

CH 1 C. 3.

63

30, 1949

IN THE PRIVY COUNCIL

UNIVERSITY OF LONDON  
No. 36 of 1948

3 APR 1951

ON APPEAL

INSTITUTE OF ADVANCED  
LEGAL STUDIES

FROM THE WEST AFRICAN COURT OF APPEAL

(GOLD COAST SESSION)

B E T W E E N : EMMANUEL YA'O BOATENG Appellant

- and -

THE KING ... .. Respondent

RECORD OF PROCEEDINGS

UNIVERSITY OF LONDON  
W.C.1.  
10 JUL 1953  
INSTITUTE OF ADVANCED  
LEGAL STUDIES

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IN THE PRIVY COUNCILNo. 36 of 1948ON APPEAL FROM THE WEST AFRICAN COURT OF APPEAL(GOLD COAST SESSION)B E T W E E N : EMMANUEL YAO BOATENG Appellant LONDON

- and - 15 JUL 1953

INSTITUTE OF ADVANCED  
LEGAL STUDIES,THE KING ... ) ... Respondent  
INSTITUTE OF ADVANCED  
LEGAL STUDIES25, RUSSELL SQUARE,  
LONDON,  
W.C.1.

RECORD OF PROCEEDINGS

INDEX OF REFERENCE

No.	Description of Document	Date	Page
<u>IN THE SUPREME COURT</u>			
1.	Information	29th May 1947	1
2.	Warrant of Transfer	9th June 1947	2
3.	Court Notes	2nd July 1947	3
		3rd July 1947	4
<u>EVIDENCE FOR PROSECUTION</u>			
4.	Kwasi Bosomprah	3rd July 1947	5
5.	James Love Adams	3rd July 1947	8
6.	Kofi Kum	3rd July 1947	10
7.	Amadu Kado	4th July 1947	11
8.	John Quainoo	4th July 1947	13
9.	Isaac Garnet Annan	4th July 1947	15

No.	Description of Document	Date	Page
10.	Arthur Kwamina Mansu	4th July 1947	20
11.	Robert Benjamin Kunadu	7th July 1947	23
12.	Joseph Amoo Mensah	7th July 1947	27
13.	Kwaku Fukuo	7th July 1947	29
14.	James Kpakpo Allotey	7th July 1947	30
15.	Samuel Danso Amaning	7th July 1947	32
16.	Musa Kado	7th July 1947	36
17.	James Kpakpo Allotey (recalled)	7th July 1947	37
18.	Court Notes	7th July 1947	37
	<u>EVIDENCE FOR DEFENCE</u>		
19.	Yaro Deman (2nd accused)	8th July 1947	38
20.	Francis Okwuidegbe (3rd accused)	8th July 1947	44
21.	Emmanuel Yaw Boateng (4th accused)	8th July 1947	48
22.	Amadu Moshie (1st Defence witness)	9th July 1947	57
23.	Address of Counsel for 2nd, 3rd and 4th accused	9th July 1947	58
24.	Reply of Counsel for Crown	9th July 1947	59
25.	Court Notes	9th July 1947	61
26.	Opinions of Assessors	9th July 1947	62
27.	Court Notes of Verdict	9th July 1947	63
28.	Judge's Note of Summing-up and sentence	9th July 1947	64

No.	Description of Document	Date	Page
<u>IN THE WEST AFRICAN COURT OF APPEAL</u>			
29.	Notice of Appeal by 4th accused	16th July 1947	74
30.	Additional Grounds of Appeal by 4th Accused	16th July 1947	76
31.	Court Notes granting adjournment	17th September 1947	77
32.	Further Grounds of Appeal on behalf of 4th accused	12th November 1947	78
33.	Additional Grounds of Appeal on behalf of 4th accused	15th November 1947	79
34.	Court Notes	17th November 1947	80
35.	Judgment	21st November 1947	81
36.	Court Notes refusing leave to Appeal	21st November 1947	83
 <u>IN THE PRIVY COUNCIL</u>			
37.	Order in Council granting Special Leave to Appeal in forma pauperis	2nd June 1948	84

E X H I B I T S

Exhibit Number	Description of Document	Date	Page
A	Deposition of Isaac Garnet Annan - put in by 2nd, 3rd and 4th accused	17th April 1947	86
B	Deposition of Arthur Kwamina Mansu - put in by 2nd, 3rd and 4th accused	17th April 1947	88

Exhibit Number	Description of Document	Date	Page
C	Statement of Francis Okwuidegbe - put in by Defence	7th April 1947	91
D	Statement of Yaro Deman - put in by Defence	7th April 1947	95
E	Statement of Emmanuel Yaw Boateng - put in by Defence	7th April 1947	98
F	Statement of Salifu Moshie - put in by Defence	7th April 1947	100
G	Statement of Yaro Deman - put in by Defence	3rd April 1947	101

IN THE PRIVY COUNCIL

No. 36 of 1948

ON APPEAL

FROM THE WEST AFRICAN COURT OF APPEAL

(GOLD COAST SESSION)

B E T W E E N EMMANUEL YAO BOATENG Appellant

- and -

THE KING ... Respondent

---

RECORD OF PROCEEDINGS

No. 1

INFORMATION.

In the Supreme  
Court of the  
Gold Coast.

---

No. 1.

SUPREME COURT OF THE GOLD COAST  
WESTERN JUDICIAL DIVISION, GOLD COAST COLONY.

Information  
29th May 1947.

10

THE TWENTY-NINTH day of MAY 1947 At the Assizes holden at SEKONDI on the FOURTH day of JUNE, 1947 the Court is informed by the Attorney-General on behalf of our Lord the King, that SALIFU MOSHIE, YARO DEMAN, FRANCIS OKWUI DEGBE AND EMMANUEL YAW BOATENG are charged with the following offences:-

20 First Count CONSPIRACY TO DISHONESTLY RECEIVE, contrary to sections 49 and 284(1) of the Criminal Code.

PARTICULARS OF OFFENCE

SALIFU MOSHIE, YARO DEMAN, FRANCIS OKWUIDEGBE AND EMMANUEL YAW BOATENG, on divers dates between the 19th day of February 1947 and the 7th of April 1947 in the Western Judicial Division of the Gold Coast Colony, conspired together and with other persons unknown to dishonestly receive stolen goods knowing them to have been stolen.

In the Supreme Court of the Gold Coast. Second Count DISHONESTLY RECEIVING, contrary to Section 284(1) of the Criminal Code.

No. 1.

PARTICULARS OF OFFENCE.

Information 29th May 1947 - continued.

SALIFU MOSHIE, YARO DEMAN, FRANCIS OKWUIDEGBE AND EMMANUEL YAW BOATENG, on or about the 23rd day of March, 1947, in the Western Judicial Division of the Gold Coast Colony, did dishonestly receive 1360 yards of Khaki drill knowing the same to have been stolen.

(Sgd) R.M.H. Rodwell  
ACTING SOLICITOR-GENERAL.

10

Amended with leave by inserting (1) after 284 in each count.

(Sgd.) A.C. Smith  
J.  
9/7/47.

No. 2

No. 2.

Warrant of Transfer  
9th June 1947

IN THE SUPREME COURT OF THE GOLD COAST  
WESTERN JUDICIAL DIVISION  
DIVISIONAL COURT, SEKONDI.

20

R E X

vs:

SALIFU MOSHIE, YARO DEMAN,  
FRANCIS OKWUIDEGBE AND EMMANUEL  
YAW BOATENG.

WARRANT OF TRANSFER

WHEREAS the above-mentioned criminal case is now pending for trial at the Criminal Assizes at the Supreme Court at Sekondi:

AND WHEREAS I, KENNETH EWART, Acting Attorney-General, consider that the ends of justice require that the said Criminal case should be transferred to the Supreme Court at Accra to be tried at the Criminal Assizes to be holden on the 2nd day of July, 1947:

In the Supreme Court of the Gold Coast.

No. 2.

Warrant of Transfer  
9th June 1947 -  
continued.

10

NOW THEREFORE in exercise of the powers conferred upon me by Section 52A(b) of the Criminal Procedure Code (Cap.10) I do hereby order that the said Criminal case be transferred from the said Court at Sekondi to the said Court at Accra to be tried at the said Assizes to be holden on the said 2nd day of July, 1947.

DATED at Accra this 9th day of June, 1947.

(Sgd.) Kenneth Ewart  
ACTING ATTORNEY-GENERAL.

TO THE REGISTRAR,  
DIVISIONAL COURT, SEKONDI.

No. 3.

No. 3.

Court Notes.  
2nd July 1947

20

In the Supreme Court of the Gold Coast, Eastern Judicial Division, at the Assizes holden at Victoriaborg, Accra, on Wednesday the 2nd day of July, 1947, before Smith, Ag. C.J.

R E X

v.

SALIFU MOSHIE  
YARO DEMAN  
FRANCIS OKWUIDEGBE  
EMMANUEL YAW BOATENG.

30

Ohene Bampoe sworn to interpret Twi - English.

1. Conspiracy to receive dishonestly.

Pleas: 1st N.G., 2nd N.G., 3rd N.G., 4th N.G.



In the Supreme  
Court of the  
Gold Coast.

2. Receiving

Pleas: 1st N.G., 2nd N.G., 3rd N.G., 4th N.G.

Rodwell: Plange will prosecute.

No. 3

Court Notes  
2nd July 1947 -  
continued.

1st Accused undefended.  
Benjamin for 2nd and 3rd Accused  
Benjamin and Blay for 4th Accused.

Bail extended.

Adjourned to 3rd July.

(Intd.) A.C.S.

Court Notes  
(Contd.)  
3rd July 1947

3rd July, 1947

10

Plange for Crown  
Benjamin and Blay for Accused.

Assessors Selected:

J.C. Baddoo, D.E.P. Green, R.E. Williams

Assessors sworn in.

Waiting Jurors released until Monday.

Plange opens:

1. Conspiracy to receive
2. Receiving

Conspiracy = agreement or acting  
together.

---

EVIDENCE FOR PROSECUTION.

No. 4.

KWASI BOSOMPRAH

KWASI BOSOMPRAH s.a.r.b. in Fanti:  
1st Crown Witness:  
Examination-in-Chief:

Fisherman at Nkontompo, a village between Sekondi and Takoradi. I know 1st and 2nd Accused.

10 I knew 2nd accused at Nkontompo village and later I got to know the 1st. 2nd is named Yaro. I know his house. He has a store selling beer and other things at Nkontompo.

Didn't know 1st accused before I met him at 2nd accused's. One day Yaro, 2nd, came to our house and called me. Went with him to his house and there I met 1st accused. This was a Saturday about 2 p.m.

20 Yaro said 1st accused wanted someone to go and fetch some things for him. I asked him if he wanted me to go right away. 2nd accused told me to return to my house and he would come for me later.

Later Yaro again came and called me to his house at about 3 p.m. I went and saw 1st accused there. I asked "where are we going to" and 1st and 2nd accused went with me and pointed out the place they wanted us to go to. They pointed to a place near the breakwater and there I had to go to my right on the outside of the outer breakwater.

30 They told me to leave Nkontompo at 7 p.m. I was to go by canoe. Kofi Kum went with me in the canoe. I asked him to go with me.

Left Nkontompo about 9 p.m. Dark night.

When got to place to which I had been directed - There is a beach there where I sometimes land when I go fishing - I saw three bundles lying on the sand and three men standing beside them.

In the Supreme Court of the Gold Coast.

No. 4.

Evidence for Prosecution.

Kwasi  
 Bosomprah  
 3rd July 1947

Examination-in-Chief.

In the Supreme  
Court of the  
Gold Coast.

---

No. 4.

Evidence for  
Prosecution.

---

Kwasi  
Bosomprah  
3rd July 1947

Examination-  
in-Chief -  
continued.

1st accused one of the men, and two others whom I can't recognise. When we loaded the bundles in the canoe 1st accused told me to take them to 2nd accused's house.

We brought the bundles in the canoe to Nkontompo and when we beached the canoe the bundles were too heavy for Kum and I to lift out of the canoe and in trying to get them out one burst and I saw that it contained Khaki.

We then undid the bundles and carried them in pieces to 2nd accused's house. Then about 3 a.m. I woke up 2nd accused and he came out and lit a lamp and he told me to bring the things and then I got a third man Amadu to help me and Kofi carry the things from the canoe to the 2nd accused's house. I made about 8 trips between the beach and the house carrying things and the other two made more than one trip as well. 10

We took all the stuff from the canoe to 2nd accused's house. It was all khaki. 20

That evening 2nd accused paid me £8 for the job.

Bargained the price in the afternoon when met 1st accused at 2nd accused's house before they pointed out to me the place I had to go to.

In bargaining I said "The things are not here and I don't know how much I should charge".

Yaro said "You go and bring them and I will pay you £8."

After I had brought the goods I told Yaro I was going to give Amadu something out of the £8. He said "No don't do that. I will pay him myself". 30

Cross-examined  
by 1st accused

---

Cross-Examined by 1st accused:

1st accused and Yaro alone when I met them at Yaro's house. Spot where they took me to point out place I had to go to was about 50 yards in front of Yaro's house. From this spot to spot pointed out would be about from Court to Accra Harbour.

Q. I suggest to you there were not 3 men there.

A. I saw only three.

Q. I suggest to you that we were four in number working at that place and nobody came there.

A. I went there and saw 1st accused there. When they gave the things to me 1st accused told me to take them to Yaro, mentioning his name.

10

I don't know if the things were yours or Yaro's. Yaro told me to fetch your things and you told me to take them to Yaro.

If 1st accused had never given me anything, how can I say he did.

In the Supreme Court of the Gold Coast.

No. 4.

Evidence for Prosecution.

Kwasi  
Bosomprah  
3rd July 1947

Cross-examination  
by 1st accused  
- continued.

Cross-Examined by Benjamin for 2, 3 and 4:

20

Lived at Nkontompo since infancy. Knows Motor road from Takoradi to Nkotompo. Don't know how many miles it is. I went to the spot pointed out by canoe. Can't tell time when reached spot to pick up loads. It took a long time as there was a wind blowing. Can see the breakwater from Nkontompo, but not the actual place we had to go to.

Landed on sand beach on the outside of the landward end of the outer breakwater.

Never met 1st accused before this Saturday.

I didn't ask what kind of goods they wanted me to fetch.

I don't usually carry goods in my canoe.

30

Didn't ask why he wanted the goods brought by canoe and not by lorry.

1st accused didn't tell me he had bought the goods at auction.

Yaro, 2nd accused doesn't sell cloths, only beer &c.

It was Yaro who made the bargain with me and who paid me and I delivered the things at his house.

No Re-Examination.

To Assessors:

40

Don't know 1st accused's occupation. The bundles were dry when I loaded them.

Cross-examination  
by Benjamin  
for 2nd, 3rd  
and 4th accused.

Examination by  
Court.

In the Supreme  
Court of the  
Gold Coast.

No. 5.

JAMES LOVE ADAMS

No. 5.

Evidence for  
Prosecution.

JAMES LOVE ADAMS sworn states:  
2nd Crown Witness:  
Examination-in-Chief:

James Love Adams  
3rd July 1947.

Examination-  
in-Chief.

Assistant Disposal Officer, now at Takoradi, formerly at Accra. My duties to dispose of service stores from Base Ord. Depot and others arising.

There is a Depot at Takoradi near the outer Breakwater. In one shed we had a quantity of Khaki drill and mixed stores in another shed. 10

About 17th or 18th February, I visited the Store with my Chief. Then 67 bales of Khaki drill in the shed. Each bale contains 1000 yards in length, of about 40 yards each.

Next visited the store about the beginning of April. Then found that 2 bales had been opened and about 1300 yards missing, 34 - 40 yards pieces. Value of missing cloth about £235 at R.A.F. prices. Reported to Police immediately. 20

Police are in charge of the shed and held the keys.

Police employ watchmen in the sheds and we pay for them. Don't know who the watchmen were.

I have been offered 2/9 a yard for 53000 of similar cloth. I don't know its retail value.

So far as I could see the lock of shed not tampered with but I noticed that one of the windows was covered by a piece of tarpaulin left in position by some iron rods. This roused my suspicions. 30

The watchmen are to watch outside the sheds. They have no right to go inside.

When I went inside I found that the window under the tarpaulin had been broken.

At my previous visit window was intact.

Shed a Double Nissen type and window 10-12 feet above ground.

It was an Army type padlock.

Not cross-examined by 1st accused.

Cross-Examined by Benjamin for 2, 3 and 4 accused: In the Supreme Court of the Gold Coast.

There are day and night watchmen under the supervision of the Police. I think there are 4 on duty at once.

\_\_\_\_\_  
No. 5.

I had no report before discovering window broken.

\_\_\_\_\_  
Evidence for Prosecution.

Police apparently hadn't discovered it before I did.

\_\_\_\_\_  
James Love Adams  
3rd July 1947.

There is a stock book for this warehouse.

10

Don't take stock at regular intervals.

\_\_\_\_\_  
Cross-examination by Benjamin for 2nd, 3rd and 4th accused.

I counted the bales the day after I arrived from England, and found 67 intact bales. In April I didn't count the number, but found that 2 bales had been opened. Later I counted the bales and found that 10 more whole bales were gone.

So far as I know nothing recovered.

Re-Examined:

Re-examination.

20 Discovered 10 bales missing after giving evidence at Preliminary Investigation on 17th April.

Police then still in charge of keys of shed.

No sign that shed tampered with between 1 and 2 inspections in April.

To Assessors:

Window not repaired between the two inspections.

Watchmen employed to keep people from breaking in and taking things.

30 Hole in window about 15-18 inches wide and about 2 feet 6 inches high.

\_\_\_\_\_

In the Supreme Court of the Gold Coast.

No. 6.

KOFI KUM

No. 6.

Evidence for Prosecution.

KOFI KUM s.a.r.b. in Fanti:

3rd Crown Witness:

Kofi Kum  
3rd July 1947.

Examination-in-Chief:

Examination-in-Chief.

Fisherman at Nkontompo. I live at the Chief's house. I know Bosompra, the witness. I know 2nd accused. 2nd accused keeps a bar and milk stores at Nkontompo. I have never done any work for him.

10

I have done something with Bosompra.

I went with Bosompra to the back of Takoradi Harbour by canoe. We left sometime after 7 p.m.

When we landed at the back of the harbour I saw three men. It was dark and I couldn't recognise them. Saw three bundles with the men. They put the bundles in the canoe and Bosompra and I brought them to Nkontompo. I heard the men speak in Hausa which I don't understand.

One of them spoke to Bosompra in Fanti and told us to take the things to Yaro and he would pay us.

20

We took the things to Yaro's house. Had to undo the bundles and carry them part at a time. I made many trips between the canoe and the house. Saw Yaro at his house while we were bringing the things.

Myself, Bosompra and Amadu, a brother of Yaro carried the things to the house.

It was all khaki cloth. Saw it by light at Yaro's house. Still night when we delivered the cloth, about 3 a.m.

30

Examination by 1st accused.

Cross-Examined by 1st Accused.

I don't know 1st accused.

Cross-Examined by Benjamin for 2, 3 and 4

Before set out didn't know we were going to collect khaki drill.

First time I had ever been to carry goods from behind breakwater. Never seen goods brought from there before, but from other place in Sekondi Bay.

10

When things were put in canoe there were tears in the bundles and I could see they contained cloth. This was when we were about to unload the canoe at Nkontompo.

Re-Examination

No Re-Examination.

To Court:

Yaro paid us £8 to be divided between myself, Bosompra and the owner of the canoe.

In the Supreme Court of the Gold Coast.

No. 6.

Evidence for Prosecution.

Kofi Kum  
3rd July 1947.

Examination by Benjamin for 2nd 3rd and 4th accused.

Re-Examination

To Court.

No. 7.

AMADU KADO.

20

AMADU KADO s/k in Hausa:-  
4th Crown Witness:  
Examination-in-Chief:

P.W.D. labourer at Nkontompo. I know 2nd accused, my friend. I live in a different house from him.

