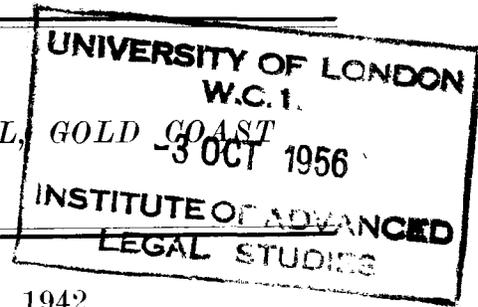


21, 1948

No. 2 of 1945.

In the Privy Council.

ON APPEAL
FROM THE WEST AFRICAN COURT OF APPEAL,
SESSION.



In re PEACE PRESERVATION (LABADI) ORDER, 1942

and

In re ROBERT DANIEL PATTERSON HOUSE NO. E.1/17

and

IN THE MATTER of an APPLICATION for a WRIT OF PROHIBITION

BETWEEN

ROBERT DANIEL PATTERSON - - - - - *Appellant*

AND

THE DISTRICT COMMISSIONER, ACCRA, and THE
DISTRICT MAGISTRATE, ACCRA *Respondents.*

RECORD OF PROCEEDINGS.

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Affidavit of Robert Daniel Patterson in support of application for final leave to appeal to His Majesty in Council	12th July 1944
Notice of motion for approval of sureties	14th July 1944
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In the Privy Council.

ON APPEAL FROM THE WEST AFRICAN COURT OF APPEAL, GOLD COAST SESSION.

In re PEACE PRESERVATION (LABADI) ORDER, 1942

and

In re ROBERT DANIEL PATTERSON HOUSE NO. E.1/17

and

10 IN THE MATTER of an APPLICATION for a WRIT OF PROHIBITION

BETWEEN

ROBERT DANIEL PATTERSON

Appellant

AND

THE DISTRICT COMMISSIONER, ACCRA, and THE
DISTRICT MAGISTRATE, ACCRA

Respondents.

RECORD OF PROCEEDINGS.

No. 1.

NOTICE OF MOTION for Writ of Prohibition to issue.

20 IN THE SUPREME COURT OF THE GOLD COAST,
Eastern Province,
Divisional Court, Accra.

In Re PEACE PRESERVATION (LABADI) ORDER, 1942 and

In Re ROBERT DANIEL PATTERSON—House No. E.1/17

and

IN THE MATTER of APPLICATION for WRIT OF PROHIBITION
to issue herein.

30 Motion on notice by Kofi Adumua-Bossman, Counsel for and on
behalf of Robert Daniel Patterson, the applicant herein, for an Order
calling upon the District Commissioner, Accra, as Execution Creditor in
the above case, the District Magistrate, Accra, and the Sheriff, Accra, to
shew cause why an Order for Writ of Prohibition should not issue to
prohibit them from proceeding any further in the above suits against the
said Robert Daniel Patterson, the applicant herein, and in particular from

*In the
Supreme
Court.*

No. 1.
Notice of
motion for
writ of
prohibition
to issue,
18th May
1943.

*In the
Supreme
Court.*

proceeding into execution by attaching the real and personal properties of the said applicant—and for such further order as to the Court may seem meet.

No. 1.
Notice of
motion for
writ of
prohibition
to issue,
18th May
1943,
continued.

To be moved on Friday the 21st May, 1943, at 8.30 o'clock in the forenoon or so soon thereafter as Counsel can be heard.

Dated at Azinyo Chambers, Accra, this 18th day of May, 1943.

(Sgd.) K. ADUMUA-BOSSMAN,

Solicitor for Applicant.

To The Registrar,
Divisional Court, Accra

10

And To The above-named District Commissioner, Accra, and
To the Sheriff, Supreme Court, Accra,
and
The District Magistrate, Accra.

No. 2.
Affidavit
of Robert
Daniel
Patterson
in support
of
application
for writ of
prohibition,
19th May
1943.

No. 2.

AFFIDAVIT of Robert Daniel Patterson in support of application for Writ of Prohibition.

I, ROBERT DANIEL PATTERSON, make oath and say as follows:—

1. That I am the person in whose name House No. E.1/17 Labadi is registered in the books of the Accra Town Council for the purposes of the Municipal Ordinance.

20

2. That on the 17th day of May, 1943, I was shown Notice of Attachment under an alleged Writ of Fi. Fa. : issued by the District Magistrate of Accra against me for the seizure and sale of my moveable and immovable property unless a sum of Three Pounds eighteen shillings and nine pence (£3.18.9) alleged to be due from me be sooner paid.

3. That the said sum of Three Pounds eighteen shillings and nine pence (£3.18.9) is alleged to be due from me under Section 9 of the Peace Preservation Ordinance (Cap. 40).

4. That I have never been invited nor given any opportunity to attend before any Commissioner for the purpose of any enquiry being made pursuant to the provisions of the said Section 9 of the said Peace Preservation Ordinance, and I have not at any time prior to the service of the said Notice of Attachment on the 17th day of May, 1943, attended any enquiry as contemplated by the said Section of the said Ordinance.

30

5. That no valid and lawful assessment as contemplated by Section 9 exists against me, and I am in no way liable for the amount of Three Pounds eighteen shillings and nine pence (£3.18.9) claimed against me.

6. That moreover I have never at any time been served with any Formal Order or Decree for payment of the said amount or of any other amount.

40

7. That the Writ of Fi. Fa. alleged to have been issued against me is unlawful and the seizure and attachment of Premises No. E.1/17 also illegal.

In the Supreme Court.

8. That I make this affidavit in support of Motion for Writ of Prohibition to issue herein.

No. 2.
Affidavit of Robert Daniel Patterson in support of application for writ of prohibition, 19th May 1943, continued.

Sworn at Accra this 19th day of May, } (Sgd.) R. D. PATTERSON.
1943.

Before me,
(Sgd.) ROBERT A. BANNERMAN,
Commissioner for Oaths.

10

No. 3.

OPENING and Arguments of Counsel.

IN THE SUPREME COURT OF THE GOLD COAST, Eastern Province, held at Victoriaborg, Accra, on Friday the 21st day of May, 1943 before His Honour Mr. Justice C. A. G. LANE.

No. 3.
Opening and arguments of counsel, 21st, 28th and 31st May 1943.

In Re PEACE PRESERVATION LABADI ORDER 1942

and

In Re ROBERT D. PATTERSON HOUSE No. E.1/17.

Bossman (Ollennu with him) for Applicant.

21st May 1943.

20

One application to be taken as test.

Cap. 4 Section 16. Order 1 Rule 1 amended by Order 34/41.

House of applicant is attached and is advertised for sale without any legal order of attachment and sale. Peace Preservation Ordinance Cap. 40, Section 9.

