

Judgment / 18, 1957

IN THE PRIVY COUNCIL

No.12 of 1957

ON APPEAL
FROM THE COURT OF CRIMINAL APPEAL OF TRINIDAD
AND TOBAGO

B E T W E E N :-

JOSEPH BULLARD Appellant

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

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RECORD OF PROCEEDINGS

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IN THE PRIVY COUNCIL

No.12 of 1957

ON APPEAL
FROM THE COURT OF CRIMINAL APPEAL OF TRINIDAD
AND TOBAGO

BETWEEN: -

JOSEPH BULLARD ... Appellant

- and -

THE QUEEN ... Respondent

RECORD OF PROCEEDINGS

10

No. 1.

INDICTMENT

THE QUEEN V. JOSEPH BULLARD

IN THE SUPREME COURT OF TRINIDAD AND TOBAGO.

SAN FERNANDO.

INDICTMENT BY THE ATTORNEY GENERAL

JOSEPH BULLARD is charged with the following offence :-

STATEMENT OF OFFENCE.

MURDER

20

PARTICULARS OF OFFENCE

JOSEPH BULLARD, on the 23rd day of July, 1956, at St. Clement's Village, in the County of Victoria, murdered Eugene Layne.

C. de L. Inniss,
Attorney-General.

In the
Supreme Court
of Trinidad
& Tobago

No. 1.

Indictment.

In the
Supreme Court
of Trinidad
& Tobago

No. 2.

PROCEEDINGS.

TRINIDAD

IN THE SUPREME COURT OF TRINIDAD AND TOBAGO.

No. 75 of 1956 San F'do.
No.307 of 1956 P.O.S.

No. 2.
Proceedings

16th November,
1956.

REGINA

Vs.

JOSEPH BULLARD

Judge's Notes of Evidence

10

16th November, 1956

Offence: Murder

Plea: Not Guilty.

Durity for Crown

Archbald, Q.C. (Teemul with him) for accused.

Jurors:

- 27 Michael Murphy
- 34 Murray Ramkisson
- 40 Cecil White
- 4 Aldwin Baptiste
- 9 Thomas de Souza (Foreman)
- 30 Raynol Packer
- 14 Eastlyn Franklyn
- 23 Ian Josper
- 29 Bernard Noel
- 19 Leo Guide
- 6 Ian Barzey
- 31 Sydney Paul

20

Durity opens for Crown:

Layne was building a house at Corinth. Ac-
cused Bullard was employed by him on building.
Bullard went to Layne's house armed with a hatchet
and asked Layne for his money. Layne said he would
pay him later same day. Moore took hatchet from
accused who snatched it back. Later same day Layne
got into a car to go to Usine Ste. Madeleine. Ac-
cused got into back seat. Demanded money. Accused
struck Layne in head with hatchet. Car stopped and
accused got out.

30

No. 3.

EVIDENCE OF ANDREW MEJIASANDREW MEJIAS sworn states :-

Member Medical Board Trinidad and Tobago.
District Medical Officer San Fernando and South
Naparima.

10 On 24.7.56 at Mortuary San Fernando about 9
a.m. I performed Post Mortem on Eugene Layne. He
was about 46 years old. Identified by Irene Layne.
Had been dead about 18 hours. Externally, there
was (1) stitched wound over the right temporal bone;
(2) stitched semi-circular wound at top of head
nearer back than front - right across top of head.

20 Internally there was a depressed fracture of
right temporal bone and a semi-circular fracture
involving right temporal, the parietal and left
temporal bone of skull. This fracture would be
immediately below wound I have described at top of
head. There was a haematoma or blood clot beneath
scalp in affected area.

In my opinion death was due to shock and
haemorrhage from fracture skull. Injuries could
have been caused by heavy blunt instrument. Hat-
chet could have caused it. The blows would have
been delivered with a moderate degree of force.
(Shown hatchet).

30 I would say that the back of hatchet would
have caused first external injury. (Points part
of hatchet). As regards second injury I would
think the cutting part of hatchet would be used.
(Points to blade).

Cross-examined Archbald:

With respect to injury No.1 I would say that
if assailant was right handed he would be at back
of injured man when blow struck. The same would
apply to injury No.2.

If the men were facing each other and assail-
ant made back hand shot it could cause injury No.1.

40 There are 2 right hand edges on top of this
hatchet

In the
Supreme Court
of Trinidad
& Tobago

Prosecution
Evidence

No. 3.
Andrew Mejias
16th November,
1956.
Examination.

Cross-
Examination.

In the
Supreme Court
of Trinidad &
Tobago.

Prosecution
Evidence

No. 3.

Andrew Mejias
16th November,
1956.

Cross-
Examination --
continued.

I do not think injury at top of head could have been caused by a back handed blow. I would not say it is utterly impossible but I would say it is highly unlikely. It is within the realm of the possible.

The two wounds on head were at right angles. I do not think they would have been caused by the edge at head of hatchet as opposed to cutting side.

The wound on right temple would be about 2" long. The wound across top of head was about 4 to 5" long. They met at a common point on right side of skull. The two wounds could not have been caused by one blow; they were distinct blows. The wound on right side was a lacerated wound. The wound on top of head was also a lacerated wound. I say so because this blade of this hatchet is very blunt and is the type of instrument which would cause lacerated wound. If it were sharp it would cause incised wound.

10

Both injuries are much more likely to have been inflicted from behind.

20

Not re-examined.

No. 4.

David Quamina

16th November,
1956.

Examination.

No. 4.

EVIDENCE OF DAVID QUAMINA

DAVID QUAMINA sworn states:-

Member Medical Board. Attached Colonial Hospital, San Fernando.

On 23.7.56 at 8 a.m. I examined Eugene Layne at Hospital San Fernando. He was alive but bleeding and shocked.

30

I found in right temporal region two lacerations in close proximity to each other, one about 1 inch long and above that another about 2 inches

long. There was a large haemotoma in right parietal region with diameter about 4". At top of this there was another laceration about 2" long running at right angles to the one of about one inch.

There was a scalp wound about 4" long running from right to left across the scalp. He had what I clinically described as a fracture upper jaw.

10 I treated him in Casualty Department and he was admitted to Ward. He died at 3.25 p.m. same day.

Haemotoma is swelling with blood underneath.

Cross-examined Archbald:

The two wounds in right temporal region could probably be caused by head of hatchet accounting for right angled nature. The same applies to wounds in parietal region.

I was not at post mortem examination. Do not know if there was X-ray of upper jaw.

20 Not re-examined.

No. 5.

EVIDENCE OF IRENE LAYNE

IRENE LAYNE sworn states :-

Widow. Eugene Layne was my husband. Live Circular Road.

On 24.7.56 I went to Colonial Hospital, there I saw dead body of Eugene Layne. I identified body to Dr. Mejias. At that time Eugene Layne was constructing house on lands at Corinth Village.

30 On 22.7.56 my husband and I were at that house until about 7.30 p.m. I left him there. Nothing was wrong with him then.

Not cross-examined.

In the Supreme Court of Trinidad & Tobago

Prosecution Evidence.

No. 4.

David Quamina
16th November, 1956.

Examination - continued.

Cross-Examination.

No. 5.

Irene Layne.

16th November, 1956.

Examination.

In the
Supreme Court
of Trinidad &
Tobago

No. 6.

EVIDENCE OF JAMES GEORGE

Prosecution
Evidence

JAMES GEORGE sworn states :-

No. 6.
James George.
16th November,
1956.
Examination.

Live Usine Ste. Madeleine. Carpenter. In July 1956 I was working on a house being built at Corinth by Eugene Layne. The accused, Joseph Bullard also employed there.

