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31/1963

IN THE PRIVY COUNCIL

3 of 1962

ON APPEAL

FROM THE SIERRA LEONE AND THE GAMBIA  
COURT OF APPEAL

IN THE MATTER of THE LEGAL PRACTITIONERS  
(DISCIPLINARY COMMITTEE)  
ORDINANCE CAP.118 OF THE  
LAWS OF SIERRA LEONE

- and -

IN THE MATTER of FREDDIE A. SHORT,  
A LEGAL PRACTITIONER

BETWEEN:

FREDDIE A. SHORT

- and -

THE ATTORNEY GENERAL  
OF SIERRA LEONE

UNIVERSITY OF LONDON  
INSTITUTE OF ADVANCED  
LEGAL STUDIES  
19 JUN 1964  
25 RUSSELL SQUARE  
LONDON, W.C.1.

74082

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CASE FOR THE RESPONDENT

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HATCHETT, JONES & CO.,  
90, Fenchurch Street,  
LONDON, E.C.3.

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10 IN THE MATTER of FREDDIE A. SHORT,  
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BETWEEN:

FREDDIE A. SHORT Appellant

- and -

THE ATTORNEY GENERAL  
OF SIERRA LEONE Respondent

CASE FOR THE RESPONDENT

20 1. This is an Appeal from a Judgment of the  
Sierra Leone and the Gambia Court of Appeal dated  
the 4th April 1961 dismissing the application by  
the Appellant for the restoration of his appeal  
from the Decision and Order of the Supreme Court  
of Sierra Leone dated the 12th October 1960, where  
-by it was ordered that the Appellant, a Legal  
Practitioner of the Supreme Court of Sierra Leone,  
pay a fine of £10 and be suspended from practising  
within the jurisdiction of the said Supreme Court  
for a period of three months.

30 2. The West African Court of Appeal Rules which  
by virtue of the Sierra Leone and the Gambia Court  
of Appeal Order in Council, 1959 (S.I.1959 No.1977)  
applied at the material time to the procedure of  
the Sierra Leone and the Gambia Court of Appeal

contained the following provisions:-

"16.(4) The appellant shall within such time as the Registrar directs deposit with him a sum fixed to cover the estimated expense of making up and forwarding the record of appeal calculated at the full cost of one copy for the appellant and one-quarter cost for each of the three copies for the use of the Court.  
.....

17. The appellant shall within such time as the Registrar of the Court below shall fix, deposit such sum as shall be determined by such Registrar or give security therefor by bond with one or more sureties to his satisfaction as such Registrar may direct for the due prosecution of the appeal and for the payment of any costs which may be ordered to be paid by the appellant.  
.....

19.(1) The Registrar of the Court below shall submit the record when ready together with -  
(b) a certificate that the conditions imposed under rules 16(4) and 17 have been fulfilled.  
.....

23.(1) If the appellant has complied with none of the requirements of rules 16(4) and 17 the Registrar of the Court below shall certify such facts to the Court, which may thereupon order that the appeal be dismissed with or without costs.

(2) If the respondent alleges that the appellant has failed to comply with a part of the requirements of rule 12, 16(4) or 17 the Court, if satisfied that the appellant has so failed, may dismiss the appeal for want of due prosecution or make such other order as the justice of the case may require.

(3) An appellant whose appeal has been dismissed under this rule may apply by notice of motion that his appeal be restored and the Court may in its discretion for good and sufficient cause order that such appeal be

restored upon such terms as it may think fit."

10 3. On the 3rd November 1960 the Appellant gave a Notice of Appeal dated the 31st October 1960 against the Order of the Supreme Court dated the 12th October 1960. On the 21st March 1961 the appeal came on for hearing before the Sierra Leone and the Gambia Court of Appeal (C.G. Ames P., S.A. Benka-Coker, C.J. Sierra Leone, and R.B. Marke J.) and was dismissed under Rule 23(1) of the above Rules on the ground that the certificate of the Registrar showed that the conditions of appeal had not been fulfilled punctually. The Order then made by the Court was as follows :-

p.51

20 "Apart from the question of whether or not we have a discretion to give leave here and now in Court without any sufficient cause having been shown: we do not see any reason to do so in this instance and the appeal is dismissed under Rule 23(1)."

