

No. 69

Sitting in correctional jurisdiction of Tuesday, 20th August 1912
Public Prosecutor against Tom Wright, colonist, alleged accused of
having committed a breach of Article 51 (1) of the Convention.

The year 1912, Tuesday, 20th August, at 9 am, the Court composed of
The Court de Grande Instance, President: Jean Brouha, French Judge,
Belchior Alexander, British Judge.

In the presence of Council Auditor, Public Prosecutor, M. Neigel, Registrar, recording
sitting in police jurisdiction in first and last resort, delivered the following judgment:

The Court

Considering that Mr. Thomas Wright, colonist at Miele (Island of Hatter)
has been summoned before the Court for "having for months detained on his
plantation several boys whose engagement was terminated (breach of Article 51
(1) of the Convention of 20th October 1906".

Considering that when the case was called, Thomas Wright, assisted by his counsel
Mr. Mage, has submitted the following conclusions to the Court:

May it please the Court

having made the natives concerned were engaged by the Company, Stuart
and Wright, in a contract dated 19th December 1906, and not by
Mr. Wright personally, which is established.

we word omitted
by me
having in consequence that the accusations made, if it can be proven
must be imputed to the Company, Stuart and Wright, and not to one
of its members, personally.

we word struck out
by me
Seeing that the offence in the non-renewal of the engagements in the course
of 1911.

Now, being that at this period Messrs. Stuart and Wright taken individually
were not taking part in the management, as such, of their property, having
had a Manager with their formal procurators, until the 26th May 1910 a procurator
which expired only on the 29th June 1912.

That about this Manager, who engaged and renewed the contracts of engage-
ments might be enabled to explain the charges in connection with this case,
and free Messrs. Stuart and Wright of the accusations brought against them,
with the exception of their civil responsibility in the matter.

Being that in any case the Public Prosecutor, cannot, not knowing the
Manager of the Company, choose one of its members as responsible for
his acts, and decide that, because one of them will have represented the
Manager, temporarily absent, he has become manager himself.

That a formal agreement would be necessary to give him the qualification and make him responsible.

For these reasons

It is stated that it was wrong that Mr Wright personally was considered as responsible for the charge brought against the Company.

And that in any case the responsibility required to be placed on all the members of the Company should be summarily.

Consider further, if the Court admitted that Mr Wright was the manager, that the case should be dismissed with the charge of the latter Mr. Rilling who alone could handle all the case.

For Mr. Rilling to be accused, 1912

Signed: T. Wright

Considering that by verbal requests the Public Prosecutor of the Court has asked the Court to reject the conclusions of the accused and that the case be continued and debated.

As to the responsibility of the accused Thomas Wright

Considering that the Company is not a limited liability one and has no board of directors, no directors, assets, but that it is an association in partnership pure and simple, that it follows that the members associated are personally and jointly also, responsible for the crimes, misdemeanors and infractions of which they may be accused.

As to the procedure followed by the Public Prosecutor

Considering that of the diverse acts of the investigation followed, notably that of a report of the services and constatation of a summons drawn up under date of the 7th August 1912, it is shown that the accusation in this case was made both against Messrs Stewart and Wright (lauded proprietors at Mill, Favreville, Calvados of France).

but word added
7/12/12

That there is occasion for surprise that of the two persons accused of having committed the same offence and both benefited by the results of the infraction committed, one only of the two, Thomas Wright, is this day pursued before the Court.

That moreover, the documents in the case as well as the Public Prosecutor in his conclusions, do not reveal the reasons for which Thomas Wright is alone accused.

we word added
7/12/12

That it is incumbent to foresee and prevent the continuation of a separate accusation being made, for the same offences, against Robert Stewart

partner of Thomas Wright's, seeing that the two partners having contracted according to the accisator, in the same circumstances of time and place and for the same offices, the Court sitting on the 20 October, 1906, must be joined in the same summons and be included at the same time, in the same process.

For these reasons

acting in due form contradictorily in public hearing at first and last resort:

Declare null and of no effect the procedure followed against Thomas Wright at the time he is summoned and pursued separately for an infringement imputed to the Company, which he is accused, charges the costs to the Condominium Residing.

So decreed, judged and delivered the day, month and year as at head in public session and signed by Messieurs the President, the French Judge, the British Judge and the Registrar of the Court.

The President

[Signature]

The Judges

[Signature]

G. G. Allen

The Registrar

[Signature]

