

19, 1965

IN THE PRIVY COUNCIL

No. 8 of 1965

ON APPEAL
FROM THE SUPREME COURT OF THE BAHAMA ISLANDS

B E T W E E N :

JAMES ROLLE

Appellant

and

THE QUEEN

Respondent

RECORD OF PROCEEDINGS

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RECORD OF PROCEEDINGS

(i)

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1.

IN THE PRIVY COUNCIL

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ON APPEAL FROM THE SUPREME COURT OF
THE BAHAMA ISLANDS

B E T W E E N :

JAMES ROLLE

Appellant

and

THE QUEEN

Respondent

RECORD OF PROCEEDINGS

No. 1.

In the Supreme
Court of the
Bahama Islands

10

EVIDENCE OF DR. REGALDO
TENDERO

Prosecution
Evidence

IN THE SUPREME COURT

Wednesday,
21st October, 1964.

Criminal Side

No. 1.

REGINA V. JAMES ROLLE

Dr. Regaldo
Tendero

CHARGE: Murder contrary to section 337 of the
Penal Code (Ch.69).

Examination

PARTICULARS: James Rolle is charged that he on
the 6th July, 1964, at New Providence,
did murder Isaac Emmanuel Ginton.

20

Mr. Kermit Ireland, Crown Counsel, appears for the
Crown.

Mr. Loftus Roker appears for the Defendant.

Zebedee Mackey - Foreman
Alfred Duncombe
Eric Gray
Reno Brown
Reginald Wells
Trevor Grant
Kermit Campbell
Michael Symonette
Thomas Pedican
Holston Bowe
Fred North
Leo Carey

30

In the Supreme Court of the Bahama Islands

Crown Counsel outlined the case to the Jury.
P.W.1. Dr. Regalado Tendero (sworn) states.

Prosecution Evidence

I am a Medical Officer at the Princess Margaret Hospital.
On the 6th July, 1964, I made an autopsy on the body of Isaac Ginton at 11:00 a.m.
His wife and daughter identified the body.
I found a stab wound in the left chest right over the heart, 3" from the mid sternal line.
I found a penetrating wound in the anterior wall of the left ventricle of the heart.
It was 5 m.m. in diameter.
One blow only. This caused the death.
All else normal.
The wound was 4 to 6 inches deep.
Consistent with wound from an ice-pick.

10

No. 1.
Dr. Regalado Tendero
Examination (continued)

Cross-Examination

Cross-examined by Mr. Loftus Roker

The heart collapsed.
I did not measure the depth of the wound.
The deceased was of medium built.

20

Court:

Court:

It had to be something like an ice-pick to cause the wound.
It could not have been a knife.

No. 2.

No. 2.

Clement Maynard

EVIDENCE OF CLEMENT MAYNARD.

Examination

P.W.2. Clement Maynard (sworn) states:

I am the Chief Laboratory Technician at the Princess Margaret Hospital.
On 7th July, 1964, I received
1 blue flowered shirt
1 pair tennis shoes,
1 pair black swimming trunks
1 " grey pants
1 package camel cigarettes
1 black chauffeur's cap
1 box matches.
I identify them as Exhibit C.

30

3.

All except cap had traces of blood.
I also received an ice-pick
Negative for blood.

Received these trousers and a knife Exhibit
D. They had no suspicious stains.

No cross-examination.

In the Supreme
Court of the
Bahama Islands

Prosecution
Evidence

No. 2.

Clement
Maynard

Examination
(continued)

No. 3.

EVIDENCE OF SERGEANT HERCULES

P.W.3 Sgt. Hercules (sworn) states:

No. 3.

Sergeant
Hercules

Examination

10 On 6th July, 1964 at 9:00 a.m. I went to
Strachan's Corner with Chief Inspector Thompson
and Cpl. Sawyer.

I took photographs of the body of Isaac
Glinton.

I produce Photograph No. 1 showing a view of
the body and showing a piece of wood near the feet
as Exhibit A.

20 I produce photograph No. 2 showing the body
at the rear of a car and a general view of the
roadway looking east as Exhibit A-1.

