

PHILIP F. SIMPSON, Appellant, v. REPUBLIC
OF LIBERIA, Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT,
MONTSERRADO COUNTY.

Decided February 17, 1932.

1. Payment of money for a human being does not constitute the only necessary element in the crime of slave trading.
2. An order of the trial judge to the sheriff to re-empanel a petit jury after the adjournment of the day's session, in the absence of the accused, unless it is clearly shown that some act had been done which would prejudice the interest of either party to the cause, is not error.
3. The admissibility of evidence is with the court, but its credibility and effect is with the jury.
4. The report of an International Commission of Inquiry constituted by the President of Liberia under Acts of Legislature shall be evidence of low grade and must be supported by testimony of witnesses.
5. The *Criminal Code of Liberia* defines slave trading as follows: (a) any person who shall unlawfully, either by force, fraud or deceit, carry off another, or shall deliver such person into the custody or power of another who has no legal right to hold or obtain such person, shall be deemed guilty of slave trading; (b) a person who shall hold or detain any person carried off and delivered into his custody or power without legal right to so hold or detain him, shall be deemed guilty of slave trading.
6. While it is a general principle of law that the burden of proof rests on the party who maintains the affirmative, yet, where the facts lie peculiarly within the knowledge of a party to a cause he shall be held to prove the negative.

Defendant was convicted of slave trading in the Circuit Court. On appeal to this Court, judgment amended and *affirmed*.

Anthony Barclay and *A. B. Ricks* for appellant. *The Solicitor General* for appellee.

MR. JUSTICE KARNGA delivered the opinion of the Court.

This action was brought before this Court upon a bill of exceptions from the Circuit Court of the First Judicial Circuit, Montserrat County, by Philip F. Simpson, appellant. This is one of the cases growing out of the in-

vestigations made by the International Commission of Enquiry. Appellant was indicted by the grand jurors for the County of Montserrado for the crime of slave trading at the February term of the First Judicial Circuit Court 1931; at the May term of the First Judicial Circuit Court the case was called up for trial. The petit jury brought down a verdict of guilt, and on the 5th day of June, 1931, final judgment was entered against defendant.

The exceptions taken by the appellant and submitted to this Court for review are as follows:

“(1) Because when on the 14th day of May, 1931, the following question was put to witness D. Twe by the Prosecution: ‘The Republic of Liberia charges the defendant in the dock with having wilfully, unlawfully and forcefully carried Singby and 23 other citizens of the Republic of Liberia and delivered them into the custody and power of the Captain of the German Steamer *Otto*, will you please tell the court and jury all the facts which lie within your knowledge touching same, if any?’ Defense objected to said question on the grounds that the question leaves out an important averment in the indictment, to wit: That these persons were delivered to the captain for pay. The defendant having plead to the indictment under section 54 of the *Criminal Code*, your Honour overruled the said objection on the grounds that that was not the only and last question to be asked by the prosecuting attorney; to which ruling the defendant excepts.

“(2) And also because when of the 14th day of May, 1931, the defence Counsel propounded the query whether witness D. Twe’s informant in the evidence he was giving was also a witness in the case so that if he was not, defence might object to this piece of evidence on the ground of hearsay, (and it afterwards turned out that said witness was not produced),



the court overruled the query and permitted the witness to continue his statement and which statement proved to be hearsay, as above stated, said informant of D. Twe, said on his cross-examination to be named Flombo, was never produced to testify or corroborate that piece of evidence of D. Twe; nor was Mr. Jesse Benson, whom the witness said accompanied him to the Secretary of State to complain and was his informant as to the boys being forcibly shipped, produced to testify in this case. To this ruling of Your Honour, defendant excepts.

“(3) And also because when on the 14th day of May, 1931, the question was put to witness D. Twe by defence Counsel: ‘Please tell the court and jury how many other citizens of Monrovia your original informant Flombo complained to you with respect to the forcing of these boys into the boat as alleged?’ Your Honour sustained objections of the State and did not allow said question to be answered on the cross-examination; to which ruling defendant excepts.

