

Judgment
29, 1956

~~GI2 G 2~~

Appeal
NO. 13. OF 1956

IN THE PRIVY COUNCIL

ON APPEAL

FROM THE SUPREME COURT OF CYPRUS

B E T W E E N

1. ANDREAS CHARILAOU ZAKOS
2. CHARILAOS MICHAEL Appellants

and

T H E Q U E E N Respondent

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

Bischoff & Co.,
4, Great Winchester Street,
London, E.C.2.
Solicitors for the Appellants.

Charles Russell & Co.,
37, Norfolk Street,
London W.C.2.
Solicitors for the Respondent.

**INSTITUTE OF ADVANCED
LEGAL STUDIES,
25, RUSSELL SQUARE,
LONDON,
W.C.1.**

IN THE SUPREME COURT OF CYPRUS.

(On appeal)

1. Andreas Charilaou Zakos,

2. Charilaos Michael,

Appellants,

v.

The Queen,

Respondent.

CITY OF LONDON

20 FEB 1957

ADVANCED
STUDIES

46104

INDEX

	<u>Page No.</u>
Application for leave to appeal	A-G
Information	H
P.W. 1. Andreas Economou	1
" 2. Kyriacos Papadopoulos	3
" 3. Major Brian Jackson Coombe	5, 21 & 40
" 4. Michael Brian Comerford	15
" 5. Adil Suleyman	17
" 6. Brian Miles Macrae Simpson	17
" 7. Ronald Payne	19
" 8. Hugh Williams Bevan Mackintosh	20
" 9. Mary Mackenzie Munro	20
Witness 3 recalled (Major Coombe)	21
P.W. 10. George Milton Barnett	23
" 11. Noel Phillips	24
" 12. Loukis Kyriacou, Sub-Inspector	25
" 13. Cpl. George Shearer Buchan	25 & 51
" 14. P.C. 540 Michael Antoniou	29 & 39
" 15. P.C. 313 Michael Savvides	34 & 50
" 16. Morris Norman Waters	36
" 17. Derek Hunter Wilson Brown, Captain	38
Witness 14 recalled (Michael Antoniou)	39
P.W. 18. Deposition of Major John Feish	39 & 76
" 19. Peter G. Macdonald, Captain	40
" 20. Francis Tayles	44
" 21. Derick William Sydney Grey	45
" 22. Chief Inspector Neophytos Vassiliou	46
" 23. Michael Nicola Toulekkis	46
Witness 3 recalled (Major Coombe)	48
P.W. 24. P.S. 194 Georghios Myrianthous	49
Witness 15 recalled (Michael Savvides)	50
Witness 13 recalled (Cpl. G. S. Buchan)	51
<u>Defence</u>	
<u>Andreas Ch. Zakos from the dock (1st Appellant)</u>	51
D.W. 1. Charalambos Bakallouris	53
" 2. Andreas Christofides	55
" 3. Ahmed Salih Imamzade	56

I, the above-named applicant, hereby apply for leave to appeal to the Supreme Court from the conviction and/or sentence of the Special Court of Nicosia aforesaid on the grounds hereinbefore set out.

Dated the 8th day of March, 1956.

(Sgd) St. Pavlides
" G. Clerides
Signature of his advocates.

Criminal Application No. 36/56.

Date received in Supreme Court: 8.3.56.

(Sgd) Chr. Fissentzides
for Chief Registrar.

Order of Supreme Court:

Leave to appeal against conviction and sentence on the grounds stated in the application granted.

(Sgd) M. ZEKIA
Puisne Judge.

Date: 23.3.1956.

NOTE: Andreas Charilaou Zakos.v. Q.

Neither copy of the notes of trial nor of the judgment are as yet available to the appellant or his counsel and the Honourable Court is prayed not to deal with the application until the lapse of not less than five days after copies of the notes and judgment as above are so made available, in order to afford to counsel the opportunity of supplementing the grounds of appeal, if necessary.

8.3.1956.

APPLICATION FOR LEAVE TO APPEAL.

IN CASE:

R. v. Andreas Charilaou Zakos.

To the Chief Registrar of the Supreme Court.

The following are further grounds on which the above named Applicant Andreas Charilaou Zakos applies for leave to appeal against his conviction on the 28th February last by the Special Court of Nicosia, sitting as Assize Court in Criminal Case No. 51/55 and the said grounds should be deemed to form part of his Application for leave to Appeal to the Supreme Court dated the 8th March, 1956, and as continuation of paragraph 1 of the Schedule attached thereto. They are numbered accordingly:-

FURTHER GROUNDS.

- (f) The Trial Court was wrong in holding as a circumstance against the applicant that it did not see any reason why the armed men engaged with their confederates in a sabotage operation at or near the bridge 38/7 should have taken him near the place where they were conducting such operations. It is not for the Appellant to fathom the line of thought of the armed men but it would appear that as a matter of elementary caution they thought that they should keep the Appellant under observation until their operation was over and they had escaped.
- (g) The Court was wrong in holding that the Applicant had not attempted to run away from the scene of the operations. It is always difficult to assess individual reactions in such cases but in fact the Applicant finding himself under cross-firing he started to go away through the gully as the safest means of escape, when he again found himself confronted with more firing after the second ascend by Major Coombe.
- To have got up and run away in the open, would obviously expose him to the risk of being fired at, by both sides.
- (h) The Court erred in acting and/or relying on, and/or has given undue weight to, the impression of Major Coombe to the effect that he did not see anything to suggest that any of the men whom he saw might be an innocent man who had got mixed up with his assailants. The impression of Major Coombe is not admissible evidence and in any case there is nothing in the story of the Applicant which is inconsistent with the evidence of Major Coombe as to what he saw happening or going on at all material times.

(Sgd) St. Pavlides.
" G. Clerides
Advocates for Appellant.

Dated the 27th of March, 1956.

FORM OF APPLICATION FOR LEAVE TO APPEAL FROM ASSIZE
COURT OR DISTRICT COURT.

(CAP. 14, Section 135).

To the Chief Registrar of the Supreme Court.

Criminal Case No. 51/55 R v. Andreas Charilaou Zakkos,
Charilaos Michael.

Name of Applicant: Charilaos Michael, of Galini.

Convicted by the Special Court of Nicosia, sitting as Assize
Court.

Offence: (1) Discharging firearms contrary to Regulation 52(a)
of the Emergency Powers (Public Safety and Order)
Regulations 1955 and the C.C.Code, Cap. 13, Sec. 20 and 21.
(2) Carrying firearms contrary to Regulation 52(c) of the
aforesaid Regulations and C.C.Code, Sec. 20 and 21.

Sentence and when commencing: Death.

Date of conviction: 28th February, 1956.

Date of sentence: 28th February, 1956.

Grounds in full on which the application is founded:

- A. The conviction is, having regard to the evidence as a whole, unreasonable and/or against the weight of evidence and in particular:
- (a) The evidence does not establish beyond reasonable doubt the participation of the Applicant in the offences for which he was convicted.
 - (b) The Trial Court drew erroneous inferences and conclusions from and regarding the presence of the Applicant at the scene of the crime on the 15.12.55 finding him guilty on that account.
 - (c) In any event, the evidence and particularly that of Major Coombe, the only eye witness of the occurrences, is consistent with the innocence of the Applicant.
 - (d) The Trial Court wrongly rejected and/or failed to give due weight to the explanations given by the Applicant in his statements to the Police and from the dock.
 - (e) Although there was no sufficient evidence proving beyond reasonable doubt the guilt of the Applicant the trial Court wrongly sought to make good the deficiency by the mere fact that it did not accept the said explanations of the Applicant.
- B. In any event, the sentence of death passed on the Applicant is unreasonably excessive having regard, inter alia, to the finding of the Trial Court that the Applicant took only a minor part in the commission of the offences for which he was convicted and sentenced.

Address for service: The Law office of Mr. Frixos Markides,
Advocate, Nicosia.

State whether applicant wishes to be present at the hearing
of the appeal, if leave to appeal is granted: Yes.

I, the above-named applicant, hereby apply for leave to
appeal to the Supreme Court from the conviction and/or
sentence of the Special Court of Nicosia, Sitting as Assize
Court aforesaid on the grounds hereinbefore set out.

Dated the 8th day of March, 1956.

(Sgd) F. Markides
" C. Myrianthis
Signature of the advocates.

Date received in Special Court, Nicosia: 8th March, 1956.

(Sgd) F. Michaelides
Registrar.

Criminal Application No. 36/56.

Date received in Supreme Court: 8.3.56.

(Sgd) Chr. Fizzentzides
for Chief Registrar.

Order of Supreme Court:

Leave to appeal against conviction and sentence on the
grounds inserted in the application granted.

(Sgd) M. ZEMIA
Puisse Judge.

Date: 23.3.56.

NOTE: The notes of the trial and the judgment of the Court
have not yet been made available to the Applicant or his
advocates, and the Honourable Court is Hereby Prayed not to
proceed with the matter until the lapse of at least seven
days after the notes and judgment as above are made available
to the Applicant or his advocates, to enable them to supplement
if necessary the grounds now given.

For Applicant
(Sgd) F. Markides
" C. Myrianthis
Advocates.

Nicosia the 8th March, 1956.

APPLICATION FOR LEAVE TO APPEAL

IN CASE:

- R. v. (1) Andreas Zakos and
(2) Charilaos Michael.

To the Chief Registrar of the Supreme Court.

The following are further grounds on which the above named Applicant Charilaos Michael applies for leave to appeal against his conviction on the 28th February last by the Special Court of Nicosia, sitting as Assize Court in Criminal Case No. 51/55 and the said grounds should be deemed as forming part of his Application for leave to Appeal to the Supreme Court dated the 8th March, 1956, and as continuation of the Schedule "A" attached thereto namely of Part A thereof. They are numbered accordingly.

FURTHER GROUNDS

- (f) The Trial Court was wrong in holding that it did not see any reason why the armed men engaged with their confederates in a sabotage operation at or near the bridge 38/7 should have brought the Applicant; from the his mother's olive tree standing on Plot 331, near the place where they were conducting such operations, inter alia, for the following reasons.
- (1) The distance from the place where the Applicant alleged he met the two armed men i.e. from the said olive tree to the aforementioned bridge being approximately 700 yards or something less, the Court should not have considered it as being a considerable one.
- (2) It was a matter of elementary precaution for the persons then engaged in sabotage operations, two of whom, being armed, saw, and were seen by, the Applicant round the aforesaid olive tree, that the latter, a person unknown to them, should be kept under strict observation and denied the opportunity of alerting the police till after they would succeed to make good their escape from the scene of the occurrences.
- (g) The Court was wrong in holding that at any material time the Applicant had the opportunity of running away from the scene of the crime. If the Applicant's story is true, he had never had any such opportunity or at least it was not unreasonable for him to have believed that no such opportunity ever existed.
- (h) The Court was wrong in holding that it was strange that the Applicant should have come across the empty container Exhibit No. 34. In fact, on the evidence the persons engaged in the sabotage operations and the shooting used hand grenades, and two live ones and containers were found in the gully. Therefore it is not so strange as it would otherwise seem that an empty container was found by the Applicant on his way to the place where he was eventually brought by the armed man.

- (i) The Court erred in relying on and/or has given undue weight to the impression of Major Coombe to the effect that he did not see anything to suggest that any of the men whom he saw might be an innocent man who had got mixed up with his assailants. In fact, there is nothing in the story of the Applicant which is inconsistent with the evidence of Major Coombe as to what he saw happening or going on at all material times.
- (j) The Court failed to give due weight to the story of the Applicant that on the morning of the Day the offences were committed he was digging round his mother's said olive tree. The Applicant mentioned to the Police Constable 540 Michael Antoniou (P.N.No.14) in the afternoon of the 15th December last that he was digging his olive trees in the area. Yet, the Police did not inspect the said olive tree, till the 22nd December, 1955, when it was not possible owing to the rainy weather, to trace any signs of such digging or to find the spade which the Applicant alleged to have used. Had the police proceeded to the said olive tree soon after the statement of the Applicant to P.C.540 and found it had been cultivated and had they found then the said spade, this would undoubtedly have afforded a very strong corroboration of the Applicant's story. Therefore, because of the failure of the Police to inspect the place as aforesaid, as they ought to, the Applicant was deprived, through no fault of his, of an important piece of evidence going a long way in establishing his innocence. The Trial Court in weighing the explanation of the Applicant failed to consider this point or to give the weight it deserved.

Dated the 27th March, 1956.

(Sgd) F. Markides
" C. Myrianthis

Advocates for Applicant.

I N F O R M A T I O N

Case No.51/55.

An information filed by the Attorney-General.

In the Special Court.

The Queen

v.

1. Andreas Charilaou Zakos
2. Charilaos Michael.

Accused.

Committed for trial on the 24th day of January, 1956,
by Mr. S.S. John, Special Justice.
Depositions taken at Nicosia on the 23 and 24.1.1956.

The accused are charged with the following offences:-

STATEMENT OF OFFENCE

First Count

Discharging firearms, contrary to Regulation 52(a) of
the Emergency Powers (Public Safety & Order) Regulations
1955 and the Criminal Code, Cap.13, sections 20 and 21.

PARTICULARS OF OFFENCE

The accused on the 15th day of December, 1955, at
Galini, in the District of Nicosia, did discharge firearms
at Major Brian Jackson Coombe of the 37 Field Squadron
Royal Engineers.

STATEMENT OF OFFENCE

Second Count.

Carrying firearms, contrary to Regulation 52(c) of the
Emergency Powers (Public Safety and Order) Regulations,
1955 and the Criminal Code, Cap.13, Sections 20 and 21.

PARTICULARS OF OFFENCE

The accused at the time and place in count 1 hereof
mentioned, did carry firearms.

(Sd) M. Griffith-Jones

Crown Counsel,
for Acting Attorney-General.

In the Special Court of Nicosia.

Case No. 51/55.

Before: Shaw, J.

Q U E E N

v.

1. Andreas Charilaou Zakkos of Iinou now Lefka, aged 25.
2. Charilaos Michael of Galini, aged 20.

OFFENCE

1. Discharging firearms
2. Carrying firearms.

23.2.1956.

For the Crown: D. Griffith-Jones, C.C. & R. Grey, C.C.

For the Defence: St. Pavlides, Q.C. with G1.Clerides
for accused No.1.

F. Markides with C. Myrianthis for
accused No.2.

Accused charged: Plea: Both accused not guilty on count 1.
Both accused not guilty on count 2.

GRIFFITH-JONES: In agreement with my learned friends and subject to Your Lordship's approval it would be convenient before opening this case to produce first a series of photographs.

COURT: Yes.

P.W.1. ANDREAS ECONOMOU. Sworn on the Bible, states in English.

XN. BY GRIFFITH JONES: Q. Is your full name Andreas Economou? A. Yes. Q. And are you a police officer attached to the photographic and finger print section of the C.I.D. Nicosia? A. Yes. Q. What is your number? A. P.C. 410. Q. On the 13th January, 1956, did you with other officers visit the neighbourhood of the 38/39 milestone of the Nicosia-Pyrgos road? A. Yes. Q. And did you there take a series of photographs of positions which were pointed out to you by the officer in charge of the investigation in this case? A. Yes. Q. What was the name of the officer? A. Inspector Neofytos. Q. He was in charge of the investigation was he? A. Yes. Q. On the 22nd January did you again visit the same locality with the Inspector and with Major Coombe? A. Yes. Q. And did you check with Mj. Coombe the points which had been pointed out to you on the previous occasion? A. Yes. Q. Did you take and do you produce in all a series of 14 photographs? A. Yes.

- Ex.1. Q. Is the first photograph (exhibit 1) a panoramic view of the bridge from the top of the hill showing the road which leads over the bridge? A. Yes. This is looking towards Nicosia.
- Ex.2 Q. Is the second photograph (exhibit 2) a panoramic view of the same bridge taken from a slightly different angle? A. Yes. This one also is looking towards Nicosia.
- Ex.3 Q. Is the third photograph (exhibit 3) a closer range view of the same bridge? A. Yes. Q. Looking towards Nicosia again? A. Yes.
- Ex.4. Q. Is the 4th photo (exhibit 4) again of the bridge but taken from the opposite direction, that is to say down the Pyrgos road? A. Yes.
- Ex.5 Q. Is this (exhibit 5) a place pointed out to you by Mj. Coombe and marked with a cross at which his vehicle came to a rest? A. Yes. Looking towards Pyrgos.
- Ex.6. Q. Is this (exhibit 6) a photograph of a vehicle placed in that position marked X on the previous exhibit? A. Yes. This is also facing towards Pyrgos.
- Ex.7. Q. Is No.7 a view from the hill top side as being the route of his first ascent? A.Yes. Pyrgos is to the right.
- Ex.8. Q. Is that view taken from a point on the hill side pointed out to you by Mj. Coombe and showing an olive tree as being the position from which he was first fired upon after getting out of the vehicle? A. Yes.
- Ex.9. Q. Is the X on exhibit 9 the place which was pointed out to you by Mj. Coombe as the position in which he hid his stengun after he exhausted his ammunition? A. Yes.
- Ex.10. Q. Does exhibit 10 portray the route which was indicated to you by Mj. Coombe as that of his second ascent? A. Yes.
- Ex.11. Q. Does exh.11 portray the view taken from slightly below and to the right of Mj. Coombe's second firing position as pointed out to you by him? A. Yes.
- Ex.12. Q. Does No.12 portray Mj. Coombe's second ascent route taken from the road? A. Yes.
- Ex.13. Q. And does exh.13 portray an excavation under the span of the bridge which appears in exhibits 1, 2, 3 and 4? A. Yes.
- Ex.14. Q. And is exh.14 the view taken from Mj. Coombe's final firing position as pointed out to you by him? A. Yes. Q. And do the positions of the three police constables who appear on that picture indicate the position which Major Coombe indicated as the final position of a man named Mouskos and the two accused? A.Yes.

XXn. by Pavlides: Nil.

XXn. by Markides: Nil.

Crown Counsel opens the case and calls:-

P.W. 2. KYRIACOS PAPADOPOULOS. Sworn on the Bible, states in English.

XN. by C.C.: Q. What are you?

A. I am an L.R.O. Clerk in the Land Registry Nicosia.

Q. On the 28th December last did you proceed to a position on 37/38 milestone on the Nicosia-Pyrgos road? A.Yes.

Q. And did you there see certain positions pointed out by an officer whom you now know to be Major Coombe?

A. Yes. Q. And there were also pointed out to you a number of other positions by various police officers? A.Yes.

Q. And a Cpl. Buchan? A. Yes. Q. And a Major Neish? A.Yes.

Q. Did you subsequently prepare a plan of that site?

A. Yes. Q. And do you now produce it? A.Yes.

Ex.15.

Put in marked exhibit 15.

Q. Is that on the scale 1/500? A. Yes. Q. And did you in all indicate some 35 positions? A. Yes. Q. And did you also prepare a key representing the distances between various points? A. Yes.

Ex.16

Key to plan marked exhibit 16.

Ex.17.

Key of distances marked exhibit 17.

TO COURT: Exhibit 16 correctly shows the various points pointed out to me by the various witnesses.

Point 17 is the position of the hole under the bridge.

Q. The hole which is shown in exhibit 13? A. Yes.

XXn. by PAVLIDES: Q. Point 1 you say in the key to the plan was pointed out to you by Major Coombe as being what?

A. Point 1 is the right edge of the road next to the bridge marked 38/7 in the direction of Pyrgos.

Q. Pointed out to you as being what? A. He said to me that was the position of his jeep when the first burst came upon him and his colleague.

Q. Point 2 as being what? A. It was at the place where the jeep stopped after it was fired at. Q. Point 3?

A. Point 3 is the edge of the top of the hill where Mj. Coombe came first, climbing up the hill from the road.

Q. Point 4? A. Point 4 was pointed out by Major Coombe, it is the first place from which he exchanged fire with various persons. The distance from points 2 - 3 is 100 ft.; point 3 to 4 is 56 ft.

Q. Now point 5? A. It is the olive tree in the gully pointed out to me by P.C.540 Michael Antoniou and Major Coombe, on the 28.12.55

Q. Point 6? A. Point 6 was the place where he met a timber lorry.

Point 7 is a small bush next to olive tree, pointed out by Major Coombe as being the place where he hid the empty stengun. From point 7 he climbed up the hill to point 8. Point 9 was the position to which he moved from point 8.

Point 10 was pointed out by Major Coombe as being where accused 2 was.

Point 11 is the position where Andreas Zakkos (accd.1) was, as pointed out by Major Coombe.

Point 12 is the position where Charalambos Mouskos was - as pointed out by Major Coombe.

Point 13 is the position where an unknown person managed to escape - as pointed out by Major Coombe.

Point 14 is the position where the unknown person disappeared and was no longer seen.

Point 15 pointed out to me by Michael Antoniou, Michael Savvides (police constables) and Cpl. Buchan as being the place where Mouskos was picked up when he tumbled down from point 12.

Point 16 was pointed out by Mj. Coombe as being the position where he thinks was the first position from which the first shots were fired at him.

Point 17 is the middle of the bridge - as pointed out by Mj. Neish.

Point 18 was pointed out by Major Neish as being the end of a wire which led from point 17.

Point 19 was pointed out by P.C. 540 & P.C.313 and at that point I saw a pile of stones.

Point 20 is also a pile of stones - pointed out by the same two P.C.s.

Point 21 is again a pile of stones pointed out by the same two P.C.s.

Point 22 was pointed out by P.C. 540 and there I saw a pile of stones.

Point 23 was pointed out by P.C. 540 - just a spot on the ground.

Point 24 is again a spot on the ground, pointed out by P.C. 540.

Points 25 and 26 were spots on the ground pointed out by P.C. 540.

Points 27 to 35 are all points on the ground pointed out by the persons stated on exhibit 16.

Q. The line joining point 13 to point 5 what is it?

A. That is a small gully.

Q. And you can see that gully in photograph exh.11? A.Yes.

Q. That is where the bushes are, they form sort of gully there? A. Yes.

Point 5 is to the near end of the gully in exh.11; and point 13 is where the single man is standing.

XXN. BY MARKIDES: Q. This exhibit A is the plan of the area?

A. Yes. Q. It is the survey plan issued by the Government Land Registry Office, Cyprus? A. Yes. Scale 1/5000.

Q. It is sheet/plan 18/56? A. Yes. Q. It is of Galini and Loutros villages? A. Yes.

COURT: Q. Could you show where the bridge is?

A. The bridge is here. (Marked "Bridge").

Q. Would you show on exhibit A plot 229? A. Here (Marked with a circle). Q. Plot 229 in relation to the bridge is towards Pyrgos? A. Yes. Q. So this plot is to the west of the bridge? A. Yes.

Q. Would you show to His Lordship plot No.125?

A. Yes. (Marked with a ring).

Q. Plot 229 is very near the asphalt road Nicosia-Pyrgos?

A. Yes, it is abutting on the asphalt road.

- Q. Will you please show on this same plan ex.A plot 331?
A. To the right of the bridge as you look at the plan.
Q. In relation to the bridge it is eastwards? A. Yes,
north-east. Q. The distance from the bridge to plot 229
is 1050 ft.? A. Yes, i.e. to the nearest point.
Q. From the bridge to plot 331? A. 650 ft. in a straight
line again to the nearest point.
Q. Will you look at this title deed. A. Yes, it is a title
deed of ownership issued by the Land Registry in respect
of plot 331. Q. Will you produce it? A. Yes. (Marked
Ex.B. Exhibit B).
On plot 331 there is one olive tree owned by "froditi
Elia Haralambous.
Q. And this is another title deed issued by the L.R.O.
Ex.C. with regard to plot 229? A. Yes. (Marked ex.C)
Q. And it shows that on that plot 229 a certain Michael
Theochari Poubashis is the owner of an olive tree? A. Yes.
Q. Do you know this man to be the father of accused 2?
A. I don't know that man personally.
Q. And this is a title deed (now marked Ex.D) in relation
Ex.D. to plot 125? A. Yes, showing that there is one olive
tree in the name of Michael Th. Poubashis.
Q. What would be the distance between plot 125 and the
bridge? A. It would be 4400 ft. in straight line to the
nearest point of the plot.

RXn. N I L.

Court adjourns for a short break.

Resumed 11:15 a.m.

P.W. 3. Major BRIAN JACKSON COOMBE. Sworn on the Bible, states
in English.

Xn. by C.C.: Q. Your full name is Major Brian Jackson Coombe
and you are a Major of the 37 Field Sq. Royal Engineers?
A. Yes. Q. A regular soldier? A. Yes. Q. And the holder
of the George Medal? A. Yes. Q. And in December last were
you stationed in Nicosia? A. Yes. Q. Do you remember
the 15th December? A. Yes, I do. Q. At approximately
10:30 on the morning of that day did you leave Troodos
45 Commando Camp? A. I did. Q. At that time were you
in a military vehicle known as a champ, driven by L/Cpl.
Morun? A. Yes. Q. At that stage were you accompanied
by two other vehicles? A. In the first stage, yes.
Q. But later on did you send those vehicles onto Nicosia
by another route? A. I did. Q. And did you make your
way towards Pomos? A. Yes. Q. And at approximately 12:15
p.m. on that day did you arrive at a position which is
indicated in exhibits 1, 2, 3 and 4? A. That is correct.
Q. Is that on the Nicosia-Pyrgos road? A. Yes
COURT: Q. And you were going in the direction of Nicosia?
A. Away from Nicosia.
Q. At that stage were you driving the champ with Cpl. Morun
sitting on your left hand side? A. That is correct.

Q. As you passed over that bridge which is shown in exhibits which I have just handed over, did something occur?

A. As I passed over the bridge there was a burst of machine-gun fire and Cpl. Morun's body slumped across me.

TO COURT: I was coming towards the camera as one looks at exhibit 1.

Q. Can you give an estimate of the rounds fired in that first burst? A. There was a short burst, of possibly half a dozen or so rounds. Q. Could you say that it came from one weapon or more than one? A. The impression at the time was that it was one weapon, but it might be from two weapons fired simultaneously. Q. Can you give His

Lordship any indication as to the direction from which it came? A. I knew it had come from front, but I couldn't be anything more precise at the time. Q. From your front?

A. From my front. Q. So as you crossed over that bridge your front would be more or less in the position occupied by the people here (on exh.4)? A. Yes.

Q. Did you steer the champ into the right hand ditch of the road under the cover of the bank on the right hand side? A. I did. Q. Is that the bank which is shown on exhibit 5? A. Yes. Q. And does the cross on that exhibit indicate the position at which the vehicle came to a rest?