I know Bosompra (identified)

Sometime ago Bosompra came from the beach and called me. I went with him to the Beach and saw some loads of cloth. I helped carry the loads to 2nd accused's house. 2nd accused standing at entrance of his house when I brought the loads and

30

No. 7

Evidence for Prosecution.

Amadu Kado  
4th July 1947.

Examination-in-Chief.



In the Supreme  
Court of the  
Gold Coast.

        
No. 7

Evidence for  
Prosecution.

        
Amadu Kado  
4th July 1947.

Examination-  
in-Chief -  
continued.

put them down just outside his door. I made 8  
trips carrying loads of cloth. It was about 3 a.m.

I can't say how long ago this happened.

Kum (identified) also helped carry the loads.

Can't say what kind of cloth it was. No one  
paid me for this work.

2nd accused also comes from my country, Kado.

Cross-Examination:

No cross-examination by 1st accused.

Cross-  
examination  
by Benjamin  
for 2nd 3rd  
and 4th  
accused.

Cross-Examined by Benjamin for 2, 3 and 4:

10

Can't remember if it was moonlight or not.

Can't give the distance from Beach to 2nd  
accused's house. Not as far as from this Court to  
the Beach.

Yaro standing by his door when I got there  
with the first load.

I didn't hear Yaro tell Bosompra he didn't  
understand why the loads were brought to him.  
I didn't hear Bosompra say anything to Yaro.

No Re-Examination.

20

To Court.

To Assessors:

No one kept watch over the loads on the beach  
while we were carrying the loads to the house.

I don't know how the trips were arranged.

\_\_\_\_\_

No. 8.

JOHN QUAINOOIn the Supreme  
Court of the  
Gold Coast.No. 8Evidence for  
Prosecution.JOHN QUAINOO sworn states in Fantl:  
5th Crown Witness:  
Examination-in-Chief:John Quainoo  
4th July 1947.

Watchman at B.O.D., Takoradi. I am the Headman. Other watchmen employed at B.O.D. 8 watchmen in two shifts, 4 by day and 4 by night. There are two headmen.

Examination-  
in-Chief.

10 1st accused is the other headman.

I went on duty on morning of 23 March and relieved 1st accused and his men who had been on duty the previous night.

The shifts change over every week.

I took over from accused the morning he was arrested.

The shifts change over at the week end.

Cross-Examined by 1st accused:Cross-  
examination  
by 1st accused.

20 I was on the way to relieve 1st accused in the morning when police arrested me and took me to Police Station and when I got there I met 1st accused who told me he was at his working place when the Police came and took him.

Now say day I was arrested 1st accused had been on day duty. On my way to relieve him at 6 p.m. Police arrested me and took me to Station, where I found 1st accused who had already been arrested.

30 During that week he was on day duty and I on night.

Sometime before 2nd accused had showed 1st accused something at the Depot.

It was some damaged glass on roof of shed, which would let the water in if it rained. I reported the damage to the Police. The Police covered hole with a piece of tarpaulin. 1st accused present.

In the Supreme Court of the Gold Coast.

No. 8.

Evidence for Prosecution.

John Quaindoo  
4th July 1947.

Found hole in roof about 4 months before 2 was arrested.

When found hole I was taking over from 1st accused in the morning, he having been on night duty.

I am sure 1st accused had been on night duty when I discovered the hole on relieving him.

1st accused left before Police covered the hole with Tarpaulin. Police let him go.

Cross-examination by 1st accused - continued.

Cross-examination by Benjamin for 2nd, 3rd and 4th accused.

Cross-Examined by Benjamin for 2, 3 and 4 accused: 10

Watchmen were under Police and had to report at Station on going on or going off duty.

The watchmen haven't the keys of the sheds.

Police must be present when sheds opened.

I have never seen anyone open the door of the shed. Police on patrol, as well as the watchmen.

Hole in roof about size of small panel in Court Ceiling about 18 inches by 2 feet 6 inches.

Police asked 1st accused how damage occurred. 1st accused said the iron sheet rusted and the glass fell in. 20

At that time no suggestion anything lost from shed.

Re-examination. Re-Examination:

When damage reported, Police didn't open shed and look inside. Only put tarpaulin over hole.

To Court.

To Assessors:

My duties as watchman are to watch the place. We watch two sheds, No.5 and No.1. The sheds near breakwater with a beach some distance off. 30

No. 9.

ISAAC GARNET ANNANIn the Supreme  
Court of the  
Gold Coast.

No. 9.

Evidence for  
Prosecution.Isaac Garnet  
Annan.4th July 1947.Examination-  
in-Chief.ISAAC GARNET ANNAN sworn states:  
6th Crown Witness:  
Examination-in-Chief:

Lives Sekondi. Lorry driver.

10 On 23 March 1947 I was called out. I heard  
a knock at my door and opened it and found Arthur  
Mansu my lorry mate and Coleman my other mate.  
Then about 11 p.m. Monday night.

They told me something.

I went with them in my lorry to Bartholomew's  
Garage where met 4th accused and 3rd accused and  
2nd accused and two other persons whose faces were  
not familiar to me.

20 I knew 2, 3 and 4 before. At one time I  
worked with 2 and 3 accused at the Accra Ice Com-  
pany at Sekondi.

4th accused told me he wanted to hire my  
lorry to go to Nkontompo to convey a patient to  
Sekondi. I agreed to go. Told him I would charge  
10/-, as it was late at night.

We all boarded the lorry and we went to  
Nkontompo. On the way we picked up another man. I  
stopped outside the villago and all went into  
village except my mates and myself.

30 About 45 minutes later 3rd and 4th accused  
came back and got on lorry and I drove back to  
Sekondi. On way 4th accused told me he was sorry,  
but the patient wasn't fit to travel that night.

4th accused asked me to take him to the Akan  
Drug Store on the Poasi Road, Sekondi.

I took him there. Store then closed. 4th  
accused got down and went into a lane and returned  
in a short time. Kunadu owns the Drug Store.

40 Then 4th accused asked me to take him to his  
house but on the way we stopped and 4th accused  
said would want lorry next morning at about 5 a.m.  
to fetch the patient. Then he paid me the 10/-  
for the trip. Then he asked me where I was stay-  
ing and said he would send one Francis to call me.

Having showed him my place I drove him to his

In the Supreme Court of the Gold Coast.

No. 9.

Evidence for Prosecution.

Isaac Garnet Annan.

4th July 1947.

Examination-in-Chief - continued.

house and then we all dispersed. 3rd accused also got down at 4th accused's house.

Next morning I got up and went to 4th accused's house with the lorry and my two mates and met him looking out of his window.

He told me he had already sent Francis to fetch me, so we should go back to where we had met the previous night.

We went back to Bartholomews and met Francis there. Francis joined us and we returned to 4th accused's house and met him still at his window. 10

Told 4th accused we had collected Francis. Then about 5 a.m.

4th accused told Francis to take up to Nkontompo and bring back a patient and if the patient was still unwilling to come Francis should take us to Boateng's friend Yaro who would give us certain personal effects to be brought to Sekondi. I charged 7/6 for this journey.

We went to Nkontompo. Francis, my mates and self. 20

At Nkontompo Francis directed me straight to a certain store owned by Yaro, whom I knew before. Store then closed. Francis went by a lane into the yard and then Francis, Yaro and two others started to carry khaki cloth to the lorry.

I found they were putting too much on the lorry so I told them to stop. Then they closed the store and Francis, Yaro, the other two men, and my mates boarded the lorry and I brought them to Sekondi. 30

Francis didn't say anything about the patient. Francis directed me to Kunadu's store and I went there and Yaro, Francis and the two other men carried the loads into the store. Store closed when we arrived. Francis went to the store by a lane and then someone opened the front door of the Store.

After that we all went to Boateng's house in the lorry where I saw him at the window. 40

We all got down from the lorry and I went

upstairs and I told 4th accused that we had arranged for 7/6 but I found the load was too heavy, so I would charge £2 and he agreed readily.

He gave me £1 note and 2 10/- notes.

I then left and I met Francis and Yaro and the two other men going up to 4th accused's room.

I showed the money to my mates.

No Cross-Examination by 1st accused.

In the Supreme Court of the Gold Coast.

No. 9.

Evidence for Prosecution.

Isaac Garnet Annan.

4th July 1947.

Examination-in-Chief - continued.

Cross-Examination by Blay for 2, 3 and 4 accused.

10 Not less than 2 miles from Boateng's house to Nkontompo. The mile posts start from the Fort. The 1st mile post just after the Bridge and the 2nd at Asaman where there were search lights. 3rd at junction Road to Unit Hospital, after Nkontompo.

4th accused's house after  $\frac{1}{2}$  mile from Fort on way to Takoradi.

I charged £2 for the load.

20 I didn't tell 4th accused 7/6 the usual charge. I told him I would charge it. 7/6 is the usual charge for a town trip. This was not a town trip.

Not true rate of hire not affected by the nature of the loads.

I gave evidence at preliminary investigation.

So far as I remember I said I met Boateng, Francis and Yaro and two others at Bartholomews, and not 4th and 3rd accused and another I couldn't remember.

30 Gave evidence in English. Depositions read over and I signed them. I also said Yaro sat at back of lorry with the others, while 4th sat in front with me.

I didn't tell Magistrate no other accused was there.

Blay: I tender witness' depositions at Preliminary Investigation. Admitted.

Exhibit "A"

In the Supreme  
Court of the  
Gold Coast.

No. 9.

Evidence for  
Prosecution.

Isaac Garnet  
Annan.

4th July 1947.

Cross-  
examination  
by Blay for  
2nd, 3rd and  
4th accused -  
continued.

It was about 11 p.m. when my boys called me.

I put my lorry in front of U.A.C. Garage.

Went to Bartholomews in my lorry.

Bargained the price when got to Bartholomews.

If 4th accused hadn't agreed to my price I  
would have returned home.

I know Kunadu. He works at Akan Drug Store.  
Don't know if he owns it.

I never saw Kunadu at all in connection with  
this matter.

I brought the cloth to Akan Store. Remained  
in lorry while cloth taken to store and never saw  
Kunadu.

Francis, Yaro and the two other men carried  
the cloth. My mates didn't assist.

They sometimes help to load and unload the  
lorry.

My lorry is small Chevrolet licensed for 15  
passengers. Has moveable seats.

I didn't know who was inside the store re-  
ceiving the cloth. It was not Kunadu who paid me.  
It was 4th accused. I didn't take all the cloth  
which was left at Yaro's.

4th Accused lives at 5th street, Sekondi,  
House right on Street. 4th accused's is the first  
staircase. I went up and received the £2 before  
any of the others came up. Don't know why the  
others didn't follow me immediately.

It is true that Boateng paid me the money.

Q. I put it to you that you and the others went  
up to Boateng's house together and he never  
paid you any money at all.

A. That is not correct.

Q. I put it to you it was Kunadu who paid you  
the £2.

A. Not correct.

I don't know why Boateng had come with me on

10

20

30

the way back from Nkontompo on 1st trip. He paid me the 10/- on the way back.

In the Supreme Court of the Gold Coast.

Q. I put it to you that Boateng took you to Kunadu's house that night, but Boateng knew nothing about the trip the next morning.

No. 9.

A. Not true.

Evidence for Prosecution.

Q. Francis didn't know anything about trip to Nkontompo.

Isaac Garnet Annan.  
4th July 1947.

10 A. He accompanied us. Boateng paid £2 without hesitation. He readily agreed.

Cross-examination by Blay for 2nd, 3rd and 4th accused - continued.

My story is true.

I had not made my previous agreement with Kunadu.

When I went the 2nd time there was no mention of a sick person at all.

When going 2nd time I knew I was going for a patient. That is why I charged 7/6.

20 4th told me that if patient wouldn't come, certain things would be given to me.

I asked no question when no sick person appeared and they started loading my lorry with khaki.

I have no regular hours for starting work.

Not unusual to start at 5 a.m.

No Re-Examination.

Re-examination.

To Assessors:

To Court.

I only charged 7/6 as I felt like doing so. When I saw the large load I charged more.

\_\_\_\_\_



In the Supreme  
Court of the  
Gold Coast.

No. 10.

ARTHUR KWAMINI MANSU.

Evidence for  
Prosecution.

ARTHUR KWAMINA MANSU sworn states in Fanti:

7th Crown Witness:

Examination-in-Chief:

No. 10.

Arthur Kwamina  
Mansu.

Driver's mate to Annan at Sekondi.

4th July 1947.

I remember one Sunday in March this year I went to call my master.

Examination-  
in-Chief.

I heard a lorry horn when I was by my house near the standpipe.

10

Coleman and I went in the direction where the horn was blowing and I saw 4th accused blowing the horn of a stationary touring car. He was standing by the car blowing the horn.

I saw 2 and 3 accused and two other men with him. They were all standing by the car, which was on the same street as Bartholomews and near the Cinema.

I knew 2 and 4th accused before, but not 3rd.

4th accused said he wanted the driver of the car and asked if I knew him, I said I didn't. He said he had arranged with the driver to go and fetch a sick person from Nkontompo and couldn't find the driver. I told him my master has a lorry. He said he would be glad if I would ask my master if he would go to Nkontompo.

20

Coleman and I went and called my master Annan and we all went on my master's lorry to Boateng's, where met the five people there.

4th accused spoke to Annan and asked how much he would charge to bring a sick person from Nkontompo. My master said would charge 10/-, as it was late. 4th accused agreed and all five got into lorry and went to Nkontompo.

30

There stopped in a dark spot behind a water pipe. My master flashed his torch and we saw someone on the beach and my master said "who are you" and a fisherman named Bosompra appeared.

By then the five men had gone leaving self, master and Coleman with the lorry.

Later 3 and 4 accused came back. Didn't bring any sick person. They said "Let us go". I was sitting in body of lorry. 4th sat in front with my master and 3rd sat near me.

It was about 10.30 - 11 p.m. when called to go to Nkontompo.

10 We then went straight to Akan Drug Store at Sekondi and there 4th accused got down and went up a lane at the side of the store. After sometime he returned and we went to 4th accused's house. Didn't know his house before.

5th Street runs into Poasi Road, before reaching Akan Drug Store.

Heard 4th accused say to Master "I will require your lorry at 5 a.m. next morning".

Saw 4th accused give master 10/-.

20 Next morning we went to Nkontompo again. While asleep my master called me. I got up and I went with Master and Coleman to 4th accused's house where I saw 4th accused at his window. He said he had sent Francis to call my master and to go back and bring Francis. Went back and found Francis at Bartholomews and took Francis back to 4th accused's house, and my master called him to come.

30 4th accused told us to go with Francis and if the sick person did not come he had a friend with a store there and he would give us some things to bring.

Master told 4th he would charge 7/6 for trip as it was day-break. It was then day-break, but not much light.

We went to Nkontompo, but didn't get the sick person. We got khaki from 2nd accused's store, some distance from where we had stopped the night before.

40 2 and 3 accused and some others whom I don't know loaded the khaki on to the lorry, which they brought from Yaro's store.

In the Supreme Court of the Gold Coast.

Evidence for Prosecution.

No. 10.

Arthur Kwamina Mansu.

4th July 1947.

Examination-in-Chief - continued.

In the Supreme  
Court of the  
Gold Coast.

Evidence for  
Prosecution.

No. 10.

Arthur Kwamina  
Mansu.

4th July 1947.

Examination-  
in-Chief -  
continued.

Cross-  
examination by  
Blay for 2nd,  
3rd and 4th  
accused.

Exhibit "B"

We took it to Akan Drug Store.

2 and 3 accused and two others came with us.

When reached Drug Store it was locked.

3rd accused and the two other men went up the  
lane that 4th accused had gone up the night before  
and then the store was opened and the people  
started to move the khaki into the store.

I didn't see who opened the store.

After that we returned to 4th accused's house  
and my master went into Boateng's house and then  
came back and we went away.

10

Not cross-examined by 1st accused.

Cross-Examined by Blay for 2, 3 and 4:

I gave evidence at Preliminary Investigation.

I did mention Yaro at Preliminary Investiga-  
tion.

What Magistrate wrote down is wrong.

When went to 4th accused's house after 2nd  
trip my Master alone went into the house. We did  
not follow. 2 and 3 accused went in after my  
master.

20

Didn't tell Magistrate 2 and 3 went first and  
asked Master to follow.

(Blay witness' deposition at Preliminary Investi-  
gation tendered, admitted).

Master showed me £1 and two 10/- notes.

Been a driver's mate a long time.

Usual charge for trip to Nkontompo in hiring  
7/6. No fixed charge at night, but if price can't  
be agreed we don't go.

30

Will only carry so much for 7/6.

I don't know Kunadu, proprietor of Akan Drug  
Store, I have never bought anything there.

I don't know who took delivery of the cloth  
at the Drug Store. There were many people taking  
the things into the store.

It was 4th accused not Kunadu who engaged us.  
Kunadu didn't pay the £2.

Re-examination. No Re-Examination.

To Assessors:

I didn't help to load or unload the lorry.  
Loads not covered up on lorry.

(Sgd) A.C. Smith  
J.

In the Supreme  
Court of the  
Gold Coast.

Evidence for  
Prosecution.

No. 10.

Arthur Kwamina  
Mansu.  
4th July 1947.

To Court.

No. 11.

ROBERT BENJAMIN KUNADU

No. 11.

Robert Benjamin  
Kunadu.

7th July 1947.

ROBERT BENJAMIN KUNADU sworn states:

8th Crown Witness:

10 Examination-in-Chief:

Examination-  
in-Chief.

Patent drug seller. Has shop at Poasi Road,  
Sekondi, called Akan Drug Store.

I knew 3rd and 4th accused sometime before  
this case happened. 4th accused is Assistant  
Social Welfare Officer of Sekondi Social Centre.  
I know him socially.

20 I know 3rd accused as a cook at Ice Company  
and also at the Social Centre. Don't know where  
he was working at the time of this case, but he  
was at Social Centre during time 4th accused was  
there.

About 23 or 24 March saw Boateng about some  
Khaki. First day 4th accused came to my store and  
suggested to me that somebody said he had bought  
khaki drill by auction and asked if I would buy it  
if he, 4th accused, sent it to me. I said "Yes".  
He then left.

30 He returned to store about 5 p.m. same day  
and told me to get my cash ready as he would send  
the khaki to me next morning by his boy Francis.

In the Supreme  
Court of the  
Gold Coast.

I asked him "who is that Francis". He said he had spoken to Francis and Francis knew me.

\_\_\_\_\_ Evidence for  
Prosecution.

At this time my friend Amoo Mensah was with me.

\_\_\_\_\_ No. 11.

Robert Benjamin  
Kunadu

I asked 4th accused how much money I would have to bring, and he said "about £200 will do". Then he left. He told me it was a large quantity of cloth.

7th July 1947.

\_\_\_\_\_ Examination-  
in-Chief -  
continued.

Next morning at about 5.30 - 6 a.m. I heard a knock at my bedroom door behind the store. I opened my door and saw Francis, 3rd accused who told me that his master Boateng had sent him with the khaki drill about which he had spoken to me. 10

I then opened door of my store, which looks on to street and asked Francis to bring in the khaki.

Lorry standing not far from store and the khaki was brought to store from the lorry in bundles. Counted them later and found 68 bundles each of 38 yards. 20

I saw several persons there, but I only recognised two who actually carried the cloth into the store. The two were Francis and the 2nd accused.

I didn't know 2nd accused before.

It was then getting daylight, but before sunrise.

When all the cloth had been put in store, Francis told me Boateng would come later to see me.

Same day about 8 a.m. Boateng came to my store and we checked the quantity of Khaki and found 68 bundles each of 38 yards and we agreed the price of 26/- per 12 yards, total about £279. 30

I gave him £190 in notes at the time, but didn't get a receipt.

I promised to pay balance in half hour's time, and I sent £89 in notes as promised to Boateng by my friend Amoo Mensah. He didn't bring back a receipt.

About 10 a.m. same day Boateng came to my store and confirmed that Amoo Mensah had brought him the £89. 40

No Cross-Examination by 1st accused.

Cross-Examined by Blay for 2, 3 and 4:

I sell drugs in my store, but I will sell anything I can get.

