

IN THE PRIVY COUNCIL

29, 1955 ~~C.H.C. 2~~
Nigeria

No. 45 of 1954

ON APPEAL

FROM THE WEST AFRICAN COURT OF APPEAL

B E T W E E N:

1. SAMUEL ALADESURU
2. FOLAHAN AKINSANYA
3. KOLA LADEJO Appellants

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

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Solicitors for the Respondent.

UNIVERSITY OF LONDON
W.C.1

-4 JUL 1956

INSTITUTE OF ADVANCED
LEGAL STUDIES

43602

ON APPEAL
FROM THE WEST AFRICAN COURT OF APPEAL

BETWEEN:

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 2. FOLAHAN AKINSANYA
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RECORD OF PROCEEDINGS

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E X H I B I T S

Exhibit No.	Description of Document
G	Application for Shares dated 14/12/51
H1	Tells Sheet
J	Specimen of writing
K1 & K2	Registration of Business Name and Receipt No. 269295 of 17/12/52

Exhibit No.	Description of Document
L	Registration of Business Name
M	Registration of Business Name
N	Notice of Change of Business Name
O1 & O2	Registration of Business Name
P1 - P37	Ledger Books (37 in all)
R	Printed Balance Sheet
S - S4	Four Files (1) L.A. Adeyeye Stores (S1) (2) S.M.D. Mecca & Bros.(S2) (3) Adio Owoiyi Trading Company (S3) (4) Miscellaneous Expenditure (S4)
T	Receipt No. 64
U	Rubber Stamp
W	Standard Bank Tells Book
X	Warrant of Arrest
Y	Counterfoil Paying Slip
Z	File containing Folio 31 in File 792/52
AA	File containing the Bill History
BB	Bill History d/5/6/51 for £1042.19.10d.
CC	Bill History d/11/6/51 for £43.18.0d.
DD	Bill History No. 692/52 of 20/3/52
EE	Bill History No. 755/52 for £673.7.4d.
FF	File containing bills pertaining to the Firm of S.D.Mecca - Four cases No.755/52
GG	Bill History d/20/4/51 re Messrs. Ayodele Thomas & Co.
HH	Bill History d/20/6/51 re E.O.Bolarinwa Bros.

Exhibit No.	Description of Document
JJ	Bill History with instructions on paper.
KK	Ditto file No. 746/52 of A.H. Wooley & Co., d/14/5/52 for £232.10.9d.
LL	File containing Bill of Lading No. 754/52 pertaining to M.V. Lijemps
MM	File No. 748/52 containing Bill History of A.H. Wooley & Company
NN	File No. 163/51 containing Bill History of E.A. Akinlowu & Bros.
OO	Certificate of Registration No.14217
PP	Cheque No. 8098 of 19/6/51 for £950
QQ	Cheque No. 8099 of 22/6/51 for £1,500
RR	Cheque No. 8097 of 16/6/51 for £1,220
SS	Cheque No. 8100 of 26/6/51 for £700
TT	Promissory Note - 26/6/51
UU	Letter by Ladejo to Mama Iyabo
WW	Memorandum by the Chief Accountant to the Directors
XX	4 Pay-in-Slips d/d 26/6/52, 25/6/52, 1/7/52 and 3/7/52
YY1- YY3	Bank Tellers 3
ZZ	Letter d/d 9/1/53 from F.F.Akinsanya to Mr. Adeyeye.
AAA	Agreement form put in as specimen.
BBB	Criminal Form 7 (Witness Summons)
CCC	Letter from L.A. Adeyeye to S.Akinsanya d/d 7/1/53 with envelope attached
DDD	7 Bills Suspense Account and 4 Pay-Slips
EEE	Original Letter by Standard Bank to Solicitors of Sam Chris & Mich d/2/9/52

Exhibit No.	Description of Document
FFF	Statement of Ladejo's Account with African Continental Bank
GGG	Cheque Book Register (African Continental Bank)
HHH	Statement of Aladesuru's Account with the African Continental Bank
JJJ	Statement of S.R. Aladesuru's Account with the African Continental Bank
KKK1	Specimen Signature card for S.O. Aladesuru dated 1/6/49
KKK2	Specimen signature card for S.O. Aladesuru dated 25/10/52
LLL	Signature card for S.O. Aladesuru dated 19/7/50.
MMM	Letter dated 11/7/52 to Mr. Bank Iyun in England
NNN	Letter signed by M. Olomo
0001	Banking Ordinance 1952, Quarterly Returns dated 20/8/52
0002	Balance Sheet.

1.

IN THE PRIVY COUNCIL

No.45 of 1954

ON APPEAL

FROM THE WEST AFRICAN COURT OF APPEAL

BETWEEN: 1. SAMUEL ALADESURU
2. FOLAHAN AKINSANYA
3. KOLA LADEJO Appellants

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

10

No. 1.

In the Supreme
Court of
Nigeria

STATEMENTS AND PARTICULARS OF OFFENCES

IN THE SUPREME COURT OF NIGERIA

IN THE LAGOS JUDICIAL DIVISION

THE QUEEN

- v -

1. SAMUEL ALADESURU
2. FOLAHAN AKINSANYA
3. KOLA LADEJO
4. BANK IYUN

Statements and
Particulars of
Offences.

27th February,
1953.

20

The 27th day of February, 1953.

At the Session holden at Lagos on the 2nd day of March 1951. The Court is informed by the Attorney-General on behalf of our Lady the Queen that SAMUEL ALADESURU, FOLAHAN AKINSANYA, KOLA LADEJO. BANK, are charged with the following offences:-

STATEMENT OF OFFENCE - First Count

Stealing contrary to Section 390(7) of the Criminal Code.

Particulars of Offence

30

Samuel Aladesuru, Folahan Akinsanya and Kola

In the Supreme
Court of
Nigeria.

Ladejo between 5th August, 1952 and 11th September, 1952 at Lagos in the Lagos Judicial Division, being Directors of the Standard Bank of Nigeria, Ltd., Lagos, stole the sum of £1,000 the property of the said Standard Bank of Nigeria, Ltd.

No. 1.

STATEMENT OF OFFENCE - Second Count

Statements and
Particulars of
Offences.

Stealing contrary to Section 390(7) of the Criminal Code.

27th February,
1953 -
continued.

Particulars of Offence

Samuel Aladesuru, Folahan Akinsanya and Kola Ladejo between February, 1952 and September, 1952 at Lagos in the Lagos Judicial Division, being Directors of the Standard Bank of Nigeria, Ltd., stole woollen fabrics valued at £169. 7. 8., the property of the said Standard Bank of Nigeria, Ltd.

10

STATEMENT OF OFFENCE - Third Count

Stealing contrary to Section 390(7) of the Criminal Code.

Particulars of Offence

Samuel Aladesuru, Folahan Akinsanya and Kola Ladejo between May, 1952 and September, 1952 at Lagos, in the Lagos Judicial Division, being Directors of the Standard Bank of Nigeria, Ltd., did steal 50 dozen umbrellas valued £150, the property of the said Standard Bank of Nigeria, Ltd.

20

STATEMENT OF OFFENCE - Fourth Count

Stealing contrary to Section 390(7) of the Criminal Code.

Particulars of Offence

Samuel Aladesuru, Folahan Akinsanya and Kola Ladejo, between May, 1952 and September, 1952 at Lagos, in the Lagos Judicial Division, being Directors of the Standard Bank of Nigeria, Ltd., stole 100 dozen Umbrellas, valued at £682.0.0d. property of the said Standard Bank of Nigeria, Ltd.

30

STATEMENT OF OFFENCE - FIFTH COUNT

Making false statement of account contrary to Section 436(a) of the Criminal Code.

Particulars of OffenceIn the Supreme
Court of
Nigeria.

No. 1.

Statements and
Particulars of
Offences.

Samuel Aladesuru, Folahan Akinsanya and Kola Ladejo, being Directors of the Standard Bank of Nigeria, Ltd., and B. Bank-Iyun being Auditor of the said Bank, between June, 1952 and July, 1952, at Lagos, in the Lagos Judicial Division, did concur in making of a written account to wit: the balance sheet of the said Standard Bank of Nigeria, Ltd., as at 31st March, 1952, showing :-

10	(a) Issued and paid up Capital as	£14,627. 0. 0	27th February, 1953 - continued.
	(b) Current, Deposit and other accounts as	£95,725.10. 3	
	(c) Cash in hand at Bankers and in course of collection as	£35,113. 4. 4	
	(d) Advances to customers and other accounts as	£60,343. 6 9	
	(e) Amount of Bills held for collection as	£62,709. 7. 4	

20 which particulars were to your knowledge false with intent thereby to deceive any member, shareholder or creditor of the said Bank.

STATEMENT OF OFFENCE - SIXTH COUNT

Accessory after the fact to making a false statement of account contrary to Section 519 of the Criminal Code.

Particulars of Offence

30 B. Bank-Iyun, being Auditor to the Standard Bank of Nigeria, Ltd., well knowing that Samuel Aladesuru, Folahan Akinsanya and Kola Ladejo, the Directors of the said Bank, had, between the months of June, 1952, and July, 1952, at Lagos, in the Lagos Judicial Division, concurred in the making of a false written account to wit: the balance sheet of the said Standard Bank of Nigeria, Ltd., as at 31st March, 1952, with intent to deceive any member, shareholder, or creditor of the said Bank, did, during the period aforesaid, assist the said Samuel Aladesuru, Folahan Akinsanya and Kola Ladejo.

40

(Sgd.) F. A. W.
Crown Counsel

In the Supreme
Court of
Nigeria.

