

## R. v. NAWA.

## A CRIMINAL REVIEW CASE OF 1937.

*District Messengers Ordinance (Cap. 43)—charge of neglect to perform duty under section 7 (6)—no evidence that duty had been imposed on him by law or by a Provincial Commissioner or a District Officer—conviction quashed.*

Where a District Messenger is prosecuted for neglect of duty under section 7 (6) of the above Ordinance it is necessary to prove that such duty had been imposed upon him by law or by a Provincial Commissioner or a District Officer; certain duties of District Messengers are specifically imposed by section 4 of the Ordinance; subsection (e) of section 4 requires District Messengers "to perform and carry out any duties or instructions imposed upon or conveyed to him by a Provincial Commissioner or District Officer.

The District Messengers Ordinance is now Cap. 70 of the Laws. See also *R. v. Sampa and Kasakanshya* p. 135 *ante*.

**Wilson, A.J.:** The accused, a District Messenger, was charged with and convicted of neglecting to perform his duty, an offence created by section 7 (6) of Cap. 43 of the Revised Edition of the Laws.

The work on which the accused was engaged was that of searching for stolen property. The accused went to sleep.

This work is not one of the duties specifically imposed upon a District Messenger by section 4 of Cap. 43. The general duty of a District Messenger to carry out instructions imposed upon him (section 4 (e) of Cap. 43) relates only to instructions imposed upon or conveyed to him by a Provincial Commissioner or District Officer.

There is no evidence that any instructions had been imposed upon or conveyed to the accused by a Provincial Commissioner or a District Officer. According to the evidence the instructions to the accused were imposed and conveyed by the Head Messenger.

For these reasons the conviction was bad in law. The conviction is quashed and the amount of the fine which has been paid must be refunded to the accused. Crown Counsel has not supported the conviction.

I take this opportunity of pointing out that a charge should contain such particulars as may be necessary for giving reasonable information as to the nature of the charge. The charge to which the accused was required to plead gave no information as to the alleged acts or omissions constituting the offence with which he was charged.