“(4) And also because when on the 14th day of May, 1931, the question was put to witness D. Twe by defence Counsel: ‘As a respectable citizen does it appear to you to be anything out of the way for boys who have received advances to go and work aboard to refuse carrying out of the part of the contract after having received advances?’ Your Honour sustained objection of the State and would not permit said question to be answered; to which ruling defendant excepts.

“(5) And also because when on the 15th day of May, 1931, defence objected to witness D. Twe testifying to the Spanish Agreement dated April 2, 1928, the illegality of which was not charged in the indictment nor was defendant a signatory or party thereto, nor was said document produced in evidence; Your Honour overruled objection of the defence and al-

lowed the witness to testify to what was not within the *res gestae*; to which ruling defendant excepts.

“(6) And also because when on the 15th day of May, the court having allowed witness Twe to testify as to the Spanish Agreement over the objections of the defendant, the following question was propounded: ‘Since you have read the agreement, will you please say who are the contracting parties thereto?’ Your Honour did not permit said question to be answered; to which defendant excepts.

“(7) And also because when on the 15th day of May, 1931, the court having allowed witness Twe to testify as to the Spanish Agreement over the objections of the defendant, the following question was put to witness Twe: ‘The agreement that you said you have read, is the defendant a signatory thereto?’ Your Honour disallowed said question, to which defendant excepts.

“(8) And also because when on the 15th day of May, 1931, the court having allowed witness Twe to testify as to the Spanish Agreement over the objections of the defence Counsel, the following question was put to witness Twe: ‘Where is the agreement between the Liberians and the Spanish to which you have referred?’ The court sustained objections and would not allow said question to be answered; to which defendant excepts.

“(9) And also because when on the 15th of May, 1931, the court having allowed witness Twe to testify as to the Spanish Agreement over the objections of defendant, the following question was put to witness Twe: ‘Did you say that there were recruiting agents in that agreement between the Liberians and the Spanish?’ The court disallowed said question; to which defendant excepts.

“(10) And also because when on the 15th day of May, 1931, the court having allowed witness Twe to

testify as to the Spanish Agreement over the objections of the defendant, the following question was put to witness Twe: 'Among the recruiting agents whose names you must have seen in the agreement, was the defendant's name among them?' The court disallowed the question; to which defendant excepts.

"(11) And also because when on the 15th day of May, 1931, the court having allowed witness Twe to testify as to the Spanish Agreement over the objections of the defence, the following question was put to witness Twe: 'Were there recruiting agents in the County of Montserrado in connection with the Spanish Agreement, and if so who were they?' The court disallowed said question; to which defendant excepts.

"(12) And also because when on the 15th day of May, 1931, the court having allowed witness Twe to testify as to the Spanish Agreement over the objections of the defence, the following question was put to witness Twe: 'I suggest to you that the agreement dated April 2, 1928, to which you have referred is signed by Barclay and Barclay for the Spanish Syndicate and S. A. Ross for the recruiting agents, and that those recruiting agents are: Thos. E. C. Pelham, Robert W. Draper, N. G. W. King, J. C. Johnson, M. A. Bracewell, and C. E. Cooper, is it not so?' The Court disallowed said question; to which defendant excepts.

"(13) And also because when on the 15th day of May, 1931, the defence not having been permitted by the court to examine witness D. Twe on the Spanish Agreement to which he referred in his evidence which related to the Spanish Agreement, the court denied said request and allowed that species of evidence to go to the jury to the prejudice of the defendant's defence; to which ruling of the court defendant excepts.

"(14) And also because defendant says that on

the evening of the 14th day of May, 1931, when the court's session for the day had been closed and adjourned to meet the next day at 9 o'clock a.m. and the petit jury empanelled in the case had separated and gone out of court, the court did call the said jurors back and empanelled them on the said case in the absence of the prisoner and his counsel. (See motion to discharge prisoner filed in the Clerk's office May 14, 1931, and forming part of the records in this case.) To this action of the court the defendant excepts.