I believed Boateng when he said he had bought khaki at auction. That was reason why I bought. I heard that Army stores were being auctioned at Takoradi, but never attended such auction. That was why I believed Boateng.

10 This is the first time I have bought khaki to sell. I used to buy certain other things.

I know a man named Okyere. I have never bought khaki from him. Amoo Mensah never railed any such khaki to Kumasi.

Mensah told me he had bought khaki from John Holt at 23/- to 24/- a piece.

I don't know that store price of khaki in March was about 32/- a piece.

I sold them in Kumasi for 30/- a piece.

20 Amoo Mensah railed them to someone in Kumasi.

I have bought things before from Boateng and he has never given me a receipt, but about £4 worth of Players Cigarettes.

I had the £190 in hand. I borrowed the balance from Amoo Mensah. I had a Bank account but closed it before this.

I had never seen 2nd accused before that morning. It was light enough for me to see him.

30 I never saw the driver of the lorry, or his mate. I didn't see them help bring the things to the store.

The first day Boateng came to me about 5 p.m. and again at about 11 p.m. after I had gone to bed. I opened upper half of my door and he stood outside and we spoke. I didn't see anyone there with him. I don't know if he came in a car. I was asleep and was awakened by a knock on the door.

In the Supreme Court of the Gold Coast.

Evidence for Prosecution.

No. 11

Robert Benjamin Kunadu

7th July 1947.

Cross-examination by Blay for 2nd, 3rd and 4th accused.

In the Supreme Court of the Gold Coast.

Evidence for Prosecution.

No. 11

Robert Benjamin Kunadu  
7th July 1947.

Cross-examination by Blay for 2nd, 3rd and 4th accused - continued.

Q. I put it to you that after the 4th accused had spoken to you about his friend having some khaki to sell you sent your friend Amoo Mensah to go with them to Nkontompo.

A. It is not so. I didn't send Amoo Mensah to go to any place.

Q. At 5 p.m. interview Francis was with Boateng.

A. That is not true.

Q. Boateng introduced Francis to you, as the person whose friend had the khaki.

10

A. No.

Q. Your friend Amoo Mensah, Francis and Boateng then went that evening to Nkontompo.

A. It is not true.

Q. When they went to Nkontompo they didn't see Yaro and they came back to your store that night.

A. It is not true. Amoo Mensah slept in my room that night and he didn't go out.

Q. When they told you they didn't see Yaro, you arranged with your brother, Amoo Mensah, to go with the lorry next morning.

20

A. No. I never arranged for my brother to go on any lorry.

Q. When the Khaki was brought to your shop you saw the driver and his mates and the people who unloaded the lorry and you paid the driver.

A. I never paid the driver.

Q. You never paid any money to Boateng ?

30

A. I did.

Q. You were arrested and left in custody for 3 days.

A. Yes.  
I gave a statement when they asked for one on the 3rd day.

Re-Examination:

The store is by a lane and my bedroom door opens on to the lane.

To Assessors:

Not usual to receive supplies so early in the morning. 4th accused said would send them in the morning. Didn't mention the time.

10 Because of Boateng's position and because he told me he had bought at auction, the fact that the goods came so early didn't arouse my suspicions.

In the Supreme Court of the Gold Coast.

Evidence for Prosecution.

No. 11.

Robert Benjamin Kunadu

7th July 1947.

Re-examination.

No. 12.

JOSEPH AMOO MENSAH.

JOSEPH AMOO MENSAH sworn states:-

9th Crown Witness:

Examination-in-Chief:

I am a trader at Kumasi.

I know Kunadu. I gave evidence at Preliminary Investigation.

20 No Cross- Examination by 1st accused.

Cross-Examined by Blay for 2, 3 and 4:

In March I went to Sekondi to buy goods, stayed with Kunadu.

I didn't see Boateng and Francis come to Kunadu together. I saw Francis when he brought the goods. Boateng not with him then.

No. 12.

Joseph Amoo Mensah

7th July 1947.

Examination-in-Chief.

Cross-examination by Blay for 2nd, 3rd and 4th accused.



In the Supreme  
Court of the  
Gold Coast.

I didn't know Francis before. First saw him when he brought khaki before 6 a.m. It was then light enough to see him.

Evidence for  
Prosecution.

I saw two men with the khaki. 2nd accused the other man. Had never seen him before.

No. 12.

Khaki brought in a lorry. Didn't see the driver, or his mates.

Joseph Amoo  
Mensah.

7th July 1947.

Francis and 2nd accused and some other people carried the stuff to the store. Didn't notice the other people.

10

Cross-  
examination by  
Blay for 2nd,  
3rd and 4th  
accused -  
continued.

Q. I put it to you that the previous evening you, Francis and Boateng went on a lorry to Nkontompo.

A. That is not correct.  
I saw Boateng about 5 p.m. the previous day. I never saw him in the night. I slept in same room with Kunadu. I did not go to Nkontompo with Francis and the driver and his mates that morning to get the khaki.

Q. I put it to you that the driver and his mates are known to you and you could identify them.

20

A. I never saw the driver and his mates. Shop price of khaki about February was 25/- to 28/- a piece at Tarkwa.

I sell it at Kumasi at 36/- a piece.

I railed the khaki to Kumasi and sold it there. Some at retail and some at wholesale. Sold at 30/- a piece for my friend. He hasn't given me any commission, but I hope for some. I lent him £89 to buy the goods. I paid the freight and Kunadu later refunded it. Don't remember the exact amount.

30

Re-examination. Re-Examination:

I can't say how many entered store with khaki. Persons going and coming and I didn't count them.

To Court.

To Assessors:

I didn't charge any interest on my loan.

The khaki I sold at 36/- was better quality than that which Kunadu got. The khaki was dry.

Kunadu told me he bought from Boateng who bought at auction.

40

No. 13.

KWAKU FUKUO

In the Supreme Court of the Gold Coast.

Evidence for Prosecution.

KWAKU FUKUO sworn states in Twi:  
10th Crown Witness:  
Examination-in-Chief:

No. 13.

Kwaku Fukuo  
7th July 1947.

Blacksmith and trader at Kumasi. I gave evidence at Preliminary Investigation.

Examination-in-Chief.

No Cross-Examination by 1st accused.

Cross-Examined by Benjamin for 2, 3 and 4:

Cross-examination by Benjamin for 2nd, 3rd and 4th accused.

10 Some goods were consigned to me in Kumasi from Sekondi in March.

I didn't know goods were coming until they arrived.

The goods were in boxes and bags. I don't know what they contained.

I took the goods to Amoo Mensah's store in Kumasi.

I don't know where Amoo Mensah was then.

20 Amoo Mensah arrived the same day the goods did.

No Re-Examination.

Re-examination.

\_\_\_\_\_

In the Supreme  
Court of the  
Gold Coast.

No. 14.

JAMES KPAKPO ALLOTEY

Evidence for  
Prosecution.

JAMES KPAKPO ALLOTEY sworn states:

11th Crown Witness:  
Examination-in-Chief:

No. 14

James Kpakpo  
Allotey.

7th July 1947

Examination-  
in-Chief.

General Police No. 7220 at Takoradi.

I know 3rd accused.

On 7th April 1947, 3rd accused and others  
were detained at Takoradi Police Station.

That day charged him with receiving khaki  
drill. Cautioned. We spoke in pigeon English. 10

He volunteered a statement which I wrote  
down. Read over in pigeon English and he agreed  
to contents and he signed his name. No promise  
or threat.

This is the statement dated 7 April, 1947  
(Tendered).

Benjamin: I object.

Court: Let the Assessors retire.

Cross-  
examination  
by Benjamin  
for 2nd, 3rd  
and 4th accused

Cross-Examined by Benjamin:

20

I don't know when the loss of the khaki was  
reported to the Police. I heard of it on 2nd  
April.

So far as I know Police contacted 3rd accused  
on 5th April, but he wasn't detained. He was  
allowed to go and return each day and Sub-  
Inspector Amaning had been interrogating him. I  
was present at these interrogations. I didn't  
know if his answers were recorded in writing.

Police then investigating a case of theft of  
Army Khaki and were trying to discover the cul-  
prits. 30

3rd accused's answers to Sub-Inspector to the  
the same effect as what he said in his statement.  
He didn't change his story.

I don't know why he wasn't charged on 5th. I was acting under instructions.

In the Supreme Court of the Gold Coast.

I don't know that 3rd accused had made five previous statements which were recorded in writing.

Evidence for Prosecution.

I did not give 3rd accused to understand case against Boateng being investigated and 3rd accused would be used as a Crown Witness.

No. 14

James Kpakpo Allotey.

7th July 1947

Statement of 7th not a correct version of previous statements.

10 I don't know about any previous statements or about their being destroyed.

Cross-examination by Benjamin for 2nd, 3rd and 4th accused - continued.

This paper is not in my handwriting.

I don't know who wrote it.

This is on different paper from Police Statement Form.

Court: I rule statement admissible.

To Court.

Assessors return.

Witness reads statement. Assessors told only evidence against 3rd accused.

Exhibit "C"

20 No Cross-Examination by 1st accused.

Cross-Examined by Benjamin for 2, 3 and 4:

Cross-examination by Benjamin for 2nd, 3rd and 4th accused - continued

The 3rd accused spoke in pigeon English and I recorded it in English. Sub-Inspector Amaning present and some other Police. No other accused present.

After Statements had been taken from all the accused the statements of the others were read to each one and they made no reply. This was done later on 7th April.

30 Q. I suggest 3rd accused said Yaro introduced Salifu to him.

A. I have recorded what he said.

Q. I suggest 3rd accused never spoke about visit to Boateng's office and Boateng paying £100.

In the Supreme Court of the Gold Coast.

Evidence for Prosecution.

No. 14

James Kpakpo Allotey.

7th July 1947

- A. He did. 3rd accused did mention Boateng in connection with the payment of £100.
- Q. I suggest 3rd accused said it was Kunadu who paid the £100, not Boateng.
- A. No. He never said that.
- Q. I suggest 3rd accused told me it was Kunadu who had arranged for a driver.
- A. I have recorded correctly what he told me.

Cross-examination by Benjamin for 2nd, 3rd and 4th accused - continued.

Re-examination No Re-Examination.

No. 15

Samuel Danso Amaning.

7th July 1947

Examination-in-Chief.

No. 15.

SAMUEL DANSO AMANING

10

SAMUEL DANSO AMANING sworn states:

12th Crown Witness:

Examination-in-Chief:

Sub-Inspector of Police at Takoradi.

The B.O.D. sheds at Takoradi are under supervision of Takoradi Police and Police engage the watchmen. 8 watchmen, including two headmen. Two shifts, day and night. 1 Headman and 3 men to a shift.

20

They report on and off duty at Takoradi Harbour Police Station.

1st accused was one of the Head watchmen and he and his men were on night shift on night of 22 March, 1947.

On or about 1st April 1947, theft of khaki drill from shed reported to Police.

I investigated. During course of investigations the four accused were at Takoradi Police Station and 2, 3 and 4 accused charged of Receiving the khaki. 1st accused and others charged with stealing it. They were all charged on 7th April.

I charged 2nd and 4th.

10 I cautioned 2nd, spoke in English. He made a statement which I wrote down. Read over to him and he approved and he signed each page.

No promise or threat.

This is the statement dated 7 April, 1947 (Tendered).

Benjamin: I object on ground that accused told he was going to be used as a Crown Witness.

Court: But the statement purports to have been given in answer to a charge.

20 Benjamin: I withdraw objection.

Statement admitted and read.

On same day I also charged 4th accused with same offence and cautioned him and he said something which I wrote down. Read over and he signed.

This is the statement. (Tendered, No objection Admitted and Read).

30 A few minutes after I had taken 4th Accused's statement I had all four accused before me in my office together when 4th accused said "Inspector, can I say something". I said "Yes, but remember you are still on caution" Then he said "Will you follow me outside". I handed the other prisoners over to G.P. Allotey and I went outside with 4th accused on to verandah in front of Police Station.

I saw some persons sitting about 30 yards away from the Station. The 4th accused pointed to one of them, a man dressed in khaki knickers and bush shirt and told me to call that man.

In the Supreme Court of the Gold Coast.

Evidence for Prosecution.

No. 15

Samuel Danso Amaning.

7th July 1947.

Examination-in-Chief - continued.

Exhibit "D"

Exhibit "E"

In the Supreme  
Court of the  
Gold Coast.

Evidence for  
Prosecution.

No. 15

Samuel Danso  
Amaning.

7th July 1947

Examination-  
in-Chief -  
continued.

Cross-  
examination by  
1st accused.

Cross-  
examination by  
Benjamin for  
2nd 3rd and  
4th accused.

I called the man into the office and took him into my office with 4th accused. The other accused still there. 4th accused sat down and said "Can I ask this man any question"? I said "Yes, but you are still on caution". 4th accused then said to the man "Were you not present when I paid £279 to Yaro and Francis in my office"? The man said "No I was not present". 4th accused then said "Thats all right, Inspector". The man gave his name in 4th accused's presence as Kado (Musa Kado identified).

10

I then sent Musa Kado to another office to give a statement.

2nd accused said he came from Senegal.

No Cross-Examination by 1st accused.

2 p.m. All present.

Sub-Inspector Amaning Cross-Examined by Benjamin for 2, 3 and 4:

I first contacted all the accused on 3 April.

I did not know then the real offender.

20

I questioned all the accused and 1, 2 and 3 answered my questions. 4th accused said he wouldn't answer any questions without first consulting his lawyer. I did not write down their answers, but the 2nd accused made a written statement on 3rd April which I wrote down. That is only statement taken from 2nd apart from the one which I took on 7th April.

I never made 2nd to understand he was going to be a Crown Witness. On the 3rd I did not know who was going to be accused.

30

2nd accused told substantially the same story on the 7th April.

Didn't charge him on 3rd as I had not completed investigations and had not then made up my mind.

I did not take 3 other statements from 2nd accused which I destroyed.

I took no statements from 3rd accused.

I did not note in Diary answers given on 3 April.

2nd did tell me he agreed with Kwesi to pay him £8.

2nd did not tell me he was surprised when the goods arrived at Nkontompo.

2nd didn't say Kunadu handed him the £100 and not Boateng.

10 On 7th after being charged Boateng said he reserved his statement.

Then he pointed out Musa Kado to me. At the time I didn't know him, but later I learnt that he is 2nd accused's brother.

Boateng did say he paid £279 to 2nd and 3rd. £279 is the correct amount, not £275. I think I said £279 at Preliminary Investigation. Evidence at Preliminary Investigation read and approved and I signed.

20 Yaro, 2nd accused, spoke in Pigeon English, also 3rd accused.

I searched 2nd accused's premises on 3rd April. Found nothing there. Not able to trace any of the missing khaki.

No Re-Examination.

The Court: 2nd accused's store is a provision store, quite a small one.

In the Supreme Court of the Gold Coast.

Evidence for Prosecution.

No. 15

Samuel Danso Amaning.

7th July 1947

Cross-examination by Benjamin for 2nd 3rd and 4th accused - continued.

Re-examination.

To Court





In the Supreme  
Court of the  
Gold Coast.

No. 16.

MUSA KADO

Evidence for  
Prosecution.

MUSA KADO sworn states:

13th Crown Witness:

Examination-in-Chief:

No. 16

Musa Kado.

7th July 1947

Examination-  
in-Chief.

I live at Sekondi. Discharged Soldier.

I know 2, 3 and 4th accused. I didn't know any of them before this case started.

On 7th April, 1947, I was on leave from the Army and was at Takoradi Police Station. 10

At that time one of my brother's had a case there.

I was sitting outside Police Station by a gutter.

My brother's case was a different one from this one.

Inspector Amaning and Boateng came out and one of them pointed and the Inspector called me. I went to him and went into Inspector's Office and saw 2 and 3 and 4 accused there. 20

Boateng (4th) asked me if I was present when he paid an amount of £200 and something to Yaro and Francis and I said No, I knew nothing about it.

I knew Yaro sometime before at Accra.

I didn't know Francis (3rd) before that day, or 4th.

Yaro is not my countryman or relative and we speak different languages.

No Cross-Examination by 1st accused.

Cross-Examined by Blay for 2, 3 and 4: 30

Cross-  
examination by  
Blay for 2nd  
3rd and 4th  
accused.

4th accused said I was present when he paid the money to Yaro and Francis.

I don't know why he said this.

I didn't know Boateng before. I had only been in Sekondi four days before this happened.

Re-examination No Re-Examination.

No. 17.

JAMES KPAKPO ALLOTEY (Recalled)

J. K. ALLOTEY recalled:

Examination:

I charged 1st accused on 7th April and cautioned and he made a statement which I wrote down. Read over. Approved and he made mark and print. This is statement (Tendered, no objection admitted and read).

In the Supreme Court of the Gold Coast.

Evidence for Prosecution.

No. 17

James Kpakpo Allotey. (recalled) Examination. Exhibit "F"

10 No Cross-Examination.

Cross-examination.

No. 18.

COURT NOTES.

Case for Crown.

Rights explained to accused.

1st accused: "I have nothing to say. I have not done anything"  
I wish to call Amadu Moshie and Abudulai Dagomba whose names I gave to the Magistrate.

20 Blay: I submit on behalf of 4th accused no evidence that he ever was in possession of any of the goods. Sale made direct from Yaro to Kunadu and Boateng merely negotiated between them. R. v. Agard 1942. 2A E.R. p.342. Must prove the goods were stolen.

Court: I rule there is a case to answer.

2, 3 and 4 elect to give evidence.

(Intd.) A.C.S.

No. 18

Court Notes.  
7th July 1947.

In the Supreme  
Court of the  
Gold Coast.

DEFENCE EVIDENCE

No. 19.

Defence  
Evidence.

YARO DEMAN

No. 19

YARO DEMAN s/k in English:

Yaro Deman  
2nd accused.

2nd Accused:  
Examination-in-Chief:

8th July 1947.

Lives at Sekondi. Petty trader.

Examination-  
in-Chief.

I have a store at Nkontompo. Sell beer, wine and tinned provisions. Don't sell cloths.

I know 1st accused. Met him when he came to buy beer at my bar. 10

In March 1947 he came to my bar and drank and then he said he had some khaki to sell. He said his brother bought it at auction, but couldn't say how much it was. He asked if he could put the khaki in my store and if I would sell it for him.

He said the khaki was at Takoradi.

I said I wouldn't have the khaki at my store to sell but I would try to find someone to buy it.

He was at the store at 2 p.m. Didn't tell me what time he would bring the khaki. 20

Said he was going to Sekondi to see his brother and find out what time he would bring the khaki. Then he left.

I then went to Sekondi and saw my friend 3rd accused. He also is a bar keeper and trader, like me. I told him about the khaki and he said he also couldn't buy it. I then asked him to find someone to buy it. I returned to Nkontompo.

Next day 3rd accused came to me and said he had asked some big man to find him a buyer. I asked who the man was and 3rd said he was at the Welfare. I didn't know 4th accused then. 30

Francis then took me along to the man's place, an office with photo's in it. There I saw 4th accused 3rd introduced me to 4th. 4th said he

couldn't buy any khaki but he could direct me to a store.

3, 4 and I then went to Kunadu's store.

4th introduced me to Kunadu as the man selling khaki. Kunadu asked, where is the khaki. I said it is at Nkontompo. It hadn't actually reached there then and I didn't then know the price.

10 Kunadu agreed to buy, but couldn't fix price or quantity then.

After Boateng had introduced us to Kunadu he left, leaving me and 3rd to talk to Kunadu.

Kunadu told me to bring the khaki to his store when it arrived.

I then returned to Nkontompo and saw 1st accused. He said he would sell the khaki for £100. Said he would go back to Takoradi and see when it would come.

I did not know the khaki was stolen.

20 I know that Army khaki is sold at auction at Takoradi.

1st accused then left and I waited for the khaki and when it didn't come by 8 p.m. I closed my bar and sat outside waiting for Salifu. The khaki didn't come and I went to sleep.

Next morning between 3 and 4 a.m. the khaki arrived carried by two fishermen and Amadu Kado. Bosompra one of the men. I knew him slightly before.