No. 2.

PLEAS OF THE ACCUSED

No. 2.

Pleas of the
Accused.

2nd March,
1953.

Monday 2nd March 1953.

Before the Honourable Mr. Justice James Reali Gregg,
Puisne Judge.

(Title as in No. 1.)

Accused before Court

Information read to Accused.

1st Accused	-	1st Count	-	Not Guilty	
"	"	- 2nd	"	- "	"
"	"	- 3rd	"	- "	"
"	"	- 4th	"	- "	"
"	"	- 5th	"	- "	"

10

2nd Accused	-	1st Count	-	Not Guilty	
"	"	- 2nd	"	- "	"
"	"	- 3rd	"	- "	"
"	"	- 4th	"	- "	"
"	"	- 5th	"	- "	"

3rd Accused	-	1st Count	-	Not Guilty	
"	"	- 2nd	"	- "	"
"	"	- 3rd	"	- "	"
"	"	- 4th	"	- "	"
"	"	- 5th	"	- "	"

20

4th Accused	-	1st Count	-	Not Guilty	
"	"	- 2nd	"	- "	"
"	"	- 3rd	"	- "	"
"	"	- 4th	"	- "	"
"	"	- 5th	"	- "	"
"	"	- 6th	"	- "	"

Williams for Crown

30

Lawson for Nos. 1 - 3 Accused

- for No. 4 Accused.

By Court: Adjourned to April 7, 1953 for hearing.
Bail extended in each case.
(Sgd.) J. R. GREGG.
2.3.53.

In the Supreme
Court of
Nigeria.

No. 2.

Tuesday 7th April, 1953.

Pleas of the
Accused.

Before the Honourable Mr. Justice James Reali Gregg,
Puisne Judge.

2nd March, 1953
- continued.

(Title as in No. 1.)

By Court: Adjourned for hearing on 9/4/53.
(Sgd.) J. R. GREGG.
7.4.53.

10

Thursday 9th day of April 1953.

Before the Honourable Mr. Justice James Reali Gregg,
Puisne Judge.

(Title as in No. 1.)

Hearing adjourned until 13th April, 1953.

Accused's bail extended.

(Sgd.) J. R. GREGG.
9.4.53.

20

No. 3.

No. 3.

NOTICE OF APPLICATION TO ADD COUNTS IN INFORMATION.

Notice of
Application to
Add Counts in
Information.

(Title as in No. 1.)

NOTICE OF APPLICATION TO ADD TO COUNTS IN
INFORMATION

10th April,
1953.

TAKE NOTICE that the Crown intends to apply
to the Court for permission to amend the counts in
the information filed in connection with the above

In the Supreme
Court of
Nigeria.

case by adding a 7th Count in the following terms:-

STATEMENT OF OFFENCE - SEVENTH COUNT

No. 3.

Publishing a false Statement of Account contrary to Section 436(a) of the Criminal Code.

Notice of
Application to
Add Counts in
Information.

Particulars of Offence

10th April,
1953.

Samuel Aladesuru, Folahan Akinsanya and Kola Ladejo, being Directors of the Standard Bank of Nigeria, Ltd., and B. Bank-Iyun being Auditor to the said Bank, between June, 1952 and August, 1952, at Lagos, in the Lagos Judicial Division did publish a written account to wit: the Balance Sheet of the said Standard Bank of Nigeria, Ltd., as at 31st March, 1952, showing:

10

Contd.

(a) Issued and paid up Capital as £14,627. 0. 0.

(b) Current, Deposit and other
Accounts as £95,725.10. 3.

(c) Cash in hand, at Bankers and
in course of collection as £35,113. 4. 4.

(d) Advances to customers and
other account as £60,343. 6. 9. 20

(e) Amount of Bills held for
collection as £62,709. 7. 4

which particulars were to your knowledge false with intent thereby to deceive any member, shareholder, or creditor of the said Bank.

Dated this 10th day of April, 1953.

(Sgd.) F. A. WILLIAMS.

CROWN COUNSEL.

No. 4.

No. 4.

Hearing of
Application
to Add Counts
in Information.

HEARING OF APPLICATION TO ADD COUNTS IN INFORMATION

30

(Title as in No. 1.)

13th April,
1953.

Before the Honourable Mr. Justice James Reali Gregg,
Puisne Judge.

Monday this 13th day of April, 1953.

RESUMED.

ALL ACCUSED BEFORE COURT.

In the Supreme
Court of
Nigeria.

F. Williams for prosecution.

J.I.C. Taylor for 1st Accused.

Rotimi Williams for 2nd and 4th Accused.

Kotun with H.O.Davies for 3rd Accused.

No. 4.

Hearing of
Application
to Add Counts
in Information.

F.Williams makes application, under Section 162, 163 and 339 of the Criminal Procedure Ordinance for leave to add an additional count to the information as Count 7.

13th April,
1953 -
continued.

10

J.I.C.Taylor submits that the proposed amendment is one that cannot now be made. States there is a condition precedent in Section 436(a) of Criminal Code which is the Section under which additional count is framed. This condition is that accused must first be arrested under a warrant.

Williams to Court:

Accused already arrested.

By Court: Objection over-ruled.

20 J.I.C. Taylor submits further that as regards count 5, which is framed under Section 436(a) none of accused arrested by warrant as required by Section 436(a) and that, therefore, this count should be struck out.

Williams states that in Court below the accused were brought before the Court on the 1st count only. The remaining charges were added later. The effect of arrest if without warrant is to make it illegal. It does not affect validity of charge. Refers to Section 101 Criminal Procedure Ordinance.

30

Accused persons were before the Court J.I.C. Taylor. If there is no arrest with warrant the accused may not be charged under Section 436(a). Must first be arrested by a warrant. Refers to Section 101 of Criminal Procedure Ordinance. Submits that this is not an arrest on a summons and does not therefore come under Section 101.

Kotun refers to Section 101 of Criminal Procedure Ordinance. Although the accused were originally

In the Supreme Court of Nigeria.

No. 4.

Hearing of Application to Add Counts in Information

13th April, 1953 - continued.

before the Magistrate on a charge of stealing which requires no warrant; but before a charge under Section 436(a) is added, a warrant must first be executed. If warrant is not issued the arrest of accused is illegal and accused therefore not properly before Court under Section 436(a). Submits that not only should new count not be added, but that count 5 should be struck out. No warrant at all issued in this case.

Court refers to Section 162 and 163 of Criminal Procedure Ordinance. Davies states that Section 162 and 163 pre-suppose that accused are properly before Court. If no warrant of arrest issued, they are not properly before the court. Refers to Section 49(A)(2) of Criminal Code. If a person brought before court without consent of Attorney General, no prosecution can be brought. 10

F.Williams refers to proviso to Section 49(A)(2) of Criminal Code.

By Court: This is an interesting point and may perhaps be definitely decided on appeal. As things are, however, I adhere to my original ruling, and allow the new count to be added. 20

Application to delete count 5 is refused.

Accused charged on additional Count 7.

Charge read to accused persons.

No. 1	Accused	Plea	Not guilty
No. 2	"	"	Not guilty
No. 3	"	"	Not guilty
No. 4	"	"	Not guilty

30

Prosecution's Evidence.

No. 5.

No. 5.

EVIDENCE OF AUGUSTUS ABOSEDE.

Augustus Abosede. Examination.

1ST P.W. AUGUSTUS ABOSEDE. Being sworn on Bible states in English. I am Augustus Abosede. I live at 145, Igboere Road, Lagos. I am clerk in the

Administrator General's Department. My department is responsible for the registration of Companies. The Standard Bank of Nigeria, Limited is a registered Company under the Companies Ordinance.

In the Supreme Court of Nigeria.

When a Company is registered as a Company under the Companies Ordinance we issue it with a Certificate of Incorporation. The document produced is a Certificate of Incorporation issued to the Standard Bank of Nigeria, Limited. Tendered Exhibit "A".

Prosecution's Evidence.

No. 5.

10 The document produced gives particulars of Directors as required in connection with the Incorporation of the Standard Bank of Nigeria, Limited. Particulars of Directors are required under Section 76(1) of the Companies Ordinance. Particulars tendered as Exhibit "B" dated 11th October, 1950. The three Directors given on Exhibit "B" produced are Nos. 1, 2 and 3 accused. The document produced contains particulars of directors and is dated 14th May, 1952. Tendered Exhibit "C". The directors
20 given on this as 2, 3 and 4 are Nos. 1, 2 and 3 accused. The 1st director given Salami Alabi Sikemi Oluwa is additional.

Augustus Abosede.

Examination - continued.

The document produced is a summary of share capital sent to my department by one of the directors of the Standard Bank of Nigeria, Limited. Document tendered Exhibit "D".

30 The document produced is a return of allotment of shares in connection with the Standard Bank of Nigeria, Limited. This was also sent to the Administrator General's Department. This document is signed by the 2nd accused as a director. Tendered Exhibit "E".

The document produced is the memorandum and articles of Association of the Standard Bank of Nigeria, Limited. This was filed in the Company Registry of the Administrator General's Department. The Administrator General is officially the Registrar of Companies. Memorandum and Articles of Association tendered as Exhibit "F".

40 No cross-examination by Counsel for the accused persons.

In the Supreme Court of Nigeria.

No. 6.

EVIDENCE OF SALAMI SIKEMI OLOWA.

Prosecution's Evidence.

No. 6.

Salami Sikemi Olowa.

Examination.

