

INTRODUCTION

The essential purpose of this report is to express, in an objective and clear manner that would not even leave an opening of any doubts in its veracity, its incidence, irregularities, forgings and flagrant violations of the Human and Legal Rights in the proceedings known as the Cuban Airplane Case.

The defendants ORLANDO BOSCH, LUIS POSADA, HERNAN RICARDO, and FREDDY LUGO submitted to trial since October of 1976, were first tried in the Civil Jurisdiction, afterwards in the Military Jurisdiction and once again in the Civil Jurisdiction.

In the course of seven and a half years, the Prosecuting Military Attorney and the two Civil Prosecuting Attorneys asked for the acquittal in their respective Courts, for lack of evidence or guilty evidence against the defendants.

The Permanent Council of War of Caracas tried them and acquitted them the 26th of September of 1980.

The sentence granted by that Court was sent for consultation before the Court-Martial according to the law. The Court,

inconceivable and after retaining the file for two and a half years, without dictating any decision, expresses a conflict of competence alleging that the Case should belong in the Civil Jurisdiction and sends it for consultation to the Supreme Court of Justice. The file again is sent to the Civil Jurisdiction, to the XIV Superior Court of the Civil Jurisdiction. Due to a decision by this last Court, the proceedings have restarted again in the time where new Prosecuting Attorneys could formulate charges, therefore invalidating all of the proceedings during these seven and a half years, including the acquittal petition by the Civil and Military Prosecuting Attorneys and the acquittal decision by the Permanent Council of War of Caracas.

For all of these antijudicial and tortuous collusive behavior with unfathomable interests the Judges have pleasingly and obliging yielded to blackmailing threats and political or state extortions, sometimes originating from Cuba and in other times plotted by the Government of Venezuela.

In order to understand how it could be possible of such aberration and distortion of justice could occur in a Country that is ruled by a democratic system, it is necessary to explain two unusual situations that implicate the Venezuelan Legal System. 1st.) The President of the Republic, who is the Commander in Chief of the Armed --- Forces, is also an officer of the Military Justice according to Article 28 of the Military Justice Code, also in that same Article the Ministry

of Defense is an officer of the Military Justice. 2nd.) The appointments by the Attorney General of the Nation, the Magistrates of the -- Supreme Court of Justice, and the members of the Judicial Council are given out among the Government Party and the main Opposition Party, in other words, between the Democratic Action (AD) and the Social- ---- Christian Party (COPEY). SEE ANNEX No. 1

A fatal situation that also shakes the choosing of - the Superior Judges and of any prosecution. An inadmissible and im-- moral reality that is persistently criticized by the ethic and honest- Venezuelan Judges and corroborated by the newspaper clippings, that - we attach. See Annex No. 1.

Only like this and with all of the previous referen- ces it could be understood how we, the defendants in the Cuban Air---- plane Case, remain incarcerated for more than seven years, in spite - of the not-guilty sentence by the Military Court and the acquittal --- petition by the two Prosecuting Civil Attorneys and the Prosecuting - Military Attorney.

After the decision by the Judge Pérez España to re--- store the case to the time of the Arraignment, alleging a supposed an-- nulment. Once again our proceedings should commence and again the --- run around and the delays that will be prolonged for several years, to never make a decision and to keep us indefinitely incarcerated. Judge

Pérez España had the file for nine months, being clearly demonstrated his complacency to interests once he detected the supposed invalidation in such a prolonged time. It is surprising that a Judge who takes so much interest in detecting irregularities, did not go to the very first one, we are referring to the illegal Act of Proceedings, that is also distorted and if he would have done it as ruled by law, it would mean our freedom; but also the clash with whom ordered him the other immoral and illegal alternative.

In the report that is attached only some of the numerous arbitrations and violations to which we have made reference will be condensed and on the other hand, we have been submitted to an inhumane ordeal of an insatiable "Legal Terrorism", and at the same time it stigmatizes, offends and compromises the history and the dignity of the Venezuelan people.

Dr. Orlando Bosch

Hernán Ricardo

Luis Posada

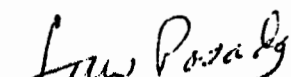
Freddy Lugo

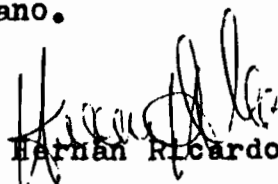
Sólo así y con todos los antecedentes referenciados, podría entenderse como nosotros los procesados en el Caso del Avión Cubano, permanecemos encarcelados por más de siete años, no obstante el veredicto de inocencia del Tribunal Militar y la petición de absolución de los dos Fiscales Civiles y del Fiscal Militar.

Después de la decisión del Juez Pérez España de reponer la causa al estado de Cargos, alegando un supuesto vicio de nulidad. Nuevamente debe de recomenzar nuestro proceso y empezar otra vez el ruleteo y las dilaciones que se prolongarán por varios años, para nunca tomar una decisión y mantenernos encarcelados indefinidamente. El Juez Pérez España, tuvo el expediente durante nueve meses, quedando fehacientemente demostrada su complacencia a intereses al detectar el supuesto vicio de nulidad en tiempo tan prolongado. Sorprendente que un Juez que se toma tanto interés en detectar irregularidades, no hubiera ido a la primera de todas, nos referimos al ilegal Auto de Proceder, que también está viciado, y que de haberlo hecho como pauta la ley, significaría nuestra libertad pero también la colisión con quienes le ordenaron la otra inmoral e ilegal alternativa.

En el informe que a continuación exponemos, serán condensadas sólo algunas de las innumerables arbitrariedades y violaciones a que hemos hecho referencia, que por otro lado, nos han estado sometiendo a la inhumana ordalía de un insaceable "Terrorismo Jurídico", a la vez que estigmatizan ofenden y comprometen a la historia y la dignidad del gentilicio venezolano.


Dr. Orlando Bosch


Luis Posada


Hernán Ricardo


Freddy Lugo

II

THE FACTS

1.- THE ACCIDENT: The 6th day of October of 1976 arrives in the International Airport of Barbados at 12:25 p.m. (16:21 GMT), an airplane of "Consolidada Cubana de Aviación", make Mc DONNELL DOUGLAS, Model DCS-43, flight number CU-455, between the airports of Timehri, (Guyana) and Havana (Cuba), with stops in Trinidad, Barbados and Kingston, (Jamaica).

Eighteen (18) passengers disembarked in Barbados. The airplane is prepared to continue on its schedule in route to Jamaica, thirteen new passengers board the airplane and their luggage is placed in the front luggage compartment. The preparation for the departure of the flight was routine and at 13:15 (17:15 GMT) took off and started to rise; nine minutes later the pilot reports on the radio: "We have an explosion aboard" and states his intentions of returning to the airport for an emergency landing. The airplane crashes in the sea. There were no survivors: 73 dead (25 crew and 48 passengers).

At the time of the accident the airplane was leased to Consolidada Cubana de Aviación Corporation.

Almost immediately after the accident occurred, the search for survivors began, but only 15 bodies, pieces of the airplane

and 14 suitcases were found. The suitcases appeared to be in different stages of deterioration; but only three suitcases showed damages that could not be attributed to the effects of the impact and breakage of the airplane. These three suitcases identified to belong to the fencing team, which were loaded and placed in the rear luggage compartment by its team members, in the Piarco Airport in Trinidad and being them the only luggage in that compartment.