p.53, l.31  
p.58

30 4. On the 21st March 1961 the Appellant filed a Notice of Motion asking for his appeal to be restored under Rule 23(3) together with an affidavit in support. He exhibited to his affidavit a letter from the Registrar dated the 18th January 1961 setting out the requirements which he was required to fulfil pursuant to Rules 16(4) and 17. In his affidavit he stated that the said letter did not specify the time within which the conditions were to be fulfilled, that consequently he fulfilled the conditions before the hearing of the appeal and before the commencement of the sitting for which the appeal was set down, that he fulfilled the conditions at the time when he did because (i) it was not clear from the Registrar's letter that there was any time limit fixed and (ii) he was unable to pay the amounts earlier because he did not have money, having been out of practice for one month in consequence of his suspension.

p.54  
p.55

p.57

40 5. The Motion was heard by the Court of Appeal on the 4th April 1961 and dismissed. The material facts and the grounds of the decision appear from the following passage in the Judgment:-

p.59

p.60,1.33

"The papers before us show that the conditions fixed on the 18th January by the Registrar pursuant to Rule 16(4) and 17 were as follows:-

- (1) £20 to be deposited 'forthwith' against the costs of making the records.
- (2) £20 or a bond to be deposited as security for costs.
- (3) £1 to be paid 'forthwith' for settling the record. 10
- (4) 'to pay in advance, the hearing fee of £4.
- (5) to pay £1 for the Registrar's Certificate under Rule 19(b).

Items 1 and 3 were thus to be fulfilled 'forthwith'. No time limit was given for Item 2. In this respect, the Registrar should, as the Rules require him to, also put a time limit to Item 2. We also think it undesirable to use the term 'forthwith' and that it is better to fix a number of days, however few. 20

Reference to the Registrar's records about the matter shows that the £20, which should have been deposited forthwith, was in fact deposited on the 13th day of March this year, i.e. two days before these sittings began. The £1 of Item 3 was paid on the same day as also were the £4 and the £1 of Items 4 and 5. 30

Whatever 'forthwith' may mean, it certainly does not mean as long after the 18th of January as the 13th March. The bond was filed on the 15th March, the day these sittings started.

We do not understand why the matter was included in the printed and published list of appeals for hearing at these sittings because at the date of their publication the conditions had not been fulfilled, and no 40

appeal is ripe for hearing or for inclusion in the hearing list until all conditions have been fulfilled.

10 What are the Applicant's grounds for asking to have the matter restored to the list? One is that the Registrar's letter did not specify the time within which the conditions were to be fulfilled. Well, it specified the time as to two items but not as to the bond. The other is that the Applicant was unable to pay the amounts before he did for lack of money, having been unable to practise for one month in consequence of his suspension.

20 It was only for one month, because the Applicant had, a month after the order for his suspension for three months, applied for and obtained an order to suspend the remainder of his suspension, pending the determination of his appeal.

It must be remembered that the Applicant is a legal practitioner and fully conversant with the Rules, and decisions of the Court refusing extension of time where there is no adequate excuse. The long and short of it appears to us to be that the Applicant has been not merely dilatory but very dilatory and no Appellant should be dilatory, least of all a legal practitioner."

30 6. The Respondent respectfully submits that the Court of Appeal were entitled to dismiss the appeal and to reject the application for it to be restored under Rule 23 and that there are no grounds for interfering with their exercise of their discretion.

40 7. The Order of the Supreme Court against which the Appellant had lodged Notice of Appeal was made after due consideration of a Report submitted by the Committee in accordance with the provisions of the Legal Practitioners (Disciplinary Committee) Ordinance (Cap.118 of the Laws of Sierra Leone 1946 - Cap.12 of the 1960 Edition). Section 3 of that Ordinance contains a procedure for the making of allegations of misconduct against a

p.47-51  
p.32-36

p.1 legal practitioner. The PRESENT PROCEEDINGS were commenced by an Affidavit of Complaint sworn on the 28th June 1960 by Christian Alphonso Hollist. The Affidavit contained allegations of misconduct against the Appellant and against Berthan Macaulay, another Legal Practitioner in Sierra Leone, as a result of which three charges were brought against the Appellant and one charge was brought against Berthan Macaulay.