N.B. (Notices were served yesterday on District Magistrate, District Commissioner and Sheriff for hearing today and Respondents have not appeared).

Bossman points out that there should be 2 clear days—Order 27 Rule 17.

30

Order: The notices by motion (six)* in this same matter to be adjourned till 28th.

Notices to Respondents.

(Sgd.) C. A. G. LANE,
J.

**In re*

i.e. W. K. Ollennu House E 110/17
R. D. Patterson House E 2/17
Lamprey Kofi House E 52/15
Okpoti House E 106/16.

28th May, 1943.

40

Ollennu for mover (Bossman with him is in West African Court of Appeal).

28th May 1943.

*In the
Supreme
Court.*

No. 3.
Opening
and
arguments
of counsel,
28th May
1943,
continued.

Plange, Crown Counsel for District Commissioner, and Sheriff in opposition.

The District Magistrate is not appearing (though served).

Ollennu : Refers to Rules of Court under Cap. 4.

Rule 4 of Rules No. 34 of 1941 (amendments).

Halsbury old edition vol. 10 p. 141 *Re* Writ of Prohibition.

Section 286. Inferior Court p. 150 Section 300.

Magistrate's Court has limited jurisdiction in this country. Cap. 4 Section 42. Attachment is generally alleged to have been made under Section 9 Cap. 40. 10

Assessment by District Commissioner enforced by attachment order by Magistrate's Court. Quotes Order 40 Rules 1 and 3 : no order of District Magistrate's Court : no decree. We say it is *ultra vires* to attach property when no order made : no notices of attachment.

District Magistrate has no jurisdiction to order attachment when it has made no order or decree.

Attachment should be by Court which is ordering the attachment. A notice was shown us : but not served : the bailiff would not give it to us : Refers to Section 9 Cap. 40 : there must be an inquiry at which District Commissioner satisfies himself as to means of different individuals. 20 No notice of inquiry on us. We should have notice that that decree should be made (Court does not agree). If no notice of inquiry then in order that his decree should bind us there should be notice. Invites Court to issue Writ of Prohibition.

No proper basis for District Commissioner's orders (cf. 2nd paragraph of section).

Plange : Mover must show that order for payment was illegal or made without jurisdiction.

(I don't dispute the facts as alleged in mover's affidavit). They have to show that District Magistrate had no jurisdiction to issue writ of 30 attachment or that it was illegal—Halsbury vol. 9 Hailsham p. 819. There are no proceedings in Magistrate's Court.

If there were they have to show that Magistrate was acting illegally or without jurisdiction.

In this case Magistrate issued writ for £3.18.9. Is the amount payable by law ? District Commissioner's order was legal by Section 9 of Cap. 40. Discretion as to holding of inquiry. Nothing in order to say that District Commissioner should serve formal notice on each inhabitant against whom he has made an assessment. Though it was not necessary the District Commissioner did post notices at conspicuous places 40 in Labadi including Manche's house and District Commissioner's office in Accra. Issue by Magistrate of attachment is authorised by 3rd paragraph of Section 9.

No provision in Cap. 4 that person has to be served with copy of decree. No provision in Cap. 40 saying that District Commissioner has

to give notice to parties to be assessed. The notice of attachment which they admit having simply told them to pay or failing which the property would be sold. That would not affect legality of attachment order or Magistrate's order in issuing writ. Remedy for lack of notice to the individual would not be by Writ of Prohibition.

Is it an irregularity in issue of writ (i.e. lack of notice)? If so, it would only be a ground for getting Court to release property. Mover has not discharged onus.

Ollennu : 3rd paragraph of Section 9.

- 10 If order is made *ex parte* we ought to be notified. Order 40 Cap. 4. Rule 4 decree to be served (?). In this case they have increased amount payable by fees in execution.

Magistrate not person to order attachment after District Commissioner has made assessment.

(1) Want of jurisdiction (2) Illegality present.

Ollennu : One case to take as test.

Order : Finding reserved till 31st.

(Sgd.) C. A. G. LANE,
J.

20 31st May, 1943.

Court orders adjournment to give both sides opportunity of arguing on an authority which *Ollennu* wrote about after the last hearing, and for Respondent to file an affidavit showing exactly what steps were taken by the District Commissioner and District Magistrate in the matter.

Adjourned till 8th June.

(Sgd.) C. A. G. LANE,
J.

No. 4.

AFFIDAVIT of Henry Edward Devaux, District Commissioner, Accra.

- 30 I, HENRY EDWARD DEVAUX, District Commissioner, Accra, make oath and say as follows :—

1. That on the 29th September, 1942 the town of Labadi was placed under the Peace Preservation Ordinance by Proclamation published in Gazette No. 67 of 1942.

2. That under Section 9 of the Peace Preservation Ordinance, the Governor by Order in Council No. 19 of 1942 dated 30th November, 1942, ordered that the inhabitants of the proclaimed district being that part of the Gold Coast lying within a radius of one mile of the Labadi Market in the Accra District, be charged with the cost of such additional police
40 amounting to £321.16.11d.

3. That the then District Commissioner of Accra assessed the proportion which each person in the proclaimed district should pay.

*In the
Supreme
Court.*

No. 4.
Affidavit of
Henry
Edward
Devaux,
District
Commis-
sioner,
Accra,
3rd June
1943,
continued.

4. That notice of the assessment requiring payment to be made at the District Commissioner's office, Accra, within 7 days of the 14th January, 1943, was posted at the District Commissioner's office, Accra, and copies of the said notice were duly posted at conspicuous places at Labadi including the Mantse We.

5. That Robert Daniel Patterson and 11 other persons did not comply with the notice.

6. That on the 22nd April, 1943, I made application supported by affidavit to the District Magistrate, Accra, for writs of Attachment to be issued in respect of the houses of Robert Daniel Patterson. 10

7. That the assessment and order of attachment were lawful and I make this affidavit in opposition to the Motion for the issue of Writ of Prohibition.

Sworn at Accra this 3rd day of June, } (Sgd.) H. E. DEVAUX,
1943. } District Commissioner.

Before me,
(Sgd.) ROBERT A. BANNERMAN,
Commissioner for Oaths.

No. 5.
Further
arguments
of counsel,
12th June
1943.

No. 5.
FURTHER Arguments of Counsel.

20

12th June, 1943.

IN THE SUPREME COURT OF THE GOLD COAST, Eastern Province,
held at Victoriaborg, Accra, on Saturday the 12th day of June, 1943
before His Honour Mr. Justice C. A. G. LANE.

In Re PEACE PRESERVATION (LABADI) ORDER.

Bossman for applicant.

Plange for Respondents (District Commissioner & Sheriff).

Bossman—We admit paragraph 1 of District Commissioner's affidavit also paragraph 2. Cap. 40, p. 749.

It then became duty of District Commissioner to assess portion which 30 each person had to pay.

