

REGINA v. LAMIN and TAQI

SUPREME COURT (Marcus-Jones, J.): January 21st, 1966  
(Indictment No. 66/65)

[1] **Constitutional Law — fundamental rights — freedom of expression — newspapers—charges of sedition to be tried with press freedom in view:** In considering whether a newspaper publication on a political subject is seditious, a court should deal with it in a spirit of freedom and not with an eye of narrow criticism and should seek to preserve press freedom while checking its abuse (page 349, lines 29–36).

[2] **Criminal Law—sedition—seditious intent—press freedom to be kept in view:** See [1] above.

[3] **Criminal Law—sedition—seditious intent—published matter to be considered as a whole:** In considering whether a publication is seditious, a court should look at the published matter as a whole together with the surrounding circumstances without confining itself to the matter complained of or allowing itself to be influenced solely by objectionable language used in particular passages (page 349, lines 23–24; page 350, lines 6–7).

The accused were charged in the Supreme Court with publishing a seditious publication.

The first accused was the acting editor of a newspaper. The second accused was a columnist in the newspaper. An article published in the newspaper criticised government measures and called for early elections. The information on which the accused were charged set out a part of the article which suggested that the government was despotic and the country should be rid of it. The only method of changing the government suggested in the article was by calling an early election.

For the Crown, the Attorney-General contended that the writer's intention was to bring the government into hatred and contempt. The defence submitted that the article could not be seditious unless its intention were to cause disorder and was not seditious since laws could be criticised if oppressive, that the information was bad for uncertainty and duplicity and that publication by the second accused was not proved.

Case referred to:

(1) *R. v. Wallace-Johnson*, [1940] A.C. 231; [1940] 1 All E.R. 241.

**Statute construed:**

Sedition Act (Laws of Sierra Leone, 1960, *cap.* 29), s.3:

The relevant terms of this section are set out at page 347, line 41—page 348, line 37.

s.4: The relevant terms of this section are set out at page 347, lines 36-38.

*B. Macaulay, Q.C., Att.-Gen.,* for the Crown;  
*Smythe* for the accused.

**MARCUS-JONES, J.:**

The two accused are charged jointly on two counts of sedition. The first count charges them with sedition contrary to s.4(1)(c) of the Sedition Act (*cap.* 29) in that they on Sunday December 12th, 1965 at Freetown in the Police District of Freetown in the Western Area of Sierra Leone published a seditious publication contained in the issue for December 11th, 1965 of a newspaper entitled *We Yone* as follows:

“On the face of things it looks like madness or bluff of surpassing impudence for the opposition party, whose ranks—according to the S.L.B.S. and the Daily Mail, the newly acquired government mouthpiece—are daily being depleted by resignations and cross-overs to insist on the ruling party redeeming the pledge of its leader to hold elections early next year. That vaunted boast uttered by Sir Albert at his Kono Convention even went further to say that in the matter of the dissolution of Parliament he would consult with no one.

The present trend of things, the spate of hurriedly enacted legislation and envisaged punitive measures are all causing the people of this country the greatest concern. They see tyranny being rationalised as social progress and enshrined in political allegory. They are fed up and cry for redemption. They see that redemption only through the ballot box.”

The second count charges sedition contrary to s.4(1)(c) of the same Act in that the two men had published on Monday December 13th, 1965 a seditious publication in the issue of *We Yone* newspaper of December 11th, 1965 and the particulars are the same as in count 1 above.

Section (4)(1)(c) enacts that any person who—“prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication . . . shall be guilty of an offence.” A “seditious publication” means a publication having a seditious intention and s.3 enacts that—

“(1) A seditious intention is an intention—

(i) to bring into hatred or contempt or to excite disaffection against the person of Her Majesty, Her Heirs or Successors, or the Government of the Western Area as by law established; or

(ii) to excite Her Majesty's subjects or inhabitants of the Western Area to attempt to procure the alteration, otherwise than by lawful means, of any other matter in the Western Area as by law established; or

(iii) to bring into hatred or contempt or to excite disaffection against the administration of justice in the Western Area; or

(iv) to raise discontent or dissaffection amongst Her Majesty's subjects or inhabitants of the Western Area; or

(v) to promote feelings of ill-will and hostility between different classes of the population of the Western Area.

But an act, speech or publication is not seditious by reason only that it intends—

(a) to show that Her Majesty has been misled or mistaken in any of Her Measures; or

(b) to point out errors or defects in the government or constitution of the Western Area as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects; or

(c) to persuade Her Majesty's subjects or inhabitants of the Western Area to attempt to procure by lawful means the alteration of any matter in the Western Area as by law established; or

(d) to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill will and enmity between different classes of the population of the Western Area.