p.5 8. The charges against the Appellant were, in summary, as follows :- 10

(1) That having received Counsel fees of £10 on the 19th March 1960 from Hollist to represent him in the Supreme Court case of "Hollist -v- Vincent" he failed to give a receipt as required by Section 13(1)(a) of the Legal Practitioners Ordinance (Cap.117 of the Laws of Sierra Leone 1946 - Cap.11 of the Laws of Sierra Leone 1960). 20

(2) That having received the said fees of £10 for the purpose of representing Hollist as his Counsel in the said case he committed an act of professional misconduct in that on the 29th April 1960 he issued or caused to be issued to Hollist a fictitious receipt for the said £10 stating that the amount was for "fees for disbursements".

(3) That having been briefed by Hollist to represent him in the said case he committed an act of professional misconduct in that he concurred with Macaulay to improperly retain £58.5.10. out of £136.5.0. received by him as Solicitor for Hollist in the said case. 30

p.4,1.29 The charge against Macaulay was that acting as a legal practitioner in the case of Hollist v. Vincent he committed an act of professional misconduct by improperly retaining the sum of money referred to in the third charge against the Appellant. 40

9. The charges were investigated by the Committee under the provisions of the Legal Practitioners

(Disciplinary Committee) Ordinance. The Appellant and Macaulay agreed that the charges, which they did not admit, should be dealt with together. The Appellant appeared in person and Macaulay was represented by Counsel. The hearing lasted for 4 days between the 4th and 26th August 1960. Evidence on oath was given by the complainant Hollist and by the Appellant and Macaulay.

p.6

10 Christian Alphonso Hollist testified, in summary, as follows:

p.6,l.22

In 1957 he instructed Mr. C.B. Rogers-Wright to institute proceedings against Mr. Vincent for damages arising out of a motor accident. He paid Mr. Rogers-Wright and received a receipt for 15 guineas as his full Counsel fee for the case. After the institution of proceedings but before the trial the name of Mr. Rogers-Wright was struck off the Roll of Court. In March 1959 the witness was requested by a Mr. Rosenior to call on Mr. Macaulay, who asked him how much compensation he would accept. He told Mr. Macaulay that he had told Rogers-Wright that he would accept £110, to which Mr. Macaulay replied, "All right. You will hear from me later." On the 6th March 1960 he was told by Mr. Rosenior that his case was coming up next morning and that the Appellant (who was then unknown to the witness) would be representing him in Court. The next morning he met the Appellant at the door of the Court and when requested by the Appellant to pay him fees told him that he had paid Mr. Rogers-Wright for the whole case. The Appellant said he knew nothing about that and the witness agreed to pay him. He was then shocked to hear the Appellant tell the Court that he had not been briefed. When asked by the Court if he was prepared to conduct the case himself, the witness said no and asked for an adjournment, which was granted to the 21st March. That afternoon he saw the Appellant in his Chambers and said he would like to engage him for the case. The witness showed him Mr. Rogers-Wright's receipt. The Appellant said that he was not aware of any arrangement between the witness' former solicitor and Mr. Macaulay, that Mr. Macaulay was away and that if the Appellant was to appear for the witness he must pay the Appellant his fees, but