A. Yes. Q. So that it was in much the same position as the vehicle shown in exhibit 6? A. Yes. Q. What did you do after the vehicle had come to rest? A. After the

vehicle came to rest I saw that the Corporal had a wound in the head and I thought he was dead. I took my sten-gun and got out of the champ and started to walk behind the hill. I went further round the corner to the top of the ridge. Q. And you went round the top of the ridge which is shown in exhibit 7? A. I climbed to the top of the ridge shown in exh.7. Q. At that time did you hear anything?

A. As I started to climb two grenades exploded in the area.

Q. I think it would be right to say that you really have no idea from which direction they came? A. I don't know exactly where they went off. Q. What happened when you reached the top of the hill? A. I started to look round

to try and find the murderers. Q. The course which you took was it calculated to bring you somewhere behind where they were? A. I was trying to get somewhere behind them and

to the nearest high ground. Q. Did you expose yourself over the top of the ridge? A. I did. Q. Did anything happen when you did that? A. Almost immediately I was

greeted by another burst of machine-gun fire. Q. Were you able to see the direction from which the fire was coming? A. Except that it was coming from somewhere

below me, I couldn't at this stage see any more. Q. So up to that point you hadn't seen anybody at all?

A. Not till so far. Q. Did you then retire below the ridge of the hill in order to change your position? A. I did. Q. When that first burst of fire was aimed at you when

you were at the top of the ridge did the bullet pass close to you? A. It seemed to. Q. Could you hear whistling of the bullet? A. I cannot really remember exactly which

bullets in the course of this encounter struck stones around me.

Q. Having changed your position did you then approach the position somewhat more cautiously? A. I moved along the slope a short distance and then climbed the top again more cautiously.

Q. When you were in a position again to see over the top of the ridge did you see any men? A. I then saw some men below me. Q. Could you tell His Lordship how many you saw? A. I saw three. Q. And were they in a position by the olive tree which is shown in exhibit 8? A. That is correct; two were behind the olive tree shown in exh.8, standing below the terrace which is just visible at the olive tree, and the third close also, crouching down below the terrace wall a little bit further back about 2 - 3 yards away. (witness marks three crosses on exh.8 as the position of the three men)

Q. Could you give the Court the ~~distance~~ of the position which you had taken up from that olive tree? A. About 30 - 40 yards. Q. And you opened fire? A. I then opened fire. Q. On those three men? A. Of what I could see.

Q. Now of these three men that you saw there can you say whether they were all armed or some of them armed?

A. I saw a gun of some description with each one.

Q. Did you fire bursts on every occasion when it was practicable to do so? A. There was an interchange of fire and I fired when they showed themselves sufficiently. I changed my position from time to time.

Q. Did that interchange of fire continue from time to time until such time that you had used up all the ammunition in your magazines? A. I had used up all the ammunition in my two magazines and about 2 or 3 rounds of my revolver.

Q. During that part of the engagement can you tell His Lordship approximately how many rounds you fired, either sten gun or pistol? A. Approximately 40 rounds of sten-gun and two or three rounds of revolver.

Q. Can you give His Lordship an estimate of the number of rounds that were fired at you at that stage? A. No.

Q. Could you say more than a certain number, say 5 - 6, 10 - 12? A. I find it very difficult to account for all the shots.

COURT: Q. But in any case it was considerable number of shots? A. Oh yes.

Q. At that stage did it appear that you hit anybody?

A. It didn't appear that I hit anybody. Q. Well, having exhausted all your sten-gun ammunition what did you then do? A. I then went backwards the slope again down to the champ. I found my driver still breathing, lying in the same position. Q. Was he conscious? A. He was not.

I thought I could do nothing so I left him, I took his sten-gun and his two sten-gun magazines. Q. Were those magazines loaded? A. Yes. Q. Can you tell His Lordship the number of rounds in each magazine? A. 20 rounds.

Q. So that you were then armed to the extent of 40 rounds of sten-gun ammunition and some rounds of revolver ammunition? A. Yes. Q. What calibre is your revolver, .38?

A. Yes. Q. Now as you were going away from the champ for a certain time did you see a vehicle? A. I did. Q. Coming along the road? A. Coming down the hill going towards Nicosia. Q. And did you stop it? A. I stopped him. Q. And you spoke to the driver? A. I did. Q. What nationality was the driver? A. I assumed he was a Cypriot. Q. Do you speak either Turkish or Greek? A. No. Q. So that you spoke to the driver in English? A. I spoke more in gesture than language.

Q. Did he then drive on? A. He drove on. Q. In the direction of Nicosia? A. Yes. Q. So that stage you had in your possession your own sten-gun and also that of Cpl. Morun? A. That is true. I was holding both. Q. What did you do with your sten-gun and the empty magazines? A. The sten-gun I hid in a bush close to the road. Q. Did you hide it in the bush marked with a cross on exhibit 9? A. Yes, close to the cross on exh.9. Q. Why did you do that? A. In case the murderers got back to the champ and searched for weapons. Q. What about the empty magazines did you take them with you? A. I think they were left in the champ. I could not say whether they were still in my pocket. Q. How far away from the champ you hid the sten-gun? A. About 60 yards. Q. Did you then climb up the hill which is shown on exh.12? A. I did. Q. That is in fact the same hill as you were before? A. It is the same ridge but it is about 30 - 40 yards further away from the road. Q. And did you arrive at the position indicated by the figure on the horizon (on exh.12)? A. That is approximately correct. Q. Where would the road be? A. The road would be to the right and below the photographer on exh.12. Q. Will you look at exh.10, is that another view of the same hill which you climbed? A. That is correct; looking down from the position I reached. Looking down from approximately where the figure appears in exh.12. Q. Is that area very steep? A. Very steep. Q. Half way up did you pause? A. I paused to get my breath back. Q. Whilst you were getting your breath back did you hear any voices? A. I heard the sound of subdued voices from the other side of the ridge. Q. In exh.12 you would be over the ridge over the other side? A. Yes. Q. Did you hear the sound of people walking? A. I also heard the sound of movement - moving from my right to my left. Q. So that on exh.11 they would be going away from the camera? A. Yes. Q. When you reached the summit of that ridge were you able to see anything? A. Yes. Q. And were you able to see anyone? A. I saw a group of men walking in single file up the bottom of the gully which was to my left front. (witness marks four crosses on exh.11 to show the position of those men). There is no significance in the number 4 at this stage. (witness shown exh.12) I was looking at the top of the ridge and he was approximately in the position of the figure. Q. How many men did you see? A. At this particular stage I hesitate to say how many men I saw. As I saw them one of them turned round and saw me and they all ducked down immediately. Q. Did you open fire? A. I then got into a firing position and opened fire at what I could see. They actually opened fire before I was ready to do so. Q. When you say they, do you mean each and every one? A. It came from the group. Q. Was that fire again from automatic weapon? A. Yes it was.

COURT: Q. But again you could not see them, could you?
A. Only once again a little bit of them above the shoulder - occasionally the top of a head.

C.C.: Q. The shots were directed at you; did they appear to come close to you? A. Yes, they did.
Q. And did three men eventually put up their hands?
A. After interchange of fire; and they climbed up and out of the gully and I stopped firing. Q. When did they climb up? A. I shouted to them to climb up on to the position of the three men who appear on exhibit 11.
Q. You were speaking of course in English? A. Already one of them had been shouting in English telling me to "Stop firing". Q. Can you say which of them was who was speaking to you in English? A. It was the one I now know as Zakkos (accused 1). Q. Did you then move your position further forward in order to cover them? A. I did.
Q. And in order to do so did you expose yourself considerably more than you had been on the previous occasion?
A. I exposed myself fully to the position which the three men had come. Q. And were you again fired on?
A. As I did so there was then a long burst from a man in the gully from which they had just come. Q. Did you see that man? A. I did when he opened fire. Q. I think it was right that you reopened fire on all four? A. I did.
Q. At what stage or for what reason did you then cease fire? A. I went on firing mainly at the fourth man in the gully until I thought I had no ammunition left in my two magazines. Q. Did that man to whom you had referred as the fourth man then put up his hand? A. He did.
Q. And did he shout to you not to shoot? A. He started shouting out "Wait, don't shoot" in English. Q. Did he appear to have a weapon in his possession? A. He got up so that I could see his head and shoulder and put his hand up holding a sten-gun in one hand. Q. Did he appear to be injured? A. He had blood on his face and on his empty hand. Q. How far away from you was he then?
A. I think it was about 40 - 50 yards. Q. The other three?
A. They were a bit nearer, probably 30 - 40 yards.
Q. And did you tell him to try and throw his gun away and go and join the others on the slope? A. I did.
Q. Did he do so? A. No.

Time: 12:45 p.m. Court adjourned to 2:15 p.m.

Resumed at 2:15 p.m.

Appearances as before.

X-tion-in-chief by C.C. continued:

Q. Did you then shout to the first accused to tell him to tell the fourth man to throw his weapon away? A. I did. I told him (accused 1) to tell the fourth man to throw his weapon away and come out and join them.
Q. Did the first accused then appear to pass that message on? A. He appeared. Q. And what did the fourth man do?
A. The fourth man appeared to be struggling up from his position at the same time shouting "Wait, wait", but he still did not get out of the gully. Q. And did you then say that you would count 10 and if he was not out by the end of that time, you would shoot again? A. That is correct.

Q. Did you then start counting loudly and slowly? A. Yes.
Q. On that occasion you were talking to the fourth man were you? A. Yes, who seemed to understand English.
Q. Did you complete the count of 10 slowly and aloud? A. Yes, and as I was counting he was saying "Wait, I am getting out" or words to that effect. Q. And did he eventually struggle out of the gully? A. I counted 10 and at the end I still didn't shoot because I did not have much ammunition left and I gave him a few more minutes, during which time he was still moving about but he didn't actually get out of his position.

COURT: Could you see him all that time? A. I could see him about waist high. He could have been an easy target.

C.C.: Q. And then? A. Eventually he struggled up, he got out of the gully, but instead of making towards the other three he started scrambling up the top of the ridge immediately behind him towards the top of the ridge. Q. When you say immediately behind him you mean immediately to the back? A. Yes. Q. That was from your right to your left? A. It was more or less directly away from me, but to the top of the ridge immediately above the man on the left on exhibit 11.

Q. Did you fire at him? A. I fired three shots of my revolver at him. Q. Did it appear to hit him? A. All I could say is that he stumbled and fell but picked himself up and stumbled over the top of the ridge and disappeared from my view. Q. You I think if I might use the expression, stayed put. A. I did.

Q. What would be the approximate time then? A. I looked at my watch and it was 12:40 p.m.

Q. Now after this man had disappeared over the top of the ridge did you again re-direct your attention to the three men opposite? A. I did. Q. I would like to take them from left to right, the one on the extreme left what was his position? A. The one on the left after I had shot him he had fallen down and rolled over on his face and lay still. That is the left hand one as we see it on the photograph exhibit 11.

Q. At what point was that? A. That is when I shot at the fourth, they were standing at that point and after I shot the fourth all of them fell down. Q. When you shot at them they ducked down you mean? A. Well I thought they had been shot. I now understand that that left man who fell on the ground and rolled over to his face was accused 2.

Q. The one in the centre? A. The one in the centre lay on his back and appeared slightly wounded.

Q. And is that the one which you now understand to be accused 1 Zakkos? A. Yes. I recognize him to be first accused. Q. And now as to the one on the right who has been referred to in this case as one Mouskos, what was he doing? A. He was lying on his back twisting from side to side and groaning. As he twisted from side to side he gradually slipped down the slope. Q. Would that be away from you or towards you? A. Towards me.

Q. In fact on exhibit 11 he slipped down the slope towards the gully? A. Yes. Q. Now did the first accused make any complaint? A. The first accused then complained that I had shot them.

COURT: He was speaking English was he? A. Yes.

Q. Do you remember exactly what he said? A. To the best of my memory he said: "Why did you shot" or "Why did you shoot us, we had surrendered", or words to that effect.

Q. What was your answer? A. I just pointed out who had shot first.

Q. Did he reply to that? A. Well his next complaint was that he and his friend were wounded and another friend dead and that I must get help for them quickly.

Q. When you pointed out that they had shot first to what particular burst of fire were you referring?

A. I was referring to the burst of machine-gun fire directed at me after they appeared to have surrendered.

Q. What else did you say to them? A. I pointed out that my driver had been killed and that help would depend on his compatriots. I was referring then to the timber lorry. I then congratulated on his English and asked him where he had come from. He told me that he had worked in the drawing office of the Cyprus Mines Corporation, but that he had run away because the police had wanted him. I asked him his name, he said his name was Zakkos. I asked him why he was fighting us, he said he was fighting for his freedom. I told him freedom was never won by murder and that the British army was fighting to preserve freedom. I pointed out that in 1941 and again in 1945 British soldiers had fought and died in Greece in order to help preserve the freedom of Greece. I said that in 1945 we helped to fight E.I.A.S. in the same way as we were fighting E.O.K.A. to-day. I told him that if it hadn't been for British arms and help Greece to-day would be a communist satellite country. He made no particular answer to these remarks.

Q. Now Major Coombe, I believe that during the course of this conversation several vehicles went past on the road but you were unable to stop them. A. Correct. Civilian vehicles.

Q. At approximately 1:10 p.m. did you hear a land rover? A. I did.

Q. And did you observe it approaching you from the direction of Nicosia? A. I did.

Q. And did you eventually succeed in stopping that vehicle? A. I did.

Q. I think you stayed up on the ridge.

A. I ran along the ridge and was on top of the hill until I could see the road clearly. This is when I heard the land rover approaching, trying to attract attention.

Q. And after you had a conversation with the driver did he turn back in the direction where he had come? A. He did.

Q. He turned back in the direction of Nicosia? A. Yes. I tried to indicate to go to Xeros and he appeared to have understood and turned back in the direction of Xeros.

Q. When you returned to your original covering position where did you find the third man Mouskos? A. The third man whom I now know to be Mouskos, by this time had just about slipped down into the gully.

Q. I believe that at that time you were under the impression that you had no ammunition left at all. A. That is true.

Q. But I think you found subsequently that you had in fact a few rounds left in your sten magazine. A. That is so.

TO COURT: In one of the sten magazines.

Q. I think then you were in a position and you could keep all three in view. A. The first one was dead as far as I could judge.

Q. You stayed looking at one another and waiting? A. I was looking for something to turn up.

Q. At 1:30 did a party of the First Gordon Highlanders patrol arrive? A. Yes, from the direction of Nicosia.

Q. Was that party accompanied by police officers? A. It was. Q. And it was under the command of Lieut. Simpson whom you now see in Court? A. It was.

Q. Did you give him orders to place sentry for the three men? A. Yes; I pointed out the three men to Lieut. Simpson and in fact he placed a guard on them. Q. Did you take any action with regard to the fourth man who disappeared? A. I told Simpson to bring a party immediately and I went with them where I had last seen the fourth man and I went with them in search for him but we didn't find him.

Q. As a matter of interest, did you find any blood trail? A. I thought I was on a blood trail at one time but it turned out to be red soil on some stone and I don't think that I can say that I found any signs of the trail.

Q. Did you then return to the position in which this engagement took place? A. I did. I returned to the area where the three men were. Q. And did you then point out to the police the various positions in which you had seen the accused and their companions? A. Yes. I pointed out to the police the positions where I had seen the gang.

Q. Some little time later did a larger party of military and police arrive? A. They did. Q. And did you explain to them what had happened? A. I did. Q. And did you join in an intensive search for the fourth man? A. I did.

Q. But without result? A. Without result. Q. Did you then return once more to the scene of this engagement?

A. Yes. Q. And did you pick up some empty cartridge cases? A. I did yes.

COURT: Q. At the place where you had been firing or where they had been firing? A. At the olive tree from the vicinity of which they had been firing.

Q. And did you hand them to a police officer whom you now know to be Sgt. Savvides? A. I did, yes.

Q. And that is the police officer? A. Yes. (P.S.313 Michael Savvides identified)

Q. What can you tell His Lordship with regard to the weapons with which you were fired on? A. I had no time on the site to handle or pick up any weapons which the men had been handling.

Q. Are you able to associate either of these accused with any particular weapon? A. No. Q. Did you subsequently examine the vehicle in which you had been driving - the champ? A. I did. Q. Would you tell His Lordship what you found? A. I found three bullet holes, one in the centre of the windscreen on the passenger side, one just below the windscreen on the passenger side and one through the top of the body. Q. With regard to the one in the wind-

screen would that have been approximately opposite the position in which your Corporal's head would have been? A. Yes. Q. On the 28th December last did you go to the vicinity of this engagement and indicate to surveyor who was there various positions on the ground? A. I did.

Q. Is that the surveyor Kyriacos Papadopoulos? A. I believe so. Q. Later on the same day did you go to Xeros Police station? A. I did. Q. And were you there shown a number of photographs of men wanted by the police with prices on their head. A. A poster of a number of pictures of wanted men.

Q. And were you there shown a number of photographs of men wanted by the police with prices on their head. A. A poster of a number of pictures of wanted men.

EXH.18. Q. Will you have a look at this poster. A. This is similar to the poster I saw. (Put in marked exhibit 18)

Q. Was there any man among that lot whom you think you could identify? A. There is one man who got a resemblance to the fourth man who got away. Q. Is that photograph named "Dracos"? A. The photograph is named Dracos.

Q. Perhaps you would be good enough to indicate to His Lordship. A. (Witness indicates).

Q. You said that you saw a man lying on the ground with his face down. Would you say whether you could identify that person to be accused 3? A. He was lying with face on the ground. Q. But when the troops had arrived were you with them? A. After the troops arrived I didn't bother to go near them. Q. And so do you say that you could not identify accused 2 as one of the three men ~~y~~ ~~a~~ had been talking about? A. I could not identify.

Q. When the troops arrived you did not go near them? A. No.

XXN. BY PAVLIDES:

Q. In answer to a question of my learned friend you said that you would not in fact associate either of the accused with any particular weapon from the weapons which were fired at you on that day. A. That is so. Q. Would I be right to suggest that you cannot identify either of them with any weapon at all? A. Beyond the fact that at one stage I saw three men each with a weapon, I cannot associate accused 1 or two with any particular weapons. Q. Or with any weapon at all. A. Or with any weapon at all. Q. And when you speak of a stage at which you saw three men with weapons you refer to the time when you saw three men near the olive tree. A. Yes - that is to say the first assault. Q. And were the weapons which you say that you saw in the hands of these three persons near the olive tree sten guns or similar guns?

A. All I saw was the barrels of the weapons sticking out and I could not say whether they were automatic weapons or sten-guns. Q. Long barrels? A. Not necessarily long barrels but at least two of them were barrels sticking out. Q. Of rifles? A. I would like to explain that these men were behind cover; I could see a shoulder or a head for a time .. Q. Could it possibly have been a rifle? A. It could possibly have been a rifle.

COURT: It could all be rifles? A. A revolver could be one of the weapons.

PAVLIDES: Q. You said that at 1:30 a party of the 1st Battalion Gordon Highlanders and police arrived; could you give approximately how many policemen and military there were? A. Approximately 10 men or so. Q. Including policemen? A. Two policemen and military party of some 8 - 10, but I did not see them all at once.

Q. And soon after another party arrived of how many? A. Again I cannot give figures; I would say probably about 30 men. Q. And they all started searching about? A. That is so.

Q. With the object of discovering guns about or ammunition connected with the skirmish? A. Any more evidence: guns, ammunition and the fourth escaped member. The main effort was in looking for the fourth man.

Q. About this conversation which you had with accused 1 do you remember that when you told him that your driver was dead he said "I am sorry"? A. I don't remember him saying. Q. Would you exclude it or you just don't remember? A. I just don't remember. Q. And do you remember when you congratulated him on his English that he told you "Sir, I admire your bravery - I congratulate you on your bravery"? A. Accused 1 did not congratulate me on my bravery. Q. But I think that the last point of conversation which you have related in this Court was that had it not been for the British help Greece would have been another communist satellite country. But I think the conversation still went on and it was sort of desultory sort of conversation just to pass the time waiting for what you thought coming help. A. That is so.

Q. The three men, I am referring to your second ascent now, when these three men among whom you think second accused is believed to be one, and accused 1 and Mouskos came out of the gully holding nothing in their hands?

A. Yes, holding nothing in their hands. Q. And they had proceeded far away up the slope before a burst of fire came from another person inside the gully? A. That is so. Q. Would it be correct to say that until that time you were not aware of the presence of the fourth man?

A. That is so. Q. At one time this fourth man, part of his body appeared with his hand up and was he holding a sten-gun with his hand up? A. Yes. It looked to me to be a sten-gun with a magazine. Q. And whilst parleying with the fourth man you have described, these three men who had come out of the gully stood there where they went after you asked them to go up the gully. A. By the time I was parleying with the fourth man these three men were down on the ground, I had shot them. Just to get the sequence right: Three men came out, I moved forward to cover them, the fourth man then shot at me, I then shot at all four and put, what I thought the rest of my ammunition, at the fourth. The three men were on the ground at the time I had the parley with the fourth man.

Q. But at the time you received the shot from the fourth man in the gully and you answered the shot by firing at all the people in front of you, the fourth man was in the gully and the three men stood right away in the open position in which they went with their hands raised up.

A. Yes. Q. What distance from the man in the gully?

A. 10 - 15 yards. Q. But before you fired those shots the three men were standing up in the open. A. When they were trying to surrender they were standing in the open.

Q. But before you had actually fired at them, fourth man was in the gully and the three men were in the open where they were. A. That is correct - purported to have surrendered. Q. The three men had moved out of the gully onto the ridge as depicted in photographs 11 and 14.

A. That is so.

MARKIDES: I adopt the cross-examination of my learned friend Mr. Pavlides and I have no further questions to ask.

COURT: Mr. Markides, am I to understand that you do not dispute that your client was one of the three men?

MARKIDES: That is so.

COURT (To witness) Q. You said that you saw when they were at the olive tree 30 - 40 yards away, a gun of some description with each one of the three men. A. Yes. Q. You are not in a position to say that the fourth man who got away was one of the three men you had seen? A. I could not identify individually at the olive tree - I could not say. Q. Did you see anything that could indicate that one of the three or four men you saw was there accidentally and not one of the party? A. I would say that everything pointed to the opposite fact, because at every instance they were in close communion with each other and at the time of my first ascent which was about 20 minutes past 12 and my second ascent which was about 10 or so minutes later, they were still in close communion with each other, the three or four men, and as I heard conversations in the interim period, my firm impression was that this gang was working closely together from start to the finish.

CROWN COUNSEL: The next witness is Dr. Comerford and notice has been given.

P.W.4 MICHAEL BRIAN COMERFORD. Sworn on the Bible, states in English.

Xn. by C.C.: Q. Your full name is Michael Brian Comerford? A. Yes. Q. And are you a Bachelor of Medicine? A. Yes. Q. And a bachelor of surgery? A. Yes. Q. And a doctor of obstetrics? A. I hold a diploma of the Royal College of Obstetricians and Gynaecology. Q. Holding an appointment as Assistant Medical Officer at the Cyprus Mines Corporation's hospital at Pendayia? A. Yes. Q. On the 15th December last was a British soldier admitted to your hospital at approximately 2 p.m.? A. Yes he was. Q. From information you received and from documents recovered on the body of the soldier are you now aware of his identity as that of I/Cpl. J.B. Morun? A. Yes, I am. Q. What was his condition when he was admitted? A. He was unconscious and seriously ill. Q. From what cause? A. He was suffering from a through and through wound of the skull with extravasation of brain from both wounds. Q. Would you indicate to His Lordship on this police officer the entrance wound? A. Both the entry and exit wounds were close together and they were approximately in this position (shows on top of head). Q. And did the patient recover or not? A. The patient died two hours after he was admitted to hospital. Q. In your presence? A. In my presence. Q. On that same day at approximately 3 p.m. did you in the same hospital receive the corpse of a man who had been killed by a wound on the left part of the chest? A. Yes.

Q. And was that a man who was identified to you by the police as one Haralambos Mouskos? A. Yes, he was.
Q. On the same day did you also take in another patient at approximately 3 p.m.? A. Yes. Q. Was he a man who was identified to you as one Andreas Zakkos? A. Yes, he was.
Q. And do you see him here to-day? A. Yes, he is. Accused No.1 is the man. Q. Did you examine him? A. I did.
Q. Did you find he was wounded? A. He was wounded in the chest and in the scalp. Q. I think I am right in saying that there was in fact no fracture of the skull. A. No fracture. Q. What did you see? A. There were two wounds in the chest, one wound was in the left axilla exactly five inches below the armpit, and the second wound was 1½ inches on the medial side (towards the centre) of the left nipple. Q. Was there any injury to the lung? A. There appeared no injury to the lung at that time. The patient was subsequently transferred on the following day to the Nicosia General Hospital and as to his subsequent convalescence I have no knowledge. While under my care the chest was X-rayed and no damage to the lung was seen and no metallic foreign body, for example a bullet, was seen. There was however a very small collection of fluid at the left pleuro-coastal angle. Q. Is that above the lung? A. It is the lining of the chest inside the ribs. It would appear that this was blood from the pleural lining of the chest wall due to the injuries sustained. There was also a fracture of the left 7th rib. From these clinical details it appeared that the bullet had entered the left axilla, hit the 7th rib and the bullet diverted to emerge from the front of the chest.
Q. Would you describe either or both of these wounds as superficial, serious or dangerous? A. I would say that they would come in the serious category, in so far as the chest was concerned; and superficial in so far as the scalp.
Q. Were the injuries to all three of these men consistent with having been caused by a .9 m.m. bullet?
A. I would say they were compatible with having been caused by bullets, but I could not say the size of the bullet.

XXn. by PAVLIDES: Q. The medical report Dr. Comerford, gave me an indication that there was only one wound on the left chest; through and through must be two wounds. Do you mean one entry and one exit? A. Yes.
Q. But it could be caused by just one bullet, one entry and one exit hole on the body. A. That is correct. When I speak of a through and through wound I mean a wound of entry and a wound of exit. Q. But then together taken amounts to two wounds. A. Yes.

XXn. by MARKIDES: Nil.

RXN. By C.C.: Nil.

P.W. ⁵ ADIL SULEYMAN. Sworn on the Koran, states in Turkish.