We say that in doing so District Commissioner ought not to assess by saying each person had to pay so much but to hold a judicial inquiry and say what each had to pay—a flat rate might be equitable but he was bound to give notice to every person—of amount assessed: “after enquiry” can only mean a judicial inquiry: he did not assess. Bound to serve each person formally with amount he had to pay—cf. paragraph 4 not sufficient: to post in District Commissioner's Court or Mantse We: he did not. No formal decree ever served—not done: attachment followed.

We say 1. No proper assessment by District Commissioner. 40

2. No notice to applicant.

3. No formal claim by decree or other formal process and could not therefore in law proceed to execution against them cf. concluding part of Section 9.

Let us say that order amounts to a judgment : next step

Order 40. Rule 1 }
 Rule 3 } When the order is to be enforced only procedure
 Rule 6 } in Court must be followed.

R. v. North 1927 1 K.B. p. 491 *Ex Parte Oakey*.

Breach of fundamental principles of justice.

Plange : Under section 9 it is within discretion of District Commissioner
 (1) whether to hold inquiry.

10 They say no proper inquiry held—(2) Mode of assessment in discretion
 of District Commissioner.

He can assess without inquiry. (3) Mode of notifying : Order 40
 Rule 6 : nothing to provide that notice must be given to parties assessed.
 However District Commissioner did so—Section 5.

District Commissioner brought assessment to notice of inhabitants
 of Labadi.

But In Application for Writ of Prohibition Court has first to decide if
 it can grant writ.

Only lies when inferior Court has acted without jurisdiction or contrary
 to law in some judicial proceeding. Halsbury vol. 9 p. 830 Section 1407.

20 No allegation by applicants that District Commissioner acting
 judicially. His act was executive or ministerial. The writ does not lie
 against District Commissioner for executive act. *Re Clifford and O'Sullivan*
 (1921) 2 A.C. p. 570. District Commissioner had made his assessment
 and was *functus officio*.

Section 9 then it became a matter of enforcing judgment : a different
 matter. Writ does not lie against District Commissioner. *Chabot v.*
Morpeth 1850 19 L.J. Q.B. p. 381.

30 As regards District Magistrate's part in proceedings : District
 Magistrate merely issued fi. fa. at request of District Commissioner : act
 which is sought to be prohibited is issue of writ of fi. fa. which was already
 issued. Issue of writ is not judicial act : it is ministerial act for which
 writ of prohibition cannot lie.

R. v. Woodhouse 1906 2 K.B. 535. No distinction between *certiorari*
 and prohibition as regards the argument regarding ministerial as opposed
 to judicial act.

R. v. North (ex parte Oakey) does not apply here : because there was
 an order of Court—party given no opportunity to appear.

Liability not fixed by judicial body ?

40 No judicial act—ministerial act—liability is fixed by Governor's
 Proclamation : District Commissioner is ministerial officer who has to
 see who has to pay what.

? Applicants to show that Judicial act.

Bossmann :

1. Nature of proceedings

(i) I conclude that Governor's order in Council ordering that
 inhabitants are to pay so much is not judicial act—statutory.

*In the
 Supreme
 Court.*

No. 5.

Further
 arguments
 of counsel,
 12th June
 1943,
continued.

*In the
Supreme
Court.*

No. 5.
Further
arguments
of counsel,
12th June
1943,
continued.

- (ii) But there has to be judicial inquiry to determine what each has to pay.
- (iii) Amount found due shall be levied judicially: i.e. under law for levying of moneys: Thus application has to be made to Magistrate for fi. fa.—judicial process.

Chabot v. Morpeth.

This Court has power to interfere because it is a judicial act. Is there ground to interfere?

Ordinance does not say that notice has to be given to each person affected. But it is an inherent principle that he should be notified. 10

1. Method of Assessment—wrong
2. Person affected should have an opportunity to be heard.

Ruling reserved on notice.

(Sgd.) C. A. G. LANE,
J.

No. 6.
Judgment
of Lane, J.,
22nd June
1943.

No. 6.

JUDGMENT of Lane, J.

(Title as No. 1.)

JUDGMENT :—

This is a motion by Robert Patterson for the issue of a Writ of 20 Prohibition against the District Commissioner, Accra, the District Magistrate, Accra, and the Sheriff, in connection with proceedings taken to levy execution in pursuance of an order of assessment made under the Peace Preservation Ordinance Cap. 40, by the attachment of a house at Labadi.

On 29th September, 1942, the town of Labadi was placed under the Peace Preservation Ordinance by proclamation. Under Section 9 of the Ordinance the inhabitants of the proclaimed district, which consisted of an area with a radius of one mile of Labadi market, by order in Council of 30th November, 1942, were charged with the cost of additional police 30 stationed there. The District Commissioner assessed the proportion of such cost which each inhabitant was to pay. Notice of the assessment requiring payment to be made at the District Commissioner's Office, Accra, within 7 days of January 14th, 1943, was posted at the District Commissioner's Office, Accra, and copies of it were also posted at conspicuous places at Labadi including the Mantse We (Chief's residence).

Patterson and 11 others did not comply. On 22nd April, the District Commissioner made application to the District Magistrate, Accra, for a writ of attachment to be issued in respect of Patterson's house. This was done and the house was attached as well as those of other persons who 40 failed to pay. It has been agreed that this application should be treated as a test case to decide similar applications on behalf of other persons.

There is no dispute as to the legality or regularity of the proclamation under Section 9 of Cap. 40. It is contended that there was illegality in

the method of assessment, the lack of notice to the applicant of the assessment, and the absence of a formal claim by decree or similar process ; and that because of this the Court could not in law proceed to execute.

*In the
Supreme
Court.*

The relevant portion of Section 9 provides as follows : " A District Commissioner within whose District any portion of a proclaimed district is shall, after enquiry, if necessary, assess the proportion in which such cost is to be paid by the said inhabitants according to his judgment of their respective means."

No. 6.
Judgment
of Lane, J.,
22nd June
1943,
continued.

10 "All monies payable under this Section may be levied under the law for the time being in force for the levying of monies ordered by a Court to be paid."

In my opinion the District Commissioner's procedure was entirely in accordance with the section : it was a ministerial act, not a judicial one ; therefore it was not the act of an inferior Court ; a writ of prohibition could not issue so far as concerns the District Commissioner. The writ of prohibition is a prerogative issuing out of a superior Court, in this case the Divisional Court, and directed to an inferior Court forbidding such Court to continue proceedings therein in excess of its jurisdiction or in contravention of the law of the land. Prohibition lies not only for 20 excess or absence of jurisdiction but also for the contravention of some statute or principles of common law ; it does not however lie to correct the course, practice or procedure of an inferior tribunal or a wrong decision on the merits of proceedings.

The District Commissioner's part in the proceedings could not, as I have said, be subject to the writ.

