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Eastern and Southern African Countries form Anti-Money Laundering Group

In August this year, Finance and Law Ministers from Eastern and Southern Africa formally agreed to establish an Anti-Money Laundering Group for the Region. The Ministers met in Arusha Tanzania, and agreed on a Memorandum of Understanding, a Statement on the Establishment of the Group and a work programme for the first year. The Group is intended to bring together representatives from legal, financial and law enforcement fields to ensure the development of comprehensive national and regional anti-money laundering strategies.

The objectives of the Group as stated in the Memorandum of Understanding are to:

- (a) adopt and implement the 40 Recommendation of the Financial Action Task Force;
- (b) apply anti-money laundering measures to all serious crimes; and
- (c) implement any other measures contained in the multilateral Agreements and initiatives to which they subscribe for the prevention and control of the laundering of all serious crimes.

The initial membership of the group comprises Commonwealth countries within Eastern and Southern Africa, which subscribe to the Memorandum of Understanding.

Under the terms of the Statement on the Establishment of the Group, member countries of the Group agree on the following:

- “to work towards the highest international standards in the fight against the laundering of the proceeds of those crimes referred to in relevant multilateral agreements and initiatives which deal with combating serious crime and to implement the Recommendations of the Financial Action Task Force on Money Laundering;
- to improve co-operation between members, and with other states, in the fight against money laundering;
- to co-operate with each other and relevant international organisations concerned with combating money laundering;
- to study emerging regional trends in money laundering, and to share member states’ experience in order to address those trends;
- to institute an evaluation process, including mutual evaluation, to assess the measures in place in each member state, and their effectiveness, and to identify the gaps between existing measures and endorsed standards;
- to address deficiencies identified through that process;
- to develop institutional and human resource capacities

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Among the tasks to be taken up at the first session of the Group are the following:

- a. the establishment of a collection of relevant national laws and working links with other international organisations working in the same field;
- b. the consideration of ways in which to make regional laws more compliant with fundamental constitutional principles and the desirability of making sure that criminal laws dealing with money laundering are complementary to facilitate co-operation;
- c. reporting of the extent to which existing national laws deal with the issues identified for national action in the financial sector; and
- d. reporting on the work of chiefs of police.

The Group was set up under the initiative of the Government of Tanzania, with the technical support from the Commonwealth Secretariat and

the Government of the UK and financial support of the UK Government. The Group will be administered by a Ministerial Council to be aided in its work by a Task Force of Senior Officials. There will also be a Secretariat, which will carry out the technical and administrative functions of the Group. The Memorandum is stated to come into effect when at least seven member countries have signed it and advised the President of the Group that their constitutional requirements have been satisfied.

At the time of going to press, seven countries had signed the Memorandum of Understanding and accordingly, as the minimum number of signatures had been reached, the MOU is now in force between those countries and the Group could commence work. The Commonwealth Secretariat is advised that further signatures are expected in the near future.

C A S E N O T E S

Corruption – Presumption of Corruption – payment to person employed by Crown or government Department – Conspiracy to corrupt – whether presumption of corruption applied to charge of conspiracy to make corrupt payment to civil servants – Prevention of Corruption Acts 1906, & 1916 – Criminal Law Act 1977 – (UK)

R worked for a company, which had a contract with the Ministry of Defence. He and others were charged and awaiting trial in respect of alleged corrupt payments made to two officers of the Ministry of Defence. R was charged with offences under the Prevention of Corruption Act 1906 and under s.1 of the Criminal Law Act 1977, with conspiracy to make corrupt payments. Under s.2 of the Prevention of Corruption Act 1916, there was a presumption of corruption in respect of payments to employees of the Crown or government departments by the agent of a person holding a government contract. The law also required that the Attorney General gave his consent before an offender could be charged. The Attorney General gave separate consents in relation to the conspiracy and substantive corruption charges.

Shortly before the trial was to commence R asked the Attorney General to withdraw the consents, contending that section 2 of the 1916 Act was inconsistent with the right to a fair trial guaranteed under Article 6 of the European Convention on

Human Rights. The Attorney-General refused to withdraw the consents on the grounds that:

- the prosecution was only going to proceed on the conspiracy charge; and
- the presumption in section 2 did not apply to a charge of conspiracy which is brought under section 1(1) of the Criminal Law Act 1977.

R then sought judicial review of the Attorney General's refusal, contending that it could not be inferred that section 2 did not apply to conspiracy charges.

