me anything at all?
A: I can tell you what I know.

Q: But you don't know the distance of the service station from the road? A: No.

Q: Do you know the service station any at all?
A: I know it. 10

Q: You know it? A: I know it. I really know it. I used to sit down in the night and read.

Q: And you can't say how far from the road it is?
A: No, sir.

Q: How long you know this man? A: Rupert?

Q: Yes. A: From around sixty-five I used to him.

HIS LORDSHIP: Sixty-five or fifty-five?

A: Fifty-five, sixty-five. I used to him more in sixty-five, but I know him from fifty-five - some time in fifty-five but in sixty-five I more acquainted with him. 20

DEFENCE COUNSEL: You and Rupert used to get on?

A: I and him never had any fuss. Sometimes I don't see him, him passing, him give me a sound.

Q: And you can't tell us how far the service station is from the road? A: No, I couldn't tell you that.

CROWN COUNSEL: No re-examination, M'Lord. 30

No. 8
JOYCE SCARLETT

In the Circuit
Court

Prosecution
Evidence

No. 8

Joyce Scarlett
Examination

30th June 1969

JOYCE SCARLETT: SWORN:

Examined by Crown Counsel:

Q: Now, before we start, Madam, I will have to ask you to talk loud. We want no whispering in here, what is your name? A: Joyce Scarlett.

Q: That isn't loud enough. A: Joyce Scarlett.

Q: And what work do you do? A: Domestic.

10 Q: And where do you live? A: I am living at Trinity.

HIS LORDSHIP: Speak up.

A: I am living at Trinity.

CROWN COUNSEL: That is in St. Mary? A: Yes, sir.

Q: Now you know the accused, Rupert Anderson?
A: Yes, sir.

Q: How long you know him? A: I know him around three years now, sir.

Q: You know what work he does? A: No.

20 Q: Now, you remember the 23rd of December, last year? A: Yes, sir.

Q: Did you see him? A: Yes, sir.

Q: About when you saw him? A: Around nine fifteen a.m. sir.

Q: Nine-fifteen, when? A: A.M.

Q: Is the morning or night you see him? A: Night.

Q: Nine-fifteen at night? A: Yes, sir.

Q: Where were you when you saw him? A: I was at the hospital gate standing.

In the Circuit
Court

Prosecution
Evidence

No. 8

Joyce Scarlett
Examination

30th June 1969
(continued)

Q: You were standing up at the hospital gate?
A: Yes, sir.

Q: Which hospital gate is that? A: The one in
Port Maria.

Q: What is that? A: In Port Maria.

Q: When you say the hospital gate, is there an
actual gate there? A: Is just the gate that
lead to the hospital.

Q: Is there a road that leads up to the hospital?
A: Yes, sir.

10

Q: And were you in that road, or were you on the
main road that leads to Port Maria? A: I was
on the road that leading to the hospital. They
have a bus stop right there.

HIS LORDSHIP: Speak up. You were at the bus stop?

A: Yes, sir.

CROWN COUNSEL: Now, you said you saw the accused
Rupert Anderson, where did you see him?

A: I saw him a little after the Victor Bus
pass.

20

Q: Speak up. A: A little after the Victor Bus
pass. Me and Skyers were standing there
talking.

Q: Yes?

HIS LORDSHIP: You and who? A: Me and Lloyd
Skyers.

CROWN COUNSEL: Skyers and yourself were talking
and what happened? A: A little after I saw
Rupert Anderson was passing going in the
direction of Port Maria.

30

HIS LORDSHIP: Are you hearing, gentlemen?

JURORS: No, sir.

HIS LORDSHIP: The jury must hear you, Madam. You
standing there and you saw what?

A: A little after I saw Rupert Anderson was passing

going in the direction of Port Maria.

CROWN COUNSEL: Yes, did you see where he went to?

A: He go right down to Port Maria -- I didn't see.

HIS LORDSHIP: You wait, right? A: I saw him go in the direction of Port Maria.

CROWN COUNSEL: Now, did you remain out there at the bus, or what? A: After I leave and go up to my home.

10 Q: You left and went up to your home? A: Yes, sir.

Q: What happened to Skyers? A: Skyers was still there.

Q: You left Skyers there? A: Yes, sir.

Q: Now, you remember how he was dressed? A: No.

Q: The accused Anderson? A: No, sir.

Q: Was it after the bus - the Victor Bus passed that you saw Rupert Anderson? A: Yes sir a little after it passed.

20 Q: What direction was the bus going? A. Port Maria.

Q: Eh? A: Going to Port Maria.

Q: The bus was going to Port Maria? A: Yes, sir.

Q: Now, you say you were at the bus stop nearby the hospital gate? A: Yes, sir.

Q: Now, that bus stop, what direction you take the bus at that stop? A: Well, in going down you take it on your right hand.

Q: The bus stop where you were? A: Yes, sir.

30 Q: In what direction would the bus be going to when you are taking that bus? A: To Ocho Rios.

Q: To? A: Going to Ocho Rios.

Q: This bus going to Ocho Rios. There is another

In the Circuit
Court

Prosecution
Evidence

No. 8

Joyce Scarlett
Examination

30th June 1969

(continued)

In the Circuit
Court

bus stop for the bus going to Port Maria on the
other side of the road? A: No, sir.

Prosecution
Evidence

CROSS-EXAMINED BY DEFENCE COUNSEL:

No. 8

Joyce Scarlett

Cross-
examination

30th June 1969

Q: You don't like Rupert Anderson? A: I like
him.

Q: You like him? A: Yes, sir.

Q: You look at him cross, though? A: No.

Q: Did you and Rupert have a quarrel sometime
before that December? A: Never.

Q: Never quarrel about any money? A: No.

10

Q: You work at Miss Essie's shop? A: Yes, I
work at Miss Essie Shop.

Q: Miss Essie Ferguson's shop? A: Yes, sir.

Q: And did Rupert come there to buy something one
day and there was a dispute with you over the
change? A: I don't quite remember.

Q: You don't remember? A: No.

Q: Do you remember Rupert calling you a thief?
A: He never call me thief yet.

Q: He never call you thief? A: No.

20

Q: You see, I am suggesting to you that you and
Rupert had this dispute? A: And I am telling
you that me and him never have any dispute.

Q: And that he did in fact call you thief?
A: He never call me thief.

Q: And tell you to keep the change? A: Tell me to
keep the change?

Q: Yes. A: He never tell me that.

Q: Now, tell me something, you say you were
standing by the roadside at the bus stop?
A: Yes, sir.

30

Q: Waiting for a bus? A: I wasn't waiting for the
bus.

Q: Is Skyers your boyfriend? A: No.

Q: You were there talking to him? A: Yes, sir.

Q: What were you talking about? A: We were talking about going out on Wednesday. We were talking about going out on Wednesday.

Q: Going out on Wednesday -- both of you going out on a date? A: We weren't going out on a date, but we were only talking as social friends.

10 Q: But about going out on Wednesday? A: We were talking about what I would do on Wednesday, but not with him.

Q: You were only talking what you were going to do on Wednesday but not with him? A: But not with him.

Q: And are you in the habit -- what time you said it was, nine-fifteen? A: Nine-fifteen at night.

20 Q: And you meet a man nine-fifteen at night and talk to him? A: We know one another and we just stop and were talking.

Q: What direction were you going? A: I was going up to Trinity.

Q: You were going up to Trinity? A: I was coming from Port Maria and he was going towards Port Maria.

Q: Which way was he going? A: He was going to hospital.

Q: He was going to hospital? A: Yes, sir.

30 HIS LORDSHIP: And you were going to Trinity?
A: Yes, sir.

DEFENCE COUNSEL: How long did you stand there talking to him? A: Well, I couldn't tell, sir - about an hour.

Q: About an hour? A: More than an hour.

Q: You were going to do a lot of things on Wednesday? A: (No answer)

In the Circuit
Court

Prosecution
Evidence

No. 8

Joyce Scarlett

Cross-
examination

30th June 1969

(continued)

In the Circuit
Court

Prosecution
Evidence

No. 8

Joyce Scarlett

Cross-
examination

30th June 1969

(continued)

Q:;And you were talking about what you were going to do on Wednesday for an hour, is that right? A: Yes, sir.

Q: He didn't ask you to come out with him?
A: He didn't ask me to come out with him.

Q: Is there a bus stop at the entrance to the hospital gate? A: Yes.

Q: Tell me, you were there - about how long were you there before you said you saw Rupert Anderson? A: I wasn't there such a long time before I saw Rupert Anderson. 10

Q: You were there for about how long? A: Around half hour.

Q: You were there about half hour before you saw Rupert Anderson, and Skyers was there about half an hour too? A: Yes, sir, because he said he was going to his work.

Q: And for about another half hour he was there talking to you? A: Yes, sir.

Q: You didn't know what time he was going to work? A: No, sir. 20

HIS LORDSHIP: Skyers was going to work at the hospital? A: Yes, sir.

Q: And you didn't ask him? A: No, sir.

DEFENCE COUNSEL: While you were talking to him for this hour, you didn't say, what time he was going to work, or man you are late for work? A: I didn't ask him.

Q: You have been out with Skyers? Have you ever been out with Skyers? A: No. 30

Q: You did go out with him? A: No, sir.

Q: All right, thank you.

No. 9
LLOYD SKYERS

In the Circuit
Court

LLOYD SKYERS, SWORN: EXAMINATION-IN-CHIEF BY
CROWN COUNSEL:

Prosecution
Evidence

No. 9

Lloyd Skyers
Examination
30th June 1969

Q. What is your name? A. Lloyd Skyers.

Q. I will have to ask you to speak loudly, you are not speaking any secrets here, the gentleman at the end has to hear you.
(To witness): What work do you do?

10 A. I am a chauffeur, sir.

Q. You are a chauffeur? A. Yes, sir.

Q. And where are you employed? A. I am employed to ---

HIS LORDSHIP: Please speak up so that we can hear you. Employed to where? A. Tuna and Company.

CROWN COUNSEL: In December where were you employed? A. Port Maria Public Hospital.

Q. Now, do you remember the 23rd December, last year? A. Yes, sir.

20 Q. Some time during that day did you see this accused, Rupert Anderson? A. Yes, sir.

Q. What time you saw him? A. About 9.15, sir.

Q. Where were you? A. At the hospital gate, sir.

Q. Were you alone or were you in company with some people? A. In company with somebody.

Q. Who? A. Joyce Scarlett.

Q. You saw the accused Rupert Anderson - where you saw him? A. I saw him at the hospital gate, sir.

30 HIS LORDSHIP: At the hospital gate? A. Yes, sir.

HIS LORDSHIP: Doing what? Standing, sir.

In the Circuit
Court

Prosecution
Evidence

No. 9

Lloyd Skyers

Examination

30th June 1969

(continued)

CROWN COUNSEL: Now, is there a road that leads to the hospital? A. Yes, sir.

Q. And does that road join the main road that goes down to Port Maria? A. Yes, sir.

Q. When you say 'was at the hospital gate', can you tell me where he was? Was he in the road that leads to the hospital or on the main road? A. The road that leads up to the hospital, sir.

Q. About how far from the main road? A. About a quarter chain from the main.

10

Q. He was a quarter chain from the main road? A. Yes, sir.

HIS LORDSHIP: Inside the hospital road? A. Yes, sir.

CROWN COUNSEL: Now, you remember the clothes that he was wearing? A. Yes, sir.

Q. What kind of clothes? A. Khaki uniform, sir.

Q. That consist of what - did he have on a jacket for instance? A. No, sir, shirt and pants.

Q. Khaki shirt and pants? A. Yes, sir.

20

Q. Now, did you remain there for some time? A. Yes, sir.

Q. Now, when you left - did you leave subsequently? A. No, sir.

Q. Did you leave at all or you remained there all night? A. I leave there, sir.

Q. Did you see him when you left? A. He left before me, sir.

Q. What direction did he go? A. Up the hospital road.

30

Q. He went up the hospital road? A. Yes, sir.

Q. That is in the direction of the hospital proper? A. Yes, sir.

Q. About what time that was when you see him go up

the road towards the hospital? A. Nine-thirty
sir.

Q. About nine-thirty? Up to the time you left did
you see him again? A. No, sir.

Q. How long had you known Rupert Anderson before
that night? A. About two years, sir.

In the Circuit
Court

No. 9

Lloyd Skyers
Examination
30th June 1969
(continued)

CROSS-EXAMINATION BY DEFENCE COUNSEL

Q. Mr. Skyers, were you alone that night at the
hospital gate? A. No, sir.

10 Q. Somebody was with you? A. Yes, sir.

Q. Who was with you? A. Joyce Scarlett.

Q. Joyce Scarlett was with you? A. Yes, sir.

Q. And what were you doing there? A. I was
waiting on the ambulance coming from town, sir.

Q. You were waiting on the ambulance coming from
town? A. Yes, sir.

Q. You know what she was doing there? A. No, sir.

Q. You don't know? A. No, sir.

Q. You did not ask her? A. No, sir.

20 Q. Did you talk with her? A. Yes, sir.

Q. What you talked about? A. I don't remember
now, sir.

Q. You don't remember what you talked about?
A. No, sir.

Q. How long were you talking? A. About half hour.

Q. You were there talking to her about half hour?
A. Yes, sir.

Q. And you cannot remember what you said to her?
A. I don't remember what I said.

30 Q. Nothing at all of what you talked about?

In the Circuit
Court

Prosecution
Evidence

No. 9

Lloyd Skyers

Cross-
examination

30th June 1969

(continued)

- A. We were talking about the bar over the other side, sir. Some people were over there punching juke box.
- Q. And you were talking about the bar? A. Talking about the people over there, sir.
- Q. Over at the bar? A. Yes, sir.
- Q. And they, you said, were over there punching juke box? A. Yes, sir.
- Q. You see, I am suggesting to you, Mr. Skyers, that you were not at the hospital gate that night? A. I was there, sir, I am telling you I was there. 10
- Q. I am suggesting to you that you did not see Rupert Anderson that night? A. I saw him, sir.
- Q. Now you say he came along and walked up the road, up the hospital road? A. When he turned back he go up the hospital road, sir.
- Q. When he turned back he went up the hospital road? A. Yes, sir.
- Q. And he stopped up the hospital road? A. I don't know, sir. 20
- Q. But you say this was nine-thirty? A. Nine fifteen I saw him, sir.
- Q. Didn't you say something about nine-thirty? A. He left there about nine-thirty.
- Q. So he was there for fifteen minutes? A. About that, sir.
- Q. You saw him for fifteen minutes? A. I saw him standing at the gate, sir.
- Q. For fifteen minutes? A. Yes, sir. 30
- Q. And how far from you was he standing? A. About a quarter chain from me.
- Q. Could you point it out in this court for me? A. About from here to where the police stand.
- Q. And how far from Joyce was he? A. Both of us were together, sir.

Q. So that he was quite close to her too? A. Yes, sir.

Q. Did you speak with him whilst he was standing there? A. No, sir.

Q. Did Joyce speak with him? A. No, sir.

Q. So he just walked past both of you and went and stood there? A. Yes, sir.

Q. For fifteen minutes, right close to where you can see him? A. Yes, sir.

10 Q. And then he turned back and walked down? A. Yes, sir.

Q. I see, thank you.

CROWN COUNSEL: No re-examination, M'lord.

No. 10
ANDREA WALKER

ANDREA WALKER: SWORN: EXAMINATION-IN-CHIEF BY CROWN COUNSEL

Q. What is your name? A. Andrea Walker.

Q. You see that gentleman sitting at the back there, he has to hear what you say. A. Yes, sir.

20 Q. So you cannot whisper. And the accused has to hear you and must hear you. Where do you live? A. I live at Port Maria.

HIS LORDSHIP: I cannot hear you, and if I can't hear you the lady in this corner can't hear you either.

CROWN COUNSEL: Where do you live? A. I live at Port Maria, but I was living at Islington.

Q. Speak up so that these ladies and gentlemen can hear you girl. You are living at Islington now? A. No, sir.

30 Q. Where? A. Port Maria.

Q. Now where does your mother live? A. Port Maria.

In the Circuit Court

Prosecution Evidence

No. 9

Lloyd Skyers

Cross-examination

30th June 1969

(continued)

No.10

Andrea Walker Examination

In the Circuit
Court

Prosecution
Evidence

No.10

Andrea Walker

Examination

30th June 1969

(continued)

Q. In December where were you living? A. Islington.

Q. And what do you do? A. I go to school.

Q. You are going to school? A. Yes, sir.

Q. How old are you? A. Fifteen.

Q. On the 23rd December, where were you? A. At Port Maria spending time with my mother.

Q. On that night on the 23rd of December where were you? A. I was at my aunty, at my cousin's bar.

Q. You were at your cousin's bar? A. Yes, sir, 10
at Trinity.

HIS LORDSHIP: What time was this?

CROWN COUNSEL: About what time was that?
A. About something to twelve.

Q. Was that the time that you leave the bar?
A. Yes, sir.

Q. That was some minutes to twelve when you left?
A. Yes, sir.

HIS LORDSHIP: In the night? A. Yes, sir.

CROWN COUNSEL: Now after leaving the bar what 20
direction did you go? A. Coming down the
hospital way.

Q. You were coming towards the hospital way. Were
you going to your mother's home? A. Yes, sir.

Q. Do you know the entrance roadway to the hospital?
A. Yes, sir.

Q. Now where does your mother live in relationship
to that entrance? A. About one and a half
chains away from there.

Q. Now, do you live on the Highgate side on the 30
entrance or the Port Maria side? A. I really
don't know, sir.

HIS LORDSHIP: Coming from Trinity, you reach your

mother's house before you reach the hospital gate or you pass the hospital gate first.

A. I reach my mother's home.

HIS LORDSHIP: So your mother's home is on the Trinity side of the gate? A. Yes, sir.

CROWN COUNSEL: Do you know the deceased, Huie Foster? A. Yes, sir.

Q. How long had you known him? A. About three weeks.

10 Q. Is that three weeks before the 23rd December? A. Yes, sir.

Q. No, did you see him that night after you left your cousin's bar? A.. Yes, sir.

Q. When you saw him - I mean the deceased Huie Foster - where was he? A. At the hospital gate sitting on his bicycle.

Q. Speak up, this is important.

20 CROWN COUNSEL: Talk loud. I asked where did you see the deceased Huie Foster? A. At the hospital gate.

Q. You said something else. A. Sitting on a bicycle.

Q. Now, there is a road leading up to the hospital? A. Yes, sir.

Q. And one that leads down to Port Maria? A. Yes, sir.

30 Q. When you say 'was at the hospital gate', was he on the main road to Port Maria or was he on the road going up to -- A. On the main road to Port Maria.

Q. Was he on opposite side of the entrance or on the same side--- A. On the same side.

Q. ...of the road leading to Port Maria? A. Yes, sir.

Q. Now is there a street light out there? A. Yes, sir.

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No.10

Andrea Walker

Examination

30th June 1969

(continued)

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Court

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Evidence

No.10

Andrea Walker
Examination
30th June 1969
(continued)

Q. More than one? A. At the hospital gate is only one is there.

HIS LORDSHIP: It is at the hospital gate?
A. Yes, sir.

CROWN COUNSEL: Were the lights burning that night?
A. Yes, sir.

Q. Now when you came to your mother's gate, which you say is one and a half chains from this gate, did you go inside or you stopped at the gate? A. I stopped a little.

10

HIS LORDSHIP: By your mother's gate?
A. Yes, sir.

CROWN COUNSEL: Now, were you alone or were you in company with somebody else? A. In company, sir.

Q. How many of you? A. Four more and myself.

Q. Now while you were there did you observe anything happen at the hospital gate? A. Yes, sir.

Q. Tell the court what you saw. A. I was standing up there, I saw Huie Foster....

Q. Speak loud, this is very important.
(To witness) As you were standing there you saw Huie Foster sitting on a bicycle, what else?
A. And then a gentleman come down towards him.

20

HIS LORDSHIP: From where? A. Coming from up the hospital direction.

CROWN COUNSEL: And what happened? A. The gentleman come and like he was speaking to him a little.

HIS LORDSHIP: To Foster? A. Yes, sir.

CROWN COUNSEL: And what happened? A. He dropped the bicycle.

30

Q. Who dropped the bicycle? A. Huie Foster.

Q. Dropped the bicycle? A. Yes, sir.

Q. And what happened? A. He went up the hospital road.

Q. How did he go up, he walked slowly? A. He ran. In the Circuit Court

Q. Up to the hospital? A. Yes, sir.

Q. What about the gentleman that you spoke about?
A. He went after him.

Prosecution Evidence

Q. How did he go after him? A. He walked fast.

No.10

Q. He walked fast after him? A. Yes, sir.

Andrea Walker Examination

Q. So they went up? Did you see them when they go up or you lost sight of them? A. lost sight of them, sir.

30th June 1969
(continued)

10 Q. Now, you go inside your home or you remained out there? A. I was still standing up.

Q. You were still standing. Now while you were out there did you hear anything? A. Yes, sir.

Q. What did you hear? A. Like a moaning.

HIS LORDSHIP: Moaning?

CROWN COUNSEL: Like a moaning? A. Yes, sir.

Q. Was it the voice of a human being or the sound of a human being, or some animal? A. Human being.

20 Q. And after that did you see anything or anybody? A. Yes, sir.

Q. What or who you saw? A. I saw a lady.

Q. Where you saw the lady? A. Coming from out the hospital direction.

HIS LORDSHIP: From out the hospital road?
A. Yes, sir.

CROWN COUNSEL: Yes, what happened, how did she come from out the hospital road? A. Like she was running.

30 Q. You see anybody else beside her? A. Yes, sir.

Q. Who? A. A gentleman.

Q. What the gentleman was doing? A. Coming towards her.

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Prosecution Evidence

No.10

Andrea Walker

Examination

30th June 1969

(continued)

Q. Was he walking or running? A. Walking.

Q. And what happened to them? A. He cut across the lady and she turn up back.

Q. He cut across her and she turn up back? A. Yes, sir.

HIS LORDSHIP: To the hospital road? A. Yes, sir.

CROWN COUNSEL: How she turn up back, she run or walk? A. She run.

Q. And what about the gentleman? A. He turned back.

10

Q. How did he go, run or walk? A. I really don't know.

Q. Now the gentleman that you say was talking to Huie Foster and went after him up the hospital road, is it the same person that you saw walking after the lady and cut across her? A. I don't know.

Q. Is it the same person or a different person? A. I don't know.

HIS LORDSHIP. You don't know if it was the same gentleman who was talking to Foster? A. No, sir.

20

CROWN COUNSEL: Do you know who the gentleman talking to Foster was? A. No, sir.

Q. You say you left your cousin's bar near midnight or minutes to midnight, about when did you get to your mother's gateway? A. I don't know what time.

Q. About how long after? A. Well, I really don't know.

30

Q. How many minutes it takes you to walk from your cousin's bar to your mother's gate? A. I never check it.

Q. Is it a far distance? A. No, sir.

Q. About how far? A. Well, I really don't know.

Q. You are fifteen years and going to school - do you know chains? About how many chains from the bar to your mother's gate? A. About two and a half chains.

Q. After you heard these moaning sounds, you say, made by human being, did you go inside at that time? A. Yes, sir.

Q. Did you hear any other sounds? A. No, sir.

10 Q. Do you know one Oscar Fairweather, a District Constable? A. Yes, sir.

Q. Did you see him? A. No, sir.

Q. Do you know Rupert Anderson, the accused man, this man here? A. About two days before the killing.

Q. Speak up madam.

HIS LORDSHIP: About two days what? A. A few days before the killing.

HIS LORDSHIP: Before this night? A. Yes, sir.

20 CROWN COUNSEL: How many times you had seen him before this night? A. Once.

Q. Where you saw him? A. Passing down the bar.

Q. You mean your cousin's bar? A. Yes, sir.

HIS LORDSHIP: Well, Members of the Jury, will you return at 2.00 o'clock for me please.

CROSS-EXAMINED BY DEFENCE COUNSEL:

Q: Now, Andrea, please keep your voice up so that the ladies and gentlemen of the jury can hear you, all right? A: Yes, sir.

Q: Now, were you alone that night? A: No, sir.

30 Q: There was somebody else with you? A: Yes, sir.

Q: Who was this person? A: Doreen Hamilton.

Q: Now, when you saw Huie leaning on the cycle, how far - can you tell us, to him - how far did you come to him? A: One and a half chains, sir.

Q: One and a half chains? A: Yes, sir.

Q: That is the closest you ever got to him? A: Yes, sir.

Q: Was he under the light? A: No, sir.

Q: How well do you know Huie? A: Well, we both

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Court

Prosecution
Evidence

No.10

Andrea Walker
Examination
30th June 1969
(continued)

Cross-
examination

In the Circuit
Court

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Evidence

No.10

Andrea Walker

Cross-
examination

30th June 1969

(continued)

used to talk and he used to help me to ride the bicycle. He used to learn me to ride a bicycle.

Q: Teach you to ride a bicycle? A: Yes, sir.

Q: Now, when this figure approached, you are still one and a half chains away? A: Yes, sir.

Q: And you say they talked? A: Yes, sir.

Q: Could you hear what they were saying? A: No, sir.

Q: They were talking softly? A: I don't know.

Q: You don't know if they were talking softly?
A: No, sir.

Q: But you are standing up there? A: Where, sir?

Q: Weren't you standing there? A: Where?

Q: One and a half chains away? A: Yes, sir.

Q: How long did you stand there in all?
A: About ten minutes,

Q: You were there for about ten minutes?
A: Yes, sir.

Q: So, as you went you saw Huie and then a figure approached you, they talked and then Huie ran?

A: Yes, sir.

Q: How long after this did you hear the moaning?
A: I really don't know.

Q: Soon after or long after? A: A little bit after.

Q: Just a little bit after -- about a minute or two minutes? A: I don't know.

Q: You don't know? A: No, sir.

Q: You were standing at the corner of the hospital gate? A: No, sir.

Q: Where were you standing at that time?
A: At my mother's gate.

Q: That is a chain and a half from the corner?
A: Yes, sir.

Q: Now, from where you were standing, can you see right up to the hospital road? A: No, sir.

Q: How far up can you see? A: As far as to the entrance.

Q: You can see as far as to the entrance of the hospital? A: Yes, sir.

10

20

30

- Q: And how far is that from the beginning of the road? A: Where you talking, sir?
- Q: You can see -- you know where the hospital road meets the main road? A: Yes, sir.
- Q: From there to the entrance you could see? A: From where, sir?
- Q: From where the hospital road meets the main road -- you know where it comes out in kind of a 'T' shape? A: Yes, sir.
- 10 Q: And from there to the entrance you could see all that? A: Yes, sir.
- Q: And about how far is that? A: From where I was standing?
- Q: No, from where the hospital road meets the main road, right? A: Yes, sir.
- Q: That is not the entrance, is it? A: (No answer)
- Q: Is that what you refer to as the entrance? A: Yes, sir.
- 20 Q: That is the entrance? A: Yes, sir.
- Q: Now, how far from the entrance, therefore, could you see up to the hospital road? A: I don't know, sir.
- Q: You don't know. How far you could see? A: No, sir.
- Q: Could you see up the road any at all? A: Up the hospital?
- Q: You couldn't see up the hospital road any at all? A: No, sir.
- 30 Q: Huie went up the hospital road any at all? A: No, sir.
- Q: He was outside the entrance? A: Yes, sir.
- Q: Where did you hear this moaning coming from? A: I really don't know.
- Q: You don't know where the moaning was coming from? A: No, sir.
- Q: Now, you were on the main road, is that right? A: Yes, sir.
- 40 Q: And you could see all that was taking place on the main road? A: Yes, sir.
- Q: And it was only yourself and your little friend on the main road? A: No, sir.

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Court

Prosecution
Evidence

No.10

Andrea Walker

Cross-
examination

30th June 1969

(continued)

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Court

Prosecution
Evidence

No.10

Andrea Walker

Cross-
examination

30th June 1969

(continued)

Q: Other people were there? A: Yes, sir.

Q: You know them? A: Yes, sir.

HIS LORDSHIP: She said she was before other people.

DEFENCE COUNSEL: How many other people?

A: Three little girls.

Q? No adults? A: No, sir.

Q: And you say you were there for about ten minutes? A: Yes, sir.

Q: Now, the last thing you saw there was this woman - a woman running? A: Yes, sir. 10

Q: Did you make out the woman? A: No, sir.

Q: And this was about what - after mid-night?

A: I really don't know.

Q: You don't know about what time it was? A: No, sir.

Q: The friend that you were with, how old is she?

A: I don't know, sir.

Q: You don't know how old she is? A: No, sir.

Q: Is she a school-girl? A: She used to be.

Q: She is older than you? A: What you say, sir?

Q: She is older than you? A: Yes, sir. 20

Q: And what you say her name is? A: Doreen Hamilton.

Q: Doreen Hamilton? A: Yes, sir.

Q: I see, all right, thank you.

Q: Tell me something, the cycle was left there?

A: Yes, sir.

Q: When you went to bed you left the cycle lying there? A: Yes, sir.

Q: I beg pardon, you went in and left the cycle lying there? A: Yes, sir.

Q: Was your mother inside? A: Yes, sir. 30

Q: She was inside? A: Yes, sir.

CROWN COUNSEL: No re-examination, M'Lord.
Thank you.

No. 11OSCAR FAIRWEATHEROSCAR FAIRWEATHER: SWORN: EXAMINED
BY CROWN COUNSEL:In the Circuit
CourtProsecution
Evidence

No. 11

Oscar
Fairweather
Examination30th June
1969

- Q. What is your name? A. Oscar Fairweather.
- Q. And are you a District Constable? A. Oh, yes, sir.
- Q. Where do you live at - Trinity in the parish of St. Mary? A. Yes, sir.
- Q. Now, do you know the deceased Huie Foster? A. Oh, yes, sir.
- Q. How long have you known him? A. For over two years.
- HIS LORDSHIP: Speak up, keep your voice up.
A. Over two years.
- CROWN COUNSEL: You know the accused man Rupert Anderson? A. Yes, sir.
- Q. How long have you known him? A. Over a year, sir.
- Q. You know what work he does? A. Pardon me?
- Q. You know what work Rupert Anderson does? A. As a matter of fact, I don't know, sir.
- Q. You remember Monday the 23rd of December last year? A. Oh, yes, sir.
- Q. In the night, where were you? A. At Miss McKella's premises.
- Q. What type of premises are those? A. A bar.
- Q. It's a bar premises? A. Yes, sir.
- Q. Where were you? A. In the bar, sir.
- Q. Did you see the deceased at the bar? A. Huie Foster, sir?

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Court

Prosecution
Evidence

No. 11

Oscar
Fairweather

Examination

30th June,
1969
(continued)

Q. Yes. A. Oh, yes, sir.

Q. About what time? A. About 11.30, sir.

Q. Eleven-thirty, is that night or evening?
A. Night, sir.

Q. What was he doing there? A. He was having
a drink, sir.

Q. Did he remain there all the time, or he even-
tually left? A. He left.

Q. About what time he left? A. About fifteen
minutes after I went there he left.

10

Q. That is about when? A. Something to twelve.

Q. How did he leave -- did he walk away, or what?
A. He took his cycle.

Q. He took his cycle? A. Oh, yes, sir.

Q. He rode the bicycle or lead it? A. He rode
the cycle, sir.

Q. Now, Miss McKella's bar, is it near to or in
the vicinity of the entrance to the hospital?
A. Below the hospital.

Q. Below? A. Yes, sir.

20

HIS LORDSHIP: That is on the Trinity side?
A. Going to Trinity end on the right side.

HIS LORDSHIP: It's on the opposite side to the
hospital gate? A. Below, sir.

CROWN COUNSEL: Is it on the opposite side of the
road or the same hand? A. The same hand, sir
-- no, on the other hand going Trinity.

HIS LORDSHIP: On the right hand side going towards
Trinity? A. Oh, yes, sir.

CROWN COUNSEL: And about how far away would you
say it is from this road to the hospital?

30

A. Well, really, as a matter of fact, I really never measure it.

Q. About how far, man? A. Maybe about....

Q. You play cricket - you know the length of the cricket pitch? A. Oh, no, sir.

Q. You don't know how long? A. No, sir.

Q. Can you stay at McKella's bar and see the entrance? A. To the hospital gate?
A. Yes. A. Oh, yes, sir.

10 Q. You have no idea what the distance is?
A. No, sir.

Q. Now, did you leave that bar? A. Huie Foster leave me there, sir.

Q. But did you yourself subsequently leave?
A. About twenty minutes after I left the bar.

HIS LORDSHIP: After Huie? A. Oh, yes, sir.

CROWN COUNSEL: Yes, what direction did you go when you left? A. I went in the opposite direction going home.

20 Q. Eh? A. I went in the opposite direction going Trinity end, sir.

Q. Do you have to pass the entrance? A. Of the hospital?

Q. Of the hospital to go home. A. Oh, yes, sir.

Q. Now, what side of the road-were you walking or riding? A. Walking, sir.

Q. You were walking? A. Yes, sir.

Q. What side of the road were you walking?
A. On the right side of the road.

30 HIS LORDSHIP: Towards Port Maria? A. No, sir, towards-going Trinity end, sir.

Q. That is the opposite side - the same side as the bar?

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Court

Prosecution
Evidence

No.11

Oscar
Fairweather

Examination

30th June,
1969

(continued)

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Court

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Evidence

No. 11

Oscar
Fairweather

Examination

30th June, 1969

(continued)

A. Oh, yes, sir.

CROWN COUNSEL: Now, while you were going along, did you hear something? A. Oh, yes, sir.

Q. Where had you got to when you heard something?
A. Just a little way opposite the hospital gate on the right.

Q. Now, when you heard this, was it a person's voice you heard? A. Oh, yes, sir.

Q. Now, this voice, can you tell me where the sound was coming from? A. In the vicinity of the house and the kitchen, sir, on the left. 10

Q. Now, there is...

HIS LORDSHIP: Inside the hospital gate? A. Is a house there, sir, and a kitchen.

Q. Inside the entrance? A. That is the kitchen and the house, sir, inside the kitchen sir.

CROWN COUNSEL: Is this house --- this house - where is the entrance to the house on the road leading to the hospital? A. Leading to the hospital on the right. 20

Q. On the right hand side of the road leading up to the hospital? A. Yes, sir.

Q. Now, the side of the house... A. Yes, sir.

Q. ... does it run parallel to the main road?
A. The side?

Q. Is it in the same direction as the main road - the side of the house? A. The side of the house to the road, sir?

Q. Yes, the side of the house to the road. A. to the road? 30

Q. That is road --- in the main road. A. Yes, sir, the main road - the Trinity road, sir.

Q. The front - on the front of the house on the road leading to the hospital?

A. To the hospital.

Q. Now, when you heard the voice, did you stop or did you continue? A. I stop, sir.

Q. Did you see anything or anybody? A. Well, after I heard the sound, murder, murder.

Q. No, I didn't ask you that yet. A. Oh, yes, sir.

Q. You said you stopped? A. Oh, yes, sir.

Q. I asked you if you next saw anybody? A. After I went back down to Miss McKella's place I saw a person standing up.

Q. So you stopped after you heard the voice? A. And I went back.

Q. And you went to Miss McKella's place and you came back? A. Yes, sir.

Q. Can you tell us what you saw when you came back? A. I saw a man, sir.

Q. He had anything? A. He had a penlight about that length, sir in his left hand.

Q. A penlight? A. In his left hand.

Q. What you call a penlight? A. A little flashlight about the size of my finger.

Q. Flashlight. Did you notice anything about the flashlight? A. Oh, yes, sir, it has a red around the top of it, sir -- around the top of it, sir, it had a red.

HIS LORDSHIP: How you saw the red?

CROWN COUNSEL: Was the light from the flashlight on? A. Yes, sir, but it wasn't bright, sir.

Q. And how was the man holding it? A. Downwards, sir.

Q. Was the person's face -- this man's face, was it turned towards you - or what part of his body was towards you? A. The side, sir.

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Court

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Oscar
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Examination

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(continued)

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20

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In the circuit
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Prosecution
Evidence

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Oscar
Fairweather
Examination

30th June 1969
(continued)

Q. Now, did you notice anything else — you noticed that his side was towards you, he had a flash-light? A. Yes, sir.

Q. In which hand he had it? A. In his left hand.

Q. Anything else you noticed? A. I saw his right hand, sir buck-up twice.

Q. Go up twice, remain up there? A. Yes, sir, and I heard the voice say.

Q. Just a moment, you heard-the hand go up and come down twice? A. I saw the hand go up. 10

Q. Could you demonstrate the motion that you saw — would you show the Court what you saw?
A. Can I step down here, sir?

Q. Yes, please. A. He was like this, sir and I saw ...

Q. You better go up there.

HIS LORDSHIP: Yes, stay there, show us what you saw. A. I saw the penlight, the red rim hold down like this and I saw the right hand go up twice and said, "You fucker you, you fucker you". 20

HIS LORDSHIP: "You fucker you, you fucker you?"
A. Yes, sir.

CROWN COUNSEL: Did you know whose voice it was that used the words, "You fucker you, you fucker you?" A. The voice of Rupert Anderson, sir.

Q. Have you ever spoken to him before? A. Oh, yes, sir.

Q. Eh? A. Oh, yes, sir. 30

Q. Did you speak to him often, or once, or twice?
A. Whenever time we meet up each other.

Q. And how often was that? A. The both of us was living on the same place — on the same run of land, sir, paying one landlord rent, sir.

Q. Would you say that you were accustomed to speak to him regularly? A. Yes, sir.

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Court

Q. And you say the voice you heard was that of the accused Rupert Anderson? A. Rupert Anderson.

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Evidence

Q. Now, I will go back a bit now to ask you what was -- what were the words that you heard that first attracted your attention? A. Murder, Murder.

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Fairweather
Examination

10 HIS LORDSHIP: That is before "You fucker you?"
A. Pardon me, sir?

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(continued)

Q. That was before you heard "You fucker you, you fucker you"? A. Oh, yes, sir.

CROWN COUNSEL: Now, Did you notice what kind of clothes the accused was wearing? A. Oh, yes sir.

Q. What kind of clothes? A. He had on a water boots, sir and a pair ...

Q. What kind of clothes, sir?

HIS LORDSHIP: Who was wearing?

20 CROWN COUNSEL: I said the accused.

HIS LORDSHIP: Was wearing what? A. He had on a pair of water boots, sir, and a full suit of khaki.

CROWN COUNSEL: Now, were you able to see what was happening? A. No, sir.

Q. Eh? A. I couldn't see what was happening.

Q. Now, were there lights out there? A. Well, one light is below the hospital gate and one is opposite.

30 Q. Is there a light near to the side of the house along on the main road? A. Only the one opposite -- none on the house, sir. None on the house.