As regards the actual attachment of the house, that also was in conformity with the Ordinance. The issue of the writ of attachment was a judicial act by the District Magistrate, an inferior Court. Was it in excess of jurisdiction or contrary to any statute or of the principles of 30 common law ? The District Magistrate undoubtedly had jurisdiction to issue the writ of attachment ; the process which he issued was in accordance with the relevant ordinance (Cap. 40). Prohibition could not lie on those grounds.

The enactment which is brought into play by the latter part of section 9 of Cap. 40 is Order 43, Rule 5 of Cap. 4, which says " if the decree be for money, it shall be enforced by the attachment and sale of the property of the party against whom the decree is made." Order 40, Rule 6 says, " A person directed by a decree or order to pay money is 40 bound to obey the decree or order without any demand for payment or performance."

Section 9 of Cap. 40 does not require any statutory notice to be given to the person assessed.

I think that the notices which were posted publicly, as ministerial act, were in fact proper and reasonable notices to the persons assessed. But I disregard this in considering the propriety of the part played by the judicial authority, the District Magistrate.

It has been argued that in applying Order 40, Rule 6, regard must be had to the other provisions of the Order i.e. Rules 1 and 3, which provide that parties to a suit where there is a decision after hearing who

*In the
Supreme
Court.*

No. 6.
Judgment
of Lane, J.,
22nd June
1943,
continued.

are served with notice to attend and hear the decision, are deemed to have notice of it and that is the reason for the lack of need for a demand for payment in Rule 6. And that as this was not done here, the person assessed could not be held to have had notice and that he is not bound to obey the order of assessment without demand. But the Ordinance does not require this and in my view, it, read in conjunction with Order 43, Rule 5, allows the attachment to be enforced without demand to the individual assessed.

Rex v. North, Ex-Parte Oakey, has been cited as an authority for the grant of the writ of prohibition. In that case the Court of Appeal decided 10 that the writ should not be refused in the case of a person against whom an order for the payment of money had been made in a judicial proceeding where the person had had no opportunity of being heard before the order was made.

A dictum of Parke B. (16 Q.B. 171) was quoted in the judgment of Bankes, L.J., as follows :

“ For no proposition can be more clearly established than that a man cannot incur the loss of liberty or property for an offence in a judicial proceeding until he has had a fair opportunity of answering the charge against him, unless indeed the legislature has expressly or impliedly given 20 an authority to act without that necessary preliminary.” Bankes, L.J., went on to say “ That being the Rule it is our duty to consider whether on the facts of this case the Chancellor has offended against it and a writ of prohibition should not be granted—all we have to consider is whether Mr. Oakey was given an opportunity of answering the case against him before the order was made. In my opinion he was not.” The judgment went on to discuss the citations addressed to the parishioners and persons interested ; and to say that it had not required them to appear ; it merely gave them an opportunity to appear if they wished ; they were not parties to what followed and in the opinion of the learned Lord Justice there was 30 no jurisdiction to make an order against any one of them without informing them that damages and costs had been awarded against them. Scrutton, L.J., said “ To order a man to pay what is in the nature of a penalty for an offence without giving him notice that an application for such an order is going to be made is both contrary to the general law of the land and so vicious as to violate a fundamental principle of justice.” The Court held as a result that the order against Mr. Oakey had been in excess of jurisdiction by the Consistory Court.

In my view that authority does not apply here and can be distin- 40 guished from the present case. The local ordinance says that the District Commissioner shall assess the proportion in which the cost of maintaining the extra police is to be paid by the inhabitants of a proclaimed district, according to his judgment of their respective means ; an inquiry is to be held only if thought necessary. The legislature has thereby given the Executive power to assess inhabitants by a ministerial act, and not as a Court of law ; with discretion whether or not to hold an inquiry. In other words the executive is granted power to assess summarily if it thinks fit. The exception mentioned in the rule stated by Parke B. quoted above applies in this case, namely, “ unless indeed the legislature has 50 expressly or impliedly given an authority to act without that necessary preliminary.” And moreover the assessment and order is made by the

executive as a ministerial act and not as a Court of law. For these reasons I hold that the writ should not issue against the District Commissioner or the District Magistrate. Clearly it cannot issue against the Sheriff who has no jurisdiction in a judicial sense. Costs to the respondents assessed at £7.7.0, Counsel's costs, and 6/- Court costs = £7.13.0.

(Sgd.) C. A. G. LANE,
Judge

22/6/43.

*In the
Supreme
Court.*
—
No. 6.
Judgment
of Lane, J.,
22nd June
1943,
continued.

Judgment read to
10 PLANGE for Crown
ATTOH for BOSSMAN for applicant.

No. 7.

GROUNDS OF APPEAL.

IN THE WEST AFRICAN COURT OF APPEAL.

The appellant being dissatisfied with the judgment of the Divisional Court, Accra, delivered on the 22nd day of June, 1943, and having obtained final leave to appeal therefrom dated the 24th day of August, 1943, hereby appeals to the West African Court of Appeal upon the grounds hereinafter set forth.

*In the
West
African
Court of
Appeal.*
—

No. 7.
Grounds of
Appeal,
30th
August
1943.

20 **GROUNDS OF APPEAL.**

1. The Court was wrong in deciding as follows :—

“The District Commissioner's procedure was entirely in accordance with the Section (Section 9 of Cap. 40): it was a ministerial act, not a judicial one, therefore it was not the act of an inferior court and the Writ of Prohibition could not issue so far as concerns the District Commissioner”—and the Court has wrongly interpreted the section of the Ordinance.

30 2. The Court was also wrong in holding that “as regards the actual attachment of the house, that also was in conformity with the Ordinance—the District Magistrate undoubtedly had jurisdiction to issue the Writ of Attachment—the process which he issued was in accordance with the relevant Ordinance (Cap. 40). Prohibition therefore could not be on those grounds because *inter alia*, although the District Magistrate derives his jurisdiction from the Ordinance (Cap. 40) in the issue by him of process to levy execution he is bound by Rules of Court and the ordinary law of execution which were not followed in this case.

40 3. The Court was wrong in deciding that in its opinion the principle enunciated by the Court of Appeal in the case *Rex versus North Ex-parte Oakey* (1927) 1 K.B. 503 did not apply to the facts of this particular matter.

*In the
West
African
Court of
Appeal.*

No. 7.
Grounds of
Appeal,
30th
August
1943,
continued.

4. That the procedure adopted by the District Commissioner the process issued by the District Magistrate and the execution put in force by the Sheriff—all of which were done without notice to the applicant, so violates the fundamental principles of Law that they were subject to prohibition—and the Court's decision refusing the writ was contrary to law.

Dated this 30th day of August, 1943.

(Sgd.) K. ADUMUA-BOSSMAN,

Counsel for Appellant.