2ND P.W. SALAMI SIKEMI OLOWA. being sworn on Koran states in Yoruba. I am Salami Sikemi Olowa. I am a transport owner. I reside at Araro Ago Owu in Ibadan area. I know numbers 1, 2 and 3 accused persons. Aladesuru, the first accused, came to me one day and told me that he had a bank in which I could deposit my money.

10

The first accused, Aladesuru told me that if I deposited my money in his bank, he could get me lorries when ever I wanted them as he had influence with the United Africa Company.

As a result of this, I deposited £1,000 in the Bank. The Bank was called Standard. The 1st accused was the only one of the accused who came to see me about making a deposit. The 3rd accused came to me and said he would like to open a branch of the same bank in my area. I told him that my people would have no interest in banking that they would prefer eating yams.

20

After some persuasion, I got the 3rd accused a house at Ago Owu. The 3rd accused told me that he would come back in 20 days and that he would open the bank in his house. He came back before this and said that he would open a branch of the Standard Bank the next day. He told me to tell the inhabitants of Ago Owu to get ready with their drums.

On the following day the inhabitants of Ago Owu started to dance. Ago Owu is a small town composed of many villages. My village is Araro. The 3rd accused arrived on the scene and joined in the dancing. I was surprised that a clerk could dance. The 3rd accused opened a branch of the Standard Bank that day in my village of Araro. After the inhabitants of Araro had danced, the bank was opened, and various sums of money were deposited by people in the bank. I deposited £50 in notes. Ladejo the 3rd accused was present. There was Manager. He gave me a Pass book and a withdrawal form. The house looked like a bank. The day after I deposited the £50 I withdrew £30. I gave the 1st accused, Samuel Aladesuru, the sum of £1,000 in Lagos, at a house near the Court. I have never

30

40

received any of this back. I was not a shareholder of the Standard Bank. I am not a director of the Standard Bank. I have not attended any directors meeting. I got a receipt for my £1,000 from the 1st accused. I handed it to the Criminal Investigation Department. I can only write my name. My signature is on the paper produced. I wrote it. Tendered as Exhibit "G". I signed Exhibit "G" at a place Osun. The person who brought the paper Exhibit "G" to me said it was just to show that I had deposited the sum of £1,000 with the bank.

10

In the Supreme Court of Nigeria.

Prosecution's Evidence.

No. 6.

Salami Sikemi Olowa.

Examination - continued.

Cross-examined by Taylor for 1st accused:

I am a transport owner. I do a good business. I keep no accounts. I have two lorries I write down the amounts I make day by day. I can write down figures. I can write numbers as well as sign my name. I write down the date and the amount I make opposite the date. I do not know today's date. I know one Afolabi. He does not assist me with my accounts. I do not know if Afolabi can read or write.

20

Cross-examination.

On the day when I went to see the accused No.1, Afolabi came with me. Afolabi is my brother. I do not know if Afolabi can read or write. Afolabi lives at Ibadan 44 miles from Araro. Afolabi came with me when I deposited the £1,000. I am the sole owner of the money. I did not tell the police that Afolabi came with me. Afolabi did not come to interpret for me. He is now in Court. When Exhibit "G" was given to me Afolabi was not present. I do not know if Afolabi saw Exhibit "G" at any time. Exhibit "G" is not the receipt I got for the £1,000. This is a separate paper to Exhibit "G".

30

At this stage Taylor asks for production of alleged receipt.

Crown Counsel produces receipt.

Cross-examination continued.

The man who brought Exhibit "G" to me said it was to show that I had deposited £1,000. I cannot see £1,000 on Exhibit "G" produced. The person who brought Exhibit "G" asked me to sign it. I signed it and he took it away.

40

In the Supreme
Court of
Nigeria.

Crown Counsel with consent of Taylor asks to
put in alleged receipt.

Prosecution's
Evidence.

Alleged receipt produced to witness who states that
this is what he took to be the receipt for his
£1,000. This consists of two documents. Tendered
as Exhibit H.1 and H.2.

No. 6.

Salami Sikemi
Olowa.

Cross-examination continued. I received Exhibits
H.1 and H.2 before Exhibit "G". The figure on
H.1 at the date are 22. I cannot make out the
rest. I do not know the year we are in now.

10

Cross-
examination -
continued.

I write down the amounts I make every day in
my log book. I write down the day of the week in
Arabic not in figures - then I put down the amount.
Witness signs name in presence of Court.

Signature tendered Exhibit "J".

Cross-examination continued.

I have an Arabic reckoner.

I do not want you to worry me. I cannot make out
the amount of the deposit on Exhibit H.1 produced.
I do not know what is written on Exhibit "G". I got
H.1 and H.2 first. I got them before Exhibit "G".
I was given Exhibits H.1 and H.2 the day I gave the
1st accused £1,000. I was given a pamphlet along
with Exhibits H.1 and H.2. It is not here. The
police did not ask for it. I was given a book with
a red cover and was told I could use it to deposit
or withdraw.

20

I was not given a book like "F". If the pam-
phlet was explained to Afolabi, Afolabi said nothing
to me about it. I never applied for an overdraft
of £2,000. I approached the Standard Bank and told
them I would like to buy a lorry. I applied for a
loan but I was refused.

30

The 1st accused asked me to withdraw my £1,000
after which the 1st accused gave me £500. The in-
terest on the £500 was to be received by the 1st
accused.

I withdrew my £1,000. I got £500 on loan.
This gave me £1,500 to buy a lorry. I refunded
this two months later. I am not a director of the

40

bank. I refunded the £1,500 to the bank. The interest on the £500 was £5. This I paid to the 1st accused. The 2nd and 3rd accused were not present. I paid interest on £500.

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Nigeria.

Later I got another loan of £350 and I paid it back. I paid no interest on the £350. I deposited for the time with Standard Bank at Kano about 3 or 4 years ago when I was on my way to Mecca.

Prosecution's
Evidence.

No. 6.

10 I did not ask the bank for a loan of £5,000. I deposited £1,000 at the bank at Ibadan. Later I brought the receipt to the 1st accused at Lagos. I cannot identify the Cashier to whom I gave the £1,000.

Salami Sikemi
Olowa.

Cross-
examination -
continued.

No cross-examination on behalf of Nos. 2 and 4 accused.

Davies cross-examines on behalf of No.3 accused.

20 I was not dancing the day the bank opened at Araro. The 1st accused and others were dancing. We were happy because they promised us improvements. They promised us a hospital and a railway extension. The 3rd accused already know some of my friends when he arrived at Araro. I did not introduce any of my friends to him. There are people in my town who have been going to the Standard bank at various places such as Kano and Lagos.

The 3rd accused knew some of my friends at Ibadan before he came there. They said they had been depositors in the bank.

30 The house I got the 3rd accused for use as a bank was whitewashed and a cage was put in it. A Counter was also installed. I did not arrange all this. I did not slaughter a ram and make a feast the day the bank opened. The 3rd accused Ladejo did not stay in my village at Araro.

The 3rd accused promised the inhabitants of my village a railway extension and a hospital that was why he was well received. He slaughtered a ram in the bank. The people were all dancing round the bank.

40 My wives are not so low as to cook for the accused. The name of my friend who ordered Arabic

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Prosecution's Evidence.

No. 6. Salami Sikemi Olowa.

Cross-examination - continued.

books to the value of £600 is Lawani. I did not sign as a surety for Lawani. I am not a director. Lawani and Afolabi are different people. Afolabi ordered books through the bank, but I did not sign as a surety for him.

The loan I got from the bank I paid interest on. I have £1,020 still with the bank now in liquidation. I made a report to the police. I did not buy shares from the bank. I came to Lagos to look for my money when I heard that the bank was in difficulties. I reported to the police.

10

No re-examination.

Hearing resumed this 14th day of April, 1953.

.....

No. 7.

Michael Nkume.

Examination.

No. 7.

EVIDENCE OF MICHAEL NKUME.

P.W.5. MICHAEL NKUME. being sworn on bible states in English. I am Michael Nkume. I am Inspector of Police attached to the Criminal Investigation Department, Lagos, for the whole of 1952. About September 8, 1952, I was on duty at C.I.D. Lagos. I knew one Odofin Bello. He was attached to the C.I.D. at the same time and one Mr. Strueth. As a result of instructions received the three of us proceeded to the premises of the Standard Bank of Nigeria, Limited, at Kakawa Street, Lagos. When I arrived at the said premises, I made certain enquiries. As a result of these enquiries we collected certain ledgers, records and files and documents from the bank and brought them to the C.I.D. Headquarters in Lagos.

20

30

There are 37 ledgers produced. The 37 ledgers produced are the ledgers which I collected at the Standard Bank of Nigeria, Limited, Lagos.

Tendered as Exhibits P.1 to P.37 (No objections).

The document produced is the original balance sheet of the Standard Bank of Nigeria, Ltd., for March 31, 1952. It is signed by the four accused persons and one other who is described as the Chief Accountant. Balance Sheet tendered as Exhibit "Q".

.....

40

15.

No. 8.

JUDGMENT

IN THE SUPREME COURT OF NIGERIA
IN THE LAGOS JUDICIAL DIVISION
MONDAY THE 11th DAY OF MAY, 1953.

BEFORE
THE HONOURABLE MR. JUSTICE JAMES REALI GREGG,
PUISNE JUDGE.

(Title as in No. 1.)

In the Supreme
Court of
Nigeria.

No. 8.

Judgment.

11th May, 1953.

10

J U D G M E N T

I propose, for the sake of convenience, to deal first with the case against the fourth accused, B. Bank-Iyun.

He is charged under three alternative counts.

