

7, 1968

IN THE JUDICIAL COMMITTEE OF THE  
PRIVY COUNCIL

No. 2 of 1967

O N A P P E A L  
FROM THE FEDERAL COURT OF MALAYSIA  
(APPELLATE JURISDICTION)

---

B E T W E E N:

LIEW SAI WAH (Defendant) Appellant

-and-

PUBLIC PROSECUTOR (Prosecutor)  
Respondent

---

---

RECORD OF PROCEEDINGS

---

UNIVERSITY OF LONDON  
INSTITUTE OF ADVANCED  
LEGAL STUDIES  
16 JAN 1969  
25 RAMPART SQUARE  
LONDON, W.C.1.

GASTER & TURNER,  
81 Chancery Lane,  
London, W.C.2.  
Solicitors for the  
Appellant.

CHARLES RUSSELL & CO.,  
37 Norfolk Street,  
Strand, London, W.C.2.  
Solicitors for the  
Respondent.

O N A P P E A L  
FROM THE FEDERAL COURT OF MALAYSIA  
(APPELLATE JURISDICTION)

---

B E T W E E N:

LIEW SAI WAH (Defendant) Appellant

-and-

PUBLIC PROSECUTOR (Prosecutor) Respondent

---

RECORD OF PROCEEDINGS

---

INDEX OF REFERENCE

No.	Description of Document	Date	Page
	IN THE HIGH COURT OF SINGAPORE		
	<u>Prosecution Evidence</u>		
1.	Sgt. Christopher Clifton	15th November 1965	1
	<u>Defence</u>		
2.	Submission by Mr. T.T. Rajah	16th November 1965	27
3.	Crown Counsel's Reply	16th November 1965	30

## (ii)

No.	Description of Document	Date	Page
4.	Mr. T.T. Rajah's Reply	16th November 1965	40
5.	Court's Ruling	17th November 1965	46
IN THE FEDERAL COURT OF MALAYSIA			
6.	Notice on behalf of Prisoner	19th November 1965	47
7.	Declaration verifying Transcript of shorthand notes	9th February 1966	48
IN THE HIGH COURT OF SINGAPORE			
8.	Grounds of Decision	11th February 1966	49
IN THE FEDERAL COURT OF MALAYSIA			
9.	Particulars of Trial	24th March 1966	62
10.	Judgment of Court of Appeal	24th June 1966	63
IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL			
11.	Order Granting Special Leave to Appeal in forma pauperis to the Lords of the Judicial Committee of the Privy Council	16th January 1967	73

The Respondent objects to the inclusion of the documents numbered 2, 3 and 4 in this Part.

(iii)

List of Documents transmitted to Privy Council  
but not reproduced

No.	Description of Document	Date
	<b>IN THE HIGH COURT OF SINGAPORE</b>	
	Charge	15th November 1965
	Legal Submissions	15th November 1965
	<u>Prosecution Evidence</u>	
	Ling Chin Luan	15th November 1965
	Soosay s/o Rajaratnam	15th November 1965
	Piara Singh	15th November 1965
	Franciscus	15th November 1965
	Kamaruddin	15th November 1965
	Shunmugam s/o Ramasamy	15th November 1965
	Boo Yong Watt	15th November 1965
	Application to recall witness	16th November 1965
	Soosay s/o Rajaratnam recalled	16th November 1965
	Mei Lei Tek	16th November 1965
	Application by Crown Counsel	16th November 1965
	Koh Lian Bee	16th November 1965
	List of Exhibits	Undated
	<u>Defence</u>	
	Formal Warning to accused	17th November 1965

No.	Description of Document	Date
	Liew Sai Wah (accused)	17th November 1965
	<u>Exhibits (Excluded from the Record)</u>	
A1 to A10	Photographs	Undated
AN1 to AN10	Negatives	
P1	Plastic Bag (Green)	
P2A	Plastic Bag - 2 Books	
P2B	Blue Cover Book	
P1A	Towel	
P1B	Shirt	
P1C	Jungle Green Shirt	
P1D	Cardboard	
P1E	One pair white pants	
P3	One pair jungle green socks	
P4	Red towel	
P5	Base plugs (5 in No.)	
P6	Diary	
P7	Striped towel	

IN THE JUDICIAL COMMITTEE OF THE  
PRIVY COUNCIL

No. 2 of 1967

O N A P P E A L  
FROM THE FEDERAL COURT OF MALAYSIA  
(APPELLATE JURISDICTION)

---

B E T W E E N: LIEW SAI WAH (Defendant)  
Appellant

-and-

PUBLIC PROSECUTOR (Prosecutor)  
Respondent

---

10

RECORD OF PROCEEDINGS

NO. 1  
EVIDENCE OF CHRISTOPHER  
CLIFTON

---

In the High  
Court of  
Singapore

---

Prosecution  
Evidence

---

(Sworn in English)

No.1

Q. Your name is Sergeant Christopher Clifton  
C-H-R-I-S-T-O-P-H-E-R C-L-I-F-T-O-N -  
and you are an Ammunition Technician  
attached to the Ammunition Inspectorate?

Christopher  
Clifton  
Examination  
15th November  
1965.

20 A. I am, Sir.

Q. Headquarters. Now, Sergeant Clifton,  
would you like to state your qualifi-  
cations so that you are able to deal with  
ammunition, hand-grenade?

A. Part of my training - I underwent a  
year's intensive technical training in  
the School of Ammunition at C.A.D.  
Bramley in the United Kingdom, and  
subsequently I have had seven years'

In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton  
Examination  
15th November  
1965  
(Continued)

practical experience.

His Lordship: You underwent a year's  
intensive training?

A: At the C.A.D. Bramley.

Q. After that, you have had seven years'  
experience?

A: Yes, my Lord.

Q. You have, of course, given evidence  
relating to ammunition and fire-arms in  
court?

A. To ammunition, not fire-arms.

Q. Oh, on ammunition; much obliged. And, if  
I remember rightly, Sergeant, you have just  
been given some sort of award for public  
services to this country.

Mr. Rajah: I must object to this - award has  
nothing to do with this thing. Let him  
be awarded.

Q. Now, on the 21st of March, 1965, did you go  
to the Railway Station?

A. I did, Sir.

Q. What time would that be?

A. About ---

Q. About?

A. After five o'clock - 5 p.m.

Q. I see. And when you went to the Railway  
Station, did you meet any police officer  
there?

A. One Inspector Piara Singh.

Q. That is the Inspector you met at the  
Railway Station?  
(Indicates witness sitting in court).

A. It is.

Q. P.W.3. Now, when you met Inspector Piara  
Singh, did he hand over anything to you?

A. Six grenades.

Q. Now, would you like to describe the grenades?  
Were they Indonesian, American, Japanese?

A. They were British 36 hand-grenades.

10

20

30

Q. Now, why do you call them 36 m. Is there something to it?

A. That is the designation they are known by in the Service.

Q. And did these grenades have any levers, safety pins or detonators?

A. No.

His Lordship: They have no what - levers?

Crown Counsel: Safety pins.

10 His Lordship: Safety pins.

Crown Counsel: Or detonators.

His Lordship: Or detonators.

Q. They were, in fact, grenade bodies?

A. They were.

Q. Now, what are these grenade bodies normally filled with?

A. They are filled with 2 oz. 7 drams of explosive metal commonly known as Baratol.

20 His Lordship: They are filled with 2 oz?

A. 7 drams.

Q. Of high explosive called?

A. Baratol.

Q. Would you like to spell it?

A. B-A-R-A-T-O-L.

Q. Now, how would you describe Baratol as an explosive?

A. I would say, amongst the explosives, one of the rather more sensitive ones, more powerful ones.

30 Q. Now, these grenades: did you notice anything about them on the exterior with paint markings, or anything like that?

A. Well, it would appear to me that they were not the normal colour. The flakes were painted and remained on them. They were very similar to certain Indonesian grenades.

In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton  
Examination  
15th November  
1965  
(Continued)



In the High Court of Singapore

Prosecution Evidence

No. 1

Christopher Clifton Examination 15th November 1965 (Continued)

His Lordship: Could we have this, slowly? They were not the normal colour?

Crown Counsel: Yes, the grenades were not the normal colour.

A. Yes, my Lord, they were not.

Q. Would you like to speak up a bit, please?

A. The grenades were not the normal colour. There were traces of black paint, and slight traces of yellow paint which is a normal marking for an Indonesian grenade of the same type.

10

Q. Now, Sergeant, these grenade bodies: they did not have the levers and detonators. Now, what purpose could there be for removing the levers and detonators?

A. For removing the detonators? I should say safety.

Q. Safety, for the purposes of transit?

A. For transit, for storage. For the others I couldn't say.

20

His Lordship: Detonators are normally removed for safety purposes?

A. Yes, during transit and storage.

Q. And you can't say for what reason the other parts were removed, - levers and safety pins?

A. No, my Lord.

Q. Now, Sergeant, with those grenade bodies, if the levers, safety pins and detonators were attached to them to make a complete grenade, could they then be used?

30

A. Yes, certainly.

His Lordship: If levers, safety pins and detonators were attached?

Crown Counsel: And base plugs: if they were fitted back, they could be used.

His Lordship: They could be used. What about the explosive? You would have filled in the explosive also?

40

A: The explosive is already within the grenade, my Lord. The grenade body contains the explosive.

In the High Court of Singapore

Prosecution Evidence

No. 1

Christopher Clifton  
Examination  
15th November 1965  
(Continued)

10 His Lordship: That is not the impression that I had, when you first gave the evidence. You said they are normally filled with 2 oz. 7 grams of high explosive called Baratol, which is one of the more powerful explosives. But there is no indication that that explosive was already in this grenade body. You now say that these six grenade bodies had this explosive?

20 A: All grenades, my Lord, already had their explosive in, unless they are drill or dummy grenades.

Mr. Rajah: Unless they are?  
A: Drill or dummy.

Mr. Rajah: Drill?

A. Drill - D-R-I-L-L - for instruction purposes, or something like that.

30 Q. Now, Sergeant, those grenades that have their explosives: if used with other explosives, but without the component parts, would they still explode and cause damage?

A. It is very, very probable, due to sympathetic detonation, that these will, in fact.

His Lordship: Now, what is it? Could we have this again?

40 Crown Counsel: If the grenades are used together with other explosives without the component parts, the grenades would still explode and cause damage.

Q. You agree with that Sergeant Clifton?

A. I agree.

In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton  
Examination  
15th November  
1965  
(Continued)

- Q. Now, in your experience, Sergeant, have you known of an occasion when such grenades were used in the manner I have described?
- A. In certain boxes of dummy ones, we have found grenades placed at the bottom of the boxes.
- Q. Boxes with other explosives?
- A. Yes.
- His Lordship: Certain boxes have been found. 10  
Found where? In Singapore?
- A: In Singapore.
- Q: Are you referring to these boxes placed by Indonesians?
- A: Yes, my Lord.
- Q: So, boxes - you have found such grenades?
- A: In the bottom.
- Q. In the bottom? 20  
A. Of the boxes.
- Q. Together with?
- A. Together with other items of explosive.
- Q. Now, what would be the effect if you put grenades without these component parts together with other explosives in a box, and let it go "bang".
- Mr. Rajah: Let it go?
- Crown Counsel: Bang - B-A-N-G - explode, I am 30  
sorry.
- A. You get fragmentation.
- Q. And what is the object of this fragmentation, Sergeant?
- A. Fragmentation is trying to injure or to damage.
- Q. Now, on the 26th March, 1965, did you meet one Inspector Koh Lian Bee?
- A. I did.

Q. And it was about 12.20 p.m.?  
A. It was.

Q. Do you recognise this person  
(Inspector Koh Lian Bee produced)?  
A. Yes.

Q. When you met Inspector Koh Lian Bee,  
did he hand over anything to you?  
A. He did.

10 Q. What did he hand over to you?  
A. Five base plugs and five fly-off  
levers.

Q. Now, these base plugs, did you have  
them in your possession?  
A. Yes.

Q. Do you now produce the five base plugs  
given to you by Inspector Koh?  
A. These are the five base plugs.

(Five base plugs admitted -  
Exhibit P.5)

20 Q. What are these base plugs used for in a  
hand-grenade; would you please look  
at A.9?

A. They fit in at the bottom; they are  
screwed into a recess that is made for  
them, basically to keep the dirt out,  
to keep out any excess rubbish getting  
into the channel.

Q. There is a cavity at the bottom of the  
grenade?

30 A. Yes.

His Lordship: Q. They fit into the recess  
bottom of the grenade?

A. Yes. May I produce one  
from my technical book?

Q. I don't think it is  
necessary. What is the  
object of doing that?

40 A. To keep the detonator in  
position and also to keep  
dirt off, dirt or muck out  
of the detonator channel.

In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton  
Examination  
15th November  
1965  
(Continued)

In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton  
Examination  
15th November  
1965  
(Continued)

Q. Suppose I want to remove the detonator what must I do?

A. Unscrew the base plug and remove the detonator.

Q. And put the base plug?

A. Yes, replace the base plug.

Q. What is the function of the levers?

A. They release the striker; they fly off releasing the striker which ignites the cap.

10

Q. Please look at A.9 or A.10; can you show in this picture approximately where the lever would be in position?

A. Yes, here (indicates on A.10) leading from the shell down the assembly to the base.

Q. Will you please show to the Court?

A. This base here (witness shows) leading from the shell down to here.

(Witness shows to Mr. Rajah and  
Crown Counsel)

20

Q. Now when you want to throw the grenade, what is the operation that a person goes through in so far as the lever is concerned?

