

## LAW REPORT.

("Times Law Reports," Vol. xxxi, page 58.)

[K.B. DIV.—(DARLING, A. T. LAWRENCE, AND SANKEY, JJ.)  
13TH NOVEMBER, 1914.]

BOTTOMLEY AND ANOTHER v. DIRECTOR OF PUBLIC  
PROSECUTIONS.

*Lotteries — Publishing Proposal or Scheme — Advertising  
Lottery—Lotteries Act, 1823 (4 Geo. IV., c. 60), s. 41.*

The appellants were summoned under section 41 of the Lotteries Act, 1823, for publishing a proposal and scheme for the sale of lottery tickets, and it was proved that in a newspaper, of which the appellants were alleged to be respectively the editor and the printer, there had appeared an article in which questions relating to sweepstakes were discussed and information was given as to the persons from whom tickets for two particular sweepstakes could be bought, and in the same issue there was an assurance as to the *bona fides* of a certain sweepstake.

*Held*, That the appellants had not published a proposal or scheme for the sale of lottery tickets, and therefore had not committed the offence charged, although they might have been proceeded against under the Lotteries Act, 1823, for advertising a lottery.

THE appellants in this case, stated by a Metropolitan Police Magistrate, were Mr. Horatio Bottomley and Mr. J. S. Elias, the editor and printer of *John Bull*. They were summoned to answer a complaint made on behalf of the respondent that they "did unlawfully publish a proposal and scheme for the sale of tickets in certain lotteries contrary to the provisions of section 41 of the Lotteries Act, 1823."

The section provides that "if any person . . . shall publish any proposal or scheme for the sale of any ticket" . . . except in connection with lotteries authorized by the Act "such person shall for every such offence forfeit and pay the sum of £50, and shall also be deemed a rogue and vagabond."

It was proved that in the issue of *John Bull* of 14th March, 1914, an article appeared headed "The Truth about Sweepstakes," in which questions relating to sweepstakes were discussed and certain information was incidentally given about two particular sweepstakes—what tickets to buy and from whom they could be bought. In the same issue there were certain answers to correspondents, one of which was, "You need be under no apprehension as to the *bona fides* of Mr. P. O'Brien's Sweepstakes." It was contended for the respondent before the Magistrate that the article amounted to a proposal and scheme for the sale of tickets in lotteries. The Magistrate, subject to the special case, convicted the appellants as rogues and vagabonds, and fined them £25 and five guineas costs each.

Mr. Bottomley supported his appeal in person. Mr. A. Davies appeared for Mr. Elias, and Mr. Travers Humphreys represented the respondent.

Mr. Bottomley contended that if he had been guilty of any offence at all it was not of publishing a proposal or scheme for a lottery, of which the article contained no evidence, but merely consisted of advertising a lottery, a thing which was forbidden by the Lotteries Act, 1823 (6 and 7 Wm. IV., c. 66), and was punishable by a fine of £50. At the Police Court no evidence was given connecting him with *John Bull*, except the statement of a police inspector that he had seen his name as editor on the paper and knew him as having seen him about in London. He (Mr Bottomley) took no part in the proceedings at the Police Court at all.

Mr. Justice Darling.—What was the evidence that you were responsible?

Mr. Bottomley.—The policeman's statement and what the Magistrate called the testimony of my silence.

The Court allowed the appeal.

Mr. Justice Darling in giving judgment said that there was no doubt that Mr. Bottomley published an article drawing attention to certain sweepstakes and passing criticisms of a favourable nature upon them, but what they had to see was not whether he advertised these sweepstakes but whether he brought himself within the strict words of a penal statute. No doubt the words "rogue and vagabond" were a kind of conventional term, but the Magistrate had said that a conviction under the statute conferred the degree of rogue and vagabond, and they must therefore see whether

the degree had been earned. Upon the whole he did not think that what the appellants had done was what the Act of 1823 intended to prohibit. It was perfectly plain, however, that the appellants might have been proceeded against under the later statute for what they had done, because it seemed clear that the article published did advertise these lotteries. For each offence under that Act the penalty was £50, and as each separate copy would be an advertisement, if Mr. Bottomley had been proceeded against under that Act he might have great cause to regret that he had not been proceeded against as a rogue and vagabond.

Mr. Justice Lawrence and Mr. Justice Sankey gave judgment to the same effect.

Solicitors—Messrs Lloyd, Richardson, & Co.; the Director of Public Prosecutions.

## EXTRACT FROM NEW ZEALAND GAZETTE.

(From Gazette, 1915, page 155.)

*Prison at Templeton proclaimed.*

[L.S.] LIVERPOOL, Governor.

## A PROCLAMATION.

WHEREAS by an Act of the General Assembly of New Zealand intituled the Prisons Act, 1908, it is provided that the Governor may, by Proclamation published in the *Gazette*, declare any house, building, enclosure, or place to be a prison, and from and after the gazetted of any such Proclamation, or from any later time specified in the Proclamation, such house, building, enclosure, or place shall be deemed a prison:

Now, therefore, I, Arthur William de Brito Savile, Earl of Liverpool, the Governor of the Dominion of New Zealand, in pursuance of the above-recited power and authority, do hereby declare that the buildings erected upon the land mentioned in the Schedule hereto, and all enclosures used or occupied therewith, shall, from and after the publication of this Proclamation in the *Gazette*, be a prison, known as the Templeton Prison, within the meaning and for the purposes of the Prisons Act, 1908.

## SCHEDULE.

ALL that area in the Canterbury Land District, containing by admeasurement 9 acres, more or less, being part of Reserve No. 702, Block XII, Rolleston Survey District, commencing at a point on the east side of Barter's Road, the same being distant 1523.6 links north-west from the intersection of aforesaid road and Rifle Butt Road. Bounded towards the south-east by a line 54° 59', 299.4 links; towards the north-east by a line 324° 58', 1000 links; towards the north-west by a line 234° 59', 999.8 links; towards the south-west by a line 144° 58', 1000 links; and again towards the south-east by a line 54° 59', 700.4 links, to the point of commencement: save and except that portion of Barter's Road one chain in width intersecting the said land: be all the aforesaid linkages a little more or less: as the same are delineated on the plan marked P.D. 1914/474, deposited in the Head Office, Department of Justice, at Wellington, and thereon bordered red.

Given under the hand of His Excellency the Right Honourable Arthur William de Brito Savile, Earl of Liverpool, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Member of the Royal Victorian Order, Governor and Commander-in-Chief in and over His Majesty's Dominion of New Zealand and its Dependencies; and issued under the Seal of the said Dominion, at the Government House at Wellington, this fifth day of January, in the year of our Lord one thousand nine hundred and fifteen.

H. D. BELL,  
For Minister of Justice.

GOD SAVE THE KING!