These are, briefly stated, as follows :-

- 20
- (a) That as Auditor of the Standard Bank of Nigeria, Limited, he did concur with the other three accused in making a false Statement of account, namely, a false balance sheet contra to Section 436(a) of the Criminal Code 1, (count 5 of the information).
 - (b) That as Auditor he was accessory after the fact to the making of the said false balance sheet Contra to Section 519 of the Criminal Code (count 6 of information) and
 - (c) That together with the other three accused, he did publish the said false balance sheet Contra to Section 436(a) of the Criminal Code (Count 7 of the information).

30

The case against him rests mainly on the evidence of the 20th prosecution Witness, Oshinyemi, and on his, the 4th accused's, report as Auditor of the Standard Bank which report is attached to the balance sheet, Exhibit "Q" and is signed by him.

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- continued.

This report states in effect that he has audited the said balance sheet with the books of account and that he is satisfied that the balance sheet is properly drawn up from the books of account of the Bank, and that it is a true and correct view of the state of affairs of the Bank for the period ended 31st March, 1952.

It is admitted that the 4th accused was in England at the time Exhibit "Q" was prepared and that Exhibit "Q" was sent to him by the Chief Accountant, Oshinyemi, for signature. In this connection Oshinyemi (Prosecution Witness 20) admits under cross-examination that he wrote a letter Exhibit "M.M.M." to the 4th accused urging him to sign Exhibit "Q". In this letter he states: "With regard to the balance sheet, I assure you there is nothing to fear as I have safeguarded the interest of the Bank and ours". 10

He then goes on to request the 4th accused to sign the balance sheet without any hesitation on the strength of his explanations and to return two copies to him by registered air mail. 20

Oshinyemi as Chief Accountant prepared Exhibit "Q" subject, according to him, to the directions of Nos. 1, 2 and 3 accused; so there is nothing to suggest that as Auditor, the fourth accused had anything to do with the actual making of the balance sheet.

There is evidence, however, that he knew about the affairs of the Bank at the time; but as Auditor he was not concerned in the actual making of the Bank's balance sheet nor as Auditor was he concerned with its publication. 30

This last was in my view, the function of the Directors and their Chief Accountant who posted the balance sheet to the Acting Chief Secretary on 20/8/52. (See Exhibit "O.O.O.1").

As regards the charge that he concurred with the other accused in the making of a false balance sheet, Exhibit "M.M.M." raises, in my view, a reasonable doubt. Had Exhibit "M.M.M." not been written to him by the Chief Accountant (Prosecution Witness 20), it might perhaps have been held that he concurred in the making of Exhibit "Q" by giving it his blessing; but, on reconsidering the wording 40

of Exhibit "M.M.M.", I feel that a doubt has been raised sufficient to justify the 4th accused's acquittal on count 5.

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This same doubt covers the alternative count 6, and as regards count 7 there is no evidence to show that as Auditor, he was in any way responsible for the publication of Exhibit "Q". That being so, I acquit the 4th accused on counts 5, 6 and 7 and he is accordingly discharged.

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11th May, 1953
- continued.

10 I now come to the case against numbers 1, 2 and 3 accused. They are charged with the following offences:-

1. Stealing £1,000 the property of the Standard Bank of Nigeria, Limited contra to Section 390(7) of the Criminal Code.
2. Stealing Woollen fabrics valued at £169.7.8d the property of the Standard Bank of Nigeria Limited, contra to Section 390(7) of the Criminal Code.
- 20 3. Stealing 50 dozen umbrellas valued at £150 the property of the Standard Bank of Nigeria Limited, contra to Section 390(7) of the Criminal Code.
4. Stealing 100 dozen umbrellas valued at £682. the property of the Standard Bank of Nigeria Limited, contra to Section 390(7) of the Criminal Code.
- 30 5. Making a false Statement of Account, as stated in count 5 of the information, contra to Section 436(a) of the Criminal Code.
6. Publishing a false Statement of Account as stated in count 7 of the information, contra to Section 436(a) of the Criminal Code.

With regard to the first four counts of stealing, the evidence adduced by the prosecution is in many instances confusing and contradictory.

40 With regard to count 1, that of stealing £1,000, the main witness for the prosecution is Salami Olowu

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(Prosecution Witness 2). In his evidence in chief he states:-

"The first accused, Aladesuru, told me that if I deposit my money in his bank, he could get me lorries whenever I wanted them as he had influence with the United Africa Company. As a result of this, I deposited £1,000 in the bank. The bank was called Standard.

The first accused was the only one of the accused who came to see me about making a deposit." 10

Later he states: "I gave the 1st accused, S. Aladesuru, the sum of £1,000 in Lagos at a house near the Court", and after this he says: "I got a receipt for my £1,000. I handed it to the C.I.D."

This alleged receipt was later produced by Crown Counsel and put in evidence during Cross-Examination at the request of Counsel for 1st accused.

It consists of two parts: Exhibit "H.1" and "H.2". Exhibit "H.1" is a Standard Bank Credit slip crediting Salami Sikemi Olowu's account at the bank with £1,000 and Exhibit "H.2" is a share certificate showing that Salami Sikemi Olowu Alabi is the holder of £1,000 in Standard Bank shares. 20

Both documents are dated December 22nd, 1951. Prior to this, a letter Exhibit "G", dated December 14, 1951, was put to the witness during direct examination. In this connection he states:-

"I can only write my name." My signature is on the paper produced. - I signed Exhibit "G" at a place Osun. The person who brought the paper Exhibit "G" to me said it was just to show I had deposited the sum of £1,000". 30

This Exhibit "G" is an application for shares in the Standard Bank of Nigeria, Limited; and when the witness, Olowu, states, in effect, that he thought it was just a deposit receipt, I do not believe him.

This witness, although illiterate, struck me as a man of more than ordinary intelligence who would not be likely to sign documents without knowing their contents. It is significant to note, in this connection, that in Exhibit "C" particulars of directors, Olowu is inserted as an additional director. 40

Under cross-examination this witness makes the following statements:

"I deposited £1,000 at the bank at Ibadan. Later I brought the receipt to the 1st accused at Lagos."

This was after admitting various loan transactions with the bank. He then states:

10 "The loan I got from the bank I paid interest on. I have £1,020 still with the bank now in liquidation."

Later on this witness was recalled by the Court and stated:

"I deposited money in the accused's bank. I do not know the date. I paid £1,000 into the Ibadan branch of the bank"

and finally states - "I gave the money to the bank for the purpose of buying a lorry."

20 As regards counts Nos. 2, 3 and 4 the main witness for the prosecution is Patrick Enuodu (Prosecution Witness 6), who was bills Manager at the Standard Bank of Nigeria, Limited between August 1950 and September 1952, and who swears that Nos. 1 2 and 3 accused were directors of the said bank during this period.

30 He in addition to being bills Manager, kept the key of the bank store in Lagos, where goods consigned to customers from over-seas were kept pending payment by the said customers of amounts due on the goods. All the articles mentioned in counts 2, 3 and 4 were goods so consigned and so stored.

The consignee of the woollen fabrics mentioned in count 2 was Adio Owoniyi Trading Company. As regards these goods, Enuodu (6th Prosecution witness) states under cross-examination:

"The goods of the Adio Owoniyi Trading Company were removed from the store by the three directors in my presence, who handed them over to people I did not know I just stood by.

40 "In this particular case the first three accused removed the goods themselves from the store. This is

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not what would normally happen. The directors also removed the goods themselves from the store in the case of Mecca Bros. They did the same in the case of the goods of the Adeyeye Stores".

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The Adeyeye Stores and Mecca Bros., were the consignees of the umbrellas mentioned in counts 3 and 4 of the information.

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- continued.

As regards the Adeyeye Stores umbrellas, Enuodu (Prosecution Witness 6) states:

"I was present when the balance of the umbrellas were removed from the store. The 2nd accused asked me for the key; I opened the bank store. The umbrellas were then removed. The 1st, 2nd and 3rd accused were all present when the balance of the umbrellas was removed from the store".

10

Under Cross-examination, however, this witness states:

"The evidence I gave in the Magistrates' Court regarding Adeyeye Stores is what I said. I mean that the 2nd accused only was present when the goods of the Adeyeye Stores were removed. The 2nd accused did the removal himself.

20

He did the labouring work himself. I refer to the first lot of the Adeyeye Stores umbrellas that were released".

Later on he states:

"The manual labour in removing the 2nd case of umbrellas was done by the 2nd accused".

30

As regards the umbrellas consigned to Mecca Bros. Enuodu states:

"The Standard Bank of Nigeria, Limited closed down in September, 1952. I was with this bank until it closed. The umbrellas that had been consigned to S.M.D. Mecca Bros. were in the bank store when the Bank closed. I mean to say these umbrellas were not in the store when the bank closed".

This witness may have been lying or he may have been

40

merely confused; but even if he were merely confused, his statements are not such as would sustain a charge of stealing.

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10 Further the evidence of the various consignees called did not, in my view, show that they were either credible or reliable witnesses. Taking into account all the evidence adduced by the prosecution as regards counts 1, 2, 3 and 4, I am satisfied that it does not establish actual stealing on the part of Nos. 1, 2 and 3 accused beyond reasonable doubt and on these counts, they are accordingly acquitted.

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- continued.

I now come to the remaining counts (Nos. 5 and 7) against the three accused. Both these counts are based on the balance sheet Exhibit "Q" as printed and published in Exhibit "R" and Exhibit "O.O.O.2".

