

27/81

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL  
ON APPEAL  
FROM THE COURT OF CRIMINAL APPEAL IN THE STATE  
OF TRINIDAD AND TOBAGO

No. 19 of 1980  
No. 25 of 1980

B E T W E E N : -

ADDONTON ANDY THOMAS Appellant

and

~~THE DIRECTOR OF PUBLIC PROSECUTIONS~~ THE STATE Respondent

and

KIRKLON PAUL Appellant

and

~~THE DIRECTOR OF PUBLIC PROSECUTIONS~~ THE STATE Respondent

RECORD OF PROCEEDINGS

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Kirklon Paul

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THE QUEEN  
IN THE HIGH COURT OF JUSTICE  
PORT OF SPAIN

V.

ADDONTON ANDY THOMAS  
MICHAEL LEWIS  
KIRKLON PAUL

INDICTMENT BY THE ATTORNEY GENERAL

ADDONTON ANDY THOMAS, MICHAEL LEWIS and KIRKLON PAUL

are charged with the following offences:

FIRST COUNT

STATEMENT OF OFFENCE

M U R D E R

PARTICULARS OF OFFENCE

ADDONTON ANDY THOMAS, MICHAEL LEWIS AND KIRKLON PAUL on the 28th day of August, 1973, at Diego Martin, in the County of St. George acting together with other persons murdered Austin Sankar.

SECOND COUNT

STATEMENT OF OFFENCE

ROBBERY WITH AGGRAVATION, Contrary to Section 24(1) (a) of the Larceny Ordinance, Ch. 4 Bo.11

PARTICULARS OF OFFENCE

ADDONTON ANDY THOMAS, MICHAEL LEWIS and KIRKLON PAUL on the 27th day of August, 1973 at Carenage, in the County of St. George, being armed with offensive weapons, to wit, revolvers, together robbed Raymond John of a motor car Registration No. PJ - 5454.

THIRD COUNT

STATEMENT OF OFFENCE

KIDNAPPING

PARTICULARS OF OFFENCE

ADDONTON ANDY THOMAS, MICHAEL LEWIS and KIRKLON PAUL on the 27th day of August, 1973 at Carenage, in the County of St. George, stole and unlawfully carried away against his will Raymond John.

B. Basil Pitt,  
Attorney General.

Date: 3.3.75

Coram: Cross, J.

No.1. rep. by Mr. King

No.2. rep. by Mr. Solomon and Mr. Alfred

No.3. rep. by Mr. Guerra and Mr. Allum

Mr. Bernard and Mr. Stewart for Crown

Adj. to 9.4.75 (on app. of No.2)

W.S.P. Stephen Sookram

3.3.75 Ct. Clerk - 3.3.75

R.W.

Date: 9.4.75

Coram: Hassanali J.

App'ce as before

Adj. 21.4.75 not reached W.S.P

Charles Wren 9.4.75

Ct. Clerk 9.4.75 R.W.

I hereby appoint Mr. Frank Solomon, Barrister-at-Law and Messrs Wong and Sanguinette, Solicitors to represent the accused Mr. Michael Lewis at his trial which is listed for Monday 21st April, 1975

Dated this 18th day of April, 1975.

Isaac Hyatali,  
Chief Justice.

Date 21.4.75

Coram: Hasanali J.

App'ce as before

Adj: 1.5.75 R.W.

Brian Wilshire D. Baiju 21.4.75

Ct. Clerk 21.4.75

Date: 1.5.75; 2nd, 5th, 6th, 7th, 8th, 9th, 12th, 13th, 14th, 15th, 16th and 20th days of May 1975.

Coram: Scott, J.

App'ce as before

Flea: No. 1 )

No. 2 ) Not Guilty

No. 3 )

Mr. Solomon informed the Court that Michael Lewis filed a motion in the Civil Court seeking to quash the Indictment against him.

Case/...

Case against Michael Lewis was then adjourned.

Adj. 26.5.75 (# 2. only)

W.S.P.

1.5.75

# 1 - Addonton Thomas)

# 2 - Kirklon Paul )

Verdict: No.1 1st Ct. - Guilty  
 2nd Ct. - Guilty  
 3rd Ct. - Guilty  
 No.2 1st Ct. - Guilty  
 2nd Ct. - Guilty  
 3rd Ct. - Guilty

Order: No.1 1st Ct. - Death by Hanging  
 2nd Ct. - 10 yrs. H.L.  
 3rd Ct. - 2 yrs. H.L. to  
 run concurrently with 2nd Ct.  
 No.2 1st Ct. - Death by Hanging  
 2nd Ct. - 10 yrs. H.L.  
 3rd Ct. - 2 yrs. H.L. to run  
 concurrently with 2nd Ct.

Charles Wren  
C. Clerk - 20.5.75

Date: 26.5.75

Coram: Scott J.

Acc'd present and rep. by Mr. Solomon and Mr. Alfred

Adj. 26.6.75 (Constitutional matter connected with  
Accused in another court.)

Charles Wren  
26.5.75

4 C  
G.R.B - 20.5.75

R.W.  
G.E. - 26.5.75

## MINUTE - GUILTY

TRINIDAD AND TOBAGO

IN THE SUPREME COURT OF TRINIDAD AND TOBAGO

No.174 of 1974

PRESENT: The Honourable Mr. Justice G. Scott on the 2nd , 5th, 6th, 7th  
8th, 9th, 12th, 13th, 14th, 15th, 16th, and 20th days of  
May, 1975.

OUR SOVEREIGN LADY THE QUEEN

AGAINST

1. ADDONTON ANDY THOMAS
2. KIRKLON PAUL

FOR

MURDER: ROBBERY WITH AGGRAVATION: KIDNAPPING

Mr. C. Bernard and Mr. G. Stewart of Counsel for the Crown.

Mr. N. King of Counsel for # 1 accused.

Mt. T. Guerra and Mr. Allum of Counsel for #2.

The cause was called on - the accused were placed at the Bar - the act of Indictment was read aloud by the Registrar, to which both accused pleaded not guilty. Mr. Bernard joined issue for the Crown - the following jurors were called and sworn :- Leon Sing (Foreman), Jean Moses, Eugene Phillip, Frank Mercury, Andrew Bindoo, Andrew Kupalsing Grace Lawrence, Anthea De Freitas, Greta Davis Serville, Hilary Brown, Bernadette Smith and Vernon Wright.

Stephanie Ramirez; Urias John; Lydia Faria; Fitzroy Layne; Levi Andrews and Gemma Tang Naim were challenged by the Crown. Ronald Quiyou and Dennis Grimshaw were challenged by Mr. Allum. Ewart Gomes and Leonard Maingot were challenged by Mr. King. Mr. Bernard stated the Case for the Prosecution and in support thereof called the following witnesses:- Mr. David Edwards, Laurence Loretto Duprey, P.C. John Baptiste, Leslin Mathlin, Raymond John, F.C. Keith St. Louis, Ignatius Williams, Shirley Salvary, P.C. Reynold Jitta, Roy Holford, Sergeant Norman Clarke, Corporal Winston Solomon, Sergeant Colvin Cox, Assistant Superintendant Alec Heller, Inspector Calvin Trotman, Sergeant Lucien Villa Fana.

At/...

At this stage Mr. King objected to a statement of Addonton Thomas on the grounds that it was extracted by Fear, Force, Fraud, Menaces and Oppression.

The Jury was sent out of Court and the following witnesses were called. Matthew Toussaint, Coproral Rudolph Leache, Corporal Michael Montoute, Dr. Carlos James, Andy Thomas, P.C. Andrew Joseph and Francis Thomas. Jury returned into Court and submission of Mr. King was overruled by His Lordship.

Mr. Bernard continued the Case for the Prosecution and called the Following Witnesses:- Sergeant Lucien Villa Fana, Matthew Toussaint, P.C. Michael Montoute P.C. Andrew Joseph, and Dr. Carlos James

CASE FOR THE CROWN CLOSED

At this stage Mr. King submitted to the Court that there was no case of Murder and Robbery with Aggravation against Addonton Andy Thomas to go to the Jury. He referred to "Two All England Reports 1969, page 1077, Regiva Vs. Lovesey and Regina Vs. Peterson."

Mr. Bernard replied.

The Submission was overruled by His Lordship.

The accused Addonton Thomas when informed of the three courses of defence open to him elected to make an unsworn statement from the dock and called the following wintesses:- Gerald Worswick and Francis Thomas

CASE FOR ADDONTON THOMAS CLOSED

At this stage Mr. Allum submitted to the Court that in so far as the 1st and 2nd Counts were concerned there was no evidence against Kirklon Paul, and as far as the 3rd Count was concerned there was insufficient evidence against Kirklon Paul and therefore the case should be taken away from the Jury. He referred to "Five West Indian - report page 361; Regina Vs. Hamilton.

Mr. Bernard replied.

Submission was overruled by His Lordship.

The accused Kirklon Paul when informed of the three courses of defence open to him elected to make an unsworn statement from the dock and called no witnesses.

CASE FOR KIRKLON PAUL CLOSED

CASE FOR KIRKLON PAUL CLOSED

Mr. King addressed the Jury on behalf of Addonton Thomas.

Mr. Guerra addressed the Jury on behalf of Kirklon Paul.

Mr. Bernard replied.

His Lordship the Judge then summed up the evidence and stated the case to the Jury, whereupon the Jury having retired from 1.26 p.m. to 4.05 p.m. returned a verdict of Guilty in respect of the 1st; 2nd and 3rd Counts against both accused.

The prisoner Addonton Thomas having been called upon by the Registrar to state if he had anything to offer why Judgment should not be awarded against him remained silent.

The prisoner Kirklon Paul having been called upon by the Registrar, to state if he had anything to offer why Judgment should not be awarded against him stated that he was innocent, whereupon His Lordship pronounced the following sentences: That the Prisoners Addonton Thomas and Kirklon Paul for their said offences should be imprisoned in the Royal Gaol of the said land for the terms of ten (10) years on the 2nd Count and two (2) years on the 3rd Count to run concurrently, and to be computed from the 1st day of May, 1975 and that they be there kept to hard labour during the whole of the said terms of imprisonment, and on the 1st count they each should suffer the penalty of death by hanging.

Dated the 20th day of May, 1975.

Wendy Sandra Punnett,  
Assistant Registrar.

Thursday, 1st May, 1975.

REGINA V. ADDERTON ANDY THOMAS, MICHAEL LEWIS AND KIRKLON PAUL

Accused No. 1 arraigned and pleaded Not Guilty on each Count.

Accused No. 2 arraigned and pleaded Not Guilty on each Count.

Accused No. 3 arraigned and pleaded Not Guilty on each Count.

Bernard, Deputy Solicitor-General with him Stewart, Crown Counsel for Crown.

King for No. 1 Accused, Solomon with him Alfred for No. 2 Accused.

Guerra, with him Allum for No. 3 Accused,

Solomon for No. 2 Accused states application under Section 6 of Constitution to quash Indictment and I request adjournment.

Bernard: I do not oppose application.

No. 2 Accused - Remanded 26/5/75 on Custody.

King: - Allegations as against Michael Lewis also concern my client.

Notes taken away from my client by Prison Authorities on 21st March, 1975 and returned on 24th March, 1975.

I seek to inform Court.

Guerra: - On behalf of Accused No. 3 I made application under Ch. 4 No. 3 Sec. 14(3) for Counts to be severed and that trial proceed against No. 3 Accused in respect of 1st Count for Murder solely.

Count 1 is Capital Offence.

Counts 2 and 3 are not Rules of Practice since 1918,

That Indictment for Murder Re Joseph Jones.

Vol. 13 - Criminal Appeal Report p. 86 Me Donald and Wallis.

Vol. 16 Criminal Appeal Report - p. 171 (1938).

Davis - Vol. 26 Criminal Appeal Report p. 95.

O'Grady - Vol. 28 Criminal Appeal Report p. 33.

Connolly v. D.P.P. 1964 - 2 A.E.R. p. 401.

P. 409 - Morris, L.J.

Murder Capital Offence prejudicial by Counts 2 and 3.

Discussion should be exercised by Court and Counts severed and

/proceed.....



proceed on Count.

In 1964 Rule of Practice reviewed by House of Lords.

Para. 131 of Archbold's , 38 Edition.

Rule 3 - of Rules -

Relating to Indictments.

Ronald Kray Vol. 53 Criminal Appeal Reports p. 569.

Indictment - joinder of offenders.

Wright:

33 - Criminal Appeal Report p. 22.

Guerra: Vol. 3 1964 A.E.R. p. 509.

Evidence on Counts 2 and 3 not Admissible in respect of Count 1.

Bernard: Evidence on Counts 2 and 3 admissible in respect of  
Count 1.

Evidence Count 2 to establish Identity.

Evidence to show how vehicle came in possession of Accused -  
explain position of owner - Time when deceased killed.

To Negative Assertion of Innocent presence by any person.

Remanded 2/5/75 in Custody.

Garvin M. Scott,  
1/5/73

CONTINUING:

Both Accused present:

Counsel for Crown and for Accused present.

Court rules - Crown is entitled to -

Frame Indictment with Counts 2 and 3 in addition to Count 1 for  
Murder -

Accordingly trial to proceed on Indictment as filed.

ADDONTON ANDY THOMAS

AND

KIRKLON PAUL

FOR

MURDER

\*\*\*\*\*  
 This is the transcript  
 marked "B" referred to  
 in the Declaration of  
 Cynthia Prima Monica  
 Sharpe and Yvette St.  
 Louis  
 dated this  
 7th day of July 1975;  
 before me:  
*C. L. ...*  
 Ex-officio Commissioner  
 of Affidavits.  
 \*\*\*\*\*

SUMMING UP OF THE HONOURABLE MR. JUSTICE GARVIN SCOTT AT THE SUPREME COURT  
PORT OF SPAIN, ON TUESDAY 20TH MAY 1975.

Mr. Foreman, ladies and gentlemen of the jury,

The accused, Addonton Andy Thomas and Kirklon Paul are charged before you with the following offences. On the first count they are charged with the offence of murder. The Particulars of offence read as follows:- Addonton Andy Thomas and Kirklon . Paul, on the 28th day of August 1973, at Diego Martin, in the County of St. George, acting together with other persons murdered Austin Sankar.

On the second count they are charged with Robbery with Aggravation, contrary to Section 24 (1) (a) of the Larceny Ordinance, Chapter 4 No. 11. The Particulars of offence on that count, read as follows:- Addonton Andy Thomas and Kirklom . Paul on the 27th day of August 1973, at Carenage, in the County of St. George, being armed with offensive weapons, to wit, revolvers, together robbed Osmond John of a motor car Registration No. PJ.5454.

On the third count, they are charged with kidnapping. The Particulars of offence on that count read as follows:- Addonton Andy Thomas and Kirklon . Paul on the 27th day of August 1973, at Carenage, in the County of St. George, stole, and unlawfully carried away against his will, Osmond John.

2/In this as in every.....

In this, as in every criminal trial, the onus or burden of proof lies upon the Prosecution; that is to say, it is the duty of the Prosecution to establish to your satisfaction, the guilt of each of the accused persons. There is no onus, no duty, no burden whatever, cast upon either of the accused to prove his innocence to you. That onus, that burden, that duty, remains and rests upon the Prosecution, from the first to the last, from the beginning till the end of a Criminal Trial.

In so far, Mr. Foreman, ladies and gentlemen of the jury, in so far as the facts of this case are concerned, you are the sole judges as to those facts. However, in so far as the Law is concerned, such directions as I shall give you, you will be bound by. If you entertain any reasonable doubt in respect of the accused Addonton Andy Thomas, in those circumstances, it will be your bounden duty to resolve that doubt in his favour; you must accord and give him the benefit of that reasonable doubt.

Similarly, in the case of Kirklon Paul, if you entertain any reasonable doubt in the case against Kirklon Paul, in those circumstances, it will be your bounden duty to resolve that doubt in Kirklon Paul's favour; to accord and give him the benefit of that reasonable doubt. So that Mr. Foreman ladies and gentlemen of the jury, before you can convict the accused, Addonton Andy Thomas, you must be so satisfied by the evidence that you can feel sure that the Prosecution have established his guilt.

Similarly, in the case of Kirklon Paul, before you can convict the accused Paul, you must be so satisfied by the evidence that you can feel sure that the Prosecution have established the guilt of the accused Kirklon Paul. The accused, Addonton Andy Thomas and the accused Kirklon Paul, are being tried together. But it will be your duty to consider the case against each accused separately. You have to consider the case against Thomas separately in its separate and water tight compartment; and similarly, you have to consider the case against Kirklon Paul separately. In water tight <sup>and</sup> separate compartments.

3/In this trial.....

In this trial, the accused Kirkland Paul has made a statement to which there has been raised no objection; and that statement has gone into evidence as a voluntary statement.

Now, the statement which Kirkland Paul has made and which is in evidence is, as far as the Law is concerned, evidence only against the accused, Kirkland Paul - and that, is how, Mr. Foreman, ladies and gentlemen of the jury, you have, as I direct you in Law, to regard it. In respect of the accused Addonton Andy Thomas, the Prosecution have alleged that he made a voluntary statement. As you will remember, the Court ruled that statement admissible in evidence - but as I told you then, and I will tell you now, that statement has been admitted into evidence; but the weight and value of that statement remain a matter for you, Mr. Foreman, and your jury.

Now, in this case, it might be convenient to deal with the first count, for the moment, of murder and the evidence which has been led before you. In all that evidence there is no suggestion that the accused, Thomas, or the accused, Paul, was one of the persons who fired those shots. But, Mr. Foreman, members of the jury, provided you find firstly, that Thomas was present, when this former policeman, Austin Sankar was murdered, and if you find secondly, that he was acting in concert, he was acting in common, he was acting together with <sup>the</sup> /person or persons who fired at Sankar, and that act resulted in Sankar's death. It is immaterial in Law who actually fired that shot or shots. But again I must warn you that even if you find that he was present, you must further find that there was a common design - participation in this common design - the act to kill or wound; to cause grievous bodily harm. And as I say, provided you so find that there was this common design that Thomas was acting together with others, and acting with the design of inflicting grievous bodily harm or killing a constable - whether it was Sankar or any other constable; as far as the Law is concerned, it is immaterial who was the one who actually fired the fatal shot or shots.

/Similarly, in the case of Kirkland Paul...

Similarly, in the case of Kirklon Paul. Now, he has admitted in his statement, which he gave to the police, he has admitted that he was present from the time this car was in Carenage. But in his statement, throughout the fabric of that statement, he is stating that he was there, but that he was merely present - that he was innocent of any participation, in any act to wound or kill any policeman, to rob anybody of a motor car, or to kidnap any person.

Now, as far as the Law is concerned, mere presence is never enough. You have further to find that as far as these counts are concerned, he was acting together with this common design, this common purpose; he was participating in the kidnapping, robbing John of his car, and in the murder of a policeman.

Now, murder is defined as follows:- "Where a person of sound mind and memory unlawfully killeth a human being with malice aforethought either expressed or implied, death following within a year and a day." So that before the Prosecution can sustain this charge of murder they must establish that the person named in the charge is dead. That this man, Austin Sankar, is in fact dead. Secondly, that the death followed within a year and a day. Thirdly, that the killing was unlawful. Fourthly, that the killing was committed with malice aforethought, and lastly, that the killing was done by the accused, Addonton Andy Thomas and the accused Kirklon Paul.

Now, as far as malice aforethought is concerned, it doesn't have to mean that the murder was pre-conceived or deliberately planned. All that it means is that at the time the act was done which resulted in the death, the person doing the act intended to kill or intended to do some grievous bodily harm. Now, grievous bodily harm merely means serious bodily harm.

, As far as intent is concerned, intent to kill or cause grievous bodily harm, one does not know what is locked up in a man's mind. So he is not usually capable of positive proof; but it is implied from overt acts. A man is usually able to foresee what are the natural consequences of his acts.

So it is as a rule, reasonable to infer that he did foresee them and did intend them. And on the facts in certain circumstances, that is an inference which must inevitably be drawn. Well, you have to consider all the facts of the particular case to see and determine whether that is /the necessary inference; whether it is the correct inference. Because, if on a review of all the facts you do not find it is the necessary inference, not the correct inference, then it should not be drawn. But in this particular case, according to the evidence for the Prosecution, the <sup>with the accused is</sup> car/driven alongside another car, and from a close distance, firearms are discharged from the car with the accused.

Well, in those circumstances, a person discharging a loaded firearm at another person within a close distance, cars alongside each other, you may form the conclusion - as I say, facts are matters for you - that in those circumstances that the person who discharged that firearm would expect that the person at whom that firearm was discharged, person or persons, would suffer some grievous bodily harm. If you so find, as I say, facts are matters for you - well then, the intent which the Crown has to establish in this particular case, will have been established.

Now, in the second count, robbery with aggravation - robbery consists in the violent taking of money or goods of any value from the person of another, or in his presence, against his will, by violence, or by putting him in fear. Now, in this particular case, both these accused persons are charged with robbery with aggravation. . In the case of robbery with aggravation the Prosecution have to establish a further ingredient. That is to say, that the persons who committed the robbery were at the time armed with offensive weapons. As far as offensive weapons are concerned, revolvers and firearms fall within the legal definition of offensive weapons. So in this particular count, you have to find that these two accused persons took away this motor car from the man, Raymond John; at the time they did so they were armed with offensive weapons; and this was done against his will, by violence, or by putting him in fear.

6/Now, as far as the third count.....

Now, as far as the third count is concerned of kidnapping. To sustain that charge, the Prosecution must prove to your satisfaction that there was a stealing and carrying away of Raymond John. There was a secreting of his person, and this was done against his will. So much so for the Law for the time being, Mr. Foreman, ladies and gentlemen of the jury. We now pass on to the evidence adduced by the witnesses for the Prosecution at this trial.

The first witness called was David Edwards, a member of the Medical Board of Trinidad and Tobago, and the Forensic Pathologist at the General Hospital, Port of Spain. On the 28th August 1973, he performed a Post Mortem examination on the dead body of Austin Sankar at a quarter past 11.00 on that morning. The body was that of a well nourished male, aged about 24, and the body was identified to him by Laurence Duprey, the father of the deceased man. The dead man was about 5ft. 9 ins in height, was wearing a white, sleeveless blood stained vest, jockey shorts. His right hand was bandaged. His examination disclosed the following injuries. (1) a lacerated gun shot wound. That wound at entrance was two and a half inches long, one inch wide, situated over the right side of the neck, immediately below the right ear. The depth of that wound was five inches inwards, towards the spine, having lacerated the soft tissues, the carotid vessels, which showed contusion and ruptures

In the soft tissues multiple tiny lead pellets were found and also in the cervical vertebra which showed fractures of the fourth and fifth cervical vertebra. Secondly a lacerated gunshot wound of entrance  $2\frac{1}{2}$  inches long, 1 inch wide that was on the right side of the mouth and cheek and communicating with the mouth which contained material like wax. Both jaws were broken into multiple fragments and the wounds one and two were surrounded by multiple tiny pellet wounds distributed  $\frac{3}{4}$  inches from each other and directed from right to left. Thirdly, lacerated gunshot wounds  $2\frac{1}{2}$  inches long  $1\frac{1}{2}$  inches wide, bone deep, situated over the outer aspects of the right hand and surrounded by pellet wounds. The muscles and vessels showed lacerations and the bones of the hand were cracked. Those wounds he described as anti-mortem as having been sustained before this man died - Austin Sankar. The other organs were normal for a man of his age and showed evidence of acute hemorrhage. In his opinion death had taken place some six hours before examination and was due to shock and hemorrhage from lacerations of the **Carotid** vessels with fractured spine as a result of gunshot injuries. Pellets and the material found in the mouth those were handed to Assistant Supt. of Police Mr. Holford and those you will recall were put into evidence and marked exhibit D.B.1. He told you he found no blackening and singeing, he told you had be found that he would then arrive at the conclusion that the shots were fired within some three feet.

In answer to Mr. King, Counsel for the accused Thomas, he again repeated that he found the injuries on the hand bone deep,, injuries produced by lead pellets. He formed the view that those pellets had travelled from right to left. The pellets he found he handed to Mr. Holford, exhibit D.B.1. He was not cross-examined by Mr. Guerra or Mr. Allum, Counsel for the accused, Paul.

The next witness called was Mr. Duprey, father of the deceased. He lives at Sangre Grande and is a school Teacher by profession. Austin Sankar was his son, he was present at the Post-mortem examination conducted by Dr. Edwards and identified the dead body of his son to Dr. Edwards. He had last seen his son on the 24th



of August, 1973 when his son appeared to be in good and robust health.

Constable Baptiste was the next witness called and he had seen Constable Price, the Constable who had given evidence before the Magistrate in the lower Court, he had seen him leave Piarco by a Pan American Plane and Constable Price was not at the present time in the country. Accordingly the Deputy Solicitor General made application as he was entitled to do, to have the evidence of this Constable read to you. That application was not resisted by Counsel for either of the accused persons and the Court granted the application, that deposition was read to you, was put into evidence and marked J.B.1. I will now have it read to you to refresh your memory: (Deposition J.B.1 of Constable Lenox Price read to Court). Mr. Foreman; Members of the Jury you have these pictures L.P.1 to L.P.5 showing the Police car, the car of Raymond John, and the scene where this incident occurred.

The next witness called was Leslie Mathlin, he lives at Carenage, lived there in 1973 and was related to Raymond John. He was the cousin-law of Raymond John. The car PJ 5454 was a car well known to him. He freely and frankly admitted that he himself on occasions utilized that private car to ply for hire as a taxi. On the 27th of August around 3.45 in the afternoon he found the car was dirty, he washed that car, he scrubbed the seats, upholstery and wiped all inside, wiped all the glass as he termed it and he finished all this about half past four that afternoon, having done that he left. The next time he saw it was at the C.I.D.

In answer to Mr. King for No.1 accused he again repeated that he had washed that car, and he also told you that the Police did take his, Leslie Mathlin's finger print when they had got in touch with him. When he had completed washing that car he had placed it in the garage, both he and John used that car. In answer to Mr. King he had been in the station and he was questioned by the Police, but he had not been afraid, he had run the car as a taxi but he was not worried when he was in the Police Station as to whether the Police would charge him for using that private car as a taxi. He also admitted that John used that car as a taxi. Now he went on to tell you that when he

plied for hire he only picked up people whom he knew because he did not take any chances, but he denied that when he was at the Police Station and while he was there he was willing to say anything at all to leave there without being charged.

Now in answer to Mr. Guerra again he repeated that when he was at the station he was not concerned because he had used that car at sometime previously the day before as a taxi. He admitted that he had been asked about his movements the day before by the Police and also that the Police had searched Raymond John's home, but his, he told you, had not been searched. He did not see Raymond at the C.I.D. but he saw him at home when he was at home, when the Police brought Raymond John there. In respect of that car he kept one key and Raymond John the other, so that they could use it at times when one was not around and he also told you the garage in which this car was kept had a lock. That is so far as Mr. Mathlin is concerned.

Now we come to the evidence of Raymond John. He lives at Carenage Abbe Poujade Street, he is a clerk employed in the Ministry of Health. He is a Civil Servant. In August 1973 he lived at Carenage. Mathlin was married to his cousin. His uncle Desmond John who owned that car on the relevant date was not in the country. The vehicle PJ 5454 a Ford Falcon. His uncle had left that car in his charge. He frankly admitted here that he operated that car as a taxi. He further told you that Mathlin also drove that car as a taxi and that Mathlin used to clean that car. On the 27th of August, 1973 he had used that car first of all in the morning around 10 o'clock, then again at 4 and the third time sometime around 5.00 that afternoon. He supports Mathlin because he tells you that when he took it from the Garage the car was then clean. You will recall that he stated that he had taken the car up to Port of Spain with a friend, gone to some lady friend, and subsequently at about 10.20 that evening he had gone home to have something to eat, did not get anything at home and decided to go into Port of Spain and further he stated that he had made up his mind on the way to Port of Spain he would ply for hire as a taxi. In the area of the Golden Teapot Recreation Club

he picked up two men, one of those men had flagged him down, one of those men had a paper bag in his hand. Having stopped his car both these men got in the back seat of his car. He drove off and about 20 yards further on a man, another man held up his hand and stopped him, that man opened the front door and got in. He continued on his way going East to Port of Spain and after passing the Palm Beach Club, to adopt his language, he felt something cold at the back of his neck. The man behind him spoke to him, he then looked at the man in the front seat sitting next to him, and he went on to state that he looked to him for assistance, but the man in the front seat at that stage pulled out a revolver from his waist and pointed it at him. The accused Paul, he stated, was the man who pulled out that revolver and pointed it at him, at which stage, according to John, the accused Paul said "don't dig no horrors" then the man behind said in the back seat "drive and just do as you are told." He became very frightened when this was said. As far as the accused Paul is concerned he was able to recognise him, according to him, because in the front of the car he has two lights which at that time were on to check change when he was handed money by persons who came in his car. He continued driving for some distance, then a car, he observed a car at the back of his car at which stage No.2 accused Paul who, according to John, was seated in front, said "move the thing away from his head a car is coming, slow down and let the car past". Having said this, the thing at the back of his head was removed. He then slowed down and the car which was behind him over took him. Accused No.2 Paul then told him to swing in the left side street, he said a road that was partly pitched opposite Dean's Bay near some Marine Quays. He John did as he was told to do by Paul, according to him. On reaching the pitched portion, the man at the back said "stop, turn off your lights, and switch off your engine". He did so the person behind got out, opened the driver's door, the door on his side, and told him to get out. At that stage there were three persons apart from himself, in the car. He got out of the car, he was searched, the doors were closed and he was told to walk to the back of the car.

He did so and then he saw two other persons standing there. No.2 accused was still seated in the front seat, but he could have heard what was being said. He was asked for the car keys, this was asked by one of the two men who were standing at the back of the car, at which stage there were five of them apart from him at this point in the back of the car. He stated the keys were in the ignition. He was told to get them and he did so. He went back to the back of the car, was told to open the trunk, he did so, two persons looked in the back of that trunk, there was a white plastic container in the boot of that car and that was taken out and kept by one of the men, that white container contained water, the spare tyre and jack were checked and left there. He was then told to get in the trunk and he did so. One of the men said "speak softly do not try to get out" that he would be watching the trunk constantly. Another one asked if I dig 'stranglers' he John said nothing. The trunk was closed. He heard the doors being opened, persons getting in the car, the car was started, reversed, turned left, and headed East towards Port of Spain. That car, the car in which he was, he had been placed in the trunk, was driven around for sometime and stopped at a petrol station. Gas was poured in the tank and the car continued again. He recognized the car was going over the Flyover in St. James as he was in the habit of going over that Flyover. The car went over, took a slight left turn, after that he was unable to say in what direction the car proceeded, but the car was driven round for about an hour. He had his watch on and from the reflection of the park lights inside the trunk he could see the time. At the gas station, he could remember somebody asking and calling for cigarettes. After the car had been driven around for sometime the car came to a stop, somebody got out of the car, the gas tank was opened, a voice said 'open the trunk and give him some air.'

The trunk was opened about some two inches and he then observed the white plastic container which had been taken out from the trunk in somebody's hand. He also observed the word "Ridgewood" on an iron gate as that area was lit. The time then was about 11.55 p.m., five minutes to twelve. The trunk was closed, he heard persons getting in the car, an attempt was made to start the car. Someone asked what was wrong with the car. He asked whether the car was out of gas. A reply was given by some person, "I think so", and he, John, then suggested that the engine should be tumbled till the gas reached the carburettor. This was done and the car started. The trunk was closed before the persons got back in the car.

The car was then driven around for another hour. Sometimes over a smooth surface, sometimes over a rough surface. At a certain stage, however, the car was suddenly stopped, reversed, turned right and moved off slowly on a smooth surface. He did not then know where he was. He then heard three shots. It sounded as though it was near his head inside the car. But there was one shot which was louder than the other two. To him it sounded like gunshot.

After these shots the car suddenly sped off and took a sharp right turn and continued driving at a fast rate of speed on a smooth road. As the car made stops he heard persons getting in and out of the car. The time then was half past one on the morning of the 28th August, 1973. When the car stopped someone said: "Man, we letting you off here, all you have to say is your car was hijacked. Police will find it for you. We are leaving the car in Chaguanas." One other said: "This is retaliation for the raid the police carried out today." He was then asked if he had bread, which he understood to mean money. He replied "no". One man said he would give him a dollar that he could take a taxi and go to Port-of-Spain. He was told: "When you get out close the trunk, walk in the opposite direction and do not look back." Someone got out of the car, opened the trunk and handed him a dollar bill. The trunk was opened slightly. The man went back into the car, said that a car was coming and to wait until that car passed. The car passed, he, John, got out of the trunk, closed it and started walking away from the car. The car, that is the car in which he had been left in charge, PJ 5454, was then driven off. He had no idea where he then was.

He stood up there for a while, flagged down a car and the car stopped.

When he spoke to the driver he ~~then~~ knew that he was on the Princess Margaret Highway. The car was headed in the direction of Chaguanas. He went to the Chaguanas Police Station in the car that had collected him on the Highway, the car that had stopped for him. There he spoke to the Police. He then left the station with the same driver who had taken him there. He went to the Flyover in Chaguanas and there the driver pointed out his car to him. The car was then parked on the pavement under a restaurant. He returned to the Chaguanas Police Station, spoke to the Police there, then went back to the Chaguanas Flyover with police officers from the Chaguanas Police Station. He then drove his car to the Chaguanas Police Station and he told you his car is shown in the picture L.P.5, the Falcon car PJ 5454.

In respect of the lights in the front of his car, on the inside of the car, he says the lights in the <sup>are</sup> car/on the right and left hand top corner inside the windscreen, it was by means of these lights inside the car that he was able to see number two accused, the accused Kirkton Paul. Those lights, he said, are used to attract passengers when he is plying for hire at night; and for on-coming vehicles, too, as they are anti-glare lights and they are also useful to see the money handed to him by passengers whom he collected, in order to give them change.

On the 29th August, he received certain information from the Police and he attended an identification parade, but on that parade he identified no one. But on that parade Kirkton Paul was not present, that is the parade on the 29th August, 1973.

On the 11th September, he received a request from the Police and he, on that date, attended a parade. And on that parade he identified Kirkton Paul, number two accused, as the person who sat in the front seat of his car on the night of the 27th August, 1973. He remembered his face. At the time he identified Paul, Paul was in a parade comprised of some nine persons; and having identified Paul, Paul according to John, said "Just a minute."

On the 13th November, he attended a further parade and on that parade he identified no one.

Now on the 27th August, on the relevant date, at that time he was a school teacher. He tells you he is now a civil servant, and on that date his school was on vacation. On the 27th August and the 28th August, he had no

ammunition or any cartridge in his car. And he again repeated, at the time when he felt this something cold in the back of his neck he turned to number two accused who was seated in front with him, as he, at that stage, had not connected him with the other two men in the rear of the car, and he was then looking to him for assistance.

In answer to Mr. King for number one accused, he said on the 27th August, he had not plied that car for hire from five o'clock that afternoon to ten o'clock because he went to see Miss Joan Bain, a school teacher who lived at Diamond Vale earlier that afternoon. As far as the car was concerned he agreed that people who travel in his car speak to him enquiring where he is travelling and they may have leaned on that car.

In further answer to Mr. King, he said the Police did take his fingerprints and he admitted he had received the impression that the Police suspected him in connection with this crime and that he was rigorously questioned. He admitted that he was detained on enquiries from 2.30 a.m. to 11.30 a.m. He didn't want the Police to lock him up and he wanted the Police to know he was not involved in the murder of any constable because it was a serious matter, killing a constable. He further added that he got the impression as any ordinary citizen that the Police wanted him to cooperate with them in their enquiries to find out the author or authors of the crime.

He stated quite categorically that he was not anxious to find out whether the Police would charge him with plying his private car for hire. He said as far as he was concerned the Police had not actually caught him in the act. He had given the Police two statements, one on the morning of the 28th, the other one about a week after. But in his second statement he had not said anything really different. He had merely added to what was said in his first statement, because on the morning of the 28th he was somewhat tired, the events were somewhat blurred and he had been sleepy and tired. He had given that first statement as he had been interested as his <sup>car</sup> had been hijacked, had been robbed from him. The first statement he gave to the Police was about one and a half hours after making that report at Chaguanas. He remembered this sign "Ridgewood". In his first statement he had told the Police about the shots being fired. He had given the second statement as to what he had remembered latterly because he thought it would assist the Police in their investigations as he considered it the duty of a citizen to assist the Police.

The Police had not come to him for the second statement nor raised the question of "Ridgewood" in the second statement. He had remembered those things.

He again repeated on the 13th November, he had gone to this identification parade and there were nine men on this parade. He had identified no one but he had asked that each person say: "You dig stranglers? Drive and do as you are told" and also, "Don't dig no horrors." But at that parade he had identified no one. He agreed that on that parade he had told the Police he did not see anyone on that parade who had robbed him that night.

The car, when it was at Chaguanas, was not hidden, it was under a snackette, that snackette had no lights. As far as he was concerned, he had done nothing wrong that night. He had been stuck up with guns by men whom he had not seen before. He had no idea what they might have done. He kept quiet at the gas station because he and the gas attendant might have been shot at the gas station.

