

89, 1947

No. 95 of 1946.

In the Privy Council.

UNIVERSITY OF LONDON
W.C.1.
12 NOV 1956
INSTITUTE OF ADVANCED
SOCIAL STUDIES

ON APPEAL

FROM THE PROTECTORATE COURT OF APPEAL OF THE
SOMALILAND PROTECTORATE.

BETWEEN

15237

ADAN HAJI JAMA H.T. YUSUF RER SAHAL,
SAEED MOHAMED H.T. YUSUF RER SAHAL,
DEIR DERIA H.T. YUSUF RER SAHAL,
FARAH ABDULLAHI H.T. AHMED FARAH RER ABOKER
AHMED - - - - Appellants

AND

THE KING - - - - Respondent.

RECORD OF PROCEEDINGS.

INDEX OF REFERENCE.

NO.	DESCRIPTION OF DOCUMENT	DATE	PAGE
	<i>IN THE SOMALILAND PROTECTORATE COURT AT BURAO.</i>		
1	Glossary of Somali Terms	—	1
2	<i>FIRST CHARGE.</i> Ibrahim Haji Abdullahi, H.T. Adan Madoba rer Hassan Adan and 13 others	4th October 1945	2
3	<i>SECOND CHARGE.</i> Mohamed Ali, H.T. Ahmed Farah rer Aboker Ahamed rer Ali Aboker and 6 others	4th October 1945	3
4	<i>THIRD CHARGE.</i> Mohamed Elmi, H.T. Ahmed Farah rer Aboker Ahmed rer Ali Aboker	4th October 1945	4
5	<i>Proceedings</i> <i>Prosecution's Evidence.</i>	4th October 1945	4
6	P.W.1. Sergeant Ismail Hassan	4th October 1945	6
7	P.W.2. Captain Nigel Merriam Viney	4th October 1945	7
8	P.W.3. Police Constable Mohamed Saleh, Dolbahanta, Mohamoud Gerad Nur Mohamoud	5th October 1945	8

RECORD OF PROCEEDINGS

NO.	DESCRIPTION OF DOCUMENT	DATE	PAGE
9	P.W.4. Sergeant Mohamed Egal	5th October 1945	8
10	P.W.5. Major John Anthony Hunt	5th October 1945	9
11	P.W.6. Warder Sergeant Ahamed Mohamed	5th October 1945	10
12	P.W.7. Hassan Barud	5th October 1945	11
13	P.W.8. Ahamed Mirreh	5th October 1945	12
14	P.W.9. Corporal Haibeh Warsama	5th October 1945	12
15	P.W.10. Major Frederick James Chambers	5th October 1945	13
16	P.W.11. Police Sub-Inspector Abdullahi Warsama	5th October 1945	14
17	P.W.12. Police Constable Ismail Hassan	6th October 1945	15
18	P.W.13. Haji Ahamed Sheik Musa	6th October 1945	16
19	P.W.14. Omah Khireh	6th October 1945	18
20	P.W.15. Yusuf Abdi	8th October 1945	19
21	P.W.16. Superintendent William John James	8th and 9th October 1945	20
22	P.W.17. Ali Haji Quebile	9th October 1945	28
23	P.W.18. Haji Ahamed Haji Ibrahim	10th October 1945	29
24	P.W.19. Halimo Jama	10th October 1945	31
25	P.W.20. Abdi Sheikh Ismail Dolbahanta Mohamed Musa	10th October 1945	31
26	P.W.21. Jama Saeed	11th October 1945	33
27	P.W.22. Abdi Dualeh	11th October 1945	35
28	P.W.23. Sahal Fahiyer	13th October 1945	37
29	P.W.24. Ali Haji Ibrahim	13th October 1945	39
30	P.W.25. Isman Adan	15th October 1945	40
31	P.W.26. Haji Sulub	15th October 1945	41
32	P.W.27. Mahdi Farah Dolbahanta	15th October 1945	42
33	P.W.28. Gedeh Farah	15th October 1945	43
34	P.W.29. Warsama Weis	15th October 1945	44
35	P.W.30. Abdi Adan	15th October 1945	44
36	P.W.31. Hassan Sofeh	16th October 1945	45
37	P.W.32. Sahal Mohamood	16th October 1945	45

NO.	DESCRIPTION OF DOCUMENT	DATE	PAGE
38	P.W.33. Hussein Jama	16th October 1945	46
39	P.W.34. Sergeant Dualeh Abdillahi	16th October 1945	47
40	P.W.35. Lieutenant John Rowden Davies	16th October 1945	48
41	P.W.36. Warsama Billeh	16th October 1945	48
42	P.W.37. Inspector Musa Awaleh	17th October 1945	50
43	P.W.38. Hussein Mirreh	17th October 1945	52
44	P.W.39. Isman Mohamed	17th October 1945	52
45	P.W.40. Abdillahi Jama	17th October 1945	52
46	P.W.41. Haji Yusuf Dualeh	17th October 1945	53
47	P.W.42. Corporal Mohamood Ali	17th October 1945	53
48	P.W.43. Nur Nahr	17th October 1945	53
49	P.W.44. Ismail Dualeh	17th October 1945	54
50	P.W.45. Corporal Mohamed Jama	17th October 1945	54
51	P.W.46. Burraleb Adan Dolbahanta Yahia	17th October 1945	54
52	P.W.47. Ahamed Elmi	17th October 1945	55
53	P.W.48. Mohamed Farah	17th October 1945	55
54	P.W.49. Yassin Suleban	17th October 1945	56
55	P.W.50. Ali Dubad	17th October 1945	56
56	P.W.51. Abdul Karim Haji Yusuf	18th October 1945	57
57	P.W.52. Ahamed Farah	18th October 1945	58
58	P.W.53. Mohamed Adan	18th October 1945	58
59	P.W.54. Adan Haji Ahamed Naleyeh	18th October 1945	59
60	P.W.55. Adan Ahamed	19th October 1945	59
61	P.W.56. Captain Carlos Suarez	19th October 1945	61
60	P.W.55. Adan Ahamed (<i>continued</i>)	20th October 1945	62
62	Summing Up for Prosecution	23rd October 1945	68
63	Submission by Defending Counsel	23rd October 1945	72
64	Submission granted	23rd October 1945	72
	<i>Defence Evidence.</i>		
65	Accused 1. Ibrahim Haji Abdillahi	24th October 1945	72

NO.	DESCRIPTION OF DOCUMENT	DATE	PAGE
66	Accused 2. Mohamed Ali	24th October 1945	73
67	„ 4. Jama Hashi	24th October 1945	73
68	„ 6. Nur Billeh	24th October 1945	73
69	„ 8. Ali Gedi	24th October 1945	74
70	„ 9. Mohamed Hashi	24th October 1945	74
71	„ 10. Adan Haji Jama	24th October 1945	75
72	„ 11. Musa Fiddin	24th October 1945	75
73	„ 12. Ali Haji Aboker	24th October 1945	76
74	„ 13. Saeed Mohamed	24th October 1945	76
75	„ 14. Mohamed Elmi	24th October 1945	77
76	„ 17. Deir Deria	24th October 1945	77
77	„ 18. Farah Abdillahi	25th October 1945	78
<i>Defence Witnesses.</i>			
78	D.W. 1. Haji Abdullahi Hassan	25th October 1945	78
79	D.W. 2. Burraleb Mohamoud	25th October 1945	78
80	D.W. 3. Ali Hersi Dolbahanta	25th October 1945	79
81	D.W. 4. Aid Ismail Dolbahanta	25th October 1945	79
82	D.W. 5. Ismail Adan	25th October 1945	79
83	D.W. 6. Haji Warsama Jama	25th October 1945	80
84	D.W. 7. Garibia Ismail	25th October 1945	80
85	D.W. 8. Muhilim Mohamed Gruleh	25th October 1945	80
86	D.W. 9. Ali Haji Samater	25th October 1945	81
87	D.W.10. Mohamed Aboker	25th October 1945	81
88	D.W.11. Isman Hersi	25th October 1945	81
89	D.W.12. Mardi Haji Mohamoud	25th October 1945	81
90	D.W.13. Isman Dualeh	25th October 1945	82
91	D.W.14. Mohamed Ali	25th October 1945	82
92	D.W.15. Suleban Weis	25th October 1945	82
93	D.W.16. Ali Robleh	25th October 1945	83

NO.	DESCRIPTION OF DOCUMENT	DATE	PAGE
94	D.W.17. Hashi Jama	25th October 1945	83
95	D.W.18. Ali Mohamed	25th October 1945	83
96	D.W.19. Isan Nur	25th October 1945	84
97	D.W.20. Fada Mobile	25th October 1945	84
98	D.W.21. Yusuf Warsama	19th November 1945	85
99	D.W.22. Hashi Samater	19th November 1945	85
100	D.W.23. Burreh Jama	19th November 1945	86
101	D.W.24. Hussein Musa	19th November 1945	86
102	D.W.25. Ali Sheikh Bashir	19th November 1945	86
103	D.W.26. Haid Dualeh	19th November 1945	87
104	D.W.27. Yusuf Adan	19th November 1945	87
105	Application by Defending Counsel	19th November 1945	88
106	D.W.28. Ali Ahamed	24th November 1945	88
107	D.W.29. Ahamed Mohamed	24th November 1945	89
108	D.W.30. Ahamed Ibrahim	24th November 1945	89
109	D.W.31. Weira Suleban	24th November 1945	89
110	D.W.32. Abdillahi Hersi	24th November 1945	90
111	D.W.33. Hassan Nur	24th November 1945	90
112	D.W.34. Alin Yusuf	24th November 1945	90
113	D.W.35. Ali Hussein	24th November 1945	91
114	D.W.36. Haji Adan Owit	24th November 1945	91
115	D.W.37. Sheikh Abamed Ismail	26th November 1945	92
116	D.W.38. Hashi Jama	26th November 1945	92
117	D.W.39. Abdillahi Ali	26th November 1945	93
118	D.W.40. Ali Mohamed	26th November 1945	93
119	D.W.41. Ashleh Duceirn Dolbahanta Mohamoud Gerad	26th November 1945	93
120	D.W.42. Ali Ibrahim	26th November 1945	94
121	D.W.43. Yusuf Farah	26th November 1945	94
122	D.W.44. Arda Abdi	27th November 1945	94

NO.	DESCRIPTION OF DOCUMENT	DATE	PAGE
123	D.W.45. Faduma Haji Hussein	27th November 1945	95
124	D.W.46. Hussan Abdi	27th November 1945	95
125	D.W.47. Haji Abdillahi Aboker	27th November 1945	95
126	D.W.48. Haji Hassan Geleh	27th November 1945	96
127	D.W.49. Ali Amirreh Hersi	27th November 1945	97
128	Closing Speech by Counsel for Defence (not printed)	30th November 1945	97
129	Judge's Summing up	1st December 1945	98
130	Judgment	19th December 1945	100
<i>IN THE PROTECTORATE COURT OF BRITISH SOMALILAND PROTECTORATE AT HARGEISA.</i>			
131	Petition by Saeed Mohamed (not printed)	11th April 1946 ..	112
132	Petition by Farah Abdullahi (not printed)	11th April 1946 ..	112
133	Petition by Adan Haji Jama, Musa Fiddin and Deir Deria (not printed)	11th April 1946 ..	112
<i>IN THE PROTECTORATE COURT OF APPEAL, SOMALILAND PROTECTORATE AT BERBERA.</i>			
134	Petition for the Appellants (not printed)	11th May 1946 ..	112
135	Judgment	30th May 1946 ..	113
<i>IN THE PRIVY COUNCIL.</i>			
136	Order in Council granting Special Leave to Appeal	6th November 1946	125

In the Privy Council.

ON APPEAL

FROM THE PROTECTORATE COURT OF APPEAL OF
THE SOMALILAND PROTECTORATE.

BETWEEN

ADAN HAJI JAMA H.T. YUSUF RER SAHAL,
SAEED MOHAMED H.T. YUSUF RER SAHAL,
DEIR DERIA H.T. YUSUF RER SAHAL,
10 FARAH ABDULLAHI H.T. AHMED FARAH RER
ABOKER AHMED - *Appellants*

AND

THE KING - *Respondent.*

RECORD OF PROCEEDINGS.

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 1.

GLOSSARY OF SOMALI TERMS.

No. 1.
Glossary
of Somali
Terms.

	Ableh	..	A kind of dagger.
	Askari	..	Policeman or soldier.
	Assar ..	..	3 p.m.
20	H.A. ..	..	Habr Awal, a British Somali Tribe.
	Hafa ..	..	Native village.
	Hal ..	..	Compensation.
	Halal ..	..	The act of cutting the throat of a beast which is intended for eating.
	Hangol	..	Stick with a forked end.
	H.T. ..	..	Habr Toljaala, a British Somali Tribe.
	H.Y. ..	..	Habr Yunis, a British Somali Tribe.
	Illalo ..	..	Tribal Policeman under control of District Commissioners.
	Jowabdar	..	Unpaid tribal representative.
30	Karia ..	..	Collection of movable huts.
	Karib ..	..	Violent man.
	Katab	..	The Quran.
	Kebit ..	..	Grass mat used for covering a transport camel's back.
	Kharrif	..	The S.W. Monsoon.
	Lunghi	..	Cotton garment worn by men.
	Makarib	..	Sunset prayers—6.30 p.m.
	Mullah	..	Religious teacher.
	Ninwalan	..	Mad man.
	Rer ..	..	Section of a tribe, a family or village.

In the Somaliland Protectorate Court, Burao. — No. 1. Glossary of Somali Terms, continued.	Shir	Meeting of tribesmen.
	Subai	Garment (silk).
	Tobe	Length of cloth of 10 yards used as a garment.
	Torreh	A kind of dagger.
	Tug	Dry river bed.
	Wal	Mad.
	Yarad.. ..	Bride-price.
	Zareba	Thorn-bush stockade.

No. 2.
First
Charge,
4th
October
1945.

No. 2.
FIRST CHARGE.

10

SOMALILAND PROTECTORATE.

In the Protectorate Court
holden at Burao.

THE CROWN - - - - - **Complainant**

versus

ADAN HAJI JAMA, and others **Accused.**

I, Roger Joseph Quin, Judge of the Protectorate Court of the Somaliland Protectorate, do hereby charge you—

Ibrahim Haji Abdullahi, H.T., Adan Madoba rer Hassan Adan.
Mohamed Ali, H.T., Ahmed Farah rer Aboker Ahamed rer 20
Ali Aboker.
Jama Hashi, H.T., rer Dahir rer Musa Yusuf.
Nur Billeh, H.T., Ahmed Farah rer Aboker Ahamed rer
Abdi Aboker.
Ali Gedi, H.T., Ebran Esa.
Mohamed Hashi, H.T., rer Dahir rer Musa Yusuf.
Adan Haji Jama, H.T., Yesif rer Sahal.
Musa Fiddin, H.T., Ahmed Farah rer Aboker Ahamed rer
Abdi Aboker.
Ali Haji Aboker, H.T., Yesif rer Robleh. 30
Saeed Mohamed, H.T., Yesif rer Sahal.
Mohamed Elmi, H.T., Ahmed Farah rer Aboker Ahamed rer
Ali Aboker.
Ibrahim Haji Aboker, H.T., Yesif rer Robleh.
Deir Deria, H.T., Yesif rer Sahal.
Farah Abdullahi, H.T., Ahmed Farah rer Aboker Ahamed rer
Omer Aboker.

that you on or about the 2nd July, 1945, in Burao in the Somaliland Protectorate were a member of an unlawful assembly and in prosecution of the common purpose of that unlawful assembly which was to murder or 40 attempt to murder non-Muslims or to assist or support such murders or attempted murders a member or members of that unlawful assembly murdered Suliban Adan, H.Y. Musa Arreh Hassan Musa and Hassan Haji Mohamoud Dolbahanta Yahia rer Fikki Warfa and attempted to commit the murder of Frederick James Chambers and John Anthony

Hunt both Majors in His Majesty's Army and P.C. 476 Mohamed Salch of the Somaliland Police

and thereby under section 149 of the Indian Penal Code committed the offence of murder

punishable under section 302 of the Indian Penal Code and within my cognizance and I hereby direct that you be tried on the said charge.

Dated 4th October, 1945.

R. J. QUIN.
Judge of the Protectorate Court.

*In the
Somaliland
Protectorate
Court,
Burao.*

— —
No. 2.
First
Charge,
4th
October
1945,
continued.

10

No. 3.

SECOND CHARGE.

SOMALILAND PROTECTORATE.

In the Protectorate Court.

Holden at Burao.

THE CROWN

Complainant

versus

ADAN HAJI JAMA, and others

- Accused.

No. 3.
Second
Charge,
4th
October
1945.

I, Roger Joseph Quin, Judge of the Protectorate Court of the Somaliland Protectorate, do hereby charge you:—

20

Mohamed Ali, H.T., Ahmed Farah rer Aboker Ahamed rer Ali Aboker.

Ali Gedi, H.T. Ebran Esa.

Mohamed Hashi, H.T., rer Dahir rer Musa Yusuf.

Ali Haji Aboker, H.T., Yesif rer Robleh.

Saeed Mohamed, H.T., Yesif rer Sahal.

Ibrahim Haji Aboker, H.T., Yesif rer Robleh.

Farah Abdullahi, H.T., Ahmed Farah rer Aboker Ahamed rer Omer Aboker.

30 that you on or about the 7th July, 1945, in or near Horoferengi in the Somaliland Protectorate intentionally offered resistance to the lawful apprehension of Sheikh Bashir

and thereby committed the offence of intentional offering resistance to lawful apprehension.

punishable under section 225 of the Indian Penal Code and within my cognizance and I hereby direct that you be tried on the said charge.

Dated 4th October, 1945.

R. J. QUIN,
Judge of the Protectorate Court.

*In the
Somaliland
Protectorate
Court,
Burao.*

**No. 4.
THIRD CHARGE.**

SOMALILAND PROTECTORATE.

In the Protectorate Court.

Holden at Burao.

No. 4.
Third
Charge,
4th
October
1945.

THE CROWN - - - Complainant

versus

ADAN HAJI JAMA, and others Accused.

I, Roger Joseph Quin, Judge of the Protectorate Court of the Somaliland Protectorate Court, do hereby charge you— 10

Mohamed Elmi, H.T., Ahmed Farah rer Aboker Ahmed rer Ali Aboker,

that you on or about the 2nd July, 1945, in Burao in the Somaliland Protectorate were in unlawful possession of Arms and thereby committed an offence of unlawful possession of arms punishable under section 12 of the Arms & Ammunition Ordinance, 1939. and within my cognizance and I hereby direct that you be tried on the said charge.

Dated 4th October, 1945.

R. J. QUIN, 20
Judge of the Protectorate Court.

No. 5.
Proceedings
4th
October
1945.

**No. 5.
PROCEEDINGS.**

IN THE PROTECTORATE COURT OF THE SOMALILAND PROTECTORATE.

Holden at Burao.

Before Major R. J. QUIN, Assistant Legal Secretary.

Sessions Case No. 7 of 1945. (Burao Preliminary Inquiry No. 1/1945.)

Accused :

1. Ibrahim Haji Abdullahi, H.T., Adan Madoba rer Hassan Adan. 30
2. Mohamed Ali, H.T., Ahmed Farah rer Aboker Ahamed rer Ali Aboker.
3. Jama Hashi, H.T., rer Dahir rer Musa Yusuf.
4. Nur Billeh, H.T., Ahmed Farah rer Aboker Ahamed rer Abdi Aboker.
5. Ali Gedi, H.T., Ebran Esa.
6. Mohamed Hashi, H.T., rer Dahir rer Musa Yusuf.
7. Adan Haji Jama, H.T., Yesif rer Sahal.
8. Musa Fiddin, H.T., Ahmed Farah rer Aboker Ahamed rer Abdi Aboker.
9. Ali Haji Aboker, H.T., Yesif rer Robleh.
10. Saeed Mohamed, H.T., Yesif rer Sahal.
11. Mohamed Elmi, H.T., Ahmed Farah rer Aboker Ahamed rer Ali Aboker. 40
12. Ibrahim Haji Aboker, H.T., Yesif rer Robleh.
13. Deir Deria, H.T., Yesif rer Sahal.
14. Farah Abdullahi, H.T., Ahmed Farah rer Aboker Ahamed rer Omer Aboker.

(Accused in all—14 persons only.)

Proceedings :

The Interpreter Ismail Warsama, H.A., Saeed Musa Ba Gobo.
0900 hrs. 4th October, 1945.

Accused answer their names as follows :—

- | | |
|----|---|
| 10 | 1. Ibrahim Haji Abdullahi, H.T., Adan Madoba rer Hassan Adan
—states his age to be 18 years. (18) |
| | 2. Mohamed Ali, H.T., Ahmed Farah rer Aboker Ahamed rer Ali
Aboker—states his age to be 15 years. (25) |
| | 4. Jama Hashi, H.T., rer Dahir rer Musa Yusuf—states his age to
be 18 years. (22) |
| | 6. Nur Billeh, H.T., Ahmed Farah rer Aboker Ahamed rer Abdi
Aboker—states his age to be 14 years. (20) |
| | 8. Ali Gedi, H.T., Ebran Esa—states his age to be 18 years. (30) |
| | 9. Mohamed Hashi, H.T., rer Dahir rer Musa Yusuf—states his age
to be 14 years. (20) |
| | 10. Adan Haji Jama, H.T., Yesif rer Sahal—states his age to be
13 years. (17) |
| | 11. Musa Fiddin, H.T., Ahmed Farah rer Aboker Ahamed rer Abdi
Aboker—states his age to be 12 years. (17) |
| 20 | 12. Ali Haji Aboker, H.T., Yesif rer Robleh—states his age to be
10 years. (16) |
| | 13. Saeed Mohamed, H.T., Yesif rer Sahal—states his age to be
18 years. (27) |
| | 14. Mohamed Elmi, H.T., Ahmed Farah rer Aboker Ahamed rer
Ali Aboker—states his age to be 17 years. (25) |
| | 16. Ibrahim Haji Aboker, H.T., Yesif rer Robleh—states his age
to be 15 years. (17) |
| | 17. Deir Deria, H.T., Yesif rer Sahal—states his age to be 16 years. (25) |
| 30 | 18. Farah Abdullahi, H.T., Ahmed Farah rer Aboker Ahamed rer
Omar Aboker—states his age to be 14 years. (35) |

NOTE.—The accused are referred to by the numbers given to them
in the Preliminary Inquiry.

Charges read and explained to the accused who state :—

- | | |
|----|--|
| | 1st Accused states I am not guilty. |
| | 2nd Accused states I am not guilty of either charge. |
| | 3rd Accused states I am not guilty. |
| | 4th Accused states I am not guilty. |
| | 5th Accused states I am not guilty of either charge. |
| 40 | 6th Accused states I am not guilty of either charge. |
| | 7th Accused states I am not guilty. |
| | 8th Accused states I am not guilty. |
| | 9th Accused states I am not guilty of either charge. |
| | 10th Accused states I am not guilty of either charge. |
| | 11th Accused states I am not guilty of 1st charge nor of 2nd charge. |
| | 12th Accused states I am not guilty of either charge. |
| | 13th Accused states I am not guilty. |
| | 14th Accused states that he is mad and incapable of pleading. |

Court enters a plea of “ not guilty ” on both charges.

Captain S. Waldie Wills appears for all defendants.

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 5.
Proceedings
4th
October
1945.
continued.

*In the
Somaliland
Protectorate
Court,
Burao.
—
Prosecu-
tion's
Evidence.*

Assessors are chosen as follows :—

1. Jowabdar Barut Liban, H.Y., rer Liban Ainashi.
2. Haji Deria Abdi, H.Y., rer Ismail Hussein.
3. Jowabdar Ibrahim Haji Nur, H.A., Hassan Mohamed, and are instructed in their duties.

No. 6.

EVIDENCE of Sergeant Ismail Hassan.

P.W.1, Muslim, sworn, states :—

I am Ismail Hassan, Arab, rer Adan, No. 515, 2nd Sergeant in Somaliland Police. 10

I knew Accused 1 before this case. His name is Ibrahim Haji Abdullahi. I left Burao on 5 July, 1945, with Lt. Davies of Somaliland Police. Two days later I went to Galal Arshileh on information received. About 27 police and some 7/8 illaloes were with me. They were armed. This place is near Horoferengi. We left trucks there and walked to Galal Arshileh where there was a karia. When we got to the karia we saw two men run away. We were then 400 yards from the zariba. It was mid-day when the men ran away. I ordered the police and others to give chase and we did so. We went about 1 or 1½ miles. We were shot at then. It was uneven stony ground covered with thick bushes. We laid down. Fire continued, we replied and then we advanced. As we were advancing I saw Sheikh Bashir, whom I knew well, with a rifle in his hand standing up. My party was firing. He appeared to be struck by a bullet and fell down. I gave the order to charge and we charged. When we reached the place where the firing had come from I saw Sheikh Bashir on the ground. I bent over and took a revolver from him. I recognize revolver (Identification A). Sheikh Bashir was still alive. He had a rifle .303 in his hand. There was a bandolier with ammunition for revolver in it. I saw rifle ammunition. I don't know whether it was in a bandolier round his waist or over his shoulder. There were a number of spent cartridge cases near him. I went on. Sheikh Bashir was still alive but panting. I saw another man lying in the trees. I thought he was dead. I did not know him. I pulled the man out, I did not know whether he was dead. I told some of the party to look after him. I now know him to be Accused 2 Mohamed Ali (recognized in Court). I went back. Sheikh Bashir was dead. We looked round and found another dead man. His name was Alin. Accused 2 was alive. I saw bleeding from a finger and a leg. He was not carrying arms nor were there any near him when I saw him. The two dead bodies and Accused 2 together with a wounded illalo were brought in a truck to the D.C. at Burao. I watched the bodies all night. In the morning at 0800 hrs. I handed over the bodies to Charge Corporal Abdillahi Olab. I handed pistol and six rounds to Capt. James. Capt. James is Superintendent of Police, Burao. 20
30
40

The karia we were going to on 7th July was believed by us to be Sheikh Bashir's. We wanted to arrest him and his party. We had received instructions to arrest and to charge Sheikh Bashir because he had come to Burao on 2nd July, had opened fire and killed someone.

No. 6.
Sergeant
Ismail
Hassan's
Statement,
4th
October
1945.

Cross-examined by Captain Wills : I knew Sheikh Bashir for ten years. He was "mullah" and had a following as such. Young men would listen to what he said. He was avoiding arrest when we went to his karia. I could not say if he was trying to leave the country. I had been told where he was living. I don't know if it was generally known. If Sheikh Bashir had owed me money I would have gone to him for it if I was a civilian. Accused 2 was unarmed.

In the Somaliland Protectorate Court, Burao.

Prosecution's Evidence.

Read over and found correct.

(Sgd.) R. J. QUIN. 4/10/45.

No. 6.
Serjeant Ismail Hassan's Statement, 4th October 1945, *continued.* Cross-examination.

No. 7.
Captain Nigel Merriam Viney's Statement, 4th October 1945.

10

No. 7.

EVIDENCE of Captain Nigel Merriam Viney.

P.W.2, Christian, sworn, states :—

I am Nigel Merriam Viney, a Captain in His Majesty's Army. I did not know any of the accused before this case. I recognize plan of Burao. It is a sketch plan of north and east side of the tug at Burao. It was prepared by me. I now hand it into the Court.

When I prepared the plan I was a member of the General Survey of the Protectorate.

The plan is roughly to scale.

20

I know a place called Wadamego ; it is sometimes called Gabo. It is approx. 70 miles from Burao on motor road to Las Anod. I remember 2nd July, 1945. I know Major John Anthony Hunt. He was then working with me in the General Survey. I saw him that night in my camp at approx. midnight. He came in a car. He showed me two holes in the car alleged to have been made by bullets. One of the tyres and tube were missing from one of the wheels. (Plan produced and handed into the Court and marked Exhibit 1.)

No Cross-examination.

Read over and found correct.

30

(Sgd.) R. J. QUIN. 4/10/45.

Court adjourns at 1200 hrs. until 0800 hrs. on 5th October, 1945.

(Sgd.) R. J. QUIN. 4/10/45.

0800 hrs., 5th October, 1945. Court reassembles. Fourteen accused present. Assessors and Defending Counsel present.

(Sgd.) R. J. QUIN. 5/10/45.

No. 8.

In the
Somaliland
Protectorate
Court,
Burao.

EVIDENCE of Police Constable Mohamed Saleh, Dolbahanta, Mohamoud Gerad Nur Mohamoud.

P.W.3, Muslim, sworn, states:—

Prosecu-
tion's
Evidence.

No. 8.
Police
Constable
Mohamed
Saleh,
Dolbahanta
Mohamoud
Gerad Nur
Mohamoud's
Statement,
5th
October
1945.

I am No. 473, Mohamed Saleh, Dolbahanta, Mohamoud Gerad Nur Mohamoud. I am a constable in Somaliland Police stationed in Burao. I did not know any of the accused before this case. I remember being on sentry duty at Burao Quarter Guard on 2nd July, 1945. My period of duty was from 2200 hrs. to 2400 hrs. At 2315 hrs. I heard noise like somebody passing. I shouted "Halt." Fire immediately opened at me. 10
About five rounds. I ordered guard to turn out and adopted a prone position. Shots appeared to come from the same direction as I had previously heard the noise. I saw flashes about six yards away (estimated by Court from witness's description). I did not return fire because I could not see where to fire. I assumed that the people had run away because I heard a sound of running. I thought there were three people. Security prisoners were sleeping outside the prison. Some of these prisoners were in the line of fire drawn from shots past me to the prisoners. Two prisoners were hit by bullets. After the firing I heard a scream. I saw one prisoner afterwards, his name was Hassan Mohamed, he had 20
been hit in the forehead and I thought he was dead. His tribe was Dolbahanta Yahiya. Another prisoner was shot on upper arm. His name was Hassan Barud. I do not know his tribe. By this time Guard Commander and guard had turned out. I then heard about 10 shots from direction of D.C.'s bungalow. Guard Commander did not take any action. I did not recognise any of the people who fired at me. It was a dark night. It was so dark that I only see a figure but not recognize anyone. The figures ran towards D.C.'s bungalow.

Cross-
examina-
tion.

Cross-examined by Defending Counsel: About 15 shots were fired altogether. I think I was fired at by three rifles. Firing at D.C.'s was 30
after firing at me. Three shots were fired in a volley and two later when I was shot at. I don't know how many rifles were used at D.C.'s.

Note by
Court.

By Court: I think that there were only three people. I don't think that there was anybody there who did not fire at me.

Read over and found correct.

(Sgd.) R. J. QUIN. 5/10/45.

No. 9.

No. 9.
Police
Sergeant
Mohamed
Egal's
Statement,
5th
October
1945.

EVIDENCE of Police Sergeant Mohamed Egal.

P.W.4, Muslim, sworn, states:—

I am No. 478, 3/Sgt. Mohamed Egal, H.Y. Ugad Omar. I am a 40
member of Somaliland Police stationed at Burao. I did not know any of the accused before this case. On the night of 2nd July I was in charge of Quarter Guard. P.W.3 (Mohamed Saleh) was a member of the Guard. He was posted by me at 2200 hrs. for two hours' duty. After posting him I slept. I was awakened by a shot. I noticed the time from a clock

on Guard Room wall, it was 2330 hrs. I told guard to take cover and hold rifles ready. The noise came from direction of sentry. I thought we were going to be attacked. I heard five rounds fired. After this, about 6 or 7 minutes, I heard further firing, about 10 shots, from direction of D.C.'s bungalow.

In the Somaliland Protectorate Court, Burao.

When I came out I found two prisoners—one dead, one wounded. The one who was dead appeared to have been shot through the forehead by a bullet. The other was hit in the upper arm. He was Hassan Barud, H.A., Saad Musa rer Gedid (recognized in Court giving his name as 10 Hassan Barud, H.A., rer Gedid). The dead man was Hassan Mohamoud, Dolbahanta Yahiya. I did not see any of the men who were shooting nor do I know how many there were.

Prosecution's Evidence.

No. 9.
Police Sergeant Mohamed Egal's Statement, 5th October 1945, *continued.*

Next morning I found 13 live cartridges at about 0700 hrs. near Quarter Guard. My askari showed me four expended cases. Two of rounds I found were Italian and eleven .303 bullets. I showed these rounds to Superintendent of Police, Burao. I found the rounds in a webbing pouch. Six .303, two Italian and an Italian charger in this pouch (Identification B), which I now identify. I recognize four .303 rounds in Italian charger (Identification C). Single round shown to me 20 is similar to the round found by me (Identification D).

Cross-examined by Defending Counsel: I have been in police a long time. I think the shots were rifle shots. Revolver shots and shots from automatics are different sounds.

Cross-examination.

Read over and found correct.

(Sgd.) R. J. QUIN. 5/10/45.

No. 10.

EVIDENCE of Major John Anthony Hunt.

No. 10.
Major John Anthony Hunt's Statement, 5th October 1945.

P.W.5, Christian, sworn, states :—

I am John Anthony Hunt, a Major in His Majesty's Army, now in charge of General Survey, Somaliland Protectorate. My H.Q. is at Burao. I did not know any of accused before this case. My house in Burao is between D.C.'s and A.D.C.'s. On 2nd July I was the only European living in this house. At about 2330 hrs. I heard five shots in quick succession as though from an automatic weapon. Shots appeared to come from direction of town. I dressed, took a rifle and went to my motor car. I took Ali Haji, Quabaile, a sergeant observer, to carry rifle. I had to run car for a minute to warm it. I drove in southerly direction to go to D.C.'s bungalow to see if I could be of assistance. When I passed end of my compound wall a shot was fired from west low down. I did not 40 feel that it hit the car. About 20 yards on a further shot was fired low and the same thing happened a little further along. I thought that men firing were lying down on the right. When I got to cross-roads because shots had been fired from direction of D.C.'s bungalow and one of front tyres had gone flat, wrenching steering and not seeing any sign of life ahead towards Rest House or Quarter Guard, I turned left towards Superintendent of Police's bungalow, and not seeing any sign of life there I went towards P.W.2's camp. My front tyre (near side) came off before

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

I got there. I subsequently recovered tyre but could not form opinion from examination of it. At P.W.2's camp I examined car. I found one entrance hole in near front wing and two exit holes in it and one entrance hole near radiator. I formed opinion these holes were made by bullets. I formed opinion that tyre had been hit by bullets. From direction of these holes I am sure that they were not made by the shots I had seen fired at the car. My car had a right-hand drive.

It was a completely dark night—stars but no moon.

No. 10.
Major John
Anthony
Hunt's
Statement,
5th
October
1945,
continued.
Cross-
examina-
tion,

Cross-examined: When I heard the first shot I was sitting smoking a pipe in a chair in my house. All sounds of shots came from southerly direction from my house. Apart from shots fired at me of which I saw flashes, the burst of fire was of about five rounds and sounded like automatic fire. I am not conversant with automatic weapons. 10

Read over and found correct.

(Sgd.) R. J. QUIN. 5/10/45.

No. 11.
Warder
Sergeant
Ahamed
Mohamed's
Statement,
5th
October
1945.

No. 11.

EVIDENCE of Warder Sergeant Ahamed Mohamed.

P.W.6, Muslim, sworn, states :—

I am No. 58, Warder Sergeant Ahamed Mohamed, H.Y., Musa Abdullah. I am warder sergeant in charge at Burao prison. I did not know any of accused before this case. I remember the night of the shooting in Burao. It was 2nd July last. 20

Hassan Haji Mohamed, Dolbahanta Yahiya and Hassan Barud, H.A., rer Gedid were sleeping outside the gaol between the prison and the store. I saw them at 2200 hrs. sleeping near each other. They were then alive and apparently well. After making my rounds I went to my house behind the gaol. It is on the east of the gaol. I sat down outside the door and smoked my pipe. My door faces the motor-road. I saw about 20 men coming from north side of the tug in single file. This was about a few minutes after 2300 hrs. They passed me at about 10 paces. It was a dark night, there was no moon. They were coming towards the prison. All of them had tobos on their heads. Some had shorts, some had shirts, I could not recognize them. I spoke to them and asked who they were. One man said "We are illaloes." Some of them were carrying rifles. The first five had rifles. I am sure of that. I am not sure of any others. I spoke again and asked them to come and speak to me. One replied "No, we are in a hurry." They were walking fast. I decided to follow them but I saw one man sit opposite me. He had a rifle. The rifle was held ready but not aimed at me. I thought he was going to fire. I could not recognize the man. I watched this man. While I was watching I heard five shots. These shots sounded as though they were coming from the gate of the gaol. I heard one single shot, then three together. Then I heard a man running then another shot. I then jumped up and went towards the gaol from the back. I came to the place where the two prisoners had been sleeping. One was lying where I had left him. He appeared to be dead. He had a shot wound in his forehead. This was Hassan Mohamoud. The other man had moved about 3 yards from 30 40

where I had previously seen him. He was holding his left upper arm and moaning. I heard some further shots from direction of D.C.'s bungalow. I don't know how many rounds, this was about 10 minutes after the first shots.

I knew a man called Haji Mohamed Yusuf, H.T., Yesif. He was called "Sheikh Bashir." He was a "mullah." I knew him for five years.

I knew a man called Alin Yusuf, H.T., rer Dahir rer Yusuf. He was a trader.

10 The last time I saw these two was the night their dead bodies were brought to Burao. I identified the bodies to D.C. and a doctor. Major Chambers (D.C.) spoke in Somali. He speaks Somali well.

Cross-examined by Defending Counsel: Sheikh Bashir was a powerful mullah. He had a big influence. He was well respected. If he gave an order to a young man it is likely that it would be obeyed. It is possible that he might ask people to help him make a tomb. People would have gone with him to do so. When he was at his karia he was very kind hearted. He would feed a hundred if they went to him. Meat and milk are luxuries. He would give people who followed him their rations.

Read over and found correct.

20

(Sgd.) R. J. QUIN. 5/10/45.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecution's
Evidence.*

No. 11.
Warder
Sergeant
Ahamed
Mohamed's
Statement,
5th
October
1945,
continued.
Cross-
examina-
tion by
Defending
Counsel.

No. 12.

EVIDENCE of Hassan Barud.

P.W.7, Muslim, sworn, states :—

30 I am Hassan Barud, H.A., rer Gedid. I did not know any of accused before this case. I knew Sheikh Bashir by sight. I did not know Alin Yusuf. I remember the night of the shooting in Burao. It was 2nd July last. I was a prisoner in Burao Prison then. I have since been released. I knew Hassan Mohamoud, Dolbahanta Yahiya, he was a fellow prisoner. On the night in question we both slept next to each other between the prison and the store. We were speaking to each other until about 2000 hrs. then we began to sleep. I was awakened by a shot which hit me. The bullet hit me in the upper arm and came out behind the shoulder. (Witness shows Court the marks.) I saw Hassan Mohamoud. He was in the same place as he was lying when I went to sleep. He was not moving. I was in pain and did not examine him. When they were taking him to the hospital I saw that he had a wound in his forehead. I was examined by a European doctor at the hospital. He was a Captain, I don't know his name.

No Cross-examination.

40

Read over and found correct.

(Sgd.) R. J. QUIN. 5/10/45.

No. 12.
Hassan
Barud's
Statement,
5th
October
1945.

In the
Somaliland
Protectorate
Court,
Burao.

No. 13.

EVIDENCE of Ahamed Mirreh.

P.W.8, Muslim, sworn, states :—

Prosecu-
tion's
Evidence.

No. 13.
Ahamed
Mirreh's
Statement,
5th
October
1945.

I am Ahamed Mirreh, H.T., Ahamed Farah rer Mohamed Ahamed. I knew Accused 18 (Farah Abdullahi) before this case. We were in the Somaliland Camel Corps together. He was an askari. I was in transport. I have known him since we were children. Accused 18 had been 7 years in Camel Corps when I left. I know no other accused. I am an illalo in Burao District. I remember being on duty at D.C.'s bungalow about 3 months ago. Another illalo was also on duty. I did not know his name. He was H.Y. Musa Arreh. I was on duty at front. I went to sleep on the verandah. The other illalo was supposed to be at the back. I was woken up by him at about 2400 hrs. As I was being woken I heard shots. The shots came from bushes in front of bungalow. I heard 13 or 14 rounds. I think one man was about 8 yards and the rest were about 25 yards away. It was dark and I could not see what clothes the man was wearing. When shots had been fired the other illalo was hit. He was standing beside me when I was lying on the verandah. The D.C. and his wife were inside the bungalow at this time. The firing stopped. I heard footsteps of people running away. I did not follow them. I went to report to Quarter Guard. On way I met corporal coming with 5 askaries. I heard shots strike the verandah. I am not an enemy of Accused 18 (Farah Abdullahi). I think 5 or 6 rifles were fired. 10

Cross-
examina-
tion.

Cross-examined : I know Accused 18. I was in Somaliland Camel Corps with him. We were 7 years together. He was a good soldier. One day as we were grooming horses he took his rifle and bandolier and ran away. I don't know why he was discharged. I did not notice that he was weak in the head. To run away with a rifle and bandolier is not the action of a normal man.

Note by
Court.

By Court : At that time a rifle could be sold for six camels and a round of ammunition was worth one rupee. When Accused 18 went away there was nothing furtive about it, every one saw it even the officers. 30

I left the Camel Corps about 14 years ago.

Read over and found correct.

Sd. R. J. QUIN. 5/10/45.

No. 14.
Corporal
Haibeh
Warsama's
Statement,
5th
October
1945.

No. 14.

EVIDENCE of Corporal Haibeh Warsama.

P.W. 9, Muslim, sworn, states :—

I am Haibeh Warsama, H.A., Mohammed Esa rer Sahal. I am a corporal in Somaliland Police at Burao, No. 221. I knew Ibrahim Haji Abdullahi and Farah Abdullahi, Nos. 1 and 18 Accused before this case. I did not know any other Accused. (These accused are recognized in Court). I remember a morning about three months ago being given instructions by Superintendent of Police. I followed certain tracks which had been pointed to me. Another askari was with me. The tracks were of five men. The tracks led from Superintendent of Police's bungalow 40

and went for two miles, towards Sheikh. When we lost the tracks they were going towards Nagaiguhr (a mountain). The last I saw of the tracks they were pointing straight to Ber. I did not know whose tracks they were.

