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IN THE COURT OF APPEAL

CIRCUIT COURT APPEALS NOS. 29, 30, & 31 of 1965

BEFORE: The Hon. Mr. Justice Duffus, President
The Hon. Mr. Justice Waddington
The Hon, Mr. Justice Moody (Actg.)

REGINA VS. UDA MAITLAND
ALVIN FORREST
LUCILLE DAHL

A.M. Spaulding, Esq., for the Appellant Uda Maitland
I. Ramsay, Q.C., for the Appellant Alvin Forrest
D.J. Thompson, Q.C., for the Appellant Lucille Dahl

December 6, 7, 8, 9, 10, 13
14, 15, 16, 17, 1965
and January 14, 1966

REASONS FOR JUDGMENT

WADDINGTON, J.A.,

The appellants were convicted in the Home Circuit Court on the 15th of February, 1965, of manslaughter, on an indictment which charged them with the murder of Alfred Suttal on the 10th of November, 1964. From these convictions they have appealed to this Court by the leave of a single Judge.

The case for the Crown, briefly, was that the deceased was severely beaten with sticks by the appellants, whereby he sustained severe injuries from which he died. It appears from the evidence, that the residents of Patrick City had been losing cattle and small stock as a result of the operations of cattle thieves in the area. Although there was no direct evidence to that effect, the inference was inescapable, and indeed it was suggested by counsel for the defence to witnesses for the Prosecution, that some of the residents in the area had banded themselves together to patrol the area in an endeavour to catch the thief or thieves, and the attack on the deceased was made in the belief that he was one of the culprits.

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The appellants all lived in Patrick City - Forrest and Maitland living together at 17 Lockhart Avenue, and Dahl at 26 Patrick Avenue. A witness, Lascelles Josephs, said that at about 6.30 p.m. on the 10th of November, 1964, he saw the deceased riding his bicycle along Patrick Drive towards its intersection with Laurel Crescent. He also saw the appellant Forrest and another man named Spencer, running along Laurel Crescent towards its intersection with Patrick Drive. Forrest had a long gun in his hand and Spencer had a short gun. They both ran to the intersection, where Forrest ran in front of the deceased and stopped him by pointing the gun at him. Forrest then handed his gun to Spencer and went across the road for a piece of stick, with which he returned and started to beat the deceased. The deceased fell off his bicycle onto the road where Forrest continued to beat him. About ten minutes later, the appellant Maitland ran up and she went into a bush nearby and took up a piece of stick and also started to beat the deceased on the ground. Shortly after this, the appellant Dahl ran up with a stick in her hand and she also started to beat the deceased on the ground. The stick that Forrest was using to beat the deceased got broken up in the process and he went across the street to the bush to get another piece of stick with which he continued to beat the deceased. During the beating, the deceased was crying out for "Murder" and trying to get up, but he gradually grew weaker and fell back on the ground.

Dorothy Anderson and her husband Adolphus Anderson, who both lived about seven or eight chains from the intersection, said that they heard cries for "Murder" and they went to the scene where they saw Forrest and Maitland beating the deceased with sticks, whilst he was on the ground. The deceased was bleeding. They both said that Dahl was then sitting on the side walk, but shortly after, she got up, took off her shirt and got a stick and started to beat the deceased too.

Another witness, John Graham, also said that he was attracted to the scene by cries of "Murder" and he saw Forrest and

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Maitland beating the deceased with a piece of wood.

The medical evidence showed that the deceased suffered abrasions of both lower limbs and feet; abrasions and haematoma of both hands and the back of the forearms, with massive sub-cutaneous haemorrhages on the back of both hands; a half-inch stab wound on the outer aspect of the left elbow joint; a fracture of the right radius at its mid point, and a fractured dislocation of the end of the right radius at the wrist joint; a fracture of the left ulna; a fracture of the third metacarpal bone on the left side; bruising of the back with abrasions in the left scapular region; abrasions and a one-inch punctured wound of the right cheek; abrasions to the left ear, blood being present in both ears; a one and three-quarter inch laceration with surrounding haematoma on the right frontal region of the face, and a fracture of the mandible on the right side; a two and a quarter inch laceration in the right occipital parietal region with bruising of the scalp; a haematoma on the left side of the skull in the temporal region, and a massive sub-dural haematoma over the vertex of the skull extending down the occipital parietal region. Death was due to the head injury, in particular the massive sub-dural haematoma which caused compression of the brain.