In answer to Mr. King, counsel for the accused Paul, he stated that at Chaguanas Station he had reported that his car had been hijacked. He had gone, the Police sent him home, but he had collected that car with the Police, went back to Chaguanas and had been told by the Police to make the report at the C.I.D. Port-of-Spain, but the car had been kept at Chaguanas and he had come to Port-of-Spain with the Police. He agreed that the Police had searched his house and he thought they had searched for arms and ammunition, and that they had also searched his grandmother's house, but he denied that the Police had accused him of taking part in the killing of Austin Sankar, but, however, he did get that impression. After he was sent home the Police did not keep coming back to him but he had seen them after that, and his second statement was sometime after the first.

Again he repeated that on the morning of the 28th August, he was asked by the Police for a statement, but he had not protested he had been tired. He had said he was tired, but he had not given a statement in order that he would be able to go home. He said the Police had insisted that he give them a statement that morning. On this 27th August he had had guns pointed at him. His thinking was muddled having gone through that ordeal, and having been tired and sleepy made the events somewhat blurred. He had not gone to the Police the following day or the day after, or the day after that. He had gone back to the



back to the Police some three or four times before he gave the second statement, but he could not remember exactly when he gave that statement. When he gave the second statement he gave a description of the man to the Police, but his second statement was not the first time that he had mentioned that the man sitting in front with him had a revolver.

On the first parade he had identified no one. He had been told to repeat what happened on the night of the 27th at that parade and look along the line and see whether he saw any of the persons he had seen on that night, but he had identified no one. He had asked on that parade that the persons on that parade say, "Don't dig no horrors, drive and do as you are told." He is not sure whether on this parade he asked those particular words. He said he might have asked "You dig stranglers?" He could not remember exactly what he asked.

At Dean's Bay somebody had asked "You dig stranglers?" at the time he was in the trunk. He agreed he had asked the Police to let the persons on the parade say "You dig stranglers?" as it was possible he might have been able to identify the voice. However, he went on to state that he asked as a matter of routine. He had identified Paul, number two accused, as the man seated in front, and that person had said "Don't dig no horrors." It was the man behind who had said "Drive and do as you are told."

He had gone on another parade some time after but he could not remember whether it was before or after he identified Paul. But Paul was the one whom he identified on the second parade. On the first parade he had not seen number two accused. Number two accused Paul, was the man who had said "Don't dig no horrors", but he had, on the first parade, told the Police to request each of the persons on the parade to say "Don't dig no horrors." He stated that he was not relying purely on the voice to identify that person. He had not been asking that these words be repeated because he had not been certain. As far as Chaguanas was concerned, when he was eventually let out of that car when he had been asked whether he had bread, meaning money, and he said "no", that was a lie. He knew that driving and plying a private car for hire was in fact committing an offence, was illegal, and that had he been discovered that would cause him to lose his job as a teacher. When he plies for hire he is very careful whom he picks up, but at night time he thought it safer to stop for any one. The two men had stopped him when he was

coming to town and got in the rear seat. The other man whom he identified as number two accused, that man stopped him and got in the front of the car.

As far as the Chaguanas Police Station is concerned he made the report there around two o'clock and was told to report the matter to C.I.D. Port-of-Spain. He is not too sure if when he made the report there the Police told him to leave his car at Chaguanas. As for the man who had taken him there he could not remember whether the Police got the name of that man. But the driver of that taxi was the one who pointed out his car to him.

He inspected his car when he got back with the Police. He found the switch key was in the car. He could not remember whether the windows were open but he checked the body of the car and the brake light had been disconnected. He had been brought to Port-of-Spain by a police car with an armed policeman with him at the back of that car, but he said he had no idea why it was he had an armed escort. He denied he had ever been accused at the C.I.D. Port-of-Spain of being connected, or using his car in connection with the murder of constable Sankar; but he said he heard later that Sankar had been murdered and his car had been used in the commission of that crime. He denied that the Police had told him that if he would help them they would help him. He was not surprised when the Police said they had a warrant to search his house. That morning the Police did give him the impression that he was connected with the offence of the murder of Sankar.

Again he repeated that he had not relied on the person's voice, the person speaking words to identify anyone. When he was re-examined by the Deputy Solicitor General he again repeated that he had not seen any of the men before that night; but he did state he was able positively to identify Number two accused, and this he did by his face and not by his voice.

We now pass on to the evidence of Constable St. Louis. Around August 1973, at the relevant date, this constable lived at Carenage; he knew Raymond John, knew this car. He, on that night was on duty in a police car which had no markings of police on that car. In the area of Barataria the car which he knew, PJ. 5454, overtook his car. He looked in the car to see whether John was in the car; but John was not there. The person he said he saw was Number two accused in the car - the accused Paul. Paul was then seated behind the driver; that is in the rear seat. Well, Paul in his statement which he gave, which was not objected to, has told you that he was seated in the rear of that car, behind the driver; so in that he supports what St. Louis is saying.

St. Louis went on to state that his car with a police driver over took this car. He looked in that car again - again he saw the accused Paul. Now, this is the Saddle Road, the Quay D'Orsay area of San Juan. This car, PJ. 5454 turned up the Saddle Road; he spoke to his driver - their car came to a stop, and he went across the road, to purchase some nuts. As he was getting back, about to go back to his car, PJ. 5454 passed in another direction, and he again saw Number two accused. He was then some six feet away from his car, and the area is well lit.

His car then headed to the San Juan Police Station. They turned into a street where there was a Hindu Temple; and in the vicinity off this Temple they saw car PJ.5454. That car PJ. 5454 stopped in front off the Temple - reversed. As they were reversing the car, his lights shone directly in that car; and it appeared to him that the occupants

/in that car.....

in that car appeared to be attempting to escape attention. He saw Number two accused. He then went up to San Juan Police Station. On the 18th September he attended an Identification Parade, and he identified Number two accused as the person he saw in that car that night. The accused then remained silent. In answer to Mr. King, he again repeated that the car PJ. 5454 was a car well known to him. John was well-known to him. From the time he saw that car he was looking to see whether persons in that car were persons whom he knew from Carenage; the man behind the wheel - he saw somebody behind the wheel; but that man was not Raymond John. The car at the time didn't arouse any suspicion. He was not on Mobile Patrol duty; he only attended one Parade, he had a good look at Number two accused.

In answer to Mr. Guerra he again repeated he had grown up in Carenage. John was a man he knew very well, he had seen other persons from Carenage driving that car; he had looked for John; but he was able to make out No. two accused. However, he said even though the car had gone within a yard of this Hindu Temple, when he got back to the Police Station he made no report about that, nor had he entered it in the Station Diary, nor had he given or made a report about it when he came back to Port of Spain. John was a friend of his, the man who owned this car; more than one person drives that car, so his suspicion was not aroused. We now come to the evidence of Ignatius Williams.

He now lives in Carenage, but at the relevant time he lived in Port of Spain. Ignatius was employed as a lever operator at Johnson's Petrol Station. He worked the shift from nine to six. Vehicles looking suspicious after midnight would, he said, be noted by him, because several times

/the gas station had been robbed.....

the gas station had been robbed, and those were the instructions he had received from his manager, that numbers of cars which he thought looked suspicious, those numbers should be taken down.

Around midnight, car PJ. 5454 came into that Station and came in at a fast rate of speed - <sup>One Way</sup> broke the traffic, the came from New Street entrance, because New Street at that point is one way; the car broke the one way regulations and came in at a fast rate of speed. The Gas Station was well lit. There were four men in the car. The driver of the car was a man he made out, and he has seen him since that date.

Now, you will recall that he said that the next time he saw him after this incident was at the Magistrates' Court in the Dock; and that on the 13th November when the Parade was held and Number one accused was placed on that Parade, he, Williams, was not working on that date. So you will have to bear in mind that he next saw him in the Dock at the Magistrates Court; but he said he was able to remember him because this man took off his hat, struck his leg with it, and this man was a bald headed man. Number One accused he says, was the driver of the car.

He asked him to put in two dollars petrol, half and half, and took out the plastic container and he said he, Williams, filled it with gas. He took the money for the gas and gave the change. Somebody asked for cigarettes, but he did not make out that person. He went to the Parade and on the 11th September, identified nobody; on the 18th November, <sup>and</sup> again identified no-one.

He admitted he smoked marijuana, and advanced as his reason that he did so when he has a little worry; but he did stop some six months previously to the time he was giving evidence. As far as, these cars are concerned, <sup>came</sup> another car that night, PR 5354, he had taken down the numbers that night; because both these cars looked suspicious; but as he went on, he took these numbers down, according to him, and put it in a drawer;

He further went on to state, the person who actually wrote the numbers down was his assistant, a man called Sylvester Taylor.

/that he in fact.....

That he in fact did not write those numbers down - He had told the police the colour of the car was green and red. It was a falcon. That further was the first time he had seen that car. He called it red and green striped from the doors, running to the back - the red stripe. He called it red and green.

called out the numbers to this assistant of his. and you will recall that he was shown a photograph L.P. (2), and he could not in fact spell the word 'falcon'.

He went on to state that manner in which that car did come in that night aroused his suspicion, because he had thought that it was a "hold-up", as the car had broken that major road, coming from the wrong entrance - New Street entrance into the gas station.

Again he repeated the accused Thomas was the one who came out of the car and asked for two dollars worth of gas. In answer to Mr. King he admitted the cigarettes which were sold in that petrol station were kept under lock and key at night, because he and his assistant were dishonest, in that they smoked cigarettes without paying for them.

Now, as far as the paper which he put in the drawer was concerned, he said it was put in the drawer and he had shown his boss the next day, and he had not destroyed it, and he said that he had given evidence to the Magistrate in which he said he had written down the numbers - but he said he said that, but he really meant to say it was his assistant <sup>who</sup> did that - he told his assistant to do that. He further agreed that he had told the Magistrate that he had thrown away the paper when he had put it in the drawer. But it may have been the cleaner had destroyed the paper, or the police some two weeks after - but the paper had been destroyed. But he had not destroyed that paper. And that he had told the Magistrate that he had written down this car number PK. 5454, but in fact it was his assistant who had done this.

Now, Mr. King had leave of the Court and further questions at that stage were put to this witness, Williams. He was shown a statement which he had given to the police.

/He said that .....

He said that Number one accused was of dark complexion; but he said he had not told the police the man he saw driving was dark. But he said he told the police Number one accused had taken off his cap and struck his leg; and it was at that stage he had seen that number <sup>One</sup>/accused was bald.

In answer to Mr. Bernard he said Number one accused had come out of the car; the station was well lit, and that this man, number one accused was only one to two feet away from him, facing him.- when he had offered him his change and after he had served the petrol.

Well, Mr. Foreman members of the jury, you have heard this witness, Williams; and it is for you to say what reliance you can place on him. He has told you, quite frankly the first time he saw Number one accused after that night was in the Dock at the Magistrates' Court. Admittedly, he could not be found on the day when Number one accused was placed on Parade. It is a matter for you. You <sup>may</sup>/well consider that not very satisfactory evidence.

Further, as far as those car numbers are concerned, again, he wrote down the numbers. But the question of his writing the numbers on the slip was a discrepancy, because he told you now it was his assistant who really wrote them. As far as PR. 3454 is concerned, there was a Mr. Worswick who at a later stage said that in fact on that day a car RR. 3454; while the registration PR was used, what should have been used was really R.R. but as he termed it unofficially the PR. might have been used. But you have to consider what weight you have to attach to this evidence as to the identification of Thomas at the petrol station that night, Thomas he said was two feet away from him, and he saw him quite clearly. But as I say, facts <sup>are</sup>/solely and purely your province.

It might be convenient at this stage, because you will recall Sergeant Villafana later said the statement which Ignatius gave to him was put in through Villafana. I will have that statement read to you now to refresh your memory, because that deals with Williams.

CLERK READS STATEMENT:

/That statement which was given to....

That statement was given to Villafana. As I said, earlier, Mr. Foreman, members of the jury, it is for you to consider what weight you can place on Williams' evidence as to the identification of Number one accused at this Petrol Station.

We now go to the evidence of Shirley Salvary. She lived at Saddle Road, Maraval. She merely told you she lived next to these Ridge-Wood apartments and on that night the 27th, heard some noise as that of a car having <sup>some</sup> difficulty in being started; but she wasn't able to tell you who was the person or what was actually going on. Constable Raymond Jitta, the constable who was in this police car, the car shown in LP.(2), PR. 1099 on mobile patrol that night with Constable Sankar from 11.00 p.m. to 7.00 a.m. At that time they were both stationed at the West End Police Station, Diego Martin. He was driving this police vehicle. A Mazda, a black car with the word "police" written in white lettering. Constable Sankar was seated on his left side.

Having gone on patrol, they had gone to the North Coast Wireless Station and returned to Diego Martin Main Road in the vicinity of Crystal Stream, between 12.15 a.m. to 1.00 a.m. on the 28th August 1973. They <sup>were</sup> got out of the car and they/observing a house in that vicinity. Having done this, they got back in the car and he then drove left into Crystal Stream. As he drove some 100 to 150 ft, he observed, by the means of his rear view mirror, the light of a vehicle behind him. That vehicle came alongside his vehicle and the right door of the police vehicle was opposite to the left front door of the car which had come from behind and was then alongside their car..

At that stage he heard explosions like gun shot; the right rear door of the police vehicle and the left front glass - the right rear door glass and left front glass were shattered; and it was at this stage that Constable Sankar was wounded. The vehicle stopped in front, some distance in front, and two shots were fired from that car. From the time Sankar was wounded he had brought his car to a stop. In his opinion the first shot appeared to be from a shot gun. After the other two shots he drew his revolver from its holster and fired at that car.

car  
/the/ turned right and drove in a.....



The car turned right and travelled in a Southerly direction. The car moved away at a fast rate of speed. The car was <sup>a</sup> /falcon, but he had not made out the number of the car, nor who were the occupants of the car.

After the car sped off, he returned to the West End Police Station and made a report, and the car was used to take Constable Sankar to the Port of Spain General Hospital. Some time later he saw Mr. Holford, Assistant Superintendent of Police. The picture, he says, showed the Crystal Stream area, and the object on the left of the car on the picture here on the right, <sup>and</sup> /he said, the incident <sup>taken</sup> had place in that area.

At the West End Police Station he examined his car. The right rear door glass, the left front door glass were shattered and at the time of this incident, both of these windows had been turned up; and the right front door was also damaged, as is shown in L.P.(4). The door bore a number of bullet holes.

Now, in answer to Mr. King he again repeated that he was on patrol that night - mobile duty; that he had fired at the car after these shots had been fired; and he had been afraid when the last shot was fired. At some time that night he had been in a lying position. He had thrown himself down.

He could not remember the number of the car, nor had he made a note of this incident in his pocket book. He didn't remember whether he made a note. That book was misplaced he had looked for it on the morning he was giving evidence but could not locate it.

In answer to Mr. Guerra he had not reported his pocket diary as lost or misplaced, he could not remember when he had lost it because he was proceeding on leave on that day, that he ought to have had his pocket diary as entry is made when one proceeds on leave and when one returns. He had not conveniently lost his pocket diary. He had been able to see the word Falcon written on the back of that car. With further leave given to Mr. Guerra, he said he had not used his telecommunication to get in touch with the Police Station. He had used his own initiative.

Mr. Holford was the next witness called. He was the Police officer who had gone to Crystal Stream with Constable Jitta, there he met acting Commissioner Toppin and other Police Officers, Jitta pointed out a spot on Crystal Stream L.P.1 was the photograph of the area. Near the curb stone was the spot indicated by Jitta. He found some glass on the roadway there in the area that was produced in evidence and marked R.H.1, later that morning he saw the Police car PM 1099 and saw the broken glass on the back seat and other parts of the car, he also was present when Doctor Edwards conducted the post-mortem examination. Dr. Edwards handed him pellets and wadding exhibit E.D.1, that and the particles of glass were handed to Sgt. Villafana. You will recall to, that he told you the pictures L.P.3 shows the glass on the left front door missing and L.P.2 glass on the right rear door missing.

In answer to Mr. King No.1 accused was not known to him, that he had heard of Guy Harewood and Brian Jeffers who were suppose to be associated with the N.U.F.F. - National Union of Freedom Fighters, that he was not in charge of investigations and he would not know whether Harewood and Jeffers were charged with this accused. He had heard a man called Martin Thomas was killed in some incident at Belmont but he was unaware that Thomas was related - Martin Thomas

was related to Addontan Andy Thomas.

Now Sgt. Clarke was the next witness called, he was in charge of the Chaguanas Police Station on the 28th of December, 1973 with other Senior Police Officers. He supports Raymond John, John made a report there about 2.15. on the morning of the 28th he left on enquiries and on the Southern Main Road Montrose Raymond John pointed out a car to him a green Falcon car PJ 5454 shown in exhibit L.P.5 and that car was parked under a snackette. John removed that car to the Chaguanas Police Station and he accompanied John in that car. The car was kept at Chaguanas Police Station. He secured the car and kept the keys in his possession. Later Sgt. Cox, he was then a Corporal, Finger print expert came about 8.30 that morning and carried out a check for finger prints on that car.

In answer to Mr. King, when he got to the car this is PJ 5454 it was a green car, he said people were not about, that the car was in a public place, but people were not about, and that he was present when the search for finger prints were made by Sgt. Cox. He could not say how many prints were found. At the end of the search Cox had told him he had found prints but he had not told him how many.

In answer to Mr. Guerra, John had come to the charge room and made a report but he had not advised John to go to Headquarters and make any report. John had come to the Station and left and next time he saw him was when they were by the car at Montrose Village before John drove that car back to the Chaguanas Police Station. He had only seen John on the scene. The right front door glass was down, that is of PJ 5454. He had not searched the car then, John came to that station, first when he made the report and then when he came back to report the discovery of the car. John had not been sent to Port of Spain by a Police vehicle, he had not been in Police custody but he had left with two Police for Port of Spain.

Cpl. Solomon was one of the Police Officers photographers. He was with Cpl. Cox on the 28th of August at Chaguanas Police Station,

he gave him instructions, showed him finger prints, finger impressions on the Falcon car, on the nickel up right, on the nickel strip on the right front door, this was put into evidence and marked W.S.2. He developed it, printed it, and made enlargements. Now the first one he says (this one you have here) was marked "A" that was marked W.S.1 and the second photograph showed where finger prints were found, this was marked (it is shown here) this white piece of paper and this glass marked W.S.2 these you have with you Mr. Foreman, you and your Jury. On the 13th of November he saw Cpl. Cox again, he said in W.S.2 the shotgun cartridge which you see here is lying between the wing-glass and the window glass, white piece of paper and the shotgun cartridge on the dash-board. Cpl. Cox gave him a finger print slip with "X" marked over one of the prints and the name Addonton Andy Thomas, the one with the "X" marked over it, he placed his initials, the initials are here, he developed it and gave Cpl. Cox an enlargement, the enlargement was marked W.S.3, which is beyond this slip here, so this is the enlargement on (this slip here). He subsequently saw Cpl. Cox and gave him this print found on W.S.1 and W.S.3. So you have W.S.1 this W.S.2 which was found on the car and which are enlargements.

In answer to Mr. King he took about three or four photographs at Chaguamas, took the print (this one on the nickel strip) and developed and printed photographs for the prints on the dash board and showed and handed it back to Cox. As far as this nickel strip is concerned he said he took a photograph of it, and he saw this print when he took the photograph. He opened the door and took the photograph of this print which he could then see.

Sgt. Cox was the next witness called. He is attached to the finger print Branch at the C.I.D. Port of Spain and has been engaged in the identification of persons by means of finger prints for the past fourteen years. He examined and searched through over 100,000 sets of finger prints and he has never found finger prints to agree in sequence of ridge characteristics. On the 28th day of August he went, as a result of instructions received, to Chaguamas where he saw the car shown in L.P.5 PJ 5454 a green Falcon car.

At the time the doors were locked and the windows of the car were opened with a key. He then carried out a search for finger prints on that car. In the course of the search he found this sixteen gauge cartridge shown here, he found it under the front seat of the car, he examined that cartridge for finger prints but none were found on it. He took possession of it, it was put into evidence and marked C.C.1 he found one legible finger impression inside this strip between the wing-glass on the right front door, he spoke to Cpl. Solomon, showed him the impression and he gave him instructions and W.S.2 is a photograph of that right front door. He indicated to you that nickel strip and the point where the print was found between the two black spots in that area, the bottom of the strip.

This impression was developed by Sgt. Cox by means of finger print powder. The powder could be seen even on the door in the picture all over the door, and by applying and using a small camel's hair brush, the powder he explained adheres to prints or impressions and the print then becomes visible. The copy of W.S.1 was identical with the print he found on the chrome slip. He carried out investigations and you recall that he told you that he got a print, that he compared this print W.S.1 on the slip, the one he had marked "X" over the right ring impression, he had taken a slip from Sgt. Willafana and he tells you that this, compared with the prints he had found, and he formed the view that they were made by one and the same person. He further told you that he had got a finger print slip from the Commissioner of Police in his office, that when he had first got this print from Chaguanas he had gone through the records, but found nothing which compared with that. He got a print subsequently from the Commissioner of Police he said that print compared with the print found on the motorcar at Chaguanas, and that print was a record he said of the accused, as the record of the Police Officers are kept under lock and key in the Commissioner's Office. The print at the Commissioner's office and the print subsequently taken by Villafana was made by one and the same person, the accused Addontan Andy Thomas. He compared that and found twelve ridge characteristics and they all compared, in his view he was satisfied that they were made by one

and the same person. He further told you that with this impression made by the accused, that is made with what he terms the rolled on impression, when the finger is held and rolled on. That is made by the finger impression which is rolled on an inked slab, he says you will find measurements different, but measurements are not essential to prove that a finger print has been made by one and the same finger.

Now in answer to Mr. King he agreed he had no degree, diploma in finger print signs, he was referred to Jackson's 1st Edition on Criminal investigation and you will recall the answer he gave you, what he said was that as far as his experience went ridge characteristics enabled you to identify a finger print impression made by anyone person. He saw some other finger prints on that car but they were blurred and not good enough to warrant comparison or good enough to be identified with any other prints. Again in answer to Mr. King he said that the accused had been a member of the Police Force. That on the 9th or 10th of September he had gone to the Office of the Commissioner of Police. He again repeated that finger prints of Police Officers are filed away in the Commissioner's Office. He received a print from the Commissioner of Police. Quite apart from the one he found in the car he had the one from the Commissioner of Police and one from Villafana. He compared the print he found on the 28th of August with the prints recorded in the C.I.D. and he found no comparison but he said even before he had got the slip from Villafana he could have determined from the slip from the Commissioner of Police Office that the print on the car was made by the same person whose print he had in his possession which had come from the office of the Commissioner of Police. So what he has told you is that Villafana's slip, that is the finger print slip impression made by the accused when he was actually in Police custody compared with the one he saw on the car on the morning of the 28th of August, 1973. He agreed that all prints are not perspiration prints, some were made by paint or external agencies. As far as that print on the nickel strip is

concerned it could have been made by a person standing outside the car and holding the nickel strip, or a person driving the car, and the driver turning to the rear of the car but he was unable to say the precise time the prints were made. He checked prints on the nickel strip with Raymond John's, Mathlin and Clarke's. He has told you that he made intensive investigations, he took prints of all these persons and they did not compare with the print on the nickel strip.

Again in answer to Mr. Bernard he said he had compared John Mathlin's and Sergeant Clark's prints with the one found on the nickel strip and it did not compare, the others were smudged and could not be used for comparison with the other prints he found on the car. Again he repeated the prints he found on the nickel strip each compared with the one from the Commissioner's office, the rolled inked impression as he called it, in the finger print slip. That was similar to the one on the strip as was the one on the slip which was made by the accused when he was in Police custody and which was handed to him by Sergeant Villafana. He further told you that the finger print slip on the sheet cannot be transferred, the prints from the slip cannot be transferred to any object, and that pressure applied on recording prints again would cause the prints to differ, there would be difference in space between the ridges, but the characteristics remain constant, that is the evidence given to you by Sgt. Cox.

Mr. Heller, Assistant Commissioner of Police was called, he conducted the identification parade on the 18th of September, on that parade No.2 accused Kirklan Paul was placed, he had told Paul who he was and told him of the report made by Raymond John, that he was driving this car along the Western Main Road when two men stopped him. He took them in the car a further hundred feet another man stopped him, the man got in the car and continued. He was ordered to drive, stuck up by one of the men, ordered to drive that it was a dead end road near some buoys, he reached there two other men ordered him out of the car, drove to various places,, a

gas station near Chalotte Street General Hospital and about 1 o'clock the morning Constable Sankar was killed at Crystal Stream and John was eventually let out on the Princess Margaret Highway and the car was left at Chaguanas. He told Paul of his rights that he could take up what position he desired, he could change his clothes with any man, he could make any request. Paul took up No.6 position on the parade. John was then called in the room having been telephoned and he made John repeat briefly the report and then John said to ask each person in the parade to say "you dig stranglers" in accordance to that request he made each of the men say "you dig stranglers" John went up to the accused man and said "he was one of the men who robbed me of my car PC 5454." Paul said nothing. John was sent out the room and then he told Paul another person would be coming. He again told him of his rights, he said on that occasion he told him of the report, that this Constable said he was one of the men he saw by the Croisee on the night of the 27th at 11.30, he said he called him Constable St Louis who then looked along the parade and identified Paul. Constable St Louis was then sent out, Paul was told another man would be coming he was again told of his rights.



When St. Louis came he had changed from number six to number three. When the last man was called, Williams, he remained at number three position and he said Williams then asked that each man on the parade say: "Young boy, we aint have no cigarettes." He acceded to this request. As the first man on the parade said that, according to Mr. Heller, the accused Paul said: "What is all this fuss, is I who said so."

However, Williams continued along the parade, but he did not point out Paul, he pointed out another man called John Mason, and then he sent Paul away and the parade was dismissed. So even though Paul said this, when you come to think of Williams as to how you regard his evidence, he nonetheless pointed out somebody else and not Paul. In other words, he identified somebody else as being there that night and not Paul. A person who, according to the Prosecution, was not there that night at all.

In answer to Mr. Guerra he said in conducting that parade he endeavoured to be fair. He told of a report by Sgt. Villafana and he had repeated that the sum total of that report fitted the accused Paul and he had gathered that that was a report that John had made. And he again repeated the report and he again said that on the parade John had asked the men on the parade to repeat the words, "You dig stranglers?" And that John made no other request. He said he was sure that that was what John asked that he request the men to do.

Inspector Trotman was the next witness called, Calvin Trotman. He also conducted a parade on the 13th November. He said number one accused was on that parade. He said he had borrowed from the Park Street Station nine brand new caps as the men on the parade, apart from the accused Thomas, were not bald. He told the accused Thomas that he was about to conduct the parade and he repeated the report made by John and told him of his rights, whether he wanted a lawyer or solicitor present. He said he wanted no one. He told him before he got the caps he tried to get men who were bald-headed but he was not successful. He told this to Thomas, placed the nine caps on the table and told Thomas he wanted him to choose any one or choose the first one. He said the accused Thomas was wearing a brownish fur-like cap and the accused Thomas refused to wear any of the caps he had borrowed, he insisted on wearing the one he then was wearing. This cap had no peak. He, however, asked the eight other men to wear the caps and they did so. He said he told him he would be calling Raymond John in. John came in, walked along that line and identified no one. John did say that

the men should say "Drive and do as you are told", and they complied with that request but he identified no one. John also asked the men to say "Don't dig no horrors", they did so, and John identified no one. So on that parade on the 13th November, John identified no one. Subsequently he handed over the accused Thomas to Sgt. Villafana.

In answer to Mr. King, Inspector Trotman stated that Thomas was a suspect. He had not cautioned Thomas. He had told him of a report, that a person would be called in to see whether they could identify the person or persons connected with the crime. He said after Thomas had been detained on enquiries this parade was held. But if he had known Thomas had already been arrested and charged with an offence he would not have conducted that parade. He merely considered him a suspect.

Now in answer to Mr. Guerra he said he had held two parades in respect of this matter. John said in his report of the first parade he was driving his car to Port-of-Spain, two men stopped him, asked if he was going to Port-of-Spain, he said "Yes", the men boarded the car. He said John did not say at Dean's Bay three men pointed revolvers at him. But he again repeated that John had made the request that each man on the parade say, "Don't dig no horrors". He said if it appeared in the Magistrates' Court he had said "Don't dig no horrors, drive and do as you are told", that probably would be correct.

Sergeant Villafana was the next witness called. On the 28th August, 1973, he was detailed to make enquiries in this matter, went to Crystal Stream, shown in the exhibit L.P.1, and the arrow, he said, shows where he went with Cpl. Nelson. Later he went to the mortuary at the General Hospital and saw the dead body of Constable Sankar. Subsequently he saw Mr. Holford and the wadding and pellets, D.B.1 and the bits of shattered glass, R.S.1, were handed to him by Mr. Holford. Sgt. Cox he saw at Police Headquarters and Cox handed him the cartridge K.K.1 shown in the picture W.S.2. And he said Cox also showed him the grey Falcon car, D.P.5.

On the 18th September, he saw the accused Kirkland Paul at Tunapuna Police Station, told him of the report that Raymond John was driving his car on the 27th August, around 10.30 p.m. in the area of the Golden Teapot Recreation Club, two men had stopped him, got in his car and as he drove off, one hundred feet away, a third man stopped him and the third man got in the front seat with him and when he got near Palm Beach Recreation Club he felt something cold near his

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neck and a voice in the rear told him: "Drive and do as you are told." He looked to the man in the front for assistance and that man pulled a revolver from his waist, pointed it at him and that man said "Don't dig no horrors". He continued to drive, there was a vehicle in the rear and the man in front told those in the back, "Remove the thing from his neck/<sup>something</sup>coming from behind." That cold object was removed, the vehicle drove past him and as he drove lower down the man in front, still pointing the gun at him, ordered him to drive into a side road situated opposite to Dean's Bay where marine buoys were parked up. He was ordered to stop at a point on that road and did so. He was ordered out of the trunk and ordered to go to the back of the car which he did. At the back of the car he saw two other men standing. He was ordered into the trunk of the car and the car drove away with him in the trunk, in the direction of Port-of-Spain.

The car drove around several places and stopped later on that night in the area of Crystal Stream, around one o'clock, where P.C. Sankar and another constable were on a patrol vehicle and where constable Sankar was shot.

He cautioned the accused, he gave him the usual caution and the accused elected to give him a statement. That statement Sgt. Villafana took in writing. It was read over to Paul. He read it himself and signed that statement and wrote a certificate on that statement. Now that statement was not objected to, was put into evidence and marked L.V.1. And you will bear in mind, again, that that statement is only evidence as against the accused Paul and not as against the accused Thomas.

Statement read by Clerk / That was marked L.V.1.

The Sergeant went on to state that he had attended an identification parade conducted by Mr. Heller at which Raymond John identified the accused Paul. He later swore to information and obtained a warrant for the arrest of Thomas, Michael Lewis, Brian Jeffers and Guy Harewood. Jeffers, he told you, is now dead, Harewood is also dead and the warrant on Thomas was executed on the 11th November, 1973, at Caroni Police Station at 9.00 p.m. According to Villafana the accused Thomas was cautioned and gave a free statement. The warrant was marked L.V.2. He executed a warrant on Michael Lewis on the 22nd September, 1973, but he is not now before you.

On the 12th November, 1973, he saw the accused Thomas at the Caroni Police Station. He was there at about 6.00-6.10 p.m. He spoke to Thomas, identified himself and told him of the report made by Raymond John; that he had

investigated the report, told him of the death of constable Sankar and that he had made enquiries into these reports as a result of which he had a warrant for his arrest for the murder of Constable Sankar. He cautioned him, told him he was not obliged to say anything unless he wished to do so, but what he said would be put in writing and may be given in evidence; to which Sgt. Villafana stated the accused replied: "Sgt. Villafana, I will talk to you just now. I am feeling tired, I want to take a little rest first." At that time, according to the Sergeant, he was in the company of two policemen. He then gave those policemen instructions in the presence and hearing of the accused Thomas, that if Thomas wished anything to let him have it, and if he wished to rest, let him rest.

Later that night, about 9 o'clock, he saw Thomas. Thomas told him: "Sgt. Villafana, I am ready for you now." He again cautioned him, he elected to give him a statement which he reduced into writing. This was about five past nine in the night. He read over that statement to Thomas after it was completed, Thomas signed it, affixed a certificate and he, Villafana, signed it. He had made no threats to Thomas, used no force to him, gave him no promise or inducement for him to give that statement. At the time the statement was given Corporal Nelson and then Superintendent Burroughs were present. Neither Burroughs nor Nelson did anything, they merely stood by while the statement was being recorded.

You will recall that at this stage when the Sergeant was about to tender that statement that Mr. King, Counsel for the accused Thomas, objected to that statement on the ground that it was not a voluntary statement, having been extracted from the accused Thomas by fear, force, fraud, menaces and oppression. The Court then directed that you, Mr. Foreman, and your Jury, retire while the question of the admissibility of that statement was being considered.

When you were recalled you were informed that the Court had ruled that that statement was admissible. But as I told you then, and I again now repeat, that statement has been admitted into evidence - but that statement the weight and value of that statement remain a matter for you, Mr. Foreman and members of the jury. That statement will now be read to you to refresh your memory; but again I must warn you that this statement of Addonton Andy Thomas, provided you accept it as a voluntary statement is evidence as against only the accused Thomas, and not evidence as against the accused Paul.

CLERK READS STATEMENT OF ADDONTON THOMAS.

The Sergeant went on to state that that statement was signed by the accused Thomas in at least three places. On the 15th November he had made arrangements for the holding of an Identification Parade. Thomas was placed on that Parade and he had tried to get in touch with Ignatius Williams, but his efforts were not successful. Now Sergeant Cox is known to him, and he <sup>had information</sup> received from him. He took fingerprints of the accused Thomas on the fingerprint form (C.C.2), handed it to Sgt. Cox and C.C.(2) <sup>is</sup> the form on which he took the print of the accused Thomas. He wrote the name of the accused Thomas on that form C.C.(2) which he said he gave to Sergeant Cox; and the accused, he signed that form at the bottom of the form, the signature you see here. It will be handed to you at a later stage.

Now, he subsequently charged the accused, cautioned him and the accused remained silent. When he had first seen the accused at Caroni on the 12th November, he observed that the accused had an eye black and blue and swollen, and then he asked him what was wrong with his eye? The accused replied, "Sergeant Villafana, them fellas in Grenada, Gairy's Mongoose Gang is something else. They beat me up and lock me up for two days, and sent me over like that." The Sergeant went on to state that when he took the statement no one used any menaces or threats, or pointed any gun at the accused; he was given meals, was allowed to sleep before giving that statement.

/He had caused.....

He had caused photographs of the car to be taken, and the exhibit L.P.(5) shows that car PJ.5454; that car was subsequently returned to its owner. As far as the accused Thomas is concerned, in his view, apart from the injury to his eye the accused Thomas appeared quite normal. In answer to Mr. King, Counsel for the accused Thomas, he agreed that he subsequently charged the accused for murder on the 13th November 1973, the information had been laid on the 20th September when he had obtained a warrant for the arrest of the accused. He wanted the accused for murder as well as for the offence of Robbery with Aggravation; and he had caused an Identification Parade to be held. This was after the accused had been charged. He did not consider it necessary to place the accused before a Magistrate; he said he had arrested the accused after 9.00 o'clock - 9.05 and the Parade was held on the morning of the 13th - 9.05 on the 12th. He could not get a Justice of the Peace on the 9th November 1973. The accused had not been taken to a Justice of the Peace on the morning of the 13th as he had wanted to place him on an Identification <sup>Parade.</sup> He was the one who had the Warrant of Arrest of the accused.

When he took the accused to the Magistrates' Court on the 13th the Court had already risen and he then placed him before the Justice of the Peace attached to the Magistrates' Court; the fingerprints of the accused shows this card, (C.C.2) shows those were taken after he had formally charged the accused. The accused was his prisoner and as usual, his, Villafana's duty to take those prints; at the time the accused was held at Piarco, as far as he, Villafana was concerned, there was evidence against him for the charge of murder; he, Villafana, had not done his utmost to get evidence against the accused, Thomas. The statement that had been made, that statement was a voluntary one.

He knew the accused had been at the St. Joseph Police Station; but the Section of which he was in charge operated from 6.00 p.m. to 6.00 a.m., and he had only received word that this man had been arrested after 5.00 o'clock that afternoon.

/As far as the accused was concerned....

he was concerned he had never said the accused was anxious to give a statement; he agreed at St. Joseph there were policemen who could have taken a statement. He did not know what had taken place at St. Joseph. Mr. Burroughs was head of the Section of which he was the Sergeant, and Corporal Leache was also in that Section. He was unable to state whether Mr. Burroughs had gone to St. Joseph at the time the accused was at St. Joseph; but as far as his information went, no one had interviewed the accused at St. Joseph.

He had seen the accused at 6.10 and the statement had been taken at 9.05 when he had received word that the accused wanted to see him. He had first been told - at 6.05 the accused told him he would see him later, that he was tired, and that he would speak to him later. The accused then appeared quite normal. He had told the accused at 6.05 p.m. when he first saw him that if he wanted him, Villafana, that he, Villafana, would be up front by the Charge Room. He then left Thomas with Constable Montoute and Constable Joseph; Corporal Leache was not there. Joseph was there, Leache was not there.