Cross-examined: I went out at 0630 hrs. The khariff was blowing. The tracks were clear until about 0830 hrs. when the wind began to cover the tracks. Round Burao people go anywhere. There were five tracks. I don't know if they were made by any of the accused.

Read over and found correct.

(Sgd.) R. J. QUIN. 5/10/45.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 14.
Corporal
Haibeh
Warsama's
Statement,
5th
October
1945,
continued.
Cross-
examina-
tion.

No. 15.
Major
Frederick
James
Chambers'
Statement,
5th
October
1945.

10

No. 15.

EVIDENCE of Major Frederick James Chambers.

P.W.10, Christian, sworn, states:—

I am Frederick James Chambers, a Major in His Majesty's Army, and District Commissioner of Burao. I know Accused 18 (Farah Haji Abdullahi, I think is his name) but do not know any other accused. I live in District Commissioner's bungalow in Burao. My wife also lives in the bungalow. I remember night of 2nd July, 1945. There were two illaloes sleeping at my house. For some time I had had two illaloes at the house. One normally slept on the verandah at the front and the other at the back
20 between the house and the kitchen. The illaloes slept there because there had been a number of thefts in the station, not in anticipation of any attack. I was awakened during the night by my wife. I went out as result of what my wife said. I found that the illalo on the verandah was asleep. I came back, I looked at my watch and saw it was 2355 hrs. I went back to bed again. My wife was uneasy. She got out of bed and went through bathroom to back door. After a few moments I got out of bed and followed my wife towards the back. I spoke to her at the back door and then we returned together to the bedroom. As we did so I heard the noise and saw the flashes of a number of shots in front of the house. The flashes
30 were very bright and lit up the room. I did not count the number of shots. I estimate that there were about a dozen. I also heard the sound of magazines being re-loaded. I should estimate the shots were spread over about 5 minutes. I also heard the sound of groaning on the verandah. Some little time after the firing appeared to have ceased my wife and I went out on the verandah and saw that the illalo who had been sleeping behind the house was lying stretched out on the floor, his head on a pillow and a rifle underneath him. I examined him to see if he had a wound and saw the entry hole of the bullet on the inside of his thigh. I am not sure whether it was his left or right. I searched for an exit-hole but could not
40 find one. The illalo was delirious and raving and groaning but he spoke lucidly occasionally. He did not make any statement material to this matter. But asked where his money was. Soon after this—about 10 minutes, Captain James, Superintendent of Police, arrived with about six police and just before him some more illaloes. I had a short conversation with Captain James and arranged for a doctor and ambulance to be fetched. He then left. The doctor arrived later and took the wounded man away. I saw the moon rising while waiting for the ambulance. It was very dark before then.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 15.
Major
Frederick
James
Chambers'
Statement,
5th
October
1945,
continued.
Cross-
examina-
tion.

On the following Sunday morning I saw two bodies at Police Quarter Guard at Burao. I did not recognize either of them. They were identified to the doctor by P.W.6 and I acted as interpreter. The bodies were identified as those of "Haji Bashir" and Alin Yusuf and he told the doctor that he knew both of these men when they were alive.

When civilians become illaloes they do not have any strict training in the use of rifles.

I recognize revolver (marked Identification E). It was handed to me about 17th July at Gabo by Abdul Karim Haji Yusuf whom I understood to be the younger brother of Haji Bashir. 10

Accused 18 worked as a headman of road-coolies for me about a year or 18 months ago. I have a recollection of a matter about an illalo's rifle being taken but cannot remember who was concerned in it.

I was last appointed D.C., Burao, on 3rd January, 1944.

Cross-examined: I did not know Sheikh Bashir. A "mullah" is a religious leader, a preacher, or leader in prayer. I have heard the term applied to a person learned in Arabic, but usually it is religious.

These mullahs usually have much influence for good or bad.

News of free meat at a karia would be a strong attraction to interior people. 20

My impression was that all shots were fired by rifles.

No suggestion as to Accused 18's mental state when he worked for me.

Read over and found correct.

(Sgd.) R. J. QUIN. 5/10/45.

No. 16.
Police Sub-
Inspector
Abdullahi
Warsama's
Statement,
5th
October
1945.

No. 16.

EVIDENCE of Police Sub-Inspector Abdullahi Warsama.

P.W.11, Muslim, sworn, states:—

I am Abdullahi Warsama, Eidagallah Guyobi. I am now a Sub-Inspector in Somaliland Police. At the time of the trouble in Burao I was a 2/Sgt. 30

I remember night of 2/3 July, 1945. I went to the bungalow of Superintendent of Police that night. On the way I heard a sound of shots. I did not count them nor did I see any flashes. The direction of the sound of the shots was from D.C. and Major Hunt's bungalows. I think that there were about 12 shots.

On the following morning about 0630 hrs. I saw Superintendent of Police. I accompanied him and we followed some tracks and they led from outside Quarter Guard then on both sides of Police office and then to D.C.'s bungalow. There we found some empty rounds. We measured certain distances and then collected them. We then continued to follow the tracks. They led past Major Hunt's bungalow and we found some more empties there. The tracks crossed the Berbera motor-road. There were tracks of five men. We saw the marks where one man had fallen down. We followed the tracks to the zariba by the grazing area. From there P.W.9 and a constable were instructed to follow the tracks. 40

I could tell from the tracks that the men who made them had been running most of the way.

When we left the town there were only five sets of tracks.

No Cross-examination.

Read over and found correct.

(Sgd.) R. J. QUIN. 5/10/45.

1600 hrs. Court adjourns until 0800 hrs. on 6th October, 1945.

(Sgd.) R. J. QUIN. 5/10/45.

0800 hrs. 6th October, Court reassembles, 14 accused before the Court.

10 Defending Counsel and Assessors present.

(Sgd.) R. J. QUIN.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 16.
Police Sub-
Inspector
Abdullahi
Warsama's
Statement,
5th
October
1945,
continued.

No. 17.

EVIDENCE of Police Constable Ismail Hassan.

P.W.12, Muslim, sworn, states :—

I am Ismail Hassan, H.T., Arreh Abdulleh Samater Burreh, P.C. 426, in Somaliland Police, stationed in Burao. I remember 3rd July at about 0630 hrs. Superintendent of Police gave me some instructions. I went to Burao Quarter Guard, from there I followed some tracks. There were tracks of 18 or 19 persons wearing sandals. The tracks led from Quarter Guard between the Camel Corps camp and Isolation camp. I notice one place about 100 yards from Camel Corps camp where it appeared that they had all stopped and sat down. There were still tracks of 18 or 19 persons. The tracks led to a motor road where the tracks stopped near tracks of a motor car. I could see from the tracks that the motor car had stopped there and people had got off. There was a tomb nearby. It is known as Sheikh Ismail's tomb. The tomb is about a mile from the place where the truck stopped. This is a mile going away from Burao going towards Gabo. About 50 yards (estimated by Court from witness's description) from where the lorry stopped. I found an ammunition clip.

30 It was a clip of the type in the bundle shown to me (Witness is shown bundle Identification DDD). On the way to where I say the car stopped I had found 4 other similar clips. This was about 500 yards from the place where I say the car stopped and about 600 yards from where the men appeared to have sat down. The four clips were found in an area of about five yards. I also found five rounds of revolver ammunition similar to the four rounds shown me (Witness shown Exhibit GGG). These were found in the same place as the clips. I also found a spear. I identify the spear shown to me as the spear (Witness shown Exhibit JJJ).

40 I also found an empty bag. The bag shown me is that bag (Witness shown Exhibit FFF). I also found a piece of rope. The rope shown to me is that rope (Witness shown Exhibit EEE). We also found a hangol (Exhibit HHH shown to witness). This is the hangol. We also found 5 rounds .303 live ammunition. All the things found were brought to the Police Office and given to the Captain.

No. 17.
Police
Constable
Ismail
Hassan's
Statement,
6th
October
1945.

*In the
Somaliland
Protectorate
Court,
Burao.*

When we were following the tracks near the butts I noticed a hole under a Mirreh bush. It was about a foot in diameter. It had been freshly made.

*Prosecu-
tion's
Evidence.*

About 10 days later I showed the tracks to Captain James and the place where the party had stopped and the hole under the bush.

I do not know a man called Adan Ahamed, H.T., Ahamed Farah rer Abdi Hildeed nor have I seen any of the prisoners (accused) before this case.

No. 17.

*Police
Constable
Ismail
Hassan's
Statement,
6th
October
1945,
continued.
Cross-
examina-
tion.*

3 July was a windy day, the khariff was blowing. The wind later obliterated the tracks. We knew the tracks were fresh because they had not been obliterated. 10

Cross-examined: The first time I heard a suggestion that Sheikh Bashir and a party had done this thing was at 0600 hrs. on 3rd July before I went to the tracks.

The various articles were found along the tracks. The tracks stopped at the tomb and also where we found the various articles.

The tracks led to a place where people got off a lorry. I did not know it was suggested that Sheikh Bashir had done these things until I got back from the tracks. My previous evidence was incorrect. I knew that there had been an attack before, I went out but until I got back I did not hear that Sheikh Bashir was connected with it. I heard it in the Police Office. 20

Read over and found correct.

(Sgd.) R. J. QUIN.

No. 18.
Haji
Ahamed
Sheik
Musa,
6th
October
1945.

No. 18.

EVIDENCE of Haji Ahamed Sheik Musa.

P.W.13, Muslim, sworn, states :—

I am Haji Ahamed Sheik Musa, H.Y., rer Aboker. I did not know any of the accused before this case. I remember 1st July, 1945. I was at Las Anod. I got on a truck. The driver was Yusuf Kutban, H.A. (Yusuf Abdi is recognized in Court). The driver's assistant was the man shown to me (Omar Khareh, H.A., Makahil, recognized in Court). We spent the night on the road between Las Anod and Ainabo. We reached Gabo between 10 and 11 on 2nd July. There were a lot of people but the only people I recognized were Sheikh Bashir and Alin. I later saw their dead bodies in Burao Hospital. I also saw Haji Ahamed Haji Ibrahim, H.T., rer Aboker Ahamed and Abdi Dualeh, H.T., rer Dahir rer Musa Yusuf. I spoke to Sheikh Bashir. We waited a long time for him. He eventually got on the truck and sat in the front beside me. A lot of other people got on to the lorry, more than ten. I do not know if these people were with Bashir before. 30 40

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 18.

Haji
Ahamed
Sheik
Musa's
Statement,
6th
October
1945,
continued.

The lorry went to Bashir's karia. The other people I mentioned also travelled on the car in the front except Alin who travelled in the back. The truck stopped on Sheikh Bashir's order about 200 yards from the karia. I and some others asked why we did not go nearer the karia. Sheikh Bashir said there was a well near and we could wait there. Sheikh Bashir and several others from the truck went to the karia. The rest went to the well. Some drank, some sat under the trees. We waited about half an hour. The driver became impatient and blew his horn. No notice was taken so the driver drove to the other side of the karia. We waited
10 another half hour. Then Sheikh Bashir and some others got on the lorry. I don't know if they were the people who had got off the lorry. Two parcels were brought out one was a little more than a yard long and a foot in diameter. The other was round about a foot long and deep. I asked what was in the parcels. Some of the men said that they were Korans belonging to Sheikh Bashir and that he was taking them to Ber to store them. I could not clearly see the wrappings. I thought it was kebit or gunny bag. These parcels were put on the back of the lorry. I did not see them actually put on. These parcels were heavy. Sheikh Bashir did not carry any of the parcels. I did not notice who did. A lot of
20 people—about 20 got on and the truck drove off. We stopped at Kerit. I went to the graveyard to pray but I heard some other people get on the lorry. I came back to the lorry and the lorry drove off again. The lorry went on for a long way. I heard someone vomiting. The lorry stopped. We went on again and stopped at Ber. It was then about 1900 hrs. It was after mukrib. We delayed our prayers until we got to Ber. Sheikh Bashir and his party went to pray. They were about 20 minutes. Then we got on the lorry again. I did not notice if we left anyone there. It was dark. We went on towards Burao but some distance outside Burao some people at the back shouted to Sheikh Bashir to stop the lorry.
30 The lorry stopped and Sheikh Bashir and some others got off, I don't know how many. I think that the place the lorry stopped was a mile and a quarter or a mile and a half on the other side of the fort. The lorry then drove on to the Police Station. I got off. I did not notice anyone else. I walked away.

Sheikh Bashir had white turban and white clothes. I think he had a sword. I think one other man had a sword. I can't remember whether Alin Yusuf had anything.

The place the lorry stopped was a mile or little less on the far side of Sheikh Ismail's tomb going from Burao.

40 *Cross-examined*: I think the lorry left Gabo about one or half past. I don't know Las Gelgereh. The biggest parcel was the heaviest. It was the people at the back of the truck who shouted to stop the truck. The tomb is on the left of the road coming to Burao. I did not notice any other passenger get off at Burao. It is quite probable that they did.

*Cross-
examina-
tion.*

Note by Court on evidence of P.W.13: This witness was a Somali of the most cultured type. He was apparently very intelligent. I got the impression that he did not want to be associated with the case in any way and that had he wished to he could have told the Court very much more. I think that his evidence is true so far as it goes but that he did not
50 consider it part of his oath to tell the whole truth.

*Note by
Court on
Evidence
of Haji
Ahamed
Sheik
Musa.*

(Sgd.) R. J. QUIN.

In the
Somaliland
Protectorate
Court,
Buraao.

Prosecu-
tion's
Evidence.

No. 19.
Omar
Khireh's
Statement,
6th
October
1945.

No. 19.

EVIDENCE of Omar Khireh.

P.W.14, Muslim, sworn, states :—

I am Omar Khireh, H.A., Makahil. I am employed as a garage boy by Yusuf Abdi. I do not know any of the accused. I knew Sheikh Bashir by sight. I had seen him once. I was at Las Anod on 1st July, 1945, with Yusuf Abdi and his truck. The truck left Las Anod on the first and arrived in Gebeh on 2nd July at about midday. P.W.13 travelled on the truck from Las Anod. There were a lot of people in Gabo. There are usually a lot of people there. I saw Sheikh Bashir there. He got on the truck. A lot of other people got on but I can't say how many. We stayed in Gabo about an hour, then we drove off. We went to a karia on Sheikh Bashir's direction. We stopped about 200 yards (estimated from witness's indication) from the karia. Sheikh Bashir and some others went to the karia. The rest sat near the well or under the trees. We waited some time. The Sheikh did not come so we moved to the other side of the karia and waited again. Later Sheikh Bashir and some people came out. They brought out three parcels. I don't know who carried the parcels. I am not certain how long the big parcels I think about as long as (Exhibit HHH) the hangol. There were two that size. The third was carried on a man's shoulder. It was about a foot in diameter. I don't know if it was round or square. The parcels were put on slowly not thrown on to the lorry. About the same number of people got on and the lorry drove off. I rode on the front mud-guard. The first stop was at Kerit. Three more people got on, one woman and two men. We went until the lorry stopped because the woman was vomiting. We then went on again and stopped in Ber. Some people prayed, some went to the coffee-shop. I stopped by the truck to look after it and did not look inside the truck at the parcels but I did not see anyone take them off. The people got back on the truck. I don't know if they were the same people or not. It was dark, I did not bother. On the other side of Sheikh Ismail's tomb Sheikh Bashir and his party got off. I did not count them. They took the three parcels off. The lorry came into Buraao and stopped at the Police Station. Some people got off there and the rest got off past the mosque. When Sheikh Bashir's party got off 7 or 8 persons were left on the truck. I did not notice anyone wearing a sword.

I went to several identification parades. I pointed out one man I thought I had recognised as being on the truck. He is not one of the accused.

Cross-examined by Defending Counsel: After Sheikh Bashir got off three people were in the front, the rest were in the back. There were three parcels.

I don't know who carried the parcels.

Read over and found correct.

(Sgd.) R. J. QUIN. 6/10/45.

1200 hrs. Court adjourns until 0800 hrs. on 8th October, 1945.

(Sgd.) R. J. QUIN.

0800 hrs. Court re-assembles. Accused before Court. Defending Counsel and assessors present.

(Sgd.) R. J. QUIN. 8/10/45. 50

Cross-
examina-
tion by
Defending
Counsel.

No. 20.

EVIDENCE of Yusuf Abdi.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 20.

Yusuf
Abdi's
Statement,
8th
October
1945,

P.W.15, Muslim, sworn, states :—

I am Yusuf Abdi, H.A., Makahil. I am a trade truck driver. The only one of the accused I knew before the case is Accused 1. I own commercial truck Som. 63. (P.W.14 brought into Court and identified.) This is my garage boy. I remember leaving Las Anod on 1st July last to go to Gabo. I arrived at Gabo on 2nd July at about 1130. When I arrived at Gabo Haji Ahamed Sheikh Musa Omer Keiher, and Abdi Sheikh Ismail Sheikh 10 Ishaak were on the truck. We stopped at Gabo and took on a lot of passengers more than 20. Sheikh Bashir approached me for a passage. I do not remember all the names of the people who got on the truck but 8 or 9 people who are now outside the Court got on. Sheikh Bashir told me he had 12 in his party. He paid for 10 and I took 2 free. Of the people on the truck other than the 8 or 9 people just mentioned I only knew Accused 1 (Ibrahim Haji Abdillahi). I do not know his name. Alin was in the party. Abdi Dualeh is known to me. He was a passenger. He travelled free. He did no work for me. We left Gabo at about 1400 hrs. Sheikh Bashir was wearing two white half-tobes, one white 20 turban, he had a white shirt. He was carrying a sword and an ableh (Identification 7 shown to witness). It was similar to the ableh shown to me. I particularly remember the white handle. The sword was white and curved. I don't know if Alin Yusuf was carrying anything.

From Gabo we went to Sheikh Bashir's karia. That is about 3½ or 4 miles from Gabo. It was off the road. The karia was comprised of gurghis—3 of them. When we got to the karia we stopped. Sheikh Bashir and some others went into the karia. Others went to the Balleh and drank or sat under the trees. After some delay the Sheikh came out. The party brought out two parcels, one was about a foot square. The other 30 was about 3 feet long and about 1 foot diameter but I don't know exact shape. These parcels were put on the truck. The square parcel appeared to be fairly heavy as if it contained money. The other parcel did not appear to be heavy. When we started Sheikh Bashir, Haji Ahamed, Haji Ibrahim and Haji Ahamed Sheikh Musa were in the front. Abdi Dualeh stood on the ranning board. Omer Khireh rode at the back. We went to Kerit. We took on two men and one woman there. (Haji Sulub Ismail, Isman Alan are brought into Court.) These two men were the two. We arrived at Ber at 1830. Some people had tea there. I think that the same number got on there. I did not count them. Sheikh 40 Bashir told me at first that he was going to Ber to renew his grandfather's tomb, but at Ber he told me he had changed his mind and was going to Burao for rations. There was no extra fare to be paid. I think we left Ber at about 1900 hrs. At the other side of Sheikh Ismail's tomb Sheikh Bashir told me to stop as they wished to pray at the grave. I stopped there but did not leave the driving seat. I know some people got off there but I can't say how many. I think it was 1945 hrs. then. We went on to Burao Police Station.

The next time I saw Sheikh Bashir was 6 days later. I saw his dead body and also that of Alin in Burao Hospital.

50 At Burao Police Station I cannot say if Accused 1 (Ibrahim Haji Abdillahi) got off or not. I saw him 8 or 9 days later in the fort with the

*In the
Somaliland
Protectorate
Court,
Burao.*

other men on an identification parade. Superintendent of Police was there. I did not know him before. I saw him Gabo. When I was going to Sheikh Bashir's karia he ran after the lorry and I stopped it for him. That is why I remember him.

*Prosecu-
tion's
Evidence.*

I attended several other identification parades but I could not recognize anyone else. Accused 1 did not pay me a fare. I did not ask him for money. I thought he was only going to Sheikh Bashir's karia. I did not notice whether he got on the truck when we were leaving Sheikh Bashir's karia. I did not see him again that night.

No. 20.
Yusuf
Abdi's
Statement,
8th
October
1945,
continued.
Cross-
examina-
tion by
Defending
Counsel.

Cross-examined by Defending Counsel : I saw two parcels come from 10 Sheikh Bashir's karia.

I first saw Accused 1 a little outside Gabo. I thought he was going to the karia. Sheikh Bashir told me he was going to Ber to tidy his grandfather's tomb. It is quite a usual thing for religious people to do this.

Read over and found correct.

(Sgd.) R. J. QUIN. 8/10/45.

No. 21.
Superinten-
dent
William
John
James'
Statement,
8th and 9th
October
1945.

No. 21.

EVIDENCE of Superintendent William John James.

P.W.16, Christian, sworn, states :—

I am William John James, Superintendent of Police, Burao, and a 20 Captain in H.M. Forces. I am also in charge of Burao Prison. I did not know any of accused before this case.

I remember night of 2/3 July of this year. At about 2400 hrs. I was in my house in Burao. I heard a number of rifles shots. More than five I cannot give the exact number but they were certainly rifle shots. I got up and dressed after about 10 minutes. I started my car. The delay was because the batteries had to be replaced. They had been locked away for safety. While I was fixing the car I saw the flash of a shot outside my house. I formed the opinion that original shots came from direction of D.C.'s house. I estimate that the shot fired at my bungalow was fired 30 about ten yards from surrounding wall. There was a light in the front room of the house.

I drove my car towards the Quarter Guard on my way three Somaliland Policemen joined me Abdullahi Warsama, then 2nd Sgt. now Sub-Inspector was in charge of this party. When I got to Quarter Guard the Guard did not challenge, they were standing up. I received a report from the Guard Commander. I went to a place between the Prison and the store, there I saw a dead man. He had a gunshot wound in his head. He was an R.I. prisoner. On verandah another prisoner was lying on ground bleeding. He had a gunshot wound in his shoulder. It was dark. There was no 40 moon. I left Quarter Guard and went to D.C.'s house taking Abdullahi Warsama and the other two members of police in his party. I found Major and Mrs. Chambers and a Somali with a gunshot wound in his thigh on the verandah. I then went to Major J. A. Hunt's bungalow but he was not there. I then drove up Berbera road for about a mile to a camp occupied by Lt. Viney. I there found Lt. Viney and Major Hunt. I

returned with them to the Quarter Guard. About half hour later Capt. Suarez, R.A.M.C., arrived with an ambulance and removed deceased and wounded prisoners.

At about 0630 next morning I returned to the Quarter Guard.

Just outside the wire fence surrounding the gaol I found three empty cartridges cases which I now produce. (Produced and handed to the Court and marked Exhibit 2, Exhibit 3 and Exhibit 4.)

I also found an unexpended .303 cartridge case (produced and handed to the Court and marked Exhibit 5). An unexpended .303 cartridge
10 (produced and handed to Court and marked Exhibit 6).

I then followed some footprints of more than five people to the D.C.'s house. Abdullahi Warsama, 2nd Sergeant, was with me. The footprints lead some between Police Office and Rest House and others between Police Office and D.C.'s Office. Both lots then lead to D.C.'s house.

At D.C.'s house :

4 metres from South Wall I found one .303 expended round (produced and handed to Court and marked Exhibit 7).

2.3 metres from South wall I found two .303 expended rounds
20 (produced and handed to Court and marked Exhibit 8) on the path leading along front of residence.

17.30 metres from South East corner of South wall I found an Arabic cap (produced and handed to the Court and marked Exhibit 9) and in the same place two .303 expended cases (produced and handed to Court and marked Exhibit 10).

30 metres South of corner of East wall I found a 8 mm. expended round (produced and handed into Court and marked Exhibit 11) at same place. I also found a charger containing one round (produced and handed into the Court and marked Exhibit 12).

9.20 metres East of North East corner of the wall I found one expended
30 .303 case (produced and handed into the Court and marked Exhibit 13).

8 metres East from North East corner of the wall I found one expended cartridge case (produced and handed into the Court and marked Exhibit 14).

14.2 metres East from North East corner of the wall I found one expended cartridge case (produced and handed into the Court and marked Exhibit 15).

17.4 metres East from North East corner of the wall I found one expended cartridge case (produced and handed into the Court and marked Exhibit 16).

There were a number of footprints of sandalled feet near the bungalow
40 which lead towards the bungalow of Major J. A. Hunt (P.W.5). There were of five or more persons.

At 42 metres from South East corner of D.C.'s residence I found an expended round (produced and handed into the Court and marked Exhibit 17).

At 38 metres from South East corner of the wall and South of it I found an empty cartridge clip (produced and handed into the Court and marked Exhibit 18).

On the road from Rest House to Major Hunt's bungalow and at South East corner of the wall I found three unexpended rounds (produced
50 and handed into the Court and marked Exhibit 19).

On road 38 metres South of South East corner I found one expended cartridge case (produced and handed into the Court and marked Exhibit 20) on the East side of road at same point and distance I found

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 21.

Superinten-
dent
William
John
James'
Statement,
8th and 9th
October
1945,
continued.

*In the
Somaliland
Protectorate
Court,
Burao.*

one expended round, the cap of which had blown (produced and handed into the Court and marked Exhibit 21).

At 26.3 metres East of gate of East wall I found a clip containing three unused cartridges and one unused cartridge (produced and handed into the Court and marked Exhibit 22).

*Prosecu-
tion's
Evidence.*

At 33.6 metres from the corner of the East corner of wall I found a clip containing four cartridges (unused) and one used case (produced and handed into Court and marked Exhibit 23).

No. 21.
Superinten-
dent
William
John
James,
Statement,
8th and 9th
October
1945,
continued.

At 11.3 metres from last mentioned point I found a set of two Italian type leather pouches which contained five .303 rounds in a clip (produced and handed into Court and marked Exhibit 24). 10

Sandalled footprints lead from here Eastwards between bungalow I was living in and Government House. About 40 metres West from my bungalow I found an empty clip and in same place 2 live rounds (produced and handed into the Court and marked Exhibit 25). At the same place I also found a torri (produced and handed into the Court and marked Exhibit 26).

At this point it was evident from marks on the ground that someone had tripped over a small ant-heap and fallen on the ground.

I made further search of ground around my bungalow and that of 20 Major Hunt (P.W.5) and between the bungalow found two expended and one live rounds (produced and handed into the Court and marked Exhibit 27). I found another live round 90 metres North West of my bungalow (not produced or handed into the Court).

The footprints appeared to lead away in a direction going parallel to the Berbera road. At that point I gave instructions to P.W.9 and then returned to vicinity of Quarter Guard where I found Sgt. Mohamed Egal (P.W.4) standing at a point about 20 yards from the prison fence on East of road leading from D.C.'s office to Burao Township. I gave him certain instruction and he placed some articles on ground at this point and picked 30 them up and handed them to me. There were 1 webbing pouch containing 6 rounds .303, 2 Italian rounds and an Italian charger (produced and handed to the Court and marked Exhibit 28) (formerly marked Identification B).

On 4th July in early morning I notice verandah roof of my bungalow had been pierced by some missile such as a bullet which had entered from the front. The point of entry was about 4 feet above head of man standing on verandah. One of the windows was broken and there were two stones in the room. They were not there on 2nd July.

On morning 4th July about 0630 hrs. I went with Jama Saeed 40 (P.W.21) to a point which I estimated to be approximately 1 mile from Sheikh Ismail's tomb on the road running from Burao to Gabo. I was shown a place. I returned to Burao at about 1000 hrs. same morning. I went back to that place with P.C. Ismail Hassan (P.W.12). The place was again pointed out to me by P.W.12.

On 16th July I met Adan Ahamed, H.T., Ahamed Farah about 1230. I went with him. He pointed out a route. This route went from Police Quarter Guard in North East direction through the bush. Passing to South of Isolation Hospital (also known as the Quarantine) thence behind the two stop-buts of the ranges and across the Burao Aerodrome in a 50 South West direction to the place already shown me by P.W.12 just past the Westernmost of the two ranges a bush on a sand mound which had a

slight excavation of the sand underneath. It was possible that something had been buried there. A day or so previously I was shown this route. I was shown this route by Adan Ahamed and P.W.12 also pointed out the bush with the excavation under it. The route is marked on Exhibit A by a dotted line.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 21.
Superinten-
dent
William
John
James'
Statement,
8th and 9th
October
1945,
continued.

10 During the course of the investigation of this case I held a number of identification parades. One of these parades was held in Burao Prison and the remainder in Burao Fort. The people attending these parades were either civilians, prisoners awaiting trial or police recruits. On each
10 parade the members were of similar age, height, dress and condition of life to the suspects on the parade. None of identifying witnesses had any opportunity to see the suspects on the parade before witnesses came on to the parade and after each witness had passed down the parade he was so placed that he was unable to communicate either directly or indirectly with other witnesses following. Each suspect was given the opportunity before the parade to take up any position he wished and to change his clothes with any other member of the parade and these opportunities were offered to suspects after each identifying witness. When witnesses were brought out they were instructed that if they had seen the suspect under
20 certain circumstances to touch him on the shoulder. My interpreter on all parades except one (14th July) was Hussein Jama, H.Y. Musa Allah Hassan Musa, on 14th July Hassan Sofa, H.A. Saeed Musa rer Mohamed. On two occasions there were protests from the suspects. The first was on 11th July. Accused 1 when parade was finished said the witnesses had picked him out because they were at enmity with him. The second occasion 12th August Accused 17 said he could not fail to be picked out because he had at one time been an illalo and everyone knew him.

1st parade was on 10th July at 1430 hrs. and was held at the Fort. Suspect was Accused 1 Ibrahim. He gave his name as Isman Abdillahi.

30 The witnesses were :—

1. Ali Hadi Ibrahim, H.T. Ahamed Farah rer Aboker Ahamed.
2. Yusuf Abdi (P.W.15).
3. Hadi Ahmed Sheikh Musa (P.W.13).
4. Sahal Fahayeh, H.T. rer Aboker Ahmed rer Ali Aboker rer Jama Ali.
5. Isman Adan, H.T. rer Yusuf rer Hassan Yusuf.
6. Omar Kharreh (P.W.14).
7. Haji Ahmed Haji Ibrahim, H.T. rer Ahmed Farah rer Aboker Ahmed.
8. Abdi Dualeh, H.T. rer Dahir rer Yusuf ba Omer.

40

Suspect took up position 3 from right, did not change his clothes and did not change his position until last witness (Abdi Dualeh appeared when he took up position 8).

Each witness was instructed in presence and hearing of suspect that if he recognized any man on the parade who had travelled on a lorry with Sheikh Bashir's party on 2nd July, 1945, from Gabo to Burao, he was to touch the suspect on the shoulder.

Witnesses 1, 2, 4, 5 and 8 touched the suspect on the shoulder.

*In the
Somaliland
Protectorate
Court,
Burao.
—
Prosecu-
tion's
Evidence.*

On 11th July 1945 I held a further parade at Burao Prison at 1430 hrs. Suspect on this occasion being Ibrahim Haji Abdullahi (Accused 1). The witnesses were :—

1. Warsama Weis, H.T. rer Aboker Ahmed.
2. Gedeh Farah (same tribe as No. 1).
3. Jama Saeed, H.T. Burreh Abdulleh.
4. Abdi Sheikh Ismail Dolbahanta Musa.

The accused took up position No. 3 and did not change. He did not change his clothing.

No. 21.
Superinten-
dent
William
John
James'
Statement,
8th and 9th
October
1945,
continued.

Witnesses 1 and 2 were instructed that if they recognized anybody on parade who they had seen at their karia on 4th July, 1945, in the early morning, they were to touch him on the shoulder. 10

Witnesses 3 and 4 were instructed in presence and hearing of accused, that if they should see anybody who had travelled on a lorry driven by Yusuf Abdi carrying Sheikh Bashir on 2nd July, 1945, from Gabo to Burao they were to touch him on the shoulder.

Witness 3 picked out Accused 1.

On 18th July at Burao Fort at 1430 hrs.

Suspect being Accused 6, witnesses being in addition to those mentioned before. 20

Haji Sulub Ismail but excepting Ahamed Sheikh Musa Warsama Weis, Geddeh Farah.

Suspect took up position 3 and did not change it. He did not change his clothing during the parade. None of the witnesses picked out the suspect. Witness Abdi Dualeh picked out two civilians. Witness Omar Khareh picked out one civilian. On 23 July at 1430 hrs. parades were held at Burao Fort. Musa Fiddin (Accused 11) was the suspect. The witnesses for four parades as on the last parade except for Isman Adan. Accused took up position 6 and changed to 9 after second witness. He did not change his clothes. Witnesses on this and subsequent parades on the same day were told in the presence and hearing of the suspects that if they recognized anybody on the parade as having travelled on a lorry on 2nd July, 1945, driven by Yusuf Abdi and carrying Sheikh Bashir, they were to touch him on the shoulder. 30

Haji Ahamed Haji Ibrahim picked out Musa Fiddin. No one else picked anybody out. The next suspect was Accused 10 Adan Haji Jama, who took up position 3. Changed to 6 after first witness then to 7 after 3rd witness then to 8 after fifth witness and to 9 after last witness. He did not change his clothes. The witnesses were instructed as before. Witness Abdi Dualeh picked out a civilian. Haji Sulub Ismail and Sahal Fahayer picked out Adan Haji Jama (Accused 10). Next suspect was Ali Haji Aboker (Accused 12). This suspect took up position 5. After 1st witness he changed to 3. After 4th witness changed to 8. He did not change his clothing but covered lower portion of his face with his half tobe when parade commenced. He removed it when told to do so (not in presence of witnesses). Witnesses were given instructions as before. Suspect was picked out by Ali Haji Ibrahim but by no one else. 40

The next suspect was Jama Hashi (Accused 4). He stood in position 4. He did not change his clothes. Witnesses were instructed as before. He was not picked out by anybody. 50

On 24th July at Burao Fort at 1430 hrs. another identification parade was held. The witnesses were as the last parade with the addition of Isman Adan. The suspect is not now charged before this Court. The second suspect Mohamed Elmi (Accused 14) took up position 3 and changed to 2 after 5th witness. He did not change his clothes. The witnesses were instructed as on previous days. Ali Haji Ibrahim, Jama Saeed, Ali Dualeh picked out the suspect.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

The next suspect was Ali Gedi (Accused 8). He took up position 6. Changed to 3 after first two witnesses. He did not change his clothes and was not picked out by anyone. The witnesses were instructed similarly before the parade. The next suspect is not now charged before this Court.

No. 21.
Superinten-
dent
William
John
James'
Statement,
8th and 9th
October
1945,
continued.

The next suspect Mohamed Hashi (Accused 9). The witnesses were as before and similarly instructed. Suspect took up position 5 and did not change it. He did not change his clothes. He was not picked out by anybody.

The next parade was on 12th August at 1450 hrs. at the Fort. The first suspect was Ibrahim Haji Aboker (Accused 16). The witnesses were Saleh Mohamed, H.T. Musa Aboker rer Yunis, Gedi, Farah, Warsama Weis Abdi Adan, H.T. Mohamed Farah rer Aboker Mohamed Mardi Farah, Dolbahanta, rer Arden Haga in addition to witnesses on previous day. He took up position 7. In this case no witness identified him as having seen him in connection with this case. Accused did not change position or clothes. The next suspect was Deir Deria (17). This accused took up and remained in position 6 throughout the parade. He changed his lungi and shirt with another member of the parade. In presence and hearing of the accused the witnesses were given instructions and Abdi Dualeh and Isman Adan picked out suspect as having travelled on the truck driven by Yusuf Abdi on 2nd July from Gabo to Burao and Mardi Farah as having seen suspect on truck at Kerit.

On the next parade suspect was Ibrahim Haji Abdillahi (Accused 1). No witness identified accused in connection with this case. Accused did not change his position or clothing. The next suspect was Nur Billeh (Accused 6). He was not identified and did not change his place or clothing during the parades. Mardi Farah picked out a civilian as having been on the truck at Kerit. This civilian was similar in appearance to the suspect.

The next suspect was Saeed Mohamed (Accused 13). Accused did not change position or clothing during the parade. He was not picked out by anyone except Mardi Farah as having been on the truck in question at Kerit.

The next suspect was Mohamed Elmi (Accused 14). He did not change his position or clothing. He was not identified by anyone. The next suspect was Ali Gedid (Accused 8). He did not change position or clothing and was not identified.

1640 hrs. Court adjourns until 0800 hrs. 9th October, 1945.

(Sgd.) R. J. QUIN. 8/10/45.

0800 hrs. 9th October. Court reassembles. Accused before the Court. Defending Counsel and Assessors present.

50

(Sgd.) R. J. QUIN.

*In the
Somaliland
Protectorate
Court,
Burao.
—
Prosecu-
tion's
Evidence.*

P.W.16 (*Continued*).

*No. 21.
Superinten-
dent
William
John
James'
Statement,
8th and 9th
October
1945,
continued.*

On 20th August, 1945, I held a further identification parade at Burao Fort at 1130 hrs. The suspect in this case was Farah Abdullahi (Accused 18). He took up position 3. After 3rd witness he moved to position 2. After 4th witness to position 4. After 6th witness to position 6 but changed again to position 5 before the witness came out. After 7th witness to position 4, after 8th witness to position 6. After 9th witness to position 7. After 10th witness he said he did not wish to change but did change to position 6. After 11th witness he changed to position 8. After 12th witness he changed to position 7. After 13th witness to position 9. The witnesses were the witnesses on the two previous parades. 10

He was identified by Ali Haji Ibrahim, Abdi Adan, Abdi Dualeh, Abdi Sheikh Ismail, Sahal Fahiyeh, Ismail Adan, Gedi Farah, Warsama Weis, Haji Ahmed Ibrahim.

In case of Gedi Farah he was identified as been seen at Oulad on early morning 4th July. In case of Warsama Weis as seen at his karia on 4th July.

The suspect did not change his clothes. The remainder of the witnesses identified him as travelling on the lorry previously mentioned from Gabo to Burao on July 2nd. 20

The next suspect was Mohamed Ali (Accused 2) who had a bad leg, he also had a deformity in his hand. He was allowed to sit as were the other civilians. His hands and those of others on parade were covered. He selected position 3 and remained there. The 15 witnesses were as before. He was identified by Jama Saeed, Ali Haji Ibrahim, Saleh Mohamed, Haji Ahamed Haji Ibrahim, and Mardi Farah. In case of Jama Saeed, Ali Haji Ibrahim, Haji Ahamed Haji Ibrahim as travelling on lorry and by Mardi Farah as having been seen at Kerit, and by Saleh Mohamed as seen at Galoushed about 5th July.

Mardi Farah was not pressed to say that he had seen accused elsewhere than Kerit as it was not then known whether that suspect had travelled on lorry to Burao or stayed at Kerit. 30

The next was Mohamed Hashi (Accused 9). He took up position 4. Five witnesses Gedeh Farah, Warsama Weis, Saleh Mohamoud, Abdi Adan, and Mardi Farah. None of these identified him in connection with the case. Next suspect was Musa Fiddin (Accused 11). The witnesses were as for Accused 9. He took up position 9 and did not change it or his clothes. He was identified by Mardi Farah as having been seen at Kerit on the lorry on 2nd July.

Next suspect was Adan Haji Jama (Accused 10). The witnesses were as for Accused 9. He took up position 5, after 2nd witness changed to position 7, after 4th witness to position 9. He did not change his clothes and was not identified by anybody. 40

Next suspect was Ali Haji Aboker (Accused 12). Witnesses as before did not identify him.

Next parade was held with Jama Hashi (Accused 4). He took up position 6, did not change position or clothes and was not identified by any of previous witnesses.

On 7th July 1945 at 1900 hrs. Sgt. Ismail Hassan (P.W.1) he handed me revolver. (Produced and handed into Court and marked Exhibit 30, 50

previously identification A.) On 9th July 1945 at 1400 hrs. Inspector Musa Awaleh handed me—

- | | | |
|----|--|--|
| 10 | <ol style="list-style-type: none"> 1. A .303 Rifle No. 40556 with bolt No. 32054. (Produced and handed into Court and marked Exhibit 31.) 2. A belt of unexpended revolver rounds. (Produced and handed into Court and marked Exhibit 32.) 3. A large tori in sheath complete with belt. (Produced and handed into Court and marked Exhibit 33.) 4. 22 rounds expended .303 in 4 clips. (Produced and handed into Court and marked Exhibit 34.) 5. Four .303 rounds in clip. (Produced and handed into Court and marked Exhibit 35.) 6. Part of a pocket book with Arabic writing in pencil. (Produced and handed into Court and marked Exhibit 36.) 7. One .303 rifle No. 63706 bolt 63706. (Produced and handed into Court and marked Exhibit 37.) 8. 12 unexpended .303 rounds in two clips. (Produced and handed into Court and marked Exhibit 38.) 9. A bag containing a Sten Gun magazine and ammunition. (Produced and handed into Court and marked Exhibit 39.) 10. An Italian revolver No. 2338 in leather holster. (Produced and handed into Court and marked Exhibit 40.) 11. Sten Gun No. 168305. (Produced and handed into Court and marked Exhibit 41.) | <p style="text-align: right;"><i>In the
Somaliland
Protectorate
Court,
Burao.</i></p> <p style="text-align: right;"><i>Prosecu-
tion's
Evidence.</i></p> <p style="text-align: right;">No. 21.
Superinten-
dent
William
John
James'
Statement,
8th and 9th
October
1945,
<i>continued.</i></p> |
|----|--|--|

I produce a canvas bag containing 12 rounds .303, three rounds 8 mm. (Produced and handed into the Court and marked Exhibit 42.) This was handed to me by illalo Cpl. Dualeh Abdullahi together with one long steyr rifle No. 8410 (produced and handed into Court and marked Exhibit 43) on 12th August 1945.

30 On 3rd July 1945 P.W.12 gave me—

- | | |
|----|--|
| 40 | <ol style="list-style-type: none"> 1. Six Italian type ammunition clips. (Produced and handed into Court and marked Exhibit 44) (formerly Identification DDD.) 2. One piece Somali rope (formerly identification EEE). (Produced and handed into Court and marked Exhibit 45.) 3. Empty canvas bag (formerly identification FFF). (Produced and handed into Court and marked Exhibit 46.) 4. 4 rounds Sten ammunition (formerly identification GGG). (Produced and handed into Court and marked Exhibit 47.) 5. A small hangol. (Produced and handed into Court and marked Exhibit 48.) 6. A spear shaft with broken head. (Produced and handed into Court and marked Exhibit 49.) |
|----|--|

I know Adan Ahamed. I saw him on the morning of 11th September, 1945, at Burao Port. He was being detained separately from accused in this case. I saw him talking to Deir Deria (Accused 17). I moved him to quarters behind my own house. There was no other suitable accommodation in which to keep him segregated from accused and witnesses in this case.