ExA.p.63

ExA.p.63



he was to wait for a week to see what happened .  
On the 19th March he again visited the Appellant,  
who told him that Mr. Macaulay was still away  
and that the witness must pay the Appellant his  
fees, if he was to appear for him: the witness  
again showed him Mr. Rogers-Wright's receipt.  
The Appellant agreed to accept £10, which the  
witness paid him by cheque. On the 21st March  
when the case was due to come up again the  
Appellant told the witness outside the Court  
that there was a possibility of settlement. The  
witness said he would accept £110 and when asked  
by the Appellant about costs said, "I had paid  
£15.15.0. to Mr. C.B. Rogers-Wright and £10 to  
you." The Appellant said they should make the  
costs 25 guineas. On the 25th March the agreed  
terms of settlement were recorded by the Court  
as £110 damages and £26.5.0. costs. On leaving  
the Court the witness asked the Appellant for  
his receipt for the £10 he had paid him on the  
19th March. The Appellant replied: "You need  
not worry about that one." On the 9th April  
the witness again saw the Appellant at his  
Chambers. The Appellant told the witness that  
he had not yet received any money and the witness  
spoke to the Defendant's insurance company on  
the telephone. The Appellant said: "Mr. Hollist,  
I overheard you telling the agent of the insur-  
ance company of what is due to you. The cost  
of 25 guineas is not yours." The Appellant  
started to give reasons to which the witness  
paid no attention. He again asked the Appellant  
for his receipt. The Appellant said, "What do  
you want with my receipt? I won't deny that  
you gave me £10." and added "In fact I do not  
keep a receipt book. I have just come and the  
Income Tax Authority would begin to be after me."  
Another Solicitor who was present reminded the  
Appellant that he would be infringing the Ordin-  
ance, and the Appellant then instructed his  
clerk to buy him a receipt book and issue one to  
Mr. Hollist for £10. The next morning when the  
witness went to collect his receipt the clerk  
told him that the Appellant was in Court and  
that receipt books were exhausted at the bookshop.  
On the 20th April the witness received a letter  
from Macaulay & Co. stating that, "We are now in  
a position to hand to you our Mr. Short's cheque  
for £77.19.2. due you." The witness wrote the

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ExB.p.63

ExC.p.64

10 same day a reply in which he claimed the whole of the sums of £110 and £26.5.0. awarded by the Court and also mentioned that he had not yet received the Appellant's receipt for the £10. He received a reply dated the 25th April inviting him to telephone for an appointment with Mr. Macaulay and stating "Mr. Short's receipt for the sum of £10 which you paid on the 19th March is in your file and will be handed over to you by Mr. Macaulay." The same day he saw Macaulay in his Chambers. The Appellant was present. Macaulay asked the Appellant if the witness paid him £10. The Appellant replied, "Yes, the receipt is in the file." Macaulay then gave him a receipt from the file. The receipt was dated the 19th March and signed by Macaulay and Co. and was for £10 "being fees for disbursements". Macaulay told the witness that he was going to prepare his bill. He offered him a cheque for £77.19.2. which the witness refused to accept. The next day he received a letter and enclosure from Macaulay and Co. dated the 29th April. The enclosure was a statement of account as between Macaulay and Co. and the witness in Hollist -v- Vincent, which showed costs purporting to amount to £68.5.10. and gave credit for £10 "deposit paid". The letter stated that it enclosed "Mr. Short's cheque for £77.19.2. as promised together with our bill, which if you dispute, you may take to the Master and Registrar, as we told you, to satisfy yourself as to the reasonableness of our charges." After consulting the Master and Registrar the witness wrote a letter dated the 4th May 1960 to Macaulay and Co., in which he asked for taxation of his costs, and a further letter dated the 12th May 1960. He had received no reply to either letter. He had not been served with a bill of costs. He had not yet been paid the balance of £58.5.10. He had deposited the cheque for £77.19.2. with his bankers.

ExD.p.65

ExE.p.66

ExF.p.66

-7  
G2, p.67

G1, p.66

ExG.p.67

ExH.p.69

The witness was cross-examined by counsel for Macaulay and by the Appellant. p.12,1.13

Frank Henry Shaw Bridge, the Master and Registrar of the Supreme Court, produced the Court Records of the case of Hollist v. Vincent. He was not cross-examined. p.15,1.22

p.16

ExF.p.66

10. Berthan Macaulay testified that he agreed substantially with what the Complainant Hollist had said. He had sent a copy of his letter and charges to the Master and Registrar. The Complainant had not applied for an order to tax. In his view he was entitled to keep the £136.5.0. until Complainant agreed his bill or had it taxed. The Appellant was working in his office as a Solicitor and he sometimes instructed him as Counsel. He paid the Appellant for both kinds of work. The Appellant had authority to sign letters and do everything except sign cheques on behalf of Macaulay and Co., the name under which the witness practised. The witness went to England in February 1960 leaving the Appellant in charge of his office and practice and with instructions not to appear in certain cases, including the Appellants, unless money had been paid. He told the Appellant on his return he would expect an account of all monies he had received and would then pay him his fees for his appearances. He returned from England about the 25th March 1960, and the Appellant handed him all his files. The Complainant's file contained a note "19.3.60. £10 paid". The Appellant told him that the Complainant had said he had paid some money to Mr. Rogers-Wright and that he did not issue a receipt to the Complainant because he did not know whether the witness had received any money and that the Complainant had agreed to await the witness' return. The witness gave instructions for a receipt to be issued to the Complainant for "fees for disbursements". At the interview with the Complainant at which the Appellant was present the Complainant did not mention to him that the Appellant had been paid £10 as Counsel's fees.