At least 23 persons witnessed the last maneuvers of the CU-455, some of them were in boats, others on shore, all of them saw smoke coming out of the airplane, others believed that the smoke was coming from engine number three.

A few hours later, precisely at daybreak of 10-7-76, the Trinidad and Tobago police acting on a mysterious tip detained HERNAN RICARDO LOZANO and FREDDY LUGO while they were at the Holiday Inn Hotel in Trinidad, accusing them as the perpetrators of the blasting of the Cubana de Aviación airplane.

Almost simultaneously LUIS POSADA CARRILES and ORLANDO BOSCH AVILA are detained in Caracas (Venezuela) by officials of the Venezuelan Political Police DISIP (Intelligence and Prevention Service Department) and were accused of being co-perpetrators of the same event.

2.- ORIGIN AND DESTINATION OF FLIGHT CU-455

According to the statement made by the Cubana de Aviación representative in Guyana (Mr. Santos), the CU-455 arrived in Timehri Airport (Guyana) on Tuesday the 5th, at 8:35 P.M., and was parked at space number 1 and placed under surveillance by both Cuban Security Service and

the Airport Security Personal. The aircraft was cleaned and the garbage removed that same night; leaving it in perfect condition for the return flight the following day, Wednesday, at the early hours in the morning. - All of this was done under the supervision of Mr. Santos and another --- colleague, Mr. Lázaro Otero, who died in the accident.

The following day, in other words, the 7-6-76, the --- flight supplies were received a half hour before the schedule departure - time by Mr. Martí, who also died in the accident.

The crew boarded the airplane approximately at 9:35 a.m. From that point on, no one besides the crew, passengers and Cubana de Aviación Officials boarded the airplane, except for the customs officer who - tore off the stamps of the Duty Free liquors, in the presence of the --- Purser.

The airplane left Guyana at 10:35 a.m., in other words, with 27 minutes delay, awaiting for a North Korean Diplomatic Delegation that wished to take the CU-455, as officially requested by the Guyana Government.

Mr. Santos stated in Barbados that everything worked-out normally in Guyana, and that all the safety precautions were taken, at the time the passengers boarded the airplane, including the identification of the luggage that took place by each passenger, in the Airport landing strip and at the foot of the airplane. Nevertheless, that state-

ment was in contradiction with Glyne Clarke's testimony, a British West Indies employee in Barbados who was vacationing in Guyana and returned in the CU-455 and ARNOD QRUIK and FEONA STALLA (Section 8, folio 20, 29 and 33 of the Court File) also passengers, who stated that they were surprised that this proceeding did not take place at Timehri Airport in Guyana.

The CU-455 arrived in Trinidad at 11:03 a.m. Only two passengers disembarked and due to the fact that the British West Indies employees had gone on strike, the in-transit passengers were not allowed to disembark from the airplane. For these same reasons the airplane was not cleaned nor the garbage removed. With the assistance of the crew and some passengers the proceeding of the normal checking to board the airplane took place, in other words, the identification of the luggage by the passengers and personal inspection of them, before boarding the airplane. HERNAN RICARDO and FREDDY LUGO take the fatal flight.

In effect, HERNAN RICARDO and FREDDY LUGO, after sleeping for a few hours at the Holiday Inn Hotel, arrive at the Piarco Airport in Port O'Spain in the morning, checking their luggages and tickets at the British West Indies counter, without any incidents: Precisely, HERNAN RICARDO gives his suitcase and receives its claim ticket. FREDDY LUGO only carries a hand luggage.

An important fact took place: In Trinidad the safety precautions were taken, both on the luggages and persons. Also the lugg-

ages and the handbag of HERNAN and FREDDY were confiscated by the Court and such items and all the personal items and the clothing that they wore were subsequently object of a chemical test in Port O'Spain for the purpose of determining a possible contamination with explosive substances and the records show that the tests were negative. (Court file, Section 7, folio 184, 187 and 199).

3.- SUBSEQUENT ARREST OF HERNAN RICARDO AND FREDDY LUGO IN TRINIDAD.

When HERNAN RICARDO and FREDDY LUGO arrive in Barbados, after going thru immigration and claiming their luggage, they take a taxi for the Barbados Holiday Inn, where they arrive around 1:50 p.m. There they found out about the disaster of the airplane.

About 8:30 p.m. they go to the airport and take a BWI airplane and return to Trinidad. They stay at the Holiday Inn in Trinidad and a few hours later the Trinidad police receive a telephone call from Caracas (Venezuela) and they were informed that both of them were in the Hotel and they were arrested.

4.- ORLANDO BOSCH IN VENEZUELA.

Dr. Orlando Bosch, a political activist and leader of the Cuban exile against the dectatorship of Fidel Castro, arrives in Venezuela the 8th of September 1976, at 10:00 p.m. in the Maiquetía International Airport coming from Nicaragua. Bosch is received in Maiquetía by the DISIP Official, Eleuterio González, who receiving orders from his Chief Deputy Ely Saúl Camargo, offered him VIP attention without him

going thru Customs and without having to wait in line in Immigration. Deputy Camargo explains that he ordered the special attention to Bosch by orders from his Superiors from DISIP who stated that a high hierarchical person with a passport under the name of Carlos Luis Paniagua - (name of the passport used by BOSCH, will arrive. Both officials --- statements appear on the Court File, Section 15, folios from 100 to - 101 and from 134 to 135).

5.- PETITION OF INVESTIGATIVE AND TECHNICAL ASSISTANCE BY THE BARBADOS GOVERNMENT TO THE BRITISH GOVERNMENT.

The 8th day of October 1976 the Government of Barbados request to the British Diplomatic Representative in Bridgetown technical assistance in the investigation of the airplane disaster. --- Then the 10th day of October, Erick Newton, an English technician, was sent, who immediately starts an investigation of the Cubana Airplane.

THE WARRANT OF ARREST BY JUDGE DELIA ESTABA MORENO

Dr. Delia Estaba Moreno, Special Judge, orders a -
Warrant of Arrest against the defendants HERNAN RICARDO, FREDDY LUGO,
and LUIS POSADA the 2nd of November 1976 for the crimes of Using and -
Manufacturing of War Weapons and Treason, and Dr. ORLANDO BOSCH for -
Qualified Homicide and Using and Manufacturing of War Weapons. This -
Warrant of Arrest can be found on Section 9 of the file attached to -
folios 2 to 73 of this Section.