50 *Cross-examined by Defending Counsel:* Identification parade of Accused 11 on 23rd July, he was picked by Haji Ahamed Haji Ibrahim as

Cross-
examina-
tion by
Defending
Counsel.

*In the
Somaliland
Protectorate
Court,
Burao.*

travelling Gabo to Burao. On 20th August again Mardi Farah as been seen at Kerit. It is possible that these two witnesses had discussed the identification.

*Prosecu-
tion's
Evidence.*

No. 21.
Superinten-
dent
William
John
James'
Statement,
8th and 9th
October
1945,
Cross-
examina-
tion,
continued.

This would apply to all cases where accused were identified on different days. When witnesses were called to identification parades they must have known that it was in connection with Sheikh Bashir although they were not told so officially. They were given no instructions until they were on the parades. With regard to Adan Ahamed, he was not given any special privilege or favours while he was at my premises. He was kept there because he was seen talking to accused and the prison was full to 10 double its capacity. I have heard a Sten gun fired. I would recognise the sound of its fire as opposed to a rifle fire.

On night of attack I am sure shots I heard were not from automatic.

Read over and found correct.

(Sgd.) R. J. QUIN. 9/10/45.

No. 22.
Ali Haji
Quebile's
Statement,
9th
October
1945.

No. 22.

EVIDENCE of Ali Haji Quebile.

P.W.17, Muslim, sworn, states :—

I am Ali Haji Quebile, H.A. Mohamed Esa rer Abauch. I did not know any of the accused before this case. I am Inspector of staff with 20 the General Survey of Somaliland. I remember the beginning of July of this year. I was living at the bungalow of P.W.5. I was awakened by the Major (P.W.5). I then heard some shots. I do not know how many but I think two or three. The sound came from the D.C.'s bungalow. P.W.5 and I got on to the lorry. P.W.5 drove the lorry for about 30 yards towards the D.C.'s house. Then some shots were fired at the lorry. The shots came from the left-hand side. I saw the flash of three shots. The flashes were near the ground as though the firers were lying down. I saw the men who were firing by the lights of the lorry. The men were three or four yards from the edge of the road. I saw four men. They were 30 dressed in white tobos. Their heads were uncovered. The men were at two yards intervals. I saw three rifles. Then we turned the lorry round and drove in the opposite direction. I then saw a man standing on the opposite side of the road. He had no rifle. He was a Somali. We went in the lorry on the Berbera road to P.W.2's camp. A lot of rounds were fired at us as we were going but they went over the top of the lorry. They were from the place where we had seen the three rifles. We passed the drive to Superintendent of Police's bungalow and heard a shot from the direction of that bungalow. When we got to P.W.2's camp one of the tyres of a wheel (off side front wheel) and the mudguard had two holes, 40 that looked like bullet holes.

It was a dark night. The moon came up at about 1 o'clock. I stayed the rest of the night at P.W.5's bungalow. I only stayed about

half an hour at P.W.2's camp. I did not say that I stayed at the camp of P.W.2 at the Preliminary Inquiry. I am certain I went back because I was ordered to do so by P.W.5.

No Cross-examination.

Read over and found correct.

(Sgd.) R. J. QUIN. 9/10/45.

1230 hrs. 9th October, 1945, Court adjourns until 0800 hrs. on 10th October, 1945.

(Sgd.) R. J. QUIN.

10 0800 hrs. 10th Oct. 45. Court re-assembles. Accused before the Court. Defending Counsel and Assessors present.

(Sgd.) R. J. QUIN.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 22.
Ali Haji
Quebile's
Statement,
9th
October
1945,
continued.

No. 23.

EVIDENCE of Haji Ahamed Haji Ibrahim.

P.W.18, Muslim, sworn, states :—

I am Haji Ahamed Haji Ibrahim, H.T. Ahamed Farah rer Aboker, Ahamed. I am a shop-keeper in Burao. Before this case I knew Mohamed Ali (Accused 2) and Farah Abdullahi (Accused 18).

20 I knew Sheikh Bashir and Alin Yusuf when they were alive. I saw their dead bodies by Burao Hospital.

I got on a lorry on 2nd July at Gabo. It was driven by P.W.15. I got on at between one and two o'clock. There were a lot of people on the lorry. Sahal Faliyeh, Ali Haji Ibrahim, Sheikh Bashir and Alin Yusuf and Haji Ahamed Sheikh Musa, Abdi Sheikh Ismail, Jama Saeed (recognized in Court) with the exception of Jama Saeed I knew all these people before.

30 Mohamed Ali (Accused 2) and Farah Abdillahi (Accused 18) were on the lorry. I did not see them get on but I saw them getting off the lorry at Sheikh Bashir's karia. I did not see them again. They may have been there. I was sitting in the front and there were a lot of people in the back, there were over 20 people on the lorry.

40 The lorry left Gabo and went to Sheikh Bashir's karia. It was there about an hour and a half or two hours. Before the lorry left I saw three parcels being put on the lorry. The first of these was about 1½ yards long and about ten inches thick (estimated by Court from witness's description). Alin Yusuf carried it to the lorry. It did not appear too big a load for one man. The second was a square parcel about 18 inches square (estimated by Court from witness's description). I don't remember who carried it, but it was only carried by one man. The third parcel was of similar size and shape. One of the smaller parcels was wrapped in a blanket. The long parcel was wrapped in sacking. I do not remember what the third was wrapped in. I saw Musa Fiddin (Accused 11) at the karia. I did not know him before. I only saw him near the road. I cannot say whether he got on the truck or not.

No. 23.
Haji
Ahamed
Haji
Ibrahim's
Statement,
10th
October
1945.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 23.
Haji
Ahamed
Haji
Ibrahim's
Statement,
10th
October
1945,
continued.

Before the truck left the karia a lot of people got on. I cannot say whether all the people at the karia got on or whether some were left behind. I was sitting in front seat with P.W.15, P.W.13 and Sheikh Bashir. Abdi Dualeh was on the mudguard. The garage boy (P.W.14) I don't know his name (recognized in Court) was at the back.

The first stop was at Kerit. Two men and one woman got on the lorry. Haji Sulub Ismail, Isman Adan. I knew these people before. The woman (recognized in Court states her name to be Halimo Jama) was on the lorry. I did not know her before. I did not see anyone get off at Kerit. It was about three or half past. 10

We next stopped for a few minutes later because the woman was vomiting. Then we went on to Ber. There myself and some others had tea in the coffee-shop. I did not notice what the others did. We stayed there more than one hour. Then I got on the lorry. The same people were in the front seat. I don't know if anyone was left at Ber. I did not notice whether there were more or less people in the back of the lorry. It was about 19.30 hrs. and dark.

The next place we stopped was on the far side (from Burao) of Sheikh Ismail's tomb. We stopped there because Sheikh Bashir wanted to get off there. Sheikh Bashir got off. Some others got off I don't know how many. I do not know if the parcels were taken off. 20

The next stop was at Burao Police Station. I got off there. Sahal Fahiyeh, Ali Haji Ibrahim, Haji Ahamed Sheikh Musa (P.W.13) and several others also got off there. I did not notice if anyone was still on the lorry. It was then between 2100 and 2130 hrs.

On the lorry I saw Sheikh Bashir was carrying a sword and an ableh. Farah Abdillahi (Accused 18) had a sword. Sheikh Bashir had white half tobies, white shirt and turbans.

I went on several identification parades. I cannot now remember the dates of these parades. The first person I identified was Musa Fiddin (Accused 11). I identified him only as having seen him at Sheikh Bashir's karia. On another day I identified Mohamed Ali (Accused 2) and Farah Abdillahi (Accused 18). I identified them as travelling from Gabo to Sheikh Bashir's karia. 30

The first time I saw each of these accused since 2nd July was on the identification parade.

I have known Farah Abdillahi (Accused 18) for 8 or 10 years. He was generally called a madman but I have never seen him do anything abnormal. He is very talkative and speaks quickly. He is quarrelsome and argumentative. When a man is like this we don't say that he is mad but consider that there is something wrong with his brain. 40

A madman in Somali is called ninwalan but a man who is abnormal is given the nickname of " wall " with his own name. Accused 18 was called Farah " wall " or Farah " Karib " meaning that he did not do his work properly.

Cross-
examina-
tion by
Defending
Counsel.

Cross-examined by Defending Counsel : The truck left Gabo at about two, nearer two than one o'clock. The parcels were capable of being carried by one man. I am sure Accused 18 had a sword. I cannot say Accused 2 or 18 were on the truck after Bashir's karia.

I picked Musa Fiddin at the identification parade on instructions from Police to pick any man who had been on the lorry but I only saw him near the karia where people were getting on the lorry. I do not know who got off near tomb or at Police Station. I could not deny Accused 2 did get off truck at Kerit. Accused 18 is known well to me. I don't know if he has stock. It does not follow that because a man is "wall" that his family will take his stock. If a man is really mad his relatives keep his stock. Sheikh Bashir was a well-respected mullah, and would be obeyed if he asked people to help him. Any young man would do what he asked.

Read over and found correct.

(Sgd.) R. J. QUIN. 10/10/45.

No. 24.

EVIDENCE of Halimo Jama.

P.W.19, Muslim, sworn, states :—

I am Halimo Jama, H.T. Burreh Abdilleh Samater Burreh.

Sometime before the trouble in Burao, I don't know how long, I travelled on a lorry from Kerit to Burao. I was the last person to get on to the lorry at Kerit. I was sick when I got on the lorry. This was the first time I had ever been on a lorry. There were a lot of other people in the back of the lorry. All were sitting down. I was vomiting most of the time and I did not notice much.

After we left Kerit the truck stopped because I was vomiting. The next place we stopped was at Ber. We did not stop there long. Some people got off and some stayed on. I did not get off. The night was dark I don't know how many got back but I think about the same number got back. I slept most of the way because I was ill. I remember nothing until I got to the Police Station in Burao where someone picked me up and took me off the lorry.

No cross-examinations.

Read over and found correct.

(Sgd.) R. J. QUIN. 10/10/45.

NOTE.—This woman's evidence is of no value. She noticed nothing.

Note by Court.

No. 25.

EVIDENCE of Abdi Sheikh Ismail Dolbahanta Mohamed Musa.

P.W.20, Muslim, sworn, states :—

(This witness says he is about 14 years of age and appears about this age to the Court. The oath is explained to him and he appears intelligent enough to understand it.)

I am Abdi Sheikh Ismail Dolbahanta Mohamed Musa. I did not know any of the accused before this case. I am a son of Sheikh Ismail whose tomb is outside Burao. I remember travelling on a truck from Ainabo. I did not previously know the driver. He is the man I have seen in Court.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 23.

Haji
Ahamed
Haji
Ibrahim's
Statement,
10th
October
1945,
continued.

No. 24.

Halimo
Jama's
Statement,
10th
October
1945.

No. 25.

Abdi
Sheikh
Ismail
Dolbahanta
Mohamed
Musa's
Statement,
10th
October
1945.

*In the
Somaliland
Protectorate
Court,
Burao.*

His name is Yusuf. A lot of people travelled on the truck. I remember P.W.18. I heard a man on the truck being called Sheikh Bashir. I saw P.W.14 on the truck.

No. 25.
Abdi
Sheikh
Ismail
Dolbahanta
Mohamed
Musa's
Statement,
10th
October
1945,
continued.

At Gabo Accused 18 gave me meat. I don't remember whether he was on the car or not before this. I had not known him before. He also gave meat to a lot of other people. I don't know how many. I did not see Accused 18 eat anything.

A lot of people got on the truck at Gabo. I rode at the front of the back of the truck. I do not know if Accused 18 rode on the truck. After leaving Gabo the truck went to a karia. Nearly everyone got off the lorry. 10
Some went to the karia. Of the others some stayed near the lorry others went further away. I think that the man I had heard called Sheikh Bashir went to the karia. We stayed a long time near the karia. Two parcels were brought out of the karia. I don't know who brought them out. One was about $1\frac{1}{2}$ yards long and about a foot thick. The other parcel had a handle and was about a foot long. (Estimated from witness's description.) A lot of people got on to the lorry. The parcels were at the back some people sat on them. I don't remember if Accused 18 was on the lorry nor do I remember if I told the Court before (i.e. P.I.) that he was on the lorry. 20

The lorry went to a place called Kerit. I remember a woman got on who was sick. We later stopped for her to be sick. We went on to Ber. We stopped there. I got off and went to a coffee-shop, someone gave me tea, I don't know who. After tea we got back on the lorry. There were as many people on the lorry. I don't know whether the parcels were on or not. The lorry went on nearly to my father's tomb. A good many people got off there. It was a dark night. I don't know whether they took off parcels or not.

The lorry went to Burao Police Station and I got off there.

I remember an identification parade. The police told me that if 30 there was any man there whom I recognized as having been on the lorry to touch him on the shoulder. I touched Accused 18 on the shoulder. I had not seen him on the lorry.

Cross-
examina-
tion.

Cross-examined by Defending Counsel : I am sure Accused 18 gave me meat at Gabo. He gave me meat and gave meat to some others.

Read over and found correct.

(Sgd.) R. J. QUIN. 10/10/45.

Note by
Court.

Note by Court : This boy's evidence is of very doubtful value. I cannot be certain that he is speaking the truth when he says he cannot remember what happened or his previous evidence. 40

(Sgd.) R. J. QUIN. 10/10/45.

1230 hrs. Court adjourns until 0800 hrs. on 11th October, 1945.

(Sgd.) R. J. QUIN. 10/10/45.

0800 hrs. 11th October. Court re-assembles. Accused before the Court. Defending Counsel and Assessors present.

(Sgd.) R. J. QUIN.

No. 26.

EVIDENCE of Jama Saeed.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 26.

Jama
Saeed's
Statement,
11th
October
1945.

P.W.21, Muslim, sworn, states :—

I am Jama Saeed, H.T. Burreh Abdillahi, Ahamed Burreh. I was formerly in 71st Bn. (Somaliland) of K.A.R. Before this case I did not know any of the accused.

10 On 2nd July, 1945, I was at Gabo, my karia was nearby. I was waiting for a lorry to take me to Burao. There were a lot of people in Gabo but I did not notice any of the accused. I saw Sheikh Bashir and Alin Yusuf there, they were both known to me by sight. A truck came in driven by Yusuf Abdi (P.W.15). The garage boy (P.W.14) was on the truck (recognized in Court). I knew Abdi Dualeh, Mohamed Haji Ibrahim, Ahamed Sheikh Musa (P.W.13). They came into Gabo on the truck. The truck stayed in Gabo about one hour and left at about 1600 hrs. A lot of people got on the truck at Gabo. The people who had come into Gabo, whose names I have mentioned, got on again. Sheikh Bashir and Alin Yusuf got on and about twenty people as well. I do not remember any of the accused getting on.

20 After the truck left Gabo it went to Sheikh Bashir's karia. Sheikh Bashir and some people I don't know how many went into the karia. The rest went to a well and sat around. The truck stayed a little bit more than an hour. I saw three parcels brought out of the karia. I don't know who carried them. The parcels were put on the truck. One was a long parcel and the other two were small. I have no idea of the size. I think they were sacks and blankets covering them. Two men carried one of the parcels but I don't know which. People got back on the truck. The people whose names I have previously mentioned got back on the truck. More than twenty other people also got on. I saw Accused 2 (Mohamed Ali) I saw him after the truck left Sheikh Bashir's karia and
30 before we got to Kerit. He was on the truck.

I saw Accused 13 (Saeed Mohamed). I saw him on the lorry at some time after leaving Sheikh Bashir's karia. I don't remember where. I saw Accused 14 (Mohamed Elmi). I saw him on the lorry at some time after leaving Sheikh Bashir's karia. I do not remember the place. I saw Accused 1 (Ibrahim Haji Abdullahi). I saw him just outside Gabo before Sheikh Bashir's karia. He ran after the lorry and got on it. I do not remember seeing him after the karia. If I have previously said that I saw Accused 1 after Sheikh Bashir's karia it was an error. I don't think I did say so.

40 The truck left the karia at about 5 o'clock and next stopped at Kerit. I do not know if anybody got off there. Two men, one called Isman and one Sulub, I don't know their other names but have seen them in Court (Sulub Ismail and Isman Adan recognized), and one woman who I saw in Court (Halimo Jama recognized) got on to the truck. The truck drove on and the next main stop was Ber. I think most people got off and went into the coffee-shop. We stayed in Ber long enough to have tea. It was then dark I could not tell if the same people got back on the lorry. I could not say whether anyone stayed at Ber.

50 The next place we stopped was before we reached Sheikh Ismail's tomb. There I got off and so did some other people. I can't say how

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 26.

*Jama
Saeed's
Statement,
11th
October
1945,
continued.*

many. I say I guessed at the Preliminary Inquiry that about 12 or 13 people got off there. Sheikh Bashir and Alin Yusuf got off there. Some things were taken off the lorry but I don't know what they were. These things were carried to the left-hand side of the road. I saw the men move with the things they had taken off the lorry to the left-hand side of the road.

Just as I was about to move off Sheikh Bashir spoke to me. He asked me to remain with his party. During the journey I heard someone say that Sheikh Bashir's party were going to renew a tomb. I do not know if Accused 1, 2, 13 and 14 were present when this was said.

I did not say on the previous occasion at the Preliminary Inquiry 10
"On the truck I probably spoke to the people travelling. In the presence of Accused 1, 2, 13 and 14 I heard it said by the people on the truck that, they Sheikh Bashir's party were going to build a tomb."

When we were near Sheikh Ismail's tomb, Sheikh Bashir said he wanted me to stay with the party because they were going to sweep a tomb. He did not say which tomb they were going to sweep. I now remember that at the Preliminary Inquiry I said that Accused 2, 13 and 14 were on the lorry when someone said that Sheikh Bashir's party were going to repair a tomb. I don't know if No. 1 accused was there. This is the truth. 20

I told Sheikh Bashir that I could not go with him because my leave was up. I was also worried as to why the party had got off outside the town and had not gone into the town. I myself had not intended to get off there but while I was speaking to Sheikh Bashir the lorry went off. It also worried me that the parcels did not look like religious books. It was late at night and they could have gone into the town and come back the next day when it was light to sweep the tomb. When the parcels were put on the truck I was told that they were Korans. I saw that people had been sitting on the parcels in the truck. No one would sit on religious books. According to our religious custom a man would be punished 30 because he did not treat the books with respect.

I left the party and walked on to Burao. I stayed in the hafa. I did not see any of the party again that night or the next day. I have been in Burao since that night.

I know P.W.16. I showed him the place where I had got off the truck.

I remember some identification parade. There were a lot of parades I don't remember how many. I was told to pick out any man who had been on the lorry with me. The first person I picked out was Accused 1. I only identified him as getting on the lorry between Gabo and Sheikh 40 Bashir's karia not as being elsewhere.

On another day I picked out Accused 13 and 14. I identified them as being on the lorry after we left Sheikh Bashir's karia. On another day I picked out Accused 2 and identified him for same reason as 13 and 14.

*Cross-
examina-
tion.*

Cross-examined: At identification parades I was told that if I saw any man I had seen on the lorry when I came to Burao to touch him on the shoulder. I did not pick them as coming to Burao. I can't swear that Accused 2 did not get off at Kerit. I can swear that Accused 1 got off at the karia. I can't say how far Accused 14 came on the lorry. I am

sure that Accused 13 was on the lorry at some time. I remember telling the Court that I was told about sweeping the tomb. It was daylight and therefore before Ber.

I was four years in the Army. I went to Burma. I saw a lot of the world. I saw a lot of bad people. I can't say if that made me more suspicious than interior people.

I don't remember Accused 13 in Gabo. I know of no trouble between my sub-section and his. If he says I saw him in Gabo he is wrong.

10 *By Assessor No. 2*: The night of the trouble was the night that I got off the lorry. Accused 2, 13 and 14 were not specifically mentioned as part of Sheikh Bashir's party.

By Assessor No. 3: I did not know any of accused before this case.

Read over and found correct.

(Sgd.) R. J. QUIN. 11/10.

20 *Note by Court: On evidence of P.W.21*: I think this witness is truthful. He gave his evidence well. I had to put to him certain differences between his present testimony and the record of the Preliminary Inquiry. His answers appeared to me honest and reasonable. I think that errors were made in recording his previous evidence and that the present record represents a true version of his statement.

(Sgd.) R. J. QUIN.

No. 27.

EVIDENCE of Abdi Dualeh.

P.W.22, Muslim, sworn, states:—

I am Abdi Dualeh, H.T. rer Dahir rer Yusuf ba Omer. I am not a relative of any of the accused. I knew Accused 18 (Farah Abdillahi) by sight before the case, but none of the others.

I am an agent for trade trucks. I collect fares and arrange transport.

30 My karia was at tug Der at the end of June. I went into Gabo on 2nd July, 1945. I saw Sheikh Bashir and Alin Yusuf there. I know Yusuf Abdi (P.W.15), he was driving a lorry which came to Gabo. I asked him to give me a lift to Burao. He agreed. I found three men who wanted to go on the lorry and collected their money. These were Ali Haji Ibrahim, Haji Ahamed Haji Ibrahim (P.W.18) and Sulub Fahiyer. The lorry left Gabo about 1600 hrs. I was on it, the three men just mentioned, Yusuf, Abdi, driver. Abdi Sheikh Ismail P.W.14 (I forgot his name), P.W.13. Sheikh Bashir and Alin Yusuf. Accused 18 was there. There were a lot of others whose names I did not know there. Six or seven more people whose names I did not know were there.

40 The lorry went to Sheikh Bashir's karia. Sheikh Bashir said he wanted to get some tools to take to his grandfather's tomb. Sheikh Bashir went in to the karia. A number of men went with him. Accused 18 went with him. Before we arrived at the karia Accused 1 got on the truck but I do not know if he went to the karia or not. We stayed more than an

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 26.

Jama
Saeed's
Statement,
11th
October
1945,
Cross-
examina-
tion,
continued.
Note by
Court.

No. 27.

Abdi
Dualeh's
Statement,
11th
October
1945.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 27.
Abdi
Dualeh's
Statement,
11th
October
1945,
continued.

hour near the karia. Before we left I saw a parcel being put on the truck. It was about a yard long and a foot thick (estimated from witness's description). It was covered in sacks. It was carried to the lorry by Alin Yusuf. Accused 18 helped to put it on the lorry. It looked like a heavy parcel. When the lorry moved off I rode on the mudguard in front. Yusuf Abdi (P.W.15), Haji Ahamed (P.W.18) P.W.13, Sheikh Bashir, P.W.12 was at the back. I asked him how many people were there. He said 20 people.

I saw Accused 1, 17 and 18 on the truck. I think I saw Accused 14 but I am not sure. I am sure that I did not see any of the other accused. 10

The truck next went to Kerit. Three people got on there. They were Haji Sulub Ismail, Isman Ardan, and a woman whose name I don't know. I was busy taking the fares from the three people and did not see any one get off.

The next main stop was at Ber. We arrived there at sunset. Nearly all got off the truck. They went to the coffee-shop. It was dark when we got back to the truck. The same people got into the front of the lorry. I saw that Accused 18 got on to the truck but I did not see any of the others.

The next place the truck stopped was on the way to Sheikh Ismail's 20 tomb. About 12 or 13 people got off. Sheikh Bashir and Alin Yusuf got off. They took off the parcel I mentioned before. I know Accused 18 got off there. He is the only man in Court I knew who got off there. The truck then came into the town. It stopped outside the Police Station. I remember three men who owed me some money got off there, and three others also got off. I got off later in the town, so did Ahamed Sheikh Musa and the woman. Only the garage boy and the driver were left on.

I know Jama Saeed (P.W.21) I saw him on the truck. He got on at Gabo. He got off at the same place as Sheikh Bashir.

Sheikh Bashir was in all white clothes. He was wearing a sword. He 30 was wearing a cap similar to Exhibit 9. Accused 18 was also wearing a sword and so was Alin Yusuf. I did not see anybody else with a sword.

I went to several identification parades. P.W.16 was in charge.

On the first parade I picked out Accused 1. I told police that I saw accused got on the truck between Gabo and the karia.

I later identified Accused 14. I also identified Accused 17.

On the last parade I identified Accused 18. I identified these men as having been on the lorry on the 2nd July. But he did not say at what time or place I had seen them.

*Cross-
examina-
tion.*

Cross-examined by Defending Counsel: I had no duties on the truck. 40 I collected fares instead of paying a fare. I did collect fares. It was my duty. Unless the owner told me to collect fares or they were offered I did not collect fares. I cannot say where people got on or off. I know where Accused 18 got off but not any other. Sheikh Bashir had a white turban and cap. The cap looked like Exhibit 9. It might have had a red band. I only saw the top of the cap Sheikh Bashir was wearing. Once his turban fell off after leaving Gabo. I saw full caps. I have not just thought of this. I said I was not certain of Accused 14 because I had not identified except as a man I thought I had seen on the lorry. I was told to identify

men I had seen on the lorry. I told police that he was the man. I did so because I was afraid of police. I am still not sure.

I don't know where Accused 1 got off. I know he was on the lorry at Bashir's karia. I don't know if he left the karia with the lorry.

I did not know Accused 17 before. There is no trouble between our sections. I never had a case against him. As far as I knew Sheikh Bashir's party was going to sweep a tomb. There was no reason why Bashir or Accused 18 should not carry a sword.

I last saw Accused 17 at Kerit. If he says he was with his karia on that day then he is lying. The parcel looked as if it was heavy. When I saw it one man was carrying it. He carried it the whole way—anyone saying two carried it was mistaken. I don't make mistakes. I don't remember being examined by Accused 9. I don't remember saying I had made a mistake. My memory is good. I was not asked at Preliminary Inquiry about making errors by any of accused. I may have forgotten. I still think my memory is good.

Read over and found correct.

(Sgd.) R. J. QUIN. 11/10/45.

Note by Court on evidence of P.W.22 : An honest witness of the stubborn type. He gave his evidence clearly and well. I do not think that he really understood the purport of the cross-examination either because of his own stubbornness or through the difficulty of translating into his language of exact meanings.

(Sgd.) R. J. QUIN. 11/10.

Application by Defending Counsel :

Request for adjournment for a full day to interview defence witnesses with accused. Explained to the Court that this will probably result in an eventual saving of the Court's time by dispensing with certain witnesses whose evidence is of no value.

30 Application granted.

1645 hrs. Court adjourns to 0800 hrs. 13th October, 1945.

(Sgd.) R. J. QUIN. 11/10.

0800 hrs. 13th October, 1945, the Court re-assembles. Accused before the Court. Defending Counsel and Assessors present.

(Sgd.) R. J. QUIN. 13/10.

No. 28.

EVIDENCE of Sahal Fahiyer.

P.W.23, Muslim, sworn, states :—

I am Sahal Fahiyer, H.T. Ahamed Farah rer Aboker Ahmed rer Jama Ali. I am a shopkeeper in Burao. Before this case I knew Farah Abdullahi (Accused 18).

I knew Sheikh Bashir and Alin Yusuf when they were alive. On 2nd July I got on a truck in Gabo. The driver was Yusuf Abdi, also in

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 27.
Abdi
Dualeh's
Statement,
11th
October
1945,
Cross-
examina-
tion,
continued.

Note by
Court.

Application
by
Defending
Counsel.

No. 28.
Sahal
Fahiyer's
Statement,
13th
October
1945.

*In the
Somaliland
Protectorate*

*Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 28.
Sahal
Fahiyer's
Statement,
13th
October
1945,
continued.

the front were P.W.13, Sheikh Bashir and P.W.18. I rode in the back, so did Alin Yusuf, and Accused 1 and 10 and so did 18.

Accused 10 was seen by me on the lorry. I don't know where he got on. Accused 18 got on at Gabo. Accused 1 got on between Gabo and Sheikh Bashir's karia to which the lorry went from Gabo. I did not count the people but there were more than 10 passengers from Gabo.

At Sheikh Bashir's karia most people got off. There was a balleh there, some people went to it and others to the karia. Sheikh Bashir and Alin Yusuf went to the karia but I don't know who went with them, several people did. We waited about half an hour, the driver was impatient and blew his horn. Alin Yusuf carried a parcel from karia. He said it contained religious books. It was wrapped in a sack and was the whole length of the sack about 1½ yards long and a foot thick (estimated from witness's description to Court). Alin Yusuf carried it alone to the truck. I did not see anyone help him with it. I was at the front and did not look. I saw one man carrying another parcel. It was about the size of a car battery. This was also put on the truck. I also saw two men run to the truck with a blanket. They put it into the truck. I don't know if it contained anything. People got back on the truck, the same people got into the front seat. I think about the same number of people got in the back. I remember someone dropped a cigarette on Accused 10. He shouted and asked who threw it. Accused 18 was there. There were more than 10 people in the back of the lorry. The lorry went on to Kerit. Haji Sulub Ismail, Isman Adan and a woman whom I see in Court but whose name I don't know got on there. The next main stop was at Ber. Most of the people got off the truck. I went with several others to a coffee-shop and had tea. When we had had tea we returned to the lorry. It was dark I could not say whether anyone got on or off. I saw Accused 1 get off at Sheikh Bashir's karia and did not see him after that. I could not say whether anyone had left the lorry at Kerit. I am sure Accused 10 and 18 arrived at Ber but I did not see them afterwards. We left Ber at about 1900 hrs. The next stop was at the far side (from Burao) of Sheikh Ismail's tomb. I had been asleep and woke up. I saw some people get off there. I thought that it was Burao. I saw Sheikh Bashir and Alin Yusuf get off and some other people. I don't know how many got off there. I saw Alin take off the parcel which he had put on the lorry. I did not see anyone else take anything else off. I did not see whether people sat on the parcels or not. We drove into Burao. Outside the Police Station I got off and Ali Haji Ibrahim, P.W.22, Haji Sulub Ismail, Isman Adan, Abdi Sheikh Ismail (P.W.20), Ali Hussein. I don't know if the woman got off. The lorry drove off. P.W.13 and P.W.18 went a bit further along the street.

I went to several identification parades. I don't know how many. Accused 18, 1, 10 were picked out by me. As to Accused 18 and 10 I told the police I knew that they had travelled on the lorry from Sheikh Bashir's karia to Ber. As to Accused 1 I told the police that he had travelled from outside Gabo to Sheikh Bashir's karia.

*Cross-
examina-
tion.*

Cross-examined: I knew Accused 18 before this case. I saw him last year in Burao. He was under guard. I enquired why he was under arrest and discovered that it was because he had taken a rifle without

any apparent reason from an askari. It is quite normal for people to wear swords when travelling.

By Court: I travel by trade trucks frequently. It is not unusual to stop by Sheikh Ismail's tomb.

Read over and found correct.

(Sgd.) R. J. QUIN. 13/10.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 29.

EVIDENCE of Ali Haji Ibrahim.

P.W.24, Muslim, sworn, states :—

10 I am Ali Haji Ibrahim, H.T. Ahamed Farah rer Aboker Ahamed. I am a brother of P.W.18. I knew Ibrahim Haji Abdullahi (Accused 1), Mohamed Ali (Accused 2) and Farah Abdullahi (Accused 18) before this case.

No. 28.
Sahal
Fahiyer's
Statement,
13th
October
1945,
continued.

No. 29.
Ali Haji
Ibrahim's
Statement,
13th
October
1945.

I am an interior man. Some time ago, about three months ago, I was in Gabo. P.W.18, P.W.13 (my cousin) were with me. I saw Sheikh Bashir in Gabo and also Alin Yusuf. I got on to a lorry there driven by Yusuf Abdi (P.W.15). The people already mentioned got on to the lorry. P.W.13, P.W.18, P.W.22, P.W.20, P.W.21, P.W.14, Accused 18, Accused 2 (Accused 1 got on outside Gabo), and good many others got on the lorry. The lorry went to a karia. At the karia most people got off. Some sat near the lorry, some went to the balleh, some went to the karia. I don't know how many went to the karia nor who went there. We stayed some time at the karia. Then people came from the karia carrying three parcels. I am sure none of the accused brought the parcels. One was a square parcel about a foot square. One was in a sack about a yard long and about a foot thick, the third was a blanket, I don't know if there was anything in it. The parcels were put on the truck. The truck moved away. Some people stayed at the balleh. Of the people already specifically mentioned Accused 1 was not seen by me on the lorry. I saw Accused 2 near the lorry but cannot say if he got on it. I did not previously say he was on the lorry. I now say that the last time I came before this Court I was afraid because I had been beaten by the police. Major Halse had beaten me. Superintendent of Police Burao gave an order to lock me up. I was locked up in the Quarter Guard. I was not beaten there. It was before I was in the Quarter Guard, one day before, that I was beaten by Major Halse. I was in Quarter Guard for four days. On the first afternoon I was brought to the office. He, Capt. James, questioned me. I was beaten by him with a piece of box. He hit me once. An interpreter called Hussein was in the office at the time. I was afraid and I told him a lot of things. I don't know what I said. I said Alin Yusuf carried one of the parcels. I was locked up again. P.W.11 took me back to the prison. After four days I was taken to the fort. There was an identification parade. I was told to pick out people I had seen on the lorry. I picked out Accused 1. I had seen him on the lorry. I did not say where I had seen him on the lorry. I was not then frightened. I did not pick out anyone else that day. I was allowed to go free.

20

30

40

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 29.
Ali Haji
Ibrahim's
Statement,
13th
October
1945,
continued.

I went to other parades. I was not hit or frightened on other parades. I gave evidence at the Preliminary Inquiry. I was not then hit or frightened. Everything I told the Major then was true except that my identification of Accused 13 and 14 was incorrect because I was frightened at the identification parades. I did not tell the Major that I had been frightened. (At this point the witness's evidence was read back to him from the words "Accused was not seen by me on the lorry" to the point now reached.) After the words "I was allowed to go free" he said that he wished to make an addition to his statement. This was duly recorded below.)

10

Some days later I was called again. I went to another parade. I was given the same instructions. I did not pick out anyone. I was locked up by myself in the fort for some hours. The Captain said that he would hold another parade and I would be locked up if I did not pick out anyone in the first group. Another parade was held. I did not pick out anyone in the first group. Another group was paraded. I picked out Accused 12. I had never seen him before. I was allowed to go. The next morning there was another parade. I picked out Accused 2 and 18. I knew them before the case. They really had been on the lorry, both got on at Gabo and travelled to Sheikh Bashir's karia. Accused 18 was on the lorry all the afternoon. Accused 2 came back to the lorry at the karia but I don't know whether he got on again or not.

20

Some days before I had picked out Accused 13 and 14, this was on the day after the Captain had threatened to lock me up.

At this stage it was decided not to pursue this witness's evidence. He was tendered for cross-examination. Defending Counsel stated that he did not wish to cross-examine.

Judge stated that he would arrange for an independent investigation into the witness's allegations.

1230 hrs. The Court adjourns until 0800 hrs. on the 15th October, 1945.

(Sgd.) R. J. QUIN. 13/10.

0800 hrs. 15th October, 1945. Court re-assembles. Accused before the Court. Defending Counsel and Assessors present.

(Sgd.) R. J. QUIN. 15/10.

No. 30.
Isman
Adan's
Statement,
15th
October
1945.

No. 30.

EVIDENCE of Isman Adan.

P.W.25, Muslim, sworn, states:—

I am Isman Adan, H.T. rer Dehir rer Yusuf rer Hassan Yusuf. I am interior man. Before this case I knew Accused 1 (Ibrahim Haji Abdullahi), Accused 18 (Farah Abdullahi), Accused 17 (Deir Deria). I remember being at Kerit (I don't remember the day) with Haji Sulub Ismail and Mardi Farah. There was also a woman there. She is the woman who gave evidence in this case (P.W.19). A truck came in from the direction of Gabo. The driver was Yusuf Abdi (P.W.15). Sitting in front were P.W.18, Sheikh Bashir and P.W.13. Haji Sulub Ismail, the woman and

40

myself got on the lorry. Mardi Farah did not get on the lorry (at the back). There were more than 20 people in the back. The lorry was so full that I did not notice any parcels. Accused 1, Accused 17, Accused 18 were on the back of the lorry. So was Alin Yusuf, P.W.24, P.W.23, P.W.20, P.W.21, P.W.14 and P.W.22. The truck went to Ber. All the people got off. Some went to pray, some to the coffee-shops. The lorry stayed there about one hour. At about 7 the lorry started off again. It was not so crowded. It was dark when the lorry started. I did not notice whether any of the accused I have named were on the lorry. It was too dark.

10 The lorry stopped again on the Ber side of Sheikh Ismail's tomb. I think it was then about 1930 hrs. Seven or eight people got off. Sheikh Bashir and Alin Yusuf got off. It was too dark to see their faces but I recognised their voices from the road. I did not recognize anyone else's voice who got off there. The truck came to Burao Police Station. I got off there and so did Sahal Fahiyer (P.W.23) and Haji Sulub Ismail. We walked away from the lorry and I did not notice anyone else getting off.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 30.

Ismail
Adan's
Statement,
15th
October
1945,
continued.

I saw Accused 1 and Accused 17 at Kerit but I did not see them on the lorry. I know Accused 18 came as far as Ber.

I went to a number of identification parades. Each time I was given
20 the same instructions, they were to touch anyone who had been with me on the lorry from Kerit. I touched Accused 1, 17 and 18. I think, but cannot now be sure, that I told the Police that I only saw Accused 1 and 17 at Kerit.

I know Accused 18 is a troublesome man. He was called Farah Awal (i.e. Mad Farah) but I never noticed anything wrong with him.

Cross-examined: I said Accused 18 was well known. He was well known because he was supposed to be mad. He had taken a rifle and then returned it himself.

*Cross-
examina-
tion.*

I once had a fight with Accused 1. We promised to hit each other.
30 I had no quarrel with Accused 17.

Read over and found correct.

(Sgd.) R. J. QUIN. 15/10.

No. 31.

EVIDENCE of Haji Sulub.

P.W.26, Muslim, sworn, states:—

I am Haji Sulub, H.T. rer Dahir rer Ahamed Yusuf. I am a seaman, a petty officer in the Royal Navy. I did not know any of the accused before this case. I know P.W.25. On 2nd July, 1945, I was in Kerit with him and a woman (P.W.19). We all got on a lorry. Sheikh Bashir,
40 P.W.23, P.W.18, P.W.13, P.W.22, P.W.24, P.W.20, P.W.21 and Accused 10 were on the lorry. So was Alin Yusuf.

No. 31.
Haji
Sulub's
Statement,
15th
October
1945.

The lorry went to Ber. People got off. Some went to pray, some went to coffee-shops. The lorry stayed about half an hour. At about 1900 hrs. we came back to the lorry. It was dark. When the lorry started I think there was more room than when we arrived at Ber. I could not say whether Accused 10 was on the lorry or not. It was too dark.

*In the
Somaliland
Protectorate
Court,
Burao.*

The lorry stopped next at the Ber side of Sheikh Ismail's tomb. Some people including Sheikh Bashir and Alin Yusuf got off there so did P.W.21. Altogether about 10 or more people got off there. A long parcel was taken off about a yard long I did not notice the thickness. I only noticed the one parcel being taken off. I think it was then about 1945 or 2000 hrs.

*Prosecu-
tion's
Evidence.*

The lorry came to Burao Police Station. I got off there. The people in the front seat and the woman stayed on. The rest of the people got off.

No. 31.
Haji
Sulub's
Statement,
15th
October
1945,
continued.
Cross-
examina-
tion.

I attended a number of identification parades. I was told to touch on the shoulder any man I had seen on the lorry on 2nd July. I identified 10 two men (one since discharged); Accused 10 was identified by me.

Cross-examined: I cannot say that Accused 10 was on the truck when it left Ber or not.

Read over and found correct.

(Sgd.) R. J. QUIN. 15/10.

No. 32.
Mahdi
Farah
Dolba-
hanta's
Statement,
15th
October
1945.

No. 32.

EVIDENCE of Mahdi Farah Dolbahanta.

P.W.27, Muslim, sworn, states:—

I am Mahdi Farah Dolbahanta rer Adan Hagr. I am a Government servant in charge of grazing wardens at Kerit. 20

Before this case I knew Accused 1, 2 and 13. About three months and 16 days ago I was in Kerit. A truck came in from direction of Gabo at about 1700 hrs. I did not notice anyone get on the truck. I saw one man who had been on the lorry at Kerit in Kerit after the truck left. The man was Accused 2. I did not know his name. I saw Nos. 11 and 13 accused on the truck in Kerit. I did not see them get off. I knew Sheikh Bashir and Alin Yusuf. They were on the truck. I saw P.W.25 at Kerit but I don't know if he got on the lorry there. I do not know anyone else who was on the truck.

I went to a number of identification parades. I was told to touch anyone I had seen on the lorry at Kerit. I identified Accused 2, 13 and 11.

Cross-
examina-
tion.

Cross-examined by Defending Counsel: I saw Accused 2 in Kerit after the truck had left. I don't know where Accused 11 and 13 went to. Accused 2 was once fined Rs.75/- by a L/Cpl. in charge of grazing.

I have never had trouble with Accused 11 or 13.

Read over and found correct.

(Sgd.) R. J. QUIN. 15/10.

No. 33.

EVIDENCE of Gedeh Farah.

*In the
Somaliland
Protectorate
Court,
Burao.*

P.W.28, Muslim, sworn, states :—

I am Gedeh Farah, H.T. Ahamed Farah rer Aboker Ahamed. I am an interior man. Before this case I knew Accused 6, 11, 14 and 18.

*Prosecu-
tion's
Evidence.*

I heard news of shooting in Burao on the third day after the shooting. Two days before this news had reached me, five men came to the next karia to mine. When they came near me three walked away and two came to me.

No. 33.
Gedah
Farah's
Statement,
15th
October
1945.

10 My karia was then at Dub'ad. If a man walks from Burao to Dub'ad and walks on in the same direction he would come to Dur'Dab. Woridad and Surar are nearby.

Of the men, the two who came to me were Accused 18 and Alin Yusuf, of three who did not come to me, I did not recognise any one.