To The Registrar, Divisional Court, Accra,
And To The District Commissioner, Accra,
And To the Sheriff, Supreme Court, Accra.

10

No. 8.
Arguments
of counsel,
29th
February
and
4th March
1944.

No. 8.

ARGUMENTS of Counsel.

29th February, 1944.

IN THE WEST AFRICAN COURT OF APPEAL, Gold Coast Session, held at Victoriaborg, Accra, on Tuesday, the 29th day of February, 1944, before Their Honours Sir DONALD KINGDON, C.J., Nigeria (President), Sir GEORGE GRAHAM PAUL, C.J., Sierra Leone and ALFRED NOEL DOORLY, Ag. C.J., Gold Coast.

20

Civil Appeal.

(19) 7/44

29th
February
1944.

On appeal from judgment of Lane, J., dated 22nd June 1943.

K. A. Bossman (with him Ollennu) for Patterson (Appellant).

J. S. Manyo Plange, Crown Counsel, for District Commissioner, Accra, District Magistrate, Accra, and Sheriff.

Plange raises question of jurisdiction of this Court to entertain the appeal. It purports to be before Court by way of special leave under Cap. 5 Section 3 (3). This is not an appeal from an interlocutory order. It was a cause or matter before the Divisional Court, that cause or matter being an application for the grant of a writ of prohibition. I submit that an appeal does not lie from the refusal to grant such a writ or the granting of such a writ. It is a prerogative writ from which an appeal does not lie at common law. The right to appeal from it was statutorily granted by the Judicature Act of 1873. That is not applicable in the Gold Coast. We have our own legislation as to appeal. (Court : In Order of 10th July, 1943, is Section 3 (1) a clerical error for 3 (3) ? Bossman : Yes. Plange : No. Original referred to. It is plainly 3 (1). (Intd. D.K.)). The judgment of 22nd June, 1943, is a judgment not an Order. *Clifford v. O'Sullivan* 1921 2 A.C. 570 at 580. See judgment pages 9-12.

50

Bossman in answer to Plange :

See Cap. 4 Section 14. Consider that Supreme Court is in same position as High Court England except where expressly limited. High Court can issue writs and appeal lay to Appeal Court. Prior to Judicature Act you could go from Court to Court. By 1873 Act procedure was altered and parties could go to Appeal Court instead of from Court to Court. I submit that the practice for the time being in the High Court in England applies by virtue of rule 4 of Rules 34/1941. I submit that under subsection (3) of 13 of Cap. 5 we have a right of appeal. I submit that the
 10 Order made did not finally decide the rights between us. There was an application to stop the sale of the house of the applicant on the ground that the procedure adopted was wrong, the Court held that the procedure adopted was right. That did not affect the real matter in dispute which was whether or not our house could be lawfully sold. The Court made no pronouncement on the rights of the parties at all. If, however, it is looked at as a final order, so far as we are concerned the subject matter in dispute was the sale of our house of a value of over £100 and not the £3 odd claimed from us. It was conceded that the house was of a value more than £100. (Court: Where?) At page 16. (Not shewn.) The
 20 value of the property is not stated in any affidavit. (In answer to Court: Plange: I am not prepared to concede anything in regard to the value of the house. I don't know the position. The matter raises substantial constitutional issues. I ask Court under Rule 31 to take evidence as to value of house in order to do justice between the parties. I submit it is only a technicality.)

(G. Paul, C.J. of Sierra Leone, pointing to paragraph 4 of affidavit of 25th June, 1943, giving value of house at over £240.)

Plange in reply :

I submit that the question did not decide the rights of the parties
 30 to the property. See Short and Mellor Practice of the Crown Office (2nd Edition) page 483. *Rer v. Woodhouse* 2 L.R. K.B.D. 1906 page 501 at 535.

C.A.V.

(Doorly, C.J. refers to *G. B. Ollivant Ltd. v. Vanderpuye* 2 W.A.C.A. 368.)

Before giving a decision upon the question of jurisdiction Court thinks it necessary to give Plange an opportunity to file an affidavit as to value of house if he wishes. He will file an affidavit before 8.30 a.m. on Thursday 2nd March if he wishes to allege that the value of the house
 40 does not exceed £100. Liberty to apply.

(Sgd.) DONALD KINGDON,

29th February, 1944.

President.

4.3.1944.

Bossman for Appellant :—

Judgment page 8. Grounds of Appeal page 11.

Ground 1 :

See page 11 paragraphs 2 and 3. Facts not in dispute.

*In the
West
African
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Appeal.*

—
No. 8.
Arguments
of counsel,
29th
February
1944,
continued.

4th March
1944.

*In the
West
African
Court of
Appeal.*

No. 8.
Arguments
of counsel,
4th March
1944,
continued.

1st : The District Commissioner in making the assessment did not give notice to appellant or any other person affected. He acted solely by rule of the writ.

2nd : When he had made his assessment and was applying to the District Commissioner's Court for attachment to issue no notice was given. The first intimation appellant had was the actual attachment or seizure of his house.

I submit that on principle, as well as by the very wording of the Section giving the District Commissioner power to assess, he was made a judicial officer *ad hoc* bound to exercise his discretion judicially. The principle of law is this, that where the legislature has entrusted any individual or body with authority or power to impose obligations on the ordinary subjects then there is a corresponding obligation on that person or body to exercise that power judicially on legal principles. See *King v. North Worcestershire Assessment Committee* 1929 2 K.B. page 397 per Lord Hewart, C.J., at pages 403-406, 9 Halsbury (2nd Edition) page 819 paragraph 139a et seq. Page 833 paragraph 1411. I concede that in the *North Worcestershire* case the grounds are entirely different. *R. v. North ex parte Oakey* (1927) 1 K.B. 491 at 503. Even where there is a right of appeal a writ can issue : a fortiori where there is none, a writ will more readily issue. *R. v. Selford Assessment Committee : ex parte Ogden* (1937) 2 K.B.D. page 1 at page 13. I submit that the terms of Section 9 of Cap. 40 show that the District Commissioner is to act judicially. See affidavit page 5 of District Commissioner. He does not mention enquiry. The wording of the section does not suggest a fundamental breach of the common law. I submit that the assessment cannot be valid unless made with notice to the party. *Harper v. Carr* (1797) 101 English Reports 970 at 972. 10 20

Ground 2 :

After assessment the District Commissioner gave no formal notice to him requiring him to pay at all. No notice of assessment at so much and no demand for payment. Affidavit says he posted notices in his own office and in Manche's house : see page 6. "At conspicuous places." I submit that this is not proper notice. If it were a debt due from appellant there had to be notice of amount due and a demand. District Commissioner applied, we don't know how, to District Magistrate to issue Fi. Fas. and Fi. Fas. were issued. We had no notice of the application. I submit that before Writ of Fi. Fa. could issue Magistrate would have to make that order for payment an order of his own court. Before execution can issue on it, it must be registered as a judgment of the court issuing execution. See page 9. Cap. 4 Schedule 3 Order 43 Rule 5 : Order 40 Rule 6 : Rule 3. 30 40

Ground 3 :

If no notice is required under section 9 Cap. 40 nor any demand for payment then the principle in *R. v. North* does not apply. But I submit that it is a fundamental breach of the ordinary law that a man can be fined and the property assessed and his property levied upon without his being heard. Ground 4 is self explanatory.