(2) In determining whether the intention with which any act was done, any words were spoken or any document was published, was or was not seditious, every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time and under the circumstances in which he so conducted himself."

From the evidence the first accused is acting editor of the *We Yone* Press of Sierra Leone, which is a political party organ of the A.P.C. The second accused is a columnist of the said paper who writes the column "Tit-bits."

Sedition has been described as a crime against society nearly allied to that of treason and it frequently precedes treason by a short interval. It has been said also that there is no offence of sedition itself but it takes the form of seditious language either written or spoken. Sedition in itself is a comprehensive term and it embraces all those practices, whether by word, deed or writing, which are calculated to disturb the tranquillity of the state and lead ignorant persons to endeavour to subvert the government and the laws of the country. The objects of sedition generally being to induce discontent and stir up opposition to the government, the very tendency of sedition is to incite people to insurrection and rebellion. The law considers as seditious all those practices which have for their object to excite discontent and disaffection, to create public disturbance or to lead to civil war.

Unlike seditious words which might arise from sudden heat and be heard only by a few and create no lasting impression and differ in malignity and permanent effect from writing, seditious writings are permanent things which when published scatter the poison far and wide. They are acts of deliberation capable of satisfactory proof and not ordinarily liable to misconstruction and are submitted to the judgment of the court naked and undisguised as they came out of the author's hands.

But in dealing with articles or publications one should not pause at an objectionable sentence here or a strong word there. It is not merely strong language, tall language, turgid language or vicious or uncouth language which should influence the court but the court should deal with writing or publication in a free, fair and liberal spirit. This is the spirit in which the jury will be directed to deal with such writing. They will be directed to recollect that to the publication of political articles great latitude is given and that in dealing with public affairs of the day they should deal with such publication in a spirit of freedom and not with an eye of narrow criticism. And they will also be directed to look at the whole article and be reminded that although they are guardians of the liberty of the press they will check its abuse while preserving its freedom and that this liberty will suffer no diminution at their hands.

Liberty of the press means complete freedom to write and publish without censorship or restriction save such as is absolutely necessary for the preservation of society. When any writing appears to the jury to exceed these limits it is a seditious libel.

It has been said that a man may publish whatever the jurymen

of his country think is not blameable, but the judge will advise the jury that those writings are seditious which are calculated and intended to excite contempt or hatred of the government or the administration of the laws or to promote insurrection or create discontent. Governments may form the subject of criticisms and censure but corrupt motives are not to be imputed. Juries are to consider the whole article and the surrounding circumstances. It might be the duty of the press to call attention to the weakness of the government when it is done for the public good. It would also be its duty to complain of a grievance which the public good required to be removed or ameliorated, though the very assertion of a grievance creates discontent to a certain extent. It is against this background of the law that I have to approach this publication which is the subject-matter of the charges against the accused men.

Mr. Smythe, counsel for the defence, submitted—

(a) that while both accused are charged with publishing a seditious publication on both counts of the information, in so far as the second accused is concerned there was no evidence whatsoever that he published the article;

(b) that the counts were bad for duplicity and uncertainty in that the words of the section creating the offence were not set out in the information and that these should have been set out; and

(c) that the article taken as a whole is not seditious since laws passed by the legislature could be criticised if oppressive. It is the constitutional right of every citizen to say a law is oppressive.

As regards the question of publication in respect of the second accused, the learned Attorney-General relied on an admission of the second accused made in evidence on November 26th, 1965 when he was charged on another information, No. 66, when in cross-examination he said: "My column in the *We Yone* is Tit-bits," together with the evidence of the fifth prosecution witness, Alfred Benjamin Dixon, who deposed in court on January 19th, 1966: "I see page 2. I see Tit-bits by Ibrahim Taqi. I know him. He is the second accused in the dock. I know Taqi to be a journalist and that he writes Tit-bits."

Would this piece of evidence together with the admission of the second accused on November 26th, 1965 that he is the columnist of Tit-bits in *We Yone* be sufficient presumptive evidence of publication of the article in the issue of December 11th, 1965? A publication must be proved. The fact that the second accused writes Tit-bits does not prove the publication on the 11th. A man who writes a

sedition or defamatory article and sends it to the editor of a newspaper for publication is liable for such publication. The fact that he sent it to the editor is sufficient evidence that he authorised or intended it to be published. The second accused is not the proprietor of the newspaper. There is no evidence to connect the accused with the publication of the article beyond the facts in evidence and I come to the conclusion that these facts are insufficient to establish publication by the second accused.

I now proceed to the article in question and to discover if taken as a whole it is a seditious publication published with a seditious intention with any of the objects stated in s.3(1) (i) to (v) of the Act.

