

In our opinion the judgment of the court below is not erroneous and should therefore be affirmed and it is so ordered.

A. Karna, for petitioner in certiorari.

Arthur Barclay, for respondent in certiorari.

A. WOERMANN, Appellant, *v.* REPUBLIC OF LIBERIA,
Appellee.

ARGUED OCTOBER 28, 1915. DECIDED JANUARY 10, 1916.

Dossen, C. J., and Johnson, J.

The act of a merchant in supplying his factories with liquor, is not a barter or sale within the meaning of the statutes which forbid the sale of liquor in quantities above three gallons, unless sold under wholesale license.

Mr. Justice Johnson delivered the opinion of the court:

Violation of Revenue Laws—Appeal from Judgment. The appellant in this case was libelled in the Circuit Court of the first judicial circuit, Territory of Grand Cape Mount, for an alleged violation of the revenue laws of the Republic by bartering and selling wholesale liquor, without first obtaining the wholesale liquor license prescribed by the statutes.

The libellee sets up as a defense that he did not, within the time laid in the libel, sell liquor in wholesale quantities. He admits however that he sold retail liquor, averring that he had obtained a retail liquor license from the Government of the Republic.

On the trial of the case, libellant introduced evidence tending to prove that appellant had at sundry times sent wholesale quantities of liquor from his business place at Robertsport to his sub-factories in the interior of the Territory; and this is in substance all of the evidence that was given against appellant.

When the action was called for hearing in this court; the Attorney General virtually abandoned the case, averring that the evidence did not support the charge laid in the libel of information.

Under these circumstances, judgment must be entered for appellant, and the judgment of the lower court reversed as a matter of course.

We deem it necessary however, for the future guidance of the courts, to set at rest the question whether the act of a merchant in

supplying his sub-factories with liquor is a barter or sale, within the meaning of the statutes which forbids the sale of liquor in quantities above three gallons unless sold under wholesale license. (See *Muller v. Republic*, Lib. Semi Ann. Series, No. 5, p. 20.)

A sale is defined by Bouvier to be an agreement by which one of two contracting parties, called the seller, gives a thing and passes the title in exchange for a certain price in current money to the other party, who is called the buyer or purchaser, who on his part agrees to pay such price. (Bouv. L. D., vol. 2, Sale.)

Barter differs from sale in only one respect, and that is the consideration, which is paid in goods or merchandise. The effect of a sale is to pass title to the goods sold. (See *idem.*)

Now it is plain that the transactions between a merchant and his factor do not fall under the above definition, because the factor is in law a bailee who is under contract either expressed or implied to return the goods entrusted to him, in its original or an altered form. (*Idem; Bakker v. Williams*, I Lib. L. R. 233.)

Besides it would be absurd and contrary to the public policy if by any construction of the above cited statute, merchants were limited in supplying their factories, to retail quantities of liquor, for it is the policy of the law to encourage trade and not to restrict it.

Following the above reasoning, it is evident that the mere transportation of goods and merchandise from one factory to another is not a sale or barter within the meaning of said statutes.

The judgment of the court below should therefore be reversed, and it is so ordered.

C. B. Dunbar, for appellant.

Attorney General, for appellee.

A. WOERMANN, Appellant, *v.* H. K. FREEMAN, Appellee.

ARGUED NOVEMBER 3, 1915. DECIDED JANUARY 10, 1916.

Dossen, C. J., and Johnson, J.

Mr. Justice Johnson delivered the opinion of the court:

Debt—Appeal from Judgment. This is an action of debt brought up from the Circuit Court of the first judicial circuit, Territory of Grand Cape Mount, by the plaintiff in the court below now appellant, against whom judgment was entered.