He had not remained with the accused. From five past six to 9.00 o'clock he had left him and gone to the front of the Station. He had told him of the report that he had the morning for the offence of murder. He was aware that Counsel for the accused did object to the production of this statement before the Magistrate; but the accused made no objection when he made that statement and the statement was voluntary on the morning of the 15th August. There were several persons present, one of them the father of the accused, and in his Villafana's presence, he never told any one that he had been forced to give a statement; he had actually, for purposes of security, been listening to the conversation between the persons and the accused Thomas, that morning, and at no time, did the accused say that he had been forced to make any statement. Up to the time he had taken the statement at Caroni, Burroughs, had never at any time interviewed the accused, nor had Burroughs shown the accused Thomas any passport of his brother Martin.

/Mr. Burroughs had never.....



Mr. Burroughs had never questioned the accused or told him, Villafana, "Take him over, Villa". He, Villafana denied that he had told the accused, the game finished. Now we not wasting time; either you give a statement or licks." The accused, he declared, never requested to go to the Toilet; at no time was any ring formed around the accused, threatening him, with guns pointing at the accused. He had produced paper when the accused said he was ready to give a statement, and before the accused gave a statement, he had asked the accused whether the accused wanted his family, friend or lawyer to be present, and the accused replied, " All you fellas ent like them fellas in Grenada; right man, go ahead."

He said in his Villafana's presence, that Mr. Burroughs had actually asked the accused whether he wanted to see a doctor, and the accused said the worst of it had passed; he was at the time seated in the room. He, Villafana, did not think the accused, Thomas needed any medical attention; the injury was an old injury; the accused appeared to be in no pain, seemed comfortable.

On the morning of the 15th the accused had requested that he see his father and that request was in fact granted. He, Villafana was unaware whether the father of the accused had been looking for the accused Thomas on the afternoon of the 12th November 1973. The accused may have been in custody for some eight hours, but he did not know whether Corporal Leach went to the father of the accused on the night of his arrest.

He, Villafana was armed with a .38 special revolver that was in his pocket, and at no time had he placed that revolver on the table when he was taking the statement from the accused. He never told the accused that the accused must love his brother Martin, and that the accused, Andy Thomas, wanted to go where Martin was. Martin he stated was dead. He denied that the accused asked him what does he, Villafana, want/the accused to say. And he denied that any magazines were taken from the guns in this room when this statement was being taken, or that the accused was protesting that he knew nothing about the incident.

He had told the accused of the report John made, and had immediately cautioned him, and this was at five past 6.00 on the 12th November 1973.

/He said the statement.....

He said the statement was written on the instructions of the accused and taken at five past 9.00 and not after midnight. The accused had been given food. The accused, when he had been offered a meal had said he had eaten earlier and was alright. He had tried to get a Justice of the Peace that night, but could not get one, and the statement had been witnessed by a senior police officer, so he saw no need to call a Justice of the Peace.

He had been aware that the accused had been making allegations against Burroughs. He saw a car at Chaguanas, PJ. 5454 and at the time he was not aware that fingerprints were on that car; he learned that sometime afterwards when he had spoken to Sergeant Cox. He heard that prints were found on the nickel strip on the driver's area. He had had cars brought to Court in matters at the High Court, but he says in this case if that nickel strip had been removed it would have damaged the car.

In the course of his enquiry he had learned that there was a plan to cause a diversion to get the police away, and also as a form of retaliation; he also got information that there was a plan to hijack a car. He was there when Lewis made a statement at the Hospital; he did not witness that statement. That was subsequently certified by a Justice of the Peace.

He received information that five persons were involved in this plan. Harewood and Jeffers were also charged for the murder of Sankar and the accused. Shots were fired at Jeffers and other persons and the information was that the accused Thomas was the man who had driven that car.

In answer to Mr. Guerra he had seen Raymond John on the morning of the 28th August, and he assisted in the search of Raymond John's home. He assisted Mr. Trotman and Heller. John grandmother's house had also been searched, but nothing was found.

/He took statements.....

He took statements from John, but he could not remember how many, but he had taken more than one.

Kirkland Paul was at the Tunupana Station when he saw him; but he said he already had information to connect up the accused with the crime. As far as Justices of the Peace are concerned, he usually arranges for them to come to the Station to certify the statements. When he was re-examined by Mr. Bernard, he again repeated, as far as Thomas was concerned, he first learned around 5.00 o'clock in the afternoon on the 12th November that Thomas was in Trinidad. He then proceeded to Caroni to execute the warrant. The accused, he said, was taken on the 13th, when he went to the Magistrate's Court. The Court had already risen. He was taken to the Justice of the Peace/<sup>Mr. Ramsunair,</sup> at the Magistrates' Court Port of Spain. ~~The~~ the accused made no complaint then. And again on the 14th November the following day, when he was placed before the Magistrate he again made no complaint then.

Jeffers and Harewood were charged with Thomas and the man Lewis whose trial is not now proceeding. Matthew Toussaint, the Immigration Officer was the next witness called. You will recall he was the one on duty at Piarco on the 12th November when a Liat plane arrived, and according to Toussaint, the accused Thomas was brought to him, an airline passenger. The accused then had a black eye. He asked for his passport. He examined it, asked him for his relatives and he mentioned his father. He asked him how he got to Grenada. He said he had got out in a small boat from the Customs and gone to Grenada. and he had come there and his wife had his passport in Grenada. His face was <sup>w</sup>stollen one eye was black. He asked him how he got that. He said he was beaten up by the Police in Grenada and beaten in jail, and that he appeared quite normal apart from his eye injury.

In answer to Mr. King Counsel for the accused, Thomas, he agreed that hundreds of persons passed through the Immigration Office at Piarco.

/In January 1975....

In January 1975 he had seen the police who reminded him of the incident of November 1975; he said he remembered this particular incident, because he remembered the name Thomas and he remembered this accused. As far as Grenada is concerned, citizens of Trinidad and Tobago are seldom ever deported; and this accused was brought to him, and he could remember this particular case quite clearly. Corporal Montoute was the Corporal at the St. Joseph Police Station, when around two o'clock the accused was brought by Corporal Leach and other policemen to the Station, and placed in an office at the back of the Station, an office used by the Flying Squad, he speaks of the accused talking to Constable Boyce who asked him about the black eye, and the accused saying that he was beaten by the police in Grenada, placed in a cell for two days then deported, and saying "Boy, that place is something else".

The accused was asked whether he wanted something to eat; the accused replied in the affirmative. Constable Boyce went and got something for the accused; a cheese sandwich, a package of Stay Fresh milk which the accused had.

According to Montoute the accused appeared sleepy and tired, had a Koran with him which he asked to be allowed to read, and his request was granted. Later that day, on instructions, he was taken to the Caroni Police Station; he went along in that car with Thomas and Constable Joseph. At Caroni, Sergeant Villafana came in there around 6.00, told the accused that he had a warrant for him, that he was investigating a report and cautioned Thomas; he supports Villafana as he has told you Thomas said he was tired and he wanted to take a little rest, and that when he was ready he would send for Villafana. Villafana then replied if he was wanted he would be up front. He asked the accused whether he wanted anything to eat; the accused said he had eaten already. "The boys at St. Joseph had fixed him up; he was alright." Villafana then told them that if the accused wanted to rest to let him have a rest. Villafana left. Sometime later the accused said he wanted to have a rest and was allowed to do so, and fell asleep shortly after.

/He and Joseph were in the room...

He and Joseph were in the room all the time. Around 9.00 o'clock Thomas awakened, and Thomas said, "Tell Villa I am ready for him. " He then went up front and spoke to Villafana. There he saw Villafana, Mr. Borroughs and Corporal Nelson, and he returned to the room where Joseph and the accused Thomas were.

Villafana, Borroughs and Nelson came in that room. Villafana told Thomas "Andy you sent for me" and the accused replied "yes I am ready for you" at which stage he, Montoute and Joseph left that office. While he was there with the accused no one threatened him, used menaces, beat him or offered any promises or inducement. He and the accused had been stationed together at the Four Roads Police Station when the accused was serving as a Member of the Trinidad and Tobago Police Service.

In answer to Mr. King he said he belonged to the same section as Sergeant Villafana. He supports Villafana because he has also told you that he operated from St Joseph 6 a.m. to 6 p.m. Caroni 6 p.m. to 6 a.m. Mr. Borroughs had come to St Joseph Police Station instructed them to take the accused to Caroni and had spoken to the accused but all he asked the accused was about his eyes and the accused had never told Mr. Borroughs he wanted to see a doctor, a lawyer or his father. At the station at St Joseph no one had asked him this. He had taken statements before and he could have taken a statement at St Joseph had he been so instructed, but at St. Joseph the accused was not questioned by anybody nor was he asked to give any statement, nor did the accused refuse, and at no time did Corporal Leech cuff the accused in his eye at St Joseph Police Station. He denied at St. Joseph Mr. Borroughs had said too many people about - take the accused to Caroni. No one had any submachine guns around the accused at Caroni. He saw no Civilians at Caroni. The accused was not questioned at Caroni, nor did the accused at any time ask to go to the toilet. The accused was not threatened or menaced in any way when he was at Caroni. He was armed that day, his revolver was in his pocket and neither he nor Joseph took out their revolvers when the accused was in their company.

Constable Joseph supports what Montoute has told you, the accused Thomas is his child's godfather and that day he accompanied Montoute and the accused to Caroni, and he supports all that Montoute had told you. He denied the accused had been threatened

in any way or induced by any promises to give any statement. He had asked the accused about his eye. Further had anybody threatened the accused he would have taken exception to it because he and the accused were good friends. The accused was the godfather of his child. No one had questioned the accused that day. The accused at one time said he wanted to sleep, and was allowed to sleep.

Dr. James examined the accused on the 15th November. He saw the accused Andy Thomas at the Royal Gaol, he saw the black eye of the accused and when asked the accused told him that was sustained when he was beaten by the Police in Grenada. The Doctor has told you that apart from the complaint he made about the Grenada Police, he made no complaint about any other person cuffing him in his eye, or any complaint about anybody whatsoever. He described the injury in answer to Counsel for the accused, as not serious. If he had seen it two days before it probably would not have been in as good a condition as when he saw it then. He had given the accused some ointment for his eye. The accused could have appeared depressed to a layman. While he might have appeared depressed to a layman, the accused did not appear to be tired, harassed, or mentally fatigued, or to be suffering from sleeplessness. That is in answer the Deputy Solicitor when he was re-examined. Apart from this injury the accused appeared to be perfectly normal. That was the evidence adduced by the Prosecution at this trial.

The accused Thomas elected to make an unsworn statement from the dock, and that he was perfectly entitled to do because as I have told you earlier, he has not got to prove his innocence to you, had he so desired he could have remained there and not uttered a single word. However, he told you his name and age. He was 30 years old and that he had been a Member of the Trinidad and Tobago Police Service from which he resigned in 1966. He then told you about his various occupations, a journalist with the Mirror till it closed down, he joined a Sales Company as a result of which he travelled around the West Indies. He married

his wife in Grenada in 1971, and settled in Grenada. He started a magazine. Well then he left Grenada in the year 1972 with his wife for Trinidad and edited a paper called Moka, which commented on various political aspects of Trinidad and Tobago, and that was the organ of what he described as a closely based political party called the United National Independent party of which Dr. James Millette is the General Secretary. Around that time he said he was closely watched by the police because of his political activities. He spoke at meetings, political meetings all over the country, held classes at his home on political philosophy on art and yoga. Early in 1973 his home was raided by Mr. Trotman and armed Police-men who said they were looking for subversive literature and arms and ammunitions but nothing was found. His wife left for Grenada shortly after because her mother was ill, he gave up his house and then resided on the University Campus at the home of Mr. Millette, and he was then working on a book on Religion and Politics. He was also using Dr. Millette's Library and that of the University. In June 1973 he started campaigning for the release of Political Prisoners, during that time a man called Douglass Gregg, a New Beginning Movement Tunapuna, another man Darcus of La Brea were shot by the Police while sticking up posters on this campaign. On the night of the 27th August, 1973 he was at Dr. Millette's residence on the University working on his books among other things.

Sometime in October, 1973 his brother Martin was shot and killed in Belmont. Because of that, and the state of the country he decided to further his efforts to release political prisoners and to obtain General Amnesty. He went to Archbishop Pantin's residence for some three days getting in touch with officials of the country through him, but when he learned from Mr. Rodriguez an Assistant Commissioner of Police that as far as the Police were concerned there will be no let up on their persecution on the activities against radical leftwing movements in the country, he abandoned the efforts and went to Grenada, as he heard his wife's mother was then dying. She has since died. He was



arrested in St. George's Grenada and taken to the C.I.D. where he was told he was wanted by the Trinidad Police. They alleged that he was involved in a shooting and asked for a statement, he refused, stating he knew nothing of the allegation, and he was dealt with several blows about his body and face, ordered to strip to his shorts and was put in a cell till Monday 12th, then later put on a plane on a flight to Trinidad after being told he was being sent to Borroughs and his boys. At Piarco he was stopped by Immigration, passport taken ordered to sit and wait for the Police. Sometime later three policemen arrived, he was searched, hand-cuffed, and taken to a car outside. In the car there were submachine guns and Police carrying revolvers in their waist-band. On the way he asked Cpl. Leech where he was being taken and he was told he was lucky to be alive. He was taken to St. Joseph Police Station. On the way to the Recreation Room, still hand-cuffed Cpl. Leech cuffed him in his eye telling him "We heard you did not give a statement in Grenada you must be not ready yet", In a back room, police took up positions pointing guns at him, submachine guns. Leech had one pointing at his face telling him that he had a special course in the US and that he Thomas was lucky Leech was not there before. He Thomas said he wanted his lawyer and he wanted to call his father. He replied "Villa the chief say to keep him there, he was lucky to be there at all" and Leech related his alleged involvement and asked for a statement. He kept protesting and Leech kept threatening. This went on for some three hours, he became very depressed and tired. He had to bend his head and take silent yoga exercises in order not to succumb. Little later Borroughs came and said "take him Caroni, too many eyes around". He called to Borroughs asking to see his father and that he needed medical attention as he was in pain. Borroughs said "later" and left.

He was again hand cuffed, taken to the car, policemen in the car, Leech, Millington, Montoute, and Joseph, taken to Eamoni, placed in a room and they all stood around him with weapons pointing

at him and Leech continued asking him for a statement. He kept protesting, he was afraid for his safety, physically and mentally drained. Around eight o'clock a man came in the room said his name was Villafana and told him there was an alleged involvement that he heard his story from others and that he wanted a statement. He told Villafana he has been asking for his lawyer, his father and medical attention and he knew nothing about the allegation. Villafana left and spoke to Leech. A little later Mr. Borroughs came, took out a passport of his brother Martin, showed him this picture and asked him if he loved his brother, he said yes, he looked at him and said "Borroughs I am an ex-constable I am a newspaper Editor, I am aware and I am entitled to see my lawyer and I want to phone my father and I need Medical attention". Borroughs got up spoke to Villafana and left the room saying "take over now Villafana, you know what to do". Villafana came sat next to him, looked at him and said "all game finish now, statement or licks . He again asked to see his lawyer, Villafana took out a point thirty-eight revolver from his pocket, placed it on the table and told him "you love your brother, you want to go and meet him" other policemen formed a ring around him, took our magazines from the sub-machine guns and held them in their hands like gloves. He then became extremely fearful. He said he was at Caroni alone, no one knew where he was and hostile police were around him. From his experience as a constable and other experiences he thought he might have been shot, and dumped somewhere or a gun placed in his hand. He considered it futile to plead with Villafana and asked Villafana what he wanted him to say. Villafana replied, "I told you already what the others have said" and repeated the story of his alleged involvement. He listened to Villafana; Villafana got ready with paper and pen. On indicating that he was ready, he Andy Thomas gave a version of what Villafana had told him. After a time Villafana stopped writing, tore up the statement and continued on another sheet and produced the statement which Thomas said is a statement about himself which is produced in Court. He signed on

the instructions, asked further questions about himself which he answered and he was then hand-cuffed and taken back in a car to the C.I.D. Port of Spain.

Now he went on to say that he had been persecuted by the Police since in 1966 because of his socialist philosophy and political activities. Continuing he went on to state that after he was taken to the C.I.D. on the morning of the 13th he saw a lawyer, Mr. Alexander and told him how he was beaten and a statement forced out of him. He also told Mr. Weekes, his brother-in-law that he had been forced to give his statement, he expected to be taken to a J.P. but that was not done for the J.P. would ask him if the statement was voluntary, but that was not done. He said at the Magistrates' Court he instructed his lawyer to object to the statement and that was in fact done. He also told you that when, as you recall the statement he made to the Magistrate, that he had no defence which was put into evidence and marked. He said as far as that is concerned what he meant when he told the Magistrate that, was that he reserved his defence because the Magistrates' Court was not the decisive Court. Further he expected you as persons of moral worth to decide that in the highest possible degree, it would be on your conscience, and your conscience is much on trial as his life.

Mr. Worswick was the next witness called and you recall in respect of this car R 8434 he told you that at that relevant time it could have been, there was a car RR 8434 which is registered in their books, that it very often happens that cars are registered at a date after they are used with a number plate.

Mr. Thomas, father of the accused person, was the next one called, he had been a former assistant Superintendent of Police he has now retired. On the 12th of November, he had seen Mr. Borroughs by Curepe sometime between four and six, had spoken to Mr. Borroughs but had received no useful information. He had gone to some places in search of his son, was unsuccessful and returned home. Around mid-night Police had come to his home, he

he received certain information and the following morning he went to the C.I.D. Port of Spain and there he saw his son Andy Thomas seated on a bench. One eye was blood shot and he was hand-cuffed.

Well that is the evidence adduced on behalf of one accused and that was the case as far as No.1 accused is concerned.

As far as No.2 accused is concerned he elected to make an unsworn statement and as I told you earlier he to could have stayed there and not uttered a single word because he has not got to establish his innocence to you. He however elected to make an unsworn statement as he is perfectly entitled to do and told you that on the night of the 27th of August, he took no part of the kidnapping of Raymond John nor did he point any gun at him. He did not rob him of his motor car, nor was he aware that anything was going to be done. On the morning of the 28th of August he remained in the car as he was afraid. He had no idea it was the intention of anyone in that car to shoot at anybody or do any act of violence. His presence in the car at the time of the shooting was an unwilling presence brought about through fear, as some of the men in the car were armed. "I am innocent of all the charges. That concludes my statement."

So that is the statement given to you by No.2 accused at this trial. So that Mr. Foreman, Members of the Jury, as I repeat again you are the sole judges of the facts.

The accused Andy Thomas has told you from the dock that on the night in question he was at the home of Dr. James Millette on the University Campus, that he was not in this car, and that he was not involved in any incident in respect of this kidnapping, robbery with aggravation or the murder of Constable Sankar.

He has raised in law what is termed the defence of alibi. A man cannot be in two places at one and the same time, therefore, if you accept what he has told you, that that statement which the Police say he made was not a voluntary one and that he was not involved that night, well clearly your verdict must be one of not

guilty on each of these counts. If however, you do not believe his alibi that in itself is not an end of the matter you have to go back to the case for the Prosecution and see whether the ingredients necessary to sustain the charge of murder, the charge of robbery with aggravation and the charge of kidnapping have been made.

If on a review of the whole of the evidence, if having weighed and assessed the entirety of the evidence, you entertain any reasonable doubt as to the Prosecution's case against the accused Addonton, Andy Thomas, in those circumstances, Mr. Foreman, Ladies and Gentlemen of the Jury, you must resolve that doubt in his favour, you must accord and give him the benefit of that reasonable doubt and your verdict must be one of not guilty in respect of these counts.

The Prosecution have told you it is quite clear that as far as Thomas is concerned Raymond John did not identify him on the parade. Ignatius Williams was sought on the day of the parade but was not found, his identification is that in the docks at the Magistrates' Court. His evidence on the whole you have to consider together with the rest of the evidence and consider whether you feel that Identification of his is one on which you can rely.

The accused Thomas however, according to the Prosecution made a voluntary statement, as I repeat again, the weight and value of that statement remains matters for you and for you solely and wholly. So even though that statement has been admitted in evidence it is for you in the final analysis to decide whether you consider that statement voluntary. If you consider that statement voluntary, the accused, according to the statement on Monday 27th August, 1973 about 8.30 to 9 p.m. Brian Jeffers, Guy Harewood, Kirklan Paul, Michael Lewis and myself, but again I must warn you that even if you accept the statement of Thomas it is not evidence against Paul, but what he has said at Laventille, East Dry River Port of Spain, met and decided that there should be a form of retaliation as there was a shoot-out at the N.U.F.F. Camp at Valencia Four Roads by the Police and the Regiment.

told you that Paul stopped the car, flagged him down. Well it is for you, Mr. Foreman, Members of the Jury, to weigh and assess the evidence and arrive at

guilty on each of these counts. If however, you do not believe his alibi that in itself is not an end of the matter you have to go back to the case for the Prosecution and see whether the ingredients necessary to sustain the charge of murder, the charge of robbery with aggravation and the charge of kidnapping have been made.

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In this statement he goes on to say, they were dropped at Carenage, Michael and the others. We ordered the driver to go to the area. I drove the car. And again, we followed it, and as I was driving fast, shots were fired. Now you have to bear in mind, in respect of each of these counts, Thomas has told you he was not there. But even if you accept he was there, you have further to find that he was acting with others, acting in concert with others to do those acts complained of. If you find and accept this statement, well, clearly, he was part of a plan, because, "we decided that there should be so and so"; and as part of this plan, according to him, "we ordered the driver where to stop this car". "It was a Falcon motor car." "The driver was ordered to go into the trunk and I took over the driving."

So that, Mr. Foreman, Members of the Jury, as I repeat again you have to find even though he was present, you have to be satisfied that he was acting together, firstly in the kidnapping of this man; secondly, in the robbery with aggravation of this car; and thirdly and lastly, he was acting together in the murder of Austin Sankar. You have to be satisfied in your own minds that he was acting together with the others who shot and killed this man.

As far as the accused Kirkton Paul is concerned now he, too, has made a statement which, unlike the accused Thomas he has not objected to this statement which was taken by Sgt. Villafana and in that statement he admits that he was present. Now he says to you they were weaponless and that the car stopped for him. But you will have to bear in mind - facts are matters for you - John was the one who identified him on the parade and said he was seated on the front of the car. Now he himself admits he got in the front of the car. The sole area of conflict is that he, Paul, says he was at no time armed with a revolver. But John has told you that Paul pulled a revolver from his waist at the time when he was looking to him for assistance. That Paul was the one who said: "Move that thing from the back of his neck a car is coming." That Paul was the man who ordered him to drive, giving those directions. But I repeat you have to bear in mind that as pointed out he said the man who pulled the revolver on him in the front of the car said: "Don't dig no horrors." It was stressed to him he was trying to identify that person by voice and solely by voice, but the accused Paul himself has told you that he got in that car, and John has again told you that Paul stopped the car, flagged him down. Well it is for you, Mr. Foreman, Members of the Jury, to weigh and assess the evidence and arrive at

conclusions on that evidence. But I mentioned earlier mere presence is never enough, and while Paul has admitted that he was there and there throughout, what he has stated was that he was a person who was here and there unwillingly. In other words he took no part, he was not even aware of what the plans were.

So that Mr. Foreman, Members of the Jury, if you accept what he said from the dock here and what he told the Police shortly after he was arrested, and he said he gave this voluntary statement, well in those circumstances, as in law, mere presence is not enough to convict any person of a crime, because there must be participation, there must be an acting in concert and acting with a common design, because as long as you act with a common design and one man shoots and a person dies, the act of that man is the act of all. But he has told you that while he was there he did not take part in this plan, was no part of this plan and was not aware of the plan. If you accept that well, clearly, your verdict must be one of not guilty on each of these counts. Again, if you believe what he says might be true or short of being true, you are left in any reasonable doubt as to the Prosecution's case against him, Paul, as to whether his presence was purely innocent, that doubt must be resolved in his favour and your verdict must be one of not guilty on each of these counts. If, however, Mr. Foreman, Members of the Jury, having weighed, considered and assessed the whole of the evidence, the entirety of this evidence, you are satisfied that while he was there he actually was part of this plan, was acting together, was combining with the others, that he held up this car, flagged this car down, that he had this revolver and that he was the one who gave directions to John where he should drive this car, and where these three other persons were, well then, clearly, he would be guilty on the count of kidnapping and the count of robbing with aggravation. If, having formed that view that he was armed with this revolver, and as far as the count of murder is concerned that he was acting in concert, that he was combining with those others to carry out this plan, well in those circumstances, Mr. Foreman, Ladies and Gentlemen of the Jury, your duty would be to return a verdict of guilty as charged on all these counts against the accused Kirkton Paul.

Mr. Foreman, Ladies and Gentlemen of the Jury, you will now consider your verdicts.



VERDICT: Accused No. 1 Guilty of murder  
 Accused No. 2 Guilty of murder  
 Accused No. 1 Guilty of Kidnapping  
 Accused No. 2 Guilty of Kidnapping  
 Accused No. 1 Guilty of Robbery with Aggravation  
 Accused No. 2 Guilty of Robbery with Aggravation.

PRISONER NO. 1 CALLED UPON.

PRISONER NO. 1 REMAINS SILENT WITH RESPECT TO SECOND AND THIRD COUNTS.

HIS LORDSHIP: Mr. Stewart, is there anything known against him?

CROWN COUNSEL (MR. STEWART): There is nothing known against accused number one,  
 My Lord.

HIS LORDSHIP: On the count of robbery with aggravation, 10 years imprisonment  
 with hard labour.

On the count of kidnapping, two years imprisonment with hard  
 labour to run concurrently with the other count.

PRISONER NO. 2 CALLED UPON.

PRISONER NO. 2 REMAINS SILENT WITH RESPECT TO SECOND AND THIRD COUNTS.

HIS LORDSHIP: Mr. Stewart, is there anything known against him?

CROWN COUNSEL (MR. STEWART); Two other convictions are recorded against Paul.

On the 6th July, 1972, he was found guilty of obscene language  
 and resisting arrest for which he was fined \$15 or 14 days hard  
 labour for the obscene language and \$25 or 21 days hard labour  
 for resisting arrest in the Port-of-Spain Magistrates' Court.

HIS LORDSHIP: On the count of robbery with aggravation, 10 years imprisonment  
 with hard labour.

On the count of kidnapping, two years imprisonment with hard  
 labour to run concurrently,

PRISONER NO. 1 CALLED UPON.

PRISONER NO. 1: Yes, sir, I would like to address you. My Lord I would like to  
 tell the public at this point that this trial has been set up as  
 part of the persecution that has been done against myself and  
 people like myself. I would like to add that I expect the Judge  
 will now pass the one-sided mandatory sentence that is being no-  
 ticed by the oppressed people of this country.

PRISONER NO. 2 CALLED UPON.

PRISONER NO. 2: I remain totally innocent as I said previously upon these charges.

HIS LORDSHIP; Andy Thomas: Death Sentence  
Kirkton Paul: Death sentence.

TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

No.174 of 1974

REGINA

V.

1. ADDERTON ANDY THOMAS  
2. KIRKLAND PAUL

for

MURDER

Mr. Bernard, Deputy Solicitor General with Mr. G. Stewart, Senior Counsel for Crown.

Mr. King for No.1. Accused.

Mr. Guerra for No.2. Accused.

Before the Honourable  
Mr. Justice Garvin M. Scott

36. RONALD QUIYOO

26. GRACE LAWRENCE

38. STEPHANIE RAMIREZ

17. EWART GOMES

15. LYDIA FARIA

40. GRETIA DAVIS-SERVILLE

32. FRANK MERCURY

19. DENNIS GRIMSHAW

42. LEON SINGH

43. BERNADETTE SMITH

24. ANDREW KUBLALSINGH

30. LEONARD MAINGOT

No.36 Ronald Quiyoo challenged by Counsel for No.2. Accused, replaced by No.5. ANDREW BINDOC.

No.38 Stephanie Ramirez challenged by Crown and replaced by No.22 Urias John, challenged by Crown and replaced by No.31 JEAN MOSES.

No.15 Lydia Faria challenged by Crown and replaced by No.25 Fitzroy Layne challenged by Crown and replaced by No.35 EUGENE PHILLIP.

No.17 Ewart Gomes challenged by Counsel for No.1. Accused and replaced by No.3. Levi Andrews challenged by Crown and replaced by No.12. ANTHEA DE FREITAS.

No.19. Dennis Grimshaw challenged by Counsel for No.2. Accused and replaced by No.6. HILARY BROWNE.

No.30 Leonard Maingot challenged by Counsel for No.1 Accused and replaced by No.44 Gemma Tang Main challenged by Crown and replaced by No.48 VERNON WIGHT.

Jurors selected and duly sworn.

Mr. Leon Singh elected Foreman.

/Jurors.....

Jurors informed of Counts and their duties.

Bernard opens and calls:

P.W.1.

DAVID EDWARDS, sworn states:

Member of Medical Board of Trinidad and Tobago. Forensic Pathologist, General Hospital, Port-of-Spain. On 28th August, 1973 I performed post mortem on dead body of Austin Sankar at 11.15 a.m. Body was that of well nourished male aged about 24 years, identified as Austin Sankar by Loretto Duprey, father of deceased. Assistant Superintendent Holford was present. Deceased, 5' 9" and was wearing white sleeveless bloodstained vest, jockey shorts and right hand was bandaged. I found following injuries:

1. Lacerated gunshot wound of entrance, 2½" long 1" wide situated over right side of neck immediately below right ear. Depth of wound was 5" deep inwards towards spine, having lacerated the soft tissues, the carotid vessels which showed contusions and rupture. Multiple tiny lead pellets were found in soft tissues and cervical vertebrae showing fractures of 4th and 5th cervical vertebrae.

2. Lacerated gunshot wound of entrance 2½" long, 1" wide, right side of mouth and cheek communicating with mouth which contained material like wad. Both jaws showed comminuted fracture, having broken into multiple fragments.

Wounds 1 and 2 were surrounded by multiple tiny pellet wounds distributed ¾" apart from each other and directed from right to left.

3. Lacerated gunshot wound 2½" long and 1½" wide, bone deep situated over the outer aspect of the right hand surrounded by pellet wounds. Muscles and vessels showed laceration and bones of hand were cracked. No singeing, blackening or unburnt carbon articles around any of wounds, wounds were anti-mortem, they had been sustained before death. Other organs were normal for his age and showed evidence of acute haemorrhage.

I formed the view, death took place about 6 hours before examination. Death was due in my opinion from shock and haemorrhage due to laceration of carotid vessels with fractured spine as result  
/of.....

of gun shot injuries.

Pellets and material in mouth were handed to A.S.P. Holford. I produce pellets and wadding, marked D.E.1. Had I found blackening and singeing I would have considered that shots were fired from within one yard.

Cross examined by King.

I found injury on hand only bone deep. Probing was not necessary. Injury was caused by lead pellets. I formed view pellets had travelled from ritht to left. I kept pellets I found in bottle which I labelled and handed to A.S.P. Holford. I was given D.E.1. yesterday by Police. I am sure D.E.1. was what I had.

Not cross-examined by Guerra.

Not re-examined by Bernard.

P.W.2.

LAWRENCE LORETTO DUPREY, sworn states:

Live at Coryal Village, Sangre Grande. School Teacher. Deceased Austin Sankar was my son. On 28th August, 1973 I went to Mortuary, General Hospital, Port-of-Spain as result of information received at my home. I identified body of my son to Dr. Edwards. Post mortem was done in my presence. My son lived at my house and was a Police Constable. I last saw him on 24th August, 1973 at my home when he left for work and was in good health then.

Not cross-examined by Counsel for No.1. or 2.Accused.

P.W.3.

JOHN BAPTISTE, sworn states:

Police Constable attached to Criminal Investigation Department, Port-of-Spain. One of official Police Photographers. I know Police Constable Price. He was official photographer of Police. On 25th July, 1974, I saw him leave by Pan American Airways for United States of America. He left around 4 p.m. P.C. Price has not returned to country. I know Price's signature. I apply under Ch.4. #1 Sec.38 for deposition of P.C. Price to be read to Jury.

No objection by Counsel for Defence.

Application granted as prayed. Deposition of P.C.Price read over, put in and marked J.B.1.

~~/~~Not cross- .....

Not cross-examined by Counsel for Accused.

P.W.4.

LESLIE MATHLIN, Sworn states:

Live Carenage, not lived there in 1973. I know Raymond John. He is my cousin-in-law. Desmond John is my father-in-law. I know PJ5454. L.P.5. is car which was owned by Desmond John in 1973. In August, 1973, Desmond John was in U.S.A. He left car L.P.5. with Raymond John. On 27th August, 1973 around 3.45 I was at Abbe Poujade Street, Carenage at my home, car was there in garage a little way from my house. Car was dirty. I took car and washed it, in and out, placed it in garage. I scrubbed seats, upholstery and wiped aall inside, all the glass. I was finished around 4.30 p.m. I drive that car sometimes. I ran it PH. Raymond John also run it PH After I washed car and put it down I did not see Raymond John. I next saw car at C.I.D.

Cross-exmined -King.

27th August, 1973 was a Tuesday, I washed the car around 3.45 p.m. Next time I saw car was a Monday. It may have been following morning, I am not sure but it was around 11 a.m. I gave Police statement a week after. Police took my fingerprint. The same week when they contacted me. When I put car in garage. Raymond took car, but I don't know where he went. Running car PH is an offence. I told Police I run car PH. Police told me I could be charged. I was in station for one hour and was being questioned by police. I was not afraid. On the day I washed car I had not run it PH. I did run car PH. the day before. I was not studying that police could charge me for running car PH. Raymond John runs car P.H. I run car in Carenage. I only picked up people whom I knew I would not be in car when Raymond was running car P.H. I am not sure, I would think he would take up only people he knows. I wouldn't pick up people I didn't know as I took no chances. If I did I may have picked up plain clothes police constables. It is not true that when I went to police I would say anything to leave there without being charged. I gave statement to police as car was hijacked. I wouldn't know if Raymond John was co-operating with people like hijackers.

/Cross-examined - Guerra. ....

Cross-examined - Guerra.

At station I was not concerned with driving as P.H. I was asked about my movements on 27th August, 1973. Raymond John lives opposite to me. Police searched Raymond John's home, mine was not searched. At C.I.D. I did not see Raymond. When they came to house they brought Raymond but I was not there. I left the car in garage. Raymond and I drive. We have two keys. Garage has lock. I told Police in my statement I was at home and gave them names of persons with me.

Not cross-examined - Bernard.P.W.5.

RAYMOND JOHN, sworn states:

Live Carenage, 47 Poujade Street. I am Clerk I, Ministry of Health, Civil Servant. In August 1973, lived at Carenage. I know P.W.4, he is married to my cousin. Desmond John is my uncle. He is now in Trinidad, but was not in August 1973. I know vehicle PJ5454. That vehicle was sold in January, 1974. In August 1973 Desmond John owned pj5454. He also owned Hillman Hunter PN2183. On 27th August, 1973, Desmond John was not in Trinidad. He had left car PJ5454 with me. I used to drive car PJ5454 as a private taxi. P.W.4. sometimes drove car, he would clean it and sometimes used it as private taxi. On 27th August, 1973 I used PJ5454 three times, first around 10.00 a.m. as a private car, again around 4 p.m. to 5 p.m. I took car from garage, it was then clean. I did not use car as P.H. then. I went to Port-of-Spain and visited a friend. When I used car in morning it was very dirty. When I picked up car between 4 p.m. to 5 p.m. car was very clean, in and out.

Having seen friend I went home about 10.20 p.m. Up to that time I had not worked P.H. I went home to get something to eat. I did not get anything to eat. I took car up and left for Port-of-Spain. I had decided to work P.H. I picked up 2 men in front of Golden Teapot Recreation Club, one of men had flagged me down. One man had paper bag in hand. Both men got in car in back seat and I drove off. About 20 yards off another man stopped car, he opened front door and got in. He held up his hand to stop me and I stopped. I did not recognise that man. I continued to

/Port-of-Spain.....

Port-of-Spain and after passing Paol Beach Recreation Club I felt something cold at back of my neck and man behind me start speaking to me. I looked at man in front seat sitting next to me, I did not know him before that night. Man in front seat pulled out revolver from his waist and pointed it at me. Accused No.2. is person, he is wearing glasses in dock. He said "Don't dig no horrors". Man in front, No.2. accused could have heard what man in back seat said "Driver, just do as you are told", I was very frightened when he said this. I was able to recognise man in front seat as in front of us were two lights which were on. I continued driving. Just then a car was at back of me and person in front, No.2 accused, I know his name now, Kirkland Paul. Paul said "Move it away from his head, a car is coming". Paul then said, "Slow down and let car pass". Thing at back of my head was no longer there. I slowed down and car passed. I was told to swing in left side street by Paul. This was a side street partly pitched opposite Dean's Bay, near some marine buoys. I did as I was told. On reaching pitch portion person at back seat said "turn off lights and switch off engine". I did so. Person immediately behind me got out of car, opened driver's door and told me "get out". At that stage 3 persons apart from myself were in car. I got out of car. I was searched. Doors were closed and I was told to <sup>walk to</sup> back of car, at back of car I saw 2 other persons standing there. Paul was still seated in front seat. Paul could have heard what was being said. I was asked for car keys. This was asked by one of two men who were standing at back of car. There were then 5 men apart from me on spot. I said keys were in ignition. I was told to get them. I got them. Paul was still in car. One other person was in car. I went back to back of car and was told to open trunk. I did so. Two persons at back of car looked in trunk. White plastic container taken from trunk. It was shaken and kept by one of them. Water was in white container. Spare tyre and jack was checked and left there. I was told to get in trunk and I did so. One of men at back said "speak softly, do not try to get out as he would be watching trunk constantly. Someone else asked if I dig stranglers, I said nothing. Trunk was closed. I heard car doors open and heard persons getting into car. Car was started, was /reversed,.....



reversed, turned left and headed forward, east to Port-of-Spain.