On 23.7.56 I went to work about 7 a.m. I saw Layne and Bullard. Bullard was telling Layne that he wanted his money today. Layne said nothing. Bullard kept following Layne around. He had nothing with him then. Layne said that when he came back from work he would pay Bullard. Layne left house and Bullard followed him. At that time Bullard had hatchet. They went towards Nap-Mayaro Road.

10

About 15 minutes later Bullard came back. Still had hatchet. He said that he was waiting until Layne's family came back to kill their fucking arse.

20

Cross-
Examination.

Cross-examined Archbald:

I started work on that house same day. I was on those premises that day during the morning. Foreman was Mr. Goodridge. I arrived there at 7 a.m. Goodridge was not there then. No one else was there beside Layne, Bullard and me. I knew Layne before by working at Usine Ste. Madeleine.

Layne and Bullard were talking inside the house. I was working outside. Goodridge had told me the day before what I was to do. When I arrived I told Layne "Good morning".

30

Bullard was saying he wanted his money. Layne said about 4 or 5 times he would give him when he came back. I heard Bullard ask 4 or 5 times. I do not know if there had been pay day the previous Saturday. I did not hear how much money Bullard was asking Layne for.

When accused came back he did not speak definitely to me but made the remark. I was only

one present. Bullard was outside house. I was inside. I saw him approaching house from direction of road. I know a man called Cephas Moore. He is a witness in this case. I did not see him when I saw Bullard returning to house. Accused did make use of that remark. A little while after he used it left and went. That was about 10 minutes after. During that time he was outside. He left and went towards the Main Road along a track which leads out from house. There is also one leading into house.

Police came to house about 10 minutes after Bullard had left. They did not meet Bullard there. Bullard came back with them.

Not re-examined.

In the
Supreme Court
of Trinidad &
Tobago

Prosecution
Evidence

No. 6.

James George
16th November,
1956.

Cross-
Examination -
continued.

No. 7.

EVIDENCE OF CEPHAS MOORE

CEPHAS MOORE sworn states :-

Switchboard operator employed T.O.C. Pointe-a-Pierre. Live Usine Ste. Madeleine.

On 23.7.56 about 7.15 a.m. I was at Corinth. I heard a loud talking between Layne and Bullard by the house Layne was building then at Corinth. They were on the Corinth Road walking towards Nap-Mayaro Road.

Bullard said "Layne I want my money". Layne said "I have no money now. You will have to wait until I go to Usine and come back this afternoon to pay you". At that time accused had a hatchet. I took away the hatchet from Layne and said "Give me this; trouble does not tell you when it is coming". Bullard dragged it away from me saying "This is my tool I work with". They continued walking until they got to Main Road where Layne held up a car. The accused got into back of car. Layne got in next to driver. Car drove off towards Usine.

I saw accused again about $\frac{1}{2}$ hour after on same spot where I had seen him before. He said "Partner I gave him two with this" and he raised his hatchet. He also said "When he comes back down if he does not pay me my money I will give him the balance". (Shown hatchet marked X). This is the same hatchet. (Now marked C.M.1.).

No. 7.

Cephas Moore.

16th November,
1956.

Examination.

In the
Supreme Court
of Trinidad &
Tobago

Prosecution
Evidence

No. 7.

Cephas Moore.
16th November,
1956

Cross-
Examination.

Cross-examined Archbald :-

I know James George. (Points him out). Have known him for about 3 or 4 years. I saw him there on that morning. He saw me. I saw him at Layne's house at about 7.15 a.m. He was outside. He was standing up with a man called Haynes. Not doing anything. I was at house next door. I say he saw me because he was watching around. We say good morning to each other when I meet him up. I was at Hugh St. Hill's house which is about 20 feet from where George was. 10

When I reached St. Hill's house George was already at Layne's. I did not call out to him. Not any particular reason. I did not call out to Haynes. George did not call out to me.

Layne's house is about 150 feet from Nap-Mayaro Road. When I saw George Layne was walking with the accused on the road leading from Nap-Mayaro Road to Layne's House. That was first time I saw Layne that morning. I do not know of any talk between Layne and accused inside house. 20

The loud talking I heard between them was as they were walking towards the Nap-Mayaro Road. George should have been able to hear it too. When I saw them on road they had come from direction of Layne's house. I first saw them about 20 feet from house. I heard the loud talking before I saw them. I was then at St. Hill's house.

Layne and accused came to me in the private road. They had to pass me on their way out. That was about 50 feet from where George was with Haynes. It was then I took away hatchet. George could not see that as there was a house obstructing his view. He had seen me before. 30

I did not see driver of car make any effort to prevent accused from entering car.

I later saw accused just where I had taken hatchet from him. I was on road alone speaking to someone in Mrs. Hackett's house. George was then in Layne's house. I say so because I went back and met him there. I spoke to him there. When I spoke to George the accused had already left and gone along the track. Accused had passed 40

me on track when I was talking to person in Mrs. Hackett's. He had come from Nap-Mayaro Road - about 15 feet. After speaking to me he continued towards Layne's house. I followed about 10 minutes after. When I got to Layne's house and spoke to George accused was walking along track towards Nap-Mayaro. That is different from Corinth Road.

10 No one else heard accused tell me he had given Layne two blows etc., I had been in Mrs. Hackett's house and had come out on to track leading to Nap-Mayaro Road.

Not-re-examined.

In the Supreme Court of Trinidad & Tobago.

Prosecution Evidence.

No. 7.

Cephas Moore.
16th November, 1956.

Cross-Examination - continued.

No. 8.

EVIDENCE OF EMMANUEL DOWNES

EMMANUEL DOWNES sworn states :-

(Tendered for cross-examination)

Attached Criminal Investigation Department. Photographer.

20 On 23.7.56 I took a photo of car PA.6886. Next I took a photo at Corinth Junction.

These are the photos. (Put in as E.D.1. and E.D.2.)

Lunch

No. 8.

Emmanuel Downes

16th November, 1956.

Cross-Examination.

No. 9.

EVIDENCE OF FITZGERALD CHAPMAN

FITZGERALD CHAPMAN sworn states :-

Live Skinner Street. Cashier at Usine Ste. Madeleine.

No. 9.

Fitzgerald Chapman.

16th November, 1956.

Examination.

In the
Supreme Court
of Trinidad &
Tobago.

Prosecution
Evidence.

No. 9.
Fitzgerald
Chapman.
16th November,
1956.
Examination -
continued.

On 23rd July 1956 between 7 - 7.30 a.m. I was travelling in my car along Naparima - Mayaro Road to my work. Near a bridge by the junction with the Corinth Road I saw Eugene Layne who I knew well standing at side of road holding a sack containing soiled clothes. The accused was standing with Layne and had a hatchet in his hand.

I stopped to pick up Layne who worked in same office as me. Both Layne and accused approached car. I opened back door for Layne to get in but the accused advanced before him and got into car through back door, sat on seat and put hatchet in his lap. Layne hesitated and then went to other side of the car. Before he got into car accused said "This man owes me \$60.00, and will not pay me my money". Layne said "Do not worry with that man, Mr. Chapman, he is a mad man. I do not owe him any \$60.00".

10

Layne then got into front seat and put his sack on front seat. I drove off.

20

Layne then said "I am going to the Usine and even if I owe you money now you are going to the Usine for it. He was addressing accused. The accused then said "He does not want to pay me my money". By this time I had reached the Junction to turn into Manahambre Road. We went about 100 feet along the Manahambre Road and then accused called out "Oh God, I want my money. I want my money". At the same time he struck the deceased at back of head with a hatchet.

30

Layne appeared stunned and the accused gave him another blow across the side of face with same hatchet. The accused was then sitting at back and Layne in front.

As Layne got second blow he fell into my lap and cried "Oh God". He was bleeding profusely but was absolutely still.

