

IN THE HIGH COURT OF LESOTHO

In the matter of

R E X

v

SAULE SAULE AND 11 OTHERS

ORDER

Delivered by the Honourable Chief Justice
Mr Justice B. P. Cullinan on the 7th day of July, 1989

There was no enquiry as to age whatever. Even the accused whose age is recorded at 19 or 20 years, could be the subject of such enquiry, particularly where a minimum sentence of 5 years imprisonment is involved.

None of the accused were represented. In particular none of the child-accused were represented by their parents or guardians.

The facts revealed do not necessarily disclose that the accused acted in concert - it cannot have been alleged that all 12 separately broke and entered. The statement of facts does not disclose which accused was found in possession of what property.

/The inference ...

The inference of receiving could, on the facts, have been drawn. The Court is not entitled to draw the least favourable inference.

In all the circumstances the pleas of guilty were equivocal and the trial a nullity. So of course was the sentence of 5 years imprisonment when applied to any child accused.

I order that all accused be retried before another magistrate. As to the charge sheet, I leave that to the discretion of the Director of Public Prosecutions - and also the question as to whether he wishes to bring the accused before the Subordinate Court again.

(Sgd)

B. P. CULLINAN

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(CHIEF JUSTICE)