30 I had nothing to do with arranging for Bosompra to bring the khaki from Takoradi.

When Bosompra came he asked me if I knew one Salifu. I said Yes. He said "Did he speak to you about khaki". I said "Yes".

Then he brought the khaki. Bosompra asked me to help carry the khaki and I told him he had been hired to do that, so Bosompra engaged Amadu Kado to help him.

In the Supreme  
Court of the  
Gold Coast.

Defence  
Evidence.

No. 19

Yaro Deman  
2nd accused.

8th July 1947

Examination-  
in-Chief -  
continued.

In the Supreme  
Court of the  
Gold Coast.

Defence  
Evidence.

No. 19

Yaro Deman  
2nd accused,  
8th July 1947

Examination-  
in-Chief -  
continued.

They put the khaki on my verandah.

Bosompra told me Salifu Moshie said he was coming. I wouldn't put it in my store because it was such an early hour and I left it outside.

At about 6 a.m. Amoo Mensah, Francis, two driver's mates and driver Annan came for the khaki. The driver and Francis told me Kunadu had sent them for the khaki.

I gave them the khaki. The two mates, Francis, Amoo Mensah and another boy loaded the khaki on to the lorry. 10

I then locked my store and joined the car and the driver drove to Kunadu's store at Takeradi.

Khaki not covered up on lorry.

We left Nkontompo 5 or 10 minutes after 6 a.m.

When we arrived Kunadu's store not open. Amoo Mensah knocked at the door and Kunadu opened it.

I and the two mates and Amoo Mensah and the boy unloaded the lorry and put khaki in the store. 20

They didn't pay for the khaki. I asked for the money. Kunadu said come back at 8 a.m.

I went back with Francis at 8 a.m. and Kunadu paid us £100. Kunadu after checking the khaki said the value was £102.

Kunadu paid the driver £2 for carrying the khaki to his store. £1 note and 2 10/- notes.

After delivering khaki I returned to Nkontompo and returned at 8 a.m. for the money.

About 3 p.m. that day Salifu and two watchmen came to me for the money. Didn't know the watchmen before. Salifu told me they were watchmen. 30

I gave Salifu the £100 and he gave me and Francis each £2 as a dash.

He asked me if I knew the fisherman who brought the goods. I said yes. He gave me £8 for the fisherman. I told him to go and give to him

himself. He went and came back and said the fisherman 'no dey'.

Then I took the £8 and afterwards I saw fisherman and called him and gave him the £8.

He said he had hired a man to help him carry the things. Then Bosompra left.

10 More than 2 months later the Police came to me and said a certain driver said he had taken khaki from my store. I said that was true. I had given khaki to driver to take to Kunadu.

Didn't arrest me then. Police and driver went to Sekondi. Later same Police came and took me to Takoradi same day. Inspector Amaning gave me a chair and asked me to tell him the whole matter. He didn't say he was going to charge me. Said he wanted me as a witness. I gave Inspector a statement, but he didn't write it down.

20 Inspector told me to go and come back next day 8 a.m. I went back and Inspector said he now wanted to take my statement. Asked me how I came to know Kunadu and I told him the whole story and he wrote it down. I spoke to him in broken English. He didn't read back what he had written and I didn't sign it.

Inspector told me to say it was Boateng who directed me to Kunadu and I said I wouldn't.

Now say Inspector told me to say it was Boateng who bought.

30 He wrote down my statements four times on different days. Didn't sign the first three, but I signed the last one. He only read bits out of it to me before I signed it.

I can sign my name, but I can't read.

After that he told me to go and come again daily.

I reported 5 times before I was charged.

Cross-Examined by Plange:

40 I have been at Nkontompo more than 1 year. Been in Gold Coast more than 10 years. All during the war, I didn't join Army.

In the Supreme Court of the Gold Coast.

Defence Evidence.

No. 19

Yaro Deman  
2nd accused.

8th July 1947

Examination-  
in-Chief -  
continued.

Cross-examination.

In the Supreme  
Court of the  
Gold Coast.

Defence  
Evidence.

No. 19

Yaro Deman  
2nd accused.  
8th July 1947

~~Cross-~~  
examination -  
continued.

I was at Prestea before Nkontompo and before that I was in Accra for about 3 years. Stayed at Prestea 5 years.

I never heard about Army stores being stolen.

I don't know B.O.D., "Takoradi?"

Plange "Yes".

Salifu said he was head at B.O.D. Didn't say he was watchman.

Knew Salifu about 6 months before he told me about the khaki. He said he worked at Takoradi. 10

Other small stores in Nkontompo. None of them sell cloth. Don't know if any stores in Takoradi sell cloth. I know Takoradi very well.

I know Sekondi. There are cloth stores there. Sekondi is 2 miles from Nkontompo.

Didn't ask Salifu why he didn't sell the cloth at Takoradi.

(Want answer question as to why he didn't tell Salifu to take the cloth to Sekondi to sell it). 20

Can't say if it was Saturday Salifu spoke about the goods. It was a working day.

When Salifu came at 2 p.m. didn't ask him why he was not at work.

At this time khaki was not scarce. Not cheap.

I begged Francis to find someone to buy because Salifu was my friend. Salifu didn't say how much he would give me for finding a buyer.

When cloth brought by fisherman at 3 a.m. I was surprised it was brought so late. Not surprised brought by fisherman and not by driver. 30

Left cloth outside my store to wait until Salifu came and I wanted Salifu to see the cloth.

Salifu came about 5 a.m. and I told him I had got some people to buy and that they would come for it in the morning. Then Salifu went away before the people came for the khaki, because the sale had nothing to do with Salifu.

I asked Salifu who were the people following him and he said they were watchmen. Didn't ask where they worked.

In the Supreme Court of the Gold Coast.

Bosompra lived at Nkontompo. Don't know his name is Kwasi.

Defence Evidence.

Witness doesn't know that Moshie is in French Country.

No. 19

When gave statements to Police thought I would be a witness.

Yaro Deman  
2nd accused

10 I was afraid because Police had called me.

8th July 1947

I did not give the truth in my statement which Inspector first wrote down.

Inspector knew I was lying, that is why he destroyed the statement.

Cross-examination - continued.

Inspector took a short stick and knocked my ear and said I should say it was Boateng who bought the khaki.

That is the only lie in my statement.

This statement bears my signature.

20 Plange. Tendered. No objection. Admitted Exhibit "G" and Read.

I didn't make a statement after I was charged. He told me to go and come back and when I came back he gave me a paper and told me to sign it and I did. This is the one.

I didn't know property stolen.

To Court:

To Court.

Salifu said wanted £100.

30 Kunadu checked and found 77 pieces at 26/- a piece of 12 yards. Now say 77 pieces of 38 yards sold at 26/- a piece of 12 yards.

Cross-Examined by 1st accused:

Cross-examination by 1st accused.

1st accused lived at Adiembra. Don't know the exact house. Never been to his house. Accused came to my shop. Only a mile from Adiembra to Nkontompo.

1st accused does drink.

What I have said about 1st accused is all true.

I gave 1st £100, enough to hire a lawyer.

40 I do know 1st accused.

No re-examination.

Re-examination



In the Supreme  
Court of the  
Gold Coast.

Defence  
Evidence.

No. 19  
Yaro Deman  
2nd accused  
8th July 1947

To Assessors:

I knew 1st accused 5-6 months before this.

I knew he worked at Takoradi.

Offered to get some one to buy the Khaki be-  
cause Salifu was my friend.

Salifu said had got the khaki at auction.

To Court.

No. 20

Francis  
Okwuidegbe  
3rd accused

8th July 1947

Examination-  
in-Chief.

No. 20.

FRANCIS OKWUIDEGBE

FRANCIS OKWUIDEGBE sworn states:

3rd Accused:

Examination-in-Chief:

Petty trader and cook at Sekondi.

I don't know Salifu Moshie, 1st accused.

I know Yaro, 2nd accused, a long time. He is  
a trader, but has not been trading long.

I know 4th Boateng, he was my master at the  
Social Centre. I used to work there. Got sick  
and left. I was away in January and February,  
1947. Not working there in March-April.

Last April I was in my store when Yaro came  
and told me he had some khaki to sell, brought to  
him by his friend. Didn't say where his friend  
got it.

Asked me if I would buy it. I said No.

Then Yaro left.

I then told Boateng that one of my friends  
from Nkontompo had some khaki to sell but I didn't

10

20

know where he got it. I didn't ask him if he would buy it.

Boateng asked me to call the man for him. I called Yaro and introduced him to Boateng as the man who had the khaki to sell. I don't know the price Yaro told Boateng.

Next day Boateng came to me and asked me to go with him to Nkontompo to show him where Yaro was. I took him to Yaro's house.

10 I, Boateng, a driver and two mates went and when we got there Yaro said the man had not brought the khaki yet, so we should go and come back next morning.

We went in the car to Sekondi and Boateng sat beside the driver and I sat behind with the mates.

I don't know what Boateng told the driver.

When we got to 5th Street, Boateng told driver: "Let us go to Kunadu's store". When we got there the driver stopped and Boateng got down.

20 We waited about 15 minutes before Boateng came out and drove towards Boateng's house, stopping at my house to put me down and then they went on in the car.

I didn't see Boateng again that day.

30 At about 25 minutes to 6 a.m. I saw the driver again with his car at my house and he called and said Boateng wanted me again. I locked my store and went in the car to Boateng's house. When I got there Boateng told me to go with the driver to Nkontompo to bring the things for him. I said I couldn't go as it was time to open my store. He told me to go and I went.

When we got to Yaro's house Yaro was already awake and standing at his door.

I said "Here is the car".

40 Then I, the mates and the driver took all the khaki inside the car and went back to Sekondi to Kunadu's store. Found store open already. I, the driver and the two mates and others from Kunadu's store put the khaki inside the store and we then

In the Supreme  
Court of the  
Gold Coast.

Defence  
Evidence.

No. 20

Francis  
Okwuidegbe  
3rd accused

8th July 1947

Examination-  
in-Chief -  
continued.

In the Supreme  
Court of the  
Gold Coast.

took the car to Boateng's house and told him we had taken the khaki to Kunadu's house as he had asked.

Defence  
Evidence.

I didn't see anyone pay for the khaki.

I don't know who paid the driver.

No. 20

Francis  
Okwuidegbe  
3rd accused

It is for Boateng to dash me, as I did the work for him, but neither he nor anyone else, has given me any money.

8th July 1947

Later same morning Yaro came to my shop and asked me where Boateng was. I said Boateng has just passed to his office so I must go and meet him. Yaro went and later came back and told me he had got the money. He didn't say how much. Yaro then left.

10

Examination-  
in-Chief -  
continued.

3 weeks later the Police came to me and took me to Takoradi Police Station. Inspector questioned me and I told him all the truth. Inspector told me to go. I went back on 7th and Inspector brought me two papers and asked me to sign them and I did. I did know it was a charge paper. He didn't tell me I was charged until after I had signed. Then he put me in cell.

20

Next day I was sent to Court.

Cross-  
examination

Cross-Examined:

It was something after seven when I went with Boateng to Yaro's house at Nkontompo. I left my house something after 7. The driver Annan, whom I knew before, came for me.

Before that Boateng had come to me about 6 p.m. and asked me to take him to Yaro's house and then he sent the driver for me at 7 p.m.

30

Not true met driver about 11 p.m.

I have known Annan a long time. No trouble with him.

At first trip lorry stopped by Yaro's gate and Yaro came out to the car.

Not true driver and mates stayed with lorry some distance off.

Yaro told us to come back for the khaki next morning.

Yaro, when he gave me the khaki, said it was 77 bundles. I told Kunadu there were 77. He didn't check in my presence.

I did not see Kunadu pay any money.

I suppose driver went to Boateng's house for his money, as Boateng had hired him.

10 I went upstairs and told Boateng I had brought the khaki and he said all right, "make I go" and I left, leaving the driver with him.

When Yaro came later in the morning for the money I did not go with him as Yaro knew Mr. Boateng and his office.

Didn't tell Police went with Yaro to Boateng &c.

I never met Salifu until I was arrested. Never seen him before.

20 Yaro never brought Salifu to us and introduced him as the owner of the khaki.

I don't think I told the Police this.

I asked Yaro where he got the khaki and he didn't tell me. Now say Yaro said his friend had bought it at auction.

Boateng didn't ask where the friend got the khaki and I didn't tell him.

I don't know if Khaki bought at auction or not.

30 Yaro never told me how much khaki he had nor did I ask him. Didn't say he had a large quantity. When saw all the khaki didn't ask Yaro where and how he got it.

I know the khaki was brought to Yaro in the night.

Musa Kado was called to Police Station. Inspector and Boateng went out and they brought the boy.

Boateng said he wanted a Policemen to go outside. Inspector got up and went out with him.

When they got back Boateng asked Musa "Were you not present when I paid Yaro and Francis £270".

40 Musa said Didn't know anything about it.

I didn't know the khaki was stolen.

Not Cross-Examined by 1st accused.

In the Supreme Court of the Gold Coast.

Defence Evidence.

No. 20

Francis Okwuidogbe  
3rd Accused

8th July 1947

Cross-examination - continued.

In the Supreme Court of the Gold Coast.

Re-Examination.

Defence Evidence.

No. 20

Francis Okwuidegbe  
3rd accused  
8th July 1947

I was not present when Boateng hired the driver.

Inspector didn't read statement before I signed. He had it already written down when I came in the morning. I can read. He never gave it to me to read. I didn't ask to read it. Saw the writing on two pages.

Re-examination.

Further cross-examination.

Further Cross-Examination by leave:

After I was released from Police Station on 3rd, Boateng came to me and asked me what statement I had given to the Police. I refused to tell him. He asked me to go with him to Sekondi and I refused. I told him to go ahead and I would follow as I was eating. I didn't go.

10

Re-examination. No Re-Examination.

To Court

To Assessors:

Told Yaro I wouldn't buy. Don't deal in cloth. Told Boateng about it as thought he might be interested. Boateng is the manager where I am cooking and can send me anywhere by day or night. Sometimes he dashes me. Didn't have to leave some khaki at Yaro's. Lorry not overloaded. Boateng told me he would buy the khaki. I got nothing. Not true Yaro gave me £2.

20

No. 21

No. 21

Emmanuel Yaw Boateng.

EMMANUEL YAW BOATENG

8th July 1947

EMMANUEL YAW BOATENG sworn states:

Examination-in-Chief.

4th Accused:  
Examination-in-Chief:

30

Lives at Sekondi. Assistant Welfare Officer.

I know 3rd accused, Francis. My committee appointed him to be the cook at the Sekondi Social

Centre where I am also employed. I don't pay him. Even the committee don't pay him.

In March I was at Sekondi at my office when Francis came and told me that he had a friend who had bought khaki drill at auction, if I could help him as Welfare Officer to get someone to buy the khaki. I told him to go and return later. I knew one Kunadu a Drug Store Keeper (the one who gave evidence that I would contact him after 12 o'clock).

After 12 when I was going home I saw Kunadu at his store, on Poasi Road, same street as my house. Told Kunadu that Francis who catered for Social Centre had told me that a friend had khaki drill bought at auction and that he wanted someone to buy it. Kunadu said that he had been dealing in khaki drill for a long time and that he would buy it. He also mentioned that in December he bought 465 pieces of drill from one Okyere and that his friend Amoo Mensah railed the khaki drill to Kumasi for sale. After that I left.

This was not first time I knew khaki sold at auction. I have heard it several times and I have seen people who had bought khaki at auctions.

About 7 p.m. same evening I was in my house when Francis came to me and told me that Robert Kunadu who lives not far from Francis' Store (the same Kunadu) had asked him to come and see me, that he has arranged with a taxi driver. Francis brought 10/- which he said he had received from Kunadu and said Kunadu had asked him to come to me to help Francis to go to Nkontompo to see this friend of his who had the khaki drill.

Then 7.30 p.m. I went to Bartholomew with Francis and asked for a taxi. Couldn't get one. I blew the horn of a taxi - the driver wasn't there - When a driver mate Arthur Mansu came and asked me if I wanted a lorry. I said "No, I wanted a taxi". He said if I wouldn't mind he would go and speak to his master. He went and brought his Master and we went in the lorry to Nkontompo.

Francis asked me to come along with him to go to his friend's house. We went, but we did not meet the friend at his house and we came back in the lorry. Then about 8 p.m. we returned to Sekondi.

In the Supreme Court of the Gold Coast.

Defence Evidence.

No. 21

Emmanuel Yaw Boateng.

8th July 1947

Examination-in-Chief - continued.

In the Supreme  
Court of the  
Gold Coast.

Defence  
Evidence.

No. 21

Emmanuel Yaw  
Boateng.

8th July 1947

Examination-  
in-Chief -  
continued.

Never told driver going to fetch a patient.  
I would have gone for ambulance.

Francis paid the driver 10/- with the money  
received from Kunadu.

When we came back to Sekondi we went to  
Kunadu's house in the lorry. Francis told Kunadu  
that we went but the friend wasn't in the house.

The lorry driver then left and I walked home.

Next day I went back to my office and at  
about 8.15 a.m. Francis came to me and told me  
that Kunadu and the driver Annan came to his house  
in the morning and went to his friend Yaro at  
Nkontompo and collected khaki drill from Yaro and  
that Yaro accompanied Francis and Amoo Mensah to  
Kunadu's store and delivered the khaki to Kunadu.

10

Francis didn't tell me that Kunadu paid for  
khaki.

Same day after 12 noon I saw Kunadu at his  
store and he said "Thank you, Mr. Boateng, I have  
bought the khaki drill from Francis and his friend  
and I paid £100 to Yaro, Francis' friend.

20

Kunadu didn't give me anything.

I then left and went home.

3 weeks later the driver Annan saw me and  
told me that he left with Francis in the morning  
and collected some khaki for Kunadu and that the  
Police are after him and again that Francis had  
made mention of my name to the Police in connec-  
tion with this case.

I then telephoned to Takoradi Police Station  
to inquire and was told that Inspector Amaning was  
then at Sekondi Police Station. I phoned Sekondi  
Police Station and spoke to Inspector Ananan and  
asked to speak to Inspector Amaning. I spoke to  
him and he said he was busy with two Europeans and  
he would see me afterwards.

30

Inspector Amaning came to my office about 20-  
25 yards from Police Station and I asked him what  
had happened and he said "Your name has been ment-  
ioned in the khaki case". I asked if I would be  
needed at Police Station to give evidence or say

40

anything and he said No, but I should see him at his house at 5 p.m. Then he left.

I didn't go to his house, but I went home and at about 3 p.m. Inspector Amaning came to my house with a Police Constable and asked Constable to wait outside and he came in and asked me to shut the door I did.

10 He sat down and asked me to tell him all about the case and I told him what I knew about it. Then he told me that I should come to Takoradi Police Station with him. I went with him.

20 When reached Takoradi Police Station offered seat in his office. Then nearly 4 p.m. on 3rd April. He said "I am going to use you as Crown witness in this case" I said alright. He left the office and went away and returned about 7 p.m. I waited in his office. When he came back he said I should get someone to bail me. I got someone to bail me and he told me to report again 8 a.m. next day.

I continued reporting from 3rd to 7th. When I went to him on 7th he said "I have charged you with receiving". I asked him if I could be bailed and he said he must get instructions from Superior Officer. Then about 3 p.m.

30 I telephoned to Mrs. Williams at Sekondi to get someone to bail me. Incidentally a friend came to Police Station and he offered to bail me, one Mr. Annan. He was told to see Inspector Amaning. Annan came back and said Inspector said he shouldn't bail me and he wanted me to sleep in the cell until following morning lest I commit suicide if I were bailed, or the friend who bailed me would die, as happened to the friend who came with the first person who bailed me, because he was killed. Annan then left.

40 About an hour later Mr. Heathcote came and bailed me, subject to the approval of the Assistant Superintendent of Police who had a telephone call from Lawyer Abbinsetts to allow me to be bailed.

I was eventually bailed.

I was asked to give a statement by Inspector Amaning. He cautioned me. I told him I would make no statement.

In the Supreme Court of the Gold Coast.

Defence Evidence.

No. 21

Emmanuel Yaw Boateng.

8th July 1947

Examination-in-Chief - continued.