The accused then tried to open right back door of car. I immediately stopped the car. The accused said open the door. I did so and he got out and went his way taking the hatchet with him. I drove straight to Police Station and made report. Took Layne to hospital.

40

All the time Layne was sitting next to me his back was against back of front seat. He was facing the direction in which the car was going. My car is a Vauxhall. There was plenty of blood in my car on the front seat and front floor. (Shown hatchet) This looks like the one accused had.

In the
Supreme Court
of Trinidad &
Tobago.

Prosecution
Evidence.

No. 9.

Fitzgerald
Chapman.

16th November,
1956.

Examination -
continued.

Cross-
Examination.

Cross-examined Archbald :-

10 I knew Layne very well. I would not say he was my very good friend. I would say he was my good friend as co-workers. I knew he was constructing a house at Corinth. I had given him a lift on previous occasions. I would say once or twice.

That day I saw him before I got to him. I stopped for myself without seeing any signal given by Layne. I stopped on northern side. They on South. They both walked across. I saw hatchet there. I did not know accused at all.

20 I opened rear door and accused stepped in first. Layne made no protest then about accused entering car, nor did I, because I saw the state the accused was in. I thought he was one of Layne's workmen. Up to that time the accused said nothing. He was wearing khaki shirt, blue trousers and long boots.

30 When accused said "This man won't pay me my money", Layne was just about entering car on left. Layne's remark was "Don't worry with this man, Mr. Chapman, etc.," Layne never asked me to stop the car and put accused out.

I do not know if it was a fact he was going with Layne to Usine to be paid some money.

While we were driving along Layne said "I am going to the Usine, if ever I owe you money are you going to the Usine for it."

40 When the car turned into Manahambre Road Layne did not tell accused "So you really going to Usine to make me lose my job." The accused never said in car "If when we get to Usine you do not pay me the \$8.00 I will report you to the Usine". Nor

In the
Supreme Court
of Trinidad &
Tobago.

Prosecution
Evidence.

No. 9.

Fitzgerald
Chapman.

16th November,
1956.

Cross-
Examination -
continued.

did accused say "It is not I who going to Usine;
you are taking me there for my money".

Layne did not lean around to the back of car
and get his knees on to back of car. Layne did
not scramble the accused by his neck and begin
choking him. I did not have to tell Layne to
stop it. He was doing nothing to cause him to
rub against me.

I heard accused cry out "He does not mean to
pay me my money". When car had gone about 100
feet along Manahambre Road accused said something
and struck first blow. Layne was sitting next to
me and I could easily glance across to my left.

10

I have not come here to omit important points
because of my friendship with Layne. When accused
struck Layne, Layne's hands were not clutching ac-
cused's throat.

I first formed impression accused was vexed
when he said "this man owes me \$60.00 and will not
pay me".

20

Re-Examination.

Re-examined:

When I stopped car first time I opened door
for Layne to get in. Layne walked towards same
door I opened. Accused came before him and got
into car first.

To Court:

Accused was in my car about 3 or 4 minutes.

No.10.

No. 10

Emerson Denny

EVIDENCE OF EMERSON DENNY

16th November,
1956.

EMERSON DENNY sworn states :-

20

Examination.

Corporal Police, Station Ste. Madeleine.

On 23.7.56 a.m. report made by Fitzgerald
Chapman. Layne was lying on his lap, and was
bleeding. Give Chapman instructions.

I went on enquiries. I saw accused at Cocoyea Village, near Corinth Junction. I told him of the report, cautioned him, and he said "Yes Corporal I gave him 2 or 3 lashes with my hatchet". I asked him for hatchet. He gave it to me at Layne's house. (Shown C.M.1.) This is it.

I took possession of clothes accused was wearing at time. This shirt, pants and these boots. (Put in as E.D.1.).

10 Later same day I charged accused with wounding. Before doing so I cautioned him. He made statement which I took in writing. I read it to him. He appeared to understand and he signed. No promise, threats or force. This is it. (Put in as E.D.2.).

20 About 3.30 p.m. same day I got certain information I told him Layne was dead. I told accused he would be charged with murder. I cautioned him. He said "Oh God, you see how people does get in trouble for their own money".

I took hatchet and clothing to Government Chemist. They were returned with report. (Put in E.D.3.).

I first saw accused between 8 - 8.30 a.m. He pointed out no injuries on his body. I saw none. He made no complaint to me.

Cross-examined Archbald:

30 Accused has a clean record. When I first saw accused he was coming out of his house. I told him of the report. He did not then tell me that Layne had held him and choked him in the car. He did not ask to be taken to a doctor. I did not say he would have to be taken to the station first. I went with him to Layne's house then I took him to station, charged him with wounding and put him in the cells. Saw accused first about 40 minutes after report.

40 From Layne's house we walked to Station and arrived there at some minutes to 9 a.m. Complete taking of statement took a fair time. I took statement before putting him in cells and before charging him. In his statement there he said

In the Supreme Court of Trinidad & Tobago.

Prosecution Evidence.

No.10.

Emerson Denny.

16th November, 1956.

Examination - continued.

Cross-Examination.

In the
Supreme Court
of Trinidad &
Tobago.

Prosecution
Evidence.

No.10.
Emerson Denny.
16th November,
1956.

Cross-
Examination -
continued.

Defence
Evidence.

No.11.
Joseph Bullard.
16th November,
1956.
Examination.

Layne had choked him. Then he was charged and put into cells.

I told accused of Layne's death about 7.30 p.m. He said "You see how people does get in trouble for their own money". I then took him to charge room and charged him with murder. Cautioned him. He said "I gave you a statement of what happened already. I ain't tell no lies. I am a Baptist. God knows I am in trouble for my own money."

Not re-examined.

Case for Crown Closed

Accused elects to give evidence on oath

No.11.

EVIDENCE OF JOSEPH BULLARD

JOSEPH BULLARD sworn states :-

I am 30 years of age. Live Cocoyea Village. Live with woman called Louvinia Clarke. Mother is Maud Bullard who lives at Nagee Village.

I do carpenter mason and all round work. I was working with Eugene Layne for about 9 or 10 weeks before day of incident, doing mason work, carpentry and dirt digging. I used to get paid either Friday or Saturday.

On 23.7.56 Layne owed me personally \$160.00. On previous Saturday which was a pay day he had paid me \$5.00 and told me that when he was finished giving Mr. Goodridge a certain amount of money he did not have any left to pay me. I think he paid Goodridge about \$80.00. Layne told me that later he would give me a certain amount of money. He was always promising to pay me but never did so.

I have to maintain my whole family. When he gave me \$5.00 I said "but you have given everyone else money and not me". He said he would give me later. I gave the \$5.00 to my keeper.

10

20

30

On Sunday Layne came to my yard at about 9 a.m. and spoke to me.

On 23.7.56 I went to the house at about 6.30 a.m. Saw Layne and told him I wanted \$160.00 that morning because the men were pressing me. He said he would give me \$60.00 later. I asked him to give me even \$8.00 to fix my business at home. He said that he would take me to Usine for the \$8.00.

10 He and I walked peacefully out of house to main road. I had hatchet and a paper bag. When we got to road a car came along and stopped. The driver said "Mr. Layne come in car". Layne said he had a man to take to Usine. Layne got in front seat, I got in back. Car drove off.

20 On way I asked Layne if he would give me the amount of money he was taking me to Usine for. He said "if not what will you do" I said "I will report you at Usine". He said "You going to make me lose my work". He then grabbed me by my neck and started to choke me with his left hand and cuff me with his right. I then picked up hatchet and gave him two blows. I suppose it must be the back of hatchet that struck him. I made the blows because he was strangling me.

