

1898.  
August 15.

QUEEN v. TILAKARATNA.

*D. C. (Criminal), Galle, 12,620.*

*Duty of notary—Ordinance No. 2 of 1877, s. 26—Consecutive numbering of deeds as attested—Forwarding duplicates to Land Registry with list of deeds.*

It is the duty of a notary to number every deed consecutively according to date of attestation and to enter it in the monthly list and duplicate of the deed should be sent with such list to the Registrar of Lands as required by section 26 of Ordinance No. 2 of 1877.

It is of the utmost importance for the welfare of the community that notaries should strictly comply with the duties imposed on them by law.

There is a distinction between "neglect" and "failure": "failure" may be due to inevitable accident, "neglect" is a culpable omission.

THE facts of the case are set out in the following judgment of the Chief Justice.

The District Judge found the accused guilty, and sentenced him to a fine of Rs. 25 upon each of the three counts in the indictment.

*Rudra*, for accused, appellant.

*Chitty, C.C.*, for respondent.

15th August, 1898. BONSER, C.J.—

In this case the appellant, who is a notary, has been convicted of having neglected his duty in three instances. The first was that he did not send in, before the 15th of June, 1897, to the Registrar of Lands of the district, the duplicate of a deed which was executed on the 1st May, 1897; the second was that he omitted that deed from the list of deeds required to be sent in to that officer; and the third was that he did not number that deed consecutively, according to the order in which it was executed. The appellant did not attempt to give any explanation of the first two charges, but he put in a written explanation of the third charge, which the District Judge held did not exonerate him, and I agree with him. The conviction, however, should be amended by substituting the word "neglect" for the word "fail" by law to do. A man may fail to do something required by law owing to some inevitable accident, whereas neglect is a culpable omission.

There is no question that there was neglect in this case, and the judgment is affirmed.

Mr. Rudra applied to have the fine reduced to Rs. 25 on each charge. I do not see my way to do this, for I consider it to be of the utmost importance, for the welfare of the community, that notaries should strictly comply with the duties imposed upon them by law.

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BONNER, C.J.

I observe that the District Judge gave leave to appeal. I cannot understand why he did so.

