Present : Lascelles A.C.J. *April 6, 1911*

THE ATTORNEY-GENERAL *v.* ARNOLIS *et al.*

196—*P. C. Galle*, 162.

Land at the disposal of the Crown—Land bought by the Crown for the default of payment of grain tax—Ordinance No. 16 of 1907.

Land bought by the Crown for the default of payment of grain tax is " land at the disposal of the Crown " under the definition in Ordinance No. 16 of 1907.

IN this case the accused was charged with an offence under section 21, rule 1 (*a*), of the rules under chapter IV. of Ordinance No. 16 of 1907 (published in the *Government Gazette* of April 23, 1909), for having cultivated a field which the Crown had bought in when sold for non-payment of grain tax. The learned Magistrate (H. Beven, Esq.) acquitted the accused. The Attorney-General appealed.

Bawa, A. S.-G., for the appellant.—The Police Magistrate has omitted to note that the definition of land at the disposal of the Crown in section 3 of Ordinance No. 16 of 1907 is not exhaustive, but inclusive. It begins : " Land at the disposal of the Crown includes," and it is always open to the Crown to prove that a land though not of the description therein specified is, nevertheless, at the disposal of the Crown. The rule under which the defendant is charged applies to land at the disposal of the Crown without reference to the definition.

No appearance for the respondents.

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I am of opinion that the Police Magistrate in this case has failed to give effect to the definition of the term " land at the disposal of the Crown " in section 3 of " The Forest Ordinance, 1907." Under the second heading of the definition " land at the disposal of the Crown " includes, *inter alia*, all lands " to which the Crown is lawfully entitled."

The Magistrate seems to have based his judgment on the ground that land, such as that in question, is not forest in the ordinary and popular signification of the term. The question, however, is not whether land is " forest," but whether it is " land at the disposal of the Crown " within the meaning attributed to that expression

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in the definition of section 3 of the Forest Ordinance. Now, a glance at the definition shows that this term is intended to include, and does include, land which in ordinary language would not be described as "forest," for example, it includes land which has been resumed by the Crown under the provisions of "The Land Resumption Ordinance, 1887." The Magistrate is mistaken in his view that the construction of the section in its ordinary and natural sense will impose an undue burden on persons who are charged with offences under the Ordinance. It will do nothing of the kind. In every case the onus will rest on the Crown of proving that the particular land in question comes within the statutory definition of the term "land at the disposal of the Crown." The suggestion that the expression "land to which the Crown is lawfully entitled" is limited to uncultivated lands, is, in my opinion, untenable. The words mean what they say, and there is nothing in the section which justifies any other interpretation being given to them. I am clearly of opinion that the view of the learned Police Magistrate is unfounded, and I set aside the acquittal and direct him to proceed with the trial of the charge in the ordinary course.

The same order is made in the other cases in which the same question is raised, namely, Nos. 194, 195, 197, and 198.

Sent back.