I produce Photograph No. 3 showing a general
view of the road after the body and car had been
removed and looking East as Exhibit A-2.

I produce photograph No. 4 showing a wound
in the chest before cleaning as Exhibit A-3.

I produce photograph No. 5 showing the wound
after cleaning as Exhibit A-4.

Exhibits A-3 and A-4 were taken at the hospital
mortuary on the same day.

30 No cross-examination.

4.

In the Supreme
Court of the
Bahama Islands

No. 4.

EVIDENCE OF KEMUEL HEPBURN

Prosecution
Evidence

P.W.4. L/Cpl. Kemuel Hepburn (sworn) states:

No. 4.

On Monday, 20th July, 1964, at 10:00 a.m. I went to Strachan's Corner in the vicinity of Mickey's Bar.

Kemuel Hepburn

I was accompanied by D/Cpl. Sawyer.

Examination

I drew a plan of the immediate area to a scale of 1/8" to one foot which I produce as Exhibit B.

Cross-examined by Mr. Loftus Roker

10

Cross-
Examination

From the edge of the road to the old shack is 9 feet.

The tree is a sapodilla tree.

No. 5.

No. 5.

James Pratt

EVIDENCE OF JAMES PRATT

Examination

P.W. 5 James Pratt (sworn) states:

I live at Strachan's Corner.

I am a stevedore.

I was in my house at 8:00 a.m. on the 6th July, 1964.

I heard someone call my nickname "Fox Hill".

James Rolle called me. He is the accused.

He said, "Give me my god damn tools".

We had an argument about the tools.

I went into my house to get the tools.

He said to me, "I want my m.f. tools".

When I came out I saw the accused facing Isaac Ginton on the street.

I saw Rolle stab Ginton.

He had an instrument in his hand.

It was small.

I do not know what it was.

He hit Ginton on the left breast.

Ginton fell down and then got up. He fell in front of a car.

He squeezed his breast and blood was coming out.

I went to the police station and reported the matter.

Rolle put the instrument back in his bosom.

I had to hunt for the tools for about 10 minutes.

20

30

40

Rolle said, "I am going to shove someone's head in the m.f. womb".

In the Supreme Court of the Bahama Islands

Cross-examined by Mr. Loftus Roker:

Prosecution Evidence

No. 5.

James Pratt

Examination (continued)

I have not said anything different to what I said in the Magistrate's Court.

Rolle said, "In this morning give me my god damn tools".

He told me to give the tools to McDonald.

10 I live about 30 feet from where the stabbing happened.

Stabbing happened about 12 feet from me.

The first thing I saw when I came out of the house was Glinton facing Rolle.

I was looking toward Collin's Wall.

Nothing happened between the two before Rolle stabbed Glinton.

After the stabbing Rolle walked away.

I saw Glinton do nothing to Rolle.

20 I saw no instrument.

If Glinton had had something in his hand I would have seen it.

I saw no piece of wood.

I heard no argument going on.

When I went to get the tools Rolle was standing in the same place as I found him on coming out.

I do not know why the accused was having a fuss that morning.

I told Rolle not to involve the name of god.

I did not note that Rolle had been drinking.

30

No. 6.

No. 6.

EVIDENCE OF WILLIAM NEWBOLD.

William Newbold .

P.W.6. William Newbold (sworn) states:

Examination

I live at Strachan's Corner.

I operate a bar.

I knew Isaac Glinton as he was a neighbour of mine.

About 8:00 a.m. on the 6th July, 1964, I heard an argument between Glinton and Thurston.

40 Accused Rolle came up and conversed with James Pratt.

Accused said to Pratt, "I want my m.f. bicycle tools".

Then Glinton said he did not want any cursing on his property.

In the Supreme
Court of the
Bahama Islands

Prosecution
Evidence

No. 6.

William
Newbold

Examination
(continued)

Glinton was sitting on a wall. On the South side.

Rolle and Glinton had an argument.

No blows at that stage.

The argument got stronger. Then Glinton went back to the wall.

Then he got a piece of board.

I identify it. It was near the sapodilla tree.

