

45

THE SUPREME COURT OF THE MALAYAN UNION

REGISTRAR'S CIRCULAR NO. 12/47

DISPOSAL OF PROPERTY IN CRIMINAL CASES \*

It appears that certain Courts are not clear as to the correct procedure to be followed with regard to property confiscated at the conclusion of a Criminal Case.

2. In this connection attention is invited to Section 407(11) of the Criminal Procedure Code F.M.S. (and the corresponding provision of the S.S. Code) whereby the Court is under a duty to exercise its power of forfeiture and confiscation in accordance with the provisions of the particular law under which the conviction is had in the particular case. For example Section 16(2) of the Food Control Proclamation, No. 10, published in the B.M.A. Gazette of 1st November, 1945 reads:-

"Where confiscation is ordered under sub-section (1), the Court shall deliver such article or the proceeds thereof (if not already in the possession of the Controller) to the Controller or to any person designated by him, and shall give directions as to their disposal. Confiscated articles shall ordinarily be sold and the proceeds paid into the Treasury .....

3. It is clear therefore that when a conviction is had under this proclamation and goods are ordered to be confiscated such goods will have to go to the Controller who shall deposit the proceeds into the Treasury. It is not correct for the Court to credit the proceeds of the sale of such goods to Court revenue.

4. District Judges and Magistrates are therefore requested carefully to bear in mind the particular provisions of the law under which the conviction is had and then to follow such provisions with regard to the disposal of forfeited and confiscated goods.

The Registry,  
Supreme Court,  
Malayan Union,

*M. M. M. M. M. M.*

Kuala Lumpur, 27th May, 1947.

REGISTRAR.

To: All District Judges  
All Assistant Registrars, Supreme Court,  
All Secretaries to Resident Commissioners, (for distribution  
to all Magistrates)

Controller of Supplies, M.U.  
Attorney General, M.U.  
Commissioner of Police, M.U.  
Deputy Chief Secretary, M.U.  
Food Controller, M.U.