Plange for Respondents :—

In the
West
African
Court of
Appeal.

No. 8.
Arguments
of counsel,
4th March
1944,
continued.

I submit that the whole of Cap. 40 is punitive legislation which is only applicable in certain circumstances, viz. : When the public peace is disturbed or endangered. The act of the District Commissioner under Section 9 is purely an executive act—the liability of the inhabitants is determined by Order in Council. The District Commissioner is merely an executive officer who by virtue of his position is in touch with the people of the District, and by virtue of his knowledge is directed to spread out the liability amongst the people. If that were not so, it would take place that everyone would be called on to pay equally regardless of means. He does not have to make an enquiry, if the matter is within his knowledge. The words “ after enquiry ” do not impose upon him any powers or duties as a judicial officer. He is an executive officer throughout. A writ will not lie to such an officer, that is why all through text books and cases refer to bodies of persons, because originally the writ applied only to courts, then extended to bodies exercising quasi judicial functions, though not being courts. In England the common type is assessment committees—writs are always either to a court or to a committee, never to an individual. It is never applicable to officers discharging duties imposed upon them by Statute. There are three things to ascertain in order to find out if the writ applies, viz. :

1. Whether it is a court against which the application is made if not—2. Whether it is a body ?

3. If it is a body whether that body purports to exercise judicial functions. I submit that the District Commissioner is neither a court nor a body, even if he were a body, he did not purport to exercise judicial functions. *O’Sullivan v. Clifford* L.R. 1921 2 A.C. page 570.

As to notice : there is nothing in the Ordinance which provides for notice to be given, and I submit it would be wrong to make the inference that the giving of notice is implied. If the legislature had intended notice to be given, it would have so stated by express terms as in Section 9 of Cap. 51. As to the District Commissioner what more is there left for the Deputy Sheriff to do which he is prohibited from doing. He has discharged his duties and is *functus officio*. He is not the judgment creditor. It is the Crown who is the creditor. The only act of the District Magistrate is the issue of the warrant of attachment. I submit that that is a ministerial act and not a judicial act. *R. v. Woodhouse* L.R. 1906 2 K.B.D. page 501 at page 535 Judgment of Fletcher Moulton, L.J. A fortiori that applies to the Sheriff. I therefore submit that the writ does not lie, and the appeal should be dismissed.

Bossman in reply :

As to the distinction between a “ person ” and “ bodies ” I suggest it does not exist; whether it be one man or a body makes no difference. If the test of exercising judicial functions applies, the writ can be applied. The *O’Sullivan* case quoted has no application because there the body sought to be restrained was not purporting to act under statutory authority. See *Rex v. Electricity Commissioners* 1924 1 K.B.D. page 171 at page 206

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African
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Judgment of Atkin, L.J. See Order 43 Rule 18 : Rule 28 : See affidavit page paragraph 6. The big question is whether District Commissioner acts judicially or ministerially under the section. *R. v. Woodhouse (supra)* at page 512 judgment of Vaughan-Williams, L.J.

Judgment reserved.

No. 8.
Arguments
of counsel,
4th March
1944,
continued.

4th March, 1944.

(Sgd.) DONALD KINGDON,
President.

No. 9.
Judgment,
7th March
1944.

No. 9.
JUDGMENT.

10

7th March, 1944.

IN THE WEST AFRICAN COURT OF APPEAL, Gold Coast Session, held at Victoriaborg, Accra, on Tuesday, the 7th day of March, 1944, before Their Honours Sir DONALD KINGDON, C.J., Nigeria (President), Sir GEORGE GRAHAM PAUL, C.J., Sierra Leone and ALFRED NOEL DOORLY, Ag. C.J., Gold Coast.

(Title as No. 1.)

Judgment read by the President.

This is an appeal from a "judgment" of the Supreme Court refusing to issue a writ of prohibition. 20

The appellant moved the Divisional Court, Accra, "for an Order calling upon the District Commissioner, Accra, as Execution Creditor in the above case, the District Magistrate, Accra, and the Sheriff, Accra, to shew cause why an order for writ of prohibition should not issue to prohibit them from proceeding any further in the above suits against the said Robert Daniel Patterson the applicant herein, and in particular from proceeding into execution by attaching the real and personal properties of the said applicant—and for such further order as to the Court may seem meet."

The facts of the case are shortly stated in the judgment of the lower Court as follows :— 30

"On 29th September, 1942, the town of Labadi was placed under the Peace Preservation Ordinance by proclamation. Under Section 9 of the Ordinance the inhabitants of the proclaimed district, which consisted of an area with a radius of one mile of Labadi Market, by Order in Council of 30th November, 1942, were charged with the cost of additional police stationed there. The District Commissioner assessed the proportion of such cost which each inhabitant was to pay. Notice of the assessment requiring payment to be made at the District Commissioner's office, Accra, within 7 days of January 14th, 1943, was posted at the District Commissioner's Office, Accra, and copies of it were also posted at conspicuous places at Labadi including the Mantse We (Chief's residence). 40

“Patterson and 11 others did not comply. On 22nd April, the District Commissioner made application to the District Magistrate, Accra, for a writ of attachment to be issued in respect of Patterson’s house. This was done and the house was attached, as well as those of other persons who failed to pay.”

*In the
West
African
Court of
Appeal.*

No. 9.
Judgment,
7th March
1944,
continued.

The main ground of appeal to this Court is that the Court below was wrong in deciding that “the District Commissioner’s procedure was entirely in accordance with the section: it was a ministerial act, not a judicial one: therefore it was not the act of an inferior Court: a writ of prohibition could not issue so far as concerns the District Commissioner.” The section referred to is Section 9 of the Peace Preservation Ordinance (Cap. 40) which is in the following terms:—

“9. Where additional constabulary or police have been sent up to or stationed in a proclaimed district the Governor in Council may order that the inhabitants of such proclaimed district be charged with the cost of such additional constabulary or police.

“A District Commissioner within whose district any portion of a proclaimed district is shall, after enquiry, if necessary assess the proportion in which such cost is to be paid by the said inhabitants according to his judgment of their respective means.”

“All moneys payable under this section may be levied under the law for the time being in force for the levying of moneys ordered by a Court to be paid.”