Remanded to 5th May, 1975 in Custody.

Garvin Scott.  
2.5.75.

5th May, 1975.

REGINA v. ADDERTON ANDY THOMAS and KIRKLAND PAUL

Both Accused Present.

Jurors Present.

Counsel for Crown and for Accused present.

P.W.5.

RAYMOND JOHN, sworn and continuing examination-in-chief, states:

Car was driven around for some time, stopped at gas station, gas was poured in tank and car continued again. I recognised car going over fly-over in St. James as I drive over there very often. Car went over and took slight left turn. After that I was unable to say where I was. I was lying in trunk with my head to left side of car. Car had driven around for an hour. I was wearing watch that night. From reflection of park lights inside trunk I could see time on my watch. When gas was taken at gas station I remember hearing somebody call for a cigarette.

(King:-I object) No evidence No.1 and No.2. Accused present)  
Paragraph 1283 - Archbold's 38th edition, Paragraph 1286 - merely to establish statement was made and evidence accused No.1. in car was made in his presence)

Objection over-ruled.

Tank was fullled and car moved off. Car was being driven. Car came to a stop. Someone tried to start car. Car did not start, someone got out of car, gas tank was opened, someone said open trunk and give him some air. Trunk was opened for 2", I noticed white plastic container from my trunk or similar one was in somebody's hand. I noticed a word "Ridgewood" on Iron gate. Time was late. It was around 11.55 p.m. Trunk was closed and I heard persons get in car. Somebody attempted to start car, it didn't start for few minutes. Somebody asked what was wrong with car. I asked if car had run out of gas, someone answered "I think so". I said to tumble engine till gas reached carburetor. Engine was tumbled and car started. Trunk was closed before they got in car. Car was driven off and was being /driven ...

driven for an hour, there was sometimes smooth sound and rough as though car was not on highway. Car was suddenly stopped, reversed and turned right and moved off slowly on smooth surface. I did not know where I was. I heard 3 shots, it sounded near my head inside car. There was one shot which was louder than the other two. Sounded like gunshot. Car suddenly sped off and took sharp right turn and continued driving fast on a smooth road. I felt car straining, gears being changed frequently as though going up a slope, car then started downhill. I heard persons getting in and out of car as they made stops, sometime after car stopped. This was 1.30 a.m. of 28th August, 1973. When car stopped someone said, man we are letting you off here, all you have to say is your car was hijacked, police will find it for you. We are leaving car in Chaguanas. One then said, "This is retaliation for raid Police carried out today". I was asked, "if I had bread". I knew he meant if I had money. I said no. One of them said he would give me a dollar, I could take taxi and go to Port-of-Spain. When you get out, close trunk, walk in opposite direction and don't look back. He got out of car opened trunk and handed me a dollar bill. Trunk was opened slightly. I took the dollar. He went back into car. He said a car was coming, wait until car passes, then get out, car passed. I got out of trunk. I closed it. I started walking away from car. Car drove off. I did not know where I was, I stood up for a while. I flagged down a car. Car stopped. I spoke to driver, I knew then I was on Princess Margaret Highway. That driver was heading for Chaguanas. I went to Chaguanas Police Station in car that picked me up. I spoke to the police, as a result I left Station with driver who had picked me up and I went to flyover in Chaguanas and the driver pointed out my car to me. It was parked on pavement under a restaurant, I returned to Chaguanas Police Station. I went back to Chaguanas Flyover with Police Officers from Chaguanas Police Station. My car was driven by me to Chaguanas Police Station. Car is Ford Falcon, L.P.6 is car I was driving on night of 27th August, 1973. Lights on car situated on right and left hand corner inside windscreen, by these I was able to see No.2. Accused and these lights were on. Lights are used to attract passengers, and for oncoming vehicles as it is anti-glare lights, as car was sometimes used for P.H., it was necessary to see  
/dollar bill

dollar bills and change. On 29th August, 1973, I received certain information from police, I went to C.I.D., Police Headquarters, Port-of-Spain. I attended identification parade. Accused No.2. Paul was not on parade. I identified no one on parade. On 11th September, 1973, I received request from Police, I went to C.I.D., Port-of-Spain, I attended parade on that date. I identified accused Kirkland Paul as person who sat in front seat of my car on night of 27th August, 1973. I remembered his face. When I identified No.2. Accused, he was among about nine persons. When I identified No.2. Accused, he said, "Just a minute".

On 13th November, 1973 I received request from Police, I attended identification parade at C.I.D., Port-of-Spain. I identified no one on that parade. I am now a civil servant. On 27th August, 1973, I was a school teacher. On 27th August, 1973, I did not work, I was on vacation, the whole school was on vacation.

On 27th August, 1973, or 28th August, 1973 I had no ammunition or cartridge in my car. I remember saying that when I felt something cold at my neck I turned to No.2. accused who was then in front seat and I did not then connect him with the other two in rear of car and I looked to him for assistance.

Cross-examined by King.

On 27th August, 1973, I did not work P.H. from 5 p.m. to 10 p.m. I left home intending to work P.H., but I picked up friends, Trevor Edwards and visited other friends. I did not give Edwards name to Police, as far as I am aware Edwards never saw Police in the course of investigations. I visited Mrs. Joan Bayne Richardson, a school teacher, I got to Joan's at 6.30 p.m., she lives at Diamond Vale. I left there about 10 p.m. I did not say this for first time I did not say this before/as I was not asked this. We had snack at <sup>magistrate</sup> Joan's, pastries around 8 p.m. I did not need more to eat when I left my friends. Around 5 p.m. on 27th August, 1973, I did go to Port-of-Spain, I had looked for passengers but got none. I work P.H. twice a week in vacation as teacher. I know working P.H. is an offence, I did tell police I worked P.H. When I work P.H. I do pick up anyone. People whom I do not know. Before that No.1. Accused may have travelled in my car. People who travel in my car do speak to me, come up /and enquire.....

and enquire where I am going, they may lean on my car. Police took my fingerprints. I got impression police suspected me. I was rigorously questioned. I was detained on enquiries from 2.30 a.m. to 11.20 a.m. I did not want police to lock me up. I was anxious to let police know I was not involved in murder of police constable. It was a serious matter, killing a police constable. I got impression as any ordinary citizen, police wanted me to co-operate with them in their enquiries to find out author or authors of crime. I was not anxious to find out whether Police would charge me for driving P.H., but police did not catch me driving P.H. I am a trained teacher, 7 O-Levels. I gave police two statements. First on morning of 28th August, 1973 and then one about one week after. Statement related to incident of 27th August, 1973 and 28th August, 1973. Second Statement I did not say anything different really. I merely added to what I said in first statement. Morning of 28th August, 1973, everything was blurred, maybe I was frightened out of my wits. When I gave second statement, I had clear recollection. At first statement I was tired and sleepy. I had not slept the day before. I gave first statement as I was interested in making a report as my car was hijacked. I gave statement at C.I.D., Port-of-Spain 1½ hours after my report at Chaguanas. I gave statement before I was questioned.

Having slept for a week, at second statement my mind was clearer, I remembered sign Ridgewood then and events like the changing of roads - driving on smooth roads and rough roads - I remembered shots fired. I did tell police about shooting in first statement. In second statement I added the way the shots were fired. At first statement incidents were only blurred not that I didn't remember them. I went to Sgt. Villafana about second statement. I told him I remembered certain things I thought it would help in their investigations.

It is the duty of citizen to assist Police. Police did not come to me for second statement. Police did not raise question of Ridgewood and the shots. I heard all 3 shots from in my car and though these shots were fired from my car, I heard noises as though it was fired from outside my car. I was in no position to see faces of four persons who entered my car at Carenage. These 2 persons asked me where I was going, and I told them. Lights inside car, in front of /car were.....

of car were on all the time. I did have rear view mirror. At Dean's Bay persons came out of car we were there 4 to 5 minutes. I believe I told Police that I thought that I might be able to recognise two persons who first got in car. At Dean's Bay there were no lights. I was asked to turn off all the lights. At Carenage there are street lights. I had glimpse of them. I had good view of them. On 13th November, 1973 I went to identification parade to identify any of persons in my car on that night.

There were 9 men on parade. I can't remember if 8 men were wearing blue caps. I can't remember if any of them wore a different cap. On that identification parade I did ask each person to say "You dig stranglers, drive and do as you are told" and "Don't dig no horrors". At that parade I identified no one. I did tell police constable I did not see anyone in that parade who had robbed me that night. From Chaguanas flyover to police station I drove my car. Driver took me to Chaguanas flyover. One man did say police would find car. Car was found in Chaguanas where it was said it would be left. Switch key in car. Nothing was taken from my car. I was going to get taxi to Port-of-Spain when driver pointed out my car at flyover, Chaguanas. My car at Chaguanas was not hidden, it was under snackette which had no lights. I did not need rescue that night. I had done nothing wrong. I had been stuck up with guns by men, I had not seen before. I did not know what they would do. They might have shot me and gas attendant and I kept quiet at gas station.

Cross-examined by Guerra.

I reported at Chaguanas Station my car was hijacked. Police sent me home. I went for taxi. I collected my car with police. Went back to Chaguanas. Police told me to make report at C.I.D., Port-of-Spain. Car was kept at Chaguanas, and I came with Police to C.I.D., Port-of-Spain. Police took me to my house and searched my house. I think they searched for arms and ammunition. My grandmother's house was also searched. Police were not accusing me of taking part in killing of Sankar. I did not get that impression. After I was sent home police did not keep coming back to my home. I did see police after that. Second statement was not 2 weeks after

/first. ....

first. It may have been after 11th September, 1973. The morning of 28.9. 1973 police told me I had to give statement. I was hazy about things. I was not protesting to police, I was tired. I did tell them I was tired. They did insist that I give statement. I would have preferred to give statement later. I did not give statement to enable me to go home. I did understand when I said I had no choice that I gave statement, but I gave statement as I was asked to give statement. I did in fact have a choice. I am thinking clearly. I am making mistake. On 27th August, 1973, I had guns pointed at me. My thinking was muddled at first. That night's ordeal and tiredness and sleepiness made my mind blurred. I slept on night of 28th. I did<sup>not</sup>/go to police on morning of 29th similarly on night of 29th. I did not go to police on morning of 30th. I went to police sometime after 28th August, 1973 and before I gave second statement. I went back to police three times before I gave second statement. First time was about two days after 28th August, 1973, second time was about 5 days after 30th August, 1973 and third time was maybe one or two days after the last visit. On morning of 29th August, 1973 events were a bit clearer. Morning of 30th August, 1973, clearer. I gave no statement to police on 30th August, 1973; 31st August; 1973 things were clearer also 1st, 2nd, 3rd and 4th September, 1973, about that time third visit was paid to police. I can't remember when I gave 2nd statement to police. When I gave second statement to police it was then that I gave description of a man to police. It was not then for first time I mentioned that man was sitting in front had a revolver. I identified no one on first identification parade. On second identification parade I identified some one. I can't remember name of police officer who conducted parade. The man was in his 40's with light grey hair, medium build, dark complexion- (A.S.P. Heller called into Court) - I am not sure if Mr. Heller conducted identification parade. I was called into room. I approached door, I identified myself, I knocked it, I was asked to come in, I went in, saw police officer and line of men. I gave resume' of what happened on night of 27th. I was told to look along line and see if I saw any of men. I made request. Up to that point I had identified no one. I could have picked out someone. I was sure. I don't know why I did not pick out any person then. I made request to have men speak. /I .....

illegal. I knew if I was discovered I could lose my job as a teacher. I did take precautions that law would not catch up with me. I did not want to pick up police constables and charge them fares. I was wary of picking up strange men, but not at night. Two men stopped me, asked if I was going to town and got in rear seat. The men stopped me and got in car. That evening I went to teacher in Diamond Vale. I parked my car outside on street. It was the first time I had been there. My car was not under any observation while I was there. I left Diamond Vale, dropped my friend at Delhi Street, St. James and went home to get something to eat. I expected to get something at my aunt's. I go there sometimes. I got nothing to eat at my aunt's. I decided to go to Port-of-Spain and take passengers on my way up. My aunt's place was in darkness when I got there. I first got to Chaguanas around 2 a.m. I made report and was to told to make report at C.I.D., Port-of-Spain. When I made report, I can't remember if I told police, men said they will leave my car at Chaguanas. I can't remember if police constable got name of taxi driver who took me to Chaguanas Police Station. I found my car on main road to Chaguanas. Driver of taxi pointed out my car to me. I did not examine car there. I reported at Station, found car and police left with me. When I got back with police I inspected car. Switch key was in car. I was told by police to drive car to station. I can't remember if car windows were open. I checked body of car, back light of car was disconnected. Police inspected car. I drove car and left car at Chaguanas Police Station. I was brought to Port-of-Spain by Police car. I travelled in rear of car with armed police constable. I was not told reason I was provided with police escort. At C.I.D., I was never accused of using my car in the murdering of Sankar. I was told sometime later that my car was used in murdering Sankar. Heller and other officers did question me. Police did ask how I couldn't tell the fellows who hijacked my car. Police never told me if I helped them, they would help me. Police never asked where was gun and ammunition I had at home. I was not all that surprised when police said they had warrant to search my house. Police did that morning give me impression that I was part and parcel in murder of Sankar.. I went back to Police 2 days after  
/for my car .....

for my car. I did not get it then. I believe Mathlin got car about that same day. Police kept rear view mirror. I went back for it. Mathlin got it some time this year. I did not rely on voices to identify anyone.

Re-examined - Bernard.

Police did ask if I couldn't tell who hijacked my car. I had not seen any of men before that night. In day I am wary, but at night I am not wary. Persons working P.H. Has to take chances of picking up Police Officers and by day it is greater than by night. Of men in car that night I positively identified one man and by his face, not by voice. I attended three identification parades. At none of parades I knew whom I was going to identify. I had mentioned to police in first statement that I had gone to lady teacher at Diamond Vale.

P.W.5.

KEITH ST. LOUIS, sworn states:

Police Constable, Besson Street Police Station. On 27th August, 1973, at Criminal Investigation Department, Port-of-Spain. I then lived at Baird Street Carenage. On 27th August, 1973 around 11 p.m. I received certain information. I was at Narcotics Department of C.I.D. I went to San Juan Police Station by C.I.D. car which had no police markings. I know 10th Avenue, Barataria. At 10th Avenue, Barataria, I observed car in L.P.5. That car overtook my car. There were 5 men in that car. Area was bright, I knew car L.P.5. before in Carenge P.W.5 used to drive that car. I knew P.W.5. P.W.4. also drove that car. When PJ.5454 overtook that car we drove behind it. I looked in car to see whether P.W.5 was in car, but P.W.5. was not in car. I saw No.2. Accused in that car. He was seated behind driver. That car slowed down and my car overtook PJ5454. I looked at that car again and again saw No.2. Accused seated in rear seat behind driver. I know Saddle Road, Quāy D'Orsay, San Juan. Car PJ5454 turned up Saddle Road. I spoke to driver..... of my car and our car came to a stop about 25 feet from Junction. I got out of car and crossed road to buy some nuts, as I was about to go back to C.I.D., same car PJ5454 passed in northerly direction. I again saw No.2. accused still seated behind driver. I was then about 6 feet from PJ5454. That area is well lit. I got in my car and  
/we headed .....



we headed for San Juan Police Station. We turned right into Real Street. There is Hindu Temple. We reached vicinity of Hindu Temple. Motor car PJ5454 was ahead of us, stopped in front of Temple and reversed and stopped to turn back.

While reversing the lights from our car shone directly on car PJ5454, occupants of that car appeared to be attempting to pull back, except No.2. accused - Paul and those in front seat lowered their heads. I again saw No.2. Accused - Paul - he kept his head up. We went to San Juan Police Station. On 18th September, 1973, I attended identification parade conducted by A.S.P.Heller. I identified No.2. Accused as one of men in car PJ5454 around 11.30 p.m. on 27th August, 1973. When I identified No.2. Accused, he remained silent.

Cross-examined - King.

Before that day I did not know No.2. Accused or any other occupant of that car. PJ5454 was green car. I was looking for Raymond John behind steering wheel. I saw another face. It was someone else's face. As I glimpsed at man behind wheel I saw it was not John. That car did not arouse my suspicion. At temple men who withdrew themselves appeared suspicious. I was not on patrol duty that night. I did not try to find out what was going on. I attended only one parade I can't say why I attended only one parade. I had a good look at No.2. accused. I did not tell anyone if I saw driver, I would recognise driver.

Cross-examine - Guerra.

I grew up in Carenage. I knew P.W.5. I thought car belonged to P.W.5. I have seen other people from Carenage driving that night. When I saw car that night I thought Carenage people were in car. I did not know persons in car, but I recognised No.2. accused. I did not become suspicious when I first saw car. By Hindu Temple men in car were making themselves less conspicuous. I am trained detective. At temple my suspicions were aroused. Both driver and I were in police car by Hindu temple. PJ5454 reversed to junction. I did not tell my driver anything. I made no report to the San Juan Police Station, but on 28th August, 1973 I made report when I heard Sankar had been shot. I made no entry in my pocket diary that night.

When I went to San Juan Station I made no report. I did not

/report all .....

report all correct. I did not tell San Juan detectives about men behaving suspiciously at Hindu Temple. I did not report that when I returned to C.I.D., Port-of-Spain. I know car PJ5454 and character of Raymond John and more than one person drives that car.

Raymond John is friend of mine.

Not re-examined by Bernard.

P.w.7.

IGNATIUS WILLIAMS, sworn states:

Live Gonzales, Port-of-Spain. On 27th August, 1973, I was working at Johnson's Gas Station, Port-of-Spain as shift operator, from 9 p.m. to 6 a.m.

When vehicles come to station at midnight and look suspicious, I take down their numbers. On many occasions our gas station had been robbed and manager's instructions were that if suspicions aroused, car number to be taken down.

Around midnight car came in from south - broke the traffic and came through New Street. There is entrance on Charlotte Street. Car came in at fast rate of speed. Car was a Falcon. Number was PJ5454, L.P.5. is car. Car was driven into centre of gas station and came to a stop. Gas station was well lit. I went to car. I spoke to persons in car. There were 4 men in car and the driver of car was other man, I made out the driver. I have seen him since that date.

(King - I object to evidence given when 1st identification of No.1. accused was in Court at Magistrates' Court. Page 440 of Halsbury 3rd edition at paragraph 84 - Proof of identify. paragraph 524, Archbold's 38th edition).

Bernard - Identification - Slinger v. R. 1965 W.I.R. Vol.9. p.271. Herrera & Dookeran v. R. Vol.11. W.I.R. p.1.

Objection overruled.

Continuing: I saw him in dock in Magistrate's Court. Driver came out of car that night. He took off his hat, struck his leg with it. Driver of car was bald headed. Accused No.1. was driver of car. He told me to put in \$2.00 half and half. He took out plastic container and I filled it with gas. One of men in back of car handed me \$5.00. Accused No.1. asked for water from tap. I said tap had no water. I took money for gas and gave driver the change.

/One of ...

One of men in back of car asked for cigarettes. I did not make out that fellow. I did not serve cigarettes as I had not got the necessary keys. After I said this car left gas station speedily in southerly direction. I took number of that car PJ5454 that night. I attended parade on 11th September, 1973, I identified someone who is not here today. On 18th September, 1973, I attended another parade but I identified no one. On 13th November, 1973, I did not go to work. I was off but on that night I learnt something.

Cross-examined - King.

I do smoke marijuana in and between when I have a little worry. I did not smoke any today. I have stopped 6 months ago. I never smoked at work. I would not say smoking marijuana affected my memory. From birth I have not had a good memory. I remember important things. I do not consider motor car numbers important things to remember. I remember PJ5454 and I also remember PR3454. Two women and one man was in car PR3454. I don't remember make or colour of PR3454. / I could not recognise them. I took down about 3 numbers that night. I took PR3454 as that car looked suspicious. I can't remember number of other cars I took down. I just didn't remember it.

Remanded - 6th May 1975 in custody.

Garvin M. Scott.  
5.5.75

6th May, 1975.

Both accused present.

Jurors Present.

Counsel for Crown and for Accused present.

P.W.7.

IGNATIUS WILLIAMS, Re-Sworn and continuing in cross-examination to King.:

I did take down 3 numbers of cars on ordinary piece of white paper. That paper is placed in drawer of desk and destroyed if nothing happens. I can't remember make or size of car PR3454. Number is more difficult to remember than size. In car PR3454 there was one man and two women. I saw Police two weeks after I had seen car PJ5454. I did not hear that police constable had been shot till police constable came. I had told persons I had seen suspicious car before police came. Police constable came and asked if I /remember.....

remember PJ5454, I said yes because on morning I had told manager, Anthony Gill I had seen car PJ5454. It was our custom to do so. I told manager I had put paper in drawer with number PJ5454 on it. I also told him of car PR3454 and showed him slip on which I had written it. I left that job a year ago. Gill is ill, I am now back in Grenada. I was not deported. I went back on my own. I came in 1969 and went back in 1973. I now work in Grenada - (Witness asked to write PJ5454 and PR3454 and does so on slip of paper) - Slip marked I.W.1.- Police came to my place of employment. I was there but not working at time. I went to drawer to look for paper but did not find it. I thought it was there. Police asked if I had paper, I said it might be there if cleaner had not destroyed it or thrown it away. In my statement to Police I mentioned I had taken down car number PJ5454 and PR3454 and one which I could not remember. I told police colour of PJ5454 was green and red Falcon. I couldn't remember make and colour of other cars. It was first time I had seen car PJ5454, it looked very suspicious and I had good look at it. Car had a red stripe right around. Stripe was on doors and around back - one red stripe. I call car red and green. Police did not tell me it was a Falcon. I called to my assistant that night and told him to take down number of car. He asked what model and I told him Falcon. I did not write down number myself. My assistant also wrote down other numbers. His name is Sylvester Taylor. He is in Youth Camp, I did not tell police so. I told police Taylor was inside at time. I did not tell police as I did not consider it important. I am speaking the truth. I did see car with number PR3454 that night. I am sure car PJ5454 had a red stripe. I see L.P.5, which shows car PJ5454. I saw word 'Falcon' at back of car when I was putting gasoline in tank. I cannot spell word, Falcon. I did tell Police that I had seen car PR3454 on that night. I would have mentioned PJ5454 to police in any event. The way the car swung in, PJ5454, I thought it was a hold-up. Entrance on New Street side does have a hump. There is no entry on New Street. That car PJ5454 broke the sign, entered New Street and into gas station. Normal entry is proceeding north along Charlotte Street, past New Street and into petrol station. Car came in at a terrific rate and slammed no brakes.

/Accused Nal. ....

Accused No.1. came out of car and asked for \$2.00 gas, half and half. I recognised accused because he was bald. Accused No.1. took off his hat and hit his leg, if I were walking anywhere I would recognise No.1. Accused.

Cross-examined - Guerra.

At night time boss keeps key for cigarette, as we smoked cigarettes without paying for them. I wrote down car numbers after midnight. This was 15 to 20 minutes after midnight. Clock in petrol station does not work. Car PJ5454 was in gas station 3 - 4 minutes. I put paper in drawer and showed my boss the number in the drawer. That was the last time I saw it. I did not throw it away. I did not destroy it. I gave evidence before Magistrate. When I said before Magistrate I wrote down numbers I meant I told my assistant to do so. I did tell Magistrate I threw away this paper, I did not lie to Magistrate. I did not throw away paper, I put it down. I did tell magistrate I did not show police paper as I saw police 2 weeks after and by that time I had destroyed paper. I did not destroy paper. It could have been any of the workmen who destroyed paper. I did tell magistrate I wrote down car number PR3454. I was boss, I meant my assistant had done so.

To Mr. King with leave of Court.:

Document shown me bears my signature marked "X". I would say No.1. accused is of dark complexion. I did not tell police, man I saw driving was dark. I did tell Police that No.1. accused took off his cap and struck his leg and I saw he was bald.

Re-examined - Bernhard.

Accused No.1. who was driver, came out of car and was one to two feet away facing me when I handed him change after I served petrol and place was lighted up.

P.W.8.

SHIRLEY SAVARY, sworn states:

Housewife. Live 128 Saddle Road, Maraval. I know Ridgwood. My house is next to Ridgwood apartments. There is wrought iron sign - Ridgwood, written on stone columns. Area is lit at nights. There are two lights always lit on stone columns. My house is on eastern side going to Maraval. On 27th August, 1973, I was at home.  
/I went to .....

I went to bed around 10 p.m. to 10.30 p.m. I was not asleep. I heard a noise of vehicle and voices. This was close to midnight. Noise was as though vehicle had stalled and persons were fixing vehicle. I peeped outside. I saw it was stalled vehicle being fixed and I went back to bed. After a little while I heard vehicle drive off.

Cross-examined - King.

I live close to road. Vehicles pass up and down all the time. I paid no particular attention to the vehicles. I can't remember date when I saw Police. I gave statement to police, that was when I first saw police. Police did come to me. Police wanted assistance in their enquiries. Police asked if I remember 27th August, 1973 when a car had stalled at my gates. I told them recently a car had stalled there. I accept I gave statement on 16th September, 1973. When I said recently - When car stalled at my place it was 27th August, 1973 - Recently - I meant 27th August, 1973 as I could not remember car stalling after incident on 27th August, 1973 or before. I had lived there for 9 years. Other cars do stall in that area. I couldn't remember date. Between 27th August, 1973 and 16th September, 1973 I can't remember any car stalling. Police did make suggestions to which I agreed.

Cross-examined - Guerra.

I went to bed around 10 - 10.30 p.m. Sometime after I heard voices. I was lying in my bed for a little while - about 15 minutes. Ridgewood apartments are up a hill. Pillars with sign right on road. I looked through my louvres. I did not see any car. There is left hand bend coming from Port-of-Spain going to Ridgewood. If I put my head right out I can see, but I saw no car.

Not re-examined by Bernard.

P.W.9.

RAYMOND JITTA, sworn states:

Police Constable, at Tableland Police Station. On 27th August, 1973 stationed West End Police Station, Diego Martin. I know P.C.Sankar. He is now dead. I was on mobile patrol on night of 27th August, 1973. Before Sankar's death he was stationed at West End Police Station. On 27th August, 1973 I was on mobile patrol /duty from .....

duty from 11 p.m. to 7 a.m. on 28th August, 1973. Around 11 p.m. on 27th August, 1973 I was at West End Police Station, Diego Martin. I left that station with Police Constable Sankar. I was driving Police Vehicle. Mazda PM1099. Car was black with word "Police" written on it in white. L.P.2. shows car I was driving that night. I see L.P. 3. I see sign 'Police' on back of car. P.C. Sankar was seated next to me on left side of front seat. We went North Coast Wireless Station, spent some time up there, returned to Diego Martin Main Road in vicinity of Crystal Stream between 12.15 to 1 a.m. on 28th August 1973. I stopped on Western side of Diego Martin Road. We got out of car and were observing house in that vicinity. We got back into car and I drove on left side of Crystal Stream, As I travelled 100 - 150 feet I saw through rear view mirror, I saw light of vehicle behind me. As I travelled 10 more feet car came alongside my vehicle. Right rear door of Police vehicle was opposite to left front door of car from behind that had come alongside. I heard an explosion like gunshot. Right rear door of Police vehicle and left front glass was shattered. At that point P.C. Sankar was wounded. I stopped my car. Vehicle opposite to my car got in front of me and two shots were fired from that car. Those 2 shots wounded like revolver shots, 3rd shot appeared to have come from a shot gun after those 2 shots, I drew my revolver from my holster and fired at that car. That car turned right and travelled in a southerly direction. I did not come out of my car before that car moved off at fast speed. I did not make out number of car. Car was a Falcon Ford. I can't remember colour of car. I recognised no one in car. There were about 4 persons in that car. After that car sped off I went to West End Police Station and made a report. I was relieved of my duties. My car was used to take P.C. Sankar to Port-of-Spain General Hospital. Sometime later at West End Police Station I saw Supt. Holford, I went with him to Crystal Stream.

road

I see L.P.1., Crystal Stream/is shown. In L.P.1. can be seen object on left on road near sign post. Murder took place in that area. There was shattered glass on roadside which Holford took up. I returned to West End Police Station, car I had driven was there at Station. I examined my car, I noticed right rear door glass and left /front door.....

front door glass was shattered. At time of incident right rear glass and left front glass were turned up. Right front door was also damaged. On that door there was a number of locks. That police car had a revolving light which was on car at time of incident.

Cross-examined - King.

I am in service 3½ years now. Two cars were detailed from West End Police Station for mobile duty that night. Other Stations do have patrol cars at nights. I fired shot at car after we had been fired on. I fired from .38 revolver. I aimed at that car when it was about 50 feet in front of me. Car was a big car at which I fired. I have been trained in the use of firearms. When I heard first shot I was not frightened. I was cool and calm. I did not try to get away. I did not lie down in car after shots. I saw name, Falcon on car. I saw word on trunk lid from my rear door. I don't remember lying down in my car. I now say I didn't lie down. I did say to Magistrate when I heard the third shot I was in a lying position. At some time that night I was in a lying position. I was in a lying position as I was afraid. When last shot was fired I was not afraid when first and second shot was fired, but at third became afraid because of constant explosion. I did made note of incident. Someone took it down at West End Station, half an hour after incident. I don't remember whether I told sentry it was Ford Falcon. It was important for me to describe car. I don't remember if I made any note of incident in my pocket book. If I had made note it could have been important to put make of car Ford Falcon. That note is misplaced. I looked for it on morning of 28th August, 1973. I went on leave on morning of 28th August, 1973 between 8 a.m. and 9 a.m. I went with Supt, Holford earlier on morning of 28th August, 1973 between 1 a.m. and 3 a.m.

Cross-examined - Guerra.

On morning of 28th August, 1973 I discovered pocket diary was lost. I made no report that my pocket diary was lost. I don't remember when I reported that loss. I proceeded on leave and I recorded it on a piece of paper. I have my I.D. card. Police regulations state that I.D. card must be kept in pocket diary. At 11 p.m. on 27th August, 1973 I saw my pocket diary. I made entry  
/before .....



before leaving station and that was entered by station sentry. When I returned to Station after incident I can't remember if station sentry initialled my diary. I don't remember if report was in diary. I did not conveniently lose my pocket diary. When pocket diary is lost one is issued subsequently. I can't recall where diary issued after 28th August, 1973 is now. I don't recall if I placed record of Crystal Stream incident in my diary subsequently. Police constable was killed. I should have made record. I gave statement in connection with incident. I can't remember if I made any written record of incident. At first shot I was cool. I did not expect anyone to shoot at police. I looked in direction from which shot had come. I was able to see word Falcon written on trunk lid. I see L.P.5., word 'Falcon' is written on trunk lid. Lock at back of L.P.5. is also line at word 'Falcon'. I see word 'Falcon' written. Number of car PJ5454 is bolder than the word 'Falcon'. Car passed me and saw word 'Falcon'.

Not re-examined - Bernard.

To Guerra with leave of Court.

There was telecommunication not in my car. I did get in touch with other Police car before I left on patrol and I did communicate with West End Police Station on Crystal Stream Road after incident. I was not then directed to return to West End. I used my own initiative.

Not questioned by Bernard.

P.W.10.

ROY HOLFORD, sworn states:

State Counsel, Attorney General's Chambers. In August, 1973 A.S.P., C.I.D., Port-of-Spain. On 28th August, 1973, after 1 a.m. I went to Crystal Stream Road, Diego Martin with P.W.(. (P.C. Jitta). There I met acting Asst. Commissioner Toppin and other officers. P.C. Jitta pointed out spot on Crystal Stream Road in area of Junction of new Highway and told me something.

I see L.P.1., is photograph of area. Arrow on left of L.P.1 near curbstone is spot indicated to my by P.C.Jitta. Road runs East to West. I examined area and I saw on roadway a large quantity of broken glass strewn in that area. I took possession of most of glass.

/Glass, .....

Glass appeared to be glass shattered from windscreen or other glass in car. I produce glass which I took possession of - marked R.H.1. I continued investigation, I saw car that morning, car PM1099 at scene of incident. I examined vehicle and saw stains resembling blood mostly in front seat next to driver and in other areas of car. On back seat and other parts of car I saw particles of broken glass similar to glass I found on roadway. I continued investigations. Later that day I saw P.C. Price, police photographer, I gave him instructions and in my presence he took photographs of car PM1099. I went with him to Road shown in L.P.1. and he took photographs of the area. Later that morning I went to mortuary, General Hospital, Port-of-Spain where I was present at Post Mortem examination on dead body of P.C.Sankar by Dr.Edwards. Body was identified by father of deceased. Dr.Edwards handed me some pellets and wadding similar to those found in shotgun cartridges. I saw him take pellets and wadding from wound in lower jaw of deceased. I took possession of items and I handed them to Sgt.Villafana. Exhibit E.D.1. was what I took from Dr.Edwards on 28th August, 1973. I handed glass splinters R.H.1. to Sgt.Villafana. I searched over PM1099, I found glass of right rear door was shattered and missing, as well as glass of left front door of car. On right front door glass was a hole. I see L.P.4. and hole can be seen. L.P.3. shows glass of left front door missing. L.P.2. shows glass of right rear door missing.

Cross-examined - King.

I do not know No.1.Accused. I heard he was member of Police Service. I heard he was editor of magazine named, Moko. I did not find out in course of enquiries where No.1. accused lived on 27th August, 1973. I am in no position to state whether accused on 27th August, 1973 lived at Dr.Millette's. I have heard of Guy Harewood and Brian Jeffers. They were supposed to be associated with National Union of Freedom Fighters. I do not know if Harewood and Jeffers were charged with the accused. I learnt that Jeffers and Harewood died in shoot-out with Police. I know that Jeffers and Harewood were sought after. Police notices were to effect that Jeffers and Harewood were dangerous and armed. I do not know who were leaders of N.U.F.F. and were in charge of N.U.F.F. I do not /know if .....

know if No.1. accused had brother called, Martin Thomas. I know of incident in Belmont where one Martin Thomas was shot, but I do not know if he was related to No.1. Accused. It is not within my knowledge that Jeffers and Hafe wood were in car at time P.C.Sankar was killed. I went with Jitta on scene. He did tell me on scene what happened. This was around 1 a.m. I don't recall seeing Jitta again that day. I would have liked to know what car was used when police constable was shot. P.C. Jitta spoke about car among other things. It could have been both at Station and on scene. P.C.Jitta did not tell me he made report at Station and I did not check. I don't remember if he told me make.

Not cross-examined by Guerra.

Not re-examined by Bernard.

P.W.11.

NORMAN CLARKE, sworn states:

Sgt. of Police, C.I.D., Port-of-Spain. In August, 1973 I was S.P.O., Chaguanas. Report made at station by Raymond John at 2.15 a.m., he spoke to me. I left on enquiries. He was not with me when I left, I went to Southern Main Road, Montrose, at corner of De Verteuil and Southern Main Road I saw Raymond John, he showed me motor car, Green Falcon, PJ5454 - L.P.5. is car he showed me. That car was parked under Silver Town Snackette. Car was moved to Chaguanas Police Station. Raymond John drove it. I went with John in car. At Chaguanas Police Station I secured doors, locked car and kept keys in my possession. Later that day Cpl. Cox, now Sgt. Cox, fingerprint expert came at 8.30 a.m. at Chaguanas Police Station. He carried out check for finger-prints on that car.

Cross-examined - King.

Car was PJ5454 was green car. I saw no red. When I got to car right front glass was down on driver's side. When I saw car people were not about - car was in public place. I was present throughout when search for fingerprints was being made. Search was made on steering wheel, gear shaft, rear view mirror. I can't say how many prints were found. After search for print, I left car. I know of no other search. At end of search Cpl. Cox spoke to me, he said he found prints. He did not say how many.

/Cross-examined by .....

Cross-examined by Guerra.

At 2.15 a.m. on 28th August, 1973 I was in Charge Room of Station. I took up duty at 11 p.m. I saw when Raymond John came in charge room and made report. I listened. Report was recorded in diary. I did not advise him to go to Headquarters and make report. I don't know how he came to Station. He left before me. Next time I saw him was at corner of De Verteuil Street and southern main road. I can't recall if he was alone. It was around 2.20 a.m. I saw no one else on scene. Right front door glass was down. I did not search car there. I told him drive car to station. As far as I know it was second time he was coming to Station that morning. I did not leave station with John. I did not tell him to report matter to C.I.D., Port-of-Spain. When Raymond John made report he came into charge room alone. I did not question him as to how he got to Chaguanas. I did send John to C.I.D., Port-of-Spain by Police vehicle. He was not in police custody. He left with two police constables. Two police constables were in front seat. John alone in back seat. Before I sent John to C.I.D., I communicated with C.I.D. John had made report to me and after I found car I communicated with C.I.D.