● **Held:** dismissing the application;

It was trite law that conspiracy (whether at common law or under statute) is an offence that is separate and distinct from the ulterior offence. It was not an element of the charge of conspiracy to show that the defendant had intention to corrupt. Section 2 applied to proceedings for offences under the Prevention of Corruption Act 1906 or the Public Bodies Corruption Act 1889, which fell under its express terms. It was limited to cases where payments had been made or received by government officers, and was not therefore applicable to agreements to give or offers which were offences under section 1 of the 1906 Act or to cases where the recipient was in the private sector. A statutory conspiracy to corrupt did not attract the presumption provided in section 2 of the 1916 Act.

R v. Attorney General, ex p. Rockall [1999] 4 All ER 312.

Confiscation Order – Appellant convicted of corruptly accepting gift in the form of a loan secured by way of charge in favour of third party – whether court should ignore legal charge when calculating amount of appellant’s realisable property – Criminal Justice Act 1988, ss. 71(6) & 74(4) (UK)

H worked for the First National Bank of Boston ('the Bank') and W was a director and shareholder of a number of companies referred to in the judgment as 'British Bus'. British Bus had accounts at the Bank and administration of these accounts fell under the responsibility of H. The rules of the Bank did not allow its employees to receive gifts from its customers. Between January 1992 and August 1994 W offered and H accepted a financial inducement to show favour in the management of the Bank's affairs towards British Bus. The inducement was £1m deposited in a trust account in Jersey, which was established by W and from which H could draw interest-free loans. In return, H was to write four letters representing undertakings by the Bank to cover British Bus's financial liabilities.

Subsequently, H signed 'comfort letters' in favour of British Bus without the knowledge or consent of his employers. The first letter that H wrote was instrumental in helping British Bus to successfully complete a property deal in which both it and the Bank made good profits. It was part of the prosecution's evidence that had it known about it, the Bank would not have issued the letters in the words in which they were written. In fact the auditors of British Bus wrote the first letter and H simply appended his signature. That letter virtually gave a blanket assurance that the Bank will meet any shortfall in British Bus's cash-flow requirements for the relevant period.

In the event, H withdrew £600,000 from the trust account, £400,000 of which was used to buy a house. The trustees took on behalf of the trust a charge on the house. The mortgage loan was stated to be £395,000 secured on the property for a fixed period of 80 years. The loan was to be repaid at the end of the fixed term.

The scheme was discovered and H and W were charged and convicted of conspiracy to corrupt contrary to section 1(1) of the Prevention of Corruption Act 1906 and section 1(1) of the Criminal Law Act 1977. They were each sentenced to 2 years imprisonment. In respect of H, a confiscation order was made in the sum of £492,947 and he was allowed 3 months within which to pay.

Applications for leave to appeal against conviction and sentence were refused. This appeal challenged the amount stated in the confiscation order.

H advanced the following grounds of appeal:

- a. under section 74(4) of the Criminal Justice Act 1988, the trial judge was obliged to have taken the legal charge into account in determining the amount that was to be confiscated.
- b. the trial judge's finding of fact was not supported by the evidence.
- c. the judge's power was discretionary and this was a case in which he should not have made an order, which had the effect of stripping H and his family of all their assets.

The central issue on appeal was the proper interpretation of section 74(4) of the Criminal Justice Act 1988, which defines the meaning of the term 'realisable property':

- “(4) Subject to the following provisions of this section, for the purposes of this part of this Act the value of property (other than cash) in relation to any person holding the property –
- (a) where any other person holds an interest in the property, is
 - (i) the market value of the first-mentioned person's beneficial interest in the property, less
 - (ii) the amount required to discharge any incumbrance (other than a charging order) on that interest; and
 - (b) in any other case, is its market value”.

It was submitted on H's behalf that since there was an incumbrance, which was accepted by the prosecution as genuine, the court was supposed to deduct £395,000, which was the value of the legal charge, from the market value of the home, which was the property in which the appellant held an interest.

The respondents, on the other hand, argued that section 71(6) made it clear that the realisable amount was 'the amount appearing to the court to be the amount that might be realised at the time the order is made', that it was therefore for the court to determine the amount which appeared to it to be the amount that might be realised at the time the order was made.

● **Held:**

1. Realisable property was the amount which appeared to the court to be the amount that may be realised from the property at the time that the confiscation order is made. Moreover, the court

had discretion under section 71(1) to make an order requiring the offender to pay an amount that it thinks fit.