The submission made by Counsel on behalf of the appellant was that on principle as well as by the very wording of the section the District Commissioner was made a judicial officer *ad hoc*, and was bound to exercise his discretion judicially; that by omitting to hold an enquiry or to give notice to the persons concerned that they were about to be assessed he failed to exercise any judicial discretion, so that his assessment is invalid and the proceedings are illegal and should be stopped by issue of the writ as prayed. In support of his argument Counsel referred to the following extract in the judgment of Hewart, L.C.J., in the case of *Rex v. North Worcestershire Assessment Committee, ex parte Hadley* (1929) 2 K.B. 397 at page 406, being a dictum of Atkin, L.J. (as he then was), in the case of *Rex v. Electricity Commissioners* (1924) 1 K.B. 171:—

“Wherever any body of persons having legal authority to determine questions affecting the rights of subjects, and having the duty to act judicially, act in excess of their legal authority they are subject to the controlling jurisdiction of the King’s Bench Division exercised in these writs.”

We draw special attention to the words “and having the duty to act judicially.” That is the vital point. In reply to these arguments Counsel for the Respondents submitted:—

“The whole of Chapter 40 is punitive legislation, which is only applicable in certain circumstances, viz.: when the public peace is disturbed or endangered. The Act of the District Commissioner under Section 9 is purely an executive act. The liability of the inhabitants is determined by Order-in-Council. The District Commissioner is merely an executive officer who, by virtue of his

*In the
West
African
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No. 9.
Judgment,
7th March
1944,
continued.

“ position, is in touch with the people of the District, and, by
“ virtue of his knowledge is directed to spread out the liability
“ amongst the people in accordance with his knowledge.

* * * * *

“ He does not have to make an enquiry, if the matter is within
“ his knowledge. The words ‘ after enquiry ’ do not impose upon
“ him any powers or duties as a judicial officer ; he is an executive
“ officer throughout, a writ will not lie to such an officer.”

We entirely concur with these submissions by Respondent’s Counsel and we do not think that the reasoning can be improved upon. That 10
disposes of the appeal, so far as the District Commissioner is concerned,
except that we should add that there is a second reason for refusing a writ
directed to the District Commissioner namely that he is *functus officio*.
He has completed his assessment and his duties are over. There are no
further steps left for him to take and it is not he who is proceeding to
execution. It is difficult to see what it is asked that he should be prohibited
from doing. So far as the District Magistrate is concerned the portion
of the “ judgment ” of the Court below which is attacked upon the appeal
is :—

“ As regards the actual attachment of the house, that also was 20
“ in conformity with the Ordinance. The issue of the writ of
“ attachment was a judicial act by the District Magistrate, an
“ inferior court. Was it in excess of jurisdiction or contrary to any
“ statute or of the principles of common law ? The District
“ Magistrate undoubtedly had jurisdiction to issue the writ of
“ attachment ; the process which he issued was in accordance with
“ the relevant Ordinance (Cap. 40). Prohibition could not lie on
“ those grounds.”

The argument of the appellant’s Counsel as to this is that after assess- 30
ment, the District Commissioner gave no personal notice to the appellant
requiring him to pay, no notice of assessment and no demand for payment ;
that the notice given (namely the posting of notices at the District Commis-
sioner’s Office, the Mantse We and other conspicuous places at Labadi)
was not proper notice ; that before execution could issue there ought to
have been proper notice ; that the issue of a writ of Fi. Fa. without
notice was wrong and that in any case before a writ of Fi. Fa. could issue
the order for payment ought to have been registered as a judgment of the
District Magistrate’s Court.

As to this it will be observed that the complaint is entirely of past 40
acts, and again it is not clear what act on the part of the District Magistrate
it is sought to prohibit. The District Magistrate, like the District Commis-
sioner, is *functus officio*, and for this reason alone the writ could not be
granted. But in addition Counsel for the Respondents has submitted
that the act of the District Magistrate in issuing the writ is a ministerial
act and not a judicial one. In support of this contention he relies upon a
dictum of Fletcher-Moulton, L.J., in the case of *Rex v. Woodhouse* (1906)
2 K.B., 501 at 535 :—

“ The true view of the limitation would seem to be that the
“ term ‘ judicial ’ is used in contrast with purely ministerial acts.
“ To these latter the process of certiorari does not apply, as for 50
“ instance to the issue of a warrant to enforce a rate, even though
“ the rate is one which could itself be questioned by certiorari.”

We agree with him on this point and we are of opinion that a writ could not, in any case, be issued to the Magistrate to prohibit him from carrying out his clear duty under the law, which makes no provision requiring the giving of notice before issue of writ.

As to the Sheriff, obviously he is not acting judicially and the writ shall not lie.

In our view these whole proceedings by way of an application for the issue of a writ of prohibition were entirely misconceived.

The appeal is dismissed with costs assessed at £33.18.6.

10 7th March 1944.

(Sgd.) DONALD KINGDON,
President.

(Sgd.) G. GRAHAM PAUL,
Chief Justice, Sierra Leone.

(Sgd.) A. N. DOORLY,
Ag. Chief Justice, Gold Coast.

Counsel :—

Mr. K. Adumua Bossman (with him Mr. N. A. Ollennu) for Appellant.

Mr. J. S. Manyo Plange, Crown Counsel for Respondents.

*In the
West
African
Court of
Appeal.*

No. 9.
Judgment,
7th March
1944,
continued.

No. 10.

20 COURT NOTES granting final leave to appeal to His Majesty in Council.

21st July 1944.

IN THE WEST AFRICAN COURT OF APPEAL, Gold Coast Session, held at Victoriaborg, Accra, on Friday, the 21st day of July, 1944, before Their Honours WALTER HARRAGIN, C.J., Gold Coast (Presiding), ALFRED NOEL DOORLY and JAMES HENLEY COUSSEY, JJ., Gold Coast.

No. 10.
Court notes
granting
final leave
to appeal to
His
Majesty
in Council,
21st July
1944.

Motion for final leave to appeal.

Mr. Bossman for Appellant.

Mr. Plange for Respondents.

30

Granted.

Appendix.

No. 11.
Order of
Governor
in Council
No. 19 of
1942,
30th
November
1942.

APPENDIX.

—————
No. 11.

ORDER of Governor in Council No. 19 of 1942.

GOLD COAST COLONY.
—————

Order No. 19 of 1942.

ORDER IN COUNCIL

MADE UNDER SECTION 9 OF THE PEACE PRESERVATION ORDINANCE.

WHEREAS a Proclamation was made on the 27th day of September, 1942 under the provisions of section 3 of the Peace Preservation Ordinance as to that part of the Gold Coast lying within a radius of one mile of the Labadi Market in the Accra District (hereinafter called the proclaimed district) : 10

Cap. 40.