Xn. by C.C.: Q. Your name is Adil Suleyman and you live at Vroishia. A. Yes. Q. And are you a lorry driver by profession? A. Yes. Q. You remember the 15th December last year? A. Yes. Q. On the morning of that day were you driving your lorry from Vroishia to Xeros? A. Yes. Q. You remember arriving at the locality of Mersinadjaf Galini? A. Yes. Q. When you were on the 37/38th milestone did you see an English soldier running down a hill? A. Yes. Q. Is that the road which goes from Nicosia to Pyrgos? A. Yes. Q. Now is that the person you saw running down the hill? A. I cannot identify him; on that day he was in battle-dress. Q. What language did he speak to you? A. English. Q. About what time could it be? A. About 12:30. Q. Did you understand what was said to you? A. I did not know English and I did not understand what he said, but as I saw him coming down the hill hurriedly I understood something must have happened and I stopped. Q. Did you see an army vehicle by the side of the road? A. I saw a jeep in the ditch. Q. Did you look inside the jeep? A. Yes. Q. Did you see anything in that? A. A soldier. Q. What was the soldier doing so far as you could tell? A. He was lying in the jeep. Q. In the front seat or back seat? A. Front seat. Q. Driver's seat or the other one? A. The other seat, next to driver's. Q. Did you notice anything strange about this man? A. He was lying on his face in the jeep motionless. Q. When you left the scene where did you go to? A. to Xeros. Q. Whereabouts in Xeros? A. To the police station. Q. Did you make a report to a police officer? A. Yes. Q. Is this the officer you made a report to? A. Yes. (Sgt. M. Savvides).

XXn. by Pavlides: Nil.

XXn. by Markides; Nil.

COURT: Q. Which way were you going at the time, towards Pyrgos or towards Nicosia? A. I was on my way to Xeros from Vroishia. Q. Is that in the direction of Nicosia? A. Yes. Q. This jeep was near a bridge was it not? A. Yes.

C.C.: My Lord, I shall now call Lieut. Simpson. he is a new witness and notice has been served on the defence.

P.W. 6. BRIAN MILES MACRAE SIMPSON. Sworn on the Bible, states in English.

Xn. by C.C.: Q. Your full name is Brian Miles Macrae Simpson and your number is 443562? A. Yes. Q. What is your rank? A. 2nd Lieutenant. Q. Which regiment? A. Gordon Highlanders. Q. Are you a regular soldier? A. Yes. Q. And are you stationed at Aberdeen Camp at Xeros? A. Yes. Q. At approximately 1 o'clock on the afternoon of the 15th December last did you receive certain instructions from the Adjutant of the unit? A. Yes. Q. As a result did you proceed along the main road from Xeros in the direction of Pomos? A. Yes. Q. And did you come to a small bridge between the 37/38th milestone? A. Yes.

Q. Is that the bridge which is portrayed in exhibits 1, 2, 3 and 4? A. Yes. Q. Now what transport did you take with you? A. I took with me two champs and an ambulance.

Q. What personnel did you have with you? A. I had a driver in each champ, I think it was two escorts in each champ and the driver of the ambulance, and a corporal (a medical orderly) as escort in the ambulance. Q. That adds up to nine military personnel including yourself? A. That is correct. In addition there were two police officers. Q. Would you recognize the police officers if you saw them again? A. I think so yes.

(witness identifies P.C. 540 M. Antoniou and P.S. Savvides.)

Q. Did you arrive at that bridge at approximately 1:15 p.m.?

A. Yes. Q. When you got there did you find a military vehicle parked in the ditch by the side of the road just beyond the bridge? A. Yes. Q. In the same position as the vehicle in exhibit 6 is parked? A. Yes. Q. That was facing towards Pyrgos? A. Yes. Q. That is away from Nicosia? A. Yes.

Q. Did you see a L/Cpl. in the vehicle? A. I didn't know at the time it was a L/Cpl. Well I saw a soldier.

Q. Was he lying across the front seat in a prone position with his head towards the steering wheel? A. Yes.

Q. Was he conscious or unconscious? A. He was unconscious.

Q. Did you notice any injury? A. No, I did not stop to see his injuries. Q. Did you have other personnel who acted as escort to go up the hill on the right hand side of the hill?

A. Yes. Q. That is the same side as the vehicle was? A. Yes.

Q. In the direction portrayed in exhibit 7? A. Yes, we came up this way (shows on exhibit) in the direction shown by the dotted line on exh.7. Q. When you reached the top of that ridge did you then meet the officer now known to you as Major Coombe? A. Yes. (witness identifies Mj. Coombe).

Q. As a result of something which he told you did you go to a place where three men were lying? A. Yes. Q. Were they lying approximately in the position shown by the three police officers on the right hand side of exhibit 11?

A. Two were approximately in the position where those 3 men are now and one was down in the gully. Q. Was a man who was down in the gully moaning? A. Yes he was.

Q. And was that a man whose name you now know to be Mouskos? A. Yes he was. Q. Did you post two soldiers to act as guards over these men? A. Yes I did. Q. And did you, Mj. Coombe and the rest of the personnel and party then proceed to search the area over the ridge which is shown in exh.11 - beyond the area where the single person appears? A. Yes.

Q. Would it be right to say that you went to search for weapons? A. Yes. Q. Did you in the hearing and presence of accused tell the guards to keep any weapons which they found? A. Yes. Q. Were the two sentries which you posted Pte. Marr and Gray? A. Yes. Q. How far beyond the ridge which is shown in exhibit 11 did you and your party penetrate?

A. Some 7 -800 yards beyond the place where that single figure appears. Q. Did you find anyone? A. We saw a man riding a donkey. Q. Did you go up to him? A. We called out to him to stop but he turned the donkey round and rode away.

Q. Did you do anything about that? A. We called at him to stop and opened fire but he got away.

Q. Do you now know Major Neish? A. Yes. Q. Did you later see him? A. Yes. Q. Was he officer commanding a second and larger detachment which arrived there? A. Yes. Q. Did he also search the area with his detachment? A. Yes. Q. And as a matter of fact I think that throughout that day you were unsuccessful in tracing any other wounded man. A. Yes.

XXn. by Pavlides: Nil.

XXn. by Markides: Nil.

P.W. 7. RONALD PAYNE. Sworn on the Bible, states in English.

Xn. by C.C.: Q. Your name is Ronald Payne and you are a driver in the R.A.M.C.? A. Yes. Q. You are stationed where? A. Now Famagusta. Q. On the 15th December last were you stationed at Aberdeen Camp Xeros? A. Yes. Q. Were you on that day driver of the unit ambulance? A. Yes. Q. At approximately 1:30 p.m. did you go together with the police, Sgt. Savvides and P.C. Michael Antoniou in the ambulance from Xeros and stop at a point some three miles to the west of Xeros? A. Yes. Q. On which road? A. I think the road to Pyrgos. Q. Does this photograph show you the place where you stopped? A. Close to the place shown on exhibit 1. Q. When you arrived did you see a champ drawn up under the shelter of a hill? A. Yes. Q. Would it be somewhere here shown on exh.6? A. Yes, exh.6 shown the position of the champ. Q. Did you see a soldier in that champ? A. Yes. Q. Did you hand over that soldier whom you saw in the champ to Dr. Comerford? A. I put the soldier in the ambulance as he was wounded and took him to the C.M.C. hospital at Pendayia to Dr. Comerford. Q. Did you then return to the spot? A. Yes. Q. And were you led to a place in the vicinity of where you had seen the champ before, and did you there find another man? A. Yes, I found two men, one of them was dead and the other was wounded. Q. Can you identify the wounded man? A. He is accused 1. Q. Do you now know the dead man's name? A. I now know that the name of the dead man was Mouskos. Q. In the afternoon of the 16th December, 1955 did you remove Zakkos from the hospital at Xeros and hand him over to the British Military Hospital, Nicosia? A. Yes.

XXn. by Pavlides: Nil.

XXn. by Markides: Nil.

Court adjourned till 24th February, at 9:30 a.m.

24th February, 1956 - 9:30 a.m.

Court and appearances as before.

P.W. 8. HUGH WILLIAMS BEVAN MACKINTOSH. Sworn on the Bible, states in English.

Xn. by C.C.: Q. Your full name is Hugh Williams Bevan Mackintosh.
A. Yes. Q. Are you a Captain of the Royal Engineers? A. Yes.
Q. On the date in question - 15th December last - was there a L/Cpl. James Brian Morun serving under your command?
A. There was. Q. Was his regimental number 23072891? A. That is correct. Q. And was he a National Service soldier of British nationality? A. Yes he was. Q. I think that his date of birth was the 26th April, 1935. A. That is correct.
Q. On the 16th December last were you shown his dead body in the B.M.H. Nicosia? A. I was. Q. And in her presence did you identify that body to Major Mary Munro of the R.A.M.C.
A. Yes. (witness identifies Major Munro).

XXn. by Pavlides: Nil.

XXn. by Markides: Nil.

COURT: Q. What date was it when you identified the body?
A. 16th December.

P.W. 9. MARY MACKENZIE MUNRO. Sworn on the Bible, states in English.

Xn. by C.C.: Q. Your full name is Mary Mackenzie Munro and are you a Major in the R.A.M.C.? A. I am. Q. A Bachelor of Medicine, a Bachelor of Surgery and Senior Specialist in pathology? A. Yes. Q. On the 16th December last did you conduct an autopsy by the order of the Coroner on the body of a young soldier? A. I did. Q. Was that the body which was identified to you by the last witness Capt. Mackenzie?
A. It was. Q. As the body of one Cpl. James Brian Morun, a Lance Corporal? A. Yes. Q. Was the appearance of the body compatible with his being of about 20 years of age?
A. It was. Q. Did you examine him and find that he had two wounds in the skull, entry and exit? A. I did. Q. And was the result of these two wounds such that it had caused a large fracture of the skull? A. It was. Q. A section of the bone from the top of the skull had to be removed?
A. Yes. Q. Was there widespread haemorrhage inside the skull and smaller haemorrhages throughout the brain? A. Yes. Q. In the area beneath the fracture was there both damage to the brain itself? A. The brain was completely lacerated and destroyed. Q. Were you able Major Munro to form any opinion as to the probable cause of that fracture? A. It was consistent with having been caused by a bullet.
Q. To what do you ascribe the death of this young soldier?
A. Cause of death in my opinion was due to a gun shot wound on the head causing fracture of the skull, intracranial haemorrhage and laceration of the brain. Q. Apart from one small abnormality would you describe the body as that of a normal healthy young man? A. I would.

XXn. by Pavlides: Nil.

XXn. by Markides: Nil.

COURT: Q. What actually caused his death - loss of blood?
A. In this case it was generalized damage to the brain which affected the vital centres. The damage to the brain in this case was quite marked. Q. And that damage to the brain affecting vital centres would of itself cause death? A. Yes.

Recalled - P.W. 3. BRIAN JACKSON COOMBE. Reminded of his oath.

Xn. by C.C.: Q. On the 28th December last did you proceed to the locus in quo of which we were talking yesterday? A. Yes.
Q. Together with a clerk of the Land Registry? A. Yes.
Q. And certain police officers, Cpl. Buchan and Major Neish? A. Yes. Q. Now you have the plan before you. A. Yes. Q. And exhibit 17 is also before you and also exhibit 16 which are the key of distances and the key to the plan. Did you point out to the L.R.O. certain points? A. I did.
Q. Do you see point 1, what is that? A. Point 1 is the position of the vehicle when we were first fired on.
Q. To the left of that - point 2? A. It appears to be where the champ came to rest as far as I can tell.
Point 17 is the bridge..
Point 3 is the position where I first went up the top of the ridge.
Q. Point 4? A. Point 4 was the position where I opened fire.
Q. You opened fire on men whom you saw in the area at point 5? A. Yes.
Q. Point 6? A. Point 6 is the approximate position of the timber lorry when I stopped it. At that time I had two sten guns in my hand.
Q. Point 7? A. Point 7 is the bush in which I hid my sten gun. Point 8 is my first position where I returned after hiding my sten gun.
Point 9 is the point to which I moved from point 8. It was from point 9 that I did the shooting and surrender order took place. I crawled forward from point 9 at a distance of 2 - 3 yards over the top of the slope.
Q. That was in order to have a better view? A. In order to have a better view of the three men on the hill side.
Q. Were they in the positions which are indicated by points 10, 11 and 12? A. I think that is those positions. And it was then that the final burst of fire came from down the gully.
Q. Could you say what point 13 is? A. Point 13 is the position from which the fourth man fired at me.
Point 14 is position on top of the ridge beyond which the fourth man disappeared.
Points 16, 19, 20 and 32 are at about the place from which the fire appeared first to come. Q. Is that the position which is shown in exhibit 4? A. I believe so.

XXn. Nil.

COURT: Q. Could you tell me the approximate time that the first fire occurred to the time the first party of police and troops appeared? A. It was approximately 12:15 when I was first fired on when I was in the vehicle, and the first party of troops and police appeared at 1:30 p.m.

Q. During that time apart from the four persons about whom you told us did you see any other people in the locality off the road? A. I was keeping a very careful look-out to see if there were anybody and I changed positions to have a better view; at no time did I see any one in the immediate vicinity. Q. Did you see anybody in the far off? A. I saw some people at the top of the hill about a mile away. They were very small figures - they might have been shepherds - in the distance to the north of point 9. I took those figures to be shepherds. I cannot recall whether I saw animals.

Q. But no people off the road moving in this area? A. No people in the area of the action.

Q. After those three men came out on the hill side, you went off I think to the road to stop a land rover? A. I didn't go down to the road, I shouted to him from this point and gesticulated. There were two occasions when the three men who had come out at the ridge to surrender, were out of my observation. The first, was when I began to go back to the camp in order to see whether I could do anything for the driver. I went part of the way and then returned, lest those men might get away, so I returned to approximately the position point 9. They were out of my view on that occasion for about half a minute. The three men were still approximately in the position where I had last seen them.

The second occasion was when I went along the ridge in order to call out to the land rover. They were out of view on that occasion for at the most 2 or 3 minutes. When I returned they were still approximately where they were when I left.

Q. Would either of those occasions give time to either of those men to go away and another one to join the group without you knowing it? A. No.

XXn. by Pavlides: Q. On those two occasions when you lost sight of them, on both occasions it was after they had been wounded? A. That is so. Q. Zakkos was actually wounded on the spot and Mouskos was moving slowly downwards? A. Yes. Q. When you said you saw some figures in the distance whom you took to be shepherds, did you also see some animals? A. I am not sure that I saw animals.

Pavlides: My learned friend will continue to put a number of questions.

COURT: Very well.

XXn. by Clerides: Q. Would you be kind enough to look at the exhibit the plan. You climbed up the first time and that is point 4 the ridge. A. Point 3 and then point 4. Q. Would you say at the olive tree, point 5, you saw the people? A. Yes. Q. Behind that olive tree you remember there was a ridge lower than you were on. A. Yes. Would you give an estimation from the olive tree to the next ridge? A. About 40 - 50 yards. Q. Did you get a chance to go as far as that ridge or behind that ridge. A. I did not go to that ridge. Q. At that time you were keeping a look-out for the people there and the only people you perceived at the time were the three people under the olive tree. A. That is so. Q. Despite the fact that you perceived only three people could there have been more people under cover at that time? A. There could well have been more people under cover at that time.

Q. You then moved from point 4 you climbed down again to the position where you left your champ. A. That is so.
Q. After doing certain things we know that you went to point 8 and then point 9. A. That is so. Q. Could you give us how much time passed between your starting to climb down from point 4 and reaching again point 8? A. I should say I started to climb down from point 4 at approximately 12:25 p.m. Whilst I was down there approximately 3 - 4 minutes afterwards, there was still firing from point 5 although I was not in their view any longer. I would say that it was about 12:32 p.m. when I returned to point 8. Q. From the time you came down from point 4 to your second ascent including the time you took to hide your sten gun it was between 7 - 10 minutes? A. Yes. It would not have been more than 10 minutes that I was away.
witness adds: It was about two minutes before I reached point 8 that I heard the voices on the other side.

XXn. by Markides: Nil.

P.W. 10. GEORGE MILTON BARNETT. Sworn on the Bible, states in English

Xn. by C.C.: Q. Your full name is George Milton Barnett and are you an American citizen by birth? A. Yes. Q. Are you an official of the C.M.C. at Xeros? A. Yes. Q. Do you know as an employer a man named Charilaos Michael (accused 2)? A. Yes, it is accused 2. Q. According to the Corporation's records have you ascertained that he first entered into the employment of the Corporation on the 4th January, 1954? A. Yes. Q. And that he remained in that employment until the 17th November, 1955? A. I think that is the date. Q. On or about that date did he fail to report for work? A. Yes, either the 16th or the 17th he failed to report for work. Q. And having been absent without sick leave was he discharged by the Corporation from his employment? A. Yes. Q. And he has not returned to his work since then? A. He has not.

XXn. by Pavlides: Nil.

XXn. by Markides: Q. What was the kind of work accused 2 was engaged on? A. He was assistant operator in the grinding and flotation plant. Q. That was a manual work - it was not a clerical work. A. Manual work. Q. And where is this plant? A. At Xeros. Q. The job of accused 2 was to handle sand ore and to remove or join pipes? A. Among other things, yes.

RXn. Nil.

P.W. 11. NOEL PHILLIPS. Sworn on the Bible, states in English.

Xn. by C.C.: Q. Your name is Noel Phillips. A. Yes.

Q. Are you the Chief Draughtsman of the CMC? A. Yes.

Q. Do you a man named Andreas Zakkos? A. I do. Q. On the 15th November last was he at that time in the employment of the Corporation? A. He was. Q. Did he on that occasion ask for the following day off? A. He did. Q. On the 17th November did he return to the Corporation? A. He did. Q. And did he inform you of his intention to leave his employment with the Corporation as he was going to work for the armed services in Nicosia? A. Yes. Q. And then he gave as his reason for leaving his duties to gain experience of another type of building work? A. Yes.

XXn. by Pavlides: Q. In fact you knew that the Cyprus District British Forces in Nicosia were looking out for draughtsmen?

A. I did not know that. Q. Didn't accused point out to you an advertisement in the paper? A. I do not remember.

Q. Do you remember whether he mentioned to you or showed to you an advertisement? A. I don't remember.

Q. Your company encourages sporting activities of its employees? A. Yes. Q. And in fact it publishes what is known as the C.M.C. Welfare News, a newspaper. A. Yes.

Q. And do you know Zakkos was very prominent in these activities - he was taking great interest? A. I don't know if he was; he may have been. Q. Now is this a copy of the C.M.C. Welfare News dated 9th Oct. 1954? A. Yes.

Ex.E. (Put in marked "E".)

Q. Are you aware of the fact or practice that the military authorities are rather disinclined to accept employment from persons employed by your company unless you company does release the person? A. I don't know that fact.

Q. Do you know one employee Oval Hussein Avni in your company? A. Yes. Q. Do you remember him wanting to join the Electricity Authority in Nicosia and that he was told that he was only accepted if he produced a certificate from the C.M.C.? A. He left the C.M.C. some time ago but I don't recall the circumstances. Q. You don't know the circumstances that the Electricity Authority would not take him as a matter of courtesy unless your company would give him a certificate stating he has been discharged from your service? A. I don't know that. Q. Would you expect them to do that? A. I hardly think so. Q. You don't remember the sort of courtesy exchanged between the company and other authorities in Cyprus? A. No.

XXn. by Markides: Q. I understand accused 1 was a draughtsman in your department, that is at Skouriotissa. A. Yes.

Q. Would it be right to say the distance between Skouriotissa and Xeros is something like 6 - 8 miles? A. It would be yes.

RXn. Nil.

COURT: Q. You said on the 17th he came back after taking one day's leave. What time did he actually leave? A. He came at 8 o'clock and left at about 9 - 10 same morning.

Q. And didn't come back to the Corporation for work since then? A. He has not come back.

Court rose for short break at 11:15 a.m.

GL.CLERIDES: We would like to recall the Land Registry Clerk at a later stage.

CROWN COUNSEL: No objection.

COURT: Very well.

P.W. 12. SUB-INSPECTOR LOUKIS KYRIACOU. Sworn on the Bible, states in English.

Xn. by C.C.: Q. You are Sub-Insp. Loukis Kyriacou of the C.I.D. Nicosia? A. Yes. Q. On the 26th July last year did you attend the District Court Nicosia and did you have with you a detention order? A. Yes. Q. Was that detention order made under the Detention of Persons Law, 1955? A. Yes. Q. And was the name on that order of one Haralambos Georghiou Mouskos of Panayia? A. Yes. Q. Did you see Mouskos in Court on that day? A. Yes. Q. And did you ask him to accompany you outside in order that you could serve the order on him? A. Yes. Q. What happened when you asked him to come outside?

CLERIDES: We object to these questions. I understand that what the Crown is trying to offer is for an offence which was committed by Mouskos long time before the present question arose and without the accused being present. That is leading evidence to show that a person who was found at that particular point had previously committed an offence.

GREY, C.C.: It is not necessary for a person to have committed an offence for a Detention Order to be served on him. The purpose of this evidence is to show that from that day onwards Mouskos was a wanted man and to show that these men were associating with a wanted man by the Police.

COURT: Held: that I must have the evidence.

Xn. contd: Q. What happened when you asked Mouskos to come outside? A. He turned back and ran away through the other door of the Court. Q. Did you see him again after that day? A. No, never. Q. Is it within your knowledge that the Police after that date was looking for Mouskos? A. Yes.

XXn. by Pavlides: Nil.

XXn. by Markides: Nil.

P.W. 13. CPL. GEORGE SHEARER BUCHAN. Sworn on the Bible, states in English.

Xn. by C.C.: Q. Is your name George Shearer Buchan? A. Yes. Q. And your number is 22562274, of the Gordon Highlanders, stationed at the Aberdeen Camp, Aros? A. Yes. Q. Are you a first aider? A. I am. Q. On the 15th December last did you go in an army ambulance driven by driver Payne of the R.A.S.C. to a position indicated in exhibit 4? A. Yes I did. Q. Were you accompanied by two police officers? A. We were. Q. Did you there find a military vehicle drawn up in the position shown in exhibit 6? A. In a position similar to that.

Q. In that vehicle did you see a soldier now known to you to be I/Cpl. Morun? A. I did. Q. And was he in a prone position in the front seat of the vehicle? A. He was.

Q. Did you in the company of Lieut. Simpson and others of the Gordon Highlanders then proceed up the hill on the right hand side of the road? A. I did. Q. As you look towards Pyrgos away from Nicosia? A. Yes. Q. When you reached the top of the hill did you see two men lying on the ground in the position of the two men shown in exhibit 14? A. I did. Q. Was there a third man below? A. There was. Q. What was the position of the third man? A. The third man was lower down in the gully. Q. Did you approach the two men who were lying on the hillside? A. I did. Q. Was one lying face downwards? A. Yes. Q. And did you turn him over and find that he was completely uninjured? A. I did. Q. And do you see that man here to-day? A. I do. Q. Is that the man (accused 2) A. That is the man. Q. Did you speak to him and discover that he was unable to understand English? A. I did. Q. Did you speak to a second man? A. I did. Q. Did he speak and understand English? A. He did. Q. And do you see him here to-day? A. I do. Q. Is it the first accused? A. Yes. Q. Did you ask him if he was hurt? A. I did. Q. And did he tell you that he was hit on the head and chest? A. He did. Q. Did you examine his head? A. I did. Q. And to what conclusion did you come with regard to that injury? A. I found it was superficial. Q. Did you examine his chest? A. I did. Q. Will you tell His Lordship what you found in relation to the injury on his chest? A. There were two bullet wounds on his chest, one under the left nipple and the other under the left armpit - rather to the back part. Q. Did you ask the first accused what he was doing there? A. I did. Q. Did you receive a reply? A. He did not give a reply I think. He gave a non-committing shrug of the shoulder. Q. Did you then go to the third man? A. I did. Q. Down the slope? A. Yes. Q. He was in fact down at the bottom of the gully? A. Yes. Q. When you reached him was he alive? A. He was. Q. But was it obvious to you that at that time he was seriously injured? A. Yes of course. Q. Did he appear to be in considerable pain? A. He did. Q. And did he ask you for a drink of water? A. He did. Q. And with the assistance of another soldier or another person did you give him one? A. I did. Q. Who was the person who assisted you? A. I don't know his name. Q. A police officer or soldier? A. A soldier. Q. Did you then endeavour to get him out of the gully in order to give him proper attention? A. I did. Q. And did you get him out of that gully and lay him on the side of it? A. I did. Q. And did he then in your presence die? A. He did. Q. Did you then return to the first accused? A. I did. Q. You had already I think given him one dressing for the wound on the chest? A. I had. I had dressed both wounds with one dressing. Q. On your return to him did you again dress his injury? A. I did. Q. And did he then tell you that the man who had died was a cousin of Archbishop Makarios? A. He did. Q. Did he tell you the man's name? A. He did mention it but I did not take note of it at the time.

Q. Do you now know it to be Mouskos? A. Yes.

Q. Shortly afterwards was a stretcher brought to the site and the dead man taken to hospital? A. It was. Q. Did the first accused then walk under guard to the same ambulance? A. He did. Q. And did you then drive him and the deceased man to the Aberdeen Camp? A. I did. Q. And subsequently to the C.M.C. Hospital at Pendayia? A. Yes.

Q. Did you there hand the first accused over to the care of the doctor there? A. I did. Q. Do you now know the name of the first accused to be Andreas Zakkos? A. I do.

Q. And that of the second accused to be Charilaos Michael? A. I do. Q. Can you tell His Lordship how Mouskos was dressed on that occasion? A. Mouskos was wearing a battle dress jacket. I did not notice his trousers. Q. Was the first accused wearing a raincoat over a sport brown jacket? A. Yes. Q. A maroon pullover and a khaki shirt with a white vest? A. Yes. Q. I want to go back Cpl. to the time when you first approached these two men. You went I think first of all to the second accused. A. Yes. Q. And you found him uninjured. A. Yes. Q. Did you find anything beside him? A. An automatic pistol lying at his side.

Q. How far away from him? A. Approximately a foot.

Q. Did you pick it up? A. I did. Q. Did you examine it at all to see if it was loaded? A. I did not examine it at the moment. Q. What did you do with that pistol? A. I threw it behind me onto the ground. Q. On exhibit 11 in which direction did you throw it, up that hill or down? A. I threw the pistol in the direction of the four crosses.

Q. Now some further distance away from the second accused did you find something else? A. I did. Q. Did you throw it away on the other side of the gully? A. The gully splits in two; it landed between the two branches of the gully.

Q. Some 15 yards to the west of the second accused did you see something else? A. I did. Q. Would you indicate to the Court. A. About 15 yards from accused 2 was lying and at about the place where the single figure stands on exhibit 11 I found a German automatic sub-machine gun and four magazines. They looked like sten gun magazines.

Q. Did you yourself examine either the weapon or the magazine? A. Not very thoroughly. Q. You gave it a cursory glance? A. Yes. Q. Are you able to tell His Lordship whether the magazines were loaded or whether the gun was loaded? A. I don't know whether the gun was loaded, but the magazine which I looked at was empty. Q. Did you see a police officer take charge of them? A. Yes both the gun and the magazine.