In order for the reader to understand all of the -
irregularities committed in the signing of the Warrant of Arrest, de--
priving the suspects of their freedom, we ask you to read the Compo- -
site No. 2 attached to this file and that it was argued by the Defense
Attorneys, Dr. Raymond Aguiar Guevara, Dr. Pío González and Dr. Fran--
cisco Leandro Mora, in the argument made to the Military Court and -
the Permanent Council of War of Caracas, when the Case was transfered
to the Military Jurisdiction after Judge Delia Estaba declined her -
competence. SEE COMPOSITE No. 2

IV

THE CASE GOES FROM THE CIVIL JURISDICTION TO THE MILITARY JURISDICTION

The Case and its file were in the Civil Jurisdiction -- for ten months. The 13th of August 1977 Judge Delia Esteba decides that the Case is not of her competence, in other words, the Civil Jurisdiction and refers it to the Military Jurisdiction to the First Military Court. - The Attorneys for the Defense requested from the Attorney General of the Republic the annulment of this decision, objecting to this because the - defendants were civil citizens. The Attorney General addressed the Supreme Court of Justice who states that there were no matters to decide - when a Court declines its competence and another one accepts it. The - 15th of August 1977, the Secretary of Defense ordered the First Military Judge Colonel Nestor Morillo to open the summary investigation on the - mentioned case before the Ordinary Court.

The defense consents, previous agreement with the de-- fendants. Public Defendants were appointed to them, whose defense for - the defendants were written out on ten lines of a piece of paper.

The Military Judge signs a new Warrant of Arrest for - the military crime of Treason and sends the file to the Permanent Council of War of Caracas.

The Council of War confirms the Warrant of Arrest.

In Venezuela the Military Court files are sent to -
the President of the Republic for consultation and the President has
the power to grant a continuance to the trial or dismiss the case. -
(Military Justice Code Article 224)

In September of 1981, on the occasion of the arri-
val in Havana of a Venezuelan Delegation who attended the World In- -
terparliamentary Reunion presided by the Ex-President Rafael Caldera,
Fidel Castro reiterates his threats against the Venezuelan Government
subjecting the normalization of diplomatic relations to the imprison-
ment of the four accused for the explosion of the Cuban airplane. A
few days before, Carlos Rafael Rodríguez, Vice-President of the Coun-
cil of State of Cuba, had stated the same to the Internationalist Jo-
sé Rodríguez Iturbe and to the Venezuelan Ambassador to Cuba, César -
Rondón Lovera, during a meeting they had in Panamá. See the attached
about the threats and also what deals with the opinion of the Vene- -
zuelans about this matter.

The 9th of August of 1982, right after the escape -
of the defendants HERNAN RICARDO and LUIS POSADA from the San Carlos
Headquarters and their later on entering the Embassy of Chile, the -
Cuban Government through Radio Havana urged the Venezuelan Govern- -
ment not to grant the safeconduct, demanding their removal from the -
Embassy and recommending the use of force if necessary.

CHARGES FROM THE PROSECUTING ATTORNEYS

The First Military Prosecuting Attorney of the Public Ministry, Navy Lieutenant José Moros González, formulates Treason Charges to LUIS POSADA, FREDDY LUGO and HERNAN RICARDO, as forseen and sanctioned on Article 464, Ordinance 3 of the Military Justice Code and to ORLANDO BOSCH for Qualified Homicide, forseen and sanctioned by Article 408, Ordinance 1st of the Penal Code and for Carrying War Weapons, forseen in Article 275 ejusdem. The Charges were executed on the 28th day of July of 1978, one year and nine months after the case had started, according to the record on Piece 13 of the file, folios from 4 to 130. Also Charges the above mentioned, ORLANDO BOSCH, for Contempt and the Use of a False Passport, forseen and sanctioned on Article 148 and 327 Ordinance 3 of the Penal Code.

The Prosecuting Attorney for the Public Ministry accepts the documents coming from the Civil Jurisdiction and formulates the Charges before mentioned. To make it easier to the reader Composite No, 3 is attached, containing performed by the Defense Attorneys later on about this matter. SEE COMPOSITE No. 3

VI

ABOUT THE EVIDENCE

After the Arraignment was made by the Public Ministry Prosecuting Attorney, comes the proceedings of "Promotion and Suppression of Evidence". In these proceedings both the Prosecuting Attorney and the Defense Attorney present all the evidence and circumstantial evidence that they consider of interest to prove the guilt or innocence of the suspects. Also the witnesses that have any relationship to the event are interrogated by both Parties.

In the Case of the Cuban Airplane numerous witnesses were interrogated and several evidence were presented. The most outstanding, important and relevant evidence in the proceedings was that of the information given by the expert witness, technician Eric Newton (British), Investigator for Airplane Accidents and Carlos Fabri (Venezuelan), explosive technician. The investigation about the parts, suitcases and recovered items of the airplane disaster from the sea as well as the expert investigation about those items were fulfilled by the technicians of the RARDE Institute (Royal Armament Research and Development Establishment) pertaining to the Defense Ministry of Great Britain, of considerable reputation on this type of investigation.

It is in the Promotion and Suppression of Evidence where the Military Prosecuting Attorney Navy Lieutenant José Moros Gon-

zález reviews all and each one of the evidence presented by the Defense and the Public Ministry. (the technicians were made available by the Public Ministry) and interrogates the witnesses and experts and comes to the conclusion that no evidence exist against the defendants. -

Later on in the Act of Information previous to the decision that should be taken by the Military Court, he requests the pardon of the four defendants. The petition from the Prosecuting Attorney is executed on - the 17th of September of 1980, three years and eleven months after the proceedings have been initiated. We enclose the Annex No. 4 containing some of the evidence and interrogatories of witnesses performed by the Defense in the Act of Promotion and Suppression of Evidence. --

Annex No. 4

VII

IRREGULARITIES IN THE SUMMARY PROCEEDINGS FORMULATED BY THE POLITICAL
POLICE DISIP AND BY THE SPECIAL APPOINTED JUDGE.

The Public Ministry is in GOOD FAITH in every penal proceedings. That means that its function is not that of acting as a Public Prosecutor in the cases of this matter, but that of acting as a trial supervisor with the purpose of watching over the correct application of the law, and for that it is authorized to perform the same judicial resources at the defense disposal. It can even request the defendants acquittal and the appeal of the sentence if found guilty if it considers him innocent. In such virtue its supervision should be total, from the time the trial commences till it ends. Its function should be spontaneous and active. It is not necessary to urge the Public Ministry to perform. Its presence in the penal proceedings should guarantee the civil rights as stipulated by the National Constitution and other law. Nevertheless, in the Case of the Cuban Airplane the General Prosecuting Attorney in charge, not only did not fulfill his obligations as supervisor but took part in the "fabrication" of an undoubtedly illegal summary. As follows we will point out some of the proceedings irregularities.

1.- The DISIP formulates a RULE OF PROCEEDINGS on the 7th of October of 1976. In accordance with Article 4 of the Penal Code, in this particular case the defendants could only be tried once they return to their Country (which occurred on the 28th day of October

1976), and once the Public Ministry commences proceedings against them - (which did not take place until the 1st day of November 1976). Therefore the RULE OF PROCEEDINGS was illegally initiated.

2.- The illegal RULE OF PROCEEDINGS, of the 7th of October 1976, states that the investigation is initiated because there has been knowledge through the local press that there are two Venezuelan implicated in a sabotage act against a Cuban Airplane. Nevertheless, the first time any reference about the presumed participation of Venezuelans in this event that appeared in the newspapers was on the 9th day of October 1976. This proceedings reveal a presumed fabrication of a document (Rule of Proceedings).