AND WHEREAS additional police have been sent up to and stationed in the proclaimed district at a cost of three hundred and twenty-one pounds, sixteen shillings and elevenpence :

NOW THEREFORE in exercise of the powers conferred upon the Governor in Council by section 9 of the said Ordinance, His Excellency is pleased by and with the advice of the Executive Council TO ORDER as follows :—

Short title.

1. This Order may be cited as the Peace Preservation (Labadi) Order, 1942. 20

Cost to be paid by inhabitants.

2. The inhabitants of the proclaimed district are hereby ordered to be charged with the cost of such additional police amounting as aforesaid to three hundred and twenty-one pounds, sixteen shillings and elevenpence.

Made by the Governor in Council this 30th day of November, 1942.

D. J. PARKINSON,
Clerk of the Executive Council.

—————

No. 12.
NOTICE OF ASSESSMENT.
NOTICE.

Appendix.
No. 12.
Notice of
Assessment,
14th
January
1943.

PEACE PRESERVATION ORDINANCE.

WHEREAS the Governor in Council by Order dated the 30th November, 1942 has ordered that the inhabitants of Labadi, a proclaimed district under the Peace Preservation Ordinance, shall be charged with the cost of the additional Police stationed at Labadi and whereas the cost has been assessed at £321.16.11 I, EDWARD NORTON JONES, District Commissioner within whose district the proclaimed district of Labadi is situated have assessed in the attached schedule the proportion which each person shall pay and hereby require payment to be made at the District Commissioner's Office, Accra, within 7 days of the date hereof.

Dated at Accra this 14th day of January, 1943.

(Sgd.) E. N. JONES,
District Commissioner.

No. 13.
EXTRACT from Schedule attached to Notice of Assessment.

No. 13.
Extract
from
Schedule
attached
to Notice of
Assessment,
14th
January
1943.

Note: The Schedule to the notice of assessment is headed "Houses at Labadi" and gives a list of houses at Labadi showing the ward, the number of the house, the number of the block, the name of the owner or occupier and the amount payable; and it may be summarised as follows:—

	<i>List relating to East Ward, Block No. 15 specifying</i>		
	<i>44 houses upon which the total amount payable</i>		
	<i>was</i>	£47 14 3	
	<i>List relating to East Ward, Block No. 16 specifying</i>		
	<i>400 houses upon which the total amount payable</i>		
	<i>was</i>	£213 8 6	
	<i>List relating to East Ward, Block No. 17 specifying</i>		
	<i>121 houses upon which the total amount payable</i>		
	<i>was</i>	£59 1 0	
	<i>Total</i>	£320 3 9	

The Appellant's houses the assessment of which is in question in this appeal are in the East Ward, Block No. 17 and are specified in the Schedule as follows:—

Ward	House No.	Block No.	Name of Owner or Occupier	Amount payable
East	1	17	R. D. Paterson	3 18 9
	1A	17
	1B	17
40	2	17	R. D. Paterson	1 10 6

The names of the other objectors referred to in item No. 14 of this Appendix similarly appear in the Schedule and the particulars of their respective assessments accord with item No. 12.

Appendix.

No. 14.

AFFIDAVIT of Henry Edward Devaux in support of application for Writs of Attachment.

No. 14.
Affidavit of
Henry
Edward
Devaux in
support of
application
for Writs of
Attachment
22nd April
1943.

IN THE DISTRICT MAGISTRATE'S COURT—ACCRA.

I HENRY EDWARD DEVAUX District Commissioner make Oath and say as follows :—

1. That on the 27th January 1942 the Town of Labadi was placed under the Peace Preservation Ordinance by proclamation published in Gazette No. 67 of 1942.

2. That under Section 9 of Cap. 40 the Governor by Order-in-Council No. 19 of 1942 dated 30th November 1942 ordered that the inhabitants of the Proclaimed District, being that part of the Gold Coast lying within a radius of one mile of the Labadi market in the Accra district, be charged with the cost of such additional Police amounting to £321 16. 11d.

3. That by a notice dated 14th January 1943 the then District Commissioner under Section 9 of Cap. 40 assessed the proportion which each person in the proclaimed district should pay and requiring payment to be made at the District Commissioner's Office Accra and at conspicuous places at Labadi including the Mantse We.

4. The following persons have not complied with the Notice namely :—

	Amount owing
Sam Adjei	£1 19 0
J. Brand D. Kotey	1 5 0
Lamptey Cofie	5 0 0
J. E. Koney	2 10 0
J. A. Nai	1 7 0
T. I. Odamtten	2 2 0
Okpoti	2 9 2
E. C. Afful	1 7 0
J. S. Laryea	1 5 2
R. D. Patterson	3 18 9
R. D. Patterson	1 10 6
W. K. Ollenu	17 0
	30

5. That I make this Affidavit in support of an application for Writ of Attachment to be issued in respect of the following :—

	House No.	Block No.	Name of Owner or Occupier	
East	31	15	Sam Adjei	
	34A	15	J. Brand D. Kotey	
	37	15	Lamptey Cofie	40
	1	16	J. E. Koney	
	2	16	J. A. Nai	
	5	16	T. L. Odamtten	
	106	16	Okpoti	

House No.	Block No.	Name of Owner or Occupier	Appendix.
10	16	E. C. Afful	-----
2B	16	J. S. Laryea	No. 14.
1	17	R. D. Patterson	Affidavit of
2	17	R. D. Patterson	Henry
110	17	W. K. Ollenu	Edward

Sworn at Accra this 22nd day of April, 1943 (Sgd.) H. E. DEVAUX
District Commissioner.

Before me

10 (Sgd.) ?
Assistant District Commissioner.

Devaux in support of application for Writs of Attachment 22nd April 1943, continued.

No. 15.
WRITS OF ATTACHMENT.

No. 15.
Writs of Attachment 10th May 1943.

WRIT OF ATTACHMENT ISSUED PURSUANT TO SECTION 9 OF THE PEACE PRESERVATION ORDINANCE.

To the Sheriff,
Accra.

20 You are commanded, in His Majesty's name, that of the moveable property of R. D. Patterson of Labadi within the district of Accra if the same be sufficient, and if not then of the moveable and immovable property of the said R. D. Patterson you cause to be made the sum of £1-10-6 which sum was on the 14th day of January, 1943 in pursuance of the Peace Preservation (Labadi) Order, 1942 and under the powers conferred upon the Commissioner for the Accra District by section 9 of the Peace Preservation Ordinance, assessed by the said Commissioner to be paid by the said R. D. Patterson and that you have the money before me immediately after the execution thereof; and in what manner you shall have executed this Writ make appear to me immediately after the execution thereof, and have there then this Writ.

30 Dated at Accra the 10th day of May 1943.

(Sgd.) A. D. SCHOLES,
District Magistrate.

Fees 10/-
execution.

The second writ is identical with the above save that the sum of £3-18-9 appears in place of the sum of £1-10-6.