Q. Is that the officer? A. Yes. (P.C. 540 Antoniou identified). He took charge of the gun and four magazines.

Q. After you had given the first accused that second dressing for his chest wounds did a Major arrive? A. He did.

Q. At that time did you know him? A. I did not. Q. Is that the officer who came? A. It is. Q. And do you now know his name to be Major Brian Coombe? A. I do. Q. Did he in your presence speak to the first accused Zakkos? A. He did.

Q. Did you hear what was said to him? A. I did.

Q. What did Major Coombe say? A. He asked Zakkos what he was doing.

PAVLIDES: I object to the question and answer being given in evidence. Apart from the ground of admissibility, it is supposed to be a question put by Mj. Coombe to accused 1 and Mj. Coombe was not asked about this question. But the admissibility to which I take objection is based on the facts that accused 1 was in custody at the time. We know from the evidence of Lieut. Simpson that as soon as he arrived he put sentries and guards on both of the accused and there can be no doubt that the prisoners were from that moment deprived of free movement and were in custody.

GRIFFITH-JONES, C.C.: I do not press the question.

Xn. contd: Q. Apart from Mouskos who was dead, the first accused who was wounded and the second accused who was unarmed and apart from the military and police personnel did you see anyone else in that area at all? A. No, nobody. Q. At that time? A. Yes. Q. On the following day the 16th December, together with driver Payne did you go to the C.M.C. hospital at Pendaria? A. I did. Q. And did you there take charge of the first accused? A. I did. Q. And did you then drive him to the B.M.H. Nicosia and hand him over to the custody of Royal Military Police? A. I did.

Q. Now will you look at the plan or would you direct your attention to point 35, does that indicate the position which you pointed out to L.R.O. clerk as being the position where you found the pistol? A. It does.

Q. And do you see point 9, it is slightly below and to the left of that. A. Yes, I do. Q. Did you point that out to the L.R.O. clerk. A. Yes. Q. Could you indicate the position to which you threw the pistol. A. I threw the pistol somewhere between points 30 and 25.

Q. Would you recognize that pistol if you saw again?

A. I think I would. Q. Was it similar to that? A. Yes it was similar to this. (Put in marked exhibit 19.)

Q. Would you recognize a weapon which you referred to as a German automatic sub-machine gun if you saw it? A. Yes I would.

Q. Was the one you found similar to that? A. It was. (Put in marked exhibit 20)

Q. Would you recognize the magazines which you saw?

A. I would recognize the pattern of the magazines. It was like this magazine which appears to be a sten magazine.

XXn. BY PAVLIDES: Q. You said that apart from Mouskos and the 2 accused, you saw no other civilians in the vicinity. A. Yes.

Q. What time did you actually arrive in the vicinity?

A. Between 1:30 and 2 p.m. I think. Q. And as a first aider would I be right to suggest to you that your attention was really turned to attending the men? A. Yes.

XXn. by PAVLIDES: Nil.

RXn. by C.C.: Nil.

COURT: Q. You say you are quite sure that that was the gun?

A. Yes. Q. What happened to the pistol? A. I threw the pistol further down the slope where the machine gun was found. I threw it towards a sentry.

Q. Did you see anyone picking up that pistol that day?
A. I picked it up afterwards myself. Q. The same day?
A. Yes. Q. About how much time after? A. Half an hour after
I had thrown it. Q. Have you any doubt that the pistol
which you picked up was the pistol which you threw?
A. I have no doubt. Q. You are quite sure that was the pistol?
A. Quite sure. Q. What did you do? A. I let it back on the
ground again. Q. Did you actually see one of the policemen
pick it up? A. I did not see that. Q. Well what happened
with it after that, didn't you see anybody pick it up?
A. I did not see it again till the Court last month.
Q. It is rather a strange thing to do, picking up a pistol ...
A. I thought it safer for me to have it away from the accused.
Q. Is that why you threw it away? A. Yes. Q. You are quite
sure it was only a foot away from accused 2? A. Yes.
Q. Did you draw his attention to it before you threw it
away? A. No. Q. He was lying next to accused 1?
A. Accused 2 was lying down, but accused 1 was half reclining
on one elbow on the ground.
Q. Was the pistol between them or away from accused 1?
A. Away from accused 1. Q. How far would you say accused 1
was from accused 2 when you picked up the pistol? A. 5 yards
may be.

TO MARKIDES THROUGH COURT: Accused 1 and 2 may have been
only about 2½ yards apart when I picked up the pistol.
The distance of the pistol from accused 2 was 18 inches
at the most.

P.W. 14 P.C. 540 MICHAEL ANTONIOU. Sworn on the Bible, states in English

Xn. by C.C.: Q. You are P.C.540 Michael Antoniou and you are
stationed at Xeros? A. Yes. Q. Do you remember the 15th
December last? A. Yes. Q. At approximately 12:50 p.m. on
that day did you receive certain information at the police
at Xeros? A. Yes, from Adil Suleyman. Q. As a result of
which did you do anything? A. I went to the bridge shown
in exhibit 4. Q. Were you accompanied by P.S. 313 M. Savvides?
A. Yes. Q. And there was a small party of Gordon Highlanders?
A. Yes. I was in the ambulance and there was also a small
party of Gordon Highlanders in jeeps. I was in the ambulance
with P.S. Savvides.
Q. Just beyond the bridge shown in the photographs in exh.4
did you see a military vehicle parked in the position shown
in exh.6? A. Yes. Right in the ditch on the right side
towards Paphos, that is in direction of Pyrgos.
Q. Did you look inside the vehicle? A. Yes. Q. Did you see
a soldier lying across the front seat? A. Yes. Q. Was his
head towards the steering wheel? A. Yes. Q. And was he
bleeding from a wound in the head? A. Yes. Q. And with
the assistance of the P.S. Savvides and others did you
remove him and put him in the army ambulance? A. Yes.
Q. Did you examine the wind-screen of the vehicle from
which you had removed that soldier? A. Yes. Q. Did you
see a hole in the windscreen? A. Yes. Q. Was that in front
of the passenger's seat? A. Yes.

Q. Did you then proceed to the position shown in exh.11?

A. Yes. Q. To the place where there were 3 men standing

on the exhibit? A. Yes. Q. Did you find two men on that

hillside? A. Yes. Q. And down below in the gully did you

see a third man whom you now know to be Mouskos? A. Yes.

Q. Do you see the other two men to-day? A. Yes, they are

the accused. Q. Did Mouskos give you his name? A. Yes.

Q. He could speak could he? A. Yes. Q. Did you know him

before? A. No; only from his photographs. Q. Did Mouskos

say anything to you? A. Yes. I asked him who he was and

he told me he was Mouskos from Panayia.

Q. Of the two accused did you know them before? A. Yes,

I knew both accused before. Q. And did you speak to the

first accused? A. Yes. Q. Did you also speak to the second

accused? A. Yes. Q. What did the second accused say to you?

A. He said he was there cultivating his olive trees and

the others had met him there. Q. Now did you find some-

thing near the second accused? A. Yes. Q. What did you

find? A. I found one haversack containing 21 sticks of

Ex.21. dynamite. This is the haversack. (Put in marked exh.21)

The dynamite has been destroyed later.

In the same haversack I found one locally made bomb.

Q. Was that bomb filled with anything when you found it?

A. Yes. Q. And the explosive has now been extracted in

order to render it safe? A. Yes. Q. Was there a detonator

in the bomb? A. Yes. Q. Is that the bomb? A. This is it.

Ex.22. Marked exhibit 22.

Ex.22A. It was in this container - marked exhibit 22A.

This is the detonator which was removed from the bomb -

Ex.23. Marked exhibit 23.

Q. Did you remove it? A. Yes. Q. At that time? A. When I

went to the police station. Q. Did you also find two gas-capes?

Ex.24. A. Yes. These are they. Marked exhibit 24.

Q. Where did you find them? A. Near to the two accused.

Q. Some little way in the gully did you find some other gun?

A. I found this Schmeisser sub-machine gun. (exh.20 identified).

Q. Did you find any ammunition? A. I took off the magazine

and found no ammunition either in that or in the gun itself.

Q. Did you find any other magazines? A. I found four magazines

in the gully near that gun.

To Court: The four magazines were in one place and only

2 or 3 feet from the gun.

Ex.25. Q. Was any magazine loaded with ammunition? A. The one was

empty. Q. These are the magazines? A. Yes. Marked exh.25.

Q. Were the magazines loaded? A. One of them was unloaded.

One of the other magazines had eight ammunition rounds
of 9 m.m.; and the other two were containing 26 rounds each
of 9 m.m.

Q. Did you find anything else? A. I found a single sock
containing 91 rounds of 9 m.m. ammunition.

Q. Where did you find that? A. In the gully. Q. How far
from the gun? A. About 5 - 6 feet from the gun.

Ex.26. Put in marked exhibit 26.

Q. Did you find any expended ammunition? A. I found 15 expended cartridge cases of 9 m.m. and I produce them.

Ex.27. Put in marked exhibit 27.

Q. Where did you find these? A. Near the gun, near the bushes, separately.

Ex.28. Q. In front of the first accused Zakkos did you find anything else? A. I found one cap. (Marked exhibit 28)

Ex.29. And one local bomb. (Marked exhibit 29)

Ex.30. This was filled with explosive. Detonator has been removed to render it safe, when I went back to the station same day. (Detonator marked exhibit 30)

Ex.31. Near the place where I found exhibits 28 and 29 I found this box (marked exhibit 31) containing 22 rounds of ammunition of 7.65 m.m. calibre. I produce only 13. Others have been used for tests as I understand.

Q. What else did you find? A. I found this pistol (exh.19) it was about 20 yards away from the two accused.

Q. Did you examine the pistol when you picked it up?

Ex.32. A. Yes, and I found to be loaded with 10 rounds of ammunition 7.65 mm. calibre. These are the rounds, marked exh.32.

Ex.33. Q. Did you search the two accused? A. I searched accused 2 he was wearing this gas-cape (marked exhibit 33).

Ex.34. In one of the pockets of accused 2 I found this container (marked exhibit 34)

To Court: In the right hand trousers pocket.

Ex.35. On accused 2's belt I found this water bottle (marked exh.35)

Ex.36. I found this container (marked exhibit 36) in the bag (ex.21) which contained the sticks of dynamite.

Ex.37. In the gully I found this box of matches (marked exh.37)

Ex.38. and this scarf (exhibit 38). I found these about 10 paces from the Schmeisser.

Q. Were they close to each other? A. They were fairly near to each other.

Court adjourned to 2:15 p.m.

Resumed: 2:15 p.m. - Court and parties as before.

P.W. 14 continues:

Ex.39. Q. Later in the same afternoon did you go to the locality of that olive tree (shown in exh.8) A. Yes. I was with Mj. Coombe and Sgt. Savvides. Q. What time did you go there? A. At about 2 p.m. I found 33 empty cartridge cases of 9 m.m. calibre and two live rounds of 9 m.m. calibre. Some I picked up and some Mj. Coombe picked up and handed to me. I produce them. Put in marked exhibit 39.

Q. Were you present when the last witness Cpl. Buchan took Mouskos out of the gully? A. I was standing near these two accused and I saw Buchan taking Mouskos out of the gully.

Q. Now later on the same day did you examine the site portrayed in exhibits 3 and 4 taken from opposite direction? A. Yes.

Q. Did you examine the locality where these two men are standing on exhibits 3 and 4? A. Yes.

Q. Was that in the same afternoon? A. Yes. Q. Now in exhibit 3 there appears in that photograph what appears to be tufts of grass. A. Yes.

Q. Are they natural growth? A. Yes. Q. Did you examine the ground in that locality? A. Yes. Q. There what did you find? A. I found four shelters. Q. What sort of shelters? A. There were some bushes and behind the bushes there were stones. Q. Did they appear to be stones which had been deliberately placed there? A. They have been placed there. Q. Did you find any ammunition there? A. I found 34 empty cartridge cases 9 m.m. calibre. Q. Will you produce them? Ex.40. A. Yes. (Put in marked exhibit 40).

Q. You were present when Cpl. Buchan was giving first aid to the first accused? A. Yes. Q. And after the military personnel were dispersed to search the area did you take charge of the accused 2 and also all the exhibits which had been found on the scene? A. Yes. Q. Did you then remove them, both the second accused and the exhibits to Lefka Police Station? A. Yes. Q. Later on the same day did you caution the second accused? A. Yes, before leaving the area for Lefka Police Station I cautioned accused 2. Q. Did he in reply to a question whether he wished to make a statement say anything? A. He said: "I was there cultivating my trees when these people came". Q. What did he say in Greek? A. "I was here cultivating my olive trees when the others came and found me".

Q. The exhibits which you have produced to-day did you eventually hand them over to Sgt. Savvides? A. Yes. Q. On the same day or when? A. On the same day. Q. At Lefka police station? A. Yes.

Q. On the 28th December did you again proceed to this locality? A. Yes. Q. In company with a clerk from the Land Registry? A. Yes, in company with Yyriacos Papadopoulos. Q. And did you there point out to him the various positions in which you had found the exhibits which you have produced? A. Yes. Q. Were those various positions given numbers and subsequently transferred onto a plan of that site? A. Yes. Q. Now would you look at the plan; could you start with point 5 and tell us what that point is? A. Point 5 is the olive tree where I found 33 cartridge cases and two live rounds (exhibit 39).

Point 15 - that was the point where I had found Mouskos lying down in the gully.

Point 19 - is the first shelter where I found 17 empty cases of 9 m.m., i.e. 17 cases out of exn.40.

Point 20 - was one of the shelters. Nothing was found there.

Point 21 - is the third shelter where I found 17 cases out of exhibit 40.

Point 22 - is another shelter. Nothing was found there.

Point 23 - is the place where I found exhibit 22. I think that container (exh.22A) was about 2 feet away.

Point 24 - was where I found the haversack with 21 sticks of dynamite, and exh.29 inside. The bomb exh.29 was inside the container exhibit 36.

Point 25 - is the place where I found the two gas capes (Ex.24)

Point 26 - was the place where I found the sock with 91 rounds (exhibit 26).

Point 27 - was where I found the Schmeisser gun (Exh.20).

Point 28 - was where I found the cap (exh.28).

Point 29 - is the place where I found exhibit 31.

Point 30 - is the place where I found the pistol (exh.19).

XXn. by PAVLIDES: Q. You went to this locality with P.S. Savvides?
A. Yes. Q. And were you always together with finding these various things that you have spoken about or did you find some yourself and some himself? A. These I have produced I found myself, and Savvides found other things.
Q. I want you to tell us if you remember what of these exhibits which were produced were found when you were with Savvides. A. I think he saw me when I picked up the Schmeisser the pistol and the haversack. Q. But on other occasions he was looking for various things himself separately from you? A. Yes. Q. What each one of you were doing was really searching the area to see what you could find there? A. Yes.
Q. Now you found altogether four magazines. A. Yes.
Q. Three are of one shape and one of another. A. Yes.
Q. When I say shape I mean dimensions. Is this the one you say is different? A. Yes. Q. You said that you found a pistol which is exh.19 and when you found it it was fully loaded with 10 rounds of ammunition? A. One in the barrel and nine in the magazine. Q. All live ammunition? A. All live.
Q. Now I want you to describe to His Lordship what you mean by shelter. I suggest to you that there was on each occasion a few stones 2, 3 - 5 loose stones side by side about **six inches in height**. Some stones were smaller.
Q. Are you making a mistake about the haversack, my information is that the haversack was not actually found at point 24 but somewhere between points 15 and 29.
A. I am sure that I found the haversack at point 24.

XXn. by MARKIDES: Q. When you approached for the first time accused No.2 at that locality and you asked him what he was doing there, was he lying on the ground? A. He was. Q. He appeared to be frightened. A. Very frightened. Q. I want you to tell us his actual words, did he say: "I have been cultivating my olive trees when the others came and found me there"? A. He said: "I have been cultivating my olive trees when the others came and found me here".
Q. I put it to you that the word he used was "... found me there". A. He said "... found me here".
Q. Where was the second statement made? A. The second statement was made by accused 2 when he was on the asphalt road. I took him to the asphalt road before he got into the car to go to Iefka, I cautioned him on the road.
Q. Well what were his actual words on the asphalt road when he made a statement? A. "I have been digging up my olive trees in this area and the others came and found me".

RXn. Nil.

P.W. 15. P.S. 313 MICHAEL SAVVIDES. Sworn on the Bible, states in English.

Xn. by C.C.: Q. Your name is Michael Savvides? A. Yes.

Q. Where are you stationed? A. I am stationed at Morphou.

Q. On the 15th December last were you the officer in charge at Xeros Police Station? A. Yes. Q. As a result of certain information which you received on that day did you proceed to the bridge shown on exhibits 1, 2, 3 and 4 on the road to Pyrgos? A. Yes. Q. At what time did you arrive there? A. About 13:15 hrs. Q. Were you by yourself or accompanied by anybody? A. Accompanied by P.C. 540 M. Antoniou and some soldiers. Q. Were you travelling in an army ambulance? A. Yes. Q. When you arrived at that spot did you see a vehicle drawn up in the ditch by the side of the road just beyond the bridge in the direction of Pyrgos? A. Yes. Q. And roughly in the same position as that vehicle shown in exhibit 6? A. Yes. Q. Did you see a I/Cpl. of the Royal Engineers in the front seat of the vehicle? A. Yes, slumped across the front seat in a prone position near the steering of the vehicle. Q. Was he wounded and unconscious? A. Yes. Q. Did you remove him from the vehicle and send him to hospital? A. I put him in an ambulance and he was taken away. Q. Did you examine the wind screen of the vehicle and find that opposite the passenger's seat there was a hole? A. Yes. Q. Did you examine the position where the four men are standing on exhibit 4? A. Yes. Q. And is that the same site as it is portrayed in exh.3 but from the other direction? A. Yes. Q. On that site did you find a black and a white handkerchief? A. Yes.

Ex.41 Q. Will you produce them? A. Yes. (Put in marked exh.4 the black handkerchief).

Ex.42 (white handkerchief marked exhibit 42.)

Q. Did you also find a bag containing rounds of live rounds on that site? A. Yes. Q. How many rounds are they? A. 122.

Ex.43. This is the bag (marked exhibit 43).

Q. What kind of ammunition? A. I don't know the calibre.

Ex.44 Inside the larger bag I found a smaller bag (marked exh.44) containing 40 live rounds of ammunition of the same kind.

Ex.45. Q. Did you find something else? A. I found this magazine (put in marked exhibit 45.)

It contained 30 rounds of ammunition.

Q. Will you explain to His Lordship the position in which you found that ammunition? A. I found the bag of ammunition here (marked X on exhibit 4).

Q. Was that curved magazine (exh.45) found in the same place as the bag? A. Yes. Q. Did you also find in company of last witness, 34 rounds of expended ammunition in two piles each of 17? A. Yes. (exh.40).

Q. Would it be right to say that the first batch of 17 you found nearest to the second man from the right in exh.4?

A. Yes. Q. The second pile of 17 did you find nearest to the man on the extreme left of that photograph? A. Yes.

Q. After you had done that did you proceed up the gully until you came in the neighbourhood of the positions shown in exhibits 11 and 14? A. Yes. Q. And did you there find two men sitting on the hillside? A. Yes. Q. Were they in the position of the two men on the left hand side of exhibit 14? A. Yes.

Q. Would you recognize those men if you saw them again?

A. I recognize accused 1 as being one of those two men.

Q. Would it be right to say that you knew him before? A. Yes.

Q. Do you recognize the other man? A. It was the first time I saw him.

Q. Do you see him in Court to-day? A. Yes. He is accused 2.

Q. When you saw them which was to the left, accused 1 or 2? A. As I faced them Zakkos (accused 1) was on my right, accused 2 on my left.

Q. In the gully that was slightly below the two men did you find another man?

A. Yes, he was dead when I saw him.

Q. He had in fact been taken out of the gully and placed on the bank? A. At the time I saw him he was on his back on the slope near the gully.

Q. Was that a man whose name you now know to have been Haralambos Mouskos? A. Yes.

Q. Did you know him before? A. No.

Q. I think it was in fact Zakkos who told you the name of Mouskos? A. Yes.

Q. Did you notice if he was bleeding? A. He was bleeding from the chest and head.

Q. I think you asked the name of the second accused and he immediately gave his name as Charilaos Michael? A. Yes.

Q. Did you speak to Zakkos and ask him what he was going there? A. Yes.

Q. I would like you to give his reply in Greek. A. He replied: "Egopsa dj'egho mazin dous djie epigha thima" (I was caught in with them and fell a victim).

Q. Was there an army officer present at that time whose name you now know to be Major Coombe? A. Yes.

Q. I don't want you to say what was said but did you hear Major Coombe address a question to first accused? A. Yes.

Q. And did he give a reply? A. Yes.

Q. Did you search the first accused? A. Yes. Q. And what did you find on him? A. I found a handkerchief, a notebook and £17.375 mils. I produce the handkerchief and notebook.

Ex.46. (Put in marked exhibit 46.)

Q. Two paces from accused 1 to his left did you also find

Ex.47. a pen? A. Yes. This is it. Exhibit 47.

Q. The pen was on the ground was it? A. Yes.

Q. Did you also find a haversack containing some cheese?

Ex.48. A. Yes. This is the haversack and the cheese. Marked ex.48. This was two paces from accused 1 to his left.

I also found this empty magazine at the same place.

Ex.49. (Magazine marked exhibit 49.)

Q. 10 yards away did you find three gas capes? A. Yes.

I saw them at a distance of 10 yards away but it was P.C. 540 who seized them.

Q. Did you see an automatic sub-machine gun? A. Yes.

Q. Will you have a look at exhibit 20, is it similar to that?

A. Yes. Q. Where did you see that? A. Near the gas capes.

Q. That is about 10 yards from the accused? A. Yes.

Q. Did you also see a pistol? A. Yes similar to this ex.19.

Q. Do you know or did you know the Major Neish? A. I know him.

Q. At 4:30 p.m. same afternoon at Iefka Police Station did that officer hand you a quantity of electric cable? A. Yes. Q. And do you produce that? A. Yes.

Ex.50. Marked exhibit 50.

Q. Did he also hand to you the object which you have in your hand? A. Yes. It is a cake of T.N.T. (Put in

Ex.51. marked exhibit 51.

Ex.52. He also handed me a detonator (marked exhibit 52)

Q. On the afternoon of the 18th December last did you again visit the same site of the occurrences? A. Yes.
Q. On that occasion did you find seven empty cartridges?
A. Yes. Q. Which you handed to whom? A. P.S. Myrianthous.
Q. Where did you find them? A. I found them at about this side (points at points 8 and 9 on plan). 7 empty rounds
Ex.53. put in marked exhibit 53.

Q. On the 29th December did you again go ^{to} the area? A. Yes.
Q. And were you accompanied by the I.P.O. clerk? A. Yes.
Q. And did you there point out to him the position which is marked as No.32 on the plan ex.15. A. Yes.
Q. What did you tell him that that point indicated?
A. Indicated the point where the shelters were where I found the ammunition. Q. Which ammunition? A. Exhibits 43, 44.

XXn. by PAVLIDES: Q. There is one point I want to make clear. You look at exhibit 21, it is a haversack. It contained I understand some sticks of dynamite and a bomb in a container. A. Yes. Q. Were you present when that was found? A. No.

XXn. by MARKIDES: Nil.

RXn. by C.C.: Nil.

P.W. 16. MORRIS NORMAN WATERS. Sworn on the Bible, states in English.

Xn. by C.C.: Q. Is your name Morris Norman Waters? A. Yes.
Q. What is your regimental number? A. 2548139. Q. And your rank is Quarter-Master Sgt. A. Yes. Q. And are you in the R.F.M.E. service? A. Yes. Q. Are you a regular soldier of 13 years service? A. Yes. Q. During the whole of your army career have you been connected with armoury? A. Yes. I have started off by serving of an apprenticeship of 3 years in armoury. Q. On the 4th January last were you handed two weapons by Sgt. Myrianthous? A. I was.
Q. Was one a Schmeisser automatic carbine Reg.No.4137? A. Yes.
Q. Is that the weapon which you see on the table in front of you? A. Yes. (exh.20). Q. Did you strip it down? A. I did.
Q. And did you examine it? A. Yes. Q. Did you find that though not well maintained, it was in serviceable condition? A. It was. Q. And did you find that there was a corrosion of the barrel and superficial damage to the body? A. There was yes. Q. And did you find that the trigger mechanism and breech block were both serviceable? A. Yes.
Q. And did you personally fire five rounds through that gun? A. I did. Q. What is the bore? A. 9 m.m.
Q. Is that similar in many ways to the sten-gun? A. Yes, it works on the same principles as the sten-gun. Q. And of similar appearance? A. Yes. Q. Would it be correct to describe it as a lethal weapon? A. Yes, it would.
Q. Would you give his Lordship an indication as to its effectiveness? A. Probably extreme effective range would be 200 yards. Q. Do you mean to say it wouldn't shoot a bullet further than that? A. Yes. The effectiveness would be impaired by greater distance. Q. Would it kill any
Q. As such it is a short-range weapon. Q. Generally speaking with a carbine of that type what is its accurate range? A. 50 - 75 yards. Q. Does that apply to a sten-gun? A. Yes.

Q. Would it kill any person beyond that range? A. I could not say. It is a carbine and as such it is a short-range weapon. Q. Generally speaking with a carbine of that type what is its accurate range? A. 50-75 yards.

Q. Does that apply to a sten-gun? A. Yes.

Q. Of the magazines which you see on the table before you Ex.25) and that one in the box behind you, could you tell His Lordship which of them would fit that weapon? A. Only one out of those four fit the Schmeisser; the other three are sten-gun magazines.

Q. Passing on to the second weapon which you examined, is it a 7.65 Guernica Registration No.71233? A. Yes. This is it exhibit 19. Q. I think you describe its general condition as poor. A. Yes. Q. But that it was mechanically sound and in good working order? A. Yes. Q. The slide action and the body are deeply pitted? A. Yes.

Q. And that you yourself fired six rounds through that gun? A. I did yes. Q. And are you satisfied from that test that it is a lethal weapon? A. Yes.

Q. Would you look at that ammunition in exh.31 and tell His Lordship what bore it is? A. This ammunition is capable of being fired in this pistol, but I cannot say for certain without actually firing it.

GRIFFITH-JONES, C.C.: I apply to the Court that permission may be given to the witness to test this pistol with perhaps five rounds of ammunition* to be able to tell us definitely. *(From exhibit 31)

COURT: Does anyone object?