A. The lever is held tight against the grenade; you remove the safety pin and throw the grenade. In that action the lever is released and flies off, releasing the striker mechanism.

30

Q. Now these levers and base plugs that were handed to you by Inspector Koh, what manufacture are they?

A. British as far as the base plugs are concerned. The levers were very, very badly corroded, it is not possible to determine.

Q. Now these five British base plugs and levers, were they parts that could fit in with the grenade bodies that were given to you by Inspector Piara Singh?

40

A. Yes.

Q. Where are these grenades now?  
 A. They have been disposed of.

In the High  
 Court of  
 Singapore

His Lordship: Q. Disposed of what?  
 A. Disposed of.

Prosecution  
 Evidence

Q. Yes, how; have they  
 been used in battle, or  
 how?

No. 1

A. They were dumped into  
 the sea.

Christopher  
 Clifton  
 Examination  
 15th November  
 1965  
 (Continued)

10

Q. Can you tell us the  
 reason why?

A. Because they were not  
 considered safe for  
 prolonged storage.

Q. Could they have been  
 brought to Court for the  
 purpose of this trial?

A. No.

20

Q. These grenades that you disposed of, why  
 were they not kept for the purpose of  
 bringing to Court?

A. Because grenades and such ammunition are  
 not safe.

His Lordship: Q. We are talking of this  
 particular type, were  
 they unsafe?

A. In our opinion it is  
 not considered safe to  
 be kept for any length of  
 time.

30

Q. And when you disposed of the six grenade  
 bodies, what did you do with the five  
 levers that were handed over to you by  
 Inspector Koh?

A. These grenades were packed in a box with  
 other ammunition; the levers went in so  
 that we could make up a full box.

His Lordship: Q. Went in where?

A. To the sea.

40

Q. They were not dangerous,  
 the levers?

A. No.

In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton  
Examination  
15th November  
1965  
(Continued)

Q. The levers could have been brought for identification?

A. Yes, they could have been.

Q. Why were they dumped?

A. They were in such a state of corrosion.

Q. Please look at A.9 and A.10; what would they show; do you recognise the photographs?

A. Yes, they show six grenades.

Q. These photographs, where were they taken?

A. I cannot say.

10

His Lordship: The witness does not know where they were taken.

Crown Counsel: They were given to Inspector Piara Singh; he went to Beach Road Headquarters and there the photographs were taken.

His Lordship: You might lead evidence; from whom Piara Singh got the hand-grenades.

20

Q. Inspector Piara Singh came down to Military Headquarters to take photographs?

A. He came over with another man.

Q. They took photographs of the grenades?

A. On the steps leading into the magazine at Beach Road.

His Lordship: I don't follow; what date; when did Piara Singh hand them over; otherwise we are losing the link.

Q. On the 8th of July did Inspector Piara Singh and the photographer come to take photographs of the grenades?

30

A. I cannot honestly say it was the 8th of July.

Q. But they came one day to take photographs?

A. They did.

Q. They came to where?

A. Beach Road on the concrete steps leading into the magazine.

Q. And the photographs taken were of the six grenades that were earlier handed over to Inspector Piara Singh?

In the High Court of Singapore

Mr. Rajah: It is a very leading question.

Prosecution Evidence

His Lordship: Mr. Deputy, you must specify how he came into possession of the grenades and where?

No. 1

Christopher Clifton  
Examination  
15th November 1965  
(Continued)

10 Crown Counsel: I am much obliged.

Q. When Inspector Piara Singh came to see you, can you tell us what happened to the grenades?

A. He went into the magazine at Beach Road where the ammunition were stored.

His Lordship: Q. You went into the magazine?

A. I went into the magazine.

20 Q. And what did you bring out?

A. Six hand-grenades.

Q. What six handgrenades?

A. The six hand-grenades in the photograph which were previously recovered at the railway station.

Q. And what did Inspector Piara Singh and the person accompanying him then do?

A. Took photographs.

30 Q. Now after Inspector Piara Singh and the photographer had taken photographs, what did you do with the grenades?

A. I returned them to the store.

Q. And you have already given evidence to show that they were subsequently dumped into the sea?

A. Yes

Cross-examined

Cross-examination

Q. Can you tell the Court when they were dumped into the sea?

A. I cannot say exactly.



In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton  
Cross-  
examination  
15th November  
1965  
(Continued)

Q. They were intact in the store in the magazine on the 8th of July when photographs were taken at Beach Road?

A. Yes.

Q. It should have been there on the 8th of July; they were not destroyed?

A. Yes.

Q. Having that in mind, Sergeant, can you tell the Court when, on what date they were destroyed and on whose authority; first of all on what date? 10

A. I cannot say precisely when they were destroyed; the precise date when they were dumped into the sea.

Q. On whose authority?

A. On the authority of my superior officer.

Q. Who is this superior officer?

A. Name, sir?

Q. Yes, name?

A. Capt. Williamson. 20

Q. When you say Capt. Williamson, is he an Englishman or an Indian?

A. An Englishman.

Q. Now, you have no written authority from Capt. Williamson that you should destroy?

A. I don't have the authority in writing.

Q. Or the Police consulted before they were dumped into the sea; were the Police authorities consulted?

A. They were never consulted; that is the normal procedure. 30

Q. Did you take any steps to inform the Police?

A. I cannot remember if I did it personally.

Q. You knew these exhibits would be used in Court; there was a Police investigation on this?

A. Yes.

Q. And you took charge of these six arms; you personally took charge?

A. I took charge of the six grenade bodies. 40

Q. Subsequently was a statement recorded by you to the Police in connection with this examination?

A. I just submitted a report.

Q. When did you submit that report, on what date; on the 21st March, was it on the same day?

A. Somewhere around the first week in April.

10 Q. You made a report in writing, I believe?

A. Yes.

Q. Did you make two reports or one report?

A. Two reports.

Q. Can you produce them now?

Mr. T.T. Rajah: My Lord, I make a formal application to produce them. These reports are very important to my case.

20 Crown Counsel: My Lord, I object to the production of these reports. The reports are of a confidential nature. The witness is here and my learned friend can cross-examine him.

30 I rely on section 125 of the Evidence Ordinance, and also section 124 as amended.

(Crown Counsel reads sections 125 and 124)

I primarily rest on section 125.

40 Mr. T.T. Rajah: My reply is short. Here is a person who gives evidence on hand-grenades. He made a report and he has told the Court what he reported. It is a

In the High Court of Singapore

Prosecution Evidence

No. 1

Christopher Clifton

Cross-examination  
15th November  
1965

(Continued)

In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton  
Cross-  
examination  
15th November  
1965  
(Continued)

previous report and the  
defence is entitled for  
a copy of the document.

I make formal application  
for a copy of these  
reports.

His Lordship: What is the authority for  
your application?

Mr. T.T. Rajah: A report made by this man  
should be produced if  
available. 10

His Lordship: Yes, what is the authority?

Mr. T.T. Rajah: The witness has made a  
report on the hand-grenades.  
He has given evidence. The  
report is a previous statement  
to the Police, and I ask  
your Lordship to look at it  
under section 121 (2).

(Mr. T.T. Rajah reads section 20  
121 (2))

There is no secret involved.  
He only says what he found.

His Lordship: What have you to say to that,  
Mr. Deputy?

Crown Counsel: This is a document of a  
confidential nature and it  
will not be freely made  
available.

Secondly, in this case, the 30  
documents are privileged  
because they were taken in  
the course of official  
investigation. The sergeant  
made a statement to a Police  
Officer in the course of  
investigation. He is an  
expert submitting a report  
based on his examination; he  
is an expert before this 40  
Court and he is entitled to  
express an opinion. This

witness for one moment is not telling a lie, and I submit it is not a proper section to invoke.

In the High Court of Singapore

Mr. T.T. Rajah: My authority is straightforward - Sarkar on Evidence.

Prosecution Evidence

No. 1

10

(Mr. T.T. Rajah reads: page 1074, 10th Edition - Statement of witness to the Police - page 1163, 11th Edition)

Christopher Clifton  
Cross-examination  
15th November 1965  
(Continued)

The authority is very clear and no privilege can be claimed. It is fantastic to suggest this is privileged.

His Lordship: Every statement made to the Police is an official record.

20

Crown Counsel: In this case, I submit, that this statement was not made under the C.P.C. under the section which brings it under 121.

The other point is this: Official records will not be easily made available to all and sundry.

30

His Lordship: This is not making to all and sundry. Mr. Rajah wants the Court to look at it under section 121.

Crown Counsel: I have no objection, my Lord.

Mr. T.T. Rajah: Under the amended regulations, the defence is entitled to the substance of the report. May I draw your Lordship's attention to the regulations as amended?

His Lordship: I am aware of that amendment.

In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton  
Cross-  
Examination  
15th November  
1965  
(continued)

Mr. T.T. Rajah: I make a formal appli-  
cation under the amended  
regulation.

If your Lordship is not  
with me, then I renew my  
application under section  
121 of the C.P.C.

Crown Counsel: The Prosecution has complied  
with regulation 10. I have  
already addressed the Court  
under section 121, but there  
is one other point and that  
is the procedure as laid  
down under the Emergency  
Essential Powers Act, 1964.

10

His Lordship: I rule that the application  
of Mr. Rajah is granted  
and you must produce the  
statement made by this witness  
for the inspection of the  
Court.

20

Crown Counsel: May I hand over the reports  
made by Sgt. Clifton for  
the Court's examination?

(Two reports handed to his  
Lordship)

His Lordship: I rule that the credit of  
the witness is not affected  
and there is no ground to  
supply a copy of these  
reports to the counsel. I  
fail to see why Mr. Rajah  
so strongly resisted. The  
report is just two or three  
lines.

30

Mr. T.T. Rajah: My Lord, could a copy be  
given to me?

His Lordship: You are not entitled to a  
copy.

Mr. T.T. Rajah: No.

40

His Lordship: His credit is not affected.

His Lordship: He has told the Court  
(Contd.) exactly what he has said  
in the report.  
Mr. Rajah, will you be  
long with this witness?

In the High  
Court of  
Singapore

-----  
Prosecution  
Evidence

-----  
No. 1

Mr. T.T. Rajah: I shall be at least five or  
ten minutes.

His Lordship: Very well, we will adjourn  
to 2.30 p.m.

Christopher  
Clifton  
Cross-  
examination  
15th November  
1965  
(Continued)

10

(Court adjourns to 2.30 p.m.)

(Court resumes at 2.30 15.11.65)

(On former oath)

Q. Sergeant Clifton, these levers, you said,  
they were in a state of corrosion?

A. Yes.

Q. And the Court asked you whether they were  
dangerous?

A. I replied, no.

20

Q. Why were they not produced then?

A. No idea; they were put with the grenades in  
the box.

Q. Levers were of no use?

A. Nothing could be seen.

Q. Of what use are these base plugs; there  
were five base plugs?

A. They were in my office.

Q. Is this dangerous?

A. No.

30

Q. You were given five levers?

A. Yes.

Q. And my question is: Why did you not keep  
them?

A. They were in my office and the levers were  
in Beach Road.

Q. There were six grenades which were given to  
you by Inspector Piara Singh?

A. Yes.

In the High Court of Singapore

Prosecution Evidence

No. 1

Christopher Clifton Cross-examination 15th November 1965 (Continued)

Q. But there were only five base plugs?  
A. Yes.

Q. Could you say why only five instead of six?  
A. I could not say.

Q. You have no idea what happened to the detonators?  
A. No.

Q. You have never heard of detonators in this case?  
A. No.

Q. Would you agree with me, one of the most important component parts of a grenade is the detonator?  
A. Yes.

10

Q. The most important part?  
A. Yes.

Q. The most important component part is the detonator and in fact not even one detonator was given to you for examination?  
A. That is correct.

Q. My knowledge is acquired from legal experience; can you tell us whether you have heard of a Sergeant Keane?  
A. A colleague of mine.

20

Q. He is on the Federation side and you are on the Singapore side?  
A. Yes.

Q. A hand-grenade consists of two parts, part one is the detonator assembly?  
A. Yes.

Q. And the detonator assembly consists of nearly about six parts?  
A. Yes.

30

Q. I have here a certified copy of the recorded evidence given by Sergeant Keane; there he told the Court, subject to correction, a detonator assembly consists of: a safety pin, a lever, a spring, a striker, an explosive cap, and a detonator tube?  
A. Yes.

Q. A grenade consists a detonator and the various components that make the second part, the shell, the grenade body?

A. Yes.

Q. A detonator assembly consists of a safety pin, a spring, a striker, an explosive cap and lastly a detonator tube fuse?