In the Supreme  
Court of the  
Gold Coast.

Defence  
Evidence

No. 21

Emmanuel Yaw  
Boateng.  
8th July 1947

Examination-  
in-Chief -  
continued.

Cross-  
examination.

I know Musa Kado, the witness. First saw him at the Police Station.

Inspector Amaning told me that Yaro and Francis had said that one Musa Kado was with them when I paid them an amount of £200. I said "No". Inspector asked me to come along with him. We went out and he called Musa Kado. Beckoned to him and he asked me to put the question to Musa Kado. I asked Musa Kado whether he had ever come to my office to witness the payment of money and he said no. I said "Thank you".

10

Inspector mentioned two hundred and something.

I never asked Francis what statement he had made to the Police.

When Francis told me about the khaki I had no reason to believe it was stolen.

Cross-Examined by Plange:

I took up appointment in December 1946 at Sekondi. I had known Kunadu for about 6 months before 23rd March. Kunadu is an Ashanti. I come from New Juaben. The Koforidua people come from Old Juaben in Ashanti.

20

I had known Francis about 3 months before March.

Francis came to see me about 22 or 23 March.

It is part of a Welfare Officer's duties to act as intermediary for traders. A Welfare Officer can help anyone who comes to his office in any way, but I have no specific instructions as to what my duties are.

30

This is first time I have acted as an intermediary for traders. I know of Welfare Officers in England who do this.

I met Francis at Sekondi and Kunadu then.

Francis keeps a bar on Poasi Road, up 4th street, i.e. the street before mine, 5th.

Lived at 5th street about 5 months i.e. one month after met Kunadu and about 2 months after met Francis.

Kunadu's store on Poasi Road near 1st street and about 50-60 yards from Francis Store.

My office is opposite the end of Poasi Road. From my office first pass Kunadu's store, then 4th street where Francis' Store is and then to my house at 5th street.

I know that Kunadu deals in everything, but his store is a Drug Store.

10 Before Francis came to me I knew that Kunadu had had dealings in khaki drill. He had told me about railing khaki to Kumasi in December 1946. Said he bought from one Okyere, 465 pieces.

I told Francis I would see if I could get any of the petty traders to buy the khaki.

Kunadu was not the first person whom I thought of, but he was the first one I met.

20 I told Kunadu that Francis came to my office and told me he had a friend who had bought khaki drill at auction and if I could get some trader to buy.

I have not since got to know that the khaki came from the Army, but from the R.A.F.

I think Kunadu knew Francis before this.

I don't think Francis knew more about Kunadu's business than I did.

Kunadu said yes he would buy it, he had been trading in drill to Kumasi.

30 He didn't tell me about Amoo at that time. He had told me about buying 465 pieces from Okyere with Amoo Mensah and railing to Kumasi at the time I told him of Francis' offer. He had told me the same thing before.

I don't know why he mentioned Okyere.

I had no doubt about Kunadu's dealing in khaki. I didn't understand his reference to Okyere as a Reference.

Francis came to my office about 8.30 a.m. At that time he was no longer working at Social

In the Supreme Court of the Gold Coast.

Defence Evidence.

No. 21

Emmanuel Yaw Boateng.

8th July 1947

Cross-examination - continued.

In the Supreme  
Court of the  
Gold Coast.

Defence  
Evidence.

No. 21

Emmanuel Yaw  
Boateng.

8th July 1947

Cross-  
examination -  
continued.

Centre. He had been dismissed. I think he was pleased at being dismissed, because he wasn't making any profit out of it.

When Kunadu said would buy I told Francis same afternoon. Saw him on way home between 3 and 4. Met him near my place. Told him I had seen a Petty trader named Kunadu who would like to buy the drill. He said "Thank you, I will go and inform my friend".

I didn't tell Francis to go and see Kunadu. 10

I didn't offer to help Kunadu to get the drill.

I understood Francis' friend was anxious to sell.

Next saw Francis about 7 p.m. same day and he said he had been to Kunadu who had given him 10/- to go and see his friend because a lot of traders were after the khaki.

Khaki was not very scarce then. I didn't know that many traders after khaki. 20

Francis was to come to me to get a taxi to go and see his friend.

I had nothing to do for Kunadu in the matter.

I thought Kunadu wanted me to take a joy ride.

Nkontompo is a small fishing village off the main road.

I went there with Francis to see his friend because he asked me to go.

I was trying to help as a Welfare Officer.

Nkontompo didn't strike me as a peculiar place for anyone to have a large quantity of khaki to dispose of. 30

On return passed my house to go to report to Kunadu. Also part of my duty as Welfare Officer.

I preferred to go and tell him and then walk back to my house.

I agree with the driver that 10/- was paid for that trip.

I didn't know the driver before that night or either of his mates before.

Didn't tell driver purpose of journey to Nkontompo.

Annan and his mates have been instructed by the Police to insert the story about the sick person.

10 Francis told me Kunadu paid £100. Told me this at about 10 a.m. morning after my trip to Nkontompo. Francis came to my office to tell me.

I got no commission in the deal.

I contacted the Police as soon as I heard there was something fishy about the deal and gave them full information. It was my duty to do so.

Inspector Amaning gave evidence and was cross-examined by my Counsel. I heard him say I told him I wouldn't say anything without first seeing my lawyer. I did say that to him.

20 He was not cross-examined that I gave him full information, as I didn't tell my Counsel about it, as I knew I was coming to speak in the witness box.

I did give Inspector assistance about this case.

I told Inspector all about the case at my house. He did not come at my invitation.

I didn't think his action strange.

I did not tell Inspector at Takoradi Station anything at all about payment of £270.

30 Inspector Amaning said I had paid £270. That Yaro and Francis had told him that.

Yaro and Francis made no remark when Inspector said this.

I said nothing before he took me out.

He asked me to come out and he beckoned to Kado. I didn't know Kado before. Kado was by himself.

In the Supreme Court of the Gold Coast.

Defence Evidence.

No. 21

Emmanuel Yaw Boateng.

8th July 1947

Cross-examination - continued.

In the Supreme  
Court of the  
Gold Coast.

Defence  
Evidence.

No. 21

Emmanuel Yaw  
Boateng.

8th July 1947

Cross-  
examination -  
continued.

When Kado came Inspector told me Kado had told him that I was present when £200 odd was paid to Francis and Yaro.

I then asked Kado "Have I paid some money to Yaro and Francis in the presence of you". He said "No" and I thanked him.

Inspector said to me "Francis and Yaro have told me that Kado was present when you paid an amount of over £200 to Francis and Yaro".

And then he asked me to ask Kado "Were you not present when I gave £200 to Yaro and Francis" and Kado said "No" and I thanked him.

10

It doesn't sound silly to me.

I don't know why Amaning thought I might commit suicide.

All the other versions of the Kado incident are untrue.

Not true Kunadu paid me £190 or that later I received £89 from Amoo Mensah.

Not true I knew the khaki was stolen, not true I got most of the profit.

20

I didn't report matter to anyone but Inspector Amaning. Saw no reason to do so.

(Intd) A.C.S.

9th July 1947

Re-examination. Re-Examination:

Nkontompo has a population of 500-600.

There are some stores there.

No. 22

AMADU MOSHIE

In the Supreme Court of the Gold Coast.

Defence Evidence.

No. 22

Amadu Moshie  
9th July 1947

Examination-in-Chief.

AMADU MOSHIE s/k in Hausa:  
1st Defence Witness:  
Examination-in-Chief:

Lives Sekondi. Watchman at Shell Company, Takoradi. I know 1st accused.

10 I used to work with 1st accused at B.O.D. Left there about 3-4 months ago. There were 4 watchmen employed there.

While I worked there I and Abudulai Dagomba were on duty in the morning until 12 noon, when 1st accused and another man would relieve us until 6 p.m. and other watchmen would take over for the night.

Sometimes I did night duty.

No one ever came there to steal while I was on night duty.

20 Never seen 1st accused drinking or seen him at any bar. Never seen him smoking.

I don't know if 1st accused drinks or not. I have never seen him drinking. I have never been to his house.

Cross-Examined:

Cross-examination

When on night duty 1st accused on duty with me. I was also arrested and charged and taken to Court and the Magistrate discharged me.

No Cross-Examination by 2, 3 or 4.

Case for all the defendants.

30 1st accused: I have nothing more to add to the statement which I gave the Police. I rely on that.

In the Supreme  
Court of the  
Gold Coast

No. 23

ADDRESS OF COUNSEL FOR  
2nd 3rd and 4th ACCUSED

No. 23

Address of  
Counsel for  
2nd, 3rd and  
4th accused.

Benjamin for 2nd, 3rd and 4th accused:

9th July 1947.

1st Count - Conspiracy.

2nd Receiving.

Ingredients of receiving are three.

Onus of proof on prosecution. Reasonable doubt.

(a) Were articles proved to have been stolen.

(b) Did accused receive them.

(c) Did accused have guilty knowledge.

10

As to (a) Submits prosecution has not conclusively proved articles stolen.

Articles not identified or traced to any person. Did the khaki which Yaro received come from B.O.D. Khaki being sold at the time. Doubt as to identity of articles alleged in charge. No proof that the goods were stolen. No direct evidence as to this. No stockbook of contents of shed. Not proved khaki was there on 23 March. No report of theft made to Police before April.

20

(b) Were the articles received by the accused.

Test of receipt is control.

Sec.43(1) does not extend scope of offence of receiving beyond the offence as defined in English Law.

Although if Section construed widely, it makes all the witnesses of the transaction accomplices. R. v. Arthur J. Morris 12 Criminal Appeal p.156.

Boateng never at any material time had control of the property.

No relationship exists between 1 and 4. Francis in same position as the driver or his mates. Submits neither Boateng nor Francis received the goods. Annan and his mates lying to clear Kunadu.

30

40

(c) Guilty knowledge.

There had been auction sales of khaki.  
Boateng didn't know when the khaki  
arrived at Nkontompo.  
Francis not present when khaki landed at  
Nkontompo.

Boateng gave his evidence in straight-  
forward manner. Not shaken in Cross-  
Examination. He rang Police when heard  
of trouble.

Francis gave evidence in straightforward  
manner. His explanation is reasonable.

In the Supreme  
Court of the  
Gold Coast.

No. 23

Address of  
Counsel for  
2nd, 3rd and  
4th accused  
9th July 1947 -  
continued.

10

As to conspiracy:

No evidence as to agreement between 4th  
and any of the others. No connection  
between 1 and 4 accused.

Definition Section 49 of Cap. 9

No evidence of conspiracy between 2, 3  
and 4.

20 As to Evidence:

All witnesses as to events of 22-23 are  
accomplices or witnesses whose evidence  
should be accepted with caution.

Evidence directed to shield Kunadu.

Witnesses changed their stories as to  
details of payments by Boateng and as to  
Yaro going on 1st trip.

Submits all the witnesses of events of  
22-23 March are accomplices.

30

No corroboration of their evidence.

Khaki not concealed on transport to  
Kunadu. Evidence in favour of accused  
to be accepted. Explanations of accused  
are reasonable.

Accused entitled to benefit of doubt.

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No. 24

REPLY BY CROWN COUNSEL

No. 24

Reply by Crown  
Counsel.

Plange replies:-

Not alleged that the khaki belonged to  
any particular person.

Sec. 43. Definition of receiving:

Assist in disposal, disjunctive. Sec.6.3

40

9th July 1947.



In the Supreme  
Court of the  
Gold Coast.

R. v. Johnson 5 W.A.C.A. 60. Privy Coun-  
cil.  
Application of English Law.

No. 24

Reply by Crown  
Counsel  
9th July 1947 -  
continued.

Conspiracy: Sec. 49. Previous agreement not  
essential.  
Acting together with a common purpose.  
There must be guilty knowledge.

Accomplices: R. v. Baskerville 1916 2 K.B. p. 658.  
667.

Evidence in corroboration must be in-  
dependent testimony connecting or tend-  
ing to connect him with the crime. That  
tends to show that the story of the  
accomplice that the accused committed  
the crime is true.

10

Sufficient if merely circumstantial of  
his connection with the crime.

Some of the Witnesses are accomplices.  
Look for corroboration in respect of each  
accused. Did each accused take part in  
disposal of the property and did he know  
it was stolen.

20

In receiving not necessary to bring  
direct evidence of theft. Can be proved  
circumstantially. R. v. Fuschillo 1940  
2 A.E.R. 489. 490. Charles J. Proof of  
theft and guilty knowledge circumstantial  
proof.

1st Accused:

Yaro an accomplice, also Bosompra.  
Dangerous to convict on evidence of  
accomplices.

30

Their evidence corroborated. Khaki had  
been stolen from B.O.D. at which 1st  
accused the watchman on night duty at  
material time.

2nd Accused:

Says khaki delivered before daylight.  
Admits Bosompra brought it. Admits 1st  
sent it. Knew to be brought by canoe  
at night. Admits got £100. 77 bundles  
38 yards each.

40

3rd Accused:

Evidence against him is partly that of  
Yaro, but he corroborated it partly him-  
self. Were Annan and his mates accom-  
plices. Submits not. Boateng makes

clear Annan and mates didn't know object of 1st trip. Sick person. Is payment of £2 sufficient to conclude that Annan an accomplice. 1st trip 11 p.m. 2nd 5 a.m. 3rd knew goods delivered in meantime. Heard pretence of patient told to Annan. 3rd knew £100 paid for the cloth.

In the Supreme Court of the Gold Coast.

\_\_\_\_\_  
No. 24

Reply by Crown Counsel  
9th July 1947 -  
continued.

10 4th Accused:

Kunadu may be an accomplice. Assume he was. Khaki offered to him by Senior official. Why should want to implicate Boateng. 4th admits he introduced Kunadu.

Incident at Police Station. The £279. Francis' evidence in Cross-Examination. Accused entitled to benefit of doubt. Submits all accused guilty.

\_\_\_\_\_  
No. 25.

No. 25

20

COURT NOTES

Court Notes  
9th July 1947

2 p.m.

Summed up to Assessors. At early stage of summing up Plange points out that Section 284 has two subsections and asks leave to amend both counts by adding (1) after 284.

Benjamin:

I object to amendment at this late stage. It would embarrass the accused.

Plange:

30 Section 231(2) of Cap. 10 applies.

Benjamin:

I have nothing to add.

1st Accused:

No objection.

Court:

I consider that the amendment can be made at this stage without imposing any injustice on the accused.

Amendment allowed.

In the Supreme  
Court of the  
Gold Coast.

Benjamin:

I am not asking for any terms.

No. 25  
Court Notes  
9th July 1947  
- continued.

Summing Up continued.

Assessors retire.

Assessors return.

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No. 26

OPINIONS OF ASSESSORS

No. 26

Opinions of  
Assessors.

9th July 1947.

Opinions of Assessors:

<u>Mr. J.C. Baddoo:</u>	1st Accused Guilty on 1st Count Not Guilty on 2nd Count.	10
	2nd Accused Guilty on 1st Count Guilty on 2nd Count.	
	3rd Accused Not Guilty on 1st Count Not Guilty on 2nd Count	
	4th Accused Guilty on 1st Count Guilty on 2nd Count	
<u>Mr. Green:</u>	1st Accused Guilty on 1st Count Guilty on 2nd Count	20
	2nd Accused Guilty on 1st Count Guilty on 2nd Count	
	3rd Accused Not Guilty on 1st Count Not Guilty on 2nd Count	
	4th Accused Guilty on 1st Count Guilty on 2nd Count	
<u>Mr. Williams:</u>	1st Accused Guilty on 1st Count Guilty on 2nd Count	30
	2nd Accused Guilty on 1st Count Guilty on 2nd Count	

3rd Accused Not Guilty on 1st  
Count  
Not Guilty on 2nd Count

4th Accused Guilty on 1st Count  
Guilty on 2nd Count.

In the Supreme  
Court of the  
Gold Coast.

No. 26

Opinions of  
Assessors  
9th July 1947  
- continued.

No. 27.

No. 27

COURT NOTES OF VERDICT

Court Notes  
of verdict.

9th July 1947

Court:

10 I accept the opinions of the Assessors as to  
the 1st accused on the 1st Count and as to the 2nd  
3rd and 4th on both Counts. I accept the opinions  
of the majority of the Assessors as to the 1st  
Accused on the 2nd Count and I find 1st, 2nd and  
4th Accused Guilty on both counts and 3rd Accused  
Not Guilty on both Counts. 3rd Accused is dis-  
charged.

Allocutus:

1st Accused: I have nothing to say.

2nd Accused: I have nothing to say.

20 4th Accused: I have nothing to say.

Benjamin: 4th Accused will suffer in losing  
his appointment in Government.

Plange: 1 and 4 No previous conviction.  
2nd a conviction 12 years ago.

Sentence: 1st Accused: 2 years I.H.L. on each  
count concurrent.

2nd Accused: 1 year I.H.L. on each  
Count concurrent.

30 4th Accused 2 years I.H.L. on each  
Count concurrent.

(Sgd) A.C. Smith, J.

Assessors released until 14th.

(Sgd) A.C. Smith, J.

In the Supreme  
Court of the  
Gold Coast.

No. 28.

NOTE OF SUMMING-UP AND SENTENCE.

No. 28

R e x

Note of Summing  
up and sentence

v.

9th July 1947.

1. Salifu Moshie,
2. Yaro Deman,
3. Francis Okwuiddegbe,
4. Emmanuel Yaw Boateng.

Gentlemen Assessors,

There are four accused before you, and they are each charged on two counts. In the first count they are charged with Conspiracy to dishonestly receive in that they on divers dates between the 19th of February, 1947, and the 7th of April, 1947, conspired together and with other persons unknown to dishonestly receive stolen goods knowing them to have been stolen contrary to sections 49 and 284 of the Criminal Code. In the second count they are charged with Dishonestly Receiving in that they on or about the 23rd of March, 1947, did dishonestly receive 1,360 yards of Khaki Drill knowing the same to have been stolen contrary to section 284 of the Criminal Code.

"Conspiracy" is defined in section 49 of our Code in these words:

"If two or more persons agree or act together with a common purpose for or in committing or abetting a crime, whether with or without any previous concert or deliberation, each of them is guilty of conspiracy to commit or abet that crime, as the case may be".

You will thus see that in order to establish the charge of conspiracy against the accused the Crown has to prove that the four accused, or some of them, agreed and acted together in pursuit of a common purpose.

(Crown Counsel at this stage asks leave of the

Court to amend the charges in the information by adding "(1)" after the figures "284" appearing in both counts. Counsel for defence objects to the amendment stating that the application is belated and that it would embarrass the accused. Court states that the amendment can fairly be made without any injustice to the accused, and puts it to Counsel for defence if he would like an order made upon any particular terms. Counsel for defence replies that he would not ask for any particular terms.

In the Supreme Court of the Gold Coast.

—  
No. 28

Note of Summing up and sentence  
9th July 1947 -  
continued.

By Court: The application is granted, and the information is amended by adding "(1)" to the figures "284" appearing in the charges).

Summing-up continued:

As I was saying. "Conspiracy" is defined in section 49 of the Criminal Code as two or more persons agreeing or acting together with a common purpose and the object of that common purpose must be to commit a crime or to abet one. In this case the crime alleged is that of dishonestly receiving stolen property. "Receiving" is defined in section 43 of the Code in the following words:

"A person is guilty of dishonestly receiving any property which he knows to have been obtained or appropriated by any crime, if he receives, buys, or in any manner assists in the disposal of such property otherwise than with a purpose to restore it to the owner".

To establish the offence of receiving the Crown has to satisfy you that the accused either received, that is, took into their possession or bought or in any manner assisted in the disposal of the property alleged to have been stolen, and it has also to prove that the property was obtained or appropriated by a crime. In this case it is alleged that the goods were stolen property, and it has to be proved that the person or persons who received or bought or helped to dispose of the goods knew at the time that they had been obtained or appropriated by means of a crime.

Before going on to deal with the evidence in the case, there are a number of other matters upon which I shall have to direct you. The first is the universal rule in all criminal matters that the

In the Supreme  
Court of the  
Gold Coast.