That portion of the article which forms the subject of the charges read:

"The present trend of things, the spate of hurriedly enacted legislation and envisaged punitive measures are all causing the people of this country the greatest concern. They see tyranny being rationalised as social progress and enshrined in political allegory. They are fed up and cry for redemption. They see that redemption possible only through the ballot box."

The paragraph continued:

"That is why an election influenza *seems* to be spreading. The germs have already struck and the contagion is spreading sure and fast. The question on every lip is when would the election be? Only one man can answer that and that man is Sir Albert. But how long more must the people be frustrated? How long more must they wait to pass a verdict on Sir Albert's stewardship?"

The prefatory paragraph preceding this, with the heading "Realistic Politics," reads as follows:

"On the face of things it looks like madness or bluff of surpassing impudence for the Opposition party whose ranks—according to the Sierra Leone Broadcasting Service and the Daily Mail, the newly acquired government mouthpiece—are daily being depleted by resignations and cross-overs to insist on the ruling party redeeming the pledge of its leaders to hold elections early next year. That vaunted boast uttered by Sir Albert at his Kono Convention even went further to say that in the matter of the dissolution of Parliament he would consult with no one."

After this ironical opening all disguise is removed and the writer

comes straight into the attack on the failure of the Prime Minister to implement a pledge he made to hold elections early next year.

Reading the article up to the point ending "they [that is, the people of Sierra Leone] see that redemption possible only through the ballot box," one would clearly come to the conclusion that here was a despotic government which the country should be rid of. But in what manner? According to the writer, through the ballot box. For this purpose I propose to read the rest of the article before coming to a conclusion:

"This is how I see the present political atmosphere. But I doubt whether Sir Albert and his party stalwarts see it in the same light. As they are gathered in another convention in Kambia, the third so far this year, I doubt whether they see the compelling reasons for opening their ears to the siren song of public opinion and seize the opportunity of the immediate months ahead to call a general election. True is it that by law the present Parliament has still another year to run, but the Sierra Leone People's Party government badly needs a new lease of life. Should they insist on running their full term, I cannot predict it will be another year of doing defensive rather than creative things. Their past four years have been bedevilled by political unrealism and economic invalidism. That means that they could achieve no measure of progress towards a Social Welfare State since many of their laws inadvertently perhaps tended to produce a new breed of local capitalists only. The economic base for measured social advance is becoming more and more insecure.

To the opposition it would be sheer political obtuseness if it fails to see the psychological importance to itself of Sir Albert's failure to emerge a real national leader. After twenty months in office Sir Albert still remains the highly professional party leader. Every utterance of his is geared only to the listening pleasure of his party faithfuls and the fanatical ones only at that. His convention speeches have so far been coloured with a sectional rather than a national appeal, and I doubt whether Kambia would be any different. Be that as it may, let us all hope that at that convention Sir Albert would once and for all let the nation know what is happening about these long promised elections."

Both sides have referred me to *R. v. Wallace-Johnson* (1). The learned Attorney-General has submitted that the intention of the

writer as contained in the article is to bring the government into hatred and contempt. Mr. Smythe, counsel for the defence, has submitted that the article taken as a whole is incapable of bearing that intention. He contends that the effect must be to cause some disorder or tumult and that this is far from the case and that by no stretch of the imagination could we say that the article is seditious. Mr. Smythe further submitted that the information was bad for duplicity and uncertainty in that the counts did not allege what seditious meaning the Crown attributed to the article as was done in the case of *R. v. Wallace-Johnson*. This ground will arise after I have considered the article as to whether or not it was a seditious publication published with a seditious intention.

I find that this is a political article written in a political organ of a party opposed to the government of the day. Reading that portion of the article which forms the charge, it comes perilously near the crime of sedition, but notwithstanding this offending paragraph the article when taken as a whole amounts to nothing more than an attempt to force the government to call an early election; no other method is indicated. If the reasons are false, to wit the present trend of things, the hurriedly enacted legislation and envisaged punitive measures causing the people of this country the greatest concern, these are now punishable under the Public Order Act. Applying the test which I had outlined earlier on and considering the article as a whole and the surrounding circumstances, I come to the conclusion that the article as it stands without more, and notwithstanding its strong and in some cases sarcastic language, does not have the tendency to excite ill-will, contempt or hatred or lead ignorant people to subvert the government or to incite people to insurrection and rebellion leading to public disturbance.

Reverting to the question of publication in respect of the second accused, in case my view of the law is wrong, and I do not think so, sitting as a judge of law and fact I come to the conclusion that the article as a whole is not a seditious publication published with a seditious intention and I therefore find the accused not guilty on each of the two counts of the information.

They are acquitted and discharged.

*Accused acquitted and discharged.*