The appellants in their defence, each made an unsworn statement in which they admitted being on the scene, but denied having taken any part in the beating of the deceased.

Several grounds of appeal were urged on behalf of each appellant. Those on behalf of Maitland and Forrest were substantially the same, whilst Dahl's,although covering substantially some of the grounds of Maitland and Forrest, contained some additional grounds. For ease of treatment, the grounds of appeal on behalf of the appellants may be stated broadly as follows:-

That the trial judge -

1. failed to direct the jury properly on the manner in which they should treat the evidence of witnesses who had made previous statements inconsistent with their evidence at the trial;

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2. wrongly directed the jury to consider evidence as amounting to corroboration which in law was incapable of being corroboration;

3. in his summing up to the jury, showed bias in favour of the Crown and undue prejudice to the defence by the manner in which he:

   (a) endeavoured to rehabilitate the credit of discredited witnesses for the prosecution;

   (b) pointed out to the jury all the points in favour of the prosecution but all the weaknesses of the defence;

   (c) gave the impression that defence counsel ought to have put in certain evidence and wilfully refrained from doing so;

4. wrongly admitted in evidence a pen knife found in the pocket of the appellant Forrest;

5. wrongly sent the jury out of Court in spite of the objection by defence counsel to this course when an objection was being taken to a statement of the appellant Dahl being tendered in evidence;

6. misdirected the jury on the law of common design;

7. misquoted the medical evidence as to the cause of death;

8. failed to direct the jury as to the mens rea necessary to constitute manslaughter.

Without intending any disrespect for the able and forceful arguments of learned counsel for the defence, we do not think it necessary to deal in any great detail with grounds 1, 2, 3 and 4, above mentioned, in respect of which we do not share counsel's views.

With regard to ground 1, the inconsistencies complained of were in the evidence of Dorothy and Adolphus Anderson and Lascelles Josephs. The Andersons admitted having given statements to the Police in which they said that Adolphus Anderson, the appellant Dahl

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and Spencer were patrolling on the evening of the 10th of November and that they had stopped the deceased. They admitted that these statements were untrue and in these circumstances, the learned trial judge, having reminded the jury of these untruthful statements and the reasons given by the witnesses for making them, directed them as follows:-

> "Is this situation satisfactorily accounted for? If it is satisfactorily accounted for in your opinion then you can give such considerations to her evidence as you in your good judgment think fit. If it is not satisfactorily accounted for and the burden is on the Crown to satisfy you then you should give very little credit to the veracity of this witness, Mrs. Anderson; and the same thing applies to her husband."

There were also two discrepancies, in our view minor discrepancies, between the evidence of the witness, Lascelles Josephs, and his deposition at the preliminary examination. The learned trial judge reminded the jury of these discrepancies and told them that it was for them to compare what was said in the deposition with what was said at the trial for the purpose of arriving at an estimate of the degree of veracity of the witness, and if contradictions did exist, to apply those contradictions to the question of the extent of the credit which they would give to the witness.

Learned counsel for the appellants submitted that the trial judge ought to have told the jury that they should regard the evidence of the Andersons and of Josephs as being unreliable, and in support of this submission, the cases of R.v. Golder & Ors. (1960) 1 Weekly Rep., 1169, R.v. Harris, 20 Cr.App.R. 44 and Mills & Gomes v. R. 6 W.I.R. 418 were cited.

We do not consider that these cases are applicable to the facts of the instant case where, unlike the cases cited, the inconsistencies were not vital to the issues in dispute. In our view, the directions of the learned trial judge referred to above were quite

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adequate and properly left it to the jury to decide what weight they should give to the testimony of the witnesses.

With regard to ground 2, the learned trial judge, after warning the jury of the danger of convicting on the uncorroborated evidence of the Andersons, if they took the view that they were accomplices, went on to tell them that the evidence of Lascelles Josephs was capable of amounting to corroboration. Learned counsel for the appellants submitted that Josephs' evidence could not corroborate the Andersons' evidence, because Josephs had left the scene before the Andersons arrived and therefore he could not testify to what had happened whilst the Andersons were present. We think that this submission is founded on an erroneous view of the law. The law as to corroboration of the evidence of an accomplice was reviewed by the Court of Criminal Appeal in England in the case of R. v. Baskerville (1916) 2 K.B. 658, in which the Court laid down rules for future guidance. In that case, Lord Reading, C.J., who delivered the judgment of the Court, cited with approval the statement of Maule, J., in Reg. v. Mullins 3 Cox C.C. 526 at 531:-

> "Confirmation does not mean that there should be independent evidence of that which the accomplice relates, or his testimony would be unnecessary."