"(15) And also because when on the 15th day of May, 1931, the jury was re-empanelled in the absence of prisoner or his counsel, defendant says that he was thereby deprived of his constitutional rights to the effect that all persons criminally charged have a right to a public and impartial trial and nothing can be done during the trial of the case in the absence of the prisoner or his counsel without his consent. Defendant not having consented to the empanelling of the jurors in his absence and in the absence of his counsel, said act of the court works an injustice and is contrary to law and judicial procedure. (See motion to discharge prisoner filed in the Clerk's office May 14th, 1931.) To this act of the court defendant excepts.

"(16) And also because when on the 15th day of May, 1931, witness J. G. Johnson on the stand, in answer to the question: 'The Republic of Liberia charges the defendant in the dock with having unlawfully, willfully and forcefully carried Singby and 23 other citizens of the Republic of Liberia and delivered them into the custody of the Captain of the German Steamship *Otto*, will you please tell the court and jury all the facts that lie within your knowledge touching same, if any?' and the witness in the first instance answered in the following words: 'In the year 1929, October 24, I saw Mr. Francis Simpson, the Slave

Trader,' whereupon defence counsel asked the court to disqualify said witness on the ground of prejudice for the reason that the defendant having plead 'not guilty' to the charge, he, the witness, should not at the outset style the defendant slave trader, which is a fact to be proven, the court denied said request on the grounds that the indictment against the defendant is for the crime of slave trading, that the witness on the stand may be permitted to prove the said charge, and that he is not therefore disqualified. To this ruling defendant excepts.

"(17) And also because when on the 15th day of May, 1931, the question was put to witness Johnson on the cross-examination: 'Had the Superintendent of Police seen the captain before your arrival touching those boys?' the court disallowed the question without any objection and in the restraint of the right of cross-examination which is the only test for truth; to which defendant excepts.

"(18) And also because when on the 15th day of May, 1931, the question was put to witness Johnson: 'You said in your direct examination that you did not interfere with the forcing of the boy Singby to save your job; are you still holding that job, or anything akin thereto?' The court sustained objections over the offer of the defence to prove motive of the witness now testifying; to which defendant excepts.

"(19) And also because when on the 16th day of May, 1931, the following question was put to witness Johnson by the defence through the court: 'Did you say in your evidence that only one boy was held by the hand by Mr. Simpson and that Corporal Body yelled at Singby saying: "Get into the boat; the boat is ready to go;" now do you say in your answer to the jury's question that you were an eye witness to Mr. Simpson forcing twenty-four boys into the boat to be shipped to Fernando Po?' The Court over-

ruled said question on the grounds that questions after the jury and the court's question are not allowed to be asked the witness by either the prosecution or defence counsel; to which defendant excepts.

“(20) And also because when on the 16th day of May, 1931, witness Johnson was shown to have lied on the stand, defence counsel moved the court (1) to expunge from the records the testimony given on the stand by said witness Johnson for the following legal reasons: (a) because this supposed witness Johnson had repeatedly contradicted himself in his testimony and (b) because this witness having put himself on the records as having lied in his own testimony, said testimony became prejudicial and unworthy of belief, and (2) that he be turned over to the County Attorney to be prosecuted for perjury; and the court denied said motion on the grounds that since it has decided on the competency or admissibility of the witness and the credibility and effect of his testimony is with the jury, it is of the opinion that the said testimony ought to remain on record; to which ruling the defendant excepts.

“(21) And also because when on the 16th day of May, 1931, the following question was put to witness George Morris on the cross-examination: ‘Besides those boys and the defendant, who else was in the boat?’ The court disallowed the question, to which defendant excepts.

“(22) And also because when on the 18th day of May, 1931, the following question was put to witness George Morris: ‘Since you were actually present on the new Government wharf from where those boys were shipped, as you say, can you say how many boys were forced by the defendant; how many boys the policemen forced severally and how many jointly?’ The court disallowed the question to which the defendant excepts.

“(23) And also because when on the 18th day of May, 1931, the following question was put to witness George Morris on the cross-examination: ‘Since you say that boys are generally shipped to Fernando Po from the new Government wharf upon application to the Customs, tell the court and jury who, if any, have been making these applications?’ The court sustained objections on the grounds of entrapping, to which defendant excepts.