Alin Yusuf was carrying a rifle which looked like Exhibit 37. Accused 18 was carrying a rifle which looked like Exhibit 43.

I spoke to these men. I asked them where they were going. They said they were going to Waridad and that they were illaloes.

20 The sun had just risen (about 0630). A man who left Burao at midnight and walked to Dub'Ad could be there by sunrise. He would have to be a strong man walking quickly.

Of the three men I saw from a distance two had swords and one had a rifle. I think it was a short Italian rifle.

When Alin Yusuf and Accused 18 left they went in the direction of Waridad. I know Gumbur Mared. It is near Ber. Before this case I knew Abdi Adan, H.T. Ahamed Farah rer Aboker Ahamed.

I went to many identification parades. I was told to pick out any man of the five I had seen near my karia on that morning. I picked Accused 18.

30 I remember seeing Accused 18 when he was in the Camel Corps. One morning I saw him take his rifle and bandolier and ran away with it. I thought he was mad. I also know that nearly three years ago he snatched a rifle from an illalo. He kept it for two whole days and then brought it back. The D.C. said "So long as we have got the rifle back let him go." The D.C. was Major Chambers.

40 *Cross-examined by Defending Counsel*: Accused 18 is called Karib and Burrarah Wal. Burrarah is Accused 18, Somali name "Wal" means mad. He once had more than 100 camels. He did not take care of them. There were few left. His relatives sold them because they thought he would lose them. There is a Somali custom to take property of a man who is wrong in the head.

*Cross-
examina-
tion.*

Read over and found correct.

(Sgd.) R. J. QUIN. 15/10.

In the
Somaliland
Protectorate
Court,
Burao.

No. 34.

EVIDENCE of Warsama Weis.

P.W.29, Muslim, sworn, states :—

I am Warsama Weis, H.T. Ahamed Farah rer Aboker Ahamed.

Prosecu-
tion's
Evidence.

No. 34.
Warsama
Weis'
Statement,
15th
October
1945.

Before this case I knew Accused 2, 4, 11, 14 and 18. I remember a day about three months ago. My karia was at Dub'Ad. I was sleeping outside my camel zariba. Five men came to the zariba before the sun came up. Two came to me, the other three stood behind a tree about 200 yards (estimated by Court from witness's description). One of the men who came up was Alin Yusuf, and the other was Farah Wal (Accused 18). They asked me for some milk. I got up and milked camels to give them milk. When I had given them milk they took it to the other men and they all drank it. Alin Yusuf and Accused 18 each had a rifle. I did not look carefully at the rifles and cannot say what they were like. I saw one of the other three men had a short rifle. 10

Alin Yusuf and Accused 18 came back with the pot which had had the milk in it. I asked for news. Alin Yusuf told me that his only news was that there had been a fight in Burao between Christians and Mohammadens. They said that they had heard this from people who had come from Burao. They told me that two Somalis had been killed and that there had been firing at D.C.'s bungalow. I did not previously say that these people said they thought the D.C. had been killed. I don't remember that they said they were Government servants. They said they were going to Waridad. They did not say where they had come from. 20

Accused 18 would not wait for the milk. I thought he was not right in his mind. I remember he used to live near my karia during the Italian occupation. He used to beat the women and children. I remember that he killed one of his female camels which was in milk without reason. His wife cut the camel's throat to make the meat halal. He was alright after that. 30

I remember some identification parades. I was told to pick out any of the five men who had come to my karia for milk. I picked Accused 18.

Cross-
examina-
tion.

Cross-examined by Defending Counsel: Burraleb Karrib is what I call Accused 18. I don't think Bashir was one of the people at my karia that morning.

Read over and found correct.

(Sgd.) R. J. QUIN. 15/10.

No. 35.
Abdi
Adan's
Statement,
15th
October
1945.

No. 35.

EVIDENCE of Abdi Adan.

P.W.30, Muslim, sworn, states :—

I am Abdi Adan, H.T. Ahamed Farah rer Aboker Ahamed.

Before this case I knew Accused 14 and 18. I was living near Yerowen at the time of the trouble in Burao. I was walking to Ber early one morning. I met four men at about 8 o'clock. 40

I know Accused 18 was one of them. Another looked like Alin Yusuf. Accused 18 greeted me and went on. I know Accused 18 had a rifle. The man who looked like Alin Yusuf had one and I think one of the other men had one. I don't know who the other two men were. I walked on to Ber. In the afternoon I heard the news of the Burao trouble. I reported that I had seen four men with rifles that morning. I attended some identification parades in Burao. I was told to pick out the men I had seen one morning. I picked out Accused 18.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

10 *Cross-examination* : I was present when Accused 18 was arrested for taking a rifle. He is called Farah Wal. His stock has been taken by his relatives because he is mad and cannot look after them. This is a Somali custom.

No. 35.
Abdi
Adan's
Statement,
15th
October
1945,
continued.
Cross-
examina-
tion.

Read over and found correct.

(Sgd.) R. J. QUIN. 15/10.

1615 hrs. The Court adjourns until 0800 hrs. 16th October, 1945.

(Sgd.) R. J. QUIN. 15/10.

0800 hrs. 16th October, 1945. Court re-assembles. Accused before the Court. Defending Counsel and Assessors present.

(Sgd.) R. J. QUIN. 16/10.

20

No. 36.

EVIDENCE of Hassan Sofeh.

P.W.31, Muslim, sworn, states :—

I am Hassan Sofeh, H.A. rer Ahamed. I am an interpreter employed in Burao District Police Headquarters. I did not know any of the accused before this case.

On 14th July I acted as interpreter for P.W.16 at a series of identification parades.

I interpreted faithfully from English into Somali.

No cross-examination.

No. 36.
Hassan
Sofeh's
Statement,
16th
October
1945.

30

Read over and found correct.

(Sgd.) R. J. QUIN. 16/10.

No. 37.

EVIDENCE of Sahal Mohamood.

P.W.32, Muslim, sworn, states :—

I am Sahal Mohamood, H.T. Musa Aboker rer Yunis. I did not know any of the accused before this case.

I knew Sheikh Bashir when he was alive. I did not know Alin Yusuf. I remember Sheikh Bashir and a party of ten men coming to my karia. This was about three months ago. I cannot fix the day more exactly.

40 Six of the men had rifles. Sheikh Bashir had a rifle. I don't know what kind of a rifle it was.

I do not recognize any of the accused as being a part of the party.

The party came at about 1730 hrs. Sheikh Bashir asked if there was a karia at which he could spend the night. I gave the party a mat and

No. 37.
Sahal
Moha-
mood's
Statement,
16th
October
1945.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 37.

Sahal
Mohamood's
Statement,
16th
October
1945,
continued.

killed two of my sheep to give them meat. This was in accordance with the Somali custom of providing food for the travellers, without payment. The party stayed all night and left early in the morning. The party went off in an easterly direction towards Ainabo. Later in the day I met an Akil called Haji Mohamood Ahamed. There were two police with him. I made a report to him of the night's happenings.

The next day I went to Sheikh Bashir's karia. It was at Habal Kayer. Outside the karia I met Accused 2. This was the morning of the day of the fight at Sheikh Bashir's karia with the police. I was with the lorry while the fight was on. After the fight I saw the police carry Accused 2 10 on to the lorry. I thought he was dead. He was not wounded when I had seen him in the morning. Neither in the morning before the fight nor after the fight did I see him with a rifle.

Habal Kayer and Horoferengi are the same place.

I remember going to some identification parades. P.W.16 was on them. I was told to pick out any man I had seen before. I picked out Accused 2. I told the police I had seen him on the morning of the fight, and also after it.

Cross-examined : I saw Accused 2 outside Sheikh Bashir's karia in the morning. He asked me where the karia was. He did not know. 20

Read over and found correct.

(Sgd.) R. J. QUIN. 16/10.

No. 38.
Hussein
Jama's
Statement,
16th
October
1945.

No. 38.

EVIDENCE of Hussein Jama.

P.W.33, Muslim, sworn, states :—

I am Hussein Jama, H.Y. Musa Arreh Hassan Musa. I am an interpreter at Burao District Police Headquarters. I remember acting as interpreter for P.W.16 on a number of identification parades at Burao Fort and on one parade at Burao Prison. I faithfully translated into Somali all instructions given to me. 30

In the presence of each accused separately I asked P.W.21, P.W.22, P.W.14, P.W.15, P.W.23, P.W.20, P.W.18, P.W.24 to identify any person who had travelled on a truck from Gabo to Sheikh Ismail's tomb.

I asked P.W.25 and P.W.26 to identify people who had travelled from Kerit on the same truck. I asked P.W.27 to identify any person he had seen on the truck at Kerit. I asked P.W.28 to identify the five persons he had seen at his karia at Dub'Ad. I asked P.W.29 to identify the people to whom he had given milk. I asked P.W.30 to identify the men he had seen walking from Gumburta to Ber. I asked P.W.32 to identify the ten men who had been at his karia. I instructed each witness 40 that they were to identify suspects by touching them on the shoulder.

On the various parades I instructed the suspects to stand wherever they wished except in the case of Accused 2 when all the parade was seated.

I interpreted for P.W.16 (with exception of one witness P.W.22) throughout the investigation and also except on one day for Major Halse.

No Cross-examination.

Read over and found correct.

(Sgd.) R. J. QUIN. 16/10.

No. 39.

EVIDENCE of Sergeant Dualeh Abdillahi.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 39.
Sergeant
Dualeh
Abdillahi's
Statement,
16th
October
1945.

P.W.34, Muslim, sworn, states :—

I am Dualeh Abdillahi, H.T. Ahamed Farah rer Mohamed Ahamed rer Rageh Mohamed. I am now a Sergeant in Burao District illaloes. At the time of the occurrences I speak of I was a corporal. Before this case I knew Accused 1, 2, 17 and 18. Accused 17 had once been an illalo. I have known Accused 18 for about three years. I have not seen him do anything abnormal but have received many complaints from his section. On 7th July I was at Gabo with P.W.1 and Lt. Davies of the Somaliland Police. Inspector Musa Awaleh was there. There was a party of police and illaloes with us. We went from Gabo to Horoferengi by truck. When we got off we went to a karia. I saw two men running away from the karia. We ran after these two men for some distance. Then we saw another party of men of about ten men. They all hid in a tug. They then opened fire from about 200 yards away. We lay down. There was another volley. We took cover and replied to the fire individually. There were about seven or eight rifles being fired at us.

One of our illaloes was wounded. His name is Hussein Mirreh. We were excited and determined to get at the people who had fired. We crept forward firing as we went. The other people stopped firing. We then rushed to where we thought the shots had come from. We found three men there. Sheikh Bashir was one. He was finished. Alin Yusuf was the second, he also was dead. Accused 2 was the third, he was unconscious. Accused 2 was lying about six yards (estimated from witness's description) from the others.

When we got to Sheikh Bashir P.W.1 took his revolver. I took his rifle, bandolier and ableh.

30	I recognise Exhibit 30 as the revolver I recognise Exhibit 32 as the bandolier I recognise Exhibit 31 as the rifle I recognise Exhibit 33 as the ableh	}	I handed these things to P.W.16.
----	---	---	-------------------------------------

The body was then put on the truck, together with Alin Yusuf's body. I saw Accused 2 while he was on the ground. I did not see any arms or ammunition near him.

On 10th August, 1945, I went as a result of instructions with 15 civilians and ten illaloes to Gorialeh. I divided the party. Warsama Billeh and six civilians and four illaloes were in one party. They came back to me with Accused 18. They brought back a bag of ammunition. Exhibit 42 is the bag, and a rifle, Exhibit 43 is the rifle. I handed these to P.W.16.

Cross-examined by Defending Counsel : Accused 18 made no trouble on arrest. Six or seven rifles were fired. They were in thick bushes. I did not see Sheikh Bashir hit. I did not say previously that I had seen him hit. We picked up 24 empty rounds near Bashir. Accused 2 was behind Bashir. There was no sign of a rifle or rounds.

*Cross-
examina-
tion.*

*In the
Somaliland
Protectorate
Court,
Burao.*

I have been 9 years an illalo. I know that some Somali dislike Government servants but I know of no general dislike of illaloes.

I was once in charge at Ber illalo post. I knew Accused 18 I was ordered to send him to D.C. He took the rifle from the illalo who escorted him.

*Prosecu-
tion's
Evidence.*

His relatives made many complaints.

Read over and found correct.

(Sgd.) R. J. QUIN. 16/10.

No. 39.
Sergeant
Dualeh
Abdillahi's
Statement,
16th
October
1945,
continued.

No. 40.

EVIDENCE of Lieutenant John Rowden Davies.

10

P.W.35, Christian, sworn, states :—

I am Lieutenant John Rowden Davies of Somaliland Police. On 7th July, 1945, I was in charge of a party of illaloes, police, and civilians. I went from Gabo to Horoferengi, left truck and there got off. I had information that a man I knew of as Sheikh Bashir was at Horoferengi. I wanted to arrest him because I had instructions that he was concerned in disturbances in Burao in which people had been killed. There was a karia about 400 yards. The party was advancing to it. Somebody ran away into the hills to the north. The party gave chase. We ran about two miles. Rifle fire was encountered from the bushes in front. Circumstances were such that there was nothing else to do but fire back. After a short interval firing in front ceased and police party advanced. Members of the party pointed out two men who appeared to be dead. I did not at the time know who the two men were. Fifty yards further north there was a third man who appeared to be wounded but alive. I now know him to be Accused 2. The two dead men's bodies and Accused 2 were put on the truck. 20

No cross-examinations.

Read over and found correct.

(Sgd.) R. J. QUIN. 16/10. 30

No. 41.
Warsama
Billeh's
Statement,
16th
October
1945.

No. 41.

EVIDENCE of Warsama Billeh.

P.W.36, Muslim, sworn, states :—

I am Warsama Billeh, H.T. Ahamed Farah rer Aboker Ahamed. I am jowabdar of rer Aboker Ahamed. Before this case I knew Accused 2, 6. (my brother), 11, 14, and 18.

Some time ago I received instructions from P.W.35. It was about three months ago. I brought in Accused 6, 11, 14. Accused 2 was in hospital. I went out with P.W.34, we went to Gorialeh. P.W.34 gave me some instructions. I had information that Accused 18 was in the bushes. I found him. He was lying down asleep. He had a rifle beside him, Exhibit 43 is the very rifle. He also had a bag of ammunition, Exhibit 42 is the bag. I handed him over to P.W.34. He did not make any trouble. 40

I have known Accused 18 all my life. We are about the same age. Some times he seems mad. He has given a lot of trouble because of this. Once thirteen or fourteen years ago our karias were together. Accused 18 had a fit. In the night after he got up from his fit, he went out and stabbed five of his milking camels with a big spear. Three were killed and two recovered. This was done without reason. He wanted to kill all his camels. Next morning we tied up his arms and took him far away to the sheep karias.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

10 I remember being in the Camel Corps with Accused 18, about eight or nine years ago. He took his rifle and bandolier and ran away from the camp. Some askaris ran after him but the Captain said not to follow him as he might shoot. The next day he came back on his own accord with the rifle and bandolier. He was discharged from the Camel Corps as not being right in the head.

No. 41.
Warsama
Billeh's
Statement,
16th
October
1945,
continued.

About a year ago I was in Burao Prison because a man I had gone security for had run away. Accused 18 was brought in. He fought with the prisoners in the cell and was put in a separate cell.

20 I knew Sheikh Bashir. Accused 18 used to be with him some seven years ago. The Sheikh then was collecting a party of young men. The Akils were sent out to disband the party and arrest Bashir. Bashir was let go free by Govt. The party was a religious party but used to be armed.

Accused 18 is married. He has two children living, one is 2 years and one 5 years. They are alright in the head.

Accused 18 has a few sheep left. The subsection divided his stock and gave his younger brother his share. Accused 18 killed or gave away all his stock. He has none left.

His brother is quite sane but his sister was mad. She is dead.

30 *Cross-examination* : Accused 18 was tied up after killing the camels. A mullah read the Koran to him. The camels were cut open. This is not a usual way to kill camels. Accused 18's wife has made many complaints. She wants a divorce because she is afraid of her life and for the lives of her children.

*Cross-
examina-
tion.*

Ahamed Arden is known to me. He once quarrelled with Accused 6. It was over a camel fight. My brother hit him. Ahamed's people asked for "hal." Faduma Belleh is my sister. She lives in Burao.

Read over and found correct.

(Sgd.) R. J. QUIN. 16/10.

1230 hrs. 16th October, 1945. The Court adjourns until 0800 hrs. 17th October, 1945.

40 0800 hrs. 17th October, 1945. The Court re-assembles. Accused before the Court. Defending Counsel and Assessors present.

(Sgd.) R. J. QUIN. 17/10.

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 42.

EVIDENCE of Inspector Musa Awaleh.

P.W.37, Muslim, sworn, states :—

*Prosecu-
tion's
Evidence.*

I am Musa Awaleh, H.A. Adan Esa, Danwadaga, an Inspector in Somaliland Police at Burao. Before this case I knew the following accused by sight. Accused 1, 4, 6, 7, 13, 14, 18 and 10.

No. 42.
Inspector
Musa
Awaleh's
Statement,
17th
October
1945,

I have known Accused 18 for a long time. I knew him in the Camel Corps. He was not considered right in the head. He was always in trouble. He was called Farah "Karib." That is a man who is of weak intellect. I know he came before D.C. Burao for running away with an illalo's rifle. 10
The D.C. sent him to the doctor who said he was of weak intellect and he was discharged.

I was at Gabo on 7th July, 1945, with P.W.35, some police and illaloes. We received certain information and went with 29 police and 13 illaloes to Horoferengi by motor. When we got off the truck we went towards a karia. Behind this karia were the Bur Dab hills. When we were about three hundred yards from the karia I saw two men run out of the karia. They ran to a tug coming down from the hills. We gave chase. We followed for about a mile and a half. I was some way behind as I am a heavy man. I heard the sound of firing. A volley of about ten shots 20
was fired at the advancing party. It appeared to me that the firers were spread out. Two volleys were fired then our party replied. By this time I had arrived up with the party. The police party advanced to the place the firing had come from. We found the body of Sheikh Bashir and fifty yards away Alin Yusuf also dead. We also found a wounded man about fifty yards to the right and behind these two. The wounded man was Accused 2.

We found 24 empty rounds, a revolver bandolier Exhibit 32 is the bandolier, a rifle Exhibit 31 is the rifle, a revolver Exhibit 30 is the revolver, and an ableh Exhibit 33 is the ableh, near to Bashir's body. 30

Near Alin Yusuf's body we found a rifle. Exhibit 37 is that rifle, and four empty rounds. There was nothing near Accused 2, and he had no arms or ammunition with him.

I knew Alin Yusuf and Sheikh Bashir before this. We had instructions to arrest Sheikh Bashir and Alin Yusuf, that was why we had gone to the karia. Of the two men who ran from the karia I thought at the time one was Sheikh Bashir, but the dead body was not dressed in the same sort of clothes as the man who had run away. I did not recognise the other man who had run away. The dead bodies of Sheikh Bashir and Alin Yusuf were put on the truck. Accused 2 was also put on the truck. 40

While the party was advancing I saw two men run away from near the place where Sheikh Bashir was found. It was bushy country and not possible to follow them. One was dressed in a red striped lungi of the type known as "Sheikh Isman." The other had two half tobés of a pink colour. They were crouched down running. One had his hair cut close not in Somali fashion. Neither of them was Accused 2.

On the ground near Sheikh Bashir I found Exhibit 36. This together with other exhibits I later handed to P.W.16. We went back to Gabo.

I made my headquarters there. On my instructions various people were brought to me.

Accused 14 was brought in by the elders of his tribe. He said he had a gun. He did not describe it. He went aside with his Akil and his brother. His brother Ahamed Elmi went away and brought in a Sten and a bag of ammunition. Exhibit 41 is the gun and Exhibit 39 is the bag of ammunition.

*In the
Somaliland
Protectorate
Court,
Burao.

Prosecu-
tion's
Evidence.*

Accused 8 was brought in by his Akils. He had two bullet wounds. Accused 10 was also brought in. So was Accused 11. Accused 12 and 10 Accused 13 were also brought in. I arrested each of these men. I handed the Sten gun and bag of ammunition (Exhibits 41 and 39) to P.W.16.

*No. 42.
Inspector
Musa
Awaleh's
Statement,
17th
October
1945,
continued.*

Major Chambers, D.C., Burao handed me Exhibit 30. I am not sure of the date.

Sheikh Bashir was a well respected mullah. In 1937 or 1938, he collected an armed party, he used to feed them on camel meat. Trouble was anticipated but Bashir was arrested before trouble occurred. At the beginning of this year after a disarmament drive, the Akils of Habr Toljaala reported that there were no further rifles in possession of their tribe. None of accused was given permission to carry a rifle.

20 *Cross-examined by Defending Counsel:* Bashir could get a following. It would be an ordinary thing for him to get people to build a tomb. He had a strong influence. He did not engage in business but was generous and gave away food. It is possible that a man could be at Bashir's karia to exchange sheep or camels.

*Cross-
examina-
tion.*

Bashir's party were in a position to see our approach.

Any man who was at the karia must have been Bashir's party others would come to us. We would not have shot them. All Somali know how to surrender. While the firing was going on I did not see anyone run away. It would be possible for an accused to be able to crawl away. I 30 did not see Accused 8 on day of shooting at Bashir's karia.

I visited Bashir's karia after the firing. There was some newly killed meat there.

I regard Accused 18 as a trouble maker not mad but funny.

Accused 14 was quite open. He told his brother where the gun was. I did not ask him where he got it.

Assessor 2: Some of the men said when arrested that they were of Bashir's party.

Assessor 3: The Government did not to my knowledge assist Bashir with rations.

40 *Note by Court:* This witness impressed the Court greatly by the manner in which he gave his evidence. He seemed honest and determined to give his evidence fairly.

*Note by
Court.*

Read over and found correct.

(Sgd.) R. J. QUIN. 17/10.

In the
Somaliland
Protectorate
Court,
Burao.

No. 43.

EVIDENCE of Hussein Mirreh.

P.W.38, Muslim, sworn, states :—

I am Hussein Mirreh, H.T. Ahamed Farah rer Mohamed Ahamed. I am a Burao District illalo. I did not know any of the accused before this case.

I was in a party of police and illaloes under P.W.35, who went to Horoferengi on 7th July, 1945. I was advancing with the police and illaloes when we were fired on. We returned the fire. We advanced and laid down again. After this I was hit by a bullet in the right forearm. I don't know who shot me. I think about six rifles were being fired at us. I am sure that I was hit by a bullet from one of these rifles and not one fired by police or illaloes. I did not recognise any of the people in the other party. I knew Sheikh Bashir. I saw his dead body brought to the lorry after firing.

No cross-examination.

Read over and found correct.

(Sgd.) R. J. QUIN. 17/10.

No. 43.
Hussein
Mirreh,
17th
October
1945.

10

No. 44.
Isman
Mohamed's
Statement,
17th
October
1945.

No. 44.

EVIDENCE of Isman Mohamed.

P.W.39, Muslim, sworn, states :—

I am Isman Mohamed, H.Y. rer Abdi Hersi. I am a Burao District illalo. I only knew Accused 1 before this case.

In consequence of instructions given me I went to Tug Yer on 8th July, 1945. A man was pointed out to me. He was Accused 17. I arrested him and took him to Burao. He did not resist.

No cross-examination.

Read over and found correct.

(Sgd.) R. J. QUIN. 17/10.

No. 45.
Abdillahi
Jama's
Statement,
17th
October
1945.

No. 45.

EVIDENCE of Abdillahi Jama.

P.W.40, Muslim, sworn, states :—

I am Abdillahi Jama, H.Y. Arableh. I am a first class Akil in Burao District. Before this case I did not know any of the accused. In consequence of instructions received I went to Arigabba. On 1st August I met Accused 16. We brought him to Burao and handed him over to the police. He did not resist.

Cross.
examina-
tion.

Cross-examined by Defending Counsel : He was alright when I took him but two days later he became ill.

Read over and found correct.

(Sgd.) R. J. QUIN. 17/10.

30

40

No. 46.

EVIDENCE of Haji Yusuf Dualeh.

P.W.41, Muslim, sworn, states :—

I am Haji Yusuf Dualeh, H.T. Ebran Esa. I am an elder of the Ebran Esa. Before this case I knew Accused 8 and 18. I was given certain instructions. I went to Go'lal about four Somali months ago. I found Accused 8 there. There were no karias there. He was sleeping under a tree. He was wounded when I saw him. I knew him as a man who looked after Sheikh Bashir's camels. I took him to Gabo and handed
10 him to the police. He came quietly. I knew Sheikh Bashir, he used to carry one or two Korans. I have seen him carrying or his party carrying a number of books for him. Each would have a cover and then a big cover for the lot. The big cover was of cloth not sacking.

No cross-examination.

Assessor 3: I knew Bashir make trouble previously. His own section brought him here. I don't know what happened to him. I know that his Akils asked the Government to deal with him as they would not be responsible for him if Government let him go.

Read over and found correct.

20

(Sgd.) R. J. QUIN. 17/10.

No. 47.

EVIDENCE of Corporal Mohamood Ali.

P.W.42, Muslim, sworn, states :—

I am Mohamood Ali, H.T. Adan Madoba rer Hassan Adan. I am a corporal of Burao illaloes. Before this case I knew Accused 1, 6, 17 and 18. On 7th or 8th July, 1945, I was in Gabo. I was given certain instructions. I went to Farmarah. I saw Accused 1 there. He was grazing his camels. I arrested him and brought him into the police. He came quietly.

No Cross-examination.

30

Read over and found correct.

(Sgd.) R. J. QUIN. 17/10.

No. 48.

EVIDENCE of Nur Nahr.

P.W.43, Muslim, sworn, states :—

I am Nur Nahr, H.T. Ahamed Farah rer Aboker Ahamed. I am an elder of my tribe.

Some days after the trouble in Burao I was given certain instructions. I went to Garden Maddo near Ber Dub. I found Accused 11 in his karia with his father. I told him he was wanted by the police. He came with
40 me without trouble to P.W.37.

No Cross-examination.

Read over and found correct.

(Sgd.) R. J. QUIN. 17/10.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 46.
Haji Yusuf
Dualeh's
Statement,
17th
October
1945,

No. 47.
Corporal
Mohamood
Ali's
Statement,
17th
October
1945.

No. 48.
Nur Nahr's
Statement,
17th
October
1945,

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 49.

EVIDENCE of Ismail Dualeh.

P.W.44, Muslim, sworn, states :—

*Prosecu-
tion's
Evidence.*

I am Ismail Dualeh, H.T. rer Dahir rer Musa Yusuf. I am an illalo at Las Anod. In July I was working in Gabo. I was given instructions. I went to El Mudobe. I found Mohamed Hashi (Accused 9) there in a gurghi. I called him and arrested him. I took him to P.W.37. He came quietly. He was wounded.

No. 49.

Ismail
Dualeh's
Statement,
17th
October
1945.

No Cross-examination.

Read over and found correct.

10

(Sgd.) R. J. QUIN. 17/10.

No. 50.
Corporal
Mohamed
Jama's
Statement,
17th
October
1945.

No. 50.

EVIDENCE of Corporal Mohamed Jama.

P.W.45, Muslim, sworn, states :—

I am Mohamed Jama, H.Y. Musa Abdulleh. I am No. 420 a corporal in the Somaliland Police stationed at Burao. I did not know any of the accused before this case. I was at Gabo on the 16th July, 1945. At about 0900 hrs. Jama Hashi (Accused 4) came and surrendered himself to me. I placed him in custody. He caused no trouble.

No Cross-examination.

20

Read over and found correct.

(Sgd.) R. J. QUIN. 17/10.

No. 51.
Burrarah
Adan
Dolbahanta
Yahia's
Statement,
17th
October
1945.

No. 51.

EVIDENCE of Burrarah Adan Dolbahanta Yahia.

P.W.46, Muslim, sworn, states :—

I am Burrarah Adan Dolbahanta Yahia rer Fidd Warfa. I did not know any of the accused before this case. I knew Hassan Haji Mohamood Dolbahanta Yeria. He was in Burao Prison on 2nd July, 1945. He was my nephew.

On the 3rd July as a result of a report I went to Burao Hospital. I saw the dead body of Hassan Haji Mohamood. I identified it to a European doctor. Ahamed Farah acted as interpreter.

No Cross-examination.

Read over and found correct.

(Sgd.) R. J. QUIN. 17/10.

No. 52.

EVIDENCE of Ahamed Elmi.

P.W.47, Muslim, sworn, states :—

I am Ahamed Elmi, H.T. Ahamed Farah rer Aboker Ahamed. Accused 14 (Mohamed Elmi) is my brother. About three months ago I received certain instructions. I went to Gabo to hand over my brother and another man. On the way I met P.W.37 and handed them over to him.

10 The next morning I went to the Police Camp, and asked to speak to Accused 14. I was allowed to. After speaking to my brother I went and found a gun and a bag of ammunition. Exhibit 41 is the gun and Exhibit 39 is the bag of ammunition. I would not myself have known this was a gun.

I took these to P.W.37 and I thought that the police would let my brother go.

Cross-examined by Defending Counsel: Accused 14 said he got the gun from Sheikh Bashir.

By Court: Accused 14 told me Bashir gave him the gun between Burao and Ber.

20

Read over and found correct.

(Sgd.) R. J. QUIN. 17/10.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 52.
Ahamed
Elmi's
Statement,
17th
October
1945.

Cross-
examina-
tion.

No. 53.

EVIDENCE of Mohamed Farah.

P.W.48, Muslim, sworn, states :—

I am Mohamed Farah, H.T. Yusuf, rer Sahal. I am nicknamed "Henif" (a little man).

30 Before this case I knew Accused 13 (Saeed Mohamed). He is my son. He is also known as Saeed "Henif." I also knew Accused 10, and Accused 17. Accused 17 is Mohamed Deria but is called Deir Deria. I received certain instructions. I sent another son to bring my son Accused 13 to me. He came to me in Gabo. I was with P.W.37, when he came and gave himself up.

No Cross-examination.

Read over and found correct.

(Sgd.) R. J. QUIN. 17/10.

No. 53.
Mohamed
Farah's
Statement,
17th
October
1945.

In the
Somaliland
Protectorate
Court,
Burao.

No. 54.

EVIDENCE of Yassin Suleban.

P.W.49, Muslim, sworn, states :—

Prosecu-
tion's
Evidence.

I am Yassin Suleban, H.T. Ahamed Farah rer Aboker Ahamed. I knew Accused 18 before this case. About three months ago I received some instructions. I went with Egeh Farah of my tribe to Odweina. I found some footprints which I followed up a hill. There I found Accused 18.

No. 54.
Yassin
Suleban's
Statement,
17th
October
1945.

I spoke to him and told him to come with us. He said "Don't come near me. I don't know if I am a wild beast or a human being." 10
We knew he was not right in the head. We told him to come peacefully but he abused us and held up his rifle. We did not want to get shot so we went away.

Cross-
examina-
tion.

Cross-examined by Defending Counsel: I was told by police to get Accused 18. I was his cousin, I knew him well. I was frightened because he was half-mad. I knew him as half-mad. If he was half-mad before and now had a rifle we were afraid he might kill us.

Read over and found correct.

(Sgd.) R. J. QUIN. 17/10.

No. 55.
Ali Dubad's
Statement,
17th
October
1945.

No. 55.

EVIDENCE of Ali Dubad.

20

P.W.50, Muslim, sworn, states :—

I am Ali Dubad, H.T. Yusuf, rer Sahal. I knew Accused 10 (Adan Haji Jama) before this case. In July last I was given certain instructions. I went to Odaleh near Bulleh Wein. I found Accused 10 there. I told him to come to Gabo with me. He came without trouble. I handed him over to P.W.37.

No Cross-examination.

Read over and found correct.

(Sgd.) R. J. QUIN. 17/10. 30

1640 hrs. 17th October, 1945. Court adjourns until 0800 hrs. 18th October, 1945.

(Sgd.) R. J. QUIN. 17/10.

0800 hrs. 18th October, 1945. Court re-assembles. Accused before the Court. Defending Counsel and Assessors present.

(Sgd.) R. J. QUIN. 18/10.

No. 56.

EVIDENCE of Abdul Karim Haji Yusuf.*In the
Somaliland
Protectorate
Court,
Burao.*

P.W.51, Muslim, sworn, states :—

I am Abdul Karim, Haji Yusuf, H.T. Yusuf rer Robleh. I am a younger brother of Sheikh Bashir. Before this case I knew all the accused except Accused 1, 2, 6 and 11.

*Prosecu-
tion's
Evidence.*

I knew Alin Yusuf when he was alive but I have not seen him with Sheikh Bashir.

No. 56.

Accused 12 and Accused 16 lived in the same zariba as Sheikh Bashir.
10 They are my cousins. Sheikh Bashir used to teach them the Koran. None of the others (Accused) lived in the karia. Ali Gedi (Accused 8) was a servant and used to carry Bashir's books. I was also living as a servant in the karia.

*Abdul
Karim
Haji
Yusuf's
Statement,
18th
October
1945.*

Accused 18 came to Sheikh Bashir to get him to write an argas (amulet charm). While Bashir was writing this Accused 18 got up and hit my sister a small child without reason. Accused 18 had come to the Sheikh because he had been sick.

I used always to leave my stock with Bashir but some times used to work elsewhere. Bashir was an expert on the Koran and did not like
20 non-believers.

There was no party of men at the karia. Bashir wanted me to stay at the karia all the time but I would not as I had not enough stock to live on. Bashir was cross about this and once when we met, he would not greet me. I recognise Exhibit 36. It was a book kept by Sheikh Bashir. As far as I know it was a list of people who had given him gifts. I do not think it was a list of people who would follow him if he made trouble with the Government.

I once heard of Bashir telling people that the Government wanted to make a slave of him. I did not question him about this.

30 About ten days after I heard of the trouble in Burao, I met Adan Haji Jama (Accused 10) at Kerit. I asked him if he had a revolver. He told me that he had found one on the ground and had buried it. I went with him and he showed me the place. It was at Gogol Madona. He took it out of a hole in the sand and showed it to me. I recognise Exhibit 30 as the revolver and holster. He did not tell me when he had found it. It was rusty. I cleaned it and then brought it to P.W.10. There was no ammunition with it.

A short time after this I met Ali Haji Aboker (Accused 12). I told him the Government wanted him. He said he would come with me. I
40 brought him to P.W.37. I asked him if he had been in the fight at Burao. He said he had not.

After this I went to Arigabba. There I met Ibrahim Haji Aboker (Accused 16) the brother of Accused 12. I asked him what he was doing there. He said when the Government opened fire at us I was afraid and ran away. He said he had been fired at below the Ber Dab hills. He said he thought the Government wanted him but that he was ill and could not go to Burao. He said he was frightened of the armoured cars. That was why he had gone so far as Arigabba. I came with him to Burao. P.W.40 was with me and so were two police.

*In the
Somaliland
Protectorate
Court,
Burao.*

I have known Accused 18 since the re-occupation. He is called "Karib," because he upsets things and breaks things.

I was very cross when Accused 18 hit my sister. Sheikh Bashir stopped me from hitting him. I am no longer cross because I know he is not right in his head.

*Prosecu-
tion's
Evidence.*

Cross-examined by Defending Counsel: I know a woman called Assleh Ennkal, Dolbahanta, Mohamood Gera. She is a friend of mine and Bashir's. I know Accused 9. I don't know of any business he may have had with Bashir.

No. 56.
Abdul
Karim
Haji
Yusuf's
Statement,
18th
October
1945,
continued.
Cross-
examina-
tion.

Read over and found correct.

10

(Sgd.) R. J. QUIN. 18/10.

No. 57.

EVIDENCE of Ahamed Farah.

P.W.52, Muslim, sworn, states :—

I am Ahamed Farah, H.Y. Musa Ismail Godwein. I am a Somali assistant employed in Burao Hospital.

Before this case I did not know any of accused except Accused 18. I knew him a long time ago when he was in the Camel Corps. I left Burao in November 1943 but returned last June. I don't remember his being sent to the doctor because he was supposed to be mad.

I remember 3rd July. I was present when Capt. Suarez carried out a post-mortem examination. Mohamed Adan, H.Y. Musa Arreh, identified the body as that of his brother Saleban Adan. I interpreted the identification.

I was present when Capt. Suarez conducted another post-mortem on same day. The body was identified by P.W.47 as Hassan Haji Mohamood, who was a member of the same section as identifying witness. I also acted as interpreter on this occasion.

No Cross-examination.

Read over and found correct.

30

(Sgd.) R. J. QUIN. 18/10.

No. 58.
Mohamed
Adan's
Statement,
18th
October
1945.

No. 58.

EVIDENCE of Mohamed Adan.

P.W.53, Muslim, sworn, states :—

I am Mohamed Adan, H.Y. Musa Arreh Hassan Musa. I am the personal servant of P.W.16.

I remember the night of the shooting in Burao. I went to D.C.'s house (P.W.10). I saw my brother Saleban Adan there. He was wounded. I went with him to hospital. During the night my brother died. The next morning I identified the body to Capt. Suarez. P.W.52 acted as 40 interpreter.

Immediately before he died my brother was employed as an illalo by D.C., Burao.

No Cross-examination.

Read over and found correct.

(Sgd.) R. J. QUIN. 18/10.

No. 59.

EVIDENCE of Adan Haji Ahamed Naleyeh.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 59.
Adan Haji
Ahamed
Naleyeh's
Statement,
18th
October
1945.

P.W.54, Muslim, sworn, states :—

I am Adan Haji Ahamed Naleyeh, H.Y. Elli Saeed. I am employed as a clerk in the Burao District Police Headquarters. I did not know any of the accused before this case.

I spent three years studying Arabic in the Sudan. I know Arabic thoroughly both spoken and written.

10 P.W.16. Some time at the beginning of July 1945, I was given Exhibit 36 by On his instruction I prepared a translation. I now hand that translation to the Court. (Produced and handed to Court and marked Exhibit .)

This is a full translation of everything in the book Exhibit 36. It is a true and accurate translation.

No Cross-examination.

Read over and found correct.

(Sgd.) R. J. QUIN. 18/10.

1200 hrs. 18th October, 1945. The Court adjourns until 0800 hrs. on 19th October, 1945.

20 (Sgd.) R. J. QUIN. 18/10.

0800 hrs. 19th October, 1945. The Court re-assembles. Accused before the Court. Defending Counsel and Assessors present.

(Sgd.) R. J. QUIN. 19/10.

No. 60.

EVIDENCE of Adan Ahamed.

No. 60.
Adan
Ahamed's
Statement,
19th
October
1945.

P.W.55, Muslim, sworn, states :—

I am Adan Ahamed, H.T. Ahamed Farah rer Abdi Hildeed. Before this case started I knew four of the accused namely Mohamed Ali (Accused 2), Nur Billeh (Accused 6), Musa Fiddin (Accused 11), Farah Abdillahi (Accused 18).

In June my karia was at Golol Hogato. I was walking eastwards from my karia towards Gabo. I passed Sheikh Bashir's karia.

I had known Bashir for four or five years. Our people used the same grazing areas. When I came near the karia Bashir came out. I spoke with Bashir outside the karia. He told me he wanted some men to help him build his grandfather's tomb. There was a large number of people about but no one very near to us. I know what a "Shir" is. One was being held there. There were a number of karias near and the people from these used to come to Bashir's karia each day and return to their

40 own karias in the evening.

During that day I saw seven or eight of the accused. I saw there—

Ali Gedi (Accused 8)
Ibrahim Haji Aboker (Accused 16)
Ali Haji Aboker (Accused 12)
Jama Hashi (Accused 4)
Mohamed Ali (Accused 2)
Farah Abdullahi (Accused 18)

*In the
Somaliland
Protectorate
Court,
Burao.*

and also a "mullah" Mohamoud of the Gellemais tribe. I stayed at the karia that night and for four or five days more. The shir continued and people would come during the day and leave at night. All the accused came each day to the shir.

*Prosecu-
tion's
Evidence.*

During the four or five days I got to know the names and tribes of all the accused. (Accused 17 is asked to stand up.) That man I knew as Mohamed Deria. He is H.T. Yesif.

No. 60.
Adan
Ahamed's
Statement,
19th
October
1945,
continued.

I had a quarrel with Accused 2 over water last year. We fought with sticks and fists. I also had quarrels with Accused 6, Accused 11 and Accused 18 at different times. I had exchanged blows with them. 10

After four or five days I went with Bashir to Gabo, the following came with us: Accused 18, Accused 10, Accused 4, Ali Hussein and Alin Yusuf. We all stayed in Gabo. Some went to one coffee-shop, some went to another. This was not done by arrangement.

A truck came into Gabo. Sheikh Bashir told all seven people to get on the truck. The truck moved off at about assar (1600 hrs.).

The driver was Yusuf "Godban" (a nickname). I don't know him by any other name. I did not look in the front of the truck so don't know who rode there. All seven people mentioned got on the truck. P.W.23, P.W.24, P.W.18 were also on the truck. There were a lot of others whose names I don't remember. A little way from Gabo Accused 1 stopped the truck and got on to it. The truck went on to Sheikh Bashir's karia. At the karia everyone got off. 20

Sheikh Bashir said he was going to the karia to get some "katab" (religious books), some people stayed near the lorry, some went to the balleh, and some went with Bashir to the karia. I saw Alin Yusuf and some others, I don't remember who, go to the karia. I went to the balleh.

When Bashir had been in the karia for some time the driver became impatient and moved to the far side of the karia and blew his horn. Sheikh Bashir came out immediately. Two parcels were brought out of the karia. One by Bashir, one by Alin Yusuf. The one Bashir carried was a canvas haversack (about one foot across estimated from witness's description). The one Alin Yusuf carried was a long one about a yard long, and about a foot across (measurements estimated from witness's description). This was covered in sacks. Both were put on the lorry. The big one was put at the back I don't know what happened to the small one. 30

The people got back on the truck. More people got on to the lorry than had arrived from Gabo.

Myself, Sheikh Bashir, Accused 18, Accused 10, Accused 4, Ali Hussein and Alin Yusuf got on again. 40

(The witness is asked to look carefully at the accused and point out any man who he is not sure got on the lorry.) I am certain all these men got on the lorry at the karia.