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p.18,1.18

In the course of cross-examination the witness denied that the Appellant had received £136.5.0. on the Complainant's behalf and said that he (the witness) had received it. The cheque was made out in the name of the Appellant and the Appellant had to make out the cheque for £77.19.2. because Macaulay and Co. had no bank account in Freetown. The payment he had asked the Appellant to demand was in respect of his costs. When he got the Complainant's file the case had been entered for trial and there were

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no more papers to be filed except after judgment. It would be most improper for the Appellant to charge Counsel's fees after his instructions. There was nothing to prevent the Appellant from having issued a receipt for £10 there and then. There was no dearth of receipt books in his office. He had told the Committee in another case that it was his practice to ask for a deposit for the costs as soon as he was instructed by his client to act. He did not do so in this case because it came to him already ripe for trial. In his absence the Appellant was acting as agent for Macaulay and Co.

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11. The Appellant testified that he had been told by Mr. Macaulay not to appear unless some monies were paid. On the 7th March 1960 the Complainant told him that he had paid Mr. Rogers-Wright. The case was adjourned at the request of the Defendant's Counsel. That afternoon he told the Complainant that Mr. Macaulay had told him not to appear unless some money was paid. The Complainant showed him a letter from Mr. Rogers-Wright and Mr. Rogers-Wright's receipt for 15 guineas and stated that there was an arrangement between Mr. Rogers-Wright and Mr. Macaulay. The witness told the Complainant that he was in a difficulty and that the Complainant should wait until Mr. Macaulay returned when they would sort out the question of payment. On the 19th March he told the Complainant that Mr. Macaulay had not yet returned and that he would not appear in Court on the 21st unless some money was paid. He accepted a cheque for £10 and wrote a note, which he produced. He advised the Complainant on what he should accept and they agreed on £110 and 25 guineas costs. Later the Complainant came to see him. The Complainant telephoned the insurance company and asked "What about my money?" and referred to the whole amount. The witness told him that was not quite accurate and explained that he would have to await the return of Mr. Macaulay who would determine what proportion would go to him and what would go to Mr. Macaulay. The Complainant asked for his receipt and the witness said, "Mr. Hollist, stop this talk about a receipt. I had told you before to await Mr. Macaulay's return. Do you think I would ever deny receiving £10 from you?"

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p.21,1.28

ExJ.p.70  
ExA.p.63

ExL.p.70

In any case you paid by cheque." The Complainant made one or two more visits enquiring about his money. The witness told Mr. Macaulay after his return what had happened and accounted to him for the £10. He said that he had not given a receipt. Mr. Macaulay instructed his clerk to make out a receipt for the Complainant and stick it in the file. He saw Mr. Macaulay prepare his bill. Mr. Macaulay explained each item to him and told witness to issue a cheque for Complainant for £77.19.2., which he did. He also made out another cheque for the balance less £31.10.0. his Counsel's fees. He then paid the insurance company's cheque into his account. The Complainant was then sent for. Mr. Macaulay told him that if he was dissatisfied he could take the bill to the Master. Later the witness saw the Master who told him that he had advised the Complainant to have his bill taxed.

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p.27,1.21

During cross-examination by the Complainant the Appellant said: "I am not in a position to tell the Committee I had to undergo and support those disbursements with receipts." In answer to the Committee the Appellant said:

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p.27,1.35

"There were considerations which prevented me issuing a receipt on the 19th March. They were:

(1) Mr. Macaulay was due two days after the payment was made.

(2) Mr. Hollist was saying that he ought not to have been asked to pay this £10 or any money at all because he had already paid Mr. C.B. Rogers-Wright for the case and Mr. Macaulay had been paid (by) Rogers-Wright."