2. The value of the home was part of the realisable property and since there was a confiscation order, it was open to the Crown to register a charge in respect of the house. If the trustees wanted to seek to enforce the legal charge when the house is sold pursuant to the confiscation order, then the question whether the trustees can recover the payments can be tested in appropriate proceedings. It was already clear that the payments were corrupt payments made to H, which already formed the basis of his and W's convictions, so that if the money were to be recovered by the trustees, the trust would be increased by £395,000.

3. The tenor of the confiscation order was that the sum of the confiscation order should be the sum representing the financial benefit that the offender had received as a result of committing the offence, with the exception of purchases for exceptional reasons, e.g., the purchase of a wheelchair for a disabled child. In this case the fact that the money involved was the proceeds of corruption tilted the balance in favour of making an order for the full amount of the realisable property.

R. v. Harvey, [1999] 1 All ER, 710.

Gambling – Internet Casino – whether company based in Antigua can do business in the United States (US)

World Interactive Gaming Corporation is a gaming company whose operations are based in Bohemia in New York. For the purposes of its gambling activities it established an online gaming company based in Antigua. To gamble in the company, users were required to submit details of a permanent address in a state which allowed on-land gambling. New York State did not allow such gambling.

The Attorney General of New York applied for an injunction to restrain World Internet Gaming from doing business with New York residents.

● **Held:** allowing the application;

An injunction against the company was necessary in order not to undermine the State's laws on gambling. A "computer server cannot be permitted to function as a shield against liability, particularly in this case where the respondents actively targeted New York as the location where they conducted many of their illegal activities". It

was irrelevant that in Antigua the law allowed Internet gambling. "The act of entering the bet and transmitting the information from New York via the Internet is adequate to constitute gambling activity within New York State.

New York v. World Interactive Gaming Corp, Supreme Court, N.Y. County 404428/98 reported in *International Law Enforcement Reporter*, Vol. 15, Issue 9, September 1999, p. 365

Death Sentence – Reading of Execution Warrant after report of Human Rights Body – whether abuse of right to life – Constitution of Trinidad and Tobago – Inter-American Convention on Human Rights (Trinidad & Tobago)

The appellant was tried and convicted of murder. He was sentenced to death and his subsequent appeals were dismissed. He petitioned the Inter-American Commission on Human Rights pursuant to which it made provisional orders requiring Trinidad & Tobago to take all measures necessary to preserve his life pending the determination of his petition.

An execution warrant was subsequently read to him and he applied for constitutional relief and obtained a stay of his execution. The Inter-American Court further ordered that the provisional orders be maintained pending the hearing of the petition of the appellant and others. Then the Commission sent a report issued under Article 50 of the Convention to Trinidad and Tobago, in which it found that the pre-trial detention of the appellant for three years and 3 months, amounted to a denial of his personal liberty and infringed Article 7(5) of the Convention. The Commission also recommended that the appellant be compensated and considered for commutation of sentence.

The Trinidad and Tobago Advisory Committee on the Power of Pardon rejected the Commission's recommendation and decided that the law should take its course.

The appellant then applied to the Trinidad & Tobago Court of Appeal for a declaration that it would have been a breach of his constitutional rights to have carried out the death sentence while the Commission's decision was still pending and until its decision had been duly considered by the authorities. The Court of Appeal granted this declaration, but held that since these conditions had already been fulfilled, it would not allow a continuation of the stay of execution.

Pursuant to a request by Trinidad and Tobago that the Commission confirm that its order had been discharged, the Inter-American Court directed that its previous order remain in force until it had made a final determination of the matter.

Trinidad and Tobago then proceeded to read the execution warrant for the second time, and the appellant's appeal against execution to the Court of Appeal was refused.

The appellant then appealed to the Privy Council, contending that to carry out the death sentence while the Inter-American Court provisional orders were still in force, amounted to an infringement of his constitutional rights. He also contended that he had been subjected to cruel and unusual treatment, and that his sentence should be commuted.