“(24) And also because when on the 19th day of May, 1931, although your Honour ruled that the International Commission’s Report is not evidence in a judicial trial, yet when question was put to witness P. F. Simpson from the 17th and 42nd pages of said Report, your Honour overruled objections of the defence and ordered said question answered, to which defendant excepts.

“(25) And also because when on the 19th day of May, 1931, when the prosecution tendered a copy of the International Commission’s Report for a mark of identification to be placed on page 17 and 42 of the said Report, and the defence objected on the grounds that the court had already ruled that the Report, being *ex parte*, was not evidence in any judicial tribunal, the court overruled said objection, and allowed said pages to be marked ‘A’ and ‘B,’ when prosecution could not offer same in evidence or had no intention of so doing, but afterwards did so simply to becloud the minds of the jury and prejudice defendant; to which ruling the defendant excepts.

“(26) And also because when on the 20th day of May, 1931, your Honour charged the jury and did say that the evidence of parties to suits is not evidence in a court of justice and cited in support *Old Blue Book* 57, Legal Principles and Rules, t. II, ch. XII, sec. 9, in the face of the enabling statute passed and approved February 8, 1908, which charge of court so prejudiced

the case that the jury was misled in arriving at their verdict; to which defendant excepts.

“(27) And also because when on the 21st day of May, 1931, your Honour charged the jury and you did say that the evidence of parties to suits is not evidence in a court of justice and cited in support *Old Blue Book* 57, Legal Principles and Rules, t. I, ch. XII, sec. 9, in face of the enabling statute passed and approved February 8, 1908, which charge of court so prejudiced the case that the jury was misled in arriving at their verdict; to which defendant excepts.

“(28) And also because on the 4th day of June, 1931, your Honour denied a motion for a new trial duly filed for the following legal reasons therein stated, to wit: (1) Because the jury is bound to receive the law from the court and the verdict rendered in this case is absolutely against and in defiance of the legal instructions of the court. (2) That the evidence exhibited pronounced variance among the witnesses for the prosecution which showed conclusively that this was a conspiracy against the defendant and therefore he should have been promptly acquitted of the charge. (3) That the evidence of the defence showed conclusively that defendant never forced any boys, nor recruited any, nor delivered anyone for pay to anyone whatsoever. (4) That the jury was influenced by the popular sentiment especially formed by the counsel for prosecution, to wit: ‘That this is one of the International Commission cases and that the country will be jeopardized by acquittal on those charges;’ (5) That the jury, as a result of such illegal argument in a judicial trial, disregarded the law and evidence and brought in a verdict of conviction against the defendant. (6) Because the evidence of witness Johnson should not have been allowed to go to the jury when it was clearly proved in cross-examination that he lied and he himself so declared on the stand.

(7) That the evidence of witness Morris should not have been allowed to go to the jury when it was shown clearly that he lied when he said that the boys went off from the new Government wharf near the firm of C. R. C. instead of the Customs as testified to by all of the other witnesses.

“(29) Because on the 5th day of June, 1931, your Honour denied a motion in arrest of judgment duly filed, for the legal reasons therein stated, to wit: (1) Because the defendant says that there is a variance between the allegation and proof adduced at this trial in that the evidence tends to prove that labourers were recruited from Montserrado County for Cape Palmas by one Allen N. Yancy, which in itself is no crime punishable under the statutes of Liberia and perforce not slave trading. (2) Because defendant says that the indictment charges slave trading when in truth and in fact there is no crime of that nature borne out by the entire evidence adduced in proof, but rather that one Allen N. Yancy recruited labourers, which is not even in violation of the law prohibiting recruitment of labourers from Montserrado County as laid down in Act of the Legislature 1920-21 chapter 3, page 4. (3) Because defendant says that the court charged the jury that the evidence of parties to suit is not evidence in a court of justice in face of enabling Statute approved February 8, 1908, which charge of court so prejudiced the case that the jury was misled in arriving at their verdict, wherefore said verdict cannot support a judgment. (4) Because the defendant says that no crime has been proven to have been committed from the whole evidence adduced at the trial, and therefore defendant Philip F. Simpson is entitled to be discharged without delay.