A. A detonator consists of a safety fuse, a percussion cap and a detonator tube.

In the High Court of Singapore

Prosecution Evidence

No. 1

Christopher Clifton

Cross-examination  
15th November  
1965

(Continued)

10 Q. All these are parts of the detonator?

A. No.

Q. What would you classify them as?

A. It is the complete grenade.

Q. You do not include them as the detonator assembly?

A. The detonator assembly are those three items I have just mentioned.

Q. What is a safety pin?

A. Part of the chain of events.

20 Q. It is part of the grenade itself?

A. An integral part of the hand-grenade.

Q. Can the hand-grenade be used without a safety pin?

A. Not for the purpose designed to use.

Q. The purpose for which it is designed to use is to throw, that is the purpose?

A. Yes.

30 Q. The lever which you have seen, five of them very corroded, what do you classify that, part of the hand-grenade, integral part of the hand-grenade?

A. Yes.

Q. The spring the same, an integral part of the hand-grenade?

A. It can be.

Q. And the striker?

A. Yes.



In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton  
Cross-  
examination  
15th November  
1965  
(Continued)

Q. Now, an explosive cap; is there such a thing as an explosive cap?

A. Yes.

Q. Is that also an integral part of the hand-grenade?

A. Yes.

Q. And lastly you have a detonator tube, a length of safety fuse?

A. Yes, a piece of fuse into the grenade.

Q. There is a time fuse?

A. Yes, a safety fuse.

10

Q. What is it called?

A. A length of fuse inserted into the detonator; one piece going into the detonator from the cap to the detonator.

Q. What would you call that?

A. That is what I call a detonator assembly.

Q. Which in turn consists of a detonator cap, safety fuse and the detonator itself?

A. Yes.

20

Q. And then the other part is also in the body, the shell or frame of the grenade, talking of the lever, striker, spring, explosive cap, detonator assembly and safety pin?

A. That is the grenade body.

Q. All that were given by Inspector Piara Singh on the 21st March at the railway station was the grenade body, nothing else?

A. Nothing else.

Q. Now the grenade body you said normally it consists of baratol?

A. Yes, an explosive.

30

Q. Would you agree in this particular case you would not know what was inside the frame itself, because you did not open it?

A. Yes.

Q. Normally a grenade body itself would consist of baratol?

A. Not quite so. What I said was a British hand-grenade filled with baratol.

40

In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton  
Cross-  
examination  
15th November  
1965  
(Continued)

Q. But you did not open this yourself?

A. I did not.

Q. You also said unless they are used for  
drill or as dummy, normally there will be  
some?

A. Yes, but you could tell a drill or dummy  
because a drill has holes bored in it.

Q. Would you agree in some hand-grenades they  
have T.N.T. filled in?

10 A. Yes, a content of T.N.T. or a percentage.

Q. And you also told the Court the contents  
are only 2 ozs. and 7 drams?

A. Yes.

Q. By carrying it you cannot feel it; it is so  
light?

A. It is within the grenade.

Q. Is it possible to remove baratol from the  
hand-grenade body?

A. Yes.

20 Q. Did you ask for the detonator from the  
person who gave the hand-grenade as to what  
happened to the other parts of the hand-  
grenade?

A. I did mention if there was any more. When I  
saw the grenade body I asked if there was  
anything more or is this all? These are my  
exact words.

Q. The grenade body by itself does not make a  
complete hand-grenade?

30 A. That is correct.

Q. It is incomplete without the safety pin,  
detonator assembly and lever?

A. That is so.

Q. You won't call this a hand-grenade proper,  
a complete hand-grenade?

Mr. Rajah: It is understood; I won't ask  
that.

Q. The frame, the grenade body by itself is not  
a complete grenade?

40 A. It is not a complete hand-grenade.

In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton  
Cross-  
examination  
15th November  
1965  
(Continued)

Q. So you won't call it a hand-grenade proper?

A. It is still a grenade body.

Q. When you were given the five levers, were they in a bad condition, corroded; the five levers that were given to you by the Inspector?

A. They were very rusty.

Q. And what about the base plugs which you have shown the Court; were they rusty?

A. They are in a different position; they don't rust easily. 10

Q. As a matter of curiosity, why didn't you retain the levers with you; were they unsafe?

A. They were put in the box with the grenades rather than lying about.

Q. Why separate the base plugs?

A. We had the base plugs in my office.

Q. Could you not have left them in the box itself?

A. I could have.

Q. The levers were very badly corroded? 20

A. Yes.

Q. Were they very badly corroded on the 26th March?

A. Yes.

Q. Now if the grenade body is buried in the ground and kept there for one year or so, placed in a jar or bottle or some other way, can you remove it without any danger, is it safe to remove?

A. That depends on the circumstances; that depends on how much humidity there is. 30

Q. It can be preserved by experts?

A. Yes.

Q. What normally is the life of hand-grenades, for how many years can you keep?

A. I cannot say because I don't know. I would not care to offer an opinion.

Q. I suggest at the moment you can keep a hand-grenade without a detonator assembly for years?

A. Yes it can be kept for years, the grenade body itself. 40

Q. The danger comes only if this grenade body comes into contact with other explosives?

A. No. Through the force of nature if the filling is exuded it could be dangerous.

Q. Even then it cannot explode without ignition, that is the detonator?

A. If it is exuding, if the filling is exuded out it can.

In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton

Cross-  
examination  
15th November  
1965  
(Continued)

Re-examined

10

Q. We have heard you say that a number of parts are integral for a hand-grenade; now would you describe the grenade body as part of the grenade?

A. Yes.

Re-examination

20

Q. My learned friend has put to you that a grenade consists of two main parts, one called a detonator assembly and the other the body of a grenade; now we know that a percussion cap, safety fuse and the detonator itself form the detonator assembly?

A. Yes.

Q. What parts go to form the grenade body?

A. The plug, the lever pin and the safety pin.

Q. Now, my learned friend has stressed the most important part is the detonator; as against the detonator how would you compare the grenade body?

A. Also the frame.

30

Q. Now this safety fuse that is something inside the grenade body?

A. It is part of the detonator assembly.

Q. The detonator itself got a fuse?

A. That is correct.

Q. There is the detonator itself that is put into the back of the hand-grenade after you remove the base plug?

A. It is attached to the safety fuse and the cap.

40

Q. Am I right in saying when you say detonator, the cap and the safety fuse go with it?

A. In this case, yes.

In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton  
Re-examination  
15th November  
1965  
(Continued)

- Q. Now in answer to my learned friend's question you said without the safety pin it cannot be used for the purposes designed, what do you mean by that?
- A. I mean the safety pin is holding in the lever which releases the actual mechanism. So if you have no safety pin you have nowhere to hold the lever in.
- Q. In other words, you mean throwing the lever?
- A. That is correct. 10
- Q. Can you think of any other purpose for which the grenades can be used other than the purpose designed?
- A. It is designed basically for fragmentation purposes. It can be used in a different way than it is originally supposed to be; you need not throw it.
- Q. You could use it in other ways?
- A. Yes. 20
- Q. Now the spring, is it also part of the detonator?
- A. No.
- Q. Where is it?
- A. It is in the striker housed in the channel.
- Q. In the grenade body itself?
- A. Yes.
- Q. So the spring is in the grenade body itself?
- A. Yes.
- Q. What about the striker?
- A. Within the spring. 30
- Q. In other words, it is also within the grenade body itself?
- A. That is correct.
- Q. It is only the explosive that is with the detonator cap?
- A. That is correct.
- Q. Now, Sergeant, you told my learned friend that drill grenades have holes bored in them. Did you see any holes bored through the six grenades? 40

A. No, I did not.

Q. Now, was there anything about the grenades, the six grenades given to you, to suggest that the Baratol filling had been removed?

A. No.

Q. Now, if a grenade is buried, do different parts of the grenade corrode more than other parts?

A. Quite feasible.

10 Q. And why would that be?

A. The basic make-up, for one reason chemical reactions on different parts of it. Different circumstances would affect different items in a different way.

Q. Now, in answer to my learned friend, you said grenades can be kept for years. Now, what conditions would determine how long a grenade can be kept?

20 A. Type of storage. Periodic cycles of inspection.

His Lordship: You have finished?

30 Crown Counsel: I have finished, my Lord. My Lord, may I make an application for the release of this witness? His services are badly required in Borneo, and it is proposed to let him go tomorrow morning on the first flight. I have already asked my learned friend and I should be grateful if the court would release him so that he may fly tomorrow.

40 Mr. Rajah: I object to this application, although I feel reluctant to oppose. But he is the main witness here, and in the course of the proceedings something might crop up which I cannot foresee. And in the circumstances - a man's life is involved, I would ask your Lordship, assuming the case starts tomorrow, - he

In the High Court of Singapore

Prosecution Evidence

No. 1

Christopher Clifton  
Re-examination  
15th November  
1965  
(Continued)

In the High  
Court of  
Singapore

Prosecution  
Evidence

No. 1

Christopher  
Clifton  
Re-examination  
15th November  
1965  
(Continued)

Mr. Rajah: has to be here. And  
(Contd.) there is no excuse in the  
circumstances.

His Lordship: When will the witness be  
coming back?

Crown Counsel: He is now on active service  
in Borneo, and he was  
called in this case.

Mr. Rajah: What happens if he dies -- 10  
not that he is going to  
die - but supposing anything  
untoward happens, what then?

His Lordship: How long will the Prosecution  
case last?

Crown Counsel: One or two days.

His Lordship: Can't he remain for another  
one or two days?

Crown Counsel: I suppose it means the  
cancellation of the flight. 20  
Well, of course, I leave it  
entirely to the hands of  
Court.

Mr. Rajah: I cannot anticipate what may  
happen.

His Lordship: Well, if the case is only  
to last two or three days,  
it is better to wait till  
then.

Crown Counsel: As your Lordship pleases.

Sergeant, I am afraid you 30  
will have to stay back.

His Lordship: You can stand down, Sergeant.

Witness: Thank you.

(Witness stands down)

Crown Counsel: May he be released,  
subject to not leaving  
the State?

In the High  
Court of  
Singapore

His Lordship: Yes, certainly.

Prosecution  
Evidence

Crown Counsel: You may go, but you must  
not leave. You may be  
required.

No. 1

Mr. Rajah: But if he wants to see  
the court proceedings,  
he is at liberty.

Christopher  
Clifton  
Re-examination  
15th November  
1965  
(Continued)

10

NO. 2

No. 2

SUBMISSION BY MR. T.T. RAJAH

Submission by  
Mr. T.T. Rajah  
16th November  
1965

Mr. T.T. Rajah: My Lord, at this stage I  
submit there is no case to  
answer on the facts before  
this Court.

20

Firstly, the charge is for  
an offence under section 57(1)  
(b) of the Internal Security  
Act for possession of  
ammunition to wit six hand-  
grenades. I repeat, my Lord,  
the words here are possession  
of ammunition, namely, to  
wit six hand-grenades.

30

Secondly, I have already  
drawn the Court's attention  
to the definition of ammunition  
under the definition section,  
section 2; it reads:

40

"'ammunition' means ammunition  
for any fire-arm as hereafter  
defined and includes  
grenades, bombs and other  
like missiles whether capable  
of use with such a fire-arm  
or not and any ammunition  
containing or designed or  
adapted to contain any  
noxious liquid, gas or other



In the High  
Court of  
Singapore

No. 2

Submission by  
Mr. T.T.  
Rajah  
16th November  
1965  
(Continued)

thing."

It does not say anything of the component part of a hand-grenade; that is important. It deals with a complete hand-grenade. The evidence adduced by the Prosecution was the evidence of Sergeant Clifton. He told the Court what he found on examination on the 21st March was the general frame of the hand-grenade (I think the words are - the grenade body). He told the Court in cross-examination the detonator assembly is an important part of the hand-grenade, namely, the detonator itself. He said it is the important part of a hand-grenade, if not the most important component part of the hand-grenade is the detonator. Not one hand grenade detonator was given to this witness. The detonator assembly consists of three parts - percussion cap, the safety fuse and the detonator itself. None of these things were found or given to him. It had no lever, it had no explosive cap and it had no safety pin. Furthermore, Sergeant Clifton said "I would not know the contents of the body".

10

20

30

This is in cross-examination: "I would not know the contents of the body. I did not open it myself." He also said it is possible to remove baratol from the body. He also told the Court the grenade body could be kept for years. He did not say in this particular case that nothing exuded from the body. The levers were not produced and the hand-grenade itself was not produced, which could be produced, but they were

40

destroyed. The second last witness did not say a word to connect the accused with the levers or with the base plugs. So in those circumstances I humbly submit on the facts before this Court and under the definition of "ammunition" that it is not a complete grenade.

In the High  
Court of  
Singapore

---

No. 2  
Submission by  
Mr. T.T. Rajah  
16th November  
1965  
(Continued)

10

If your Lordship looks at the definition of "fire-arms", it reads:

20

"'Fire-arm' means any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged or which can be adapted for the discharge of any such shot, bullet or other missile and any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing, and includes any component part of any such weapon as aforesaid."

30

So a component part is included there. May I also ask the Court to look at Ordinance No. 43/1958 - The Corrosive and Explosive Substances and Offensive Weapons Ordinance, 1958 - page 171. There section 2 reads:

40

"'explosive substance' shall be deemed to include any materials for making any explosive substance and any bomb, grenade, apparatus, machine, implement or material used or intended to be used or adapted for causing or aiding in causing any explosive in or which any explosive substance and any part of such bomb, grenade, apparatus, machine or implement."