And he went on to say, at p. 665 -

> "What is required is some additional evidence rendering it probable that the story of the accomplice is true and that it is reasonably safe to act upon it."

And again, at p. 667 -

> "We hold that evidence in corroboration must be independent testimony which affects the accused by connecting or tending to connect him 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."

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It is our view that the evidence of Lascelles Josephs fulfilled all these requirements. Even though he may not have witnessed the same sequence of events as the Andersons had witnessed, his evidence clearly confirmed the Andersons' evidence by showing that the appellants were beating the deceased in a manner similar to that narrated by the Andersons, shortly before the Andersons arrived on the scene, and rendered it probable that their story was true and that it was reasonably safe to act upon it.

With regard to (a) and (b) of ground 3, we have read the summing up of the learned trial judge several times, with particular reference to the passages to which we were referred by learned counsel, and we are unable to say that, read as a whole, the summing up could be said to be biased in favour of the Crown and unduly prejudicial to the defence. A trial judge is entitled to express his own opinion strongly in a proper case, provided he leaves the issues to the jury. On the state of the evidence in this case, we do not think that the comments of the trial judge were open to any real objection and we are satisfied that the issues were clearly left to the jury.

With regard to (c), the references were to the statements which the Andersons had first given to the Police and which they admitted in cross-examination were "lying statements". It appears from p.16 of the summing up that some comment was made by counsel for the defence that counsel for the Crown had not in his examination-in-chief of Mrs. Anderson, brought out the existence of the statement which this witness had made to the Police, but had left it to defence counsel to unearth it, and that submissions had been made giving the impression that Crown counsel had done something improper in not leading that evidence. It is in this context that the directions of the learned trial judge as to the responsibility of defence counsel to put in depositions and statements of witnesses whose veracity had been challenged by the defence must be viewed. The learned trial judge, after correctly telling the jury that these statements could not be put in by the Crown, told them that defence counsel could, if

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wished, have tendered the statement of Mrs. Anderson, because it was given to them. This was not strictly accurate as Mrs. Anderson had clearly admitted the matters in respect of which it was suggested that she had lied, and it was therefore unnecessary to contradict her by putting in her statement. And in the case of Mr. Anderson, who had also clearly admitted the lie, his statement had not been made available to the defence. In fairness to the learned trial judge, however, it must be pointed out that he did not expressly tell the jury that defence counsel could have tendered Mr. Anderson's statement; and his direction at p.26 of the summing up - "That was the similar view of the statements of Mr. Anderson" appears to be related to his own view, after having seen Mr. Anderson's statement, that he ought not to exercise his discretion and put it in. Although we think that the learned trial judge erred in this respect, we are clearly of the view that no miscarriage of justice was caused thereby. He had repeatedly reminded the jury that the onus was on the Crown to establish the guilt of the appellants to their satisfaction and had told them that it was not for the appellants to establish their innocence.

With regard to ground 4, we think that the evidence of the finding of the knife in the pocket of the appellant Forrest on the 11th of November, although of little probative value, was strictly admissible in law, having regard to the medical evidence that the stab wounds found on the deceased could have been inflicted by a knife, and we do not consider that any undue prejudice was caused to the appellant Forrest by the admission of this evidence.

We pass now to consider the 5th ground of appeal. The Crown sought to tender in evidence a statement taken from the appellant Dahl. Mr. Thompson objected to this statement being admitted in evidence, whereupon the following dialogue ensued in the presence of the jury:-

MR. PHIPPS: Show it to my learned friend, please. Subject to any contest on this, my lord, for my next step would be to tender it.

...MR. THOMPSON:/

MR. THOMPSON: Will your lordship allow me one minute?

MR. JUSTICE FOX: Certainly. You are tendering it and you are going to object.

MR.THOMPSON: My learned friend is going to tender it.

MR. JUSTICE FOX: And you are going to object.

MR.THOMPSON: Yes, my lord.

MR. PHIPPS: My lord, my understanding is that if there is going to be what is called a trial within a trial that the jury be requested to go.