Q. Not on the house? A. Opposite the house, sir, there is a street light, sir.

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(continued)

- Q. Opposite the house -- when you say opposite the house ...? A. Passing the house and go up from the hospital gate from the hospital gate going to the main road on the left side.
- Q. One is there? A. Yes, sir, one is below the bus stop.
- Q. Just a moment. About how many lights are there out there - just in that area? A. Well as a matter of fact it's only - you have plenty lights out there but in that area there is only two, sir. 10
- Q. You have plenty lights out there but in that area is only two? A. Is only two, sir.
- Q. Now, what did you do after? A. I went to mi bed, sir.
- Q. You went home? A. Oh, yes, sir.
- Q. Now, the following morning did you hear anything? A. Not until about something after eight, sir.
- Q. After eight. Did you go anywhere after you heard something? A. On that night, sir? 20
- Q. After eight. A. Oh, yes, sir, I went up to the hospital gate, sir.
- Q. Where exactly did you go to? A. I went to the gate, sir, the entrance to the house.
- Q. You went to the gate? A. Yes, sir.
- Q. The gate-way of the house? A. Oh, yes, sir.
- Q. What did you see, if anything? A. (No answer).
- Q. Eh? A. Well, after I went to the gateway....
- Q. Just tell me what you saw, if you saw anything? A. I only saw a cycle leaning up on the side of the house, sir. 30
- Q. Were there persons out there? A. Oh, yes, sir.

- Q. Eh? A. Plenty people were out there, sir.
- Q. Anything else you saw? A. A body - dead body.
- Q. You know whose body? A. Huie Foster, sir.
- Q. Could you see the spot where the body was?
A. Yes, sir.
- Q. And where was it in relation to the house?
A. It was between the side of the house to the road to the cocoa tree - right between the cocoa tree.
- 10 Q. From the side of the house to the cocoa tree?
A. And a cocoa tree is before...

HIS LORDSHIP: The main road? A. Yes, sir.

CROWN COUNSEL: Now, is that the spot where you saw and heard the voice of the accused?
A. Oh, yes, sir.

20 DEFENCE COUNSEL: M'Lord, may I interrupt here. M'Learned Friend says 'Where he saw and heard the voice of the accused'. I think the witness said that he heard the voice of the accused and saw a figure.

HIS LORDSHIP: And saw a figure and heard the voice of the accused.

CROWN COUNSEL: Now, this spot, you see, how far is it -- if you measure from the spot where this body was to the -- is there a bank there?
A. Oh, yes, sir.

Q. Which side on the road is the bank? A. On the left side.

30 Q. On the left side going to what direction?
A. Trinity end, sir.

Q. And how far from the bank the body was - you know? A. Not very far.

Q. Can you point it out to the Court? A. I never measure it, sir.

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(continued)

HIS LORDSHIP: Just think of it in your mind and show us. There is the bank, where was the body? A. Well, this is the bank sir. The wire fence is about here, sir.

Q. Yes? A. The cocoa tree is about here, sir, the side of the house is here and the body was between there.

(WITNESS POINTS OUT JUST WHERE BODY WAS FOUND)

CROWN COUNSEL: And were you on the opposite side of the road from that bank? A. Oh, yes, sir on the right side of the road, sir.

10

Q. Going up.

Cross-
Examination

Cross-examined by Defence Counsel:

Q. When did you leave your home that day, Mr. Fairweather, when? A. On the morning, sir.

Q. I presume you went to work? A. No, sir.

Q. You didn't work? A. No, sir.

Q. What did you do that day? A. I was ups and down looking about business.

Q. What time did you finish looking about business? A. I think it was nine.

20

Q. About nine o'clock? A. Yes, sir.

Q. And what did you do when you were finished looking about business? A. I was down the bay having drinks with my friends.

Q. What kind of drinks you had - white rum? A. Soda.

Q. White rum? A. No, sir.

Q. Drinking what? A. Beer, sir.

Q. Beer - soda? A. Beer, sir.

30

- Q. I am suggesting to you that you were drinking white rum? A. I am not telling you that I don't drink white rum but I wasn't drinking it at that time.
- Q. I asked you what time you went -- what you did after you finished working and then you went down the Bay having drinks, nine o'clock? A. Yes, sir.
- 10 Q. At twelve o'clock you were still having drinks? A. At twelve o'clock on mi way home - after twelve.
- Q. After twelve? A. Yes, sir.
- Q. And you left that bar after twelve? A. Yes, sir.
- Q. So for three hours you were drinking -- all right for three hours you had been drinking with your friends and I am suggesting to you Mr. Fairweather, that you were very drunk that night? A. No, sir.
- 20 Q. I am suggesting to you that you had three hours of white rum that night? A. No, sir.
- HIS LORDSHIP: What you were drinking? A. I was drinking a little beer and soda.
- DEFENCE COUNSEL: Didn't you say you were drinking white rum? A. After I was coming home, sir, I say I had one white rum.
- Q. Oh, you were chasing the white rum with beer? A. No, sir.
- Q. Now, this bar, wasn't so far from the hospital entrance? A. Well, I really said I never measure it, but at the bar
- 30 Q. You can see at the bar -- you can see the hospital entrance? A. Oh, yes, sir.
- Q. Now, Huie left the bar twenty minutes you say before you? A. Fifteen minutes I say, sir.
- Q. Fifteen minutes. Now, you say you went in the opposite direction? A. Oh, yes, sir.

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(continued)

Q. So Huie went one way? A. Well, he took his cycle and he went in the opposite direction. He is living opposite me.

Q. He went towards Port Maria? A. No, sir, going Trinity.

Q. He went towards Trinity, you went towards Port Maria? A. Opposite, sir.

Q. Now, tell me -- now, Mr. Fairweather he went in one direction and you went in the opposite direction? A. He is living away from my yard, sir; he is living at the cross road. 10

Q. Now, if you leave the bar - when you left the bar ... A. Yes, sir.

Q. ... you turned towards Trinity? A. Yes, sir.

Q. When Huie Foster left the bar he turned towards where? A. Trinity.

Q. I suppose you left in the same direction? A. He left me in the bar.

Q. You both went in the same direction? A. Yes sir, but he left me in the bar. 20

Q. So you didn't go in the opposite direction? A. Pardon me, sir?

CROWN COUNSEL: When he says opposite direction - the bar?

HIS LORDSHIP: What direction Huie went? A. Coming down the bar he went ...

HIS LORDSHIP: When you say the opposite direction, what you mean? A. Coming from Port Maria end passing the bar going to Trinity.

Q. And you were going where? A. In the same direction. 30

Q. But on a different side of the road? A. Yes, sir.

Q. That is what you mean by opposite direction? A. Oh, yes, sir.

Q. The same direction but on the opposite side of the road.

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DEFENCE COUNSEL: Much obliged to Your Lordship.

So you were on the opposite side of the road - you were on the right hand side of the road?

Prosecution Evidence

A. If I live on the right hand side of the road?

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Q. You don't remember much what happened that night? A. Sir?

Oscar Fairweather

10 Q. Let's see now. You were on the right hand side of the road? A. Oh, yes, sir.

Cross Examination

Q. The entrance to the hospital is on the left side of the road? A. Oh, yes, sir.

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(continued)

Q. Now, when you heard a voice, what side of the road were you on? A. The right side of the road.

Q. What did you do then? A. I stopped.

Q. You stopped, and after you stopped? A. I bend down and say, "who is that, who is that."

20 Q. No sound from anybody? You said, "who is that, who is that," two times? A. Yes, sir.

Q. No sound? A. No sound.

Q. And then what did you do after that? A. Pardon me?

Q. What did you do after that? A. I went back to Miss McKella's premises.

Q. You went back to Miss McKella's premises? A. Yes, sir.

30 Q. So, what did you do at Miss McKella's premises - have a few more drinks? A. No, sir.

Q. More white rum? A. No, sir.

Q. What did you do there? A. I went back for some assistance.

Q. You went back for some assistance? A. Yes, sir,

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(continued)

after hearing the sound.

Q. You went back for some assistance?

A. Yes, sir.

Q. Did you get assistance? A. No, sir.

Q. What type of assistance? A. I asked for a flashlight.

Q. You didn't ask anybody to go with you?
A. Yes, sir.

Q. What you say to them? A. I turned to them and I say, "I heard a sound 'Murder, murder', come and assist me to see what is happening.

10

Q. And you had already said, 'who is that, who is that'? A. Yes, sir.

Q. Then you didn't get this assistance so you went back? A. Yes, sir.

Q. About how long it took you to walk back to the bar and to come back? A. About three - four minutes.

Q. It could have been five minutes? A. (No answer).

20

Q. Could it have been five minutes? A. Five minutes, sir.

Q. Now when you came back A. Yes, sir.

Q. this time - now, look, let's get this straight, you had been on the right side of the road? A. Yes, sir.

Q. You stayed on the right side of the road; you bent down, 'who is that, who is that', and you went back? A. To Miss McKella's premises.

30

Q. So at that juncture you didn't pass the road?
A. No, sir.

Q. When you say, 'who is that, who is that,' nothing happened? A. I don't hear no sound, sir.

- Q. Then you returned now? A. Oh, yes, sir.
- Q. And you returned on the left side of the road?
A. Same on the right, sir.
- Q. And this is on the opposite side of the road where the house is? A. On the right side of the road.
- Q. The house is on the left side of the road and you stayed same on the right side? A. Yes, sir.
- 10 Q. What, you came down on the right side of the road - what did you do? A. I stopped again.
- Q. You stopped again? A. Yes, sir.
- Q. And after you made the second stop, what did you do? A. I saw a man, sir.
- Q. You saw a man? A. Yes, sir.
- Q. Yes? A. He had his left hand ...
- Q. You are still on the right side of the road? A. Still on the right side of the road.
- Q. Yes? A. I saw a man with a penlight.
- Q. And you saw him making two motions? A. Yes, sir.
- 20 Q. And you heard the voice and you are still on the right side of the road. A. Oh, yes, sir.
- Q. And then you went home? A. Oh, yes, sir.
- Q. Now, this house has a hedge between the road and it - there is a croton bush? A. Yes, sir.
- Q. And quite a thick croton at that? A. No, sir.
- Q. Not very thick? A. No, sir, it wasn't thick - thick now, sir.
- Q. Well, I didn't ask you whether it was thick now, I am suggesting to you that there has always been a thick croton there? A. No, sir.
- 30 Q. And you know that there has always been a thick croton there? A. No, sir.

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(continued)

Q. And yet you stood on the right side of the road and looked across through this croton to see this figure? A. Yes, sir.

Q. Now, you say the person who said, 'You fucker you, you fucker you', they weren't speaking loud? A. The sound, 'You fucker you, you fucker you,' it was loud, sir.

Q. It was loud? A. Yes, sir.

Q. Tell us the truth Mr. Fairweather, the voice wasn't loud? A. Oh, yes, sir.

10

Q. Suppose I put it this way, he didn't speak so loud? A. He speaks loud, sir.

Q. So it was wrong to say he did not speak so loud? A. I know he speak loud, sir.

Q. Mr. Fairweather, it is wrong to say that he did not speak so loud? A. He speaks loud, sir.

Q. He spoke loud? A. Yes, sir, I can hear across the road.

Q. M'Lord, may I refer Your Lordship to page fourteen, just about the middle of the page towards the end of it. Now, Mr. Fairweather, I believe you gave a deposition - you gave evidence at the first hearing of this thing at Port Maria? A. Yes, sir.

20

Q. You took on that occasion - you took an oath to speak the truth? A. Yes, Sir.

Q. And on the completion of your evidence what you said was read to you by the learned Magistrate? A. Yes, sir.

Q. Wasn't it read out to you? A. Yes, sir.

30

Q. Weren't you instructed that if there was anything wrong you were to correct them, right? A. Correct it, sir?

Q. Yes, if the learned Judge should read anything that you hadn't said you were to tell her? A. Yes, sir.

- Q. And at the end of this evidence, didn't you sign it as being true and correct? A. Yes, sir.
- Q. You did. And did you not say at that time that "I heard the words -- the words I heard were 'You fucker you, you fucker you,' twice he didn't speak so loud?" A. Is the sound, murder, murder, I said he never speak so loud.
- 10 Q. You said you heard the words, 'You fucker you, you fucker you,' he didn't speak so loud? A. The words, 'You fucker you, you fucker you' he didn't speak so loud?
- Q. The words, 'Murder, murder,' were the sounds that were loud? You heard the words 'You fucker you, you fucker you' twice he didn't speak so loud? A. It was murder, murder he didn't speak so loud.
- Q. I am suggesting to you that you are not speaking the truth? A. I am speaking the truth.
- Q. I am suggesting to you that at that time you said ... A. I am telling you the truth, sir.
- 20 Q. Did the judge not ... A. The truth I am telling you.
- Q. ... did the judge read this out to you? A. I am telling you the truth, the sound, 'Murder, murder' was not so loud and the voice, 'You fucker you, you fucker you,' was loud.
- Q. The only words you heard were 'You fucker you, you fucker you, he didn't speak so loud?' A. That sound was 'Murder', sir.
- 30 Q. Let's go a bit further. May I refer Your Lordship to page thirteen and quite a big section here, sir. From "I left the bar." Just about nine lines down - "I left the bar - About twenty minutes after I left the bar." Now, do you not say then that you left the bar - "I walked on the road on the side as the bar. In the vicinity of the hospital entrance I heard a faint voice saying 'Murder, murder, murder, coming from the back of a house which is at the hospital entrance to the Trinity side of the hospital road and at the corner of the hospital road and main road. I stopped, and
- 40

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(continued)

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looked in direction where I heard the noise and saw a man holding a flashlight with red rim."?
A. Yes, sir.

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HIS LORDSHIP: What is wrong with that? He hasn't said anything different here today.

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Oscar Fairweather Cross Examination

DEFENCE COUNSEL: Buy you are telling us here today that you didn't see anything and you went back to the bar? A. After I heard the sound, 'Murder, murder,' I went back to the bar.

10

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Q. You said that you peeped when you saw the man was -- when you heard, 'Murder, murder'?
A. When I come back - come back, I stopped.

Q. You are telling us that you went back to the bar to get assistance and get a flashlight? When you heard, "Murder, murder", you peeped and you saw somebody chopping like the hands going up and down? A. After I came back I stopped; I saw the hand - the right hand go up.

Q. Did you not tell the Court that it was on the second occasion that you saw the hand go up and down, didn't you not tell us this today?
A. No, sir.

20

Q. You didn't tell the Court that it was afert you couldn't get the flashlight that you came back?
A. To get the flashlight.

Q. And then when you came back you saw the hand going up and down? A. Yes, sir.

Q. You also said here that it was the first occasion that you saw the hand going up and down? A. No, sir.

30

Q. M'Lord, was it at any time mentioned in that sequence of events in the deposition?

HIS LORDSHIP: In any event, Mr. Douglas, what is evidence is what he is saying here today.

DEFENCE COUNSEL: Yes, M'Lord.

HIS LORDSHIP: I can't allow you to go too far by reading out all that is in the deposition to

the witness unless you are going to put it in.

DEFENCE COUNSEL: With respect, the witness says one thing on one occasion and another thing on another occasion - what he says on a previous occasion is not evidence but it only goes to show the veracity of the witness himself.

HIS LORDSHIP: You have made the point then.

DEFENCE COUNSEL: Much obliged to Your Lordship. Now, Mr. Fairweather,...

A. Yes, sir.

10 Q. ...you are telling us now that it is on the second occasion after you left the bar - after you go back to get the flashlight - you couldn't get any help, that you came back and it was then you saw the body? A. Yes, sir.

Q. But you did tell- you did say in another Court that it was on the first occasion when you left the bar? A. No, sir.

Q. You didn't say in the deposition that -- you can't say so?

20 HIS LORDSHIP: Where in the deposition that he used the words, 'it was the first...'?

DEFENCE COUNSEL: You said "about twenty minutes after you left the bar" and then you heard the voice saying, "Murder, murder," then you peeped? A. Then I peeped and I said, "Who that, who that"

Q. "I stopped and looked in the direction where I saw the man holding the light and then I..."

30 HIS LORDSHIP: If you look - he went away to the bar to somebody to come back with him but no one came.

DEFENCE COUNSEL: This is after he had seen the figure, M'Lord.

HIS LORDSHIP: Well, this is splitting hairs. It is difficult to, in a preliminary examination to capture all what a witness has said.

DEFENCE COUNSEL: M'Lord, this is a very important

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testimony. This is the only man in this case who is trying to put the accused on the spot and it is very important that this man is speaking the truth, and that his evidence be consistent.

HIS LORDSHIP: The jury who is going to decide whether he is speaking the truth or not.

DEFENCE COUNSEL: But my job, M'Lord, is to prove...

HIS LORDSHIP: What is important is, did he see what he says he saw; did he recognise the voice - that is going to be the important point. 10

DEFENCE COUNSEL: Everything leading up to this is important whether or not he really was there. That is what is important and if an important thing like this for him going to the bar and coming back to the bar - this is really important - what really happened - was he - is he really telling the truth - was he really there? 20

HIS LORDSHIP: Yes?

DEFENCE COUNSEL: Now, after you heard this voice that you recognised you asked, "Who is that"?
A. It's before, sir. After I heard the sound "Murder, murder," I said, "Who is that, who is that".

Q. Did you not ask after you heard the voice, "You fucker you, you fucker you," did you not ask "who is that?" A. No, sir, before.

DEFENCE COUNSEL: M'Lord, may I refer Your Lordship again to this page. 30

HIS LORDSHIP: Yes?

DEFENCE COUNSEL: And did you not say, "I heard him say 'You fucker you, you fucker you'. I recognised the voice to be that of the accused", and the next thing you say in that regard, "I said, 'who is that, who is that'? A. "Who is that, who is that," is before, sir, when I heard the sound "Murder, murder."

Q. Did you not say when the person say, "You fucker you, you fucker you", who is that? A. No, sir.

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CROWN COUNSEL: There is nothing in this...

HIS LORDSHIP: You are going to put in the deposition. If the witness denies it there is no point putting it in unless your are going to put it in to contradict him.

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DEFENCE COUNSEL: No, M'Lord, I will not put it in. I am suggesting to you, Mr. Fairweather, that you are not speaking the truth? A. I am, sir.

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Examination

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(continued)

10

Q. I am suggesting to you that, that night you left the bar so drunk, you went home? A. No, sir.

Q. Now, you know this accused man? A. Oh, yes, sir.

Q. As a matter of fact he lived a chain and a half from you? A. Well, I never measure it, sir.

Q. But is it quite near? A. I never measure it, sir.

Q. The same yard at one stage? A. We pay the one man the same rent.

20

Q. The same rent - not in the same yard. And he has a bicycle? A. Not to my knowing, sir.

Q. He never rides yet -- you never see him ride yet? A. I can't remember, sir.

Q. You know his red flashlight? A. A penlight.

Q. Oh, he had a red penlight? A. I saw it the night.

Q. You know it from before and warn him from riding that bicycle with that red penlight? His light is not bright enough? A. No, sir.

30

Q. You and this man had trouble last year? A. No, sir.

Q. He promised to sell you a cow? A. He promised - he never fulfil it.

Q. Promised, but he made somebody else had the cow - you didn't get the cow? A. No, sir.

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30th July 1969
(continued)

- Q. Now, you didn't get the cow. Now, tell me something, you were the only person on that road that night - out on the road? A. I was the only person going on the road.
- Q. On the road at the time? A. Yes, sir.
- Q. Was there a dance there that night? A. No, sir.
- Q. There is a jute box? A. There is a jute box going at Miss McKella's premises.
- Q. Now, this figure ran? A. Pardon me?
- Q. This figure you see, run away -- the person going like this (demonstrates). A. Yes, sir. 10
- Q. Did you see him run away? A. If I see him run away?
- Q. Yes. A. I don't understand. Put it again, sir.
- Q. Did the figure you see, at any stage, run away? A. At any stage, run?
- Q. Away. Did the man you see doing this, run away? A. He went between the vicinity of the kitchen and the latrine, sir.
- Q. Did you see him after that? A. Not at that time, sir. 20
- Q. Now, you see on both occasions you were over on the right hand side of the road? A. Yes, sir.
- Q. You never bend down and peeped through the croton? A. Oh, yes, sir.
- Q. From the right side of the road? A. Yes, sir.
- Q. And the only light that was on in the yard was the torch - the flashlight? A. Oh, yes, sir.
- Q. What did you think was happening? A. Well, I couldn't really say, sir, not until the morning. 30
- Q. You heard a voice saying, "Murder, murder, murder"? A. Oh, yes, sir.

- Q. You heard a person saying, "You fucker you, you fucker you", saying twice....? A. Yes, sir.
- Q. ...you saw a hand going up and down....
A. Yes, sir.
- Q.what did you think was happening? A. Well, as a matter of fact it could be fight or anything like that.
- Q. It just could be a fight or anything like that?
A. Yes, sir.
- 10 Q. You see, and you didn't go to have a closer look? A. No, sir.
- Q. You didn't go and look in the yard? A. On that night, sir?
- Q. Yes. A. No, sir.
- Q. You are a district constable? A. Constable.
- Q. And your duty is to help to keep the peace?
A. Yes, sir.
- 20 Q. And you are a District Constable of Trinity where this thing was happening? A. Cox Street really sir, but I am living at Trinity, sir.
- Q. Yes. And yet you went home and went to bed?
A. Yes, sir.
- Q. I am suggesting to you what really happened that night, is that you left the bar stone-drunk?
A. No, sir.
- Q. Full of white rum? A. No, sir.
- Q. And beer? A. No, sir.
- 30 Q. And how you managed to get home in your drunken state? A. I walked home, sir.
- Q. You walked home. I am suggesting to you that in fact is all you know about that night? A. What, sir?
- Q. That is all you know about that night? A. What, sir.

In the Circuit
Court

Prosecution
Evidence

No.11

Oscar
Fairweather

Cross
Examination

30th July 1969
(continued)

In the Circuit
Court

Prosecution
Evidence

No.11

Oscar
Fairweather
Cross
Examination

30th July 1969
(continued)

- Q. That you were drunk and you went home?
A. No, sir, I wasn't drunk at all, sir.
- Q. Now, you know any of the accused girl-friends?
A. One at home, sir.
- Q. You knew one at home - what Miss Lue? A. Miss Lue?
- Q. You know Miss Lue? A. No, sir, only the one at home I know.
- Q. You don't know Miss Lue? A. (No answer).
- Q. You don't know Joyce? A. No, sir. 10
- Q. Or Carmen? A. No, sir.
- Q. What is the name of the one at home? A. I really don't remember, sir. One is at home there right now, sir.
- Q. So you don't remember any names? A. No, sir.
- Q. You know one called Pleasant? A. Pleasant, sir?
- Q. Yes. A. No, sir.
- Q. What about Enor? A. No, sir.
- Q. You knew Enor? He liked the girls? A. I really don't know, sir. 20
- Q. You didn't know him well then? A. (No answer).
- Q. Do you or do you not know him well, sir?
A. I know him for over two years - not about girls problem, sir.
- Q. Not about the girls problem - so he had girls problem? A. Well, you are asking me, sir?
- Q. He didn't like any of your girlfriends?
A. Pardon me?
- Q. Huie, he didn't like any of your girlfriends?
A. I couldn't say, sir. 30
- Q. All right, thank you.

HIS LORDSHIP: Yes?

CROWN COUNSEL: No re-examination, M'Lord.

No. 12

MAGNUS WATSON

In the Circuit
Court

MAGNUS WATSON: SWORN:

Prosecution
Evidence

Examined by Crown Counsel:

No.12

Magnus
Watson

Examination

30th July 1969

10

Q. What is your name, sir? A. Magnus Watson, sir.

Q. And what work do you do, sir? A. Tailor, sir.

Q. And where do you live? A. Frazer Wood, Highgate,
St. Mary, sir.

Q. Now, do you know the accused Rupert Anderson?
A. Yes, sir.

Q. Is he related to you? A. Yes, sir.

Q. What relationship does he bear to you?
A. Cousin, sir - a nephew - his mother is my
brother's daughter.

Q. Now was he living - prior to the 23rd December,
where was he living? A. I rent him an apartment
in my house.

HIS LORDSHIP: In your where? A. In my house.

20

Q. At your home? A. Yes, sir, I rent him one
of the apartments.

CROWN COUNSEL: The same building? A. The same
building.

Q. How long he lived there before the 23rd of
December? A. He wasn't there for a month. He
just pay a month rent and the other month never
due as yet.

Q. You have no idea how long he was actually living
there? A. Around three weeks.

30

Q. Now, do you remember the early morning of the
24th of December? A. Yes, sir.

Q. Did you hear anything -- first of all, were you
at home? A. Yes, sir, I was at home; I work
at home.

In the Circuit
Court

Prosecution
Evidence

No.12

Magnus
Watson

Examination
30th July 1969
(continued)

Q. That early morning, did you hear anything?
A. Yes when him came out him told me that he heard them kill a fellow down Port Maria and he knows the guy.

HIS LORDSHIP: You went to your bed early in the morning of the 24th, did you hear anything?

CROWN COUNSEL: The early morning of the 24th before you get out of bed? A. No.

Q. Before you woke up, did you hear anything?
A. No, no, I was

10

Q. Did you see Rupert Anderson? A. When I came out I saw Rupert - he was at home.

Q. He was at home? A. Yes, sir.

HIS LORDSHIP: Did you hear when he came in?
A. What?

Q. Did you hear when he came home? A. Yes, sir, he came home about after twelve - one o'clock in the night.

CROWN COUNSEL: Was after twelve - one? A. After twelve - one -- I don't have any clock to know the time but it was pretty late - must after twelve o'clock.

20

Q. Did you when you hear him come home, did you say anything to him? A. I heard walking coming up the step. I said, "Who are you," him say, "Is me Rupert."

Q. You asked "who are you"? A. Yes, sir.

Q. Yes, did you say anything to him when he answered said "Rupert"? A. I said "Where you coming from now." Him say, him coming from Port Maria and he stopped at a dance something out Highgate.

30

Q. About what time you got up that morning?
A. On the 24th?

Q. Yes. A. I generally wake around six.

Q. Six? A. About six o'clock - six - seven - six

o'clock in the morning.

Q. So that morning you got up at six o'clock?
A. Yes, sir, around six o'clock.

Q. Did you see Rupert when you got up? A. Yes, sir, because he was in his room.

Q. Did he say anything to you? A. Yes, him told me that him hear they kill a guy down Port Maria and he told me that he know the guy. He never tell me the name of the person - I don't know.....

10

Q. He told you that he knew the guy? A. Yes.

Q. Did he say anything else? A. He says he was going to Highgate to buy beef for one Miss Katie in Port Maria.

Q. Now, did he leave that morning? A. Yes, he left and went to Highgate.

Q. About what time he left? A. He left around seven o'clock.

Q. Seven? A. To Highgate.

20 Q. Who got up first, you or him? I mean who came out side, you or him - who came out side first, you or him? A. When I got up in the morning...

Q. Just answer me. That morning I am dealing with. The morning - Christmas eve morning - the 24th of December last year - who got up first, you or him? A. I got up first.

Q. Now what time did he ... A. Leave to Highgate?

Q. Yes that morning. A. That morning?

30 Q. Yes. A. About seven o'clock saying that he is going to buy beef.

Q. Now, did he come back? A. Yes.

Q. About what time? A. He came back around eight o'clock. He came back quickly, quickly.

Q. Now, did he borrow anything from you? A. No, sir.

In the Circuit
Court

Prosecution
Evidence

No.12

Magnus
Watson

Examination
30th July 1969

(continued)

In the Circuit
Court

Prosecution
Evidence

No.12

Magnus
Watson

Examination
30th July 1969
(continued)

- Q. Eh? A. No, sir.
- Q. Did you see him doing anything that morning?
A. No, sir, not to my knowledge. I never see him doing anything that morning. He just get up and make his breakfast himself and all that.
- Q. That morning. Did you see any clothes of his?
A. Yes, sir.
- Q. Where they were? A. He have some clothes on the wire at the back part of the house - the clothes line. 10
- Q. What kind of clothes? A. A khaki suit.
- Q. When you say khaki suit, what do you mean?
A. A shirt and pants.
- Q. Khaki shirt and pants? A. Yes, sir.
- Q. Were the clothes dry or were they wet? A. They were wet.
- Q. Now, did you see him do anything as far as those clothes were concerned? A. Yes.
- Q. What? A. Borrow my tailor iron and press them. 20
- Q. That is about what time he borrowed your iron and pressed them? A. When he returned from Highgate.
- Q. When he was pressing the clothes were they still dry or were they wet? A. It wasn't properly dry.
- Q. So did he finish pressing the shirt and pants?
A. Yes, he did finish press them.
- Q. Was that the first time or was that a common practise for him to press his shirt and pants? 30
A. No he borrow it quite a few times - quite a few times him borrow the iron and press.
- Q. Now, did he remain at home all day or he went out? A. Well, he went after he finish press - he went back to Highgate.

- Q. And did he come back later on? A. Yes, he came back later on - brought some pants and shirts that he bought in Highgate. He showed them to me when he came back with them.
- Q. Pants and shirt? A. Yes, and a shoes and all that.
- Q. And a shoes - - what kind of clothes they were? A. What they call terrylene pants and shirt.
- 10 Q. Terrylene pants and shirt? A. The shirt wasn't terrylene - some other material - I don't know.
- Q. Now, later on in the night, did you see him? A. Yes, around nine o'clock the night after.
- Q. And did he say anything to you about nine o'clock? A. I saw him coming, he said if I know that a little baby was at home ...
- Q. Did he say anything to you about nine o'clock that night? A. He didn't say anything to me, I said something to him.
- 20 Q. What you said to him? A. I said "I heard police looking for you, what you do?"
- HIS LORDSHIP: You heard what? A. "I hear that the police looking for you, what you do?"
- CROWN COUNSEL: Did the police come to your home that day? A. No.
- HIS LORDSHIP: Did he answer you?
- CROWN COUNSEL: Did he answer you when you said that to him? A. He said him heard so himself and he is going tomorrow to hear. So I say, "Since you heard the police was looking for you why didn't you go to them."
- 30 Q. Yes. Now, the following day, that is the 25th - Christmas day .. A. Yes.
- Q. ... did the police come to your home? A. Yes very early the morning. I was awake when they came, sir.
- Q. Did you see them speak to him? A. Well, I never

In the Circuit
Court

Prosecution
Evidence

No.12

Magnus
Watson

Examination
30th July 1969

(continued)

In the Circuit
Court

Prosecution
Evidence

No. 12

Magnus
Watson

Examination
30th July 1969

(continued)

even knew they were a police because they didn't have on any uniform.

- Q. Did you see them speak to him? A. Yes.
- Q. Did he leave with them? A. Yes.
- Q. Now, I asking you to go back to the 23rd day of December - what time did the accused man leave the home - Rupert leave the home that day - the 23rd? A. Leave sometime in the morning hours say he was going to Port Maria.
- Q. Did you see him again -- were you at home all day? A. All day. 10
- Q. Did you see him again? A. For the day?
- Q. Did he come back home? A. For that day?
- Q. For the day. A. No.
- Q. So you didn't see him again until the early morning of the 24th? A. Yes, the 24th, early morning but I never see him.
- Q. Have you ever seen him washing his clothes? A. No, sir.

Cross
Examination

Cross-examined by Defence Counsel:

20

- Q. In all Rupert lived at your place around two weeks? A. Not two, around three weeks.
- Q. Three weeks to four? A. Yes, sir.
- Q. Now, Mr. Watson, you haven't got a clock at home, haven't you? A. No, sir, but I have a radio that I have little time off.
- Q. You have a radio? A. Yes, sir.
- Q. And you get the time from this radio in the morning? A. In what?
- Q. In the morning. A. When I get up I turn it on. 30
- Q. When you get up you turn it on? A. Yes and get the time.

Q. After you turned on the radio, what do you do?
A. I start to work.

In the Circuit
Court

Q. You start to work where? A. In my house, same
place where I live.

Prosecution
Evidence

Q. I see. You say Rupert spoke to you that morning
about a man that was killed in Port Maria?
A. Yes.

No.12

Magnus Watson

Q. You see what I am suggesting to you is that when
Rupert spoke to you about this matter he had
already come back from Port Maria - from
Highgate? A. No, is before him go to Highgate.

Examination
30th July 1969
(continued)

Q. I am suggesting to you that is after he went
to Highgate? A. Well, I am telling you that
is before, sir.

Q. Now, you say he often borrows your iron? A. Yes,
sir.

Q. To press his clothes? A. Yes.

Q. And would you say his behaviour that morning
was quite normal? A. Quite normal, quite
normal.

Q. And when you told him about the police he said
that he was going to the police the next morning?
A. That was the 24th about nine o'clock I saw him.

Q. He said he was going to the police the next
morning? A. I asked him where he was coming
from at the time when I saw him.

Q. You told us that the police was looking for him?
A. I said that I heard him ...

Q. And he said he was going the next morning?
A. Yes he said he would be going the next morning.

Q. Yes, all right. Thank you.

DEFENCE COUNSEL: M'Lord, is this a convenient time
to take the adjournment? May it please Your
Lordship. The defence feels that it would be
very helpful in this matter if the Court could
visit the locus in quo.

In the Circuit
Court

Prosecution
Evidence

No.12

Magnus Watson
Examination
30th July 1969
(continued)

HIS LORDSHIP: How is it going to help us.

DEFENCE COUNSEL: Well, the house is there, the hedge is there.

HIS LORDSHIP: Yes, but this is July.

DEFENCE COUNSEL: I appreciate this, M'Lord, but it will be a matter of fact for the jury whether it is a young hedge that has just grown up or whether it was an old hedge. The point is that this man says he was across the road. I think it would be very helpful. The house is there, and the width of the road and then where the little girl was standing and where he was standing - all these things, is only the locus could be able to assist us. 10

HIS LORDSHIP: Well, I really don't see in a case of this nature that a visit to the locus could be of any assistance to us. It is nearly seven months after.

DEFENCE COUNSEL: I was looking at it from this point of view where the body is from the house. 20

HIS LORDSHIP: We have clear evidence that the body was lying between the side of the house and the bank and there was a croton hedge there but he himself said it wasn't as thick then as it is now.

DEFENCE COUNSEL: But I think it would be for the jury to decide what sort of hedge. This hedge could have been thick then. Could he stand on the other side of the road and see what he said he could have seen because the width of the road is there. Isn't it an important factor? 30

HIS LORDSHIP: The width of an ordinary main road in Port Maria?

DEFENCE COUNSEL: Yes the big main road in Port Maria.

HIS LORDSHIP: The policeman can give you the width of it.

DEFENCE COUNSEL: Yes, but the section where the body was lying.

HIS LORDSHIP: I don't know if we have arrived at that stage yet.

DEFENCE COUNSEL: Where it was lying - where it was lying between these two houses

HIS LORDSHIP: Between the side of the road and the road bank.

DEFENCE COUNSEL: No, M'Lord.

10

HIS LORDSHIP: That is the evidence. But if evidence is to come as to the discovery of the body from Doctor Harry and the police, I don't see where a visit to the locus is going to help us.

DEFENCE COUNSEL: Or maybe I will make it later when we would have had the other evidence. As Your Lordship, please.

HIS LORDSHIP: Members of the Jury, please return at ten o'clock tomorrow morning and don't discuss the matter with anyone.

Tuesday, 1st July, 1969

20

COURT RESUME AT 10.03 a.m.

JURY ROLL CALL ANSWERED.

USHER: All witnesses in this case, please keep out of hearing.

No. 13

JOSIAH FERGUSON

JOSIAH FERGUSON: SWORN:

Examined by Crown Counsel:

Q. What is your name? A. Josiah Ferguson.

30

Q. What work do you do, Mr. Ferguson? A. I am a grave digger.

Q. And where do you live? A. At the hospital gate.

In the Circuit Court

Prosecution Evidence

No.12

Magnus Watson

Examination
30th July 1969

(continued)

No. 13

Josiah
Ferguson

Examination

In the Circuit
Court

Prosecution
Evidence

No. 13

Josiah
Ferguson

Examination

30th July 1969
(continued)

Q. Which hospital gate? A. Port Maria.

HIS LORDSHIP: You alone lives there?
A. Yes, sir.

Q. You live there alone? Yes, sir.

CROWN COUNSEL: Now, the hospital gate, where
is that? A. Just at the road turning into
the hospital.

Q. Turning into the hospital? A. Yes.

Q. Is there a main road that leads down to Port
Maria? A. Yes, sir.

10

Q. On what side of the road is this house - the
hospital road - what side of that road is this
hospital? On the right hand side or on the left
hand? A. On the left hand going to Highgate.

Q. On the left hand going to Highgate. A. Yes, sir.

HIS LORDSHIP: Yes, the gate turns on Port Maria
road. Going to the hospital, which side of the
road is it on going to Trinity? A. That place
is Trinity.

HIS LORDSHIP: Going towards the gas station, which
side of the road is it on? A. The gas station
on the left.

20

Q. The hospital gate is on the left? A. On the
left.

CROWN COUNSEL: Now, there is a road that leads
from the main road up to the hospital compound?
A. Yes, sir.

Q. Now, on what side of that road is your house?
A. On the right hand side.

Q. Now, on what road is the gateway to the house?
A. The gateway?

30

Q. The gate that leads into your home - on what
road is that gateway? A. The hospital gate?

Q. Listen, to me again, there is a gate that leads
into your yard? A. Oh, that is a gate - a yard
gate.

- Q. Is there a gate? A. Yes, there is a gate.
- Q. Now, what road is that little gate on? A. On the hospital road.
- Q. Now, is it a big house or a small house? A. Two rooms and a little apartment.
- Q. Is there any other building on the land beside your house? A. On the other side.
- Q. No, on where you live? A. No kitchen -- there is a kitchen there.
- 10 Q. There is a kitchen? A. Yes, sir.
- Q. Does it adjoin the main house or separated from the main house? A. Adjoin -- you have to call it adjoin because the roof rest on the house.
- Q. I see. So there is a space between the house and the kitchen that you can walk? A. Yes, sir.
- Q. Without entering the house or the kitchen? A. Yes, sir.
- Q. Now, are there any lights out there? A. Yes.
- 20 Q. About how many lights there are? A. Three lights.
- Q. Three lights. And what type of lights are those? A. The Government lights.
- Q. Say - electric lights? A. Yes.
- Q. Now, where are these lights? A. Two is on the main road and one is on the hospital road.
- Q. Two is on the main road?
- HIS LORDSHIP: One is where? Speak up for me.
A. One is on the hospital road.
- 30 CROWN COUNSEL: And you said two is on the main road? A. Yes.
- Q. Is there any light at the junction of the hospital road on the main road? A. Yes, one is at the centre there.