Then Rolle threatened Glinton with his hand up.

Glinton hit Rolle with the board and a piece fell off. The board was rotten. 10

Rolle then struck Glinton in the chest. I did not see anything in the chest. I did not see anything in his hand though it had to be that there was something.

Taylor pulled off Glinton's shirt and I saw a wound in his chest.

I was only about 10 feet away.

Cross-
Examination

Cross-examined by Mr. Loftus Roker:

My house is the same distance back from the road as my bar. 20

I have known Glinton for many years.

I was in the road. Not in my house at the time of the quarrel.

I do not know where Pratt went in order to get the tools.

I remained outside all the time. I was watching a friend clean a car. It was about 8.15 a.m.

The affair lasted about 10 or 15 minutes.

I cannot say exactly the time when Rolle returned a second time after going away. 30

Glinton raised the piece of wood after he got it.

After Rolle stabbed Isaac the latter dropped the piece of wood.

Not true that Rolle bought Amstel beer from me. Not true that my bar should not have been open at this time.

I said nothing to anybody.

Court

Court: They both appear to be sober.

40

7.

No. 7.

EVIDENCE OF RUDOLPH THURSTON

In the Supreme
Court of the
Bahama Islands

P.W.7 Rudolph Thurston (sworn) states:

Prosecution
Evidence

I live at Strachan's Corner.
I am a stevedore.
On 6th July, 1964, I was walking along the
road.
I saw Rolle and Ginton arguing.
I did not speak to them.
10 The first thing I saw happen was Rolle took
an ice-pick out of his bosom and he stabbed Ginton
in the side.
Rolle then walked away towards East Street.
Ginton fell to the ground near to a car.
I did not see anything else.

No. 7.

Rudolph
Thurston

Examination

Cross-examined by Mr. Loftus Roker:

Cross-
Examination

I was about 12 feet away from them when it
happened.
I was on my way to work.
20 I just saw Rolle go up to Ginton and stab
him.
The ice-pick used was the one produced in
Court.
I know Rolle somewhat.
I am not telling lies.

Court:

Court

I never saw this piece of wood. Exhibit E.

Adjourned to 2:30 p.m.

No. 8.

No. 8.

EVIDENCE OF MAUD GLINTON

Maud Ginton

30

P.W.8. Maud Ginton (sworn) states:

Examination

I am the wife of Isaac Ginton
I identified his body to Dr. Tendero at the
mortuary on the 6th July, 1964 at the Princess
Margaret Hospital.

Cross-examined by Mr. Loftus Roker:

Cross-
Examination

I was married to him for 29 years.
Sometimes he drank a little.

8.

In the Supreme
Court of the
Bahama Islands

No. 9.

EVIDENCE OF DRUSCILLA MARKS

Prosecution
Evidence

P.W.9 Druscilla Marks (sworn) states:

No. 9.

James Rolle the accused is my friend. We live
in Feaste Alley.

Druscilla
Marks

He left home on 6th July, 1964. He went to
look for work.

Examination

He returned later in the morning. He changed
his clothes and went out again.

No cross-examination.

10

No. 10.

No. 10.

Joseph
Parker

EVIDENCE OF JOSEPH PARKER

Cross-
Examination

P.W.10 Joseph Parker tendered for cross-examination:

On 6th July, 1964, I was at Mickey's Bar at
Strachan's Corner.

I saw 3 men arguing in the road.

I knew Ginton and he was one of them.

He had a piece of wood in his hand.

I was 25 yards away.

I could not recognise the piece of wood.

It was similar to the piece shown to me.

Later I saw Ginton on the ground. This piece
of wood was near him.

20

Court

Court rules that Crown Counsel, not having examined
in chief this witness, cannot cross-examine him save
possibly on matters outside the proof of the witness's
evidence.

No. 11.

No. 11.

John
Williams

EVIDENCE OF JOHN WILLIAMS

Examination

P.W.11 John Williams (sworn) states:

30

I am 12 years of age.

I know I must speak the truth if sworn to do so.

On the morning of 6th July, 1964 I saw Rolle and
Ginton arguing.