MR. JUSTICE FOX: We don't know what is going to happen.

MR. THOMPSON: My lord, the jury may remain for a little time.

MR. JUSTICE FOX: Are you going to test this by cross-examination?

MR. THOMPSON: Yes, my lord.

MR. JUSTICE FOX: And calling evidence?

MR. THOMPSON: Yes, my lord.

MR. JUSTICE FOX: You are going to have a trial within a trial?

MR. THOMPSON: Yes, my lord.

MR. JUSTICE FOX: In the absence of the jury?

MR. THOMPSON: No, my lord. I want the jury to hear everything. In fact, I don't want the jury to leave. I want them to stay.

MR. JUSTICE FOX: Is there any authority for that procedure?

MR. THOMPSON: My lord, I should think authority should come from the other way about.

MR. JUSTICE FOX: I always understood that when a situation like this develops, the judge rules on whether a statement is admissible or not. For this purpose evidence is heard in the absence of the jury. That is my understanding.

MR. THOMPSON: With respect, my lord, there may be circumstances, my lord when your lordship would deem it necessary -

MR. JUSTICE FOX: Could you refer me to the - any authority?

MR. THOMPSON: My lord, I would suggest this: if there is to be authority, the authority should suggest that - should go to the -

...MR.JUSTICE FOX:/

MR. JUSTICE FOX: I am telling you that in my view the authority is that the jury go out. I am asking you if you know any authority to the contrary.

MR. THOMPSON: I am only saying, with respect, that I disagree with your lordship.

MR. JUSTICE FOX: At par. 1115 of Archbold, the 35th Edition - this is at par. 463, I see this note: The proper course when objection is raised as to admissibility of an alleged confession is for the judge to hear evidence in the absence of the jury and to rule upon that evidence whether the alleged confession should be admitted or not. So it seems to me that the authority is in favour of the proposition I advance. Now, where is the authority in support of the contrary? I should be obliged if you will point it out to me. And I see further, Mr.Counsel: "It is essential that the judge should rule on the admissibility of the alleged confession and that evidence relating to it should not be put before the jury unless the judge has first ruled that it is admissible."

MR. THOMPSON: I make haste to add this: your lordship is referring to a confession. I hasten to add-

MR. JUSTICE FOX: Let us not quibble over words. The authority says-

MR. THOMPSON: With the greatest respect, no. This document has nothing at all in it like a confession.

MR. JUSTICE FOX: It is an alleged statement made by the accused Dahl and certainly in those circumstances it falls within the broad description of a confession.

MR. THOMPSON: My lord, I cannot too firmly and clearly and slowly at this stage ask that this jury be completely disabused that that statement has anything at all amounting to a confession. That is not a ground of my objection.

MR. JUSTICE FOX: There is no necessity for that to be done. We are discussing what arises. My view is that at this stage the jury must go out.

...MR.THOMPSON:/

MR. THOMPSON: If that is the ruling, I have no more to say.

After some further discussion, the learned trial judge sent the jury out saying to them: "Mr. Foreman, and members of the jury, I will ask you to go out. You may not hear anything further about it. I don't know." Mr. Thompson submitted that the trial judge ought not to have sent the jury out against the express wishes of defence counsel, particularly at a time when he had referred to the statement as a "confession". In support of this argument, Mr. Thompson referred us to para. 1381 of Archbold, 35th Edition at p. 576, and cited the case of R. v. Anderson, 21 Cr.App. R. 178. He argued that the trial judge was wrong in referring to para. 1115 of Archbold, dealing with the admissibility of alleged confessions and that he should instead, have referred to para. 1381 and dealt with the matter under that paragraph. We do not agree. In para. 1381, the learned author states -

> "" 1381. Argument in absence of the jury. If the presiding judge thinks that an argument as to the admissibility of certain evidence may unfairly prejudice the prisoner if heard in the presence of the jury, the proper course is to direct them to retire to their room and then to hear the argument in open court that it may appear on the shorthand note directed to be taken by the Criminal Appeal Act, 1907, s.16: R. v. Thompson [1917] 2 K.B. 630. But the jury should not be asked to leave the court except at the request of or with the consent of the defence: R. v. Anderson, 21 Cr.App. R. 178. See also R. v. Chadwick, 24 Cr.App. R. 138. "

It is our view that this paragraph applies to cases where objection is taken to evidence which is being given by a witness on the ground that the evidence is inadmissible and arguments are then heard on the question of the admissibility of the evidence. The relevant portion of para. 1115 reads as follows -

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" The proper course where objection is raised as to the admissibility of an alleged confession is for the judge to hear evidence in the absence of the jury and to rule upon that evidence whether the alleged confession should be admitted or not. R.v. Francis & Murphy (1959) 43 Cr.App.R. 174."