In the High  
Court of  
Singapore

---

No. 2

Submission by  
Mr. T.T. Rajah  
16th November  
1965  
(Continued)

30.

So there is a separate  
legislation which includes  
any part of a grenade  
In view of this, he did not  
actually carry a complete  
grenade because the evidence  
of Sergeant Clifton is very  
clear - it is not a proper  
grenade or a complete grenade.

In the circumstances, I submit  
both on the facts as given  
by Sergeant Clifton and on  
the definition of "ammunition",  
I submit there is no charge,  
there is no case to answer.

10

No. 3

NO. 3

Crown Counsel's  
Reply  
16th November  
1965

CROWN COUNSEL'S REPLY

Crown Counsel:

My Lord, my learned friend's  
submission centres round only on  
one material point and that is  
whether the definition of hand-  
grenade is ammunition and is  
caught within section 2 which  
is the definition section of  
ammunition and thereby be  
applicable to section 57. My  
Lord, the charge as it stands,  
the Prosecution will have to  
prove that Singapore is a security  
area and the accused was in  
possession, that he had in his  
possession ammunition which can  
be regarded as hand-grenades. My  
Lord, my learned friend has  
centred his submission on the  
question of definition of  
"ammunition", and I shall  
accordingly confine my reply  
to the explanation of definition  
of "ammunition" and hand-  
grenades. My Lord, this problem  
can be considered under two  
broad heads. Firstly, under  
the law as it stands in view  
of the decided cases, and secondly,

20

30

40

as a straightforward construction of the Statute. In this connection may I invite the Court to refer to the case of Rex v. Debreli, reported in 1964 Criminal Law Review at page 53. My Lord, this is a very short case.

In the High  
Court of  
Singapore

-----  
No. 3

Crown Counsel's  
Reply  
16th November  
1965  
(Continued)

10 My Lord, I am told that this report is in the Appellate Court. May I, therefore, read this before I pass it on to your Lordship?

His Lordship: Yes.

20 Crown Counsel: My Lord, the case of Rex v. Debreli was heard in the Court of Criminal Appeal (Chief Justice Lord Parker, Mr. Justice Ashworth and Mr. Justice Hinchcliffe), and it was for an offence under the Firearms Act, 1947, in England. <sup>1964</sup> C.L.R., 537 The facts of the case:

30 D was convicted of possessing an imitation firearm at the time of committing an offence contrary to section 23, subsection (2) of the Firearms Act, 1937. The weapon was an automatic pistol which was incapable of firing because the firing pin had been removed.

40 On appeal it was submitted that the expression "imitation firearm" in subsection (2) has a plain meaning, namely, a weapon fabricated to imitate a lethal barrelled weapon, that the weapon in the present case was not so fabricated, and that the definition section, subsection (6), cannot be used to enlarge the plain meaning of the expression when it first appears

In the High  
Court of  
Singapore

-----  
No. 3

Crown Counsel's  
Reply  
16th November  
1965  
(Continued)

in the section.

It was held that the expression is not completely unambiguous. Having regard to the mischief aimed at by the Act, the proper meaning to give to it is "something that looks like a firearm." /"Something that looks like a firearm" is in quotes./ The interpretation section put the matter beyond all doubt. The appeal was dismissed.

10

The learned editors of the Criminal Law Review have gone on to make a commentary, and may I with respect adopt that commentary? The commentary reads as follows:-

"The argument of the defence would have led to the absurdity that a rubber model of an automatic pistol would have been within the Act, but not the real automatic pistol, lacking a firing pin, in the present case. Of course, if a statute plainly enacts an absurdity then the court has no choice but to apply it - particularly where, as here, it operates in favour of the accused. But if there is a reasonably possible meaning which will avoid the absurdity, then, it is submitted, it should be adopted, even when this is to the disadvantage of the accused. The courts, however, always follow this approach: see Fisher v. Bell /1951/ Criminal Law Review, 180, and commentary thereon." May I pass on this case?

20

30

40

(Report is handed in to his Lordship)

My Lord, if I may just read the definition section of firearms

in the Firearms Act in England. "Firearms and ammunition" is defined in subsection (6) of section 23 of the Firearms Act, and this reads as follows:-

In the High Court of Singapore

\_\_\_\_\_  
No. 3

10

"The expression 'firearm' means any lethal-barrelled weapon of any description from which any shot, bullet or other missile can be discharged, and includes any prohibited weapon whether it is such a lethal weapon as aforesaid or not."

Crown Counsel's Reply  
16th November 1965  
(Continued)

20

Subsection (b): "The expression 'imitation firearm' means anything which has the appearance of being a firearm within the meaning of this section other than such a prohibited weapon as mentioned in paragraph (b) of subsection (2) of section 17 of this Act whether it is capable of discharging any shot, bullet or other missile or not."

30

(Act is handed in to His Lordship)

If I may now refer to the definition of ammunition in the Internal Security Act, section 2?

'"Ammunition" means ammunition for any firearm as hereinafter defined, and includes grenades, bombs and other like missiles.'

40

And the Prosecution submits that the words "and other like missiles" would import into this definition section anything that looks something like a hand-grenade, as was ruled in the case of Rex v.

In the High  
Court of  
Singapore

-----  
No. 3

Crown Counsel's  
Reply  
16th November  
1965  
(Continued)

Debreli.

My learned friend has argued that the absence of reference to the fact that component parts are not mentioned in that section is something to be noted. It is my submission, my Lord, the words "and other like missiles whether capable of use with such a firearm or not" takes care of the absence of the legislature not having gone out to spell a component part as such. The learned editors in the 1964 case referred to in the case of Fisher v. Bell, reported in 1961 Criminal Law Review at page 180. This is a case where the Courts interpreted a word in the Offensive Weapons Act where they were more concerned with its relevance to the Law of Contract than to the mischief that the Act was seeking to rectify, and may I, my Lord, adopt the arguments given by the editors in their learned commentaries at page 181 - the second last paragraph? "A word generally has several meanings even in the dictionary." Is my Lord with me? The second last paragraph on 181. "You have to consider the sentence in which it stands to decide which of those meanings it bears in the particular case and very likely will see that there is a shade of significance more refined than in the word book" - I am sorry, if I may read it again? "A word generally has several meanings even in the dictionary. You have to consider the sentence in which it stands to decide which of those meanings it bears in the particular case, and very likely will see that there is a shade of significance more refined than any given in the word book." Refers to the

10

20

30

40

50

author. "It is common enough for some word to be given different meanings in different statutes and the phrase 'for the purpose of the statute' is commonly to be found in judgments dealing with terms and statutory interpretation. The same word may be used in different senses in the same statute, and even in the same section."

In the High Court of Singapore

—  
No. 3

Crown Counsel's Reply  
16th November 1965  
(Continued)

10

20

That is all I shall say on the construction of words in similar ambiguous situations put upon by the Courts, and may I now look at the problem as a straight forward one of construction?

30

My Lord, the Prosecution submits that there is a presumption against interpretation, against what is inconvenient or unreasonable, and in support may I invite the Court to have a look at Maxwell on Interpretation of Statutes, 11th Edition, at page 183, my Lord?

40

"Under subsection (1), presumption against intending what is inconvenient or unreasonable in confirming either the general object of the legislature or the meaning of its language in any particular passage. It is obvious that the intention which appears to be most in accord with convenience, reason, justice and legal principles, should in all cases of doubtful significance could be presumed to be the true one. An argument drawn from an inconvenience it has been said, is possible in law and no less, rather more force,



In the High  
Court of  
Singapore

-----  
No. 3

Crown Counsel's  
Reply  
16th November  
1965  
(Continued)

is due to any drawn from  
absurdity or injustice."

And again, at page 189 of the  
same book the Court should, I  
submit, "impose a construction  
of a word or section of a  
statute which would lend itself  
to the evasion of a mischief  
sought to be prevented by  
the Act." And may I read  
Maxwell's in support of it? 10  
At page 189, under "evasion".  
"A construction which facilitated  
the evasion of a statute would  
on similar grounds of inconvenience  
be avoided. Thus an Act which  
forbade an innkeeper to suffer  
any gaming in his house or  
premises was construed as extending 20  
to gaming by himself and his  
personal friends in his private  
rooms in the licensed premises, for  
a construction which limited the  
prohibition of the guests in  
the public room would have opened  
the door to collusion and evasion."  
If I may pause here: if my learned  
friend's submission is valid,  
then all the people who want to 30  
carry about hand-grenades have  
to do is to dismantle them and  
take them in bits and pieces, and  
that surely is not an interpretation  
which the Legislature had intended  
under this section.

Again, at page 197, if, my Lord,  
my learned friend's submission  
that component parts carried  
separately would not bring liability 40  
under this section, then it would  
lead not only to evasion, but  
it would also lead to the absurd  
situation where the people who  
seek to put public security in  
jeopardy can escape. And on that  
ground, again I submit that the  
definition of ammunition,  
definition of grenades must be  
read, in the words of Rex v.

Debreli to be something that looks like a grenade. And on page 197 of Maxwell's, the same argument - under "Absurdity". "The same argument applies where the consequence of adopting one of the two interpretations would be to lead to absurdity."

In the High  
Court of  
Singapore

—  
No. 3

Crown Counsel's  
Reply  
16th November  
1965  
(Continued)

10

And finally, at page 221:  
the learned author here says:

20

"Where the language should be modified to meet the intention of the Legislature" and that would be another ground on which the Prosecution submits Rex v. Debreli would apply - if I may read --- "Where the language of the statute in its ordinary meaning and grammatical construction leads to manifest construction of the apparent purpose of the enactment or to some inconvenience or absurdity, hardship, or injustice presumably not intended, that construction may be put upon it which modifies the meanings of the words and even the structure of the sentence.

30

This may be done by departing from the rules of grammar, by giving an English meaning to all words, by altering the collocation or by rejecting them altogether under the influence, no doubt, of an irresistible conviction that the legislature could not possibly have intended what the words signify and that the modifications thus made are mere corrections of careless language and really give the true meaning. Where the main objects and intentions of a statute are clear it must not be reduced to a nullity by the draftsman's unskillfulness or ignorance of the law, except in

40

50

In the High  
Court of  
Singapore

—  
No. 3

Crown Counsel's  
Reply  
16th November  
1965  
(Continued)

a case of necessity or the absolute intractability of the language used.

My Lord, on those grounds, I submit that the construction that was upheld in the Court of Criminal Appeal in the case of Rex v. Debreli is equally applicable in the construction of the definition of ammunition and hand-grenades in the section, in section 2, so that it can in section 57, be read to include missiles which are, in fact, grenades with one or two component parts missing because they are physically something that look like grenades. 10

If I may comment on the case of Rex v. Debreli? 20

In that case there is a definition section of a firearm. Similarly, in this Section there is a section where the words are "grenades, bombs", and also "and other like missiles." If the Prosecution had charged the accused with possession of a missile like a grenade we would have been in the position where the Prosecution found itself in the case of Rex v. Debreli, because they assumed that a firearm without the vital firing pin, which made the firearm practically useless, could not be a firearm, and therefore came within the definition of imitation firearm. 30

The learned authors have found fit to make a comment on that point which I have adopted, and in the same way the Prosecution were capable and correct in charging the accused with possession of the grenades, notwithstanding the fact that 40

the Prosecution were fully aware that the grenades in question did not have on them levers, safety pins and detonators. My learned friend has confined himself to that point, a very technical point, and in that connection may I invite the Court to look at the case of Foo Yong Fong & Anor. v. Regina, reported in 1962 Malayan Law Journal at page 157. The relevant paragraph is, at page 157, paragraph D, second column. The learned Chief Justice went on to say this:

In the High  
Court of  
Singapore

—  
No. 3

Crown Counsel's  
Reply  
16th November  
1965  
(Continued)

10

20

30

40

50

"I may perhaps be forgiven for observing that forms and procedures, whether civil or criminal, are not intended or devised in order to put obstacles in the way of the plaintiff or the prosecution, as the case may be. They are designed to ensure that the issues to be determined are fairly and clearly stated, so that the defendant in a civil and the accused in a criminal case knows the case that he has to meet and is not placed in a position of embarrassment. Thus, a fair trial is assured. It is apparent from the matters to which I have already referred that the appellants were in no way prejudiced, hindered or embarrassed in their defence by reason of the form of the charges." The fact I am trying to put is this: that the technicalities should not be used to defeat the ends of justice. Just because the language in section 2 is ambiguous it does not mean that it should be made readily available to the accused. And in this connection with regard to the use of a grenade

In the High  
Court of  
Singapore

No. 3

Crown Counsel's  
Reply  
16th November  
1965  
(Continued)

which is not complete,  
may I invite the Court to  
refer to page 158: "It is  
not, I would suggest, the  
duty of the Courts to shut  
their minds to topical  
events", it was said by the  
learned Chief Justice. And  
Sergeant Clifton has given  
evidence to show how grenades  
which do not have certain  
component parts have, never-  
theless been used. And in  
the circumstances I submit  
that the Prosecution has  
established a case which the  
accused will have to answer.

10

No. 4

NO. 4

Mr. T.T.  
Rajah's  
Reply  
16th November  
1965

MR. T.T. RAJAH'S REPLY

Mr. Rajah:

I have a short reply.  
My learned friend tried to say  
if a person carries a component  
part, then he has no liability  
whatsoever. I did not mean that.