—  
No. 28

Note of Sum-  
ming up and  
sentence -  
9th July 1947  
- continued.

onus of proving that the accused committed the offences lies on the Crown, and before they can be convicted of those offences the facts must be proved beyond reasonable doubt, and if the standard of proof laid before you fails to satisfy you of the guilt of the accused with that degree of certainty and leaves you in doubt, then you are bound to give to the accused the benefit of any such doubt that you may have in your minds. On the other hand if the standard of proof convinces you beyond reasonable doubt of the existence of the necessary facts then it is your duty to act upon such facts and say that the accused are guilty.

10

The second point is this: the four men before you are each charged on two different counts, and subject to some modification in regard to the conspiracy count, each of these accused is entitled to have his case considered separately in regard to each of the two counts and to have a separate verdict in respect of it. The verdicts need not necessarily be the same.

20

The next point upon which I have to direct you is the question of accomplices. Both Counsel have addressed you and have mentioned the point and I must also do the same. The rule of law is that it is a dangerous thing to convict anybody on the uncorroborated evidence of an accomplice, but if you believe the accomplice and particularly if his evidence is corroborated in some material particular implicating the accused in the commission of the crime, notwithstanding that the witness is an accomplice, you are entitled to act upon such evidence. You noticed that three of the accused went into the witness box and gave evidence and they all mentioned one or more of their co-accused. Exactly the same rule of law as I have explained to you about accomplices does not apply to accused persons who give evidence about their co-accused, but the basic reason for approaching an accomplice's evidence with caution applies equally well to that of an accused person for it is natural that if several persons are accused of doing something one or more of them are apt to try and put the blame on the others in order to get himself off; that is the real reason for the rule with regard to the evidence of accomplices.

30

40

The next point upon which I must direct you is this: all the accused gave statements to the

10 police which were written down and have been put in evidence before you. Some of them are long statements, others are quite brief, but you must remember that what each accused said to the Police (and those statements I presume were given apart from each of the other accused) is evidence only against the particular accused giving the statement, and if in the course of that statement he mentioned his co-accused what he said about them is not evidence against them though it is, in so far as it affects himself, evidence against him.

20 I return to the question of conspiracy. It is often difficult or impossible to prove the terms of any agreement between people by direct proof. It is usually a matter of inference from what they did. It is not necessary for people to be acting together that they should necessarily be in direct contact with one another. So long as two or more persons are so acting that the only inference is that they must have agreed to act together even though they are not in direct contact you are entitled to come to the conclusion that there was a conspiracy between those persons, and the mere fact, as it has been argued here, that there is no evidence that the first and the fourth accused ever came into direct contact does not necessarily show that they could not have conspired together.

30 One more point on the question of receiving: if you are satisfied in regard to any particular accused that he either received the goods, that is, got them into his possession or bought them or assisted in disposing of them, you may find, in the absence of any explanation from him, that he must have known that they were stolen goods, but he may give an explanation and if he gives an explanation which you think might reasonably be true and it is consistent with his innocence even though you may not be prepared to go so far as to say that it is true, you are entitled to acquit him for the onus lies on the Crown to prove the 40 guilt of the accused and not on the accused to prove his innocence.

Although there are two charges against the accused they both relate to different aspects of the same transaction. I think it would be more convenient in reviewing the evidence if I dealt with the two counts together so far as the main story is concerned, but before I deal with that perhaps I had better develop a little further this

In the Supreme Court of the Gold Coast.

—  
No. 28

Note of Summing up and sentence  
9th July 1947  
- continued.



In the Supreme  
Court of the  
Gold Coast.

No. 28

Note of Sum-  
ming up and  
sentence  
9th July 1947  
- continued.

question of accomplices. All the witnesses who have given evidence, it has been suggested to you and I support that suggestion that you should regard as accomplices: it is suggested that Bosomprah, the fisherman and his mate are accomplices, also Annan and his mate, but it depends upon the view which you take of their action Annan, according to him, and his mate assisted in disposing of the goods. The question is, did they know that they were dishonestly obtained or ought they to have realised that they were. If you think that the circumstances under which these two journeys, particularly the second, were made by Annan, the places where he took the goods, the time of the day or night when he carried them, the amount he was paid for carrying them (I think you will agree with me that £2 was a fairly large sum to pay for one lorry trip for certainly not more than three miles for one load of goods) if you think these factors impress you that Annan knew or probably knew that these goods were stolen then treat him and his mate as accomplices. You will treat Kunadu also as an accomplice. The visit of Boateng at 11 o'clock in the night apparently to tell him when the stuff was coming, the delivery somewhere about sunrise in the morning and the price he paid for the goods - he says he paid 26/- for a 12 yard piece of khaki - these facts may lead you to believe that Kunadu knew or that if he stopped to think ought to have known that these goods must have been dishonestly obtained. That leaves out the only people who are not accomplices - the two policemen and Mr. Adams of the B.O.D. and the night watchman who was on the other shift, so it is very important for you to examine the evidence to see how far the evidence of these witnesses that I have mentioned is corroborated by what I might call untainted evidence (and I include in that category the evidence of the accused persons themselves) and can be accepted. So far as the defence is concerned, the first accused has contented himself with a denial "I know nothing about it". That is what he said to the police and in this Court he has told us that he relies on that statement. The other three accused, two of them, the second and third, gave long statements to the police in effect denying and all these three gave lengthy evidence in this Court. What I understand the second, third and fourth to say is this: we did have a hand in the dealings with this cloth. There was this cloth brought to Nkontompo and we did have something to do with getting it

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disposed of to Kunadu, but we did not know it was stolen and we had no reason to suspect that it was. So far as we are concerned, we were acting quite honestly and openly: that in brief is their statement.

In the Supreme Court of the Gold Coast.

—  
No. 28

10 As to the first accused we have it in evidence from his opposite number the head watchman of the other shift that he was the head watchman on duty on the night shift during the week which included the 22nd and 23rd of March, and we have had it given in evidence by Yaro that the first accused came to him and said he had khaki to sell and asked Yaro if he would buy it. Yaro said he would not, and he undertook to find a purchaser. We have the evidence of the fisherman who said that he was engaged by Yaro to go by night round the breakwater in Sekondi to bring some khaki and that they agreed on £8 for the trip, and he was to go to a spot pointed out to him by the first ac-  
20 cused. According to Bosomprah and his mate when they arrived at the appointed spot they saw the first accused and two others with two or three large bales which were put on the canoe and the first accused told them to take them to Nkontompo, which they did.

Note of Sum-  
ming up and  
sentence  
9th July 1947  
- continued.

30 There is one more man who you may possibly think is an accomplice, but you may not. I refer to the man Amadu Kado who helped in unloading the canoe when it arrived. I do not think anybody suggested that he was not just a casual hand called to unload the canoe and that he had anything to do with the transaction. You may consider him untainted.

40 So far as the first accused is concerned the other accused say that the khaki was taken in Annan's lorry to the Akan Drug Store and delivered to Kunadu: Yaro said that after he had got the money, £100, he took it to Salifu and that Salifu gave him a dash of £2 and another £2 for Francis and that he also gave Yaro £8 for Bosomprah the fisherman. So much for the part the first accused played in the transaction. Incidentally the driver's mate said that he went with Annan and Boateng and Francis to Nkontompo on the first trip and that he saw Bosomprah prowling around the beach. There is also the evidence of Mr. Adams who states that he inspected the shed over which the first accused was supposed to stand guard on the 17th-18th of February and found it intact:

In the Supreme  
Court of the  
Gold Coast.

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No. 28

Note of Sum-  
ming up and  
sentence  
9th July 1947  
- continued.

that early in April, at his next inspection he found that there was a hole in the roof where a glass had been broken and that it was covered with a tarpaulin: that when the shed was opened he found that some stuff missing from the shed - a quantity of khaki drill disappeared from the shed over which the first accused was the watchman. A number of witnesses, some of them accomplices, say that the first accused was the person who told Bosomprah about the stuff at the B.O.D., and Yaro said he got the money. Under these circumstances do you consider that these goods were stolen property? Are you satisfied that they were stolen goods which were disposed of and that the first accused had them in his possession or assisted in disposing of them? Did he know that they were stolen. If these facts are established beyond reasonable doubt and you are satisfied that he was acting in concert with the others in the disposal of the goods then he is guilty of the conspiracy and receiving and he can be convicted. On the other hand if you are doubtful about him or feel that the evidence of these accomplices is not sufficiently corroborated and you are left in doubt then he is entitled to be acquitted.

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As to the second accused he has told us that Salifu offered him the stuff which he said he had bought at an auction. He admits that the stuff was delivered at his shop early in the morning, brought in a canoe by the fisherman. He has told us that he went with the lorry, that he took the stuff to the Drug Store and went back again with Francis at 8 o'clock and Kunadu paid him £100 and that at 3 o'clock Salifu and the watchman came for the money and he handed over the £100 less the £2 to him and £8 to the fisherman. Did he know that the cloth was stolen stuff. So far as he is concerned I will read his statement to the police:

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(Statement read to Assessors).

I should be surprised if a lorry hired to bring stuff of that quantity from wherever it was by day would cost that much. What light does that throw on Yaro's knowledge that these goods were dishonestly obtained? That is his own story which he told to the police. Did he or was he acting with guilty knowledge or as an honest trader. If he was acting with guilty knowledge and in concert with the others in this unlawful enterprise then he is guilty of receiving the goods knowing them to have been stolen.

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One more point about Yaro. I have read a portion of his evidence in Court to you, and you are also entitled to take into consideration his demeanour in the witness box and decide how truthful a person he was, and whether he stood up well to cross-examination. You are entitled to use your own eyes and ears and assess his evidence.

In the Supreme Court of the Gold Coast.

—  
No. 28

Note of Summing up and sentence  
9th July 1947  
- continued.

10 I now turn to Francis. Francis gave evidence, and I think you will agree with me that in many respects he spoke frankly and directly. He had also given a statement to the Police and in comparing it with his evidence in Court here you will find that he has told substantially the same story that he told to the Police though with some variations. Now what does Francis say? He admits that he knew Annan: that he had known him for some time and he tells us that he knew Boateng also who was employed as Welfare Officer in the Social Service.

(Judge reads evidence of Francis to jury)

20 I think that the position of the way they travelled back corroborates the detail given by the Driver Annan and his mate.

That was his evidence in Court. Let us see how it fits in with the statement which he gave to the Police.

(Statement of Francis to Police read to jury)

30 Do you think that so far as Francis was concerned he knew that this khaki was stolen property? He admits that he helped in disposing of it, but are you satisfied that he knew at the time that it was stolen property from the circumstances as described by him - a man like Salifu with a large quantity of khaki drill, the price - whether he knew the price at the time he was handling the goods, the time of the morning when he was sent out - is there a reasonable conclusion that he knew they were stolen goods? If so then he is guilty of receiving, but if you think you have doubts about it then you must acquit him. If you  
40 find that he was acting together with the others for the purpose of disposing of this property knowing the goods to have been stolen then he is guilty also on the conspiracy count.

I now come to the fourth accused. He gave a very brief statement to the police when he was

In the Supreme  
Court of the  
Gold Coast.

No. 28

Note of Sum-  
ming up and  
sentence  
9th July 1947  
- continued.

arrested to the effect though not exactly denying the charges. He says "I am not prepared to say anything. I reserve my statement". A person is entitled to say that when he is charged. In his evidence he admits that he was put on to this cloth by Francis; that he went out to Nkontompo to look for Yaro. He confirms Annan's story that he paid 10/- for that trip; that he paid it with money which Francis gave which he says he got from Kunadu. He says he did see Francis and according to him he had nothing more to do with it. He simply introduced Kunadu to the people who were willing to sell the stuff and left it to Kunadu. If this is true then obviously he cannot be guilty, but is that true? Does the evidence prove something different? He confirms Annan's story that he wanted to go to Nkontompo and was looking for a lorry; that he sounded the horn of a car to attract the driver's attention whereupon one of Annan's mates went up to him and as a result he engaged Annan's lorry to take him to Nkontompo. In that story he corroborates him as to how Annan came to be engaged in the first instance to Boateng. It is true that the driver Annan and his mate say that on that first trip there were Boateng and Francis on the lorry; 1st accused says that they went with nobody else. Francis said that after the trip to Nkontompo Boateng went with them to Kunadu's store. Francis says it was Boateng who sent him next morning to go with the lorry to get the stuff. Yaro says Boateng paid him £100; the driver says it was Boateng who paid not only the 10/- for the first trip, but the £2 for the second trip also. Francis says that after they had delivered the goods at Kunadu's store they went to report to Boateng; it was then that he got the £2 for the trip. Kunadu says Boateng approached him over his cloth and that after the cloth was delivered early in the morning Boateng came to his store and checked the cloth and found 68 pieces of approximately 38 yards; that Boateng paid £190 at that time and that he sent a further £89 by Mensah about half an hour later. If Kunadu is right then it was round about the same time that he paid Boateng the money that Yaro says Boateng paid him then you may consider that there is some connection between the two stories. As to whether Boateng had guilty knowledge or not; if you think that the evidence shows that he merely put the parties into touch with one another and that Kunadu bought the khaki at 26/- per 12 yard piece which you may agree would be about the market

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price about that period - at Tarkwa which is not so far away from Sekondi the price is said to have been 25/- to 28/- per piece - then you will come to the conclusion that he had no guilty knowledge. On the other hand if you believe what Yaro says that the price obtained was £100 that is to say less than 1/- per yard and that Boateng resold it to Kunadu at more than double what he had paid for it then you should have solid grounds for finding conclusively that he knew at the time he was handling the khaki that it was stolen property. He admits that he did give some assistance in disposing of the goods and if you think that at the time he was giving such assistance he knew that the goods were stolen property then you should find him guilty of receiving. Also if in so doing he was acting in concert with the others for the purpose of disposing of these stolen goods then he is guilty also on the conspiracy count, but as I have already told you, if you have any doubts in your minds you have to resolve such doubts in favour of the accused.

I think that is all I can usefully comment on in this case. Are you ready to give your opinions now.  
(Assessors retire to consider what opinions to give).

Opinions of Assessors recorded:

I accept the opinions of the assessors as to the first accused on the second count and as to the second, third and fourth on both counts. I accept the opinion of the majority of the assessors as to the first accused on the second count. I find the first, second and fourth accused guilty on both counts. I find the third accused not guilty and he is discharged.

Allocutus: As recorded.

I treat each of you as a first offender, not that I am going to bind you over. This is a serious offence in which you have been involved. As to the first accused you abused the privileges which you had in your employment and assisted in making away with some of the stores which you were paid to guard. I hope you did not learn this in the army. Further I treat you as a first offender and will not give you the maximum this time. You will do two years' imprisonment with hard labour on each count to run concurrently.

In the Supreme Court of the Gold Coast.

No. 28

Note of Summing up and sentence  
9th July 1947  
- continued.

In the Supreme  
Court of the  
Gold Coast.

—  
No. 28

Note of Sum-  
ming up and  
sentence  
9th July 1947  
- continued.

2nd Accused: So far as I understand it you did not get much out of this unlawful transaction. You not having been in any trouble for a very long time, I sentence you to one year's imprisonment on each count to run concurrently.

4th Accused: You are a man who ought to know better than to have done what you did. The evidence is that you made a very handsome profit out of this transaction. A man of your calibre ought to be the kind of man to stop men of the calibre of your associates in the dock, but instead of that you were apparently quite willing to assist them and in a sense to exploit them as you made more money than they did. You will doubtless lose your employment with Government after Government has spent considerable sums of money in training you to perform your duties efficiently, but in view of the fact that this is the first time that you have been convicted you will do two years' imprisonment with hard labour on each count to run concurrently. 10 20

(Sgd) A.C. Smith.

In the West  
African Court  
of Appeal

IN THE WEST AFRICAN COURT OF APPEAL

—  
No. 29

No. 29  
Notice of  
appeal by  
Emmanuel Yaw  
Boateng

NOTICE OF APPLICATION FOR LEAVE TO APPEAL  
AGAINST A CONVICTION BY EMMANUEL YAW  
BOATENG.

16th July 1947

—  
IN THE WEST AFRICAN COURT OF APPEAL

REX versus SALIFU MOSHIE, YARO DEMAN,  
FRANCIS OKWUI DEGBE and  
EMMANUEL YAO BOATENG. 30

TO THE REGISTRAR OF THE WEST AFRICAN COURT OF  
APPEAL, VICTORIABORG, ACCRA.

I, EMMANUEL YAO BOATENG having been convicted of the offence of (1) Conspiracy to dishonestly receive (2) Dishonestly receiving, and now being a

prisoner in His Majesty's Prison at James Fort, Accra, and being desirous of appealing against my said conviction, DO HEREBY GIVE YOU NOTICE that I hereby apply to the Court for leave to appeal against my said conviction on the grounds hereinafter set forth.

In the West African Court of Appeal

No. 29

Notice of appeal by Emmanuel Yaw Boateng  
16th July 1947  
- continued.

(Sgd) Emm. Yao Boateng  
Applicant.

10 Signature and address of witness  
attesting mark.

Dated this 16th day of July 1947.

PARTICULARS OF TRIAL AND CONVICTION

1. Date of trial. 9th July, 1947
2. In what Court tried. Criminal Assizes holden at Accra.
3. Sentence. Two (2) Years I.H.L.

GROUND'S OF APPLICATION.

20 1. That verdict is unreasonable and unsupported having regard to the evidence adduced at the trial.

1. If you desire to be present when the Court considers your present application for leave to appeal, states -

sic

- (a) Whether or not you are legally represented, and
- (b) the grounds on which you submit that the Court should give you leave to be present thereat.

30 (a) Legally represented.  
(b) Nil.

2. The Court will, if you desire it, consider your case and argument if put in writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing set out here as fully as you think right your case and argument in support of your appeal.

Nil

40 State if you desire to be present at the final hearing of your appeal.

No.



In the West African Court of Appeal

No. 30.

ADDITIONAL GROUNDS OF APPEAL

No. 30

Additional Grounds of appeal.

16th July 1947

NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST SENTENCE BY EMMANUEL YAW BOATENG.

IN THE WEST AFRICAN COURT OF APPEAL

REX versus SALIFU MOSHIE, YARO DEMAN FRANCIS OKWUI DEGBE and EMMANUEL YAO BOATENG.

TO THE REGISTRAR OF THE WEST AFRICAN COURT OF APPEAL, VICTORIABORG, ACCRA

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I, EMMANUEL YAO BOATENG having been convicted of the offence of (1) Conspiracy to dishonestly receive (2) Dishonestly receiving, and now being a prisoner in His Majesty's Prison at James Fort DO HEREBY GIVE YOU NOTICE that I desire to apply to the Court for leave to appeal against the sentence of Two (2) Years imprisonment hard labour passed upon me for the said offence on the following grounds:-

- 1. That the sentence is too excessive.

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(Sgd) Emm. Yao Boateng Applicant.

Signature and address of witness attesting mark

Dated this 16th day of July, 1947.

PARTICULARS OF TRIAL AND CONVICTION.

- 1. Date when sentence passed. 9th July 1947
- 2. In what Court tried. Criminal Assizes holden at Accra.

1. If you desire to be present when the Court considers your application for leave to appeal, state

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- (a) Whether or not you are legally represented, and

(b) the grounds on which you submit that the Court should give you leave to be present thereat.

- (a) Legally represented.  
(b) Nil.

10 2. The Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right your case and argument in support of your appeal. Nil.

State if you desire to be present at the final hearing of your appeal. No.

In the West African Court of Appeal

No. 30

Additional Grounds of Appeal  
16th July 1947  
- continued.

No. 31

COURT NOTES

17th September, 1947.

20 In the West African Court of Appeal, Gold Coast Session, held at Victoriaborg, Accra, on Wednesday the 17th day of September, 1947: before Their Honours James Henley Coussey, J. (Presiding) Charles Arthur Hooper and John Jackson, J.J., Gold Coast.

(7) 36/47

R E X

v.

EMMANUEL YAW BOATENG.

Application by appellant for adjournment.

By Court:

As Appellant may not have had sufficient time since the Record of Appeal was transmitted to instruct Counsel, application is granted and the appeal is adjourned to the next Gold Coast Session.