3.- ORLANDO BOSCH and LUIS POSADA are preventively detained by the DISIP on the 13th day of October 1976, eventhough their arrest did not take place in the act of the crime, being this the only cause that in our law the preventive detention of a citizen is justified.

4.- HERNAN RICARDO and FREDDY LUGO are brought into - the country as suspects and statements were taken at the DISIP as witnesses, under oath. Let it also be known that suspects by special law order, should give statements without being sworn, and that such incident is also a constitutional order.

5.- When the eight (8) days of preventive detention of

the defendants were due as ~~ordered~~ by the Courts, they were not set free - as ordered by the Constitution but instead were kept incarcerated violating their legal rights.

6.- After a Special Judge was named for this proceedings, the DISIP continues to act and to exercise arrests. Being the - Police Departments excluded, as order by Law (Article 25-A of the Criminal Prosecuting Code), of the knowledge of the trials for which a - Special Judge is justified, the DISIP could not continue to perform after such appointment.

7.- On the 23rd of October 1976, ORLANDO BOSCH and - LUIS POSADA were taken to Court in a clandestine manner, since it was done ~~with~~ without their Attorneys knowledge and the event was done at a not customary time and again informative statements were taken due to the fact that two days before it had been done before the Third Judge of First Penal - Instance. At that time armed officers of the DISIP were inside the --- closed door Courtroom and did not allow the entrance of the Attorneys into the room. This event was published by all the daily newspapers and - all of the television stations. It is unconstitutional and in violation of law of the Public Ministry not to allow the accused to speak to his --- Attorney before a statement is taken.

8.- Section No. 10 of the file was open by Dr. Delia - Estaba without the knowledge of the defendants and its Lawyers and it - appeared all of a sudden, after all of its proceedings were executed.

9.- Among the proceedings mentioned in the above paragraph are the statements of eight Trinitarian witnesses who were brought into the country in a clandestine manner and kept in a confinement, and were taken by the DISIP to the Anauco Hilton Hotel where they stayed; -- being escorted all the time by police officers of that Department until -- they left the country again, after giving testimony in an illegal manner -- in Dr. Delia Estaba's Court. After the famous Section No. 10 appeared it -- was known that the legal subterfuge used by the Judge to take those statements was to summon them to the Hotel "inasmuch as the Court found out that they were there". In that time like in many others, the legal formalities for the statement of these witnesses who reside not only outside of the -- Jurisdiction of the Court, but outside the Country, were ignored.

10.- The Attorney General (in charge) met at his office on the 30th of October 1976 with Judge Delia Estaba in order to discuss -- the conformity so that the Public Ministry files the respective action -- against the defendants. It is not convenient nor usual that a Judge goes to the Attorney General office to discuss matters suited to the Public Ministry.

11.- On the 1st of November 1976 the Attorney General -- presents a formal accusation against the defendants to fulfill in this -- manner the Article 4th of the Penal Code, that needs such requirement to -- be able to proceed to the judicial proceeding in Venezuela of a crime perpetrated abroad. Therefore, if on that date the requirements were fulfilled, all of the previous proceedings are void, since there was a lack --

of one of the conditions in the proceeding at that time.

12.- The following day of the accusation presented by the Attorney General In Charge, the 2nd day of November 1976, Dr. Delia Estaba signs the WARRANT OF ARREST without having read the file, being this impossible, since she did in 24 hours what is needed at least 170 hours of reading and continuous work, without sleeping, without eating without doing anything else. It is physically impossible to read and review a file of 1807 folios and that was written in English (a language that Dr. Estaba does not know), assuming that she read and reviewed each folio in 5 minutes, 170 hours of reading would be needed to read the file and make the decision about the WARRANT OF ARREST and additional time for its elaboration.

13.- The Warrant of Arrest decision by Dr. Delia Estaba is on the 2nd day of November and the translation of the documents that were written in English, that came from Barbados, is dated November 4, 1976, which proves that she did not read the file before making the decision or that she decided it after the date that she announced the decision.

However, we wish to point out the following legal disposition: Article 48 (Criminal Judicial Proceeding Code): The Prosecuting Public Ministry Attorneys will perform the functions attributed to them by the present Code and the respective special legislation....and in no case will be able to stop the performing of the followings: 7th) To denounce before whom it may pertain the serious abnormalities and irregularities

observed in the proceeding; 8th) To investigate the arbitrary detentions, to their knowledge, that occurred in their Jurisdiction and to initiate the proceedings, in order to stop them and to repair for the consequences. Article 207 of the Penal Code: "Every Public Official that under any pretext even if it were that of silence, obscurity, contradiction or inadequateness of the law, omits or refuses to fulfil any proceedings of his Ministry will be punished..."

14.- The technicians Erick Newton (British) and Carlos Fabbri (Venezuelan) were appointed by Judge Delia Estaba for the expert investigation of the fuselage and the recovered articles of the damaged aircraft. The RARDE Laboratories, pertaining to the Defense Department of Great Britain were used to perform its expert investigations, here the most modern and sophisticated equipment as well as the assistance of specialist technicians of that Laboratory were used, Judge Delia Estaba received the voluminous information containing the expertise arising from the investigation. This information undoubtedly proved that the explosion occurred in the Luggage compartment of the plane, a place where RICARDO and LUGO could not reach, exonerating them of all culpability in the event. Then, Judge Delia Estaba DID NOT ATTACH THE INFORMATION TO THE FILE, KEEPING IT HIDDEN, and it was not until a few years later, when the trial was in the Military Jurisdiction, during the Promotion and Suppression of Evidence, when the technicians Newton and Fabbri were interrogated by the Defense Attorneys (Section 15 folios 206-210 and 229-232) the existence of that information came to surface and it was known that there were three copies, one the technicians had, another one was at the British Embassy in Venezuela and the other one -

in the DISIP. The information was requested from the DISIP duly notarized and with validity from the Permanent Court Martial of Caracas - and attached to the file.

15.- After the defendants were found not guilty by - the Permanent Council of War of Caracas, the Case goes to the Court - Martial for consultation. Here, again, the suspects are subjected to - all kinds of procrastinations. General Elio García Barrio, President - of the Court Martial, promises a sentence in nineteen occasions. - During this proceedings that is prolonged to two and a half years, two relators and three Government Attorneys are replaced and every time - this happens, the review of the file should begin again, which at this time consists of 24 Sections. García Barrios does not dictate sentence either, and after two years and urged by a hunger strike of DR. ORLANDO BOSCH, decides that the CASE is not of cognizance of the Military Courts and send this conflict for consultation to the Supreme Court of Justice, who decides to send the Case again to the Civil Jurisdiction.

16.- About the middle of August 1977, Judge Delia - Estaba, considering unjust and defamatory an article published by the Defense Attorneys RAYMOND AGUIAR GUEVARA, FRANCISCO LEANDRO MORA, PIO - GONZALEZ ALVAREZ and EMMA CARLA DEL SOLAR, they were submitted to a disciplinary action, depriving them of their freedom. The Attorneys protested considering the rule arbitrary and that it restrains the defense rights. Dr. Del Solar, Counsel for the Defense, was detained after - the other three Defense Attorneys were released. A group of Attorneys

request an Habeas Corpus before the Penal First Instance Fourth Court of the Federal District and the State of Miranda Judicial Circumscription.- The Judge decides in favor of the Attorneys and orders the release of - Dr. DEL SOLAR. See Annex 6, where it states the text issued by that Court and where the Arbitrariness of Judge Estaba is evident. Also in the Annexes 6A and 6B the partisanship condition of that Judge is evident, - placing her in public political meetings side by side of acknowledged - personalities of the national politics and from a specific Party. See - Annex 6A and 6B.

