

defendant in error was produced at the trial of the case in the court below.

No evidence was produced at the trial by plaintiff in error to rebut the evidence of the witnesses for the defendant in error, nor did the plaintiff in error show that the dismissal of plaintiff was justifiable under the terms of the agreement.

We find, however, that the amount awarded defendant in error is excessive, taking into consideration the payments previously made to defendant in error; in this respect the judgment of the court below should be amended. And the same is hereby amended to the effect that the defendant in error shall recover from plaintiff in error the sum of nine thousand dollars (\$9,000.00), each party to pay his own costs; and it is so ordered.

C. B. Dunbar and L. A. Grimes, for plaintiff in error.

Arthur Barclay, for defendant in error.

S. MALINDA PARKER, heir of E. Ray Pritchard, deceased, by and through her husband, G. W. Parker, and Jessena Hill, also heir of E. Ray Pritchard, deceased by and through her husband, Solomon Hill, Jr., Appellants, *v.* JOHN W. PRITCHARD, Executor of the Last Will and Testament of E. Ray Pritchard, deceased, Appellee.

ARGUED JANUARY 12, 1920. DECIDED FEBRUARY 3, 1920.

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

It is not legal to empanel a jury out of the regular term.

Mr. Justice Witherspoon delivered the opinion of the court:

Contested Will—Appeal from Judgment. After considering this case from every viewpoint as appears from the records before us, we are of the opinion that this case has not been tried in conformity with the statute, in that the special jury summoned to try the issues were summoned by the trial court, and, allowed to sit out of term time, for which there is no legal warrant. The case is therefore remanded to the trial court to be heard *de novo* upon the facts, with instructions that the court below will give some preference upon its trial docket at its next ensuing term. This court further orders that the court below will admit every species of competent evidence that may be offered by either party to this

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.