30 Eventually car stopped. I got out. Driver told me to go back to work. I did so. Then my stomach began to hurt. I decided to go to hospital. On way Police met me. Corporal Denny spoke to me. I told him I was beaten in a car, and I would like to go to hospital. He said we must go to station first. Corporal went with me to Layne's house. I gave him hatchet and went with him to police station. Later at police station Corporal gave me two back slaps. He then showed me a statement and told me to sign it. I did so.

Later that night he told me Layne was dead.

If Layne had not held my throat I would not have hit him with the hatchet.

Adjourned.

19th November, 1956

In the
Supreme Court
of Trinidad &
Tobago.

Defence
Evidence.

No.11.

Joseph Bullard.

16th November,
1956.

Examination -
continued.

In the
Supreme Court
of Trinidad &
Tobago

Defence
Evidence.

Joseph Bullard

Cross-examined Durity:

Layne owed me money for a considerable time. On the Monday morning I told him I could not wait any longer. I had not come to the end of my patience.

No.11.
Joseph Bullard.
19th November,
1956.
Cross-
Examination.

When Layne was choking me in the car my head was going backwards all the time as I demonstrated. My head reached the back of the seat and could not go any further. One of Layne's feet was over the back of front seat and the other was resting on the front seat. Layne gave me about 12 or 14 cuffs on my ribs and face. One cuff caught me in my jaw. It was while he was cuffing me that I swing the two blows with hatchet. (Demonstrates) The hatchet and the bag with my bakes were on the seat on my right side. When I struck Layne the driver applied the brakes suddenly and Layne fell against driver. Layne's right foot was thrown in air. I saw no blood spurt from Layne's face until he fell on to front seat. Then I saw blood spurting from his face. Layne fell with his back against the driver who pushed him off.

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That morning I had started to work. While working the bakes were in my pocket. I do not usually keep them in my pocket, but I had them that morning because Layne had said he was taking me to Usine.

I had the hatchet in the car with me because while I was working that morning I found it was dull and Layne said to bring it with me. When I was going to Usine he would get it sharpened.

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When I made the blows at Layne with hatchet his face was facing my face. I had made up my mind I must get some money that day. I did not intend to get my money from Layne before he left the house. It was not because I did not get my money that I followed him with hatchet. I did not follow him; we left together.

Layne told Chapman he did not owe me any \$60.00. It is not true I intended either to get my money or use the hatchet. I have witnesses. I do not know their names. I have not asked anyone to be a witness for me. No one has spoken to me and say they know about incident.

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Re-examined:

I used the hatchet because the man was strangling me. I have been in custody from the morning of incident. I have not spoken to anyone who is to be a witness. I know Rampersad Ramsawack, a milk seller. I saw him on the Saturday prior to incident.

In the
Supreme Court
of Trinidad &
Tobago.

Defence
Evidence.

No.11.

Joseph Bullard.
19th November,
1956.

10 (With Leave) He had worked on the job for Layne. He had worked for \$8.00 first time and I think \$3.50 second time. Layne paid him \$2.00 on the Saturday. Layne paid me \$5.00.

On the Monday morning I was chipping wall. Layne told me hatchet was dull.

Re-examination.

To Court:

Before Layne scrambled me the car was travelling at a medium pace.

No. 12.

EVIDENCE OF RAMPERSAD RAMSAWACK

RAMPERSAD RAMSAWACK sworn states:

No.12.

Rampersad
Ramsawack.

20 Live Corinth Junction. Mind my stock. I know accused. I know Layne.

19th November,
1956.

In July I was employed by Layne to cutlass the ground around a house he was building at Corinth. We agreed on price of \$8.00. The job took me 3 days. I finished on a Saturday. That day I agreed to tote some wood for him for \$1.50. I did so. He was supposed to pay me Saturday afternoon. On the Saturday afternoon he paid me \$1.00 and said he would give me the balance pay day following week.

Examination.

30 Same Saturday I heard Bullard telling Layne "You have only paid me \$5.00 and you have so much money for me". He also said "Now you are telling me to wait until Monday although for 3 weeks I have worked here I ain't get a cent yet". Layne said "Monday coming I am going to pay you".

Not cross-examined.

Case for Defence Closed.

18.

In the
Supreme Court
of Trinidad &
Tobago

No. 13.

ADDRESS TO JURY OF DEFENCE COUNSEL

Archbald addresses Jury :-

No.13.

Address to Jury
of Defence
Counsel

Accused admits he struck two blows but says there were certain circumstances. Defence here is self-defence. Part of defence here is also provocation.

19th November,
1956.

Hatchet was dull.

Durity replies.

Lunch.

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No.14.

No. 14.

Proceedings.

PROCEEDINGS

19th November,
1956.

Summing up: 1.30 p.m. to: 2.15 p.m.

Jury retires: 2.15 p.m. returns: 2.30 p.m.

Verdict: Guilty.

Order: Death by hanging.

No.15.

No. 15.

Summing up.

SUMMING UP

19th November,
1956.

Summing up of The Honourable Mr. Justice M.A. Corbin (Acting), at the San Fernando Assizes, on 19th November, 1956.

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GENTLEMEN:

This accused has been indicted for murder. Let me assure you at the very outset that your task and your responsibility here are no different from what they would be on a simple charge of larceny. Your duty here, as it would be on a

simple charge of larceny, is to decide whether or not you are satisfied that the evidence led by the prosecution has proved the charge. That is all that you are concerned with. You are not concerned with the consequences and the punishment. You have been told, and many of you probably know already, that you are the sole judges of the facts. It is for you to say which witnesses you believe, what weight you attach to their evidence, and which witnesses you do not believe. If in the course of my review I should make any comment upon the evidence you are free to accept that or disregard it as you please. I will give you certain directions as to what law is applicable to the case, and you must accept those directions from me. You apply those directions in law to the facts which you find, and upon them you arrive at your verdict.

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The most important direction in law which I have to give you is that the onus of proof is always upon the prosecution. It is for the Crown to establish the guilt of the accused and never for an accused person to establish his own innocence. You must be satisfied by the evidence led by the prosecution that you can feel certain of the guilt of the accused. And if you do not feel that certainty on the evidence led by the prosecution then it is your duty to acquit the accused.

Now, murder is the unlawful and felonious killing of a human being with malice aforethought. "Aforethought" does not necessarily imply premeditation. It does not necessarily mean that the accused had sat down for several days contemplating this action. It implies intention which must necessarily precede or co-exist with the act by which death is caused. In other words it implies intention to do the act by which death is caused. Malice may be either express or implied. It is express where a person openly declares his intention to kill or to do grievous bodily harm to another. Note that. It is not necessarily an express intention to kill, it may be to do grievous bodily harm. Where it is not express the law will imply malice from any deliberate cruel and brutal act committed by one person against another. So you must be satisfied that the deceased died as a result of a deliberate cruel and brutal act committed by the accused voluntarily, which was intentional and unprovoked.

In the
Supreme Court
of Trinidad &
Tobago

No.15.

Summing up.

19th November,
1956 -
continued.

In the
Supreme Court
of Trinidad &
Tobago.

No.15.

Summing up.

19th November,
1956 -
continued.

