

1944

Present: Keuneman J.

PERERA Appellant, and ALWIS, Respondent.

21—M. C. Kegalla, 3,806.

Price Control Inspector—Claim to act as authorised officer—Defence (Control of Prices) (Supplementary Provisions) Regulations.

A Price Control Inspector, who claims to act as an authorised officer under the Defence (Control of Prices) Regulations, must be appointed in writing by the Controller and such appointment must be proved.

A PPEAL from an order of acquittal entered by the Magistrate of Kegalla.

Walter Jayawardene, C.C., for the Attorney-General, appellant.

H. V. Perera, K.C. (with him *A. Jayasuriya* and *S. Saravanamuttu*), for accused, respondent.

Cur. adv. vult.

February 25, 1944. KEUNEMAN J.—

The accused was charged under section 183 of the Penal Code with obstructing Perera, a Price Control Inspector, in the discharge of his duty and preventing him from searching the premises of the Welcome Stores. The matter depended on whether the Inspector was "an authorised officer" under the Defence (Control of Prices) (Supplementary Provisions) Regulations.

In the Schedule this phrase includes any other officer or person appointed by the Controller by notification to be an authorised officer for the purposes of the Regulation. Under the Control of Prices Regulations in the *Gazette* of January 7, 1943, "authorised officers" included "All persons appointed in writing by the Controller and holding office for the time being as Price Control Inspectors".

It has been established that Perera was a Price Control Inspector, but the Magistrate held that it was not proved that he was an authorised officer, because the letter of appointment P1 was not proved. No evidence was led to prove the signatures attached to P1.

Two sections of the Evidence Ordinance were cited to me in appeal. The first was section 91 exception 1, but this section does not help in this case, because while it has been shown that Perera has acted as a Price Control Inspector it has not been shown that he has acted as "an authorised officer". Further I am doubtful whether this section is really applicable to the facts of this case.

The next section was section 57 (7), under which it was argued that the Magistrate should have taken judicial notice of the "signatures". But this section is applicable if the fact of the appointment to the office has been notified in the *Government Gazette*. No such *Government Gazette* was produced to the Magistrate, and even if it had been produced, under the section the Magistrate had the right to call for further proof.

Crown Counsel claimed the right to produce this *Government Gazette* in appeal. But I do not think I should permit that. The question I have to decide is whether the Magistrate was wrong, and in all the circumstances I am unable to say that he was wrong in acquitting the accused.

The appeal is dismissed.

Appeal dismissed.