“(30) Because when on the 5th day of June, 1931, your Honour rendered final judgment against de-

fendant and sentenced him to eighteen months imprisonment, and by that act, construed slave trading to be a felony wherefore your Honour sentenced defendant to imprisonment without even an option of a fine as required by the law prescribing the punishment for slave trading. To which said final judgment of Your Honour as well as the several rulings of Your Honour and the verdict of the petit jury herein before mentioned, the defendant excepts and tenders this his bill of exceptions for Your Honour's signature, and prays an appeal to the Honourable, the Supreme Court of Liberia, at its November Term in the year of our Lord one thousand nine hundred and thirty-one."

In considering the bill of exceptions submitted by the appellant to this Court, we are of the opinion that the court below committed no error in overruling said objections in count one offered by the defense as the payment of money for the human being does not constitute the only necessary element in the crime of slave trading. Slavery has existed for many centuries. It began with a fixed community life of people. After having settled down into a fixed community life, man began to look after slaves and find daily use for them. At first, like other objects which are the subject of ownership in early times, the slaves were held as common property of the community. They labored for the community at large. Slavery may be said to have originated in two ways. First, by conquest and subjugation of the originally free inhabitants of a country; and secondly by natural growth within the tribe. It is the practice among pagans and even highly civilized people that when a whole country is conquered, the conquerors not being able to convert the entire population into personal slaves, the conquered territory was parcelled among the victors, and as part of the spoils the original dwellers went with the soil. Thenceforth they were attached to it and while not regarded as the

personal property of the lord or owner of the soil, yet they were under his authority and could not leave his domain without his consent. From the above it may be seen that payment of money is not necessarily an essential element to the reduction of a free man to the state of servitude. The *Criminal Code* defines slave trading as follows:

“(a) Any person who shall unlawfully, either by force, fraud, or deceit, carry off another, and shall deliver such person into the custody or power of another who has no legal right to hold or detain such person shall be guilty of Slave Trading; (b) a person who shall hold or detain any person carried off and delivered into his custody or power, without legal right to so hold or detain him shall be deemed guilty of Slave Trading.”

With reference to counts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, the judge of the court below did not err in overruling the said questions as they had no tendency to establish the innocence of the accused.

With reference to count 14, we are of the opinion that, an order of the trial judge to the sheriff to re-empanel a petit jury after the adjournment of the day's session in the absence of the accused, unless it is clearly shown that some acts have been done which would prejudice the interest of either party to the cause, is not error.

The statutes of Liberia command that: “Every jury must be kept together, from the time at which they are affirmed, until they render a verdict, without communicating with any person, except the constable sworn to attend them, unless the court dispense with any part of this section. . . .” *Old Blue Book* 49, Legal Principles and Rules, t. II, ch. IX, sec. 10. It is therefore imperative that the jury be kept together, says the statute, unless the court in its discretion shall deem it safe to allow parties concerned to dispense with this section, and in so doing the parties to the cause need not be consulted. With ref-

erence to counts 15, 16, 17, 18 and 19, the judge of the court below in overruling said objections did not err.

The Court may observe with reference to count 20 that it was not error on the part of the judge in refusing to expunge from the record the testimony given on the stand by witness J. G. Johnson. It is the right of the court to decide on the admissibility of the evidence; but when it is admitted it is the right of the jury to decide upon its credibility and effect. *Old Blue Book* 46, Legal Principles and Rules, t. II, ch. VII, sec. 10.

It may be observed with reference to counts 24 and 25 that the report of an International Commission of Enquiry constituted by the President of Liberia under Acts of the Legislature shall be evidence of low grade against any person or persons criminally charged in the courts of this Republic and must be supported by testimony of witnesses. The President of the Republic of Liberia having brought to the attention of the National Legislature in his annual message, that representations had been made to the Government of the United States charging the Government of this Republic with slave trading and forced labor, the Legislature of the Republic passed the following acts:

“That the position taken by the Executive Government in asking the League of Nations and the Government of the United States of America to associate with the Government of the Republic of Liberia in investigating the charges aforementioned by a Commission as suggested, are hereby approved.

“That the President of the Republic of Liberia is hereby empowered to take any further actions that will effectively terminate the questions involved and bring same to an honourable conclusion.” L. 1929, ch. VIII.