It is to be noted that this paragraph deals with the question of the admissibility of an alleged confession which the witness is seeking to tender, and not with the admissibility of the witness' own testimony. We do not think that the case of R.v. Anderson (supra) is applicable to the facts of the instant case. That case concerned the evidence of the accused himself when, in cross-examination, he was asked a series of questions tending to show or to suggest that he had previously signed a statement in which he had admitted dishonesty. At some point of the cross-examination a document was made visible to the jury and questions were put which may have conveyed to the minds of the jury that whatever the accused had said or denied, there was in Court an original document to the effect alleged, bearing his signature. It was admitted that there was no such document in existence. In the circumstances of that case, it was held that it was wrong for the jury to have been sent out, in spite of the strong objection by the defence to that course, and for arguments in respect of the alleged document to be heard in the absence of the jury. In the instant case, a witness was about to tender in evidence a statement which had been taken from the appellant Dahl. This statement contained certain admissions of fact which may have tended to the proof of the offence with which she was charged and therefore, in our view, came within what the learned trial judge called "the broad description of a confession" (See para.1104 of Archbold). Mr. Thompson had quite clearly indicated that he intended to test the witness by cross-examination and to call evidence, in other words, to have "a trial within a trial", and was insisting that this should take place in the presence of the jury as he wanted

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them to hear everything. In these circumstances, we think that the learned trial judge was right in adopting the practice laid down in R.v. Francis & Murphy (supra) where Lord Parker, L.C.J., in delivering the judgment of the Court, said, at p. 176:-

> " It has always been the settled practice in cases of this sort for a challenge to be made to the admissibility of the statement at an early stage in the absence of the jury. The matter is set out in the 34th (1959) edition of Archbold's Criminal Pleading, etc., at paras. 1114 and 1115. 'The proper course,' it is said there, 'where objection is raised to the admissibility of an alleged confession, is for the judge to hear evidence in the absence of the jury and to rule upon that evidence whether the alleged confession should be admitted or not.' The passage goes on to say that the evidence of the prisoner may be admitted at that stage. Then, if the evidence is admitted, 'the weight and value of a confession remain matters for the jury.' It is quite clear that a prisoner is entitled both to a ruling on admissibility from the judge and also to hear the verdict of the jury on the weight and value of the confession. Although the criterion is the same, namely whether it is a voluntary confession, there may well be cases where the judge might not think it right to allow the confession to be put before the jury at all. If the course adopted in this case were adopted in all cases, something would come before the jury which the judge might at a later stage have to rule to be inadmissible. In the result, either the jury would be left with minds poisoned against the prisoner or they would have to be discharged and the trial started again. The court is of opinion that no departure should be made from what has always been the settled practice in these matters."

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It is true that in that case, the right of defence counsel to object to that procedure was not canvassed, but it is our view that in cases coming within this principle, no objection by defence counsel can override the duty of the trial judge, in the exercise of his discretion, to send the jury out if he thinks that matters prejudicial to the defence may be disclosed.

A careful reading of the dialogue quoted above will show that the learned trial judge was not really saying that the statement in question was a confession. He was quoting from para. 1115 of Archbold which, as we have already indicated, was the relevant paragraph covering this point. It would have been better if the learned trial judge had acceded to Mr. Thompson's request and told the jury that the statement was not to be regarded as a confession of guilt, as indeed it was not, but, when sending out the jury he told them that they may not hear anything further about it, and, when they returned, he said this to them, at p. 234:-

> "I rule that this objection to the admissibility of the statement must be sustained and therefore the statement will not be received in evidence."

Clearly then there was nothing before the jury that they could regard as a confession and in these circumstances, we do not think that any prejudice could have been caused to the appellant Dahl. The dangers inherent in hearing evidence and arguments in the presence of the jury in circumstances such as these were clearly demonstrated in this case. Had there not been an objection to the jury going out when the learned trial judge had intimated that they should go out, there would have been no possibility of anything prejudicial to the appellants being heard by the jury. As it was, Mr. Thompson had quite clearly indicated that he wanted the jury to hear everything, and as the references to "alleged confession" and "broad description of a confession" quite properly arose out of the arguments, we do not think that counsel can have any cause for complaint.