Now, every person is presumed to be sane and to be responsible for his crime until the contrary is shown. In this particular case there is no suggestion that the accused was insane at any time. In some indictments it is open to the jury to return a verdict of not guilty of murder, but guilty of manslaughter on the ground of provocation. As a matter of law it is my duty to direct you that in the circumstances of this particular case that verdict is not open to you for reasons which I shall show you later. And since no defence of insanity has been put up, and therefore you cannot return a verdict of guilty, but insane, the only two verdicts which will be open to you are either "guilty of murder", or "not guilty at all" on the ground of self-defence. 10

The facts in this case will be fresh in your memory. I do not propose to go through them in any detail. Briefly, the case for the Crown is that in the month of July of this year the accused Bullard was employed by Eugene Layne on the construction of a house which Layne was building at Corinth Village. On the 23rd July Bullard was claiming that Layne owed him a certain sum of money, and he went to the house in the early part of the morning and asked Layne, in the presence of James George, for his money. Layne said that he would pay Bullard when he returned from work and Layne set off to go to his work followed by Bullard, who at that stage was carrying a hatchet. On the way to the main road they passed a man called Moore. In the presence of Moore Bullard again asked Layne for his money and Layne said, "I have no money now, you will have to wait until I go to Usine and come back this afternoon to pay you". At that time Bullard was still carrying the hatchet. Moore took it away from him, but the accused Bullard snatched it back from Moore's hand and said, "This is my tool I work with". Layne and Bullard then went to the main road where a car driven by Chapman was passing and it stopped. Before they got into the car Bullard again said to Layne, or at least he said in the presence of Layne, "This man owes me \$60.00 and will not pay me my money". Layne said, "Don't worry with that man Mr. Chapman, he is a mad man. I don't owe him any \$60.00". Layne got into the front seat of the car, Bullard into the back, and the car drove off. 20 30 40

On the way Layne said to Bullard, "I am going

to the Usine and, even if I owe you money, are you going to the Usine for it." The accused then said "he does not mean to pay me my money." The car turned into the Manahambre Road, and according to Chapman, the accused called out, "Oh God, I want my money, I want my money." At the same time he struck Layne in the head with a hatchet. According to Chapman, at that time Layne was sitting in the front seat facing the direction in which the car was going, Bullard was in the back seat and struck Layne from behind. The car was stopped and Bullard got out and went away.

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Chapman made a report to the Police Station and in consequence a policeman interviewed the accused, told him of the report and the accused said, "Yos, Corporal I give him two or three lashes with my hatchet." Subsequently he made a statement which was taken in writing and which has been read over here for you. I should mention that that statement will be available to you if you should wish to read it for yourselves at any time.

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Layne died as a result of the injuries. You have heard the evidence of Dr. Mejias who said that in his opinion death was due to shock and haemorrhage as a result of a fracture of the skull. And you will clearly remember his description of the injuries which he found, a wound over the right temporal bone, and a stitched semi-circular wound at the top of the head nearer the back than the front, right across the top of the head. He expresses it as his opinion that if those injuries were delivered to Layne by a right handed man at the time when they were delivered that man would be behind Layne.

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That is a summary of the evidence adduced by the Prosecution. That is the evidence which you will have to say whether or not you believe. You will have to ask yourselves and to consider whether Chapman, a cashier employed at the Usine Ste. Madeleine Sugar Company, and Moore, a switchboard operator at the Trinidad Oilfield Company - both apparently responsible individuals, who I suggest to you appear to understand the nature and sanctity of the oath which they have taken here - you will have to ask yourselves whether having seen them, the way in which they have given their evidence, they impress you as being the sort of people who would come here to lie. You will have to say, viewing

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In the
Supreme Court
of Trinidad &
Tobago.

No.15.

Summing up.

19th November,
1956 -
continued.

In the
Supreme Court
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No.15.

their evidence in the light of those circumstances, whether you consider them to be witnesses whose evidence you do not believe, bearing in mind the fact which I have just mentioned to you of the opinion expressed by the doctor as to the position of the assailant at the time when the injuries were inflicted.

Summing up.

19th November,
1956 -
continued.

Now, let us see what effect the defence has on that evidence led by the prosecution. I propose to read the evidence given by Joseph Bullard fairly fully because I think it is important to you.

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Starting with the relevant part: "On the 23rd July of this year Layne owed me personally \$160. I had been working for him for some time without receiving any pay. On the previous Saturday, which was a pay day (that is the Saturday previous to the Monday of this incident) he had paid me \$5 and told me that when he had finished giving Mr. Goodridge a certain amount of money he did not have any left to pay me. I think he paid Mr. Goodridge about \$80. Layne told me that later on he would give me a certain amount of money. He was always promising to pay me but he never did so. I have to maintain my whole family. When he gave me \$5 I said, 'but you have given everyone else money and not me.' He said he would give me some later. I gave the \$5 to my keeper. On the Sunday Layne came to my yard at about 9 o'clock in the morning and spoke to me. On the 23rd July (that is on the Monday of this incident) I went to the house at about 6.30 a.m. I saw Layne and told him that I wanted \$160 that morning because the men were pressing me. He said that he would give me \$60 later. I asked him at least to give me even \$8 to fix up my business at home. And he said that he would have to take me to Usine for the \$8. He and I walked peacefully out of the house to the main road. At the time I was carrying a hatchet and a paper bag with some bakes. When we got to the road a car came along and stopped. The driver said, 'Mr. Layne, come in the car.' Layne said that he had a man to take with him to Usine. Chapman agreed, Layne got into the front seat. I got into the back, and the car drove off. On the way I asked Layne if he would give me the amount of money that he was taking me to the Usine for and he said, 'If not what will you do?' I said, 'I will report you at

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the Usine,' meaning to his boss at the Sugar Company. He said, 'You going to make me lose my work.' He then grabbed me by my neck and started to choke me with his left hand and to cuff me with his right. I then picked up the hatchet and gave him two blows. I suppose it must be the back of the hatchet that struck him, I made the blows because he was strangling me. Eventually the car stopped. I got out. The driver told me to go back to work. I did so. Then my stomach began to hurt. I decided to go to the hospital. On my way the police met me. Corporal Denny spoke to me. I told him I was beaten in a car and I would like to go to the hospital. He said we must go to the station first. The Corporal then went with me to Layne's house and I gave him the hatchet and went with him to the Police Station. Later on at the Police Station the Corporal gave me two back slaps. He then showed me a statement and told me to sign it. I did so. Later that night he told me that Layne was dead."

And now, this is the part which I suggest to you is very important: "If Layne had not held my throat I would not have hit him with the hatchet."

Well, that is the evidence given in chief by the accused Bullard. In that will lie his defence. You must give due consideration to his defence and you must give to it the weight and the attention which you think it deserves. But I have directed you that it will not be open to you to return a verdict of manslaughter on the ground of provocation, because it is from the evidence that you must get the provocation if there is any. And putting the most favourable construction on this evidence given here on oath by the accused he has not himself told you that what he did was a result of any provocation given to him by Layne. Looking at his evidence you will find as I have just read out for you, his description of his conversation with Layne; Layne telling him that he must go with him to Usine for the money. They proceeded peacefully to the road. They got into the car. On the way in the car he asked Layne if he is going to give him all the money that he is taking him for, and then Layne asked him what he will do if he does not. He says, I will report you to Usine; and then Layne grabbed him. I am directing you that nowhere in his statement, his evidence given

In the
Supreme Court
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No.15.

Summing up.

19th November,
1956 -
continued.

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on oath, will you find that he committed this act because he was provoked by Layne's refusal or failure to pay him the money. His evidence here is that if Layne had not held my throat I would not have hit him with the hatchet.

No.15.

Summing up.

19th November,
1956 -
continued.

So, now we must turn to the other aspect of the defence, because, as counsel for the defence pointed out to you, the defence was two-fold, and the other aspect of the defence is the ground of self-defence.

