

## R. v. IMBUWA.

CRIMINAL REVIEW CASE No. 113 OF 1941.

*Regulation 4 (9) of the Townships Regulations (Cap. 120)—making a noise to the disturbance of a person.*

In a prosecution under Regulation 4 (9) of the Townships Regulations the person alleged to have been annoyed should not be a policeman who is on duty. The regulation is aimed at preventing private persons from being annoyed.

See also *R. v. Mulenga and Lesa* p. 66 *ante* and *R. v. Leve Mwaza and Others* p. 77 *ante*.

Law, C.J.: I referred this case to the Honourable the Attorney-General to inquire whether he desired to support the conviction. The following is his reply:

“With regard to Case No. 40, please inform His Honour the Chief Justice that I would find it difficult to support the conviction in this case. If the accused was making a noise at night to the annoyance of any person, it should have been possible for the prosecution to produce such a person. I hardly think the regulation in question is aimed at preventing noise to the annoyance of policemen who are on duty at night, for clearly a policeman’s duty might take him along highways and by-ways in which parties might be so placed that it would be difficult for them to annoy anybody by the noise they were making. Furthermore, the third person called for the prosecution, Mukongolwa, in his evidence does not give the impression that the noise was such as to annoy him, at all events.”

In short, there is no evidence that Constable Libala was annoyed by the noise. He certainly does not say so. In these circumstances the conviction is quashed and the sentence set aside.