17.- On the 8th day of August 1982, two of the defendants, HERNAN RICARDO and LUIS POSADA, escape from prison and request political asylum from the Diplomatic Representation of Chile in Venezuela.

SEE ANNEX No. 5 that deals with irregularities in the proceeding.

VIII

PETITION OF ACQUITTAL OF THE FOUR DEFENDANTS BY THE MILITARY ATTORNEY.

On the 17th day of September 1980, three years and eleven months after having initiated the proceeding in the Information Proceedings previous to the sentence, the Military Prosecuting Attorney Navy Lieutenant José Moros González requests from the Court-Martial the acquittal of the four defendants, based upon the promotion and suppression of evidence the innocence of the defendants was authentically proven. See Annex No. 7 -

LX

SENTENCING BY THE PERMANENT COUNCIL OF WAR OF CARACAS.

On the 26th of September 1980, eight days after the -
petition from the Prosecuting Attorney, the Permanent Council of War of
Caracas in a statement of 365 folios, acquits the defendants.

In order to rule the Military Court came to the follo-
wing conclusions concerning the established responsibility of the defen-
dants:

1.- The English document that arose from the Barbados
and Trinidad police authorities, does not show any legal effect in the -
proceeding for not having been translated by appointive experts, accor--
ding by the established current rules.

2.- The document received from the Republic of Cuba -
is subject to annulment, invalidating its insertion in the proceedings,-
for not being the same as when it was attached to the file.

3.- The military crime of Treason for which the indi-
viduals HERNAN RICARDO LOZANO, FREDDY LUGO and LUIS POSADA were tried -
did not have sufficient evidence in the proceedings for lack of merits,
that Venezuela would have been threatened at any time of the risk of war,
rupture of diplomatic relations, retaliation by foreign countries due -

to the airplane accident, according to this Court in the time of the Suppression of Evidence.

4.- Pursuant to the Qualified Homicide crime, perpetrated to all the crew members and passengers of the airplane Línea Cubana de Aviación, the material or intellectual authentic evidence against the four defendants never arose.

5.- The explosion that caused the crash of the airplane DC8-43, leased by Línea Cubana de Aviacion to Air Canada, between the Barbados-Jamaica stops, flight No. CU-455, on the 6th of October 1976, took place because of a nitroglycerine bomb placed in the rear of the compartment of the airplane, not being determined the origin of the bomb, the country where it was placed in the plane, or the people who could have intervined in this event.

6.- The individual ORLANDO BOSCH AVILA entered the country the 8th of September 1976 by the Maiquetía Airport with false documentation, under the identity of Carlos Paniagua Méndez, which he used with the knowledge of some official Venezuelan Authorities.

7.- The individual HERNAN LOZANO, using the false identity of José Vázquez García given to him by a passport issued under that name, left the country on the 6th of October 1976, on Pan American Airline towards Port O'Spain, Trinidad, maintaining this identity until the following day when he was detained.

8.- That Venezuela had no interference in the abominable event, because of this the crew members and passengers of the airplane Cubana de Aviación died, the 6th of October 1976, after approximately flying for eight minutes after taking off from the Seawell Airport in Bridgetown, Barbados, therefore it belongs to the adequate territory, according to the current International Rights, to actually determine the author and guiltiness of the maker or makers of the event attributed -- until now, but not proven as a result of that decision, to the Venezuelan individuals HERNAN RICARDO LOZANO, FREDDY LUGO and LUIS PCSADA CARRILES and the foreign tourist ORLANDO BOSCH AVILA, who was in the country on that date.

A true and accurate copy of the decision of the Permanent Court Martial of Caracas. SEE ANNEX No. 8

X

THREATS AND BLACKMAIL OF THE HAVANA GOVERNMENT TO THE PRESIDENT OF THE
REPUBLIC, MILITARY JUSTICE DEPARTMENT AND THE NATIONAL ARMED FORCES.

May 1st 1980, in a speech by Fidel Castro in Havana at the Plaza of the Revolution, due to the International Labor Day, Castro severly attacks the Venezuelan President, Luis Herrera Campins, stating that on the Case of the Cuban Airplane the sentencing had not taken -- place yet. The Chancellery energetically responds to the insults of the Cuban President. See Annex No. 12

The speech of the Head of the Cuban Government introduces a new element of tension in the diplomatic relations between Cuba and Venezuela that reaches a level of coolness just after the events -- that occurred at the Peruvian Embassy on the 4th of April 1980, which - provoked the return of the Venezuelan Ambassador in Havana, Rondón Love- ra, See Annexes No. 12A that deal with this matter.

Just after the Not Guilty Sentence issued by the Perma- nent Council of War of Caracas the 26th of September 1980 the Cuban Govern- ment began a series of threats against the President of the Republic, Dr. Luis Herrera Campins, against the Magistrates of the Council of War against the Military Prosecuting Attorney and against the Armed Forces of Venezue- la.

The newspaper Gramma, the mouthpiece of the Central Com-

mittee of the Cuban Communist Party, states: "the pharisaical and hypocritical democratic-christian clique that rules Venezuela". In that same editorial dated September 27th 1980 (a day after the decision) calls the court ruling as "an incredible sign of irresponsibility and obvious partiality". On that same day Fidel Castro referred to the ruling of the Not Guilty Sentence granted by the Court Martial, during a rally commemorating twenty years of the Revolution Defense Committees, making responsible for that decision the Military Prosecuting Attorney, the Military Judges and - the Venezuelan Government, severely attacking them. He orders his diplomatic personnel to return to Cuba and to close the Embassy. See Annexes 13.

On the 29th day of September 1980, in a communiqué -- emanated from the Venezuelan Chancellery, Venezuela energetically rejects the accusations of Fidel Castro, calling them false, disrespectful insulting and incidious against our Armed Forces. See Annex No. 14 that shows the complete text of the Venezuelan Chancellery statements.

The President of Venezuela, Dr. Luis Herrera Campins, - holds a high level meeting to review the diplomatic relations of Venezuela with the Cuban Government. Annex No. 15.

The 6th of October 1980 the Cuban Government threatens the Government of Venezuela of being: "the only one responsible of all - of the consequences derived if the four defendants are acquitted".

The Administration of Havana through its official mouthpiece, the newspaper Gramma, severely attacks the Social-Christian Govern-

ment as "Crime after Crime, Infamy after Infamy". It publishes at length an editorial. See Annex No. 16 that expresses the most relevant parts of the Gramma editorial dated October 6th 1980.

On October 10th 1980 the Cuban Vice-Chancellor, José Viera, before the United Nation general debate, censored and again attacked - the Venezuelan Government and authorities for the not guilty ruling of the four defendants in the Case of the Cuban Airplane. See Annex No. 17 that reproduces fragments of the speech of the Vice-Chancellor, José Viera.