☉ **Held:** dismissing the appeal;

1. After the Inter-American Court transmits an Article 50 report to a State and there is no amicable settlement of the issue, there are two courses of action that may be taken:
 - the Commission or the State could submit the matter within three months to the Court for judgment; or
 - the Commission could simply prepare an Article 51 report in which it may make recommendations, which it may publish.
2. The appellant had had a fair trial. He had no constitutional right to compel the state to comply with the orders of the Court or to adopt the recommendation of the Commission.
3. The Privy Council sitting as the final court of appeal for Trinidad and Tobago was concerned with the application of the domestic law of the country and had no jurisdiction to pronounce on the interpretation and effect of the Convention or the meaning of the orders of the Inter-American Court. "The interpretation of the Constitution was a matter for the national courts, and its scope and effect in domestic law could not be enlarged by orders of the an international court made outside the terms of the Convention"
4. The repeated reading of the death warrant did not amount to cruel and degrading treatment such as would infringe the provisions of section 5(2)(b) of the Constitution, but was rather a matter for the consideration of the Advisory Committee on Pardons. [Thomas v. Baptiste, (1999) 3 WLR 249]
5. The execution of the appellant would not deprive him of his constitutional right not to be deprived of life except by due process of law since there were no disputed facts remaining to be

resolved by the human rights system which could be relevant to consideration of his case by those advising on pardons.

Briggs v. Baptiste and Others, Times 29 October 1999.

Criminal Procedure – Undercover operations – whether defence entitled to copies of surveillance video and audio-tapes – (UK)

J and another were defendants in a criminal trial in which audio and video surveillance tapes were exhibited to an undercover police officer's witness statement. The statement was served on the accused persons, but the Prosecution would only allow them to inspect the tapes under controlled conditions.

The defence complained that the decision not to give them the copies of the tapes was irrational and unlawful. The Crown Prosecution Service had feared that disseminating the tapes would expose the undercover officers to danger. At the committal proceedings, the defence applied for a stay of proceedings as an abuse of process.

☉ **Held:** dismissing the application;

1. The provision of copiable exhibits though the norm, was not an absolute entitlement of the defence. There was a presumption in favour of the defence that copies be provided by the prosecution in good time. However, where the safety of an undercover officer was at stake, the prosecution had a discretion to allow the defence to only examine the evidence and not provide copies of them.
2. The notion of a fair trial contained in Article 6 of the European Convention on Human Rights demanded consideration of both the issues of:
 - whether fairness could be achieved by granting access to but not providing copies of material; and
 - the need to preserve the public interest in prosecuting serious offences to conviction.
3. As to rationality, the possible future effect on the trial of Article 6 of the European Convention on Human Rights was a factor that needed to be taken into account in the prosecution's decision making.
4. It could not be said that in the light of the present legal regime governing the prosecution of offences, the prosecution's decision was unlawful as a matter of principle. Protection of undercover police officers was a valid consideration in making

a decision. The onus was on the prosecution to justify departure from the norm and it was for the trial judge to determine whether this onus had been discharged.

R. v. Crown Prosecution Services & Another, Ex Parte J, Times, 8 July 1999.

Criminal Procedure – Detention of drug addict by Magistrate – whether writ of habeas corpus appropriate to question decision of Magistrate – Drug Dependents (Treatment and Rehabilitation) Act 1983, s.6(1)(a)- (Malaysia)

The appellants were a group of 57 persons suspected of being drug addicts. They were arrested by police and taken before Magistrates under section 6(1)(a) of the Drug Dependents (Treatment and Rehabilitation) Act 1983, which empowers magistrates to order the detention of drug addicts for up to two years. The Magistrates exercising this power ordered that the appellants be detained at rehabilitation centres to undergo treatment for two years. The appellants applied for writs of habeas corpus against the respondents for their immediate release from detention.

The respondents raised a preliminary objection to the applications, contending that the applicants should have come by way of certiorari and not habeas corpus. The respondents sought to have the applications quashed. The trial Judge held that the applicants had adopted the wrong procedure and dismissed their applications.

The applicants then appealed to the Court of Appeal. The issue on appeal was whether a writ of habeas corpus was the appropriate means by which the appellants could seek redress of their grievances.

☉ **Held:** allowing the appeal;

1. Although section 19 of the Act defines detention at a rehabilitation centre as lawful custody, paragraph 1 of the Schedule to the Judicature Act of 1964 gives power to the High Court to issue writs of habeas corpus in cases where the fundamental liberties of a person are in jeopardy. A detainee in a rehabilitation centre has the right to question the legality or otherwise of his detention.

2. The two remedies of Certiorari and Habeas Corpus, available to question unlawful detention, are not mutually exclusive. A detainee has the option to choose which of the two is suited to his needs.