Rolle went away.

Glinton went over to a wall.
 Rolle came back.
 They passed blows at one another with their fists.
 Rolle stabbed Glinton with something which looked like this ice-pick.
 Glinton fell against a car and then to the ground.

In the Supreme
 Court of the
Bahama Islands

Prosecution
 Evidence

No.11.

John Williams

Cross-examined by Mr. Loftus Roker:

10 At first Glinton had nothing in his hand.
 Later he had a piece of wood. Like this piece and he hit Rolle on the left wrist with it.
 Rolle took the ice-pick from his waist line.

Examination
 (continued)

Cross-
 Examination

No. 12.

No.12.

EVIDENCE OF SUPERINTENDENT BAILEY

Superintendent
 Bailey

P.W.12 Superintendent Bailey (sworn) states:

Examination .

I am D/Supt. attached to C.I.

20 At 8:55 a.m. on the 6th July, 1964, I went to Strachan's Corner where I saw the body of the deceased lying in the roadway under a sapodilla tree as shown in Exhibit A-1.

I took possession of a piece of board (produced) which was near the body as shown on Exhibit A. (Put in the piece of board as Exhibit E.)

I took possession of a cap which was on the booth of the car. (Produced and put in as part of Exhibit C).

30 There was a small wound visible on the left breast and a small amount of blood on the left hand of the deceased.

The position of the body was photographed by Sgt. Hercules.

The body was removed at 9:25 a.m. to the Hospital.

I found the body to be 23 feet from the house of Collie Strachan, 28½ feet from the corner of Mickey's Bar and 4'9" from the base of the sapodilla tree as shown in Exhibit B.

40 At 11:15 a.m. I was present at the mortuary when the body was identified to Dr. Tendero by the wife of the deceased Maud Glinton and his daughter, Melvina Hamilton.

I took possession of the clothing of the deceased and handed it to Chief Inspector Thompson later.

In the Supreme Court of the Bahama Islands

Prosecution Evidence

No.12.

Superintendent Bailey

Cross-Examination

No.13.

Inspector Paul Thompson

Examination

Cross-examined by Mr. Loftus Roker:

The place is about 100 yds from E. Street. I saw nothing near the body save the piece of wood.

No. 13.

EVIDENCE OF INSPECTOR PAUL THOMPSON

P.W.13 C.I. Inspector Paul Thompson (sworn) states:

I am Chief Inspector attached to the C.I.D. At about 8:50 a.m. on the 6th July, 1964, I went to the scene at Strachan's Corner where I met the body of Isaac Ginton lying on the street as shown on Exhibit A.

10

I met Supt. Bailey and other detectives on the scene. As a result of inquiries we went in search of the accused.

I was in C.I.D. office at 10:00 a.m. when the accused was brought in by Cpl. Sawyer, L/Cpl Isaacs and Cpl. Fyne.

I told the accused of the investigation that was being carried out into the death of Isaac Ginton and that I had information that he had stabbed Ginton and caused his death.

20

I cautioned him and he made a written statement which I wrote down.

I read the statement over to him. He said he could not write. Supt. Bailey was present when the statement was read over and in his presence I took the second finger of the accused's right hand and made a finger impression on the statement.

L/Cpl Isaacs was present when the statement was being taken.

30

Mr. Roker: I object to the written statement being put in evidence.

Crown Counsel: Then I will not put it in.

Witness continues:

In the Supreme
Court of the
Bahama Islands

Prosecution
Evidence

No.13.

Inspector Paul
Thompson

Examination
(continued)

10 After the completion of the statement L/Cpl. Isaacs and I took the accused to Mary Rolle's premises on Laird Street. I spoke to her and in the presence of the accused she said that she did not see him at all on the 6th July. We then went to the accused's home at Feaste Alley and with his permission we searched his house. I took possession of an ice-pick with a cork on the tip, a pocket knife, four khaki trousers and one khaki shirt. (All put in as Exhibit D).

We returned to C.I.D. I noticed the accused had a swelling on his left cheek bone. He told me that that was where the deceased had hit him with a stick. I sent him to the Out Patients Department.