Not re-examined by Bernard.P.W.12.

WINSTON SOLOMON, sworn states:

Cpl. of Police, C.I.D., Port-of-Spain. One of Official Photographers. On 28th August, 1973 I was attached to Chaguanas. I know Sgt. Cox. He was Corporal on 28th August, 1973. I saw him at compound of Chaguanas Police Station. He gave me certain instructions. He showed me finger impressions on Falcon car PJ5454 on nickel upright strip of right front door near driver's seat. L.F.5. is car. I photographed impression on nickel strip. I developed it, printed it, and made enlargements. I have copies of police photograph. I gave enlargement to Cpl. Cox. I produce copy of Photograph-"A" found on nickel strip of car, "A" marked W.S.1. Second photograph shows where fingerprint was found, Photograph marked W.S.2. White piece of paper between wing glass and window glass had number of car written on it. I put Printer's Ink on underside of print. On 15th /November .....

November, 1973, I saw Cpl. Cox. In W.S.2. shot gun cartridge is lying on top of dashboard (Witness indicates). On 13th November, 1973 Cpl. Cox gave me a fingerprint sheet with "X" marked over one of prints and name Adderton Andy Thomas. This is fingerprint slip he handed me with "X" marked on right ring finger. I placed my initials opposite "X" - which were all written in pencil. Sheet marked "Y" for identification. Cpl. Cox gave me instructions. I photographed print "X" and my initials, Developed and printed and made enlargement. I gave Cpl. Cox. "B" Is enlargement of fingerprint slip. "B" marked W.S.3. Subsequently I saw Cpl. Cox, gave me mounted card of photographed copy of print found in W.S.1 and W.S.3. This card he handed me marked "Z" for identification. He gave me instructions and I made copies, which I printed and developed. W.S.1 and W.S.3. are enlargements of "Z".

Cross-examined by King.

I took 3 or 4 photographs at Chaguanas. I took photograph of print on nickel strip. I took photograph of 3 fingerprints. One on dashboard on left side of car and one on hood of car outside. I gave these photographs to Cpl. Cox. I developed and printed photos of print on dashboard and hood. I handed these to Cox. Negatives are available. I have been photographer for 7 years. I do not produce articles to Court, I produce photographs. Some investigators produce articles. I drive a Hillman Minx, it has a wing glass, it has a nickel strip. I believe nickel strip on car PJ5454 is still there. Print in W.S.2. will be plain. I saw print when I took photograph. I opened door and took photos of nickel strip. To get picture of print which was on top of hood over passenger's seat on left side I just stood up. I did not have to climb on anything.

Not cross-examined by Guerra.

Not re-examined by Bernard.

Remanded - 7th May, 1975 in custody.  
Garvin M. Scott.  
6.5.75.

7th May, 1975

R. V. 1. Adderton Andy Thomas and  
2. Kirkland Paul.

Both Accused Present.

/Jurors.....

Jurors Present

Counsel for Crown Present.

Counsel for Accused present.

P.W.13.

COLVIN COX, sworn states:

Sgt. of Police, Fingerprint Branch, Port-of-Spain. Have been engaged in identification of persons by means of fingerprints for over 14 years. I have examined and searched over 100,000 sets of fingerprints and I have found fingerprints to agree in sequence of ridge characteristics when they have been taken from one and the same finger and I have never found prints taken from different fingers of the same person or any other person to agree in sequence of ridge characteristics. On Tuesday 28th August, 1973, I received instructions and went to Chaguanas Police Station, around 8 a.m. I met Sgt. Clarke there. He spoke to me, handed me motor car keys and showed me car PJ5454, a green Falcon car, L.P.5. was car. Car was secured, doors were locked, windows were were up. I opened car with key. I carried out search for fingerprints on car. In course of search I found live 16 guage cartridge under front seat of car. I examined that cartridge for fingerprints. None were on it. I took possession of it. I initialled cartridge, in front of it, and wrote date on it. This is cartridge marked C.C.1. I found one legible finger impression on inside of chrome strip between wing glass and main glass of right front door. I saw Cpl. Solomon, one of Police Photographers that morning. I spoke to Corporal Solomon. I showed him impression on right front door and I gave him certain instructions. He took photograph of impression in my presence and also took photograph showing right front door. // W.S.2. shown me is photograph of right front door. Witness indicates nickel strip and points where print found between 2 black spots at bottom of strip. I developed impression by means of fingerprint powder. Impression was latent by sweat and perspiration. I applied fingerprint powder by using a small camel hair brush. Powder adheres to sweat on impression and print becomes visible. Print found towards rear of car. Later that day Cpl. Solomon handed me enlarged photographic copy of print I found on nickel strip of right front door. On car 2 impressions "A" is impression I found on nickel strip in right front door. Enlarged copy of W.S.1. was returned with print I found /on chrome .....

on chrome strip marked "A" in Z. I carried out certain investigations at Fingerprint Branch, C.I.D., Port-of-Spain. Print was negative. As a result of information I went to office of Commissioner of Police and received a fingerprint slip. As a result I spoke to Sgt. Villafana. On 13th November, 1973 Sgt. Villafana handed me fingerprint slip bearing several finger impressions and bearing name Adderton Andy Thomas. This is slip, "Y" for identification. I compared enlarged photographic copy W.S.1., "A" with fingerprints on slip Z and I formed opinion and as a result I made and "X" over right ring finger impression. I took possession of finger print slip from Villafana. Slip marked C.C.2. I handed over slip C.C.2. to Cpl. Solomon and I gave him certain instructions on 13th November, 1973. Later that day I saw Cpl. Solomon, he returned slip C.C.2. to me along with enlarged photographic copy of right ring finger from impression, W.S.3. and indicated "B" on card. I compared W.S.3. with right ring finger impression on C.C.2. and I found them to be identical. I matched 2 large photographic copies side by side, having trimmed these to same size - "Z" and I then marked off 12 ridge characteristics which are in agreement and sequence and I typed on card "Z".

Photograph enlargements of "A" finger impression found on wing glass strip of car PJ5454 and "B" right ring finger impression on (C.C.2.) fingerprint slip and signed Adderton Thomas. 'Z' now marked C.C.3. Having marked off 12 ridge characteristics I came to conclusion that finger impression I found on car was made by same person in "A" in W.S.1. and same person who made right ring finger impression indicated in C.C.2. signed Adderton Thomas and shown as "B" in W.S.3. I handed card to Cpl. Solomon. My experience is that I found at least 6 ridge characteristics to agree in "Z" Impression that all remaining characteristics found will agree continuously. In this case I found 12. I could have gone on further, black lines shown in A or B in W.S.1. and W.S.3. are called ridges. Observation will show, do not run a continuous course. There are several interruptions in course of ridges. Where interruptions occur, a ridge characteristic is formed. There are 4 basic types of ridge characteristics and other unusual types. When a ridge ends abruptly in any direction it is called a ridge ending. When a single ridge forms fork, called a /fork or .....

fork or bifocation. When a single ridge bifocates and closes almost abruptly to form tiny enclosure called enclosure or lake formation. When short independent ridge lies between 2 parallel ridges called short ridgein island. When ridge runs parallel to another ridge and suddenly turns at right angles to that ridge, it is called a spur and that is an unusual characteristic.

No.1. or B. (W.S.3) is called a spur. It agrees with 1 or A (W.S.1). No.2. on B (W.S.3.) is ridge ending, going downwards agrees with 2 on A (W.S.1.). No.3. on A (W.S.2.) agrees with No.3. on B (W.S.2.). Similarly with No.4. to 12, all agree on A (W.S.1.) and B (W.S.3.) W.S.1. - Impression 'A' is latent impression left inadvertently, part of finger which actually touches surface that leaves impression behind.

'B' (W.S.3.) is called Ink finger impression which has been purposely rolled on an ink slab and then finger is then re-rolled on to a fingerprint - called rolled impression.

Cartridge I found under seat I placed in dashboard of car - shown in W.S.2. Pictures taken on 28th August, 1973 at Chaguanas Police Station. I subsequently handed cartridge to Sgt.Villafana.  
Cross-examined - King.

I have no degree or diploma in fingerprint science. It is taught in school. It is taught at Scotland Yard. I have never attended any course abroad. I am of view that 6 ridge characteristics are enough to identify print. I do not know that Courts ask for 16 characteristics. I know in England 8 points are required. I know of book, Criminal Investigation by Jackson, 5th edition. Jackson is not fingerprint expert. I know Jackson was investigator at Scotland Yard not in fingerprint. I am in C.I.D., Fingerprint Branch. I have been there since 1959. All investigators do not look up prints. I look for prints. Courts do not ask for specified amount of ridge characteristics. Few persons may have similar characteristics but not more than 3. Any fingerprint may have all common ridge characteristics. But as an expert you look for the sequence and the order. W.S.1. - A and W.S.3. -B were made by one and the same person. It is possible to have more than 18 ridge characteristics. W.S.1. A. is good print. Microscope is not used in fingerprint work - W.S.1.(A)  
/and .....



and W.S.3. (B) are magnified about 10 times. A and B are similar. I found fingerprint by left front door, on hood and around dashboard. I had them photographed. Those prints were badly smudged and were not clear. Prints were not found elsewhere. I examined entire car for prints. Powder can be seen in W.S.2. on door, glass and other parts. W.S.1.(A) and W.S.3.(B) are called loop impressions. I did not take print, or develop photographs. Cpl. Solomon produced picture and I compared it with print on car.

Prints A and B had to be aligned B was vertical. Cpl. Solomon took pictures with special fingerprint camera. When I saw print W.S.1., print was horizontal pointing towards rear of car. When I saw print on nickel strip, print was horizontal. If exhibit is portable it is brought to court. If I thought strip could have been removed I would have brought it. Before 13th November, 1973 I had gone to Commissioner of Police sometime around 9th September, 1973 or 10th September, 1973.

Accused was member of Police Force. A prerequisite fingerprint of police constable when one joins Police Service. Fingerprint of Police Officers are filed away in Commissioner's Office. I received print from Commissioner of Police when I received information. Quite apart from print found on car, I had in my possession a fingerprint slip from Commissioner of Police and one from Sgt. Villafana on 13th November, 1973, both of same person. It is possible at that stage print might have still been nickel strip but car had already been handed over. I did not take note of date I got slip from Commissioner of Police. It may have been 9th September or 10th September, 1973. I compared print I found on 27th August, 1973 with print in C.I.D.'s records. Before I got slip from Villafana I could have determined from slip from Commissioner of Police that print on car was made by same person. Before I got Villafana's slip I had already come to a conclusion. Villafana's slip was necessary for court. I did not need Villafana's slip to make identification. In Fingerprint Registry at C.I.D., I searched for one week after 28th August, 1973 without success.

In A (W.S.1.) there is no concentric circle - nothing looking like an 'O'. In A and B core is form of a staple. There is second

/staple in .....

staple in A and B, no ridge curves upwards. Fingerprint identification is not based on measurements.

One staple in A appears to be slightly shorter than in B. In B whole impression is slightly larger than A. Prints were made under different conditions. Ridge characteristics and sequence are same in A and B.

Area between 1 and 2 or A and B is not different in ridge characteristics. A is clear impression, even between 1 and 2, border of impression has been super imposed. I am not in position whether print on nickel strip had been placed on top other print. There is clean spot in B above Z but I can see a ridge there. It is faint - running through white spot. White spot appears to be superficial scar but you can see ridge running through. I do not see that spot in A.

Impression A and B were taken under different conditions and at different times. A, was a perspiration impression developed by powder on 28th August, 1973 and there is no superficial scar there. B was recorded on 13th November, 1973, from which I would infer that person got superficial scar between 28th August, 1973 and 13th November, 1973. If scar had been present it would have shown up in A. I say A and B were made by the same person. I can't see person having that superficial scar before 28th August, 1973. An island is a small ridge. Above 9 I see a spur. You can say it looks like a dash. In same area at B, dash ends at point 1. I marked it off. It is same position in A. The two points are identical. I say identification was positive. Point 5 ends in fork in A and B. There is no other super imposition on A. I would look for fingerprints on taxi. When you investigate you do proceed by means of elimination. Very often when you find a print you have no suspect and you search records in C.I.D. in process of elimination. I met car at Chaguanas Station. I don't know Raymond John drove car to Chaguanas Police Station. You do not find prints all the time. Print on nickel strip could have been made by person standing outside that car and holding nickel strip as might take place if person spoke to driver of a car. I can't say precise time print was there. Perspiration print could not last a month but could last 2 to 3 days.

/All prints.....

All prints are not perspiration prints - some may be made by paint or external agency. I checked print on nickel strip with Raymond John's, Mathlin's and Sgt. Clarke's. I also checked other prints. I did not know that car at Chaguanas was used for P.H. purposes. If I had known I would have still taken print.

Not cross-examined by Guerra.

Re-examined by Bernard.

I compared John's, Mathlin's and Sgt. Clarke's print with one found on nickel strip and they did not compare. I found other print on car but they were smudged and could not be used to compare one found on nickel strip. Print I found on nickel strip I compared with print I got from Commissioner of Police's office, was rolled ink impression on fingerprint slip similar to C.C.2. Slip in Commissioner of Police office was kept with others under lock and key. Fingerprint ink on that sheet in Commissioner of Police's office is fixed to paper and cannot be transferred. Pressure applied on recording print would cause print to differ and there would be difference in space between ridge but characteristics remain constant. Measurement is no guide to identification. In A, side of finger is shown and in B, ball of finger is also shown.

P.W.14.

ALEC HELLER, sworn states:

A.S.P., C.I.D., Port-of-Spain. On Tuesday 18th September, 1973 I conducted identification parade at C.I.D. kept at 4.05 p.m. in a closed room. Nine men including accused Kirkson Paul comprised parade. Men were similar in age, colour, height, race and general appearance. They were in a straight line. I spoke to accused Paul. I told him who I was and that about 10.30 p.m. on 27th August, 1973 one Raymond John was driving car PJ5454 along Western Main Road, Carenage, when 2 men stopped car and he took them up to convey them to Port-of-Spain. As he drove about 100 feet another man stopped car. Man got in car and they continued. He was stuck up by one of men who ordered him to drive and made him turn off at dead end road near some buoys and as he reached there 2 other men came up. They ordered him out of car, put him in trunk of car. Car then drove to various places including Eastern Main Road, Quay D'Orsay, Texaco Gas Station, /Charlotte Street.....

Charlotte Street, near General Hospital at about 1.00 a.m. on 28th August, 1973, men shot and killed P.C. Austin Sankar at Crystal Stream, Diego Martin. They let out John at Princess Margaret Highway and left car at Southern Main Road, Chaguanas. I further told Paul I was putting him up at an identification parade and that persons would be called to see whether they could identify any persons in connection with crime. I told him he could take up any position in line of men, he could change his clothes with any of men on parade and that he could make any request. He took up No.6. position in line of men and made no request. In presence and hearing of accused Paul, I telephoned Stolen Vehicle Squad Office - north of room where parade was being held and 150 feet away. I telephoned and said, "Send John to identification parade room". Shortly after I heard rap on door.

I admitted John in room. I opened door slightly and allowed him to come in. I told John who I was and told him to repeat briefly what he had reported to Police and he did so in presence of accused in the parade.

I told him to look at parade and see if he could identify any person or persons in connection with the crime. He then requested that each person in parade say "You dig stranglers". I acceded to his request and each man on parade repeated the words. John went up to accused Paul, touched him and said "He is one of the men who robbed me of car PJ5454". Paul said nothing. I sent John out of parade room to other closed room. From room in which parade was held one cannot see outside and no one outside can see inside. I told accused Paul another person would be called to see if they could identify anyone on parade. I repeated what his rights were to him, As soon as John left, room was closed. Paul changed his position in line from No.6. to No.3. I then telephoned in Paul's presence and hearing and telephoned the same office and said to send P.C. St. Louis to parade room. Shortly after I heard knock on door, I admitted him and closed door. I told P.C. St. Louis to repeat his report to police, he did so. I told him to look at parade and see whether he could identify any person or persons connected with crime. He pointed and touched Paul and said, "He is one of 5 men I saw about 11.30 p.m. on 27th August, 1973, at Quay D'Orsay, San Juan in car PJ5454".

/Accused.....

Accused Paul did not say or do anything. I then sent St.Louis out and closed door and sent him to closed room. Again no one could see out from that room or in that room from outside. I told accused another person would be called and informed of his right. He remained in No.3. position. In presence and hearing of accused I telephoned the same office and said to send Ignatius Willimas to parade room.

Shortly after I heard knock, I opened and admitted Willims in room and closed door. I told Williams who I was and asked him to repeat his report to Police and he did so. I asked him to look at parade and see whether he could identify any person or persons connected with crime. Williams asked that I request each person on parade to say "Young boy say he aint have no cigarettes", I acceded to his request. As No.1. in parade repeated the words, accused Paul said, "What is all this fuss, is I who said so". Members of parade continued to repeat the requested words, as I did not prevent them from continuing in spite of what Paul had said. Williams pointed out No.4. on parade, a man named John Mason. I sent Williams out of parade room. I cautioned accused Paul. He said nothing further. I then dismissed the parade and handed over Paul to Sgt.Villafana.

Not cross-examined by King.

Cross-examined by Guerra.

In conducting parade I endeavoured to be fair. Sgt. Villafana told me of report. I believed what Villafana told me. I expect true report from him. I repeated sum total of what Villafana told me to Accused Paul. I gathered part of what Villafana told me was report of John. John at identification parade repeated report that at 10.30 p.m. on 27th August, 1973 he was driving car OJ5454 along Western Main Road, Carenage, two men stopped him and got in car to go to Port-of-Spain. As he drove 100 feet away another man stopped car to go to Port-of-Spain. As he drove off one of men stuck him up and ordered him to drive. Car continued towards Port-of-Spain and as it reached some buoys at side of road, he was ordered to turn up dead end road and stop. John asked that man on parade, repeat words "You dig stranglers". John made no other request. I make no mistake when I say John requested that each man say "You did stranglers". P.C.

/St. Louis .....

St.Louis pointed out Paul. P.C. St.Louis repeated briefly report he had made but he did not say when. He said about 11.30 p.m. on 27th August, 1973 he saw 5 men in car PJ5454 at Quay D'Orsay, San Juan and car was in motion at time. That was all he said.

Not re-examined by Bernard.

P.W.15.

CALVIN TROTMAN, sworn states:

Inspector, C.I.D., Port-of-Spain. On 13th November, 1973, I conducted identification parade at Headquarters, Port-of-Spain in closed room at headquarters. No.1. Accused was placed on parade for identification. Parade comprised 9 men including No.1. Accused, all of similar race, size, height and general description except that they were not bald headed and accused Thomas was. I borrowed from a Park Street Store, 9 brand new caps. I told accused Thomas that I was about to conduct an identification parade in respect of report made by Raymond John that at about 10.20 p.m. on 27th August, 1973 at Carenage his car was taken away from him by 3 men who stuck him up with guns, put him in trunk of car and drove away. I told him he was a suspect. I asked if he wanted his lawyer or solicitor present. He said he wanted no one. Before I got caps I tried to get other bald-headed men, but did not succeed. I told accused Thomas I could not get men of his general description who were also bald-headed. The nine caps were placed on table in parade room and I invited him to wear one, and to choose the first one and each other man to wear one. Accused Thomas wore brownish fur-like cap and he did not wear any of caps I had borrowed. It was a cap he had been wearing in first place. This cap had no peak. I asked 8 other men to wear a cap and they did so. I told accused I would be calling in person to see whether they could identify person or persons who robbed Raymond John of his car at Carenage. I told him of his rights. He did not change his clothing. He took up position No.6. I telephoned and requested that Raymond John be sent to parade room. We were in room in north-west compound of Police Headquarters. There was rap on door, John entered. I reminded John of report he made to police and I asked him to repeat slowly his report in presence of parade. He did so. I told him to look along line and if he saw any of persons /who robbed .....

who robbed him of car he could touch him or them and say this is man or these are men as case might be. John walked along line came back and said to ask men to say "Dontt dig no horrors". I spoke to men and asked that they do so individually. They did so. He did not identify anyone. John requested that each man say "Drive and do as you are told". I spoke to men, they complied with request. He identified no one. I sent John out of room. I handed accused Thomas to Sgt. Villafana.

Cross-examined by King.

I have conducted several parades. Accused Thomas was a suspect. I did not caution Thomas. I told accused of report and that one person would be called to see whether they could identify person or persons connected with crime. I was not conducting enquiries, but identification parade is part of making enquiries. If accused Thomas had said he wanted to leave before parade was held, I would have refused. After he was detained for enquiries an identification parade was held. I am 32 years in Police Service. I would not have held parade if I had known he had <sup>been</sup> already arrested and charged with offence. I conducted Parade. I considered him suspect.

Cross-examined by Guerra.

I held 2 parades in respect of this matter. Raymond John was called at both parades and at both he was asked to repeat report he made. John said in report at first parade that he was driving his car to Port-of-Spain, 2 men stopped him and asked him if he was going to Port-of-Spain, he John said, "Yes", men boarded car. John did say at Dean's Bay three men pointed revolvers at him. At second parade, John made request that each man on parade say "Don't dig no horrors". If it appears that on day I said John made request "Don't dig no horrors, drive and do as you are told" that would be correct.

Not re-examined by Bernard.

Remanded to 8th May, 1975 in Custody.

Garvin M. Scott.

7.5.75.

Thursday 8th May 1975

Regina v. 1. Adderton Andy Thomas and 2. Kirkland Paul

Both accused present; Jurors present.

Counsel for and Crown and for Accused present.

/P.W.16. ....

P.W.16.

LUCIEN VILLAFANA, sworn states:

Sgt. at C.I.D., Port-of-Spain. On 28th August, 1973, detailed to make enquiries into death of P.C. Sankar. I went to Crystal Stream, Diego Martin around 8 a.m. where New Highway ends. In L.P.1. arrow shows where I went with Cpl. Nelson. I know A.S.P. Holford. He was not there when I got there. Later I went to Mortuary, General Hospital, Port-of-Spain between 9 a.m. and 10 a.m. and saw dead body of P.C. Sankar. I subsequently saw A.S.P. Holford. He spoke to me. He handed me a brown envelope with shattered glass and a small bottle containing pellets and wadding. D.E.1., Wadding and pellets were given me by A.S.P. Holford, R.H.1. envelope with shattered glass was handed me by A.S.P. Holford. I know Sgt.Cox. In course of enquiries I saw Sgt.Cox at Police Headquarters later on 28th August 1973, he gave me one live 16 guage cartridge, C.C.1. is cartridge Sgt. Cox handed me. He also showed me green Falcon car PJ5454 L.P.5 shows car. I continued enquiries. On 18th September, 1973 I saw accused, Kirkland Paul at Tunapuna Police Station around 3.30 a.m. I spoke to him, I told him of report made me, I told him of report, that around 10.30 p.m. on 27th August, 1973 a man named Raymond John was driving his car from West to East along Western Main Road, working as P.H. and as he reached Golden Teapot Recreation Club 2 men stopped him, he took them up, they sat in back seat. As he drove off 100 feet ahead, a third man stopped him. That man got in front seat with him and as he drove off reaching Palm Beach Club he felt something cold on his neck and voice in rear said, "Drive and do as you are told". He looked at man in front seat with him for assistance. That man pulled revolver from his waist pointed it at him and said "Don't dig no horrors". He continued to drive, there was vehicle in rear, man in front told those in back, "Remove that thing from his neck, something coming from behind. The cold object was removed. The vehicle drove past him and as he drove lower down, man in front still pointing gun at him, ordered him to drive into a side road, situated opposite Dean's Bay, where marine buoys were packed up. He was ordered to stop at a point on that road and he did so.

He was ordered out of the car and ordered to go to back of car which he did. At back of car he saw 2 other men standing at

/back of .....



back of car. He was ordered into trunk of car and car drove away with him in trunk in direction of Port-of-Spain. That car drove around several places and stopped. Later on that night car went in area of Crystal Stream, Diego Martin, around 1 a.m. when P.C. Sankar and other police constable were on 999 Patrol, Police vehicle, when P.C. Sankar was shot dead, and I cautioned him after the report. I told accused Paul he was not obliged to say anything. Before I cautioned him I told accused Paul that from my enquiries I had reason to believe that he was one of those persons who hijacked that car, put Raymond John in trunk and shot P.C. Sankar. I then cautioned accused Paul, telling him he was not obliged to say anything unless he wished to do so, that what he said would be put in writing and may be given in evidence. Accused Paul elected to give a statement, that statement was reduced into writing, that statement was read over to him, Accused Paul then read statement himself and he signed that statement. He wrote certificate on that statement which he also signed. Later that statement was certified by Mr. Persad, J.P. of Tunapuna Magistrate's Court. When Accused Paul gave statement, I used no force, threats or promises to induce Paul to make that statement. This is statement (Not objected to by Counsel for Paul), statement read over, put in and marked L.V.1. I was officer in charge of investigations, I attended identification parade at which Paul was put up. That parade was conducted by A.S.P. Heller and Raymond John attended that parade. Before parade was conducted John spoke to A.S.P. Heller in presence of Paul and other men on parade, before parade started. John identified Paul on that parade. On 20th September, 1973 I arrested Paul and charged him with this offence. I cautioned accused Paul, he said nothing. I swore to information and obtained warrant of arrest of accused Thomas, Michael Lewis, Brian Jeffers and Guy Harewood. Jeffers is now dead, Harewood is also dead. I executed warrant on accused Thomas. This is warrant. It was executed at Caroni Police Station on 12th November, 1973 at 9 p.m. He was cautioned and he gave written statement. I obtained warrant of arrest of Thomas on 20th September, 1973 and was executed on 12th November, 1973. Warrant marked L.V.2. I executed warrant on Michael Lewis at San Fernando Police station on 22nd September, 1973.

/On 12th November.....

On 12th November, 1973 I was at Caroni Police Station, I saw accused Thomas there at 6 to 6.10 p.m. I spoke to accused. I identified myself and told him of report made by Raymond John, that I had investigated report and I told him of death of P.C. Sankar. I informed him that I had made enquiries into these reports as a result of which I have warrant for his arrest for murder of P.C.Sankar. I cautioned him, I told him He was not obliged to say anything unless he wished to do so, but what he said will be put into writing and may be given in evidence. Accused Thomas said, "Sgt. Villafana, I will talk to you just now, I am feeling tired, I want to take a little rest first". At the time he was in company of two policemen. I then gave instructions in presence of accused Thomas that if he wished anything, to let him have it and if he wanted to rest, let him rest. I saw accused Thomas later at about 9 p.m. I spoke to him. Accused Thomas told me, Sgt. Villafana, I am ready for you now. I again cautioned him, he started to give me statement, which I reduced into writing. This was about 9.05 p.m., I read over statement to him after it was completed, he signed and affixed certificate and signed it. I used no threats, force and made no promises or inducements to accused Thomas to give statement. At time statement was given Cpl. Nelson and Supt. Burroughs were present. Neither Burroughs or Nelson did anything. They merely stood by while statement was recorded. This is statement given by accused Thomas.

(King - I object to Statement on ground that it was extracted from accused by fear, force, fraud, menaces and oppression).

Jury requested to retire while question of admissibility of statement being considered.

Jury retires 10.50 a.m.

Jury recalled.

Jury informed that court rules statement admissible but that weight not volume of statement remain a matter for them.

P.W.16.

LUCIEN VILLAFANA, Re-Sworn and continuing in examination in chief.

This is statement, I produce it. (Statement read over, put in and marked L.V.3.)

Remanded 12th May, 1975 in custody.

G.M. Scott. 9.5.75 /12th May...

12th May, 1975.

Both accused present.

Jury present.

Counsel for Crown and for Accused present.

P.W. 16.

LUCIEN VILLAFANA, Re-Sworn and continuing in examination in chief.

L.V.3. statement was signed in 3 places. I recall 13th November, 1973. On that date I made arrangements for holding identification parade. Accused Thomas was placed in that parade. I got in touch with Raymond John and he attended that parade. I tried to get in touch with Ignatius Williams on 13th November, 1973 but I was unable to contact him. I know Sgt.Cox. In course of my inquiries I received information from him. Subsequently I took fingerprints of accused Thomas on fingerprint form- blank - handed me by Sgt.Cox, C.C.3. is form on which I took print of accused Thomas. I wrote name of accused Thomas on that form. Accused signed form C.C.2. at bottom of form. I put date 13th November, 1973 on that form. I subsequently charged accused, I cautioned him and he remained silent. On 12th November, 1973 when I saw accused Thomas at Caroni Police Station one of his eyes was black and blue and swollen. I asked what was wrong with his eye. Accused Thomas - - Sgt. Villafana, them fellas in Grenada, Gairy Mongoose gang is something else. They beat me up and lock me up for 2 days and sent me over like that. When I took statement no one used any threats or pointed gun at accused. He was given meal and was allowed to rest before giving statement. I caused photographs to be taken of Falcon car PJ5454, L.P.5. shows that car. That vehicle was subsequently returned to the owner. When I took statement from accused Thomas, apart from his eye he appeared quite normal.

Examined by King.

I subsequently charged him for murder on 13th November, 1973. Information was laid on 20th September, 1973 in Court, and obtained warrant for arrest of accused Thomas for crime of murder. I don't recall if I laid charge for robbery with aggravation. I wanted accused for murder as well as offence of robbery with aggravation. Charges against accused were not completed until preliminary inquiry /was completed.....

was completed and matter sent to High Court. When accused was arrested I was continuing enquiries into charge of murder. I caused identification parade to be held, this was after he was charged. I am in force 19 years. It was not necessary to take accused before magistrate. I arrested accused at 9.15 p.m. Identification parade was held on morning of 13th November, 1973.

I could not get J.P. on night of 12th November, 1973. I did not take accused to J.P. on morning of 13th November, 1973 as I wanted to place accused on identification parade. I arrested accused at 9.05 p.m. on 12th November, 1973. I knew accused had been held earlier in the day. Accused could not have been taken to Justice of the Peace earlier as I had the warrant. I later took accused to the magistrate's court. Court had already adjourned and I took him to J.P. at Court. I did not think it irregular to have identification parade as I only formally charged accused after identification parade. I took fingerprints of accused after I had formally charged accused. Accused was my prisoner and it was my duty to take his fingerprints. Sgt. Cox instructed me to take his prints. I was acting on behalf of Commissioner of Police. I did not get personal instructions from Commissioner of Police to take his prints. I am not Gazetted Officer. When accused was held at Piarco, there was evidence against him for charge of murder. I did not do my utmost to get evidence against him. I did not wring out any statement from him. It was a voluntary statement. I met him at Caroni. I understand he was taken from St. Joseph Police Station to Caroni. There are facilities at St. Joseph Police Station for taking statement. I am in section which operates at Caroni from 6 p.m. to 6 a.m. I got word at 5 p.m., it was necessary to take accused to Caroni. I do not know what time accused arrived at St. Joseph. I never said accused was anxious to give statement at St. Joseph. There were policemen who could take statement. I do not know what he did at St. Joseph. At time I was in charge of Anti-Guerilla Section operating in Section - St. Joseph 6 a.m. - 6 p.m. and Caroni 6 p.m. to 6 a.m. Cpl. Leache was in that section. Burroughs was head of section. I can't say if Burroughs visited St. Joseph Station at time accused was there. To my knowledge no interviews were held with accused. I found out recently that Cpl. Leache had brought accused from Piarco to St. Joseph. I saw accused at

/6.10. p.m. ....

6.10 p.m. at Caroni. Accused gave statement at 9.05 p.m. He requested to see me and I went to him at 9.05 p.m. At 6.10 p.m. Accused said he would see me later, he was tired, he would speak to me. Accused appeared quite normal. I told accused if he wanted me, I would be up front by the charge room. I left accused in room with 2 police constables. P.C. Montoute and P.C. Joseph. Cpl. Leache was not there. I did not see arms on P.C. Montoute and Joseph. My section did not have S.L.R. at Caroni or sub-machine guns. I was not with accused from 6.10 p.m. to 9.05 p.m. Caroni Section is on Southern Main Road, a busy road. There is Station at Piarco, Arouca, Tunapuna, St. Joseph. If from Piarco you use Eastern Main Road, St. Joseph to Tunapuna is further than to Caroni. What I did at Caroni, I could have done before 6 p.m. at St. Joseph. Accused, I understand, was a former police constable. Accused would know about caution. I told him of report and that I had warrant for his arrest for offence of murder. Accused is probably objecting to statement because he is so advised. His counsel did object to statement in lower court. On morning of 13th November, 1973 accused saw several persons. One of them was his father. He never told any person in my presence that he was afraid to give statement. I can't remember seeing Weekes there that morning of the 13th November, 1973. I was listening to his conversation with persons at morning of 13th November, 1973 for security purposes. Burroughs arrived at 8.30 p.m. at Caroni. Up to time I took statement, Burroughs never interviewed accused. While I was there Burroughs never showed accused passport of his brother Martin. Burroughs never questioned accused and told me, 'take over Villafana'. I sat in room with accused and 2 other police officers. I never told accused, all games finish now, we are not wasting time again, either you give a statement or licks. Accused never asked to go to toilet. No ring was formed by police constables around accused. Policemen did not have their guns pointing at accused threatening him. I produced paper when he said he was ready to give a statement. Before I went I asked if he wanted lawyer, friend or family, he said "All you not like them fellas in Grenada, write man, go ahead". I told him this as it was his right. In my presence, Burroughs asked if he wanted to see doctor, accused said, "It is O.K., the worst of it has passed". I was /seated in.....

seated in room when Burroughs asked him this.

I did not think accused needed medical attention. Injury was old injury. His face was swollen, eye was black and blue. Accused appeared to be in no pain. He seemed comfortable. On morning of 13th November, 1973 accused wanted to see father and the request was granted. I did not know his father was looking for him on afternoon of 13th November, 1973. I heard it in Court last week. Accused may have been in police custody for 8 hours at 8 p.m. I didn't know if Cpl. Leache went to father of accused at midnight. I had gun, .38 Special in my pocket. I did not place gun in my pocket at time I took statement. I never told accused, he loved his brother Martin, and he wanted to go where he was. I knew Martin had been murdered. Policemen in room did not take magazines from their guns. Accused never asked me what I wanted him to say. Accused never protested that he knew nothing about incident. I told accused that there was report of robbing made by John, that on 27th August, 1973, at 10.30 p.m. at Western Main Road, John was placed in trunk after driving to Dean's Bay. There were 5 men there, then car was driven around and later at Crystal Stream, Diego Martin on 28th August, 1973, shots were fired from hijacked car and P.C. Sankar was killed and I had warrant for his arrest for murder.

I immediately cautioned him. This was at 6.05 p.m. on 12th November, 1973. I never told accused at time of statement, I tell you already. I wrote statement on instructions of accused. Statement was taken at 9.05 p.m. not after midnight. Accused had food. He did not have a hot meal. Accused did not have meal before he gave statement. Before that he had said he had eaten earlier and was alright. I usually ask J.P. to come to station. Accused is entitled to ask J.P. any question. J.P. is usually called to certify statement. J.P. usually asks questions, among them, whether statement was voluntary. I tried to get a J.P. but could not get one that night. Statement had already been witnessed by a Police Officer. I saw no need to call a J.P. on morning of 13th November, 1973. Statement was witnessed by Mr. Burroughs.

In course of enquiries I had certain information. I first spoke to Sgt. Cox around 9th September, 1973 or 10th September, 1973 in connection with this matter. I had seen car PJ5454 at Chaguanas.  
/at that.....

At that time I did not know fingerprints were on car. I found that sometime afterward, but it was before I had spoken to Sgt. Cox. I knew prints were found on nickel strip in driver's area. I have had some cars brought to court as exhibits and parts. Nickel strip if removed would have damaged car. It could have been done otherwise and it was so done. In course of enquiries I did learn that there was plan to cause diversion to get police from East and also as a form of retaliation. I did get information that there was plan that they plan to hijack car. I have no information that Harewood sent them to Jeffers or prisoner Lewis. I was present when Lewis gave statement at Hospital. I did not witness that statement. It was subsequently certified by a J.P. My information was that 5 persons had made plan. I know nothing about any Hillman car at Bourne Road. My information was that 5 men had made plan to cause diversion from East by police. I do not recall what Michael Lewis said. Harewood and Jeffers were also charged with murder of P.C. Sankar. My information was that shots were fired by Jeffers and other persons. My information was that Thomas drove car.

Cross-examined - Guerra.

I consider myself efficient officer. I try to be conversant with facts of case when I make enquiries. I saw Raymond John on 28th August, 1973 in morning, early that morning I assisted police officers in searching premises of John.

Insp. Trotman and A.S.P. Heller and I searched for arms and ammunition. John was taken to his premises, two places were searched, his and his grandmother's. Nothing was found. I took statement from Raymond John. I can't recall how many. I took more than one. I took several statements from Raymond John. When I saw Kirkland Paul at Tunapuna Police Station, I already had information to connect up accused with crime. I do not carry our prisoners to J.P., I usually invite J.P. to station to certify statements. I don't recall laying information for robbery with aggravation in Magistrate's Court. Car PJ5454 was delivered to owner.

Re-examined by Bernard.

I first learnt on 12th November, 1973, around 5 p.m. that accused Thomas was in Trinidad. I was out on investigation and when

/ I passed at my.....