3 The Magistrates were wrong to have refused the habeas corpus applications.

Ahmad Bashid bin Abdul Malek & Others v. Timbalan Menteri Dalam negeri & Others and Other appeals [1999] 3 MLJ 369

Criminal law - Warrants authorising use of listening devices issued under s 4A Listening Devices Act 1969 (Vic) - Whether warrants amenable to collateral review - Whether a warrant issued by a judge of a superior court must disclose jurisdiction on its face - Whether partial disclosure of jurisdiction may be used as evidence that the court has failed to take into account required considerations - Whether partial disclosure renders warrant invalid (Australia).

The appellant was charged on three counts under the *Drugs, Poisons and Controlled Substances Act* 1981 (Vic). He was convicted on one count, pleaded guilty to another and was acquitted on the third. The evidence against the appellant on the count on which he was convicted was obtained largely through listening devices installed at premises which the appellant frequented. In this appeal the appellant challenged the reception of that evidence on the ground that the warrants authorising the use of the listening devices were invalid.

At the trial, before the jury was empanelled, counsel for the appellant foreshadowed an attack on the admissibility of any evidence obtained by means of the listening devices. The trial judge doubted that he had jurisdiction, during the trial, to entertain a collateral attack on the validity of warrants authorised by the Supreme Court of Victoria. Each of the warrants accorded with the Criminal Appeals and Procedures Rules 1988 and recited the satisfaction of the Supreme Court that there were reasonable grounds for the suspicion or belief of the police officer seeking the warrant that an offence has been, is about to be or is likely to be committed. However neither warrant recited that the Supreme Court was satisfied that the use of a listening device was necessary for the purpose of an investigation. The appellant argued that accordingly each warrant failed to show jurisdiction on its face and was invalid. He argued further that by reciting its satisfaction in terms of s 4A(1)(a) but not in terms of s 4A(1)(b), it must be taken that the Court was in fact not satisfied in terms of the latter paragraph and, accordingly, that the Court lacked authority to issue either warrant.

The issues before the High Court were:

- were the warrants amenable to collateral review by the trial judge?
- was the failure of each warrant to state that the Supreme Court had considered the matter prescribed by s 4A(1)(b) evidence that the Court had not considered the matter and hence there was no authority to issue the warrant?
- was each warrant invalid for failing to show jurisdiction on its face?
- in so far as the Rules of Court purported to authorise the form of warrant, were those Rules valid?

○ **Held:** dismissing the appeal

Collateral review

The act of a judge issuing a warrant for the use of a listening device is an administrative, not a judicial act. Once it is accepted that the warrant is not a judicial order, it becomes an instrument made pursuant to a circumscribed statutory authority. It follows that there is no bar to collateral review by a trial judge of the validity of a warrant on its face. However, it is not open to the judge to adjudicate on the sufficiency of a warrant or whether the issuing authority was in fact satisfied as to any statutory requirements.

Absence of reference to s 4A(1)(b)

The appellant's argument was that in the absence of any reference to the matter identified in s 4A(1)(b) there was nothing to indicate that either judge had reached the requisite state of satisfaction as to the matters set out in s 4A(1). In part the argument was no more than an attack on the sufficiency of the grounds on which the warrants were based. To that extent the argument must fail. The argument would have gained more force when couched in terms that there must be jurisdiction to issue a warrant and that if a warrant asserts any jurisdictional factor, it must disclose all jurisdictional factors. However the resolution of this particular issue laid in the fact that each warrant was in the form set out in the Rules. The reference in the warrant to the matter identified in s 4A(1)(a) did no more than show that the form was followed. Equally, the absence of any reference to the matter in s 4A(1)(b) did not warrant any inference being drawn save that the judge followed the printed form. This argument must fail.

If a statute requires two or more conditions to be satisfied before a warrant can be issued, the warrant's recitation of satisfaction with some but

not all of those conditions ordinarily leads to the inference that the issuing authority was not satisfied as to all. But there can be no universal rule that the failure of a warrant to recite satisfaction with all statutory conditions means that the warrant is invalid or that the issuing authority was not satisfied that all conditions had been fulfilled. It all depends on context.