DEFENCE do not object.

COURT: I give permission then.

COURT: Adjourned till to-morrow at 9:30 a.m.

THIRD DAY OF TRIAL.

25th February, 1956, 9:30 a.m.

Court and parties as before.

P.W. 16. MAURICE NORMAN WATERS. Reminded of his oath.

Xn. by C.C. continues: Q. Just before the Court adjourned yesterday, you were asked to take five rounds for the purpose of testing exhibit 19 by firing these rounds, did you do so? A. I did yes. Q. What was the result? A. I have fired five rounds and found it to be in good working order.

COURT: Q. What ammunition does it take? A. 7.65 m.m. calibre. Q. Have you got the expended cases? A. I have got three empty cases which I return to Court. Q. What is ammunition calibre of that Schmeisser (exh.20)? A. 9 m.m. Q. Same as a sten-gun? A. Yes. Q. But the magazine is different? A. Yes.

XXn. by PAVLIDES: Q. Will you take exhibit 45, that is the curved magazine. A. Yes. Q. It is the magazine of some automatic weapon? A. It is. It is not an English weapon used by the army. Q. Can you say what its calibre is - the bullets? A. I didn't measure it, I cannot say what its calibre is. Q. In any case I think it is correct to say that it is different calibre from sten-gun ammunition and different shape. A. Yes. Q. Could it be used in a sten-gun? A. I would say not. But there again I would have to try. Q. Could it fit in any of the sten-gun magazines which are exhibits? A. (witness tests) No, it would not fit in these three sten-gun magazines. Q. Or in the Schmeisser magazine? A. It could not get .. COURT: Q. Could it go in the breech of the Schmeisser? A. No. Q. Would that curved magazine fit in the Schmeisser gun? A. No, much too big. Q. And it could not fit a sten-gun. A. No. Q. Could those cartridges which fit in the curved magazine be fired off by the pistol (exh.19)? A. No.

XXn. by MARKIDES: Nil.

RXn. by C.C.: Nil.

P.W. 17. CAPT. DEREK HUNTER WILSON BROWN. Sworn on the Bible, states in English.

Xn. by C.C.: Q. Is your name Capt. Derek Hunter Wilson Brown? A. Yes. Q. Are you the Adjutant of the 1st Bat. Gordon Highlanders? A. I am. Q. Stationed where? A. Aberdeen Camp, Xeros. Q. Serving in that Battalion is there a Major John Neish? A. Yes. Q. Is it within your knowledge that Major Neish is not now in the island? A. It is. Q. And that he proceeded on leave to the U.K. on what date? A. 2nd February. Q. When is he expected to return to the island? A. 8th of March.

Q. Can you tell His Lordship of his present whereabouts?
A. He is in Portugal.

XXn. by pavlides: Nil.

XXn. by Markides: Nil.

GRIFFITH-JONES, C.C.: I apply that the depositions of Major Neish under s.96 of Cap.14 of Criminal Procedure Law, be put in.

P.W.18. DEPOSITION OF MAJOR JOHN NEISH (witness 17 in Lower Court)
Ex.54. is put in and marked exhibit 54.
(Read out and translated into Greek).

(Note:) Electric cable (exhibit 29 in lower court) now marked exhibit 50.

Map, exhibit 2, is marked exhibit 15 in this court.

Cake of T.N.T. (exhibit 30 in lower court) now marked exh.51.

P.W. 14. P.C. 540 MICHAEL ANTONIOU, recalled by court. Reminded of his oath.

COURT: Q. Did you find one bomb or two bombs? A. Two.
Q. Just take exhibit 22, is that the one you found in the haversack? A. No. exhibit 29 was found in the container (exhibit 36), and both exh.29 the bomb and exhibit 36 its container were found in the haversack (exhibit 21). The other bomb (exhibit 22) was found on the ground in front of the two accused. Q. How far away from them? A. About 10 feet. Q. And that bomb was found in container (exh.22A)? A. Yes. The container was found separately about 3 feet away from the bomb.

PAVLIDES, through court: Q. Were you with Cpl. Buchan when you went up to the accused on the first occasion whilst they were lying down? A. He went near accused before my arrival. Q. Did you at any time see yourself that haversack (exh.48) with the cheese? A. I know nothing about it. Sgt. Savvides found it. Q. When you say that the bombs were at some distance from the prisoners, you mean towards the gully? A. Yes. Q. You said before you found the haversack containing the dynamite very near the accused, how near? A. On the right side of accused 2, about 5 - 6 feet away. Q. When you say to the right side, you mean to his right side? A. Accused 2 was lying on his back and the haversack was to the right of accused 2. Accused No.1 was to the left of accused 2. Q. How far was accused 1 from accused 2? A. About 5 feet.

MARKIDES, through court: Q. This haversack was found at point 24 on exhibit 15. A. Yes. Q. I think that from this plan it is shown that this haversack was rather to the right and in front to the gully; was the haversack nearer to the accused or nearer to the gully? A. The same distance.

RXn. Nil.

P.W. 19. CAPT. PETER G. MACDONALD. Sworn on the Bible, states in English.

Xn. by C.C.: Q. Your name is Peter G. Macdonald and you are a Captain in the Royal Army Ordnance Corps? A. Yes.
Q. And a trained ordnance officer? A. Yes. Q. And a trained and qualified expert in ammunition and explosives? A. Yes.
Q. On the 17th December last as a result of certain information which you received did you go to the Iefka Police Station? A. I did. Q. From Sgt. Myrianthous were you handed certain articles? A. Yes. Q. Is that the Sgt.? A. Yes. (witness identifies Sgt. Myrianthous)
Q. Did they include 30 live rounds of ammunition (ex.45)? A. Yes. Q. Did you examine that ammunition and found it serviceable and in good condition? A. Yes.
Q. Can you assist His Lordship as to the identity of that magazine, do you know what gun it fits? A. Yes. This magazine belongs to a Sturmgewehr, which is a machine carbine which I understand was designed for issue to German paratroops. Q. Have you ever seen such a weapon on this island? A. No. Q. Were you handed a khaki bag (exh.43) containing 122 live rounds of ammunition? A. Yes.
Q. Did you examine it and found it to be serviceable and in good condition? A. Yes. Q. What is the calibre? A. 7.92 m.m. calibre. Q. Is this suitable for sten-gun? A. No, for the Sturmgewehr.
Q. Were you also handed a smaller bag containing 40 rounds? A. Yes. (exh.44) Q. What is the calibre of that? A. 7.92 m.m. Q. So that is exactly the same as the others? A. Yes. Q. And were those rounds serviceable and in good working condition? A. Yes. Q. Were you able to fire to test them? A. No. Q. Can anyone be sure that live rounds will fire? A. One could tell from visual examination that they are serviceable. Q. Firing would be considerably better test I suppose; cannot the stuff go bad? A. It is possible but one can usually tell from the external condition whether it is going to fire or not. Q. You are satisfied that these rounds would fire? A. Yes.
Q. Were you handed magazines which would be suitable for firing by a sten? A. Three empty magazines, two Smeisser and one sten, (exh.25) and two full sten magazines and one full Schmeisser magazine. These are the two empty Schmeisser (ex.25); this is the empty sten (exh.25). This is one of the two full Stens (exh.25) and I took the rounds out of the other - 26 rounds - in order to count them, (exh.55). And this is the Schmeisser magazine (exh.49) I took out the rounds in order to count them - there were 26 rounds in it, all live.
Q. Were you handed that weapon exhibit 19? A. Yes. Q. Did you examine the magazine? A. I did. Q. Was it loaded? A. Yes. Q. With 10 rounds of 7.65 m.m. ammunition? A. Yes. Q. And was that ammunition serviceable and in good condition? A. Yes.
Q. Were you handed six rounds of 9 .m.m. ammunition? A. Yes.
Ex.56. (Now marked exhibit 56.) These are serviceable and in good condition.

Q. Were you handed a sock containing 91 rounds of 9 m.m. ammunition? A. Yes. Q. Have you examined that ammunition and found it serviceable and in good condition? A. Yes. Q. This 9 m.m. ammunition is for a Sten? A. All Schmeisser, or Sten. (Exhibit 26).

Q. Were you also handed exhibit 27, 15 empty cases? A. Yes. Q. At the time you were handed over could you say from examination whether they had been recently fired or not? A. I could not say.

Q. Now take exhibit 22, were you handed that? A. Yes. Q. When you received it was it in a fused condition and in an explosive state? A. It was. Q. Are they quite safe now? A. The detonator has been removed but they still contain high explosive. Q. Do you know what sort of explosive there is? A. T.N.T. Q. Was that home made bomb in your opinion in the condition that it was handed over to you a lethal weapon? A. It was. Q. Does the same evidence apply to the other exhibit 29? A. It does. They are in fact of exactly the same pattern.

Q. Did you examine those three containers (exhibits 22A, 34 and 36) when you received them were they empty? A. Yes, they were. They are of American manufacture and are made to contain the American fragmentation grenades. Its identification number is M.41A1.

Q. Were you handed a parcel of empty 9 m.m. cases containing 34 empty cases (exhibit 40)? A. Yes. I had them in my custody till the time they were required for production in this Court.

Ex.57. I was also handed a further parcel of 10 fired 9 m.m. cartridge cases. (Put in marked exhibit 57.)

Q. Were you handed a parcel containing the substance which is just being handed over to you now? A. Yes. (exhibit 51) Q. What is that? A. It is the T.N.T. content of an Italian anti-tank mine.

Q. Were you handed 22 live rounds of 7.65 m.m. ammunition? (Exhibit 31) A. Yes. Q. Were 9 of those rounds expended in the ammunition wing for proof? A. Yes.

Q. Were you handed one electric detonator (exh.52)? A. Yes. This is a W.D. type of electric detonator known as No.33. Q. Would that be suitable for firing a charge consisting of the T.N.T. cake exhibit 51? A. Yes.

Q. Did you examine the cable exhibit 50? A. Yes. Q. Supposing that Italian anti-tank mine, that cable and that detonator were all linked up what form would it necessarily take to explode that charge? A. An electric charge of a battery would be sufficient.

COURT: Q. Would you say the voltage of the battery? A. It is difficult to say; but provided that the wire resistance is not too great I should say that a pocket size battery could set off. But an electric detonator could be set off with a pocket torch battery.

Q. Would you look at exhibit 13, that is the cavity below the bridge and there is also evidence that the Italian anti-tank T.N.T. was packed into that cavity. In your opinion had that charge been exploded what would have been the result? A. I should say that if exh.51 had been exploded in that cavity under the bridge shown in exh.13, it would have rendered the bridge unuseable.

Q. Would it damage people if they were crossing the bridge in a vehicle? A. I should say so. Q. It might have killed them? A. It might. Q. And of course people passing on foot? A. Yes.

Q. Were you handed 33 empty cases and two live rounds of ammunition (exh.39)? A. Yes. Q. Are they in good condition and serviceable? A. Yes.

Q. Were you handed a haversack (Exh.21)? A. Yes.

Q. When it was handed to you did it contain 11 two-oz. sticks of Belox? A. Yes. Q. Is that basically nitro-glycerine? A. It is a commercial high explosive.

Q. When it was handed to you was it in such a highly dangerous condition that you exploded it? A. It was.

Q. Would it need a detonator to explode it? A. Yes. The danger was due to the fact that they would have been exploded without a detonator because of its condition. Any explosive containing nitro-glycerine which is in a state of breakdown when the nitro-glycerine commences to exude then it is possible to explode by friction.

Q. Was it exuding in this case? A. It was exuding.

Q. How, by friction; by striking it with a hammer?

A. Even by pinching it between two hard surfaces.

Q. What were the condition of those sticks? A. They were also in a dangerous condition. Q. So you exploded them? A. Yes.

Q. Were you also handed from the same haversack (exh.21) two two-oz. sticks of dynamite? A. Yes. Q. Were they too in a dangerous condition and you exploded them? A. Yes.

Q. Did you also take 7 2-oz. sticks of Gelinog? A. Yes.

That is also a commercial high explosive based on nitro-glycerine. Q. And one oz. of Gelnite? A. Yes. Which is also a high explosive. Q. What was the condition of the Gelinog and the Gelnite? A. They were in dangerous condition. Q. And for that reason they were destroyed?

A. Yes. Q. Except for the substances which you destroyed the other articles remained in the Ammunition Wing throughout except when required for production in Court? A. Yes.

XXn. by CLERIDES: Q. This Schmeisser gun is not a gun which is in service with the British Army? A. No. Q. And although it fires 9 m.m. ammunition, the magazines of the Sten gun which are also 9 m.m. would not fit the Schmeisser. A. I am not qualified to say. (witness tests). Magazines of Sten gun would not fit a Schmeisser. Q. It would be correct to say that apart from this one you have never seen another one in this Island. A. I think that is correct, yes.

Q. Now coming to the curved magazine, you have described that as belonging to a German manufactured gun; would you say it is a light machine gun? A. It is a machine carbine - Sturmgewehr. Q. Is it correct that with regard to a pistol and the ammunition handed to you it was in good working condition and no empty cartridges were handed to you? A. The pistol, exhibit 19, was in good working condition and no empty cases were handed to me. Q. Did you notice when you were handed this pistol whether there was a round in the breech? A. To the best of my recollection there were ten rounds in the magazine but none in the breech.

Q. Now the ten machine gun is gas operated? A. Yes.

Q. And it works very much on the same principle as the Schmeisser. A. Yes.

Q. From your experience do you get such thing as jamming or cease firing with this gun? A. You can get that with any weapon. Q. But it is more common with automatic weapon because of the self-ejection of the rounds? A. I would not like to say. I can simply say that it does happen in all weapons.

Q. You were not handed any empty cartridges of ammunition similar to that in the curved magazine which is 7.92 m.m. I believe? A. I was not.

Q. You examined various cases of rounds given to you and you found that they were in serviceable condition?

A. Yes. Q. With regard to the pistol, exhibit 19, ammunition, you fired a number of them? A. Yes.

Q. You fired a certain number to test them? A. Yes.

Q. But you did not fire any of the other rounds? A. Yes.

Q. You rely on visual observations? A. That is so.

Q. Rounds of ammunition have a certain life for certain years - effective life? A. I would not agree.

Q. And there is a rule in the army that after so many years they are automatically condemned? A. No.

Q. Has it often happened that a round which appears perfectly alright will not fire at all? A. It can happen.

Q. You will agree with me that ammunition which is not packed properly such as in tin container or boxes and is carried out deteriorates. A. It greatly depends on the circumstances under which it is carried out. All the ammunition issued, in use in the Army, can be carried out for considerable time without effecting or deteriorating its condition.

COURT: Q. Did you say you have not seen a Sturmgewehr gun in Cyprus before? A. Yes. But I have seen empty cases. Its calibre is 7.92 m.m. Q. This weapon the Sturmgewehr is not used in the British Army? A. No.

Q. About these cases you said they are cases of American fragmentation grenade. Have you seen American fragmentation grenade in this Island? A. I have seen them. Q. In proper hands? A. Not in proper hands. Q. There are no American units such as police in this Island? A. No.

Q. I mean American personnel? A. I have seen them used by the terrorists.

XXn. by Markides: Nil.

RXn. by C.C.: Q. You have told about the deterioration of the explosives but so far as any of the ammunition you have examined, did you see the slightest sign of deterioration? A. Apart from surface deterioration its age would not affect its working at all.

Court rose at 11:45 a.m. for a short break.

Resumed at 11:40 a.m.

P.W. 20 . FRANCIS TAYLES. Sworn on the Bible, states in English.

Xn. by C.C.: Q. You are No. 14187566 Coy. Sgt. Major Francis Tayles of the Gordon Highlanders? A. Yes. Q. Stationed at Aberdeen Camp, Aeros? A. Yes. Q. On the 15th December last at approximately 1 p.m. did you proceed under the command of Major Neish to the bridge shown in exh. 4? A. Yes. Q. Is that on the Aeros-Pyrgos road? A. Yes. Q. And when you got there did you see a military vehicle parked in the position shown in exhibit 6? A. Yes. Q. Were you with a detachment of Gordon Highlanders? A. I was. Q. What time did you arrive there? A. Approximately at 1:30 p.m. Q. What was the strength of the party? A. Approximately 60 - 70 men. Q. At approximately 4 p.m. did the detachment which you have referred to form up again by that bridge? A. Yes. Q. Whilst you were waiting to move off did you observe footprints leading under the bridge? A. Yes. Q. Did you follow those footprints to a spot under the centre arch? A. Yes. Q. And did you there find that a cavity had been made in the stone work? A. Yes. Q. Exhibit 13 does that portray the cavity? A. Yes. Q. You have, I believe, done a course in the handling of explosive substances. A. Yes. Q. Was that cavity packed with the T.E.T. (exhibit 51) and with stones? A. Yes. Q. And was there a wire leading to the cavity? A. Yes. Q. Was it similar to exhibit 50? A. Yes. Q. Was the bridge-end of that wire fixed to a detonator? A. Yes. Q. Was that similar to exhibit 52? A. That is correct. Q. I believe you informed Major Neish who also went down and inspected? A. Yes. Q. I believe that you cleared the area and then extracted the detonator by jerking the cable? A. Yes. Q. Before doing so did you follow the course of the wire that ran away from the bridge? A. Yes, I did. Q. Would you look at points 17 and 18 on exhibit 15. Did the wire go from point 17 to 18? A. Yes. Q. At point 18 there was a tree shown on the map. A. Yes. Q. And was it beneath that tree that the cable finally came to an end? A. Yes. Q. It is right to say I think that at point 18 there was no electrical contrivance which could be used for exploding the explosive. A. No, there was not. Q. We have had expert evidence on this, but from your experience would you care to tell us your opinion as to what would happen had this explosive been exploded. A. Had the charge exploded it would not demolish the bridge completely but it would damage the bridge so that traffic would be in hazard to cross it.

Q. Also if some person or persons either on foot or in vehicles had been on the bridge when the charge was exploded how would they be effected? A. Had it been a vehicle, a three-ton army vehicle would have been thrown off the bridge.

XXn. by PAVLIDES: Q. These footprints where did they commence from? A. They commenced further along the stream bed. I was standing on the bridge and I noticed going under the archway of the bridge. Q. They did not start from the road? A. No. Q. They started where? A. They started somewhere at the stream bed. Q. Was there running water in it at the time? A. No. Q. But they were quite visible you said? A. The stream had sand and mud and the footprints were quite visible.

XXn. by MARKIDES: Nil.

COURT: Q. Footprints of one person or more persons?
A. Probably two or three. Q. Bear foot or with shoes?
A. With shoes.

RXn. Nil.

P.W. 21./ ^{DERRICK} WILLIAM SYDNEY GREY. Sworn on the Bible, states in English.

Xn. by C.C.: Q. You are Derrick William Sydney Gren and your number is 23160554, a Private from the Gordon Highlanders stationed at Aberdeen Camp, Xeros? A. Yes.
Q. On the 15th of December last were you given certain instructions by Lieut. Simpson of your unit? A. Yes.
Q. And in pursuit of those orders did you proceed to the position which is shown in exhibit 11 on the hillside?
A. Yes. Q. Did you there find two men in the approximate positions shown by the two men on the left of exh. 11?
A. Yes. Q. And whilst you were there did you see Cpl. Buchan of your unit? A. Yes. Q. Was he there when you went there? A. I am not sure whether he came about five minutes after us or he was with us. Q. Did you see him pick up something from the ground? A. Yes.
Q. Was there also a police officer there? A. Yes.
Q. Is this the man? A. Yes. (P.C. 54C Antoniou identified).
Q. In exhibit 11 there is a gully, what was your approximate position when you saw Cpl. Buchan? A. I was on the left hand side as you look at that photo.
Q. After he had picked this object up what did he do with it? A. He threw it across the gully to where I was standing. Q. What was it? A. A pistol. Q. Did you pick it up? A. Yes. Q. Was it similar to this exh. 19? A. Yes. Q. What did you do with it? A. I placed it with some of the other articles which had been found on the hillside. Q. I think your duty was to stay on guard over the two men who were on that hillside? A. Yes.
Q. Would you recognize those two men if you saw them again? A. Yes. They are the two men in the dock.

Q. Did you speak in English to the first accused? A. Yes.
Q. Did you ask him to whom the pistol belonged? A. Yes.
Q. And did he tell you that it belonged to a man who is lying dead in the gully a little further down? A. Yes.
Q. Did you ask him if he knew the name of a man who escaped? A. Yes. Q. And did he reply that he did not know? A. That is right.

XXn. by PAVLIDES: Q. In fact with regard to the pistol he said that it had been dropped by the dead man? A. When I asked to whom it belonged, he said it belonged to the dead man. Q. Might he have said that it was dropped by the dead man? A. He might have said so. Q. You remember saying in the court below "I asked him to whom the pistol belonged and he said it was dropped by the dead man" do you remember saying that? A. Yes.
Q. Now you remember seeing the accused, l there, he was lying on the ground I think? A. Yes. Q. Do you remember that he was wearing or carried on him a haversack?
A. I cannot remember that.

XXn. by MARKIDES: Nil.

RXn. by C.C.: Nil.

P.W. 22. Chief Inspector NEOPHYTOS VASSILIOU. Sworn on the Bible, states in English.

Xn. by C.C.: Q. Are you a Chief Inspector of Police now stationed at Larnaca? A. Yes. Q. On the 15th of December last were you stationed at Lefka? A. Yes. Q. On that date did you go to the position in the area of the bridge which is shown in exhibit 4? A. Yes. Q. Is that on the Xeros - Pyrgos road? A. Yes. Q. And having arrived there did you go up on the right hand side till you came to a position which is shown in exhibit 14? A. Yes.
Q. Did you also examine the place which is shown in exhibits 3 and 4? A. Yes. Q. They are two photographs of the same place taken from opposite direction? A. Yes.
Q. Did you describe that position to His Lordship?
A. The position is on the right hand side after the bridge going to Pyrgos direction - i.e. going away from Nicosia - and it is up on a hill.
Q. At 5:30 on the same day in the afternoon did you take formal custody of the first accused? A. Yes. Q. Where?
A. At Pendeyia hospital. Q. And did you caution him and formally charge him of malice aforethought causing the death of Cpl. Morun? A. Yes. Q. And did he deny killing the Cpl.? A. Yes. Q. And did he say anything else?
A. He said that he reserves his rights and whatever he will say he will tell in court.

XXn. by pavlides: Nil.

XXn. by Markides: Nil.

P.W. 23 MICHAEL NICOLA TOULEKKIS. Sworn on the Bible, states in Greek.

Xn. by C.C.: Q. Is your name Michael N. Toulekkis? A. Yes.
Q. And do you come from the village of Galini? A. Yes.
Q. Do you know a man named Micheal Theocheris Poutashis?
A. Yes. Q. And you also know his wife? A. Yes. Q. And are they the father and mother of the second accused?
A. Yes.

Q. Do you know a locality called Mersinadji? A. Yes.
Q. Shortly before Christmas last did you go with two police officers to that area? A. Yes. Q. And did you point out to them an olive tree on the left hand side of the road as you go to Paphos? A. Yes. Q. And that is on the Xeros-Pyrgos road? A. Yes. Q. Is that a tree which accused 2 has inherited from his grandfather? A. Yes.
Q. Do you know this bridge portrayed in these photographs exhibits 3 and 4? A. I know the bridge. Q. How far is it from the bridge? A. 15 donums from the bridge.
Q. On that day that you went there with the Sgt. did that olive tree show any sign of having been recently tended and cultivated? A. No, did not show signs of having been recently tended or cultivated.
Q. Had it been recently pruned would you have been bound to observe the fact? A. I was asked by the policemen to look but it was neither cultivated nor pruned.
Q. If it had been recently pruned could you have noticed it? A. Yes. Q. Did you show the officers another olive tree? A. Yes. Q. Where in relation to that bridge is that olive tree - how many donums from the bridge?
A. It is 20 - 25 donums before reaching the bridge on the right hand side when going to Paphos.
(Note: paphos is on the same direction as Pyrgos).
Q. Do you know if that tree belongs to accused 2's mother? A. Yes. Q. Did that tree show any sign of having been recently cultivated? A. No. Q. Would it be right to say that there were cut branches underneath it?
A. Yes. Q. From the condition of those branches could you give any estimate of the time when they had been pruned? A. 20 or 25 days before our visit.
Q. And your visit was on the 22nd December? A. Yes.
Q. If they had been cut within 7 days of your visit would that have been obvious to you? A. Yes.

XXn. by pavlides: Nil.

XXn. by Myriantis: Q. It is customary for villagers to go and see their trees which are in the area of the village from time to time? A. Yes. Q. Without necessarily cultivating them. A. To see what their condition is.
Q. And it is also customary to dig them from time to time especially in winter months when the ground is soft.
A. Yes. Q. You remember the days before that visit you had to the trees, for considerable spell of time the weather was raining. A. Yes. Q. And afterwards also?
A. Yes. Q. Having this in mind in case there was some digging - to a small extent - would you expect even then after the rainy weather to find visible signs, say after a week? A. When it rains the soil settles and no signs are visible. Q. So if a little digging had been done you wouldn't expect any signs after a week.
A. That is so.

RXn. by C.C.: Q. What kind of implement is it customary to use for digging round the trees? A. Usually a spade or a fork.

P.W. 3. MAJOR B. J. COOMBE. Recalled by Court. Reminded of his oath

COURT: Q. When the fourth man was going away was he carrying a sten gun or anything like that? A. Yes, he was.
Q. So when he disappeared he disappeared with the Sten gun.
A. He had a sten gun and a magazine in his hand when he disappeared from my view. The gun I saw with him could not possibly have been this one exhibit 20.
Q. I think you were fired at from altogether five places, as far as I could gather; first of all when you were approaching the bridge, and then when you went up the ridge and then from the olive tree, and then from somewhere in the gully when you were at point 8 or 9, and the firing at the final point. Now let's take them one by one. The first firing was when you were in the vehicle. A. Yes. Q. And then when you went along the ridge? A. Yes. Q. And the third is at the olive tree is it? A. That was much the same time.
Q. Could that second burst of fire have come from the olive tree too? A. It could have come. The second time I was fired at the firing may have come from the region of the olive tree. Q. On any of those five occasions when you were fired on are you able to say that there was always one automatic weapon that it was firing or could you definitely say it was more than one weapon. On the first occasion you said it was from one or possibly two firing at the same time. A. I cannot recollect any occasion when there were two automatic weapons firing at the same time. Q. Did you notice any difference in the type of fire which indicated that it was more than one type of weapon used? A. Once again that point is not very registered with me; I couldn't identify the different types of fire. It is possible within my recollection but I have no positive recollection at all.
Q. Any occasion which the firing went for so long that there must have been a man following when a second automatic weapon was used; I mean he would have finished his magazine and the other chap would have carried on - anything like it? A. Not really. Unfortunately my own concentration at the time - whatever firing there was was coming from the group of men and I made no attempt in my own mind to try and differentiate and therefore I have no recollection at all of any incident which might give the impression that it was two weapons. I cannot say that one and the same automatic weapon could not alone have been responsible for all the firing.
Q. Did you hear any single shots that would make you think that a pistol was firing instead of a revolver.
A. I am afraid I have just no recollection of hearing single shots, but there may well have been such.