20 On the evidence before me - particularly that of Mr.H.W.Long (Prosecution Witness 21); Oshinyemi (Prosecution Witness 20); J.O'Dowu (Prosecution Witness 17); J.Agbafe (Prosecution Witness 18) and J.Onyenkala (Prosecution Witness 19) - I am satisfied that the balance sheet of the Standard Bank of Nigeria, Limited, as shown on Exhibits "Q" "R" and "O.O.O.2" is in fact false and misleading. I am aware that the evidence of Oshinyemi (Prosecution Witness 20) must in this connection be regarded as that of an accomplice - albeit an unwilling one - and I warn myself to regard it with caution, but, taking the evidence of this witness in conjunction of that of other witnesses for the prosecution, I am satisfied that it can be accepted and I accept it accordingly.

40 I am also satisfied beyond reasonable doubt, on the evidence before me, that Nos. 1, 2 and 3 accused did concur in the making of the said false balance sheet knowing the same to be false with intent to deceive any member shareholder or creditor of the Standard Bank of Nigeria Limited, and that further, as stated in count 7, they published the said false balance sheet, with the same knowledge and intent as aforesaid, before the said bank went into liquidation in September, 1952.

There is no doubt in my mind that in making Exhibit "Q", which is signed by all three accused, the Chief Accountant Oshinyemi (Prosecution Witness 20) acted not only with the concurrence of Nos. 1,2

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and 3 accused, but also under their directions; and I hold the same with regard to the publication of Exhibit "Q", which was sent in printed form by Oshinyemi, the Chief Accountant, to the Acting Chief Secretary on the 20th August, 1952, and marked on the covering letter as received by Financial Registry on August 25, 1952 (See Exhibits "O.O.O.1" and "O.O.O.2").

Having made these findings of fact I now come to consider the final relevant submissions of Counsel for the accused. These submissions have been summarised by Mr. Rotimi Williams as follows:

10

1. That it has not been proved that Nos. 1, 2 and 3 accused were directors of the Standard Bank; and

2. That the trial is not in accordance with Sections 157 and 158 of the Criminal Procedure Ordinance and that the joint trial of accused persons is not a subject for demurrer.

As regards submission No. 1, the evidence adduced by the prosecution to prove that Nos. 1, 2 and 3 accused were directors of the Standard Bank of Nigeria Limited, at all material times, is as follows:

20

1. Exhibit "B". This is a statutory document, produced from the office of the Registrar of Companies, giving names and particulars of directors or managers pursuant to Section 76(1) of the Companies Ordinance. It is dated the 11th of October, 1950, and gives the names of all three accused as directors of the Standard Bank of Nigeria, Limited.

30

It is signed by S. Aladesuru (the 1st accused) as being presented by him and is also signed by him as director. It bears the stamp of the Administrator General, who is also Registrar of Companies, dated 23rd October, 1950.

2. Exhibit "C". This is a similar document to Exhibit "B". It also gives the names of Nos. 1, 2 and 3 accused as directors with that of one Olowu as an additional director.

40

It is dated the 14th of May 1952 and is presented and signed by S. Aladesuru the 1st accused as director.

3. Exhibit "D". This is a statutory document, required by Section 27 of the Companies Ordinance and gives a summary of the share capital and shares of the Standard Bank of Nigeria, Limited, up to the 19th day of September, 1951. It lists the names of Nos. 1, 2 and 3 accused as directors of the Standard Bank of Nigeria, Limited and also gives a list of persons holding shares. Nos. 1, 2 and 3 accused head the list of shareholders with holdings, in £1 shares, of £4,500 each. It was presented to the Registrar of Companies, on the 29th September, 1951, for filing by the 1st accused, Aladesuru, who signs on the face of the document as director and later as Secretary.

10

4. Exhibit "E". This is a return of allotments, of shares, required by Section 89 of the Companies Ordinance. It gives a return of share allotments, for the Standard Bank of Nigeria, Limited, from the 28th of August, 1951 to the 19th September, 1951. It shows Nos. 1, 2 and 3 accused as allottees of 2,000 ordinary shares each and is signed by F. Akinsanya, the 2nd accused, as director. Exhibit "F". This is the printed memorandum and Articles of Association of the Standard Bank of Nigeria Limited. It was filed with the Registrar of Companies and was put in evidence, without objection with the other documents mentioned, by prosecution witness No.1, who is a clerk in the office of the Registrar of Companies.

20

30

Both the memorandum and the Articles of Association are dated the 30th day of April, 1950, and are stamped by the Commissioner of Stamp Duties. The last clause of the memorandum contains the printed names and addresses of the three accused as sole subscribers and gives the number of shares taken by each as 300 ordinary shares.

40

Each one of the three accused has put his signature under his printed name. The last clause of the article also contains the printed names of the three accused as sole subscribers and is also signed by them in accordance with Section 13 of the Companies Ordinance.

According to clause 68 of Table A, attached to the Companies Ordinance, which applies in the present case, the number of directors and the names of the first directors of a Company shall be determined in writing by a majority of the subscribers

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of the Memorandum of Association. This clause does not expressly require the writing to be signed by the majority of the subscribers, and it does not specify the form of the writing or require a meeting.

That being so, I would refer to Exhibit "B". This is the list of the names of directors required by Section 76(1) of the Companies Ordinance. It is dated the 11th of October, 1950, and was filed with the Administrator General, who is also Registrar of Companies, on October 23, 1950, roughly four months after the Company's Incorporation which took place on June 21, 1950. (See Exhibit "A"). It names the three accused, who are the sole subscribers, as directors, and is signed as director by the first accused who is a co-subscriber. Exhibit "D" is also relevant in this connection. 10

The three accused as sole subscribers are naturally the majority of the subscribers and having been named as directors in writing in a document signed by one of their number, I hold that paragraph 68 of Table "A" has been complied with. 20

The remaining evidence adduced by the prosecution to prove directorship is as follows :-

6. Exhibit "Q". This is the balance sheet referred to in both counts 5 and 7 and was signed by Nos. 1 and 3 accused as directors and by No. 2 accused as General Manager in the presence of Oshinyemi, the Chief Accountant (Prosecution Witness 20).

7. Oral evidence. This is the evidence of Crown Witnesses to the effect that from 1950 until September, 1952 - when the Company went into liquidation - the three accused actively controlled and personally directed the affairs and business of the Standard Bank of Nigeria Limited, as directors. 30

In Archbold, 31 Edition (1943) at page 703 editorial doubt is expressed as to whether proof that a person acted as a director is sufficient prima facie evidence of his being a director in cases of fraudulent conversion under the Larceny Act of 1916, and this doubt is expressed notwithstanding the judgment given in 1942, in Dean vs. Hiesler (2 All Eng. L.R. 1942 page 340). Reference is made to the case of Rex versus Atkins (64 J.P. 361), but with the comment "see Rex versus Lawson post". 40

Later at page 705, it is submitted by the learned editors that in cases of publication of fraudulent statements by directors contra to section 84 of the Larceny Act, 1861, that the case of Rex versus Lawson (1 K.B. 1905 page 541) is equally applicable to directors and other officers of a Company.

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- continued.

10 The same submission is again expressed in Archbold 32nd Edition 1949 at page 735. In Rex versus Lawson (1 K.B. 1905 page 541), it was decided by the Court of Crown Cases Reserved that Section 84 of the Larceny Act 1861 which makes it a misdemeanour for "any director, Manager or public officer of any body corporate or public company" to publish false statement with intent to deceive or defraud applies to a person who, without having been appointed an officer of the Company, has in fact acted throughout as the Manager of the affairs of the Company.

20 It is admitted by one of the Counsel for the accused, Mr. Williams, that this case still stands; but if I understand him aright, he contends, in effect, that it applies only to persons such as Managers and not to directors or officers appointed under the Companies Ordinance.

In his judgment in Rex versus Lawson, Lord Alverstone, Chief Justice stated:

"Director is possibly a term of Art"

30 In stating that director is possibly a term of art Lord Alverstone was not, in my opinion, saying anything of very great significance.

Art is defined in the Oxford Dictionary as skill the result of knowledge and practice: It is also defined as an occupation requiring such knowledge or skill, e.g. a Craft.

That being so, director as a term of art would simply mean a term peculiar to a given business, trade or occupation.

40 As a member of the same Court, Channell J. stated in a supporting judgment, in the same case, as follows:

"I think that this (Section 84 of the Larceny

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- continued.

Act) is one of group of sections dealing with offences which can only be committed by persons who occupy those positions quite apart from whether they happen to have been duly appointed or appointed at all to those positions".

Having regard to this wording, I cannot find that Rex versus Lawson is confined to Managers. What difference is there in principle is there between a man who as a pseudo director knowingly publishes a false statement with intent to deceive and one who knowingly publishes such a statement as a pseudo Manager? 10

Personally, I can see none and I hold that Rex versus Lawson applies to the present case even though it had been proved, which it has not, that the accused were not properly appointed directors.

I might mention in passing that I have been referred to the Nigerian case of Rex versus Stibbe (M.3530. 1949) in which the accused was prosecuted as a director of D.X. Stibbe, Limited, on three counts for fraudulent conversion or appropriation etc. Contra to Section 435 of the Criminal Code; and in which it was held in effect, that strict proof of directorship was necessary. 20

In the present case, however, the relevant charges have been brought under Section 436 of the Criminal Code which deals with the making and publishing of false statements of account. That being so having regard to the opinion expressed in Archbold 31st Edition at pages 703 and 705, respectively, I cannot accept Rex versus Stibbe as being on all fours with the present case. 30

But be that as it may, I am satisfied, on the evidence before me, that the number and names of the first directors of the Standard Bank of Nigeria, have been determined in writing by a majority of the subscribers of the memorandum of Association, sufficiently to satisfy clause 68 of Table "A" of the Companies Ordinance. (See Exhibits "B" and "D").

