

## SC15

IN THE SUPREME OF THE )  
TERRITORY OF PAPUA AND NEW GUINEA )

THE QUEEN

against

RALPH CORLETT

Judgment was delivered at 1.35.p.m on 22/12/1952 being guilty as charged.

MR. WHITE: (Counsel for the Defence) : If your Honour pleases you dealing with a man who has been found guilty of an offence for the first time in his life – a man who reached middle age. (Here His Honour interrupted Mr. White while a table and others were brought for the reporters)

MR. WHITE (continuing) : As I was saying, Sir, you are dealing now with a man who for the first time in his life has a conviction against him, and he has arrived at middle age.

His HONOUR: There is no conviction is there?

MR. QUIMLIVAN: (for the Crown) : No, no conviction.

MR. WHITE: Your Honour has found that he was not guilty of any act of impropriety.

HIS HONOUR: I have specially stressed that. I was not called upon to give a ruling, but in fairness to the accused, I did so.

MR. WHITE: In effect, he has in pursuing his suit – which your Honour has found he pursued honourably – he has gone further in pursuing her than the law would permit him, and therefore he is liable to be dealt with by the law in whatever way may be proper.

I just want to say this, Your Honour, although your Honour used the phrase "bride price" in referring to the purchase of the girl, I know your Honour used the expression according to native custom.

**HIS HONOUR:** I stressed that "according to native custom" not as criminal offence. I meant that to be clear.

**MR. WHITE:** Quite so. I think I am at the liberty to say then, on Your Honour's judgment, that in effect all the accused has done is to pay a bride price, which is not merely a price paid for the purchase of a person with no rights of her own, but in doing that he followed a recognised and respect custom with regard to natives.

**HIS HONOUR:** He could not got her otherwise.

**MR. WHITE:** The money is considered as something for the loss of the girl's services in the village. It is not simply the purchase of a chattel. In doing that he did nothing dishonorable.

**HIS HONOUR:** Mr. White, I am not sitting in judgment on the accused on any question of whether he was within the law of this Territory in paying a price for the prospective bride. That is a matter of native custom, and I am not sitting in judgment on him as a European following what he believed he could do in that regard. That is entirely divorced from the charge laid against him.

**MR. WHITE:** I am simply asking Your Honour to believe that in doing what he did, he did not believe that he could obtain the rights of a master over a mere chattel.

Now, your Honour, I have read every case I can lay my hands on relating to abduction, and the law has varied throughout the years and in different places throughout the Empire, but I have not found a case of conviction of impropriety. That emboldens me, Your Honour to ask that in view of this man's good record through half his life, and in view of his conduct which, although unlawful was entirely honourable and perhaps more than one might have expected from many other men where such temptations exist, I ask Your Honour to give this man chance. I suggest, Your Honour, that as the girl has suffered no harm whatever and nobody has suffered any harm it will be sufficient for Your Honour to place him on a bond to be of good conduct. I feel sure that he has received a sufficient lesson and he has been a respected citizen in all others matters. I ask Your Honor to save this citizen from an unnecessary stigma and give him an opportunity to rehabilit himself. I feel that you can, and if you do that you will have saved a man rather than destroy a man, and there is always the risk if a man is sent to gaol that he may destroyed. It can be said that many men bring their ruin on themselves, but here is a case where a man has not behaved wrongly. Please give him the opportunity to rehabilitate himself as the man he was.

**HIS HONOUR** (to Accused) : Do you wish to say anything yourself?

**ACCUSED:** Well, I only went to state that the girl did say she would marry me when I asked her at the village – that is about one and half weeks after paying the money. That is all I have to say.

**MR. QUINLIVAN:** There is nothing known against the accused, Your Honour.

**HIS HONOUR:** Although you say that the girl agreed to marry you on all the evidence put before me on the hearing of the charge against you, I have found that Boio did not wish to marry you, and that you took her away against her will, intending to marry her, and that is the charge laid against you.

Mr. White suggests that I can impose upon you a lenient sentence. He suggests that I do what is commonly known as “put you on a bond” to come up for sentence when you may called upon. I do not feel disposed to treat the charge in that manner. Although it is not a usual offence in this Territory I must take notice of the fact that if I am impose upon you a sentence which the public might construe as a very light sentence that may be an inducement for others to do what you have done.

I personally – and I repeat personally can imagine few men who would be so foolish do what you have done. In my summing up, although I was not called upon to do so, I stressed the fact that in this case before me I dismissed that only allegation against you of impropriety towards the girl, and I do believe that you had every intention of endeavoring to win her in an hounrable manner, but again in my summing up, I did not agree with the manner in which you put your intentions into force.

You did not allow her time to make up her own mind.

So far as the public is concerned I cannot see any reasons why I should impose upon you a severe preventive sentence to prevent others from doing what you have done. Nor, on your part, so far as you are concerned do I see any reason why I should impose upon you a severe punitive sentence – a sentence severe in punishment for what you have done.

You have been found guilty of an offence, but, in my mind, you did not commit that offence in a vicious premeditated criminal way. You made a mistake, and because of the mistake that you have made you brought yourself within the criminal law.

So far as this Court is concerned I have no guidance to assist me on what is an appropriate punishment. At my request the Registrar has turned up the records, and although the only one accused in such a similar case was indicated under this

section, the indictment was not followed through under this section, and he was charged with a lesser offence.

(to Accused): How long have you been in the Territory?

**ACCUSED:** About thirty-six years altogether.

**HIS HONOUR:** Thirty-six years. What did you do when you came here?

**ACCUSED:** I was only small then. It was about 1916 or 1917.

**HIS HONOUR:** On your answers to my questions I think that you have succeeded in this Territory. Some men came to this Territory, and do not take the opportunity which this Territory offers to them. Instead they abuse the Territory. You have taken advantage of the opportunity offering to you, and having found that you made a mistake – not a vicious act – which brought you within the bounds of this Court, I do not feel disposed to impose upon you a sentence which will deprive you of your efforts in this country. I say that because I feel that in sentencing you I can't take into account the position in which you found yourself.

The sentence of this Court is that you are fined the sum of €100, in default of payment six months imprisonment with hard labour. Do you ask for time to pay?

**ACCUSED:** I could pay it to tomorrow.

**YOUR HONOUR:** Well, then, you don't need to ask for time to pay if you can pay it tomorrow.

His Honour declined to make any order regarding the sum of €100 which is in the custody of the Lower Courts.