The witness complained that he was not feeling well and was sent for a medical examination.

No. 61.

EVIDENCE of Captain Carlos Suarez.

*In the
Somaliland
Protectorate
Court,
Burao.*

P.W.56, Christian, sworn, states :—

I am Carlos Suarez, a Captain in R.A.M.C., a member of the Royal College of Surgeons and a Licentiate of Royal College of Physicians. At present Medical Officer, Somaliland Government, Burao.

*Prosecu-
tion's
Evidence.*

I did not know any of the accused before the case.

In the early morning of 3rd July, 1945, I was called to the residence of P.W.10. On the verandah of the house I found the body of a wounded
10 Somali. I took him to hospital. On my way to hospital I collected the dead body of a man from the Quarter Guard.

No. 61.
Captain
Carlos
Suarez's
Statement,
19th
October
1945.

I operated on the man found at P.W.10's bungalow but he died. Later in the morning the body was identified to me by Mohamed Adan, H.Y. Musa, as the body of his brother Suleban Adan, an illalo.

The body of the man at the Quarter Guard was identified to me by Burraleh Adan, Dolbahanta, as that of Hassan Haji Mohamood.

P.W.52 acted at both identifications as interpreter. I had also collected at the Quarter Guard a wounded man who gave his name as Hassan Barood.

20 I held post-mortem examinations of both the deceased. Both died either from gun-shot wounds or shock resulting from gun-shot wounds. Neither of the wounds could have been self inflicted. The wounds were rifle bullet wounds made by a bullet like a .303.

Hassan Barood was also suffering from a bullet wound.

On 8th July at about 0930 hrs. I went to Burao Quarter Guard with P.W.10, I was there shown two bodies which were identified to me by P.W.6 as the bodies of Sheikh Bashir and Alin Yusuf. P.W.10 acted as interpreter.

30 I held post-mortem on those two bodies. I came to the conclusion that each had died from rifle wounds not self inflicted. On 7th July Accused 2 was admitted to hospital. He had about 9 wounds which could either have been caused by splinters of bullet or a hand grenade. In my opinion the wounds had been inflicted a matter of hours before.

At the same time Hussein Mirreh an illalo was admitted he had a rifle wound through the right fore-arm.

On 20th July I examined Accused 8 and 9. Accused 8 had a rifle bullet wound on the right side of his body. Accused 9 had a wound in the right buttock probably caused by a splinter of a bullet.

40 On 14th August I examined Accused 18. He complained of a headache. Apart from certain superficial marks, I found nothing wrong with him.

There were wounds on the inner side of the left leg and on either side of the left knee. In my opinion they were caused by splinters from a bullet. They had in my opinion been inflicted over two or three weeks previously.

I was asked by Major Mortimer who was holding a preliminary inquiry to examine Accused 18 again as he was supposed to have had a fit. I was also asked to express an opinion as to his sanity.

*In the
Somaliland
Protectorate
Court,
Burao.*

I formed the opinion that he was quite sane. I saw nothing which could have lead even a qualified person to consider Accused 18's sanity doubtful.

*Prosecu-
tion's
Evidence.*

On 17th and 18th September I was asked by Major Mortimer to examine the accused to ascertain their approximate ages. I formed the opinion that the ages of the accused were :—

	Accused	1 Ibrahim Haji Abdillahi	was about	18.	
	"	2 Mohamed Haji Ali	" "	16 to 17.	
	"	4 Jama Hashi	" "	25.	
	"	6 Nur Billeh	" "	28.	10
	"	8 Ali Gedi	" "	28.	
	"	9 Mohamood Hashi	" "	21.	
	"	10 Adan Haji Jama	" "	20.	
	"	11 Musa Fiddin	" "	16 to 17.	
	"	12 Ali Haji Aboker	" "	16 to 17.	
	"	13 Saeed Mohamed	" "	25.	
	"	14 Mohamed Elmi	" "	26.	
	"	16 Ibrahim Haji Aboker	" "	17 to 18.	
	"	17 Deir Deria	" "	22.	
	"	18 Farah Abdullahi	" "	30.	20

I based my opinion of age on the general development, development of teeth, hair on face and sex organs.

*Cross-
examina-
tion.*

Cross-examination : Sheikh Bashir was about 45 years of age. I had examined Accused 18 four times. My opinion is that he is normal. It possible that he might have been mad at other times. Moral insanity means only the moral side of the brain is disturbed but not the intellect, i.e. would not know right from wrong. This condition could be caused by disease. I don't think it could be brought about by religious zeal. The religious frenzy is not moral insanity but a conviction that the subject is morally right. 30

People do not become deprived of sense of right and wrong through religious mania. A fancied wrong can be one of the signs of a certain form of insanity. It would have to be in combination with other signs.

Read over and found correct.

(Sgd.) R. J. QUIN. 19/10.

1600 hrs. 19th October, 1945. The Court adjourns until 0800 hrs. 20th October, 1945.

(Sgd.) R. J. QUIN. 19/10.

0800 hrs. 20th October, 1945. The Court reassembles. Accused before the Court. Defending Counsel and Assessors present. 40

(Sgd.) R. J. QUIN. 20/10.

No. 60.
Adan
Ahamed's
Statement,
(continued).
20th
October
1945.

P.W.55 (continued).

The truck came towards Burao and stopped at Kerit. I don't know if anyone got off there, as there was a crowd round the lorry. I saw two men and a woman get on. I knew one man by name, Isman Adan P.W.25.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 60.

Adan
Ahamed's
Statement,
20th
October
1945,
continued.

The truck next stopped at Dadalleh. The woman was sick. Nobody got on or off there as far as I saw. The next stop was at Ber. It was "Makarib" (after sunset), some people prayed, some went to coffee-shops, some stayed by the lorry. We stayed a little less than an hour in Ber. It was dark. The people got back on the lorry. I don't know if the same number of people got back on the lorry. I did not actually see any of the accused at Ber. We next stopped on the Ber side of Sheikh Ismail's tomb. I did not hear anyone order the lorry to stop. I heard Bashir tell people to get off. Some people stayed on the truck. I did not see parcels taken
10 off the truck but when the truck had left I saw two parcels on the ground. They were the same two parcels I had seen at Sheikh Bashir's karia.

I saw all the accused except that I am not sure that I saw Accused 6 and 16. I also saw Jama Saeed (P.W.21). Alin Yusuf and Sheikh Bashir.

The parcels were on the left of the road, facing Burao. Sheikh Bashir opened the parcels. One parcel contained rifles the other ammunition. The Sheikh said that there were eight rifles. Sheikh Bashir kept a .303 rifle for himself. Alin Yusuf was given a .303 rifle. Farah Abdullahi (Accused 18) was given a long Italian rifle. Jama Hashi (Accused 4) was given a short Italian rifle, Ibrahim Haji Abdullahi (Accused 1) was given
20 a short Italian rifle, Mohamed Deria (Accused 17) was given a short Italian rifle, Mohamed Elmi (Accused 14) was given a gun like Exhibit 41, Saeed "Hanif" (Accused 13) was given a short Italian rifle.

Sheikh Bashir asked if anyone knew how to fire the Sten gun. Alin Yusuf said that Accused 18 did. Sheikh Bashir said he would not trust him with the gun he might run away with it. The gun was then given to Accused 14. He said he was not feeling well. He was told that if he could manage to go away, he could go and take the gun with him. I did not see him get any ammunition.

I remember Accused 9 being given a revolver. I saw Sheikh Bashir
30 with ammunition. I think he gave it to someone but I did not see him do so.

Sheikh Bashir ordered the men to walk along. Except Accused 14 all the others went with him. When we had walked about 30 yards, Accused 18, 1, 4 and myself all asked, one after another, where we were going and stopped. Sheikh Bashir said "Come along we are going to fight the unbelievers." Everyone was surprised. Some people started to walk back. Sheikh Bashir went up to each man and took his hand and appeared to pray over it. He took my hand. He said some prayer which I did not know. Then he said he would pray and we would not be hurt.
40 When we had won the fight we would get a lot of money and other things. I don't know if anyone went away. I myself was in a frenzy.

We came across the aerodrome. Sheikh Bashir walked up and down talking to various people. He did not talk to me at that time. We crossed the grazing area and stopped near the isolation camp.

Myself and six others were on one side. Sheikh Bashir, Mohamoud the Gelleman's man, Accused 9, Accused 17, Accused 11, Accused 2. There were other people there but it was dark and I could not recognize anyone.

Sheikh Bashir told Accused 9 and Accused 17 to come with him and
50 told the rest of us to stay where we were. He ordered us to remain but did not give any reason.

We sat down to wait. We waited about a quarter of an hour. Then we heard the sound of four or five shots. The sound came from west.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 60.

*Adan
Ahamed's
Statement,
20th
October
1945,
continued.*

They seemed a good distance off about as far as from this Court to the Isolation Hospital. About five minutes later I heard about ten shots. The sound appeared to come from further north.

After the second lot of shots Sheikh Bashir, Accused 17, and Accused 9 came running back to us. This was about ten minutes after the shots. Sheikh Bashir told us to get up and come along with him. We all went off together. It was then about midnight. We did not sleep that night. We walked all night. We came to Yeroweh when the sun came up next morning. We stayed at Yeroweh all day. I don't remember any conversation that day. We did not have any food or milk. 10

In the afternoon we started walking again. Sheikh Bashir told us to start. He did not say where we were going. We walked all night. We were in a hurry to get back. We hurried on Bashir's orders. We arrived at Bur Dab next morning.

Sheikh Bashir and Mohamed Deria (Accused 17) had a rifle each. Accused 9 had a revolver. We stayed at Bur Dab in the hills that day, the following night, and on the day following. Accused 18, 8, 13 and 12 together with Alin Yusuf joined us.

Sheikh Bashir sent two men off to bring his karia to that place. Accused 17 and 12 were the two. This left ten people at that place. Of 20 the five men who came up Alin Yusuf, Accused 18, Accused 13 had rifles.

Except Accused 17 and 12 no one else left. The rifle which Accused 17 had been carrying was taken away and handed over to Accused 9. After the two men had left we went to a karia to get food. It was a Musa Aboker karia. We had meat and milk. The man killed some sheep, more than one to give us meat.

We stayed outside the karia all night. We went to Horoferengi. Sheikh Bashir's karia was there. It had just arrived. Ali Haji Aboker (Accused 12) was there but I did not see Accused 17. Six of the people who had come together from Burao (including the witness) and the five 30 who joined us at Ber Dab were there. There were also some young men who had come with the karia. I did not go into the karia. I don't think it had all been put up. I only remember two gurghis. There seemed to be a lot of camels.

There was no change in the distribution of the rifles. Some boys in the karia saw the police coming and told us. Accused 2 picked up Bashir's bandolier and started to run away with it. Bashir ordered him back. We were in the hills about a mile from the karia. When he heard that the police were coming Bashir told the people who had not got rifles to run away and said that the others would fight for their lives. I ran away with 40 Accused 16 and Abdullahi Haji Yusuf (Sheikh Bashir's brother).

As I was running I heard firing. I don't know which party opened fire. After the firing stopped Ali Gedi (Accused 8) came up to us. He was bleeding. He had several wounds. He said he had been hit by two rounds. He said that Bashir had been killed and he thought that everyone who had been left behind were killed also.

The fight was at about four o'clock. We, Ali Gedi (Accused 8), Accused 16, and Abdullahi Haji Yusuf walked together until we had covered about a mile, then we separated.

1230 hrs. 20th October, 1945. The Court adjourns until 0800 hrs. 50 on the 22nd October, 1945.

(Sgd.) R. J. QUIN. 20/10.

0800 hrs. 22nd October, 1945. The Court re-assembles. Accused before the Court. Defending Counsel and Assessors present.

(Sgd.) R. J. QUIN. 22/10.

*In the
Somaliland
Protectorate
Court,
Burao.*

P.W.55 (*continued*).

I remember going with P.W.16 and P.W.33. I pointed out the place we had got off the truck. Then I showed him where we sat down and the route between those two points.

*Prosecu-
tion's
Evidence.*

Accused 18 did not do anything peculiar on the truck. I was at Numeleh about three years ago with Accused 18 when he killed four camels. He killed them with an "ableh." There were two females and one calf to each. He killed the calves by cutting their stomach. This is not the proper way. The two females were killed properly by cutting their throats. I don't know if he intended to use them for meat. He went away and left his other camels at that place for other people to take care of. I don't know how long he was away. I have never seen him do anything else unusual, but he had a reputation as a mad man.

*No. 60.
Adan
Ahamed's
Statement,
22nd
October
1945,
continued.*

The witness is shown Exhibit 37 and asked if he had seen it before. He says "Alin Yusuf had it." He is shown Exhibit 13 and says "Farah Abdullahi had that." He is shown Exhibit 41. He says "I have only seen one like that before. Sheikh Bashir handed it to Mohamed Elmi." He is shown Exhibit 31. He says "Sheikh Bashir himself carried that." He is shown Exhibits 40 and 30. "I don't recognize these. Some people had revolvers but it was dark."

He is shown Exhibit 32. He says that was Bashir's, he is shown Exhibit 9, he says that was Bashir's, he wore it coming to Burao. The next morning he was not wearing it.

I saw Ali Gedi (Accused 8) on the truck as far as Ber but did not see him after that. I certainly saw him on the truck after Kerit.

I saw Accused 16 on the truck as far as Ber but don't remember seeing him later. I saw the following people with Sheikh Bashir near the tomb. Accused 1, 2, 4, 6, 9, 10, 11, 12, 13, 14, 17 and 18.

I cannot say that some people did not leave after Sheikh Bashir announced his intention of fighting the unbeliever but I did not see anybody walk away.

When Bashir gave Accused 18 the rifle Accused 18 said "I don't feel very well. My mind is not clear."

When Bashir had announced his intention of fighting the unbeliever, Accused 18 said "Why did you play this trick on us. We are not going to fight the unbeliever or anyone." Bashir told him not to talk like that and make the young men frightened. Accused 18 then said "We are not going with you." Sheikh Bashir then prayed over his hand. Then the Sheikh prayed on each man's hand. After that there were no further protests.

Once when the 12 of us were at Horoferengi before the police came, Bashir asked Alin Yusuf where his party had been. Alin Yusuf complained that they had not been told what was going to happen in Burao, and said they should have been told a long time before. He did not say what he or any one else had done in Burao. He said that at the last stop on the way to Horoferengi Accused 18 had run away and they had to chase him to get him back.

Read over and found correct.

(Sgd.) R. J. QUIN. 22/10.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 60.
Adan
Ahamed's
Statement,
22nd
October
1945,
continued.
Cross-
examina-
tion.

Cross-examined by Defending Counsel: I have not a good memory. I am a stupid man. I don't know how to read or write. I think my evidence is useless. I knew Sheikh Bashir well. He had great power. It was natural for people to obey him. I remember getting on truck at Gabo. I knew Sheikh Bashir was going to Ber.

The following seven got on at Gabo: Sheikh Bashir, Alin Yusuf, Accused 18, Ali Hussein, Ali Haji Jama (Accused 10), Jama Hashi and myself. The next person to get on was Accused 1. I don't know who stopped the truck. Sheikh Bashir said "stop the truck." I could hear what was said in the front. I was near it. I did not see Bashir's turban fall off. It might have. I do say that Bashir stopped the truck. 10

At Bashir's karia there were 8 of our party on the truck. We stayed at Bashir's karia a short time. When we left there were another five men besides the 18 original accused. Mohamoud Gellman's man was on the back. There were a lot of people on the back.

The parcel Alin Yusuf was carrying was the only parcel of its kind put on the lorry. It was thrown on. It was not too heavy for that.

I swear Accused 1 was on the lorry. I don't know what others say. At Ber it was dark. When we left I could not see anyone. Between the karia and Ber at Kerit three people got on. I could not be certain who was on the truck when it left Ber. Mohamoud, the Gellman's man, was not known to me before. I don't know where he is now. 20

I don't know who stopped the truck at the tomb. I had not stayed in the same place. I moved about at the back among the people. I was near the front of the lorry at the tomb. I did not hear anyone shout out. Bashir, when he stopped the lorry to let Accused 1 on, shouted loudly. He did not shout at the tomb.

It was darker at the tomb than Ber. I could not see anyone's face. I say that there were eight rifles because I heard the Sheikh say so. Exhibit 41 is one of them. It was given to Mohamed Elmi. Bashir asked who could fire it. Alin Yusuf said Accused 18. Bashir said he would not trust him because he might run away. Accused 14 had told Bashir he was sick. He was told to go away with it. No one could fire it. 30

Accused 9 got a revolver, Accused 11 got nothing. I heard Bashir say to Nur Balleh "Hold the revolver for me." I did not see him. I only heard his name. Bashir might have made a mistake. When they questioned the Sheikh it was dark. The party was surprised. The Sheikh prayed over each man's hand. I did not understand the prayer. It affected me strangely. I had been frightened before but afterwards it was as if something was wrong with my brain. I am not sure whether anyone left the party after the praying. I only know where seven were. I don't know what happened to the rest. The seven were Bashir, Accused 9, 17, 2, 11 and Galleman's man and myself. The Galleman's man was with our party. Then three went away, four stayed behind. The four did not take any part. We had no rifles. We were not part of the affair at all. Later we all went away together. At Horoferengi I did not go to Bashir's karia. I did not see any fresh meat, When the boy said the police had come Bashir told us who had no rifles to go. Five men with rifles and Ali Gedi stayed. I don't know what happened to him, Ali Gedi, after he went back with the bandolier. Accused 2 never had a rifle. The five with rifles were Bashir, Alin, Accused 18, Accused 13 and Accused 9. I don't know what happened to them after we left. Ali Gedi said all who stayed behind were killed. He was wrong. 40 50

I think more than two stayed behind because more were wounded. Ali Gedi was wounded. Mohamed Hashi (Accused 9) was wounded. He had a rifle. I can swear seven men stayed behind. I don't know what they did. I heard Bashir say "Fight for your lives." I don't know what they did. It would be possible for anyone nearby to be wounded when the firing went.

Accused 1 got a short Italian rifle near the tomb. The last time I saw him on the night of the shooting was when Bashir prayed over his hand.

10 There is no personal enmity against Accused 1 by me but there is enmity between our sections over the death of an illalo.

I would disagree with a statement that Accused 1 got off at Bashir's karia and did not get on again. I am not still angry with Accused 2 about the fight. If he says he got off at Kerit it is not true. Even if some else says so as well. Accused 4 got a short Italian rifle, I think. I saw Accused 4, if he says he was not there he is lying. It would surprise one to know that no witness has picked out Accused 4 as being on the truck. I am telling the truth. Accused 6 I have known about two years. He was on the truck. I only heard his name called by Bashir. I did not actually see him. It is possible that he was not there when Bashir called
20 his name.

Accused 8, I have known since the day I went to Bashir's karia. I don't know what his work was. I don't know if he got off at Ber. I did not see him with arms. Accused 9, I also met at Bashir's karia for the first time. I saw him after I got off the truck at the tomb. He was beside me. I did not see him have a weapon. He was one of the seven who came with me. He would be lying if he said he was not there. I saw him at Horoferengi. He was with Bashir. He did not say he was looking for camels. I did not see him run away.

30 Accused 10, I also met for first time at Bashir's karia. He got off the lorry at the tomb. I did not see him after the separation. He might have gone to the mosque and slept there. Accused 11, I have known for 3 or 4 years. He got off at the tomb. He was with me all the night. I did not hear him speak to Bashir. He did not sleep in the town. I saw him at Bashir's karia. I say I did not hear any conversation with Bashir except a request to help with the tomb.

40 Accused 12, I did not know before I met him at Bashir's karia. I saw him get off the truck. He might have left before the trouble started and gone to a house and slept there all night. Accused 14, I have only known since I met him at the karia. He got the Sten gun. We left him there with it. That was the last time I saw him.

Accused 16, I met for the first time at the karia. He was a bit sick. I saw him at Horoferengi. He was part of the karia. I saw him on the truck. I don't know where he got off. The last time I saw him was before the sun was down. He ran away with me at Horoferengi. Accused 17, I saw before we got on the lorry. He was on the lorry. Bashir sent him away the day before the firing at Horoferengi. I have no ill-feeling against illaloes. He had a short rifle on the night. He was with me except for the short period he left with Bashir. I don't know where his karia is. He was not at his karia that night. I have heard him called
50 Mohamed Heis, H.T. Yesif. I have heard him called Deir Deria. His first name is Mohamed. I don't know his second name. I have not made a mistake about him. I did not have any conversation with him in the prison.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Prosecu-
tion's
Evidence.*

No. 60.

Adan
Ahamed's
Statement,
22nd
October
1945,
Cross-
examina-
tion,
continued.

*In the
Somaliland
Protectorate
Court,
Burao.*

Accused 18 has been known to me 4 or 5 years. He questioned Bashir on the night of the shooting. I saw him at Horoferengi. When the police arrived he was left behind. I did not see him using a rifle. I can't say who actually fired on the police at Horoferengi. I have heard him talking to Bashir about a charm for his madness.

*Prosecu-
tion's
Evidence.*

1630 hrs. 22nd October, 1945. The Court adjourns until 0800 hrs. on the 23rd October, 1945.

(Sgd.) R. J. QUIN. 22/10.

No. 60.
Adan
Ahamed's
Statement,
22nd
October
1945,
Cross-
examina-
tion,
continued.

0800 hrs. 23rd October, 1945. The Court re-assembles. Accused before the Court. Defending Counsel and Assessors present. 10

(Sgd.) R. J. QUIN. 23/10.

P.W.55.

Assessor 1 : I did not see the Accused although it was dark.

Assessor 2 : I was disturbed by the Sheikh's prayer over my hand until I went to my own karia. Although I was disturbed in mind, I was not entirely out of my mind merely giddy. I know the accused are on a serious charge. When the Sheikh said we were going to fight the unbeliever I knew it was serious. Nobody made me confess but I thought it best to confess. I was not promised pardon. I have not told lies in my life. I would swear it on the Koran. 20

Assessor 3 : When Bashir was giving out the rifles I heard the Sheikh mention each man's name. That is how I knew they were there. I knew only by names not by seeing their faces. I only knew four accused before I was in the Sheikh's karia but I knew all the accused by name before I left the karia. Accused 1, I knew him before he got on the lorry at Gabo.

By the Court : Q. How do you know that the people who did not get rifles were present ?

A. I saw them. The only people I actually saw were the six people who were with me.

Read over and found correct. 30

(Sgd.) R. J. QUIN. 23/10.

No. 62.
Summing
Up for
Prosecution
by Court,
23rd
October
1945.

No. 62.

SUMMING UP for Prosecution.

The Court proceeds to sum up the case for the Prosecution :—

The Court has heard all the evidence for the Prosecution in this case and it is now my duty to sum up and explain that evidence and its bearing on the charges against the various accused so that the Defence may know what case, if any, they must be prepared to answer.

I think that it will be well if I first outline the events which gave rise to this case. These events are, I understand, not disputed by the Defence. The only thing in dispute is whether all or any of the accused took part in those events. 40

On the night of 2nd/3rd July of this year a party of men assembled outside Burao. They entered Burao armed with rifles and first fired on P.C. 476 Mohamed Saleh, who was the sentry on duty at the Quarter

Guard at Burao Prison. The shots did not injure the sentry or any member of the Guard, but killed a prisoner Hassan Haji Mohamoud and wounded another prisoner Hassan Barud. These prisoners were security prisoners and in accordance with the custom in this country were sleeping outside their cells.

*In the
Somaliland
Protectorate
Court,
Burao.*

The Guard did not reply to this fire but the men who had fired made off. A few minutes later shots were fired at the bungalow occupied by Major and Mrs. Chambers—the District Commissioner of Burao and his wife. Major and Mrs. Chambers were in the bungalow at the time but, 10 most fortunately, were not injured. There were two illaloes on duty at the bungalow as a protection against thieves. One of these illaloes—Ahamed Mirreh—was on the verandah at the front and the other—Saliban Adan—was at the back. This latter illalo, presumably aroused by the earlier shots, had left his post and came round to the other illalo. While Saleban Adan was bending over Ahamed Mirreh, the firing at the bungalow commenced. Saleban Adan was hit and wounded and died from that wound later in the night.

No. 62.
Summing
Up for
Prosecution
by Court,
23rd
October
1945,
continued.

Major John Anthony Hunt, of the General Survey, lives in the bungalow next to the D.C. He was aroused by the sound of shots and 20 got into his car with Ali Haji Quabile to investigate. He had turned his car out of his compound and gone a few yards in the direction of the shooting. Shots were fired at the car. Neither Major Hunt or Quabile were hit but some damage was done to the car.

Also at this time while Captain James, the Superintendent of Police, Burao, was starting up his car, a shot was fired at his bungalow.

After these incidents the attacking party made off.

It is perhaps worthy of note that no shots were fired at the attackers.

The police commenced their investigations and had reason to believe that a man called Sheikh Bashir and a man called Alin Yusuf were 30 concerned in the shootings. Bashir's karia was traced to a place called Horoferengi.

On 7th July a force of police, illaloes and civilians went to Horoferengi. Lt. Davies of the Somaliland Police commanded this party which was armed and intended to arrest Bashir and Alin Yusuf. The party saw two men leaving the karia. They followed them into the Ber Dab hills. There the two men joined some others and fire was opened on Lt. Davies's party. The fire was returned. During the firing an illalo was hit by the fire from the hills. He was not seriously injured. Lt. Davies's party 40 found Alin Yusuf dead and Sheikh Bashir dead or dying and Mohamed Ali who was wounded.

Subsequently all the fourteen accused were arrested and all have been charged before this Court under Section 149 of the Indian Penal Code. This charges them with being members of an unlawful assembly, the declared common purpose of which was to murder or attempt to murder non-Muslims, and that in the prosecution of that common purpose, a member or members of the unlawful assembly murdered Hassan Haji Mohamoud and Saleban Adan and attempted to murder Major Chambers, Major Hunt and P.C. 476 Mohamed Saleh.

50 One of the accused (Mohamed Elmi, Accused 14) is also charged with being in possession of firearms. The reason for that charge will appear later in these proceedings and it is not necessary for me to enlarge upon it now.

*In the
Somaliland
Protectorate
Court,
Burao.*

—
No. 62.
Summing
Up for
Prosecution
by Court,
23rd
October
1945,
continued.

Seven of the accused (Accused 2, 8, 9, 12, 13, 16 and 18) are also charged under section 225 of the Indian Penal Code with resisting the arrest of Sheikh Bashir.

The essential constituents of these offences have already been explained to the accused. As they have the advantage of being defended by a learned member of the Bar, it is not necessary for me to add any further explanation of the charges. I do, however, think it necessary to explain the Prosecution case on one point. That is the time from which the common purpose of the assembly was declared. It is quite clear that if any one of the accused left the assembly before the common purpose was declared, or after the declaration but before any steps had been taken to pursue or further the common purpose, he would not be guilty on the first charge. Now it is quite clear to me that the earliest time that the common purpose of the assembly was mentioned was the occasion when Bashir said that they were going to fight the unbeliever. 10

Now, having given a broad outline of the events and the charges, I will deal with the evidence produced by the Prosecution to support the charges against each individual accused.

The Court has heard the evidence of fifty-six witnesses. Of these, I need only make special comment in one case, that is P.W.55, Adan Ahamed. This is a man who has given the main evidence connecting the accused with the various events. He is the only witness who was in a position to do so since, had he not been giving evidence, he would have been one of the accused. He is a man who is an admitted accomplice in the crime and has bought his pardon by his evidence. Now in law the Court is entitled, if it wishes, to accept his evidence as it stands, but it is a rule of practice that a Court does not act on the evidence of an accomplice unless it is sufficiently corroborated. The corroboration may be by the evidence of the accused and I therefore suggest that the absence of sufficient evidence in corroboration at this stage of the case does not prevent the Court deciding that there is a prima facie case against an accused. Should the Defence have any contrary submission I shall be pleased to consider it. 30

Out of the witnesses we have heard some gave evidence of the general events, some of what happened after the shooting in Burao, some of the arrest of the various accused, but P.W.55 and eight other witnesses gave evidence directly connecting one or others of the accused with a lorry which travelled from Gabo to Burao on 2nd July last. This lorry plays a vital part in the Prosecution case, since the Prosecution seek to prove that all the accused came to a place just outside Burao with Bashir. The Prosecution say that it is reasonable to infer that people who travelled on the lorry as a part of Bashir's party and got off the lorry at this place are the party who caused the disturbance. Indeed they put it higher than inference, for evidence has been given of tracks from the stopping place to the scene of the trouble. 40

Now what evidence have we heard showing that any of the accused travelled on the lorry? First and foremost we have the evidence of the accomplice P.W.55. He identifies each of the accused as having travelled on the lorry at some time. Of the 14 accused he can only identify 12 as actually getting off the lorry, at this point just outside Burao. Two of the accused (Accused 8 and 16) he did not see after the lorry left Ber. 50

In addition to P.W.55, the driver of the truck Yusuf Abdi (P.W.15) has given evidence to say that Accused 1 was on the truck at least as far as Bashir's karia. Jama Saeed (P.W.21), Abdi Dualeh (P.W.22), Sahal Fahiyeh (P.W.23), Ali Haji Ibrahim (P.W.24) give similar evidence on this point. Isman Adan (P.W.25), who got on the truck at Kerit, states that Accused 1 was on the truck there.

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 62.

Summing
Up for
Prosecution
by Court,
23rd
October
1945,
continued.

10 Accused 2, has in addition to P.W.55, been said to have been on the lorry as far as the karia by Haji Ahamed Haji Ibrahim (P.W.18) and by P.W.24, and by P.W.21 as being on the lorry after it left the karia but before it got to Kerit.

Evidence has been given, again in addition to P.W.55, that Accused 10 was on the lorry at least as far as Ber, by P.W.23 and by Haji Sulub (P.W.26).

Accused 11 was not seen on the truck by anyone except P.W.55 but was seen by P.W.18 at Bashir's karia.

Apart from P.W.55, Accused 13 was seen on the lorry after it had left the karia. With regard to Accused 14, he is identified as being on the lorry by P.W.21 and P.W.22, but P.W.55 has given evidence showing that although he received a Sten gun he was not present when the common purpose was declared as he had been left by the party before that time.

20 P.W.22 and P.W.25 identify Accused 17, in addition to the evidence of P.W.55, as being on the lorry after it left the karia.

Accused 18 is said to have been on the lorry by P.W. 18, P.W.22, P.W.23, P.W.24 and P.W.25 as well as P.W.55.

Evidence has come before the Court from various witnesses with regard to the mental condition of Accused 18. He himself said he was mad and a plea of "Not Guilty" was entered on his behalf. The Court has not yet come to any conclusion as to his sanity at the time of the events and his condition is a matter requiring proof.

30 To pass from the events of 2/3 July to those of 7th July at Horoferengi Accused 2 was found there wounded by the police. Accused 8 and 18 received wounds which suggest in the absence of other explanation that they were in the fight. Accused 9, 12, 13 are only implicated by the evidence of P.W.55, who also says that Accused 16 ran away with him before the fight.

On analysis of the evidence the Court observes that all the accused are shown to have travelled on the truck by at least the evidence of the accomplice (P.W.55) but even the accomplice does not suggest that Accused 8 or 16 arrived at the final assembly point nor does he suggest that Accused 14 was present when the common purpose was declared.

40 Accused 2, 8, 9, 12, 13, 16 and 18 are shown by P.W.55 to have been at Horoferengi at the time of the fight but Accused 16 is shown to have run away before the shooting commenced.

Now it is one of the essentials of the British system of justice that it is not necessary for anyone accused before a Court with any offence to prove that he is innocent. It is for the prosecution to prove his guilt. No accused is required to explain or contradict the evidence given by the prosecution witness until enough has been proved to warrant a just and reasonable conclusion against him.

50 I want the accused to understand that because a case has been produced against them which makes it necessary for them to disclose their defence it does not mean that they have already been found guilty of any offence.

(Sgd.) R. J. QUIN. 23/10.

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 63.

SUBMISSION by Defending Counsel.

The Defending Counsel makes a submission to the Court as follows :—

No. 63.
Submission
by
Defending
Counsel,
23rd
October
1945.

In view of the matters disclosed by the summing up of the case for the Prosecution, it is submitted that there is no case for the Defence to answer on the following matters :—

In respect of Accused 8 on the 1st charge against him.

In respect of Accused 14 on the 1st charge against him.

In respect of Accused 16 on the 1st and 2nd charge against him.

No. 64.
Submission
granted,
23rd
October
1945.

No. 64.

10

SUBMISSION granted.

The Court having considered the submission by Defending Counsel announces that it agrees with his submission and accordingly *Acquits* Accused 8 and 14 on the 1st Charge and Accused 16 on both charges and orders the release from custody of Accused 16.

Defending Counsel informs the Court that he does not wish to make an opening speech for the Defence.

1200 hrs. 23rd October, 1945. The Court adjourns until 0800 hrs. on 24th October, 1945.

(Sgd.) R. J. QUIN. 23/10. 20

0800 hrs. 24th October, 1945. 13 Accused before the Court. Defending Counsel and Assessors present.

(Sgd.) R. J. QUIN. 24/10.

*Defence
Evidence.*

No. 65.
Ibrahim
Haji
Abdillahi's
Statement,
24th
October
1945.

No. 65.

EVIDENCE of Ibrahim Haji Abdillahi.

Accused 1. Ibrahim Haji Abdillahi, H.T. Adan Madaba rer Mohamed Adan, states :—

I was not with Sheikh Bashir's party at all. I was walking away from Gabo one day when I saw a lorry coming in the same direction. I stopped the lorry and got on. I did not see Sheikh Bashir on the lorry. The lorry 30 came to a balleh near a karia. I got off there and went to look for some lost stock. I did not get on the lorry again. That night I went back to my karia. I left the balleh before the lorry went away. The next morning at 0900 hrs. I was in Gabo.

I have quarrels with P.W.25 and P.W.55. In the case of P.W.55 the enmity is between our sections but with P.W.25 I had fought personally.

No. 66.

EVIDENCE of Mohamed Ali.

Accused 2. Mohamed Ali, H.T. Ahamed Farah rer Aboker Ahmed rer Ali Aboker, states :—

*In the
Somaliland
Protectorate
Court,
Burao.*

I went to meet Bashir in Gabo because he owned me a camel. Bashir told me that he could not pay me that day. He got on a lorry. The lorry was going in the direction of my karia so I got on it. I travelled on the lorry as far as Kerit. I got off there. From Kerit I went to my own karia. For four or five days I was in my karia. I then went to Sheikh Bashir to try to get my camel. While I was there the police party came up. When I saw there was going to be trouble I tried to get away but the firing started and I was hit. The camel meat had been divided amongst Bashir's karia. Bashir owed me his share and other men in the karia their shares. I thought that even if I did not meet Sheikh Bashir I would be able to collect the other men's shares. I propose to call witnesses to support my statement.

*Defence
Evidence.*

No. 66.
Mohamed
Ali's
Statement,
24th
October
1945.

I have a personal quarrel with P.W.27. There is also a personal quarrel with P.W.55.

No. 67.

EVIDENCE of Jama Hashi.

20

Accused 4. Jama Hashi, H.T. rer Dahir rer Musa Yusuf, states :—

No. 67.
Jama
Hashi's
Statement,
24th
October
1945.

I was not with Sheikh Bashir either at his karia or on a lorry or anywhere else. I had gone with a relative of mine to take some camels which were part of his "Yarad" to another karia. The karia I went to was a rer Doda karia.

I will call witnesses to prove this. That is all I wish to say. Except I was at the rer Doda karia when I heard the news of the shooting in Burao.

There is enmity between my section and P.W.55's section.

No. 68.

EVIDENCE of Nur Billeh.

30

Accused 6. Nur Billeh, H.T. Ahamed Farah rer Aboker Ahamed rer Abdi Aboker :—

No. 68.
Nur
Billeh's
Statement,
24th
October
1945.

I know nothing about this trouble at all. I was not with Bashir either at his karia, in a truck or anywhere else. When I heard of the trouble I was in Burao. I had come to Burao on the previous afternoon to the trouble. I came on foot not by a lorry. I had not seen Bashir either this year or last year. I will call witnesses to prove that I arrived in the town before the trouble and slept in the town and was there until 40 0600 hrs. the next day. I only heard of the shooting when I came to the coffee-shop the next morning.

P.W.55 is my enemy and there is enmity between our sections. I was grazing my camels one day near P.W.55's camels when one of my male camels fought with one of his male camels. So I fought with him and we wounded each other.

I slept in Burao on the night of the trouble in the compound of my sister Fada Mobile.

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 69.

EVIDENCE of Ali Gedi.

Accused 8. Ali Gedi, H.T. Ebran Esa, states :—

*Defence
Evidence.*

No. 69.
Ali Gedi's
Statement,
24th
October
1945.

I was grazing my camels near Horoferengi. I heard sounds of shooting. My camels got frightened and so did I. The firing was near my camels. I went to see what happened. I came into an open place, the camels were grazing in the bushes. I found myself between two parties who were shooting at each other. I thought this was serious and I had better run for my life. As I turned round to run I received two bullets in the backside. Although I was wounded I kept on running. I fell down under a tree. I saw a man running. I saw he was bleeding. He was Accused 18. I did not speak to him. I looked for a good place to rest in the shade because I was bleeding a lot. I stayed under the tree until it was cooler. I then walked away. The police had taken the camels away so I did not know where to go. I worked for Sheikh Bashir looking after his camels. I had only that day brought the camels there on Bashir's orders and it was my job to look after them.

I had a personal quarrel with P.W.55.

No. 70.
Mohamed
Hashi's
Statement,
24th
October
1945.

No. 70.

EVIDENCE of Mohamed Hashi.

20

Accused 9. Mohamed Hashi, H.T. rer Dahir rer Musa Yusuf, states :—

I know nothing about the troubles which took place. I was in my own karia on the night the trouble happened in Burao. My karia was at Goriwein. I have witnesses to prove this. My father was sick, I used to look after him and graze my camels.

When the trouble happened at Horoferengi I was looking for 2 lost camels. As I was looking for my camels I met Ali Gedi (Accused 8). I asked him if he had seen any lost camels. He said that he had not. I left him. I found some men sitting in the shade of the trees. Sheikh Bashir was there. We greeted each other. He said that there was some meat and that I should have some before I went on with my search. I sat down with them. A man came running to us. I saw a police party was coming and all the people with Bashir were excited. The police party opened fire. Until they fired there had been no shooting. Two bullets struck me. I ran away for my life. I went to my karia that night.

I once had a fight with P.W.55. His section and mine are at enmity.

I have also a witness to prove that on the day of the trouble at Horoferengi I was looking for my lost camels.

No. 71.

EVIDENCE of Adan Haji Jama.

Accused 10. Adan Haji Jama, H.T. Yesif rer Sahal, states :—

I was not in this case whether it happened at Burao or Horoferengi. I got on the lorry at Kerit. Sheikh Bashir and other men were already on the lorry. Sheikh Bashir said if I had no money he would get the driver to take me free. He told me to get on. I got on. When we got to Sheikh Ismail's tomb the lorry stopped and people got off. I was surprised to see the car stop before it got into the town. I got off. Another five or six
10 people also got off. I knew Sheikh Bashir before. I did not know Alin Yusuf before. In the afternoon I heard people call him by his name. Bashir and Yusuf got off at the tomb. Including those two, five or six got off. Bashir said he had helped me by getting me a lift and asked me if I would help him. He said he was going to renew his grandfather's grave. I said no. I was in a hurry. Nobody was looking after my camels and if I delayed I would lose my camels. While we were talking the truck moved away. Bashir then said "Go away if you wouldn't help me." I left him and came into the town. I went to a stone house which was occupied by the agent for some property which I and my brothers have
20 in the town. I knocked at the door, he opened it and said the house was full. He told me that I had better sleep in the mosque. I went to the mosque to sleep there. I will call the man I slept next to in the mosque. P.W.55 is my enemy. My cousin once had a fight with him and I helped my cousin.

No. 72.

EVIDENCE of Musa Fiddin.

Accused 11. Musa Fiddin, H.T. Ahamed Farah rer Aboker Ahamed rer Abdi Aboker, states :—

I have nothing to do with this charge. The night there was trouble
30 in Burao I slept in the hafa in Burao town. I slept in the compound of Fada Mobile's gurghi. I will call witnesses as to that. I will tell how I came into Burao. One day my father sent me to look for good grazing. I looked for grazing areas. I got thirsty and went to the wells at Wadamago (Gabo). I found Sheikh Bashir was there. He said he would give me some money and would pray to God that I might have a long life and he asked me to help build his grandfather's tomb. I said if he was willing to pay me I would help him. He was smiling. I only took it for a joke. He said if I meant to come with him get on the lorry. I got on. I came to Ber with the lorry. He had told me that the grave he was going to
40 build was in Ber. After we had tea, Bashir said "We are going to get some rations from Burao. Get on the lorry." We got on the lorry again and got off by Sheikh Ismail's tomb. I was asleep. I woke up and heard Sheikh Bashir say we were to get off and pray by Sheikh Ismail's tomb. I got off. I went to the roadside to urinate. I did not think the lorry would leave so soon. My intention was to get on the lorry and come into Burao on it. I told Sheikh Bashir that I was not a mullah and did not know how to pray at the tomb. I said I was sleepy and was going into the town. I think there were about four or five men there. I thought they would pray by the tomb and then come into the town. I left them
50 and came straight into Fada Mobile's gurghi.

P.W.55 was my enemy. He once gave me a hiding when I was small. When I got bigger I fought him several times.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Defence
Evidence.*

No. 71.
Adan Haji
Jama's
Statement,
24th
October
1945.

No. 72.
Musa
Fiddin's
Statement,
24th
October
1945.

In the
Somaliland
Protectorate
Court,
Burao.

No. 73.

EVIDENCE of Ali Haji Aboker.

Accused 12. Ali Haji Aboker, H.T. Yesif rer Robleh, states :—

*Defence
Evidence.*

No. 73.
Ali Haji
Aboker,
24th
October
1945.