With regard to Mr. Rotimi Williams' second submission that the trial is not in accordance with Sections 157 and 158 of the Criminal Procedure Ordinance, and that the joint trial of accused persons is not the subject of demurrer. I might mention that Mr. Williams stated in effect in the course of 40

making this submission that his objection was limited to the trial, and that he had no objection to the joinder of charges.

He agreed that it was then too late to object to the information in this connection, but contended that the accused persons should not have been tried together and that this was not the subject of a demurrer.

10 Under Section 37 of the Interpretation Ordinance (Cap. 94). words in the singular shall include the plural and vice versa; therefore, if the word "person" in Section 158 of the Criminal Procedure Ordinance is read as "persons" the accused may, in my view, be jointly tried for more than one offence in accordance with the provision of that section.

20 On this ground as well as on the ground that there is no objection made to the joinder of charges in the information, I am satisfied that the trial of the accused persons is, in this respect, in order, and that they have not in fact been embarrassed or misled.

30 Having found as I have on the evidence adduced, and on the submission of Counsel for the accused, I hold, bearing in mind the provisions of Section 7 of the Criminal Code, that the three accused: S. Aladesuru, F. Akinsanya and Kola Ladejo are guilty of the charges against them contained in counts 5 and 7 of the information, and I convict them accordingly.

(Sgd.) J. R. GREGG

PUISNE JUDGE.

J.

11/5/53.

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- continued.

No. 9.

SENTENCE

ALLOCUTUS: 1st accused: I ask for mercy.

My Counsel will speak for me.

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No. 9.

Sentence.

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- continued.

Miss Rhodes addresses Court in mitigation.

States 1st accused a young man. Asks that Court should take into account that he is a young man and inexperienced.

States Banking Ordinance provides for fine. Asks that he be given the option.

ALLOCUTUS: 2nd accused: I ask for mercy.

R. Williams addresses Court in mitigation.

Asks Court to ignore evidence adduced in first 5 counts of which they have been acquitted. 10

No doubt law regards offence charged as serious. Balance sheets are meant for guidance of public; but in this case the greater culprit is the Chief Accountant.

The man to guide the 3 accused was the Chief Accountant. A fine would be adequate under the circumstances.

Accused is a young man with a wife and family.

He has had to stand the ordeal of a long and difficult trial. 2nd accused financially ruined. No previous conviction against accused. 20

ALLOCUTUS: 3rd accused: I ask for leniency.

My Counsel will speak for me.

H.O.Davies states that what Counsel for 1st and 2nd accused have said is applicable to 3rd accused.

The accused young and inexperienced and Court should have regard to the type of staff they employed. Statements of Chief Accountant very contradictory. Asks for mercy.

SENTENCE: 30

BY COURT: I take a grave view of this case.

I sentence each of the accused persons to 5 years imprisonment with hard labour on each count, namely, counts 5 and 7.

Sentences to run concurrently.

(Sgd.) J. R. GREGG

PUISNE JUDGE.

11/5/53.

ACCUSED informed of right of appeal.

No. 10.

NOTICE OF APPLICATION FOR LEAVE TO APPEAL
AGAINST CONVICTION

In the West
African Court
of Appeal

IN THE WEST AFRICAN COURT OF APPEAL

Criminal Form 2.

Notice of Application for Leave to appeal against a
Conviction

(Rule 43)

REX v. SAMUEL ALADESURU and 3 OTHERS.

No. 10.
Notice of
Application
for Leave to
Appeal against
Conviction.

10 To The Registrar of the West African Court of Appeal

11th May, 1953

I, SAMUEL ALADESURU

Here state
the offence
e.g. Larceny
murder,
forgery etc.

having been convicted of the of-
fence 2 counts contravening Section
436(a) of the Criminal Code, and
now being a prisoner in Her
Majesty's Prison at Lagos
(or now living at

20 Where
applicant for
any reason
not in custody

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 herein-
after set forth.

1. That judgment is against the weight of evi-
dence.
2. That in view of the evidence as a whole,
the learned trial Judge was wrong to rely
upon the uncorroborated evidence of an
accomplice.
3. The learned trial Judge was wrong in hold-
ing that the Crown has proved that I was a
director, so as to bring me within the
mischief of the section of the Criminal
Code under which I was charged.
4. The learned trial Judge was wrong in not
holding that the trial was irregular.
5. The learned trial Judge was wrong in

30

In the West African Court of Appeal

admitting inadmissible evidence.

Signature or Mark (Sgd.) S. ALADESURU.

Applicant

Convict No. M.Z.88.

No. 10.

DATED this 11th day of May, 1953.

Notice of Application for Leave to Appeal against Conviction.

PARTICULARS OF TRIAL AND CONVICTION.

11th May, 1953 - continued.

Fill in these particulars.

- 1. Date of trial - 11.5.53.
- 2. In what Court tried - Supreme Court, Lagos.
- 3. Sentence - 1st Count, 5 years I.H.L. 10
2nd Count - 5 years I.H.L.
Sentence to run concurrently i.e. Total - 5 years I.H.L.

Here state as clearly and concisely as possible the grounds on which you desire to appeal against your conviction.

GROUND'S OF APPLICATION:

- (1) If you desire to be present when the Court considers your present application for leave to appeal state:-
 - (a) whether or not you are legally represented, and 20
 - (b) the grounds on which you submit that the Court should give you leave to be present.

(A) I am legally represented.

(B) To enable me to direct my Counsel in the conduct of my case.

- (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. 30
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.

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

YES.

(The Notices of Application for Leave to Appeal against conviction filed by the 2nd and 3rd Appellants are in identical terms). 40

No.11.

NOTICE OF APPLICATION FOR LEAVE TO APPEAL
AGAINST SENTENCE

In the West
African Court
of Appeal

Filed on the 11th May, 1953. Criminal Form 3.

No. 11.

IN THE WEST AFRICAN COURT OF APPEAL

Notice of Application for Leave to Appeal against
Sentence. (Rule 43)

Notice of
Application
for Leave to
Appeal against
Sentence.

REX v. SAMUEL ALADESURU and 3 OTHERS.

11th May, 1953

10 Here state the offence e.g. larceny murder, forgery, etc.

To The Registrar of The West African Court of Appeal.

I, SAMUEL ALADESURU, having been convicted of the offence of 2 counts of contravening Section 436(a) of the Criminal Code, and now being prisoner in Her Majesty's Prison at Lagos.

(or now living at

20 Where Applicant for any reason not in custody

DO HEREBY GIVE YOU NOTICE that I desire to apply to the Court for leave to appeal against the sentence of 5 years passed upon me for the said offence on the following grounds :-

Here set forth the grounds on which you desire to question the sentence.

30 1. That the trial Judge having found that the 20th witness, named Oshiyemi was an accomplice, and that he prepared the balance sheet for which he was responsible, has inflicted unduly severe punishment on me.

2. That the Judge failed to take into account the fact that the 20th witness who shifted responsibility to me, also tried similarly to shift responsibility on the Auditor, but for the luck that the latter had in still retaining possession of Exhibit "MMM".

40 3. That the sentence is too severe, having regard to all the facts and circumstances of the case.

Signed or mark - (Sgd.) S. ALADESURU.
Applicant.

Convict No. M.Z.88.

DATED this 11th day of May, 1953.

In the West
African Court
of Appeal

Criminal Form 3.

PARTICULARS OF TRIAL AND CONVICTION:

No. 11.

Notice of
Application
for Leave to
Appeal against
Sentence.

11th May, 1953
- continued.

Fill in all these particulars.

1. Date when sentence passed - 11.5.53.

2. In what Court tried - Supreme Court, Lagos.

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

(a) whether or not you are legally represented, and 10

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

(a) I am legally represented.

(b) To enable me to direct my Counsel in the conduct of my case.

(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. 20

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.

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

YES.

(The Notices of Application for Leave to Appeal against sentence by the 2nd and 3rd Appellants are in identical terms). 30

No. 12.

NOTE OF PROCEEDINGS

IN THE WEST AFRICAN COURT OF APPEAL
HOLDEN AT LAGOS, NIGERIA.
TUESDAY THE 21st DAY OF JULY, 1953.
BEFORE THEIR LORDSHIPS

In the West
African Court
of Appeal

No. 12.

Note of
Proceedings.

21st July 1953

SIR JOHN VERITY, CHIEF JUSTICE, NIGERIA, PRESIDING.
OLUMUYIWA JIBOWU, ACTING SENIOR PUISNE JUDGE,
NIGERIA. WILFRED HUGH HURLEY, PUISNE JUDGE, NIGERIA.

10 REX v. ALADESURU AND OTHERS.

F.R.A. Williams (H.O. Davies with him) for Appellant.

Fatayi Williams for Crown.

Leave to appeal is granted.

Fatayi Williams: grounds 1, 4 and 5 do not appear
to be in order.

Williams: Ground 1 is as to evidence.

Court: This ground "against weight of evidence" has
no application in criminal cases.

Ground 1 - struck out.

20 Williams: As to ground 4 - means that there was a
misjoinder in the charge.

Ground 4 - struck out.

Williams: Ground 5 abandoned.

Charged originally as 7 counts.

Acquitted on count charging with stealing.

Convicted on counts 5 and 7.

P.4. Count 5 - making false balance sheet

P.10. Count 7 - publishing the same.

Ground 3.

30 Criminal Code sec. 436.

Submits it must be proved that Appellants
were directors of the corporation or company.

In the West
African Court
of Appeal

No. 12.

Note of
Proceedings.

