

Present : Bertram C.J.

1922.

GATEKEEPER, C. G. R., v. ELARIS *et al.*

23—P. C. Avissawella, 1,454.

Prosecution instituted by a public officer on behalf of the Railway Department—Jurisdiction of Police Court and Village Tribunal—Native.

When a public officer makes a report to Court on behalf of a Government Department or of the Crown itself, he must be considered as acting either on behalf of his department or on behalf of the Crown, and not to be vested with any particular racial character, which would affect the jurisdiction of the Village Tribunal.

THE facts appear from the judgment.

Jansz, C.C., for the Crown, appellant.

January 30, 1922. BERTRAM C.J.—

This was a prosecution instituted under section 148 (b) of the Criminal Procedure Code by a public officer on behalf of the Railway Department. The public officer was, in fact, a "native," within the meaning of the Village Communities Ordinance; and the question was whether this circumstance gave jurisdiction to the Village Tribunal, on the ground that both the prosecutor and the person prosecuted, that is to say, both parties to the suit, were "natives." It is not necessary in this case to give a considered decision on the question reserved by the Full Court in *Sedris v. Singho*.¹ But it is clear, at any rate, that when a public officer makes a report to Court on behalf of a Government Department or of the Crown itself, he must be considered as acting either on behalf of his department or on behalf of the Crown, and not to be vested with any particular racial character, which would affect the jurisdiction of the Village Tribunal. This decision follows that of Shaw J. in *Simon v. Siyatu*.² I, therefore, allow the appeal, and remit the case for hearing by the Police Magistrate.

Sent back.

¹ (1921) 23 N. L. R. 171.

² (1917) 4 C. W. R. 426.