I was not in either Burao or Horoferengi when the trouble happened. The night of the trouble in Burao I was in the hafa. I have a witness to show that I slept there all night. I have also a witness to call to say I was not at Horoferengi when the fighting took place. I came into Burao on a lorry on the night of the trouble. I was living with the Dolbahanta who are relations by marriage. I went to see Bashir to get some cloth for a tobe. He was my cousin. I was at Kerit when the lorry arrived there with Bashir on it. He told me to get on the lorry and he would give me a tobe. I got on the lorry. I had some milk at Ber with Bashir. I got on the lorry again until we came to Sheikh Ismail's tomb. I was half asleep. Bashir told me that they were going to pray in the mosque and that I should go in and sleep at the house of Asleh Ducaid who is the wife of a man in my section. I got off the lorry at the police station and went to her house and slept there all night. I looked for Bashir in the town next morning. I could not find him. I went away. On my way back I heard that the Sheikh had been killed. This was some days after I left Burao. I heard that all the camels at Bashir's karia had been looted. Some of my camels were there. As there was no karia any more I went back to the Dolbahanta. I had intended when I left Burao to go to Bashir's karia to get the tobe he had promised me. 10

I have no enmity towards any of the witnesses.

No. 74.
Saeed
Mohamed's
Statement,
24th
October
1945.

No. 74.

EVIDENCE of Saeed Mohamed.

Accused 13. Saeed Mohamed, H.T. Yesif rer Robleh, states :—

I had nothing to do with the trouble in Burao or Horoferengi. When I heard that there had been trouble in Burao I was in my karia at Las Gelegereh. I have a witness to call to that effect. The same witness will say that I was in my karia when the firing took place at Horoferengi. Las Gelgereh is a day and a half's march for a strong man. I did not ever travel on a lorry with Sheikh Bashir. 30

Of the witnesses I say the following were my enemies: P.W.55, P.W.27. P.W.21. I had fought with P.W.55 over water at Gorialeh. I had a fight with P.W.21 this year. It was a result of his coming into my karia where a man was staying who was his enemy.

No. 75.

EVIDENCE of Mohamed Elmi.

Accused 14. Mohamed Elmi, H.T. Ahamed Farah rer Aboker Ahamed rer Ali Aboker, states :—

*In the
Somaliland
Protectorate
Court,
Burao.*

*Defence
Evidence.*

I came on the lorry from Gabo. I was suffering from V.D. I intended to see the doctor in Burao. I was ill most of the time. I slept until I got to Sheikh Ismail's tomb. I wanted to pass urine, I couldn't as I was ill. The lorry had left the place. I saw three or four men in the road. I asked them what they were doing. They said they were going to sleep
10 there. I went on one side of the road and laid down. The only man I am sure of as being present is Sheikh Bashir; just as I had laid down Bashir came over and said "Look after these things." He put a sack down beside me. I was there for some time, the wind was blowing and I found I was able to urinate. I felt better. Everybody had gone. I dragged the sack further off the road and I slept there. In the morning I wanted to come into town. I remembered the parcel. I looked in it and saw the gun. I was frightened and did not know what to do. I hid the gun and went back to my karia.

When I heard the Government were looking for me I went on my own
20 accord to the Government. I knew it was a gun of some sort but I did not know anything about it. I buried the gun in a deserted place near Ber Dab. I was a sick man and it took me two or three days to get to that place. When I had given myself up to the Government I sent my brother to bring in the gun.

No. 75.
Mohamed
Elmi's
Statement,
24th
October
1945.

No. 76.

EVIDENCE of Deir Deria.

Accused 17. Deir Deria, H.T. Yesif rer Sahal, states :—

No. 76.
Deir Deria's
Statement,
24th
October
1945.

I was not in the trouble in Burao. My karia was at Del'ad. I have
30 a witness to prove that for three or four months before the trouble I did not leave my karia even for a day.

P.W.55 did not know me at all. While I was in the cell in the prison someone pointed me out and he said that a man called Mohamed Abdi was in Bashir's party. It is very common name.

I had a quarrel with Isman Adan, P.W.25, and also with P.W.22.

The place called Del'ad is three days' march from Burao.

Certified that the statements of 12 accused were taken in the presence and hearing of the accused and represent a full and fair record of their statements. Each statement was read back to the accused who made it and agreed to as correct by him.

40 (Sgd.) R. J. QUIN. 24/10.

1630 hrs. The Court adjourns until 0800 hrs. on the 25th October, 1945.

(Sgd.) R. J. QUIN. 24/10.

0800 hrs. 25th October, 1945. The Court reassembles. 13 accused before the Court. Defending Counsel and Assessors present.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Defence
Evidence.*

No. 77.
Farah
Abdillahi's
Statement,
25th
October
1945.

No. 77.

EVIDENCE of Farah Abdillahi.

Accused 18. Farah Abdillahi, H.T. Ahamed Farah rer Aboker Ahamed rer Omar Aboker. This witness states that he is well enough in his mind to make a statement and states :—

I wish to call witnesses to show my previous state of mind. I do not know whether I was in the trouble in Burao or Horoferengi. I have nothing more to say. My witnesses will prove my condition throughout my lifetime.

Certified that this statement was taken in the presence of the accused 10 and represents a full and fair record of his statement.

(Sgd.) R. J. QUIN. 25/10.

No. 78.
Haji
Abdullahi
Hassan's
Statement,
25th
October
1945.

No. 78.

EVIDENCE of Haji Abdullahi Hassan.

D.W.1, Muslim, sworn, states :—

I am Haji Abdullahi Hassan, H.T. Adan Madobe rer Mohamed Ali. My karia was at Goriwein at the time of the troubles. After the trouble we heard, three days after, that there had been troubles in Burao. I saw *Accused* 1 on the day I heard of the trouble. I had seen the *Accused* 1 each day before that. Our karias were very close. On the night I 20 subsequently knew that the shooting occurred I saw *Accused* 1 in his karia. I know that there was enmity between the sections of *Accused* 1 and P.W.55.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

No. 79.
Burrarah
Mohamoud's
Statement,
25th
October
1945.

No. 79.

EVIDENCE of Burrarah Mohamoud.

D.W.2, Muslim, sworn, states :—

I am Burrarah Mohamoud, H.T. Adan Modobe rer Mohamed Ali. Three months ago my karia was near Goriowein. There was a balleh near 30 my karia. I was at Gabo when a lorry left Gabo. On the truck was Sheikh Bashir. The lorry left, I went back to my stock. I was near the balleh. I met *Accused* 1. It was near Bashir's karia. We greeted each other. He enquired for lost horses. I had not seen any. We left the balleh together and later separated. The last time I saw that truck was in Gabo. *Accused* told me he had come on a lorry. I met him at about 4 and left him at about 5. I saw the *Accused* 1 at about 10 o'clock in the morning in Gabo the next day.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10. 40

No. 80.

EVIDENCE of Ali Hersi Dolbahanta.

D.W.3, Muslim, sworn, states :—

I am Ali Hersi, Dobahanta rer Farah Hagar. I am illalo corporal.

I remember when Bashir made trouble in Burao. I was at Kerit when I heard it. I think we heard on the third day after it happened. I can place in my mind the day it happened.

On 3rd July I was on patrol. I went to Gabo. Accused 1 passed by me. I did not speak to him. I only saw him on the third July.

10 *By Court* : Do you know the date the trouble happened ?

A. It was 2nd July.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Defence
Evidence.*

No. 80.
Ali Hersi
Dolba-
hanta's
Statement,
25th
October
1945,

No. 81.

EVIDENCE of Aid Ismail Dolbahanta.

P.W.4, Muslim, sworn, states :—

I am Aid Ismail Dolbahanta rer Adan Hagar. I know Accused 1. I am a grazing Guard.

20 I remember the time Bashir made trouble in Burao. I saw him in Gabo and near Gabo. I can place the day of the shooting. It was 2nd July. I saw him, Accused 1, on the afternoon of 2nd July between Gabo and Dabieda. He passed by me. He asked me if I had seen a mare. It was about 1600 hrs. I did not see Bashir that day. I went to Gabo the following morning I saw Accused 1, at about eight in the morning.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

No. 81.
Aid Ismail
Dolba-
hanta's
Statement,
25th
October
1945,

No. 82.

EVIDENCE of Ismail Adan.

D.W.5, Muslim, sworn, states :—

30 I am Ismail Adan, H.Y. Musa Arreh rer Mohamed Adan. I am an illalo.

I remember when Bashir made trouble in Burao. It was on 2nd July. On that day I was looking after grazing areas. I saw Accused 1. I was with D.W.4. He passed us. He greeted us, and asked if we had seen any horses. He walked away and we went to Gabo. That was at about 1600 hrs. He was going to Goriowein where he said his karia was. This was in the opposite direction to Burao. I saw him the next morning in Gabo at 0830 hrs.

By Court : Accused 1 was by himself when I saw him.

40

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

No. 82.
Ismail
Adan's
Statement,
25th
October
1945.

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 83.

EVIDENCE of Haji Warsama Jama.

D.W.6, Muslim, sworn, states :—

*Defence
Evidence.*

No. 83.
Haji
Warsama
Jama's
Statement,
25th
October
1945.

I am Haji Warsama Jama, H.T. Hassan Abdullahi. I remember 2nd July. I am an Akil. I came to Gabo on 2nd July on a lorry from Las Anod. I saw Accused 1 in Gabo that day. Our horses used to graze together. I know him well. I enquired about the horses. He told me he had lost a mare. He asked if I had seen it. I saw him the next morning in Gabo. On the 4th July the Government arrived in Gabo.

The time when I saw Accused 1 on 3rd July was about 0730 hrs. 10 or 0800 hrs. I saw him buy some meat.

Buralleh Mohamoud (D.W.2) and I saw him in Gabo on 3rd July.

Read over and found correct.

(Sgd.) R. J. QUIN. 2510.

No. 84.
Garibia
Ismail's
Statement,
25th
October
1945.

No. 84.

EVIDENCE of Garibia Ismail.

D.W.7, Muslim, sworn, states :—

I am Garibia Ismail, H.T. Ahamed Farah rer Abdi Dou. I am a butcher in Gabo. I remember the day the news of the shooting arrived in Gabo. I saw Accused 1 at about 0800 hrs. drinking tea. He bought 20 12 annas worth of meat from me that morning.

By Court : I don't know how many days after the shooting we got the news in Gabo.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

No. 85.
Muhilim
Mohamed
Gruleh's
Statement,
25th
October
1945.

No. 85.

EVIDENCE of Muhilim Mohamed Gruleh.

D.W.8, Muslim, sworn, states :—

I am Muhilim Mohamed Gruleh, H.T. Musa Aboker rer Yunis. I know Accused 2. He is a relation by marriage. I remember hearing 30 news that there was trouble in Burao. We heard the news two days after the event. I was at Las Gelgereh with my karia. Accused 2 was in my karia when the news arrived. He slept there for many nights before and after the news. On the fifth day after the trouble Accused 2 said he was going to see Bashir about the debts owed to him, i.e. on the day on which the shooting took place he was in the karia.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

No. 86.**EVIDENCE of Ali Haji Samater.**

D.W.9, Muslim, sworn, states :—

I am Ali Haji Samater, H.T. Samaneh. I know Accused 2. I heard of shooting in Burao. I was at Las Galgereh. I know D.W.8 he was at the same place. The shooting occurred the night before I heard of it. The night before i.e. the night of the shooting I saw Accused 2 at the karia in Las Gelgereh. He was there all the time. He stayed there after the shooting until a day when he left to see Sheikh Bashir.

10

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Defence
Evidence.*

— —
No. 86.
Ali Haji
Samater's
Statement,
25th
October
1945.

No. 87.**EVIDENCE of Mohamed Aboker.**

D.W.10, Muslim, sworn, states :—

I am Mohamed Aboker, H.T. Yesif rer Robleh. I know Accused 2. I knew Sheikh Bashir. I was living in a karia with Bashir. I was at Horoferengi before he was killed. Accused 2 came. He said the karia owed him something. I heard Accused 2 talk to Bashir. Accused 2 asked Bashir for what he was owed. This was the same day as Sheikh

20

Bashir was shot.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

No. 87.
Mohamed
Aboker's
Statement,
25th
October
1945.

No. 88.**EVIDENCE of Isman Hersi.**

D.W.11, Muslim, sworn, states :—

I am Isman Hersi, H.Y. rer Waaaid. I know Accused 2. I heard a report of shooting in Burao. I was at Gorialeh. I know D.W.8 and D.W.9. I spent a night in their karia. That was the night of the shooting. This was two days journey from Burao.

30

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

No. 88.
Isman
Hersi's
Statement,
25th
October
1945.

No. 89.**EVIDENCE of Mardi Haji Mohamoud.**

D.W.12, Muslim, sworn, states :—

I am Mardi Haji Mohamoud, H.T. rer Dehir rer Yusuf. I know Accused 4 Jama Hashi. He is the same section as I am. I heard of shooting in Burao. I was at Orlasaugh. Accused 4 was with me. He had been there three nights. I heard that Tuesday was the day of the shooting. I heard on the Wednesday. Accused 4 was with me on the

40

Tuesday night. We had gone there to pay yarad in camels.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

No. 89.
Mardi Haji
Mohamoud's
Statement,
25th
October
1945.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Defence
Evidence.*

No. 90.
Isman
Dualeh's
Statement,
25th
October
1945.

No. 90.

EVIDENCE of Isman Dualeh.

D.W.13, Muslim, sworn, states :—

I am Isman Dualeh, H.T. rer Dahir rer Yusuf. I know Accused 4. He is of my section. I heard of shooting in Burao. I was at Orlasaugh. That place is a day and half's march from Burao. When I heard of shooting Accused 4 was with me. We had slept there for three nights. We stayed together for three nights after this.

By Court : Accused 4 was with me three nights only. The night of the shooting and two nights after.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

10

No. 91.
Mohamed
Ali's
Statement,
25th
October
1945.

No. 91.

EVIDENCE of Mohamed Ali.

D.W.14, Muslim, sworn, states :—

I am Mohamed Ali, H.T. rer Dahir rer Yusuf. I know Accused 4 Jama Hashi. I heard of shooting in Burao. I was with D.W.13 when I heard, so was Accused 4. We were together for four days altogether. I stayed three nights in Orlasaugh. I went back with Accused 4 to his karia. We heard of the shooting thirty-six hours (one day and one night) after it happened. I had been with him one night before we heard the news. Accused 4 was with me on the day before Burao was attacked and three days after.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

20

No. 92.
Suleban
Weis'
Statement,
25th
October
1945.

No. 92.

EVIDENCE of Suleban Weis.

D.W.15, Muslim, sworn, states :—

I am Suleban Weis, H.T. Ahamed Farah rer Aboker Ahamed. I know Accused 6, Nur Billeh. I remember the night there was shooting in Burao. I was in Burao. I slept in the compound of Fada Mobile. There is a door to the compound. There is a strong zariba. I saw Fada Mobile lock the door. Five or six men were inside then. Ali Robleh, Hashi Jama, Isan Nur, myself and Accused 6 were inside when the door was locked. I did not see her unlock the door. At the first prayer (Subai) we called and unlocked the door. Accused 6 was there. The door was locked at about 2100 hrs. I don't think anyone could have got out and got back.

I saw Accused 11 in the compound that night.

By Court : Both the accused were in the compound for one and a half or two hours before the door was locked.

I was in the compound just before sunset. Accused 11 and Accused 6 did not come in more than half an hour after me.

Accused 6 came in first. After a few minutes Accused 11 came in.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

40

No. 93.
EVIDENCE of Ali Robleh.

*In the
Somaliland
Protectorate
Court,
Burao.*

D.W.16, Muslim, sworn, states :—

I am Ali Robleh, H.T. Ahamed Farah rer Aboker Ahamed. I remember the night of the shooting in Burao. I was in the compound of Fada Mobile. I went there at sunset. I slept there that night. It had a strong zariba. It would not be easy to get out except by the door. I was present when the door was locked. Five or six men Accused 6, Nur Billeh (identified in Court), Suleban Wies (D.W.15), Hashi Jama, 10 Musa Fiddin (identified in Court) and myself were there.

*Defence
Evidence.*

—
No. 93.
Ali
Robleh's
Statement,
25th
October
1945.

At the first prayer I called and Fada Mobile opened the door. I saw Accused 6 and Accused 11 were there then. Two days later we were together in the town. They went to the interior.

By Court : I was in the compound before Accused 6 and 11. Accused 6 came in first then Accused 11. There was about half an hour between their arrivals. When I went in I put on a kettle to make tea. Before it boiled Nur Billeh came in.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

20

No. 94.
EVIDENCE of Hashi Jama.

No. 94.
Hashi
Jama's
Statement,
25th
October
1945.

D.W.17, Muslim, sworn, states :—

I am Hashi Jama, H.T. Ahamed Farah rer Aboker Ahamed. I remember the night of the shooting. I slept in the compound of Fada Mobile. I went there at about 1900 hrs. I left between 0500 and 0600 next morning. There is a strong zariba with only one door. It was locked that night by Fada Mobile about 2100 hrs. Next morning it was unlocked. It is not possible to get out if the door is locked. After the door was locked D.W.15, D.W.16 Isman Nur, Nur Billeh (6), Musa Fiddin 30 (Accused 11) (Accused identified in Court) and myself were in the compound.

By Court : Ali Robleh was there before me. I came in before both the accused. Ali Robleh made some tea. I know Accused 6 had some. Accused 6 came in first at about 1900 hrs. Accused 11 came in about an hour later. All the tea was finished.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

No. 95.
EVIDENCE of Ali Mohamed.

No. 95.
Ali
Mohamed's
Statement,
25th
October
1945.

D.W.18, Muslim, sworn, states :—

40 I am Ali Mohamed, H.T. Adan Madobe, rer Hassan, Adan. I keep a coffee-shop in Burao. I remember the night of the shooting. Nur Billeh (Accused 6) and his brother came to my shop the next morning at about 0600 hrs. and had tea.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Defence
Evidence.*

No. 96.
Isan Nur's
Statement,
25th
October
1945.

No. 96.

EVIDENCE of Isan Nur.

D.W.19, Muslim, sworn, states :—

I am Isan Nur, H.T. Ahamed Farah rer Aboker Ahamed. I remember the night of the trouble in Burao. I slept at Fada Mobile's that night. Accused 6 and 11 (recognized in Court) also slept there. I went to sleep about eight o'clock. Accused 6 was there when I came in. Accused 11 came in later. They were both there in the morning.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10. 10

No. 97.
Fada
Mobile's
Statement,
25th
October
1945,

No. 97.

EVIDENCE of Fada Mobile.

D.W.20, Muslim, sworn, states :—

I am Fada Mobile, H.T. Ahamed Farah rer Aboker Ahamed. I remember the night of the shooting. I was in my gurchi. I know Nur Billeh and Musa Fiddin (identified in Court). That night they were both in my compound.

Accused 6 came shortly after sundown. He drank tea with another man. Later Accused 11 joined. When I was ready to sleep I locked the door. In the morning I opened the door. The accused did not go to pray. Later they all left and went to a coffee-shop. There is a good lock on the door and a strong zariba around.

By Court : I do not charge anyone anything to sleep in my compound. Only men from my section or my husband's section sleep there. Every night someone sleeps there. Not usually the same people two nights running. Nur Billeh is my brother. Musa Fiddin is my cousin that is why I remember them.

Read over and found correct.

(Sgd.) R. J. QUIN. 25/10.

1230 hrs. 25th October, 1945. The Court adjourns until 0800 hrs. 30 on 26th October, 1945.

(Sgd.) R. J. QUIN. 25/10.

0800 hrs. 26th October, 1945. The Court re-assembles, 12 accused before the Court. Defending Counsel and Assessors present. In view of the absence of Accused 2 as result of an accident, the Court adjourns until 0800 hrs. 27th October, 1945.

(Sgd.) R. J. QUIN. 26/10.

0800 hrs. 27th October, 1945. The Court re-assembles. 12 Accused before the Court. Defending Counsel and Assessors present. Accused 2 is still unable to appear. The Court adjourns until 0800 hrs. on 30th October, 1945.

(Sgd.) R. J. QUIN. 27/10.

0800 hrs. 30th October, 1945. The Court re-assembles, 12 accused before the Court. Defending Counsel and Assessors present. Accused 2

is still unable to appear. In view of the nature of the injuries to Accused 2 it will not be possible for him to appear for at least three weeks. The Court is adjourned until 19th November, 1945. Witnesses and Assessors are warned to be present on that date.

(Sgd.) R. J. QUIN. 30/10.

0800 hrs. 19th November, 1945. The Court re-assembles. 13 accused before the Court. Defending Counsel and Assessors present. Defending Counsel informs the Court that Accused 2 is now fit to continue his trial.

10 Court enquires from Accused 2 if he is now fit to continue and is informed by him that he is. The hearing is continued.

(Sgd.) R. J. QUIN. 19/11.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Defence
Evidence.*

No. 98.

EVIDENCE of Yusuf Warsama.

D.W.21, Muslim, sworn, states :—

20 I am Yusuf Warsama, H.T. rer Yusuf. I know Accused 9. He is Mohamed Hashi. He is of my section. I remember hearing about trouble in Burao about four months ago. I was between Las Gelgereh and Geriowein, that is about two full days' march by a strong man, from Burao. I heard of the trouble from passers-by. I heard of the trouble two days after it had happened in Burao. When I heard of the trouble I had been in Accused 9's karia with him for two nights. I know Hashi Samater, Accused 9's father. I saw him at this time. He was sick in the karia. He was very sick. He was being nursed by Accused 9. I do not know Adan Ahamed (P.W.55). Accused 9 could not have been in Burao at the time of the trouble because he was with me.

Read over and found correct.

(Sgd.) R. J. QUIN. 19/11.

No. 98.
Yusuf
Warsama's
Statement,
19th
November
1945.

No. 99.

EVIDENCE of Hashi Samater.

30 D.W.22, Muslim, sworn, states :—

I am Hashi Samater, H.T. rer Yusuf. I am the father of Accused 9. About four months ago I was in my karia between Las Gelgereh and Goriowein. D.W.21 and Accused 9 were there. I was very ill with fever. Accused 9 held my head when I needed a drink or to turn round. I was sick for two months. I heard of trouble in Burao towards the end of my two months' illness. Accused 9 was with me all the time I was sick. He was with me on the day I heard and the days before. My karia was two full days' journey from Burao.

Read over to the witness who wishes to add :—

40 The morning the trouble happened in Bur Dab Accused 9 left me on my instructions to look for camels.

Read over and found correct.

(Sgd.) R. J. QUIN. 19/11.

No. 99.
Hashi
Samater's
Statement,
19th
November
1945.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Defence
Evidence.*

No. 100.
Burreh
Jama's
Statement,
19th
November
1945.

No. 100.

EVIDENCE of Burreh Jama.

D.W.23, Muslim, sworn, states :—

I am Burreh Jama, H.T. rer Ibrahim. I know Accused 9. He is Mohamed Hashi. He is no relation of mine. I heard that Sheikh Bashir had made trouble in Burao. I was then between Las Gelgereh and Geriowein when I heard. I spent one night in a karia there. I know Hashi Samater. It was his karia but he was sick. I saw Accused 9. He was helping his father at the karia.

I saw Accused 9 next day after hearing news. He was in the karia 10 on that day as well.

Read over and found correct.

(Sgd.) R. J. QUIN. 19/11.

No. 101.
Hussein
Musa's
Statement,
19th
November
1945.

No. 101.

EVIDENCE of Hussein Musa.

D.W.24, Muslim, sworn, states :—

I am Hussein Musa, H.T. rer Yusuf. I know Accused 9. I remember hearing of the shooting in Burao. I then was in Hashi Samater's karia between Las Gelgereh and Geriowein. I saw Accused 9 there. He was helping his father. He was in the karia on the day I heard of the shooting. 20 The karia is two full days' march from Burao.

Read over and found correct.

(Sgd.) R. J. QUIN. 19/11.

No. 102.
Ali Sheikh
Bashir's
Statement,
19th
November
1945.

No. 102.

EVIDENCE of Ali Sheikh Bashir.

D.W.25, Muslim, sworn, states :—

I am Ali Sheikh Bashir, H.T. rer Robleh. I know Accused 9. I am the son of Sheikh Bashir who was killed. I was in the karia of Sheikh Bashir when the fight took place with the police. We saw a party of police approaching the karia. All of a sudden the police party opened fire. My 30 father and another man were killed. Others ran away. I saw Accused 9. He had just arrived. He was looking for a lost camel. I don't know what happened to Accused 9. I did not see him after the shooting. I did not hear any conversation between my father and Accused 9.

Read over and found correct.

(Sgd.) R. J. QUIN. 19/11.

By Court: This witness did not impress the Court as a truthful witness.

(Sgd.) R. J. QUIN. 19/11.

No. 103.

EVIDENCE of Haid Dualeh.

*In the
Somaliland
Protectorate
Court,
Burao.*

D.W.26, Muslim, sworn, states :—

I am Haid Dualeh, H.T. rer Ibrahim. I know Accused 8. I remember hearing of shooting in Burao. I was at Ber. I have a jowari garden near Ber. I heard on the morning after the night it had taken place. Ber is less than half a day's march from Burao. I slept in a coffee-shop in Ber on the night of the shooting. The shop is kept by Yusuf Adan. I saw Accused 8 at about 2000 hrs. I slept beside him. I went
10 to sleep at about 2030 hours. I got up with him in the morning before sunrise. We drank tea before he left. All that night he was beside me.

*Defence
Evidence.*

No. 103.
Haid
Dualeh's
Statement,
19th
November
1945.

By Court : Did you see any of the other accused in Ber that night ?

No.

Did you see Accused 8 arrive in Ber ?

No.

Was he alone when you saw him ?

Yes.

Read over and found correct.

(Sgd.) R. J. QUIN. 19/11.

20

No. 104.

EVIDENCE of Yusuf Adan.

No. 104.
Yusuf
Adan's
Statement,
19th
November
1945.

D.W.27, Muslim, sworn, states :—

I am Yusuf Adan, H.T. rer Ibrahim. I keep a coffee-shop in Ber. I know D.W.26. I know Accused 8. I heard that there had been shooting in Burao. I heard it about 0900 hrs. the next morning. On the night of the shooting D.W.26 slept in my coffee-shop. So did Accused 8.

By Court : Did you know Accused 8 before that night ?

I had known him a long time.

Did accused come alone to the coffee-shop ?

30 Yes.

Did any truck go to Burao after Accused 8 came to the coffee-shop ?

No.

Read over and found correct.

(Sgd.) R. J. QUIN. 19/11.

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 105.

APPLICATION by Defending Counsel.

*Defence
Evidence.*

No. 105.
Application
by
Defending
Counsel,
19th
November
1945.

I have some twelve more defence witnesses to call. At the adjournment I instructed them to be at the Court to-day, but they are not here. I had given them permission to return to their karias for the period of the adjournment. At the same time I had told certain other witnesses whose evidence was valueless to the defence to return to their karias and that I would send for them if they were required. I have to-day been informed that all the remaining witnesses were under the impression that they could remain at their karias until they were sent for. When I gave these instructions I did not use my usual interpreter and that has possibly resulted in the present situation. 10

I request the Court to adjourn until the witnesses are available.

I anticipate that they will be here on Thursday 22nd November, 1945.

Court accedes to this Application and adjourns to 0800 hrs. on 22nd November, 1945.

(Sgd.) R. J. QUIN. 19/11/45.

0800 hrs. 22nd November, 1945. Court re-assembles, 13 accused before the Court, Assessors present.

In the absence of the Defending Counsel case adjourned until 0800 hrs. 20 24th November, 1945.

(Sgd.) R. J. QUIN. 22/11.

0800 hrs. 24th November, 1945, Court re-assembles, 13 accused before the Court. Assessors and Defending Counsel present.

(Sgd.) R. J. QUIN. 24/11.

No. 106.

EVIDENCE of Ali Ahamed.

No. 106.
Ali
Ahamed's
Statement,
24th
November
1945.

D.W.28, Muslim, sworn, states :—

I am Ali Ahamed, H.T. Yusuf rer Robleh. I remember the night of the shooting. I was in the Hafa in Burao. I was in Ashleh Duncal's gurghi. I know the Accused 12. His name is Ali Aboker. He slept with me in the gurghi that night. I saw him about 2045 hrs. or 2100 hrs. He asked for a place to sleep. We gave him a place. There was no zareba but the door was closed by putting tins in the opening and the flap was tied with the ropes. No one could get in or out without my hearing him. I went to sleep after prayers (about 2100 hrs.), the Accused 12 was then in the gurghi. He was still in the gurghi when I left the next morning about 0600 hours. 30

Read over and found correct.

(Sgd.) R. J. QUIN. 24/11. 40

No. 107.

EVIDENCE of Ahamed Mohamed.

D.W.29, Muslim, sworn, states :—

I am Ahamed Mohamed, H.T. Yesif rer Sahal. I know Accused 13. His name is Saeed Mohamed, he is my brother. I remember hearing of shooting in Burao. I was then at Weidamago. I heard of shooting two days after it happened. When the shooting took place I was at Las Gelgereh. That is two full days' journey from Burao. Accused 13 was with me. He was with me when the shooting took place and for three months before. I saw him every day for those three months. He was with me at Las Gelgereh when we heard of Sheikh Bashir's death. He drove the camels away that day because we thought that the police would loot them.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Defence
Evidence.*

—
No. 107.
Ahamed
Mohamed's
Statement,
24th
November
1945.

Read over and found correct.

(Sgd.) R. J. QUIN. 24/11.

No. 108.

EVIDENCE of Ahamed Ibrahim.

D.W.30, Muslim, sworn, states :—

I am Ahamed Ibrahim, H.T. Yesif rer Sahal. I know Accused 13. I heard of shooting in Burao in July. I was at Las Gelgereh. That is two full days' journey from Burao. I heard of the shooting, I think, three days after the shooting. Accused 13 was in my company. He had been with me for a long time. He stayed in the karia with us after the shooting.

No. 108.
Ahamed
Ibrahim's
Statement
24th
November
1945.

Read over and found correct.

(Sgd.) R. J. QUIN. 24/11.

No. 109.

EVIDENCE of Weira Suleban.

D.W.31, Muslim, sworn, states :—

I am Weira Suleban, H.T. rer Dahir rer Yusuf. I know Accused 17. He is Deir Deria. I heard of shooting in Burao. I was then at Del'ad. That is two days and a half from Burao. Accused 17 was with me, he had been with me for a week. He stayed with us eight days after the shooting. We then heard of the police coming to loot our camels so I drove my camels away.

No. 109.
Weira
Suleban's
Statement,
24th
November
1945.

Read over and found correct.

(Sgd.) R. J. QUIN. 24/11.

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 110.

EVIDENCE of Abdillahi Hersi.

D.W.32, Muslim, sworn, states :—

I am Abdillahi Hersi, H.T. Yesif rer Sahal. I heard of shooting in Burao. I was then in Del'ad. Accused 17 was with me. His zariba was close to mine for the most of the year. The zaribas were together when I heard of the shooting. We stayed together until we got news of the police coming. Then we all drove our camels away.

*Defence
Evidence.*
No. 110.
Abdillahi
Hersi's
Statement,
24th
November
1945.

Q. Did you actually see the accused at that time ?

A. Yes, I saw him each day.

10

Read over and found correct.

(Sgd.) R. J. QUIN. 24/11.

No. 111.
Hassan
Nur's
Statement,
24th
November
1945.

No. 111.

EVIDENCE of Hassan Nur.

D.W.33, Muslim, sworn, states :—

I am Hassan Nur, H.T. Yesif, rer Sahal, I know Accused 17. I heard of shooting in Burao. I was at Tur-der. Accused 17 was at Del'ad. I saw him there the day we heard the news of the shooting. Del'ad is two and a half days' march from Burao. Accused 17 had been at Del'ad for all the year. I heard the D.C. was at Wadamago and wanted to see the people. I went to see D.C. I left accused at Del'ad. Del'ad is a day's march from Horoferengi. 20

From the time I heard of the shooting in Burao until I heard of the death of Sheikh Bashir accused was in his karia.

Tur-der is about a mile from Del'ad.

I was living in my karia in Tur-der.

Read over and found correct.

(Sgd.) R. J. QUIN. 24/11.

No. 112.
Alin
Yusuf's
Statement,
24th
November
1945.

No. 112.

EVIDENCE of Alin Yusuf.

30

D.W.34, Muslim, sworn, states :—

I am Alin Yusuf, H.T. rer Dahir. I know Accused 17, Deir Deria. I remember hearing of the shooting in Burao. I was at Del'ad. That is three days' journey from Burao. Accused 17 was with me at Del'ad. I was with him for four days before I heard of the shooting. We stayed together until we heard of the police coming. I went one way with my camels. He went the other with his.

Read over and found correct.

(Sgd.) R. J. QUIN. 24/11.

No. 113.

EVIDENCE of Ali Hussein.

D.W.35, Muslim, sworn, states :—

I am Ali Hussein, H.T. rer Egal Dahir. I know Accused 9. He is Mohamed Hashi. I know Accused 13. He is Saeed Mohamed. I was in Burao on the night of the shooting. I did not see either of the accused that night.

Witness volunteers the statement that he was previously one of the accused.

10 Q. Did you see any of the other accused on the lorry ?

A. I only remember Accused 18.

Q. Were there a lot of people on the lorry ?

A. Yes.

Q. Is it possible that these two i.e. Accused 9 and 13 could have been on the lorry and not be seen by you ?

A. Yes. I remember Accused 18 only because he was sitting beside me.

Read over and found correct.

(Sgd.) R. J. QUIN. 24/11.

20

No. 114.

EVIDENCE of Haji Adan Owit.

D.W.36, Muslim, sworn, states :—

I am Haji Adan Owit, H.T. Yesif rer Hassan Yesif. I know Adan Haji Jama, Accused 10. I remember hearing of the shooting in Burao. I was in Burao in my shop on the night of the shooting. I saw Accused 10 that night at about 2110 hrs. He asked me for a place to sleep. I had no place for him to sleep. He went away.

Read over and found correct.

(Sgd.) R. J. QUIN. 24/11.

30 1100 hrs. Further defence witnesses are not at the moment available. Police are instructed that all defence witnesses who have not been called are to be outside the Court at 0800 hrs. on 26th November. Defence Counsel to supply list to police. The Court adjourns until 0800 hrs. on the 26th November, 1945.

(Sgd.) R. J. QUIN. 24/11.

0800 hrs. 26th November, 1945. The Court re-assembles. 13 accused before the Court. Assessors and Defending Counsel present.

(Sgd.) R. J. QUIN. 26/11.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Defence
Evidence.*

No. 113.

Ali
Hussein's
Statement,
24th
November
1945.

No. 114.
Haji Adan
Owit's
Statement,
24th
November
1945.

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 115.

EVIDENCE of Sheikh Ahamed Ismail.

D.W.37, Muslim, sworn, states :—

*Defence
Evidence.*

No. 115.
Sheikh
Ahamed
Ismail's
Statement,
26th
November
1945.

I am Sheikh Ahamed Ismail, Dolbahanta ba Arre Somme. I am Kadi of Burao. I do not know Accused 18. I know of no disease which makes a man mad by religion, but by the wish of Allah a man may be sane one day and mad the next. Some mullahs say that if there is a devil in a man's head they can cure him. This is not in accordance with the Koran.

Read over and found correct.

10

(Sgd.) R. J. QUIN. 26/11.

No. 116.
Hashi
Jama's
Statement,
26th
November
1945.

No. 116.

EVIDENCE of Hashi Jama.

D.W.38, Muslim, sworn, states :—

I am Hashi Jama, H.T. rer Aboker Ahamed. I remember the night of the shooting in Burao. I know Nur Billeh Accused 6. On the night of the shooting I was in Fada Mobile's compound. The Accused 6 came in there at about 1930 or 2000 hrs. I slept all night. I saw Fada Mobile that night, she made tea. We had tea then she put mats down for us. Musa Fiddin (Accused 11) was there as well. The compound was locked by Fada Mobile that night. Both the accused were inside when the door was locked. Nur Billeh was lying next to me. In the morning I shouted and Fada Mobile opened the door at about 0500 hrs. I had a conversation with Accused 6. He said he was well. I asked him where he had come from. He said from the interior. I asked if he had walked or come by truck. He said that he had walked. The compound of Fada Mobile is secure. No one could get in or out except through the door. 20

By the Court : Q. What time did Fada Mobile lock the door ?

A. At about 2100 hrs.

Q. Did you see Accused 6 and 11 enter the compound ?

30

A. Yes. Accused 6 was the first to come in. Accused 11 came in about half an hour later.

Read over and found correct.

(Sgd.) R. J. QUIN. 26/11.

No. 117.
EVIDENCE of Abdillahi Ali.

*In the
Somaliland
Protectorate
Court,
Burao.*

D.W.39, Muslim, sworn, states :—

*Defence
Evidence.*

I am Abdillahi Ali, H.T. Yesif rer Sahal. I remember the night of the shooting in Burao. I slept in the mosque that night. I know Adan Haji Jama (Accused 10). He came to me in the mosque that night. I saw him come in between 1900 and 2000 hrs. for prayer. He did not go out again. I saw him at the morning prayer. We washed and prayed together then. The door is locked at night. It was locked at about
10 2200 hrs. that night. It was opened at about 0500 hrs. next morning. Without asking some one to unlock the door no one could get in or out.

No. 117.
Abdillahi
Ali's
Statement,
26th
November
1945.

Read over and found correct.

(Sgd.) R. J. QUIN. 26/11.

No. 118.
EVIDENCE of Ali Mohamed.

No. 118.
Ali
Mohamed's
Statement,
26th
November
1945.

D.W.40, Muslim, sworn, states :—

I am Ali Mohamed, H.T. Yesif rer Sahal. I remember the night of the shooting. I slept in the mosque that night. I know Adan Haji Jama (Accused 10) I saw him in the mosque that night. I went to the mosque
20 at about 2100 hrs. Accused 10 came in at about 2200 hrs. Accused was in the mosque when the door was locked. I slept next to him. He was next to me when I woke up in the morning. The mosque was unlocked at 0500 hrs. the next morning. If anyone wanted to leave before the door is unlocked in the morning he would not be able to do so.

Q. Did you go to the prayer between 1900 and 2000 hrs. ?

A. Yes. I did not leave the mosque after it.

Q. Did you see Accused 10 at the prayer between 1900 and 2000 hrs. ?

A. Yes. He did not leave after the prayer. The witness says he
30 cannot tell time. I would not know the difference between 1900 and 2200 hrs.

Read over and found correct.

(Sgd.) R. J. QUIN. 26/11.

No. 119.
EVIDENCE of Ashleh Duceirn Dolbahanta Mohamoud Gerad.

No. 119.
Ashleh
Duceirn
Dolbahanta
Mohamoud
Gerad's
Statement,
26th
November
1945.

D.W.41, Muslim, sworn, states :—

I am Ashleh Duceirn Dolbahanta Mohamoud Gerad. I have a house in Burao. I remember the night of the shooting. I know Ali Haji Aboker (Accused 12). On the night of the shooting he came to my house after prayer (between 1900 and 2000) I told him he could sleep there. The
40 door was fastened with ropes and tins. I could have heard anyone move the door during the night. When the door was closed Accused 12 was inside. I saw him after the morning prayer. He was still asleep.

Read over and found correct.

(Sgd.) R. J. QUIN. 26/11.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Defence
Evidence.*

No. 120.
Ali
Ibrahim's
Statement,
26th
November
1945.

No. 120.

EVIDENCE of Ali Ibrahim.

D.W.42, Muslim, sworn, states :—

I am Ali Ibrahim, H.T. Yesif rer Robleh. I am the son of D.W.41. I live with her in Burao. I remember the night of the shooting. I know Ali Haji Aboker (Accused 12). He slept in my mother's gurghi that night. He came to the gurghi after the prayers (1900—2000 hrs.). He was given permission to stay there. After he came the door was closed with tins and ropes. Accused 12 slept next to me. He was in the same place the next morning. I met him later in town. I have not seen him from that day until to-day. 10

Read over and found correct.

(Sgd.) R. J. QUIN. 26/11.

No. 121.
Yusuf
Farah's
Statement,
26th
November
1945.

No. 121.

EVIDENCE of Yusuf Farah.

D.W.43, Muslim, sworn, states :—

I am Yusif Farah H.T. Yesif Abdurahaman. I remember hearing of the shooting in Burao. The news was about three days old when I heard the news. I was at Gorwein when I got the news, that is about two days' journey from Burao. I know Accused 13 Saeed Mohamed. When I heard the news he was not at my karia. I do not know where he was. On 13 July (about) I saw him at Las Gelgereh. This is a long way from Horoferengi. I do not know of any thing happening on that day. Sheikh Bashir was killed some days later. 20

Read over and found correct.

(Sgd.) R. J. QUIN. 26/11.

1100 hrs. The Court adjourns until 0800 hrs. 27th November, 1945.

(Sgd.) R. J. QUIN. 26/11.

0800 hrs. 27th November, 1945. The Court re-assembles. 13 Accused before the Court. Assessors and Defending Counsel present. 30

(Sgd.) R. J. QUIN. 27/11.

No. 122.
Arda Abdi's
Statement,
27th
November
1945.

No. 122.

EVIDENCE of Arda Abdi.

D.W.44, Muslim, sworn, states :—

I am Arda Abdi, H.T. rer Aboker Ahamed. I remember the night of the shooting in Burao. I slept in Fada Mobile's house in Burao. I recognize Nur Billeh (Accused 6). He arrived shortly after prayer in the evening, i.e. just after sundown. I recognize Musa Fiddin (Accused 11). He arrived just after 2000 hrs. When Accused 6 arrived it had only been dark a very short time. Fada Mobile made tea and Accused 6 drank it. Accused 11 came after the tea had been made. When the door was locked Accused 6 and 11 were in the compound and they were still there next morning. 40

Read over and found correct.

(Sgd.) R. J. QUIN. 27/11.

No. 123.

EVIDENCE of Faduma Haji Hussein.

*In the
Somaliland
Protectorate
Court,
Burao.*

*Defence
Evidence.*

No. 123.
Faduma
Haji
Hussein's
Statement,
27th
November
1945.

D.W.45. Muslim, sworn, states :—

I am Faduma Haji Hussein, H.T. Sambur. I am the wife of Accused 18. I have been married for 7 years. When I married him he had a lot of stock. He now only has 20 goats and 1 camel. He sold some of his stock, some he killed, some his relatives took away because they considered him mad and not able to look after stock. I have known him do strange things, for example he killed four of his camels in one day. Another strange thing was when he ran away with a Government rifle. It was also foolish the way he sold his stock.