Sgd. J. Henley Coussey  
C.A. Hooper  
J. Jackson

No. 31

Court Notes.

17th September 1947.

In the West African Court of Appeal.

No. 32

FURTHER GROUNDS OF APPEAL

No. 32.

IN THE WEST AFRICAN COURT OF APPEAL  
GOLD COAST SESSION.

Further Grounds of Appeal.

REX, RESPONDENT

12th November 1947.

v.

EMMANUEL YAO BOATENG, APPELLANT

FURTHER GROUNDS OF APPEAL

- 1. THAT the learned trial Judge misdirected himself and the Assessors on the issue of 'guilty knowledge'. 10
- 2. THE learned trial Judge misdirected himself and the Assessors by suggesting matters as being corroborative which were in fact not, and whereas, in fact, there was no corroboration at all.
- 3. THE case for the defence was not put to the Assessors in a way as to ensure their due appreciation of the value of the evidence.

Dated at Kadore Chambers, Accra, this 12th day of November, 1947. 20

Sgd. Koi Larbi  
COUNSEL FOR APPELLANT.

THE REGISTRAR,  
WEST AFRICAN COURT OF APPEAL  
ACCRA

AND

TO THE ABOVE-NAMED RESPONDENT  
HIS SOLICITOR OR AGENT,  
ACCRA. 30

Certificate of Service.

Upon the 12th day of November, 1947, at 11.30 a copy of this Further Grounds of Appeal was served by me upon The Hon. the Attorney-General through his Chief Clerk Mr. B.S. Okunor personally at Victoriaborg, Accra.

Sgd. J.O.M. Aryee  
BAILIFF  
12/11/47

No. 33

ADDITIONAL GROUNDS OF APPEAL

In the West African Court of Appeal

IN THE WEST AFRICAN COURT OF APPEAL  
GOLD COAST SESSION

No. 33

REX, RESPONDENT

Additional Grounds of Appeal.

v.

15th November 1947.

EMMANUEL YAO BOATENG, APPELLANT.

ADDITIONAL GROUNDS OF APPEAL.

- 10 4. The learned trial Judge failed to direct the Assessors what in law constituted 'possession' on the part of the appellant.
- 5. The learned trial Judge misdirected himself and the Assessors on the law applicable to the charge of 'Dishonestly receiving stolen goods knowing them to have been stolen'.

Sgd. Koi Larbi  
COUNSEL FOR APPELLANT.

20 THE REGISTRAR,  
WEST AFRICAN COURT OF APPEAL,  
ACCRA

AND

TO THE ABOVE-NAMED RESPONDENT  
HIS SOLICITOR OR AGENT,  
ACCRA.

Upon the 15th day of November, 1947, at about 11.8 a.m. a copy of this Additional Grounds of Appeal was served by me upon The Hon. Attorney-General through his Chief Clerk B.S. Okunor personally at Victoriaborg, Accra.

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Sgd. T.D. Epu  
Bailiff  
5/12/47

In the West African Court of Appeal.

No. 34.

COURT NOTES

No. 34.

17th November, 1947.

Court Notes.  
17th November 1947.

In the West African Court of Appeal, Gold Coast Session, held at Victoriaborg, Accra, on Monday the 17th day of November, 1947: before Their Honours Sir Walter Harrigan, C.J. Gold Coast (President), Sir John Verity, C.J., Nigeria, and John Alfred Lucie-Smith, O.B.E., C.J., Sierra Leone.

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Criminal Appeal

(2) 36/47

REX, Respondent

v.

EMMANUEL YAW BOATENG, Appellant.

Applications for leave to appeal against (a) conviction and (b) sentence.

Mr. Koi Larbi for appellant.

Mr. Plange for respondent.

Leave to appeal is granted.

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Mr. Koi Larbi -

G.1

G.2

G.3, 4, 6.

G.4

Mr. Plange called upon on last point i.e. p. 60 where Judge says Yaro and Boateng resold to Kunadu.

Sub-Inspector Amaning

Mr. Larbi replies.

Judgment Reserved.

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Sgd. Walter Harragin.

No. 35.

J U D G M E N T

In the West African Court of Appeal.

No. 35

Judgment.

21st November 1947.

21st November, 1947.

In the West African Court of Appeal, Gold Coast Session, held at Victoriaborg, Accra, on Friday the 21st day of November, 1947: before Their Honours Sir Walter Harragin, C.J., Gold Coast (President), Sir John Verity, C.J., Nigeria, and John Alfred Lucie-Smith, O.B.E., C.J., Sierra Leone.

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Criminal Appeal  
No. 36 of 1947

R e x, Respondent

v.

Emmanuel Yao Boateng, Appellant.

JUDGMENT - Read by the President.

There is no substance in any of the grounds of appeal as submitted by the appellant, but in the course of the argument, it was noted that the learned Judge in his summing-up at page 60 when considering the question of guilty knowledge on the part of the appellant makes the following statement:-

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"On the other hand if you believe what Yaro says that the price obtained was £100 that is to say less than 1/- per yard and that Boateng resold it to Kunadu at more than double what he had paid for it then you should have solid grounds for finding conclusively that he knew at the time he was handling the khaki that it was stolen property".

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Yaro in his statement to the Police certainly indicates something of this description, but this is not evidence against the appellant and when Yaro gave evidence in the witness-box he did not refer to this transaction. Had the matter rested there, it might have been fatal, but it is fortunate for the Crown that there is other reliable

In the West  
African Court  
of Appeal.

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No. 35

Judgment  
21st November  
1947 -  
continued.

evidence which supports this statement which no doubt through inadvertence, the learned Judge omitted. We refer to the evidence of Sub-Inspector Amaning and a man by the name of Musa Kado both of whom state that the appellant asked Kado at the Station if he Kado had been present when the appellant paid £200 to Yaro. This suggestion of the appellant clearly shows that he was intimately concerned in the transaction which has now turned out to be highly criminal and corroborates the evidence of Kunadu that he paid the appellant more than £200.

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In these circumstances, we are of the opinion that the misdirection of the learned Judge referred to above could have caused no miscarriage of justice. The appeal is dismissed.

(Sgd) WALTER HARRAGIN  
PRESIDENT

JOHN VERITY  
CHIEF JUSTICE, NIGERIA. 20

J. LUCIE-SMITH  
CHIEF JUSTICE, SIERRA LEONE.

Counsel:

Mr. Koi Larbi for Appellant.

Mr. J.S. Manyo-Plange, Crown Counsel,  
for Crown.

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No. 36.

COURT NOTES

In the West  
African Court  
of Appeal.

No. 36

Court Notes.

21st November, 1947.

21st November  
1947.

In the West African Court of Appeal, Gold Coast Session, held at Victoriaborg, Accra, on Friday the 21st day of November, 1947: before Their Honours Sir Walter Harragin, C.J., Gold Coast (President), Sir John Verity, C.J., Nigeria, and John Alfred Lucie-Smith, O.B.E., C.J., Sierra Leone.

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(2) 36/47

Criminal Appeal

R e x, Respondent

v.

Emmanuel Yaw Boateng, Appellant.

Application for leave to appeal against sentence.  
Mr. Koi Larbi for Appellant.

ORDER -

Leave to appeal against sentence is refused.

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Sgd. Walter Harragin,  
PRESIDENT.

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In the Privy  
Council

No. 37.

IN THE PRIVY COUNCIL

No. 37

ORDER IN COUNCIL GRANTING SPECIAL LEAVE  
TO APPEAL IN FORMA PAUPERIS.

Order in Coun-  
cil granting  
special leave  
to appeal in  
forma pauperis  
2nd June 1948.

(L.S.)

AT THE COURT AT BUCKINGHAM PALACE

The 2nd day of June, 1948

PRESENT

THE KING'S MOST EXCELLENT MAJESTY

LORD PRESIDENT  
EARL OF LISTOWEL  
LORD PAKENHAM

MR. SECRETARY EDE  
MR. DALTON

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WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 25th day of May 1948 in the words following, viz:-

"WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of Emmanuel Boateng in the matter of an Appeal from the West African Court of Appeal between the Petitioner Appellant and Your Majesty Respondent setting forth (amongst other matters): that the Petitioner was convicted of offences of conspiracy dishonestly to receive stolen goods under sections 49 and 284 (I) of the Criminal Code (Gold Coast) and of dishonestly receiving under section 284 (I) of the said Code at the Assizes of the Supreme Court at Accra on the 9th July 1947 and was sentenced to two years' rigorous imprisonment on each count the sentences to run concurrently: that the trial was conducted by the Acting Chief Justice and three Assessors: that on Appeal the conviction and sentence were upheld by the West African Court of Appeal at Victoriaberg Accra on the 21st November 1947: that the Petitioner submits (i) that the Trial Judge delivered no Judgment within the meaning of section 286 of the Code of Criminal Procedure (ii) that the conviction was based solely on the opinions

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of the Assessors who were misdirected as to the admissibility of a statement made by an accomplice to the police and not in Court (iii) that the Court of Appeal acted contrary to law in upholding the conviction on the basis of a statement said to have been made by the Petitioner to the police and which was properly omitted from the Judge's summing up: And humbly praying Your Majesty in Council to grant the Petitioner special leave to appeal in forma pauperis from the Judgment of the West African Court of Appeal dated the 21st November 1947 and for such other relief as may to Your Majesty in Council appear proper:

In the Privy Council

—  
No. 37

Order in Council granting special leave to appeal in forma pauperis  
2nd June 1948  
- continued.

"THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal in forma pauperis against the Judgment of the West African Court of Appeal dated the 21st day of November 1947:

"AND Their Lordships do further report to Your Majesty that the authenticated copy under seal of the Record produced by the Petitioner upon the hearing of the Petition ought to be accepted (subject to any objection that may be taken thereto by the Respondent) as the Record proper to be laid before Your Majesty on the hearing of the Appeal."

HIS MAJESTY having taken the said Report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor or Officer administering the Government of the Gold Coast for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

E.C.E. LEADBITTER.

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Exhibits

By 2nd 3rd and  
4th accused.

Exhibit "A"

Deposition of  
Isaac Garnet  
Annan to Police

17th April 1947

E X H I B I T S

By 2nd 3rd and 4th accused.

DEPOSITION of ISAAC GARNET ANNAN to POLICE.

FOURTHLY THE SAID ISAAC GARNET ANNAN being s.o.b.  
in English language states as follows:

I am a Lorry driver living at Sekondi. I drive lorry No. AC.982. On Sunday 23/3/1947, at about 11 p.m. I was in bed. I heard a knock at my door. I questioned intruder and opened door and I found my mates there, Coleman and Mansu - that is Coleman; (Ebenezer Johnstone Coleman - identified). That is Mansu (Arthur Kwamina Mansu - identified). Coleman told me something and I then went with Coleman and Mansu to Messrs. Bartholomew, Sekondi. When we went there I met the 6th accused and 5th accused and another I cannot remember. 6th accused said he wanted my lorry to go to Nkontompo about three miles from Sekondi to go and convey a patient back to Sekondi. I agreed. 6th accused asked the charge and I said it was too late and if he agreed to 10/-, I would go and he agreed. 6th accused came and sat by me in the front. Mansu and Coleman and two others sat at the back. 5th accused sat at the back. None of the other accused were there. When we got between Nkuasi and Essaman 6th accused told me to stop, and I did so. A man was going on foot along the road and 6th accused asked me to pick him up, and I did so and we then went to Nkontompo. When we reached Nkontompo, I stationed my lorry near the pipe. 6th accused and 5th accused and 2 others alighted from the lorry. I did not take notice of the two others. My two mates remained on the lorry. They went to Nkontompo village and we waited on lorry, for them. A few minutes later a certain fisherman called Bosomprah I saw loitering about and I called him - that is he (Kwasi Bosomprah identified). I called him and he came to us. I talked with him. I and my two mates stayed there a considerable time before 6th accused and others returned. 6th and 5th accused joined my lorry again. They did not bring a patient. 6th accused said he would not get the sick man as he was not ready. We then started back to Sekondi. On arrival at Sekondi, 6th accused directed me to Akan Drug Stores in Poasi Road. 6th

accused later went to the Drug Store which was closed, and returned after about ten minutes. I then took 6th accused nearly to his home and he then gave me 10/- and I drove away. Before I drove away 6th accused told me he would want the lorry again the next morning at 5 o'clock to go to Nkontompo to collect the patient. At 5 a.m. the next morning I went to 6th accused's house with my lorry and with the same two mates and I met 6th accused at his house. 6th accused said that as it was getting to dawn he had already sent Francis to get me and that I should go to Bartholomew to get him. I then went to Bartholomew and collected 5th accused. I then returned to 6th accused's house with 5th accused. 6th accused then told 5th accused that he should take us to Nkontompo and bring the patient to Sekondi, and in case the patient was unwilling to come, he should take me to a certain man's store to collect personal effects. 6th accused did not mention patient's name. I said I would charge 7/6 and 6th accused agreed. When we got to Nkontompo, 5th accused directed me to 4th accused's store. It was then closed. The store was opened. 5th accused went to store. I saw no patient. 4th accused was there. In the store I saw khaki. They started loading my lorry with khaki. The khaki was in pieces. The lorry was loaded full up with khaki. I would not then allow lorry to be loaded any more as it was too fully loaded with khaki. It was khaki drill. 5th accused and 4th accused joined my lorry and asked me to come to Sekondi. When we came to Sekondi, 5th accused told me to go to Akan Drug Stores. It was then about 5.30 a.m. I went there. 4th and 5th accused alighted there and went to store. It was closed and the store was then opened. There was somebody in the store but I did not see who it was. I did not go into the store. All the khaki Drill was unloaded from lorry into the store. We then went back to 6th accused at his house. We met 6th accused there. I told 6th accused that I had agreed on 7/6, but I found the load too excessive and I would charge £2. 6th accused then gave me £2. 6th accused called 5th accused and his gang and I then left.

Cross-Examination by 1st accused and 2nd accused and 3rd accused: None.

Cross-Examination by Benjamin:

My lorry is a Chevrolet. It is a small one. I did not count the pieces of khaki drill.

Exhibits

By 2nd 3rd and 4th accused.

Exhibit "A"

Deposition of Isaac Garnet Annan to Police 17th April 1947  
- continued.

Exhibits

By 2nd 3rd and  
4th accused.

There would be more than 35 pieces probably. I cannot tell if there were 68 pieces. The lorry was fully loaded. I cannot give the number. My lorry could contain 35 pieces without difficulty.

Exhibit "A"

Deposition of  
Isaac Garnet  
Annan to  
Police, 17th  
April 1947 -  
continued.

Cross-Examination by Court:

I mean a piece containing 12 yards.

Cross-Examination by Benjamin:

I do not know if they were 12 yards pieces.  
(Rest Reserved).

Re-Examination: None.

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(Sgd) Isaac Garnet Annan.

Taken before me at Sekondi this 17/4/1947.

(Sgd) A.D. Scholes  
D.M.

Exhibit "B"

Deposition of  
Arthur Kwamina  
Mansu to  
police.

EXHIBIT "B"

DEPOSITION of ARTHUR KWAMINA MANSU TO POLICE

17th April  
1947.

FIFTHLY THE SAID ARTHUR KWAMINA MANSU, being s.o.b. in the Fanti language through E.A. Mensah Court interpreter states as follows:

I am a driver's mate to 4th witness (identified) and I live in Sekondi. On Sunday 23/3/1947, at about 9.30 p.m. I was in my house. I came out to draw water. When I got to stand pipe I heard a car's horn. I went to the spot from where sound of horn came with my friend Coleman, and I met 5th and 6th accused. 6th accused was blowing the horn. 6th accused asked if I knew owner of the lorry, and I said I did not. 6th accused said he made arrangement with the driver to go and fetch a patient from Nkontompo, but he did not meet the driver there. I then went and called my master

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the 4th witness; 6th accused spoke to 4th witness and said that he wanted him to convey a patient from Nkontompo and how much would he charge. 4th witness said that if it had been day time he would have charged 7/6 but as it was late at night he would charge 10/-. We then went to Nkontompo. Five of us went including 5th and 7th accused. We stopped by the stand pipe at Nkontompo and 5th and 6th accused left the lorry. Later 5th and 6th accused returned to lorry and we returned to Sekondi. We went to Akan Drug Store. Then 5th and 6th accused came down and went through a lane and later returned. When we were taking 5th and 6th accused back to their houses, 5th and 6th accused left lorry at 3rd street and paid us for lorry. 6th accused asked where we left lorry and 4th witness replied behind United Africa Company. 6th accused said that he would send Francis the next morning to come and call us. Next morning 4th witness came to my house and called me and we went to house of 6th accused. Coleman also came with us. We met 6th accused peeping through his window and he said he had already sent Francis to call us. We then returned to Bartholomew and picked up Francis and returned to 6th accused's house. 4th witness asked 6th accused to come down, to join us to go. 6th accused said that Francis would take us to where the sick person was. 6th accused said that if we did not succeed in getting sick person, Francis would take us to a store of his friend where we would get a load. We then went to Nkontompo. It was about 5 a.m. At Nkontompo the lorry stopped before a certain store. 5th accused came down and went through a place nearby. A little later 5th accused returned with 4th accused and 4th accused opened the store. When store was opened two other persons helped the 4th and 5th accused take the khaki drill from the store on to the lorry. The lorry was loaded fully with only a small space between the khaki Drill and the roof, and 4th witness said it was all right. The two persons who helped load the lorry, and 4th and 5th accused and I and 4th witness and Coleman then returned on lorry with load to Akan Drug Store, Sekondi. At Sekondi Akan Drug Store, 4th and 5th accused and the two other persons went down a lane by the store, and I then saw the store open. The khaki drill was then unloaded from lorry and taken into the Drug Store. 4th and 5th accused and the two other people took all the khaki drill from the lorry into the store. We then went to 6th accused's house and met 6th accused peeping through the

Exhibits

By 2nd 3rd and  
4th accused.

Exhibit "B"

Deposition of  
Arthur Kwamina  
Mansu to police  
17th April 1947  
- continued.

Exhibits

By 2nd 3rd and 4th accused.

Exhibit "B"

Deposition of Arthur Kwamina Mansu to police, 17th April 1947 - continued.

window. 4th and 5th accused then went to 6th accused and asked 4th witness to follow and he did so, and Coleman and I remained on the lorry. 4th and 5th accused did not return. 4th witness returned and took the lorry away. 4th witness showed me £2.

Cross-Examination by 1st accused and 2nd accused and 3rd accused: None.

Cross-Examination by Benjamin:

I did not count the number of pieces on the lorry. The lorry was loaded with only a small space between the khaki drill and the hood. Lorry did not have a trailer. Two people sat in front and the rest of us lay on top of the khaki drill.

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(Rest Reserved).

Re-Examination: None.

(Sgd) A.K. Mansu

Interpreter  
E.A. Mensah.

Taken before me at Sekondi this 17/4/1947

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(Sgd) A.D. Scholes  
D.M.



BY DEFENCEExhibits.EXHIBIT "C"By DefenceSTATEMENT OF FRANCIS OKWUIDEGBEExhibit "C"

Tendered in evidence objected  
to admitted and marked Exh. "C"  
in re Rex v. Salifu Moshie & ors.

Statement of  
Francis  
Okwuidogbe.

7th April 1947.

(Intd) K.A.  
7/7/47

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Takoradi Station  
Western Section  
7th April, 1947.

Name: Francis Okwuidogbe  
Address: House No.29/9 Church Road Sekondi  
Occupation: Petty-trader.  
Native of: Agbor - Nigeria.