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When asked in what capacity he thought he was acting in Mr. Macaulay's absence he said:

p.28,1.8

"In Court Counsel, outside as Agent."

He also said: "There was a clerk when I received the £10. It did not occur to me to give a temporary receipt. I never received the £10. I never received the £10 as Counsel's fees."

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12. Section 13 of the Legal Practitioners Ordinance is in the following terms :-

"13.(1)(a) A barrister and solicitor who, in his professional capacity, receives any money or property whatsoever shall give for such money or property a receipt to the person or persons from whom the said money or property is obtained.

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(b) For the above-mentioned purpose every practising barrister and solicitor shall keep a counterfoil receipt book with folios consecutively numbered and shall specify both on the receipt to be given as aforesaid and on the counterfoil of such receipt the name of the person or persons from whom the said money or property is obtained, the consideration therefor, the amount thereof and the date of receipt.

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(c) A barrister and solicitor shall produce such receipt book when called upon so to do by the Court or taxing officer and the Court or taxing officer may examine the counterfoil of any receipt which is relevant to the matter before such Court or taxing officer.

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(2) Any barrister and solicitor who commits any breach of any of the provisions of this section shall be liable for a first offence to a fine not exceeding twenty pounds, and for any subsequent offence to a fine not exceeding fifty pounds, without prejudice to the powers of the Court to suspend any barrister and solicitor or strike his name off the roll for professional misconduct.

13. In their Report dated the 2nd September 1960 the Committee made the following findings relating to the first and second charges against the Appellant :-

p.32,1.1

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"5. That 2nd Defendant Mr. Short subsequently demanded money from the Complainant and was paid an agreed sum of £10 in

p.33,1.29

respect of the case.

.....

7. That 2nd Defendant demanded and received the £10 from Complainant as Counsel fee. Committee believes the Complainant and accept his evidence and does not believe either 1st Defendant Macaulay or 2nd Defendant Short.
  
8. That 2nd Defendant did not give a receipt for the £10 he received from Complainant and therefore violated the provisions of Section 13(1)(a) of the Legal Practitioners Ordinance, Cap.117. The Committee finds the 1st charge against 2nd Defendant Short proved and that it amounts to professional misconduct. 10
  
9. As regards the 2nd Count against the 2nd Defendant, the evidence discloses that 2nd Defendant, as he himself swore "accounted to the 1st Defendant for £10 - He (1st Defendant) then called his clerk Miss Davies - gave her the file with a note Exhibit "L" and told her to make out a receipt for Complainant and stick it in the file". 2nd Defendant further swore "I saw him (1st Defendant) prepare the bill and 1st Defendant explained each item to me." 20
  

The bill Exhibit "F1" contained the following item - "1. Deposit paid - c.f. 8 of 19/4/60 - £10.0.0d." This entry relates to the receipt Exhibit "E". 30

  

Furthermore 2nd Defendant was present when Exhibit "E" the receipt was given to Complainant. 2nd Defendant was in a position to have known the contents of Exhibit "E" and did nothing to correct it. In view of the finding of the Committee that the £10 was paid by the Complainant to 2nd Defendant as his Counsel fee the Committee finds that the receipt Exhibit "E" was to say the least incorrect and misleading and that 2nd Defendant was a party to its issue. 40

The Committee finds that the 2nd charge against the 2nd Defendant substantially proved and in the Committee's view this act constitutes professional misconduct."

The Finding on the Committee on the third charge against the Appellant is summarised in the following passage of their Report :-

10 "The Committee finds that Complainant never retained 1st Defendant. That being so 1st Defendant had no right either to have received the £136.5.0d. or to have retained any part of it at all. The Committee finds that the 1st Defendant improperly retained the sum of £58.5.10d. the property of the Complainant and that 2nd Defendant concurred in its improper retention. p.36,1.28

The Committee finds that this constitutes professional misconduct."