In the Circuit
Court

Prosecution
Evidence

No. 13

Josiah
Ferguson

Examination

30th July 1969
(continued)

In the Circuit
Court

Prosecution
Evidence

No. 13

Josiah
Ferguson

Examination
30th July 1969

(continued)

HIS LORDSHIP: One is where? A. At the centre betwixt the two roads the hospital road and the main road.

CROWN COUNSEL: And so far as the main road is concerned where is the other light? A. Above it.

Q. Above it? A. Yes.

HIS LORDSHIP: Above the gate?

CROWN COUNSEL: When you say above it, is that going towards Highgate direction? A. Correct, sir. 10

Q. Now, on what side of the road are these lights - going towards Highgate? A. On the left hand.

Q. Is that the same hand on which your house is? A. Yes.

Q. Now, the light that is on the road to the hospital, what side of the road is it on? A. It is on the left going to the hospital, please.

Q. Is that above your little gateway that you spoke about or below it? A. It's above it. 20

Q. Eh? A. It's above it.

Q. Now, do you know the deceased Huie Foster? A. Yes, I do.

Q. How long have you known him? A. About two years.

Q. Now, you remember the night of the 23rd of December, last year, did you remain at your house that night? A. No, sir.

Q. You went out? A. Yes. 30

Q. From when you left? A. Seven o'clock the evening.

Q. Seven o'clock the evening was then you left. Did you leave anybody at your home? A. No, sir.

Q. Now, when did you return? A. About seven o'clock in the morning.

In the Circuit
Court

Q. In the morning of what day? A. Tuesday.

Prosecution
Evidence

Q. Tuesday, would that be the 24th of December?
A. Yes, sir.

No.13

HIS LORDSHIP: What, you were at work the night?
A. No, sir, I was not at work, I was out from mi home.

Josiah
Ferguson

Examination
30th July 1969

10 CROWN COUNSEL: Now, when you went back, did you observe anything? A. Yes, sir.

(continued)

Q. What was the first thing you observed? A. I observed a cycle leaning on the house corner.

Q. When you say a cycle, you mean?... A. A bicycle.

Q. A bicycle. Now, which - when you say house corner, could you give us a little more details of which house corner it is? A. The house that I live in.

Q. But which side was it, to the front or to the side, or to the back? A. To the side.

20 Q. To the side? A. Yes, sir.

Q. Now, which side -- which side, you say it is to the side, which one?

HIS LORDSHIP: Which side, the side near to the road or the side near to the hospital? A. the side near to the hospital, please, sir.

Q. The side near to the hospital? A. Yes, sir.

CROWN COUNSEL: Now, when you left that night before or the evening before was there a bicycle there?
A. No, sir.

30 Q. Did you know whose bicycle it was? A. When I come and see it I know it.

Q. You know? A. Yes, sir.

Q. Whose bicycle? A. It was Huie.

In the Circuit
Court

Prosecution
Evidence

No. 13

Josiah
Ferguson

Examination
30th July 1969

(continued)

- Q. Who is Huie? A. The person that died.
- Q. The deceased man? A. Yes, sir.
- Q. Yes, and you observed the bicycle, what did you do? A. I go a little further.
- Q. Yes? A. And I saw a man lay down and I stand over him and look and I saw that he is chopped up, and I went to the Police Station and make a report.
- Q. Yes. Now, did you touch the body? A. No, sir.
- Q. You left it at the same spot? A. Yes, sir. 10
- Q. And go to the Police Station? A. To the Station.
- Q. And when you came back it was at the same spot. A. Yes, sir.
- Q. Now, can you tell me on what side of the house was this body? A. It was near to the road.
- Q. On the side of the house near to the road? A. To the road.
- Q. When you say the road which road do you mean? A. The main road. 20
- Q. Was it near to the side of the house or some distance? A. Near to the side of the house.
- Q. Now, did you recognise whose body it was? A. Yes.
- Q. Whose body? A. Huie.
- Q. Huie Foster? A. Yes, sir.
- Q. When you got back was the police there or they came after you got back? A. No, sir, they were there.
- Q. When you got back? A. They came back before me. 30
- Q. When you came back from the Station the police were there? A. Yes, sir.

Q. Tell me when you left that night to go about your affairs were the street lights on?
A. Yes, sir.

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Court

Q. They were on? A. Yes, sir.

Prosecution
Evidence

Q. All three of them were on? A. Yes, sir.

No.13

Josiah
Ferguson

Cross-examined by Defence Counsel:

Examination
30th July 1969

Q. Mr. Ferguson, you say there is a light going up the hospital road? A. Yes, sir.

(continued)

10 Q. How far up the hospital road? A. I really don't have a measurement of it.

Cross
Examination

Q. Well, can you give us an approximate -- can you give us some measurement? A. May be I will give you a measurement and when you reach there it is more.

Q. Don't you live there? A. Yes, sir.

Q. Don't you see that light every day? A. Yes, sir.

Q. And don't you see how far it was every day?
A. Yes, sir.

20 Q. Could you just point out for us just how far?
A. My judgment may be bad.

HIS LORDSHIP: You come to the light before you come to your house, or it passes your house?
A. It pass my house.

DEFENCE COUNSEL: Going towards the hospital?
A. Yes, sir.

Q. So it's not between your road and the main road?
A. No sir, it's not between the main road it is between the hospital.

Q. The hospital and your house? A. Yes.

30 Q. I see. Now, what about these lights out on the street, there are two more on the street you say? A. Yes, sir.

In the Circuit
Court

Prosecution
Evidence

No.13

Josiah
Ferguson

Cross
Examination

30th July 1969
(continued)

- Q. Both of them on the left side going towards Highgate? A. Yes, sir.
- Q. Now about how far from your house is the one near to Port Maria? A. The one near to Port Maria -- say about a chain.
- Q. About a chain from your house going towards Port Maria? A. Yes, sir.
- MR. DOUGLAS: Mr. Ferguson, you say there is a light going up the hospital side? A. Yes, sir.
- Q. How far from the hospital road? A. I really couldn't give a measurement. 10
- Q. Give us an idea. A. I may give a measurement and when I give it and when you measure it is a bit taller.
- Q. Mr. Ferguson, you live there? A. Yes, sir.
- Q. And you see how far it is. A. Yes, sir.
- Q. Well, couldn't you point out to us how far? A. My judgment may be bad, sir.
- HIS LORDSHIP: You mean at the light before you come to your house? A. Yes, sir. 20
- HIS LORDSHIP: Going to the hospital. A. Yes, sir.
- MR. DOUGLAS: So, it is between the hospital and your house? A. Yes, sir.
- Q. Now, what about these lights out to the street, there are two more on the street you say? A. Yes, sir.
- Q. Both of them on the left side going towards Highgate? A. Yes, sir.
- Q. Now, how far from your house is the one near to Port Maria? A. Just say about a chain. 30
- Q. About a chain from your house? A. Yes, sir.
- Q. Going towards Port Maria? A. Yes.
- Q. Now, with the one near to Highgate, how far from your house is that one? A. About a chain.
- Q. So, in truth and in fact there is no street light right at your house? A. Yes.
- Q. You told us there are three lights? A. Yes.
- Q. And one a chain in that direction and one past your house going up to the other direction? A. There are three lights. 40
- Q. They must be at least two chains away, two chains apart. A. That give you a bright light.
- Q. Mr. Ferguson, the nearest light to your house is a chain? A. Yes, sir about that.
- Q. Thank you.
- CROWN COUNSEL: No re-examination, M'Lord.

NO. 14In the Circuit
CourtIVAN WILSON

No.14

IVAN WILSON: SWORN: EXAMINATION BY CROWN COUNSEL

CROWN COUNSEL: What is your name, sir? A. Ivan
Wilson, sir.

Ivan Wilson

Examination

HIS LORDSHIP: Speak up, Mr. Wilson.

1st July 1969

CROWN COUNSEL: Speak up, you see that gentleman at
the end there - (pointing to juror) he has to
hear what you are saying. Q. Yes, sir.10 Q. It is his business to hear your evidence. A. Yes,
sir.Q. Also the accused must hear you so please speak up
loud. A. Yes, sir.Q. What work you do, Mr. Wilson? A. I am a motor man,
sir.HIS LORDSHIP: Driver? A. Driver of a motor, sir. I
have a cold.

HIS LORDSHIP: You drive a motor vehicle? A. Yes, sir.

HIS LORDSHIP: Car, truck or van? A. Well, van, sir.

20 CROWN COUNSEL: That is your own van? A. Yes, sir.

HIS LORDSHIP: Just a moment.

CROWN COUNSEL: And where do you live, sir. A. Richmond,
Zion Hill, sir.

HIS LORDSHIP: Richmond, what? A. Richmond, sir.

CROWN COUNSEL: And is that in the parish of St.Mary?
A. Yes, sir.Q. Now, do you know the accused man, Rupert Anderson?
A. Yes, sir.30 Q. How long have you known him? A. From about six months
before him commit himself, sir.

MR. DOUGLAS: M'Lord. Objection, M'Lord.

CROWN COUNSEL: Just answer my question.

In the Circuit
Court

—
No.14

Ivan Wilson

Examination

1st July 1969
(continued)

HIS LORDSHIP: You knew him about six months before the death of Foster? A. Yes, sir.

HIS LORDSHIP: And we don't know who committed it, you see, that is what we are trying here. Members of the Jury, just remember that, you see. Just put that out of your mind for me.

CROWN COUNSEL: Now, do you know the deceased?
A. Yes, sir.

Q. Huey Foster? A. Yes, sir.

Q. How long have you known him? A. Six months too, 10
sir.

Q. Before his death? A. Yes, sir.

Q. Now, do you remember a date in December? A. Yes,
sir.

Q. You remember what date it was? A. Yes, sir.

Q. What date? A. 24th.

Q. 24th of December, last year? A. Yes, sir.

Q. Did you see the accused, Rupert Anderson? A.
Yes, sir.

Q. About what time of day was it when you saw him? 20
A. Between 8-plus, sir.

Q. Huh! A. 8-plus, sir. I didn't have me watch
but I know it was after 8:00 because I leave
Richmond 8:00 o'clock and going to Port Maria so
it must be after 8:00.

Q. Between what period of time? A. Say it take me
about a hour to reach Port Maria, sir, so, say
9-plus.

HIS LORDSHIP: On the 24th? A. Yes, sir.

CROWN COUNSEL: Yes, sir. Is that the morning or 30
night. A. Morning, sir. Morning

Q. Yes, but I would like to get the time more -
9-plus might mean night up to the following 12:00
o'clock at mid-night. A. No, sir.

- Q. Tell us between what time? A. Before 10:00 o'clock, sir. In the Circuit Court
- Q. And where did you see him, sir? A. I saw him out Sandside under a starapple tree, sir. No. 14
- Q. Now, where is Sandside? A. Sandside is between the gas station and the hospital gate. Ivan Wilson
- Q. Sandside is between the gas station and the hospital gate. Examination
- HIS LORDSHIP: Which gas station? A. Well, the gas station that dey was working, sir. 1st July 1969 (continued)
- HIS LORDSHIP: Trinity gas station? A. Yes, sir, Trinity gas station.
- HIS LORDSHIP: On the road between the Trinity gas station then and the hospital gate? A. Yes, sir.
- CROWN COUNSEL: Was he walking or standing? A. Him standing up, sir.
- Q. In the road or by the side of the road? A. By the side of the road, sir.
- Q. Was he alone or he was with somebody? A. He alone, sir.
- Q. He alone stood up? A. Yes, sir.
- Q. Did you say anything to him? A. Yes, sir.
- Q. What you said to him? A. I say, "Man, what a way dem kill off our good fren'!"
- Q. Look, you will have to speak loud so that we can all hear and try and speak distinctly or clearly. A. All right, sir. I say, "What a way them kill our good friend!"
- Q. That is what you said? A. Yes, sir.
- Q. Did he say anything? A. He said, "What is not yours mus' leave it alone".
- Q. Slowly for me. A. "What is not yours you must leave it alone", that is what he said.
- Q. Yes! A. And, "Like brute you live ..."

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Court

No.14

Ivan Wilson

Examination

1st July 1969

HIS LORDSHIP: Speak up, please! A. "Like brute you live, like brute you shall also die, because it is a lesson to man to teach man not to fool around the next man woman".

CROWN COUNSEL: Yes. Did you say anything or did he continue speaking? A. Well, a turn to him and say, "Oh, is not criminal kill him. I thought it was criminal kill him, I never know a next man woman him fool around and him kill him".

10

HIS LORDSHIP: Repeat that, please. A. I said, "Oh, it's not criminal kill him. I thought it was criminal rob and kill him. I never know it was next man woman him was fooling around".

CROWN COUNSEL: Yes, did he say anything when you said that? A. He said from the night he saw Huey in Miss McKella bar drinking ...

MR. DOUGLAS: M'Lord, may I submit, with respect, M'Lord, that this evidence is not admissible.

HIS LORDSHIP: What? What is gone already?

20

MR. DOUGLAS: A lot of what is gone already and a lot of what is to come.

HIS LORDSHIP: If you are going to object why wait until it is given?

MR. DOUGLAS: M'Lord, I was just wondering how far my friend would go, M'Lord.

HIS LORDSHIP: What basis you say, it is not admissible.

MR. DOUGLAS: This is highly prejudicial and this is something supposed to have been said hours after it had taken place. I can't see how it can be admissible. It is just prejudicial.

30

HIS LORDSHIP: What has already been admitted and what is to come?

MR. DOUGLAS: Yes, M'Lord.

HIS LORDSHIP: What you have to say, Mr. Farquharson? It is a bit late in the day for Mr. Douglas to take objection to what has gone and what is coming.

CROWN COUNSEL: M'Lord, in my submission the evidence is admissible. I don't know exactly with what his ground of objection is concerned because evidence highly prejudicial is not a ground of objection. As far as I know if there is any evidence of prejudicial value ...

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Court

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Ivan Wilson

HIS LORDSHIP: You are not saying the evidence is not admissible, Mr. Douglas, but you are saying it is highly prejudicial.

Examination

1st July 1969

10 MR. DOUGLAS: Yes, highly prejudicial.

HIS LORDSHIP: Well, as I have often said, you know, in every criminal case from the drop of the first flag what the Crown is leading is prejudicial evidence.

MR. DOUGLAS: I appreciate that, M'Lord, but in truth and in fact ...

20 HIS LORDSHIP: The question is whether the prejudicial value here outweighs the evidential value, that is the consideration, not merely that it is prejudicial evidence.

MR. DOUGLAS: No, but whether it outweighs the evidential value and I will submit that it was apt, what he did say, "Like a brute you live and like a brute you die". I mean anybody may have said that.

30 HIS LORDSHIP: Well, as I see it, as Counsel for the Crown opened, this case is based largely if not mainly on circumstantial evidence. When one is dealing with circumstantial evidence then it is a chain of which you are forging or attempting to forge and therefore every little piece counts. If a link is missing then the chain is broken.

MR. DOUGLAS: I appreciate that, M'Lord.

HIS LORDSHIP: And it is for the jury to say, when the time comes what interpretation or what weight or credence they are going to place upon it.

MR. DOUGLAS: As your Lordship pleases. It is just that in order to build a case one has to build such circumstantial evidence that has no real meaning, real, I mean away from the res gestae, so to speak.

40 HIS LORDSHIP: All right, I think it is a case - I will admit it. You said from the time what?

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Court

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Ivan Wilson

Examination

1st July 1969

CROWN COUNSEL: Yes? A. He said the night ...

HIS LORDSHIP: Keep your voice up, please. A.
He said from the night before he saw Huey in
Miss McKella bar was drinking a beer he turn
his back to the ...

HIS LORDSHIP: Not so fast. He turn his back to
what? A. To the counter, sir, ...

HIS LORDSHIP: Yes. A. ... looking out the road for
the next man woman and at the same time looking
for his death and he don't know.

10

HIS LORDSHIP: Yes? Well!

CROWN COUNSEL: Yes!

HIS LORDSHIP: You better leave the rest.

CROWN COUNSEL: Yes, sir.

HIS LORDSHIP: From ...

CROWN COUNSEL: Yes, I follow, M'Lord.
Now, just answer me this question, yes or no.
Did you continue with the conversation? A.
Yes, sir.

Q. And did you leave him there or he left you?
A. I left him there.

20

Q. Now, where he was standing, you say, was some -
a point between the hospital gate and this bar,
about how far from the hospital gate he was?
A. Couple chains, sir.

Q. When you say ... A. A few chains.

Q. When you say, 'a few', how much you mean? A. I
have no idea of the amount but it is a few
chains. I know it is more than one.

HIS LORDSHIP: On which side, Port Maria or
Trinity side? A. Port Maria, sir, from - I
mean from the hospital to that means from the
hospital side from where I saw him coming to
Trinity.

30

HIS LORDSHIP: Trinity side then? A. Yes.

CROWN COUNSEL: What direction were you going?
A. Port Maria, sir.

Q. Were you driving your van? A. Yes.

In the Circuit
Court

Q. Did you pass the hospital gate? A. Yes, sir.

HIS LORDSHIP: You stopped the van to talk to him?

A. Yes, sir, I did stop and spoke to him.

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CROWN COUNSEL: Did you stop at the hospital gate?

A. After leaving him, sir?

Ivan Wilson

Examination

Q. Yes. A. Yes, sir.

1st July 1969

Q. Were there persons out there? A. Yes, sir, I saw a crowd out there.

10 Q. You saw a crowd out there? A. Yes, sir.

Q. Now, one thing. Just let me ask you again where you saw him, about what distance is it between the gas station and the hospital? Is it midway, halfway, three-quarters away or half way?
A. When you say 'three-quarters away' what you mean?

Q. Was it mid-way or more than mid-way between the hospital gate and the gas station. A. I would say three-quarter way.

20 Q. Now, was he nearer to the hospital gate or the gas station? A. Well, nearer to the gas station.

HIS LORDSHIP: When you told - when you said, "What a way ~~day~~ kill off our good friend whom were you referring to as your good friend? A. I was referring to Huey.

CROSS-EXAMINATION BY DEFENCE COUNSEL

Cross-
examination

MR. DOUGLAS: You come direct from Highgate to Port Maria?

HIS LORDSHIP: From Richmond to Port Maria.

30 MR. DOUGLAS: From Richmond to Port Maria? A. Yes.

Q. And you say you came direct? A. From Richmond to Port Maria.

Q. Did you stop anywhere? A. Yes, sir.

Q. Where did you stop? A. Stop right at the star-apple tree, I stop at the gas station first.

In the Circuit
Court

No.14

Ivan Wilson

Cross-
examination

1st July 1969
(continued)

Q. Gas station where? A. Stop at the gas station where Huey was working.

Q. Is that where you saw the accused? A. Below, sir.

Q. Below where? How long you stopped at the gas station? A. About five minutes.

Q. Got some gas? A. No, sir.

Q. Oh, you just stopped there for ... A. No, sir, I heard an argument.

Q. And you left Richmond at what time? A. About 8:00 o'clock, sir. 10

Q. And you agree with me that Richmond is about nine miles from Port Maria? A. Ten and a half miles, sir.

Q. Highgate is? A. Eight and a half.

Q. Eight miles, all right, let's put it at 10½ miles, and you were driving your van? A. Austin, sir.

Q. What year? A. 1966.

Q. And you were telling us that it took you an hour to do ten and a half miles? A. Well, it could take more, sir, according to how you drive. 20

Q. And you took one and a half hours to come down? Wait, you said it maybe more than an hour. A. I said it can take more than an hour.

Q. To do 10½ miles, you are averaging say 10 miles or 11 miles an hour? A. It could take less than that, sir.

Q. We know it could take an eternity that is why I asked you if you stopped anywhere. 30

HIS LORDSHIP: Did you stop anywhere between Richmond and Port Maria? A. Yes, sir.

MR. DOUGLAS: Is that the place before you stopped at the gas station? A. About 10 minutes. I say about 5 minutes.

Q. And you are trying to say it was about 10:00 o'clock when you saw the accused? A. I am not employed by a man that a man send me out.

In the Circuit
Court

Q. I am suggesting to you that you are not speaking the truth at all. A. I know I am speaking the truth.

No.14

Ivan Wilson

Q. I am suggesting to you that the accused man was nowhere in Port Maria that morning. A. I am sure I saw him.

Cross-
examination

1st July 1969
(continued)

10 Q. You left Highgate at 8:00 o'clock? A. I did not say Highgate.

Q. And drive direct to Port Maria? A. I did not say Highgate, I said Richmond.

Q. I beg your pardon, you leave Richmond at 8:00 o'clock and drive direct to Trinity. Now, Huey Foster was your good friend, is that correct? A. Well, yes, sir.

Q. Why you take so long to answer? A. I did not know you was asking me the question.

20 Q. I am just talking for exercise - your good friend? A. Yes, sir.

Q. In six months you had become good friends? A. Yes, sir.

Q. Where did you meet him? A. Same place down the garage, gas station.

Q. You live in Highgate? A. Richmond, sir.

Q. And this man, Huey, worked at the service station at Trinity? A. Yes, sir.

30 Q. Tell me how he became your good friend? A. Well, let me say one night I came on there and he was closing and I asked him to serve me some gas and he asked me who I was and I told him and we became good friends from right there.

Q. You go to parties? A. Well, I don't go to parties.

Q. You go to dinners together? A. No.

Q. You have the same girl friend? A. No.

In the Circuit
Court

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No.14

Ivan Wilson

Cross-
examination

1st July 1969
(continued)

Q. Tell us how you became good friends, you buy gas from him? A. Yes.

Q. So, you leave Richmond to come down to buy gas from him? A. No passing through because I work in that area.

Q. Tell us how you became good friends. You met the night - one night you became good friends, tell us how the friendship develop? A. Well, just like how I tell you, he has done a kindness for me and I appreciate it. 10

Q. He has done a kindness by your telling him your name?

HIS LORDSHIP: Selling him gas at closing time.

MR. DOUGLAS: And that is how you became friends. Tell me now, Mr. Wilson, do you see your good friend here? A. Well, I know the man.

Q. How you know this man? A. The same deceased that day asked me several nights to take him from the gas station and drop him at Highgate, several nights. 20

Q. I see. Who he asked you to take, this man, from the gas station and drop him at Highgate several nights? A. Several nights.

Q. I see. Now, apart from going to the gas station and passing and saying helloe, you had no social contact with Huey? A. When you say, social contact, I don't get you.

Q. Going out and fooling around, you know, and drinking here, drinking there? A. I meet him one time and we all had a drink. 30

Q. Where is this? A. Same place at the bar in front of the hospital gate; meet him one time.

Q. And you all had a drink? A. We all had a drink.

Q. What you went to Port Maria for that morning, you go there often? A. Yes.

Q. What you go - do you take something there? A. Well, I am a collector for Better Home Furnishing Company and I do collecting in the area and I also do seizing in the area.

- Q. And this morning was Christmas morning?
A. Yes.
- Q. And you had a lot of collecting to do in the area? A. Yes.
- Q. Where you had to do collecting? A. Place they call Pagee.
- Q. You see, I am suggesting to you that you did not see this man that morning in Port Maria.
A. Well, I see him, sir.
- 10 Q. Neither in Trinity. A. I saw him.
- Q. That man was not anywhere near there that morning. A. You say it, sir.
- Q. About what time? A. Between, 9, 10.
- Q. Between 9:00 and 10:00? A. Yes, sir.
- A. All right.
- RE-EXAMINATION BY CROWN COUNSEL
- Q. Now you said that the deceased asked you several times to drop the accused at Highgate?
A. Yes, sir.
- 20 Q. Now, when was the last time or the month that you dropped him? A. Well, I can't remember, sir, but let me say around in November.
- Q. November of last year? A. Yes, sir.
- Q. Thank you.

NO. 15

ASTON WOOD

ASTON WOOD: EXAMINED BY CROWN COUNSEL

- Q. Now, Mr. Wood, I will have to ask you to speak up loudly for me so that we can all hear what you are saying? A. Yes, sir.
- Q. Now, what is your name? A. Aston Wood.
- Q. And what work to you do? A. Conductor, sir.

In the Circuit
Court

No.14

Ivan Wilson

Cross-
examination

1st July 1969
(continued)

Re-

Re-
examination

No.15

Aston Wood

Examination

In the Circuit
Court

No.15

Aston Wood

Examination
(continued)

HIS LORDSHIP: What? A. Conductor, sir.

HIS LORDSHIP: Which bus? A. Victor Transport

CROWN COUNSEL: Now, where Victor Transport runs --
on what road? A. From Kingston to Ocho Rios.

Q. From Kingston to Ocho Rios? A. Yes, sir.

Q. Does it travel through Highgate? A. Yes, sir.

Q. And does it leave Highgate and come down to
Port Maria? A. Yes.

Q. Now, do you know this accused man Rupert
Anderson? A. Yes.

10

Q. Does he travel on your bus regularly? A. Yes,
sir.

Q. For how long have you been working on this
route? A. About 12 years.

Q. Now, during that time did you have to speak with
Rupert Anderson? A. When he travel with us,
sir?

Q. Yes. A. Yes, sir.

HIS LORDSHIP: What? A. Yes, sir.

CROWN COUNSEL: Now you remember the 23rd of December 20
last year? A. Yes, sir.

Q. Did he travel on your bus? A. Yes, sir.

Q. You remember where he got off the bus? A. Yes,
sir, he is right in the square where I live.

Q. The bus was going where? A. To Ocho Rios.

Q. About what time he got on the bus in Highgate?
A. About twenty past nine, p.m.

HIS LORDSHIP: In the night?

CROWN COUNSEL: Was that night? A. Yes, sir.

Q. Then after your bus left Highgate where it went
to? A. Go all the way through Port Maria.

30

Q. All the way through Port Maria to Ocho Rios?
A. To Ocho Rios.

Q. This accused man come off the bus down the road? A. Yes, sir. In the Circuit Court

Q. Where he got off the bus? A. He got off about two chains below the hospital gate. No.15

Q. Which hospital gate? A. Port Maria hospital. Aston Wood

HIS LORDSHIP: You were going to Port Maria? Examination
A. Yes, we were going in to Port Maria. (continued)

CROWN COUNSEL: And he got off two chains below the gate? A. Below the hospital gate.

10 Q. That is before you reached the hospital gate?
A. No, sir, after we passed the hospital gate.

Q. He got off two chains after you passed the hospital gate? A. Yes, going to a little bridge.

Q. Do you recall the clothes that he had on? A. Yes, sir.

Q. What kind of clothes? A. He had on a full suit of khaki.

Q. By full suit, what do you mean? A. Shirt and pants.

20 Q. He had anything with him? A. Well, I see he had a little parcel in his hand.

Q. You said is a little parcel? A. Yes, sir.

Q. But was it a small parcel that he had in his hand or

DEFENCE COUNSEL: He says "a little parcel." I can't understand the difference between "small" and "little".

HIS LORDSHIP: Well, I would like to know. The jury would like to know what appearance the parcel gave.

30 DEFENCE COUNSEL: He said secondly "a small little parcel". I think he is practically leading. You could ask him to describe the parcel.

CROWN COUNSEL: Hes, could you describe this parcel for us. You said it is little? A. Well, the parcel tallish.

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Court

—
No.15

Aston Wood

Examination
(continued)

Q. Yes, you say it is tallish, about how long, can you say? A. Well

Q. Show us with your hands or on the rail there.

HIS LORDSHIP: H esaid it was tallish, about how tall? A. Something about this, sir.

HIS LORDSHIP: Two feet - two and a half feet?

CROWN COUNSEL: Two and a half feet.

Q. Can you say about -- it was that long, about how thick or round it was? A. Well, it weren't

10

Q: Flat? A. Yes, because

HIS LORDSHIP: No because.

CROWN COUNSEL: Just tell us. Don't say because, just tell us describe the width or the thickness or whatever it might be? A. Small, sir, the parcel small and long.

Q. And long. Was it a paper parcel or a cloth parcel, or what made it up? A. Well, I never really take note of it.

HIS LORDSHIP: You didn't take note of what wrapped it? A. No, sir. 20

CROWN COUNSEL: Now, what time was it that you got by the hospital gate, when he came off the bus? A. About quarter to ten.

HIS LORDSHIP: You known Miss McKella's bar in Port Maria? A. Yes, sir.

Q. Where is it? A. A little below the hospital gate, sir.

Q. Where in relation to that bar did you drop him? A. A little below the bar, sir. 30

Cross-
examination

Q. Just tell me when you say a little below the bar, how far from the bar? A. Well, the bar ...

Q. It was a chain, two chains, three chains? A. About a chain and a half.

Q. Further on? A. From it.

In the Circuit
Court

Q. Now, this bus when somebody is inside and wants to get off they have to wait until they get to the bus stop or they can stop the bus?

No.15

A. Any where.

Aston Wood

Q. They can stop the bus anywhere? A. Yes, sir.

HIS LORDSHIP: It's a country bus? A. Yes, sir.

Cross-
examination
(continued)

DEFENCE COUNSEL: Now, Mr. Wood, this was Christmas time? A. Yes, sir.

10 Q. And you naturally had a lot of people coming from town on your bus? A. Yes, sir.

HIS LORDSHIP: Speak up, please. A. Yes, sir.

DEFENCE COUNSEL: People who had done their Christmas shopping? A. Yes, sir.

Q. So everybody had parcels -- most people? A. Yes, most people.

Q. You remember any of the other parcels on your bus that night? A. If I remember?

20 Q. Any of the other parcels. A. Any of the other parcels?

Q. Yes. A. No.

Q. So it's just this man's parcel you remember? A. Because this man was the only passenger I took up at Highgate.

Q. Where did you take up any passenger before that? A. I don't hear you.

Q. Where did you take up your last passenger before you took him up? A. Before I took him ...?

30 Q. I am asking you where did you take up your last passenger before you get to Highgate? A. The last passenger I took up was at Annatto.

Q. How many passengers you took up there? A. About ten.

Q. You took up about ten? A. Yes, sir.

In the Circuit
Court

No.15

Aston Wood

Cross-
examination

1st July 1969
(continued)

- Q. Did you take up any other passenger along the way? A. No, not until I reach Highgate.
- Q. After you reached Highgate, did you take up any other passenger? A. Only one.
- Q. Where? A. Right in the square where I live.
- Q. Look, my good man, after you left the square at Highgate, did you have to take up any other passenger? A. Not until I reach to Port Maria.
- Q. So you drove until - you take up no other passenger from Highgate to Port Maria? A. No passenger at all. 10
- Q. On Christmas eve night? A. I don't take up any more.
- Q. You let out any passenger? A. I let out?
- Q. You let out any passenger? A. Yes, sir.
- Q. Where in the vicinity of Highgate did you let out any? A. In Highgate.
- Q. Yes? A. I let out passenger
- Q. After leaving Highgate, you let out any? A. Yes, I let out at Minny Hall - a place they call Minny Hall after you leave Highgate. 20
- Q. How many you let out at Highgate? A. About two.
- Q. Eh? A. About two.
- Q. You see what sort of parcel they had? A. Well, round parcels and things like that.
- Q. Just round parcels, general parcels? A. Yes.
- Q. You see, you had such a rush that night, you had two buses running? A. Yes, sir.
- HIS LORDSHIP? You had two buses running that night? A. Yes, sir. 30
- Q. You even had people standing in your bus? A. Sure, yes, sir.

HIS LORDSHIP: Eh? A. Yes, sir.

DEFENCE COUNSEL: No further questions.

(DEFENCE COUNSEL SITS)

HIS LORDSHIP: You were the lead bus or the follower? A. I was the follower, sir.

In the Circuit Court

DEFENCE COUNSEL: May I just ask one more question, M'Lord? You say you see the accused often. You see him often; he takes your bus regularly? A. Yes, sir.

No.15

Aston Wood

Q. Each time he wears khaki? A. Yes, sir.

Cross-examination

Q. So you expected to see him in khaki? A. No, I don't expect to see him in khaki. I see him all the while without khaki.

1st July 1969
(continued)

10

Q. You see him all the while in khaki? A. Yes, sir.

Q. What other colour clothes you saw him in? A. He had on tweed pants and so on.

Q. And what? A. Plaid shirt - ordinary.

Q. You see, I am suggesting to you that all the time he had on khaki? A. No, I never tell you that all the while him have on khaki.

RE-EXAMINED BY CROWN COUNSEL.

Re-examination

20

Q. About how long before -- how long have you known him?

HIS LORDSHIP: Before this night?

CROWN COUNSEL: Before this night? A. About five years now, sir. About five years now he has been travelling.

Q. Thank you, sir.

NO. 16

No.16

LEROY GRAHAM

Leroy Graham

LEROY GRAHAM - SWORN

Examination

30

EXAMINED BY CROWN COUNSEL

Q. What is your name, sir? A. Leroy Graham.

HIS LORDSHIP: Louder than that, please, sir.

A. Leroy Graham.

In the Circuit
Court

—
No.16

Leroy Graham

Examination

1st July 1969
(continued)

CROWN COUNSEL: What work do you do, Mr. Graham?
A. Chauffeur.

Q. And where do you live? A. Harmony Hall.

HIS LORDSHIP: Harmony Hall? A. Yes, sir.

CROWN COUNSEL: Is that in the parish of St.Mary?
A. Yes.

HIS LORDSHIP: Where is that district? A. In
Highgate.

CROWN COUNSEL: Now, do you know the accused man,
Rupert Anderson? A. Yes.

10

Q. Before the night of the 23rd of December last
year, did you know him? A. Yes, sir.

Q. For how long? A. A long while now.

Q. About how long - give us an idea? A. About a
year now.

Q. Do you know the deceased man, Huie Foster? A.
Yes, sir.

Q. How long have you known him? A. Over two years,
sir.

Q. Now, you remember Monday the 23rd of December
last year? A. Yes, sir.

20

Q. Did you see either of them? A. I see Rupert
Anderson.

Q. You saw Rupert Anderson? A. Yes, sir.

Q. Where? A. Out Trinity when I was going home.

HIS LORDSHIP: Where you saw him?

CROWN COUNSEL: Where exactly in Trinity you saw
him? A. Just before the gas station.

Q. You saw him before the gas station? A. Yes, sir.

Q. Do you know where the deceased used to work?
A. I hear that he used to work at the hospital.

30

HIS LORDSHIP: No, no, the dead man? A. At the
gas station.

- CROWN COUNSEL: Is that the same gas station you saw the accused Rupert Anderson? A. Yes, sir. In the Circuit Court
- Q. About what time of night that was when you saw him? A. It was about quarter after eight. No.16
- Q. Quarter after eight? A. Yes, sir. Leroy Graham
- Q. The night or what? A. Night, night. Examination
- Q. Now, did the accused speak to you? A. Yes, sir. 1st July 1969 (continued)
- 10 Q. First of all. Go ahead. A. He asked me if I was going home and I tell him yes. He said he would like to go with me; two other fellows in the front of the car and he went in the back of the car.
- HIS LORDSHIP: He asked you if you were going home -- three of you were in front? A. Yes, sir.
- Q. And he got in the back of the car? A. Yes, sir.
- CROWN COUNSEL: Now, he stopped you, or you had stopped? A. I stop for the other two fellows and I hear a calling.
- 20 Q. Where you stopped? A. Just out the gas station.
- Q. Did you go in there to buy gas or you stopped? A. No, sir, on the road - on the road.
- Q. Now, was he in the gas station premises or on the road? A. Well, I couldn't say I was on the road beside the car when I heard the calling.
- Q. You say he got in the car with you? A. Yes, sir.
- Q. And where did you go to? A. Highgate.
- HIS LORDSHIP: Eh? A. Drove to Highgate.
- HIS LORDSHIP: Did you stop on the way or you drove straight? A. I stop at the yardgate, Harmoney Hall.
- 30 Q. You mean you drove straight? A. Yes, sir, straight.
- CROWN COUNSEL: And did he remain with you, or he came out the car? A. He said that is all right for him and I turn out to my home.

In the Circuit
Court

No.16

Leroy Graham

Examination

1st July 1969
(continued)

Q. Did you see what direction he went to?
A. No, sir.

Q. About what time of night it was that you
dropped him off? A. When I reached to my home
it was ten minutes to nine.

Q. And how long it takes you from after you
dropped him off to reach your home? A. Where I
live is about seven chains from where I dropped
him.

Q. So how long a time, man, what time did you drop
him off? A. Before nine o'clock. I never look
on the watch when I drop him off till I reach
home. 10

Q. So how long it takes you to drive in? A. Not
even five minutes.

HIS LORDSHIP: You look at your watch when you
reached home? A. Yes, sir.

CROWN COUNSEL: Now, when he drove in your car that
night, you remember the type of clothes he was
wearing? A. A khaki white ... 20

HIS LORDSHIP: Wearing what? A. Khaki suit, sir.

CROSS-EXAMINED BY DEFENCE COUNSEL

Q. Did you, Mr. Graham, see Huie that night?
A. No, sir.

Q. You didn't see Huie? A. No, sir.

Q. How long does it take you from say, Trinity to
where you went? A. About half an hour.

Q. How far is Tremoles Worth from Highgate?

HIS LORDSHIP: Harmony Hall?

DEFENCE COUNSEL: I beg pardon. How far is Tremoles
Worth from Highgate? A. About a mile. 30

Q. It's about a mile from Highgate? A. Yes, sir.

Q. That is about the town square? A. Yes, sir.

Q. Harmony Hall - where is Harmony Hall? A. Down
Tremoles Worth.

Cross-
examination

- Q. How far is it? A. Is on the same road. In the Circuit Court
- Q. A few chains? A. Yes, sir, just a few chains. _____
- Q. And Highgate is a mile away? A. Yes, sir. No.16
- Q. Thank you. Leroy Graham
- HIS LORDSHIP: What they call you - what he calls you? A. Please, sir? Cross-examination
- Q. Mr. Wilson, or what? A. No, sir, he calls me 'Joker Graham'. 1st July 1969 (continued)
- 10 HIS LORDSHIP: You don't have a nickname? A. Toby they call me, sir.
- Q. Toby? A. Yes, sir.
- Q. Thank you.

NO. 17

RUDOLPH DWYER

No.17

Rudolph Dwyer

RUDOLPH DWYER: SWORN: EXAMINATION BY CROWN COUNSEL

Examination

CROWN COUNSEL: Twenty-four, M'Lord.

