

Present : Schneider J.

1922.

INSPECTOR, SOCIETY FOR THE PREVENTION OF
CRUELTY TO ANIMALS, NAWALAPITIYA,
v. PUNCHIRALA *et al.*

P. C. Gampola, 4,579.

Cruelty to animals—Killing wild elk in a cruel manner—"Animal"—

Where a number of people chased a wild elk which had not been previously captured, and killed it in a cruel manner—

Held, that they were not punishable under the Cruelty to Animals Ordinance, 1907, as the wild elk was not an "animal" within the meaning of the term in the Ordinance.

THE facts appear from the judgment.

Navaratnam, in support.—The term "animal" is defined in section 3 of Ordinance No. 13 of 1907 as any domestic or captured animal. The evidence shows that the elk in question was a wild animal. The conviction under section 6 is therefore bad.

June 7, 1922. SCHNEIDER J.—

The fifth and eighth accused, who have been convicted and fined Rs. 20, bring up these proceedings by way of revision. The application for revision was made on the ground that the facts did not justify the conviction, but counsel who appeared in support of that application has urged that the conviction is bad inasmuch as the animal, in respect of the treatment of which the conviction is founded, does not come within the definition of animal in the Ordinance. The Ordinance defines an animal as meaning any "domestic or captured animal." Admittedly the elk that was killed was a wild animal. It therefore remains to be considered whether the animal was captured. I think the evidence disclosed that it had not been captured. The evidence of Heenhamy and Menika, the only witnesses for the prosecution, shows that they saw a number of men chasing the elk in question, and then surround it and beat it to death with sticks, while the fifth accused, after the animal had fallen, ripped open its stomach with a knife. This evidence, therefore, to my mind shows that the animal had not been captured. There is no question as to the cruel manner in which the accused had behaved, for the elk was heavy with young, but I think the accused are entitled to be acquitted and discharged for the reason that they have committed no offence punishable under the Ordinance.

I accordingly set aside the conviction, and acquit the accused.

Set aside.