The camels he killed were in milk and with young calves. He stabbed them with a knife. All were killed. The calves were killed by cutting their stomachs with a knife. There was no reason for this. It was the act of a mad man.

I am still married to the Accused 18. I have two children.

Read over and found correct.

(Sgd.) R. J. QUIN. 27/11.

No. 124.

EVIDENCE of Hassan Abdi.

No. 124.
Hassan
Abdi's
Statement,
27th
November
1945.

20

D.W.46, Muslim, sworn, states :—

I am Hassan Abdi, H.T. rer Dahir rer Musa Yesif. I remember hearing that Sheikh Bashir has done some shooting in Burao. I was in Del'ad. That is 2½ days' journey from Burao. I heard two or three nights after the shooting. My karia was in Del'ad for two months before the shooting. There were two men in my karia. The other man was Deir Deria (Accused 17). He had been in the karia for two months before the news arrived. He had not left the karia during that time.

Read over and found correct.

30

(Sgd.) R. J. QUIN. 27/11.

No. 125.

EVIDENCE of Haji Abdillahi Abokir.

No. 125.
Haji
Abdillahi
Abokir's
Statement,
27th
November
1945.

D.W.47, Muslim, sworn, states :—

I am Haji Abdillahi Abokir, H.T. Sumbur. I know Accused 18. I have known him many years. He once had plenty of stock. He now has very little. He has wasted it. He married a girl in my section. On a day some time later he was living in our karia. He killed some of his camels that were in milk. I came to stop him but the camels were already killed. I held him with some other men and tied him up. Two

*In the
Somaliland
Protectorate
Court,
Burao.*

*Defence
Evidence.*

No. 125.
Haji
Abdillahi
Abokir's
Statement,
27th
November
1945,
continued.

of his uncles came and took him away. He then had 180 sheep and goats and about 20 camels. He gave two of his camels away. He told his relatives to look after the others. He took the sheep and goats himself with a small girl. He told me in Burao that he had left the sheep and goats as he did not want them. I advised him to get his relatives or his wife to look after them. He did not take any notice of my advice. This was an act of a mad man.

By Court : Q. Did he offer violence to you or the other men when you were tying him up ?

A. Yes, he struggled a lot and would have stabbed us if we had not taken the knife away. 10

Read over and found correct.

(Sgd.) R. J. QUIN. 27/11.

No. 126.
Haji
Hassan
Geleh's
Statement,
27th
November
1945.

No. 126.

EVIDENCE of Haji Hassan Geleh.

D.W.48, Muslim, sworn, states :—

I am Haji Hassan Geleh, H.T. rer Billeh. I have known Accused 18 for a long time, I know him well. I know that at one time he had plenty of stock. Now he has not much stock. He was not right in his head and did not take care of his stock. About six years ago his uncle asked me to pray for Accused 18. I went and met him. He was held by two men. He did not recognize me although he had known me for a long time. I wrote some verses of the Koran. I made a Argas of these and put it on his neck. I then left him. I went back after three days. He then knew me. He said he was then all right. 20

By the Court : Q. Was Accused 18's madness of the kind that might have made him violent and likely to harm someone ?

A. Yes.

Q. Would the prayers of a powerful mullah over a man's hand make him obey the mullah ? 30

A. There are some mullahs who are so powerful that they could make a man do anything they want to do.

Q. Was Sheikh Bashir such a mullah ?

A. Yes.

By Assessor No. 2 : Q. Are there any verses in the Koran which can cure a madness ?

A. Yes.

Read over and found correct.

(Sgd.) R. J. QUIN. 27/11.

No. 127.

EVIDENCE of Ali Amirreh Hersi.

*In the
Somaliland
Protectorate
Court,
Burao.*

D.W.49, Muslim, sworn, states :—

I am Ali Amirreh Hersi, H.T. Yesif rer Sahal. I remember hearing of shooting in Burao. I was at Ber. I heard the morning after the shooting.

*Defence
Evidence.*

On the night of the shooting I did not see any of the accused in Ber.

Read over and found correct.

(Sgd.) R. J. QUIN. 27/11.

No. 127.
Ali
Amirreh
Hersi's
Statement,
27th
November
1945.

10 1100 hrs. The Court adjourns until 0830 hrs. on 29th November, 1945, for Defending Counsel to prepare closing speech.

(Sgd.) R. J. QUIN. 27/11.

0830 hrs. 29th November, 1945. The Court re-assembles, 13 accused before the Court. Assessors and Defending Counsel present.

(Sgd.) R. J. QUIN. 29/11.

Defending Counsel applies to Court for adjournment for 24 hours to enable him to conclude preparation of final speech. Court grants adjournment to 0830 hrs. on 30th November, 1945.

(Sgd.) R. J. QUIN. 29/11.

20 0830 hrs. 30th November, 1945. The Court re-assembles. 13 accused before the Court. Assessors and Defending Counsel present.

(Sgd.) R. J. QUIN. 30/11.

 No. 128.

DEFENDING COUNSEL'S CLOSING SPEECH.

Defending Counsel commences closing speech [*not printed*].

1230 hrs. 30th November, 1945. Court adjourns until 0830 hrs. on 1st December for conclusion of closing speech.

(Sgd.) R. J. QUIN. 30/11.

No. 128.
Defending
Counsel's
Closing
Speech,
30th
November
1945.

30 0830 hrs. 1st December, 1945. Court re-assembles, 13 accused before the Court. Assessors and Defending Counsel present.

(Sgd.) R. J. QUIN. 1/12.

JUDGE'S SUMMING UP.

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 129.
Judge's
Summing
up, 1st
December
1945.

Before I address you on the issues before the Court, I should like to thank you for the services you have performed in this case. I have observed how closely you have followed the evidence and have been greatly assisted by many of the questions which you have put to the witnesses. The case has been long and at times difficult. We have had unavoidable delays, but throughout my association with you I have been greatly impressed by the intelligent and patient interest you have taken. I hope that you will soon be able to return to your karias, taking with you the knowledge that your services have been appreciated, and that, whatever the ultimate result of the case may be, you, at least, have conscientiously done your duty. 10

On the last two days of the hearing you listened to a long and eloquent speech by the learned Counsel for the Defence. When you are considering this case I ask you to bear in mind that you have heard no similar speech for the Prosecution, nor have the stories told by the defence witnesses been subject to tests and questions they might have received had there been an officer appearing for the Prosecution. The reasons why we have not had the advantage of a Prosecutor in the case need not concern you, but the fact that there has not been one is worthy of your notice when you are weighing in your minds the value of some of the evidence. 20

The plea that was made by the learned defending Counsel was cleverly conceived and eloquent, it is my misfortune that the remarks I am about to make follow hard upon it and must necessarily be shorn of eloquence and emotion. What my remarks lack in oratory, I shall endeavour to supply in facts. My position as judge in this Court demands that I be impartial and decide the issues in accordance with the facts and the law and not in accordance with any personal bias or preconceived ideas of anyone else. 30

Now it is in deciding what those facts are that I want the assistance of the assessors.

Before I marshal the facts before you there are two matters I wish to dispose of. The first is the evidence of Adan Ahamed P.W.55. He is the man who the Defence have consistently called the King's Evidence. I do not propose to adopt this term since although he is one of the main witnesses for the Prosecution, he is a self-confessed accomplice and I will refer to him from now on as "the accomplice" so that you will not associate him in your minds with the King or the Government and on those grounds give undue weight to his evidence as a result of that association. 40
When I summed up the case at the end of the evidence for the Prosecution I gave you some indication of how the law regarded the evidence of an accomplice and it is my duty to repeat and explain the law on that point. The learned Counsel for the Defence referred to certain passages from a book on evidence, those passages are part of the law on the matter and as such I accept them. I do not propose to read those passages or attempt to give you a long lecture on the law. All that is necessary is that you should know that you may if you wish accept the evidence of the accomplice on any point without corroboration but I advise you not to do so. I advise you not to accept his evidence unless other witnesses say the same thing 50
or from circumstances which are obvious to you his story is supported by

something other than his mere word. For example when he says that it was dark when the lorry left Ber, I suggest that you can accept this because many other witnesses say the same thing, but when he says that a certain man was on the truck and there is no other evidence that that man was on the truck, I suggest that you should not accept his unsupported statement. It is a matter for you to decide, but that is my advice to you on the question.

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 129.
Judge's
Summing
up, 1st
December
1945,
continued.

The second thing I want you to understand is that you can divest yourselves from the consequences of the answers to any questions I put to you. Be very clear that whatever follows your answers—whatever
10 punishment, whatever release—is not your responsibility in your position as assessors. It is my responsibility and the responsibility of the Government. I, therefore, am sure that you will give your answers honestly and to the best of your ability. If you should not understand any question ask for an explanation. If you want time to consider the answer tell me and you shall have it.

Questions to the assessors.

1. (A) You have heard the evidence of the events in Burao on the night of 2/3 July. Are you satisfied from that evidence that a party of men came into Burao on that night, that one or more of them fired shots
20 at the Police Quarter Guard where P.C. Mohamed Saleh was on duty?

Each assessor answers "Yes."

(B) Are you satisfied that shots from that party killed the prisoner Hassan Haji Mohamoud and wounded the prisoner Hassan Barud?

Each assessor answers "Yes."

(C) After the firing at the Quarter Guard did members of the party fire at the bungalow occupied by Major Chambers?

Each assessor answers "Yes."

(D) Did one of those shots hit and kill Suleban Adan, an illalo on duty there?

30 Each assessor answers "Yes."

(E) Shortly after this did members of the same party fire at the truck driven by Major Hunt?

Each assessor answers "Yes."

2. (A) You have heard evidence about a truck coming into Burao. Did any or all the members of the party who fired the shots travel on that truck?

After consideration each assessor answers "No."

(B) Accused Nos. 10, 11, 12 and 14 have said that they travelled on the truck, are you prepared to accept that they did so travel into Burao?

40 Each assessor answers "Yes."

(C) Accused Nos. 1, 2, 4, 6, 9, 13 and 17 say that they did not travel on the truck. Have you formed an opinion as to whether or not any of them travelled on the truck?

Each assessor answers: "None of these accused travelled on the truck."

(D) Did the truck stop at Sheikh Ismail's tomb?

Each assessor answers "Yes."

(E) Were arms and ammunition distributed to a party near the tomb?

Assessor No. 1 answers: "The only evidence about this comes from P.W.55 and we are not prepared to accept anything he says as evidence.

50 Assessors Nos. 2 and 3 agree with this answer.

3. Does this answer apply to the whole of this witness's evidence?

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 129.
Judge's
Summing
up, 1st
December
1945,
continued.

Each assessor answers " Yes." Assessor No. 2 explains that they do not consider that this witness is worthy of belief in any particular. The other assessors concur.

In view of this answer the Court does not consider it necessary to ask further questions with regard to the events in Burao.

4. We will now deal with the events at Horoferengi.

(A) Accused 2, 8 and 9 admit that they were at Horoferengi. Do you accept this ?

Each of the assessors answers " Yes."

(B) Accused 12, 13 and 17 say that they were not at Horoferengi. 10
In your opinion were any of these accused at Horoferengi ?

Each assessor answers : " None of them."

(C) Did any of Accused 2, 8 or 9 take part in the resistance to the police at Horoferengi ?

Each assessor answers : " No."

5. As to Accused 18 (Farah Abdullahi).

(A) Do you consider that this man is responsible for his actions ?

No. 2 Assessor answers : " There is a stronger case against this man than against any of the others but we think he is mad." The other assessors agree. 20

No. 130.
Judgment,
19th
December
1945.

No. 130.
JUDGMENT.

The first charge against all the accused now before this Court (except Nos. 8 and 14 accused) is that they were members of an unlawful assembly in Burao on or about the 2nd July, 1945, and that in prosecution of the common purpose of that unlawful assembly, which was to murder or attempt to murder non-Muslims or to assist or support such murders or attempted murders, a member or members of that unlawful assembly murdered Suleban Adan, H.Y. Musa Arreh Hassan Musa and Hassan Haji Mohamoud Dolbahanta Yahier rer Fikki Warfa and attempted to commit the murder of Frederick James Chambers and John Anthony Hunt both Majors in His Majesty's Army and P.C. 476 Mohamed Saleh of the Somaliland Police and that thereby under section 149 of the Indian Penal Code they are guilty of causing the said murders and attempted murders. 30

Accused Nos. 2, 8, 9, 12, 13 and 18 are also charged under section 225 of the Indian Penal Code with intentionally offering resistance to the lawful apprehension of Sheikh Bashir.

Accused 14 has now only one charge to answer and that is that he was in possession of arms.

Those are the charges still outstanding against the various accused 40
on this the 35th day that we have actually sat in this Court. Fifty-six witnesses were called for the prosecution and forty-nine for the defence. I have twice summed up the case—one at the end of the prosecution and one to the assessors of whom I asked certain questions. The Court has heard a long and detailed address by the learned Counsel for the Defence and the time has now come for me to deliver judgment.

The events which gave rise to these charges took place on the night of 2/3 July in Burao and on 7th July in Horoferengi. What happened was this : a party of men assembled in the neighbourhood of Sheikh

Ismail's tomb just outside Burao. Some members of this party were armed. They came into the European Quarters of Burao. On the way in some of them opened fire on P.C. 476 Mohamed Saleh who was the sentry on duty at the Police Quarter Guard. Their shooting did not injure the sentry nor any member of the guard. At this time two security prisoners were sleeping outside the cells. One of them Hassan Haji Mohamoud was killed by one of the shots and the other, Hassan Barud, was wounded by another shot. The guard did not reply to the firing but the men made off.

*In the
Somaliland
Protectorate
Court,
Burao.
— —
No. 130.
Judgment,
19th
December
1945,
continued.*

10 Shortly after this, firing commenced around the bungalow occupied by the District Commissioner of Burao (Major Chambers) and his wife. Although a considerable number of shots were fired, most fortunately neither of the occupants was hit. At the time of the shooting there were two illaloes on duty as a guard against thieves. One of these, Suleban Adan, was hit by a bullet and died from his wound later the same night.

The nearest bungalow to the District Commissioner's was occupied on that night by Major John Anthony Hunt. He was aroused by the shooting. He got into his car with a Somali—Ali Haji Quabile and drove towards the point from which he considered the shots had been fired.

20 He had only gone a few yards when shots were fired at his car. Although some damage was done to the car, neither of the occupants was injured.

There was one other incident that night. Captain James, the Superintendent of Police, Burao, was starting his car to investigate the shooting when a shot was fired at his bungalow. No other shots were fired by the attacking party and no shots were fired at them.

The next morning the police found over 25 expended cartridge cases and a number of tracks. From these tracks P.W.12 was able to say that some 18 or 19 people had got off a truck at a point near Sheikh Ismail's tomb and had come towards Burao European Quarters. Various live

30 cartridges were found along these tracks.

Acting on information in their possession, the police decided to arrest Sheikh Bashir and Alin Yusuf. Sheikh Bashir's karia was traced to Horoferengi. On 7th July a force of police, illaloes and civilians under command of Lt. Davies went to Horoferengi. They followed two men from the karia into the Ber Dab hills. These men joined some others and fire was brought to bear on Lt. Davies' party. This fire was returned. During the firing an illaloe was hit by fire from the party in the hills but was not seriously injured. Lt. Davies' party came to the place from which they had been fired at and there found Alin Yusuf

40 and Sheikh Bashir. Both these men had been killed. They also found Mohamed Ali (Accused 2) who was unconscious.

Subsequently various people were arrested and of these we now have 13 awaiting the judgment of this case.

I will now deal with the essential points which have to be substantiated in the various charges and consider how far they have been substantiated against each individual accused.

In order to convict an accused whose case falls within the terms of section 149 of the Indian Penal Code there are five essential points which must be proved :—

- 50
1. That there was an unlawful assembly.
 2. That the accused was a member of that unlawful assembly.

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 130.
Judgment,
19th
December
1945,
continued.

3. That the accused had intentionally joined or remained with such unlawful assembly.

4. That an offence was committed by a member of such assembly.

5. That the offence was committed (A) in prosecution of the common intention of such assembly or (B) was such as the members of the assembly knew to be likely to be committed in prosecution of the common object.

Law of Crimes page 361.

The essence of a charge laid under this section is that it makes each 10
accused a principal for the acts of each member of the assembly and thus
bars to him the offence of abetment. Let us consider whether the people
who assembled at Sheikh Ismail's tomb on the night of 2/3 July last fall
within these essential points. Was the assembly unlawful? The answer
is clearly yes. It falls clearly within either the first or third definitions in
section 141 of the Indian Penal Code. Without for the moment concerning
ourselves with other evidence, the attack subsequently made in Burao
warrants the inference that this was the intention of the assembly. That
there were five or more members is apparent from the footprints, apart
from other evidence. "The essence of the offence is the common object of 20
the persons forming the assembly. Whether the object is in their minds
when they came together or whether it occurs to them afterwards is not
material. But it is necessary that the object should be common to the
persons who compose the assembly, that is, that they should all be aware
of it and concur in it." Law of Crimes, page 334. It is a fair assumption
from the footprints alone, that when the members of the assembly sat
down they discussed the common object and that all were then aware of
it.

Was each of the accused a member of the assembly? I will deal
with this point when I deal with the evidence against each individual 30
accused.

Was each accused an intentional member of the assembly? Here
again the footprints show no one leaving after it is assumed that the
intention was made evident. No accused has pleaded that he was part of
the assembly until the intention was made known and then left it. Nor
has any accused claimed that he was forcibly made part of the assembly.
It is therefore a proper assumption that if any accused is found to have
been a member of the assembly, he was an intentional member.

Were murders and attempted murders committed by members of the
assembly? From the mass of evidence it is quite clear that this was so. 40

Was the offence one which was committed in prosecution of the
common object or likely to be committed in prosecution of that object?
Putting the common object at its lowest and calling it an armed raid,
murder and attempted murder are the most likely offences to result.

I have dealt with these matters only from the point of view of the
circumstantial evidence, and from that alone I am convinced that the
people who were members of that assembly were eager partisans in the
illegal object of that assembly. That opinion is even more firmly
established in my mind when I review the direct evidence.

Now on the charge under section 225 of the Indian Penal Code the 50
essentials of the charge are the intentional offering of resistance to the
lawful apprehension of an offender. That the police went to Horoferengi

to arrest Sheikh Bashir is abundantly clear as is the fact that they were fired at. Any of the accused who were present at that shooting and assisted it in any way, whether they were acting as scouts, ammunition carriers or actually firing, can be held to have intentionally offered resistance. The fact that they remained with Bashir while there was a chance to run away—that there was such a chance is borne out by certain witnesses and former accused—may be taken as a proper inference that they stayed to resist the arrest.

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 130.
Judgment,
19th
December
1945,
continued.

10 On the one charge against Accused 14, it is sufficient to prove merely that he was in possession of arms. The nature of that possession is a matter of sentence and not of guilt. This accused had admitted possession and his story has been corroborated to some extent by the evidence of Adan Ahamed (P.W.55), the accomplice who has given evidence for the Prosecution.

20 In order to convict any one of the accused the case against him must be proved beyond reasonable doubt. Reasonable doubt does not mean that by some far-fetched and fantastic hypothesis a verdict of “not guilty” can be arrived at because any other conclusion is distasteful. There is hardly anything that an ingenious mind cannot bring itself to
30 doubt, granted sufficient industry and application. A reasonable doubt is not one that would be conjured up in the middle of a dark, sleepless and troubled night, but one that would lead you to say naturally when about your business in clear daylight: “Well, I can’t make up my mind about that proposition.” Remember that the proof has to be not beyond possible doubt, but beyond reasonable doubt. There must be such a degree of certainty in the proof that would justify it being acted on in grave and serious matters. There is one particular aspect of the prosecution evidence that must be very seriously considered before any weight can be given to it. This is the evidence of Adan Ahamed (P.W.55), who was present with
30 the attacking party at Burao and was also at Horoferengi up to the time of the shooting. This man is an accomplice and, while there is no rule of law which prevents me from accepting his evidence as it stands, there is a very strong rule of practice that his evidence should not be accepted unless it is corroborated. His evidence was long and detailed and he was subjected to a strong cross-examination by the defending Counsel. I listened to his evidence with the suspicion and distrust that one necessarily feels for a man in his position. At the beginning of his cross-examination he was for a few moments nonplussed by the method of the attack on him, but throughout both his evidence and cross-examination he did not vary
40 his story on any important detail. I found my mind compelled to the conclusion that he was speaking the truth. His statements had an honest ring to them. When they are compared with the statements of other witnesses they are corroborated on many important points, and even the statements of some of the accused corroborate parts of the evidence. What I have to decide is the amount and the kind of corroboration that his evidence should receive.

The Defence have referred me to certain passages in “Sarkar on Evidence.” I have studied these passages carefully. I have also noted the last paragraph on page 1139 of the same work. This is so relevant
50 that I propose to read it out and include it as part of this judgment:—

“The true rule of the subject of corroboration of the evidence of approvers probably is that, if the court is satisfied that the witness is

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 130.
Judgment,
19th
December
1945,
continued.

speaking the truth in some material part of his testimony, in which it is seen that he is confirmed by unimpeachable evidence, there may be just ground for believing that he also speaks the truth in other parts as to which there may be no confirmation (*R. v. Kala Chand*, 11 W.R. Cr. 21). A judge is not bound to rely on such statements only as are corroborated by other reliable evidence. Once a foundation is established for the belief that the witness is speaking the truth, because he is corroborated by true evidence on material points, he is at liberty to come to a conclusion as to the truth or falsehood of other statements not corroborated (*R. v. Bhimrao*, 27 Bom. L.R. 120 ; 10 86 I.C. 72 (18 Bom. L.R. 266 folld.). Corroboration as regards every single statement of approver is not necessary. On uncorroborated points he can be believed, if the jury thought it reasonable (*Ledu Molla v. R.*, 52 C. 595 ; 42 C.L.J. 501 ; 87 I.C. 925 : *Gafoor v. R.*, A. 1936, R. 373). Although, generally speaking, it would be most unsafe to convict an accused person on the uncorroborated evidence of an accomplice, such evidence must, like that of any other witness, be considered and weighed by the judge, who, in doing so, should not overlook the position in which the accomplice at the time of giving his evidence may stand and the motives which he may 20 have for stating what is false. If the judge, after making the allowance for the considerations and the probabilities of the story, comes to the conclusion that the evidence, of the accomplice, although uncorroborated, is true, and the evidence if believed, establishes the guilt of the prisoner, it is his duty to convict."

As to the nature and extent of the corroboration required it seems to me clear that (1) there must be corroboration both as to the commission of the crime and the connection of the accused with it. It will be sufficient if some one or more, but not of all, the material circumstances is corroborated otherwise the evidence of the accomplice would be superfluous, and (2) that 30 there must be corroboration as to each accused.

Subject to these limitations I therefore accept the evidence of this witness and when I am summing up the evidence against the individual accused I will point out the specific matters which I consider to be corroboration in each case. On the general events such as the dismounting from the truck at Sheikh Ismail's tomb, the halt of the party from which we can assume the declaration of intention by Bashir. The route taken by the party, and the firing, there is corroboration from the footprints and the evidence of the firing and the various used cartridges found.

I will leave this witness's evidence for the moment and pass to another 40 matter which the defending Counsel has seen fit to raise. That is the question of enmity between various witnesses for the prosecution and the accused. In some instances this enmity is personal and in others sectional or tribal. The examples that have been given of personal quarrels appear to me to be very petty and not sufficient to make me draw any inference that the witnesses were moved or influenced in their evidence by spite. Indeed we had one very illuminating incident in the case of Accused 2, who alleged that Mahdi Farah (P.W.27) was his enemy although this witness had given a very strong piece of evidence in his favour. I am well aware that there are many tribal and sectional disputes and feuds in this 50 country but can see no indication that they have impinged upon the evidence in this case. I am also well aware that many Somalis have no

high regard for the seriousness or binding power of an oath taken before a non-Muslim and for that reason I view with equal suspicion the evidence given by close relatives and members of the same subsections as the evidence given by declared enemies.

*In the
Somaliland
Protectorate
Court,
Burao.*

—
No. 130.
Judgment,
19th
December
1945,
continued.

In this connection I must put on record that I am satisfied that many of the prosecution witnesses did not speak the whole truth. Whether the omissions they made were a result of a desire to disassociate themselves from the whole affair or a fear of the consequences of involving certain accused I cannot say. The most striking example of this reluctance to
10 give evidence was Haji Ahamed Sheikh Musa (P.W.13). This witness was an intelligent and clever man and I do not believe him when he says that he did not notice any of the accused on the truck.

Another prosecution witness whose demeanour I must mention is Ali Haji Ibrahim (P.W.24). It will be remembered that this man made allegations against the police. I had a full inquiry made into this matter and it is clear that the charges made by him were absolutely without foundation.

For some reason, which has not been communicated to me, there has not been a prosecuting officer in this case. Although a judge is entitled
20 to question witnesses, he would be exceeding his duty and acting improperly if his questions could be construed into the cross-examination of defence witnesses. For that reason I have refrained from asking witnesses questions in the nature of cross-examination with the result that the evidence of these witnesses has not been subject to the tests which are normal in a criminal court. This is a matter which has given an unusual advantage to the accused and is an important factor that has largely contributed to my finding that a considerable number of the charges have not been proved.

The general line of the defence has been that the shootings in Burao are not disputed but it is denied that the accused were concerned in them.
30 In each case the defence has sought to set up an alibi. On the charge arising out of the Horoferengi incident, in three cases the defence is again an alibi. In another three cases the accused admit their presence but deny any part in the shooting. The defence in the case of Accused 18 is on different lines. Although it is not admitted that he took any part in either shooting, it is argued that if he did he was so insane that he cannot be held responsible for his actions.

Now the defence of alibi may frequently be an honest defence, but in this country where it is so easy to obtain persons to give false evidence it must be supported by strong evidence, and it must be clear to the Court
40 that the witnesses know the day and the time about which they give evidence. If the Court considers that a false alibi has been presented it will have strong doubts of the accused's claim to innocence on the charge.

The defence that certain accused were present at Horoferengi for quite lawful purposes may also be true but it seems to me to be an extraordinary coincidence that so many innocent persons had just arrived at a recently set up karia. At a karia which was expecting the police to arrive and was so prepared that they started to drive off the camels to prevent their seizure by the police. A karia in which there must have been knowledge of the recent events in Burao. A karia in which many
50 of the people who were concerned in that shooting.

The defence of insanity is one on which the law is well settled. It is for the defence to establish the insanity at the time the actual acts charged were committed and the degree of proof necessary is well defined.

*In the
Somaliland
Protectorate
Court,
Burao.*

—
No. 130.
Judgment,
19th
December
1945,
continued.

Accused No. 1, Ibrahim Haji Abdullahi, appears before this Court only on the first charge. He has told the Court that on the day in question he was looking for some lost stock. That he got on a lorry outside Gabo and went to a karia where there was a balleh. He said that he did not get on the lorry again but continued the search for the lost stock, returned to his karia, and was in Gabo the next morning. His story is strongly supported by D.W.s 1, 2, 3, 4, 5, 6, 7 and to a considerable extent by P.W.s 15, 21, 22, 23 and 24. Apart from Adan Ahamed (P.W.55), the only prosecution witness who in any way contradicts this evidence is P.W.25 Isman Adan who says that he saw accused on the back of the lorry but later says that he only saw him at Kerit but not on the lorry. I cannot find that this evidence is sufficiently conclusive either as corroboration of P.W.55 or as evidence to show that the accused was on the lorry and accordingly find that in the case of this accused the Prosecution case is not proved and he is acquitted. 10

Accused No. 4, Jama Hashi, also appears on one charge only. He has told the Court that he was not with Sheikh Bashir but was paying "yarad" at a karia at Orlasaugh. D.W.s 12, 13, 14 support this story. With the exception of Adan Ahamed (P.W.55), no Prosecution witness mentions this accused. I find that there is no evidence on which this accused could be convicted and accordingly he is acquitted. 20

Accused No. 6, Nur Billeh, is only charged on the first charge. Apart from Adan Ahamed (P.W.55) he has not been identified by any Prosecution witness. He says that he was in Burao at the time of the shooting, having come in on foot. He also says that he slept that night in Fada Mobile's compound and D.W.s 15, 16, 17, 19, 20, 38 and 44 support this alibi and D.W.18 says that he saw him early the next morning. I am not satisfied with the evidence of the alibi but in view of the fact that there is not sufficient corroboration for P.W.55 there is no adequate evidence to sustain a conviction and this accused is acquitted. 30

At the end of the evidence for the Prosecution I ruled that there was no case for Accused 8 Ali Gedi to answer on the first charge, leaving him to answer only the charge in connection with the resistance to arrest at Horoferengi. For reasons which I do not understand, the Defence called D.W.26 and 27 to attempt to prove an alibi for the night of the Burao shooting. This alibi was not mentioned by the accused in his statement to the Court and is quite irrelevant to the charge he has to answer. In his statement he admits that he was at Horoferengi when the shooting took place. He says that he was looking after camels and that his work was to look after Sheikh Bashir's camels. He found himself between the two parties, he turned round to run and was hit by two bullets in the backside. I find this explanation credible and, as it is consistent with the innocence of the accused, I accept and therefore acquit this accused. 40

Now Accused No. 9, Mohamed Hashi, has to face both the charges of the shooting in Burao and the resistance at Horoferengi. He claims that he was at Goriowein looking after his sick father when the shooting occurred at Burao and D.W.s 21, 22, 23 and 24 support that story. The only evidence connecting him with the Burao shooting is the uncorroborated evidence of Adan Ahamed and in my opinion that is not sufficient to sustain a conviction. He is therefore acquitted on the first charge. On the second charge the accused admits that he was with Sheikh Bashir when the shooting took place. He told the Court that the police party were the 50

first to open fire and that two bullets struck him. Now his witnesses have stated that the accused was with them when they heard of the shooting in Burao, one of the witnesses (D.W.23) said that he had heard that the shooting had been done by Sheikh Bashir and it is fair to presume that the accused had also heard this yet on the very day that Bashir's karia arrives at Horoferengi we find the accused there in company with Bashir, the accused says that he was there to look for camels. His statement that the police were the first to open fire is contrary to the evidence of P.W.s 1, 34, 37, 38 and 35 and I do not believe the accused's version.

10 Finding him unreliable on that point I also consider that if he had not wished to assist Bashir he had ample time to get away before the shooting. I find in this case the presence of the accused and the surrounding circumstances give sufficient corroboration to the evidence of Adan Ahamed that the accused remained with Bashir to resist the lawful arrest and I accordingly find him guilty of this charge.

Accused No. 2, Mohamed Ali, has also to answer the two main charges.

He says that he went to Bashir to see about a camel. Bashir said he could not pay him that day. He travelled on the lorry with Bashir as far as Kerit and then went to his karia. He says that he stayed there for four or

20 five days and then went to Bashir's karia again to try to get payment for the camel. He says that he thought that even if Bashir himself was not at the karia the other men in the karia would pay their shares. While he was there the police came and he tried to run away and was hit. The accused has called D.W.s 8, 9, 10 and 11 to support his statement. D.W.9 says that the news of the shooting was received in the karia the night after it happened. D.W.8 says that the news was heard two days after the shooting. D.W.11 says he spent the night of the shooting in the same karia as D.W.s 8 and 9, but does not state how he fixes the night of the shooting. D.W.10 says he lived with Bashir and that he heard the accused asking

30 Bashir for something he was owed. D.W.s 8 and 9 also say the accused left to collect a debt from Bashir. P.W.27 says that he saw the accused in Kerit after the truck had left. This is a man the accused says is his enemy. I can find no satisfactory evidence in the case for the Prosecution, other than Adan Ahamed (P.W.55), that the accused was on the truck after Kerit and I accordingly acquit him on the first charge.

On the second charge we have his own admission that he was present and was shot. I am satisfied that anyone who wished to leave Sheikh Bashir on that occasion had ample opportunity and time to do so and that those who remained did so to assist him in his resistance, and therefore

40 I find the accused guilty on this charge.

Accused No. 10, Adan Haji Jama, is on the first charge only. His defence is an alibi. He says that he got on the lorry at Kerit and got off at Sheikh Ismail's tomb. That he refused to help Bashir renew his grandfather's tomb. That he came into Burao and slept in the mosque. We have heard nothing of the urgent business that caused him to leave his camels unattended but D.W.36 says he saw the accused in Burao. He is very definite in the time and says it was 2110. D.W. 39 says he saw the accused in the mosque. That he came in between 1900 and 2000 hrs. and did not go out until the morning. This witness says that

50 the mosque was locked that night at about 2200 hrs. D.W.40 also says that the accused slept in the mosque, but when I attempted to clear up the question of the time he said he could not tell the time and would

*In the
Somaliland
Protectorate
Court,
Burao.*

No. 130.
Judgment,
19th
December
1945,
continued.

not know the difference between 1900 and 2200 hrs. It would also appear that either D.W.36 or D.W.39 is wrong in his estimate of time. I find that an attempt has been made to provide an alibi for the accused and, even without the cross-examination that attempt might have been subject to, had there been a prosecutor in this case that attempt has failed. His statement that he got on the lorry at Kerit is not borne out by any of the Prosecution witnesses. P.W.23 describes the incident of someone dropping a cigarette on the accused as occurring before Kerit and P.W.26 says the accused was on the lorry at Kerit. No witness has mentioned him as being in Kerit before the truck arrived. This confirms my impression that this accused is not telling the truth. His own story of getting off the lorry at Sheikh Ismail's tomb is sufficient corroboration of Adan Ahamed's evidence that the accused was present when the intention of the party was declared and there is no evidence (since the Court disbelieves the alibi) that the accused left after the intention was declared. I therefore find that the accused was part of the unlawful assembly and find him guilty as charged. 10

Accused No. 11, Musa Fiddin, is charged on the first charge. He says that he came on the lorry on Bashir's invitation and according to his own story was to be paid for his work. He says he got off the lorry at Sheikh Ismail's tomb but was sleepy and left the party and came to Fada Mobile's gurghi in Burao. His statement is supported by the same witness who supported the alibi for Accused No. 6, Nur Billeh. Three of the witnesses (D.W.s 15, 17 and 38) state that the door of the compound was locked at 2100 hrs. Most of these witnesses fix the time that Nur Billeh arrived as about half an hour after sunset. D.W.16 says he entered the compound at sunset and put on a kettle to make tea and that before the kettle boiled Nur Billeh came in. All the times for Musa Fiddin's arrival are relative to the times given for Nur Billeh. All the witnesses state that Nur Billeh arrived before Musa Fiddin. The times for Nur Billeh's arrival vary from just after sunset to 1930/2000 hrs. (D.W.38) and the times for Musa Fiddin vary from a few minutes after half an hour after sunset to 2000/2030 hrs. There is another significant variation in the evidence of the witnesses. D.W.16 says he put on a kettle to make tea. D.W.17 says D.W.16 made tea. D.W.20 (Fada Mobile) says Nur Billeh had tea with some other men. Both D.W.38 and D.W.44 say that Fada Mobile (D.W.20) made tea. P.W.2 informed the Court that Gabo is about 70 miles from Burao. P.W.s 21, 22 stated that the truck left Gabo at about 1600 hrs. From various witnesses we know that the truck stopped for about an hour at Sheikh Bashir's karia and for twenty minutes or half an hour at Ber and also stopped at Kerit. From the evidence of P.W.s 15, 18, 25 and 26 we know that the truck arrived at about 1900. A high average speed for a truck under the conditions prevailing in this country would be twenty miles an hour. I find from the Survey Map of Somaliland that Ber is approximately 20 miles from Burao. Therefore I consider that 2015 to 2030 hrs. is the earliest time that the truck could have arrived in Burao. This means that I cannot accept the alibi set up by the accused. On the question of time it is of interest to note that D.W.36 put the time he saw Accused 10 as 2110 hrs. which would correspond with the presumed time of the truck's arrival but after Fada Mobile's compound was locked. In rejecting the alibi as false I accept the evidence of Adan Ahamed as corroborated by the admission of the accused that he was on the lorry 40 50

as a member of a party whose fares were paid by Sheikh Bashir, and that he got off at the tomb. Further, his action in producing a false alibi tends to give corroboration to the Prosecution case and I therefore find this accused guilty of the charge.

Accused 12, Ali Haji Abokir, has to face both the first and second charges. In his statement he says that he came on the lorry with Sheikh Bashir but did not get off at the tomb but came into the town and got off at the police station and spent the night at the gurghi of Ashleh Duncain (D.W.41). She says that he came after prayers (1900 to 2000 hrs.). Her son supports this statement (D.W.42). It is also supported by Ali Ahamed (D.W.28) who fixed the time of his arrival at between 2045 and 2100. This is consistent with the probable time of arrival of the lorry. The prosecution evidence connecting him with the assembly at Sheikh Ismail's tomb rests on sole evidence of Adan Ahamed which is not corroborated. The accused having produced an explanation consistent with his innocence I am bound to accept it. He is accordingly acquitted on the first charge. Again on the second charge he is not implicated except by Adan Ahamed and is acquitted on that charge.

Accused No. 13, Saeed Mohamed, is charged on first and second charges. Adan Ahamed (P.W.55), Jama Saeed (P.W.21) and Mahdi Farah (P.W.27) all say that he was on the lorry at some time. His brother Ahamed Mohamed (D.W.29) and Ahamed Ibrahim (D.W.30) say that he was at Las Gelgereh. Ali Hussein (D.W.35) formerly one of the accused says Saeed Mohamed was not on the lorry but the only accused he saw was No. 18. Yusuf Farah (D.W.43) says he saw this accused on 13 July which is long after the date of both charges. I accept the evidence of the Prosecution and find the evidence of the accused relative to be untrue. I consider that coupled with the false alibi and P.W.21 and 27 the evidence of Adan Ahamed is sufficiently corroborated and find the accused guilty on both charges.

Accused No. 14, Mohamed Elmi, is only charged with being in possession of arms. He admitted the possession. I accordingly find him guilty.

Accused No. 17, Deir Deria, is on the first charge only. He says that he was at Del'ad at the time of the shooting. He has called Weira Saleban (D.W.31), Abdillahi Hersi (D.W.32), Hassan Nur (D.W.33), Alin Yusuf (D.W.34) and Hassan Abdi (D.W.46) to support his alibi. The Prosecution have put forward three witnesses, Adan Ahamed (P.W.55), Abdi Dualeh (P.W.22) and Isman Adan (P.W.25), who say that they saw this accused on the truck. These witnesses did not waver in their stories under cross-examination and I believe their evidence that he was on the truck from which it follows that I do not accept the alibi nor the very convenient story that the accused was at enmity with P.W.22 and 25. I find that his conduct coupled with the evidence of these witnesses is sufficient corroboration for Adan Ahamed and find him guilty of the charge.

There remains the case of Accused 18, Farah Abdullahi. This accused is on both charges. Although he has not admitted his presence either in Burao or Horoferengi, he has not attempted to answer either of the charges directly. He has pleaded madness. That he travelled on the truck and got off at Sheikh Ismail's tomb is abundantly clear from the Prosecution witnesses. It is clear from his wounds and from the statement of Accused 8 that he was at Horoferengi. I should not hesitate to convict him on the undisputed evidence against him. As the Assessors have very

*In the
Somaliland
Protectorate
Court,
Burao.*

—
No. 130.
Judgment,
19th
December
1945,
continued.

*In the
Somaliland
Protectorate
Court,
Burao.*

—
No. 130.
Judgment,
19th
December
1945,
continued.

rightly said, that but for the question of madness, there is a stronger case against him than against any other accused. Before convicting I must consider the defence. From the argument of the learned Counsel for the defence, I understand that it is alleged that this accused suffers from loss of reasoning powers. Evidence has been given of severe and unusual things which the accused has done, such as killing his camels, stealing rifles, losing his stock through leaving them unattended, and hitting children. Counsel for the defence also introduced in his cross-examination of the doctor the question of "moral insanity" and we have also had evidence of religious treatment for mental trouble. Now in law the burden of establishing any of the defences provided by section 84 of the Indian Penal Code rests on the accused, and I cannot find that on any ground it has been established that the accused was insane at the time these offences were committed. I have observed his demeanour in Court and I have also considered his cross-examination of the witnesses at the Preliminary Inquiry, as I am entitled to do, and from these two considerations and in the absence of any satisfactory evidence on behalf of the accused, I reject the plea of insanity, and having satisfied myself of his guilt on both the charges I find him guilty of both charges. 10

It is apparent from the various conclusions arrived at that I have not been able to accept the substance of the Assessors' replies. My failure to accept these replies is in no way a reflection on the Assessors. I believe that they gave their opinions honestly and in accordance with their interpretation of the law. As they have said, much of their viewpoint was in accordance with Somali law and custom, and although every consideration should be given to this it cannot override the principles of law by which this case has to be decided. I have only rejected their views where I have been satisfied that the weight of evidence necessitated this course and have tried to explain so that the Assessors might understand the reasons which weighed with me in arriving at my decisions. It is not therefore necessary to deal in detail with my reasons for rejecting each reply which I have not been able to accept. 30

Before dealing with the sentences to be imposed I must be satisfied that the various accused are of sufficient age to undergo such sentences as I may impose. The accused gave their ages at the beginning of the case, but in many instances the ages they gave were patently absurd. It is observed that no plea has been made by the learned Counsel for the defence that any of the accused is under sixteen years of age. The doctor who gave evidence as to their ages was not cross-examined on this point. From his evidence and my own observation I find that all accused are over sixteen years of age. 40

Sentences : In deciding the sentences to be imposed on the various accused on the charges either of possession of arms (Accused 14) or the resistance to lawful arrest (Accused 2, 9, 13 and 18), I have taken into consideration the time the accused have been in custody awaiting trial. In the case of Accused 14 I have taken into consideration the nature of the possession of the Sten gun. I find that this possession involved neither intention nor ability to use the weapon, but knowledge that it was an offensive weapon of some kind.

The accused are instructed to stand to receive sentences. 50

Accused 2, Mohamed Ali : having been found guilty of the charge against him of resisting the lawful arrest of Sheikh Bashir is sentenced to

5 years' *R.I.* He is informed of his right to appeal and states that he wishes to appeal.