- A. Rudolph Drywer. I am a detective Constable
- 20 Q. Hold on. Yes, sir, what is your name?
A. Rudolph Dwyer. Detective constable stationed at Port Maria in the parish of St.Mary.
- Q. Now, you remember Tuesday the 24th of December, last year? A. Yes, sir.
- Q. Was a report made? A. At the Port Maria police station.
- Q. Now, as a result of that report did you go anywhere? A. Yes, sir, I went to Trinity.
- 30 Q. Is that in the parish of St. Mary. A. That is in the parish of St. Mary.

In the Circuit
Court

Prosecution
Evidence

No.17

Rudolph Dwyer
Examination

1st July 1969
(continued)

Q. About what time was it? A. It was about 7:00 a.m. in the morning.

HIS LORDSHIP: That is the time you got the report or the time you got there? A. When I got there just a little after 7:00 o'clock.

CROWN COUNSEL: About when you got that? A. About 7:00 a.m.

Q. You got to Trinity? A. A little after that, about five minutes after 7:00.

Q. Now, what particular spot in Trinity did you go to? A. I went to a spot where there is a hospital porter's lodge. 10

Q. Now, is there a road that leads up to the hospital compound? A. Yes, sir, there is.

Q. And that road - does that road adjoin the main road? A. The main road that leads from Port Maria to Highgate.

Q. And where is this porter's lodge? A. The porter's lodge is at the corner of the two roads. 20

Q. Which corner? A. Going to the hospital, it will be on the left of the hospital road; going up to the road it is on the left of that road - to the right of the hospital road and to the left of the main road going to Highgate.

Q. Now, did you observe anything at the porter's lodge? A. Yes, sir.

Q. What? A. I saw the body of a man which I recognised as that of Huey Foster whom I knew before. He appeared to be dead. 30

Q. Now, can you tell us where was the body in relation to the porter's lodge? A. Yes, sir, the body was behind the porter's lodge and near to the main road that leads to Trinity. The head of the body ...

Q. Yes, could you tell us about the position of the body? A. Yes, sir, the head of the body - the body was on its back with the left hand underneath and the right hand on top of the body. The head was to the back of the cottage and the feet were towards Trinity. There were several wounds on the body ... 40

	Q. Yes. A. ... the head, neck and chest and the first joint of the right index finger was missing.	In the Circuit Court
	Q. Was there any blood about? A. Yes, sir, there was a lot of blood on the ground near the body and on the wall of the building to a distance of seven feet from the ground. The body was dressed ...	Prosecution Evidence No.17
10	Q. Which wall was that? A. I would call that the - just the side that facing the main road, sir. The side of wall that is facing the main road.	Rudolph Dwyer Examination
	HIS LORDSHIP: The short side? A. Yes, sir. The body was dressed in a suit of khaki, green khaki uniform.	1st July 1969 (continued)
	CROWN COUNSEL: What, consisting of what? A. Khaki shirt and pants and there was a black cap on the ground about one yard from the body.	
	HIS LORDSHIP: Head or foot? A. And ...	
20	HIS LORDSHIP: One yard from what part of the body? A. From the foot, your Honour; the foot, M'Lord.	
30	CROWN COUNSEL: Yes. Now, did you notice anything else? A. Yes, sir. I searched the body and in the right trousers pocket I found an automatic pistol with three rounds of ammunition, two in the magazine and one in the breech. In the other pockets I found several parcels containing money which amounted, when counted, to £35, and some shillings. There was two bunches of keys.	
	Q. Yes. A. And a pen holder, some parts of a lottery ticket, some other small personal items.	
	Q. Do you have the money here? A. Yes, sir.	
	Q. And the firearm? A. The firearm, yes, sir. This is the money.	
	Q. And where is the firearm?	
	HIS LORDSHIP: Exhibit 1?	
	CROWN COUNSEL: Exhibit one, M'Lord. A. This is the firearm.	

In the Circuit
Court

HIS LORDSHIP: Yes, exhibit 1. A. And these are three rounds of

Prosecution
Evidence

HIS LORDSHIP: Together, exhibit 1?

No.17

CROWN COUNSEL: Yes, M'Lord. Yes, did you find anything else or observe anything else? A. At the scene, yes, sir, I did.

Rudolph Dwyer

CROWN COUNSEL: Sorry, M'Lord, the money is tendered too, all together, as exhibit 1. A. There was a bicycle leaning on the short side of the building which faces the hospital. This bicycle had attached to it a bag and in that bag there was a radio. 10

Examination

1st July 1969
(continued)

Q. What kind of a radio? A. It was a transistor radio, I do not remember the name.

Q. Yes, anything else in the bag? A. No, sir, not that I can remember.

Q. Yes. Did you observe anything else? A. Yes, sir, near to the body there was a banana trunk which had ...

Q. Was that a green trunk or a ... A. A green banana trunk. 20

MR. DOUGLAS: M'Lord! May it please you, M'Lord, this evidence about the green banana trunk, it is my submission that it is just prejudicial and nothing else. It has no evidential value.

HIS LORDSHIP: In the certificate?

CROWN COUNSEL: Yes, M'Lord.

HIS LORDSHIP: Same one?

CROWN COUNSEL: Yes, M'Lord.

HIS LORDSHIP: Yes, you say the banana trunk has? 30

MR. DOUGLAS: No evidential value just purely prejudicial. There would have to be, M'Lord, evidence as to condition to allow it to be evidence, to make it evidence.

HIS LORDSHIP: What you have to say, Mr. Farquharson?

CROWN COUNSEL: M'Lord, first of all, this is an observation which the officer made on the scene near where the body of this deceased man was found and in view of what he said at page 26, the 3rd - the 2nd paragraph.

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Court

Prosecution
Evidence

HIS LORDSHIP: His observations?

No.17

CROWN COUNSEL: Yes, of what he found and what he observed.

Rudolph Dwyer

HIS LORDSHIP: Yes.

Examination

10 CROWN COUNSEL: I am saying that this evidence is relevant because he must - this is a statement of fact, what he observed as mentioned at page - and this is something that any ordinary human being can say because we are all living in Jamaica and can describe certain things.

1st July 1969
(continued)

MR. DOUGLAS: M'Lord, may the jury be asked to retire so that I can argue this point.

20 HIS LORDSHIP: Members of the Jury, there is a point as to admissibility of certain evidence to be argued which if it is not admitted then you will not be allowed to hear it. If it is admitted then on your return you will hear it but it is not possible to successfully deal with it whilst you are sitting down and listening so will you please - swear two constables please, and let them retire while we hear this. You want the witness out of hearing too?

MR. DOUGLAS: Yes, M'Lord, I would like the witness to be put out of hearing. Certainly, M'Lord.

30 TIME: 11.44 a.m.

HIS LORDSHIP: Yes, now, Mr. Douglas, the evidence which you are objecting to starts at the bottom of page 24, "...about two yards from the body..."

MR. DOUGLAS: Yes, M'Lord, "I saw the man under a green banana tree with the top off and ...", there appears to have been reasonable doubt.

HIS LORDSHIP: Yes.

40 MR. DOUGLAS: Now, my submission, M'Lord, is that these slits could have been put there the day before, sometime - night, the day before but that this has no direct bearing on this murder. Now,

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Court

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Evidence

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Rudolph Dwyer

Examination

1st July 1969
(continued)

if the slits had been analysed and blood had been found on the slits then this would have connected the actually pushing of this machete with the killing, there would have been some nexus, the sign of some human blood. Just to say human blood then - this could then connect these slits in the banana tree with the actual killing. As it stands there is no connection at all. What the Crown is trying to do is to say that there is banana stains on a machete in the man's room and therefore to join these two. This is a banana area, most people must have banana in that area and that those banana stains - and to connect it to the slits in the tree would be prejudicial, if blood was there but there is no evidence of any blood in those slits on the banana tree.

10

HIS LORDSHIP: Yes, Mr. Farquharson? The evidence is, as I see it, Mr. Douglas is objecting to evidence being led to the slits being found in this banana tree at the scene.

20

CROWN COUNSEL: Yes, M'Lord.

HIS LORDSHIP: He realises that further evidence is going to be led that on the machete found in the accused room banana stains were found. Yes, let us hear what you have to say.

CROWN COUNSEL: First of all, it is an equivocal fact that the presence of the slits there does not point to anything specific so far as crime is concerned. But when you have that - that the presence of the slits with stains on a machete, banana stains on a machete which was subsequently found behind the bed of this accused man it cannot be merely regarded as merely coincidental and furthermore we have this accused man on the scene or near the scene of where this thing took place. As a matter of fact the evidence of Oscar Fairweather, he said he recognised the noise; there was a chopping motion which he saw executed twice. The next bit of connecting link so far as the possibility of a machete is concerned, that we have this man coming off a bus with a parcel.

30

40

MR. DOUGLAS: Objection, M'Lord, going on the bus with a parcel.

HIS LORDSHIP: Being present on the bus then, with a parcel.

CROWN COUNSEL: Being present on the bus with a parcel about two and a half feet long. Then, we are not saying what - there is no positive evidence of just what it is in the parcel but all those coincidences could possibly add up to that this man had a machete and it is the same machete which was recovered from his room. It is a fact that there is no evidence of any blood in the banana tree but there is some evidence of blood being on the machete.

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Court

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Rudolph Dwyer

HIS LORDSHIP: I don't think so.

Examination

MR. DOUGLAS: I don't think so, there is no evidence of any blood on the machete.

1st July 1969
(continued)

CROWN COUNSEL: Sorry, not on the machete, I am sorry about that.

HIS LORDSHIP: Yes, so?

CROWN COUNSEL: So, M'Lord, my submission is that this case, first of all, is based on circumstantial evidence and these are not - these are - there are so many coincidences here that the evidential value, I would say, outweigh any prejudicial effect that it would possibly have on the jury.

HIS LORDSHIP: Yes, anything further to say, Mr. Douglas?

MR. DOUGLAS: I would just say, M'Lord, that the important thing here is the blood or the absence of blood. This is what - this is the nexus, this would be the only nexus between the slits in the tree and the machete because had blood been found on the machete ...

HIS LORDSHIP: You are saying that the absence of blood?

MR. DOUGLAS: If blood were found in the slits or on the machete that is the only thing, that would be the only nexus but we don't know exactly when these slits got in that tree, it might have been there the evening before, the day before; this man is not expert on banana slits to say how old the slits are so, it is my submission that it is prejudicial and it has absolutely no evidential value.

HIS LORDSHIP: Yes. Well, the witness is outside?

In the Circuit
Court

CROWN COUNSEL: Yes, sir.

MR. DOUGLAS: Yes, sir, M'Lord.

Prosecution
Evidence

HIS LORDSHIP: From the deposition, as I see it here, the witness is saying that he saw several slits as if a machete had been thrust through the tree several times and they appeared to have been recently done. Now, this is evidence with the investigating officer is seeking to give of a visual factor which he saw at or right near to this scene but it goes further than that. The officer says further down, that he found a machete in the accused charge which appeared to have on banana stains. It is going to be a matter for the jury, eventually and I will have to tell them how to treat the facts but it goes even still further. This evidence, as I see it is, if it is accepted by the jury that it was the same machete found in the accused room which was used in the banana tree, it is they who will have to say whether they accept it or not. It might very well tend to explain why Mr. Garrigues, the chemist, found no blood on the machete. It is a matter for the jury, that is how I see it.

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No.17

Rudolph Dwyer

Examination

1st July 1969
(continued)

MR. DOUGLAS: You see, M'Lord, I was going to object to the evidence of the finding of the machete being put in any at all because in every house in that neighbourhood you can be quite certain you are going to find a banana-stained machete.

HIS LORDSHIP: Yes, well, if you wanted to.

MR. DOUGLAS: And putting in this machete and trying to marry it to the slits in the trees is prejudicial - if we knew when the slits took place.

30

HIS LORDSHIP: You are going to object to the machete being put in evidence?

MR. DOUGLAS: I am going to object to the machete being put in evidence.

HIS LORDSHIP: Well, you better argue it now.

MR. DOUGLAS: Here they are going to a room in Fraser Wood, in a banana area - this is going to come up in evidence - a banana area, neighbourhood, every one of these people up there have machetes and if you cut a banana tree you are going to get stains on the machete so that every house you

40

went in at Fraser Wood that morning and took out a machete the man of that house could have been accused of murder.

In the Circuit Court

HIS LORDSHIP: You see, Mr. Douglas, it is not something in the air, the doctor is going to say that the wounds could either have been from a machete or a knife.

Prosecution Evidence

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MR. DOUGLAS: There is blood on the knife.

Rudolph Dwyer

10 HIS LORDSHIP: Now, there were many wounds. We haven't had that evidence yet but the fact that any house in St. Mary which is a banana area could have a machete, probably it could have banana stains on it, well, that is a matter of comment for you to make to the jury at a later stage of which you are eminently suited to do but once I rule that the slits in the banana tree are admissible then the evidence of the finding of the machete with the banana stains would also become admissible. I am prepared to go as far as this and say that if all that the slits hinged on was just the fact they saw them then there probably would be no nexus then, but evidence is coming that this machete had banana stains and further that Mr. Garrigues found no blood on it. All that evidence might be equivocal but you can address the jury on that.

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Examination

1st July 1969
(continued)

MR. DOUGLAS: If Your Lordship pleases.

30 HIS LORDSHIP: I rule the evidence is admissible both as to the finding of the slits, the stains on the machete and the finding of the machete itself. When the time comes you can make the comment and I will direct the jury on it.

MR. DOUGLAS: Much obliged, M'Lord.

JURY RETURN AT 11:58 a.m.

JURY ROLL CALL TAKEN. ALL PRESENT.

DET. CONSTABLE DWYER: STILL ON OATH:

HIS LORDSHIP: Well, Members of the Jury I have ruled that you shall hear the evidence. Yes, you told us, near the body? A. Yes, sir.

40 Q: There was a banana trunk, it was a green trunk, how near to the body it was? A. It was about three years (sic) away, M'Lord.

In the Circuit
Court

HIS LORDSHIP: Yes?

DETECTIVE CONSTABLE DWYER:

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Evidence

EXAMINED BY CROWN COUNSEL (Continued)

No.17

Q. Yes, and what did you observe in the Trunk?

A. I observed seven slits in the banana trunk as if someone had thrust a machete through it several times.

Rudolph Dwyer

Examination

HIS LORDSHIP: But you didn't count them. About how many of them? A. About four or five, M'Lord.

1st July 1969
(continued)

CROWN COUNSEL: Did you observe anything that could indicate to you whether these slits were recently done or not? A. Yes, sir, very recently because the stains were still fresh running through the slits.

Q. Now, the slits, did they come from the top, were they on the top or inside of the trunk?

A. Inside, sir, as if the thing was pushed right through the trunk.

Q. Yes, did you observe anything else around?

A. Yes, sir, the surrounding area was trampled. A large crowd of people had gathered.

Q. Did you observe anything else? A. There was a folded crocus bag on the verandah, sir, of the porter's cottage.

Q. Now, what else you did after you made your observations? A. I informed the medical officer.

Q. Who is he? A. Doctor G.V. Harris. He visited and ordered the body to be removed to the morgue.

Q. Did he come to the spot? A. He came to the scene, the spot where this thing happened.

Q. Now, did you - after that you commenced making your investigations? A. Yes, sir.

Q. Where did you go first? A. I went to the Port Maria market. There I saw and spoke to Oscar Fairweather. I received

Q. Did he tell you anything? A. Yes, sir.

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- | | | |
|----|--|------------------------------|
| | Q. And from there where did you go to? A. I went to Frazer Wood in the parish of St. Mary. | In the Circuit Court |
| | A. About what time of day you got to Frazer Wood? A. It was about nine, nine thirty a.m. | Prosecution Evidence |
| | Q. Was it on that same day? A. The very day. | No.17 |
| | Q. The 24th of December last year? A. Yes, sir. | Rudolph Dwyer |
| | Q. Were you looking for somebody in particular. A. Yes, sir. | Examination |
| 10 | Q. Who? A. Looking for the accused man, Rupert Anderson. | 1st July 1969
(continued) |
| | Q. Did you see him that day? A. No, sir. | |
| | Q. And did you leave Frazer Wood? A. I remained in the area there the entire day. | |
| | Q. And when you left? A. I left about 11:00 p.m. | |
| | Q. Did you return from Frazer Wood subsequently. A. Yes, sir. | |
| | Q. When? A. About five a.m. on the morning of the 24th of December, 1968. | |
| 20 | Q. Now, what day was this you went to Frazer Wood? A. I went the 24th, the morning of the 24th, the day of the 24th, and Christmas morning the 25th. | |
| | HIS LORDSHIP: You went back? A. I went back. | |
| | Q. At 5:00 a.m.? A. At 5:00 a.m., sir. | |
| | CROWN COUNSEL: Where did you go on the morning of the 25th? A. I went to the home of Magnus Watson. | |
| 30 | Q. What did you do? A. I saw Mr. Watson and I spoke to him. | |
| | Q. Yes? A. He told me something and I went to a door. | |
| | HIS LORDSHIP: In his house? A. In the same house, M'Lord. | |

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Court

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Evidence

No.17

Rudolph Dwyer

Examination

1st July 1969
(continued)

CROWN COUNSEL: Yes? A. And I knocked and called the accused man and he answered, opened the door and I saw him dressed in underpants and merino. He told me

Q. You were then making enquiries? A. Yes, sir, I was making enquiries.

Q. Did you say something to the accused? A. Yes, sir.

Q. What did you say? A. I told him I was making enquiries into the death of Huie Foster. As I said this, he said that God

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HIS LORDSHIP: Just a minute.

CROWN COUNSEL: Please say what he said slowly.

HIS LORDSHIP: He said A. "That God, mi have Toby who can give evidence for mi that mi come up with him from Port Maria and mi never go back down deh. Mi never chop up Huie and kill him."

CROWN COUNSEL: Yes, what did you do? A. I cautioned him.

Q. Yes? A. And I asked him to show me the clothes he was wearing on the 23rd of December, 1968, and he showed me a pair of brown khaki pants, a brown khaki shirt and a pair of tall water boots. The clothes were hanging on a nail on the wall. I took them down and in the rightback pocket of the pants I found a brown handled pocket knife. In the right foot of the water boots I found a bit of cardboard with brown marks resembling blood stains. I showed it to the accused man, he said nothing. I asked him if he owned a machete and he said yes. I asked him where it was and he pointed to a place at the foot of his bed and I looked behind a piece of celotex

20

30

Q. Where this celotex was? A. It was nailed to the wall and I saw a machete. I took out the machete.

Q. So where exactly was this machete? A. It was behind the celotex. It's a wooden building and the piece of celotex was nailed on to the post.

HIS LORDSHIP: It was nailed on to the post? A. Yes, sir, it is nailed on to the post.

40

Q. Could you see any part of the machete, or you had to go down for it. A. You could see the handle. On this machete I noticed dried earth on the wooden handle.

In the Circuit Court

CROWN COUNSEL: Did you observe anything else? A. On the blade I saw banana stains.

Prosecution Evidence

No.17

Q. Now, you took possession of these things that you have mentioned here? A. Yes, sir.

Rudolph Dwyer

10

Q. Now, the khaki suit, that is the trousers and shirt? A. Yes, sir.

Examination

1st July 1969
(continued)

Q. Did you observe whether they were clothes that were ironed or were they clothes that appeared to have been worn? A. They appeared to have been recently ironed.

Q. Now, do you have these articles that you took possession of here? A. Yes, sir.

Q. Now, would you produce the khaki trousers?
(Khaki trousers shown to witness)
A. This is the khaki trousers.
(Khaki trousers shown to jury)

20

HIS LORDSHIP: You have seen them, Mr. Douglas?

DEFENCE COUNSEL: No, M'Lord.

HIS LORDSHIP: You didn't see them at the preliminary enquiry?

DEFENCE COUNSEL: No, M'Lord, I never see them at the preliminary enquiry.

HIS LORDSHIP: The shirt?

CROWN COUNSEL: I beg to tender that one, M'Lord.

HIS LORDSHIP: Exhibit 3?

30

CROWN COUNSEL: Two.

HIS LORDSHIP: The money is one, oh, yes, two.

(Shirt shown to witness)

A. This is the shirt.
(Shirt shown to jury)

In the Circuit
Court

Prosecution
Evidence

No.17

Rudolph Dwyer

Examination

1st July 1969
(continued)

CROWN COUNSEL: Now, you mentioned something about
knife? A. Yes, sir.
(Knife shown to witness)
A. This is the knife.

Q. Please show the jury for me.
(Knife shown to jury and His Lordship)

HIS LORDSHIP: Exhibit 4.

CROWN COUNSEL: Yes, M'Lord, the shirt,
exhibit 3, sir.

HIS LORDSHIP: The machete.

10

CROWN COUNSEL: Yes, the water boots. Do you also
produce the water boots? A. Yes, sir.

HIS LORDSHIP: Where is the cardboard? A. This is
the pair of water boots; this is the bit of
cardboard.

HIS LORDSHIP: That was found in the A. In
the right foot, M'Lord.

HIS LORDSHIP: Exhibit 5?

CROWN COUNSEL: Yes, M'Lord.

HIS LORDSHIP: Just hold it up and let them see it.
(Boots and cardboard shown to jury)

20

CROWN COUNSEL: Boots and tag together?

HIS LORDSHIP: Exhibit 5.

CROWN COUNSEL: Now, you also spoke about machete?
A. Yes, sir.

Q. Do you produce the machete now?
(Machete shown to witness)
A. This is the machete.

HIS LORDSHIP: Where you saw the blood stain on it,
the banana stain? A. The stain here, M'Lord,
(indicating).

30

CROWN COUNSEL: Where, on one spot? A. No, sir, it
was several spots, some of it is still on it.

HIS LORDSHIP: Some of the stains are still on it?
A. Yes, sir.

(Machete shown to His Lordship and jury)

In the Circuit
Court

(Cardboard shown to Defence Counsel)

Crown Counsel: I beg to tender the machete,
M'Lord.

Prosecution
Evidence

HIS LORDSHIP: Exhibit 6?

No.17

CROWN COUNSEL: Exhibit 6.

Rudolph Dwyer

HIS LORDSHIP: You are not bothering with the
other clothes?

Examination

CROWN COUNSEL: No, M'Lord. What did you do with
the accused? A. I took him along with the
things I had taken to the Port Maria Police
Station.

1st July 1969
(continued)

10

Q. Now, did you subsequently go back to the scene?
A. Yes, sir.

Q. On what date was that? A. It was on the 27th.

Q. The 27th of December? A. Yes, sir.

Q. Last year? A. Yes, sir.

Q. Yes, did the accused go with you? A. No, sir.

Q. Where you went to? A. I went to his home.

20

Q. You went inside? A. Yes, sir.

Q. Did you find anything in there? A. Yes, sir.

Q. What you found? A. I found a flashlight, with a
pen flashlight with a red head, you call it, the
part that gives light, the reflection is red.

Q. You took possession of it? A. Yes, sir.

Q. And you now produce it? A. Yes, sir, this is
the flashlight.

HIS LORDSHIP: Is it working? A. It was
working.

30

Q. It was working when you got it? A. When I got
it, M'Lord.

In the Circuit
Court

(Flashlight shown to His Lordship and the
Jury)

Prosecution
Evidence

CROWN COUNSEL: I beg to tender that.

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Rudolph Dwyer
Examination

HIS LORDSHIP: Exhibit 7.

CROWN COUNSEL: Did you return to the Port Maria
Police Station? A. Yes, sir.

Q. There, did anybody hand you anything?
A. Yes, sir.

1st July 1969
(continued)

Q. Constable Desmond Watson. What he handed over
to you? A. He handed over to me a green khaki
shirt. 10

HIS LORDSHIP: For the deceased? A. Is the
clothes.

Q. The deceased clothes? A. Yes, sir.

Q. Those are in evidence? A. Yes, M'Lord.

Q. Is that necessary - inflammatory - anything turns
on it?

CROWN COUNSEL: Well, it's only these cuts that were
supposed to be on them.

HIS LORDSHIP? Yes. 20

CROWN COUNSEL: All right, handed you what? Watson
handed you what? A. A green blood stained khaki
shirt.

HIS LORDSHIP: Yes?

A. A white blood stained merino.

(Khaki shirt shown to witness)

CROWN COUNSEL: Who was wearing those clothes?
A. The deceased man.

HIS LORDSHIP: Green khaki shirt, blood stained
merino? A. This is the shirt; this is the
merino. 30

HIS LORDSHIP: Anything else?

CROWN COUNSEL: And you now produce those?

A. Yes, sir.

In the Circuit
Court

(Shown to jury)

HIS LORDSHIP: Exhibit?

Prosecution
Evidence

CROWN COUNSEL: Exhibit 8, M'Lord. Now, that same day, did you do anything? A. Yes, sir.

No.17

Rudolph Dwyer

Q. As far as this case is concerned? A. Yes, sir.

Examination

10

Q. What? A. I arrested the accused man and charged him with the murder of Hue Foster. I cautioned him and he said, "Mi never go back a Trinity." I made sealed parcels of all the exhibits.

1st July 1969
(continued)

HIS LORDSHIP: That is, exhibits 2 to 8? A. Yes, M'Lord.

CROWN COUNSEL: Yes, khaki trousers, knife, water boots, the machete, flashlight and deceased's clothes - two pieces - 2, 3, 4, 5, and 6? A. Yes, sir.

20

HIS LORDSHIP: Two to six and eight, then? A. Yes, M'Lord. On the 29th of December, 1968, I took them to the Police Forensic Laboratory.

CROWN COUNSEL: And what did you do with them? A. I handed them over to the Government Pathologist.

Q. That is Mr. Garriques? A. Mr. Garriques.

Q. What day you took them there? A. The 29th of December.

30

Q. Now, did you get them back subsequently? A. Yes, sir.

Q. Was that on the fourth of February? A. The 4th of February, 1969.

DEFENCE COUNSEL: May it please you, M'Lord, could I defer the cross-examination of this witness until after the luncheon adjournment?

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Court

Prosecution
Evidence

No.17

Rudolph Dwyer

Examination

1st July 1969
(continued)

HIS LORDSHIP: Why?

DEFENCE COUNSEL: It might be important to the defence, M'Lord. Certain investigations I would like to make. I don't mind if it otherwise can intervene.

HIS LORDSHIP: It's not likely for you to finish with him before the luncheon adjournment?

DEFENCE COUNSEL: I prefer not to say, M'Lord, I don't think so. You see a lot depends

HIS LORDSHIP: Is it that you want to hear the medical evidence first? 10

DEFENCE COUNSEL: I would prefer to hear the medical evidence first.

HIS LORDSHIP: Any objection, Mr. Farquharson?

CROWN COUNSEL: No, M'Lord.

HIS LORDSHIP: Yes, the body has not yet been identified?

CROWN COUNSEL: Not yet.

HIS LORDSHIP: You are calling any of the doctors - Doctor Harry? 20

CROWN COUNSEL: Yes, I am calling him.

No. 18GERVAIS VALENTINE HARRY

G.V. HARRY: SWORN: EXAMINATION BY CROWN COUNSEL

In the Circuit
CourtProsecution
evidence

No.18

Gervais
Valentine
Harry.

Examination.

- Q. What is your name, doctor? A. Gervais Valentine Harry.
- Q. And are you a registered medical practitioner?
A. I am.
- Q. And are you the medical officer in charge of the Port Maria hospital? A. Port Maria region, yes.
- 10 Q. Now, you remember the 24th of December, last year? A. Yes.
- Q. In consequence of a report did you go to a spot in Trinity? A. Not exactly in consequence of the report, I was going to work and I saw the crown and stopped there.
- HIS LORDSHIP: At the hospital gate? What time was this doctor? A. About 7.00 o'clock in the morning.
- 20 CROWN COUNSEL: Now, did you see the body, doctor?
A. Yes.
- Q. Where was the body? A. The body was lying at the back of a cottage at the hospital gate.
- Q. Was it near to the corner of the cottage?
A. At the corner of the cottage, yes. At the back and at the side corner.
- Q. Now, did you know whose dead body that was?
A. Yes.
- Q. Whose? A. It was Huey Foster.
- Q. You knew him when he was alive? A. Very well.
- 30 Q. Now, what was the situation of the body?
A. The body was lying on its back, face looking upwards. The left arm was on the ground, the right arm flexed forward on the body. The right leg overlapping the left from the knee downwards. There was much blood on the grass and earth near the corner of the house.

In the Circuit
Court

Prosecution
Evidence

No.18

Gervais
Valentine
Harry.

Examination

(continued)

Q. Yes, anything else? A. Well, ...

Q. Was the body removed? A. The body was subsequently removed to the hospital morgue

Q. Yes, and do you know constable Desmond Watson?
A. Yes.

Q. He identified the body also? A. Yes.

Q. As that of Huey Foster? A. Yes.

Q. About how old he was?

HIS LORDSHIP. You knew him personally, doctor?

A. Very well indeed, sir; about thirty-eight years of age. 10

CROWN COUNSEL: Now, you carried out an examination of that body? A. Postmortem examination, yes.

Q. Will you tell the court the result of the external examination? A. This was about 11.30 a.m. There were two groups of wounds. There were several cuts through the shirt and vest covered with much blood.

Q. Yes. What kind of shirt it was? A. It was a green shirt, khaki trousers, white merino. 20

Q. Is that the shirt and the vest? A. Could be... yes.

Q. Yes. A. That would be it. The left eye was closed and the right eye was very widely opened and staring. The right index finger was severed at the upper joint.

Q. That is the first one? A. Yes. Number two was an oblique wound, three inches long, in front of the right wrist and the lower forearm, through the skin. 30

Q. Yes. A. Wound three was an incised wound three inches long through the skin and in the front of the chest. Wound four was a superficial wound one-and-a-half inches long on the side of the right breast and then there was a lacerated wound on the tip of the nose.

Q. Now, doctor, these sets of wounds were to the

front of the body? A. These sets of wounds were to the front of the body.

HIS LORDSHIP: Any at the back, doctor? A. Then there was a second set of wounds to the back.

CROWN COUNSEL: What were they? A. There was a four inch incision to the back of the neck.

HIS LORDSHIP: Four or five? A. Four inch, sir.

HIS LORDSHIP: Transversely?

10 CROWN COUNSEL: Yes, what direction? A. Running transversely at the root of the neck. There was a two-inch incision through the skin and parallel to the one above.

Q. Where about that one is? A. Parallel to the other one and running... (demonstrating)

20 HIS LORDSHIP: Yes. A. Number three was an incision six inches long. Went through the tissues of the neck and severing the spinal cord, the neck ... (right here- demonstrating) ... through bone, muscles, skin and the spinal cord which runs through the bone of the neck. There was a five inch incision, one inch above number three.

HIS LORDSHIP: That is the one severed the spinal cord? A. Number three wound severed the spinal cord. Number four wound was five inches long, one inch above three and, apparently, a piece of tissue was missing, like a peg or orange.

30 CROWN COUNSEL: That is higher up? A. Yes, going up. Number five, there was a one inch incision above and parallel to four and ending at the ...

HIS LORDSHIP: Just repeat that one for me, doctor.

CROWN COUNSEL: Number five. A. Number five, there was a one inch incision ...

HIS LORDSHIP: Not a five inch? A. One.

HIS LORDSHIP: One inch incision yes? A. above and parallel to four and ending ... sorry, sir, I have an amendment here, that is the five inch incision. Wound number five was a five inch

In the Circuit
Court

Prosecution
Evidence

No.18

Gervais
Valentine
Harry.

Examination
(continued)

In the Circuit
Court

Prosecution
Evidence

No.18

Gervais
Valentine
Harry.

Examination
(continued)

incision, one inch above and parallel to wound four and ending at the occipital, here. Number six, a similar incision half-an-inch above wound five.

CROWN COUNSEL: That is how long, doctor? A. About five inches too, sir.

Q. So number six wound was about five inches?
A. Long, yes.

Q. Where is that number six one? A. All the wounds were parallel to one another at the back of the neck. The first one I described was at the root of the neck and the others went right up, going up. 10

Q. Oh, I see. Yes. A. And then number seven was a similar incision half-an-inch above number six about five inches now.

Q. Yes, and number eight? A. Number eight wound was running from the ear towards the occiput, that is above here, and there was an opening in the skull exposing the brain.

Q. Yes? A. Then now, sir, to another group of wounds, "C", on the left side of the face. 20

Q. Yes, A. Four inches long, almost severing the ear.

HIS LORDSHIP: That is the left ear? A. The left ear, yes.

HIS LORDSHIP: Yes? A. And then there was a wound running horizontally across the left temple an inch and across the wound that severed the ear.

HIS LORDSHIP: Uh, uh!

CROWN COUNSEL: Yes. A. And then, sir, there was an incised wound, five inches long down to and partially through the left shoulder blade, also running horizontally. 30

HIS LORDSHIP: That is a side chop? A. Right through sir, the left shoulder blade, across here; horizontal wound five inches long going right down to the bone.

HIS LORDSHIP: Yes, doctor.

CROWN COUNSEL: Now, what in your opinion was the cause of death? A. Death was due to multiple injuries, the most serious one being the severing of the spinal cord - most fatal one.

Q. What about wound number eight? A. I opened that, opened the brain, he might have survived that.

HIS LORDSHIP: But certainly not the one severing the spinal cord? A. Certainly not.

In the Circuit Court

Prosecution Evidence

No.18

Gervais Valentine Harry.

Examination

10 CROWN COUNSEL: Now, the wounds that you saw they were consistent with infliction by what type of instrument? A. A sharp cutting instrument. (continued)

Q. An instrument such as a machete caused it? A. Oh yes.

Q. Will you look at this machete for me please. A. Yes.

Q. A machete such as this? A. Yes.

20 Q. Could that sharpness on it cause the injuries? A. I am not an expert on sharpness but that sharpness on it could have.

Q. Now, would any force ...? A. Yes, I would imagine so.

Q. Wound number three, the one which severed the spinal cord, would that require some amount of force? A. Yes, definitely.

Q. And such a wound could be inflicted by a machete such as that? A. Yes.

Q. Could a knife be used to inflict any of these injuries? A. I suppose a sharp knife.

30 Q. How many wounds you found in all? A. Five, eight, thirteen, sixteen - seventeen wounds, at least.

Q. Now, could you express an opinion as to what was the position of the accused - deceased, rather when any of these injuries were inflicted?

HIS LORDSHIP: Frontal ones, first of all, doctor, where would the attacker be? A. Right index finger - could have been in any position,

In the Circuit Court

Prosecution Evidence

No.18

Gervais Valentine Harry.

Examination (continued)

sideways, front or hand out like this.

CROWN COUNSEL: What about the others on the front?

A. Ones across the wrist there, depending on the position - behind, any sort of position. Through the skin of the front of the chest, I would imagine the person would have been standing by his side or otherwise make a sweeping - I would imagine that one would be from the front.

HIS LORDSHIP: Would you say, doctor, that you would imagine any of those could have been caused by someone in the front? A. Yes, or at the side.

10

CROWN COUNSEL: When you say you saw the deceased man on his back could any of those have been caused lying down, those on the front? A. Could have been, yes.

Q. Now, what about those in the back? A. Well, he would have to have been behind or at the side again.

Q. What about the third group?

HIS LORDSHIP: What about if the person was lying down on the ground, on his face at the time in relation to the parallel chop? A. Yes, could have been like that, yes.

20

CROWN COUNSEL: Yes, what about the third set, those on the side of the face? A. The person would have to be standing in front of him, I would imagine, the people would have been facing each other and if the person was right-handed I would imagine him doing this ... (demonstrating). If he were left-handed I would imagine he would be standing behind him, I suppose, and then the wound on the shoulder blade, I would say he must have been behind; it is quite likely. The wounds on groups "D" and "B" would have been in the same position.

30

HIS LORDSHIP: And how soon after the spinal cord is severed, doctor, does death occur? A. It is instantaneous, at that depth.

Cross-examination.

CROSS-EXAMINATION BY DEFENCE COUNSEL

MR. DOUGLAS: Doctor, you say this man was chopped? A. Yes.

40

Q. You used the word, chopped? A. Yes.

Q. I believe you would say there would be about 16 chops? A. (Witness nods twice.)

Q. Wouldn't you agree with me, doctor, that these chops could be consistent with being inflicted by a machete? A. Yes.

Q. Could the sort of chops you saw, doctor, be given by a little penknife? A. Hardly think so.

HIS LORDSHIP: What is the answer doctor, please?
A. No, sir, I hardly think so.

MR. DOUGLAS: Now, doctor, you saw the body the morning at the house, at the lodge. A. Yes.

Q. And you saw there was blood on the ground?
A. Yes.

Q. How far around, can you describe it for the jury, what area? A. If this corner was the corner of the house he was lying - his head would be where the constable was and blood was there on the left hand side and blood again on the right hand side of the body.

Q. Covering the whole area? A. Yes, spattered around.

Q. Was it spattered on the house? A. I cannot recollect.

Q. I believe he had a few arteries cut too, doctor?
A. Well, the neck one would have been cut - arteries, important arteries.

Q. And this has a tendency to spray the blood around? A. Well, spraying of blood would cease immediately the chop through the spinal cord had taken place.

Q. But the blood would continue to flow? A. Well, trickle, I would say, just due to gravity.

Q. So there was a large quantity of blood on the ground? A. Fairly well.

Q. Thank you very much, doctor.

In the Circuit
Court

Prosecution
Evidence

No.18

Gervais
Valentine
Harry.

Cross-
examination
(continued)

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20

30

In the Circuit
Court

Prosecution
Evidence

No.18

Gervais
Valentine
Harry.

Cross-
examination
(continued)

HIS LORDSHIP: He can be released?

MR. DOUGLAS: Yes, M'Lord.

CROWN COUNSEL: Yes, M'Lord. Thank you very much, sir.

HIS LORDSHIP: Yes. Yes, doctor. 2.00 o'clock.

DEFENCE COUNSEL: M'Lord, I think there is Rudolph Dwyer, a Constable to be cross-examined, could I proceed with that now, M'Lord, or would you release Mr. Garriques?

HIS LORDSHIP: Mr. Garriques, I think we could release Mr. Garriques.

10

DEFENCE COUNSEL: I am much obliged?

HIS LORDSHIP. Is that all right with you?

CROWN COUNSEL: Yes, M'Lord.

HIS LORDSHIP: You were saying something?

DEFENCE COUNSEL: I wonder if Detective Constable could leave the room, leave the Court while Mr. Garriques is being examined?

HIS LORDSHIP: All right.

(Det. Const. Dwyer out of hearing)

20

No.19

Harold
Vincent
Garriques
Examination

No. 19

HAROLD VINCENT GARRIQUES

HAROLD VINCENT GARRIQUES: SWORN:

Examined by Crown Counsel:

Q. What is your name, Mr. Gsrriques? A. Harold Vincent Garriques.

Q. And what is your occupation? A. I am a Medical Technologist, Chief Technician at the Forensic Science Laboratory in Kingston.

