

3. This judgment shall not affect any rights of way which may exist over the land in question.

4. No costs are assessed against either party.

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**RAIMES, Appellant**

v.

**TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee**

**Criminal Case No. 32**

**Trial Division of the High Court**

**Truk District**

**April 12, 1955**

Appeal from conviction in Truk District Court of drunken and disorderly conduct in violation of T.T.C., Sec. 427. Appellant contends that room in which movie was shown was not "public place" within meaning of statute. The Trial Division of the High Court, Associate Justice James R. Nichols, held that room where number of persons have assembled, although privately owned, may be public place within meaning of criminal statute.

Affirmed.

**1. Drunken and Disorderly Conduct—"Public Place"**

A public place is any place, even though privately owned or controlled, where persons have assembled, through common usage or by general invitation, express or implied. (T.T.C., Sec. 427)

**2. Drunken and Disorderly Conduct—"Public Place"**

Any place may be made "public" by temporary assemblage, especially when assemblage is gathered to witness exhibition for hire. (T.T.C., Sec. 427)

**3. Drunken and Disorderly Conduct—"Public Place"**

Room in which movie is shown and in which people are assembled may be public place within meaning of criminal statute defining drunken and disorderly conduct. (T.T.C., Sec. 427)

RAIMES v. TRUST TERRITORY

<i>Assessor:</i>	ICHIRO MOSES
<i>Interpreter:</i>	F. SOUKICHI
<i>Counsel for Appellant:</i>	SMART LAMPSON
<i>Counsel for Appellee:</i>	F. PETER

Before NICHOLS, *Associate Justice*

The parties are agreed that the alleged offense was committed in a small room in a building known as the Dublon Office. The appellant argues that this room could not be considered a public place at the time of the alleged offense, that the appellee therefore has failed to establish one of the elements of the offense of "Drunken and Disorderly Conduct", and that the judgment of the trial court should be reversed and the finding and sentence should be set aside.

The appellee argues that the entire building, known as the Dublon Office, had been rented by the Truk Trading Company for the presentation of a movie, that the small room in which the alleged offense occurred was connected by an opening to the room in which the audience was viewing the movie, and that the projector was being operated from the small room referred to above. He further argues that the audience left the movie as a result of the disturbance caused by the appellee. He therefore contends that as a matter of law the small room was a public place at the time of the alleged offense, and that the judgment of the trial court should be affirmed.

The evidence adduced at the trial supports the appellee's contention as to the facts.

CONCLUSIONS OF LAW

[1, 2] In defining a public place, Black's Law Dictionary (Third Edition) quotes the following statement from *Griffin v. State*, 15 Ga. App. 552, 83 S.E. 871:

“. . . any place at which, even though it is privately owned or controlled, a number of persons have assembled, through common usage or by general or indiscriminate invitation, express or implied.”

Volume 6 of Words and Phrases (1904 Edition) quotes the following statement from *People v. Bixby* (N.Y.), 67 Barb. 221, 222:

“Any ‘place’ may be made ‘public’ by a temporary assemblage (Bish St. Crimes, 298); and this is especially so when the assemblage is gathered to witness an exhibition for hire.”

[3] The parties are agreed that the room in which the movie was shown was a “public place” at the time the alleged offense was committed, and in view of the fact that the movie audience was dispersed as a result of the disturbance created by the appellant, this court holds that the small room was a public place at the time the alleged offense was committed, within the meaning of Section 427 of the Trust Territory Code.

#### JUDGMENT

The finding and sentence appealed from in Truk District Criminal Case No. 113 are therefore affirmed.