I passed at my house at 5 p.m. I got telephone message. I then proceeded to Caroni to execute warrant at Caroni. I worked 6 p.m. to 6 a.m. at Caroni Police Station and 6 a.m. to 6 p.m. at St. Joseph Station. I was in Guerilla Section which was at time divorced completely from functions of police at St. Joseph and Caroni. My squad did not operate at Tunapuna, Arouca or Piarco. At no time did I or any other police threaten accused or use force at any time. Accused was taken to Justice of the Peace, Mr. Kamserran at Magistrate's Court, Port-of-Spain. Accused made no complaint to Mr. Kamserran. Accused was taken before Magistrate on 14th November, 1973. Accused Thomas made no complaint to Magistrate. Jeffers and Harewood were charged with No.1. accused, No.2. accused, Michael Lewis whose trial is not now proceeding.

P.W.17

MATTHEW TOUSSAINT, sworn states:

I live 114 Olton Road, Arima. Grade 1 Immigration Officer, Trinidad and Tobago. On 12th November, 1973 on duty at Piarco. L.I.A.T Flight 361 arrived from Grenada between 12.30 p.m. and 1 p.m. and passengers disembarked. Sometime later Accused No.1. was brought to me by Airline Official. I spoke to accused. I asked for his passport. He showed it to me. I examined the passport. I asked whom he knew in Trinidad. He said his father was ex-A.S.P. of Police. I asked how he got to Grenada. He said he had got on board a small boat from Customs area and had gone to Grenada. He said he went to Grenada as his wife had his passport in Grenada. His face was swollen, around his eyes was puffy and one was black. I asked how he got his face like that, he said when he got to Grenada, was arrested by Grenada Police. Apart from injury to his eyes he appeared quite normal. I subsequently handed over No.1. accused to Maraj and Immigration Officer, as he was my relieving officer.

Cross-examined by King.

I do not recall any other person passing through immigration that day. Hundreds of persons pass through department. I saw police in January, 1975. I was asked to speak of incident in November, 1973 but I do remember incidents. I remembered name Thomas. Police said they were investigating case of Thomas.

/Not cross- .....



Not cross-examined by Guerra.

Re-examined - King.

I remember incident well because Grenada seldom deport Trinidad citizen. Accused was brought to me and I remember case quite clearly.

Remanded to 13th May, 1975

Garvin M. Scott.  
12. 5. 75.

13th May, 1975

Both Accused present.

Jury Present.

Counsel for Accused and Crown present.

P.W.18.

MICHAEL MONTOUTE, Sworn states:

Cpl. of Police, C.I.D., Port-of-Spain. I remember Monday 12th November, 1973. Around 2 p.m. I was at St. Joseph Police Station. Party of Police arrived, accused was with them. I knew him before that date. Cpl. Leache was in that party. Accused was taken to office at back of Station used in daytime by Flying Squad and I was detailed to watch him as was P.C. Boynes. Accused had black eye. I spoke to him. I asked what had happened to his eye. He said from time he reached Grenada, he was beaten by Police, placed in cell for 2 days and then deported, boy that place is something else. P.C. Boynes also spoke to accused. He asked if he wanted something to eat. Accused said, 'yes'. Boynes left office and returned later with 2 cheese sandwiches and packet of Sta-Fresh milk which he handed accused and which accused had. Accused appeared a bit sleepy and tired. Accused had Koran, asked to read it and was allowed to do so. Accused was seated all the time. Later that day, received instructions and took accused to Caroni Police Station. P.C. Joseph and driver of car were other persons. We arrived at Caroni around 6.05 p.m. Accused Thomas was taken to office at Caroni Police Station. He was given a seat. Sometime later Sgt. Villafana came to that office and told accused Thomas, 'Andy, I am Sgt. Villafana. I am investigating report of murder and robbery. I have warrant for your arrest'. Sgt. Villafana cautioned accused Thomas. Accused

/Thomas said.....

Thomas said he was tired, he wanted to take a little rest, when he was ready he would sent for him. Villafana replied, 'if he was wanted, he was up front'. He also asked accused if he wanted anything to eat, accused replied 'it was alright', boys in St.Joseph fixed him up already. Villafana then told us if accused wanted to rest or have something to eat, to comply with his wishes. Villafana then left the office. Accused Thomas then said he would like to rest. He was allowed to do so on bottom of a double decker and in a short while he was asleep. No one came in room while he was asleep. P.C. Joseph, Accused Thomas and I were in room. Sometime later around 9 p.m. accused Thomas awoke. I did not speak to him. He told me, 'Tell Villa, I am ready for he'. As a result I went to front of station near charge room. I saw Villafana, Burroughs and Cpl. Nelson. I spoke to Villafana and returned to room where accused and P.C.Joseph were. Sometime later Villafana, Burroughs and Nelson came to the room. Villafana spoke to accused. He told accused, 'Andy,you sent for me . Accused said 'Yes, I am ready for you"', At that stage P.C. Joseph and I left the office. During the time I was with accused Thomas at St.Joseph and at Caroni, no one threatened, beat or memaced accused or offered Thomas any promises or inducements. I had known accused before. He was police constable with me at Four Roads Police Station.

Cross-examined by King.

I belonged to same Section as Sgt.Villafana. We occupy 3 offices, Headquarters, St.Joseph and Caroni. At St.Joseph the hours are 6 a.m. to 6 p.m., C.I.D.Port-of-Spain, for 24 hours, Caroni, 6 p.m. to 6 a.m. Accused Thomas left St.Joseph Police station after 5 p.m. Burroughs instructed me to take accused to Caroni. He had spokento accused. He asked accused about his eye, that is all he asked accused. Accused did not tell Burroughs he wanted to see doctor, lawyer or his father. He told no one at Station this. No one asked him whether he wanted to see doctor, lawyer or relative. Accused did have black eye, around eye was swollen. Accused did appear to be tired and sleepy. At St.Joseph accused did rest his head on the table. Accused did not ask to have a rest at St.Joseph. I have taken statement from accused persons. I could have taken statement

/from accused .....

from accused if I was so instructed. I was around that day and so was P.C. Joseph when we guarded accused. Accused was in police custody then. I was instructed to take accused to Caroni and watch him. Accused arrived at St. Joseph Police Station. There was no questioning of accused at St. Joseph. Accused was never asked to give statement at St. Joseph Police station. Accused did not refuse. Cpl. Leache did not cuff accused in his bad eye. Burroughs never said "Too many people about, take accused to Caroni". Office we occupy at St. Joseph, is at back of Station. St. Joseph to Caroni is further than to Tunapuna, about twice the distance. P.C. Joseph and I were armed at Caroni. P.C. Millington was not there. Accused did eat at St. Joseph Police Station. I saw no civilians at Caroni Police Station. There are guns at Caroni Police Station. No one had any sub-machine guns around accused at Caroni. Accused was not questioned. He did not refuse to make a statement. Accused never asked to go to toilet. Accused was offered food at Caroni but declined. Villafana told accused who he was and told him of report. He did not give accused details of report. Accused was cautioned after he was told there was warrant for his arrest. It was usual caution. Accused was not told, "Do you wish to say anything in answer to the charge". If a person is charged that is normal caution. I left Caroni around 10.15 p.m. to 10.30 p.m. that night. I don't know if Station was closed at mid-night. Accused was never menaced with any magazine. No ring was formed by armed persons around accused.

Not cross-examined by Guerra.

Re-examined by Guerra.

When Villafana came into room after 9.05 p.m. P.C. Joseph and I left room and had nothing further to do with accused. On that day I was armed with revolver, so was Joseph. Revolver was in my pocket, neither I nor Joseph ever took our revolvers out while we guarded accused. At St. Joseph accused never told anyone he wanted to make a statement. I was not investigator in the matter.

P.W. 19.

ANDREW JOSEPH, sworn states:

Police Constable, Flying Squad. I have child named Gregory. Accused Thomas is the child's godfather. I remember 12th November, 1973. I went to St. Joseph Police Station at 4 p.m. I saw accused  
/Thomas .....

Thomas in Flying Squad office at back of station, being guarded by Cpl. Montoute and P.C. Boynes. Later I received instructions and went to Caroni Police Station with Cpl. Montoute, accused Thomas and Police Driver, Duncan. At Caroni, Montoute and I placed accused in room occupied by Flying Squad. He was given a seat. Sgt. Villafana arrived around 6.05 p.m. and spoke to accused and left shortly after. Montoute and I kept guarding accused. Sometime after Villafana left accused Thomas slept. He got up around 8.45 p.m. and asked to see Sgt. Villafana. Villafana then came in room, Cpl. Montoute went to call Villafana. Villafana came with Burroughs and Cpl. Nelson. Villafana asked accused whether he had sent for him, accused said, "Yes, I am ready for you now". I then left the room. No one else had come in that room. No one threatened or menaced accused or made any threats or promises to him. If anything of the sort was taking place I would have put a stop to it. I was armed with small revolver. No one took out any revolver that day.

Examined by King.

I certainly would have objected if anyone had threatened accused Thomas. He is my child's godfather. Montoute and I guarded accused. Villafana told accused when he first came in room - he cautioned accused. I did not hear the caution. I do not know what caution Villafana used. Villafana did tell accused of his right. That was the first thing and then cautioned him. Report was that police constable was murdered. Villafana never told accused I want you to tell me what you <sup>know</sup> about this. I don't know if accused was arrested up to time I left station. As far as I know no one arrested accused. I left room at 9 p.m. when Villafana came in. I don't know if he was arrested then. First time when Villafana came in, before leaving he said, "If accused wanted anything, let him have it, that he would be in front by charge room". I remember Villafana asking whether he wanted something to eat, and accused replied, "No, the boys at St. Joseph fix him up already". I can't remember Villafana saying if he wanted a rest. Sometime after Villafana left, accused asked to have a rest. He was allowed to do so and fell asleep shortly after. Accused got up around 8.45 p.m. He had taken a rest from about 6.30 p.m. I don't remember seeing Cpl. Leache at /St. Joseph, .....

St. Joseph, I did not see him at Caroni. No one had any S.L.R. or S.M.G. that night. No ring was formed around accused. Villafana came in around 9 p.m. When I arrived at St. Joseph Police Station I saw accused. He did not appear tired or sleepy. I asked accused about his eye. When Burroughs arrived at St. Joseph I was then in recreation room. Sometime after Burroughs left, accused was taken to Caroni. Burroughs gave no reasons for accused to be taken to Caroni.

Not cross-examined by Guerra.

Not re-examined by Bernard.

Remanded to 14th May, 1975 in Custody.

Garvin M. Scott.  
13.5.75

14th May, 1975.

Both Accused present.

Jurors Present.

Counsel for Crown and for accused present.

P.W.20.

CARLOS JAMES, sworn states:

Member of Medical Board of Trinidad and Tobago. D.M.O. St. George, West. During September, to December 1973 acted as Prisons Medical Officer. On 15th November, 1973 on duty at Royal Gaol, I saw accused Andy Thomas. Accused had black eye. Accused told me Grenada Police had beaten him and that was how he had got black eye. I made note of that in records. Apart from his black eye he appeared fit. Apart from complaint he made against Grenada Police he made no complaints against any member of Trinidad and Tobago Police service of any kind whatsoever.

Cross-examined by King.

I have no notes on me. I have no note of what accused told me. I made note of his black eye. On reflection I think I should have made a note of what he told me about how he got his black eye. I am sure he told me Grenada Police beat him and caused his black eye. Accused never complained of any pain. It was old injury. I believe it was his right eye. Injury was about 6 days old. It was not serious injury. Injury would have been getting better after 5 days. Two days before I saw him injury would be in as good a condition as

/when I .....

when I saw him. I gave accused some ointment for his eye. Accused was depressed from layman's point of view. Person could become depressed by harrassment.

Not cross-examined by Guerra.

Re-examined by Bernard.

Depressed means one thing to a layman, another to a Medical Colleague. Accused did not appear to be tired or harrassed or mentally fatigued or to be suffering from sleeplessness.

King - I ask leave of Court to recall Villafana in respect to statement of Ignatius Williams marked "A".

LUCIEN VILLAFANA, Recalled with leave of Court and re-sworn.

To King with leave of Court: I did take statement dated 10th September, 1973 from Ignatius Williams, Statement "A" - now marked L.V.4.

Not questioned by Guerra or Bernard.

BERNARD. Before I close case I wish to invite Court's attention to Sec. 17 s.s. 2. of Ch.4. No.1. (Indictable Offences) Preliminary enquiry put in evidence to have statement made by Accused Thomas made at conclusion of preliminary inquiry to Magistrate tendered on evidence. Statement made by accused in answer to Magistrate at page 44 of proceedings, read over, put in and marked "C".

CASE FOR THE PROSECUTION CLOSED.

KING.: No case of Murder or Robbery to go to Jury. Accused Thomas charged jointly with Kirkland Paul for Murder. Necessary for Court to lead evidence that Thomas did some act with intent to kill or do grievous harm or acted in concert. No evidence that accused Thomas shot Sankar. No evidence to call on accused Thomas. That accused was acting in concert with person who shot Sankar. Mere presence in car from which shot was fired not enough. Pellets from shot gun killed P.C. Karl Sankar, not shots from revolver. Waldropt & M. Rivas v. The Queen - 52 of 1964, 53 of 1964, 54 of 1964, June 1964 C.A. Accused Thomas only driving. Three distinct incidents (1) Hi-jacking of car at Carenage; (2) Kidnapping at Dean's Bay. Kidnapping - misdemeanour. R. V. Hughes; R. v. Lewsy, 2 A.E.R. p.1077 R. v. Johnson, 10 W.I.R. p.369. No evidence that accused Thomas /knew of any .....

knew of any plan to murder.

In statement form of retaliation - No evidence what form retaliation should take - Phrase not to be taken in isolation. Statement of accused only evidence against accused. No evidence to go to Jury on charge of Murder. Robbery - No intent to permanently deprive owner.

BERNARD.: Case against accused to go to Jury on all 3 counts. Based on plan and acting with others to attack policemen. Statement of accused - Plan to retaliate because of shoot out. Statement of John - Act done in retaliation. Accused in his statement stated what he did. Cases cited by King are not relevant.

Court overrules submission.

Accused No.1. informed of his rights and states he will make a statement from Dock and will call 2 witnesses.

Unsworn Statement:

Members of the Jury, My name is Andy Thomas, I am 30 years old and I was a member of Trinidad Police Service from which I resigned in 1966 to take up post as a Journalist with the Mirror. I stayed there as journalist till paper closed down and then joined Encyclopaedia Sales Company called Grolia as field manager. During course of this job I travelled around West Indies training sales staff and selling. I met and married my wife in Grenada, in 1971, resigning from company and settling in Grenada. I started magazine called Venture, which carried political, economic and cultural views. I left Grenada in 1972 with my wife for Trinidad and edited Political Newspaper called, "Moko". This paper commented on various political aspects of Trinidad and Tobago. It was political organ of socialist based political party called United National Independence Party of which Dr. James Hillette is General Secretary. Around this time I was closely watched by Police because of Political activities. I spoke at political meetings all over the country and held classes at my home on socialist philosophy, on art and Yoga. Early in 1973 my home was searched by Insp. Trotman and armed policemen who said they were looking for subversive literature, arms, ammunitions. Nothing was found. My wife left for Grenada shortly after as her mother was ill. I gave up my house, took up residence on University Campus at Dr. Hillette. I was then working

/on book .....

on book on Religion and Politics. I was consulting Millette's library and University's Library. In June 1973 I started publicity campaign for release of Political prisoners. During that cause Douglas Graig of New Beginning Movement, Tunapuna and Darcus of La Brea were shot by police while sticking up posters on campaigns. On night of 27th August, 1973 I was at Millette's residence in University working on my book among other things. Sometime later in 1973 my brother Martin, was killed in Belmont. Because of this and state of country, I decided to further effort to release political prisoners and obtain general amnesty. I stayed at residence of Archbishop Pantin for 3 days contacting officials of the country through him, but being told by Rodriguez, A.C.P. that as far as police were concerned, there would be no let up on police persecution activities against radical left wing movements in the country. I abandoned the effort and went to Gremada, as I heard my wife's mother was dying. She has since died. On October 10, 1973 I was arrested in St. George's, Grenada and taken to C.I.D. where I was told I was wanted by Trinidad Police for shooting of a police constable. They alleged I was involved in shooting and asked for statement. I refused, I said I knew nothing of allegation and I was dealt several blows about my body and face. I was ordered to strip to my shorts and was put in cell till Monday 12th. Shortly before noon that day I was put on midday L.I.A.T. Flight for Trinidad after being told I was being sent to Burroughs and his boys. On arriving at Piarco, I was stopped by Immigration, my passport was taken. I was ordered to sit and wait for Police. A little later 3 police constables arrived. I was searched, handcuffed and taken to car outside. In car were sub-machine guns and policemen armed, revolvers in their waist band. On the way I asked Cpl. Leache where I was being taken, he said, "Shut up, I was lucky to be alive". Car went to St. Joseph Police Station. I was taken into Station. On way through recreation room still handcuffed, Cpl. Leache hit me with his fist on my face and said, "We heard you did not give statement in Grenada, you must be not ready yet". I was taken<sup>to</sup>/back room and made to sit on a chair. Handcuffs were taken off, several more men came in room around with sub-machine guns and revolvers. They took up positions around me and pointed weapons at me. Leache had sub-machine gun pointed at my chest. He said he had special course in U.S.A., I was lucky he was /not here.....



not here before. I said I wanted my lawyer and to call my father. The said Villa and the Chief said keep me there. I was lucky to be there at all. Leache related alleged involvement in shooting of police constable and asked for statement. I kept protesting, he kept threatening. This went on for more than 3 hours. I was feeling very depressed and tired. At times I had to bend my head and take silent Yoga exercises in order not to succumb. Sometime later Burroughs came in room, spoke to Leache and then said "Take him to Caroni, too many eyes around here". I called out to Burroughs asking to see my lawyer and my father, I needed medical attention as I was in pain. He said, later, and left. I was again handcuffed, taken to car. Five armed police constables got in car, Leache, Millington, Montoute, Boynes and Joseph. We went to Caroni Police Station. On arrival I was placed in room at eastern end of building and placed on chair. Handcuffs were taken off. Policemen stood around with weapons pointing at me and Leache continued asking for statement. I kept protesting. I was afraid for my safety. I was physically and mentally drained. Around 8 p.m. an East Indian man came in room and said his name was Villafana and told me of my alleged involvement, that he had heard story from others and that he wanted statement. I told him I had been asking for my lawyer, my father and medical attention and that I knew nothing of allegations. He left and spoke quietly to Leache. Sometime after Burroughs came in and sat next to me, took out passport of my dead brother Martin, showed me Martin's picture and asked if I loved my brother. I said, yes. He looked at me for a few seconds. I said Burroughs I am ex-police constable, I am newspaper editor and that I am aware I am entitled to see my lawyer and I wanted to phone my father and that I needed medical attention. He got up without answering and went to Villafana and Leache and spoke to them and left room, saying, "Take over now, Villa, you know what to do". Villa came and sat on chair next to me, he looked at me and said "All games finish now, statement or licks". I asked to go to toilet. He refused. I then asked to see my lawyer. He took .38 revolver from his pocket, placed it on table and said, "You love your brother, you want to go and meet him". Other police constables formed ring around me. Millington and Leache took out magazines from sub-machine guns

/and held.....

and held them in their hands like clubs. I became extremely fearful. I was alone in Caroni. No one knew I was there. Hostile police were around me. I had been beaten in Crenada and St. Joseph. From my experience as police constable and other experiences I thought I might have been shot and dumped somewhere and a gun placed in my hand. I realised it was futile to plead with them. I asked Villafana what he wanted me to say. He said, I told you already what others had said. He repeated story of alleged involvement. I listened to him. He made ready with paper and pen. On indicating he was ready I gave him version of what he had told me. He stopped writing after a few lines, tore up statement and continued on other sheet to statement produced in Court. I signed on his instructions. He asked further questions about myself which I answered, I was handcuffed, taken back to car to Port-of-Spain, Criminal Investigation Department. I heard in court earlier, Villafana saying I was taken to Caroni as they operated from 6 p.m. to 6 a.m., if that was so, I should have been kept there till 6 a.m. but at 3 a.m. I was taken to C.I.D., Port-of-Spain. I could have been taken from St. Joseph to Port-of-Spain. As far as I know Police stations are open 24 hours all days. I would like to point out to Court and Jury that I have been persecuted by police since 1966 because of socialist philosophy and political activities.

Remanded 15th May, 1975 in Custody

Garvin M. Scott.  
14.5.75

15th May, 1975

Both Accused present.

Jurors Present.

Counsel for Crown and for Accused present.

UNSWORN STATEMENT , Continued.

After I was taken to C.I.D. on morning of 13th I saw a lawyer called Mr. Alexander, I told him I was beaten and statement forced out of me. I told Cedric Weeks, my brother-in-law, the same thing. I expected to be taken to a J.P. to be asked if statement was voluntary, but this was not done. At Magistrate court my lawyer on my instructions objected to statement and I continued to object statement. You heard yesterday, my reply to magistrate was that I had no defence, what I meant was that I reserved my defence for this Court

/as Magistrate .....

as Magistrate's Court was not decisive Court. I expect members of Jury, you are persons of moral worth and you will exercise it to the highest, as your conscience is as much on trial as my life.

D.W.1.

GERALD WARSWICK, sworn states:

Transport Commissioner. Custodian of Records of Motor Vehicles registered in Trinidad and Tobago. On 27th August, 1973, I have certified record of ownership of PR3454. Owner was Hugo A. Ghany of 8 La Seiva Terrace, Maraval. Marked G.W.1. On August 27th 1973 that vehicle belonged to Auto Rentals of Edward Streed, Port-of-Spain. Car at that stage was rented car and No. was RR3454. On 27th August, 1973 no car was registered as PR3454. I have given evidence in Court on several occasions and examined vehicles. I see N.S.2., I see Chrome nickel strip near wing glass. I have examined vehicles for 18 years. Nickel strip is removable. There would be damage to car if nickel strip is removed. Car PJ5454 is registered with Licensing Authority. Colour originally red is now green according to register.

Not cross-examined by Guerra.

Cross-examined by Stewart.

There is no record where car PJ5454 was painted green. Private cars are not subjected to annual inspection. Licenses are passed for private cars without private cars being inspected by Licensing Officer. Other vehicles are checked by engineers and colour recorded on certificate. Owner of car PJ5454, green on our record. Owner could have red strip painted on that car without notifying authority. In 1973 RR3454 was re-classified to PR3454. Money for re-classification was received on 3rd September, 1973 but application for re-classification would take place before that date. It has happened before that numbers have been changed from R.R. to P.R. before actual money paid into office. Record only need date money paid into my office.

Re-examined by King.

I wouldn't allow cars officially on road if I was aware money for re-classification had not been paid. As far as department is concerned no vehicle PR3454 was on road on 27th August, 1973.

/D.W.E. ....

D.W.2.

FRANCIS THOMAS, sworn states:

Live 11, 7th Street, Five Rivers, Arouca. I am a Commissioner of Affidavits. I was a member of Trinidad and Tobago Police Service for over 38 years and retired as an A.S.P. During that period I investigated crimes.

On 12th November, 1973 I met Burroughs and it was on that date Andy Thomas was arrested. I was endeavouring to locate my son Andy Thomas. This was on Southern Main Road, Curepe, by Jewan's Cafe between 4 p.m. and 6 p.m. I spoke to Burroughs. I got no useful information from him. I went to Head Office, Port-of-Spain and there I got no information and returned home. Around midnight, police constables came to my home, stood outside, I thought voice was that of Cpl. Leache, as a result of what he said, I went to Head Office, Port-of-Spain and after a while I was admitted, and there I saw Andy Thomas seated on a bench, with no handcuff and one eye was blood-shot.

Not cross-examined by Allum.

Cross-examined by Stewart.

I did not meet Burroughs at 8 p.m. that night. Burroughs and I did not pass each other in our respective cars. I had vast experience in Police Force and prosecuting in Magistrates Courts. I know of no case where police shot a man in custody and placed a gum in his hand.

Re-examined by King.

I do know of police constable charged with murder of person in his custody.

CASE FOR DEFENCE CLOSED FOR NO.1. ACCUSED

ALLUM: Submits on one of counts - respect of kidnapping - on face of it, some evidence, tenuous and should not be left to Jury. Para. 549 Archbold's 36th edition. In respect of robbery and murder - Certain ingredients not established. Practice Note, 1962-1 A.M.R. p.448. 8 W.I.R. p.164 - Riley and Bharath. Kidnapping - Evidence in chief - Evidence discredited in cross-examination. Evidence of Raymond John, words, "Don't dig no horrors". Act of participation - part of No.2. accused. Words on parade "You dig stranglers". Before robbery-established taking in respect of robbery - same as in larceny.

/Murder: .....

Murder: -Common design - Evidence of Raymond John - Kidnapping and robbery. Participation from which common design inferred - Nothing in Paul's statement to implicate him. 5 W.I.R. p.361 R. v. Hamilton Russell on Crime, Vol.1. p.487. Robbery completed at 10.30 p.m. Murder at 1.30 a.m. not connected. Mere presence not enough. R. v. Johnson. p.359 10 W.I.R., 18of 1972 Ragbir and Jattan.

ALLUM: Submits accused Paul should not be called upon in respect of any of the counts.

BERNARD: Robbery, intent to deprive permanently not necessary. Murder - Facts of case one transaction in which prosecution alleges Paul one of 5 men who set out to do physical violence - Use of car - hijacking of car - part of plan - Statement of Paul - going into car with armed men - Evidence of Raymond John, Accused Paul armed with revolver. 5 C.A.R. =Anderson & Morris, p.216.

Court calls on No.2. Accused in respect of each count.

Accused No.2. informed of his rights and states he will make an unsworn statement and will call no witness.

UNSWORN STATEMENT OF NO.2.ACCUSED.

Mr. Foreman, Members of the Jury, on the night of 27th August 1973 I took no part in kidnapping of Raymond John, nor did I point any gun at him, I did not rob him of his motor-car nor was I aware that anything was going to be done. On the morning of 28th August, I remained in car as I was afraid. I had no idea it was the intention of anyone in that car to shoot at anybody or do any act of violence. My presence in car at time of shooting was an unwilling presence brought about through fear as some of men in car were armed. My Lord, Members of the Jury, I am innocent of all the charges. That concludes my statement.

CASE FOR DEFENCE CLOSED.

King addresses Jury, 11.35 a.m. to 1.00 p.m.

Remanded to 16th May, 1974 in Custody.  
Garvin M. Scott.  
15.5.75.

16th May, 1975

Both accused present.

Jurors present

Counsel for Crown and for Accused present.

/Guerra: .....

Guerra addresses Court - 9.16 a.m. to 10.05 a.m.

Bernard addresses Court - 10.06 a.m.

Court adjourns at 10.30 a.m.

No.31 Juror, Jean Moses not feeling well.

Resumes at 11.02 a.m. to 12.45 p.m.

Remanded to 20th May, 1975 in custody.

Garvin M. Scott.  
16.5.75.

20th May, 1975.

Both accused present. Jurors Present.

Counsel for Crown and Accused Present.

Guerra: Article in Express of 19th May, 1975 at p.18 offensive.

Stewart: I do not consider article offensive.

Summing-up begins 9.16 a.m. Summing-up ends 1.25 p.m.

Jury retires 1.26 p.m. Jury returns 4.06 p.m.

VERDICTS: UNANIMOUS.

No.1. Accused - 1st Count - Guilty  
2nd Count - Guilty  
3rd Count - Guilty

No.2. Accused - 1st Count - Guilty  
2nd Count - Guilty  
3rd Count - Guilty

Accused Thomas: = Count : Robbery with aggravations.

Allocutus: Accused says nothin.

10 years hard labour

Count: Kidnapping

2 Years Hard labour, concurrent with Count 1.  
Nothing known against accused Thomas

Kirkland Paul: Robbery with aggravation.

Allocutus: Accused says nothing.

10 years Hard Labour.

Kidnapping: 2Years Hard labour, to run concurrently

Accused Thomas: Count - MURDER:

Allocutus: Whole trial, part of prosecution of people like myself in this country. I would like to add that I expect the Judge will now pass the one-sided mandatory sentence that is being noticed by the oppressed people of this country.

DEATH SENTENCE PASSED.

Accused Paul: Count - MURDER

Allocutus: I am innocent as I said previously upon these charges.

DEATH SENTENCE PASSED.

Garvin M. Scott.  
20.5.75.

STATEMENT

NAME: ADDONTON THOMAS                      Sex: Male                      Age: 28 yrs.  
 Occupation: Journalist                      Address: No. 11 Seven Street, Arouca.  
 Investigating Officer taking Statement: No. 5371 Sgt. Villafana  
 Others present: No. 5890 Cpl. Nelson - Supt. Burroughs  
 Date: 12/11/73                      Time Commenced: 9.05 p.m.  
 Place: Caroni Police Station.

I Addonton Thomas wish to make a statement. I want some one to write down what I say. I have been told that I need not say anything unless I wish to do so and that whatever I say may be given in evidence.

Addonton Thomas/  
 12/11/73.

On Monday 27th August, 1973 about 8.30 p.m. to 9.00 p.m. Brian Jeffers, Guy Harewood, Kirklon Paul, Michael Lewis and myself went at Broko's house at Laventille, East Dry River, Port-of-Spain and decided that there should be a form of re-orientation as there was a shoot out on the N.U.F.F. Camp at the Valencia forest by the Police and the Regiment. Lennie came with his motor car, a Datsun make and was asked to take us to Carenage, he did so. Brian and Guy dropped off by Dean's Bay in the area where there are some Marine Bouys packed on a hill. Michael, Kirklon and myself dropped off at Carenage and Lennie went away. Kirklon, Michael and myself stopped a Falcon motor car, it was a private car, we ordered the driver to go to the area where we left Brian and Guy. At that point the driver was ordered to go into the car trunk and I took over the driving. Brian and Kirklon sat on the back seat, Guy and Michael sat in front with me. Michael sat near to me. I drove the car several places around town and San Juan, also to the gas station, opposite to the General Hospital for gasolene, then we drove to the Diego Martin area. On Crystal Stream Avenue a Police motor car was observed.

/we.....

we followed it, and as I was driving passing it, shots were fired from our car on the Police car and I drove away into Diego Martin Highway. I dropped off the men and drove the car to Chaguanas after leaving the driver on the Princess Margaret Highway.

Addonton Thomas,  
12/11/73.

I have read the above statement and I have been told that I can correct, alter or add anything I wish. This statement is true. I have made it of my own free will.

Addonton Thomas,  
12/11/73.

End at 9.30 p.m.

Witnessed: R. Burroughs, Superintendent - 12/11/73.



Caroni Police Station.

Monday, 12th November, 1973.

Addonton Thomas states:

I am 28 years and living at my father's home at No. 11 Seven Street, Arouca. I am married and my wife is staying with her mother in Grenada.

I am a journalist and last employed with the Moko Newspaper which have since gone out of existence.

I know that there is a movement known as N.U.F.F. meaning National Union of Freedom Fighters. I believe that it is led by Brian Jeffers and Guy Harewood who is now dead.

I joined N.U.F.F. some time after Andrea Jacob was held I became interested because I heard that she was badly treated at the Prisons, and I wanted to do something to assist because I believed that she was arrested on a Political issue and should not be treated as a common criminal.

I got to know several persons who are connected to the movement, most of them through Kirklon Paul who I believe was a key ground crew man.

I first started to assist by preparing posters to free Andrea Jacob. I continued to assist by conveying food stuff to various area where it would be picked up by other men. I knew Beryl Drakes while I was employed at Moko, we were friends. I discussed N.U.F.F. with her and she gave me the impression that she had no confidence in the movement and from what she told me she had no confidence along that line with Trinidadians, she never gave any assistance to N/U.F.F. but she gave me assistance personally by allowing me to stay at her home for two days, during that time the police came to her home in search of me but I passed through the back door before the Police arrived at her.

I know Mrs. Helene Camps personally whilst I was working with Moko I did some work for her, as a result of our friendship

/I went.....

I went to her home on several occasions and borrowed her motor car which I used to assist N.U.F.F. without her knowledge, I can remember going to her home on one occasion in company with Kirklon Paul, we discussed N.U.F.F. with her and she referred to the I.R.A. as an example of the futility of violence, she was not interested in N.U.F.F., she was interested in me as a friend.

I knew a man by the name Earl Toussaint also called "Boat" he is an Ex Soldier of the Trinidad & Tobago Regiment, he had connection with the movement, I knew that he was living at an apartment on Wrightson Road, opposite to W.A.S.A. pumping station, I went to that apartment on several occasions on most times in company with Kirklon, at some stage I met Brian, Guy and Michael Lewis in that apartment I found out some time after that the apartment was rented for the movement by "Boat".

I know Michael Als from San Fernando. I heard from conversation that at one time Andrea Jacob was staying at his home, I don't know of any assistance that he gave to N.U.F.F. but he assisted me personally by allowing me to stay at his home, the night that I left Beryl Drakes home when the police came in search of me.

I can remember one night whilst driving through St. James in company with Boat and Kirklon, one of them said that they had to meet a gentleman in the area who came from the U.S.A. we drove around for a while until we saw the gentleman and picked him up, I cannot remember his name, but I know that he is a negro, during our conversation, he said that he finds that he can pass through Piarco very easily and as such he believes that he is being watched, I found out that he was staying upstairs in the building that sells National Lottery at St. James. I understood that he was from C.L.R. James Organisation, I never trusted him so I never went and look him up, I don't know if Kirklon and Boat looked him up.

/I heard.....

I heard Boat spoke about some tapes I don't know where they came from, neither the nature of them, I never saw them.

I first got in contact with Archbishop Pantin around August 1972 when I had just returned from Grenada, I went to his residence and discussed the problems of the Matlotte people who had recently gone to the Prime Minister to seek conditions for their area, I suggested to him that my brother Martin who is now dead and myself are willing to assist the people and he allowed me to use the presbytery to stay for that purpose. Martin, my wife and myself went up to Matlot and we had several meetings particularly with the youths, I discussed mainly with them agriculture and shell craft, as regards the discussions we did not get any where and we stayed about three weeks and left the area. I never went back to Pantin until the Cedros fishermem demonstrated in front of Whitehall I carried some posters for them and I gave the Archbishop one. The next time I saw him was recently when I went to the Parish Priest at Cedros and asked him to take me to the Archbishop because I wanted to see him urgently and he took me.

I discussed with the Archbishop how my brother Martin got killed and how I am wanted by the Police among other things such as his getting other religous bodies together to make an appeal to the country to end the violence and have discussions instead, he agreeded with me and he got in touch with Dr. Wahid Ali the three of us spoke, that was the evening when Guy Harewood was buried, he allowed me to stay at his residence for three days at Laventille during which time he went around talking to other people. It was suggested that a senior Police Office be called in to discuss the proposal, and Mr. Rodriguez was called in for the purpose, I went into another room whilst Mr. Rodriguez and the Archbishop held discussion, he did not know I was there. After Mr. Rodriguez left, Mr. Pantin told me that he said there will be no let up. After the three days Mr. Pantin told me that he was advised by his brother that it is not wise for me to stay at him //and..

and his brother came and took me with his car and dropped me at St. James and I went away.

I can remember one day Boat told me that he wanted to go by Raffic Shah at Freeport and I decided to drop him as we reached at Shah's home he was about leaving and Boat had a short conversation with him in the yard I returned to Port-of-Spain with Boat, he never told me anything about their conversation neither did I ask him anything.

I cannot say of any doctors or lawyers who have connection with the movements neither any policemen or soldiers if there are any I don't them.

I don't know of any plans by N.U.F.F. to hold any body in hostage or assassinate any body or plans to blow up any place except for the plans to blow up the Matlot Police Station which I knew from Kirkklon.

I carried food stuff to Matlot on three occasion I was accompanied by Kirkklon, Boat and Ceasar also called Jai. I can also remember that Lennie and myself used our cars to go and have a sea bath at Matlot we had in our company Martin, Kirkklon and two girls, also Boat, the girls one of them name Judy working at Aboud store on Queen Street the other one I cannot remember her name. I believe now that Boat, and Kirkklon had organised the bathe so as to locate the area at Matlot, they asked me if I know anybody reliable in the area and I introduced a man to them whom I had known by the name of Jo-Jo who is a hunter.

In the Southern area I went on two occasion once to drop food and on the other occasion to drop Michael Lewis at Fyzabad, he was the only one I knew down south.

I know that one day Kirkklon, Boat and myself went to the O.W.T.U. Office at San Fernando. Kirkklon and Boat spoke to Mr. George Weeks while I sat in the car. I did not hear their conversation but I gathered from them that there was

/some.....

some sort of argument during their conversation, the idea of meeting those various people was to win their confidence as the heads of various groups.

I over-head from Boat that he had spoken with A.N.R. Robinson.

I also know that Kirklon and Boat spoke with Mr. James Millette about the struggle, I occupied part of Mr. Millette's Quarters whilst he was out of the county during which time Guy Harewood stay with me for two days.