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Francis Okwuidogbe - You are charged with  
"Receiving quantity of khaki drill". You are not  
obliged to say anything in answer to the charge,  
but if you do it will be taken down in writing and  
may be produced in evidence, states in English as  
follows:-

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I am a petty trader staying at Sekondi where  
I own my store. I sell provisions wine and Beer.  
I know one Yaro Deman who is a friend store-keeper  
of mine. I have (been) known Yaro Deman for over  
eleven years ago. Yaro Deman also owns his store  
at Nkutompo. Whenever Yaro Deman sees anything  
cheap on sale anywhere which would command a good  
market, he comes to inform me and both of us would  
go to purchase some to sell in our stores. About  
a fortnight or three weeks ago I was in my store  
at Sekondi when Yaro Deman came and informed me  
that a friend of his had made him to know that he  
had khaki drill for sale, but as he was not pre-  
pared to buy them all, as the quantity was great,  
he wanted to know from me if I would like to buy  
some. It was at about 7 p.m. of that day and  
there was nobody with me. I told Yaro Deman that  
I was not prepared to buy the khaki because I had  
no money at hand then. Yaro then asked me to find

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Exhibits  
 ———  
 By Defence  
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 Exhibit "C"  
 ———  
 Statement of  
 Francis  
 Okwuidegbe,  
 7th April 1947  
 - continued.

someone to buy them and he left. On the following day at about 8 a.m. I went to see one Boateng of the Social Centre, Sekondi if he would like to buy some khaki. I have known the said Boateng when I was working under him at the Social Centre as a cook. Boateng then asked me where I had the khaki drill and I told him that a friend of mine had them and wished to sell them. Boateng then told me that he would like to buy them. This conversation took place between Boateng and myself in his house. Boateng then asked that I should arrange with that my friend for him. The same day at about 11 a.m. I went to Nkutompo and informed Yaro Deman that I have got one Boateng who had agreed to buy the khaki. I met Yaro Deman alone in his store. He asked me to go and that when the khaki was ready he would let me know for the information of the said Boateng who wished to purchase them. I left Yaro Deman and came home. I never went to see Yaro Deman again but then I told Boateng that my friend who would give out the khaki for sale had promised to notify me for his information as soon as the khaki were ready. Three days after Yaro Deman came to me at my store with one Salifu and introduced the said Salifu to me as one who owned the khaki and who said he would sell them. I then asked Salifu if he owned that khaki and he replied "Yes". I asked Salifu again where he had the khaki but he never told me. I asked Salifu again when he would get the khaki ready and he informed me that they would be ready on that same night. It was in the morning. Yaro and Salifu then left away after I had promised them that I would see the one who would buy them - Boateng - and let them know. After they had gone, on the same day, not quite an hour's time, I went and informed Boateng in his house that the fellow who would sell the khaki had promised that he would get them ready on that day in the night. Boateng then said "Alright" and that I should go and that he would arrange for a lorry to convey the khaki. I had then already informed Boateng that the one to sell the things stays at Nkutompo. I left Boateng to my house. At about 5 p.m. Boateng came to my store and told me that he had made the arrangements with a driver, whose name he never showed me, and that I should call on him in his house at 7 p.m. during which time, the driver he had arranged with, would also come there, and then I would go with the said driver to collect the khaki from that friend Yaro. At 7 p.m., therefore I went to Boateng's house and met him. He

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was alone. He gave me a seat in his hall. At about 7.30 p.m. one man whose name I afterwards got to know as Annan came to meet us in Boateng's room. This Annan was introduced to me by Boateng as the driver he had arranged with. Boateng then asked Annan whether he was ready with his lorry. Annan, the driver, then replied "Yes". Boateng then asked us to get along. Boateng, myself, and the driver Annan came out of the house and saw a lorry standing in front of Boateng's house. Annan went and sat behind the steer of that lorry and Boateng and I also took our seats in it. I saw one driver's mate called Mansu, also in it. The driver then drove off for Nkutompo. At about 8 p.m. or some minutes to eight, we came to Nkutompo. The lorry then came to a standstill about some few paces to Yaro's house. I then alighted from the lorry and Boateng came down as well. He asked me to go with him to see Yaro. I went with him to Yaro's house. We met Yaro sitting in his house. I told Yaro that I have come with Boateng to collect the khaki, with a lorry. I showed Boateng to Yaro. He saw him. Yaro told Boateng and myself that the khaki had not been brought then, by Salifu, the owner and that we should go and return later on at about 5 a.m. I left the house with Boateng, and came to where the lorry we brought was waiting with the driver and mate. Boateng then told me that at 5 a.m. he would not get the chance to come along with us, and as such I would bring back the driver to collect the khaki at 5 a.m. as requested. I afterwards overheard Boateng speaking to the driver too. I never heard what the topic was about. After that we all went into the lorry and the driver drove us back to Sekondi and put us at Boateng's place. Boateng then showed me a place to keep the khaki when we go for them, in the morning as he would not accompany us. I there and then asked Boateng to go with me and the driver to where the khaki would be kept so as to introduce us to the man in whose room the khaki would be kept to enable us to make sure. Boateng agreed and then went with the driver and myself to a store owned by one Roberts. Boateng knocked at Roberts' store and awoke Roberts who came outside with Boateng. I was then standing some paces off with driver Annan and his mate. I saw Boateng talking to Roberts. After the talking Roberts left into his room again and Boateng came and informed me that the man he had talked to was the one in whose room the khaki would be kept and that he had agreed to the khaki being kept in the store. The driver then took us back

Exhibits

By Defence

Exhibit "C"

Statement of  
Francis  
Okwuidegbe  
7th April 1947  
- continued.

Exhibits

By Defence

Exhibit "C"

Statement of  
Francis  
Okwuidiegbe  
7th April 1947  
- continued.

to Boateng's house and from there I left for home. At 5 a.m. the following day, as promised, I awoke and went to see the driver Annan at a place arranged. On the way I met the driver Annan with his lorry and his mate in it. He stopped and picked me and straightway we drove to Nkutompo. The lorry came to a standstill in front of Yaro's house. I knocked at Yaro's door after having alighted from the lorry. Yaro then awoke and came outside and met me the driver and the mate and the lorry. I asked Yaro whether the khaki drill were ready. He said "Yes" and he asked the driver, myself and the mate to come inside his store, where he showed us the khaki drill. Yaro asked us to pack the khaki into the lorry which we did. The khaki were plenty and when they were packed into the lorry they nearly reached the canopy. These khaki were partly tied up with sacks and partly untied. It was about 5.30 a.m. when we finished the loading. When we finished, the driver sat behind the steer, and when the mate and I had taken our seats too, he drove the lorry, leaving Yaro in his house. We came to Roberts' store and awoke him. He opened his store and we deposited the khaki in his store. When this was done, the driver went his way. I then went at the same time to Boateng and informed him that the khaki drills had been deposited in the store he asked us to put them. I then left for my house. At 8.30 a.m. Yaro came to see me again and asked me to go with him to see Boateng for the payment of the khaki. I went with Yaro to Boateng. We met him at his office. When Boateng saw us he gave us seats. Yaro and I sat down, then Boateng brought out £100 (hundred pounds) made up of £1 and 10/- West African Currency notes. Boateng gave them to me to give to Yaro as payment for the khaki. Yaro had then already priced the khaki to value £100 (hundred pounds). I counted the hundred pounds and then handed them to Yaro in the presence of Boateng. Yaro received the money and then asked me to accompany him to Nkutompo to hand the money over to Salifu; the owner of the khaki. I went with Yaro to Nkutompo, his house. Whilst waiting in Yaro's house, Salifu and two other men whom I can identify when seen came to Yaro's room as well and took their seats. Salifu then asked for the money. Yaro brought out the money from his pocket and counted them in my presence. They were £100 (hundred pounds). He gave them to Salifu and I left the house. Before I went away, Yaro brought me £2 (two pounds) outside his house and told me that it was given to him to be given to me by Salifu, as a Dash for my

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trouble. I accepted this money and left away.  
That is all I know about this case.

(Sgd) Francis Okwuidegbe.

W/W to Signature.

(Sgd) James K. Allotey  
'K' 7220

Exhibits  
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By Defence  
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Exhibit "C"  
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Statement of  
Francis  
Okwuidegbe  
7th April 1947  
- continued.

10 I hereby certify that I have read and explained the contents of this document to the person whose name is annexed and that such person appeared to understand its contents and approve of them.

(Sgd.) James K. Allotey.  
'K' 7220.

EXHIBIT "D"

STATEMENT OF YARO DEMAN

Tendered in evidence not objected to and marked Exh. "D" in re Rex v. Salifu Moshie and others.

(Intd.) J.E.K.A.  
7/7/47.

Exhibit "D"  
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Statement of  
Yaro Deman.

7th April 1947

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Takoradi  
Western Province  
7th April 1947.

Name: Yaro Deman  
Address: Nkontompo; village.  
Occupation: Petty Trader.  
Native of: Senigal.

30 Having been charged with Receiving quantity of khaki Drill during the month of March 1947 was cautioned to the effect that he need not say anything in answer to the charge, unless he wished to

Exhibits  
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 By Defence  
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 Exhibit "D"  
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 Statement of  
 Yaro Deman  
 7th April 1947  
 - continued.

do so, and whatever he says will be put down in writing, and may be produced in evidence states in English as follows:

I have been in the Gold Coast for about ten years. I know one Salifu Moshie, a watchman for B.O.D. I got to know him about a month ago: He used to come to my store to buy cigarettes. I did not know Mr. Boateng before, I got to know him through this case. I know one Francis, he is a Nigerian and a friend of mine.

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I happened to know Mr. Konadu through this case. About three weeks ago, Salifu Moshie came to my store. I was alone. He said, he had a large quantity of khaki to sell; and that he wanted somebody to buy. I told him I had no money. I did not ask him prove where he got it. I further told him, I would find out from my friend Francis if he wanted buy it. Salifu went away, and said he would be back again. I informed my friend Francis at Sekondi. He said he had no money, but he would inform his friend Boateng. I did not know Boateng at that time.

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On the next day, Francis came and informed me, his friend Boateng said he would buy the khaki. On the next day I went with Francis to Sekondi, I saw Boateng and I spoke to him. I told him I had a certain watchman friend, who said he had some khaki to sell; and that if he was prepared to buy I would let him see it. Boateng said he would buy it. Francis asked me, if the khaki was ready. I said I would see the watchman first. I went back to my house. Few days after, Salifu and two other watchmen, who were introduced to me as B.O.D. watchmen and who were also interested in the sale of the khaki. Salifu asked me if I had succeeded in getting someone to buy the khaki as previously arranged. I said "Yes". Nobody was with me. I told them to go and come back on the next day. They went away, and returned on the appointed day. I took Salifu alone to Francis, and he saw him. He Salifu confirmed what I had already told Francis about the khaki. Salifu then promised to bring the khaki to my house at Nkontompo, from where it will be collected by Francis and the buyers. I went back to my house with Salifu, who requested me to arrange for fishermen to convey the khaki from the B.O.D. Breakwater by night. I agreed, and I arranged with one fisherman by name Kwesi. He also agreed and said he would charge £8. I

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informed Salifu and he agreed to pay. On or about the 23rd of March, 1947, Salifu came to me. I went and called the fisherman, by name Kwesi we stood at the beach and Salifu pointed to us where Kwesi should bring the canoe. He pointed out his hands towards B.O.D. breakwater where there were some coconut trees; and said he would be waiting there in the night for Kwesi. It was during the day when Salifu pointed the place to Kwesi and myself. I went to Sekondi and informed Francis that he should inform Boateng that the khaki would be ready at my house about 11 p.m. on that day, and therefore, they should arrange for a lorry to convey it. Francis and I went and informed Boateng, who said he would arrange for a lorry himself. I went back to my house at Nkontompo. On the same day about 11 p.m. I saw a driver I knew before, he was driver Annan, and his mate. They came to my house with Francis to take the khaki. I told them it was not ready, and that I was expecting same by the early morning. They went away. About 3 a.m. Kwesi, the fisherman, and one friend of mine by name Amadu Kano brought the khaki in to my veranda. They were in bundles, tied in three large sacks. I received them and kept them. About 5 a.m. on the same morning the driver, Amadu, his mate, and Francis came with a lorry, and took the khaki away. As they did not pay for it; I accompanied them to Sekondi to see who was going to pay for it. The driver drove us to Akan Drug Store, where I saw the Drug Store Keeper Mr. Konadu. He received the khaki and said he would inform Mr. Boateng. The driver said they were hired by Boateng therefore they were going for the lorry fare. They went away. Francis said I should go and return on the same day for payment of the khaki. I went, and on the same day about 7 a.m. I went back to Sekondi. I saw Francis, and both of us went to Boateng's office where I saw Boateng, who counted £100 in West African notes 10/- and 20/- denomination, and handed over to Francis who returned with me to my house. I met Salifu and his two watchmen waiting. Francis gave me the £100, and in the presence of Francis I gave the £100 to Salifu who gave me £12 and said £8 should be paid to the fisherman, Kwesi, and I should take £2, and Francis £2 for our troubles. Salifu went away with his friends. I received only £100 from Boateng in presence of Francis for the khaki, it was not more than £100. On the 3rd of April 1947 I went to Francis, and while there, the Police came and took me to Sekondi. The following witness

Exhibits

By Defence

Exhibit "D"

Statement of  
 Yaro Deman  
 7th April 1947  
 - continued.

Exhibits

By Defence

Exhibit "D"

Statement of  
Yaro Deman  
7th April 1947  
- continued.

can say that this statement is correct. They are Driver Annan and his mate, Francis, Kwesi the fisherman, and my friend Amadu Kano.

(Sgd.) Y. Deman.

(Sgd.) Sam. D. Amaning  
7/4/47.

I hereby certify that this statement has been read over to the person whose name is annexed, and he says it is correct and signed.

(Sgd.) Sam. D. Amaning.

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Exhibit "E"

Statement of  
Emmanuel Yaw  
Boateng.

7th April 1947

EXHIBIT "E"

STATEMENT OF EMMANUEL YAW BOATENG

Tendered in evidence not objected to and marked Exh. "E" in re Rex v. Salifu Moshie and others.

(Intd.) K.A.  
7/7/47

GOLD COAST POLICE

Charge Register No. Register of M.T.Offences  
No.

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STATEMENT

Takoradi Station  
Western Section  
7th day of April 1947

Name Emmanuel Yaw Boateng  
Address Sekondi  
Occupation Social Welfare Officer  
Native of Koforidua.

Having been charged with Receiving quantity of Army khaki during the month of March 1947, was

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cautioned to the effect that he was not obliged to say anything in answer to the charge unless he wished to do so, and whatever he said will be taken down in writing and may be produced in evidence states in English as follows:

I am not prepared to say anything, I reserve my statement.

(Sgd.) Em. Yao Boateng.

W/W to signature.

10 (Sgd.) Sam. D. Amaning  
7/4/47

This statement has been read to the and he says it is correct.

(Sgd.) Sam. D. Amaning.

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Exhibits  
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By Defence  
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Exhibit "E"  
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Statement of  
Emmanuel Yao  
Boateng  
7th April 1947  
- continued.





BY DEFENCE

EXHIBIT "G"

STATEMENT OF YARO DEMAN

Exhibits

By Defence

Exhibit "G"

Statement of  
Yaro Deman.

3rd April 1947

Tendered in evidence by Crown  
not objected to and marked Exh. "G"  
in re Rex v. Salifu Moshie and others.

(Intd.) K.A.  
8/4/47.

Takoradi Station  
Western Section  
3. 4. 47.

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Name: Yaro Deman.  
Address: Kontompo, House No.10/3 Sekondi  
Occupation: Petty store keeper.  
Native of: Senigal.

Who spoke in English language declares as follows:

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I am a Senigalist in French Coast. I have been in the Gold Coast for 10 years. I know one Salifu Moshie a watchman for B.O.D. I got to know him over a month ago. He used to come to my store to buy cigarettes. I did not know Mr. Boateng before. I got to know him through this case. I know one Francis, he is a Nigerian, a very good friend of mine. I did not know Mr. Konadu before. I got to know him in this case. I remember about three weeks ago Salifu Moshie came to my store. I was alone. He told me that he had a large quantity of khaki to sell, and that if I would buy it, he was prepared to sell the lot to me. I did not ask him from where he obtained the khaki. I told him I would inform my friend Francis if he wanted to buy. Salifu went away. On the same day I went to Francis at Sekondi, and informed him. He said he himself had no money, but he would inform his friends. I returned to my house. On the next day, he Francis came to me, and said he had got somebody who will buy the khaki. I asked him who was the man. He took me to Mr. Boateng at Sekondi. I saw him and spoke to him. I was introduced to Boateng as the man who wanted to sell the khaki. He Boateng did not ask me anything. Francis asked me if the khaki was

Exhibits  
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 By Defence  
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 Exhibit "G"  
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 Statement of  
 Yaro Deman  
 3rd April 1947  
 - continued.

ready. I replied that I was going to see the watchman the ex-soldier before I would be able to say when the khaki would be ready. I returned to my house. A week after, Salifu Moshie and the other B.O.D. watchman came to my store at 7 p.m. and Salifu introduced the two watchmen to me as watchmen who were concerned in the sale of the khaki and they had come to find out from me if I had secured someone to buy. I said "Yes" I had someone to buy. I told Salifu and his friends to go and come back on the next day. They went away. On the next day about 8 a.m. Salifu and his friends came again. I took Salifu alone to Francis at Sekondi to be sure that I had secured somebody. Francis saw Salifu and spoke to him. He asked him whether in fact he had some khaki to sell, and Salifu said it was correct. I returned to my house with Salifu and there, I asked him how he could manage to bring the khaki to my house. He said I should try to arrange some canoe over for him. I informed one fisherman friend of mine by name Quarshi, he agreed and I told him Salifu, who would employ him was prepared to pay £8. About two weeks ago Salifu told me I should get the fisherman ready, to convey the khaki from B.O.D. behind the Company. I informed Quarshi; Salifu had already taken me to the B.O.D. and showed me where the canoe should stop. It is behind the breakwater near the B.O.D. sheds. I informed Quarshi exactly of the place, he said I should take him to the place. I took Quarshi to the place and pointed to him the place where Salifu had previously shown me. I came back to my house and informed Francis of it and told him the khaki will be ready that night. Salifu came to see me at 9 p.m. on the same night, and I told him the canoe men were ready. He said he would stand on the breakwater and wait for the canoe men. On the same night, at 11 p.m. I saw driver Annan, and Francis, as well as one lorry driver's mate at my house. Francis spoke to me. I told him the khaki was not yet ready and that they should go and come back early in the morning. They went away. At 3 a.m. the canoe men Quarshi brought the khaki. They were in bundles. It was a large quantity about 40 bundles. The canoe men carried the whole bundles in to my store; and they went away. I kept them, and about 5 a.m. the driver, and his mate, as well as Francis came to my store. I handed the whole lot to Francis and they were carried into a lorry driven by driver Annan. I accompanied them to Sekondi to see who was going to pay for it. The

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10 driver drove us to a Drug Store at Sekondi. I saw a Clerk come out of his room he said he was the keeper of the Drug Store I have seen him at the Police Station, his name is Konadu. He took over the khaki, this was about 5 a.m. The driver went away. I returned to my house. At 7 a.m. I returned to Francis and he took me to Mr. Boateng's Office, and there, Boateng paid £100 in notes in 10/- and £1 denomination, the money was handed to Francis and he came with me back to my house. The same morning when I returned from Sekondi, I met Salifu and two others waiting. Francis gave me the £100, and I handed the money to Salifu. He counted it and he gave me £8 for the canoe men, now he gave me £2, and another £2 to Francis for our troubles and then they went away. Salifu said there were some of the khaki and if I helped him to sell them, he would give me some money. I have not seen him since. Boateng never paid £200. He paid only £100. I was in Francis' store when the Police came and I informed them of all I know of the case.

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(Sgd.) Y. Deman.

W/W to Signature  
(Sgd.) ?

I hereby certify that this statement has been read over to the person whose name is annexed and he appeared to understand its contents and approved of them.

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(Sgd.) ?

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Exhibits  
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 By Defence  
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 Exhibit "G"  
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 Statement of  
 Yaro Deman  
 3rd April 1947  
 - continued.

IN THE PRIVY COUNCIL

No. 36 of 1948

ON APPEAL FROM THE WEST  
AFRICAN COURT OF APPEAL  
(GOLD COAST SESSION)

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B E T W E E N :

EMMANUEL YAO BOATENG Appellant

- and -

THE KING ... .. Respondent

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RECORD OF PROCEEDINGS

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