PAVLIDES through court: Q. Could it possibly not have been a sten gun, because I understand you said it could not have been exhibit 20 being carried away by the 4th man.
A. I don't think it was a gun like exhibit 20. I am fairly sure it was a sten gun. Q. What would be the difference in the make of a sten gun or this one Schmeisser?
A. The sten is a smaller gun than this exhibit 20; and there are different types even of a sten gun.

Court adjourned till Monday 27th Feb. 1956.
at 9:30 a.m.

FOURTH DAY OF TRIAL

27.2.1956 - 9:30 a.m.

Court and parties as before.

P.W. 24. P.S.194 GEORGHIOS MYRIANTHOUS. Sworn on the Bible, states in English.

Xn. by C.C.: Q. Your name is Georghios Myrianthous stationed at Nicosia? A. Yes. Q. Are you P.S. 194 attached to the C.I.D.? A. Yes. Q. On the 16th December last did you proceed some four miles down the Xeros-pyrgos road to the site which is shown in exhibit 4? A. Yes. I went to the locality Mersinadji by the 38/7 milestone Nicosia-Pyrgos road. Q. Where did you go from? A. From Nicosia. Q. Did you there meet Major Coombe who has given evidence in this case? A. Yes. Q. And Chief Insp. Neophytos Vassiliou? A. Yes. Q. On walking round the locality did you find 10 rounds of ammunition? A. Yes. Q. Are they these exhibit 57? A. Yes. Q. Will you tell His Lordship the locality where you found those 10 rounds? A. At point 31 on plan exh.15. Q. On the 22nd December did you go with a man named M.N. Toulekkis (wit.25)? A. Yes. Q. And did he then point out to you two olive trees? A. Two olive trees belonging to his mother and father, as he said (of accused 2). Q. Where is that? A. One of the trees was 400 - 500 yards from the bridge towards Pyrgos. Q. How far from the road was it? A. It was exactly on the left side of the road going towards Pyrgos. Q. Did he also point out to you another olive tree in the opposite direction? A. Yes, in opposite direction towards Xeros. Q. How far from the bridge was that tree? A. 700 - 800 yards in the Xeros direction. Q. And how far from the road? A. Between 200 - 300 yards from the road to the left of the road as one goes to Xeros.

Q. On the 17th December last did you hand over to Capt. Macdonald at Lefka Police Station all the exhibits and ammunition in this case? A. All the exhibits and ammunition and empty cases in this case except the two firearms which had at that time been found.

Q. On the 18th December last did you again visit the scene of the offence and did you then find 7 more empty cartridges of 9 m.m. (exh.53)? A. Yes. Q. On the 24th December last did you hand those also to Capt. Macdonald? A. Yes.

Q. On the 23rd December last did you take charge of the clothing which had been worn by the second accused at the time of his arrest? A. Yes. Q. And do you produce
Ex.58. that clothing? A. Yes. (Put in marked exhibit 58.)

XXN. BY PAVLIDES: Q. Did you also take charge of the clothing of the first accused. A. I took charge from Chief Insp. Neophytos. Q. Did they include of a raincoat? A. I cannot remember now. Q. Where are they? A. They are in Nicosia. Q. Can you make sure whether they included a raincoat? A. Yes. Q. Your object of going there and looking around was to find bullets and arms and you had very carefully searched the whole of that area? A. Yes. Q. On what dates did you go to the scene? A. On the 16th and 18th December I went to the place to see if I could find anything.

XXn. by MYRIANTHIS: Q. As you go from Xeros towards Pyrgos the first tree you find is before you come to the bridge and is on the right hand side of the road? A. Yes. Q. Is this the mother's tree? A. I don't know. The first mentioned tree in my evidence is exactly by the side of the road on the left hand side as one goes to Pomos. The other tree is on the other side of the road. Q. All these distances you have given are approximate? A. They are approximate - they are estimation. I have not measured them. They may be less. Q. Is it possible those distances which you have given - 400 - 500 yards - and the other 700 - 800 yards to be less? A. It might be less but not very much.

PAVLIDES through the Court: Q. You look at exhibit 18 which is the poster of men wanted by the police with a price on their head. There appears to be the photograph of one Mouskos. A. Yes. Q. And is he the Mouskos of this case? A. Yes.

COURT: Q. You said on the 18th December you visited the scene again and found seven cases of 9 m.m. Could you tell me where you found those? A. At point 9 on plan Exh.15.

P.W. 15. P.S. 313 MICHAEL SAVVIDES recalled. Reminded of his oath.

Xn. by C.C.: Q. Could you assist His Lordship in the matter of exhibit 55. Does it fit the Schmeisser gun? A. This magazine fits the Schmeisser gun so I think it is a Schmeisser magazine. Q. Where was it found? A. Two paces to the left of where accused 1 was sitting. Q. Look at this exhibit 11 the photograph, where was accused 1? A. Accused 1 was where the centre man is, and I found the magazine at the foot of the spot where the right hand man is standing; and that is to the left of the accused 1.

PAVLIDES through Court: Q. Actually when you went and found them, there were only two persons there. Yes. Q. Only accused 1 and 2? A. Yes.

CROWN COUNSEL: Q. These exhibit 56, where did you find them? A. In the pocket of Mouskos; that was on the day of the offence. Q. Was that before he was taken away from the place? A. At the place where he was found and where I searched him.

MARKIDES through Court: Q. Look at exhibit 11. The person in police uniform represents the place where accused 2 was found? A. Yes. In the group of three the left hand man represents the position of accused 2.

COURT: Q. This exhibit 55 when you found it was it empty? A. Yes. Q. Did you yourself see where the Schmeisser was lying? A. It was about 10 yards away from the accused near the gas capes. Q. How far was exhibit 55 from where the Schmeisser was lying? A. About 10 - 11 yards. Q. And the Schmeisser was lying down in the gully was it? A. At the time when I went there and saw the Schmeisser was in a pile with the other things and a soldier was guarding them. Q. So that was not where the Schmeisser was picked up. A. I did not see where the Schmeisser was picked up. I did not see before it was picked up.

P.W. 13 . CPL. G. S. BUCHAN, recalled on application of Mr.pavliades.
Reminded of his oath.

Xn. by pavliades: Q. I think that you were the first one to go to the prisoner to give first aid. A. That is correct. Q. And do you remember that accused 1 was at that time wearing a raincoat? A. Yes, he was. Q. This is the raincoat he was wearing? A. I think it was longer than this one; it was a civilian raincoat.

C.C.: No questions.

CASE FOR THE CROWN.

Both accused are informed of their rights.

Accused 1 states: I want to make an unsworn statement.

ACCUSED 1: ANDREAS CHARILAOU ZAKKOS. State: 'in greek

I was working at the C.M.C. as a draughtsman. I always wanted to improve my career, for this reason I applied to the Army for employment.

(Note: court adjourns in order to get a greek interpreter)

Resumed after a short break.
court and parties as before.

Accused 1 continues: When the Army published an advertisement in the beginning of November, 1955, in the Eleftheria newspaper (copy of which I produce in court - Put in marked exhibit F. I also produce copy of my application to the Army marked exhibit G.) From the manner in which the advertisement in the newspaper "F" was framed I was convinced that I would easily be employed and as I needed some time in order to prepare myself, as I forecast that there would be some examinations, on the 17th November I resigned my post at the C.M.C. I continued to stay at my family's house at Lefka and I started to study certain lessons in engineering which I received by correspondence from abroad. At the intervals during my studies I used to go for short walks (hikings) in the area round Lefka. Hiking has been always my favourite sport, as well as one of the main activities of the Greek Sporting Club at Lefka in which club I was president at one time. This can be ascertained from the C.M.C. Welfare News which was previously produced in court for identification B. At intervals I used to visit Xeros where I met certain local athletic sportsmen among whom was Mr. Haralambos pakallouris who was secretary of the Greek Sporting Federation of Soles, in which I was president at one time. Among those whom I met was Andreas Christofides who was in charge of the Xeros sporting Club. One of those days I met also by chance Mr. Ahmet Salih who was a telephone operator in the central office of the C.M.C. where I was previously working.

EX.F
EX.G

Such ... /

Such was the situation when at the beginning of December a letter came to my hands in which very strangely and unexpectedly I was informed that my application was rejected by the Army. I produce the letter. Put in marked exhibit H.

EX.H.

Despite this I was not disappointed and continued with my studies and to think of where I should apply for finding a new employment.

On the 15th December, 1955 I went for one of my customary hikings in order to pay a visit to the palace of the ancient Aepia, that is the Youni Palace. I was very near my destination walking along the main road, when near a bridge of the small river I noticed a person who was unknown to me. I now know a posteriori that that person was Charalambos Mouskos. I learned his name from Mouskos himself some moments before his death when he was answering to a question of policeman Antoniou. At the moment I noticed Mouskos, he noticed me as well. He approached me - he was unarmed. He had one of his hands in his pocket which was rather bulky. He asked me to follow him. He led me to the slope of a hill where we met another two persons who were armed. Mouskos stooped and picked up a gun. It is the gun which I now see in court as exhibit 20. The two persons asked Mouskos who I was. He told them that I was somebody who had seen him and that as he was afraid that I might reveal their presence there, he had taken me there to render me harmless. I started to protest and I asked them to let me so that I might go to my destination promising that I would say nothing. They had a talk (discussion) among themselves as to whether they should let me go or not. Whereupon one of them shouted: "A military truck". Then one or two of them started to shoot. I found the opportunity and went in a hurry to a gully nearby where I fell on the ground with my face towards the ground to protect myself from stray bullets. At one moment I heard shouts of persons coming near to me and who stopped near to me. Then the shots were repeated. Then I started to crawl up the gully carefully. Before reaching the top of the hill I met the second accused in the gully. I did not know him before.

From the top of the hill to the north-west a man's head showed, as well as the muzzle of a gun. At that moment one of the three persons I mentioned before started to run up the gully shouting that his gun was not working. He passed us and made towards the head of a man which showed from the hill. In the meantime the other two persons had started to run in the same direction through the gully. When they approached us, they seemed to have noticed something, they took up positions and started to fire. The fire came from both directions. Then one bullet hit me on the head. I shouted to the two armed persons that something should be done or we would be killed through no fault of ours and as I received no answer I stood up and I shouted in English "Cease fire". At the same time the second accused stood up as well, as well as Mouskos who threw his gun in the gully and also threw something resembling a pistol a little further. Then we were ordered in English to go a little to the eastern direction on a higher and clearer place which we did.

At that ...

At that moment from the gully which we had left shots were heard and at that moment we were shot at ourselves. I fell on the ground and when after a little I regained consciousness I noticed that on my right hand side the second accused was, with his face downwards. He seemed to be dead. To my left hand side was Mouskos groaning and twisting on the ground. In front of me there was a British military man; I now know him to be Major Coombe. He ordered me to speak to the person who was in the gully in Greek and to tell him to throw down his gun and to join us, which I did. That person started to shout in English "wait" - as I had told him that he would be shot at if he did not comply with the order. Major Coombe addressed himself to that person directly and told him that he would count up to 10 and if he did not come out of the gully he would shoot. The Major started to count rather slowly and when he reached 10 he repeated the number 10 for some times, and then he fired three shots. Then Major Coombe turned to me and told me that that person had succeeded in escaping, and that as he was wounded he would soon be arrested.

Then I was given the opportunity of complaining to the Major that he had shot at us unjustly. The Major answered that he did so after having been shot at by the person who had escaped. I then requested him whether he could give first aid to Mouskos who seemed to suffer a lot, and then to me - because the other person, accused 2, seemed to be dead. Major Coombe said that his driver as well needed first aid but that he couldn't do anything. We continued to parley on various subjects which were mostly irrelevant, until military reinforcements arrived. A soldier gave me first aid after removing some clothes of mine among which was a haversack. After that I was removed to the hospital.

I deny that on the 15th December I discharged any firearm against Major Coombe. Also I deny that on the same day I was carrying any kind of firearm. That is all.

I want to add that in the haversack there was a piece of cheese, the one that has been produced in court (exh.48).

PAVLIDES: We are calling three short witnesses.

D.W.1. CHARALAMBOS BAKALLOURIS. Sworn on the Bible, states in Greek

Xn. by pavlides: Q. You are of Xeros? A. Yes. Q. What is your trade or profession? A. I own a cinema at Xeros. Q. And also a coffee shop? A. Yes. Q. Attached to the coffee shop? A. The coffee shop is in the cinema. Q. And you are a member of the committee of the Xeros Development Board? A. I am an elected member. Q. Do you know Andreas Charilaou Zakkos? A. Yes. Q. Is it a long time? A. More than two years. Q. You knew that he was interested in sporting activities and that he was president of several athletic associations? A. Yes. Q. Were you also interested in sport activities? A. Yes. Q. Were you holding any office? A. I was secretary of the Sporting Clubs Federation when Zakkos was president. Q. You knew that he was employed with the C.M.C.? A. Yes.

Q. Did ...

Q. Did you become aware that he left the service of the company? A. Accused 1 told me that he would resign his post at the C.M.C. in order to get employment in the Army.

Q. Did you at any time become aware that he had resigned?

A. Accused 1 did not tell me but I heard from other sources that he had resigned and that he would apply for employment in the army. I don't know the exact date of his resignation.

Q. Now you have heard of the day on which following an encounter Mouskos was killed. A. Yes. Q. When was that do you remember? A. I think it was on the 15th December.

Q. Between the time that accused 1 left the C.M.C. and the day of this occurrence did you see Zakkos at all?

A. I saw accused many times at Xeros. Q. Were you speaking together? A. Yes. He regularly came to my office next

to the cinema and talked on subjects relating to sport clubs. Q. When was the last occasion that you had seen

him before the 15th December? A. It was the Saturday immediately before the incident - I think it was the 10th or 11th December.

XXn. by CROWN COUNSEL: Q. Did you also know the deceased man Mouskos? A. No I did not know him. Q. You do read the

papers don't you? A. Yes. Q. And did you read that a man named Mouskos had escaped when the police went to serve

him with Detention Order? A. I was not in Cyprus at that time. Q. When did you come to Cyprus? A. I think at the

beginning of August, 1955. Q. You have not seen one of those before (witness shown exh.18)? A. I think I

saw in the coffee shop. Q. In your own coffee shop? A. I saw outside my coffee shop on the wall.

Q. So you used to see that every time you went in and out? A. It was on a government notice board which was on the

wall. Q. In fact you have seen that poster time after time. A. I saw it sometimes. The notice board was on

the wall of my cinema and this exhibit 18 was on the notice board. Q. Even though you were not in the island

at the time that it occurred I suggest to you that you knew perfectly well the story of Mouskos's escape when

the police went to serve him with the Detention Order. A. I heard about this after I came to Cyprus. I am not

in the habit of discussing such things. Q. You mean that they failed to serve it do you? A. Yes.

Q. You knew however, did you not, that Mouskos was a relation of His Beatitude the Archbishop. A. I learned

it from the newspapers. Q. I suggest to you that that poster was a matter of great interest to you, as to

indeed all other Cypriots in this island. A. I am never interested in such things.

COURT: Q. So you were not interested in this poster? A. No.

C.C.: Q. I suggest to you that the character and appearance of all those persons who are shown in that poster is well

known to you. A. I don't know such persons; I learned their appearance from the poster.

COURT: Q. Have you noticed Mouskos's picture in this poster? A. I have.

D.W.2. ANDREAS CHRISTOFIDES. Sworn on the Bible, states in Greek.

Xn. by pavlides: Q. Where do you live? A. At Xeros. Q. What are you by profession? A. I am employed at the C.M.C. as a mechanic. Q. You know Andreas zakkos? A. Yes. Q. He was also employed by the C.M.C.? A. Yes. Q. As what? A. As a draughtsman at C.M.C. Q. Skouriotissa and Xeros are two different places and how far are they? A. 5 - 6 miles. Q. Are you interested in sporting activities? A. Yes. Q. Do you hold any position in any athletic association? A. I am in charge of the sporting section of the Club Nei Soli at Xeros. Q. And did you know Andreas zakkos as also interested in sport and being a chairman of athletic associations? A. Yes, he was president of the sporting association. Q. Did you become aware that he resigned his post at the C.M.C.? A. At the end of November he came and told me that he had resigned his post in order to find a post in the Government. Q. You heard of the encounter during which Mouskos was killed. A. Yes. Q. You remember when it was? A. On the 15th December. Q. Between the time that you became aware that Andreas had left the C.M.C. and the 15th December did you see him at any time? A. I saw him two or three times a week when he came down to Xeros. Q. Did you speak to him? A. Yes. Q. What about? A. He asked me about the progress of the sports club. Q. Do you remember the last occasion that you saw him before the 15th December? A. Yes. Q. When was it? A. It was on the afternoon of the previous Sunday - the 11th December.

XXn. by Crown Counsel: Q. When zakkos told you that he was giving up his employment with C.M.C. were you surprised? A. I was not surprised as he had told me he was not pleased with his job and he wanted a better job and he wanted to apply to the military. Q. Of course every one tries to get a better job with higher pay but do you approve of one giving up his job without finding a better one first. A. For example myself, when I came to Nicosia and went to the Exchange Office asking for a job, they asked me whether I was out of employment, and when I told them that I was employed, they said that they could not facilitate me in finding a job; so I had to give up my job before I could get another one. Q. Have you been in the island ever since last April? A. Yes. Q. You read the newspapers? A. Of course. Q. Discuss the political situation? A. No. Q. Do you remember that they created some disturbance in the island when police officers went to serve a Detention Order on one Mouskos? A. I read in the newspapers that Mouskos had escaped but I do not remember when. Q. A photograph appeared in the newspapers didn't it? A. I did not see Mouskos photograph in the newspaper I read. Q. You have seen a photograph of him? A. After this incident of 15th December I saw Mouskos photograph in the newspaper and also his posters. I have seen similar posters to exhibit 18 in coffee shops. Q. It appears that copies of that are plastered up all over the island? A. I don't know whether they are posted up in the whole of the island. I saw such a poster at the police station at Xeros. Q. You knew that Mouskos was a relative of the Archbishop? A. I learned it in the newspapers.

Q. I suggest that his identity and appearance are well known to every member of the Greek community of the island. A. I knew the appearance of Mouskos from the newspapers. Q. You mean before or after the 15th December? A. After the 15th, not before. Q. You know that he appears on that poster? A. I don't know. I shall have a look. He is in it. Q. I suggest that you knew that photograph well long before the 15th December. A. I didn't know before; I never happened to see it (ex.18)

RXn. Nil.

D.W.3. AHMED SALIH IMAMZADE. Sworn on the Koran, states in Turkish.

Xn. by Pavlides: Q. Where do you live? A. At Skouriotissa. Q. I think that you are there working in the telephone Exchange of Skouriotissa? A. Yes. Q. And during the last Evkaf elections were you appointed by the Commissioner as a mukhtar for the elections? A. Yes. Q. You know Andreas Zakkos? A. Yes. Q. Do you know that he left the company's service and when? A. On the 17th November, 1955. Q. How did you come to know that? A. Because when an employee is about to leave the service his account for telephone calls is presented by us for payment. Q. Do you remember hearing the affair of Mouskos? A. No. I did come to hear of his death. Q. Did you before that see Andreas and where was it? A. I saw him on the 10th December, 1955 on my way to Navrovouni near the Turkish school where I stopped and spoke to him and I asked him why he had left his job whereupon he informed me that he was about to take up a job with the military, and that as the military had turned down his application he was to go to Limni mines to ask for work.

XXn. Nil.

CASE FOR ACCUSED 1.

Accused 2 elects to make an unsworn statement.

ACCUSED 2, CHARILAOS MICHAEL - States in Greek.

In the morning of the 15th December last, after having breakfast I took the spade and my water bottle and my raincoat, because it was raining, and started on my way to Mersinadji to cultivate the olive trees. As soon as I started to cultivate my mother's olive tree I saw two armed persons coming towards me. The one was holding a big gun and the other a smaller weapon. As soon as I saw them, they saw me. They had their guns directed towards me. They approached me and asked me what I was doing there. I told them I had come to cultivate my parent's olive trees, and they told me to leave my spade there near the olive tree and follow them otherwise they would shoot me. I was frightened, I took my raincoat and my water bottle and started to follow them across fields. The one who was holding the small weapon told the other "Take him up to the hill and tell him to sit there and do whatever you tell him", and that if I tried to escape to shoot at me.

On our way through the fields I found a paper case like exhibit 34, which was empty and open. I picked it up out of curiosity and looked at it. As I thought it might be of some use to me. I took it in order to put seasoned olives in it whenever I went to cultivate.

When we reached to a spot about 10 yards below the top of the hill, he told me to sit there and not to go away or he would shoot at me. He went to the top of the hill and directed the muzzle of his gun at me. Two or three minutes after I had sat there I heard shots. While sitting there in the gully I saw a person unknown to me coming towards me. I now know that person as accused 1. He was not holding a gun. The shots continued. I saw another person holding a gun, coming towards me. That person passed by me and went away.

Two or three minutes after the shots ceased I saw two armed persons coming from down the gully, i.e. up the gully towards me. They came and fell on the ground in the gully where I was. As soon as they fell on the ground I heard shots. I heard someone say "I have been wounded, I shall put up my hands". As soon as he put up his hands I put up my hands as well. Behind me somebody else was coming with his hands up. As soon as we came out of the gully I heard shots. As soon as I heard the shots I fell on the ground with my face downwards and stayed there. I did not move at all until the police came.

The police took me down the hill to the road and asked me what I was doing there. I told them that I had gone to cultivate my parent's olive trees and that those had found me there and had brought me to that place.

On the 15th December I was not carrying a gun. Neither did I discharge a gun at Major Coombe. That is all.

Calling no witnesses.

CASE FOR ACCUSED 2.

Court adjourned till 2:30 p.m. for addresses.

Resumed at 2:40 p.m. Court and parties as before.

Mr. PAVLIDES addresses the court; ...

Mr. MARKIDES addresses the court; ...

Mr. GRIFFITH-JONES, C.C. addresses the court; ...

COURT: Adjourned till 9:30 a.m. on 28th February, 1956
for judgment.

In the special Court of Nicosia.

Before SHAW, J.

Case No. 51/55

Q U E E N

v

1. Andreas Harilaou Zakos
2. Charilaos Michael

Date: 28.2.56.
Appearances as before.

J U D G M E N T

The two accused persons - Andreas Ch. Zakos and Charilaos Michael - are charged on an indictment which contains two counts. The first count is discharging firearms contrary to Regulation 52(a) of the Emergency powers (public safety and order) Regulations, 1955, and the Criminal Code, Cap. 13, sections 20 and 21. The particulars of offence are that the accused on the 15th day of December, 1955, at Galini in the district of Nicosia, did discharge firearms at Major Brian Coombe of the 37 Field Squadron R.E. The statement of offence in the second count is carrying firearms contrary to Regulation 52(c) of the Emergency powers (public safety and order) Regulations 1955, and the Criminal Code Cap. 13, sections 20 and 21; and the particulars of offence are that the accused at the time and place in count 1 hereof mentioned did carry firearms.

The principle witness in this case is P.W. 3 Major Brian J. Coombe. He has stated that on the 15th December at about 10.30 a.m. he left Troodos. He was in a military vehicle known as a champ driven by L/Cpl. Morun, and was at first accompanied by two other vehicles. Later he sent those other vehicles on to Nicosia by another route and he continued on his way towards Pomas.

At about 12.15 p.m. he arrived near the bridge shown in Exhibits 1 to 4 - at point 17 shown in Exhibit 15. At that time Major Coombe was driving and Morun was sitting to his left. As he passed over the bridge there was a burst of machine gun fire and the Cpl.'s body slumped across Major Coombe. The champ was then coming towards the camera as one looks at Exhibit 1. It was a short burst of about 6 rounds and Major Coombe's impression was that this came from one weapon, but it might have come from two weapons; and it appeared to come approximately from the direction of the persons standing on the slope in Exhibit 4, that is to say from the direction of points 16, 19, 20 and 32 in Exhibit 15. The champ was then at point 1 in Exhibit 15. Major Coombe steered the champ into the cover of the bank on the right hand side of the road (see Exhibit 5), and the

vehicle came to a rest at the point marked with a cross. That is to say at about point 2 in Exhibit 15. After the vehicle had come to a rest Major Coombe saw that Morun had a wound in the head and he thought that he was dead. Major Coombe then took his sten gun and got out of the champ, and started to walk round the corner shown in Exhibit 5, and he then climbed to the top of the ridge shown in Exhibit 7. The dotted line in that photograph shows his route. As he started to climb two grenades exploded in the area, but Major Coombe could not say where exactly those explosions took place. He reached the top of the hill at point 3 in Exhibit 15, and looked around to try and locate the person or persons who had fired. In doing so he exposed himself on the top of the ridge and was almost immediately greeted by another burst of machine gun fire. That fire came from somewhere below where he stood but Major Coombe could not see his assailants. He retired below the edge of the hill in order to change his position and climbed up again more cautiously to point 4 on Exhibit 15. He then saw three men below him. Two were behind the olive tree shown on Exhibit 8, which corresponds to point 5 on Exhibit 15, and were standing below the terrace behind the tree, and the third man was crouching down behind the terrace wall about two or three yards from the others. Their positions are shown approximately by the three crosses in Exhibit 8. The olive tree was 30 yards or a little more from point 4. Major Coombe opened fire on what he could see of those three men, and he says that he saw a gun of some description with each of them. There was an interchange of fire and Major Coombe fired when they showed themselves sufficiently, and he changed his position from time to time. Major Coombe used up all the ammunition in his two magazines, approximately forty rounds, and also fired two or three rounds from his .38 calibre revolver, and he states that a considerable number of rounds were fired at him. He did not appear to have hit anything. He then went back down the slope to the champ where he found Morun still breathing and lying in the same position. Morun was not conscious, and thinking that he could do nothing for him he left him after taking his (Morun's) sten gun and two magazines. There were twenty rounds in each magazine. As he was going away from the champ he saw a vehicle come down the hill and going towards Nicosia. He stopped it and spoke to the driver. There is no doubt that the driver was P.W. 5. Adil Suleiman, who drove on to Xeros Police Station and made a report to P.S. Michael Savvides.

