

suit. And the clerk of this court is hereby ordered to send a mandate forthwith to the court below to the effect of this order; costs to abide the final event. And it is so ordered.

R. E. Dixon and *T. W. Haynes*, for appellants.

Arthur Barclay and *L. A. Grimes*, for appellee.

ARBACES J. PADMORE, Appellant, *v.* REPUBLIC OF
LIBERIA, Appellee.

ARGUED JANUARY 19, 1920. DECIDED FEBRUARY 3, 1920.

Dossen, C. J., Johnson and Witherspoon, JJ.

1. The testimony of an accomplice should be received with great caution.
2. The mere testimony of an accomplice which is not corroborated in those points essentially necessary to constitute the charge is insufficient to convict.
3. A confession to successfully operate against an accused person should have direct reference to the offense with which he is charged.
4. Nor would that be sufficient in the absence of proof *aliunde* of the *corpus delicti*; nor if the confession appeared to have been given after inducement.
5. When a person has been convicted on two counts of an indictment, one of which is upheld, and the other not sustained, by the appellate court, said appellate court will give a judgment appropriate to its conclusions.

Mr. Justice Witherspoon delivered the opinion of the court:

Forgery—Appeal from Judgment. It must be conceded that this case carries with it much magnitude and importance as it relates to the Government's revenue by which only can it hope to exist.

The facts established are: Arbaces J. Padmore, appellant, acting in the capacity of an under officer in the Internal Revenue of the Treasury Department at Monrovia, was indicted by the grand jury at the November term, A. D. 1918, of the Circuit Court, first judicial circuit, Montserrado County, for the crime of forgery. The petit jury was empanelled to try the issue of not guilty as raised by the prisoner, and they, after deliberating upon the evidence and the law, returned a verdict finding the prisoner guilty of the charge set forth in the indictment. Upon this verdict the court below rendered judgment, sentencing the prisoner to a fine, imprisonment and restitution of the amount received as a result of the forgery committed. To this judgment, verdict and other acts of the judge of the court below, appellant took exceptions and brought the case up for review.

We notice in the records as set forth in the bill of exceptions, that one John Thomas Smith who was awaiting at the bar of the court the verdict of the petit jury in a case of embezzlement for which he was then being tried,—at this stage of the trial aforesaid, applied and offered himself as a witness, and upon his evidence the prisoner Arbaces J. Padmore was indicted for forgery. This evidence of Smith was the only direct evidence which was before the court at the trial of appellant to prove the crime charged in the first count of the indictment. The said evidence being that of an accomplice, was insufficient to convict unless duly corroborated.

This court says without hesitancy, that the evidence of an accomplice should be received with great caution. Taking into consideration the circumstances surrounding the evidence of witness Smith, for instance: the time he appeared and offered himself to testify against the prisoner, Padmore; the fact, that at the time the jury in the case of embezzlement had retired to consider the case against witness Smith, and that the latter had no doubt despaired of an acquittal; the fact also that the evidence given by Smith on the trial of the case was given after his conviction affects in our minds, in no small degree, the quality of the said evidence, which being uncorroborated in the essential elements of the charge was not sufficient to convict the prisoner, Padmore.

As to the alleged confession by appellant, we hold that the records do not show satisfactorily that the said alleged confession had direct reference to the offense with which appellant was charged. He admitted having on one occasion “raised stamps” to enable Smith to square his accounts; but whether the stamps thus admitted to have been “raised” at the time to which the admission referred, constitutes any part of the *corpus delicti* in this case, is a matter of doubt in our minds. There are no circumstances surrounding the confession by which this fact can be inferred; and in view of the fact that proof of the *corpus delicti* was not established against appellant conclusively and the further fact that the confession is not free from the implication of inducement, we hold that it should not have been received with any degree of weight.

In the case *Capps v. Republic of Liberia*, tried at the April term, A. D. 1919 of the court and which is still awaiting publication, the

wisdom of not convicting upon the uncorroborated evidence of an accomplice was clearly set forth by this court.

As to the second count which charges the prisoner with forgery by signing the name of one Phillips to a certain voucher in the Treasury Department for money, we say the evidence to substantiate that count seems to be clear and conclusive. Witness J. T. Phillips said: "the signature to the voucher was in the handwriting of appellant and that it was not authorized by him, and that during the investigation had by the Secretary of the Treasury, Padmore, the appellant, confessed having signed his name to the said voucher. That he had not given him permission to so sign." He also said "the prisoner returned the money next day after the voucher had been discovered."

Witness C. J. George identified the writing contained in the voucher as being the writing of the appellant and said, among other things, in his direct examination that the appellant confessed in the examination held in the Treasury Department that he forged J. T. Phillips' name to the said voucher and that appellant refunded the money he received from this act of forgery.

We feel that the evidence is very forcible, and when taken together with other circumstances surrounding this case, the second count of the indictment was, in our opinion, satisfactorily proven.

It is therefore the opinion of this court that the judgment of the court below should be amended. The judgment of this court is—that the appellant is found guilty upon the second count and is sentenced to pay a fine of one hundred (\$100.00) dollars, and to be taken and confined in the common jail of this county for three calendar months, and make restitution of the amount received from the forgery committed, to wit: twelve (\$12.00) dollars. The clerk of this court is hereby ordered to forthwith forward a mandate to the court below to the effect of this decision. And it is so ordered.

Arthur Barclay and *L. A. Grimes*, for appellant.

Attorney General, for appellee.