20

What I was saying is carrying  
a handgrenade body, a grenade  
body: the law has not said it is  
an offence. Looking at the  
definition of "explosive", sub-  
section (b): "Explosive includes  
firearms, fuses, rockets,  
percussion caps, detonators."

30

You see, my Lord, my learned friend  
was suffering from or had an  
illusion of his own to cloud  
the mind of this Court. It is  
clearly provided there. If you  
carry a detonator, if you carry  
a fuse, if you carry a per-  
cussion cap, you had it. But  
it does not say anything about  
carrying a hand-grenade body -  
that is the point. It has  
gone that far to put in a

40

definition of percussion caps, detonators, and your Lordship will see a detonator assembly consists of a percussion cap, a safety fuse, the detonator itself.

In the High Court of Singapore

-----  
No. 4

10 So having endeavoured to show to this Court there is no offence at all, nothing is an offence unless it is specifically provided.

Mr. T.T. Rajah's  
Reply  
16th November  
1965  
(Continued)

Now, what is a hand-grenade? Now, that is important. What is it designed to be used for?

20 In the words of Clifton, he said it cannot be used for the purposes it was designed without a detonator without a safety pin, without a lever, and so forth; without all these, it cannot be used as a hand-grenade. And the charge he apparently is facing is for the possession of a hand-grenade. A hand-grenade means a complete hand-grenade.

30 Now I shall ask the Court to look into the definition in the Act itself. It is defined in the Shorter Oxford Dictionary - which is indeed a big dictionary - they call it the Shorter Dictionary, nearly 2,000 pages - it says: "hand-grenade, an explosive missile smaller than a bomb, shell thrown by hand."

40 So the very name itself suggests a hand-grenade using the hand. Could this be thrown with the hand, the one which was carried by the accused person on the 21st of March? It cannot be. It cannot serve the purpose. The vital parts are missing - the detonator, the percussion cap, the fuse, the lever, the plug - everything is missing. Therefore, it

In the High  
Court of  
Singapore

—  
No. 4

Mr. T.T.Rajah's  
Reply  
16th November  
1965  
(Continued)

cannot be used as a hand-grenade,  
and therefore it is not a hand-  
grenade.

A grenade, my Lord - this is a  
hand-grenade. A grenade is  
bigger. We are not concerned  
with a grenade, but it is the  
same thing, a small explosive  
shell, usually of metal, thrown  
or shot. It may be a rifle  
hand-grenade, a rifle grenade  
or a hand-grenade. There are  
two types, or may be three  
types. So this is a hand-  
grenade. The purpose is to use  
it with the hand, thrown by the  
hand. And if a person has with  
him a detonator, a fuse, a  
percussion cap, then he has a  
basis to argue it. It is wrong  
for the learned Deputy to say  
or attribute words to me which  
I never meant.

10

20

Now, he brought in the case of  
Debreli. That case can be  
completely disregarded from this  
point of view: it has only a  
firing pin removed, just a firing  
pin. But in this case it is  
not just a firing pin - the whole  
assembly is missing. The  
detonator assembly is missing,  
the lever is missing, the base  
plug is missing. It is not a  
technical point, my Lord. Here  
is a man's life to be involved.  
Can the learned D.P.P. look at  
it from this point of view?

30

A man, a person is to be hanged,  
sentenced to death and executed.  
Could he be executed for a thing  
which is not a hand-grenade. The  
law says if you have a proper  
hand-grenade, complete hand-  
grenade, then you have to face  
these charges. But it is not so  
in the case brought by the  
Prosecution. So it is not a  
technical point. And the case

40

of Fisher can completely be ignored as of no relevance to the case here.

In the High Court of Singapore

—  
No. 4

Mr. T.T. Rajah's  
Reply  
16th November  
1965  
(Continued)

10

Now, then, my learned friend tried to argue by saying, "Look into the definition of ammunition", and he took refuge if I may use the word without offending him - he said this can be included in the expression "and other missiles". "And other missiles". The words are very clear; they speak for themselves. The words are plain; the Court will not strain them, their meaning, to suit the Prosecution. Are they like missiles? A grenade is a missile; a bomb is a missile; any other missile, a live missile. A grenade body is not a missile, otherwise it will be a grenade or part of a grenade.

20

I stress this point of corrosive and explosive substance ordinance. It goes into the ordinance and says any part of a bomb, missile, grenade or apparatus. The law has made a provision. There is one remedy for it, not for this Court nor for the learned Deputy. He can go and advise his masters or his bosses or his superiors. When I say masters, I say superiors.

30

40

Crown Counsel: Will you please address this Court?

Mr. Rajah: You made this point. I am giving you a bit of advice. You can go and seek an amendment of the law if you want to. That is very easy, very simple. So the point of carrying in bits and pieces: my learned friend says



In the High  
Court of  
Singapore

-----  
No. 4

Mr. T.T.Rajah's  
Reply  
16th November  
1965  
(Continued)

anyone can dismantle it and carry bits and pieces. He has not proved to this Court, although he tried very, very hard. But there is provision if a man carries a detonator, a percussion cap, a fuse, and so on, he is answerable for it. So that is due to lack of and insufficient knowledge of the definition. Now, in those circumstances my learned friend is asking this Court to strain itself to find some meaning to suit his argument. I don't think that is a correct procedure.

10

Your Lordship also won't forget the evidence of Clifton when he said it could be used as a dummy for drill purposes. He has excluded drill purposes in this case because it has no holes, but he has not excluded the possibility of it being a dummy - that is important. He has not specifically ruled out that this could be a dummy. It could be a dummy because I have opened it; I have seen it. He has said so. In those circumstances the Prosecution has not proved - they must. It is possible, he told the Court, it is possible - these are the very words he used - he said, "If all the component parts were attached or fitted back, they could be used." These are his very words, "If all the component parts were attached or fitted back, they could be used, but not otherwise, as a hand-grenade." And then he also said this, "I would not know the contents of the body." This is important. He is an expert giving, so he must tell the

20

30

40

50

10 Court. The material was placed before the Court. "I would not know the contents of the body. I did not open it myself. It is possible to remove the baratol from the body. Well, what is the purpose of an expert coming to give evidence? He is only presuming it. He presumes may be baratol on it. He has not made any test like an expert who can say, "I have had a test" or something of that nature. He has not done any test so that he can come and tell the Court, "I have made a test, proper test, in a proper way, and  
20 inspected this hand-grenade or hand-grenades. There was baratol, anything of the sort. He said also it is possible to remove the baratol from the body. He has not removed it and made any observation after removal. The baratol could be removed and then he could say it had baratol.

30 But the Court, in the circumstances - it is not my fault, it is not the Court's fault - it is, of course, not produced by the Prosecution. They have to prove it is not a bomb and they have to prove that conclusively. In those circumstances, I submit there is no case to answer.

40 His Lordship: Mr. D.P.P. and Mr. Rajah, I reserve judgment until 10.30 tomorrow morning.

Mr. Rajah: As your Lordship pleases.

Crown Counsel: As your Lordship pleases.

In the High Court of Singapore

—  
No. 4

Mr. T.T.Rajah's  
Reply  
16th November  
1965  
(Continued)

In the High  
Court of  
Singapore

NO. 5

COURT'S RULING

            
No. 5

Court's  
Ruling  
17th November  
1965

His Lordship: I have considered very carefully the submissions made by learned counsel for the defence and the learned Deputy Public Prosecutor. In my view, a grenade body falls within the definition of "Ammunition" laid down in Section 2 of the Internal Security Act, 1960, because the word "Ammunition" includes grenades and any ammunition containing or designed or adapted to contain any noxious liquid, gas or other thing. The word "Ammunition", which appears in the fourth line of the definition, in my opinion, includes grenades. Therefore, a grenade containing or designed or adapted to contain any noxious thing comes within the definition of ammunition.

10

20

In this case the evidence shows that the six grenade bodies found in the accused's bag were designed to contain baratol, which is a noxious thing. The grenade bodies are, therefore, ammunition within the meaning of the Internal Security Act 1960.

30

I find that the Prosecution have made out a case against the accused which, if unrebutted, would warrant his conviction. I, therefore, call upon the accused to enter upon his defence.



47.

NO. 6

NOTICE ON BEHALF OF PRISONER

FORM B

(Rule 6)

NOTICE ON BEHALF OF PRISONER

In the Federal Court of  
Malaysia.

PUBLIC PROSECUTOR v. LIEW SAI WAH

In the Federal  
Court of  
Malaysia

No. 6

Notice on behalf  
of Prisoner  
19th November  
1965

10

To the Registrar of the High Court in  
SINGAPORE at SINGAPORE

20

TAKE NOTICE that LIEW SAI WAH who  
was convicted in the High Court in SINGAPORE  
at SINGAPORE on 18th November 1965 for the  
offence of Possession of ammunition without  
lawful authority under Sec: 57(1) (b)  
Internal Security Act 1960 and sentenced to  
suffer DEATH and who is now a prisoner  
in this prison has informed me that he wishes  
to appeal to the Federal Court against his  
conviction and sentence.

The grounds on which he wishes to  
appeal are stated by him as follows:-

(See Note)

That the conviction and sentence are  
unreasonable.

Sd. Illegible

Superintendent of Prisons,  
Changi Prison, Singapore.

30

Signature of Officer in Charge of  
Prison.

Filed this 22nd day of November 1965.

Sd. T.S. Sinnathuray,  
Registrar,  
High Court, Singapore.  
Right thumb print of Liew Sai Wah  
Dated this 19th day of November, 1965

In the Federal  
Court of  
Malaysia

No. 6

Notice on behalf  
of Prisoner  
19th November  
1965  
(Continued)

NOTE:-

1. If the prisoner has made an oral statement insert the substance of the same here.
2. If the prisoner has made a written statement it is sufficient to say so and attach a copy.

No. 7

Declaration  
verifying  
Transcript of  
Shorthand  
Notes  
9th February  
1966

NO. 7

DECLARATION VERIFYING TRANSCRIPT  
OF SHORTHAND NOTES

10

PUBLIC PROSECUTOR vs. LIEW SAI WAH

DECLARATION VERIFYING TRANSCRIPT OF SHORTHAND  
NOTES

We, S.K. Luke, Lim Yew Hock and K.J. Perera, of the High Court, Singapore, do solemnly and sincerely declare that having been required by the Registrar or Deputy Registrar of the Federal Court to furnish to him a transcript of the shorthand note relating to the trial (or other proceedings) in relation to Singapore Emergency Case No. 3/65 - Public Prosecutor v. Liew Sai Wah, which shorthand note is now produced and shown to us marked "A" and purporting to have been signed and certified by us, we have made a correct and complete transcript thereof to the best of our skill and ability in pursuance of the said requirement, which said transcript is now shown to us marked "A".

20

30

And we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declaration Act, 1835.

Dated this 9th day of February, 1966.

Sd. S.K. Luke

Sd. Lim Yew Hock

Sd. K.J. Perera

Declared before me at Singapore this  
9th day of February, 1966.

Sd. Tay Kim Whatt,

Deputy Registrar of the  
Federal Court

In the Federal  
Court of  
Malaysia

No. 7

Declaration  
Verifying  
Transcript of  
Shorthand  
Notes  
9th February  
1966  
(Continued)

NO. 8

GROUNDS OF DECISION

In the High Court  
of Singapore

No. 8

Grounds of  
Decision  
11th February  
1966

10 The above named Liew Sai Wah was  
charged before me as follows:-

" You, Liew Sai Wah (NRIC NO. S6C  
03848) are charged that you, on or  
about the 21st day of March 1965 at or  
about 5.00 p.m. at the Railway Station,  
Singapore, which is a security area  
did have in your possession ammunition  
to wit, six hand-grenades without  
lawful authority and you have thereby  
committed an offence under section  
57(1)(b) of the Internal Security  
Act, 1960, and punishable under  
section 57(1) of the said Act."

20

The accused claimed trial and he was tried  
without a jury under the Emergency (Criminal  
Trials) Regulations, 1964. The trial  
resulted in the conviction of the accused  
and he was sentenced to death. He now  
appeals against his conviction and sentence.