20 On his return I took possession of the clothing he was wearing at the time that is, one grey trousers and one white shirt. (Produced, identified and put in as part of Exhibit D).

I collected from Supt. Bailey on the same day a piece of board. (Produced and identified - Exhibit E), also a chauffeur's cap with a cigarette butt in it and also a pair of tennis boots, a pair of grey trousers, swimming trunks, a belt, a flowered shirt, a pack of camel cigarettes and a box of matches. The cigarette butt will be referred to as Exhibit F and the belt as Exhibit G.

30 At about 1:30 p.m. on the same day I charged the accused and cautioned him. He asked to see his lawyer, Mr. Randol Fawkes whom I contacted by telephone for him.

On 7th July, 1964, at 9:30 a.m. I took Exhibits C.D.E.F and G to Mr. Maynard at the laboratory.

I collected them on the 23rd July, 1964.

Cross-examined by Mr. Loftus Roker:

Cross-
Examination

40 I saw Priscilla Mark at the house of the accused. She lives there.

She gave me some clothes belonging to the accused. Exhibit D. I sent them to the Government laboratory.

I found the ice-pick in the house together with some other knives and forks.

It would take 10 minutes to get from Strachan's Corner to Wulff Road. It is about ½ mile.

Adjourned to 22nd October,
1964.

In the Supreme Court of the Bahama Islands

No. 14.

EVIDENCE OF CPL. SAWYER.

Prosecution Evidence

P.W.14 Cpl. Sawyer (sworn) states:

No.14.

I am attached to C.I.D.
On 6th July, 1964, I went and arrested James Rolle at 9:45 a.m.

Cpl. Sawyer

I saw him in a bar on East Street.

Examination

I cautioned him. He said "Me and Glinton had a fight at Strachan's Corner. He hit me with a piece of stick".

10

I took him to the police station and handed him over to C.I. Thompson.

Cross-Examination

Cross-examined by Mr. Loftus Roker:

I told him he was suspected of killing Glinton.

CLOSE OF PROSECUTION EVIDENCE.

Defence Evidence

No.15.

EVIDENCE OF DR. PODLEWSKI:

No. 15.

D.W.1. Dr. Podlewski:

Dr.Podlewski

I am Medical Superintendent at Sandilands Hospital.

20

Examination

I have a medical case sheet of Isaac Glinton. I refer to it.

He was admitted to Sandilands Hospital on 5th March, 1959 for observation on order of the Magistrate.

Dr. Taylor attended to him. After 7 days no physical or mental disease was found.

No cross-examination.

No. 16.

No. 16.

30

James Rolle

EVIDENCE OF ACCUSED JAMES ROLLE

Examination

D.W.2 Accused, James Rolle (sworn) states:

I am the accused.

I live a Feaste Alley, Wulff Road.

I left my home in the morning I don't know what time.

I arrived at Strachan's Corner.

I know that James Pratt had some of my tools. Tools for my cycle.

I told him to leave them at Striker's. I then went away.

I went to Nicky's Bar. Nicky invited me in for a beer.

10 Nicky said to Ginton, "Why don't you leave this man alone. He is with me.

I paid 2/- for the beer. He opened the beer for me.

I drank half the beer and took the other half in my hand and went towards Strachan's Corner./to

I got/the pillar and turned around talking to Nickey when Ginton struck me with a piece of wood. The beer dropped out of my hand. I identify the piece of wood.

20 I struck Ginton. I did so to defend myself. I was afraid he would knock me again. I hit him with an ice-pick which was in my pocket.

Then I walked home. I threw it away. The ice-pick in Court is not the one I used.

I carried it for my protection.

I was afraid he would knock me again. I did not intend to kill him. I did not think it was likely I would kill him. I did not know that I had killed him when I left him.

30 Cross-examined by Crown Counsel:

The ice-pick I used had a round handle. The blades of both are similar. The bottle dropped out of my hand when I was hit.

The ice-pick was not in my waist band. It was in my pocket. I hit him with a forward pushing movement not with a downward stab.