Accordingly on the seventh of April, 1930, an International Commission composed of Dr. Cuthbert Christy and Dr. Charles S. Johnson on the part of the League

of Nations and the U.S. respectively, and D. Arthur Barclay, ex-President of Liberia, on the part of the Republic, was formally constituted by President C. D. B. King, to enquire into said charges.

The terms of reference submitted included: (a) Whether slavery as defined in the anti-slavery convention in fact exists in the Republic; (b) whether the system is participated in or encouraged by the Government of the Republic; (c) whether and what leading citizens of the country participated therein; (d) whether shipment of contract laborers to Fernando Po under the terms of the agreement with Spain, or shipment of such laborers to the Congo or any other foreign parts is associated with slavery, and whether the method employed in recruiting such laborers carried any compulsion. Commission's *Report* 11. The Commission thereupon entered upon its labor, and after five months' investigation submitted its findings to the effect that a large proportion of the contract laborers shipped to Fernando Po and other foreign parts from Liberia had been recruited under a condition of criminal compulsion scarcely distinguished from slave raiding and slave trading and frequently by misrepresenting the destination. Commission's *Report* 84. This report was signed by all of the members of the commission without any protest and filed in the State Department in Monrovia on the 8th of September, 1930. The statutes of the Republic lay it down as a rule of written evidence that all verdicts, judgments, and other records and all wills, and other documents which have been recorded in the pursuance of any law, and all documents lawfully deposited in any public office, may be proved by producing copies of such documents or the records thereof, authenticated by the signatures of the proper officer and by his seal of office if he be required by law to have one. *Old Blue Book* 54, Legal Principles and Rules, t. II, ch. XI, sec. 2. The judge of the court below, therefore, in admitting the Commission's report

as part of the written evidence in this case did not err. Moreover, the National Legislature having accepted the said Commission's report and acted thereon against its own member, including appellant, and having subsequently passed an act authorizing the President of Liberia to institute through the Department of Justice, prosecution with or without previous summary investigation of all persons against whom allegations of acts penalized under the *Criminal Code of Liberia* appeared in the *Report of the International Commission of Enquiry on Slavery and Forced Labour*, the courts of this Republic are bound to take judicial notice of said *Report*. L. 1930-31, ch. IX. Chief Justice Best lays it down that there are certain matters noticed by the court *ex officio*, viz.: besides noticing the ordinary course of nature, seasons, times, etc., the courts notice without proof, various political, judicial, and social matters. Thus they notice the political constitution of our own government; the territorial extent of the jurisdiction and sovereignty exercised *de facto* by it; the existence and titles of other sovereign powers; the jurisdiction of the superior courts, and courts of general jurisdiction; the seals of the superior courts, and of many others, etc. In all cases of this kind, where the memory of a judge is at fault, he resorts to such documents or other means of reference as may be at hand, and he may deem worthy of confidence. Best, *Evidence*, bk. III, pt. I, § 253.

Courts also take judicial notice of printed copies of public documents transmitted to legislative bodies by the President of the nation, and public statutes, resolutions and orders passed by the legislative body. 1 Greenleaf, *Evidence*, §§ 479, 480.

The testimony adduced by the prosecution conclusively proved that at least one of the boys was forced into the boat to be sent off to the steamship *Otto*. Witness Singby, qualified on Kafu, testified as follows:

"My name is Singby, I live in Monrovia and know

the defendant in the dock. From the beginning, while I was here at Monrovia, I heard that they wanted boys to go to Cape Palmas, and I went to the place where they were enlisting the labourers. Whilst there they said that we were not going to Cape Palmas, but that the steamer was going first to Cape Palmas and then another ship would come from Fernando Po to take us to Fernando Po, and that each boy will be sold for £12:0:0. After I heard that, I said I was not going anywhere because they told us that they were carrying us to Cape Palmas; since indeed they are selling us to Fernando Po, that caused me to run away. The defendant sent men to catch me, and when the steamer came, the defendant pushed me into the boat and I fell down and almost burst my mouth. The defendant went with us to the ship. Whilst there we saw the Superintendent of the Police coming but I could not understand his English. When he came he told us to get in line. Then they brought us ashore to the Police Station, and asked who all were forced, and I answered 'me.' The time the defendant pushed me in the boat I looked around ashore and said to Mr. Johnson, you see how the defendant is treating me, it looks like he wants to hurt me. That's why they caused all the boys to fall in line, because if anybody is going out of the country the Government knows about it. The Government says all most come back because it is not good to force anybody. What I saw, we all were going; they forced me; the defendant pushed me into the boat; the Government called me; the way they treated me. That is what I know about it."