Sometime after Constable Sankar was killed by us at Diego Martin my brother Martin came at Kirklon's home on Elsocorro Road, San Juan and told me that Police went home by my father and was asking for me on hearing that, I decided to join the men on the hills as I was afraid. I went and joined Brian and the others on the heights of Guanapo which was about one week after the death of Sankar, on the hills I met the following persons:- Brian Jeffers, Guy Harewood, Alan Harewood, Beverley and Camolita Jones, Daniel Thomas, Clem Haynes, Terrance Thornhill, Jai, Kenneth Jovia, we remained there for one night. I was taken to the heights of Guanapo by Broko. All the men were armed with shot-gun. I was given a shot-gun and about twenty cartridges, we then moved to Caura which took us about twelve days. About a few days afterwards Carl Peters and Ahing Wong joined us. When we reached Caura Jai made a trip and came back a day afterwards and bought food for us. Jai made another trip and I have not seen him since then. Carl Peters and Wong joined us about two days before the shoot out at Caura. Sometime before the shoot out the members who were there had a discussion. Rules such as no man should trip on his own scene and if anyone deserted they would be bumped off, were read to the new members. When Michael Peters came and joined us he had a shot gun with him. At about 5.45 a.m. on the morning of the shoot out. I was awoken by the rain which was falling on the plastic tent. I got up and put on my clothes. I know there was a guard. I believe it was Beverley. Whilst relaxing I heard automatic gun fire. I heard Superintendent Burroughs voice saying, "We coming in the bush this time." I was /given.....

given a revolver as the shot gun butt was broken off. As we heard gun shots everybody ran further up the hill. We then started to move north along the side of the ridge. Alan said that it was Burroughs and we should stop and fight. Nobody agreed. We continued. At this stage a voice was heard from the top of the ridge saying "drop your gun", shortly after this was followed by more gun-shots. We continued to move and stopped at a certain point when we thought it was safe. I then realized that it was only five of us together, Brian, Guy, Daniel Thomas, Clem Haynes and myself. The rest were separated from us. We then went to the top of the ridge where we saw boot tracks heading North so we went to the Eastern Side of the ridge<sup>and sat down behind a rock ridge.</sup> We were there for a short while when we heard more gun fire to the North of where we were. We called but nobody answered. We continued in a circle until we came to a river bed which we followed down. We stopped at the second to last ridge where we decided to camp for the night. Brian left to get food saying that he was coming back the night. But he did not come back. The rest of us remained there until the next evening when Guy and myself left Clem Haynes and Daniel Thomas. We went to Five Rivers. I went by Kenny who is a mechanic, he lives at Tankabean Road where I left my boots. He gave me a pants, Guy and myself went by the Theodores who lives at Railway Extention Road. We were given supper. I told them what had happened. They showed me the papers which said Guy was shot and I told them that the person with me was Guy. They were surprised. An old friend who's name I can't remember took me down to Kirklon's home Guy stayed at the Theodore's home, Kirklon went back with me at the Theodor's home. All this time I had a .38 revolver with me. Kirklon said that he had to meet Martin and Jai at Camp Salpo at Santa Cruz and he left. At about 12 midnight Theodore took Guy and myself to the foot of the hill at the back of Five Rivers. He wished us good-luck and left. I walked with Guy until we reached Flood Gate I told him I could not go any more. He left I went back to

/the.....

the Main Road took a taxi and went to Arima by one Miss Walcott who lives off the Blancheuse Road on a side street, I cannot remember the name of the street she works at the Chicken Packing Plant off Blancheuse Road. I stayed there for two days. I took a taxi and went to San Fernando at Michael'Al's house but he was not home. I then took a taxi and went to Beryl Drakes home at Glenaron. I told her what had happened. I gave her the revolver which was fully loaded together with some extra rounds which she put in a plastic bag. She placed the bag with the gun and ammunition in a water cistern to the back of the house. That is what she told me. I did not see where she put it. Two days later my brother Martin came there and we spoke to each other. He left a short while afterwards, I gave him five dollars and told him to pass through the back door which he did shortly after Martin left a woman who lives near to Beryl came and said that a policeman had been to her house and asked her to use her telephone. As a result I passed through the back near by the school, I then went back to San Fernando by Michael Als. He was home. I remained there for the night. I then took a taxi and went to Penal at Chalo Village by the Old Train Line crossing I went by one Spooner who was the Captain of Valley Harps from South. I stayed there for about two weeks.

Two days after Martin's death I left and went to Cedros where I spoke to Father Pascall. He took me to the Archbishop I remained there for three days. I left and went to Cedros at the Presbytery Father Pascall was not there, I opened a door and went inside the servant quarters where I slept until nine o'clock. I left there and went to Elma Reyes who is a Journalist with the Express Newspaper. She live at Sorzana Street, Arima. She was very upset but she took me in, I stayed by Elma Reyes for about three days. I then went down by the docks, I did not go back to Elma Reyes' house. I found out that a boat was leaving Friday, 9th November for Grenada. I stayed at a Guest House at Hope Street,  
/Carenage.....

Carenage for two days and on Friday, 9th November, 1973 I boarded the boat and stored away to Grenada, I arrived in Grenada on Saturday, 10th November, 1973. I was stopped by the Customs. I was arrested and was taken to the Immigration and then to the C.I.D. On the way I was cuffed by some police. They took me to the cell where I stayed for two days. On Monday 12th November, 1973 I was deported from Grenada. On my arrival at Piarco Airport I was apprehended by the police.

Addonton Thomas,  
12/11/73

I hereby certify that I took this statement from Addonton Thomas on Monday, 12th November at 11.50 p.m. at the Caroni Police Station, he read it over himself, said it was correct and signed it.

Lucien Villafana, Sgt. 5371,  
12/11/73.



STATEMENTName:KIRKLON PAULSex: MALEAge: 20 yrs.

Occupation: Unemployed Address: 2, El Socorro, San Juan.

Investigating Officer taking Statement: No. 5371 Sgt. Villafana

Others present: No. 3484 Sgt. Trotman

Date: 18/9/73 Time Commenced: 4.40 a.m. Place: Tunapuna Police

"I Kirkлон Paul wish to make a statement. I want someone to write down what I say. I have been told that I need not say anything unless I wish to do so and that whatever I say may be given in evidence."

Kirkлон Paul,

18/9/73

Well Sir I was at my home at El Socorro, San Juan on the night that is Monday, 27th August, 1973, I know Brian Jeffers and Guy Harewood personally and when they want to contact me they will either by telephone or by message. That night I received a telephone call at home from Brian Jeffers, it was between 10.00 p.m. to 11.00 p.m., I was told by Brian Jeffers to bring up the medicine for him for his sick toe. I accumulated the bandages and medicine and after I went up at Broko's home at Laventille East Dry River in Port-of-Spain it is a dirt road I don't know the name of it I travelled by a taxi when I reach up there, Jeffers was in the kitchen, I went in the bedroom and there was Michael Lewis, Guy Harewood and Andy Thomas. Guy Harewood had an automatic .45 revolver I understand the gun was an automatic from him because I don't know much about guns, I saw a shot gun on the bed it was a double barrel, I know for a fact that Michael Lewis carries a pistol. Brian Jeffers came inside the room with a cup drinking something, he stood up in a very commanding fashion, his legs apart and he said, "Ah seen must play tonight" to which he was not given a reply. Then he said Lennie will be coming up soon just now. Lennie proper name is Lennard Alexander. Whilst all this was going on Broko  
/and.....

and his wife was in there room apart from us. Ah little while I hear a motor-car horn blow, eventually finding it to be Lennie. Jeffers said all you come let us go he took up the double barrel shot gun from the bed and we all packed up inside Lennie motor car, that is Guy Harewood with his gun, Brian with the double barrel shot gun, Michael Lewis with his pistol, Andy Thomas, Lennie and myself weaponless, we left Broko's house the motor car went down Laventille hill, I don't remember the exact route from Laventille hill but we went down to Carenage passing through Mucurapo Road, around the vicinity of Constabulary Street at Carenage, Jeffers told Lewis and Thomas to come out, they came out that is heading towards Port-of-Spain direction. About one hundred feet lower down he tell me to come out and I came out leaving Guy Harewood and himself together with the driver Lennie in the car. Sir one important thing I did not mentioned before whilst at Broko's home, Andy Thomas and myself had left the bedroom and went into the living room and played tapes whilst Brian, Guy and Michael remained in the bedroom, I believe they were having a conversation. Another important thing was, whilst we were coming down Laventille hill Brian who gave the direction saying to the driver Lennie Carenage. After I came out and stood up there Michael Lewis left Andy Thomas and walked towards me he told me to take the same car that they were taking and he went back and joined Andy Thomas, which time Brian, Guy and Lennie left with the car and turned in a back street at Carenage. About four to five minutes after I saw Michael Lewis put out his hand and stopped a Private Taxi a big green car the both of them Michael Lewis and Andy Thomas went on the back seat, well the car stopped for me, I did not stop it I got in and sit on the front seat, when I got in Michael Lewis was brandishing his revolver and had it to the back of the driver The car then drove to the direction of Port-of-Spain. It turned up a half pitch half dirt road at Carenage when the car stopped by the Marine Bouys this piece is a little confusing but I will

/try.....

try to tell you everything as I can remember always mentioning the main points. Michael Lewis came out and told the driver to come out as well. Just at that point, Brian, Guy and Lennie came up in their car as if they were following the big green car, Jeffers and Guy came out of Lennie's car, Jeffers with his double barrel shot gun and Guy with his .45 Automatic, Michael Lewis had already put the driver in the trunk before Brian, Guy, and Lennie had come. Brian then tell Lennie to split and Lennie went away with his motor car, Brian then told Andy Thomas to take the wheel Andy went and take over the wheel, I came out from the front seat and sit on the back seat because I was scared Sir Michael Lewis and Guy Harewood went and sit on the front seat with Andy Thomas and Brian Jeffers came and sit on the back seat with me. Brian asked the fellas in the trunk if he wanted something to eat and I can't remember his reply. The car left there Carenage area and went to Port-of-Spain and went through Barataria and San Juan and came back to Port-of-Spain the car took gasoleme at the gas station on Charlotte Street, opposite the General Hospital they also put gas in a white B.P. container and at one time we also took gasolene at the corner of Observatory Street and Charlotte Street. We headed for Maraval and the motor car brake down at Maraval, it eventually got started and we came back to Port-of-Spain it was at that stage we had taken the gasolene at the corner of Observatory Street. After taking that gas we headed up Charlotte at that point Brian Jeffers said, Diego, we headed for Diego Martin, I want to tell you Sir exactly where we passed but I am not so acquainted with the names of the Streets. We reached into Diego Martin and as we reached the Diego Martin Main Road a little way from Chrystal Stream we saw a Police motor car heading south on the Main Road, we passed the car in going up and Jeffers said, Ah Mazdar. There were things said by Michael Lewis, Gay Harewood and Andy Thomas but I cannot remember what they were saying, but it was things to the effect

/about.....

about the Police motor car. Brian Jeffers told Andy Thomas to turn and follow the Police car which he did. I was sitting on the right rear seat Andy Thomas drive in rear of the Police car down Chrystal stream somewhere about the bridge when the two cars were almost opposite to each other, Brian Jeffers took his shot gun as the cars got almost abreast and he shot through the left window of our car at the Police car he fired two shots, Michael Lewis and Guy Harewood also fired shots at the Police car when Brian Jeffers fired his shots I heard glass from the Police car shattered, I opened the car door at this point to run out as I was afraid, Michael Lewis said to me, "Boy way you going," and I closed back the door. Guy Harewood told Andy Thomas to press on meaning to drive fast, which Andy did. When the car reached some where in Cocorite I asked why was all this happening I was not given any reply. On reaching the first traffic light at St. James, the car swung left on that street passed through Federation Park and passed through Belmont and headed back for Broko's home at Laventille. The car stopped by the gas station by Broke house. Brian Jeffers, Guy Harewood and Michael Lewis came out of the car with thier guns, the three of them headed for Broko's home and Brian told Andy Thomas to drop off the motor car somewhere around Ciparani Street at Morvant, Thomas said, O.K. Thomas and I left with the car I still in the back seat. I noticed Thomas passed through Morvant and went on the Lady Young Road at which time the man was still in the car trunk. As the motor car reached the junction of the Eastern Main Road it stopped for the traffic light and I came out, I told Andy Thomas I am going home. I got home by Taxi it was about 2.00 a.m. that would be now Tuesday 28th August, 1973, I got to know the next day by radio news that one of the Police men in the Police car died, I did not know that the same time because the Police car had driven away. Whilst we were travelling after the shots were

/fired.....

fired Brian Jeffers said in the car the both of them dead.

Kirklon Paul-18/9/73.

Ending at 6 a.m.

"I have read the above statement and I have been told that I can correct, alter or add anything I wish. This statement is true. I have made it of my own free will."

Kirklon Paul,

18/9/73.

I the undersigned hereby certify that I read this statement to Kirklon Paul at the Tunapuna Police Station on Tuesday 18th September, 1973 at 7.25 a.m. He said it was correct, voluntary and that he did not wish to add anything. Present were Sgt. Trotman, Sgt. Villafana and Cpl. Carrington.

R. Paul,

Justice of the Peace,  
18/9/73.

Criminal Investigation Department  
Police Headquarters,  
Port-of-Spain,

Monday 10th September, 1973.

Ignatious Williams states:

I am 21 years of age and living at No. 6 Lance Street, Gonzales, Port-of-Spain with my Aunt Majorie Theodore. I attended the Gonzales Government School and left in Standard Seven (7). I am employed at the Texaco Gas Station on Charlotte Street, opposite to the General Hospital in Port-of-Spain. I am employed there one year and three months now. This gas station is owned by Mr. Kelvin Johnson. There are other employees and we work on a shift system as follows from 6.00 a.m. to 1.30 p.m. from 1.30 p.m. to 9.00 p.m. and from 9.00 p.m. to 6.00 a.m. / would have two men on duty one of which would be in charge of the shift. The other two shifts would have four men and the man in charge on duty. Whenever I am working on the 9 p.m. to 6 a.m shift, I would be in charge of that shift. On Monday 27th August 1973, I took up work at 9.00 p.m. on duty, with me that night was Sylvester Taylor. Around the hours between 12.00 mid-night - 1.00 p.m. I can remember that I had sent Sylvester Taylor to take a rest. Shortly after I sent him for a rest I saw a green Falcon motor registration number PJ-5454 swung into the gas station and pulled up by the pump it came from Charlotte Street travelling from south to north, the driver who was a dark negro came out of the motor car and told me to put in \$3.00 gasoline in his tank making it half and half meaning half super and half regular, I did as he told me after putting the gas he handed me a plastic gallon container and told me to fill it up with super, I did so and it took eighty five cents. I observed inside of the car two men sitting on the front seat with the driver, one of them a dark negro

/with.../....

with thick afro hair and thick beard and the other one a negro also but fairer he had raster hair that is knotty looking. The one in front with the beard asked me if I sell cigarettes he wanted a pack, I told him yes but I haven't the keys for the office he also asked me if the tap have water and I told him no. On the back seat I saw two negro men, one of them light dark with a medium afro hair he appeared to be quite young, the other one was a brown skin negro with a heavy afro hair and big beard, he was wearing a fat cap slightly pulled down in his face, the driver went back inside the motor car sitting behind the steering wheel and the one on the back seat with the beard he handed me a five dollar bill I took out my \$3.85 and gave him \$1.15 change and the car pulled out heading north on Charlotte Street. If I see those five again I am positively sure I will be able to identify all of them, as I had a good look at their faces. My reason for being so sure about the car number and the men faces is because generally, whenever I am working the late shift I usually pay special attention to vehicles coming in around or after mid-night because the gas station got held up several times, and on every occasion it was held up after mid-night so I am always careful with faces and numbers. What also make me remember this particular vehicle and the men is how I sold the gas in the container after putting gas in the tank.

Ignatious Williams,

10/9/73.

I hereby certify that I took this statement from Ignatious WILLIAMS at the C.I.D. office, Port-of-Spain on Monday, 10th September, 1973 at 4.00 p.m. he read it over himself said it was correct and signed it.

Lucien Villafana, Sgt. 5371,

10/9/73.

Jury requested to retire while question of Admissibility of statement being considered,

retires  
Jury ~~xxxxxxxx~~ 10.50 a.m.

CONTINUING:

I obtained warrant of arrest of accused on 20th September, 1973 and it was executed on 12th November, 1973. During that time I had searched for accused in several places, places where he was known to have been visiting and even in the mountains.

On 12th November, 1973 I got to Caroni Police Station at 6.10 p.m. When I saw Thomas, one of his eyes was black and blue, swollen and with a blood clot. I spoke to accused about his eye, I asked him, "What was wrong with his eyes." He said, "Those fellows in Grenada is something else, Gairy Mongoose Gang, beat me over there and lock me up and sent me down like that. At time he was seated speaking to me, P.C. Montoute now Cpl. and P.C. Joseph were there present. He appeared to be very comfortable. I then arrested him and he told me, Sgt. Villafana, I will talk to you, but I am tired, let me take a little rest. I gave instructions at that point, I told P.C./Montoute who were there that if he wanted anything to eat let him have it and if he wanted to rest, let him lie on double decker which was in same room. I asked accused if he wanted anything right now. He said, "Cops at St. Joseph had already fixed him up." During that time nobody instilled fear into Thomas, no force was used on Thomas. I then told Thomas I was going up front when he was ready he could send for me. That was charge room. I had gone to later that night, Supt. Burroughs and Cpl. Nelson around 9 p.m. I spoke to them in charge room, where I then was. We remained there speaking. While there, P.C. Montoute spoke to me. We returned to room where Thomas was. I then spoke to Supt. Burroughs and Supt. Burroughs, Nelson and I went to

/room.....



room where Thomas was with P.C. Montoute and P.C. Joseph. I then told Thomas, "You sent to call me," he said, "Yes Sgt. Villafana, I am ready for you." I cautioned him and he gave a statement which I took in writing. When Supt. Burroughs and Nelson and I went in to Thomas, P.C. Nelson and P.C. Montoute left room. Nothing was done to Thomas. Accused Thomas was ex-police constable.

Statement was voluntary.

Cross-examined by King:

Accused Thomas was arrested by Police in Grenada and sent to Trinidad. He was 2 days in custody in Grenada. I don't know what time he arrived in Trinidad on 12th November, 1973. He was in custody in Grenada for 2 days. I would not know what happened to accused before I arrived at Caroni Police Station. I told accused I was investigating charge of murder and other offences. I told accused I had warrant for his arrest. First thing I did was to arrest him, last thing I did was to take the statement. I told accused of report of murder. I did not ask him questions about murder as I had warrant for his arrest. Caution I gave was caution usually given to persons when crimes are being investigated. When person is formally charged another caution is given. "Do you wish to say anything." After a person is charged I ask him no questions. I have nothing to tell him. After a person is charged, I take statement if he wishes to give statement. If he has given one before being charged, he can give further statement if he so desires after being charged. When I got to station accused was not so charged. He was to be charged. If accused was already charged I would not have expected to see him at Caroni Police Station. If person after being charged wishes to make statement, I will take it. When I went to Caroni accused was in police custody. On 13th November, 1973 I took accused before magistrate. Information was already in Court. It was when I arrested he was charged when he was placed

/before.....

before Court. Information was laid on 20th September, 1973 and warrant obtained. Charge was pending in Court from 20th September, 1973.

On 13th November, 1973 I placed accused on identification parade, that to my mind was not irregular. I did not trick accused into believing that he was not charged before 13th November, 1973. I informed accused after he read warrant that he was charged with murder of P.C. Sankar. I do not know if Insp. Trotman knew that accused was charged. Accused said he was tired, tired, tired, but it did not appear so to me. Eye injury did not appear serious. I heard accused had seen a doctor. I gave accused refreshment. I gave him sardines, bread and cheese, and I myself partook. After I had finished statement about 9.30 p.m. I asked whether he wanted something again and accused said, "Yes." At police station 2 officers guarded accused. They were seated with them. I do not know if they were armed. They had no machine guns or S.L.R. I saw no revolvers. I had gun on me in my pocket. I heard accused was at Piarco and Caroni. Offence took place in Diego Martin. St. Joseph Police Station is too public for an interview. I am attached to St. Joseph, Caroni and Port-of-Spain. He was taken from St. Joseph to Caroni by police constables, they probably had guns. I took Paul's statement at Tunapuna as I met him at Tunapuna. If office is available at St. Joseph, privacy can be obtained. Accused Thomas was taken out of public view as I was considering identification parade. From 6 p.m. my section operates at Caroni. Up to 6 p.m. I would have gone to St. Joseph. I do not know if he was interviewed at St. Joseph Police Station. Accused was not harassed by me or anybody in my presence at Caroni Police Station. I can't recall if P.C. Millington was at Caroni Police Station. Nobody questioned accused about the offence. I believe Sgt. Burroughs spoke to accused about his eye. P.C. Leach spoke to accused. They seemed to know each other well. Nobody put any suggestions to accused. Accused did mention to me about death of his brother Martin. He said

/it worried.....

it worried him very much at time his brother was killed. He was speaking of past incident. That brother was shot. It was not suggested that Martin Thomas was shot by Police. I can't recall where his passport was that night. I did not see Burroughs show accused picture of his brother. Accused never stated he wished to see a lawyer or his father. I told accused if he wanted any one he could leave there. Accused said, "All you surprise me, yes, all you really don't know, you don't know how it is in Grenada." Accused gave statement of his own free will.

Jury returned at 12 noon and informed question of admissibility to be further considered tomorrow as Court is sitting in another jurisdiction this afternoon.

Remanded 9th May, 1975 in Custody.

Garvin M. Scott,  
8/5/75.

9th May, 1975.

R.V. 1. Adderton Andy Thomas  
2. Kirkland Paul

Both Accused present: Jurors present:

Counsel for Crown and Accused present.

Jury requested to retire while question of admissibility of Statement of accused Thomas being considered.

P.W. 16:

LUCIEN VILLAFANA, re-sworn and continuing on Cross-examination to King:

Before accused gave statement I had given him 2 cautions. First was at 6.12 p.m. I told him you are not obliged to say anything. He told me then "Sgt. Villagana, I will speak to you, I am a bit tired, and I need a rest." I did not put that in writing. I did not think it was necessary at that time. Accused said he wanted to talk to me. I was not expecting him to give statement. He said he wanted to speak to me. When he said this it was in presence of 2 Police Officers, who were guarding /accused.....

accused. I don't know if they heard. I don't remember how they were sitting. They were Montoute and Joseph. I told both police officers if he wishes anything to let him have it and if he wants to have rest let him rest on double decker. I told them anything he wanted for his comfort he should have. I can't remember order in which I said this. But if I may have said this it was after I cautioned him. There was no change in his demeanour when I said this. After this I went to charge room. I could not see him then. He was in recreation room used as office. I don't know whether he slept or whether he asked for or was given anything in my absence. Around 9 p.m. Montoute came to me. Burroughs and Nelson were then there. They had arrived at about 8.30 p.m. I believe they arrived in Police vehicle driven by Cpl. Nelson. I don't believe note was taken of their arrival. They had not arrived speedily to witness statement. Burroughs and I were speaking. Nelson left us and returned some time after. I left Station at 3.30 a.m. with the accused. Burroughs did not leave with me. I believe Nelson left with me. I left Station in my car. Police took accused in Police car. Burroughs left shortly after statement was taken. Cpl. Nelson remained with me and other policemen, after accused completed statement. I offered him things to eat. We had further conversation. He gave me information in respect of a movement of which he was a member. I became interest in conversation. I asked him to give a statement in writing about that organisation which took some time. I was then feeling sleepy. I decided to take rest before driving my own car. Accused agreed and we all had a rest. I did ask questions about that organization. He answered me. I do have copy of that statement. He was part of that organization. That organization was responsible for murder of P.C. Sankar. He did not speak of Martin's death in that further statement. He was already charged and a person in custody. I did not caution him when he gave further

/statement.....

statement. I believe time I noted in my pocket diary time I took cautioned statement from accused on 12th November, 1973. I can produce pocket diary of 12th November, 1973. I have entry time 9.05 p.m. Cautioned statement of accused commenced (Entry marked "A".)

I made entry in my diary. It was not done in Port-of-Spain. If entry was not done immediately, it would have been done as soon as possible afterwards. Entry in diary was not made after mid-night. Entries would be made in diary soon after dependant on the situation. Accused would have been arrested when I made entry, accused was already arrested. Warrant would have already been executed. Warrant I believe was executed at 9 p.m. I had spoken to him at 6.10 p.m. and then he said he would speak to me. I did not execute warrant at 6.10 p.m. as he said he wanted to speak to me. No J.P. was then available. If J.P. was available I would have brought J.P. to station. Statement was not witnessed by a J.P. as it was not possible at time. Burroughs witnessed statement.

I took accused before J.P. following day. Court was not sitting. I did not see it fit to ask J.P. to verify statement. I had already called senior officer to witness the statement. When he called me at 9. p.m. I cautioned him as I thought he wanted to say something pertaining to murder. I was not anxious. I did feel he wanted to speak to me about the murder. I cautioned him, at that time I had not yet executed warrant.

Before I executed warrant I cautioned him. After executing warrant and taking statement, I formally charged. I have looked at diary, I see here no note of time when I was charged. I did not make any note of accused being offered refreshment. I cautioned accused as I wanted him to know his rights. Before I executed warrant I cautioned him.

First thing I did at station was to tell accused of report. I did caution accused then. I did tell Magistrate accused give me a statement. Statement he gave I reduced in writing. I did

/ask.....

ask accused if he wanted to write statement, he said, "No Sgt. Villafana, do it yourself." Nelson and Burroughs were present. They were around, from beginning of taking of statement to ending of statement. I don't know if they heard that he said he wanted me to write statement. I wrote that down in his statement. I never tore up any statement that accused wrote. There was table in room. I did have brief case with me. When I approached accused to take statement, Burroughs never said, "Villafana, take over, you know what to do." Burroughs did not leave. I sat on chair opposite to him, table was between us. We were both sitting. Burroughs was at one corner of table seated on chair as was Nelson. I never told accused all the game finish now - you give statement or licks. Accused never asked to go to toilet while I was there. He was not prevented from going to toilet. There were no automatic weapons there that night. No weapons with magazines. Accused was not asked to give statement. Accused did not refuse to give statement. I never said you still want to play. I like to play too. I had a .38 revolver in my pocket. I never took out revolver and placed it on table. I did not say "you really love your brother boy," I never inferred accused would be killed. It was not in that situation that he gave statement. I never told Thomas that I had statement from other accused. Thomas never told me that what I wanted him to write at that time I had had Paul's statement. I did not repeat Paul's statement to him. The word retaliation appears in Thomas' statement. Accused had sweet drink and sandwiches. He had no hot drink and no hot food. I had sandwiches myself. I did make him to understand he was a prisoner. He actually read warrant. At time I arrested accused, even at time I wrote the statement at 6.10 p.m. I had evidence against Thomas apart from statements of other accused persons. I did not force statement out of accused.

/Re-examined by Bernard....

Re-examined by Bernard:

At time I was in charge of anti-Guerrilla Squad and we operated from several Stations.

I did try to get J.P. after taking statement from accused but failed to get one. I did say, "Do you wish to say anything in answer to charge," at Police Headquarters after I formally charged him.

P.W.1:MATTHEW TOUSSAINT, sworn states:

Live Arima. Immigration Officer, Trinidad and Tobago. On 12th November, 1973, at Piarco Airport on duty. L.I.A.T. flight from Grenada arrived. A passenger was brought to me by Airline official. No. 1 accused was passenger. I spoke to accused. I asked for his passport. He gave me passport. Name on passport was Andy Thomas. I asked accused if he knew anybody. He said his father was Ex-Asst. Supt. Thomas of Police. I asked accused how he got to Grenada. He said he boarded schooner for Grenada. He said when he arrived in Grenada, police put him in gaol. He had a puffy eye and I asked him what happened to him. He said Grenada police had beaten him. This was around 1.30 p.m. Maraj, Immigration Officer arrived and I handed over accused to Maraj as I was going off duty.

Cross-examined by King:

This was not our last stop. His face was not swollen large. He had a black and blue eye. He said he was beaten up. I don't know how badly. He did not indicated to me he was badly beaten. I don't know if he needed attention. I saw several persons that day. Normally I do not recall persons who go through immigration. I saw Police on 20th January, 1975. I was asked about events on 12th November, 1973. Accused was brought to us. This was a special case. He is a deportee. I remember it distinctly.

Re-examined by Bernard:

Accused was a deportee. Accused appeared fairly normal.

/P.W.2.....

P.W.2:

RUDOLPH LEACHE, sworn states:

Corporal, C.I.D., Port-of-Spain. On 12th November, 1973  
Flying Squad, St. Joseph and Caroni. At 1 p.m. received  
instructions - went to Piarco with P.C. St. Louis and P.C. Gendre.  
I went to Security Office, Piarco. I saw P.C. Duncan who handed  
over accused Thomas to me. I observed one of Thomas' eye was  
swollen. I told accused there was warrant for <sup>his</sup> arrest and I was  
taking him to St. Joseph Police Station. I asked how his eye  
got in that condition. Accused said he was beaten by Mongoose  
Gang, Gairy's Police in Grenada. I took accused to St. Joseph  
Police Station. He was placed in custody. I left P.C. Montoute  
and P.C. Boynes with him. When I spoke to accused he appeared  
normal. While accused was in my custody, I or no one struck him,  
threatened him or made any overture of any kind to him.

Cross-examined by King:

I was charged for assaulting Police Officer by Police.  
I was freed by Magistrate. I went to take accused to St. Joseph  
Station. I knew he had been charged for murder. I knew that  
there was warrant for his arrest. I knew I could have arrested  
him. I took accused to St. Joseph Police Station, handed over  
accused to Police. When I saw accused one of his eyes was black.  
His face was swollen, accused appeared quite normal. Accused  
made no request to see doctor. I did not think he wanted to see  
doctor. Accused made no complaint to me. I did not tell accused  
you better shut up you are lucky to be alive. I was instructed  
to take accused to St. Joseph Police Station. Accused was taken  
to room with door. It was somewhat private. Statements can be  
taken there. I have taken statements there. I went to Caroni  
Station at 10 p.m. We are based there at nights. I had my  
revolver .38 special. I had it when I went to Piarco. I have  
taken no course in U.S.A. in Karate or anything. On way from  
Piarco accused was talking about his family. Police in Trinidad  
far nicer than the Police in Grenada. He spoke about his father.

/I said.....



I said I know his father well. I detailed 2 police constables to stay with accused at St. Joseph and I left. Before I left I told accused Burroughs would be here and would see him. I told police constables if accused wanted anything to give him to eat. When I went to Caroni I saw eating, it was near 10 p.m. Accused was sitting on a chair eating bread and cheese. I had some myself. Sgt. Villafana had some too. I believe he was giving statement at the time to Sgt. Villafana. I just spoke to Villafana and went out by door. I can't say how long after I was there statement was completed. I was in Station but not in room when it was completed. I left Station at 6 a.m. the following morning. I can't say what time accused, Villafana or Burroughs leave. I had gone to sleep. I know Cpl. Nelson. I can't recall seeing him at St. Joseph or Caroni Police Station. I never put accused on chair at St. Joseph, I told him have seat. I had my service revolver on me and he could not have seen it.

Re-examined by Bernard:

I was instructed to take Thomas from Piarco to St. Joseph and that was my sole duty. I went to Caroni on 12th November, 1973.

Jury recalled and requested to return at 1.30 p.m.

Court adjourned at 11.45 a.m.

Court resumes at 1.30 p.m.

Jury requested to retire again.

P.W.3:

MICHAEL MONTOUTE, sworn states:

Corporal of Police, C.I.D., Port-of-Spain. On 12th November, 1973 at 2 p.m. I was at St. Joseph Police Station. Accused came to Station with Cpl. Leache and other police constables. I was instructed to watch accused. He was taken to office at back of station which we occupy in day time. Accused had black eye and I asked about his eye. He said he was beaten on arrival in Grenada by Police and deported after 2 days.

/P.C. Boynes...

P.C. Boynes was there. Accused, Boynes and I sat in this room. Boynes asked if he wanted anything to eat, accused said, "Yes." Boynes went and bought 2 cheese sandwiches and Stay Fresh Milk which he gave accused and which accused had. After accused appeared comfortable. Later that day, P.C. Joseph and I left Station with accused. We took him to Caroni Police Station. He was given a seat in office at Caroni Police Station. Joseph and I sat with accused Thomas. While there Villafana arrived and he spoke to accused and to me. Villafana told me if accused wanted anything to eat or to rest, let him have something to eat or let him rest. Accused asked to take a rest and he was allowed to do so. He went to bottom of double decker and went fast asleep. Joseph and I remained in room. No one else was there. At 9 p.m. accused got up, I asked if he wanted anything to eat. Accused asked for Villafana. He was in charge room with Mr. Burroughs and Cpl. Nelson. I returned to office where accused was, after Sgt. Villafana, Cpl. Nelson and Burroughs came in room. I and Joseph left office when they came in. At no time Joseph or I used any threats, menaces to accused or offered him any promises or inducement. No force was used on him.

Cross-examined by King:

Accused had black eye. Around his eye was swollen. Accused did not ask for a doctor, for a lawyer or for his father. I was at St. Joseph Police Station when Burroughs arrived. He never told Burroughs that he did not want doctor. Burroughs did not ask me to contact Villafana. No statement was sought from accused at St. Joseph. Leach did not cuff accused. Joseph was with me in office when Villafana told me to give accused anything he asked for. I had no S.L.R. I had a revolver. I did not see when accused gave statement. Accused was not eating anything when Burroughs came in. At 6.10 p.m. Villafana asked whether accused wanted anything to eat, accused replied, The boss fixed him up already. Accused got up at 9 p.m. There was clock on table, Burroughs spoke to accused at St. Joseph. I can't remember what

/they,.....

they spoke about. I did not know what accused wanted to speak to Villafana about. I did not see when warrant was executed on accused.

At 6.10 p.m. Villafana had warrant for his arrest. He did caution him. I believe Villafana told him you are not obliged to say anything - in answer to that, I believe accused said, I am tired, I will take a little rest. I will talk to you later. Warrant was not executed at 6.10 p.m. and accused was not questioned at St. Joseph or Caroni Police Station. We arrived at St. Joseph at 2.30 p.m. and left at 4.30 p.m. Accused had a Koran at St. Joseph and asked to read it and was allowed to read it. At Caroni he had the Koran. I did not leave Caroni Station on morning of 13th November, 1973 with accused. I left Caroni Police Station on 12th November, 1973 at about 10.30 p.m. for my home.

Not re-examined by Bernard:

P.W.4:

CARLOS JAMES sworn states:

Member of Medical Board of Trinidad and Tobago. D.M.O. to December St. George West. During September, /1973 I was acting Medical Officer, Prisons and acting for Dr. Massiah. On 15th November, 1973 I saw accused No.1, he had a black eye. I asked him how he got injury. He said Grenada Police had beaten him. I made note of his black eye in Prison's Book, apart from that injury he appeared fit. Accused made no complaints to me.

Cross-examined by King:

I did not make note that he said he was beaten by Grenada Police. I did not make notes. I make them when I suspect legal-medico implications. Eye needed medical attention. I prescribed ointment for eye. Ramkissoon worked with me. I believe Ramkissoon was present. I don't recall Ramkissoon asking accused for any statement. Eye injury was about 5 days old. It could not result in headache. There would be some pain.

/Accused.....

Accused never complained to me of headaches. When I saw accused he was not depressed. I gave statement to police on 22nd January, 1975. In statement I said he appeared to be depressed somewhat.

To Court:

When I said in statement depressed somewhat, he did not look cheerful.

Continuing to King:

Accused was physically fit.