Newbold has never done me any injury or I any injury to him. His evidence is not true.

40 I did not think my blow would kill Ginton.

I was afraid of him.

I did not run away. He could have run away.

Re-examined by Mr. Loftus Roker:

I cannot read or write.

In the Supreme Court of the Bahama Islands

Defence Evidence

No. 16.

James Rolle

Examination (continued)

Cross-Examination

Re-examination

In the Supreme
Court of the
Bahama Islands

No. 17.

CHIEF JUSTICES SUMMING UP
TO JURY

No.17.

Chief Justices
Summing Up.

22nd October,
1964.

You have now heard all the evidence, and you have listened to all the speeches of counsel for the prosecution and for the defence and it becomes my duty to explain to you the law and to sum up the facts for you.

There are one or two preliminary matters which I must tell you as I have to in every case. The first is that before you can convict a man you must have no reasonable doubt about his guilt. You must be able to say to yourselves, "I am sure, quite sure that he is guilty". A balance of probability is not enough--nothing like enough. I must tell you also this, that it is for the prosecution to prove the guilt of an accused person and not for that person to prove his innocence. You must listen to the evidence and rely upon the evidence alone which you have heard in this court and not upon anything you have heard outside.

10

20

The first thing you must do is to decide what are the facts, who is speaking the truth and so forth; that is entirely within your province. It is not for me to say what the facts are, I only have to address you upon the law, the law you must take from me. The facts of the case are very simple and it is noteworthy that they are scarcely challenged by the accused. First of all there is James Pratt who you will remember the accused asked for his tools for his bicycle. Pratt says that he went into the house and this took about ten minutes and when he came out, this is what he said he saw, "I saw Rolle stab Ginton, he had an instrument in his hand, it was small. I do not know what it was. He hit Ginton on the left breast. Ginton fell down and then got up. He then fell in front of a car". Then we have William Newbold who says, "Rolle and Ginton had an argument; no blows at that stage. The argument got stronger, then Ginton when back to the wall. Then he got a piece of board (identified). It was near the sapodilla tree. Then Rolle threatened Ginton with his hand up. Ginton hit Rolle with the board and a piece fell off. The board was rotten. Rolle then struck Ginton in the chest. I did not see anything in his hand, though it had to be that there was something". Next we have

30

40

Rudolph Thurston and he says that he saw Rolle and Ginton arguing. He says, "The first thing I saw happened was Rolle take an ice-pick out of his bosom and he stabbed Ginton in his side. Rolle then walked away out to East Street. Ginton fell to the ground near to a car". Lastly we have Williams who you know was the eleven year old boy. He says, "I saw Rolle and Ginton arguing. They passed blows at one another with their fists. Rolle stabbed Ginton with something which looked like this ice-pick. Ginton fell against the car and then to the ground. At first Ginton had nothing in his hand, later he had a piece of wood, like this piece, and he hit Rolle on the left wrist with it".

In the Supreme
Court of the
Bahama Islands

No. 17.

Chief
Justice's
Summing Up.
(continued)

22nd October,
1964.

Well Members of the Jury, as I said, it is for you to determine what are the facts, but whether or not we are able to get at the bottom of the whole quarrel, who became threatening first and so forth, one thing does seem abundantly plain, and that is this, Ginton struck Rolle, the accused, with a piece of wood in his cheek. His was the first blow. We have evidence that it caused a bruise and a swelling and a sore place on that cheek. After that Rolle retaliated by taking his ice-pick and stabbing Ginton in the heart. The accused does not deny stabbing Ginton. His evidence approximates very closely to that of the prosecution witnesses, nevertheless he says that he is not in anyway to blame and should go unpunished.

He is accused of murder, and murder is defined as "the unlawful and intentional killing of one man by another", and it is those words 'unlawful and intention' to which you must pay the closest attention. I will deal first of all with the word "unlawful".