Against the background of the common law tradition of invalidating warrants, a legislature's statement as to what a warrant must contain should be regarded as exhaustive. *Expressio unius est exclusio alterius*. In the present case, s 4A(4) of the Act specifies a number of matters which must appear on warrants issued under the Act. Section 4A(4) should be regarded as an exhaustive statement of the matters that a warrant must contain. A warrant that specifies the seven matters is a valid warrant. Its failure to recite some other prerequisite of jurisdiction gives rise to no inference that the issuing judge or magistrate has misdirected him or herself and has acted without jurisdiction. Still less does it rebut the presumption of regularity applicable to Supreme Court warrants.

Must a warrant disclose jurisdiction on its face?

Whether or not the Act be seen to provide a code of the matters which a warrant must stage on its face, it is apparent that the Act does not expressly require that the basis of jurisdiction be disclosed on the face of a warrant. In the present case each warrant met the statutory requirements as to what must appear.

Validity of the Rules of Court

The *Interpretation of Legislation Act*, s 50 allows the authority having power to make rules or orders regulating the practice and procedure of a court to make such rules or orders ... as appear necessary for regulating the practice and procedure of that court ... in the exercise of the jurisdiction so conferred". This provision encompasses administrative as well as judicial functions; it is a sufficient source of authority for the relevant rules and the prescription of Form 7B.

Conclusion

The issuing of each warrant was an administrative act open to collateral review, limited to the validity of the warrant on its face. But on such a review the trial judge should have found that there was no requirement that the warrant disclose jurisdiction on its face, that no inference of invalidity should be drawn from the failure to include the matter mentioned in s 4A(1)(b), that

the proper inference to be drawn was that each judge was simply complying with Form 7B, that in doing so each judge met the requirements of the Act as to what must appear, and that the warrant was valid.

Ousley v. the Queen High Court of Australia, 20 October 1997

Handling of stolen property – whether person bringing in goods from another country fell within the ambit of section 22(1) of the Theft Act 1968 – (UK)

T was charged with the offence of handling stolen Egyptian antiques. The evidence was that T had enlisted P, the main prosecution witness, to smuggle antiques into the UK. Thereafter, P flew to Egypt on a number of occasions and brought back various items which had been disguised to look like crude replicas. They then restored them at T's workshop. T was convicted as charged. He appealed, contending that P did not qualify as "another person" for the purposes of section 22(1) of the Theft Act 1968.

Section 22(1) provides:

"A person handles stolen goods if (otherwise than in the course of stealing) knowing or believing them to be stolen he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another person ..."

☉ **Held:** dismissing the appeal;

1. The policy behind section 22 was to make it more difficult and less profitable for people to dispose of stolen property. Therefore the definition of handling was extended to include both the buying of property and facilitating the disposal of property.

2. The words "another person" were not to be construed in a manner which would allow the argument that P could be said to have simply been acting on behalf of T or that they were both to be regarded as one person. Such a construction would be too restrictive and would result in diminishing the effect that the section was intended to have. Since T had assisted the removal of the antiques by P, he was guilty of an offence.

R. v. Tokeley-Parry, [1999] Crim. L.R. 596

Confiscation – suspicion of drug trafficking – whether confiscation order could be made where there had not been any conviction – Misuse of Drugs Act 1974; Police and Criminal Evidence Act- (UK)

The appellants had sued the Merseyside Police Commissioner for recovery of sums of money taken from them by police officers on suspicion of them being proceeds of drug trafficking. Two of the three men were not convicted of drug trafficking, and the third man was convicted of possession of drugs but no confiscation order was made against him. The police had seized the money from the suspects under the Police and Criminal Evidence Act and the Misuse of Drugs Act, so as to preserve the evidence. The court of First Instance held that in one of the cases, that of W, on the balance of probabilities, the money was the proceeds of drugs trafficking. In the case of the other two P and P, he found that they were not entitled any way, because a person could not seek to recover property when the property in question was obtained illegally.

☉ **Held:**

1. There was no power in the UK to allow the confiscation of the proceeds of drug trafficking in the absence of conviction for the offence. In the absence of another person laying claims to the property, the person from whom the property was seized was entitled to it.
2. Where police lawfully seize property from suspected drug dealers, they were not entitled to keep it once their statutory power to do so had expired.
3. Even where on a balance of probabilities it was established in civil proceedings that the money seized was the proceeds of drugs trafficking, it was no defence for the police to say that on the grounds of public policy, it would be wrong to return the money to the suspects.
4. The court would not tolerate the confiscation of property by public authorities from an individual where there was no statutory power for them to do so.

Webb v. Chief Constable of Merseyside Police; Chief Constable of Merseyside Police v. Porter & Another, Times, 1st December