Accused 9, Mohamed Hashi : having been found guilty of the charge against him of resisting the lawful arrest of Sheikh Bashir is sentenced to 5 years' *R.I.* He is informed of his right to appeal and states that he wishes to appeal.

Accused 14, Mohamed Elmi : having been found guilty of the charge against him of illegal possession of arms is sentenced to 6 months' *R.I.* He states that he wishes to appeal.

*In the
Somaliland
Protectorate
Court,
Burao.*

—
No. 130.
Judgment,
19th
December
1945,
continued.

10 *Accused 10, Adan Haji Jama* : is asked if there is any reason why the sentence of death should not be passed upon him. He makes no reply to this question. He is then sentenced as follows :—

You have been found guilty of an offence punishable under section 302 of the Indian Penal Code. The sentence of the Court upon you is, that you be taken from this place to a lawful prison and thence to a place of execution, and that you be there *hanged by the neck until you be dead* and that your body be afterwards buried in such place as the Governor shall appoint.

He is informed of his right to appeal and says " I wish to appeal."

20 *Accused 11, Musa Fiddin* : is asked if there is any reason why sentence of death should not be passed upon him. He makes no reply to this question. He is *sentenced to death* in terms similar to *Accused 10*. He is informed of his right to appeal and states that he wishes to appeal.

Accused 13, Saeed Mohamed : having been found guilty of resisting the lawful arrest of Sheikh Bashir is sentenced to 5 years' *R.I.* on that charge. He is asked if there is any reason why sentence of death should not be passed upon him. He makes no reply to this question. He is *sentenced to death* in terms similar to *Accused 10*. He is informed of his right to appeal. He states that he wishes to appeal.

30 *Accused 17, Deir Deria* : is asked if there is any reason why sentence of death should not be passed upon him. He makes no reply to this question. He is *sentenced to death* in terms similar to *Accused 10*. He is informed of his right to appeal and states that he wishes to appeal.

Accused 18, Farah Abdullahi : having been found guilty on two charges is sentenced to 5 years' *R.I.* on the charge of resisting the lawful arrest of Sheikh Bashir. He is asked if there is any reason why sentence of death should not be passed upon him. He makes no reply to this question. He is *sentenced to death* in terms similar to *Accused 10*. He is informed of his right to appeal and states that he wishes to appeal.

40

(Sgd.) R. J. QUIN,

Judge, Protectorate Court.

Burao.

19th December, 1945.

No. 131.
*In the
 Somaliland
 Protectorate
 Court,
 Hargeisa.*

Petition by
 Saeed
 Mohamed,
 11th April
 1946.

No. 131.
PETITION by Saeed Mohamed.

11th April, 1946.
 [Not printed.]

No. 132.
 Petition by
 Farah
 Abdullahi,
 11th April
 1946.

No. 132.
PETITION by Farah Abdullahi.

11th April, 1946.
 [Not printed.]

No. 133.
 Petition by
 Adan Haji
 Jama, Musa
 Fiddin and
 Deir Deria,
 11th April
 1946.

No. 133.
PETITION by Adan Haji Jama, Musa Fiddin and Deir Deria.

10

11th April, 1946.
 [Not printed.]

No. 134.
*In the
 Somaliland
 Protectorate
 Court of
 Appeal,
 Berbera.*

Petition
 for the
 Appellants,
 11th May
 1946.

No. 134.
PETITION for the Appellants.

11th May, 1946.
 [Not printed.]

No. 135.
JUDGMENT.

*In the
Protectorate
Court of
Appeal,
Somaliland.*

IN THE PROTECTORATE COURT OF THE SOMALILAND
PROTECTORATE.

Holden at Berbera.

Before LIEUT.-COLONEL DONALD JACKSON, Legal
Secretary.

No. 135.
Judgment,
30th May
1946.

Criminal Appeal No. 12 of 1946 (Sessions Case No. 7 of 1945).

1. ADAN HAJI JAMA, H.T. Yesif rer Sahal (10).
- 10 2. MUSA FIDDIN, H.T. Ahmed Farah rer Aboker
Ahmed (11).
3. SAEED MOHAMED, H.T. Yesif rer Sahal (13).
4. DEIR DERIA, H.T. Yesif rer Sahal (17).
5. FARAH ABDULLAHI, H.T. Ahamed Farah rer
Aboker Ahamed rer Omar Aboker (18). Accused/Appellants.

On 14th July, 1945, a Preliminary Inquiry, No. 1 of 1945, opened in Burao into the alleged participation of 18 persons in a serious incident which occurred there on the night of 2nd/3rd July, 1945, and which resulted in the death of two persons. The 18 persons concerned were described
20 at the Preliminary Inquiry as follows :—

- | | |
|----|---------------------------------------|
| 30 | Accused No. 1 Ibrahim Haji Abdullahi. |
| | ,, No. 2 Mohamed Haji Ali. |
| | ,, No. 3 Nur Samater. |
| | ,, No. 4 Jama Hashi. |
| | ,, No. 5 Abdi Abdulleh. |
| | ,, No. 6 Nur Billeh. |
| | ,, No. 7 Ali Hussein. |
| | ,, No. 8 Ali Gedi. |
| | ,, No. 9 Mohamed Hashi. |
| | ,, No. 10 Adan Haji Jama. |
| | ,, No. 11 Musa Fiddin. |
| | ,, No. 12 Ali Haji Aboker. |
| | ,, No. 13 Saeed Mohamed. |
| | ,, No. 14 Mohamed Elmi. |
| | ,, No. 15 Ali Amir. |
| | ,, No. 16 Ibrahim Haji Aboker. |
| | ,, No. 17 Deir Deria. |
| | ,, No. 18 Farah Abdullahi. |

As a result of the Preliminary Inquiry, 14 persons were committed
40 for trial before the Protectorate Court in its original jurisdiction as follows :—

Accused Nos. 1, 2, 4, 6, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18 were charged under section 149 of the Indian Penal Code in that on 2nd July, 1945, they were members of an unlawful assembly the declared purpose of which was to murder or attempt to murder non-Moslems and that in the prosecution of that common purpose a member or members of that unlawful assembly murdered Hassan Haji Mohamoud and Saleban Adan and

*In the
Protectorate
Court of
Appeal,
Somaliland.*

No. 135.
Judgment,
30th May
1946,
continued.

attempted to murder Major Frederick James Chambers, Major John Anthony Hunt and P.C. 476 Mohamed Saleh.

Accused Nos. 2, 8, 9, 12, 13, 16 and 18 were further charged with an offence under section 225 of the Indian Penal Code in that they intentionally offered resistance to the lawful apprehension of a person known as Sheikh Bashir.

Accused No. 14 was further charged with an offence under section 12 of the Arms & Ammunition Ordinance, 1939, in that he was in possession of a firearm.

Accused Nos. 3, 5, 7 and 15 were discharged at the close of the Preliminary Inquiry there being insufficient grounds for committing them for trial. 10

The learned Trial Judge, in order to avoid the possibility of confusion arising in the minds of the Court and witnesses and for the convenience of himself continued, during the trial, to refer to the Accused before him by the numbers allotted to them at the Preliminary Inquiry and I consider that it would be inadvisable to make any change during the Appeal. In my judgment, therefore, I have continued to use the same numbers as were used throughout the Preliminary Inquiry and Trial but I now use the term "Appellant" instead of "Accused" where the person to whom I refer is an Appellant in this Appeal. 20

The facts of the case as disclosed by the Prosecution at the Trial were as follows :—

On the night of 2nd July, 1945, trade-truck No. Som. 63 driven by Yusuf Abdi, Habr Awal, Makahil and proceeding from Las Anod to Burao stopped at a place called Gabo (also known as Wadomago). Here, a man named Haji Mohamed Yusif, Habr Toljaala, Yesif, who was a "mullah" (religious teacher) and went by the nickname of "Sheikh Bashir," boarded the truck with eleven other people. Sheikh Bashir paid the fares for ten people and two were allowed to travel free. The truck then proceeded to the karia (collection of movable huts) of Sheikh Bashir where he and some of the other persons who had boarded it at Gabo got off. Sheikh Bashir told the driver of the truck to wait and entered his karia with the others. After about half an hour the driver became impatient, sounded his horn and drove round to the other side of the karia. After a wait of a further half an hour Sheikh Bashir and those with him returned to the truck with three parcels. One parcel was described as being a little more than a yard in length and about a foot in diameter, wrapped in sacking, and the other two as being about the size of a cubic foot, one being wrapped in a blanket. Sheikh Bashir vouchsafed the information that they contained copies of the Koran which he was taking to a place called Ber for the purposes of storage. At this time Sheikh Bashir was wearing two white half "tobes" (garments) and a white turban and was armed with a sword and an "ableh" (knife). The parcels were put in the back of the truck, Sheikh Bashir and those with him remounted, and the truck drove off. After two further halts, one for a woman who was vomiting and one at Ber for the purposes of prayer, the truck continued its way towards Burao until it finally came to a point near the tomb of Sheikh Ismail at about 7.45 p.m. This point was also approximately a mile and a half from the fort at Burao. Here, in response to a request from Sheikh Bashir, the driver stopped. Sheikh Bashir and some others got down, taking with them, according to the driver's mate, the parcels which he had seen loaded 30 40 50

on to the truck at Sheikh Bashir's karia. The truck then proceeded on its journey to Burao.

The direct evidence of what happened between the time when Sheikh Bashir and his party left the lorry and the time of the events which I am about to describe was given to the learned Judge by a member of the party who was an accomplice in their actions. I shall describe and comment upon this evidence later.

*In the
Protectorate
Court of
Appeal,
Somaliland.*

—
No. 135.
Judgment,
30th May
1946,
continued.

About midnight of that night a series of alarming and serious events occurred in Burao. First the sentry of the Quarter Guard was fired at
10 by some persons unknown to him. The shots missed him but two security prisoners who were permitted, by virtue of being on "security," to sleep in the prison yard were hit and one of them, Hassan Mohamed, Dolbahanta, Yahiya, was killed. Next, very shortly after this occurrence, the District Commissioner, Major Chambers, and his wife, who were asleep in their bungalow were awakened by a volley of rifle fire. Several shots struck the bungalow and one killed one of the two illaloes (guards), named Saleban Adan, whose duty it was to patrol the vicinity of the bungalow at night as guards against thieves and who at the time was on the front verandah. At about the same time a Major Hunt, the officer in charge of
20 the General Survey of Somaliland Protectorate, who was living in the bungalow next to that of the District Commissioner, on hearing the rifle fire got into his car together with Ali Haji Qabaile, one of his staff, with the intention of driving to the District Commissioner's bungalow in case assistance was needed. Immediately on leaving his compound he was fired at. One shot punctured his near-side front tyre causing it to come off and other shots penetrated the near front mudguard and radiator. Finally, the Superintendent of Police at Burao, who was in bed at his bungalow and had also heard the shots, was fired upon once as he was starting his car with the intention of investigating the reason for the shots.
30 The shot missed him and lodged in the roof of the bungalow.

The following morning, P.C. Ismail Hassan (P.W.12) discovered the footprints of some 18 to 19 people which he was able to follow from the European Quarters in Burao to a point near Sheikh Ismail's tomb where they ended. At the point in question he was able to say that he also saw the tracks of a truck which had stopped. From his evidence it is clear that the direction of the footprints was from Sheikh Ismail's tomb towards the European Quarters.

During the police investigation of the case it was considered necessary to effect the arrest of Sheikh Bashir and some others. On 7th July, 1945,
40 a party of police went to his karia at Horoferengi and shortly before they reached it they came under heavy rifle fire. They were compelled to open fire in reply. After the firing had ceased the police discovered that Sheikh Bashir and a man named Alin Yusuf had been killed and Appellant 18 and Mohamed Ali (Accused 2) had been wounded. A policeman was also wounded. Sheikh Bashir when found had a .303 calibre rifle in his hand, a revolver on his person and a bandolier round his shoulder. He died shortly afterwards.

I now come to the events to which I have previously referred which occurred between the time when Sheikh Bashir and his party left the truck
50 at Sheikh Ismail's tomb and the time of the firing in Burao.

The prosecution called as a witness one Adan Ahamed, Habr Toljaala, Ahamed Farah rer Abdi Hildeed (P.W.55). This man was an accomplice.

*In the
Protectorate
Court of
Appeal,
Somaliland.*

No. 135.
Judgment,
30th May
1946,
continued.

His evidence was that Sheikh Bashir had asked him to join a party of men who were going to assist in building a tomb for his, Sheikh Bashir's, grandfather. He said that for four or five days before the night in question there was a continuous "shir" (meeting) at Sheikh Bashir's karia at which he saw all the accused including the Appellants present from time to time. On the day in question the witness and Sheikh Bashir with Jama Hashi (Accused 4) and Adan Haji Jama and Farah Abdullahi (Appellants Nos. 10 and 18) and three other persons went to Gabo and there got on a truck. The truck went to Sheikh Bashir's karia. Sheikh Bashir and some of the others, but not the witness, went into the karia and the witness saw them 10 emerge some time later with two parcels. One parcel was described as being about 1½ yards long and a foot thick covered with sacking. It is noted here that these parcels or three, two or one similar were also seen by Haji Ahamed Sheikh Musa (P.W.13), Omar Khaireh (P.W.14), Yusuf Abdi (P.W.15), Haji Ahamed Haji Ibrahim (P.W.18), Abdi Sheikh Ismail (P.W.20), Jama Saeed (P.W.21), Abdi Dualeh (P.W.22) and others. These parcels were put on the lorry and all the accused including Appellants also got on. When the truck finally stopped near Sheikh Ismail's tomb, Sheikh Bashir, witness and some others got off. The truck drove off in the direction of Burao. As the truck drove off the witness observed that 20 the two parcels which he had seen loaded on the truck at Sheikh Bashir's karia were lying on the road. He also observed that Accused 1, 2, 4, 6, 9, 12 and 14 were present at this moment. The parcels were opened by Sheikh Bashir and witness saw that one contained rifles and the other ammunition. Sheikh Bashir distributed the rifles to Accused 1, 4 and 14 and Appellants 13, 17 and 18 and to Alin Yusuf and kept one for himself. He also gave a revolver to Accused 9. The party then started to walk and witness and Accused 1 and 4 and Appellant 18 then each asked Sheikh Bashir where their destination was. The latter told them that they were going to fight the unbelievers and witness said that they were surprised. 30 The witness was unable to say whether or not as a result of this information some of the party left. When the party reached a point near the Isolation Camp at Burao, witness, Sheikh Bashir, Accused 2 and 9 and Appellants 11 and 17 and a person called Mohamed, the Gelleman's man were all together. They stopped. Sheikh Bashir left with Accused 9 and Appellant 17 and told witness and the others to remain where they were. Shortly after that witness heard shots and a little later more shots. After the second volley Sheikh Bashir and Accused 9 and Appellant 17 came running back. Sheikh Bashir ordered the whole party to follow him which they did. They walked 40 for the remainder of the night and reached a place called Yeroweh at sunrise where they stayed for the morning. In the afternoon they started walking again and walked all that night arriving at Ber Dab in the morning. The party had in the meantime split and now joined up once more. Also in the meantime the karia of Sheikh Bashir had been removed from near Gabo to Horoferengi. News was received that a party of police were coming. Thereupon Sheikh Bashir told those who had not got rifles to run away and those with rifles would stay and fight for their lives. Witness ran away accompanied by Accused 16 and Abdullahi Haji Yusuf a brother of Sheikh Bashir who was at the karia. As they ran away they heard firing and were then joined by Accused 8 who had already been wounded. 50 They walked for a time and then separated. At the fight between the police and Sheikh Bashir's party Sheikh Bashir himself and Alin Yusuf were killed. All accused were subsequently arrested.

At the close of the prosecution the learned Judge found that Accused Nos. 8 and 14 had no case to answer in respect of the first charge and that Accused No. 16 had no case to answer in respect of either charge. Accused No. 16 was therefore discharged.

*In the
Protectorate
Court of
Appeal,
Somaliland.*

The defence in the case of all the Appellants except Appellant No. 18 was that of an alibi.

—
No. 135.
Judgment,
30th May,
1946,
continued.

Appellant No. 10 admitted that he got on a truck at Kerit and that Sheikh Bashir and others were on the truck. When the truck stopped at Sheikh Ismail's tomb he got off. Sheikh Bashir invited him to help renew his, Sheikh Bashir's, grandfather's tomb. Appellant refused. Sheikh Bashir thereupon told him to go away which he did. He went into Burao town and slept in the mosque.

Appellant No. 11 stated that he was sleeping in the Hafa (native village) of Burao during the trouble. He admitted that he was on the lorry with Sheikh Bashir having been asked by the latter to help renew his grandfather's tomb in return for payment. He got off the truck with Sheikh Bashir and his party at Sheikh Ismail's tomb. He told Sheikh Bashir that he was not a mullah, did not know how to pray at a tomb and was sleepy. He then left the party and went to Burao.

Appellant No. 13 stated that he knew nothing of the trouble at Burao or Horoferengi. He was at Las Gelgareh in his karia when it occurred.

Appellant No. 17 stated he never left his karia at Del'ad during the trouble and was picked out at the identification parade by mistake.

Appellant No. 18 stated that because of the state of his mind he did not know whether he was in the trouble at Burao or with Sheikh Bashir when the police tried to arrest the latter.

Before proceeding to give judgment the learned Judge put a number of questions to the three Assessors.

Question 2 (E) was: "Were arms and ammunition distributed to a party near the tomb?" The answer to this was that the only evidence upon this came from P.W.55 and that they were unable to accept anything he had said in evidence.

Question 3 was: "Does this apply to the whole of the evidence of the witness?" The answer was that it did, and that they did not consider him worthy of belief in any particular.

As a result of these answers the learned Judge recorded the fact that he did not consider it necessary to ask them further questions in connection with the events of that night at Burao. He then proceeded to give judgment. He acquitted Accused Nos. 1, 4 and 6. He found Accused Nos. 2 and 9 not guilty of the first charge but guilty of the second. He acquitted Accused No. 8 of the second charge and Accused No. 12 of both charges.

He found Appellants Nos. 10, 11 and 17 guilty and Appellants Nos. 13 and 18 guilty on both charges. He found Accused No. 14 not guilty of the first charge but guilty of an offence of illegal possession of firearms. Appellants Nos. 10, 11, 13, 17 and 18 were sentenced to death on the first charge and Appellants Nos. 13 and 18 were also sentenced to five years' rigorous imprisonment on the second charge. Accused Nos. 2

*In the
Protectorate
Court of
Appeal,
Somaliland.*

—
No. 135.
Judgment,
30th May
1946,
continued.

and 9 were sentenced to five years' imprisonment on the second charge. Accused No. 14 was sentenced to six months' rigorous imprisonment.

It is against those convictions and sentences that Adan Haji Jama (Appellant No. 10), Musa Fiddin (Appellant 11), Saeed Mohamed (Appellant 13), Deir Deria (Appellant 17) and Farah Abdullahi (Appellant 18) are now appealing.

One appeal has been lodged on behalf of Saeed Mohamed (Appellant 13), one on behalf of Farah Abdullahi (Appellant 18) and a joint one on behalf of Adan Haji Jama (Appellant 10), Musa Fiddin (Appellant 11) and Deir Deria (Appellant 17). These appeals are the same in substance except 10 that whereas all Appellants are appealing against conviction under the combined effect of sections 149 and 302 of the Indian Penal Code, Appellants 13 and 18 are appealing also against a conviction under section 225 of the Indian Penal Code.

The Court ordered the appeals to be consolidated.

The grounds of appeal are as follows :—

(A) That having regard to the evidence on record and the facts and circumstances of the case the convictions are bad and unsustainable ;

(B) That the convictions and sentences are bad in law as well 20 as on facts ;

(C) That the learned Judge was wrong in believing and holding that the evidence of the accomplice Adan Ahamed (P.W.55) was corroborated in material facts by the testimony of other prosecution witnesses ;

(D) That the learned Judge was wrong in believing and relying upon the uncorroborated testimony of the accomplice Adan Ahamed ;

(E) That the learned Judge was wrong in overlooking the material discrepancies or discrepancies in material facts between 30 the testimony of so-called prosecution eye-witnesses and the accomplice ;

(F) That the learned Judge was wrong in supplying corroboration to the prosecution witnesses and especially to the accomplice from the statement and conduct of the Appellants ;

(G) That the learned Judge was wrong in holding in respect of all Appellants that each had a common intention or object under section 149 of the Indian Penal Code, or that Appellants 13 and 18 intentionally offered resistance or illegal obstruction under section 225 40 of the Indian Penal Code ;

(H) That the learned Judge was wrong in believing and relying upon the so-called facts of footprints or tracks on the road without any substantial connecting link with the Appellants ;

(I) That the learned Judge was wrong in connecting Appellants in the absence of proof of any substantial motive ;

(J) That the learned Judge was wrong in overlooking the fact of enmity of some of the prosecution witnesses with the Appellants ;

(K) That the learned Judge ought to have accepted the explanation of the Appellants and given to them the benefit of the 50 doubt ;

(L) That the learned Judge was wrong in holding that any of the charges framed against the Appellants had been legally proved ;

(M) That having regard to material discrepancies, the surrounding circumstances and probabilities of the case and the evidence on record, the convictions of the Appellants are unsustainable ;

(N) That, having regard to the facts and circumstances of the case, the sentence of death was too severe and is otherwise unsustainable.

These petitions of appeal were prepared by an advocate at Aden who did not appear at the hearing of the appeal. At the hearing the
 10 Appellants were represented by the Legal Officer of the Somaliland Protectorate whom they had previously at their request been allowed to brief. Their Counsel applied for permission to introduce one additional ground of appeal in respect of all Appellants and one additional ground of appeal in respect of Farah Abdullahi (Appellant 18). This application was granted.

The additional ground of appeal in respect of all the Appellants was that due to the absence of a prosecutor at the trial the learned Judge unconsciously converted himself into that role and that thereby, by the application of section 556 of the Code of Criminal Procedure, the
 20 proceedings were bad and the convictions should be set aside. Counsel referred me to various notes made by the learned Judge in which he recorded his opinion as to the reliability or otherwise of various witnesses and he submitted that because it appears that the notes were commendatory in the case of witnesses for the prosecution and disparaging in the case of witnesses for the defence it must be assumed that he had unwittingly converted himself into the role of prosecutor. He referred me specifically to Sohoni, Code of Criminal Procedure, 14th Edition, page 1092, para. 15 (vi).

I do not consider that the circumstances envisaged in the paragraph
 30 in question can possibly be said to apply to this case. As may be seen from my review of the history of the case, there was a proper police investigation and Preliminary Inquiry and the learned Judge had taken no part whatever in any of the preliminaries. The case first came to his notice when the accused appeared before him on 4th October, 1945, after their committal for trial by the magistrate who had conducted the Preliminary Inquiry. I therefore reject this ground of appeal.

I now come to the question of the part played by the evidence of the accomplice, P.W.55, in the conviction of the Appellants.

In respect of the charges under section 149 of the Indian Penal Code,
 40 the learned Judge held that the five necessary ingredients which must be proved to exist to substantiate a charge thereunder had in fact been proved and that an assembly of people did on the night 2/3 July, 1945, enter Burao. Further that in pursuit of their unlawful common purpose they did cause the death of Hassan Haji Mohamoud and Saleban Adan. If he were to say that the Appellants were members of this unlawful assembly he had to find corroboration for certain evidence of Adan Ahamed, P.W.55, whom he recognised as an accomplice.

He said " There is one particular aspect of the prosecution evidence
 50 that must be very seriously considered before any weight can be given to it. This is the evidence of Adan Ahamed (P.W.55) who was present with the attacking party at Burao and was also at Horoferengi up to the time of the shooting. This man is an accomplice and while there is no rule of

*In the
 Protectorate
 Court of
 Appeal,
 Somaliland.*

—
 No. 135.
 Judgment,
 30th May
 1946,
continued.

*In the
Protectorate
Court of
Appeal,
Somaliland.*

No. 135.
Judgment,
30th May
1946,
continued.

law which prevents me from accepting his evidence as it stands, there is a very strong rule of practice that his evidence should not be accepted unless it is corroborated. His evidence was long and detailed and he was subjected to a strong cross-examination by defending Counsel. I listened to his evidence with the suspicion and distrust that one necessarily feels for a man in his position. At the beginning of his cross-examination he was for a few moments nonplussed by the method of the attack on him, but throughout both his evidence and cross-examination he did not vary his story on any important detail. I found my mind compelled to the conclusion that he was speaking the truth. His statements had an honest ring to them. When they are compared with the statements of other witnesses they are corroborated on many important points, and even the statements of some of the accused corroborate parts of the evidence. What I have to decide is the amount and the kind of corroboration that his evidence should receive.” 10

Having decided that the witness, P.W.55, was speaking the truth and finding what in his mind was sufficient corroboration of this evidence on material particulars he convicted all the Appellants of an offence against section 149 of the Indian Penal Code. For the same reasons he also convicted Appellants 13 and 18 of an offence against section 225 of the Indian Penal Code. 20

Now I have to decide whether or not the learned Judge was correct in these conclusions. Was there the kind of corroboration without which an almost universal rule of practice makes it unsafe to convict upon the evidence of an accomplice ?

The law as stated in *R. v. Baskerville* [1916] 2 K.B. 658 is as follows :—

“As the rule of practice at common law was founded originally upon the exercise of the discretion of the judge at the trial, and, moreover, as it is anomalous in its nature, inasmuch as it requires confirmation of the testimony of a competent witness, it is not surprising that this rule should have led to differences of opinion as to the nature and extent of the corroboration required, although there are propositions of law applicable to corroboration which are beyond controversy. For example, confirmation does not mean that there should be independent evidence of that which the accomplice relates, or his testimony would be unnecessary (*R. v. Mullins* (1848), 3 Cox C.C. 526, 531, *per* Maule, J.). Indeed if it were required that the accomplice should be confirmed in every detail of the crime, his evidence would not be essential to the case ; it would be merely confirmatory of other and independent testimony. Again, the corroboration must be by some evidence other than that of an accomplice and therefore one accomplice’s evidence is not corroboration of the testimony of another accomplice (*R. v. Noakes* (1832), 5 C.P. 326). 40

“After examining these and other authorities to the present date, we have come to the conclusion that the better point of the law upon this point is that stated in *R. v. Stubbs* (*supra*) by Parke, B., namely, that the evidence of an accomplice must be confirmed, not only as to the circumstances of the crime, but also as to the identity of the prisoner. The learned Baron does not mean that there must be confirmation of all the circumstances of the crime ; as we have already stated, that is unnecessary. It is 50

sufficient if there is confirmation as to a material circumstance of the crime and of the identity of the accused in relation to the crime. Parke, B., gives this opinion as a result of twenty-five years' practice. It was accepted by the other judges and has been much relied upon in later cases. In *R. v. Wilkes* (1834), 7 C. & P. 272, Alderson, B., said: 'The confirmation which I always advise juries to require is a confirmation of the accomplice in some fact which goes to fix the guilt on the particular person charged. You may legally convict on the evidence of an accomplice only if you can safely rely on his testimony, but I advise juries never to act on the evidence of an accomplice unless he is confirmed as to the particular person who is charged with the offence.'

*In the
Protectorate
Court of
Appeal,
Somaliland.*

—
No. 135.
Judgment,
30th May
1946,
continued.

10

"We hold that evidence in corroboration must be independent testimony which affects the accused by connecting or tending to connect the accused with the crime. In other words, it must be evidence which implicates him, that is, which confirms in some material particular not only the evidence that the crime has been committed, but also that the prisoner committed it. The test applicable to determine the nature and extent of the corroboration is thus the same whether the case falls within the rule of practice at common law or within that class of offences for which corroboration is required by statute. The nature of the corroboration will necessarily vary according to the particular circumstances of the offence charged. It would be in high degree dangerous to attempt to formulate the kind of evidence which would be regarded as corroboration except to say that corroborative evidence is evidence which shows or tends to show that the story of the accomplice that the accused committed the crime is true, not merely that the crime has been committed, but that it was committed by the accused.

20

30

"The corroboration need not be direct evidence that the accused committed the crime; it is sufficient if it is merely circumstantial evidence of his connection with the crime."

In the appeal before me there are five Appellants and it is upon the identity of each of them as participators in the crimes that the evidence of Adan Ahamed requires most thorough consideration. There must be corroboration in accordance with the principles enunciated in *R. v. Baskerville* not only as to one, but as to all of the persons affected by his evidence, and because corroboration may be found in respect of one or more of the Appellants it does not justify his evidence against others being accepted without corroboration. Such corroboration need not be direct evidence of commission of crime and may be circumstantial.

40

I now refer again to the judgment at the trial. I am satisfied that the learned Judge was clearly aware of the principles which he had to apply in his consideration of the evidence of the accomplice and of the rule of corroboration. He dealt with the case against each accused individually and examined the evidence given by other witnesses to see whether in such evidence existed such corroboration as would satisfy the requirements laid down in *R. v. Baskerville*.

I shall now also examine the evidence in this manner.

50

Appellant No. 10—Adan Haji Jama: This Appellant said that he boarded the truck at Kerit, left it at Sheikh Ismail's tomb and walked into Burao where he slept the night in a mosque. He called witnesses to support

*In the
Protectorate
Court of
Appeal,
Somaliland.*

No. 135.
Judgment,
30th May
1946.
continued.

his story that he slept in Burao. The learned Judge believed the evidence of Sahal Fahiyer, P.W.23, who testified that this Appellant was, in fact, on the truck before it reached Kerit and described the dropping of a lighted cigarette end on Appellant. He further accepted the evidence of Haji Sulub who boarded the truck at Kerit to the effect that this Appellant was then already on the truck. He finally considered the defence of an alibi and rejected this as false. He then decided that an admission by Appellant that his fare for the truck journey was paid for by Sheikh Bashir, the lie given by P.W.s 23 and 26 to his statement that he boarded the truck at Kerit, his admission that he got off at Sheikh Ismail's tomb and the alibi which he found to be false were, together, sufficient corroboration of the evidence of P.W.55 for him to convict this Appellant of a charge under section 149 of the Indian Penal Code. 10

The question I must now ask myself is whether the learned Judge was correct in his assessment of these independent particulars of evidence. Are they corroboration in material particulars such as would satisfy the requirements of the principles in *R. v. Baskerville* ?

There is no fixed method laid down whereby particular pieces of independent evidence can be pronounced as fulfilling the necessary requirements. The amount of corroboration required is a question of fact and must depend on the circumstances of the case and particularly on the nature of the crime charged. It need not be direct evidence of the commission of the crime. It may be circumstantial. It is for the Court to determine in the particular circumstances of the case whether the matter tending to corroborate is worthy of evidence and sufficiently reliable. In the case of this Appellant I do not find myself able to say that the learned Judge was wrong in arriving at his conclusion that the case against this Appellant was proved and I accordingly dismiss his appeal. There are no grounds for interference with the sentence. 20

Appellant No. 11—Musa Fiddin: This Appellant said that whilst looking for grazing areas he became thirsty and went to the wells at Wadamago (Gabo) where he met Sheikh Bashir. At the latter's invitation he boarded a truck ostensibly to help build a tomb over the grave of the Sheikh's grandfather which grave the latter stated was situated at Ber. The reason why he continued his journey beyond Ber was that Sheikh Bashir said they would first go to Burao for rations. When the truck stopped at Sheikh Ismail's tomb, he was asleep. He woke up and got off the truck to urinate. The truck moved off before he was able to remount. He declined to accompany Sheikh Bashi in praying at the tomb and walked on into Burao where he spent the night at the gurghi of Fada Mobile, D.W.20. He called witnesses to corroborate his statement that he slept at Fada Mobile's. The learned Judge rejected the story of his stay at Fada Mobile's gurghi and found corroboration of the evidence of P.W.55 in his rejection of this story coupled with the fact that Appellant boarded the truck at Sheikh Bashir's invitation, was to receive payment for his work and left the truck at Sheikh Ismail's tomb. Again I am not able to find that the learned Judge was wrong in arriving at the conclusion that the case against this Appellant was proved and I accordingly dismiss his appeal. 40

As to sentence, I consider there are sufficient grounds for me to order a variation. The evidence of Captain Suarez, P.W.56, a doctor then serving with the Royal Army Medical Corps, is to the effect that the 50

Appellant when seen by him on 17th and 18th September, 1945, was 16 to 17 years of age. It is also clear from the evidence of Warder Sergeant Ahamed Mohamed, P.W.6, that Sheikh Bashir as a mullah exerted a very strong influence over young men particularly in religious matters. In spite therefore of the fact that he is clearly implicated in the crime I think I am justified in commuting the sentence of death passed upon him to one of imprisonment for life. This I accordingly do.

*In the
Protectorate
Court of
Appeal,
Somaliland.*
—
No. 135.
Judgment,
30th May
1946,
continued.

10 *Appellant No. 13—Saeed Mohamed:* This Appellant was convicted by the learned Judge upon both charges. His defence was that at the time of the events at both Burao and Horoferengi he was at his karia at a place called Las Gelgereh and he called witnesses to support his story. He further alleged that Jama Saeed, P.W.21, and Mahdi Farah, P.W.27, who in addition to P.W.55 identified him as being on the truck with Sheikh Bashir were his enemies.

20 The learned Judge rejected his alibi and refused to draw from the suggestion of the enmity of the two prosecution witnesses an inference that they were not telling the truth. He held that such rejection coupled with the evidence of Jama Saeed, P.W.21, and Mahdi Farah, P.W.27, to the effect that they saw Appellant on the truck was sufficient corroboration of the evidence of P.W.55 for him to record a conviction on the first charge. With that finding I agree. I therefore dismiss the appeal on the first charge and uphold the sentence.

30 In respect of the second charge it would appear that the only possible circumstance from which the learned Judge could find any corroboration of the story of P.W.55 that this Appellant was present at and participated in the unlawful resistance to the arrest of Sheikh Bashir at Horoferengi is that he, the learned Judge, disbelieved the alibi put forward. In the case of the first charge there was the additional evidence of two prosecution witnesses of having seen the Appellant on the truck. In the case of the second charge there is no evidence other than that of P.W.55 that Appellant was elsewhere than at his karia at the time of the events at Horoferengi. I do not consider the disbelief by the learned Judge of Appellant's alibi could by itself constitute corroboration in a material particular sufficient to meet the standards laid down in *R. v. Baskerville* and as there is no other corroborative evidence against the Appellant on this charge I cannot agree that his guilt has been proved. I therefore allow his appeal against conviction of an offence against section 225 of the Indian Penal Code.

40 *Appellant No. 17—Deir Deria:* This Appellant's case was that he was at his karia at Del'ad during the events which occurred at Burao and he called witnesses to support him. He was on the other hand identified as being on the truck at Kerit by both Isman Adan, P.W.25, and Abdi Dualeh, P.W.22. As against these identifications he pleaded that he had had quarrels with both these witnesses. The learned Judge accepted the evidence of the prosecution witnesses and rejected the defence of an alibi put forward by the Appellant and his witnesses. He again refused to draw from the suggestion of the enmity of the two prosecution witnesses an inference that they were not telling the truth. Having rejected the story of the defence and obtained corroboration of the evidence of P.W.55 from that of P.W.22 and 25 he found the Appellant guilty and convicted him. I am unable to say that the learned Judge was wrong in coming to this conclusion and I therefore dismiss this appeal.

*In the
Protectorate
Court of
Appeal,
Somaliland.*

—
No. 135.
Judgment,
30th May
1946,
continued.

Appellant No. 18—Farah Abdullahi : At the trial this Appellant, who was charged with both offences, sought to show that he was of unsound mind and he said that he did not know whether he was at either Burao or Horoferengi.

The original petition of appeal which was prepared by an advocate in Aden did not include as one of its grounds the plea of unsound mind. However, on the application of Counsel at the hearing of the appeal, such a plea was permitted to be added and further medical evidence was given before the Court. Now section 84 of the Indian Penal Code provides that nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law. The onus of proof of this rests with the accused. At the trial, evidence was led on behalf of this Appellant of his strange conduct from time to time; of acts which, it was contended, were those of a person of unsound mind. Dr. Suarez, P.W.56, under cross-examination gave his opinion that the Appellant was normal and said that he had examined him four times. In examination-in-chief he said that he saw nothing which could lead even a qualified person to consider Appellant's sanity doubtful. No medical evidence was called on Appellant's behalf at the trial. The learned Judge found that Appellant had failed to discharge the onus of proof of his unsoundness of mind. 10

At the hearing of the appeal the Medical Officer of Berbera, under whose observation this Appellant had been since conviction, stated in evidence that he had noticed a lack of concentration and generally vague bearing but that during the time in which the Appellant had been under his observation his mental capacity had only been impaired to a slight extent. He described the condition of the Appellant as that of mental deficiency and not insanity. I agree with the learned Judge. There is no evidence which could lead me to hold that this Appellant had discharged the onus of proof imposed upon him by section 84 of the Indian Penal Code. I consider he was sane and I reject his plea. 30

The learned Judge also found that there was sufficient corroboration of the evidence of P.W.55 to the effect that this Appellant was a participator in both crimes for him to find him guilty on both. In respect of the first charge it is clear that he travelled on the truck with Sheikh Bashir and that he dismounted at Sheikh Ismail's tomb. I find that the requirements of the law as to corroboration of the evidence of P.W.55 are fulfilled and that the learned Judge was right in convicting him upon this charge. In respect of the charge, therefore, I dismiss his appeal. 40

As to the second charge, the learned Judge in arriving at the conclusion that the Appellant did, in fact, participate in the unlawful resistance at Horoferengi said in his judgment: "It is clear from the wounds and from the statement of Accused 8 that he was at Horoferengi."

In the first place, mere presence and the receipt of a wound are not, in themselves, proof of active participation. Secondly, as Counsel submitted to me, I consider that the learned Judge erred in accepting the statement of Accused 8 as to his meeting with Appellant at the scene of the fight. In any case, that statement, even if admissible, went no further than to show mere presence. I am not satisfied that there was sufficient evidence to justify a conviction of this Appellant on the second charge and I accordingly acquit him. 50

The result of this judgment, therefore, is that on the first charge the appeals of all five Appellants are dismissed. The sentences of the death upon Appellants 10, 13, 17 and 18 are confirmed. In the case of Appellant 11 the sentence of death is commuted to one of imprisonment for life.

*In the
Protectorate
Court of
Appeal,
Somaliland.*

On the second charge the appeals of Appellants 13 and 18 are allowed and they are acquitted.

No. 135.
Judgment,
30th May
1946,
continued.

DONALD JACKSON,

Lieut.-Colonel,

Judge of the Protectorate Court.

10

Berbera,
30th May, 1946.

No. 136.

ORDER IN COUNCIL granting Special Leave to Appeal.

*In the
Privy
Council.*

AT THE COURT AT BUCKINGHAM PALACE.

The 6th day of November, 1946.

Present

THE KING'S MOST EXCELLENT MAJESTY

LORD PRESIDENT

MR. SHINWELL

MR. SECRETARY WESTWOOD

MR. TOMLINSON

20

No. 136.
Order in
Council
granting
Special
Leave to
Appeal,
6th
November
1946.

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 30th day of October 1946 in the words following viz. :—

L.S.

“ WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of (1) Adan Haji Jama H.T. Yusuf rer Sahal (2) Saeed Mohamed H.T. Yusuf rer Sahal (3) Deir Deria H.T. Yusuf rer Sahal (4) Farah Abdullahi H.T. Ahmed Farah rer Aboker Ahmed in the matter of an Appeal from the Protectorate Court of Appeal of the Somaliland Protectorate between the Petitioners Appellants and Your Majesty Respondent setting forth (amongst other matters): that this is a Petition for special leave to appeal from the Judgment of the Protectorate Court of the Somaliland Protectorate sitting as a Court of Appeal dated the 30th May 1946 dismissing the Petitioners' Appeal from the Judgment of the said Court sitting as a Court of Original Jurisdiction

30

*In the
Privy
Council.*

No. 136.
Order in
Council
granting
Special
Leave to
Appeal,
6th
November
1946,
continued.

dated the 19th December 1945 and confirming the death sentences passed on the Petitioners by the latter Court : that the Petitioners with a number of other persons were charged with the offence of murder under Section 149 of the Indian Penal Code : that the trial opened on the 4th October 1945 : that throughout the thirty-five days during which the trial lasted neither Counsel nor Officer nor any other person, appeared to act as prosecutor : that in so far as anybody can be said to have conducted the prosecution it was conducted by the learned Judge himself : that when the last of the prosecution witnesses had been called the learned Judge summed up 10
the case for the prosecution : that after the case for the Petitioners and the other accused was closed the learned Judge began to sum up the case to the assessors : that he apparently thought it to be his duty not to ask the assessors their opinion on the case as a whole but merely to ask them certain questions : that the Administration of Criminal Justice Ordinance 1926 specifically provides for the appointment of public prosecutors or of persons other than public prosecutors expressly authorised by a Magistrate to conduct prosecutions : that the Petitioners submit that the failure : (a) to provide a prosecutor to conduct the prosecution and (b) to comply 20
with the provisions of Section 236 (1) of the Administration of Criminal Justice Ordinance 1926 constitutes a disregard of the forms of legal process : that it is further submitted that both Courts failed to consider the true effect of the evidence of the accomplice in order to decide whether that evidence was sufficient to implicate the Petitioners in the common purpose of the unlawful assembly and that the said evidence was wholly insufficient and further or alternatively that there was no evidence sufficient in law to corroborate that of the accomplice in identifying any of the Petitioners as participators in that common purpose : And humbly 30
praying Your Majesty in Council to grant the Petitioners special leave to appeal from the Judgment of the Protectorate Court of Appeal dated the 30th May 1946 or for such further or other relief as to Your Majesty in Council may seem fit :

“ THE LORDS OF THE COMMITTEE in obedience to His late Majesty’s said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioners to enter and prosecute their Appeal 40
against the Judgment of the Protectorate Court of the Somaliland Protectorate sitting as a Court of Appeal dated the 30th day of May 1946 :

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

HIS MAJESTY having taken the said Report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

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

E. C. E. LEADBITTER.

*In the
Privy
Council.*

No. 136.
Order in
Council
granting
Special
Leave to
Appeal,
6th
November
1946.