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Now, if two men fight upon a sudden quarrel and one of them after a while endeavours to avoid any further struggle and retreats as far as he can until at length no means of escaping his assailant remain, and he then turns round and kills his assailant in order to avoid destruction, this homicide is excusable as being committed in self-defence. So that, in considering that aspect of the matter you have first of all to decide whether there was any possibility of Bullard retreating further from this attack which he says that Layne was making on him and I think that in the circumstances of the evidence which you have before you you will have little difficulty in saying that if in fact Layne was attacking him in the car in the manner in which he described that there would be very little that he could do about it. The car was moving. He was pressed up against the back seat, he could hardly get out of the car. So I think you would almost certainly say to yourself that in those circumstances there was little possibility for him to retreat any further. Then what you have to turn your attention to is the question of fact as to whether or not you believe that Layne was attacking him in the manner in which Bullard has described. On that point you have the evidence of Chapman, to which I have referred, and I do not consider it necessary to go into it again. You have also the evidence of Dr. Mejias, and you have the evidence of the accused Bullard. It will be for you to say whether you accept the evidence of Chapman and Dr. Mejias, whether you believe Chapman to have given you a truthful version as to what happened in the car, and to ask yourselves if that is not the type of evidence which impresses you as being true. You have also to consider the evidence of Joseph Bullard also given upon oath and also tested by

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cross-examination. And you will remember that he told you that he was sitting on the back seat, and that after some conversation Layne turned round, put one leg over the back of the front seat, grabbed him by his throat with the left hand and started to pound him, cuff him in the ribs and in the jaw with his right hand, pushing him up against the back of the back seat. It was at that stage that he picked up the hatchet which he says then must have been on the seat on the right hand side of him and dealt Layne two blows on the side of his head. You will remember his demonstration as to how he dealt the two blows. You will remember that he demonstrated using the hatchet with his right hand. You will bear in mind that at that time according to his own evidence Layne was holding him around the throat with his left hand and cuffing him with his right. You will remember that he said that Layne and himself at that stage were face to face. So you will realize that Layne's right cheek would be on the opposite side from Bullard's right hand. You will readily understand that in those circumstances for Bullard to have struck Layne the two blows on the right side of his head it would follow that he would have to be striking the blows across the left hand of Layne which is strangling him around his throat, and having stretched across that left hand, to inflict those two blows on Layne's head with the degree of force necessary to have caused the injuries which have been described to you by the doctor. You will then ask yourselves whether that description appeals to you as intelligent men as a description which you consider worthy of believing.

I do not think it is necessary to go too closely into the part of his evidence about how the car stopped, when it jerked and Layne was thrown on top of the driver, Chapman, and then rolled on to the seat, because you have heard it and you will be able to say whether that part of the evidence seems to you to have any weight and any bearing upon the rest of his story.

He called as a witness Rampersad Ramsawak, who said that he had also round that same time been employed by Eugene Layne and that on the Saturday prior to this incident Layne owed him the sum of \$9.50, that he gave him \$1.00 on the Saturday afternoon, and told him that he would pay him the

In the
Supreme Court
of Trinidad &
Tobago.

No.15.

Summing up.

19th November,
1956 -
continued.

In the
Supreme Court
of Trinidad &
Tobago.

No.15.

Summing up.

19th November,
1956 -
continued.

balance on pay day of the following week. He says that he heard a conversation between Layne and Bullard in which Bullard told Layne, "But you have only paid me \$5 and you have so much money for me."

So, gentlemen, that is the defence, and as I say you must give it your consideration. The defence is the evidence which Bullard has given here on oath. He says he struck Layne in the head with the hatchet because he was strangling him and that he had to defend himself. He says if Layne had not held his throat he would not have hit him with the hatchet. So that you now have to decide whether you believe Chapman that Layne was sitting quietly in the front of the car looking ahead of him when the accused dealt him those two severe blows, or whether you believe Bullard that Layne had leaned over and was strangling him in such a manner that it was necessary for him to use extreme methods to defend himself. Bear in mind the general directions in law which I have given you. Bear in mind the evidence of the doctor and the position of the blows, and if you believe it, the evidence of Cephas Moors as to Bullard's reaction when he came back afterwards. He said, "Partner, I give him two with this," and he showed his hatchet.

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That, you will remember, was after Layne and Bullard had driven away in the car. Bear in mind too, if you believe the evidence of Corporal Denny, that when he told the accused of the report made by Chapman that the accused said, "Yes, Corporal I gave him two or three lashes with my hatchet." And bear in mind the evidence of Corporal Denny. I will not keep on repeating "if you believe" because you know it is for you to say what you believe and what you do not believe. The evidence of Corporal Denny in cross-examination is: "I told Bullard of the report. He did not then tell me that Layne had held him and choked him in the car. He did not ask to be taken to a doctor, and I did not say that he would have to be taken to the station first." Consider whether the evidence as given by the witnesses for the prosecution strikes you as being evidence of truth or not. Consider whether the explanation given you by the accused strikes you as being such that you can honestly and intelligently say that you accept the evidence that he was being strangled by Layne; that it was

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10 because he was being strangled by Layne that he had to use the hatchet on him to inflict blows on the right side of Layne's cheek. See whether that strikes you as being the sort of story that you can believe. So then if you believe the evidence given by the witnesses for the prosecution and you do not believe that evidence given by Joseph Bullard, if you do not believe that he was acting in self-defence, this is one of the clearest possible cases of murder that you could imagine.

If on the other hand you do not believe the evidence of the witnesses for the prosecution; if you do not accept Chapman's evidence, and you accept the evidence given by Joseph Bullard that he was being strangled and that he had to use the hatchet in self-defence then he is entitled to have you say he is not guilty on the ground of self-defence.

Would you then please consider your verdict.

20 FOREMAN: Your Lordship, we would like to have the statement and to know if it is signed by a Commissioner of Affidavits.

30 HIS LORDSHIP: You will find when you examine it that it has not been signed by any Commissioner of Affidavits. I take it by that that you mean any Justice of the Peace. As a matter of law I can direct you that it is not necessary that the statement must be signed by either a Justice of the Peace or a Commissioner of Affidavits or any other witness. But if you feel that there were circumstances here which should have made that step be taken, then it will be a question of fact for you to decide what weight you attach to the statement or not. But as a matter of law it is not necessary. So when you retire the Clerk will bring it for you.

No. 16.

VERDICT AND SENTENCE

On the 16th and 19th days of November 1956.

CORAM: M. H. A. Corbin, Ag. J.
PLEA: Not guilty.
VERDICT: Guilty.
SENTENCE: Death by hanging.

L. Thomson,
 Court Clerk.
 19/11/56.

In the
 Supreme Court
 of Trinidad &
 Tobago.

No. 15.

Summing up.

19th November,
 1956 -
 continued.

No.16.

Verdict and
 Sentence.

19th November,
 1956.

In the Court of
Criminal Appeal
of Trinidad &
Tobago.

No. 17.

NOTICE OF APPEAL ON QUESTION OF LAW ONLY,
AND ORDER REFUSING

No. 17.

NOTICE OF APPEAL
Criminal Appeal Ordinance, 1931.

Notice of
Appeal on
question of Law
only, and order
refusing.

QUESTION OF LAW ONLY

To THE REGISTRAR OF THE COURT OF CRIMINAL APPEAL.

26th November,
1956.

I, Joseph Bullard having been convicted of the offence of Murder and being now a prisoner in the Royal Gaol, Port of Spain do hereby give you Notice of Appeal against my conviction (particulars of which hereinafter appear) to the Court of Criminal Appeal on questions of law, that is to say -

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1. That the learned Trial Judge misdirected the Jury on the law by directing them that it was not open to them on the evidence before them to return a verdict of Manslaughter because the Accused in his sworn evidence at the Trial had never stated that he had inflicted the injuries on the deceased as the result of his having been provoked by any act on the part of the deceased, but instead, had stated that he had so acted because the deceased was at the time choking his neck and that he, the Accused, had so acted to free himself from being strangled.

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2. That the learned Trial Judge failed to direct the Jury that even though the accused may not have stated in his evidence that he had been provoked by the acts of the deceased in- to doing what he did, nevertheless, if the evidence before them showed any reasonable provocation, it was open to them to return a verdict of Manslaughter;

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and

3. That the learned Trial Judge failed to direct the Jury that there was in fact before them evidence of reasonable provocation, viz: the evidence of the Accused, that he was being strangled by the Deceased at the time he

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inflicted the said injuries on him.