20 14. The Report was considered by the Supreme Court (Jones and Luke JJ.) on the 3rd, 4th and 5th October 1960, and their Decision was given on the 12th October 1960. The Decision contains the following passages relating to the charges against the Appellant :- p.37-46.  
p.47

30 " As to the second Defendant, there are three charges against him all of which the Committee found proved. As regards the first charge, we see no reason to depart from the finding of the Committee. He received the sum of £10 as Counsel fees and failed to give a receipt despite several demands made upon him by the Complainant. This clearly constitutes professional misconduct, and we so hold. p.49,1.26

40 As regards the second charge, his Counsel argued with academic brilliance that his client could not be said to have "caused" to be issued a fictitious receipt for the sum of £10 which he received as Counsel fees. The receipt issued reads:



"Received from Mr. C.A. Hollist the sum of Ten pounds - shillings and - pence being fees for disbursements (£10).

pp. (Sgd.) ???  
for Macaulay & Co."

We have given careful consideration to the circumstances in which such a receipt was issued, and we have come to the conclusion that the Committee was right in its findings that the second Defendant caused to be issued a receipt which he knew was false. Such an act, we hold, constitutes professional misconduct.

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As to the third and last charge, we find that the evidence supports the finding of the Committee. There is abundant evidence to show that the second Defendant in whose name the cheque for the entire amount representing the damages and costs awarded to his client was made out, concurred with the first Defendant in improperly retaining the sum of £58.5.10d. the property of the Complainant and we agree that this constitutes professional misconduct."

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At the conclusion of their Decision the Supreme Court made the following Order :-

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p.51,1.5

"In the case of the second Defendant, as to the first charge, we order him to pay a fine of £10; as to the second charge we order that he be suspended from practising within the jurisdiction of the Supreme Court in this territory for a period of three months as from this date; as to the third charge we make the same order as to suspension for the same period. We order that the period of suspension in both the second and third charges shall run concurrently.

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We further order that the first and second Defendants jointly and severally

pay the costs of and incidental to the proceedings before the Committee and this Court."

10 15. The Grounds of Appeal filed by the Appellant alleged that the Court was wrong in law in holding that the Appellant caused to be issued a receipt which he knew to be false and in holding that the Appellant concurred with Berthan Macaulay in improperly retaining £58.5.10; that the findings of the Committee and the Court were unreasonable; and that the facts found by the Committee and the Court did not in law constitute professional misconduct.

p.52,1.3

16. By Order of the Sierra Leone Court of Appeal dated the 3rd November 1961, the Appellant was granted final leave to appeal to the Privy Council against the aforementioned Judgment of the Sierra Leone and the Gambia Court of Appeal dated the 4th April 1961.

p.62

20 17. The Respondent respectfully submits that this Appeal should be dismissed with costs for the following among other

R E A S O N S

- 30 (1) Because the Court of Appeal properly exercised their discretion in dismissing the Appeal below.
- (2) Because no good or sufficient cause was shown for restoring the said Appeal.
- (3) Because the Report of the Committee and the Decision of the Supreme Court contain concurrent findings of fact relating to the conduct of the Appellant.
- (4) Because the Supreme Court were entitled to hold, and rightly held, that on the facts found the Appellant was guilty of misconduct.
- 40 (5) Because the Supreme Court were entitled to hold, and rightly held, that the Appellant had committed an offence against Section 13 of the Legal Practitioners Ordinance.

- (6) Because there is no ground for interfering with the Decision of the Supreme Court in so far as it ordered the Appellant to pay a fine of £10 in respect of the first charge and to be suspended from practising for a period of three months in respect of both the second and the third charge, such periods of suspension to run concurrently.

JOSEPH DEAN.

IN THE PRIVY COUNCIL

3 of 1962

ON APPEAL

FROM THE SIERRA LEONE AND THE GAMBIA  
COURT OF APPEAL

IN THE MATTER of THE LEGAL PRACTITIONERS  
(DISCIPLINARY COMMITTEE)  
ORDINANCE CAP.118 OF THE  
LAWS OF SIERRA LEONE

- and -

IN THE MATTER of FREDDIE A. SHORT,  
A LEGAL PRACTITIONER

BETWEEN:

FREDDIE A. SHORT

- and -

THE ATTORNEY GENERAL  
OF SIERRA LEONE

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CASE FOR THE RESPONDENT

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HATCHETT, JONES & CO.,  
90, Fenchurch Street,  
LONDON, E.C.3.