SEE ANNEXES 18 that deal with the subject matter.

XI

AFTER THE NOT-GUILTY DECISION FROM THE COUNCIL OF WAR THE CASE GOES FOR
CONSULTATION TO THE COURT-MARTIAL.

According to the legislature of the Venezuelan Military Justice, the decision of the Council of War goes for consultation by a Superior Court, in this case a Court-Martial which is the maximum Court in this Jurisdiction who should decide on the ruled sentence.

The Court Martial consists of five Magistrates, a Government Attorney and a Secretary. The members that constitute the Court are: The President, the Relator and the other three Magistrates. All have the right to vote on the decision. The files for the cases that are reviewed are read by the Secretary in hearings convened by the Court President. The hearings are public and recorded in a book. Since the President has the authority to convene the hearings for the reading of the files, he, therefore, has control of the celerity of the proceedings. If the reading of the file is stopped or the hearings are spaced apart in time the proceeding is prolonged. As we will see later on there are many other ways to delay the proceedings and to delay the sentencing.

The Court President, retired Brigadier General Elio García Barrios, kept the Cuban Airplane Case in the Court-Martial for two and a half years and at the end he did not rule on it, considering himself not competent and referred the file again to the Civil Jurisdiction.

HERE ARE THE FACTS:

After the acquittal from the Council of War on September 26, 1980 the file on the Cuban Airplane Case goes for consultation - to the Court-Martial.

The Court President estimates that he could pass sentence in 45 days and expresses so to the press. See Annex No. 9. From that moment on the file undergoes a series of going around and manipulation which prolongs the decision for years, violating the rights for an individual to a speedy trial and make this situation unbearable.

During this endless proceeding, we will state more evident facts:

1.- General Barrios requests Better Proceedings Provision. He requests additional information from Cuba, Barbados and Guyana. These countries almost take a year to answer his request. Even though the law allow a lapse of six months for this requisition, the file remains stopped until the information arrives.

2.- In April of 1982 when the file has already been in Court for one year and eight months and the review of Section 23 is almost finished (the file consists of 24 sections) a conflict arises between the Relator, Colonel Alfredo Anzola Jiménez and General Barrios. The Relator finds himself in the position of resigning and he is substituted by Colonel Manuel Ruíz Siso. The substitution of the Relator ---

takes several months, in the meantime the file remains at a standstill.

3.- With the new Relator incorporated to the Court, the reading of the file should begin from the first page, since the hearings for the reading should take place before the Court in plenum and the new member should also know about the file.

4.- The hearings commence slowly, weeks go by without any hearings taking place.

5.- Due to internal problems two Prosecuting Attorneys are substituted.

6.- Since the beginning of this proceeding General Barrios is harassed by the news media who ask for the sentencing date. He promises during nineteen occasions the sentencing date repeatedly deceiving the public opinion and submitting the defendants to psychic torture for the unfulfilled promises. See Annex No. 9 which deals with newspaper clippings where it shows his promises to the news media.

7.- In March of 1983, when it had already been six and a half years that the proceedings had begun and two and a half years in consultation at the Court-Martial, ORLANDO BOSCH, starts a hunger strike in protest to this situation. Mr. BOSCH, due to his precarious health and lengthy strike is in danger of dying. The General is

urged by these just reclamations and by the public opinion. Committees of Cuban exiles come from the United States and protest demonstrations are organized. The Mayor of Miami, Maurice Ferré, comes in mid March.- He arrives in a private airplane and has a meeting with the President of the Republic, Luis Herrera Campins, protesting for the situation.

8.- March 24th, 1983 due to such pressure General

Barrios decides to abandon the Case and states a conflict of competency.

He sends the file to the Supreme Court, stating that the Case is not of the Competency of the Military Court but that of the Civil Jurisdiction. General Barrios could have taken this decision two and a half years before, in October of 1980 when he took over the Case and the file. SEE ANNEX No. 9 and (illegible) 9A.

XII

THE CASE GOES AGAIN FROM THE MILITARY JURISDICTION TO THE CIVIL JURISDICTION.

SIX YEARS AND TEN MONTHS after THE PROCEEDINGS

STARTED and the file being in consultation at the Court-Martial for two and a half years, General García Barrios "discovers" that the trial is not of the competency of the Military Court. He sends the file to the Penal XIV Superior Court under the direction of Superior Judge Erasmo Pérez España and states a conflict of competency before the Supreme Court, that THIS TIME (contrary to the previous decision where it states that there were no conflict of competency when one Jurisdiction declines its competency and the other one accepts it) begins to review the petition of the Court-Martial. The Supreme Court rules that the case should return to the Civil Jurisdiction. The Court decides in a time record and April 11th 1983 the Penal Superior Judge of the XIV Court Dr. Erasmo Pérez España receives again the file.

XIII

ACQUITTAL PETITION OF THE GOVERNMENT ATTORNEYS OF THE PUBLIC MINISTRY.

The Prosecuting Attorneys XIII Iván Maldonado Ordóñez and I Victor Hoyer specially appointed by the General Attorney of the Republic, request from the Penal Superior Judge XIV the acquittal of the four defendants. The petition was executed in the Information Proceedings previous to the Sentencing performed by that Court on the 8th day of February of 1984. The Prosecuting Attorneys executed a document consisting of three folios which was read (as petition by Attorney Dr. Leandro Mora). Then the Prosecuting Attorney joined the criterion of the Second Military Attorney José Moros González, who also requested the acquittal of the defendants (September 17, 1980) and the acquittal decision of the Permanent War Council of Caracas. SEE ANNEX No. 10

XIV

THE DECISION OF THE SUPERIOR JUDGE OF THE XIV COURT DR. ERASMO PEREZ -
ESPAÑA.

On February 14, 1984, six days after the acquittal -
petition by the Prosecuting Attorneys of the Public Ministry and SEVEN
YEARS AND FOUR MONTHS AFTER COMMENCING THE PROCEEDINGS, the Superior -
Judge Erasmo Pérez España, without even notifying the Defense Attor- -
neys to attend the Sentencing depriving them from arguing their alle--
gations at the Proceedings, states an annulment of the Proceedings at
the time of the Reading of the Charges he decides to restore the Trial
to this time. This decision means commencing the proceeding again, -
and therefore all the proceedings of the case invalid from this moment
on including the acquittal petition of the Prosecuting Attorneys and -
the Acquittal Sentence stated by the Court-Martial, when the Judge Pé-
rez España chooses this alleged annulment, intentionally ignores other
causes of nullity, inasmuch as the irregularities that make illegal the
Act of Proceedings at the beginning of the Proceeding. Here is where -
the Judge intentionally overlooks the frauds and forgings. If he would
have taken into account those irregularities and voided the Proceedings,
that would mean the immediate freedom of the defendants as stated by -
law. The file was nine months in the Superior XIV Court, under the -
direction of Judge Pérez España. Since the assumed fraud of nullity is
at the beginning of the file, Why did the Judge need so much time for -
taking this decision? SEE ANNEXES No. 11.

INTERFERENCE OF THE EXECUTIVE BRANCH IN THE CASE OF THE CUBAN AIRPLANE
AND NATIONAL AND INTERNATIONAL POLITICAL IMPLICATIONS.