The accused says that his stabbing was lawful as he was defending himself and exercising his right of self-defence. Well now Members of the Jury, everybody has a right to defend himself against attack if he thinks that he is going to be injured. He can take such necessary and reasonable steps as are required to see that he does not come to any harm, but he must not exceed his right of lawful defence. If a man hits you with a light cane, you may not go and seize your revolver and shoot him through the head, on the other hand if he shoots at you and the revolver perhaps misses

In the Supreme
Court of the
Bahama Islands

No.17.

Chief
Justice's
Summing Up.
(continued)

22nd October,
1964.

you and you have only got one bullet in your revolver, no jury will find you to blame if you shot him dead through the head, because if you did not do so it would probably be that he would kill you with the remaining bullets in his revolver.

Now what sort of case is this? Here we have a man who was hit by a piece of wood. Was he entitled, in your view, to take his ice-pick and stab his opponent in the heart as he did? You have seen this ice-pick in court and you may come to a conclusion that it is a very lethal weapon indeed. Did he exceed his right of lawful defence, did he take unreasonable and unnecessary steps to defend himself? You may come to a conclusion that what the accused should have done in this case is to have walked away or hit Ginton with his fists or seized another piece of wood. On the other hand you may come to a conclusion that he had no means of escaping further harm, possibly serious harm, save to use his ice-pick. That is for you to decide.

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And the second point I have to talk to you about is the meaning of the word "intentional". That is to say whether his killing was or was not intentional. The word "intentional" in law has a slightly wider meaning than it has in ordinary conversation. A man may not actually want to do something but nevertheless the law will say that he intended to do it. It is not I think suggested for a moment that Rolle wanted to kill Ginton at that very moment. But in law a man is presumed to intend the likely consequences of his act. You must ask yourselves then whether, when the accused stabbed Ginton, he must not have known, that the likely result of his action would be to kill him. That Ginton would die.

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Each case has to be judged on its own facts and circumstances and you will be able to take to the jury room with you the ice-pick which was used. You must consider how lethal a weapon it was. You will recollect also that the doctor said that he was stabbed in the heart and that the wound had been from four to six inches deep. Those are the two things you must consider when deciding whether or not the accused must have known that his blow would kill. Was this killing intentional? If it was not intentional in the sense which I have told you then the verdict against the accused cannot amount to more than manslaughter. But it may not

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amount to manslaughter. If you should find that he had a right of lawful defence, and did not exceed that right of lawful defence, then you must acquit him. If you find that he had a right of lawful defence and exceeded it: that is no defence at all. If you find that the killing was intentional and unlawful, then your duty is to convict the accused. The result of the verdict does not concern you at all.

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Chief
Justice's
Summing Up,
(continued)

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10 There are one or two other things that I
would like to say. The first is that there is
no question of premeditation in this case. You
may remember that there was a preliminary quarrel
and that the accused went away for a little while
and then came back again, and it was then that
the stabbing occurred. At one time I thought that
it was being suggested that the accused had gone
away to get the ice-pick from his home, but it
seems to be quite clear that he would not have
20 had the time to do this and the prosecution do not
put forward any allegation that there was any
premeditation at all. Secondly, there was some
dispute as to whether the accused pulled out the
ice-pick from his pocket or from his waist band.
I do not think that it makes any difference from
which place he took it. Nor do I think that it
makes any difference whether the accused tried
to conceal the ice-pick after the event was over.
30 Whether he was guilty or not guilty of murder, or
of manslaughter, a man would probably wish to
conceal what he had done and not get into any
trouble. You should not hold any concealment
against the accused.

 You will be able to take into the jury room
with you when you go to deliberate, the statement
made by the accused after he had been warned and
cautioned. He made it to the police. You will
also recollect that when he was arrested he said
to Corporal Sawyer, "Me and Glington had a fight".
40 You will remember that the accused gave evidence
on oath and he is entitled to be believed just as
much as anybody else. He has been cross-examined
just like any other witness. What he said to us
is substantially what the prosecution witnesses
have said. You must recollect that it is for the
prosecution to prove their case beyond reasonable
doubt. When an accused person on the other hand
wishes the jury to believe something which he says
he does not have to prove it beyond reasonable
50 doubt, he only has to set up a doubt in your mind

In the Supreme Court of the Bahama Islands

No.17.