Major Coombe then hid his sten gun in a bush at point 7 (Exhibit 15), and he again climbed the hill shown in Exhibit 12, arriving at about the place where a person is shown standing in that photo. That point corresponds to point 8, Exhibit 15. The slope was fairly steep and Major Coombe paused half way up to get his breath back, and he then heard the sound of subdued voices coming from the other side of the slope and also the sound of persons moving from his left to his right.

That is to say those persons would have been going away from the camera (in Exhibit 1) which shows the view over the gully from about point 8 (Exhibit 15). When Major Coombe reached the summit of the ridge he was able to peer over, and he then saw a group of men walking in single file up the bottom of the gully to his left front. The crosses in Exhibit 11 show the approximate positions of those men. Major Coombe cannot say how many men he then saw. One of them turned round and saw him, and they all ducked down at once. Major Coombe got into a firing position and opened fire at what he could see. But before he was ready to fire automatic fire was directed at him from that group of men and the shots appeared to come close to him. After an exchange of fire Major Coombe saw three men put up their hands and these three men climbed out of the gully - up the positions of the three men shown on Exhibit 11, which corresponds to points 10, 11 and 12 of Exhibit 15. As they surrendered one of these three men called out in English - "stop firing", and Major Coombe states that the man who said this was accused 1. Major Coombe moved further forward from point 9, Exhibit 12, in order to cover those men, and in doing so he exposed himself fully to the position from which the three men had just come. As he did so there was a long burst of fire from a man at point 13 in Exhibit 15, in the area of the gully from which the three men had emerged. Major Coombe could see that man when he opened fire. Major Coombe then re-opened fire on all the four men, and he continued to fire, mainly at the 4th man in the gully, till he thought that he had used up all the ammunition in the two magazines. The fourth man then put up his hand, and started to shout in English - "don't shoot", or words to that effect. Major Coombe states that that man got up, so that he could see his head and shoulders, and that he put up his hands with a Sten gun in one of them. Major Coombe saw blood on his face and on his empty hand. The distance from point 9 to point 13, Exhibit 15, is about 50 yards, and the distance from point 9 to points 10, 11 and 12 is forty yards or a little more. Major Coombe told the 4th man to throw away his gun and join the others on the slope but he did not do so. Major Coombe told accused 1 to tell the 4th man to throw away his weapon and to join the others, and he says that accused 1 appeared to pass that message on. The 4th man appeared to be struggling up from his position, at the same time shouting "wait, wait", but he did not actually get out of the gully. Major Coombe then told that man that he would count 10 and that if he did not get out by then he would open fire again. Major Coombe then counted up to 10 slowly and loudly. As he did so the 4th man said, "wait, I am getting out", or words to that effect. Major Coombe did not shoot after he had counted 10 as he had very little ammunition left, and he gave the 4th man a few more minutes. Eventually the 4th man got out of the gully, but instead of going towards the other three he started to scramble up the bank behind him towards the top of the ridge, more or less directly away from Major Coombe. That is to say he went towards the top of the ridge immediately behind the single figure shown on Exhibit 11. Major Coombe fired the three remaining shots

of his revolver at him. The man stumbled and fell, but picked himself up and stumbled over the top of the ridge and disappeared from Major Coombe's view at point 14 of Exhibit 15. When that man disappeared he was carrying a Sten gun. Major Coombe looked at his watch and it was then 12:40 p.m.

There can be no doubt that the three men who came out of the gully and went up onto the hillside to the positions shown on exhibit 11 were the two accused and Charalambos Mouskos. When they fell down, after Major Coombe had fired at them, they lay in this order: Accused 2, accused 1 and Mouskos - going from left to right as one looks at Exhibit 11. Accused 2 had not been hit, but both accused 1 and Mouskos were wounded. Mouskos lay on his back twisting from side to side and groaning, and he gradually slipped down the slope towards the gully. Accused 1 then complained to Major Coombe that he had shot them. To the best of Major Coombe's memory accused 1 said, "why did you shoot me (or us), we had surrendered". Major Coombe pointed out to accused 1 who had shot first. Accused 1's next complaint was that he and his friend were wounded, and that another friend was dead, and that Major Coombe must get help quickly. Major Coombe says that when he pointed out that they had shot first he was referring to the burst of machine gun fire directed at him after they appeared to have surrendered. In reply to accused 1's last complaint Major Coombe pointed out that his driver had been killed and that help would depend on his compatriots. Major Coombe was referring to the driver of the timber lorry. Major Coombe then congratulated accused 1 on his English and asked him where he had come from. Accused 1 replied that he had worked in the drawing office of the Cyprus Mining Corporation, and that he had run away because the police had wanted him. Major Coombe asked his name and he said his name was Zokkos. Major Coombe asked why he was fighting them and he said he was fighting for his freedom. Major Coombe replied that freedom was never won by murder, and that the British Army was fighting to preserve freedom. He pointed out that in 1941, and again in 1945, British soldiers had fought and died in Greece in order to preserve the freedom of Greece. He said that in 1945 the British helped to fight E.L.A.S. in the same way as they are fighting E.O.K.A. to-day, and he pointed out that if it had not been for British arms and help Greece to-day would be a satellite country. Major Coombe states that accused 1 made no particular answer to these remarks. While this conversation was going on several vehicles were passing along the road but did not stop.

At about 1:10 p.m. Major Coombe heard a Land Rover approaching from the direction of Nicosia. He eventually succeeded in stopping the vehicle. He spoke to the driver who appeared to understand and turned back in the direction of Nicosia. Major Coombe then returned to his covering position and by that time Mouskos had just about slipped down into the gully. At about 1:30 p.m. a party of the 1st Gordon Highlanders, accompanied by police officers arrived from the direction of Nicosia, and Major Coombe pointed out the three men to Lieut. Simpson who was in command of the detachment.

Lieut. Simpson posted a guard over the three men. A search was made without result for the 4th man. Later on a larger party of troops and police arrived and an intensified search was made for the 4th man but without success. Major Coombe told the Court that he did not himself pick up or handle any weapon found at the scene, and that he cannot associate the two accused with the use of any particular weapon or with any weapon at all. When he examined the champ Major Coombe found three bullet holes one in the centre of the windscreen on the passenger side; one just below the windscreen on the passenger side; and one through the top of the bonnet. The hole in the windscreen was approximately opposite the place where Londs Cpl. Morun's head would have been. At a later date Major Coombe was shown a poster (like Exhibit 18) with the portraits of wanted men, and he picked out the portrait of a man called Drakos as resembling the 4th man.

I shall now refer to the various Exhibits which were found in the vicinity of the place where the two accused were when Major Coombe fired on them. points 10 and 11 in exhibit 15 show the approximate positions of accused 2 and 1 respectively, and point 12 is where Mouskos was before he slipped down.

A pistol Exhibit 19 - This is a 7.65 calibre guernico pistol, No. 71233, which although its general condition is poor is mechanically sound and in good working order. It is a lethal weapon and P.W. 16 tested it by firing shots with it. P.W. 13 Buchan has stated that when he approached accused 2 he saw an automatic pistol lying at his side and about a foot away from him or 18 inches at the most. I find as a fact that exhibit 19 is the pistol in question. When examined it had one round in the breech and 9 rounds in the magazine (Exhibit 32). At point 29 of Exhibit 15 a box (Exhibit 13) containing 22 rounds of 7.65 ammunition was found by P.W. 14 Antoniou. No cartridge cases of this calibre were picked up anywhere.

A Schmeisser automatic carbine No. 4137 (Exhibit 20). P.W. 13 J.S. Buchan stated that he saw this weapon about 15 yards from where accused 2 was lying and at about the place where the single figure appears in Exhibit 11. It was picked up by P.W. 14 Antoniou who says that it was at point 27 (Exhibit 15). Antoniou took out the magazine and found no ammunition in it or in the gun itself. He found four magazines (Exhibit 25), together, about 2 or 3 feet from the gun. One of these magazines was empty, one contained 8 rounds of 9 m.m. ammunition, and the other two each contained 26 rounds of 9 m.m. ammunition. He also found a single sock containing 91 rounds of 9 m.m. ammunition in the gully about 5 to 6 feet from the gun, and 15 empty 9 m.m. cartridge cases (Exhibit 27) near the gun. When examined by P.W. 16 M. Waters, who is an armourer Q.M.S. in R.E.M.E., this weapon was found to be in serviceable condition, and the witness fired five shots with it in order to test it. Its bore is 9m.m. I will say here that I am conscious of the fact that there are some discrepancies in regard to the magazines which have been produced in this Court.

There is no doubt hat three of the magazines are sten gun magazines and the other three are schmeisser.

I do not think the discrepancies are of any importance so far as the innocence or guilt of the two accused persons is concerned. I accept that the magazine which was picked up near accused 1 was empty.

P.W. 19 Capt. Macdonald who is an inspecting Ordnance Officer, and a trained and qualified expert in ammunition and explosives, has stated that the Schmeisser is not a weapon which to his knowledge is ever used by the British Army, and he does not think that he has seen another in Cyprus.

Next Exhibit, Exhibit 21, a Haversack - This contained 11 two-ounce sticks of Belax; 2 two-ounce sticks of dynamite; 7 two-ounce sticks of gelinog; and one ounce of gelignite. It also contained a locally made bomb (Exhibit 29). Belax is a commercial high explosive which is basically nitroglycerine and gelinog is similar. All these explosives were in such a dangerous condition that they had to be exploded by P.W. 19 Capt. Macdonald.

P.W. 14 Michael Antoniou has stated, he found this haversack with its contents. The haversack was found at point 24 (Exhibit 15) which is about 9 feet from where accused 2 lay. The bomb had a detonator (Exhibit 30) in it and in the haversack there was also a container (Exhibit 36).

Bomb (Exhibit 22) and container (Exhibit 22A) - P.W. 14 M. Antoniou found these articles on the ground near accused 1 and 2. The container was 2 or 3 feet from the bomb. point 23 (Exhibit 15) is where he found the bomb. The bomb had a detonator (Exhibit 23) in it.

Two gas capes (Exhibit 24). These were found by P.W. 14 near to the two accused (at point 25 in Exhibit 15).

A cap (Exhibit 28) - was found by Antoniou at point 28.

A gas cape (Exhibit 33)- was being worn by accused 2.

A container (Exhibit 34) - P.W. 14 Antoniou stated that he found this in the right-hand trousers pocket of the second accused. Police witness 19 Capt. Macdonald stated that this container, which is similar to Exhibits 22A and 36, is of American manufacture and is made to contain an American fragmentation grenade. It is known as M41 A1 for identification. Capt. Macdonald stated that he has seen such grenades in Cyprus but never in proper hands. They are not used by troops or by police in this country, and Capt. Macdonald stated that the grenades of this kind that he has seen were those used by the terrorists.

Water bottle (Exhibit 35) - This was found by P.W. 14 on the belt of accused 2.

Box of matches (Exhibit 37) and scarf Exhibit 38 - were found by P.W. 14 in the gully about 10 paces from the Schmeisser.

Handkerchief and notebook (Exhibit 46) - These, together with a sum of £17.398 mils, were found on accused 1 when he was searched by Sgt. Savvides.

Pen (Exhibit 47), and haversack with cheese in it, Exh. 38 and an empty magazine (Exhibit 49) - were found by Sgt. Savvides two paces to the left of accused 1.

Magazine (Exhibit 55) - this fits the schmeisser gun and was found by P.W. 15 (Savvides) two paces to the left of where accused 1 was sitting, at about the place where Mouskos had been.

Six rounds of 9 m.m. live ammunition, (Exhibit 56) - these were found in the pocket of Mouskos.

I shall now refer to other exhibits which were found in other places.

33 empty cartridge cases and two live rounds all of 9 m.m. (Exhibit 39) - These were picked up by Major Coombe and by P.W. 14 at about 2 p.m. on the 15th December in the locality of the olive tree shown on Exhibit 8, i.e. at point 5 in Exhibit 15. It was from the vicinity of this tree that fire had been directed at Major Coombe as mentioned before. P.W. 19 Macdonald has stated that the two live rounds are serviceable and in good condition.

34 empty cartridge cases of 9 m.m. (Exhibit 40) - These were found on the afternoon of the 15th December by P.W. 14 in the locality where the persons who appear in Exhibits 3 and 4 are standing, which corresponds to about point 32 in Exhibit 15. That is to say, they were found at the place from which fire was first directed at Major Coombe in the camp. They were in two separate piles of 17 cases each, at points 19 and 21 in Exhibit 15. The distance between the two points is about 9 yards. At that place P.W. Antoniou found what he described as four shelters. These were each made of 4 or 5 loose stones, side by side, and about 6 inches in height. Some of the stones were smaller than others.

One black handkerchief (Exhibit 41), and one white handkerchief (Exhibit 42) - were also found at the same place by Savvides on 15.12.55.

A bag of ammunition (Exhibit 43) containing 122 live rounds of ammunition, and also a smaller bag (Exhibit 44) containing 40 live rounds all of 7.92 calibre - these were found at the same place by Sgt. Savvides on 15.12.55, and the Sgt. also found there a magazine (Exhibit 45) which contained 30 live rounds of the same kind of ammunition. The magazine was in the same place as the bag. This magazine will not fit either the Schmeisser or a Sten gun. All these cartridges were of 7.92 m.m. calibre, and Capt. Macdonald states that the magazine belongs to a sturmgewehr machine carbine which, he understands, is designed for use by German paratroops. He has never

seen such a weapon in Cyprus. He states that all of this ammunition is serviceable and in good condition, but he had to rely on a visual examination as he was not able to make a test by firing rounds. No empties of this kind were picked up anywhere.

7 empty cartridge cases (Exhibit 63) - these were found on the hill-side by the gully at point 9 on Exhibit 15. They are 9 m.m. cases, and are presumably from Major Coombe's Sten-gun.

10 empty 9 m.m. cartridge cases (Exhibit 57) - these were found by P.W. 24 G. Myriantous at point 31 (Exhibit 15) on the 16th December.

I shall now deal with the evidence as to what was found at the bridge. The evidence is that of P.W. 18, Major J. Neish, whose evidence in the lower court was read in this court as it was proved that he was out of Cyprus. Major Neish stated that at approximately 2.30 p.m. on the 15th December his Sgt. Major called his attention to something by the bridge. With his Coy. S.M. he went to the underneath arch of the bridge, and there he found an electric cable going in under the arch to some loose stones that had been pulled out. He said that Exhibit 29 in the lower court which corresponds to Exhibit 50 in this court, was similar to the wire he saw. He stated that Exhibit 13 showed the cavity where the wire disappeared except that the stones had not been put back. He traced the wire back. It ran in the line indicated in Exhibit 15 from point 17 to point 18. The distance between those points is 188 feet. He went with S.M. Tayles beneath the arch of the bridge, and they removed the stones from the cavity, and there saw what there appeared to be an explosive charge which was removed by the S.M. When they removed it the wire disappeared into the charge.

They put the charge on the ground and went some distance away and pulled, and the detonator came out. Exhibit 51 in this case is the charge. Major Neish expressed the opinion that if the charge had been detonated it would have blown a hole in the road if it had not knocked the whole bridge down.

Capt. Macdonald has stated that Exhibit 51 is the T.N.T. content of an Italian anti-tank mine, and that Exhibit 52 is an electric detonator of the W.D. type known as No. 33. This would be suitable for firing Exhibit 51.

Coy. S.M. Tayles, P.W. 10 has given evidence about this, and he said that at about 4 p.m. his detachment formed up by the bridge, and whilst waiting to move off he observed footprints leading under the bridge. He followed them under the centre arch and there he noticed that a cavity had been made in the stone work. He made a report to Major Neish who also made an inspection.

I shall now refer to the medical evidence. P.W. 4 M.B. Comerford, who is a doctor holding the appointment of Assistant Medical Officer at the C.M.C. Hospital, Pendeys, states that on the 15th December at approximately 2 p.m. a British soldier was admitted to hospital, and from information received and from documents on the soldier's body

he came to know that he was Lance Corporal J.B. Morun. When admitted Morun was unconscious and seriously ill. He was suffering from a through and through wound of the skull with extravasation of brain from both wounds. Both the entry and exit wounds were close together and were approximately on the top of the head. Morun died about two hours after admission to the hospital, in the doctor's presence.

P.W. 9 Major Mary Munro of the R.A.M.C. has stated that on the 16th December she conducted an autopsy on the order of the coroner on the body of a young soldier. The body was identified to her by Capt. Macdonald as the body of Lance Corporal Morun. The appearance of the body was compatible with his age being about 20 years. She found two wounds in the scalp, entry and exit, and the result of these wounds was such that a large fracture of the skull had been caused. This fracture was consistent with having been caused by bullet. The cause of death in her opinion, was a gun-shot wound on the head causing fracture of the skull, intercranial haemorrhage, and laceration of the brain.

P.W. 4 Dr. Comerford has stated that on the same day at about 3 p.m. he took in another patient - accused 1. He examined him and found that he was wounded in the chest and in the scalp. There was no fracture of the skull. There were two wounds in the chest - one wound was 5 inches below the left arm pit, and the other was 1½ inches on the medial side of the left nipple. There appeared to be no injury to the lung at that time. The patient was subsequently transferred, on the following day, to the Nicosia General Hospital. Dr. Comerford states that while accused 1 was under his care his chest was X-rayed, and no damage to the lung was seen and no metallic foreign body such as a bullet was seen. There was however a very small collection of fluid at the left pleuro-costal angle. He says that there was also a fracture of the left 7th rib. From the clinical details it appeared to the doctor that the bullet had entered the left axilla, hit the 7th rib, and then diverted to emerge from the front of the chest. The scalp wound was superficial and the other injuries were serious. All the injuries were compatible with having been caused by bullets.

Evidence has been given as to the employment of accused 1 and accused 2. P.W. 11 Noel Phillips has stated that on the 15.11.55 accused 1 was in the employment of the Cyprus Mines Corporation. On that day accused 1 asked for the following day off. On the 17th he returned to the Corporation and informed Mr. Phillips of his intention of leaving the Corporation as he was going to work for the armed services in Nicosia. Accused 1 was a draughtsman in the department of Mr. Phillips at Skouriotissa, and that place is about six to eight miles from Xeros.

P.W. 10 Mr. G.M. Barnett of the C.M.C. at Xeros states that according to the Corporation's records accused 2 entered the C.M.C. service on 4.1.54, and remained till 17th November, 1955, he thinks. On or about that date, either on the 16th or on the 17th, accused 2 failed to report for work, and having been absent for six consecutive days he was, under the Regulations of the Corporation, discharged from their employment.

Accused 2 was an Assistant Operator in the grinding and flotation plant, which was manual and not clerical work, and the plant was at Xeros.

Evidence has also been given about the attempt to serve a Detention Order on Charalambos Mouskos. Sub-Inspector P.W. 12 Loukis Kyriacou of Nicosia says that on the 26th July, 1955 he attended the District Court, Nicosia, with a Detention Order. That Detention Order was made under the Detention of persons Law in respect of Charalambos Mouskos. He saw Mouskos in the court and asked him to accompany him outside to serve the order, but Mouskos turned back and ran away through the other door of the court and was not seen again. He stated that from that time the police had been looking for Mouskos.

There is the evidence of P.W. 14 Buchan who states that on the 15th December he got Mouskos out of the gully and laid him on the side of it, and that Mouskos died in his presence.

(Court rose at 11 a.m. for a short break.

Resumed at 11.10 a.m.)

I shall now deal with the defence evidence, and first of all with the evidence as regards accused 1. He decided to make an unsworn statement from the dock. He was of course perfectly entitled to do that. An unsworn statement from the dock obviously does not carry the same weight as a statement on oath which has been subjected to cross-examination. Nevertheless it is entitled to the most careful consideration. I can quite imagine that an innocent person might decide that he could not bear to be cross-examined although innocent - a nervous person - and that he might decide to make an unsworn statement rather than subject himself to the ordeal of cross-examination.

Accused 1 has told the court that he was working at the C.M.C. as a draughtsman, that he always wanted to improve his career, and for that reason he applied to the Army for employment. He has produced a copy of the application which he sent to the Army (Exhibit G). He said that he left pretty sure that he would be employed by the Army, and that as he needed some time to prepare himself he resigned his post at the C.M.C. on the 17th November. As it turned out at a later date he had a letter from the Army saying that they could not offer him employment. He said that he continued to stay at his family's house at Lefka, and started to take lessons in engineering from abroad by correspondence. He said that at intervals during his studies he used to go for short walks in the area round Lefka, and that walking has always been his favourite form of sport as well as being one of the main activities of the Greek Sporting Club at Lefka of which he was at one time president. He says that on the 15th December he went on one of his usual customary hikings in order to pay a visit to the palace of ancient Epia. He was very near his destination, walking along the main road near a bridge which is clearly the bridge which has figured in this case. There he noticed a man whom he did not know before - a man whom he subsequently came to know as Charalambos Mouskos. He states

that he did not find out Mouskos's name until some moments before Mouskos died. When Mouskos was answering a question of P.C. Antonious. Accused 1 states that the moment he noticed Mouskos Mouskos noticed him and approached him. Mouskos was unarmed but he had one of his hands in his pocket which was rather bulky. Mouskos asked him to follow him to the slope of the hill where they met two other persons who were armed. Mouskos then stooped down and picked up a gun which accused says is exhibit 20, the Schmeisser. These two men whom they met asked Mouskos who accused 1 was, and Mouskos replied that accused 1 was somebody who had seen him, and that as he was afraid that accused 1 might reveal their presence there he had taken accused 1 there to render him harmless. Accused 1 states that he started to protest and asked them to let him go so that he could go to his destination, and he also said that he promised that he would say nothing about what he had seen. They had a discussion among themselves as to whether they would let him go or not, and then suddenly one of them shouted - "A military truck". Accused 1 states that then either one or two of them started to shoot, and he (accused 1) found the opportunity and went in a hurry to a gully nearby where he fell on the ground with his face to the ground to protect himself from stray bullets. At one moment he heard shouts of persons coming near to him who stopped near to him, and he says that the shots were repeated. He then started to crawl up the gully carefully, and before reaching the top of the hill he met accused 2 in the gully. He did not know accused 2 before. He goes on to say that from the top of the hill to the northwest a man's head showed as well as the muzzle of a gun, and at that moment one of the three persons about whom he had already spoken started to run up the gully shouting that his gun was not working. That man passed accused 1 and 2 and made towards the head which showed itself from the hill. In the meantime the other two persons started to run in the same direction through the gully. When they approached accused 1 and 2 they seemed to have noticed something. They took up positions and started to fire. The fire came from both directions, and then a bullet hit accused 1 in the head. He then shouted to the two armed persons that something should be done or they would be killed through no fault of theirs. That is to say he and accused 2 would be killed. As he received no answer he stood up and shouted in English - "Cease fire". At the same time accused 2 stood up, and so did Mouskos who threw his gun away in the gully. Mouskos also threw something resembling a pistol a little further. He goes on to say - "We were ordered in English to go a little to the eastern direction on a higher and clearer ground, which we did." And at that moment from the gully which they had left he heard shots. And at that moment they were shot at themselves. Accused 1 states that he fell on the ground and that when after a little he regained consciousness he noticed that on his right hand accused 2 was lying with his face downwards. Accused 2 seemed to be dead; and to his left hand was Mouskos groaning and twisting in pain. Accused 1 states that in front of him there was a British military man, and that he now knows that it was Major Coombe. He then gives a description of how the fourth man was told to come up out of the gully, and in this respect he agrees very closely with what Major Coombe has said.

With regard to the conversation that he had with Major Coombe he said that they continued to parley on various subjects which were mostly irrelevant until military reinforcements arrived. He denied that on that day he had discharged any firearm at Major Coombe, and he also denied having carried any kind of firearm. He claims the haversack (Exhibit 48) with the piece of cheese in it which was produced in court. Accused 1 has called three defence witnesses. I don't think it is necessary for me to go in detail through their statements. I accept what they say about accused 1, and what accused 1 himself says, that he was interested in sporting activities.

The first defence witness Charalambos Bakallouris has stated that the last time he had seen accused 1 before the date of occurrence was on the Saturday preceding which would have been the 10th December. The second defence witness Andreas Christofides has given somewhat similar evidence, and states that the last occasion when he had seen accused 1 before the 15th December was on Sunday the 11th. The third defence witness, Ahmet Selih Imomzade, has stated that he last saw accused 1 on the 10th December on his way to Mavrovouni - near the Turkish school. He then asked accused No. 1 why he had left his job, and accused 1 told him he was about to take up a job with the military and as the military had turned down his application he was intending to go up to Limni mine to ask for work.

P.W. 15 P.S. Michael Savvides has stated that when he saw the accused 1 on the hillside he spoke to accused 1 and asked him what he was doing there. Accused 1 replied that he - "was caught in with them and fell a victim." He states that he searched accused 1 and found on him the exhibits which I have referred to (the money, handkerchief and a note-book).

P.W. 21 D.W. Grey, who is a private in the Gordon Highlanders, states that he asked accused 1 to whom the pistol belonged and accused 1 said that it belonged to a man who was lying dead in the gully. This witness said that he thought that accused 1 did say that that Mouskos had "dropped" the pistol. Evidence has been given about what accused 1 said when he was cautioned and charged with having killed L/Cpl. Morun. It must be remembered that in the present case I am not dealing with the question of the murder of L/Cpl. Morun. That was a most tragic happening but I am not dealing with it. When that charge was put to accused 1 he denied that he had killed the L/Corporal.

I shall now deal with the evidence as regards accused 2. Accused 2 also elected to make a statement from the dock. He said that on the morning of the 15th December, after breakfast, he took the spade and his water bottle, and his raincoat because it was raining, and started on his way to Mersinadji to cultivate his parents' olive trees. As soon as he started cultivating his mother's tree he saw two armed men coming towards him. He says one of them was holding a big gun and the other a smaller weapon. As soon as he saw those persons they saw him, and they had their guns pointed at him.

