

THE TOWN CLERK, LIVINGSTONE v. JESSE FIELD.

CRIMINAL APPEAL CASE No. 17 OF 1941.

Case stated—form—procedure.

The procedure and form of a case stated in Northern Rhodesia differ from the English practice and are to be found in section 320 and Form 20, Fourth Schedule of the Criminal Procedure Code.

Law, C.J.: The Magistrate has taken great pains, in stating this case, to follow the form employed by the Resident Magistrate, Ndola, in the case of the *Attorney-General v. Antonie Attala* (H.C. Criminal Case No. 46/1940, Resident Magistrate's Court, Ndola, Criminal Case No. 142/1940) who had evidently adopted the same from the English practice (*Stone's Justices' Manual*, 1937, 69th Edition, p. 2063). The procedure and the form, however, applicable in this Territory to a case stated are to be found in section 320 and Form 20, Fourth Schedule, of the Criminal Procedure Code. This procedure and form were followed, approximately, by the Magistrates concerned in the cases reported in the Law Reports of Northern Rhodesia, 1938,¹ at pages 4 and 27. Accordingly, this case is remitted to the Magistrate for restatement in compliance with section 320 and Form 20 above referred to. (Section 317 (a) Criminal Procedure Code.)

In *Paley on Summary Convictions*, 1926, 9th Edition, at page 755,² it is remarked that, though theoretically a case stated is prepared by the Justices (in England), the case is most frequently settled in draft by the parties and then delivered to the Justices for adoption and signature. I consider that this practice can usefully be followed here, whenever conveniently possible, particularly where the parties concerned are represented by legal practitioners.

¹ 2 N.R.L.R.—*Editor*.

² See now the 10th Edition at p.180.—*Editor*.