R. v. MOSES KASESA.

A CRIMINAL REVIEW CASE OF 1937.

Charges of housebreaking and theft—admission by accused person when charged by Court that he found and took the things is not a plea of guilty of housebreaking as well as theft.

Section 187 (2) of the Criminal Procedure Code directs that, if the accused person admits the truth of the charge, his admission shall be recorded, as nearly as possible, in the words used by him; the practice is for the Magistrate to enter "Guilty" or "Not Guilty" opposite the word "Plea" on the printed form of charge (Criminal Form No. 22) according as what the accused says appears to be an admission or a denial of guilt and to record as nearly as possible the words used by the accused in answer to the charge, or at least a summary; it is to be noted, however, that the Criminal Procedure Code does not make it compulsory to record the answer of an accused person where the answer amounts to a plea of not guilty, but it is permissible to do so.

The point of the present decision is that care must be taken not to enter a plea of guilty unless the accused's answer clearly amounts to a full admission of the whole of the facts constituting the offence.

Wilson, A.J.: Please point out to the Magistrate that if the only statement made by the accused in answer to the charge was, "I found the things in a trunk and took them", a plea of guilty should not have been entered. These words cannot be regarded as an admission of "breaking and entering".

Evidence, however, was recorded and I think there is sufficient to support the conviction, though the wife of the first witness should have been called to give evidence as to finding the hut door broken open, unless the statement of the accused was in fact a plea of guilty. I have confirmed the sentence.