They approached accused 2 and asked him what he was doing there. He replied that he had come to cultivate his parents' olive trees. They then told him to leave his spade there near the olive tree and to follow them or they would shoot him. He says that he was frightened and took his raincoat and water bottle and started to follow them across the fields. The man who was holding the smaller weapon said to the other: "Take him up to the hill, and tell him to sit there, and to do whatever you tell him". That man also told the other man that if accused 2 tried to run away he was to shoot at him. Accused 2 also said that on his way through the fields he found a paper case similar to exhibit 34 which was empty and open. He took it up and looked at it as he thought it might be useful, and he took it to put seasoned olives in it. When they reached about 10 metres from the top of the hill the man told him to sit there and not ~~to~~ try to run away otherwise he would shoot at him. The man went to top of the hill and turned his gun towards accused 2. Two or three minutes after he had sat there accused 2 heard shots, and while he was sitting there in the gully he saw a man whom he did not know before, coming towards him. He now knows that that person was accused 1. Accused 1 was not holding a gun. The shots continued. Accused 2 saw another person holding a gun coming towards him. That person passed accused 2 and went away. Two or three minutes after the shots ceased he saw two armed persons coming from down the gully, that is to say up the gully towards him. Those persons came and fell on the ground in the gully where accused 2 was. As soon as they fell on the ground accused 2 heard shots. He heard someone say: "I have been wounded, I shall put up my hands". Accused 2 says as soon as that man put up his hands he put up his hands as well, and that behind him someone else was coming with his hands up. As soon as they came out of the gully he heard shots, and as soon as he heard those shots he fell on the ground with his face down, and stayed there and did not move at all until the police came. He says the police took him down to the road and asked him what he was doing there, and he told them that he had gone to cultivate his parents' olive trees, and that those had found him there and had brought him to that place. He states that on the 15th December he was not carrying a gun, and that he did not discharge a gun at Major Coombe.

P.W. 14 Antoniou has stated that accused 2 told him he was there cultivating his olive trees and that the others had met him there. P.W. Antoniou states that before leaving the area for Jefka police station he cautioned the accused and accused said: "I was here cultivating my olive trees when the others came and found me". When cross-examined Antoniou said that when he first approached accused 2 and asked what he was doing he was lying on the ground and appeared to be very frightened, and that accused 2 said - "I have been cultivating my olive trees when the others came and found me here." Antoniou emphasized that the word used was "here" and not "there". And when asked again about what accused 2 had said after he had cautioned him he stated that accused 2 said - "I have been digging up my olive trees in this area and the others came and found me."

P.W. 23 Michael Toulekis has given evidence that he showed the police officers an olive tree which is about 22 to 25 donums from the bridge - on the right hand side of the road before you reach the bridge when going towards Paphos. This witness stated that when he went to see the tree on the 22nd December it did not show signs of having been recently cultivated. They found some cut branches underneath it, but from their condition he would say that they must have been cut 20 to 25 days before their visit. But he stated that before the 22nd December it had been raining for a considerable time, and afterwards also, and that if a small amount of digging had been he would not have expected to see signs of it after a week, having regard to the weather.

P.W. 24 P.S. G. Myrianthous has stated that that olive tree of accused 2's mother was 700 to 800 yards from the bridge, and 200 to 300 yards from the road - to the left of the road as you go towards Xeros. When cross-examined by the defence he said that the distance could not be much less than 700 yards. That olive tree is on plot 331. P.W. 2 Papadopoulos has stated that the distance from the bridge to plot 331 is 650 feet - in a straight line to the nearest point of the plot. He has not given the exact distance from the bridge to the tree, and plot 331 is a plot of considerable size. Mr. Pavlides has commented on the fact that the police have not given any evidence as to the footprints which were seen below the bridge. It is not at all clear whether the police saw those footprints, and I think that that point should have been put to the police witnesses if it was desired to raise it. The footprints were seen, as I have stated, by Tayles and there is no evidence as to whether those footprints were of a type that would lend themselves for purposes of comparison with other footprints. If they had been made in sand or soft ground they might have been of very little use for purposes of comparison.

I must now state my conclusions on the evidence that I have heard in this case. The case for both of the accused persons is that they were perfectly innocent men who were unfortunately caught up in this incident. Well now, as regards accused 1 when he met Mouskos accused 1 says that Mouskos was not armed, and it is not at all clear to me why Mouskos should have taken him up the hill; he might have waited until accused 1 had gone away. By taking, as accused 1 says he did, this unknown man up the hill he was introducing a possible witness against himself and his companions, a very dangerous thing to do.

As regards accused 2 - when he says the armed men met him this was a considerable distance from the bridge, and again I do not see why those men should have brought accused 2 to the place where they were going to conduct operations. According to accused 2 he was unknown to them, and if he saw what they were doing he might obviously at a later date have been a witness against them.

With regard to the statement of accused 2 when he says that he picked up the container - it was strange that he should have come across that container which is used for packing an American fragmentation grenade. Capt. Macdonald has told the Court he has not seen such grenades in proper hands. He has only seen them when they have been used by terrorists. Another point that strikes me very strongly is that this engagement was not a very short one. The first shots were fired at about 12.15 p.m. and when Major Coombe looked at his watch after the fourth man disappeared over the hill it was 12.40 p.m. It is conceivable that innocent persons might be caught up in a sudden short engagement, but according to their statement accused 1 and 2 were in contact with the persons who were attacking Major Coombe for a longer time even than I stated, because they were in contact with them even before the shooting started, and I do not believe that during that time they had no opportunity of running away, if indeed they had been taken there against their will.

I questioned Major Coombe on the point and he told me that he did not see anything to suggest that any of the men whom he saw might be an innocent man who had got mixed up with his assailants. Major Coombe struck me as being a most careful and a most honest witness, and I feel perfectly certain that if he had seen anything to suggest that innocent man had been drawn into that engagement, or was present during that engagement, he would have been the first to say so. When Major Coombe looked over the edge of the ridge and saw the men walking up the gully they clearly had the appearance of being men who were going along one after the other together, and when one of them saw Major Coombe they all ducked down. At that time accused 1 and 2 must have been present, and the evidence does not suggest that they were in any way separate from the other two. My own view of what happened just before the last burst of fire took place at Major Coombe is that that was a trap, and that it was hoped that if those three men, accused 1 and 2 and Mouskos, went up the hill, apparently surrendering, Major Coombe would expose himself to the shots of the fourth man. Fortunately those shots missed Major Coombe and he, with perfect justification, fired then on all the four men. At the time those three men walked up on to the hillside it must be remembered that there were two machine guns - a Sten gun and a Schmeisser - and plenty of 9 m.m. ammunition, and a pistol, in the gully, and there was no apparent reason why those men should have decided to surrender. They did not, it is true, know that Major Coombe was at that time practically at the end of his ammunition.

Mr. Pavlides has commented on the fact that no sturmgewehr gun was found although a magazine, and a quantity of ammunition which is suitable for sturmgewehr, were found. Well, it is all a matter of conjecture. The fact that no empty cases of the sturmgewehr were picked up does suggest that no sturmgewehr was fired, and it may be, as Mr. Pavlides suggests, that there was another man who carried the sturmgewehr, and that that man went away

after the sturmgewehr had jammed. He has pointed out that if the sturmgewehr had been carried by either accused 1 or 2 it would have been found because they were found. As I say it is a matter of conjecture and conjecture cannot carry us very far. It is conceivable that one of the men succeeded in hiding the sturmgewehr after it had jammed. I can reach no conclusion on the point. It is also pointed out that no empty cartridges of the pistol were picked up, and that there is no evidence that the pistol was used at all, and that it may be that Mouskos was carrying both the Schmeisser and the pistol and that he contented himself with using only the Schmeisser. But it may be that someone else was carrying the pistol, and that the pistol was not used or that it was used that the cartridge cases were not found when search was made. With regard to the conversation which took place between Major Coombe and accused 1 Mr. Pavlides has submitted that it was a conversation to pass the time, and that too much importance must not be attached to it. And that when accused 1 said he was fighting for freedom it does not necessarily mean that he had been physically fighting.

I may not have dealt with every point it has been brought out by Mr. Pavlides and Mr. Markides, but I can assure them that I have given every point the most careful consideration, and the conclusion I have reached is that the statements which accused 1 and 2 have made from the dock are not true, and that they were present there, aiding in this attack on Major Coombe. It may well be that they were not the two most important persons in that attacking party, and that they played a minor part as compared with the other men, but what they did brings them quite clearly within the scope of sections 20 and 21 of the Criminal Code. They shared in the common object and they were there present and aiding the attack. In the result I find both of the accused guilty on each count.

PREVIOUS CONVICTIONS:

Crown counsel: In so far as accused No. 1 is concerned apart from the offences of which he now stands convicted he is a man of previous good character. He is a single man, 25 years of age, a draughtsman by occupation. He is one of five children of most respectful parents.

The second accused was 20 years of age when these offences were committed. He is now in fact 21 years old. Also a single man, a labourer by occupation, and apart from the offences of which he now stands convicted he is of previous good character, and as in the case of the first accused he is one of five children of most respectable parents. His family are in poorer circumstances than those of the first accused.

Mr. pavlides addresses in mitigation

Mr. markides addresses in mitigation

ALLOCUTUS.

Accused 1 has nothing to say.

Accused 2 has nothing to say.

COURT: Accused Andreas zakos, you have been convicted of these two offences and they are punishable with death. You are a young man, 25 years of age, of previous excellent conduct, a son of a perfectly respectable and honourable family, and I am very sorry to see you standing here on charges of this kind, but you were quite old enough to know what you were doing. You must have realised what a serious thing you were doing. The Emergency Regulations came out in November, and this occurrence took place on the 15th of December, and you must have known the risk you were running when you decided to engage in what you did. I have said already that I am quite ready to believe that you were not the leader of this affair, but it was obviously a most serious offence. The object of the people who were attacking Major Coombe in his camp was obviously to kill him. And that attack did not stop there - it continued. It is true that he was then himself proceeding against gang, but there was nothing to stop you from going away. I am sorry to say that I feel I should be not doing my duty if I did not in this case pass sentence of death; and my sentence is that you be taken back to the prison from where you have come, and from there to a place of execution, and that you be hanged by the neck until you are dead, and may God have mercy upon you.

Charilaos Michael, what I have said to accused 1 also applies to you. You are a younger man than accused 1, but you were 20 years of age when these offences took place and quite old enough to realise the seriousness of what you were doing. I can see no reason for not passing on you the same sentence. The sentence is that you be taken back to the prison from where you have come, and from there to a place of execution, and that you be hanged by the neck until you are dead and may God have mercy upon you.

In the Special Court, Nicosia.

Case No. 51/55.

LIST OF EXHIBITS.

- Nos. 1 to 14 photographs.
15 Plan
16 Key of the plan.
17 Key of distances.
18 Poster with pictures of wanted men.
19 Pistol.
20 German sub-machine gun (Schmeisser)
21 Haversack.
22 Home made bomb.
22A Container of bomb.
23 Detonator removed from bomb exh.22
24 Two gas capes.
25 Four magazines (one unloaded, one containing 8
9 m.m. ammun., two containing 26 rounds.)
26 One sock containing 91 rounds of 9 m.m. ammun.
27 15 empty 9 m.m. cartridges.
28 One cap.
29 One home-made bomb.
30 Detonator
31 Box containing 13 - 7.65 m.m. ammunition
32 10 - 7.65 m.m. rounds of ammunition found in pistol.
33 One gas cape (big one).
34 Container.
35 Water bottle.
36 Container found in haversack exh.21.
37 Box of matches.
38 Scarf.
39 33 empty cartridge cases of 9 m.m. & 2 live rounds.
40 34 empty cartridge cases of 9 m.m.
41 One black handkerchief.
42 One white handkerchief.
43 Bag containing 122 live rounds of 7.92 m.m. ammun.
44 Small bag containing 40 rounds (live) of 7.92 m.m. ammu.
45 One magazine fully loaded.
46 Handkerchief and a notebook.
47 A pen
48 Haversack containing cheese.
49 Empty magazine (Schmeisser)
50 Electric cable.
51 A cake of T.N.T. (Italian anti-tank mine)
52 A detonator.
53 7 empty cartridge cases of 9 m.m.
54 Deposition of Major John Neish.
55 Sten magazine (empty)
56 6 rounds of 9 m.m. ammunition.
57 10 fired 9 m.m. cartridge cases.
58 Clothes of accused 2.

DEFENCE EXHIBITS:-

- A Plan
B - C - D Title Deed.
E C.M.C.Welfare News.
F Copy of Eleftheria newspaper.
G Accused 1's application to Army for employment.
H Reply from Army.

P.W.18. DEPOSITION OF JOHN NEISH. Sworn, states:

(W.17 in lower court)

Major in Gordon Highlanders. On 15.12.55 I was stationed at Aberdeen Camp at Xeros. On 15.12.55 I went down the road with a detachment as portrayed on 1 of exhibit 1. It was to reinforce a detachment of Gordon Highlanders who had already gone out. On arrival at the site I saw the dead body of a man further up the gully to my right. There were two other men present under military guard. I would recognise those two men I think if I saw them. Those are the men in the dock. I then proceeded with my men to search the area. I then returned to the bridge as portrayed in 1 of exhibit 1. I then put on a road block and searched all passing vehicles. At approximately 2:30 p.m. my Sgt. Major called my attention to something by the bridge. With my Coy. S.M. I went to the underneath arch of the bridge. There I found electric cable going in up under the arch to some loose stones that had been pulled out. Exh.29 is similar to the wire I saw. No.12 of exh.1 shows the cavity where the wire disappeared except that the stones have not been put back. I traced the wire back. It ran in the line indicated on that map exh.2. It runs from point 17 to point 18. The wire was not connected up to anything at point 18 only loose ends were there. Between points 17 and 18 is 188 feet. I posted a sentry to see it was not interfered with. I then returned to the bridge and there I saw Sgt. Maj. Tayles. He has been on Infantry Assault pioneer course. That includes the handling of explosives. We both went then beneath the arch of the bridge. We removed the stones from the cavity and there saw what appeared to be an explosive charge which was removed by the S.M. When we took it out the wire disappeared into the charge. We put the charge on the ground and went some distance away and pulled. The detonator came out on the end of the wire. That is the charge we found. Exh.30. I then took the wire detonator and charge to Lefka Police Station. I handed it to a Sgt. who gave evidence in Court this morning. I have some training in explosive substances. I formed the opinion that the charge exh.30 could have been the filling of some projectile which appeared to have been immersed in water because there was a piece of rusted metal adhering to the outside. As far as I can tell the detonator was an ordinary commercial industrial electrical detonator. The centre of the charge is filled with some soft material which I could not identify. In my opinion I think that if the charge had been detonated it would have blown a hole in the road if it had not knocked the whole bridge down.

XXn. Reserved for both accused.

Read over etc.

(Sgd) John Neish.

Taken down etc.

(Sgd) S.S. John,
Special Justice.

Extract from C.M.C. Welfare News, dated 9.10.54

Translation of Exhibit E.

The Greek Sporting Club of Lefka is
making progress.

The Greek Sporting Club of Lefka, which in 1953 was the weakest of our nine Clubs, was fully reorganised in 1954. It now has 33 members, and almost all monthly subscriptions (2 shillings each) have been paid up. The programme of activities is prepared by an energetic Executive Committee consisting of Andreas Zakos, President, Christodoulos Lefkatis, Secretary, Errikos Kyriakou, Treasurer and Michael Nicolaou and Alekos Theodossiou, members.

Recently there have been organised two excursions on foot, the first to Troodos and the second to Kykko Monastery, in each of which 11 members participated.

The Government Medical Officer at Lefka has courteously accepted to give first aid lectures which will start soon and which will be attended by ten members as well as five members of the Lefka Turkish Sporting Club on invitation.

Extract from ELEFThERIA Newspaper
dated 1st November, 1955.

Translation of Exhibit F.

Vacancies for skilled draughtsmen at the War Department at Nicosia, Larnaca and Limassol. Regular employment, attractive salary. Applicants should forward details of their qualifications to CEPO, H.Q. Cyprus District, British Forces Post Office 53.

EXHIBIT G.

Andreas Zacos
c/o C.M.C.
Skouriotissa,
7-11-55.

CEPO

H.Q. Cyprus District
British Forces Post Office 53.

Dear Sirs,

The undersigned, now in the service of C.M.C. with a Drawing Office experience of 6 years, in the capacity of Structural, Architectural and Mechanical details and also of mapping, tender you my services, if your conditions are satisfactory.

Yours sincerely,
Andreas Zacos

EXHIBIT H.

Civ Estab & Pay Office
HQ Cyprus District
British Forces Post Office 53
Tel. Civ 2147
Ref: CEPO/8/1

24 November, 1955.

Dear Sir,

With reference to your application for employment as Draughtsman, will you please note that your services will not be required.

Yours faithfully,
(Sd) V. L. ?
for Civilian Estab & Pay Officer

To: Mr. Andreas Zakos,
c/o C.M.C.,
Skouriotissa.

Medical Certificate.

This is to certify that I have examined the undermentioned unconvicted prisoners who are to be tried by the Special Court, Nicosia, on the 23rd February, 1956, on the following dates.

26th Jan. 1956, and 1st, 9th, and 20th February, 1956.

(a) U.C. No.218 Andreas Charilaou Zakos of Linou
now Central Prisons.

(b) U.C. No.224 Charilaos Michael of Galini,
now Central Prisons.

No condition of insanity has been exhibited and they are furthermore fit to plead and make their defence.

(Sd) Dr. A. P. Mikellides

Mental Hospital,
Nicosia, 20.2.56.

Junior Specialist (Mental).

Criminal Appeal No. 2042.

In the Supreme Court.

Coram: HALLINAN, C.J., ZEKIA, J., and ZANNETIDES, J.

1. Andreas Har. Zakos
2. Charilaos Michael,

Appellants,

v.

The Queen,

Respondent.

For Appellant No. 1: Mr. St. Pavlides, Q.C.,
Mr. G. Clerides and
Mr. A. Triantafyllides.

For Appellant No. 2: Mr. F. Markides and
Mr. C. Myrianthis.

For the Respondent: Mr. M.P. Griffith Jones, Crown Counsel.

JUDGMENT

In this case the appellants were convicted under Regulation 52(a) and (c) of the Emergency Powers (Public Safety and Order) Regulations, 1955. They were found guilty both of discharging firearms at Major Coombe under Regulation 52(a) and of carrying firearms under Regulation 52(c). The trial Court applied the provisions of section 20 and 21 of the Criminal Code which relate to the aiding, abetting, counselling or procuring of an offence and to the criminal liability of those who form a common intent to prosecute an unlawful purpose and commit an offence in the prosecution of that purpose. Regulation 52 provides that any one found guilty of an offence under that regulation is liable to be sentenced to death or imprisonment for life or for such lesser terms as the Court think fit to impose. Both the appellants were sentenced to death.

The evidence in this case was very carefully summarized by the learned trial Judge in his summing up and it is only necessary on this appeal to state concisely the case against the appellants put forward by the prosecution; secondly the statements of the appellants, together with the evidence of the witnesses they called; and, lastly, to consider whether or not the evidence is sufficient to support the conviction.

The evidence for the prosecution showed that a gang of terrorists on the 15th of December were operating on the road between Xeros and Kato Pyrgos. They had mined a bridge at point 17 on the plan (Exhibit 15) and a wire led away from the charge to point 18 on the plan. About 12.15 as a military motor-vehicle was passing the bridge the gang opened fire from some high ground on the north side of the road and fatally wounded one of the occupants of the vehicle. The other occupant, Major Coombe, parked his vehicle under the hill from which the gang had fired and, ascending the hill with his gun, exchanged fire with them. At that time he saw three

men under an olive tree below the northern slope of the hill, which tree was at the eastern end of a gully that extended away to the west and to the left. He returned to the vehicle when his ammunition was exhausted, took the gun of the other occupant, who was fatally wounded, and again ascended the high ground further to the west.

On reaching the crest there was another gun battle between himself and the terrorists who had moved up the gully to the west and were opposite to him. One of the gang in the gully shouted to him to cease fire and three men emerged from the gully and moved up on the further slope where they stood with their hands up. As Major Coombe rose to go towards them a concealed terrorist opened fire to the left, that is, further to the west up the gully. Coombe raked his assailants with fire from his sten gun. His assailant on the left, although pretending to give himself up, managed to make his escape. He also was carrying a sten gun. Coombe went up to the three men standing on the slope on the further side of the gully; two of these men were the appellants and the other was a certain Mouscos, who was fatally wounded. The first appellant had also been wounded and the second appellant, although he lay on his face as if seriously hurt was in fact unharmed. Coombe deposed that in the course of a conversation between himself and the 1st appellant, the first appellant told him that he had worked in the drawing office of the Cyprus Mines Corporation and had run away because the police wanted him; and in answer to Coombe's questions as to why he was fighting the security forces he said that he was fighting for his freedom.

The prosecution gave evidence of the weapons which were found (fire arms, bombs and ammunition and explosives) in the vicinity of the terrorist operation. It is particularly relevant to state the weapons that were found in the immediate vicinity of the appellants and Mouscos at the point they surrendered to Coombe. A pistol with one round in the breech and nine rounds in the magazine was found about a foot or 18 inches away from the second accused. About 15 yards away there was also found a Schmeisser automatic carbine with four magazines for that gun two or three feet away from it. Another magazine for the Schmeisser was found nearby and some ammunition for this gun was found in the pocket of Mouscos. A haversack containing high explosive and dynamite was found about nine feet from where the second accused lay; also a bomb and a container were found on the ground near the first and second appellant in whose pocket was found a similar container.

When the security forces examined the bridge it was found that a cavity had been made which was filled with a bomb and all was in readiness to explode the charge except that the wire running away from the bridge had to be connected with a battery.

That in short is the evidence for the prosecution.

The first appellant made a statement not on oath and was therefore not cross-examined. He said that he had left the employment of the C.M.C. Skouriotissa on the 17th November, and that he made an application for employment as draftsman to the War Department. At the end of November the War Department had written to him and told him that his services would not be required. He was a prominent member of the Greek

Sporting Club of Lefka who used to make excursions on foot to such places as Troodos and Kykko Monastery. He said that on the 15th December he was walking along the road near the bridge at point 17, on his way to visit an archaeological site when he was stopped by Mouscos who was unarmed. Mouscos asked him to follow him up the hill, where he met two other people who were armed. The first appellant had started to object to his being detained when a military vehicle arrived and the terrorists opened fire. He crawled towards a gully where he met the second appellant; later a man passed shouting that his gun was not working, and presently two of the armed party came up. Fire opened between Major Coombe and the armed men and the first appellant was hit on the head. He shouted "cease fire" and then stood up and so did the second appellant and Mouscos who threw his gun away in the gully. Then followed the surrender to Major Coombe. His witnesses were called merely to corroborate his evidence as being a member of the Sporting Club and of his having applied for employment to the War Department.

The statement of the second appellant is that he was cultivating an olive tree of his mother at the north side of the road about 700 feet to the east of where the attack on the military vehicle took place. He said the two armed men came up to him and told him to follow them or they would shoot him and he had to do so. He was taken to a point about ten metres from the top of the hill over the gully. After some minutes he heard some shots and shortly after he was joined by the first appellant. After further shots he was joined by two armed persons; after that his story roughly follows that of the first appellant. He did not call any witnesses.

At the close of the evidence for the prosecution the appellants undoubtedly had a formidable case to meet. They had apparently been operating with a gang of terrorists who had laid an explosive charge under a bridge and who had made a murderous attack on a passing vehicle, and who had subsequently engaged Major Coombe in a mortal combat. The appellants' defence is that they came innocently to the scene of this terrorist operation and were forcibly detained by the terrorists. It is significant that both left the employment of the Cyprus Mines Corporation on or about the 17th November and both appeared in the company of a terrorist gang on the 15th of December. The statement of the first appellant that he left because he hoped to take up employment with the War Department is contradicted by a statement he made to Major Coombe that he had left because he was wanted by the police. The second appellant who was an unskilled worker of the company at Xeros has given no reason for his leaving that employment. The story of both appellants that they were forcibly detained by terrorists is intrinsically improbable. The first appellant was passing by on his way to an archaeological site; the other was according to his story peacefully cultivating his mother's olive tree nearly half a mile from where the terrorists had already completed the operation of mining the bridge. It is most improbable that the terrorists would bring unknown and innocent men into their company who after their release might inform on them and identify them, whereas if the first appellant was left to pass and the second appellant to cultivate his olives there is no reason to think that they would have endangered the terrorists. The allegation that they were

forcibly detained is also contrary to the statement made by the first appellant to Major Coombe that he was fighting for freedom and by the fact that the container of a bomb was found in the possession of the second appellant, and that a similar container with a bomb was found on the ground near the appellants.

Counsel for the appellants have strongly relied on the fact that a search of the scene of this crime revealed that there had been three guns: The Schmeisser, which it was submitted was in the possession of Mouscos because ammunition was found in his pockets. The sten gun was in the possession of the terrorist who escaped after being wounded. There was also the Sturmgewehr gun the presence of which is inferred from the finding of a magazine and of ammunition for that gun at the point where the terrorists opened fire at the military vehicle. It is submitted that this gun was taken from the scene of the crime by the man whom the appellants alleged passed them saying that his gun was jammed. It is argued that since these guns were not in the possession of the appellants that they did not form part of the terrorists' gang. We agree with the remark of the trial Judge when he said that these submissions are a matter of conjecture. They leave out of account the pistol and the haversack with explosives that were found near the appellants and Mouscos when they surrendered. The evidence of Major Coombe showed that the men who moved up the gully, who attacked him there, and who purported to surrender while one of them opened fire, were acting in close concert as a unit. It was not necessary that each member of the gang should be carrying a gun, for some might have a different task such as the carrying of explosives. Nor do we know who was carrying the pistol.

Having carefully considered all the evidence in this case and the submissions of counsel we consider that there is ample evidence to support the conviction of both the appellants.

As regards the sentence, counsel for the appellants have submitted that the appellants, even if guilty, only played a minor part in the operations of the gang and should not suffer the supreme penalty of death. Reading Regulation 52 it is clear that the death penalty can legally be imposed under that regulation, not merely for discharging a fire arm but even for carrying any firearm or ammunition or any bomb or grenade without a reasonable excuse. Now the appellants have been found guilty of discharging a firearm and, whether they were leaders or led, they have committed an offence more serious than that of merely carrying firearms, ammunition or bombs without reasonable excuse. The main consideration of a Court when imposing a sentence under this regulation must be to decide whether the supreme penalty should be attached to any particular class of offence created by the regulation having regard to the activities of the terrorists and to the violence and disorder prevalent in Cyprus at the time the offence was committed.

In the present case the appellants were found to be members and operating with the gang of terrorists who had mined the bridge and who had discharged firearms on the security forces. This is such a serious offence in the present state of the country that we cannot say that the trial Judge imposed an excessive sentence when he considered that those who took

part in such an operation, whether as leaders or led, should suffer the penalty of death.

The appeals both against the convictions and sentences must therefore be dismissed.

(Signed) E. HALLINAN

Chief Justice.

(Signed) M. ZEKIA

J.

(Signed) C. ZANNETIDES

J.

6th April, 1956