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We pass now to consider the sixth ground of appeal with which also the seventh ground can conveniently be combined. In support of these grounds, Mr. Ramsay submitted that the learned trial judge had directed the jury on the assumption that the appellants were acting with a common design. He submitted that it was a question of fact for the jury to find whether or not the appellants were acting in concert and that the trial judge ought to have told them that if they found that the appellants were not acting in concert, then only the individual who had struck the fatal blow would be responsible, and, if it could not be said who had struck the fatal blow, none of the appellants could be convicted. He submitted further, that the learned trial judge had misquoted to the jury the medical evidence as to the cause of death when, in referring to Dr. Beaubrun's evidence, he said -

> "He said in his opinion the cause of death was due to these injuries he saw -/in particular, the injury which affected the brain."

What Dr. Beaubrun had said, was that, the cause of death was due to the head injury, in particular, the massive sub-dural haematoma causing compression of the brain. By reason of this misquotation, Mr. Ramsay submitted, the learned trial judge had rendered the whole issue of concert irrelevant. A careful reading of the summing up will show that on the issue of murder, the learned trial judge had clearly left it to the jury to find the individual responsibility of each of the appellants, so far as the question of intention and participation in the attack on the deceased was concerned. The jury, by their verdict, negatived an intention to kill or to cause grievous bodily harm, but clearly found that the appellants had all participated in the attack. The evidence of the witnesses for the Crown as to the participation of the appellants in the attack on the deceased was such that if it was accepted by the jury, and it is clear that it was so accepted, then in our view, no other finding was open to the jury, but that it was a joint and concerted attack by all three appellants on the

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deceased. In the circumstances, we do not think that it was incumbent on the learned trial judge to leave the case to the jury on the basis of a separate and independent attack by each of the appellants on the deceased. The misquotation of the medical evidence by the learned trial judge thus becomes immaterial, as, death having resulted from ~~the injuries~~ an injury inflicted in the joint and concerted attack on the deceased, all three appellants would in law be responsible therefor.

We need say very little on the eighth or final ground of appeal. Mr. Ramsay submitted that some degree of mens rea was required in order to establish the offence of manslaughter and that the mere doing of an unlawful act from which death resulted was not ipso facto manslaughter. The jury,he submitted, should have been so directed, and the omission of the trial judge to do so amounted to a misdirection. We agree that not every unlawful act which results in death will constitute the offence of manslaughter, and in an appropriate case where it is in dispute whether or not some harm is likely to result from the act, a direction as to mens rea would be necessary. In the instant case, however, there could have been no doubt as to the likelihood of serious harm to the deceased resulting from the acts of the appellants and we do not think it was necessary for the trial judge to have given any directions in this respsct.

For these reasons, we are clearly of the view that no miscarriage of justice has occurred in this case and the appeals are all therefore dismissed.

The appellants have also appealed against the sentences which were imposed on them, on the ground that they were manifestly excessive. Forrest was sentenced to imprisonmert for life, whilst Maitland and Dahl were each sentenced to imprisonment for 20 years. Forrest is 35 years of age, Maitland 37 and Dahl 39, and none of them had any previous convictions. We have given the question of the correct sentences to be imposed in these cases our most anxious consideration.

Undoubtedly, the crime committed by the appellants and so

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aptly described by the learned trial judge as "a lynching of an innocent man" was a terrible one deserving severe punishment. It cannot be too strongly emphasised that it is not for individual members of the public to take the law into their own hands, but to leave matters of this kind to the regular law enforcing agencies of the land, and it is necessary that the punishment for offences of this nature should be sufficiently severe as to discourage future conduct of this kind. We have, however, come to the conclusion that the sentences which were imposed were manifestly excessive. We can see no valid reason to differentiate between one appellant and the other, and consider that in all the circumstances of this case, justice will be met by imposing sentences of ten years imprisonment at hard labour. The sentences will therefore be quashed and sentences imposed in substitution therefor of ten years imprisonment at hard labour in respect of each of the appellants. In view of the fact that leave to appeal was granted, the time during which the appellants were specially treated as appellants will count as part of the term of imprisonment under their respective sentences.