

1966 *Present* : H. N. G. Fernando, C.J., and G. P. A. Silva, J.

THE ATTORNEY-GENERAL, Appellant, and M. S. M. SANOON,
Respondent

S. C. 457/65—M. C. Panadura, 86868

Control of Prices Act, No. 29 of 1950—Prosecution under s. 4, read with s. 3 (2)—Validity—Control of Prices Act (Cap. 173), ss. 1, 4—Revised Edition of the Legislative Enactments Act (Cap. 1)—Scope of its authenticity—Sections 3 (1) (a), 12 (3)—Incapacity of Commissioner to repeal any pre-existing statute.

A prosecution for an offence falling under a statute which was passed prior to the date when the Revised Edition of the Legislative Enactments came into force in December 1961 is not invalid if such offence is punishable also under a corresponding statute included in the Revised Edition. Accordingly, a prosecution reciting an offence in contravention of Control of Prices Act No. 29 of 1950 is not invalid if the Act is reproduced in the Revised Edition of the Legislative Enactments and offences similar to the offence in question are also referred to therein in identical terms. In such a case, it cannot be contended that the prosecution is under a repealed statute.

APPEAL from a judgment of the Magistrate's Court, Panadura.

L. B. T. Premaratne, Senior Crown Counsel, with *G. P. S. Silva*, Crown Counsel, for the Appellant.

C. Ranganathan, Q.C., with *M. T. M. Sivardeen*, for the Accused-Respondent.

Cur. adv. vult.

November 29, 1966. H. N. G. FERNANDO, C.J.—

The Respondent to this Appeal was charged in the Magistrate's Court with sale of beef at a price above the maximum price fixed by the Price Control Order published in Gazette No. 14,041 of 22nd May 1964. The Price Control Order as published contains a recital that it was being made "by virtue of the powers vested by section 4 of the Control of Prices Act 29 of 1950 read with section 3 (2) of that Act".

The Control of Prices Act No. 29 of 1950 is reproduced in the revised edition of the Legislative Enactments as Cap. 173 of that edition and section 1 of that Act as so reproduced provides that "this Act may be cited as the Control of Prices Act". By virtue of a proclamation made under section 12 of the Revised Edition of the Legislative Enactments Act (Cap. 1) the revised edition came into force in December 1961 and accordingly in terms of subsection 3 of section 12 that revised edition is to "be deemed to be and be without any question whatsoever in all courts of justice and for all purposes whatsoever the sole authentic edition of the Legislative Enactments of Ceylon therein printed".

The learned Magistrate has in a careful judgment reached the conclusion that by reason of the provisions of section 12 (3) no proceedings can be had for any alleged contravention of an order which purports to have been made, not under the Control of Prices Act reproduced as Cap. 173 of the revised edition, but instead under "the Control of Prices Act, 1950". One reason for this conclusion is the opinion of the learned Magistrate that the Control of Prices Act of 1950 became impliedly repealed when the revised edition came into force. This opinion is in our view erroneous. The powers conferred on the Commissioner appointed under Cap. 1 do not include the power to repeal any pre-existing statute. The only power which is in any way related to the concept of repeal is that conferred in section 3 (1) (a) of Cap. 1, namely, "to omit any legislative enactment which has been repealed expressly or by necessary implication, or which has expired, has become spent, or has had

its effect". Far from exercising any such power in the case of the statute providing for the Control of Prices, the Commissioner reproduced that statute in the revised edition, thus negating any idea of a contemplated repeal of the statute formerly in force.

After holding that the former statute was repealed, the Magistrate (very properly in view of that holding) proceeded to consider whether there are any provisions in the revised edition which would mitigate the effect of the repeal and would serve to validate an erroneous reference in the Price Control Order to the statute under which it purported to be made. He could find no such provision and therefore reached his ultimate conclusion.

What has occurred in the case of this Order is that by error there has been included in the recital the words or figures No. 29 of 1950. Had those words and figures not been included, the reference to the statute would have been perfectly correct in view of section 1 of the Act as reproduced as Cap. 173.

A comparison of section 4 of the Control of Prices Act of 1950 with Section 4 of the Control of Prices Act as reproduced in Cap. 173 of the revised edition shows that the section had remained unaltered from the time of its original enactment until the time of its reproduction in the revised edition.

Since in terms of section 12 (3) of Cap. 1 the revised edition is the sole authentic edition, any person who is aware of any order referring to a Control of Prices Act must in law refer to the revised edition, and only to that edition, in order to ascertain the provision of law under which the Order is made. Had the respondent in this case followed that course his attention must necessarily have been drawn to section 4 of Cap. 173 which as already stated is identical with the section referred to in the Order. It is only if some prejudice was caused by the erroneous reference in the Order that the respondent would have been entitled to ask for any relief.

We hold that the error in the recital did not invalidate the Order and that the Order must in law be taken to have been duly made under the law as set out in Cap. 173 of the revised edition.

The learned Magistrate has found on the facts that the respondent did sell beef at a price in excess of the price fixed by the Order.

We set aside the acquittal and convict the accused of the offence charged. He is sentenced to a fine of Rs. 500.

G. P. A. SILVA, J.—I agree.

Acquittal set aside.