This testimony was corroborated by the statement of two other witnesses. Mr. James G. Johnson on the stand said:

"I live in the borough of Krutown, Monrovia, I am acquainted with one Singby and Mr. Philip F. Simp-

son the defendant. In the year 1929, October 24th, I saw Mr. Francis Simpson at the Customs Wharf. The *S.S. Otto* was in harbour. Twenty-four deckhands were being shipped to Fernando Po by Mr. Simpson, by force. The first man forced is called Singby, his English name is 'Money never finish.' During that time Mr. George Morris was acting Wharfinger; myself, George Morris, Jessie Benson were on the Wharf when Mr. Simpson told a policeman by the name of Corporal Body to put Singby in the boat. Singby came along with Corporal Body and Festus Johnson who was the chief head man of Yancy going to Fernando Po carrying boys. Mr. Simpson then held Singby's hand and pushed him in the boat saying, let me go off, the steamer is ready to go. Then Singby asked me saying Mr. Johnson, you are a policeman you see how this big man is pushing me into the boat. I was at that time in the police force as Tally Officer. I said to him: 'I don't want to lose my job, so go, for the man is a big man, I cannot talk to him.' Then the boat pushed off and went. While we were there, Mr. Twe came and we told him and Mr. Twe went to the State Department and reported the matter, and Mr. Grimes sent for me and asked whether I was present when Mr. Simpson was forcing the boys. I told him yes but that Mr. Simpson is a big man and that I did not want to lose my job. Then Mr. Grimes sent for the Superintendent of Police and told him to go and bring the boys from the ship. The Superintendent went by boat and I went by canoe. When I arrived on board I met a captain whose name is Captain Draker, and give him my order from Mr. Grimes to bring the boys ashore. Then the boys and myself came ashore with the Superintendent of Police and we carried the boys to the Police Station. At the time one Mr. Johnson was Acting Commissioner of Police. That is all I know."

Witness George Morris on the stand deposed as follows:

"I live in the Borough of Krutown. I am acquainted with the defendant. I am the senior Wharfinger of the Custom Service. On the 24th of October, 1929, the steamship *Otto* came in port. The agent, Mr. P. F. Simpson, sent application to the Custom to ship twenty-four boys to Fernando Po. I then detailed an officer to check the boys at the new government wharf. About 15 minutes thereafter, the officers that I detailed to go there to check the boys reported that some of the boys refused to go; so I asked him why? He told me, 'Go and see yourself.' Then I sent him back again. He came back and made the same report. Then I went there myself. When I appeared on the scene, I met the boys in confusion so I asked those that refused to go what was the trouble? In the meantime Mr. Simpson appealed to me for assistance; then I told him that if the boys refused to go I have no power to force them. And if he wants my assistance, he must get instruction from the collector of customs. Then I told the boys to stand up. In the meantime he ordered a policeman or soldier to assist him to put the boys in the boat, because the steamer was in a hurry. So the officer assisted him; he himself with officers pushed the boys in the boat. He got in the same boat and went on board."

There is no evidence in the records of the case which has been put forward by the defense sufficiently strong to overturn the evidence of the prosecution. While it is a general principle of law that the burden of proof rests on the party who maintains the affirmative; yet where the facts lie peculiarly within the knowledge of a party to a cause, he shall be held to prove the negative.

Having gone fully into this case and considered all the material points from every possible angle, we are of the opinion thus: The Court adjudges that Philip F.

Simpson defendant be and he is hereby sentenced to pay a fine of two hundred dollars in money current within the Republic of Liberia from date hereof; and it is so ordered.

Amended and Affirmed.