Chief Justice's Summing Up. (continued)

22nd October, 1964.

that it may well be true.

In a case of this nature where the penalty is death, your verdict, if you wish to convict the accused of murder, must be unanimous. If on the other hand you wish to convict the accused of manslaughter or you wish to acquit the accused of any crime, you must decide this by the usual majority of 8 to 4.

You may now retire and consider your verdict.

No.18.

Further Directions to Jury and Sentence

22nd October, 1964.

No. 18.

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FURTHER DIRECTIONS TO JURY AND SENTENCE

Jury retire and return after one hour's deliberation

FOREMAN OF THE JURY: We are unable to agree upon a verdict since one of the jurors does not agree with capital punishment.

CHIEF JUSTICE: It is immaterial whether or not a juror agrees with capital punishment or not. He is here to return a verdict in accordance with the evidence and has sworn an oath to do so. The question of punishment is not for him. In cases of murder it is not for the Judge. The sentence of death is a mandatory one though it can be varied by higher authority. I must ask you to return and deliberate again and try to reach a verdict. It should be a unanimous verdict of guilty of murder or majority verdict, by a majority of 8 to 4 for a verdict of guilty of manslaughter, or a verdict of not guilty of any offence.

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Jury retire and return a verdict of murder unanimously.

CHIEF JUSTICE: You have heard the verdict of the Jury, they find you guilty as charged, and I now sentence you to suffer death in the manner authorised by law.

19.

No. 19.

In the Privy
Council

ORDER IN COUNCIL GRANTING SPECIAL
LEAVE TO APPEAL TO HER MAJESTY IN
COUNCIL IN FORMA PAUPERIS.

No.19.

AT THE COURT AT BUCKINGHAM PALACE
The 29th day of January, 1965.

Order in
Council
granting
Special Leave
to Appeal to
Her Majesty
in Council in
Forma Pauperis

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

10 LORD PRESIDENT MR. ROBINSON
MR. LEE SIR WINTRINGHAM STABLE
MRS. CASTLE

29th January,
1965.

WHEREAS there was this day read at the Board
a Report from the Judicial Committee of the Privy
Council dated the 14th day of January 1965 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 James
Rolle in the matter of an Appeal from the
Supreme Court of the Bahama Islands between
the Petitioner and Your Majesty Respondent
setting forth that the Petitioner desires to
obtain special leave to appeal in forma pauperis
to Your Majesty in Council from a Judgment and
Order of the Supreme Court of the Bahama Islands
Criminal Side dated the 21st October 1964 where-
30 by he was found guilty of murder contrary to
Section 337 of the Penal Code (Cap 69) and
sentenced to death: And humbly praying Your
Majesty in Council to grant him special leave
to appeal in forma pauperis against the Judgment
and Order of the Supreme Court of the Bahama
Islands dated 21st October 1964 or for further
or other relief:

40 "THE LORDS OF THE COMMITTEE in obedience to
His late Majesty's said Order in Council have
taken the humble Petition into consideration
and having heard Counsel in support thereof and
in opposition thereto Their Lordships do this
day agree humbly to report to Your Majesty as
their opinion that leave ought to be granted
to the Petitioner to enter and prosecute his
Appeal in forma pauperis against the Judgment

In the Privy
Council

No. 19.

Order in
Council
granting Special
Leave to Appeal
to Her Majesty
in Council in
Forma Pauperis
(continued)

29th January,
1965.

and Order of the Supreme Court of the Bahama
Islands Criminal Side dated the 21st day of
October 1964:

"AND Their Lordships do further report to
Your Majesty that the proper officer of the
said Supreme Court ought to be directed to
transmit to the Registrar of the Privy Council
without delay an authenticated copy under seal
of 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.

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

20

W.G. AGNEW.

IN THE PRIVY COUNCIL

No. 8 of 1965

ON APPEAL
FROM THE SUPREME COURT OF THE BAHAMA ISLANDS

B E T W E E N :

JAMES ROLLE

Appellant

and

THE QUEEN

Respondent

RECORD OF PROCEEDINGS

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