Q. And what are your qualifications? A. I am a

30

Fellow of the Society of Medical Technologists with specialized training in the United Kingdom, the United States of America, with thirty years experience.

In the Circuit Court

Prosecution Evidence

No.19

Harold Vincent Garriques

Examination

(continued)

- 10 Q. This Medical Technology, what field does it cover? A. It covers all fields of medical science which embraces biology which is the forensic science.
- Q. Now, do you remember the 28th of December last year? A. Yes, sir.
- Q. Did you receive certain parcels from Detective Dwyer? A. Yes, sir, I did.
- Q. The parcels were sealed? A. They were sealed.
- Q. You remember how many parcels there were? A. There were ten parcels.
- Q. Now, did you examine the contents of those parcels? A. I did, sir.
- Q. And you analysed what were in those contents? A. Yes, sir.
- 20 Q. Now, did you make notes of your analysis at the time? A. Yes, sir, I did.
- Q. You want to refresh your memory? A. I would like to do that, sir.

HIS LORDSHIP: Is there any objection?

DEFENCE COUNSEL: No objection, M'Lord.

CROWN COUNSEL: Now, what the first parcel contained?

A. Parcel marked 'A' contained a white merino, received cut, opened at one side and at the straps. There is an oblique cut approximately half an inch in length on one strap.

CROWN COUNSEL: Speak up so that they can hear you.

A. Did the Court get what I say a little while ago? I examined it and I found human blood present in dark brown stains on the back, front and straps.

HIS LORDSHIP: Where is that?

In the Circuit Court

Prosecution Evidence

No.19

Harold Vincent Garriques

Examination (continued)

CROWN COUNSEL: Now, could you show - could you look at this merino ...

HIS LORDSHIP: You marked it with blue pencil?
A. Yes, M'Lord. This is the blue mark I am referring to.

Q. When you got it, it was in the condition as it is there now? A. As it is, sir. This is the cut I referred to on the strap. (indicating).

CROWN COUNSEL: Yes? A. Parcel 'B' contained a khaki shirt.

10

HIS LORDSHIP: Green khaki?

CROWN COUNSEL: Will you show it to him for me, please?
A. Green khaki shirt. (shirt shown to witness).
Yes, this is the shirt I received.

Q. What did you find? A. It was received torn at the upper right back; torn at the upper right back.

Q. Will you show us the tear? A. That is the tear at the upper right back (indicating) and there were several cuts ranging from quarter of an inch to four and a half inches on the back and front and these you could see with the yellow pencil-inserted with the yellow pencil.

20

Q. Those are the cuts? A. Those are the cuts.

Q. What you found on it? A. I found human blood in clots on the left upper left front and left sleeve with dark brown stains at the back and the front.

Q. Now, did you examine the other parcels?
A. Parcel marked 'C' that contained a brown khaki shirt which was reported...

30

Q. Brown khaki shirt, do you have it there?

(Shirt shown to witness)

A. Yes, sir.

Q. Yes? A. I examined it and no blood detected.

Q. That is exhibit 3, M'Lord. Did you examine

another parcel? A. Parcel marked 'D' that contained a pair of brown khaki trousers with a black belt.

(Khaki trousers shown to witness)

Yes, sir, this is the exhibit.

10 Q. Yes, what you found? A. I found blood present in very shall pale brown and serosanguineous stains on the inner aspect of the right back pocket in the areas encircled with blue pencil. This was however, insufficient for grouping.

Q. That was exhibit 2, M'Lord. Now, did you examine another parcel marked 'F'? A. 'F' contained one pair of black rubber boots received with a piece of cardboard on the right foot. (Rubber boots shown to witness).

HIS LORDSHIP: Piece of cardboard in right foot?

A. Yes, sir.

CROWN COUNSEL: Exhibit 5, M'Lord.

A. These are the boots.

20 Q. You say you also found a bit of cardboard?
A. Yes, sir, a bit of cardboard, that is the cardboard.

Q. Now, did you find anything - did you examine the cardboard? A. Yes, sir.

Q. And what you found on it? A. I found human blood present on the areas marked with blue pencil. This was ...

30 Q. Now, can you say about how old the blood stains were? A. I would say - I think they must have been about two weeks.

Q. When you saw them? A. When I saw them, I would say about two weeks.

Q. What is the greatest possible age they could have been? A. To detect it?

Q. No, the blood stains, you say it was about two weeks. Is that the longest possible time they could have got on that cardboard? A. No, they could have got there before. I am putting that it could not have been before two weeks.

In the Circuit
Court

Prosecution
Evidence

No.19

Harold
Vincent
Garrigues
Examination
(continued)

In the Circuit
Court

Prosecution
Evidence

No.19

Harold
Vincent
Garrigues

Examination
(continued)

Q. It could not have been before two weeks?
A. No, I don't think so.

Q. Now, did you examine the parcel marked 'I'?

HIS LORDSHIP: What about - no blood on the boots?
A. No blood on the boots. One wooden handle
machete, no blood detected. (Machete shown to
witness).

CROWN COUNSEL: is that the machete you examined?
A. Yes, sir.

Q. Now, did you also examine another parcel?
A. Marked 'J'; that contained a brown handled
penknife. I found a trace of human blood on
the blade. This was insufficient for grouping
(Knife shown to witness). Yes, sir, this is
the knife.

10

Q. Is that the knife? A. Yes, sir.

HIS LORDSHIP: On the handle?
A. On the blade, I found a trace of human blood
on the blade, on the cutting edge.

CROWN COUNSEL: Now, you describe the blood that was
on the khaki trousers serosanguineous type,
what does that mean? A. It's not whole blood,
it's diluted; serum is the clear part,
sanguineous is mixed.

20

HIS LORDSHIP: On which one?

CROWN COUNSEL: On the khaki trousers, on the pocket
of the khaki trousers. And what is that
indicative of, serosanguineous stains?
A. Well, there are several types. It would be
from dilution of some form such as washing.

30

Q. From washing? A. It's a diluted blood, any
condition that would dilute it, I would say could
cause it.

Q. So if blood stains had got on those trousers,
that spot, and the trousers was washed, you
would have got the condition which you found?
A. You could get that condition. The water
didn't get to it to remove all the blood and so
it leaves diluted sample there.

Cross-examined by Defence Counsel:In the Circuit
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Harold
Vincent
GarriguesCross-
examination

Q. Mr. Garrigues, did you check the machete for blood? A. I did, sir.

Q. This machete, I believe, contained soil-earth on it? A. It contained a certain amount of soil on the handle.

Q. Did you check that for blood? A. I did, sir.

Q. And you found no blood? A. No blood.

10 Q. I believe you checked the blade of the machete thoroughly? A. I did, sir.

Q. And you found no blood? A. No, sir.

Q. No trace of blood? A. No, sir.

Q. Neither on the handle nor on the blade? A. No, sir.

Q. Did you check the pair of rubber boots? A. I did, sir.

Q. Rubber boots, I believe, had canvas on the inside? A. Yes, sir.

20 Q. That would be observed - a little blood - it would be observed? A. If blood splash on the canvas it would retain it much longer than the rubber.

Q. And you found no trace of blood on it? A. No, sir.

Q. Now, the slight trace of blood you found was on the inside of the right back pocket? A. Right, the inside of the right back pocket.

Q. That blood could have come from something being placed in the pocket? A. Yes, could have been.

30 Q. Now, could this blood - tell me, Mr. Garrigues, if there was slight blood on an object of a small amount - the blood on an object and is placed in the pocket, would it get that condition? A. Yes, it could.

Q. Would it appear to be diluted? A. If the object that was placed in the pocket has a dilution,

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No.19

Harold
Vincent
Garrigues

Cross-
examination
(continued)

then I would expect to find similar stains on top.

Q. Now, you did check - of course, you checked the khaki clothes you said? A. Yes, sir.

Q. And there was no blood?

HIS LORDSHIP: That what?

DEFENCE COUNSEL. The khaki shirt, the brown khaki shirt? A. Yes.

Q. Now, for blood to be removed from a cloth, removed completely, it would have to be well washed? A. Yes, it needs a fair washing. 10

Q. Would you say a thorough washing? A. Yes, it would need - I wouldn't say a thorough.

Q. You would need some soap and some detergent? A, Yes, you would need that.

Q. It would even be more difficult to remove it from the trousers? A. Not necessarily.

Q. Some of the nylon things retain the blood, you can hardly get it out? Now, you said the blood in that cardboard, it wasn't newer than two years or older? A. In my opinion it was not more recent than two weeks. 20

Q. But it could have been much older? A. It could have been. It was definitely not a fresh stain on the cardboard.

Q. And the blood you say you found on the penknife was just along the edge? A. Yes, sir.

Q. Just the cutting edge? A. Yes, sir, I would just like to mention one of the things why I say it could have been found - the result that I observed suggests that, that blood was old. I would say a few days duration. 30

Q. Much obliged to you.

Re-
examination

Re-examined by Crown Counsel:

Q. Can you say about how old that blood was? A. No, sir, I don't think anybody could actually

pin-point a specific date, but I found blood of recent origin and that is why I say about two weeks I would have got that after the result of my examination, so I put it anything from two weeks on.

Q. Could it have been, say, two months? A. Could be.

HIS LORDSHIP. Could what?

10 CROWN COUNSEL. It could have been two months?
A. Could be.

HIS LORDSHIP. Blood on the cardboard? A. After it reaches a certain stage there is hardly anything more.

HIS LORDSHIP. Yes, well, may Mr. Garriques be released?

DEFENCE COUNSEL. Yes, M'Lord. Thank you, Mr. Garriques.

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Harold Vincent Garriques

Re-examination (continued)

No. 20

RUDOLPH DWYER

No.20

Rudolph Dwyer

Cross-examination

20 RUDOLPH DWYER: STILL ON OATH:

Cross-examination by Defence Counsel.

MR. DOUGLAS. Now, detective, this is your case?
A. Not my case, sir.

Q. I mean you are in charge of the investigation?
A. I did the investigation.

Q. And in police language it is your case?
A. Cannot be my case, the offence was committed and I made the enquiries, not my case.

HIS LORDSHIP. Just a moment, please. Yes.

30 MR. DOUGLAS. It is your duty to collect all the evidence in this case? A. Yes, sir.

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Rudolph
Dwyer

Cross-
examination

(continued)

Q. And that you have done? A. Yes, sir.

Q. Now, on the morning of the 24th of June you started investigations? A. Yes, sir.

Q. My apologies, December? A. Yes, sir.

HIS LORDSHIP. 24th December

MR. DOUGLAS. My apologies. The 24th December you started investigations? A. Yes, sir.

Q. When you left the gate at the entrance - the house at the entrance of the hospital you went straight to the market? A. Yes, sir.

10

Q. You knew Fairweather was at the market? A. I know that he is a butcher.

Q. Had you seen him before that morning? A. No, sir.

HIS LORDSHIP. Keep your voice up. A. No, sir, I didn't see him before.

MR. DOUGLAS. So about what time you went to the market? A. I would say about 8.0 o'clock, 8.00, I think somewhere about there.

Q. 8.00 to 8.30. Now, it was as a result of that - what he told you that you went to the accused premises? A. Yes, sir.

20

Q. You carried out no further investigation other than what Fairweather told you? A. Yes, sir, I made - other investigations were made.

Q. So you did not go straight to the accused place? A. From the market, I did not go straight from the market to the accused place.

Q. You stopped, where you stopped? A. Several places, sir, at the police station, spoke with people along the street.

30

Q. Did you stop people at random and speak to them? A. No, sir.

Q. You went to Fairweather's friends? A. Naturally.

Q. And you told them what had happened to him? A. Who hadn't heard before.

- Q. And you told them what Fairweather told you?
A. No, sir.
- Q. So all these people you spoke to, what time did you finally arrive up at Fraser Wood? A. About 9.30.
- Q. So that you went to the market about 8.30, you carried out investigations in Port Maria, asking all these people and yet you arrived in Fraser Wood by about 9.00? A. Yes, sir.
- 10 Q. So that you actually got - after speaking to Fairwaather you got through everything in half-an-hour? A. Whoever I had to speak to I spoke to them and got to Fraser Wood by about 9.30.
- Q. How far from Port Maria is Fraser Wood? You have to pass through Highgate? A. Highgate, yes.
- Q. And Highgate is about eight-and-a-half miles from Port Maria? A. No, sir, it is nearer.
- Q. You go as the crow flies or what? A. Drive a motor car.
- 20 Q. So, at 9.30 you were at Fraser Wood? A. Yes, sir.
- Q. Did you speak to his uncle? A. No, sir.
- Q. You didn't speak to anybody? A. Yes, sir.
- Q. You know that the accused has an uncle there?
A. Not at that time.
- Q. He wasn't there at that time? A. I did not know that he had this uncle.
- Q. Did you know where he lived? A. Yes, sir.
- Q. You knew where he lived and you knew where his house was? A. Yes.
- 30 Q. Where he had a room? A. Yes, sir, where he used to live.
- Q. At that time, on the 24th December? A. I couldn't say, sir, I was told about the house that he lived.
- Q. You went to Fraser Wood I presume. A. Yes, sir.

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Rudolph
Dwyer

Cross-
examination

(continued)

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Cross-
examination
(continued)

- Q. You asked about him there? A. Yes, sir, spoke to his sister.
- Q. So you found out where he lived? A. She showed me a house.
- Q. Did you ask if anybody else lived there? A. At that particular house?
- Q. At that particular house. A. Yes, sir.
- Q. Were you told who lived there apart from the accused? A. No, sir, just one room.
- Q. The place had one room? A. One room. 10
- Q. And you were told he alone lived there, did you go to the place? A. I went there, I did not find him there.
- Q. When you went there you found one room?
A. Just a one-roomed building.
- Q. And you found nobody at this one-roomed building?
A. No, sir.
- Q. And you stayed at this one-roomed building all day? A. I did not tell you I stayed at this one-roomed building. 20
- Q. What were you doing in Fraser Wood? A. I was looking for this man.
- Q. How you look for him? A. Make enquiries.
- Q. And all day you asking questions? A. Yes, sir.
- Q. Until what time? A. 11.00 o'clock the night.
- Q. Did you, while you were asking these questions, keep checking at his house, at the one room, to see if he had gone back? A. Yes, sir, I made about two trips.
- Q. And whilst you were asking these questions was it confirmed that this one room was his? 30
A. I was told that the man occupied the house.
- Q. Other people told you that this was his room?
A. Other people told me that that is where he used to live.

Q. And Fraser Wood is a small district?
A. It is not a very small district.

Q. It is not a very big district either?
A. No, sir.

Q. And you spent from 9.30 in the morning until 11.00 o'clock at night asking people in Fraser Wood where the accused was? A. I did not say Fraser Wood alone, you know, sir.

10 Q. But you say you went to Fraser Wood? A. And surrounding areas.

Q. Tell us about the surrounding areas? A. Fraser Wood.

Q. We know, you have told us already. A. Highgate.

Q. Highgate. A. Went as far as Pear Tree Grove.

Q. So, you were not in Fraser Wood all day?
A. I did not tell you I was in Fraser Wood all day.

20 Q. Pear Tree Grove is surrounding area? How far is Pear Tree Grove? A. It would be another six miles.

Q. So that you would say Port Maria is in the surrounding area; it is six miles from Fraser Wood so Port Maria is in the surrounding area.
A. Still in the surrounding area.

Q. So you could have been in Port Maria? A. I was not in Port Maria all the time.

Q. What I am suggesting to you was that you were not in Fraser Wood at all. A. You can say it.

30 Q. What I am suggesting to you is that the accused was at his home at Fraser Wood all - most of that day. What I am suggesting is that the accused was at his uncle's house. A. It was there I found him.

Q. And it is a one-roomed house? A. No.

HIS LORDSHIP. The room in which you found the accused at his uncle's house is a one-roomed house, at his uncle's place? A. No, sir.

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Rudolph
Dwyer

Cross-
examination
(continued)

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No.20

Rudolph
Dwyer

Cross-
examination
(continued)

MR. DOUGLAS. So you, in your investigations, did not find out that the accused was not living at his uncle's house? A. No, sir.

Q. Because I am suggesting to you, you did not carry out any investigations that day. A. I did.

Q. Did you go back to that one-roomed house during that day, that 24th day of December?
A. Yes, sir.

Q. So that you in fact went no where near where the accused actually lived on the 24th of December. A. I did not go to his uncle's house because I did not know of his uncle.

10

Q. So that the first time you arrived at his uncle's house was the next morning, the morning of the 25th? A. Yes, sir.

Q. And the accused was there? A. Yes, sir.

Q. Did you know Huey well? A. Yes, sir.

Q. Friend of yours? A. No, sir.

Q. You are about the same age? A. Who, sir?

Q. Huey and you. A. I am thirty-one.

20

Q. Now, when you went to the accused house you spoke to the uncle? A. Yes, I saw him first.

Q. And isn't it correct, detective, that when you went in to grab this man you told the uncle is murder, you don't need no warrant? A. No, sir.

Q. You didn't tell the uncle you didn't need no warrant, this is murder, you didn't need no warrant? A. I don't remember saying any such thing to him.

Q. Isn't it correct that his machete was leanind up on the front verandah of his house? A.No, sir.

30

Q. Isn't it correct that you charged into the room, you charged up the steps and you grabbed the rubber boots and you took him out with them?
A. No, sir.

Q. Because I am suggesting to you that no conversation

took place there between you and the accused.
A. There was a conversation.

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Court

Q. I am suggesting to you that you were annoyed that it had taken so long to find him. A. No, sir.

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Evidence

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Q. I am suggesting to you that is why you went there at 5.00 o'clock the morning. A. No, sir.

Rudolph
Dwyer

Q. How do you find out where he actually lived?
A. I got information.

Cross-
examination

(continued)

10 Q. Where did you get this information? A. During the course of my enquiries.

Q. When during the course of your enquiries, 11.00 o'clock at night you haven't got any information yet and you left the neighbouring district at 11.00 o'clock at night?
A. Yes, sir.

Q. So you had no information then? A. When I was leaving, then,

20 Q. When did you get this information. A. After I leave Fraser Wood.

Q. How long after you leave Fraser Wood? A. In the early morning of the 25th.

Q. About what time in the early morning?
A. After midnight.

Q. All day you tried, you got no information. Did you go to bed and sleep? A. Slept for about two hours.

Q. You slept for about two hours? A. Yes, sir.

30 Q. But you were anxious to catch this man.
A. Yes, sir.

Q. Why didn't you go back up there straight away since you were anxious to get on his tracks?
A. I went there at 5.30 in the morning.

Q. I am suggesting to you that you were in such a state of mind, just charged in, you said you don't need no warrant, this is murder?
A. No, sir.

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Rudolph
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Cross-
examination
(continued)

- Q. You didn't take a warrant? A. No, sir.
- Q. It was murder? A. I was investigating a case of murder.
- Q. Yes, you don't need a warrant. A. You don't need a warrant.
- Q. Now, did you ask the accused about his boots?
A. Yes, sir.
- Q. You asked him about the boots, did he hand them to you or did you ...? A. Him pointed them out to me. 10
- Q. Where you say you saw the cutlass the handle was showing? A. Yes, sir.
- Q. So it was not hiding? A. Don't know if it was hiding, only the handle I could see.
- Q. The handle was open to view. Now, there were, you say, banana stains on this cutlass? A. Yes, sir.
- Q. The banana stains were toward the lower edge?
A. No, sir.
- Q. But they were from here toward the lower edge? 20
A. Right in the middle there.
- Q. Have a look at this cutlass for me, please, and tell me if the stains are not toward the edge?
A. It is right around.
- Q. Around the point? A. See it here.
- Q. There were stains there but go down further and you see stains toward the point, the cutting edge. A. On the cutting edge, sir, and this part here; see it here in the middle of the thing.
- Q. And - just a slight amount, what about further down? A. I don't see any. 30
- Q. You don't see any banana stains there. Thank you. You told this court that the banana tree you saw was still dripping? A. Yes, sir.
- Q. And stains were still dripping? A. Yes.

- Q. And dripping - was coming from the top of the trunk? A. Not the trunk
- Q. The top of the tree was cut off? A. Yes, sir.
- Q. And the trunk was still dripping, what time you got there in the morning? A. I said about five minutes after 7.00.
- Q. About five minutes after 7.00 and several hours later the trunk is still dripping? A. I did not say several hours, sir, I saw it when I got there.
- 10 Q. Oh, you saw it when you got there, I see, so that it could have been done half-an-hour before you got there? A. I don't know, sir.
- Q. You saw the place? A. Yes.
- Q. You don't know banana plants? A. I know banana plants, of course.
- Q. You ever see them cut? A. I cut bananas.
- Q. So you knew about the dripping? A. I saw this one dripping and if you cut a banana stalk it must drip.
- 20 Q. All right, thank you. Now, you said, you see, the accused had a gun on him? A. The accused?
- Q. A loaded revolver? Deceased, I mean, I beg your pardon, the deceased had a loaded revolver on him? A. Yes, sir.
- Q. I am suggesting to you that the deceased at no stage told you, spoke to you, up that place, up at Fraser Wood? A. How could the deceased speak to me, sir?
- 30 Q. Sorry, the accused did not speak to you? A. He did, sir.
- Q. Didn't tell you anything about Toby and not coming back to Port Maria. A. Of course, he did.
- Q. And I am also suggesting to you that there was no cardboard in those boots that morning up at the accused place? A. I found it there.

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Rudolph
Dwyer

Cross-
examination

(continued)

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Rudolph
Dwyer

Cross-
examination

(continued)

Re-
examination

Q. I am suggesting to you also that there was no penknife in his pocket when you found that thing up there? A. That is where I found it.

Q. Thank you.

Re-examination by Crown Counsel

CROWN COUNSEL. These drippings that you spoke about, where exactly were they found? A. In the middle of the banana trunk where the slits were.

Q. This one-room building that you went to, how far is that from the home that you eventually saw the accused? A. About a mile, sir. 10

Q. The loaded revolver, where you saw it was again? A. In the deceased man's right side-pocket.

Q. Now, the machete you say was stuck behind the cardboard? A. Yes, celotex.

Q. Celotex, rather. What distance above the celotex was the handle visible, in other words, what part, how much of the handle was exposed so that you could see? A. Just the top, sir.

Q. Show us? A. Like here, you could see this part, just about an inch-and-a-half or two inches. 20

Q. And could you show us the stains, how the stains were on the machete? A. Like how this one is, sir, were like that ... (demonstrating)

Q. Was it spread out or in spots or did it completely cover it? A. It didn't cover it entirely, you saw spots like how this one is. There were others, many others.

Q. Were those spots on both sides? A. Both sides of the cutlass. 30

- Q. You say you cut bananas? A. Yes, sir.
- Q. You do that frequently? A. No, sir.
- Q. But you have done so? A. I have done so.
- Q. Thank you.

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Court

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Re-
examination

(continued)

No. 21

CLEVELAND WILSON

No.21
Cleveland
Wilson.

CLEVELAND WILSON: SWORN:

Examined by Crown Counsel:

- 10 Q. What is your name, sir? A. Cleveland Wilson
Sir.
- Q. What work do you do, Mr. Wilson? A. Headman, sir.
- Q. What, headman for the property? A. The
property, sir.
- Q. And where do you live? A. Port Maria, sir.
- Q. You are living in Port Maria? A. 10 Homestead
Drive in Port Maria.
- Q. Now, do you know the deceased man Huie Foster?
A. Yes, sir.
- 20 Q. Now, the night of the 23rd of December, where
were you? A. I was at ...
- Q. Last year? A. I was at Trinity at Miss
McKella's bar, sir.
- Q. Now, you know the hospital gate? A. Oh, yes,
sir.
- Q. About how far is that from...? A. About a chain
from the bar to the hospital gate

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Court

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No.21

Cleveland
Wilson

Examination

(continued)

HIS LORDSHIP. Speak up, please, what is the answer?

A. Please, sir?

CROWN COUNSEL. What is the distance? A. About a chain from the bar to the hospital gate, sir.

Q. Did you see the deceased Huie Foster that night?

A. Oh, yes, sir.

Q. About what time you saw him? A. I was there until he came there, ten thirty.

Q. You came there at ten thirty? A. Yes, sir.

HIS LORDSHIP. You were there before?

10

CROWN COUNSEL. You were in the bar before?

A. Oh, yes, sir.

Q. Ten thirty that night? A. Yes, sir.

Q. What was he doing? A. Well, he came in there and I and him was talking and him buy me a drink.

Q. He bought you a drink? A. Yes sir.

Q. Did he remain where you had this drink? A. In the bar there?

Q. Were you in a private room, or were you standing by the counter? A. Outside at the counter.

20

Q. Did he remain at the counter all the time? A. No, sir.

Q. What did you - what did you see him do, or where did you see him go? A. He stop outside and go on the piazza and came in back.

Q. What direction was he facing when he went outside? A. Directly facing the hospital gate.

Q. How many times did you see him do that? A. He do that three times, sir.

Q. He went outside facing the hospital gate and came inside? A. Step out on the piazza and looked up.

30

Q. You say he did that three times? A. Yes, sir.

Q. Now, did you leave the bar before him or he left

you in the bar? A. He left before I leave, sir.

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Court

Q. About what time did he leave the bar? A. Eleven thirty, sir.

Prosecution
Evidence

Q. Did you observe what direction he went?
A. He turn up by - I didn't notice to see whether he turn in or not.

No.21

Q. He turned up? A. He turned up to the hospital gate, sir.

Cleveland
Wilson
Examination

HIS LORDSHIP. That is towards Trinity? A. Yes, sir.

(continued)

10 CROWN COUNSEL. Did you remain in the bar all the time or you subsequently left? A. About an hour after he leave.

Q. You left? A. Yes, sir.

Q. Now, when you left, what way you went to?
A. Down Port Maria.

Q. You went towards Port Maria? A. Yes, sir.

Q. Was there anybodyelse in the bar at this time?
A. Oh, yes, sir, but I don't know them, sir.

Q. You know anybody at all? A. No, sir.

20 Q. You know one Oscar Fairweather? A. Oh, yes, sir, he was there.

HIS LORDSHIP. Isn't he - he is not somebody, man?
A. He leave me there too. Oscar leave me in the bar too.

CROWN COUNSEL. He left you in the bar? A. Yes.

Q. Did you see what direction he went? A. Well, he live up that way to the hospital gate so...

Q. You live up that way, did you see what direction he went in? A. Oh, yes, sir.

30 Q. Where? A. He turn up.

HIS LORDSHIP. Which direction, towards where?
A. To the hospital gate.

CROWN COUNSEL. You remember how long after he left you left? A. I left around an hour after he left.

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Cleveland
Wilson

Examination

(continued)

Cross-
Examination

Q. After? A. Around an hour because I and some next pal was inside there and after he leave I was in there.

Cross-examined by Defence Counsel:

Q. Mr. Wilson? A. Yes, sir.

Q. Tell me something, is this your local - is this the bar where you usually drink? A. Yes, sir.

Q. Where you usually drink? A. Yes, sir.

Q. So you know the owner of the bar? A. Yes, sir.

Q. You know her very well? A. Yes, sir. 10

Q. And you know what kind of bar it is? A. Yes, sir.

Q. You know what sort of bar it is? A. Yes, sir.

Q. Could you tell us what type of bar it is?
A. If she didtell me?

Q. Could you tell us what kind of bar it is?
A. It is a rum bar.

Q. You don't know what sort of licence it had?
A. No, sir.

Q. You don't know. So what time of the night was this when you left? A. I leave there around half past twelve. 20

Q. You left there about half past twelve? A. Yes, sir.

Q. You know how late she opened in the nights?
A. Yes, sir.

Q. How late? A. She open until one o'clock or so.

- Q. She opens until one? A. Yes, sir.
- Q. And you left half past twelve? A. Yes, sir.
- Q. Now, what time did you go to that bar that evening? A. I was there from ten.
- Q. You were there from ten? A. Yes, sir.
- Q. I see. Who went there first, you or Fairweather?
A. I was there before Fairweather came.
- Q. He joined you there as a matter of fact?
A. Yes, sir.
- 10 Q. Is he one of your drinking partners? A. Not so much.
- Q. Not so much, just some times? A. Yes, sir.
- Q. He likes his little white rum? Best thing to drink? A. I don't say is the best thing.
- Q. But it's good? A. You have to take a little white rum sometimes.
- Q. And Mas Oscar like his little white rum too?
A. So far, sir.
- 20 Q. Now, Huie, you say was - you know Huie long time?
A. Oh, yes, I know Huie around three years now.
- Q. A popular boy? A. Oh, yes, sir.
- Q. Love the girls? A. I don't know.
- Q. You don't know? A. No.
- Q. When you saw him going through the door and going through the door and coming back, what did you think he was doing? A. When he stepped out first and he came in back.
- 30 Q. You didn't think anything? A. But the third time he said that somebody coming to meet him at the hospital gate.
- Q. And he is looking for somebody; he was getting anxious? A. No he never look anxious.
- Q. He looked as if he wanted to meet the person?

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Cleveland
Wilson

Cross-
examination

(continued)

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No.21

Cleveland
Wilson

Cross-
examination

(continued)

A. Sure.

Q. Yes, and your mind didn't think it was his girlfriend? A. I never think of it.

Q. You never think. How long after Huie left the bar did you leave the bar? A. I say around an hour after Huie leave me there. I say around an hour.

Q. You stayed an hour after Huie? A. Yes.

Q. You are sure it is not just ten minutes after that he left that you left? A. No, sir. 10

Q. And you never say it is ten minutes after he left you left, eh? A. No, sir.

Q. Before you went to that bar, where were you? A. At my home.

Q. You went from your home to the bar? A. Sure.

Q. I see. When you left, did you go in the same direction as Huie went? A. Please?

Q. Did you go in the same direction as Huie went when you left the bar? A. No.

Q. You went in the opposite direction? A. No, at my home. 20

Q. You went down to your home, Huie went the other way? A. Yes, sir.

HIS LORDSHIP. Huie went towards Port Maria, you say? A. Yes, sir.

Q. Huie went towards Port Maria.

CROWN COUNSEL. No re-examination, M'Lord. M'Lord, that is the case so far as the Crown is concerned. There are two witnesses at the back of the indictment. I don't prepare to call them. I believe they are here and available if the defence wants them. 30

HIS LORDSHIP. Who are they?

CROWN COUNSEL. One France and one White. Clifford White, M'Lord, and Ethel France.

HIS LORDSHIP. Clifford White?

CROWN COUNSEL. Clifford White

HIS LORDSHIP. Yes?

CROWN COUNSEL. The witness Desmond Watson, a Constable who ought to have given evidence about the identification, that evidence ...

HIS LORDSHIP. Has been called by Dr. Harry.

CROWN COUNSEL. Was supplied by Doctor Harry

HIS LORDSHIP. That is the case for the Crown?

10 CROWN COUNSEL. Yes, M'Lord, that is the case for the Crown.

DEFENCE COUNSEL. May it please you, M'Lord, Mr. Foreman and Members of the jury, the accused will give an unsworn statement from the dock.

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No.21

Cleveland
Wilson

Cross-
examination

(continued)

No. 22

UNSWORN STATEMENT OF ACCUSED

HIS LORDSHIP. Yes, where do you live?

ACCUSED. Dean Pen, Highgate.

20 DEFENCE COUNSEL. Dean Pen Frazer Wood.

HIS LORDSHIP. What work do you do? A. Mason, sir.

HIS LORDSHIP. Mason? A. Yes, sir.

Q. Now, please speak slowly and loudly so that I can hear you. A. Yes, sir.

Q. Yes, go on. A. I went down to Port Maria at about five o'clock.

HIS LORDSHIP. Speak up, please. A. At about five o'clock, sir, on the 23rd of December. I had a

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(continued)

cousin gone to America sir. He leave me in charge of her place in Part Maria, sir. I was there. I left there around 7.30. While I was leaving this young daughter gave me a pound, sir, asked me to get some beef in Highgate the following morning. When I left there sir, I walked it up to Trinity where I could get a drive home. When I reached the gas station I saw my friend Huie Foster. He called to me, I answer to him. He said "Rupert, where you coming from now?" I told him. While I was there standing at the gas station both of us we were at the side of the gas station talking. I saw a car drive in. The car stop. He walked towards the car, I was behind him. Both of us go to the gas pump. I lean on the gas pump and serve the gas. Then I saw a next car drive in; when I look it was Mr. Toby from Highgate. I turn to him and said "This is a drive to Highgate, now Huie, I am going." He said, "All right Rupert". Both of us walked to the car. I went inside the car; he closed the door. When the car begin to drive up, he turn away, he call to me. He said "Rupert when I will see you again". I told him "look for me Wednesday, I am coming to spend the whole day down here." Huie is my friend, both of us were living into one yard. 10

HIS LORDSHIP. Both of you, what? A. Were living in one yard, sir, but I was living in Trinity. Whenever time I go to Port Maria when I left that home I visit my friend Huie. While we were living in one yard I come home from work; I have no where to go. I know where he works, I bathed and change my clothes and go up there and spend time with him. Some of the time I stay with him until he lock up - close up; both of us go home. On the 23rd of December when I go up to Mr. Toby, I walk the home. When I walk the home, I go home. When I go home, I go inside, then I change my clothes. I had a wallet in mi pocket - left hand back pocket. I was sitting at the house in Port Maria at the back of the yard under a guava tree. 20 30 40

HIS LORDSHIP. Was sitting, where? A. Down Port Maria at the home where I went - that is my cousin home, sir. When I feel my pocket, sir, I did not feel my wallet, sir. Then I grab a black pants.

HIS LORDSHIP You grab what? A. A black pants and a plaid shirt; I put it on. I rush back to Highgate. While I was at Highgate sir, I saw the bus coming in. I go to Port Maria on the bus. I came off the bus before the housing scheme, went over the yard back, sir. While on my way down, sir, the bus was filled up. three of us take the bus in Highgate. When I go in the bus, sir I see a young lady that name Joyce. She had three parcels in her hand standing in the bus. She said "Rupert carry one of these parcels for me." I take the parcel from her. When I was getting off the bus at the housing scheme I gave her back the parcel then I walk it over to my cousin yard where I go, where I was sitting. I found my wallet sir. I take up the wallet sir, and come out back on the main walking towards Port Maria, now, sir. The time was about 10.30, sir. While on my way walking to Port Maria, I see a white car driving up coming up the road towards me. It stopped; asked me if I could direct him to Kingston.

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HIS LORDSHIP. Asked you what? A. If I could direct him to Kingston, sir. I told him yes. I also beg him a drive back to Highgate, sir. He carried me and dropped me at Highgate, sir. I walked the home, sir. When I go home I was pulling my room door to go inside sir, I hear a voice that is my uncle voice call to me, say, "Where you coming from now, Rupert"? I told him I was in Port Maria and I come home. He asked me "about what is the time now, Rupert"? I tell him I don't know. I had a small transistor radio, sir.

HIS LORDSHIP. Just a minute. Yes? A. I had a small transistor radio; I turn it on. About five minutes after I turn it on, sir, I heard the time was 11.30, then I call in back to him to tell him the time. I didn't heard him.

The following morning, sir, I wake up; I go to Highgate to get the beef sir. When I was going to Highgate sir, I did not see my uncle. All I heard him - at the fowl coop I heard him.

HIS LORDSHIP. You heard him where? A. At the fowl coop, sir, that was behind the old kitchen M'Lord. When I came from Highgate he said when he came from the fowl coop he was calling me

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(continued)

inside of the room sir. An Indian lady who live at the yard had a tenant sir, told him that I gone down the road.

HIS LORDSHIP. You said when you came back to....

A. I say when I came back from Highgate he was calling for me sir, and he did not hear me, sir; an Indian lady told him that I gone round the street. He said he was calling me to find out if I was going to Highgate, that I could buy some fowl feeding for him, because after the place locked up today it is not going to open back until Friday and the fowl them don't have any feeding. I told him "Don't worry yourself, I am going back to Highgate to buy some things". When I was going off to Highgate around nine o'clock I called to him. He gave me ten shillings to buy some fowl feed. I buy the fowl feeding; I carry it home. I left Highgate at about ten o'clock, sir. Then I saw a contractor man that I work with, sir, at Highgate. He told me that a Policeman looking for me. I told him he could direct them where I live, he said "No". I said, "Yes, you should direct them because maybe it's any of my friends them come from Kingston and want a jelly-coconut or want a banana, so you could direct them where I live." He said "No." he don't like to send police where people live. 10 20

HIS LORDSHIP. Speak up, please. A. He said, "No." sir, he don't like to send police where people live. When I leave Highgate, sir, I went home. I was sitting on the edge of the verandah, that was the 24th, sir; I saw Detective Dwyer and Sergeant Cross and one Raphael Robinson who drive up. he go about two chains from my gate and stop. He drive off afterwards. He go to Palmetto Grove, where I was born. He told the people them in the area that I was wanting for murder so anyone of them see me must lick me dung or carry me in dead or alive. Then the following night, sir, I saw people from that area, begin to tell me, I ketch my fraid because I know I didn't do anything. I walk it home back to my uncle yard. I reach the yard at about nine o'clock, I saw my uncle sitting on the verandah, he alone. He told me that he hear that police looking for me, and what mi do. I told him I don't do anything. He said, "The best thing you can do..." 30 40

HIS LORDSHIP. Not so fast. The best thing to do is what? A...the best thing you must do, go down

to Port Maria and find out what they want." I told him I cannot now because all the bus gone already. The following morning I wake up at about five o'clock, sir. I went into a clean merino and an underpant getting ready to go to Port Maria. When I saw - I heard somebody ask my uncle if Rupert inside. I hear my uncle said, "Yes." I looked out, sir, and when I looked out it was Detective Dwyer. I looked at the side of the house, I saw Sergeant Cross and I look at the next side I saw one Special Constable, sir. Then he came up on the verandah and Sergeant Cross too. He asked me say, "Jesus Christ, Rupert, is you Oscar say kill Huie?" I say, "No, man, I was in Port Maria."

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(continued)

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HIS LORDSHIP. Say a you what? A. I tell him, sir I wasn't in Port Maria at that time.

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HIS LORDSHIP. Came up and say, "Jesus Christ" what? A. "A you Oscar Fairweather" - "Jesus Christ is you Oscar Fairweather say kill Huie?" I said, "No, which Huie". Then he begin to relate it out to me, sir. Then Detective Dwyer look on mi, told me uncle that this don't need no warrant, sir. This is a murder case. He went inside of a room and he take down a khaki pants and a shirt. He take the cutlass from the front of the house in front of the room. No celotex was there so that anything could hide, sir. It is a concrete house, sir. Then he take up my water boots, sir. He looked at it, sir, I was cleaning out my room, sir, the day before and polish catch the water boots outside, sir. So that when he take up the water boots he look in it, he don't see anything, he look outside at the water boots where he see the polish mark outside on the water boots, him say, "Yes man, you fucker you, a catch you now, for see the man blood on the water boots here."