DATED this 26th day of November, 1956.

Joseph Bullard
Appellant.

Leave refused

M. Corbin,
Ag. J.

26/11/56.

In the Court of
Criminal Appeal
of Trinidad &
Tobago.

No. 17.

Notice of
Appeal on
question of Law
only, and order
refusing.

26th November,
1956 -
continued.

PARTICULARS OF TRIAL AND CONVICTION.

- 10 1. Date of Trial: 19th November, 1956.
- 2. In what Court tried: San Fernando Criminal Assizes.
- 3. Sentence: Death by hanging.
- 4. Whether above questions of law were raised at the Trial? Yes.

You are required to answer the following questions :-

20 1. If you desire to apply to the Court of Criminal Appeal to assign you legal aid on your appeal, state your position in life, and amount of wages, or salary, &c., and any other facts which you submit show reasons for legal aid being assigned to you.

2. Do you desire to be present on the hearing of your appeal by the Court of Criminal Appeal? If you do so desire, state the reasons upon which you submit the said Court should give you leave to be present.

No.

In the Court of
Criminal Appeal
of Trinidad &
Tobago.

No. 18.

FURTHER NOTICE OF APPEAL

NOTICE OF APPEAL BY APPELLANT FROM JUDGE UNDER S.19

No. 18.

Criminal Appeal Ordinance, Ch.3. No.2.

Further Notice
of Appeal.

R. v. JOSEPH BULLARD

29th November,
1956.

I, Joseph Bullard having received your noti-
fication that my Applications for :-

- (a) leave to appeal; against conviction
- (b) for extension of the time within which No-
tice of Appeal or application for leave to appeal may be given; 10
- (c) legal aid to be assigned to me;
- (d) permission to me to be present at the hear-
ing of any proceedings in relation to my
appeal;

have been refused; do hereby give notice that I
desire that the said applications shall be con-
sidered and determined by the Court of Criminal
Appeal (and that as I am not legally represented I
desire to be present at the determination of my
said applications) 20

his
Signed Joseph x Bullard
mark

Appellant.

To the Registrar of the Court of Criminal Appeal.

Dated this 29th day of November, 1957.

If you desire to state any reasons in ad-
dition to those set out by you in your original
notice upon which you submit that the Court of
Criminal Appeal should grant your said applica-
tions, you may do so in the space below. 30

No. 19.

JUDGMENT

IN THE SUPREME COURT OF TRINIDAD AND TOBAGO
COURT OF CRIMINAL APPEAL

No. 307 of 1956.

REGINA

v.

JOSEPH BULLARD

J U D G M E N T

In the Court of
Criminal Appeal
of Trinidad &
Tobago.

No. 19.

Judgment.

4th January,
1957.

10 The appellant Joseph Bullard was tried for murder at the San Fernando Assizes and on the 19th November 1956, was found guilty and sentenced to death.

Against this conviction he has appealed.

The only ground of appeal is that the learned trial judge withdrew from the jury the possible verdict of manslaughter there being sufficient evidence of provocation to warrant such a verdict.

20 The law as to provocation has been clearly laid down by the House of Lords in the case of Mancini v. Director of Public Prosecutions reported in (1942) Appeal Cases at Page 1. In his speech at p.8 the Lord Chancellor (Viscount Simon) after commenting that in spite of the fact that Counsel for defence had said very little on the question of manslaughter yet if the Court was of the opinion that there was some evidence upon which the ques-
30 tion of manslaughter ought to have been left to the jury, the verdict of murder could not stand, continued "To avoid all possible misunderstanding, I would add that this is far from saying that in every trial for murder where the accused pleads not guilty the judge must include in his summing-up to the jury observations on the subject of manslaughter. The possibility of a verdict of manslaughter instead of murder only arises when the evidence given before the jury is such as might satisfy them as the judges of fact that the elements were

In the Court of
Criminal Appeal
of Trinidad &
Tobago.

present which would reduce the crime to manslaughter, or, at any rate, might induce a reasonable doubt whether this was or was not the case".

The case for the Crown very briefly was as follows :-

No. 19.

Judgment.

4th January,
1957 -
continued.

For some time prior to the 23rd July 1956, the appellant had been employed by one Eugene Layne, the deceased, to work as a carpenter on a house which Layne was building at Corinth Village. On the morning of the 23rd July 1956 the appellant went to the house at about 6.30 a.m. and demanded from Layne certain money which he said was due to him for work done on the house. Layne told him that he would have to wait until he returned from work in the afternoon and left to go to his work at the Usine Ste. Madeleine. 10

The appellant followed Layne out to the main road carrying with him his hatchet. He continued to demand his money. On the way a witness by the name of Cephias Moore took away the hatchet from the appellant but appellant took it back saying: "This is my tool, I work with it". At the main road Layne and the appellant waited for some time until a car came along driven by one Fitzgerald Chapman a friend of Layne who worked with him at the Usine Ste. Madeleine. Chapman stopped the car to give Layne a lift. Before Layne could get into the car appellant said "This man owes me \$60 and will not pay me" and jumped into the back seat of the car. Layne said to Chapman "Don't worry with that man Mr. Chapman. I do not owe him \$60". He then got into the front seat next to the driver. There was some further talk and when the car had travelled some distance down the road, the appellant called out "Oh, God, I want my money" and struck Layne two blows on the head with the hatchet causing severe wounds from which Layne subsequently died. 20 30

The doctor who performed the post mortem after describing the wounds and stating as his opinion that death was due to shock and haemorrhage from a fractured skull expressed the further opinion under cross-examination that if the assailant was a right handed man, which the appellant is, he would be at the back of the injured man when the blows were struck. If the men were facing each other the 40

first wound could have been caused by a back handed blow but not the second. On being pressed as to the second wound having been caused by a back handed blow he said that he would not say that it was utterly impossible but he would say that it was highly unlikely although within the realm of possibility. There were two distinct blows. He added that both injuries were more likely to have been inflicted from behind.

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No. 19.

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10 The appellant's story was that there had been some talk at the house between Layne and himself as to the payment of money due to him by Layne but that they walked peacefully out of the house to the main road where they got into a car driven by Chapman. On the way the appellant asked Layne if he would really give him the amount which he was taking him to the Usine for. Layne asked what he would do if he did not to which appellant replied that he would report him to the Usine Co. Layne
20 replied "You going to make me lose my work" and leaning over the back of the front seat, he grabbed him by his neck and started to choke him with his left hand at the same time with his right. It should be noted that according to his story they were face to face. In order to defend himself appellant says, he took up the hatchet which was beside him and struck Layne two blows on the head. He says that he did this because Layne was strangling him.

4th January,
1957 -
continued.

30 The learned trial judge was of the opinion that the appellant's story, if it was believed, would entitle him to an acquittal on the ground that he had acted in self defence. He quite properly left this issue of self defence to the jury. With this counsel for appellant found no fault. The jury obviously rejected the appellant's story and indeed in view of the evidence of the independent witness Chapman, the driver of the car, and opinion expressed by the doctor that
40 both wounds were much more likely to have been caused from behind we should have been surprised had they done otherwise.

But counsel for the appellant urges that on the same set of facts, the appellant's story, the learned trial judge should not only have directed the jury on the issue of self defence but that he should further have directed them that they could bring in a verdict of manslaughter on the ground

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Judgment.