The interference of the Executive Branch in the Case of the Cuban Airplane and the political implications in the referred Case in a national and international level, are stated through the context of this information and in the annexes enclosed. As a point of particular interest the Annex No. 24 is submitted to the reader.

XVI

COMMENTARY OF THE NEWS MEDIA TO A NATIONAL AND INTERNATIONAL LEVEL.

The news media, newspapers, magazines, radio, and television had made innumerable commentaries through this long proceeding. The press, both national as well as foreign, have made references to the Case of the Cuban Airplane in editorials and news that have called the attention of the public and reflexed the complexity, political doings and long lasting of this proceeding full of frauds and irregularities.

Among the international news media The New York Times and The Miami Herald can be mentioned as excellent newspapers, and in Television Channel 23 of Miami and CBS which have dedicated a two hour program to the Case and in a Coast to Coast programs in the United States. World famous magazines, such as: Squire; Newsweek, USA News and World Report, Time, Playboy, New Time, etc., have published lengthy reports about the Case.

Due to the volume of this abstract it is impossible to include it in this information. We only mention Annex No. 21 that deals with some publications of the national press.

SEE ANNEX No. 21

XVII

ESCAPE OF THE DEFENDANTS HERNAN RICARDO AND LUIS POSADA

UNFULFILLED PROMISES.

On Sunday the 8th of August 1982, two of the defendants in the "Cuban Airplane Case", HERNAN RICARDO and LUIS POSADA in a spectacular manner escaped from jail and subsequently request political asylum in the Chilean Government Representation in Caracas.

This spectacular escape that stirred up the political aspect of Venezuela because of its national and international political implications, was a true and unquestionable reason that HERNAN RICARDO and LUIS POSADA had lost their faith and trust in the ruling of Justice in a Court-Martial presided by a mentally obsessive, prejudice and ill man, who has repeatedly made mock violations of their legitimate Rights as defendants. A man who intentionally prolonged the proceeding for more than two and a half years, eventhough the defendants had been found ACQUITTED and taking advantage of illegal and childish cunning and rogatories; who publicly promised sentencing dates dozens of times, and later on nor respecting them, with its psychological, moral, emotional and corporal damages, placing the defendants in such desperation that they took risk of escaping. Placing them as the only defendants in the world that have escaped from prison after being acquitted.

Therefore, after the defendants entered the Chilean

Embassy, besides requesting asylum, they demanded a sentencing in the Case.

Besides this, on August 11th, as requested by the - Venezuelan Government, the defendants were handed over to the Venezuelan Authorities under the formal and public promise from Venezuela to Chile, that a final sentencing would take place in the "Cuban Airplane Case" in the month of October of the same year. This promise was also later on ratified by the Ministry of Defense, Division General Luis Narvaez Churión, at the time that Dr. ORLANDO BOSCH was in a hunger strike.

As proved by the legal chronology of the flogging - Case, none of the promises were executed and there was no sentencing - in that year, 1982.

SEE ANNEXES 22

XVIII

HUNGER STRIKE OF DEFENDANT DR. ORLANDO BOSCH - UNFULFILLED PROMISES.

Dr. ORLANDO BOSCH, had no other alternative but to resort to the last source of non-violent action taken by men in claiming his civil rights, in what appeared to be an intentional and infinite delay of the final Sentence in the "Cuban Airplane Case".

So, on September 21, 1982 he began the hunger strike being the Final Sentence in their case the only petition and request. - In that occasion, on the 15th day of August of 1982 and after being in a hunger strike for 24 days, the Ministry of Defense, General Vicente - Luis Narváez Churión, who was a member of the Military Court, promised Dr. Orlando Bosch officially and publicly a Final Sentence for the -- month of October of 1982. A promise that he disrespected and irresponsibly nor honored.

Later on, and while the file was still dormant without going anywhere, Dr. ORLANDO BOSCH in a new and compelling non-violent protest begins another hunger strike on March 17, 1983 reiterating the same just Final Sentencing, whichever it may be.

After 56 days in a hunger strike being kept alive by intravenous feeding and close to death, the Supreme Court decides the conflict of competency raised by the Court-Martial.

The file is then transferred to the XIV Superior Court under the direction of Judge Erasmo Pérez España, who publicly promises that he will rule on a Final Sentence in the month of November of 1983.

A Judge of Adeca (AD) affiliation who was the current Government at the time, does not fulfil his promises and arbitrarily and illegally reinstates the file to the time of the Charges. SEE ANNEX 23

XIX

REPORT FROM THE U.S.A. STATE DEPARTMENT ABOUT THE CUBAN AIRPLANE CASE.

The State Department of the United States in a report about the Civil Rights in Latin America, dated February 10th 1984 referring to Venezuela, states that the blast of the Cuban Airplane is a violation of the Civil Rights, an incident that occurred on October 1976 - where the defendants are still in jail awaiting trial. SEE ANNEX No.20

ACKNOWLEDGEMENT OF THE CURRENT PRESIDENT OF VENEZUELA, DR. JAIME
LUSICHI, ABOUT THE DELAYS IN THE CUBAN AIRPLANE CASE.

In an interview to Dr. Jaime Lusinchi by the newspaper Información in Houston, Texas, dated October 31st 1983, Dr. Lusinchi referred to the Cuban Airplane Case as a drawn out proceeding that deserves to be speeded up. SEE ANNEX No. 25

THE CASE OF THE CUBAN AIRPLANE.

A NATIONAL INFAMY AND DISGRACE.

A DISHONOR FOR VENEZUELA ON A WORLD LEVEL.

CHRONOLOGY OF A LEGAL DISGRACE

When in a country the injustice becomes the clipping sword of all legal principle, offending and exposing the image of the nation before the international community, and pledge what should be - untarnished investiture to interests as ignoble as unsearchable.

When the Judges become mercenaries, because they - think that they can become one without any risk, they are not the big problem, but the indifference and complicity of their superiors and - observers, that is precisely where the danger is.

When the difference has become a funeral prayer before the erroneous ruling and questionable behavior and the performances of the Judges, that with their mistakes compromise the honor of their - homologous and the system that protects and remunerates them.

When all of this happens in a nation its roots that hold the heart of its virtues break off, its noble history is stigmatized and offended, and with it the justice and freedom principles that with such - heroism and bloodshed were granted to it; prevailing the black and dangerous perfidy of calamities presaging all and each one of the citizens that

inhabit it, specially those who have the misfortune compeled that -
confide in the ones who have the jurisdiction of ruling on their -
destiny and the right of freedom.

All of this and even more with the unexpected natu-
ralness and after justifications and fallacies as relentless as humi-
liating have occurred in Venezuela in the flogged and disgraceful -
"Cuban Airplane Case".

In order to prove it once again, we will outline and
abbreviate only some of the many irregularities, forgings and violations
of which we have been victims during eight cruel and long years.

CHRONOLOGY OF A LEGAL DISGRACE.