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HIS LORDSHIP. Just a moment. A. Yes, sir. This cutlass that him take out the room, I had two aunties came out from America, sir.

HIS LORDSHIP. What? A. I had two aunties came out from America, sir. They don't even know one another because they come from the same place and they don't even know one another because they are there so long, they don't even know one another. Then they came to the yard the

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(continued)

Sunday. One of them married to a Detective, sir. After they came to the yard, I climb a cocomut tree, sir. I picked a bunch of jelly. I used that machete to chip out the jelly; I cut a bunch of banana also, sir. I hand it up.

HIS LORDSHIP. Wait, nuh man. You hand it up?

A. Yes, sir, and put it in the car back and then I go back up the yard, sir. I cut around six canes from the back of mi yard. I take it in the yard and chop it up and put it in the car. I don't carry a penknife, sir. The piece of cardboard also, sir, I didn't have none in the water boots. That water boots is three weeks old since I buy it, sir. That is when I was doing mason work. That is when I do mason work, I use the water boots, sir, to work in the cement. I did not wear a water boots to Port Maria no time in December, sir, that is the day when I was getting the pay from Parish Council the first of December, so I did not have any work to do as to wear a water boots, so I was wearing a brown hushpuppy shoe, sir - light brown. Yes, M'Lord, I am through.

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HIS LORDSHIP. That is all? A. Yes, sir.

DEFENCE COUNSEL. May it please you, M'Lord, Mr. Foreman and Members of the Jury, that is the case for the defence.

HIS LORDSHIP. We have pushed very hard today.

CROWN COUNSEL. Yes, sir.

HIS LORDSHIP. We will adjourn until ten o'clock tomorrow morning.

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No. 23
SUMMING-UP

In the Circuit
Court

Wednesday, 2nd July, 1969. - Court resumes at
10:00 a.m.

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JURY ROLL CALL TAKEN - ALL PRESENT.

CROWN COUNSEL ADDRESSES JURY FROM 10:03 - 11:31 a.m.

DEFENCE COUNSEL ADDRESSES JURY FROM 11:31 a.m. -
12:09 p.m.

SUMMING-UP

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TIME: 12:09 p.m.

HIS LORDSHIP:

Mr. Foreman and Members of the Jury, you have listened over two days to the evidence of nineteen witnesses. You have listened this morning to the addresses for the Crown and of Counsel for the Defence, and it now remains for me to sum up the case to you, to instruct you on the law and to remind you of the facts, after which you will be asked to consider your verdict.

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The indictment on which this man is charged charges him with murder, for that he, on either the 23rd day of December or the 24th day of December, in the parish of St. Mary, murdered Huie Foster. It is framed in that way, either the 23rd or the 24th because it is not known exactly whether Huie Foster died before 12 o'clock on the night of the 23rd or after 12 o'clock which would be on the morning of the 24th.

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Now, the Crown's case, Members of the jury, in it's barest outline, is that Huie Foster was hacked to death in this hospital-compound near the Port Maria main road on either the 23rd or the 24th of December. The Crown's case is based largely, if not entirely on circumstantial evidence, the allegation of the Crown being, that due to motive of jealousy arising out of the affection of this young lady, Carmen Walden, the accused, they are alleging way-laid this deceased

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(continued)

and chopped him to death; that is the Crown's case in its barest outline. We have to go through the evidence in detail at a later stage. On the other hand, the Defence is a denial of having done any such thing. The accused alleges that he was a good friend of Huie and he would never have done him any such thing, and although he was in Port Maria on the night of the 23rd of December, he was not in any way responsible for having chopped Huie to death.

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Now, Members of the Jury, my duty is to tell you what the law applicable to the case is, and that is the law which you will have to apply to the facts such as you find proved. You must take the law from me as I give it to you, but you are the sole judges of the facts. And my only duty in relation to the facts is to remind you of the evidence which has been given from the witness-box and to make such comments as I may think are reasonable and necessary or that may be of assistance to you in arriving at your verdict. However, you are at liberty to discard any comments which I might make, because you will bear in mind that you are the sole judges of the facts, and any comments that I might make - and I will of necessity have to make some comments in this case - but bear in mind that any comments which I might make, you will summarily discard it from your minds if it does not happen to coincide with your own views. You are the judges of the facts. You take the law from me and apply to the facts such as you find proven. You have been addressed by counsel on both sides. Well the same applies to any comments that either counsel might make; if it can be of assistance to you, then you will adopt it. If you find it of no assistance to you, or if it does not coincide with your own views, then you will discard it in the same manner as you will discard mine.

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Now, Members of the Jury, Jamaica is a small community and killing such as these sometimes receive widest publicity and it is difficult for you not to have know of or to have read of or to have heard of this killing which happened in an adjacent parish, namely, St. Mary. The case was transferred from St. Mary to this parish for trial. It is not for you or for me to reason or to wonder why it was transferred from St. Mary, suffice it to say, it was transferred to this parish and the

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matter now rests in your capable hands to decide on the evidence which you have heard whether this man is guilty or not guilty of the offence. Under no circumstances, therefore, are you to allow an extraneous consideration to enter into your minds in considering your verdict. You are not to allow any gossip which you have heard or may have heard outside to colour your minds in any way. You are not to allow any sympathy for the dead man or any prejudice against the accused to colour your minds either. You are to decide this case solely on the evidence which you have heard in this Court and on the directions in law which I have given you.

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Now, in every criminal case, Members of the Jury, the accused man is always presumed to be innocent until the Crown has proven him guilty by your verdict. He is never required to prove his innocence at any stage. The burden rests on the prosecution throughout and that burden never shifts. And I might say this, Members of the Jury, the burden which rests on the prosecution is no higher or any lower in a case which deals solely with circumstantial evidence as against direct or eye see evidence. So I will tell you what this burden is, that burden of proof which rests on the Crown. Before you can convict this accused man the Crown must so satisfy you by the evidence that you can feel sure of the accused guilt. As I have said before, there is no duty on the accused to prove his innocence, but he may, during the conduct of his case attempt to do so. If he succeeds in doing this, then your verdict would be not guilty. If you are in a state of doubt, then equally your verdict would be not guilty; but even if he should fail in his attempt, then you must consider all the evidence which you have heard including the statement given by the accused from the dock and say whether you are satisfied so that you can feel sure that the prosecution has proved its case. It is only when you are so satisfied that you can feel sure that he is guilty and say so by your verdict; in any other case your verdict would have to be not guilty.

Now, much has been said to you, Members of the Jury, about motive. Motive which the Crown has put forward in this case is jealousy on the

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(continued)

part of the accused against the deceased man over Carmen Walden. Well, I must tell you this, Members of the Jury, that in a criminal case the Crown is never obliged to prove a motive but where it can do so it will attempt to do so because in such circumstances it tends to strengthen the Crown's case. Mere opportunity to commit a crime, Members of the Jury is never sufficient. Mere opportunity to commit a crime does not raise the circumstances beyond mere suspicion. Opportunity and evidence which shows you and satisfies you so that you can feel sure that he did commit the offence is what is required. Of course, opportunity to do so plays a very important part because if a man can be proven to have been in Cuba when a murder takes place then he would have no opportunity to have committed the offence.

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Now, part of your duties as a jury is to draw reasonable inferences from proven facts where direct testimony is not available to prove the offence charged or any aspect of it. You, the jury, are permitted to infer that the facts proved are the facts necessary to complete the element of guilt or to establish innocence.

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Now, in this case there is no direct testimony to establish that it was the accused who kill Huie Foster. The nearest we get to direct testimony is the evidence of Oscar Fairweather who says he recognised the voice of the accused. So in this case you will be called upon to draw inferences but you are only entitled to do so from the proven facts if those inferences are quite inescapable and you must not draw an inference unless you are quite sure it is the only inference which can reasonably be drawn and if two or more inferences can reasonably be drawn, and I put emphasis on the word, "reasonably", if two or more inferences can reasonably be drawn, then one of which is in favour of the accused and one is against the accused, then you must draw that reasonable inference which is in favour of the accused; but as I say it must be two reasonable inferences, not one that is reasonable and one that you can stretch by some stretch of your imagination and say, well it could mean this: it must be reasonable inferences.

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Now, it is agreed on all sides, Members of

the Jury, that this case rests - I would say entirely on circumstantial evidence. You have two kinds of evidence. You have what is known as direct evidence. If any witness had come forward here and say they saw the accused Rupert Anderson chopping up Huie Foster in the yard of the porter's lodge that would be direct evidence but no such witness has been brought therefore, the Crown is resting its case on circumstantial evidence.

10 Now, circumstantial evidence, Members of the Jury, is very good evidence. It must never be scoffed at. Indeed, some judges and some learned lawyers prefer to rely on circumstantial evidence, for this reason, you may have three or four people ganging up against a man and they waded such an intricate pattern of lies against him and come into this box and commit so much perjury backing up one another point after point that that man gets convicted on pure lies - a vicious pack of lies which has been woven against him. On the other hand, 20 in circumstantial evidence it is like a snow ball you see. You start rolling it and it gets bigger and bigger and bigger with cohesion. You see, it is like a chain, Members of the Jury. It is sometimes referred to as the chain of circumstantial evidence.

30 Now, if a chain - just to give you a simple illustration - if a chain has a hundred links, you see one hundred separate links thrown down there, that is not a chain, but when those hundred links have been put together you get one length of chain and a chain is as strong as its weakest link and if you pull that chain and it breaks, well, it would be a faulty chain, but if you pull it and it stands the test, then, it would be a strong chain, so to speak. So it is with circumstantial evidence, it is a chain of facts from different sources which points in one direction; and a jury may convict on purely circumstantial evidence but you should 40 be satisfied, not only that the circumstances were consistent with the accused having committed the act, but you must also be satisfied that the facts were such as to be inconsistent with any other rational conclusion than that the prisoner is the guilty person. To put it another way, it has been said that circumstantial evidence consists of this: that when you look at all the surrounding circumstances, all the evidence given by all the various witnesses you find such a series of

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undesigned, unexpected coincidences that as a reasonable person and each of you there is a reasonable person, you find your judgment compelled to one conclusion and one conclusion only, namely, the guilt of the prisoner, the nature of the circumstantial evidence must be such that you must be satisfied as I have said that there is no other rational motive to account for the circumstances other than concluding that the prisoner is guilty. That is circumstantial evidence, Members of the Jury.

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Now, the charge against this man is murder. Murder, Members of the Jury, is committed where one person by a deliberate or voluntary act intentionally kills another. In order to amount to murder the killing must be the result of a deliberate or voluntary act on the part of the accused, that is to say it must not have been by accident. I don't think any question of accident can arise in this case because the doctor's evidence says that the man has sixteen or seventeen chops. The killing must also be intentional, that is to say the act which results in death must have been done or committed with the intention either to kill or to cause serious bodily harm. Crown counsel refers to it as grievous bodily harm, well, grievous bodily harm really means serious bodily harm.

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It is not all the time that a deliberate killing can necessarily be murder, however, because a deliberate and intentional killing done as a result of legal provocation would not be murder at all, it would be manslaughter. If it was done in self-defence then it would be no offence at all but in this particular case, and I tell you from now you won't be troubled with any defence, manslaughter or self-defence, in this case it is going to be a case of murder or nothing.

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Anyhow, to proceed with the ingredients of murder, the Crown must prove the death of the deceased named, that is Huey Foster. The Crown must also prove to your satisfaction that it was the accused who killed him and that it was done by a voluntary or deliberate act, that is, not done by accident or in self-defence, and also that he intended either to kill the deceased or to inflict on him really serious bodily injury or harm. Now,

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this intention, Members of the Jury, has to be proved like any other fact but you ask yourselves how does one prove intention when intention is not something that you can see or touch or hear. It is not capable of positive proof and the only practical way of proving a person's intention is by inferring from his words or conduct.

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10 In the absence of evidence to the contrary you are entitled to regard the accused person as a reasonable man, that is to say, an ordinary responsible person capable of reasoning and in order to discover his intention therefore in the absence of any confessed intention you look at what he is alleged to have done and ask yourselves whether as an ordinary reasonable person, that is, a responsible man, he must not have known that death or serious bodily injury would have resulted from his action. If you find that he must have known that such a result would be brought about by his action then you may infer that he intended the result of his actions and this would be satisfactory proof of the intention to kill or to inflict serious bodily harm. And in this particular case, Members of the Jury, whoever, let us put it no higher than that at this stage, whoever inflicted these serious injuries on this man, what intention would he have had at the time when he was belabouring him with the machete or the knife or whatever it was, to kill him? I put it as high as that, to kill him or to cause grievous bodily harm?

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The Crown must also satisfy you that the killing was unprovoked and that it was not done in self-defence as I said. That is, provocation or self-defence has not been raised in this case at all and I don't think there is any room for it.

40 Now, we have to go into the facts of the case, Members of the Jury, in some detail but first of all I would just like to clarify in your mind the exact location of the scene with which we are dealing, some of you may probably know it, some of you may not. Well, this thing happened by the porter's lodge at the hospital gate in Port Maria. Now, coming from Port Maria going down towards Trinity or what is referred to as Highgate end, coming from Port Maria, you must pass the hospital gate on the left-hand side of the

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(continued)

road going towards Trinity. Now, that gate runs up to the hospital, there is a roadway from that gate up to the hospital and on the right-hand side of this roadway leading up to the hospital is the porter's lodge which faces the hospital roadway and there is the short side of the house to the hospital where the bicycle was found and there is a short side of the house to the Port Maria roadway where the body was found and some two chains before you come to this hospital gate is Miss McKella's bar on the right-hand side of the road going towards Trinity and then you go down towards Trinity, to the gas station where Huey works. I hope the location is now clear in your mind.

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Now, this case, Members of the Jury, rests, as we have all agreed on circumstantial evidence, therefore, in dealing with the evidence I am going to divide it up into different phases or sectors and the first phase which I will deal with is the evidence of the association of the deceased with Carmen Walden and of the accused knowledge of it. The second phase with which I will deal is the accused departure from Trinity station in Toby's car to Highgate and his return to Port Maria when he came off the bus by Miss McKella's bar. Now, the third phase I will call what took place at the hospital gate as related to you by Joyce Scarlett and Lloyd Skyers. The fourth phase would be what occurred after Fairweather, Andrea Walker and Cleveland Wilson left the bars, the respective bars. Then we turn to the fifth phase which is the discovery of the body and the time which has been fixed as being the time of the discovery of the body, that is, fixed by Dr. Harry and Josiah Ferguson, the grave digger, because the time when the body is discovered, Members of the Jury, is going to play a very important factor in this case and then, lastly, we will deal with the subsequent events, that is, the evidence of the uncle, Mr. Watson, and the evidence of Watson as to what he said to him on the morning of the discovery of the body.

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So, let us start out with the first phase. The first witness in this phase is the bar-tender, Linette Walker. Now, she tells you that she is a bar-tender at Trinity and that she knew the deceased, Huey Foster. She knew that he worked

at the gas station out at Trinity and she said that that gas station is about a chain or chain-and-a-half from her bar. That she knew the accused for five - four or five months before the death of Foster and the accused visited her bar quite often and that one day, a Monday she said, in November, 1968, at around noon the accused came to the bar. He sat on a stool, told her how-de-doo and she answered him. He rested his head on the counter and he looked worried to her and she asked him what was wrong and he said his girl-friend came down from Highgate on the bus and instead of coming straight to him she stopped by the gas station with Huey and Huey told her a lot of things about him. She asked him, "What is it"? and he replied and said:

"A fucker like that want to kill because he make his mouth bother him too much"

That is what he said in relation to Huey and Huey's association with his girl-friend .. "Fucker like that want to kill because he make his mouth bother him too much".

Well, you are judges of the facts, remember, Members of the Jury, and you will have to interpret for your-selves what a statement like this meant. This is only one cog in the wheel of circumstantial evidence which has been presented to you. If you accept this piece of evidence then what did it mean?

Linette says she did not know the girl of whom the accused was speaking but he was referring to Huey at the gas station. She said he did not have any drink in the bar and he left shortly after. She said the deceased often came to the bar and about there. She denied that a few months before she had a quarrel with one Laura over Huey whom it is also admitted on all sides seemed to be quite a man-about-town. She knew where accused lived and she took over a room from him but it was not Huey who got it for her.

She said - she repeated that accused did say is he, Huey - 'he' meaning Huey is going to get fucked. And it was suggested to her she is making it up and she said, "No, I am not making it up", and she volunteered that the accused is not an enemy of hers.

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(continued)

She was asked something about what she said in Port Maria, Members of the Jury, but whether she used the word 'kill' in Port Maria or what at the preliminary examination she said she did use it, whether she did use it or not the depositions were not put in evidence and I will remind you that the evidence you are going to decide the case on is the evidence which you hear in this court. Now, so much for this barmaid, Linette Walker.

Now, there was the girl-friend, Carmen Walden, the lady in the middle, as she has been called. She lives at Esher in St. Mary and she is not at the moment working. She used to do part-time work at the hospital. She knew Huey Foster, the deceased, for many years, from she was small in fact, and she was friendly with him and she admitted that they were intimate on one occasion. She says she also knows the accused and she saw him once in Highgate; she asked him what work he does and he said he worked at the Port Maria hospital, this was in October, 1968. She asked him if they needed anyone to work at the hospital, he told her no but she should come to the hospital and he would take her to the matron. He told her further that he was the head porter there. In fact he was not the head porter, he was merely a part-time porter. It was suggested that this was merely to boost up his ego in making his advances to Carmen Walden. 10 20

She said she went to the hospital about a week after and after she left the hospital she saw accused and that the accused asked her in effect why she had come on that day because he had told her to come on a different day. He further told her that he was sure she would not see the Matron. She thereupon asked him why, what the difference between today or any other day if he said that he could get her a job at the hospital. He further told her that he and Mr. Wilson - whoever that was, we weren't told - and he worked at the hospital and can get a card from Mr. Wilson, but he suggested to her that she should go over to the house with him. She thereupon said that she would only go over to the house with him if he got a card to sign. He never told her what he wanted to go over the house for but she came to the conclusion that what he wanted her to go over there for was to have sex with her. Well, she was not in agreement with him. She said the only way she 30 40

would go over there is if he had the card for her to sign, then she would agree. Whether he had got the card for her to sign, we don't know, but we must not speculate. Anyhow, she got a job in December at the hospital either the first or the second week, but the accused had nothing to do with it - she got it on her own.

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10 She told you that she met the deceased Huie many times in Port Maria, but she never made any date. Apparently, it was a relationship that whenever we meet, we meet, but there need not be any special date. She said she was once with the deceased and she saw the accused Anderson; it was between November and December, and it was on the street in Port Maria. Deceased and herself were walking and she saw accused on a truck sitting down. She said she never spoke to the accused, in fact, she said she never spoke to him from the day at the hospital road. She says the deceased spoke to
20 the accused in the truck. It was a short conversation, the gist of which she did not hear. She knows Olive Reynolds and she visits her home quite often. She lives in Port Maria and on the twenty first of December, 1968, she was at Leonard yard. She saw deceased on a bicycle passing: she called to the deceased and he came to her and they were leaning - he leaned his cycle on the bank and was talking to her. She didn't see Anderson, if in fact he did pass. She knows Norma Beckford and
30 she saw her that day at the yard of Olive Reynolds. She said she had worked at the hospital for two weeks part-time, and she left the hospital on the day the deceased died. So up to the night before, whether she was on duty that night or not - she said she wasn't but she was an employee at the hospital up to the 22nd of December. After the deceased died she was no longer an employee of the hospital. Whether it was that she left or they discharged her is neither here nor there -
40 the fact is she used to work at the hospital, and she was there up to the night of the 22nd. She said she did shift-work, 6:00 a.m. to 10:00 a.m. or 2:00 p.m. to 6:00 p.m. Sometimes 10:00 a.m. to 2:00 p.m. She says she never worked at nights, and you must decide whether you believe that or not, if she is doing shift-work. She says the deceased knew that she was working at the hospital but she doesn't know if Anderson knew. She says she never saw him on the compound and on

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the night of the 23rd of December, which is the night that Huie died, she went to the Port Maria town and after - wards to Olive Reynolds' home. She remained there that night. She says she lives about a half mile from the hospital gate, from the Highgate side of the road. So if she is here saying Members of the Jury, that she went to Port Maria first and then spent the rest of the night at Olive Reynolds, now if you accept that, then she wouldn't have been the girl - the woman that the girl Andrea Walker saw at the hospital gate. You see, on the other hand, you might very well ask yourselves whether this witness has told you everything she knew, or whether she was holding back something. Anyhow, if you accept this piece of evidence when she says that she was at Olive Reynolds' home, then she could not have been the woman that was at the hospital gate, then it would have been some other woman because I don't think it can be refuted that from the evidence of Huie's conduct in the bar and from the evidence of the girl Andrea that Huie was meeting somebody at the hospital gate, whoever it was.

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She was cross-examined; she says she was just a friend of Foster. He gave her presents and was very kind. She could not go out with him often. She repeated she had been intimate with him once. She did not know accused before she saw him in Highgate. She has never been intimate with the accused and she says she gave him no reason to believe that she would be intimate with him. She says Huie was not so handsome, but he was kind. She says it was the accused - it was Huie who went to the accused when he saw him on the road; it was not the accused who saw Huie and she repeated that on the night of the 23rd she was in Port Maria. She had no arrangement to meet anyone including Huie. She was at Olive Reynolds' yard and she had no arrangement to meet anyone.

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The other witness, Members of the Jury, to complete what I call phase one, is the girl Norma Beckford, who tells you that she was an accountant at a store in Port Maria and she knew Olive Reynolds' home. She lives in the same yard. Apparently she knows this girl Carmen and Carmen visits the home. She says on the twenty first of December Carmen was at the home of Olive. She knows the deceased Huie; she saw him at the gate. She talked to Carmen. She says she also knew the

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accused Anderson and she saw him passed when Carmen and Huie were speaking at the gate. He passed about two yards away; went into the shop on the premises; came out afterwards; Carmen and Huie were still talking and he went towards the housing scheme. In cross-examination she says other people passed apart from accused when Carmen and Huie were talking and that the accused said nothing when he passed.

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10 Well, now, Members of the Jury, that is the evidence which I referred to as phase one - evidence of the association of Huie and the girl and knowledge of the accused that they were so associated and if you will return at two o'clock, I will continue with the evidence. Please don't discuss the matter with anyone or be seen in the company of anyone who has any connection with this case.

ON RESUMPTION

20 TIME: 2:05 p.m.

JURY ROLL CALL ANSWERED.

DEFENCE COUNSEL: M'Lord, I think we have a sick Member of the jury.

HIS LORDSHIP: What happen, Mr. Foreman?

FOREMAN: A sick Member of the jury say he is sick.

HIS LORDSHIP: You sir?

JUROR: Yes, sir.

HIS LORDSHIP: You can't continue until this evening?

30 JUROR: No, sir.

HIS LORDSHIP: You think you will be well enough by tomorrow?

JUROR: I just don't know, sir. I am consulting my doctor, doctor Antonio.

HIS LORDSHIP: Eh?

JUROR: I am consulting my doctor, sir, doctor Antonio.

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HIS LORDSHIP: You have been to him already?

JUROR: Yes, but he doesn't look after me yet,
so he send me to report and come back to
him.

HIS LORDSHIP: So is your doctor Antonio in
office?

JUROR: Yes, sir, he is in office.

HIS LORDSHIP: You think you can sit it out for
this evening?

JUROR: Sir?

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HIS LORDSHIP: You think you can sit it out for
another hour and you consult your doctor at
three o'clock?

JUROR: I will try to do that, sir.

HIS LORDSHIP: If you think you can't you can
tell the foreman and he will tell me.

JUROR: Yes, sir.

HIS LORDSHIP: Any time that you find it is
coming too bad, you let me know.

JUROR: Yes, sir.

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SUMMING-UP (CONT'D)

TIME: 2:08 p.m.

HIS LORDSHIP:

Well, now Members of the Jury, I am going to
turn now to what I describe as the second phase.
We have already dealt with the association of the
deceased, with the knowledge of the accused with
Carmen Walden. Now, the second phase concerns
his departure and his return to Port Maria. That
is covered by the first witness Stanford Lynch,
who says that he is a farmer at Trinity and he
knew the deceased for some years. He also knew
the accused and in 1967 Foster and the accused
lived at Trinity. They were friends at first and
afterwards they were not so friendly, but he
didn't study when they became not so friendly. In

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other words, he doesn't know when the transition took place. I don't think this jury can go on.

CROWN COUNSEL: I don't think so, sir. At least he can't pay attention.

DEFENCE COUNSEL: He has to be hearing.

HIS LORDSHIP: What is the section, Mr. Farquharson? Will you summon Doctor Antonio for me. Please ask him if he could come here right away. He is the medical officer.

10 CROWN COUNSEL: I don't know, sir.

(sic) HIS LORDSHIP: Section 31 (3). You were feeling six this morning, sir?

JUROR: No, sir, I wasn't feeling sick this morning, sir.

HIS LORDSHIP: Well, we better adjourn until the doctor can look after him.

CROWN COUNSEL: Yes, M'Lord.

ADJOURNMENT TAKEN AT 2:12 p.m.

ON RESUMPTION

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TIME: 2:25 p.m.

DOCTOR ANTONIO PRESENT IN COURT.

HIS LORDSHIP: Yes, Doctor Antonio, this jury, number 2 - what is his name?

REGISTRAR: Robert Mitchell.

HIS LORDSHIP: Took ill this morning and had to leave the courtroom and appeared much worst this afternoon. Do you think he is in a position, having examined him, to continue with this trial?

30 DOCTOR ANTONIO: No, M'Lord. I will have to take him to hospital right away.

HIS LORDSHIP: You say you have to take him to hospital right away?

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DOCTOR ANTONIO: Right away.

HIS LORDSHIP: Very well, thank you for coming, Doctor. He is discharged from this trial and for the remainder of the session. Thank you, Doctor.

SUMMING-UP (CONTD)

TIME: 2:30 p.m.

HIS LORDSHIP:

Well, Members of the Jury, the trial will proceed with eleven of you constituting the jury, I have power under the law to discharge not more than one, so please see that any of you don't get sick again. 10

Well, we were turning now to the second phase, which is the departure from Port Maria and his subsequent return to Port Maria, and we were dealing with the evidence of Mr. Stanford Lynch, who told you that he knew both of them and they were friendly at first but that he didn't take note of when they became not so friendly. He says that on the 23rd of December, that is the night Huie died. At about eight o'clock he went to the gas station at Trinity; he saw Huie Foster there and he saw the accused there, They were talking but he couldn't hear what they were talking about. They were speaking face to face for about two minutes. He says the accused left him at the station. He left in one Toby's car, that is, Mr. Toby for Highgate between eight and half past eight, and that when Anderson left the gas station he was wearing a suit of khaki and he explained by that he meant khaki shirt and trousers. He said in December 1968, the deceased lived in Trinity. He says he doesn't know where Anderson then lived. 20 30

He was cross-examined and he said he knew the deceased well. He can sign his name and it was not the deceased who taught him to sign it. He says he knows of Carmen but he doesn't know the name of Huie's other girlfriends. He says both the deceased and the accused walked towards the car. He says he didn't notice if Huie closed the car door. This was about 8:30 p.m. He says he gets on well with all his friends, so from all 40

appearances, Members of the Jury, it would seem awkwardly that up to this stage Huie and the accused were on good terms. So if you are going to -- well, I will put it this way, you might reach a stage where you might very well have to ask yourselves, was the accused leading the deceased up the garden path at the time, leading him into a false sense of security - those are the factors which you have to stop and consider.

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10 The other witness was Exford Neil Mr. Creary's headman. He says he knew the deceased Foster from 1955 and he knew Anderson 1955. He knows the gas station. On the 23rd of December he was on the right hand side of the road in front of the gas station. This was about 7:30 p.m. He saw the accused at the station, and he went towards the deceased. He couldn't hear what they were saying. Deceased moved and accused following him going up and coming. He says he left there shortly

20 that. Well, the deceased - I don't know that you can place much on this piece of evidence that the accused was following up the deceased up the gas station because the evidence seems to be that while they were talking, the deceased was going about his ordinary duties serving gas, and all those are some of the things - Anderson was moving around with him. He says he left there shortly after, Anderson was still at the station. He says the accused was wearing a red khaki suit - shirt

30 and pants.

Cross-examined, he said Foster was serving gas when Anderson, came there. He was not serving him but he served two cars when he was there. You see, he says he was across the road and he doesn't know how far the station is from the road. He refused to come off that. He wouldn't budge to give any estimate.

40 Now, we turn to the evidence of Mr. Levi Graham, that is, the man who took him up to Highgate.

Graham tells you that he was a chauffeur and he lives at Harmony Hall which is very near to Highgate. He knows the accused; before the 23rd of December he knew him for about one year and he also knew the deceased, Foster, for about two years.

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On the 23rd of December he saw Anderson at the gas station where the deceased worked. He says it was about 8:15 p.m. - 8:15. He says the accused asked him if he was going home and he told him yes. He said three of them were in the front of the car and accused got in the back of the car and he says he drove straight to his yard gate, didn't stop; he dropped out the accused at his yard gate and drove to his yard a distance of another couple of chains up the road. He cannot say what time he dropped off the accused but he said he drove this little short distance up to his yard, he looked at his watch and it was 8:50 - ten minutes to nine and he says the accused was wearing a khaki suit when he got in the car.

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So, now we have him leaving Trinity and we have him going up to Highgate. All this the accused admitted, that he had left in Toby's car and went up to Highgate.

Now, Aston Wood, the bus conductor tells you that he is a conductor on the Victor Transport which plies between Kingston and Ocho Ruis via Highgate and it comes down to Port Maria before going to Ocho Rios. He says he knows the accused as he has travelled regularly on the bus which is quite understandable if this is the night bus down to Port Maria and accused does part-time work at the hospital as porter you would expect him sometimes to travel on the bus. He says he has been on the route for twelve years. He says he speaks to the accused when he travels and on the 23rd of December, 1968, the accused boarded his bus in the square of Highgate. He was on his way to Ocho Rios; this was about 9:20 p.m.

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Now, Mr. Graham told you that when he dropped off the accused and travelled the few chains up to his yard it was ten to nine. He didn't say he judged it was, he said it was ten to 9:00 because he looked at his watch. Now, you have this bus conductor telling you that it was about 9:20 p.m. Now, he hasn't given you any accurate time, Members of the Jury, but this is a man who has been on this route for twelve years and you know that buses run on schedule and he is telling you that it was about 9:20 p.m. when the accused boarded his bus.

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He says the accused came off the bus about

two chains below the Port Maria hospital gate and you will remember, in answer to a question by me he further said he knows Miss McKella's bar and it was a little below Miss McKella's bar that he dropped off the accused; He had passed the hospital gate and it was a little below Miss McKella's bar; he had on a full suit of khaki, shirt and pants he said. He had a little parcel in his hand and when he was asked to describe the parcel he said it was a tallish parcel, he gave the length estimated at about two-and-a-half feet. It was not thick, it was flat and long.

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Now, nobody knows for sure what was in that parcel but the Crown is asking you to infer - to draw the inference that what was in the parcel, flat and about two-and-a-half feet long, was the machete. That is the inference you are being asked to draw from that, it is a matter for you to decide whether you think that that is a reasonable inference to be drawn or not.

He says he did not take note of what wrapped the parcel and he said the accused got off the bus at about 9:35. You see, there you have him leaving Port Maria going up to Harmony Hall, reaching there at ten to 9:00, boarding back the bus at about 9:20 and reaching back in Port Maria at about 9:35 p.m.

Now, after he was dropped off the bus we turn to the third phase, who saw him. Now, two witnesses, Joyce Scarlett and Lloyd Skyers were talking at the hospital gate. You will remember Skyers told you he was waiting on the ambulance. Anyhow, we will deal with Scarlett first.

She says she is a domestic worker at Trinity and knows the accused about three years but she doesn't know what work he does. On the 23rd of December, 1968, she puts it at about 9:15 p.m. she was standing at the hospital gate by the road leading to the hospital. She says she was at the bus stop. She saw the accused a little after the Victor bus pass. "I was talking to Lloyd Skyers" she says, "...and I saw Anderson going in the direction of Port Maria". She says she left shortly after and went to her home leaving Skyers there. She was talking to Skyers and she left Skyers there but before that she saw when Anderson

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came off the bus; she does not recall how he was dressed. Says the bus was going in the direction of Port Maria. She says she likes the accused and they never had quarrelled over money. She works at one Miss Jessie's shop; she doesn't remember any dispute over change and she never called him a thief at any time over change. Accused is not her boy-friend.

She was going to Trinity and Skyers was going up to the hospital. When she left she went down towards Trinity leaving Skyers there; they were speaking more than an hour. She was there about half-hour before she saw Anderson. She says Skyers was going to work at the hospital.

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Now, Skyers in turn told you that he is now employed to some other company but in December, 1968, he was employed at the hospital driving an ambulance. Now, I pause here, Members of the Jury; if he is employed at the hospital driving an ambulance and the accused is employed at the hospital as a porter, would you or would you not expect him, in a small hospital like Port Maria hospital to know the porter, part-time or not?

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Anyhow, he says on the 23rd December, he saw the accused about 9:15; he was at the hospital gate with Joyce Scarlett. He saw Anderson at the hospital gate, standing. He was on the road leading up to the road to the hospital, about quarter chzin from the main road; he was actually inside the hospital road. He had on a khaki shirt and pants. He says he remained there for some time and left. He says Anderson left before him and went up to the hospital road, in the direction of the hospital. He says this was about 9:30 p.m. and he never saw him again.

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When he was cross-examined he said he was with Joyce Scarlett and he was waiting on the ambulance. He says he spoke with Scarlett for about half-hour; doesn't remember what they were talking about and he says he was sure it was Anderson he saw and that he went up the hospital road. Says he doesn't remember if he stopped. He saw him standing at the gate for about fifteen minutes, standing about quarter chain away from Scarlett and himself.

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Now, comment has been made by the defence that

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10 neither Scarlett nor Skyers saw the accused with any machete or with any parcel such as Wood described as having seen the accused with on the bus. Well, I don't remember their being asked and I am sure if they had they would have answered or they would have said so. There is nothing conclusive about that, Members of the Jury, that he did not have the machete, he might have left it

20 somewhere else or he might have had it in his pants waist or something like that but they did not say they saw him with any machete so you have to take that into consideration.

Now, we have him going up to Highgate and coming back down to Port Maria. You will remember on his own evidence he said he went up and came back. The purpose for which he came back, as given by him, is different from the purpose which the Crown is saying he came back so, we move to the fourth phase, what happened now, near midnight at the hospital gate.

30 Cleveland Wilson who lives in Port Maria knew the deceased, Huey, and on the 23rd December, he was in Miss McKella's bar. This bar, he says, is about one chain from the hospital gate. You will remember that there is evidence that there were lights in the vicinity. Anyhow, he saw the deceased, Huey, in the bar and Huey came there about half-past 10:00. He said he had been there before Huey came in and Huey even bought him a drink and he stood by the counter and he saw when Huey stepped outside on to the piazza and looked in the direction of the hospital gate. He says he did it three times in all - moved to the outside piazza, the door and looked towards the hospital gate. You are being asked to say was he looking then for somebody whom he had expected to meet at the hospital gate that night.

40 Anyhow, he left at about 11:30 p.m., that is Huey, and turned to the hospital gate towards Trinity. Wilson says he left about one hour after and he went in the other direction, towards Port Maria. He says Oscar Fairweather was in the bar and he left, Fairweather left him in the bar and turned up towards the hospital gate and there you have this witness, Wilson, saying that Fairweather left the bar before him and went in the direction of the hospital gate. When he, Wilson,

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left the bar he went in the direction of Port Maria.

Cross-examined, he says he usually drinks at that bar, it is a rum bar. He does not know what licence it has. He says the lady usually keeps it open until about 1:00 o'clock in the morning. Well, I don't know what licence she has either, if she can open until one. He says he likes his white rum sometimes, so does Fairweather. He says he knows Huey about three years and when he saw him turn to go to the door he told me, "...that somebody coming to meet him at the hospital gate". That is what he said in answer to counsel for the defence, "When I saw him go to the door he told me somebody coming to meet him at the hospital gate". "I went from there home; from home to bar".

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Now, this you will bear in mind, Members of the Jury, the importance of this piece of evidence what Hueie told Wilson when you come to consider the events of the next day what accused is supposed to have told Ivan Wilson about looking for someone and that he was looking for his death. When I come to that I will advert to it again.

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So now, moving from Port Maria up to Highgate; moving back down to Port Maria; being seen at the hospital gate with Hueie; being seen by Cleveland Wilson looking towards the hospital gate and telling him somebody is to meet him Hueie at the gate.

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Now, this girl Andrea Walker, you remember that she was the bright little school girl who gave evidence here. She lives in Islington, but her mother lives in Port Maria. In December 1968 - the 23rd of December she was spending time with her mother at Port Maria. She says she was at her cousin's bar at Trinity about something to twelve. You see, the time, something to twelve, that is when she puts it, she left and was coming towards the hospital gate. Now, she says coming from Trinity back towards the hospital gate, and her house. I think she told you was about one and a half chains or a chain, or a little more from the hospital gate. Yes, she says, "My mother's house is about one and a half chains from the entrance to the hospital gate on the Trinity side. She

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says she knew the deceased Huie Foster for about three weeks. After she left the bar she saw the deceased at the hospital gate sitting on a bicycle. Wilson said that is where he left too. He was on the main road to the Port Maria - to Port Maria on the same side as the hospital entrance. She told you there was a street light at the hospital gate, and it was burning. He stopped a little by her mother's gate with her four friends, and while there she could see Huie Foster sitting on his bicycle. A gentleman - and she doesn't pretend to tell you who it is, Members of the Jury. She says a gentleman came down towards him from up the hospital direction. Now you will remember the evidence of Skyers that the accused had gone up the hospital road. Well, she saw this gentleman - whoever it was - she doesn't pretend to see come from up the hospital direction. She says the gentleman was speaking to Foster dropped the bicycle and went up the hospital road. She says he ran. The gentleman walked fast after Foster. I lose sight of them. She said he stood there a while and heard like a moaning of a human being. After that she saw a lady coming from out of the hospital road like she was running. She saw the gentleman coming towards her walking. He cut across the lady and she turned up back the hospital road - she ran. The man turned back and she says she doesn't know if it was the same man who was talking to Foster. She doesn't know who that man was.