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continued.

of provocation. We are unable to agree with this proposition. The appellant's story was rejected by the jury. We are strengthened in our opinion by a further passage from the speech of the Lord Chancellor in the Mancini case. In that case the appellant was charged with the murder of one Distleman and in his defence alleged that he had heard the voice of a witness, Fletcher, threatening him with a knife and that Distleman came at him with an open pen-knife in his hand. We quote from the speech of the Lord Chancellor at p.9:

10

"Before, therefore Justice Macnaghton's summing-up can be criticised on the ground that it did not deal adequately with the topic of provocation, we have to see what was the extent of the provocation as disclosed by the evidence which the jury had to consider, and for this purpose we have to exclude altogether the allegation made by the appellant that he heard the voice of Fletcher threatening him with "knifing" and that Distleman came at him with an open pen-knife in his hand. The judge had already instructed the jury fully on these matters and had directed the jury to acquit the appellant altogether if they felt they could accept the appellant's story. The alternative case, therefore, as to which it is suggested that a defence of provocation was open, must be regarded on the basis that the appellant's story was rejected".

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That is the exact position in this case. We are satisfied that apart from the appellant's story which was put to the jury as self defence and rejected by them, there was no evidence on which the issue of provocation could be based.

The appeal is dismissed. Conviction and sentence affirmed.

Fabian J. Camacho
PUISNE JUDGE.

C. V. H. Archer
PUISNE JUDGE.

40

J. Blagden
PUISNE JUDGE.

4th January, 1957.

No. 20.

ORDER GRANTING SPECIAL LEAVE TO APPEAL
IN FORMA PAUPERIS

(L.S.)

AT THE COURT AT WINDSOR CASTLE

The 29th day of April, 1957

PRESENT:

THE QUEEN'S MOST EXCELLENT MAJESTY

MR. SANDYS (acting for
the Lord President)

SIR MICHAEL ADEANE
MR. MOLSON

In the
Privy Council

No. 20.

Order granting
Special Leave
to Appeal in
forma pauperis.

29th April 1957.

10 WHEREAS there was this day read at the Board
a Report from the Judicial Committee of the Privy
Council dated the 8th day of April 1957 in the
words following, viz :-

20 "Whereas by virtue of His late Majesty King
Edward the Seventh's Order in Council of the
18th day of October 1909 there was referred
unto this Committee a humble Petition of
Joseph Bullard in the matter of an Appeal from
the Court of Criminal Appeal of Trinidad and
Tobago between the Petitioner and Your Majesty
Respondent setting forth: that the Petitioner
was charged in the Court of San Fernando Crimi-
nal Assizes with the murder of Eugene Layne
on the 23rd July 1956 at St. Clements Village
in the County of Victoria: that on the 19th
November 1956 the Court convicted the Pet-
itioner of murder and sentenced him to death:
that the Petitioner appealed to the Court of
30 Criminal Appeal which Court on the 4th January
1957 dismissed the Appeal: And humbly praying
that Your Majesty in Council may grant him
special leave to appeal in forma pauperis from
the Judgment of the Court of Criminal Appeal
of Trinidad and Tobago dated the 4th January,
1957 and for such further or other Order as
to Your Majesty in Council may seem fit:

40 "THE LORDS OF THE COMMITTEE in obedience
to His late Majesty's said Order in Council
have taken the humble Petition into consider-
ation and having heard Counsel in support
thereof and in opposition thereto Their Lord-
ships do this day agree humbly to report to

In the
Privy Council

No. 20.

Order granting
Special Leave
to Appeal in
forma pauperis.

29th April 1957
- continued.

Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal in forma pauperis against the Judgment of the Court of Criminal Appeal of Trinidad and Tobago dated the 4th day of January 1957:

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

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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.

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

W. G. AGNEW.

E X H I B I T SExhibitsE.D.2. - STATEMENT TO POLICE BY JOSEPH BULLARD

E.D.2.

Ste. Madeleine Police Station.
Monday 23rd July, 1956.Statement to
Police by
Joseph Bullard.

JOSEPH BULLARD after being cautioned as follows:-

23rd July 1956.

I am No.3693 Cpl. DENNY, investigating a report of Wounding. It is alleged that you wounded one Eugene Layne with a hatchet at St. Clement Village at 7.30 a.m. today (23.7.56) whilst travelling in a motor car. "You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence".

States:

I living at Corinth Junction and working with Eugene Layne building a house for him at Ne Plus Ultra, Corinth. I went to work this morning as usual with Mr. Layne who sleeps on the premises as it is unfinished and we began talking about money he owing me. He tell me he is going to give me sixty dollars today, but he has no money on him. I then say, well give me eight dollars to fix up some business nuh. He say, alright come and go by Usine and I will get it for you, we then come out into the main road arguing about the money and a motor car came up who he say, the fellow also working in Usine and he hail at him, and he stop. We did still arguing about the sixty dollars and he get in the car and tell the driver to go ahead and the driver say, ent you taking him to Usine for the money, well let him get in too, and I get in the car. When the car turn St. Clement Junction going to Usine Mr. Layne ask me so you really going to Usine to make me lose my job, I tell him me ent going to Usine, it is you who carrying me for the sixty dollars. He then scramble me in my neck as I was sitting in the back seat and he was sitting side of the driver and began choking me. The driver then said all you wait nah, and he had to hold up as Mr. Layne was rubbing against him and causing him to loose control, I then pick up my old hatchet that was in the seat side of me with a piece of bake, and I fire two lash at his face and hit him in the face while he was holding over me.

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Exhibits

E.D.2.

Statement to
Police by
Joseph Bullard.

23rd July 1956
- continued.

I am working with Mr. Layne now about seven or eight weeks and only receive about one hundred dollar to pay workmen, and he has over one hundred and sixty dollars for me alone, as I didn't get any during the past weeks.

Sgd. Joseph Bullard.

Witness W.Bonnett P.C.3284.

I hereby certify that I took this statement from Joseph Bullard at 10 a.m.on Monday 23rd July, 1956. I read it over to him, he said it is correct and signed it.

10

E. Denny Cpl. 3693.

E.D.3.

Advice letter
to Chemist,
25th July 1956.

E.D.3. - ADVICE LETTER TO CHEMIST WITH
CERTIFICATE OF ANALYSIS

GENERAL SAMPLES - Advice Letter to Chemist.

Ste. Madeleine Police Station.
25th July, 1956.

To the Government Chemist:

Sir,

The following samples in connection with the case of murder 3693 Cpl. Denny vs. Joseph Bullard are forwarded for analysis in charge of Cpl. 3693 Denny.

20

Gabriel Alcindor ASP
Officer in Charge.

Ser No.	Lab. No.	Des. of Samples	Nature of Analysis required.
1	2720-6	One hatchet	To ascertain
2	2721-6	One cloth hat	whether there
3	2722-6	One khaki shirt	is the presence
4	2723-6	One blue trousers	of human blood.
5	2724-6	One pair rubber boots (long)	
	2724-6 A		

CERTIFICATE OF ANALYSIS

Exhibits

To the Superintendent of Police: San Fernando.

E.D.2.

Human blood was found on the hatchet and in numerous spots on the shirt (Lab. Nos. 2720-6 and 2722-6 respectively) in the areas ringed with red pencil.

Certificate of
Analysis,
16th August,
1956.

No blood was found on the hat (Lab.No.2721-6) the blue trousers (Lab.No.2723-6 and on either of the boots (Lab.No.2724-6 and 2724-6A).

10

E.G.N. Greaves B.Sc., Ph.D. FRIC
Government Chemist

Government Laboratory.

16th August, 1956.

ON APPEAL
FROM THE COURT OF CRIMINAL APPEAL OF TRINIDAD
AND TOBAGO

B E T W E E N :-

JOSEPH BULLARD Appellant

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

T. L. WILSON & CO.,
6, Westminster Palace Gardens,
London, S.W.1.

Solicitors for the Appellant.

CHARLES RUSSELL & CO.,
37, Norfolk Street,
London, W.C.2.

Solicitors for the Respondent.