

Sessions for the other place and not at any subsequent Court of Assize or Quarter Sessions. Consequently no subsequent Court of Assize or Quarter Sessions could have any jurisdiction to hold the trial, because the provisions as to what is the ordinarily appropriate court of trial cannot be departed from unless there is express statutory power to do so.

Here the question of what is the appropriate court of trial for a case committed for trial by a magistrate at Kailahun is answered (as it is also for any magistrate sitting anywhere in the Protectorate) by section 104 of the Criminal Procedure Ordinance. It is the Supreme Court, and the Supreme Court has jurisdiction in every place, although for the general public convenience, it sits in the Protectorate only at certain places, and these places and the times of sittings thereat are appointed by the Chief Justice under the provisions of section 7 of the Courts Ordinance and published before the beginning of each (calendar) year.

In Freetown the Supreme Court (Criminal Sessions) Rules, 1947, show that criminal causes are to be heard at the different criminal sessions in Freetown. There is no corresponding provisions for sessions held in the Protectorate.

Mr. Collier, for the respondent, submits that questions of jurisdiction to hold a trial are different from questions of the keeping of the accused in lawful custody.

We think it would be surprising if what appears, in section 104 of the Criminal Procedure Ordinance, to be a reference to a general jurisdiction of the Supreme Court should turn out to be, really, only jurisdiction at a particular place on a particular date, to be decided upon by the committing magistrate, because of the wording of a form in a Schedule to the Ordinance.

In our opinion the provision in section 104 (as it was, at the time of committal: it is now (section 104 (1)) requiring the magistrate's court, after committal, "either to admit him to bail or to send him to prison for safe keeping" is intended to ensure that the keeper of a prison shall have the power and be warranted lawfully to keep in custody any person who has been committed for trial but not admitted to bail. The last sentence of the section makes this clear, and likewise also does the amendment made by Ordinance No. 11 of 1960, to which we have already referred.

For these reasons we order that this appeal be dismissed.

[COURT OF APPEAL]

ATTORNEY-GENERAL . . . . . Appellant

v.

J. C. LUCAN . . . . . Respondent

[Criminal Appeal 5/61]

Freetown  
April 14,  
1961

Ames P.  
Benka-Coker  
C.J.  
Bankole  
Jones J.

*Criminal law—Dispersing newspaper without name and place of abode of printer on it—Newspapers Ordinance (Cap. 151, Laws of Sierra Leone, 1960) s. 9—Meaning of word "disperse"—Attempt.*

Respondent was charged in the magistrate's court with dispersing a newspaper without the name and place of abode of the printer on it contrary to section 9 of the Newspapers Ordinance. He was also charged with assisting to disperse

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a newspaper without the name and place of abode of the printer on it contrary to the same section. Respondent pleaded not guilty.

The case for the prosecution rested on the evidence of a detective constable who testified that he had purchased one copy of the newspaper "The Renascent African" from respondent, that respondent had had other copies for sale and that there was no name or address of the printer on the newspaper. At the close of the case for the prosecution, counsel for respondent submitted that there was no case for him to answer. The magistrate upheld this submission, saying: "In my view it would be straining the meaning of the word 'disperse' were I to hold that by selling a copy of the paper the accused 'dispersed' the paper or assisted in dispersing the paper. . . ."

When the Attorney-General's appeal to the Supreme Court was dismissed, he appealed to the Court of Appeal.

*Held*, (1) that to sell one copy of a newspaper is not to "disperse" the newspaper within the meaning of section 9 of the Newspapers Ordinance; and

(2) that the sale of one copy of a newspaper by a person who has other copies available for sale constitutes an attempt to disperse the newspaper.

*John H. Smythe* for the appellant.

*Rowland E. A. Harding* for the respondent.

AMES P. This is an appeal by the Attorney-General against a decision of the Supreme Court given in the exercise of its appellate jurisdiction and dismissing an appeal by the Attorney-General.

The respondent was charged in the magistrate's court with dispersing a newspaper without the name and place of abode of the printer on it contrary to section 9 of the Newspapers Ordinance (Cap. 151, Laws of Sierra Leone, 1946).

The particulars of the offence were as follows:

"J. C. Lucan on or about the 20th day of August, 1960, at Freetown, in the Police District of Freetown in the Colony of Sierra Leone, dispersed a newspaper entitled 'The Renascent African,' Vol. 5, No. 96, dated July 8, 1960, the said paper not having printed thereon in legible characters the name and usual place of abode or business of the printer of the said newspaper."

There was a second and alternative count for assisting to disperse a newspaper without the name and the place of abode of the printer contrary to the same section. The particulars of this count were the same except, of course, that they alleged that he "assisted in dispersing."

The material part of section 9 of the Ordinance is as follows:

"Every person . . . who shall publish or disperse or assist in publishing or dispersing any newspaper on which the name and place of abode of the person printing the same shall not be printed as aforesaid, shall for every copy of such newspaper so printed by him, be liable, on summary conviction, to a fine not exceeding £5."

The respondent pleaded not guilty.