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(continued)

Now, I pause here. You will remember when we were dealing with the evidence of Carmen Walden, she told you - and you will have to consider whether she has told you the whole truth or whether she was keeping back something. On this girl's evidence if you accept it, there was a woman at the hospital gate that night and there was Huie at the hospital gate. Was it Carmen Walden or was it another woman? And was the accused there - whoever the woman was? She knows Oscar Fairweather. She didn't see him. Well, the only conclusion it would seem that you can draw from this, Members of the Jury, is that she left before Fairweather came on the scene. She knew the accused a few days before this night. She had seen him once at her cousin's bar. So it appears to her - she has not pretended to tell you who the gentleman was. The only person she

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has identified as being at the hospital gates that night is Huie. She doesn't know who the woman is. She doesn't know who the man was. She doesn't know whether it was the same man that was talking to Huie that accosted Huie. If it were the same man, well, the man who accosted Huie - put it that way - walked fast behind Huie and you will bear in mind that so far as that piece of evidence goes - how many chops Huie had in his back - how many in his front?

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She says her friend, Doreen Hamilton - this is in cross-examination - she was one and a half chains from Huie when she saw him on the bicycle. He was not under the light but she was asked "How you come to know is him"? Huie used to teach her to ride. There is another young lady whom Huie was closely associated. He taught her to ride bicycle. She says Huie and the man talked but she couldn't hear what they were saying. She said after she had stood there about ten minutes she heard the little moaning but after - and it was after the deceased ran that she heard the moaning. She said she couldn't see up the hospital road from where she was standing, but she could see the entrance up the road, Huie at the entrance, not on the hospital road. She doesn't know where the moaning was coming from. She says there were no adults with her, they were all young sisters like herself and she said the last thing she saw was a woman running but she didn't make her out. She said Doreen is older than herself.

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Then now, Members of the Jury, we come to the man who has been described by counsel for the defence as a drunkard. Who, as has been submitted to you by counsel for the defence, was so drunk that night that he had visions. Now, Mr. Fairweather, Members of the Jury, is a very important witness. He is the only witness who has in any way positively identified the accused by his voice at a time when this incident was apparently taking place so you will have to consider his evidence very carefully. You see we are still dealing with the fourth phase - the incident at midnight and shortly after. He says he was a district constable. He lives at Trinity. He knows the deceased for over two years and he knows the accused over a year. He doesn't know what work the accused does and on the 23rd of December he was at Miss

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McKella's bar. This was around 11:30 p.m. He was having a drink. He left around fifteen minutes after 11:30 and he took his bicycle. That is the deceased - I am sorry, Members of the Jury. He said the deceased was there. This was around 11:30 p.m. and the deceased was having a drink. He left about fifteen minutes after 11:30 which was quarter to twelve and he took his bicycle with him. He said he rode it. He told you that Miss

10 McKella's bar is on the right hand side going towards Trinity which would be on the other side from the hospital gate going towards Trinity but before you come up the hospital gate. He says he has no idea how far away the bar is. He left the bar about twenty minutes after Huie left and went towards the hospital entrance on his way home at Trinity; but he was not walking on the hospital side of the road, he was walking on the other side - the same

20 side as Miss McKella's bar. He says while he was going along he reached opposite the hospital gate. He heard a person's voice coming from the vicinity of the house and kitchen inside the hospital gate and roadway that is Miss McKella's house and the little kitchen, that he said is attached to the side of the house. He says the side of the house is to the main road and the front on the hospital road. Well we understand that. He stopped when he heard the voice and went back to McKella's bar. At least he asked for a light and he asked for

30 assistance, but he got no light - nobody was there. Apparently everybody had left so he returned. You remember the bar is only a chain or so away and when he returned he saw a man with a penlight in his left hand and he observed like it had a red rim around the top of it. Well, you saw the penlight. It was taken from the accused's home. It is a penlight with a red rim around it. He says the light was on and he was holding it downwards. It was not bright. Well, if its red rim, Members of

40 the Jury, and the light was on then wouldn't he had seen the reflection of the red? He says the man's side was towards him. He demonstrated that he saw the man's right hand move up and down twice and he heard the voice saying, "You fucker you, you fucker you", and he said it was the voice of Rupert Anderson. He says he had spoken to him before whenever they meet. "Both of us live on the same bit of land". They had a common landlord and he was accustomed to speak to him regularly.

50 The words, "Murder murder murder" were the first

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things that attracted his attention and he says the accused was wearing a pair of water boots.

Now, he continued to see what was happening. He told you of the lights, one was below the hospital gate and one on the other side. Two lights in the area. He says he went on home.

Now, I pause here, Members of the Jury, he was severely criticised for this if he heard shouts of "Murder, murder" and "You fucker you, you fucker you" and he is a district constable, why didn't you go in and see what was happening?" Well, you saw him. He is a diminutive little man and he said further on - well he did not go in; it could have been a fight or anything but the fact is that he did not go in. He went home next morning; he heard something some time after eight. He went back to the hospital gate and went to the gateway of the house; at the hospital gate he saw a cycle leaning up on the far side of the house. The crowd was there, and he saw the dead body of Hueie Foster. It was on the side of the house to the main road, the bottom side of the road between there and the main road, and he says "It was the same spot I heard the voice of accused and saw the figure." There is a bank on the left side of the road towards Trinity. The body was between the house and the bank.

He was cross-examined. He says he left home that morning; he did not work; he was up and down looking about business. He was having a drink about nine p.m. at the bar. He was on his way home at twelve mid-night, and he had been drinking for about three hours and he denies emphatically that he was drunk. He said he was not drinking white rum; he was having beer, and eventually when pressed he said he had one white rum just before he left the bar. He says one can see the hospital entrance from the bar. This is Miss McKella's bar. He says Hueie was going toward Trinity but they were on the opposite sides of the road. He explained that what he meant was, Huey was on the hospital side of the road and he was on the McKella-bar side of the road. He says when he heard the sound he stopped and said, "Who that, who that"? but he got no response. He went back to the bar for assistance but got none; he asked for a flashlight but got none. He said no one would

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come and assist him so he went back, it took him two or three minutes; he never crossed the road.

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Well, you are being asked, Members of the Jury, to say by the defence that it is fantastic that he could have heard this thing going on, reached back to the bar and come back and it was still going on; he says it took him three or four minutes. Well, you can judge for yourselves, Members of the Jury, whether this man received sixteen chops in ten seconds or whether it might have taken a little time for the whole incident to be complete. Anyhow those are all matters for you, you are the judges of the facts.

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He said he stopped again when he came back and saw the man with the pen-flashlight make two motions and use the words, "Yu fucker, yu"! He admits there is a croton bush between the house and the bank but the bush is not so thick, then he says he looked through the croton and saw the flicker. He said the, "...fucker yu" was said loud. He was asked if he did not say it was soft at the preliminary and he said what he meant by soft was, "Murder! Murder!" He said he was speaking the truth and he did see the red pen-light; he never knew the pen-light before.

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Now, he says, Members of the Jury, that last year the accused promised to sell him a cow. Well, there you have people who are bargaining for a cow, talking to one another, so here you have at least one opportunity, if no more, when he could have had opportunity to get acquainted with his voice but in any case he did not say this was the only occasion, he says they meet all the time and speak whenever they two meet. He says he was the only person on the road that night, he did not see the girl. Juke box was playing at Miss McKella that night. He says the man, after the chopping motions went by the latrine of the house and he couldn't see him again. He bent down and peeped through the croton from the side of the road; the only lights in the road was the street light.

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When he was asked why he did not go in he said it could have been a fight going on; he did not go to have a closer look. He denies again that he left the bar full of white run. He says he knows Huey's girlfriend at home but he does not

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know any of them outside. When asked he could not give the name of Huey's home girlfriends so, there you have it, Members of the Jury, the evidence of this important witness, Mr. Oscar Fairweather, that he recognised the voice of the accused at the porter's lodge. You have the evidence of Andrea Walker that she recognised Huey at the porter's lodge going up the road with a gentleman behind him. You have the evidence of Cleveland Wilson that Huey left the bar and was at the hospital gate. You have the evidence also of Fairweather on that. It is for you to say, Members of the Jury, what you make of the totality of the evidence up to this point.

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We move on now to the fifth phase, discovery of the body by Josiah Ferguson and, I would say, by Dr. Harry because Ferguson told you he was a grave digger and he is the person who occupies this little house at the hospital gate. And on the night of the 23rd December, he left his home. He told you that there is a little kitchen adjoining the house, the roof butts on to it but you can walk between the kitchen and the house. He told you of the three lights there, one is on the hospital road and there are two on the main road, one on the right of the gate and one to the left.

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He says he knows the deceased, Huey, for about two years and on the night of the 23rd of December, he left home about 7:00 p.m. Nobody was left at the home; he returned home at about 7:00 a.m. on the 24th of December; that is important, Members of the Jury, that time, 7:00 a.m. He observed a bicycle leaning up on the house, it was at the side of the house near to the hospital. He said the 'cycle was not there the evening before but he knew it was the deceased's cycle'. He went a little further and saw a man lying down, chopped up. He went to the station and made a report. He did not touch the body; the body was at the same spot when he returned to the hospital. He said it was on the side of the house to the main road; he said it was near to the road at the side of the house. He recognised the body as that of Huey Foster. Said the street lights were on when he left home that night so he discovered the body when he went home at 7:00 o'clock that morning and that is the first hue and cry that is being made that Huey had been found chopped up, at

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7:00 in the morning.

You remember Dr. Harry also told you that he was going to work that morning, saw the crowd at the hospital gate and he investigated and saw the mutilated body of Huey Foster who was well known to him.

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10 Now, let us turn to the evidence of his uncle, Magnus Watson. Mr. Watson told you that he is a tailor and he lives at Fraser Wood. He knows the accused, the accused is his nephew. Prior to the 23rd December, 1968, he rented him a one-apartment room on his building. He said he was just there over three weeks and on the 24th December, 1968 - on the 24th December, that is the Christmas eve now, 1968, he was at home and he heard when accused came home. He says he had no clock but it was pretty late, it was after 12:00 o'clock; he was sure he heard walking and he asked, "Who are you?" and the accused said, "Is me, Rupert"! He says, 20 "I asked him where he was coming from", and the accused said Port Maria and that he had stopped at a dance.

Well, there he is telling Mr. Watson that he was in Port Maria and he goes further, if you accept the evidence, he told Mr. Watson he was at a dance; we haven't heard a word of this from the accused. He says he went back to Port Maria for his wallet which he had lost, didn't tell us about any dance. But this is what the uncle says he told him, you 30 must decide whether you accept it or not. He says he got up about 6:00 a.m., that is the evidence, he got up about 6:00 a.m. and saw Rupert and Rupert said to him that he heard they kill a guy down Port Maria and he know the guy.

Now, when I told you earlier thst the time the body was discovered is important, Members of the Jury, it is important in relation to this piece of evidence which Mr. Watson is telling you that accused told him because Mr. Watson is - told him at 6:00 40 o'clock in the morning after he got up when the body was not discovered by the grave digger until 7:00. Fraser Wood is some distance from Port Maria so how could he have known to tell his uncle this in the morning that he had heard that they chop up a guy at Port Maria. Where did he get his information from, even if you accept his own statement

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that he came home at 12:00 or whether you are going to accept the evidence of Mr. Watson that he came in after 12:00? On any piece of evidence that you are going to accept where did he get his information?

The uncle goes on. He says he was going to Highgate to buy beef and he says the accused left about 7:00 o'clock for Highgate. He came back about 8:00, he had his breakfast. Mr. Watson said he saw some of the accused clothes on the back line, there was a khaki pant and shirt on the back line and they were wet. He borrowed his tailor iron to press the clothes. When he was pressing them they were not properly dry. He said he borrowed the iron from him quite a few times before. Having done that he went back to Highgate and came back later in the day and showed him some pants, shirt and shoes that he had bought in Highgate. The next time he saw the accused is at 9:00 o'clock the night and he says to him that he heard police looking for him, what had he done and the accused in reply said he had heard so too but he would go and see them tomorrow. And he says on Christmas morning the police came and took him.

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Now, Mr. Watson told you that he was at home for that entire day. He says on - that is the 23rd December - and the accused left home that morning saying he was going to Port Maria and he never came home until the early morning of the 24th when he heard him.

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He was cross-examined and he says he does not have a clock; he gets time from the radio. He says Rupert told him about a killing before he went to Highgate, it was not after his return from Highgate that he told him about the killing. Now, the importance of this, Members of the Jury, if Mr. Watson had said that it was after the accused returned from Highgate that he told him about the killing then it could very well have been that he got the information when was in Highgate but Mr. Watson said it was 6:00 o'clock in the morning that is, before the body was discovered when he told him that he heard of the killing.

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So, Members of the Jury, what about the other Mr. Wilson, now? I am dealing with the last phase, so to speak - the subsequent events, the

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10 other Mr. Wilson. Mr. Ivan Wilson who drives a motor vehicle for some collecting agency. He lives in Richmond, knows the accused for about six months before - he knew Foster for about six months before and on the 24th of December he saw the accused Anderson some time before ten at Sandside. He insisted that it was around this time that he saw him. This would have been after he had been up to Highgate and been back home, and now come down to Port Maria. He said it was on the road between Trinity gas station and the hospital gate, he was standing alone on the road and he said to him, "Man what a way they kill off our good friend". He was referring to Huie and the accused is supposed to have said to him; "What is not yours you must leave it alone. Like brute you live, like brute you shall also die for it's a lesson to man to teach man not to fool around a next man woman." He says he turned to him and say, "You said, is not criminal kill him. I thought it was criminal rob him and kill him. I didn't know is a next man woman he is fooling around", and the accused said, from the night before he saw Huie in Miss McKella's bar drinking a beer. He turned his back to the counter looking over the road for the next man's woman looking, and at the same time looking for his death and don't know it. You will remember what Mr. Cleveland Wilson told you that he saw Huie looked towards the hospital gate three times. How does he come by this piece of information to be able to tell Mr. Ivan Wilson that Huie was in Miss McKella's bar looking out for another man's woman and at the same time looking for his death. He did get his death that night.

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40 They continued the conversation for a while and he drove off in his van. He says he stopped at the hospital gate after leaving the accused and he saw a crowd there. And he says where he saw the accused was about three quarters of a chain away from the Trinity gas station - that is nearer Trinity than to the hospital gate.

Now, Members of the jury, Mr. Wilson, the van driver, having spoken to the accused was curious enough to stop at the hospital gate when he saw this crowd, but the accused was not curious enough to go and find out what had happened to his good friend. There is no evidence in the case that the accused was seen at the hospital gate that morning

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after the body was discovered. The closest he has been put is by this witness. What do you make of that, Members of the Jury? He was not even curious enough to go and see what happened to his own friend. These are mere comments which I make in passing. I am not the judge of the facts. You are the sole judges of facts. You must interpret the evidence and say what you make of it in its totality.

When he was cross-examined he says he came direct from Richmond to Port Maria; he stopped at Trinity station. He spent about five minutes there; he left Richmond about eight a.m. which is ten and a half miles away. He drove an Austin van. When he was asked why it took him so long, he said he stopped between Richmond and Port Maria. He says he was not in any haste. The stop could have taken him longer than that if he wanted. It was suggested to him that he didn't see the accused in Port Maria that morning and he said he was sure that he saw the accused that morning. He said the deceased Huie was his good friend. He first met him at the gas station when he sold him some gas one night just as he was closing. After that they became friends. 10 20

He says - and here you have another witness testifying of the friendship between Anderson and the deceased, the apparent friendship - he says deceased has on occasions asked him to drop the accused at Highgate. He told you then that he was collecting for Better Homes and he does seizing. And it was suggested to him again that he was not truthful when he says he saw the accused. He says he did see him and it was between nine and ten in the morning. 30

In re-examination he said the last time he dropped the accused at Highgate was around (sic) November, nine hundred and sixty eight.

Doctor Harry told you of his having performed a post mortem examination. Doctor Harry told you that he was in charge of Port Maria Hospital and on the 24th of December he was on his way to work. He saw a crowd at the hospital. He said this was about 7:00 a.m. He said he saw a body lying on the bank of a cottage at the hospital gate, at the corner of the cottage and he recognised the body 40

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as that of Huie Foster who was very well known to him. The body was lying on its back looking upwards. The left arm was on the ground and the right arm stretching forward. The right leg overlap the left leg from the knee downwards. There was much blood on the grass and earth near the corner of the house. The body was removed to the morgue and constable Watson identified the body, but he also knew him personally. He was thirty-eight years old. He did the post mortem examination the same morning at about 11 o'clock and he says that there were two wounds and there were several cuts through the shirt and vest covered with much blood, and he identified the shirt and vest which he saw on the deceased. The doctor told you that the left eye of the deceased was closed and the right eye was widely opened and steering. He said to the front of the body he found one, the right index finger was severed and missing at the upper joint. Two, there was an oblique wound, three inches long at the front of the right wrist and lower forearm through the skin. Three there was an incised wound three inches long through the skin on front of the chest. Four, a superficial wound one and a half inches long to the side of the right breast. A lacerated wound on the tip of the nose, and to the back of the deceased he found one, a four inch long incised wound on the back of the root of the neck running transversely like that. A two inch long incised wound through the skin parallel to the first wound in the same direction. A six inch long incised wound going through the neck and the bones of the neck and severing the spinal cord. Four, an incised wound five inches long, one inch above this wound that severed the spinal cord. All those wounds were parallel to one another. He says he found this incised wound one inch long above number three apparently a piece of the tissue was missing. You remember he described it, it was like a cut, cut out like a peg of an orange. Five, a five inch long incision, one inch above and parallel to this number four wound. Six, a similar incision half an inch above the number five wound, five inches long. Seven, a similar incision half an inch above wound number six. Eight, an incision from the ear to the back of the head opening into the skull and brain. On the left side of the face he found one, a four inch laceration almost severing the left ear. Two, a wound running horizontally across the left temple

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about one and a half inches above the wound number one. He found also an incised wound five inches long down to and partially through the left shoulder blade running horizontally, that is over here, and in his opinion death was due to multiple injuries and most definitely severing of the spinal cord, which was wound number three, he described found on the back. He says the wounds were consistent with infliction by a sharp instrument such as a machete, and he looked at the machete in Court and says that could have caused it. Used with some degree of force the wound that severed the spinal cord would have required some force. A sharp knife could have caused some of the injuries he found - when asked - 17 wounds on the body. The frontal injuries he said those could have been inflicted from any position in front or to the side. The back injuries could have been inflicted from behind or at the side or when the person was lying on the ground. He says death would have been instantaneous in the case of severance of the spinal cord at that level so whether it was the first chop, second chop or the last chop death would have been instantaneous when that spinal cord was severed at that level.

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He says in cross-examination that he would describe the deceased as chopped-up. He says the chops could have been given by - the chops could hardly have been given by a pen-knife. He says blood was on the right and left side of the body and it would be spattered all over. Arteries spatter when cut; it sprays blood but would cease immediately after the spinal cord is cut. You see, the spinal cord is the vital point, Members of the Jury.

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Well, Members of the Jury it is now half past three. We have left the evidence of Cons. Dwyer and Mr. Garriques, the lab technician and, of course, the evidence - the statement of the accused to go through. I don't see that any point will be served in pushing it through this afternoon. Well, therefore, at this stage we will take the adjournment and we will continue the rest of the summing-up at 10:00 o'clock tomorrow morning. Please bear in mind that I told you at the adjournment at mid-day not to discuss it with anybody or to be seen in the company of or to talk with anyone having anything to do with this case.

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Well, when we concluded yesterday, Mr. Foreman and Members of the Jury, I had taken you through what I described as the five phases of this case presented against the accused coupled with the subsequent events and we now turn to the evidence of detective constable Dwyer.

10 He tells you that he is a detective constable stationed at Port Maria and that on Tuesday the 24th of December, 1968, a report was made to him at the station. He says he went to Trinity in St. Mary and he got there at about five minutes past 7:00. You remember the grave digger told you that he discovered the body at 7:00 and the report was made and this detective is now telling you that he got there at five minutes past 7:00. You will bear this time in mind; Dr. Harry confirmed that. He says he got the report at about 7 o'clock and he went to the hospital porter's lodge. He says 20 there is a road leading up to the hospital which adjoins the Port Maria main road and he gave the location of the premises in relation to the main road which I have already outlined to you and which I am sure is well crystallised in your mind.

He said when he arrived there he saw the body of a man whom he recognised as that of Huey Foster. The body was behind the porter's lodge and near to the main road, at least, Trinity. The body was on its back with its left-hand underneath its 30 right-hand. Well, Dr. Harry gave you a similar description so I need not repeat that. He saw several wounds over the body, head, neck, and chest. He says there was a lot of blood on the ground near the body and on the wall of the building to a distance of about seven feet from the ground. The body was dressed in green khaki uniform which was displayed to you in court. He says he searched the body and in the right trouser pocket he found an automatic pistol with three 40 rounds of ammunition. He says two rounds were in the magazine and one in the breech. In the other pockets he found several parcels of money amounting to £35. Now, the automatic pistol and the money was put in evidence, you saw the money neatly packaged. There were two bunches of keys, a penholder, a part of a lottery ticket and other personal items in the pocket.

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There was a bicycle leaning on the short side of the building facing the hospital and it had a bag attached to it in which was a transistor radio. Now, Members of the Jury, let us first deal with the articles that were found on the deceased, the money, the gun, the transistor radio, lottery tickets and other things. This does not point to who committed the act on the deceased but it would seem, certainly, Members of the Jury, to point to the fact that the motive for the attack on the deceased was not robbery. The presence of the revolver, a loaded revolver in his pocket might also be of some significance to you. Here is this man, late in the night with a loaded revolver in his pocket and he was unable even to pull it out of his pocket. What inference do you draw from that? Is it that the attack upon him was so sudden and fierce, like a bolt out of the blue, that he did not even have time to pull his revolver? Those are matters for you, Members of the Jury, you are entitled to draw reasonable inferences from the evidence which has been given in this case.

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He says near the body was a banana trunk, it was a green trunk. This banana trunk was about three yards from the body of the deceased. He says he observed that there were several slits in the trunk as if someone had thrust a machete in it, it was about four or five slits. He observed that they were very recent as stain was still running from them; the slits were inside of the trunk as if something was pushed right through it.

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Well, I don't know for you, Members of the Jury, but I am basically a country man and a lot of you know that sometimes when you work in your banana field or do a little work and the machete is muddy you run it through the trunk at times to wipe it.

Well, this evidence - piece of evidence was put forward by the Crown, they are asking you to draw an inference that it was the machete which was used to chop up the deceased which was thrust through this trunk several times to wipe off the blood. We are not saying it was the accused who did it, I am merely saying that that is the inference you are being asked to draw. On the other hand, when we go on further, you will be told that the detective found banana stains on the machete which was found

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in the accused room. On the other hand the accused accounts for those banana stains by saying that his relatives from New York were out and he had used that machete to cut banana and to hand it up and to cut sugar cane to give them.

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10 You will remember what I told you about drawing reasonable inferences, I repeat, and if there are two or more inferences to be drawn from any set of proven facts you are to draw the inference which is more favourable to the accused. Now, this piece of evidence is equivocal so you must decide what you are going to make of it.

20 He says there was a folded crocus bag on the verandah, I don't know what relevance that is. Anyhow he informed Dr. Harry and he ordered the body removed to the morgue. He commenced investigation and he went to the Port Maria market and spoke to Oscar Fairweather whom he knew was a butcher in the market, that is, the same detective constable. After having spoken to Fairweather he went to Fraser Wood in St. Mary and he got there about 9:30 in the morning of the same day. The purpose of his visit was to look for the accused, Anderson? yes, Anderson. He says he did not see him, he remained in the area until about 11:00 p.m. but did not see the accused and he returned at about 5:00 o'clock on Christmas morning and he went to the home of one Magnus Watson. You will remember that he went first, in the evening to a one-roomed house 30 which was pointed out to him as the home of the accused but he did not see him and he got other information in the - later in the night and returned at this hour on Christmas morning straight to the home of Magnus Watson, that is the accused uncle. He spoke to him, told him something and he went to a door in the same house and knocked and called the accused and accused opened the door, dressed in underpants and merino.

40 He told the accused he was making enquiries into the death of Huey Foster and as he said this the accused is alleged to have said:-

"Thank God me have Toby, he can give evidence for me that me come up with him from Port Maria and me never go back down there; me never chop up Huey and kill him".

Well, here you have the constable as quoting him

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and telling him that he was making enquiries into the death of Huey and if you accept the evidence of the constable, as he said this the accused blurted out what you might term is his defence at that stage but the important thing about it is that he told the constable, if you accept the piece of evidence, that he never went back down there whereas he, himself, in his evidence said he did go back down there to look for his wallet and there is the evidence of all these other witnesses who took him back to Port Maria and who saw him at the hospital gate. So, if you accept that piece of evidence, why is he, here, telling this lie to constable Dwyer at this stage?

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The constable thereupon, cautioned the accused and asked him to show him the clothes he was wearing on the 23rd of December. Well, the accused disputes this, the accused said he did not show the constable any clothes, it was the constable who took the clothes. Anyhow, the constable goes on and he told you that the accused showed him a pair of brown khaki pants and a brown khaki shirt and a pair of tall water-boots hanging on a nail in the wall and he took them down and in the right back pocket of the trouser he found a brown-handled knife; you saw that knife. In the right foot of the water-boots he found a bit of cardboard with brown marks resembling blood stains. He showed them to the accused and he said nothing. He asked accused if he had a machete and accused said yes and accused showed him where it was, pointing to a piece of celotex. He looked behind the piece of celotex and he saw the machete - he could see the handle of the machete only. He noticed dry earth on the wooden handle and on the blade he saw banana stains.

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Now, the constable says that he, it was, who asked the accused for the clothes he was wearing on the day before, the 23rd and the constable said the accused handed him the brown khaki pant and brown khaki shirt and the pair of tall water-boots. He never handed the constable the black pant and the shirt he was supposed to have worn back to Port Maria. That is his evidence, that he changed his clothes to go back to Port Maria.

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He says the khaki suit as it has been commonly referred to appeared to have been recently washed

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and he produced in evidence the khaki trousers exhibit two. The shirt, exhibit three, the knife, exhibit four, the water boots, exhibit five and the machete, exhibit six. And he indicated to you on the machete and you had an opportunity of seeing it for yourselves that some of the banana stains were still on the machete. He took the accused to the Port Maria Police Station along with the exhibits and on the 27th of December he went back to the accused home and in the room he found the red pen flashlight, exhibit 7. He says the accused was not there when he took the flashlight but it was working when he took it. Well, it was not working when you saw it, Members of the Jury, but this is July and this was taken in December, you hardly could have expected it to be working today. He says he returned to the station where constable Watson who was present at the post mortem examination handed him the khaki shirt of the deceased Huie which he got from Doctor Harry and the merino which you saw and the same day he arrested the accused for the murder of Huie Foster, cautioned him and he said, "Mi never go back a Trinity." So there he is repeating in effect what he had said to Constable Dwyer when Constable Dwyer told him he was investigating the death of Huie Foster.

The accused when he was cautioned was not obliged to say anything. He could have remained silent if he wished but when cautioned, the Constable said he said, "Mi never go back to Trinity." It is for you to say whether he did say that, and if he did say that, what is the effect. He made sealed parcels of exhibit two to six and eight and on the 29th of December he took them to the Police Forensic Laboratory and handed them over to Mr. Garriques, the Forensic Science Laboratory Technician.

He was cross-examined. He said it was his duty to collect the statements in the case and he commenced his investigations on the 24th of December, nineteen hundred and sixty-eight; that he knew Fairweather as a butcher and he had not seen him before he went to the market between eight and 8:30; that he went to Fairweather; that he went to accused's premises. From what Fairweather had told him, he stopped several places before going there and spoke to people known to Huie. He

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didn't tell them what Fairweather had told him. He arrived at Frazer Wood at about 9:30 a.m. Frazer Wood, he said, "is about 6 miles from my gate." It was about 9:30 p.m. and he didn't speak to his uncle when he got there because he didn't know then, he had an uncle there. He was told about a house that the accused lived in. He had spoken to the accused's sister and she showed him a house. He was told the accused lived there and it was a one-room house. He said he stayed in the district in surrounding areas all day looking for the accused. He kept checking at his house, never found him. He went to Highgate, Pear Tree Grove about 6 miles from Frazer Wood. He says he didn't find out then that the accused was not living at that one-room house. He says he didn't find out that day at all. He first arrived at the uncle's house on the Christmas morning and accused was there. He says he knew the deceased well. He says he spoke to the accused when he went there, that is, at the uncle's house, but he never said this is murder and I don't want a warrant. He denies when it was suggested to him that the machete was on the verandah and repeats that it was behind this piece of celotex. It was suggested to him that it was he who charged into the house and grabbed the accused in his shirt and took him out. He says he got information where the accused actually lived after he had left Frazer Wood that night. He says he got about 2 hours' sleep and went back to Frazer Wood early in the morning - he had no warrant. He said it was the accused who pointed out the water-boots to him. He could see the handle of the machete and he indicated about the length of the first finger here how much of the machete handle he could have seen, and he repeats that he did see stains around the middle and on the cutting edge of the machete. That is, banana stains. He didn't see any further down. He tells you the top of the banana tree was also cut off and he saw the trunk dripping when he got there. He has experience of cutting bananas. He says the accused did speak to him and tell him about Toby and about not coming back to Port Maria and it was suggested to him that he didn't find the cardboard in the accused's house and the pen-knife in his pocket and he repeated, "I did find the cardboard in his shoe and the pen-knife in his pocket".

Lastly, Members of the Jury, on the Crown's case

we turn to the evidence of Mr. Garrigues. Mr. Harold In the Circuit
 Garrigues told you that he was a medical Court
 technologist, Chief technician at the Police
 Forensic Science Laboratory and he was a Fellow of
 the Society of Medical Technologists with training
 in the United States and England and has had 30
 years' experience in this type of work. Those are
 his qualifications. He says on the 28th of
 December 1968 he received from Det. Cons. Dwyer
 10 certain sealed parcels. He examined the contents of
 some parcels - parcel marked "A" contained a white
 merino, that is the merino taken from the body of
 Huie Foster and he says it was - it had - there was
 blood present on the merino in dark-brown stains
 on the back, front and straps. The blood was
 human blood. He also examined the parcel marked
 "B" which contained the khaki shirt of the deceased
 Foster and that shirt had several cuts in it
 ranging from $\frac{1}{4}$ -inch to $4\frac{1}{4}$ inches in length on the
 20 back and the front and there was blood present in
 clots on the upper left front and left sleeve with
 dark brown stains on the back and front. The
 parcel marked "C", exhibit 3, contained a brown
 khaki shirt, that was the shirt of the accused and
 that shirt had on no blood stains. Parcel marked
 "D" which is the accused's pair of brown khaki
 trousers he says he found blood present in very
 small brown and sero-sanguineous stains on the
 inner aspect of the right back pocket in the area
 30 circled with blue pencil. He said it was
 insufficient for grouping. He also examined the
 parcel marked "J" exhibit 4, that is the knife and
 he found traces of human blood on the blade of the
 knife by the cutting edge. This was insufficient
 for grouping.

Now, this knife, exhibit four, Members of the
 Jury, is the same knife which was found in the
 right back trousers pocket of the khaki pants;
 and here you have Mr. Garrigues telling you that he
 40 found blood, pale brown serosanguineous stains in
 this right back pocket of the khaki pants. You
 have him telling you also that on the knife which
 Constable Dwyer took from that same pocket he also
 found traces of blood on the cutting edge of the
 middle. He says the stains he found in the right
 back pocket were serosanguineous stains, and he
 told you that serosanguineous blood is diluted
 blood, and he says that it was the type he found on
 the khaki trousers and that dilution could be caused

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 (continued)

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(continued)

by dilution of some form such as washing. He says if all the blood was not removed by the washing, that is the type of stain he would expect to find, and that diluted blood stain which he described as a serosanguineous stain; bearing in mind the evidence of his uncle that he saw a wet khaki suit on the clothes line and that the accused borrowed his iron to press it.

He examined the parcel marked "F" which contained a pair of black rubber boots with a piece of cardboard in the right foot - that is the rubber boots here. He says there was human blood on the cardboard which he marked in blue pencil and pointed out to you. In his opinion they were then about two weeks old, he does not think it could have been more than that. He says there was no blood on the shoes - well, that is merely his opinion, Members of the Jury, you are not bound to accept it because he happens to be an expert in this particular field. An expert is brought before you merely to guide and assist you in evaluating evidence of a particular nature, he being trained in that particular field therefor. You will weigh well what an expert has said before you discard his evidence because neither you nor I is trained in that particular field in the same way that Mr. Garrigues would weigh well what I would have to say in the field of law because he is not trained in that particular field. But you are still judges of the facts and you may accept or reject evidence of the expert.

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He examined the parcel marked "I" which contained the machete, he found no blood on it.

He was cross-examined, he repeated there was no blood on the machete, neither on the blade nor on the handle. He said the machete was dirty. The rubber boots had canvas on it and if blood got on the canvas it would retain it longer than if it had got on the rubber. He says, when asked, that the blood in the right back pocket of the trousers could have got there from something being placed in the pocket. That is the pocket in which the knife was found which also had on blood. He checked the khaki shirt but there was no blood. He says it needed a fair washing to remove blood completely from clothes and a detergent would be needed; a trouser would not necessarily retain the blood more than a shirt.

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He says he does not think the blood on the cardboard was more recent than two weeks but, of course, nobody is infallible; he says it could be more.

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Re-examined, he says, he cannot say how old the blood was; he says it could have been there two months and there is hardly much change after a certain stage.

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(continued).

10 And that, Members of the Jury, concludes the evidence which has been led by the Crown. In an effort to establish guilt against this accused man this is the evidence which the Crown has led, this is the evidence which you will have to consider in conjunction with the accused statement which I am now about to remind you of.

20 Now, the accused gave a statement from the dock and an accused person, Members of the Jury, as I told you when I was directing you on the burden of proof, is presumed to be innocent until he is proven guilty by the Crown in the expression of your verdict. He is not obliged to say anything at all in his defence. He may go into the witness box and give evidence on oath and be cross-examined or he may make a statement from where he stands where he cannot be cross-dxamined or he may say nothing at all, that is his right and privilege. Whatever he does it does not shift the burden from the Crown. In this case he elected to make an unsworn statement from the dock and I must tell you
30 that that statement which he made from the dock is not sworn evidence which could have been tested by cross-examination. The witnesses for the Crown, they gave sworn evidence, they were tested by cross-examination. What the accused gave could not be tested by cross-examination, nevertheless, you may attach to it such weight as you think fit and you should take it into consideration in deciding whether the accused has made out a case - whether the Crown has made out a case against the
40 accused so that you can feel sure that the accused is guilty.

Now, the accused made a fairly long statement and I will go through it with you. He says he lives at Dean Pen, Fraser Wood; that he is a mason. He went down to Port Maria at about 5:00 o'clock on the 23rd December, 1968. He had

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a cousin who is gone to America who left him in charge of her place at Port Maria. He was there on the 23rd December and he left there at about 7:30 p.m.

When leaving, the cousin's young daughter gave him a £1 and asked him to get some beef in Highgate for her the following morning. Having left he walked up to Trinity where he could get a drive. When he reached the gas station he saw his friend, Huey. He said to use his own words, "I saw my friend Huey Foster". He says Huey called to him and he answered him and Huey asked him, "Where you coming from now?" and he told him where he was coming from. While they were there standing both of them, both of them were at the side of the gas station talking. He saw a car drive up and stop, he walked towards the car, that is, Huey walked towards the car and accused said he was behind Huey. Both of them went to the gas pump, he leaned on the gas pump and served gas then a next car drove up, when he looked he saw that it was Mr. Toby from Highgate. He said to Huey, "This is a drive to Highgate, I am going now", Huey said "All right, Rupert". Both of them walked to the car and he went in and closed the door. When the car was about to drive away, Huey called to him and said, "Rupert, when I will see you again"? The accused answered and said, "Look for me on Wednesday, I am coming to spend the whole day down here".

He said, "Huey is my friend". Both of them lived in one yard when he was living at Trinity. He went on that whenever he got to Port Maria he used to visit his friend, Huey. In fact, while living in one yard, on occasions he would come home from work and have nothing to do he would bathe and change his clothes and spend time with Huey at the gas station, apparently, and sometimes he would stay until he closed the station.

You see, all this evidence, Members of the Jury, is directed on the accused part to show that Huey was his good friend and that the last person he would have thought of mutilating in this manner if indeed he would have done so to anybody at all, was his friend, Huey, that is the purpose of this piece of evidence, you see, but you will remember my comments and you will remember that they were only comments, when I was dealing with the evidence

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of the witnesses, Stanford Lynch and Exford Neil, when I commented, "Was he then leading him up the garden path"! that was merely a comment. I told you how to deal with any comments that I make.

On the 23rd December, when he went up with Mr. Toby he walked home. Now, from here on I am going to read you his exact words so I will switch to the first person.

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(continued)

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"On 23.12.68 when I go up with Mr. Toby I walk it home. When I go home I go inside and change my clothes. I had a wallet in my left-hand back pocket when I was sitting at my cousin's home at Port Maria where I was under a mango tree. When I feel my pocket I did not feel my wallet. I grabbed a black pants and a plaid shirt, I put it on, I rushed back to Highgate. While at Highgate I saw a bus coming in".

That must be the Victor bus.

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"I go down to Port Maria on the bus. I came off the bus before the housing scheme, I go over the yard. While on my way down the bus was filled up; three of us took the bus in Highgate. When I go on the bus I see a young lady, Joyce, with three parcels in her hands standing. She said, "Rupert, carry one of these parcels for me". I took the parcel from her. When I got off the bus at the housing scheme I gave her back the parcel".