21st July 1953
- continued.

Whether a person is a director is a question
of law.

Exhibit 5. Memorandum of Association. p.7.

Table A. Schedule 1 Company's Ordinance Cap.38
Art.68.

No proof of appointment of Appellants as direc-
tors.

Exhibit 13 - Form C. See Sec.76(1).

Form containing name of 3 Appellants and signed
by 1st Appellant.

10

Exhibit C. - Similar.

Exhibit D. - See Sec.27.

Exhibit E. -

All show Appellants as directors and each
signed by one of Appellants.

But all are not enough.

R. v. Atkin 64 J.P. 361.

Dean v. Hiesler (1942) 2 All E.R. p.340

Unless Crown proves positively proper appointment
as directors prosecution must fail.

20

It will be necessary to produce the writing
required by Section 68.

Ground 2. -

Evidence of concurrence in making balance and
publishing it solely that of accomplice - the
accountant.

Crown not called upon.

Appeal dismissed. Reasons to be
given later.

(Sgd.) J. VERITY.

21.7.53.

No.13.

REASONS FOR JUDGMENTIN THE WEST AFRICAN COURT OF APPEALHOLDEN AT LAGOS, NIGERIA.WEDNESDAY THE 29th DAY OF JULY 1953

BEFORE THEIR LORDSHIPS

SIR JOHN VERITY, CHIEF JUSTICE, NIGERIA, PRESIDING
 JUDGE. OLUMUYIWA JIBOWU, ACTING SENIOR PUISNE JUDGE
 NIGERIA. WILFRED HUGH HURLEY, PUISNE JUDGE, NIGERIA

In the West
 African Court
 of Appeal

No. 13.

Reasons for
 Judgment.

29th July 1953

10

WACA, 91/1953

1. SAMUEL ALADESURU
2. FOLAHAN AKINSANYA
3. KOLA LADEJO Appellants

- versus -

THE QUEEN Respondent

REASONS FOR JUDGMENT

20 On the 21st July, 1953, we dismissed the ap-
 peals of the Appellants against their convictions
 by the Supreme Court, Lagos, on the 11th May, 1953,
 for making false statement of account contrary to
 section 436(a) of the Criminal Code in that they,
 as Directors of the Standard Bank of Nigeria Ltd.,
 concurred in the making of the balance sheet of the
 said Bank, dated the 31st March, 1952, which was
 false to their knowledge with intent to deceive any
 member, shareholder or creditor of the said Bank,
 and for publishing false balance sheet of the said
 Bank, dated 31st March, 1952, knowing it to be false
 30 and with intent to deceive any member, shareholder
 or creditor of the said Bank, contrary to section
 436(a) of the Criminal Code, as also their appeals
 against the concurrent sentences of 5 years' im-
 prisonment passed on each of them by the Supreme
 Court.

We now give reasons for our decision.

Five grounds of appeal were put forward but
 only two, namely, the 2nd and 3rd were argued as
 the 1st, 4th and 5th were struck out. The 1st

In the West
African Court
of Appeal

No. 13.

Reasons for
Judgment.

29th July 1953
- continued.

ground of appeal that "judgment is against the weight of evidence" is no ground of appeal in criminal matters but is an appropriate ground in civil matters where verdicts are to be arrived at by preponderance of evidence. In criminal matters the proper ground of appeal is that "the verdict is unreasonable and cannot be supported having regard to the evidence". This difference has been pointed out by this Court times without number and so we have no sympathy for any Appellant who still puts up a wrong ground of appeal. Even if we had granted an amendment of the ground of appeal, we would not have been disposed to hear arguments on facts.

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The 4th ground of appeal failed to furnish particulars of the irregularities complained of in the trial and the 5th ground also did not set out the particulars of the inadmissible evidence alleged to have been wrongly received as required by the Rules of Court.

20

With regard to the 2nd ground of appeal that "the learned trial Judge was wrong to rely upon the uncorroborated evidence of the accomplice", we find from a perusal of the Record of Appeal that the learned trial Judge treated the 20th prosecution witness, Oshinyemi, the Chief Accountant of the Standard Bank of Nigeria Ltd., who compiled the Balance Sheet in question, as an accomplice. He did not stop there but directed himself rightly as to the law applicable to the evidence of an accomplice. He found as a fact that the evidence of the accomplice was corroborated by the evidence of the 17th, 18th, 19th and 21st prosecution witnesses and he accepted the evidence of the accomplice which stood uncontradicted as none of the Appellants called evidence.

30

We have carefully studied the evidence of the 17th, 18th, 19th and 21st prosecution witnesses and we are satisfied that they corroborated the evidence of Oshinyemi, the accomplice, as to the falsity of the particulars of the Balance Sheet. We are further satisfied that the learned trial Judge was right in accepting Oshinyemi's evidence that he compiled the false Balance Sheet with the concurrence and under the direction of the Appellants who were the Directors of the Bank, having regard to the uncontradicted evidence before him.

40

In view of the evidence before the trial Judge and of the admission of the learned Counsel for the Appellants that the Appellants each signed the Balance Sheet, we are not impressed by the Counsel's submission that there was no proof that the Appellants knew of the falsity of the particulars of the Balance Sheet.

We find no substance in the 2nd ground of appeal which therefore fails.

In the West
African Court
of Appeal

No. 13.

Reasons for
Judgment.

29th July 1953
- continued.

10 The 3rd ground of appeal argued was that the Crown failed to prove that the Appellants were Directors of the Standard Bank of Nigeria Ltd., and the learned Counsel for the Appellants submitted that the case against the Appellants must fail because there was no formal proof of the appointment of the Appellants as Directors of the Bank and that the production of Returns Exhibits B, C, D and E made by the Appellants to the Registrar of Companies under the provisions of the Companies Ordinance were not sufficient to raise a prima facie case that the Appellants were Directors of the Standard Bank.

20 He drew our attention to the case of R. v. Atkins, 1900, 64, J.P., 361, reprinted at page 165 of Vol. V of Magisterial Cases, in which it was held that "to convict a person of offences as a Director of a public company within sections 81 and 83 of 24 and 25 Vit. C. 96. it is not enough to prove that such person acted as a Director of the Company, it must be proved that he was properly appointed such director". He also cited Dean v. Feisler, reported in 1942, 2 All E.R. 340 in which it was held that it must be strictly proved that a man was appointed a Director of a Company before he could be convicted of a criminal offence as Director. In that case the Respondent acted as Director, but was not appointed a Director and was not even qualified to be a Director as he did not take qualifying shares in the Company. That case is distinguishable from the case in point in which the three Appellants were the only three subscribers to the Memorandum and Articles of Association Exhibit F which, in paragraph 14 of the Articles, laid down that "no person shall be appointed a Director of the Company unless such person shall hold at least one thousand shares of £1 each in the Company".

In the West
African Court
of Appeal

No. 13.

Reasons for
Judgment.

29th July 1953
- continued.

Return of allotments of shares Exhibit E shows that each of the Appellants had been allotted 2,000 ordinary shares. Return Exhibit D shows that each of the Appellants held 4,500 shares and that they were duly qualified to be Directors of the Company.

Exhibit A is the certificate of incorporation of the Standard Bank of Nigeria Ltd., on the 21st June 1950. Exhibit F shows that the three Appellants were the only subscribers to the Memorandum and Articles of Association. The Company formed was a private company to carry on Banking Business and it is reasonable to suppose that the three Appellants agreed between themselves to be the first Directors of the Company, hence on the 11th October 1950, the 1st Appellant, pursuant to Section 76(1) of the Company's Ordinance forwarded Return of the Directors of the Company, showing the names and addresses of the three Appellants as Directors. The sending of Exhibit B to the Registrar of Companies appears to raise in their favour the presumption couched in the maxim 'Omnia prae-sumuntur rite esse acta' that Exhibit B was a copy of the Register containing the names and addresses and the occupations of the Directors or Managers of the Company kept by the Company at its registered office.

Exhibit C is a return, similar to Exhibit B, rendered to the Registrar of Companies on the 14th day of May 1952.

We are therefore inclined to agree with the learned trial Judge that returns Exhibits B and C appear to be evidence of compliance with paragraph 68 of table A.

R. v. Lawson, reported in 1905, 1 K.B. 541, is an authority for the proposition that a director or manager of a Company who is a de facto director or manager could be convicted for any fraud perpetrated as such de facto director or manager. This case is still good law.

Even if it cannot be held that the Appellants appointed themselves as Directors of the Standard Bank of Nigeria Ltd., it cannot be disputed, on the evidence before the learned trial Judge, that they were de facto Directors of the Bank, Exhibit H2 is a share certificate signed by the three Appellants

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as Directors. As Directors they also signed the Balance Sheet in question.

In the West
African Court
of Appeal

No. 13.

Reasons for
Judgment.

29th July 1953
- continued.

10 Furthermore, it would appear that the object of the Legislature in requiring a registered Company to keep a register of the names, addresses and occupations of the Directors in the Head Office of the Company and to forward a copy of the entry in such Register to the Registrar of Companies is to enable the public to ascertain whenever required either from the Register or from the Record of the Registrar of Companies who the Directors of a Company are at any particular time and to find out from the Records filed with the Registrar of Companies other facts about a Company. The Records of any Company kept by the Registrar of Companies are therefore evidence of their contents until the contrary is proved.

20 Exhibits A, B, C, D, E, F and H2, in our view, are prima facie evidence that the Appellants were the Directors of the Bank in question at the material time. In the absence of any evidence to the contrary, the Appellants were liable to be convicted as Directors. We were, therefore, satisfied that the Appellants were properly convicted and so dismissed their appeals against their convictions. In our view, the sentences passed on the Appellants were not too excessive or severe having regard to the prevalence of fraudulent practices in the country and to the gravity of the offences committed.