1.- On the 7th day of October 1976, the Proceedings -
of the Cuban Airplane Explosion Case commences in Venezuela, the event -
occurred the day before in international waters at five miles to the -
Northeast of Barbados. The proceeding was initiated by the Political -
Police DISIP, with the Act of Proceedings dated the 7th of October, -
basing this Proceedings on: "by the reason of informations published by
the newspapers, it is known that there are Venezuelans involved in the -
event" (a true and accurate copy of the Proceedings). On the days 6th
and 7th the press did not publish anything relating to any Venezuelan -
accused in the events, therefore the Proceedings is illegal. On the -
other hand the DISIP was utilized which has no legal authority to perform
as a Prosecuting Organism to initiate the proceeding of the Summary.

2.- All and each one of the rules of the Proceedings were forced in order to make possible the judicial proceeding, since according to the Article IV of the Penal Code that deals with the possibility of the extraterritoriality of the Venezuelan penal law, it is necessary to wait for the Venezuelan presumptively involved in crimes to arrive in Venezuelan Territory, and they only would have been tried once the Attorney General orders their trial. The Venezuelans HERNAN RICARDO and FREDDY LUGO, involved in the event, had not arrived in Venezuela when the Special Prosecuting Judge Delia Estaba had already been appointed in order to try the case and proceeds with a trial. On the 28th of October 1976, when RICARDO and LUGO arrived in the country coming from Trinidad, the Proceeding had already started 21 days before without the defendants being present.

3.- On the 1st of November 1976, the documents processed by the Trinidad and Barbados authorities arrive in Venezuela to the Attorney General Office. The Attorney General that same day send them to the Prosecuting Judge Delia Estaba Moreno. The documents that were composed of 1807 folios were written in English. The Judge without not even knowing the language, reads and reviews the file in less than twenty hours and rules a Warrant of Arrest for the crimes of Qualified Homicide, Manufacturing of War Weapons and Forging of Document. It is materially impossible to read and review in twenty four hours a file of 1807 folios. Supposing that it would take five minutes to read and review a folio, 170 hours of continuous and uninterrupted hours would be needed, it is deduced that the Judge did not even read the file in order to sign the Warrant of Arrest.

4.- The Case and its file were in the Civil Jurisdiction for ten months. August 13th 1977 Judge Delia Estaba decides that - the Case is not of her competency and transfers it to the Military Jurisdiction. The Defense Attorneys requested from the Attorney General of - the Republic the annulment of this decision; opposing it because the defendants are civil individuals. The Attorney General brought it to the attention of the Supreme Court of Justice, who at THIS TIME ruled that - there was no matter to decide when one Court declines its competency and the other one accepts it. On the 15th of August 1977 the Ministry of - Defense ordered the First Military Judge, Colonel Néstor Morillo to open a summary investigation in the formulated cause before the Civil Jurisdiction.

The Defense withdrew as previously agreed by the defendants. Public Defendants are appointed, who perform the defense of the - four defendants, using ten lines of a piece of paper.

The Military Judge signs a new Warrant of Arrest, this time for the Military crime of Treason and sends the file to the Permanent Council of War in Caracas.

5.- The trial continues and on July 28th 1978, ONE - YEAR AND NINE MONTHS AFTER THE PROCEEDINGS HAD BEGUN, they proceed with the Arraignment. The Military Prosecuting Attorney, Lieutenant José Moros González rules sentencing the defendants to 26 years.

6.- On September 17th 1980, THREE YEARS AND ELEVEN - MONTHS AFTER THE PROCEEDINGS BEGUN, in the Information Act, previous to

the Sentencing, the Military Prosecuting Attorney requests from the -
Council of War the acquittal of the defendants, based upon the fact -
that the initiating and lack of evidence was authentically demonstrat-
ed the innocence of the four defendants. On September 26, eight days
later the Council of War in a sentence of 865 folio, rules the acquit-
tal of the defendants, states in the sentence that: "no authentic evi-
dence arose of material or intellectual culpability in any of the four
defendants", neither "the origin of the bomb was not determined, the -
country where it was placed in the airplane, as well as the persons -
that could have intervined in the event" and that "Venezuela had no -
interference in the assault".

7.- The file goes to the Court-Martial to consult -
the decision of the Council of War. The defendants remain in jail. -
The file remains in the Court-Martial for two years and six months, -
without ruling any decision with respect to it. On the 24th of March -
1983, SIX YEARS AND TEN MONTHS AFTER THE PROCEEDINGS STARTED, the -
Court-Martial presided by General Elio García Barrios, decides that -
the Case of the Cuban Airplane is not of the competency of the Milita-
ry Courts (he could had taken this decision two years and a half befo-
re, when he received the file). He sends the Case to the Supreme -
Court of Justice who THIS TIME (contrary to the before decision) -
states that the Case should return to the Civil Jurisdiction. On the
11th of April 1983 XIV Penal Superior Judge, Erasmo Pérez España re--
ceived the file. The 8th of February in the Act of Information pre--
vious to the Final Sentence the Attorney General of the Republic, -
appoints the Prosecutors First and Thirteenth, Dr. Victor Hoyer and -

Dr. Iván Maldonado, request the acquittal of the four defendants, submitting to the opinion of the Military Prosecutor as well as the acquittal decision of the Council of War.

8.- On the 14th of February 1984, SEVEN YEARS AND FOUR MONTHS AFTER THE PROCEEDING HAD BEEN INITIATED, without not even notifying the Defense Attorneys in order to appear in the Act of Sentence, Judge Pérez España based on a supposed proceeding annuled that he found at the time of the arraignment, decided to restore the trial to the time of Charges. This decision brings about the commencing of the proceeding again, and therefore, all the proceedings are voided, including the petitions of acquittal from the prosecutors and the acquittal sentence ruled by the Council of War. When Judge Pérez España chooses this supposed invalid proceeding, intentionally ignores other invalid cases, such as, irregularities that make illegal the Act of Proceeding at the beginning of the Proceedings. Here is where the annulments and forgings that the Judge intentionally overlooked started. He did not do it, because if he had acted like that and declared void the Act of Proceedings, this would mean the immediate freedom of the defendants, as ruled by law. The file was in the XIV Court presided by Judge Pérez España for nine months. Since the supposed annulment is at the beginning of the file, Why did the Judge need so much time in making this decision?

To finish, the only thing left is to point out that all

these arbitrarities and immoral proceedings to the slatch of the law - and justice, are nothing but an ugly and impudent copy of the malevolent interests of the sinister artificer behind the folding screen of the robed men, meek and accommodating, forcing us the task of constantly denouncing and accusing, so that such big judicial promiscuity does not careen in the inlet of forgetfulness, since we want justice to be respected and our truth to nourish from our reasonableness.

STATE OF FLORIDA)
COUNTY OF DADE) SS
U.S.A.)

CERTIFICATION

THIS IS TO CERTIFY THAT THE ATTACHED TRANSLATION IS,
TO THE BEST OF MY KNOWLEDGE AND BELIEF, A TRUE AND
ACCURATE RENDITION INTO ENGLISH,
OF THE ORIGINAL WRITTEN IN SPANISH.

THE 26 DAY OF February, 1985.

Sylvia B. Hauser
SYLVIA R. HAUSER

SWORN AND SUBSCRIBED BEFORE ME ON THIS
THE 26 DAY OF February, 1985.

Miriam Basch
NOTARY PUBLIC

MY COMMISSION EXPIRES: 3/27/88