

was granted a license to sell beer by retail at the brewery premises. He gave the draymen, who were under his control, orders never to deliver beer unless an order for it had been received by the company at their office, and he took every care to prevent a violation of this order. The beer was sold for cash on delivery, the draymen being authorised to receive payment. None of the crates of beer bore the name of the customer for whom the beer was loaded on the van, there being no appropriation to any particular customer. A drayman sold beer on a certain occasion to a person at his own house who had not previously ordered it, and who paid the drayman for it. The respondent was charged with selling beer at an unlicensed place contrary to section 3 of "The Licensing Act, 1872."

Held, that as the sale by the drayman was made without authority, the respondent was not liable.

THIS was a case stated by a metropolitan police magistrate on five summonses against the respondent, James Francis Smith, for selling beer on five different dates at Lyddon-grove, Wandsworth, where he was not authorised by his license to sell, contrary to section 3 of "The Licensing Act, 1872." The Magistrate dismissed the summonses. Summonses against one Walter Deeth for aiding and abetting were also dismissed on the ground that the respondent had not committed the offences charged; but Deeth was afterwards convicted under section 3 of "The Licensing Act, 1872," as a principal offender.

The LORD CHIEF JUSTICE, in giving judgment, said that as stated the case was open to the observation that it might have been intended to bring a charge against the respondent in respect of the ordinary carrying-on of the company's business—namely, by the drayman taking out beer and delivering it to customers—such charge being based on the ground that the property in the beer did not pass to the customers at the licensed premises. If that had been the charge, there would have been very great difficulty in distinguishing the case from "Pletts v Campbell" and from "Cocker v McMullen." The Court was, however, satisfied from the notes of the evidence, and from the statements of counsel, that the only charge meant to be made against the respondent was in respect of the sales of liquor by the drayman in the street, and that there was no charge in respect of delivering to customers who had previously sent orders to the licensed premises and to whom the respondent intended to sell beer. What the Court had to consider was whether the appeal should be allowed in respect of sales by the drayman to people in the street. It was true that under sections 12 to 18 of "The Licensing Act, 1872," which were grouped under the words "Offences against Public Order," it had been decided that a sale by a servant against the authority and outside the scope of the authority given to him by the licensed person was nevertheless a sale in respect of which the licensed person could be held liable to penalties under the Act. That had been decided in "Bond v Evans" and "Commissioners of Police v Cartman." It could not, therefore, be said that under every section of the Licensing Act the question whether the licensed person was liable to penalties must depend on whether the sale was or was not within the authority given by him. In "Williamson v Norris" all that was decided was that the sale was not a sale by the servant but by the Kitchen Committee of the House of Commons. Under section 3, if a servant made a contract of sale, not being a licensed person, he was liable to a penalty. But the question here was whether the respondent was liable under section 3 for Deeth's conduct. His Lordship was of opinion that the Magistrate took the correct view—namely, that the respondent was not liable. This was not a case of delegated authority, and did not belong to the class of cases of which "Bond v Evans," "Commissioners of Police v Cartman," and "Somerset v Hart" (12 Q.B.D., 360) were examples. Where the facts showed that the servant had no authority, there was no sale by the principal within section 3 if the servant improperly made a sale. For these reasons the case was not covered by the authority of "Pletts v Campbell," and the appeal must be dismissed.

Mr. JUSTICE LAWRENCE delivered judgment to the same effect.

EXTRACTS FROM NEW ZEALAND GAZETTE.

(From Gazette, 1906, pages 1146 and 1152.)

Regulations for Sambur or Ceylon Deer Shooting, Counties of Manawatu, Oroua, and Kairanga.

PLUNKET, Governor.

ORDER IN COUNCIL.

At the Government House, at Wellington, this thirtieth day of April, 1906.

Present:

HIS EXCELLENCY THE GOVERNOR IN COUNCIL.

IN exercise of the powers vested in him by "The Animals Protection Act, 1880," and the Acts amending the same (hereinafter called "the said Acts"), His Excellency the Governor of the Colony of New Zealand, acting by and with the advice and consent of the Executive Council of the said colony, doth hereby make the following regulations respecting the Sambur or Ceylon deer shooting season within the Counties of Manawatu, Oroua, and Kairanga (hereinafter called "the said district").

REGULATIONS.

1. SAMBUR or Ceylon deer (stags or bucks only) may be taken or killed within the said district from the 15th day of May, 1906, to the 14th day of June, 1906, both days inclusive.

2. Licenses to kill such deer may be issued by the Chief Postmaster at Wellington, and the Postmasters at Palmerston North, Bull's, Foxton, and Marton, on payment of a license fee of twenty shillings, in the form prescribed in the Schedule hereto, and subject to the said Acts and these regulations.

3. No licensee shall be allowed to take or kill more than three stags or bucks; and, further, the said Chief Postmaster and Postmasters shall not issue more than one license to take or kill deer to the same person.

4. No hind or fawn will be allowed to be killed on any pretext whatever; and no dogs will be allowed to accompany either the licensee or any attendant he may have with him.

5. Nothing herein contained shall extend to authorising any person to sell any deer or portion thereof.

No. SCHEDULE.

License to take or kill Game (Ceylon Deer).
 , of , having this day paid the sum of £ , is hereby authorised to take or kill Sambur or Ceylon deer (stags or bucks only) within the Counties of Manawatu, Oroua, and Kairanga, from the day of , 1906, to the day of , 1906 (both days inclusive), subject to the provisions of "The Animals Protection Act, 1880," and the amendments thereof, and the regulations made thereunder.

Dated at , this day of , 1906.

ALEX. WILLIS.

Clerk of the Executive Council.

Clerk of Court appointed.

Department of Justice,

Wellington, 2nd May, 1906.

HIS Excellency the Governor has been pleased to appoint

Constable JAMES SELLERS WILLCOCKS

to be Clerk of the Magistrate's Court at Whakatane, from the 13th day of April, 1906, *vice* Constable W. Eccles, transferred.

J. CARROLL,

For Minister of Justice.

Inspector of Factories appointed.

Department of Labour,

Wellington, 1st May, 1906.

HIS Excellency the Governor has been pleased to appoint

Constable JOSEPH ANDUS RAYNES

an Inspector of Factories under "The Factories Act, 1901." Appointment is dated the 28th April, 1906.

T. Y. DUNCAN,

For Minister of Labour.