The material part of the evidence given for the prosecution was the following evidence of a detective constable:

"On August 20 last I saw accused at 4 Fourah Bay Road. It was in a bar portion of the premises. I asked accused whether he has 'Renascent

African' paper for sale and he said yes. I asked for a copy and he picked up a copy of the paper which he handed to me. I paid him 2d. This is the copy of the paper dated July 8, 1960, and Vol. 5, No. 96. I produce it. There were many other copies besides it. There is no name or address of the printer on it."

He was cross-examined by counsel for the respondent.

Another witness was called from the Registrar General's office to produce the certified return in respect of the registration of the newspaper. The case for the prosecution then closed.

Counsel for the respondent submitted that there was no case for the respondent to answer. After hearing argument, the magistrate upheld the submission saying:

"... To my mind the offence would seem to be committed if the accused took part in distributing copies of the paper. In my view it would be straining the meaning of the word 'disperse' were I to hold that by selling a copy of the paper the accused 'dispersed' the paper or assisted in dispersing the paper..."

On appeal to the Supreme Court, the learned judge upheld the ruling and dismissed the appeal. He said in his judgment:

"The facts before the learned magistrate were that on August 20, 1960, the respondent sold one copy of a newspaper entitled 'Renascent African,' Vol. 5, No. 96, dated July 8, 1960, to a detective constable, the newspaper not having at the time printed thereon the name and usual place of abode of the printers of the said newspaper, contrary to section 9 of the Newspapers Ordinance Cap. 151..."

Then after considering the meaning of the word "dispersed," which is not defined in the Ordinance, the learned judge held that to sell one copy of a newspaper is not to disperse it within the meaning of the section.

We agree with the learned judge that in the absence of any definition of the word, it must be given its ordinary meaning and in its ordinary meaning "disperse" connotes different directions from a centre, and so in the plural and so more than one. Indeed most words beginning with "dis" postulate at least two aspects of the matter. So also does "distribute," as was so held in Canada in a recent criminal trial there according to the note in "Words and Phrases Judicially Defined" (pocket supplement, 1960, Vol. 2) which Mr. Harding for the respondent put before us. The question there was whether the delivery of a handbill to one person only was a distribution of the handbill.

The section does not use the words "Every person who shall sell" but "who shall disperse." So selling is outside the section except when it amounts to dispersing.

It seems to us however that the learned judge and the learned magistrate both overlooked part of the evidence. There was not merely evidence of sale of one copy; there was evidence that it was a public place and that there were many copies for sale of which one was sold. These circumstances indicate that all these copies were being offered for sale and so intended to be sold, in so far as they might find purchasers. They were all intended to be sold and so dispersed. But the intention was not by itself an offence nor was the possession

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of so many copies with intention to disperse them. Nevertheless, in our opinion, it is quite clear that when this one copy was sold the respondent had started to put his intention into effect and was in fact and in law attempting to disperse them.

For these reasons, in our opinion, the learned magistrate should have called upon the respondent for a defence to a charge of attempting to disperse the newspapers; and we order that the case be sent back for him to do so.

Freetown  
April 14,  
1961

Ames P.  
Marke and  
Bankole Jones  
JJ.

[COURT OF APPEAL]

SULAIMAN SESAY . . . . . Respondent  
v.  
WHITE CROSS INSURANCE CO. LTD. AND BAFFI  
MINERAL MINING COMPANY LTD. . . . . Appellants

[S.L. - G.A. 2/61]

*Insurance—Whether insurance company liable to pay person obtaining judgment against insured—Motor Vehicles (Third Party Insurance) Ordinance (Cap. 133, Laws of Sierra Leone, 1960), ss. 7, 11—Whether defendant company's liability to plaintiff was one which was required to be covered by insurance policy.*

Respondent was injured in an automobile accident while a passenger in a motor car belonging to the Baffi Co., of which he was "managing director." He sued the company for negligence and obtained judgment against it for £2,645 12s. 6d. and costs. The Baffi Co. had insured the car with the appellants, who had undertaken the Baffi Co.'s defence. Subsequently, respondent brought an action against appellants under the provisions of section 11 (1) of the Motor Vehicles (Third Party Insurance) Ordinance. This action was successful, and respondent obtained judgment for the £2,645 12s. 6d. (less 10 per cent) and costs. Appellants appealed on the grounds (1) that the trial judge erred in deciding that respondent was not at the material time in the employment of the Baffi Co. and (2) that the judge erred in interpreting section 11 of the Motor Vehicles (Third Party Insurance) Ordinance and finding that said section gave respondent the right to proceed directly against appellants for satisfaction of the judgment obtained against the Baffi Co.

Section 11 (1) of the Motor Vehicles (Third Party Insurance) Ordinance provides:

"If after a certificate of insurance has been issued in favour of the person by whom a policy has been effected . . . judgment in respect of any such liability as is required to be covered by a policy . . . issued for the purposes of this Ordinance, being a liability covered by the terms of the policy . . . is obtained against any person insured by the policy . . . then, notwithstanding that the insurer . . . may be entitled to avoid or cancel . . . the policy . . . the insurer . . . shall . . . pay to the persons entitled to the benefit of such judgment any sum payable thereunder in respect of the liability . . . including costs and any . . . interest."

The proviso to section 7 states:

"Provided that such policy shall not be required to cover—

"(a) liability in respect of the death . . . of a person in the employment of a person insured by the policy or of bodily injury sustained by such a person . . .