30

The prosecution case was as follows.  
On the 21st March 1965 a Malay soldier  
named Kamaruddin (P.W.6) travelled by train  
from Tampin to Singapore. When the train  
arrived at Layang Layang Railway Station  
he saw the accused board the train. Accused  
had a B.O.A.C. travelling bag (Exhibit P.1)  
which he placed on the luggage rack. When  
the train moved off the accused started

In the High  
Court of  
Singapore

          
No. 8

Grounds of  
Decision  
11th February  
1966  
(Continued)

reading a blue book, similar to the one produced in Court (Exhibit P.2B). Kamaruddin saw that the accused would sometimes stop reading the book, look out through the window and write down something in the book. Accused did this several times and this aroused Kamaruddin's suspicions. Kamaruddin left the carriage in search of the Railway Guard on the train and having found him, informed him about his suspicions. Kamaruddin returned to his seat and a little later the Railway Guard named Franciscus (P.W.5) came to his carriage. Kamaruddin pointed out accused to the Guard without the accused becoming aware of it. When the train arrived at Johore Bahru Railway Station the Guard telephoned to the Singapore Railway Station and requested that a railway detective should await the arrival of the train at Singapore because there was a suspicious passenger on the train. When the train arrived at the Singapore Railway Station, there was detective constable Soosay (P.W.2) of the Railway C.I.D. waiting at the platform. The Guard got down from the train and pointed out accused to Soosay. Accused was then about to get down from the train. As soon as accused got down from the train, Soosay approached him and asked him where he was going. Accused replied that he was going to Dunearn Road. Soosay requested accused to follow him. Accused stated that he was going to wait for two of his friends who would be coming to fetch him. Soosay saw that the accused had the B.O.A.C. travelling bag (Exhibit P.1) slung on his shoulder and a package of books in his hand. Accused continued to walk along the platform and Soosay walked beside him. After they had walked a short distance, accused met his two friends. Accused talked to them in Chinese. After a few minutes when the accused and his two friends wanted to leave the railway station, Soosay introduced

10  
20  
30  
40  
50

In the High  
Court of  
Singapore

            
No. 8

Grounds of  
Decision  
11th February  
1966  
(Continued)

10 himself as a police officer, showed his  
warrant card to the accused and requested  
him to follow him. The accused immediately  
handed the B.O.A.C. travelling bag and  
the package of two books to one of his  
friends (Mei Lei Tek (P.W.9)). Soosay  
told the accused that he could not do that  
and requested him to take back the B.O.A.C.  
travelling bag and the package of two  
books and to follow him. Accused obeyed  
Soosay and took back from Mei Lei Tek the  
B.O.A.C. travelling bag and the package of  
books. Accused then accompanied Soosay to  
the C.I.D. office at the Singapore Railway  
Station where Soosay opened the accused's  
B.O.A.C. travelling bag and searched it.  
Inside this bag were found:-

One large towel (Exhibit P.1A)

20 One long-sleeved light blue coloured  
shirt (Exhibit P.1B)

One jungle green shirt (Exhibit P.1C)

One piece of cardboard (Exhibit P.1D)

One white long pants (exhibit P.1E)

30 There were other articles in this bag, but  
for some reason best known to the prosecution  
they were not produced and marked as exhibits  
in this trial. According to Soosay, wrapped  
inside the jungle green shirt, were six  
hand grenades and this wrapped package was  
placed on the piece of cardboard underneath  
which was the folded white long pants. Soosay  
also identified in Court the package of two  
books that the accused had been carrying in  
his hand. The two books (P.2B and P.2C) were  
wrapped in a polythene wrapper (Exhibit  
P.2A). Exhibit P.2B is the blue book which  
Kamaruddin saw the accused reading in the  
train, and occasionally writing in it.  
Exhibit P.2C is a small white note book.

40 The six hand-grenades were not produced  
in Court because they had been disposed of  
before the trial by being dumped into the  
sea. But before this was done, the hand-  
grenades were photographed and exhibits A.9



In the High  
Court of  
Singapore

—  
No. 8

Grounds of  
Decision  
11th February  
1966  
(Continued)

and A.10 were stated to be photographs of the six hand-grenades in question.

When Soosay found the six hand-grenades in the B.O.A.C. travelling bag, he immediately called the Police. Inspector Piara Singh (P.W.3) of Queenstown Police Station arrived and he in turn called an army bomb expert. Sergeant Clifton (P.W.4) of the British Army Ammunition Inspectorate arrived and took away the six hand-grenades for examination and report. Inspector Piara Singh took into his custody all the other exhibits and arrested the accused. The accused when arrested was wearing a pair of jungle green stockings (exhibit P.3) and had a small red towel (Exhibit P.4) around his neck. 10

Sergeant Clifton's evidence was as follows. The six hand-grenades he received from Inspector Piara Singh, Singapore were British 36M grenades and had no levers, safety pins or detonators. They were in fact grenade bodies which are normally filled with 2 oz. 7 grams. of a high explosive called Baratol which is one of the more powerful explosives. The grenades were not their normal colour. There were traces of black paint and slight traces of yellow paint which is normal marking for Indonesian grenades of the same type. The detonators are normally removed for safety during transit and storage. If levers, safety pins and detonators were attached to the six grenades in question they could be used. All grenades have their explosives inside them unless they are drill or dummy grenades. If the six grenades were used together with other explosives, they would still explode and cause damage although they were without their component parts. In certain boxes that had been found in Singapore, placed by Indonesians, such grenades had been found in the bottom of the boxes together with other items of explosives. If grenades are placed in boxes with other explosives and the boxes are exploded there would be fragmentation. The object would be to get the flying fragments to do injury or damage. On the 26th March 1965 Inspector 20 30 40 50

10 Koh Lian Bee (P.W.10) handed him five base plugs (Exhibit P.5) and five levers. The five base plugs were of British manufacture. As regards the five levers, it was not possible to determine their origin because they were very badly corroded. The five base plugs and the five levers handed to him by Inspector Koh Lian Bee could be fitted to the six hand grenades handed to him by Inspector Piara Singh. On the 8th July 1965 Inspector Piara Singh and a photographer came to see him at Beach Road Magazine and he produced the six hand grenades which he had received from Inspector Piara Singh at the Railway Station. These hand-grenades were photographed and exhibits A.9 and A.10 show the six hand-grenades. The six hand-grenades had been dumped into the sea because they were not considered safe for prolonged storage. The five levers were also dumped into the sea because they were in a state of corrosion.

20

The two friends of the accused who met him at the Singapore Railway Station were Boo Yong Watt (P.W.8) and Mei Lei Tek (P.W.9). Boo Yong Watt is an unemployed youth aged 16 years while Mei Lei Tek is the treasurer of the Toa Payoh Branch of the Barisan Sosialis Party.

30 Boo Yong Watt told the Court that he accompanied Mei Lei Tek at his request to the Singapore Railway Station to meet a friend but he was not told who the friend was. He was told by Mei Lei Tek that he would greet the friend first and then he (Boo Yong Watt) could greet him. When the train arrived at the Railway Station, Boo saw the accused and Soosay walking side by side. Accused was carrying the B.O.A.C. travelling bag.

40 Mei Lei Tek went forward to greet the accused and accused smiled at Mei Lei Tek who took over accused's bag. Soosay asked accused to take it back which he did. Accused then went away with Soosay. Boo Yong Watt stated that he did not remember Soosay showing anything to accused.

Mei Lei Tek corroborated the evidence of Boo Yong Watt as to what happened when they met the accused at the Singapore Railway

In the High Court of Singapore

-----  
No. 8

Grounds of Decision  
11th February 1966  
(Continued)

In the High  
Court of  
Singapore

—  
No. 8

Grounds of  
Decision  
11th February  
1966  
(Continued)

Station. He stated further as follows. The accused was unemployed and told him that he was going to the Federation to look for a job. Accused requested him to go to the Federation. Accused suggested to him that he could go on a Saturday and return the next day. He agreed and went to a place in the Federation on the Saturday before the Sunday on which accused was arrested. He did not know the name of the place, but there he met the accused who had gone there before him. Both of them spent the night there in the house of a friend. The next morning he returned to Singapore on his motor-cycle. Accused returned to Singapore in the afternoon by train. On accused's request, he went on his motor-cycle to the Singapore Railway Station to fetch accused. On the 23rd March 1965 he was arrested by the police. About a week before his arrest a friend of his came from the Federation for medical attention in Singapore and stayed with him. When his friend returned to the Federation, he found in his room the five base plugs (Exhibit P.5) and some pieces of iron. As they appeared to be pieces of scrap iron he threw them away on the ground beside his house. On the 26th March 1965 he showed Inspector Koh Lian Bee the spot where he had thrown those articles.

Inspector Koh Lian Bee testified that he recovered the five base plugs (Exhibit P.5) and five hand-grenade levers from the vacant ground adjoining the house of Mei Lei Tek and handed them to Sergeant Clifton on the 21st March 1965.

At the close of the prosecution case, counsel for the defence submitted that the accused had no case to answer. His submission was as follows. "Ammunition" is defined in Section 2 of the Internal Security Act, 1960. The definition makes no mention of the component parts of a hand-grenade. In this case only grenade bodies had been recovered and these grenade bodies had not been opened and their contents, if any, were unknown. It is possible to remove Baratol from a grenade body.

10 A grenade body is by itself not a complete hand-grenade. By way of comparison, it will be seen that the definition "explosive substance" in Ordinance No.43 of 1958 of the Federation of Malaya, includes "any part of such bomb, grenade, apparatus, machine or implement". Again, the definition of "fire-arm" in Section 2 of the Internal Security Act, 1960, contains the expression "and includes any component part of any such weapon as aforesaid". A grenade body is not "ammunition" within the meaning of the definition in Section 2 of the Internal Security Act, 1960, and the accused, therefore, had no case to answer.

In the High Court of Singapore

—  
No. 8

Grounds of Decision  
11th February 1966  
(Continued)

20 In my view, a grenade body falls within the definition of "ammunition" laid down in Section 2 of the Internal Security Act, 1960, because the word "ammunition" includes grenades and any ammunition containing or designed or adapted to contain any noxious liquid, gas or other thing. The word "ammunition" which appears in the fourth line of the definition, in my opinion, includes grenades. Therefore a grenade containing or designed or adapted to contain any noxious thing comes within the definition of "ammunition".

30 In this case, the evidence showed that the six grenade bodies, found in the accused's bag, were designed to contain Baratol, which is a noxious thing. The grenade bodies were therefore ammunition within the meaning of the Internal Security Act, 1960.

40 I found that the prosecution had made out a case against the accused, which if unrebutted, would warrant his conviction. I therefore called upon the accused to enter upon his defence.

The accused's evidence, given on oath, was as follows. He was arrested on the 21st March 1965 at 5 p.m. at the Singapore Railway Station. He had come from Layang Layang where he had gone on the day before his arrest. He went there with a friend named Siow Long who lives

In the High  
Court of  
Singapore

—  
No. 8

Grounds of  
Decision  
11th February  
1966  
(Continued)

in Layang Layang. Siow Long had come to Singapore and the accused went to Layang Layang with Siow Long on Siow Long's motor-cycle. They reached Layang Layang at 5 p.m. They went to Siow Long's room. There the accused read newspapers and then he had a bath. After his bath he saw Mei Lei Tek there. That was about 6 p.m. Siow Long, Mei Lei Tek and the accused then went for a meal at a place near the railway station. After food, all of them went to the branch office of the Labour Party. There, they played table tennis. As Mei Lei Tek wanted to have a bath he returned with Siow Long to Siow Long's room. Accused remained behind and continued to play table tennis. At about 9 p.m. he returned to Siow Long's room. He saw Mei Lei Tek and Siow Long there. He sat there reading a newspaper and at 10 p.m. he went to sleep. The next morning he got up at about 6 p.m. He had a bath and read a newspaper. Mei Lei Tek returned to Singapore that morning on his motor-cycle. Accused stayed behind because he wished to see Siow Long's place of work. Being unemployed he wished to get a job and wished to see the conditions of work there. Siow Long took him to his working place which was in the jungle where he worked as a logger. They reached the work site in the jungle at about 11 a.m. They stayed there for about an hour. At 12 noon they left for Layang Layang which they reached at 2 p.m. They had their lunch. Accused then got ready to return to Singapore. Before he left Siow Long's room, Siow Long handed him a travelling bag. It was the B.O.A.C. travelling bag (Exhibit P.1). Siow Long asked him to hand over the bag to Mei Lei Tek at Singapore. Siow Long did not tell him what was inside the bag. He took over the bag from Siow Long and then they went to the railway station where he boarded the train for Singapore. The train left at 3 p.m. He placed the bag on the luggage rack in the train and sat down to read an English book (Exhibit P.2B). Whenever the train passed a railway station he took down the name of the station. He took it down in the book (Exhibit P.2B). He did this because he had never been to

the Federation before and he wanted to remember the names of the railway station. When the train was approaching Johore Bahru he left his seat and went to the toilet. He did not take the travelling bag to the toilet, it remained on the luggage rack. In the course of the journey he had never removed or shifted the travelling bag. He did not open the travelling bag to find out what it contained. Right up to his arrest he had not opened the bag and did not know what it contained. The white long pants (Exhibit P.1E) did not belong to him. When he went to Layang Layang he did not take anything with him. When arrested he had the red towel (Exhibit P.4) in his pocket. He had another towel (Exhibit P.7) which he kept in the polythene package (Exhibit P.2A). At the Singapore Railway Station he learned that the B.O.A.C. travelling bag contained hand-grenades. If he knew it contained hand-grenades he would not have carried it because he knew it was an offence to have hand grenades in one's possession. As soon as he got down from the train Soosay approached him and asked him if he wanted a taxi. He told Soosay that he did not want his taxi as a friend of his was waiting for him. Soosay followed him for a short distance and then he saw two friends waiting for him. He handed the travelling bag to Mei Lei Tek because he was instructed by Siow Long to do so. Then Soosay who had earlier claimed to be a taxi driver disclosed that he was a detective and requested him to take the travelling bag back from Mei Lei Tek, which he did. He then followed Soosay. He handed the travelling bag to Soosay. He did not try to run away, neither did his two friends try to run away. His purpose in going to Layang Layang was to get a job. He found that the job offered to him was suitable, but before starting work, he wanted to get back to Singapore. He promised Siow Long that he would come back to Layang Layang within a week to commence work. After his arrest Inspector Piara Singh and some other police officers took him to Layang Layang. There they met Siow Long. He did not know

In the High  
Court of  
Singapore

—  
No. 8

Grounds of  
Decision  
11th February  
1966  
(Continued)

10

20

30

40

50

In the High  
Court of  
Singapore

the present whereabouts of Siow Long but he knew that Siow Long had been arrested on the 22nd March, 1965.