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I pause here, Members of the Jury. You will remember that the witness, Aston Wood, the conductor on the bus told you that he saw accused with a parcel, described as long and flat, well, here the accused is saying that he did have a parcel and he is telling you how he came to be in possession of that parcel on the bus. He is saying that he was carrying it for a girl by the name of Joyce. It is a matter for you if you believe that or not. He says:

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"I go over to my cousin's yard where I was sitting and found my wallet, I take up the wallet and come out to the road towards Port Maria about 10:30 p.m. While walking to Port Maria I see a white car coming towards me,

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(continued)

it stopped and asked me if I could direct him to Kingston. I told him yes; I beg him to drive back to Highgate. He carry me and drop me in Highgate and I walk it home. When I go home I was pulling my room door and heard my uncle call out to me, he asked me where I was and I told him Port Maria. He asked me the time, I said I did not know. I had a small transistor radio, I turned it on and about five minutes later I heard the time, 11:30, I called back to him the time but I didn't hear him." 10

Apparentlym he had fallen asleep again but the uncle says the accused told him that he had stopped at a dance, here he hasn't told us anything about any dance. He goes on:

"The following morning I wake up and went to Highgate to get the beef, when I going I did not see my uncle, I heard him at the fowl coop. When I came from Highgate he said he was calling me and did not hear me and an Indian lady told him I was gone down the street. He said he was calling me to ask me if I was going to Highgate so I could buy fowl feeding for him. I said, "Don't worry, I am going back to Highgate to buy some things". 20

So - apparently the shirt and pants that he came home with.

"When going, about 9:00 o'clock, I called to him and he gave me 10/- to buy the fowl feeding ...". 30

and he bought it and gave it to him and he left Highgate about 10:00 o'clock in the morning. He said he saw a contractor he works with in Highgate.

"He told me a policeman looking for me. I told him to direct them where I live. He said no and I said yes".

He, that is the contractor, said, "He don't like to send police to where people live". Now, this part of it, Members of the Jury, is an important piece. These are his own words: 40

"When I leave Highgate I went home. I was sitting on the edge of the verandah on the 24th of Dec ember. I saw detective Dwyer and others come there. They go about two chains from my gate and stop. They drove off and go to Palmetto Grove where I was born and told the people I wanted for murder, dead or alive."

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(continued)

10 Now, Members of the Jury, I don't know if it strikes you as strange that this contractor told him in Highgate that police are looking for him and he goes home and having gone home he sees the police two chains from his yard and he doesn't communicate with them at all; I don't know how that strikes you.

20 He says "the following night I saw people from that area and they told me something. They told me he said, 'I catch mi fraid through I didn't do anything. I went to my uncle's yard about nine p.m. and saw him. He told me he heard police looking for me', 'what I do?' I said, 'nothing'. He said the best thing to do is to go to Port Maria and find out what they want. I said all the buses were gone. Next morning I wake up around five a.m. then I heard someone asked for me. I saw Detective Dwyer and Sergeant Cross and a Special Constable. Dwyer came on the verandah and said, 'Jesus Christ, a you Oscar say, kill Huie?' I said, 'no' which Huie,' he related it to me. He went to my room and
30 took down a khaki pants and shirt. He took the cutlass from the front of the room and take the water boots and looked at it." He is saying here that he didn't give the constable any clothes, it was the constable who took them. "He took up my water boots and looked at it. I was cleaning out my room the day before and polish catch the boots the day before. He saw nothing in the water boots, He saw the polish mark on the water boots, the black water boots, and he said, 'You fucker you, I catch you now, see the man blood on the water
40 boots here.' The cutlass - I had two aunties from America come to the yard the Sunday. I cut some coconut with the machete for them. I cut a bunch of banana and hand it up and put it in the car back and cut about six canes and chop them up and put them in the car."

There he is saying if banana stains were found

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(continued)

on his machete that must be how it got on it, when he cut up the banana for his foreign aunties.

He went on, "I don't carry a penknife, I didn't have the cardboard in the water boots which was three weeks old. I used it for mason work. I didn't wear a water boots to Port Maria at all, I wore a brown hush puppie." That is all he said.

That, Members of the Jury, was his defence. That concludes the directions on the law and on the facts which I have to give you. The time is now nigh when you will have to consider your verdict and say whether you are going to find this accused man guilty or not guilty of murder. There is no other verdict - guilty or not guilty of murder. You will bear in mind the directions which I gave you on the burden of proof, that it rests on the Crown throughout and never shifts. There is no burden whatsoever on the accused to prove his innocence. You must bear in mind what I told you about circumstantial evidence being like a chain; that a chain is as strong as its weakest link. Circumstantial evidence, as I told you, consists of this, that when you look at all the surrounding circumstances you find such a series of undesigned, unexpected coincidences that as a reasonable person you find your judgment compelled to one and one conclusion only, namely, the guilt of the accused. If you accept what the accused has told you, then you would have to find him not guilty. If you find yourselves in a state of doubt, then the Crown would not have discharged the burden cast upon it, in which case you would also have to find him not guilty. But even if you should reject what he has told you, you would still have to go back and examine all the evidence which the Crown has presented against this accused man and say whether on the overall picture the Crown has so satisfied you that you can feel sure that he is guilty. If after having examined the evidence in that manner, you find that you are so satisfied, then you will return a verdict of guilty of murder; in any other case you return a verdict of not guilty.

Mr. Douglas, anything else?

DEFENCE COUNSEL: No, M'Lord.

HIS LORDSHIP: Mr. Farquharson, anything else?

CROWN COUNSEL: No, M'Lord.

HIS LORDSHIP: Well, Mr. Foreman and Members of the the Jury, I am sure you will wish to retire. You will now please retire to consider your verdict and inform me in due course what that verdict is.

JURY RETIRES UNDER SWORN GUARD AT 10:56 a.m.

JURY RETURNS UNDER SWORN GUARD AT 11:19 a.m.

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No.24

VERDICT AND SENTENCE

No.24

Verdict and
Sentence

3rd July 1969

10 REGISTRAR: Mr. Foreman, please stand. Members of the jury, have you arrived at your verdict?

FOREMAN: Yes.

REGISTRAR: Are you unanimously agreed on your verdict?

FOREMAN: Yes. Yes.

REGISTRAR: That is to say, are you all agreed on the same verdict?

FOREMAN: Yes.

20 REGISTRAR: How say you, do you find the prisoner guilty or not guilty of murder?

FOREMAN: Guilty of murder.

REGISTRAR: Rupert Anderson, please stand. The jury having found you guilty on this indictment do you wish to say anything why the sentence of the court should not be passed upon you?

ACCUSED: Yes, sir.

PROCLAMATION

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Verdict and
Sentence

3rd July 1969

(continued)

SENTENCE

HIS LORDSHIP: Rupert Anderson ...

ACCUSED: Please, M'Lord, I would like to speak
with the barrister.

(Defence Counsel speaks with accused)

HIS LORDSHIP: Rupert Anderson.

ACCUSED: Yes, M'Lord.

HIS LORDSHIP: The sentence of the court is that
you suffer death in the manner authorised by
law.
Take him down.

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In the Court
of Appeal

No.25

Supplementary
Grounds of
Appeal

7th January
1970

No.25

SUPPLEMENTARY GROUNDS OF APPEAL

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE COURT OF APPEAL

HOLDEN AT KINGSTON

REGINA VS. RUPERT ANDERSON

(MURDER)

TAKE NOTICE that at the hearing of this
Application for leave to appeal the Applicant will
crave leave to argue the Supplementary Grounds of
Appeal set out hereunder:-

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GROUND 1.

The Applicant was sorely prejudiced by the
failure of the learned Trial Judge

(a) to put the evidence of the supposed
eyewitness Oscar Fairweather in its true
completion;

(b) to advert the attention of the Jury to the

blatant contradictions in the evidence of the said Oscar Fairweather;

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of Appeal

- 10 (c) to direct the Jury, specifically and in the context of his treating with the evidence of the said Oscar Fairweather, that if in their view the contradictions and/or inconsistencies and/or discrepancies in this witness' evidence were material, then they should look elsewhere for evidence to link the Applicant with the offence charged;

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Grounds of
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1970

(continued)

- (d) to point out to the Jury that the evidence of the said Oscar Fairweather as to what he saw and heard was put in doubt by the evidence of the witness Andrea Walker and others.

GROUND 2.

The Applicant was sorely prejudiced by the failure of the learned Trial Judge

- 20 (a) to advert the attention of the Jury to the irreconcilable conflict between the testimony of the witness Ivan Wilson and that of the witness Magnus Watson as to the whereabouts of the Applicant between the hours of 9.00 a.m. and 10.00 a.m. on the 24th December, 1968;
- 30 (b) to direct the Jury that if they preferred Wilson's evidence on this point (a) supra then Magnus' evidence as to the hour when the Applicant spoke to him concerning the deceased's death - a point given great emphasis by the Judge (pp.189, 213, 215, 216 of Transcript) would be seriously impaired and put in doubt;
- (c) to direct the Jury that if they preferred Magnus' evidence on the said point then Wilson's evidence would be seriously impaired and put in doubt.

GROUND 3.

- 40 The Applicant was sorely prejudiced by the failure of the learned Trial Judge

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of Appeal

No.25

Supplementary
Grounds of
Appeal

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1970

(continued)

- (a) to point out to the Jury that the motive in the Applicant as alleged by the Crown was anathema the evidence and that to seek to infer such a motive would be to indulge speculation and suspicion, there being no proved facts from which such inference could be drawn.
(See p.183 ll. 10-13);
- (b) to point out to the Jury that in considering the evidence of Magnus Watson as to the time when the Applicant spoke to him concerning the death of the deceased they should consider in conjunction therewith the evidence of
- (i) Josiah Ferguson, as to the time of discovery of the body;
- (ii) Rudolph Dwyer as to the time of the report having been made to him;
- (iii) Dr. G.V.Harry as to the time he happened upon the scene;
- (iv) Aston Wood, Rudolph Dwyer, Ivan Wilson and Leroy Graham as to the distance between Port Maria, Highgate and Fraserwood, and
- (v) Ivan Wilson, as to time he saw the Applicant on the morning of the 24th December, 1968;
- (c) (i) to direct the Jury generally on the law as to contradictions, inconsistencies and discrepancies in the evidence of witnesses;
- (ii) to point out to the Jury that the admitted inconsistency in the evidence of the witness Linette Walker was a matter to be taken into consideration in evaluating the truth of her testimony ("one cog in the wheel of circumstantial evidence" - pp. 190), and that in any event her evidence was in respect of words allegedly spoken over a month before the incident of the deceased's death;

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- (d) to point out to the Jury
 - (i) that the evidence of the witnesses Joyce Scarlett and Lloyd Skyers conflicted with the evidence of the witness Aston Wood as to the whereabouts of the Applicant between the hours of 9.15 p.m. and 9.30 p.m. on the 23rd December, 1968, and
 - (ii) that the witnesses Scarlett and Skyers contradicted each other as to the movements of the Applicant between the hours of 9.15 p.m. and 9.30 p.m. on the said date;
- (e) to point out to the Jury that the witness Andrea Walker had contradicted herself as to whether she had seen the deceased proceed up the hospital road (see p.44 l.30 and p.50 l.31) and to direct them as to the factual and legal effect of this contradiction;
- (f) to point out to the Jury that on the evidence of the witness Harold Garriques the blood found on the piece of cardboard (Exhibit 5) had no relevance to the crime charged in the indictment (see pp. 151, 154, 155).

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1970

(continued)

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GROUND 4.

The Applicant was sorely prejudiced by the learned Trial Judge's (i) misstatements of the facts as disclosed by the evidence, (ii) unwarranted unfair and unfounded comments, e.g.

- (a) "So now, moving from Port Maria up to Highgate, moving back down to Port Maria, being seen at the Hospital gate with Huie....." (p.206);
- (b) ".....and there is the evidence of all those other witnesses who took him back to Port Maria and who saw him at the hospital gate." (p.225).
- (c) "Mi never go back a Trinity. So there he

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of Appeal

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Appeal

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1970

(continued)

is repeating in effect what he had said to constable Dywer when Constable Dywer told him he was investigating the death of Huie Foster." (p. 227, 225);

- (d) "In his opinion they were then about two weeks old, he does not think it could have been more than that" (p.230). "He says he does not think the blood on the cardboard was more recent than two weeks, but, of course, nobody is infallible; he says it could be more" (p.231); 10
- (e) "He says there was no blood on the shoes - well, that is merely his opinion" (p.230);
- (f) ".....but whether she used the word 'kill' in Port Maria or what at the Preliminary Enquiry, she said she did use it, whether she did use it or not the depositions were not put in evidence and I will remind you that the evidence you are going to decide the case on is the evidence which you hear in this court". (p.191); 20
- (g) "Now, there was the girl-friend, Carmen Walden, the lady in the middle, as she has been called" (p.191);
- (h) "Well, now, members of the Jury, that is the evidence which I referred to as phase one - evidence of the association of Huie and the girl and knowledge of the accused that they were so associated....." (p.195). 30
- "We have already dealt with the association of the deceased, with the knowledge of the accused, with Carmen Walden." (p.197);
- (i) ".....so from all appearances, members of the Jury, it would seem awkwardly that up to this stage Huie and the accused were on good terms. So if you are going to..... well, I will put it this way, you might reach a stage where you might very well have to ask yourselves, was the accused leading the deceased up the garden path at the time, leading him into a false sense of 40

security - those are the factors which you have to stop and consider." (p.199) (and see P.233, 3rd Para.)

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- (j) "She knows Oscar Fairweather. She didn't see him. Well, the only conclusion it would seem that you can draw from this members of the Jury, is that she left before Fairweather came on the scene." (p.207);
- 10 (k) "...nobody was there. Apparently everybody had left, so he returned.";
- (l) "...he observed like it had a red rim around the top of it. Well you saw the penlight. It was taken from the accused's home.";
- (m) "...that is first hue and cry that is being made that Huie had been found chopped up, at 7 o'clock in the morning" (p.214);
- 20 (n) You will remember....How does he come by this piece of information to be able to tell Mr. Ivan Wilson that Huie was in Miss McKella's bar looking out for another man's woman and at the same time looking for his death?" (p. 217 and see p.206).
- (o) "...but the accused was not curious enough to go and find out what had happened to his good friend." (p.218);
- 30 (p) "Now comment has been made....Well I don't remember their being asked and I am sure if they had they would have answered or they would have said so....." (p.204);
- (q) ".....he told Mr. Watson he was at a dance. We haven't heard a word of this from the accused." (p. 214).

(continued)

GROUND 5.

The learned Trial Judge wrongly allowed in evidence testimony which was irrelevant and prejudicial, and which, in one case, constituted

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No.25

Supplementary
Grounds of
Appeal

7th January
1970

(continued)

an unwarranted attack upon the character of the Applicant (see pp. 3-5; p.10 11.17-28); (p.13 1.25; pp.94-101).

GROUND 6.

The learned Trial Judge's comments during the cross-examination of the witness Oscar Fairweather unfairly prejudiced the effect and conduct of that cross-examination (see pp. 68-72 and Section 18 of Cap.118).

GROUND 7.

The verdict of the Jury was unreasonable and/or unsafe having regard to the fact that

- (i) Oscar Fairweather, the central witness for the Crown was shown to be unreliable and without his evidence there was no or no sufficient evidence upon which a conviction could reasonably be based;
- (ii) even if the evidence of Oscar Fairweather was accepted, there was no evidence as to the identity of the person who was allegedly being struck by the Applicant, and, moreover, on Fairweather's evidence what was allegedly witnessed could have been "a fight or anything like that" (p.74);
- (iii) the Crown had failed to establish, even approximately, the time of death of the deceased and there was therefore an unbridgeable gap in the evidence for the prosecution;
- (iv) even if the evidence of Fairweather was accepted in full, then the fact of (iii) above, together with the fact of the deceased's cycle having been found leaning on the hospital side of the house, he having left it outside the hospital gate on the main road (Andrea Walker pp. 44, 52) left in doubt the question whether the Applicant had merely assaulted the deceased (assuming it was the deceased) and left him thereafter, and that the deceased had subsequently been murdered by some other

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person or persons;

- (v) on the evidence of Andrea Walker the person who 'cut across the lady (p.46) could not have been the person who first spoke to the deceased and then followed him up the hospital road, and therefore it would seem that at least four persons were in the vicinity of the scene of the crime at the material time to which Fairweather's evidence was directed.

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(continued)

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GROUND 8.

The learned Trial Judge failed to put the defence properly to the Jury in that:

- (a) his directions on the law with respect to alibi and on the facts relevant thereto were inadequate;
- (b) he failed to direct the jury (or wrongly directed the Jury) as to the effect of the evidence of the witnesses Carmen Walden, Stanford Lynch, Exford Neil, Joyce Scarlett, Andrea Walker, Ivan Wilson, Leroy Graham and Harold Garriques on the case for the defence;
- (c) his directions on the law with respect to circumstantial evidence were inadequately related to the facts of the instant case.

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WHEREFORE THE APPLICANT PRAYS:-

- 1) that he be granted leave to appeal and
- 2) that his Application may be treated as the Appeal;
- 3) that his conviction may be quashed;
- 4) that this Honourable Court may grant such other and further relief as may be just.

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DATED this 7th day of January, 1970.

(Sgd.) R. L. A. Taylor,
COUNSEL FOR THE APPLICANT.

In the Court
of Appeal

No. 26
JUDGMENT

No.26
Judgment
20th March 1970

IN THE COURT OF APPEAL
SUPREME COURT CRIMINAL APPEAL No. 95/69

BEFORE: The Hon.Mr.Justice Waddington -
President
The Hon.Mr.Justice Eccleston
The Hon.Mr.Justice Luckhoo

R. v. RUPERT ANDERSON

Mr.Noel Edwards and Mr. Roy Taylor, for the
Appellant
Mr. P. Robinson and Mr. L. Wolfe for the Crown.

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20th March, 1970

WADDINGTON, J.A.: This is an application for leave to appeal against a conviction of murder, in the Port Antonio Circuit Court on the 3rd of July, 1969, when the applicant was convicted of the murder of one Huie Foster on either the 23rd or 24th December, 1968, in the parish of St. Mary.

The case for the crown depended almost entirely on circumstantial evidence. On the 24th of December, 1968, the body of the deceased, Huie Foster, was discovered at about 7.00 a.m. lying near to the side of a house situate at the entrance of the roadway leading to the Port Maria Hospital in the Parish of St.Mary. The body had some sixteen incised wounds inflicted on it. Five of those wounds were inflicted on the front of the body, involving the right index finger, right wrist, lower forearm, chest and nose. Eight wounds were inflicted on the back of the neck, all more or less parallel to each other. One of these wounds went through the tissues of the neck severing the spinal cord, whilst another ran from an ear toward the occiput, creating an opening in the skull which exposed the brain. Two wounds were on the left side of the face, one of which almost severed the left ear whilst the other ran horizontally across

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the left temple. And finally, there was a wound five inches long down to and partially through the left shoulder blade also running horizontally. Death was due to multiple injuries, the most fatal one being the wound which severed the spinal cord. The wounds were consistent with infliction by a sharp machete.

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(continued)

10 A witness, Oscar Fairweather, a District Constable, testified that he saw the deceased, whom he had known for over two years, drinking in a bar not far from the spot where the body was found at about 11.30 p.m. on the 23rd of December, 1968. He said that the deceased left the bar at about 11.45 p.m. and rode off on his bicycle. Fairweather said that he left the bar about twenty minutes after the deceased had left and he walked towards the roadway leading to the hospital. He said that as he reached opposite to the hospital gate, he heard a person's voice saying, 'murder, murder', coming
20 from the vicinity of the house and kitchen inside the hospital gate and roadway. He said that he stopped when he heard the voice and returned to the bar to get a light and assistance, but failed. He returned to the spot and there he saw a man with a penlight in his left hand which had a red rim around the top. The light was on and the man was holding it downwards. The light was not bright but he said he saw the man's right hand move up and down twice and he heard the voice saying, "you fucker
30 you, you fucker you". He said that he recognised the voice as being that of the accused whom he had known for over one year; they both lived on the same bit of land and he used to speak to the accused regularly. He said that the accused had on a pair of water boots and was wearing a full suit of khaki. The following morning after the alarm was raised, he returned to the spot and there he saw the body of the deceased.

40 Evidence was also given by two witnesses who said that they had seen the accused in the vicinity of the hospital gate at about 9.15 to 9.30 p.m. One of these witnesses recalled that the accused had on a khaki shirt and pants.

A witness, Cleveland Walker, testified that he had seen the deceased come to the bar at about 10.30 p.m. They were drinking together and the deceased stepped outside unto the piazza on three

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(continued)

occasions and looked in the direction of the hospital gate. The deceased left the bar at about 11.30 p.m. telling him that he was going to meet somebody at the hospital gate. The deceased then went off in the direction of the hospital gate.

Andrea Walker, a school girl, said that shortly before midnight she saw the deceased whom she had known for about three weeks, at the hospital gate sitting on a bicycle. There was a street light at the hospital gate. She said that she saw a man come down from the direction of the hospital towards the deceased. The man was speaking to the deceased and the deceased then dropped his bicycle and ran up the hospital road. The man walked fast after the deceased and the witness lost sight of them. She said that she stood there for a while and heard like a moaning of a human being. After that she saw a woman come from out of the hospital road like she was running. She saw the man coming towards the woman walking. He 'cut across' the woman and she turned back up the hospital road running. The man turned back. She did not know if this man was the same man who had been talking to the deceased. 10 20

There was also evidence that at about 8.15 p.m. on the 23rd of December, the accused was given a drive from the gas station where the deceased worked, which was not far from the hospital gate, to his home at Frazer Wood near Highgate. He was dropped off at his yard at about 8.50 p.m. There was also evidence that at about 9.20 p.m. the accused boarded a bus at Highgate and travelled on it back to Port Maria. He came off the bus about two chains below the hospital gate at about 9.35 p.m. The accused was then seen to be carrying a parcel which was described as being about two and a half feet long and flat. He was dressed in a khaki shirt and pants. 30

Evidence was given by a witness, Magnus Watson, an uncle of the accused, from whom the accused had rented a room in a building where Watson lived. Watson said that he was at home on the 24th of December and heard when the accused came home sometime after midnight. He asked the accused where he was coming from and the accused replied that he was coming from Port Maria and that he had 40

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(continued)

10 stopped off at a dance. Watson said that he got up at 6.00 a.m. the following morning and saw the accused, and the accused then told him that he, the accused, had heard that they had killed a guy down at Port Maria and he knew the guy. The accused then said that he was going to Highgate to buy beef and he left at about 7.00 a.m. The accused returned at about 8.00 a.m. and had his breakfast. There was at that time, a khaki pant and shirt belonging to the accused, hanging on the line and they were wet. The accused borrowed a tailor's iron from Watson and pressed these clothes. The accused then went back to Highgate and returned later in the day and showed Watson some pants, shirt, and shoes which he said he had bought in Highgate. The next time Watson saw the accused was at about 9.00 p.m. that night and Watson told him that he had heard that the police were looking for him and the accused replied that he had heard so too, but he would go and see them the following day. On Christmas morning the police came and took the accused away.

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30 A witness, Ivan Wilson, said that on the 24th of December, he saw the accused sometime before 10.00 a.m. on the road between the Trinity Gas Station and the hospital gate and the witness said to the accused: "Man, what a way dem kill off our good friend", referring to the deceased. The accused replied, "what is not yours you must leave alone, like brute you live, like brute you shall also die for it is a lesson to man to teach man not to fool around a next man woman." The witness then said to the accused, "you say is not criminal kill him, I thought it was criminal rob him and kill him, I didn't know is a next man woman he is fooling around". The accused then said that from the night before he had seen the deceased in Miss McKeller's bar drinking a beer; that the deceased had turned his back to the counter", looking over the road for the next man's woman, looking and at the same time looking for his death and don't know it."

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The crown sought to establish that the motive for the killing was jealousy arising out of the accused's affection for a woman named Carmen Walden.

A witness, Anita Walker, a bar tender at

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(continued)

Trinity, said that some time in November, 1968, the accused had come to her bar looking worried, and she asked him that was wrong. The Accused said that his girl-friend had come down from Highgate on the bus, and instead of coming straight to him she had stopped by the gas station with the deceased and the deceased had told her a lot of things about him. The witness asked the accused, "what is it?", and the accused replied, "a fucker like that want to kill because he make his mouth bother him too much".

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Carmen Walden also gave evidence. She said that she was friendly with the deceased, and she admitted having been intimated with him on one occasion. She said that she knew the accused, and in October, 1968, she saw him at Highgate and asked him what work he did and he said he worked at Port Maria Hospital. She asked him if they needed anyone to work at the hospital, and he told her no, but that she should come to the hospital and he would take her to the Matron. She said that she went to the hospital about a week later, and after she left the hospital she saw the accused and he asked her why she had come on that day when he had told her to come on a different day. The accused said that he was sure that she would not see the Matron; however, he told her that he could get a card from a Mr. Wilson, but he suggested that she should go over to some house with him. She said that she would only go over to the house with him if he got a card to sign. The accused did not tell her what he wanted her to go over to the house for, but she came to the conclusion that he wanted her to go there in order to have sexual intercourse with her. There was also evidence that on the 21st of December, the accused had seen the deceased talking to Carmen Walden.

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There was also evidence that near to where the body of the deceased was found, there was a banana tree, through the trunk of which there were several slits as if a machete had been thrust through it. The police subsequently found a machete in the possession of the accused on the blade of which were banana stains. They also found in the possession of the accused a pen flashlight with a red reflector.

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When the accused was being interrogated by

the police, on being told that they were making enquiries into the death of the deceased, the accused said "That God, mi have Toby who can give evidence fe mi that mi come up with him from Port Maria and mi never go back down deh. Mi never chop up Huie and kill him."

That, in brief, was the case for the Crown.

The accused made an unsworn statement, in which he said that the deceased was his friend and he was with the deceased at the gas station at Trinity at about 7.30 p.m. on the 23rd of December. He got a drive from there in a car belonging to a Mr. Toby, to his home at Highgate. When he got there he changed his clothes and then discovered that his wallet was missing. He assumed that it had fallen from his pocket while he was at his cousin's yard in Port Maria. He then put on a pair of black pants and a plaid shirt and boarded a bus going from Highgate to Port Maria. Whilst on the bus, a young lady named Joyce was standing with three parcels in her hand and she asked him to carry one of the parcels for her. He took the parcel from her and when he was getting off the bus he returned the parcel to her. He then went to his cousin's yard where he found his wallet. The time was then about 10.30 p.m. He got a drive in a car back to Highgate. When he got home his uncle called out to him and asked him where he was coming from, and he replied that he was coming from Port Maria. His uncle asked him what was the time and he replied that he did not know; he had a small transistor radio which he then turned on and about five minutes later he heard the time announced as 11.30 and he called out to his uncle and told him the time but he did not hear any reply. The following morning when he woke up he heard his uncle down at the fowl-coop but did not see him. He then left for Highgate to get some beef which he had promised to buy for his cousin in Port Maria. When he returned from Highgate his uncle asked him to buy some fowl feed for him and he returned to Highgate at 9.00 a.m. In Highgate he saw a man who told him that the police was looking for him. He told the man to direct the police to where he lived, but the man said he would not do that because he did not like to send police to where people lived. He returned home and whilst sitting on his verandah he saw

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(continued)

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(continued)

Detective Dwyer and Sergeant Cross drive up. They went about two chains from his gate and stopped and then drove off to Palmetto Grove where he, the accused, was born. They told the people there that he, the accused, was wanted for murder and if anyone saw him they must lick him down and carry him in dead or alive. The following night people from the area began to tell him what the police had said and he became afraid. His uncle told him that he had heard that the police was looking for him and asked him what he had done. He said that he had done nothing, and his uncle then told him that the best thing to do would be to go down to Port Maria and find out what they wanted. He said that he could not do that as the bus had already left. The following morning he woke up at about 5.00 o'clock and he heard someone asking if Rupert was inside. He looked out and saw Detective Dwyer and Sergeant Cross and a Special Constable. Sergeant Cross said to him, "Jesus Christ Rupert, is you Oscar said kill Huie". He replied that he was not in Port Maria at that time. Detective Dwyer went into his room and took down a khaki pant and a shirt. He also took away a cutlass which was in the front room behind a pair of water boots. He said that on the previous Sunday he had used the cutlass to cut coconuts and a bunch of bananas. He had also cut some canes. He said that he used the water boots to do mason work but he had not worn them to Port Maria at any time in December.

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On this evidence the learned trial Judge left to the Jury the simple issue of guilty or not guilty of murder.

On the hearing of this application for leave to appeal, the applicant applied for leave to call fresh evidence under the provisions of Section 26(b) of Law 15 of 1962. The evidence which it was proposed to call was contained in affidavits filed by one Dorothy Beharie and one Silburn Nelson, and was to the effect that they both lived in the same yard with the applicant, and that at about 9.00 a.m. on the morning of the 24th of December, 1968, they both heard the applicant telling Magnus Watson that he had heard that a man had been killed in Port Maria. This evidence was presumably designed to counter the evidence of Magnus Watson that it was at about 6.00 a.m. that the applicant had told him that he had heard that they had killed a guy down at

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Port Maria and he knew the guy.

The Court did not consider that this evidence satisfied the first principle laid down in R. v. Parkes, 46 C.A.R. 29, and approved by this Court in R. v. Page (1967) 5 Gleaner Law Reports at Pages 83 and 89, i.e. that the evidence must be evidence which was not available at the trial. Accordingly, the Court refused the application.

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20th March 1970

(continued)

10 Several grounds of appeal were argued on behalf of the applicant. They may be summarised broadly under four heads:-

- 20 (1) Complaints that the learned trial Judge had not dealt adequately with the evidence of Oscar Fairweather, and had not adverted the jury's attention to contradictions and inconsistencies in his evidence, and in the evidence of some of the other witnesses, and to conflict between the evidence of various witnesses, and also that the learned trial Judge had failed to direct the jury generally on how to deal with contradictions, inconsistencies and discrepancies in the evidence of the witnesses.
- (2) Complaints as to certain alleged misstatements by the learned trial Judge, of the facts as disclosed by the evidence, and as to various comments made by the learned trial judge which were said to be unwarranted, unfair and unfounded.
- 30 (3) A complaint that the motive for the crime advanced by the Crown was not supported by the evidence and that the learned trial Judge ought so to have told the jury.
- (4) A complaint that the verdict of the jury was unreasonable and/or unsafe.

40 Mr. Taylor, learned Counsel for the applicant, went through the evidence in the case very carefully and drew the attention of the Court to portions of the evidence of certain of the witnesses, and particularly that of the witness Oscar Fairweather, in which it was submitted there were contradictions, inconsistencies and conflicts. It was submitted that the learned trial Judge had failed to advert the jury's attention to these

In the Court
of Appeal

No. 26

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20th March 1970
(continued)

contradictions, inconsistencies and conflicts, and to direct the jury how they should treat them and that his failure to do so was highly prejudicial to the applicant.

It is unnecessary to refer specifically to the bits of evidence to which Counsel referred the court. We have given careful consideration to Counsel's submissions, and having examined the evidence, we are of the view that the so-called contradictions, inconsistencies and conflicts in the evidence were more specious than real, and even if they could be said to have been contradictions, inconsistencies or conflicts, they were not, in our view, on matters of such substance as would warrant any special treatment by the learned trial Judge. It is true that the learned Trial Judge did not give the jury any directions generally as to how they should treat contradictions, inconsistencies and discrepancies, but, as was submitted by learned counsel for the crown, there is no rule of law requiring any such directions, although it is customary to do so. We do not think that the absence of such directions could have caused any miscarriage of justice having regard to the evidence in the case.

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As to the alleged mis-statements and the unwarranted comments alleged to have been made by the learned trial Judge, with the exception of two alleged mis-statements and two comments, the Court was satisfied that there was no merit in this complaint. The first mis-statement occurred when the learned trial Judge was reviewing the evidence of the witness Oscar Fairweather. Fairweather had said in cross-examination that after he had heard the voice saying 'murder', at the hospital gate, he returned to McKeller's bar to get a light and assistance. He said that he said "to them", (presumably to people at the bar) "I heard a sound, 'murder, murder' come and assist me to see what is happening". He did not get any assistance so he returned to the spot where he had heard the voice. In reviewing Fairweather's evidence-in-chief, the learned Trial Judge is recorded as saying, on page 299:

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"He stopped when he heard the voice and went back to McKeller's bar. At least he asked for a light and he asked for assistance, but he got

no light, nobody was there, apparently everybody had left, so he returned."

In the Court
of Appeal

No. 26

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(continued)

10 In his evidence-in-chief, Fairweather merely said that he returned to McKeller's bar and then went back to where he had heard the voice. It appears therefore, that when the learned trial Judge said 'nobody was there, apparently everybody had left', this was in fact a mis-statement, of Fairweather's evidence-in-chief. However, when the learned trial Judge was reviewing the evidence given by the witness in cross-examination, he said this, at page 212: "He went back to the bar for assistance but got none, he asked for a flashlight but got none. He said no-one would come and assist him so he went back." So in this passage the learned trial Judge stated the evidence correctly and this would have removed any mis-apprehension the jury may have had with respect to the mis-statement of the evidence-in-chief. In our view, 20 the mis-statement could not have caused any prejudice to the applicant.

30 The second apparent mis-statement occurred when the learned trial Judge was reviewing the evidence of Harold Garriques, the medical technologist. Mr. Garriques had said in his evidence-in-chief that he had found blood on a bit of cardboard which was tendered in evidence. The blood, he said, must have been about two weeks old and could have been more recent than two weeks old (on the 28th of December when he made his examination). In his review of the evidence, the learned trial Judge is recorded as having said, at page 230:

"He said there was human blood on the cardboard which he marked in blue pencil and pointed out to you. In his opinion they were then about two weeks old, he does not think it could have been more than that."

40 It may be that the learned trial Judge had said "more recent than that", and the Shorthand Writer had omitted the word "recent". Be that as it may, in reviewing the evidence of this witness in cross-examination and on re-examination, the learned trial Judge correctly stated the evidence, when he said this, at page 231:

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No.26

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20th March 1970

(continued)

"He said he does not think the blood on the cardboard was more recent than two weeks, but of course, nobody is infallible. He said it could be more. Re-examined, he says he cannot say how old the blood was, he says it could have been there two months..."

So here again, any mis-statement made when reviewing the evidence-in-chief was corrected when reviewing the evidence in cross-examination, and in our view no prejudice could have been caused to the appellant. 10

The two comments were made also when the learned trial Judge was reviewing the evidence of Mr. Garrigues, and appear on pages 230 and 231, where he is reported as saying, at page 230:

"He said there was no blood on the shoes. Well, that is merely his opinion Members of the Jury, you are not bound to accept it because he happens to be an expert in this particular field. An expert is brought before you merely to guide and assist you and in evaluating evidence of a particular nature, he being trained in that particular field therefor. You will weigh well what an expert has said before you discard his evidence because neither you nor I is trained in that particular field, in the same way that Mr. Garrigues would weigh well what I would have to say in the field of law because he is not trained in that particular field, but you are still judges of the facts, and you may accept or reject the evidence of the expert...." 20 30

And at page 231:

"He says he does not think the blood on the cardboard was more recent than two weeks, but of course nobody is infallible. He says it could have been more".

With regard to the first comment, Mr. Taylor submitted that the learned trial Judge was telling the jury, in effect, to reject the evidence of the expert and to speculate for themselves that blood may in fact have been on the boots. With regard to the second comment, he submitted that this comment derogated from the credibility of the 40

witness on the point that the blood on the cardboard was not more recent than two weeks. In other words, that despite the evidence, the blood could have been more recent than two weeks. It was submitted that the learned trial Judge ought to have told the jury that they should erase from their minds entirely, the evidence of blood on the cardboard.

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of Appeal

No. 26
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20th March 1970
(continued)

10 We think that there is much force in these submissions. The evidence was entirely in favour of the defence, and, in our view, the learned trial Judge should have told the jury that in so far as the cardboard and the boots were concerned, there was no evidence implicating the accused. The question arises as to whether these comments by the learned trial Judge could have caused any miscarriage of justice. Could they be said to have tipped the scales in favour of the prosecution? In our view, the crown had presented a very strong case of circumstantial evidence against the appellant. We entertain no doubt that if these comments had not been made and the jury had been told that in so far as the cardboard and the boots were concerned, there was no evidence implicating the accused, they would inevitably have come to the same verdict. Accordingly, although we have decided this point in favour of the appellant, we are satisfied that no substantial miscarriage of justice had actually occurred as a result thereof.

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30 With regard to the complaint on the subject of motive, we do not agree with Counsel's submission that there was no evidence to support the motive advanced by the crown. In our view, there was evidence which, if accepted by the jury, showed that the appellant resented the attention which the deceased was showing, if not to Carmen Walden, then to some other woman who was present at the time the deceased was killed.

40 With regard to the fourth complaint, we need only repeat that in our view, the Crown had presented a very strong case of circumstantial evidence against the appellant, and the verdict which the jury returned was inevitable.

We have treated the application as an appeal and the hearing of the application as the hearing of the appeal, and, in the result, the appeal is dismissed.

In the Privy
Council

No. 27

ORDER GRANTING SPECIAL LEAVE TO APPEAL IN
FORMA PAUPERIS TO HER MAJESTY IN COUNCIL.

No.27

Order granting
Special Leave
to Appeal in
forma pauperis
to Her Majesty
in Council

AT THE COURT AT BUCKINGHAM PALACE

The 17th day of December 1970

PRESENT

17th December
1970

THE QUEEN'S MOST EXCELLENT MAJESTY

LORD PRESIDENT	MR. AMERY
MRS. SECRETARY THATCHER	MR. CHATAWAY
MR. SECRETARY THOMAS	MR. ENNALS
MR. SECRETARY CARR	

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WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 9th day of December 1970 in the words following viz.:-

"WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of Rupert Anderson in the matter of an Appeal from the Court of Appeal of Jamaica between the Petitioner and Your Majesty Respondent setting forth that the Petitioner prays for special leave to appeal in forma pauperis from the Judgment of the Court of Appeal of Jamaica dated the 20th March 1970 dismissing the Petitioner's Appeal from his conviction for murder in the Port Antonio Circuit Court on the 3rd July 1969 when he was sentenced to death: And humbly praying Your Majesty in Council to grant the Petitioner special leave to appeal in forma pauperis against the Judgment of the Court of Appeal of Jamaica dated the 20th March 1970 and against his conviction and sentence in the Port Antonio Circuit Court on the 3rd July 1969 or for further and other relief:

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"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

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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 Appeal of Jamaica dated the 20th March 1970:

10 "AND Their Lordships do further report to Your Majesty that the authenticated copy 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-General or Officer administering the Government of Jamaica for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

W. G. AGNEW

In the Privy
Council

No.27

Order granting
Special Leave
to Appeal in
forma pauperis
to Her Majesty
in Council

17th December
1970

(continued)

IN THE PRIVY COUNCIL

No. 51 of 1970

ON APPEAL
FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N:

RUPERT ANDERSON

Appellant

- and -

THE QUEEN

Respondent

R E C O R D O F P R O C E E D I N G S

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