30 (Sgd.) O. JIBOWU
Acting Senior Puisne Judge,
Nigeria.

(Sgd.) JOHN VERITY
Chief Justice, Nigeria.

(Sgd.) W. H. HURLEY
Puisne Judge, Nigeria.

In the Privy
Council

No.14.

No.14.

Order granting
Special Leave
to Appeal.

13th April,
1954.

ORDER GRANTING SPECIAL LEAVE TO APPEAL.

(L.S.)

AT THE COURT OF SAINT JAMES

The 13th day of April, 1954

PRESENT

HER MAJESTY QUEEN ELIZABETH THE QUEEN MOTHER

HER ROYAL HIGHNESS THE PRINCESS MARGARET

LORD PRESIDENT
MARQUESS OF READING
EARL DE LA WARR

MR. SECRETARY LYTTTELTON
MAJOR LLOYD GEORGE
MR. PEAKE

10

WHEREAS Her Majesty, in pursuance of the Re-
gency Acts, 1937 to 1953, was pleased, by Letters
Patent dated the twentieth day of November, 1953,
to delegate to Her Majesty Queen Elizabeth The Queen
Mother, Her Royal Highness The Princess Margaret,
His Royal Highness The Duke of Gloucester, Her Royal
Highness The Princess Royal and the Earl of Hare-
wood, or any two or more of them, as Counsellors of
State, full power and authority during the period
of Her Majesty's absence from the United Kingdom to
summon and hold on Her Majesty's behalf Her Privy
Council and to signify thereat Her Majesty's ap-
proval of anything for which Her Majesty's approval
in Council is required:

20

AND WHEREAS there was this day read at the
Board a Report from the Judicial Committee of the
Privy Council dated the 15th day of March, 1954, 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 (1)
Samuel Aladesuru (2) Folahan Akinsanya (3) Kola
Ladejo in the matter of an Appeal from the West
African Court of Appeal between the Petitioners
Appellants and Your Majesty Respondent setting
forth (amongst other matters): that this is a
Petition for special leave to appeal from Ord-
ers made by the West African Court of Appeal
striking out certain of the Petitioners' grounds

30

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of Appeal and dismissing the Appeal on other grounds: that the Petitioners' Appeals to the West African Court of Appeal were from an Order made by the Supreme Court of Nigeria convicting all the Petitioners on two counts namely (1) of making and (2) of publishing a false statement of account contrary to section 436 (a) of the Nigerian Criminal Code and sentencing them on each count to five years imprisonment with hard labour the said sentences to run concurrently: that the Petitioners submit (inter alia) that the West African Court of Appeal by striking out certain of the Petitioners' grounds of Appeal without hearing argument thereon deprived the Petitioners of a right to appeal granted by Statute and amounted to a denial of justice: And humbly praying Your Majesty in Council to grant the Petitioners special leave to appeal from the Orders of the West African Court of Appeal of the 21st July 1953 or for such other Order as to Your Majesty in Council may seem fit:

In the Privy Council.

No.14.

Order granting Special Leave to Appeal.

13th April, 1954 - 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 on both sides Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioners to enter and prosecute their Appeal against the Orders of the West African Court of Appeal dated the 21st day of July 1953 but without prejudice to the right of the Respondent at the hearing of the Appeal to take the point that the Petitioners' fifth ground of Appeal to the West African Court of Appeal (viz. that the Trial Judge was wrong in admitting inadmissible evidence) was abandoned in that Court:

"AND THEIR LORDSHIPS do further report to Your Majesty that the proper officer of the said Court of Appeal ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal."

NOW, THEREFORE, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The

In the Privy
Council.

No.14.

Order granting
Special Leave
to Appeal.

13th April,
1954 -
continued.

Princess Margaret being authorized thereto by the said Letters Patent, have taken the said Report into consideration and so hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf approve thereof and 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 Nigeria for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

10

W. G. AGHEW.

EXHIBITS

EXHIBIT "A" (BY PROSECUTION)

Certificate of Incorporation of Standard Bank
of Nigeria, Ltd.

N I G E R I ACERTIFICATE OF INCORPORATION

I HEREBY CERTIFY that STANDARD BANK OF
NIGERIA, LIMITED is this day Incorporated under
the Companies Ordinance (Cap. 38) and that the
Company is Limited.

10

GIVEN under my hand at Lagos this 21st day
of June, One thousand nine hundred and fifty.

Fees and Deed Stamps: £ 13.15. 0

Stamp Duty on Capital: £ 125. 0. 0

(Sgd.) ? ?

Registrar of Companies.

Exhibits

"A"

Certificate
of
Incorporation
of Standard
Bank of
Nigeria Ltd.

21st June,
1950.

EXHIBIT "B" (BY PROSECUTION)

PARTICULARS OF DIRECTORS

No. of Company 789

Form C.O.7.

20

THE COMPANIES ORDINANCE

A5/-

Companies'
Registration
Fee Stamp to be
Impressed here.

"B"

Particulars
of Directors.

11th October,
1950.

PARTICULARS OF DIRECTORS OR MANAGERS

AND OF ANY CHANGES THEREIN

Pursuant to Section 76(1).

Name of Company: Standard Bank of Nigeria, Limited.

Presented by (Sgd.) S. ALADESURU,
Director.

Exhibits

"B"

PARTICULARS OF DIRECTORS OR MANAGERS
(a) OF STANDARD BANK OF NIGERIA LIMITED
and of any changes therein.Particulars
of Directors.11th October,
1950 -
continued.

(b) The present Christian Name or Names and Surname	Nationality	Address	
Funso Funso Akinsanya	Nigerian (Yoruba)	10, Aje Street, Yaba	
Kolawole Ladejo	Nigerian (Yoruba)	3, Olopade Street, Lagos.	10
Samuel Oluwafemi Aladesuru	Nigerian (Yoruba)	53, Freeman Street, Lagos. (Additional Director)	
11th October, 1950. (Sgd.) S.O. ALADESURU Director.			

"C"

EXHIBIT "C" (BY PROSECUTION)
PARTICULARS OF DIRECTORSParticulars
of Directors.

14th May 1952.

Presented by S.O. Aladesuru

No. of Company 709Form C.O.7. 20THE COMPANIES ORDINANCEA5/-
Companies
Registration
Fee Stamp to be
impressed here.PARTICULARS OF DIRECTORS OR MANAGERS
AND OF ANY CHANGES THEREIN.

Pursuant to Section 76(1)

Name of Company: STANDARD BANK OF NIGERIA LIMITED 30

Presented by: S. O. ALADESURU
Director.

E X H I B I T S



PARTICULARS OF DIRECTORS OR MANAGERS (a) of STANDARD BANK OF NIGERIA LIMITED
AND OF ANY CHANGES THEREIN

(b) The present Christian name or names and surname	Any Former Christian name or names or surname	Nationality	Nationality of Origin other than the present Nationality	Usual Residential Address	Other business Occupation or Directorships, if any. If none, state so (c)	Changes (d)
SALAMI ALABI SIKEMI OLUWA	-	YORUBA	-	Oke Mapo Ibadan	Transport and Produce Merchant	Additional Director.
KOLA LADEJO	-	"	-	3 Olopade Street, Lagos.	Merchant	-
FOLAHAN AKISANYA	-	"	-	10 Aje Street, Lagos.	Banker	-
SAMUEL O ALADESURU	-	"	-	52 Freeman Street, Lagos.	Financier & Company Director.	-

DATED this 14th day of May, 1952.

(Sgd.) S.O. ALADESURU.
DIRECTOR.

Exhibits

"H.2."

EXHIBIT "H.2" (BY PROSECUTION)
 SHARE CERTIFICATE

Share
 Certificate.

STANDARD BANK OF NIGERIA, LIMITED.
 (For Finance and Commerce)

22nd December
 1951.

Incorporated under the Companies Ordinance 1922/9.

<u>Certificate No.</u>	<u>CAPITAL £25,000</u>	<u>No.of Shares.</u>
------------------------	------------------------	----------------------

divided into 12,500 Ordinary Shares of £1 each

" " 12,500 Preference " " "

SHARE CERTIFICATE

THIS IS TO CERTIFY THAT MR.SALAMI SIKEMI OLUWA
 ALABI of P.O.BOX 67 MAPO HILL IBADAN the registered
 holder of £1,000. Shares in the above-named Bank
 subject to the provisions of the memorandum and Ar-
 ticles of Association of the Bank and that there
 has been paid in respect to each of the said Shares
 the sum of £1,000.

10

GIVEN under the Common Seal of the Bank

This 22nd day of December, 1951

(Sgd.) KOLA LADEJO, Chairman.

(Sgd.) F.F. AKINSANYA)) Directors.
(Sgd.) S.O. ALADESURU)	

20

(Sgd.) ? ?
 for Secretary.

NOTE:- No transfer of any shares contained in this
 Certificate will be registered until Certi-
 ficate is deposited at the Company's Office.

ON APPEAL

FROM THE WEST AFRICAN COURT OF APPEAL

B E T W E E N:

1. SAMUEL ALADESURU
2. FOLAHAN AKINSANYA
3. KOLA LADEJO Appellants

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

REXWORTHY, BONSER & WADKIN,
83/85, Cowcross Street,
E.C.1.

Solicitors for the Appellants.

CHARLES RUSSELL & CO.,
37, Norfolk Street, W.C.2.

Solicitors for the Respondent.