

Present: De Sampayo J.

1919.

ABEYESEKERE v. MOHAMADO.

256—M. C. Colombo, 658.

Mutton offal—Meat—Municipal Councils Ordinance, s. 202—Butchers Ordinance.

"Meat" in the Butchers Ordinance includes offal.

Where an accused had the butcher's license to sell meat (mutton only, excluding offal), as well as another under the Butchers Ordinance, from the Chairman, Municipal Council, and he was charged with selling offal—

Held, he had the permission of the Chairman to sell offal.

THE accused was charged with having sold or exposed for sale "mutton offal" in the Edinburgh market without the permission of the Chairman of the Municipal Council, in breach of section 202 of the Municipal Councils Ordinance, No. 6 of 1910. At this time the accused had two licenses: one from the Chairman for a certain stall at Edinburgh market authorizing him to sell "meat (mutton only, excluding offal)," and the other under the Butchers Ordinance, No. 9 of 1893. The latter authorized him to slaughter animals and to carry on the trade of a butcher at this stall. The Magistrate acquitted the accused, holding that "meat" included "offal."

A. St. V. Jayawardene (with him *Keuneman*), for complainant, appellant.—The license from the Chairman specially excluded "offal," and it is distinguished from "meat." Offal is meat unfit for human consumption. The Butchers Ordinance does not

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distinguish " offal " from " meat." But that license alone is not sufficient. The Chairman's license restricted his powers, and he is charged under section 202 of the Municipal Councils Ordinance.

[DE SAMPAYO J.—The accused ought to have been charged under by-law 14 of chapter XIII. of the Municipal Council's by-laws.] The Magistrate has not acquitted him on that ground. He says the by-laws are *ultra vires* (*Seresinghe v. Ibrahim Saibo*¹). But the present by-laws are not, as they are under the Ordinance of 1910.

Hayley, for accused, respondent.—The license given to the accused is not vague. The Chairman's license of December 20, 1918, contains some limitations. But his butcher's license gave him leave to carry on the trade of a butcher at Edinburgh market. It contained no limitations. The word " butcher " is clearly defined.

There is no proof that offal is not eaten by human beings. Section 202 of the Municipal Councils Ordinance cannot have any application.

Cur adv. vult.

June 4, 1919. DE SAMPAYO J.—

The complainant, who is a Municipal Inspector, appeals on a point of law from an order of the Municipal Magistrate acquitting the accused. The complainant charged the accused with having on February 24, 1919, sold or exposed for sale " mutton offal " in the Edinburgh market without the permission of the Chairman of the Municipal Council, in breach of section 202 of the Municipal Councils Ordinance, No. 6 of 1910. It appears that the accused at this time had a license issued to him by the Chairman for a certain stall in the Edinburgh market. It authorized him to sell " meat (mutton only, excluding offal)." If the case against the accused is that he sold offal in the stall in question in contravention of the terms of his license, the charge should properly have been under by-law 14 of chapter XIII. of the Municipal Council's by-laws, which penalizes the sale of " an article or thing other than what is specified in his license." It is said that the by-laws relating to this matter were not relied on by the prosecutor, because they are considered to be invalid in consequence of the judgment in *Seresinghe v. Ibrahim Saibo*.¹ But that case was decided under entirely different circumstances. Apart from this supposed attitude of the Municipal Council towards their own by-laws, the Municipal Magistrate himself says that in *Amerasinghe v. Abdul Sheriff*² it was held that the by-law under which the stall licenses are issued was *ultra vires*. That is a case decided by me, but, so far from holding that by-law or those connected with it to be invalid, I expressly abstained from doing so, while at the same time I indicated certain

¹ (1903) 7 N. L. R. 208.

² (1918) 5 C. W. R. 81.

points which, in my view, might show the by-laws to be valid. It is, however, unnecessary to consider that question here, because the accused is not charged with any breach of the by-laws.

So far as the stall license is concerned, the accused may be said not to have had the permission of the Chairman to sell offal or expose the same for sale in the market. But the accused had another license, which must be taken into account. This was a butcher's license issued to him by the Chairman under the Ordinance No. 9 of 1893. This license authorized him to slaughter animals and to carry on the trade of a butcher at the stall in question. Section 3 of the Ordinance declares that " ' butcher ' shall include every person that slaughters animals or exposes for sale the meat of animals slaughtered in the Colony." The accused, therefore, had the Chairman's permission under the butcher's license to sell meat. What is meat? Neither the Ordinance nor the license contains any limitation of its general meaning. The reason for this, I think, may be easily understood. " Offal," whatever it may mean, is an article of trade, and has some sort of value. A butcher ordinarily sells it, and must sell it or otherwise dispose of it, unless he is allowed to create a nuisance. When the accused's license as a butcher authorised him to sell meat, did it mean to exclude offal? I do not think so. What is offal? Mr. Jayawardene says that it is parts of an animal unfit for human consumption, such as " cat's meat " or " dog's meat." Those very expressions, however, show that what is intended for cats and dogs is nevertheless meat. Somebody must sell such meat, and the butcher is the universal provider of it. There has also been a suggestion that offal is the entrail or stomach of an animal, and is therefore unfit for human consumption; but this does not stand examination either. As I pointed out at the argument, tripe is not only eaten, but is a favourite dish with many. There is some difficulty in understanding what the prosecutor himself means by offal, for he contents himself with saying that the accused exposed offal for sale, without specifying what things were in fact so exposed. He obscures the matter still further by calling it " mutton offal," for which, so far as I know, there is no precedent in the English language. In this connection it is noticeable that the Chairman when using the word " meat " in the stall license was obliged to explain within a bracket that by " meat " he meant " mutton only, excluding offal," showing that but for that explanation he would be giving permission to the accused to sell offal as well. In the butcher's license, however, no such limitation is stated, but the accused is simply authorized to sell meat. In this state of perplexity the Magistrate naturally resorted to the dictionary for definitions. He there found that " meat is the flesh of animals used as food," and that " flesh is the substance which forms a large part of an animal, consisting of the softer solids, as distinguished from the bones, the skin, and the fluid," and he came

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to the logical conclusion that offal belonged to the category of "meat." Pursuing the same line of investigation, I find that offal is philologically *off-fall*, that is to say, that which falls off, as fragments or leavings regarded as of trifling value, and with regard to a butchered animal, it consists of "the parts which are rejected as worthless or unfit for food." (*Funk and Wagnall.*) But the trade of a butcher, which the accused was permitted to carry on, includes the sale of all parts of an animal, not excepting offal. We have even Shakespeare's authority for "butcher's offal." Accordingly, when the Butchers Ordinance defines a butcher as one who sells "the meat of animals," I think it does not attach a restricted meaning to the word "meat." Any such intention to impose a restraint on trade cannot be presumed. According to the *Imperial Dictionary*, "meat" in the broadest sense is "anything eaten or fit for eating as nourishment either by man or beast," and in reference to the carcase of an animal, therefore, the word must include all the parts used as food for man or beast. Considering the nature of a butcher's business, I think the Ordinance uses the word "meat" in this large signification. Consequently I am of opinion that the accused under the butcher's license had the permission of the Chairman to do what he was charged with doing.

The appeal is dismissed.

Appeal dismissed.