No. 8

Grounds of  
Decision  
11th February  
1966  
(Continued)

Under cross-examination the accused admitted that he had asked Mei Lei Tek to go to Layang Layang so that he could bring back the accused to Singapore on his motor-cycle. The accused explained that he was unable to return with Mei Lei Tek that Sunday morning because he had to go and inspect Siow Long's work site in the jungle. Mei Lei Tek could not wait for him because he had to return to Singapore to attend to some work. It was put to the accused in cross-examination that on Saturday night at Layang Layang, when Siow Long, Mei Lei Tek and the accused were in Siow Long's room, grenades were brought into the room by Siow Long; that Siow Long and Mei Lei Tek dismantled the grenades in the accused's presence, that after the detonators, levers and base plugs were removed, Siow Long wrapped the six hand-grenades in the jungle green shirt; that Siow Long then gave the jungle green shirt containing the six grenades to the accused; that the accused took that bundle and put it in the B.O.A.C. travelling bag and it was the accused who put the cardboard and the folded white long pants under the jungle-green shirt containing the hand-grenades in order to cushion the grenades, that after the accused had done that he put the rest of the clothing in the bag; that the accused went to Layang Layang specially to bring back the hand-grenades, and that when Mei Lei Tek left Layang Layang on Sunday morning on his motor-cycle, the accused handed him a bundle containing the five base plugs (Exhibit P.5), grenade levers and detonators. The accused denied all these suggestions and maintained that he did not know what was in the B.O.A.C. travelling bag.

Whilst the accused was giving evidence, his counsel made an application to the Court that the accused be allowed to put on the white long pants (Exhibit P.1E), found in the B.O.A.C. travelling bag, in order to demonstrate to the Court that it did not fit him. I allowed this application.

The accused put on the white long pants and in my opinion it fitted him very well.

In the High  
Court of  
Singapore

---

No. 8

Grounds of  
Decision  
11th February  
1966  
(Continued)

10 At the close of the defence case, counsel for the defence submitted that the hand-grenades were not in the possession of the accused because he did not know of their existence, that the burden of proof of guilty knowledge was on the prosecution, that the prosecution must  
20 prove that the accused knew the contents of the B.O.A.C. travelling bag; that the accused was an innocent carrier; that the accused's conduct throughout and especially at the railway station showed that he had no knowledge of the hand-grenades being in the travelling bag; that the accused had explained why he went to Layang Layang; that the accused had explained why he took down names  
of railway stations in the book (Exhibit P.2B); that Siow Long was not a fictitious person; that police officers had seen and met Siow Long at Layang Layang; that the evidence in this case when considered as a whole did not show that the accused was guilty and that the accused should be acquitted and discharged.

30 The sole issue in this case was whether or not the accused knew that there were hand-grenades in the B.O.A.C. travelling bag that he was found carrying when arrested at the Singapore Railway Station. In my opinion the accused was not speaking the truth when he stated in his evidence that he did not know that there were hand-grenades in the B.O.A.C. travelling bag. He did not impress me as a truthful witness, and in two particular  
40 instances he was clearly not speaking the truth. First, according to him, the towel (Exhibit P.7) was together with the two books in the polythene wrapper (Exhibit P.2A). But Soosay stated that when the accused got down from the train at the Singapore Railway Station he saw that the accused had the B.O.A.C. travelling bag (Exhibit P.1) slung on his shoulder and a package of books in his hand. And Soosay identified in Court the package of books, the



In the High  
Court of  
Singapore

—  
No. 8

Grounds of  
Decision  
11th February  
1966  
(Continued)

books being Exhibit P.2B and Exhibit P.2C, and the polythene wrapper in which they were wrapped being Exhibit P.2A. Soosay did not state that there was this towel (Exhibit P.7) in the polythene wrapper (Exhibit P.2A). Nor was it put to him by the defence that the towel (Exhibit P.7) was in the polythene wrapper together with the two books. Inspector Piara Singh who took over the package of books from Soosay did not state that there was this towel (Exhibit P.7) in the polythene wrapper. Nor was it put to him by the defence that the towel (Exhibit P.7) was in the polythene wrapper with the two books. The evidence before the Court clearly showed that this towel (Exhibit P.7) was not in the polythene wrapper (Exhibit P.2A) when it was seized from the accused and the accused was clearly not speaking the truth when he stated that it was in that wrapper.

10

20

Secondly, according to Soosay, when the accused got down from the train, the accused had a small red towel (Exhibit P.4) around his neck. The accused denied this and stated that he had this red towel in his pocket. Soosay had nothing to gain by saying that the accused had a red towel around his neck if in fact he did have it. Soosay impressed me as a witness of truth and I accepted his version that the accused had the red towel around his neck. The accused was not speaking the truth when he stated that he had the red towel in his pocket.

30

Then there is the question of the clothes found in the B.O.A.C. travelling bag together with the hand-grenades. The accused is a city dweller and unemployed. According to him he went to Layang Layang in search of a job. He knew he was going to spend the night there. Surely he would in the circumstances take some clothes with him. According to him he did not take any clothes except the towel (Exhibit P.7). This towel did not appear to me to have been used. The clothes found in the B.O.A.C. travelling

40

In the High  
Court of  
Singapore

\_\_\_\_\_  
No. 8

Grounds of  
Decision  
11th February  
1966  
(Continued)

10 bag are the long-sleeved light blue soiled shirt (Exhibit P.1B), the large bath towel (Exhibit P.1A), the jungle-green shirt (Exhibit P.1C) and the white long pants (Exhibit P.1E). The accused stated that none of these belonged to him. There are only two other persons to whom they could belong, Mei Lei Tek and Siow Long. Mei Lei Tek came from Layang Layang that very morning and could have brought his clothes along with him. Why should he leave them behind? And, as for Siow Long, he lived in Layang Layang and there was no reason why he should send his soiled clothes to Singapore. In my opinion the clothes in the B.O.A.C. travelling bag belonged to the accused and there was support for this view in that the white long pants (Exhibit P.1E) fitted the accused very well.

20 Having considered very carefully all the evidence before me, I was of the opinion that the accused was fully aware of the fact that there were hand-grenades in the B.O.A.C. travelling bag. The hand-grenades were in his possession within the meaning of possession laid down in Toh Ah Loh and Mak Thim v. Rex. (1949) M.L.J. 54. The accused, without lawful excuse, had in his possession in Singapore, which is a security area, six hand-grenades without lawful authority therefor, in contravention of Section 57(1)(b) of the Internal Security Act, 1960, and had therefore clearly committed an offence punishable under Section 57(1) of the Act. I had no doubt at all as to the guilt of the accused and therefore convicted him on the charge on which he was tried. The accused was sentenced to death under Section 57(1) of the Act.

30

40 Dated this 11th day of February, 1966.  
Singapore.

Sgd. CHOOR SINGH, J.  
JUDGE.

Certified true copy

Sd. Koh Bee Kiat,  
PRIVATE SECRETARY TO JUDGE,  
Court No. 5  
High Court, Singapore.

---

In the Federal  
Court of  
Malaysia

NO. 9

PARTICULARS OF TRIAL

<p>No. 9</p> <p>Particulars of Trial 24th March 1966</p>	<p>1. Where was the trial held? High Court, Singapore</p> <p>2. Date of trial? 15.11.65 - 18.11.65</p> <p>3. Name of trial Judge? The Honourable Mr. Justice Choor Singh</p> <p>4. For what offence was the conviction? On a charge of Possession of ammunition without lawful authority under Section 57(1) (b) of the Internal Security Act 1960</p> <p>5. What was the sentence? Were any consequential orders made for restitution of property or otherwise? Death.</p> <p>6. Annex hereto a copy of the list of exhibits. Annexed.</p> <p>7. Was appellant defended by an advocate and solicitor privately, or at request of the Court? The Appellant was defended by an Advocate and Solicitor at the request of the Court.</p> <p>8. State the name of the Advocate and Solicitor? Mr. T.T. Rajah.</p> <p>9. Was the appellant admitted to bail before trial? No.</p> <p>If so, in what amount? Were there sureties? If so, in what amount?</p>	<p>10</p> <p>20</p> <p>30</p>
--	--	-------------------------------

Sd. Tay Kim Whatt  
Dy. Registrar of Court of Trial

40

Dated this 24th day of March, 1966

NO. 10

JUDGMENT OF COURT OF  
APPEAL

In the Federal  
Court of  
Malaysia

No.10

IN THE FEDERAL COURT OF MALAYSIA  
(APPELLATE JURISDICTION)

Judgment of  
Court of  
Appeal  
24th June 1966

Singapore Emergency Case No. 3 of 1965

Federal Court of Criminal Appeal No. Y6  
of 1965

B E T W E E N:

10

LIEW SAI WAH

Appellant

-and-

THE PUBLIC PROSECUTOR

Respondent

CORAM: Tan Ah Tah, F.J.

Buttrose, J.

Winslow, J.

J U D G M E N T

20

The appellant was charged under section 57(1) (b) of the Internal Security Act, 1960, with possession of ammunition, to wit, 6 hand grenades without lawful authority in a security area viz., the Singapore Railway Station.

He was tried by a Judge sitting alone without a jury pursuant to the Emergency (Criminal Trials) Regulations, 1964 convicted and sentenced to death. This is the only penalty prescribed by the Legislature for this offence.

30

He now appeals against conviction and sentence.

It is not in dispute that when arrested

In the Federal  
Court of  
Malaysia

            
No.10

Judgment of  
Court of  
Appeal  
24th June 1966  
(Continued)

at the Singapore Railway Station he was carrying a B.O.A.C. travelling bag inside which were found, inter alia, 6 hand grenades or as they have been termed 6 hand grenade bodies.

One of the major issues raised by the appellant was that he was but an innocent carrier and had no knowledge of the contents of the B.O.A.C. travelling bag.

It is necessary therefore to examine how this matter came to the notice of the Police and the surrounding circumstances.

10

On Sunday afternoon the 21st March, 1965, the appellant was seen to board a Singapore bound train at Layang Layang Railway Station in the Federation. He was carrying a B.O.A.C. travelling bag which he placed on the luggage rack.

During the journey the appellant was seen to be reading a book and occasionally after looking out of the window would write something down in the book.

20

This aroused the suspicions of a soldier, one Kamaruddin by name, who was seated nearby and travelling down to Singapore from Tampin. He left the carriage and reported his suspicions to the Railway Guard on the train and at an opportune moment pointed out the appellant to the Guard.

30

On the arrival of the train at Johore Bahru the Guard promptly telephoned the Singapore Railway Station requesting that a Railway Detective meet the train because of the suspicious conduct of the appellant.

On the arrival of the train in Singapore the Detective, one Soosay by name, was waiting on the platform. The Guard pointed out the appellant to the Detective who approached the appellant and asked him where he was going. The appellant replied that he was going to Dunearn Road and the Detective asked the appellant to follow him. The appellant said that

40

he was going to wait for 2 of his friends who would be coming to fetch him. The appellant at this time was carrying the B.O.A.C. travelling bag slung over his shoulder and a package of books in his hand.

In the Federal  
Court of  
Malaysia

\_\_\_\_\_  
No.10

Judgment of  
Court of  
Appeal  
24th June 1966  
(Continued)

10 The Detective and the appellant proceeded to walk along the platform - after covering a short distance the appellant met his 2 friends to whom he spoke in Chinese. The appellant and his two friends then wanted to leave the Railway Station whereupon the Detective introduced himself as a Police Officer for the first time and showed his warrant card to the appellant and told him to follow him. The appellant immediately handed over the B.O.A.C. travelling bag and the package of books (two in number) to one of his two friends Mei Lei Teck by name. 20 The Detective promptly told the appellant that he could not do that and to take back the bag and the books and to follow him.

This the appellant did.

The appellant then accompanied the Detective to the C.I.D. Office at the Railway Station.

30 There the Detective opened the B.O.A.C. travelling bag and inside it he found 6 hand grenades wrapped inside a jungle green shirt lying on a piece of cardboard under which was a folded pair of long white trousers. Also inside the bag were a large towel and a long-sleeved light blue coloured shirt.

40 Of the two books the appellant was also carrying one was identified as the blue book the appellant was reading and in which he occasionally wrote.

On discovering the hand grenades in the bag the Detective at once called the Police who in turn called in an army ammunition technician attached to the ammunition inspectorate Headquarters, one

In the Federal  
Court of  
Malaysia

No.10

Judgment of  
Court of  
Appeal  
24th June 1966  
(Continued)

Sergeant Clifton, who took away the 6 hand grenades for examination and report. We shall have occasion to refer to his evidence later.