ACCUSED:-

ANDY THOMAS:

Affirms, Andy Thomas. In 1973 I was arrested by Police in Grenada. I was taken to C.I.D. Office, Grenada. I was in Police custody from Saturday 10th till mid-day on Monday 12th in Grenada. I was told I was being arrested for murder of police constable in Trinidad 1973. I was hit on eye and beaten by men whom I believe members of Mongoose gang. I was ordered to give statement in respect of murder of P.C. Sankar and I refused. I arrived in Trinidad on 12th November, 1973 around 1 p.m. I was deported from Grenada. I was in immigration lounge at Piarco when Cpl. Leache and other police constables came up. I was searched. I was handcuffed and placed in Holden car. Grenada Police said I would be sent to Burroughs and his boys. In car Leache told me, shut up, I was lucky to be alive. I was taken to St. Joseph Police Station placed in a room at back of station. I was a Police Constable. I was ordered to sit on chair at side of table. On way to room Cpl. Leache cuffed me on injured eye and said you not giving statement we will see about that. I sat on chair, P.C. Montoute, P.C. Joseph, P.C. Boynes - all armed with small sub-machine guns. Joseph had a revolver. I was given nothing to eat at St. Joseph. My eye was paining me. I had headache. I was tired. I was feeling generally depressed. I had not bathed since the Saturday and had not slept. In room at St. Joseph police constables had guns pointed at me. I was very afraid. Sometime later Burroughs came in and said, "Too

/many.....

many eyes around here, take him to Caroni." I called Burroughs, I said I wanted to see my lawyer, I wanted to telephone my father and I wanted medical attention for my eye. Burroughs said, "Later" and went away. I had statement at St. Joseph Police Station. Statements could be taken in room in which I was. I was in that room for 3 hours or thereabout. Sometime after I was taken back in same car with Leache, Montoute, Boynes, Joseph and Millington. I was in back seat with police constables. I was taken to Caroni. No one spoke on the way. I was not afraid. Caroni is a lonely station. I was placed in room at eastern end of building. 5 police constables guarded me. All had guns. I was made to sit on a chair. Cpl. Leache said he had come from special course in the States and I was lucky he was not here before. All men were quite close to me in the room. Weapons were pointed at me at Caroni. I had no refreshment. I did not sleep at Caroni. Villafana came to Station around 8.30 p.m. There was clock in the room. Villafana had brief case. He told me his name he sat down on chair. I know you are man who was driving the car and that you are not giving a statement. I would like to see my lawyer. Since St. Joseph I was asking for this. I was never informed of my rights. At Caroni at 9 p.m. Burroughs came in room at Caroni. Villafana met him half way and they spoke quietly. Burroughs sat on chair next to me. Took a picture of my dead brother, Martin, from his pocket and asked if I loved my brother, I said, yes. He looked at me. I said Burroughs I am an ex-police constable as you know and a newspaper editor and I am aware I am entitled to see my lawyer and I spoke with a member of my family on the telephone. I also told him that I wanted to see a doctor. He got up without answering and went to Villafana and they spoke quietly. Then he said, take over, Villa, you know what to do and he left the room. I did not see him after. He witnessed no statement. Villafana came to chair. Burroughs had left, took out paper and pen from his brief case and said, all games finish now, you know we want a statement, /come.....

come on, statement or licks. All policemen were still in the room. I told him I want to see my lawyer. He took .38 special from his pocket, put it on table, leant back in chair and said, Boy you really love your brother, like you want to go and meet him. I understood they wanted to shoot me. I asked what he wanted me to say. He said, boy what I told you the other fellows said, so I repeated to him a story he had told me when he came in the room which he wrote on paper he had. He ordered me to sign it and a certificate which he dictated and I signed it. I did not make that statement of my own free will. I affixed certificate as I was afraid. Hostile police constables were around me. Caroni Police Station is nearer Piarco than St. Joseph Police Station at Piarco. There is Piarco Police Station, Arima, Tunapuna and then St. Joseph. I gave one statement in respect of this offence. When I was repeating report - I was repeating water down version, I noticed he was not writing what I was telling him. He said alright, alright and tore up that statement and he laughed. He then took another sheet of paper and asked me to repeat what I had said before. He never asked if I wanted to write statement. He never cautioned me. He never told me I had been charged with murder of Sankar. Since September I gathered that he had heard I was involved with shooting police constable and he wanted evidence to charge me. It is not true that around 10 p.m. Villafana was taking statement from me and that I was eating sandwiches around that time. It was after mid-night when Villafana wrote statement. After statement was taken I was handcuffed escorted back to car by police and taken to C.I.D., Port-of-Spain. Policemen were same group that had taken me to Caroni. I was never taken before J.P. I acknowledge confession. On afternoon of 13th November, 1973 I spoke to no one. From there I was taken to Royal Gaol. Four days after on 15th November, 1973 I saw 2 of my relatives, a lawyer at C.I.D. Port-of-Spain, my father, Weekes and Alan Alexander. I told them, I had been forced to give statement, had not been taken

/to J.P. ....

to J.P. I was not formally charged.

Cross-examined by Bernard:

I am 30 years old. At time I gave statement I was 28. I was and I am still journalist and ex-police constable. I am intelligent and well educated. I know rights of person charged by police constable. I know that person threatened by Police can make complaint at appropriate time. Cpl. Leache cuffed me. I do not remember being placed before J.P. On 16th November, 1973 I was placed before Magistrate. I made no complaint to Magistrate. I made no allegations about Police.

On 15th November, 1973 I made no complaint to James about treatment of police. I wanted to register my complaint. I know P.C. Joseph I am his compere. He was present when Villafana wrote down things he told me to say. When Leache struck me P.C. Joseph was not there. P.C. Joseph also pointed gun at me at some time. I signed statement because I was afraid. I said words under severe conditions. I made that statement after mid-night. On that night I answered a series of questions which Villafana took down in writing. I signed under similar conditions. That second statement was not made at 11.45 p.m. It was made after the first in the early morning of 13th November, 1973. Statement marked "B". It would not be true to say that I stole away to Grenada. "B" was not read over to me. I booked passage to Grenada on a Schooner. My passport was stamped. I do not remember saying in "B" that I went to Grenada Illegally. Villafana fabricated it. I don't know Brian Jeffers or Guy Harewood. I met Paul and Lewis in prison. I did not know them before. I heard Villafana give evidence. I did not give statement voluntarily.

Re-examined by King:

At preliminary inquiry my counsel objected to statement on point it was not voluntary.

D.W.11:

ANDREW JOSEPH sworn states:

Police Constable, Flying Squad. I know accused Thomas.

/He is.....

He is god-father of my child. On 12th November, 1970 I went to St. Joseph at 4 p.m. on duty. I saw Thomas with right eye black, left eye was swollen. P.C. Montoute and Boynes watching him. At 8 p.m. I was detailed to escort him to Caroni with Cpl. Montoute. At Caroni he was placed in office, Cpl. Montoute and I guarded him. Sgt. Villafana came to station around 6 p.m. He came into room where accused was, spoke to accused in my presence and hearing. I did not hear exactly what he said. I was some distance away. Sgt. Villafana left shortly after he spoke to accused. Villafana did tell Montoute if Thomas wanted anything to give it to him and then he left. I spoke to accused. I asked him about his eye. He said Mongoose Gang had beaten him up in Grenada. Accused in absence of Villafana said he wanted to take a rest. He also told Villafana he wanted a rest. That was before Villafana left. Accused did get sleep. He got up at 8.45 p.m.

Friday 9th May, 1975.

R. v. 1. Adderton Andy Thomas  
2. Kirkland Paul

Both Accused present.

Jurors present.

Counsel for Crown and for Accused Present.

Jury requested to retire while admissibility of statement being considered.

D.W.1:

ANDREW JOSEPH, continuing in chief to King:

At 8.30 p.m. accused was asleep. Burroughs came at 8.30 p.m. He did not speak to accused then.

Cross-examined by Bernard:

Relationship between accused and I have been good. I went to Caroni, met accused. Leache and Millington did not go to Caroni. Accused was well treated all along. He was in my custody up to time Burroughs and Villafana came. He asked Sgt. Villafana to take rest. He was allowed to do so. No one

/pointed.....



pointed revolver at accused. When accused got up he asked for Villafana, send and tell him I am ready. That is after Villafana and Burroughs came in room. Villafana asked if he had sent for him. Accused said he was ready for him. It was around 9 p.m.

Not re-examined by King:

D.W.2:

FRANCIS THOMAS sworn states:

Retired A.S.P. Live 11, 7th Street, Five Rivers, Arcuca. Accused No. 1 is my son. I have 10 children. In 1973 accused was arrested. On 12th November, 1973 I went in search of accused. I heard he had been arrested. After failing to locate his whereabouts I went to C.I.D., Port-of-Spain. I was travelling along Southern Main Road, Curepe by Jewan's Cafe I saw Ag. C.O.P. Burroughs, my friend, I stopped and asked for whereabouts of my son Andy, this was after 4 p.m. / He said he didn't know, when he knew he would inform me. I then went to C.I.D., Port-of-Spain. I got no information and went home. Around mid-night I was aroused, saw car parked near my gate and received information. As a result I came to Port-of-Spain following morning, went to C.I.D. to see my son. Around 9 a.m. I saw accused with one arm handcuffed to the bench in room. One eye, black and blue, eye was blood shot. I became dumbfounded and left my son-in-law Cedric Weekes there. I did not have opportunity to converse with him as I was told there was strict security. I saw him quite some time after in Remand Yard in Royal Gaol. He told me then he was forced to give statement. Counsel, Mr. Alexander visited accused on morning I saw accused at C.I.D.

Cross-examined by Bernard:

I used to prosecute in Courts of this country. At Remand Yard my son did say he was forced to give a statement. At Magistrate Court I saw my son, I did not speak to him. I saw Burroughs at Curepe. He did not tell me then that my son was at St. Joseph. He told me he was going to Caroni. His car faced Caroni direction.

/Not re-examined.....

Not re-examined by King:

King: Burden of proof on prosecution to prove statement voluntary.

Most important factor to be considered - Witnesses witnessing statement should have given evidence.

Accused in police custody for 3 days - presumption that statement given not voluntary - accused suffering from injury.

Statement should be excluded - Dickson v. R. 1964  
7 W.I.R. at p. 442

Bernard:

Voluntary depends on Particular circumstances of each case. No oppression whatever.

Jury recalled.

Jury informed that court rules statement admissible but that weight and value of statement remain a matter for them.

P.W.16:

LUCIEN VILLAFANA, resworn and continuing in examination in chief:

This is statement I produce it (Statement, read over put in and marked L.V.3.)

Remanded 12th May, 1975 in custody.

Garvin M. Scott,  
9/5/75.

12th May, 1975.

Both accused present.

Jury present.

Counsel for Crown and for Accused present.

P.W.16:

LUCIEN VILLAFANA, resworn and continuing in examination in chief:

This is statement I produce it (Statement, read over, put in and marked L.V.3).

Remanded 12/5/75 in custody.

Garvin M. Scott,  
9/5/75.

TRINIDAD AND TOBAGO

## IN THE COURT OF APPEAL

Crim. Apps.  
Nos. 27 & 28/1975.

ADDONTON ANDY THOMAS  
And  
KIRKLAND PAUL

vs

THE STATE

Coram: Sir Isaac E. Hyatali, C.J.  
M.A. Corbin, J.A.  
E.A. Rees, J.A.

November 12, 1976.

*M. King and*  
M. de la Bastide, Q.C. - for appellant Thomas.  
*S. Wooding, Q.C. and*  
*T. Queen* - for appellant Paul.

C. Bernard, Ag. Solicitor General - for the Crown.  
*L. Jones, State Counsel*

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J U D G M E N T

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Delivered by Sir Isaac Hyatali, C.J.:

The appellants, Addonton Andy Thomas and Kirkland Paul, were tried by an array of 12 jurors at the Port-of-Spain Assizes on an indictment in which a count for a capital offence was joined with two counts for non-capital offences. The first count charged them with the murder of Austin Sankar, the second with the robbery of one Raymond John with aggravation and the third with kidnapping him. The second and third offences were alleged to have been committed at Carenage on 27 August 1973, and the first, at Diego Martin on 28 August 1973.

Upon their arraignment before Scott, J. and the jury aforesaid on 1 May 1975, counsel for Paul applied to have the second and third counts severed from the indictment, firstly, on the ground that any evidence given in support of these counts would be inadmissible on the charge of murder; and secondly, because it was prejudicial and

/oppressive to Paul

oppressive to Paul to have the three counts tried together. No such application was made on behalf of Thomas. The learned judge refused the application and, in the event, the appellants were tried together on all the counts and convicted on each of them.

The trial of the appellants for the two non-capital offences by an array of 12 jurors was contrary to the provisions of s.16(2) of the Jury Ordinance Ch.4 No.2, since it prescribes an array of 9 jurors 'and no more' for the trial of non-capital offences. In Singh, Andrews & Clement v R. No. 12, 14 and 16 of 1975, this Court considered the validity of a trial, in which the appellants were tried by an array of 12 jurors, on an indictment which joined a count for robbery with aggravation (a non-capital offence), with a count for murder (a capital offence). In its judgment delivered on 26 February 1976, the Court ruled for the reasons stated therein, that their trial on the capital charge was good, but that the trial on the non-capital charge was bad.

The Court declined to hold, even though it was urged so to do, that the whole of the trial was a nullity. Accordingly it upheld the convictions of Singh and Andrews for murder, and in relation to Clement, who was acquitted by the jury of murder but convicted of robbery with aggravation, it declared his trial for the latter offence a nullity, quashed his conviction and remanded him to stand his trial therefor at the next Assizes. The murder of which Singh and Andrews were convicted, was proven to have been committed in the course or furtherance of the robbery with aggravation. No question of the admissibility of the evidence of the robbery to prove the charge of murder was ever raised, either at the trial or on appeal.

In Cottle and Laidlow v. R. No. 27 of 1965, the Privy Council, in its reasons delivered on 5 April 1976, held that it was unlawful in St. Vincent for capital and non-capital offences to be tried together by the same jury because the laws thereof prescribe an array of 12 jurors for the trial of a capital offence, but an array of 9 jurors for a non-capital offence.

Cottle and Laidlow were charged in one indictment for

/the murder of

the murder of Cecil Rawle (a capital offence), for the attempted murder of Allenby Gaymes (a non-capital offence), and for discharging a loaded firearm at Allenby Gaymes with intent to cause him grievous bodily harm (also a non-capital offence). They were tried by an array of 12 jurors, who convicted them on the first and third counts, and acquitted them on the second count. The Court of Appeal in St. Vincent, upheld their convictions for murder, on the ground that the jury was properly constituted for the trial of that offence, but quashed their convictions for discharging a loaded firearm with intent, on the ground that the jury was improperly constituted for their trial, on the latter offence.

On their appeal to the Privy Council the learned Lords quashed their convictions but made no further order. They did so on the ground that the evidence admitted on the non-capital charges was highly prejudicial to the appellants. That evidence related not to the murder of Cecil Rawle but to the shooting and wounding of Allenby Gaymes an hour or so later, when he was leaving a supermarket of which he was the manager. It is of importance to note, that the Privy Council refrained from ruling that the whole of the trial was a nullity, even though it was so contended before them. This is apparent from the record of the proceedings before the Board on which counsel at our invitation made additional submissions to the Court after it had reserved its decision. In delivering the reasons of the Board on this aspect of the matter, Lord Diplock stated:

"At the trial in the High Court, because no objection was taken to the joinder of the murder counts with the other counts, no objection could be taken to the admission of the evidence which was clearly relevant to the counts relating to the shooting of Mr. Gaymes. It was accordingly never brought to the attention of the judge that there was any occasion for him to weigh the probative value of this evidence against its prejudicial propensity so far as the charge of murder was concerned. He never did so; nor did the Court of Appeal.

The assessment of the extent to which the minds of jurors are likely to be prejudiced by evidence tending to show that an accused has committed a crime additional to that with which he has been charged is a matter appropriate to be decided by judges familiar with local conditions and lies peculiarly within the province of the trial judge, who is in the best position to appreciate what

/kind of persons

"kind of persons have been empanelled as the jury and to sense the general atmosphere of the trial.

As already stated the evidence admitted on the counts relating to the shooting of Mr. Gaymes was highly prejudicial to the appellants. Their Lordships have not, however, thought it necessary to consider in detail whether that evidence or any of it would have been relevant to the charge of murder. In the first place, this was not the purpose for which it was adduced nor were the jury ever given any instructions as to its relevance to the charge of murder. In the second place, their Lordships do not regard it as appropriate that they should attempt to substitute their own discretion as to whether it ought to have been admitted, despite its prejudicial effect, for a discretion which neither the trial judge nor the Court of Appeal purported to exercise. It is for these reasons that their Lordships have humbly advised Her Majesty that this appeal should be allowed and the convictions of the appellants on the charge of murder quashed."

Both Mr. de la Bastide for the appellant Thomas, and Mr. Wooding for the appellant Paul, argued with tenacity that the whole of the trial was a nullity and invited the Court to overrule its decision in Singh & Ors. v. R. (supra). Mr. Wooding projected his argument in this way: the conjoint effect of s.16 of the Jury Ordinance (enacted on 2 August 1922) and Rule 3 of the Indictment Rules set out in the First Schedule to the Criminal Procedure Ordinance Ch.4 No.3 (enacted on 2 June 1926) is to constitute by necessary statutory implication an absolute prohibition against an indictment for murder being tried together with a non-capital charge.

Section 16 of the Jury Ordinance so far as is relevant prescribes as follows:

- "(1) On trials on indictment for murder and treason twelve jurors shall form the array, and subject to subsection (3) hereof the trial shall proceed before such jurors and the unanimous verdict of such jurors shall be necessary for the conviction or acquittal of any person so indicted.
- (2) The array of jurors for the trial of any case, civil or criminal, except on indictment for murder or treason, shall be of nine jurors and no more."

/Rule 3 of the

Rule 3 of the Indictment Rules provides that -

"Charges for any offences, whether felonies or misdemeanours, may be joined in the same indictment, if those charges are founded on the same facts, or form or are a part of a series of offences of the same or a similar character."

That statutory implication, Mr. Wooding contended, had the effect of introducing a qualification to Rule 3, so that it had to be read as if it contained a proviso in these terms: "provided that no other charge shall be joined with a charge of murder."

We cannot accept, that it is permissible under any settled or acceptable principle of statutory construction or interpretation, to introduce such a material and fundamental qualification to Rule 3. To do so would constitute an attempt on our part to legislate under the guise of interpretation; and, if we did so, we would be guilty of usurping a power, or arrogating unto ourselves an authority, which our Constitution has vested not in the Courts, but in Parliament.

The West African Court of Appeal decision in Obi Bekum v. Rex of 25 January 1941, to which Mr. Wooding referred, cannot therefore assist his contention, since in that case the Court was interpreting a provision similar to Rule 3 with the proviso aforesaid expressly written in by the legislature. In any event, the prohibition contained in the proviso in question was directed against joinder in an indictment for murder. An indictment therefore which defied that prohibition, was no indictment at all. In the instant case it cannot be maintained that the indictment was bad or was null and void by reason of anything contained in our Rule 3. On the contrary, it was well within its prescribed boundaries.

Mr. de la Bastide approached the question somewhat differently. He founded himself on four propositions: (1) that a trial of murder with a non-capital offence is illegal, and therefore a nullity, by virtue of the provisions of s.16 of the Jury Ordinance; (2) that this illegality arises not because of a rule of practice, as was the case in England until recently (Conelly v D.P.P. (1964) A.C. 1254), but as the result of a specific enactment in the Jury Ordinance which prescribes different modes of trial for murder and treason on the one hand, and for  
/all other offences

all other offences on the other; (3) that provision, by necessary implication, imports a prohibition against trying offences in those two different categories together and also, necessarily, against joining them in the same indictment; and (4) that prohibition is not affected by the Criminal Procedure Ordinance on the principle of statutory construction that general provisions do not derogate from specific ones.

The second, third and fourth propositions depend for their validity on the soundness of the first which, in our judgment, is far from sound. It suffers from a clear fallacy. The true position is, that a trial for murder by an array of 12 jurors is perfectly legal and valid; it is a trial for a non-capital offence by a like array which is not. In fact, such a trial is not a trial at all, but a proceeding which is null and void ab initio.

In these circumstances, it cannot be maintained that in the instant case a trial for murder took place together with a trial for robbery with aggravation and kidnapping, since the proceeding in relation to the latter was not a trial but a nullity. Having regard therefore to the principle, that each count in an indictment is the equivalent of, and falls to be treated as though it were a separate indictment, (see Latham v. Reg. (1864) 5 B. & S. 635; Boyle v. Reg. (1954) 38 Cr. App. R.111, 114; and Plain v. Reg. (1966) 51 Cr. App. R. 91, 97), it would be illogical and unreasonable to hold that because the latter was a nullity, the former was also a nullity even though it was a trial by a properly constituted array of jurors.

In effect this is what was decided by this Court in Singh & Ors. v. R. (supra). We are of opinion that it was rightly decided and see no justification for overruling it. We consequently hold that the trial for murder was valid but quash the convictions for robbery with aggravation and kidnapping, on the ground that they resulted from verdicts returned by an array of jurors that was incompetent to do so under the Jury Ordinance.

In our judgment, Cottle and Laidlow v. Reg. (supra), by necessary inference, fortifies our conclusion. As already stated, it was contended before the Privy Council in that case that the trial was a nullity, but ~~it would appear that~~ the learned Lords did not mention it /in their judgment.



in their judgment. But it is abundantly clear from their reasons, that they quashed the convictions for murder on the footing, that they emanated from verdicts given in a valid trial of the appellants, by a lawfully constituted array of jurors.

Mr. de la Bastide also submitted, that the object of the prohibition against the trial of a capital charge with a non-capital one, was to ensure that a trial for murder was not complicated by its association with other offences. His contention was, that murder was too serious a charge to allow the attention of those engaged in its trial to be diverted to other offences. In the light of the conclusions we have expressed on his first proposition however, this contention is only relevant to the question of prejudice which was the next major complaint made on behalf of Thomas.

Before dealing with it however, it would be convenient to examine the evidence on which the prosecution relied to prove its case against <sup>Thomas</sup> ~~the appellants~~. After his arrest on 12 November 1973, ~~the appellant~~ Thomas, made a confessional statement in writing to Sgt. Villafana which the trial judge admitted as voluntary. In that statement, he disclosed these facts: (1) about 8.30 to 9.00 p.m. on 27 August 1973 Brian Jeffers, Guy Harewood, two other persons (referred to hereafter for convenience as "P" and "L") and himself went to one Broko's house at Laventille, and "decided that there should be a form of retaliation as there was a shoot out on the NUFF Camp at the Valencia Forest by the Police and the Regiment"; (2) one Lennie then took them all to Carenage in a car after letting out Jeffers and Harewood at Dean's Bay; (3) he, P and L left Lennie's car at Carenage, stopped a Falcon car, and ordered its driver to drive to Dean's Bay, where Jeffers and Harewood had dropped off earlier; (4) at Dean's Bay, the driver was imprisoned in the trunk of the car and he, Thomas, took over as its driver; (5) with Jeffers, Harewood, P and L in the car, he drove around several places and eventually to Diego Martin, after taking gasolene from a gas station opposite the General Hospital, Port-of-Spain; (6) at Crystal Stream Avenue, Diego Martin, they came upon a Police motor car and followed it; (7) as he, Thomas, drove past the police car shots were fired into it from his car; (8) he then drove away, dropped off the men with him and abandoned the car at Chaguanas after releasing the driver  
/on the

on the Princess Margaret Highway.

P.C. Jitta's evidence confirmed Thomas' statement in a material particular. He testified that while he was driving a police car with the deceased at his side along the Crystal Stream Road, Diego Martin, between 12.15 to 1.00 a.m. on 28 August 1973, a Ford Falcon motor car drove alongside whereupon three shots were fired from it into the police car. The deceased was wounded in the result.

Dr. Edwards' evidence established that the deceased suffered three gun shot wounds. One of them lacerated the carotid vessels, fractured the spine and caused his death from the resulting shock and haemorrhage.

Raymond John in his evidence confirmed Thomas' confessional statement in several material particulars. John testified that his car PJ 5454 was 'hijacked' at Carenage by three men. One of them had something cold pointed at his back while Paul in the front seat pointed a gun at him and said 'Don't dig no horrors'; on the orders of the 'hijackers' he drove his car to Dean's Bay where he was imprisoned, in its boot; the car was driven around thereafter for sometime, and about one hour afterwards, while he was still so imprisoned, he heard the blasts of three gun shots which, he said, sounded 'near his head inside the car'. The car then sped off, persons got in and out of it on the way and finally at about 1.30 a.m. the car stopped. He was then released from the boot, and on orders received, he walked straight ahead without looking back, after being told, among other things, that "this was retaliation for a raid Police carried out today" and that his car would be left for him at Chaguanas. He was subsequently picked up by another car, discovered then that he was on Princess Margaret Highway, and after making a report to the Police, he went to Chaguanas where he found his car and retrieved it.

Ignatius Williams, a gas station attendant, employed at the very station referred to by Thomas in his confessional statement, identified Thomas as the driver of the 'hijacked' car, that came there for gasoline around midnight on 27 August 1973. His evidence however, was shown to be unsatisfactory in material respects. It is dealt with hereafter, as it forms the subject of a specific complaint in Thomas' grounds of appeal.

/And finally,

And finally, Sgt. Cox, a fingerprint expert, identified a fingerprint found on the 'hijacked' car as that of Thomas.

It is beyond argument that Thomas' statement contains the clearest possible admission that he was party to a decision to take retaliatory action against the police for a 'shoot out' at a NUFF camp; and that in pursuance thereof he and his companions 'hijacked' a Falcon Ford motor car, imprisoned its driver in the boot thereof, and used it as an effective instrument to carry out the decision, which culminated in the death of a police officer - the deceased in the instant case. Consequently the evidence of these acts, which preceded and were manifestly preparatory to the discharge of the shots which killed the deceased, was plainly admissible to prove the charge of murder against Thomas, even if he were charged with that offence alone; for they were acts which constituted not only essential steps in the implementation of the decision to retaliate against the police, but were indispensable to its successful execution. In our view, the relevance of this evidence to the charge of murder, simpliciter, was so great that it would have been against the interests of justice (a phrase which we remind ourselves embraces not only the interests of the accused but the interests of the prosecution as well), and indeed a wrong exercise of the trial court's discretion, to exclude that evidence on the ground that its prejudicial value outweighed its probative value.

The arguments addressed to us therefore, that the evidence tendered in proof of the robbery with aggravation and the kidnapping of John was wrongly admitted were, in our judgment, unacceptable. So too, was the contention, that Thomas was deprived of the opportunity of objecting to that evidence and of obtaining the ruling of the trial judge, as to whether he should exercise his discretion to admit or reject that evidence.

The rest of the complaints advanced on behalf of Thomas were confined to these points:

(a) The summing-up was inadequate on the issue of common design, in that the learned judge did not explore sufficiently or at all, the possibility of Thomas having been involved in a common design which fell short of murder. In particular, it was submitted, the learned judge did not direct the jury in relation to the three offences charged, that

/they had to

they had to consider the question even though it was not raised by the defence, whether there was a common design with respect to each offence, viz. robbery, kidnapping and murder; (b) that the direction to the jury on intent, in relation to the offence of murder was wrong; (c) that the summing-up failed to deal adequately with the inconsistencies in the evidence of Ignatius Williams, and to instruct the jury that his written statement, which was put in to contradict his sworn testimony, did not constitute evidence on which they could act; and (d) that in relation to Thomas' statement to the police, the learned judge erred (i) in not directing the jury that what weight they attached to the statement depended on all the circumstances in which it was taken; and (ii) in suggesting to the jury that the question for them to decide was whether the statement was voluntary.

The evidence against Thomas which we have set out in some detail, left no room whatever, in our judgment, for any inference to be drawn that he was possibly involved in a common design which fell short of murder. On the contrary, the evidence proved beyond a peradventure, that he was a leading figure in the formulation and execution of the decision which resulted in the death of the deceased from gun shot wounds. The learned judge cannot therefore be faulted for omitting to put to the jury the possibility for which counsel contended.

It was submitted that the direction on intent in relation to murder, should have been in these terms:

"You must be satisfied that Thomas was there; and that also he was party to a plan not merely to hijack a car but also to kill a policeman."

The actual direction complained about was in these terms:

"But in this particular case, according to the evidence for the prosecution, the car with the accused is driven alongside another car and from a close distance, firearms are discharged from that car with the accused.

Well in those circumstances, a person discharging a loaded firearm at another person within a close distance, cars alongside each other, you may form the conclusion - as I say, facts are matters for you - that in those circumstances that the person who discharged the firearm would expect that

/the person at whom

"the person at whom the firearm was discharged, person or persons, would suffer some grievous bodily harm. If you so find, as I say, facts are matters for you- well then, the intent which the Crown has to establish in this particular case, will have been established."

This direction however was supplemented towards the end of the summing-up as follows:

"Thomas told you he was not there. But even if you accept he was there you have further to find that he was acting with others, acting in concert with others to do those acts complained of. If you find (sic) and accept this statement, well clearly he was part of a plan because [he stated] 'we decided that there should be so and so' and as part of this plan according to him 'we ordered the driver where to stop the car. . . It was a Falcon motor car. . . . The driver was ordered to go into trunk and I took over the driving.'

So that . . . as I repeat again, you have to find even though he was present, you have to be satisfied that he was acting together, firstly in the kidnapping of this man; secondly in the robbery with aggravation of this car; and thirdly and lastly he was acting together in the murder of Austin Sankar. You have to be satisfied in your own minds that he was acting together with the others who shot and killed this man."

When read and considered together, as they ought to be, these two passages make the very points which it was said were not made. The complaint advanced under this head must therefore be rejected.

The point taken in reference to the evidence of Williams is, in our judgment, a good one. We agree that there were two inconsistencies in his evidence relating to the identification of Thomas which the learned judge omitted to deal with and that he omitted to direct the jury that the statement put in to contradict his testimony did not constitute evidence on which they could act. (See in this connexion R. v Golder & Ors. (1960) 3 All E.R. 457).

But notwithstanding the blemishes in Williams' evidence, it has to be borne in mind that it did not stand alone. His evidence on identification was confirmed by the statement of Thomas himself. In these circumstances, we do not consider that Thomas suffered any real prejudice by the judge's failure to give the directions under reference.

The last complaint on behalf of Thomas, relates to the directions given on his confessional statement to Sgt. Villafana. The /admissibility of the

admissibility of the statement was objected to on the ground, that it was extracted from Thomas "by fear, force, fraud and oppression".

In the absence of the jury, the learned judge heard evidence on the issues thus raised, and came to the conclusion that it was a voluntary statement. He accordingly ruled it was admissible, so advised the jury and cautioned them at that stage that its weight and value remained a matter for them even though he had admitted it in evidence. He repeated that caution in his summing-up on at least two occasions, but in the course of so doing, he used language to indicate to them that its weight and value depended upon whether or not they accepted it as a voluntary statement.

This, we agree, did not accord strictly with the decision of the Privy Council in Chan Wei Keung v. R. (1967) 1 All E.R. 948 to the effect that admissibility is a matter for the judge; that it is thereafter unnecessary for the same matter, i.e. admissibility, to be left to the jury; that the jury should be directed after its admission, that what weight they attach to the confession depends on all the circumstances in which it was taken; and that it is their right to give such weight to it as they think fit. (See also R. v Burgess (1968) 2 All E.R. 54, 55).

In leaving to them the question whether the statement was voluntary or not, the learned judge was leaving to them the question of admissibility which he had already decided. But having told them in that context that its weight and value depended on whether they accepted the statement as voluntary, we do not consider that the appellant suffered any prejudice thereby. We are of opinion that the direction was so framed that the jury would not have accepted the statement as any evidence against Thomas if they thought it was not voluntary.

In sum, therefore, we have decided two points of law in favour of Thomas, but we are satisfied that they are of such a nature that had the jury been correctly directed on them, it would have made no difference whatever, to the verdicts which they returned against Thomas. We hold in these circumstances, that no substantial miscarriage of justice actually occurred and accordingly dismiss his appeal.

/We proceed now

We proceed now to consider Paul's appeal. The prosecution's case against him was founded (1) on a statement which he conceded he had given voluntarily to Sgt. Villafana; and (2) on the sworn testimony of Raymond John. John's evidence established that on the evening of 27 August 1973, Paul with a gun pointed at John, assisted two persons at first, and later another two, in forcibly taking from John his Ford Falcon motor car, and in imprisoning him in the boot of it thereafter. John's car was then driven around for about one hour, and while he was still so imprisoned, three shots were fired from his car.

In his statement to Villafana, Paul in effect, made these admissions. About 11.00 p.m. on 27 August 1973 he went to the house of one Broko at Laventille. There he joined the company of Brian Jeffers, Guy Harewood, and two others referred to hereafter as "L" and "T". Three of them were armed with guns. He then travelled with them while they were so armed in a car driven to Carenage by one Lennie, after Jeffers had previously announced at the house, while standing with feet apart and in a 'very commanding position', 'Ah scene must play tonight' - meaning by that jargon, as we understand it, 'a job must be done tonight'.

On reaching Carenage, Paul, L & T left Lennie's car. L & T held up a green car, all three of them entered it at different points, and with L holding a revolver at the back of the driver, compelled him to drive to an appointed place. There L imprisoned the driver in the boot of the car, whereupon Jeffers and Harewood joined them. Paul continued thereafter in the company of his armed companions in the green car, which T was then driving. They travelled to several places and eventually to Diego Martin. There they came upon a police car. T drove the green car alongside the police car and from that position one of his companions fired two shots into the police car. Each of his other two armed companions, fired shots thereafter into the police car. Following this the car sped away from the scene, dropped him off at one point and his three armed companions at another.

These admissions in combination with John's evidence clearly established in our judgment that Paul with a gun in his possession, was not only a joint adventurer with his ~~other~~ armed companions, when John  
/was forcibly

was forcibly deprived of his car and kidnapped, but also when the deceased was fatally shot by his companions while travelling in a police car at Diego Martin. John's evidence that Paul actually pointed a gun at him in the green car to assist his fellow adventurers to hijack John's car, and Paul's own statement that he continued in the company of his armed companions after John was imprisoned in the car and was present with them when shots were fired from it into the police car, fortifies our conclusion. See in this connexion the principle stated in Barry Reid v. R. (1976) <sup>112</sup> 62 Cr. App. R. 109 at p. 102 per Lawton, L.J., which we adopt for present purposes.

Mr. Wooding's submission therefore, that there was no evidence to prove that Paul was engaged in a joint adventure to murder or that he was party to a plan to do so, cannot be accepted. On the contrary, in the absence of any evidence that he was present in the car with these men to frighten the Police, or out of sheer curiosity, it was an inescapable inference from the facts here narrated that he was in fact so engaged. That being so, the submissions that Paul suffered prejudice by the admission of the evidence of the robbery and kidnapping of John, or by being deprived of the opportunity of getting a ruling from the trial judge that the prejudicial value of that evidence outweighed its probative value, fall to be rejected for the same reasons as those given in the case of Thomas.

As we have already held that the trial for murder was valid and that the convictions on robbery with aggravation and kidnapping were a nullity, there only remains for consideration from the grounds of appeal argued by Mr. Wooding (a) that the learned judge wrongly omitted to direct the jury on the value of the exculpatory allegations contained in Paul's statement to Villafana and in his unsworn statement from the dock in answer to the prosecution's case; (b) a request made by way of postscript to the Court to allow Paul to contend that prejudice resulted to him because he could not by reason of the joinder, decide what course to take when he was called upon to make his election at the end of the case for the prosecution.

Paul's dilemma as to what course he should have taken is not one of which he could justly complain, since the evidence in support  
/of the two



## At the Council Chamber Whitehall

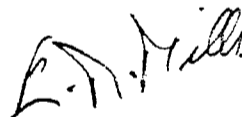
The 19th day of May 1980

BY THE RIGHT HONOURABLE THE LORDS OF THE JUDICIAL  
COMMITTEE OF THE PRIVY COUNCIL

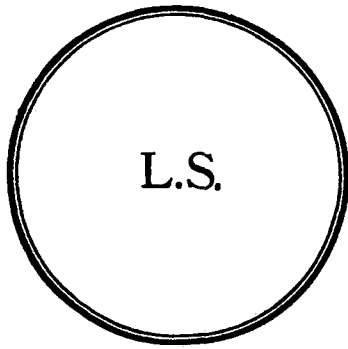
WHEREAS by virtue of the Trinidad and Tobago Appeals to Judicial Committee Order 1976 there was referred unto this Committee a humble Petition of Addonton Andy Thomas in the matter of an Appeal from the Court of Appeal of Trinidad and Tobago between the Petitioner and The State Respondent setting forth that the Petitioner prays for special leave to appeal *in forma pauperis* to the Judicial Committee from a Judgment of the Court of Appeal dated the 12th November 1976 which dismissed the Petitioner's Appeal against his conviction in the Supreme Court of Trinidad and Tobago of murder: And humbly praying Their Lordships to grant the Petitioner special leave to appeal *in forma pauperis* to the Judicial Committee against the Judgment of the Court of Appeal dated the 12th November 1976 or for further or other relief:

THE LORDS OF THE COMMITTEE in obedience to the said Order have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do grant special leave to the Petitioner to enter and prosecute his Appeal *in forma pauperis* against the Judgment of the Court of Appeal of Trinidad and Tobago dated the 12th November 1976.

AND THEIR LORDSHIPS do further order that the authenticated copy of the Record produced by the Petitioner upon the hearing of the Petition be accepted (subject to any objection that may be taken thereto by the Respondent) as the Record proper to be laid before the Judicial Committee on the hearing of the Appeal.



Registrar of the Privy Council.



## At the Council Chamber Whitehall

The 27th day of March 1980

BY THE RIGHT HONOURABLE THE LORDS OF THE JUDICIAL  
COMMITTEE OF THE PRIVY COUNCIL

WHEREAS by virtue of the Trinidad and Tobago Appeals to Judicial Committee Order 1976 there was referred unto this Committee a humble Petition of Kirklon Paul in the matter of an Appeal from the Court of Appeal of Trinidad and Tobago between the Petitioner and The State Respondent setting forth that the Petitioner prays for special leave to appeal *in forma pauperis* to the Judicial Committee from a Judgment of the Court of Appeal dated 12th November 1976 which dismissed the Petitioner's Appeal against his conviction at the Port of Spain Assizes of murder: And humbly praying Their Lordships to grant the Petitioner special leave to appeal *in forma pauperis* to the Judicial Committee against the Judgment of the Court of Appeal dated 12th November 1976 or for further or other relief:

THE LORDS OF THE COMMITTEE in obedience to the said Order have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do grant special leave to the Petitioner to enter and prosecute his Appeal *in forma pauperis* against the Judgment of the Court of Appeal of Trinidad and Tobago dated 12th November 1976.

AND THEIR LORDSHIPS do further order that the proper officer of the said Court of Appeal be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy of the Record proper to be laid before the Judicial Committee on the hearing of the Appeal.

E. R. MILLS,  
*Registrar of the Privy Council.*