The prosecution found it necessary to call Boo Yong Watt and Mei Lei Teck the two persons who met the appellant at the Singapore Railway Station and here they found themselves in a dilemma. They were both friends of the appellant and to say that they, and in particular Mei Lei Teck, were unwilling witnesses for and inimical to the interests of the prosecution would be an understatement of the position. 10

Mei Lei Teck was clearly a hostile witness although no attempt was made to treat him as such by the prosecution.

He maintained he was assaulted by the Special Branch Officers and as a result his brain was injured and he was of unsound mind and that the statement he gave to the Police was false. He was never at any time asked about any statement he gave to the Police but he volunteered this piece of information. It is no concern of this Court, nor was it any concern of the Trial Judge, what he told the Police and it was not known what, if anything, he did tell them, but Mei Lei Teck was quite obviously determined to explain it away in advance if it was produced and to pretend that his memory was faulty. 20 30

What however he did appear to give coherent and rational evidence about was not only his meeting with the appellant at the Singapore Railway Station on the Sunday afternoon the 21st March, 1965, when he handed over to him the B.O.A.C. travelling bag containing the 6 hand grenades, but also of his being in the Federation with him on the previous evening and throughout the night of Saturday the 20th March, 1965, returning to Singapore on his motor-cycle on Sunday morning. This was corroborated 40

by the appellant.

According to Mei Lei Teck the position was this:-

10 The appellant was unemployed at the time and told Mei Lei Teck he was going to the Federation to look for a job and asked Mei Lei Teck to accompany him on the Saturday and return with him on the Sunday. Mei Lei Teck at first said he did so but after further questioning it transpired that they went to the Federation separately and returned separately.

When Mei Lei Teck arrived at some place in the Federation which, so he said, he couldn't remember the appellant was already there.

20 They did not return that night because, according to Mei Lei Teck, it was raining - not, be it noted, because the appellant wanted to look for a job the following morning - and they spent the night together in the house of a friend who according to the appellant was one Siow Long.

30 From the evidence it appeared that Mei Lei Teck arrived at Layang Layang at 6 o'clock on Saturday night and returned to Singapore on the Sunday morning. It would seem to have been an utterly pointless and unnecessary trip because all Mei Lei Teck appears to have done was to read the newspaper, playing ping pong and go to bed before riding his motor-cycle back to Singapore the following morning.

40 Two days later on the 23rd March, 1965, Mei Lei Teck was arrested by the Police and on the 26th March as the result of information which he gave to Inspector Koh Lian Bee - the Inspector together with Mei Lei Teck proceeded to a row of shop houses at Kim Keat Road where Mei Lei Teck lived and on a piece of vacant ground adjoining the house where he lived the Inspector recovered 5 hand grenade base plugs and 5 hand grenade levers which he later handed to Sergeant Clifton.

In the Federal  
Court of  
Malaysia

          
No.10

Judgment of  
Court of  
Appeal  
24th June 1966  
(Continued)



In the Federal  
Court of  
Malaysia

          
No. 10

Judgment of  
Court of  
Appeal  
24th June 1966  
(Continued)

Mei Lei Teck's explanation for their being found there was that a week before his arrest a friend of his came from the Federation for medical attention and after his friend returned to Federation he found these 5 base plugs and grenade levers had been left in his room.

As according to Mei Lei Teck, they appeared to him to be pieces of scrap iron he threw them away on the ground outside his house. 10

A more unlikely and improbable version it is difficult to imagine.

The appellant, in addition to maintaining that he was an innocent carrier, admitted that on the Saturday afternoon the 20th March he went to Layang Layang - the day before his arrest - with his friend Siow Long who lived there.

Mei Lei Teck arrived later at about 6 p.m. and all three of them spent the night there together. 20

The appellant's explanation for going there was that he wanted to look for a job at Siow Long's place of work which he said he did.

On the following day - the Sunday - just before he left he said that Siow Long handed him the B.O.A.C. travelling bag and asked him to give it to Mei Lei Teck. 30

One is tempted to ask why it was that Siow Long didn't hand the bag to Mei Lei Teck himself before he left for Singapore on his motor-cycle so that he could take it with him.

There was, in our view, evidence to justify the Trial Judge's finding that the appellant knew that the hand grenades were in the bag he was carrying and we see no reason to dissent from it. 40

It was urged upon us that the innocent and normal behaviour of the appellant when the Railway Detective Soosay disclosed his identity as a Police Officer and during the appellant's journey from Layang Layang to Johore Bahru was incompatible with guilty knowledge. On the other hand, guilty and abnormal behaviour such as running away or attempting to dispose or get rid of the bag would have been to court disaster then and there.

In the Federal  
Court of  
Malaysia

            
No.10

Judgment of  
Court of  
Appeal  
24th June 1966  
(Continued)

10

There was the evidence of the Railway Detective Soosay that when he disclosed his identity as a Police Officer the appellant immediately passed over the B.O.A.C. travelling bag to Mei Lei Teck. The mistake which Soosay made in re-examination, in our opinion, was satisfactorily cleared up and it was open to the Trial Judge to accept his evidence on the subject.

20

As to the journey from Layang Layang to Johore Bahru, the appellant's conduct was suspicious as evidenced by the independent witness Kamaruddin, the soldier who travelled down in the same carriage as the appellant.

The learned Trial Judge was of the opinion that the white trousers found in the B.O.A.C. travelling bag fitted the appellant quite well. While that is by no means conclusive on the question of whether or not they were the appellant's it does establish that they were his size and capable of being worn by him.

30

It was contended on behalf of the appellant that these hand grenade bodies described as hand grenades in the charge were not conclusively proved to be hand grenades as stated in the charge and further that hand grenade bodies do not fall within the ambit of the definition of ammunition in section 2 of the Internal Security Act, 1960 which reads as follows:-

40

"2. 'ammunition' means ammunition for

In the Federal  
Court of  
Malaysia

No.10

Judgment of  
Court of  
Appeal  
24th June 1966  
(Continued)

any firearm as hereafter defined and includes grenades, bombs and other like missiles whether capable of use with such a fire-arm or not and any ammunition containing or designed or adapted to contain any noxious liquid, gas or other thing."

On this aspect of the case it is necessary to consider Sergeant Clifton's evidence which was that these 6 hand grenades were British 36 M grenades but they had no levers, safety pins or detonators attached to them. They were grenade bodies which are fitted with a high and powerful explosive called Baratol and they all had Indonesian markings. If levers, safety pins and detonators were attached to them they could be used.

10

All grenades have their explosives inside them unless they are drill or dummy ones which these were not. If these 6 grenade bodies were used together with other explosives they would still explode and cause damage although they were without their component parts.

20

In the light of this evidence we are of the opinion that the 6 grenade bodies come within the definition of 'ammunition' referred to above.

The 5 base plugs were also of British manufacture but as regards the 5 grenade levers it was not possible to determine their origin because they were badly corroded. Both the base plugs and the levers could be fitted to the 6 hand grenades in question.

30

It was further argued on behalf of the appellant that the prosecution introduced heresay and extremely prejudicial evidence during the cross-examination of the appellant which was made use of by the learned Trial Judge in his grounds of decision when he stated:-

40

" It was put to the accused in cross-examination that on Saturday night at Layang Layang when Siow Long,

Mei Lei Teck and the accused were in Siow Long's room grenades were brought into the room by Siow Long. That Siow Long dismantled the grenades in the accused's presence .....

In the Federal Court of Malaysia

No.10

Judgment of Court of Appeal 24th June 1966 (Continued)

10 The appellant denied all these suggestions and maintained that he did not know what was in the B.O.A.C. travelling bag.

It behoves us, therefore, to consider on what basis these questions were asked and as to what the evidence was to support or justify them.

20 Now the evidence established that on the Saturday night all these three persons, namely Siow Long, the appellant and Mei Lei Teck spent the night with Siow Long at Layang Layang and that on the following day the appellant and Mei Lei Teck returned to Singapore separately.

For what purpose was this brief and sudden visit to Layang Layang undertaken?

According to the appellant because he wanted to look for a job - according to Mei Lei Teck because the appellant wanted him to accompany him but Mei Lei Teck did not keep him company either going or returning.

30 According to the prosecution because it was intended that the appellant and Mei Lei Teck should collect the grenades and their dismantled parts and bring them down to Singapore.

40 We know and indeed it was not disputed that the B.O.A.C. travelling bag containing the 6 hand grenade bodies was handed over by Siow Long to the Appellant who brought it to Singapore. The 5 grenade base plugs and 5 grenade levers were found, in circumstances which we have already indicated, next to the house where Mei Lei Teck lived in Singapore 5 days after he had been at Layang Layang with the appellant. These base plugs

In the Federal  
Court of  
Malaysia

\_\_\_\_\_  
No.10

Judgment of  
Court of  
Appeal  
24th June 1966  
(Continued)

and levers all fitted the hand grenade bodies. In these circumstances we take the view that the prosecution was entitled to put its case to the appellant based on these established and undisputed facts.

It was for this reason, as we have indicated, that the prosecution was faced with the dilemma of having to call Mei Lei Teck or failing to establish these essential facts and it would have been quite a different matter if the prosecution had failed to do so. Undue emphasis and prominence may, perhaps, be said to have been given to this matter by the unnecessary detail into which the prosecution went in cross-examination on the subject and by the learned Trial Judge's reference to it in his grounds of decision but, as he was at pains to point out, the appellant denied all the suggestions put to him. We are of the opinion that there was no question of the learned Trial Judge being prejudiced and no miscarriage of justice has resulted. In any event we are of the opinion that had the cross-examination of which complaint is made not taken place the learned Trial Judge could not possibly have arrived at any other conclusion than the one which he did.

10

20

It was also contended on behalf of the appellant that the evidence of Mei Lei Teck ought not to have been accepted at all by the learned Trial Judge because he admitted that he had made a statement to the Police which differed materially from his sworn evidence in Court and had testified that as he was mentally unsound he might give wrong answers.

30

There is, in our view, no substance in this contention. The major part of his evidence was corroborated and it was entirely a matter for the learned Trial Judge as to whether he accepted his evidence in toto or in part.

40

We are satisfied that the appellant was properly charged under Section 57(1) of the Internal Security Act, 1960 and

that the provisions of section 59(1) are not appropriate to the present case.

The appeal must be dismissed and the conviction and sentence are affirmed.

Sd. Murray Buttrose

Judge

Sd. Tan Ah Tah

Judge

Federal Court

10

Sd. A.V. Winslow

Judge

Singapore, 24th June, 1966.

In the Federal Court of Malaysia

No.10

Judgment of Court of Appeal 24th June 1966 (Continued)

NO. 11

ORDER GRANTING SPECIAL LEAVE TO APPEAL IN FORMA PAUPERIS TO THE LORDS OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

In the Judicial Committee of the Privy Council

No.11

AT THE COUNCIL CHAMBER WHITEHALL

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

The 16th day of January 1967

Order granting special leave to appeal in forma pauperis to the Lords of the Judicial Committee of the Privy Council 16th January 1967.

20

WHEREAS by virtue of the Republic of Singapore (Appeals to Judicial Committee) Order 1966 there was referred unto this Committee a humble Petition of Liew Sai Wah in the matter of an Appeal from the Federal Court of Malaysia between the Petitioner and the Public Prosecutor Respondent setting forth that the Petitioner desires to obtain special leave to appeal in forma pauperis from the Order of the Federal Court of Malaysia (Appellate Jurisdiction) dated the 24th June 1966 dismissing his Appeal against his conviction in the High Court at Singapore: that in the said High Court on the

30

In the Judicial  
Committee of  
the Privy  
Council

No.11

Order granting  
special leave  
to appeal in  
forma pauperis  
to the Lords  
of the Judicial  
Committee of  
the Privy  
Council  
16th January  
1967  
(Continued)

18th November 1965 the Petitioner was convicted upon a charge under Section 57(1)(b) of the Internal Security Act, 1960 of having in his possession on or about the 21st March 1965 at or about 5 p.m. six hand grenades without lawful authority: that one of the grounds on which the Petitioner seeks leave to appeal is that the said hand grenades were not ammunition within the meaning of the Internal Security Act: And humbly praying Their Lordships to grant him special leave to appeal in forma pauperis from the said Order of the Federal Court of Malaysia (Appellate Jurisdiction) dated the 24th June 1966 and for such other Order as may seem fit:

10

THE LORDS OF THE COMMITTEE in obedience to the said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do grant leave to appeal in forma pauperis on the question of construction under the said Act, but refuse leave to appeal in relation to the other matters in the Petition.

20

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

30

E.R. Mills,  
Registrar of the Privy Council.

IN THE JUDICIAL COMMITTEE OF THE  
PRIVY COUNCIL

No. 2 of 1967

O N        A P P E A L  
FROM THE FEDERAL COURT OF MALAYSIA  
(APPELLATE JURISDICTION)

---

B E T W E E N:

LIEW SAI WAH (Defendant)    Appellant

-and-

PUBLIC PROSECUTOR (Prosecutor)    Respondent

---

---

RECORD OF PROCEEDINGS

---

GASTER & TURNER,  
81 Chancery Lane,  
London, W.C.2.  
Solicitors for the  
Appellant.

CHARLES RUSSELL & CO.,  
37 Norfolk Street,  
Strand, London, W.C.2.  
Solicitors for the  
Respondent.