

1966

Present : Manicavasagar, J.

A. H. M. LAFIER and another, Appellants, and
A. D. A. EDIRIWEERA (Veterinary Inspector), Respondent

S. C. 614-615/65—M. M. C. Colombo. 25112

Municipal Council of Colombo—By-law prohibiting sale of meat of an animal not slaughtered in the Municipal Slaughter-House—Invalidity—By-law 30 of chapter 13 of the By-laws and Regulations—Butchers Ordinance (Cap. 272), ss. 2, 13, 14, 15, 18.

By-law 30 of chapter 13 of the By-laws and Regulations of the Municipal Council of Colombo is *ultra vires* of the Butchers Ordinance in that it restricts the sale of meat to sale only of meat of animals slaughtered in the Municipal Slaughter-House and thus prohibits the sale of meat of animals slaughtered at other authorised places.

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

G. F. Sethukavalar, with *S. G. Wijesekera* and *A. Puthumainayagam*,
for the Accused-Appellants.

H. Wanigatunga, with *N. Kasirajah*, for the Complainant-Respondent.

Cur. adv. vult.

September 29, 1966. MANICAVASAGAR, J.—

Mr. Sethukavalar's argument is that by-law 30 in Chapter XIII of the By-laws and Regulations of the Municipal Council of Colombo (Revised Edition, 1958), which the two appellants are said to have contravened, is invalid as it is repugnant to the general law contained in the Butchers Ordinance (Cap. 272, Revised Edition 1956). He submits that the purpose and effect of this by-law is to prohibit the sale or the exposure for sale, in a public or private market, of the meat of an animal not slaughtered in the Municipal Slaughter-House ; whereas, the Butchers Ordinance does not prohibit the slaughter of animals by a licensed butcher at (i) a public slaughter house or (ii) any place appointed by the proper authority (section 14), or by any person other than a licensed butcher, on a permit granted to him, at any place specified in the permit (section 18 and Form D in the Schedule).

The 1st accused-appellant is, on the finding of the Magistrate, an employee of the 2nd accused-appellant ; the latter is a licensed butcher. A licensed butcher includes every person who obtains a licence under section 4 of the Butchers Ordinance (Section 2). The 2nd accused-appellant has a licence (D 1) for the year ending 31st December, 1964, issued by the proper authority to slaughter animals and carry on the trade of a butcher at private beef stall at 11, Vystwyke Road, Mattakuliya, in Colombo, conforming himself to the Butchers Ordinance. A butcher (section 2) includes every person who slaughters animals or exposes for sale the meat of animals slaughtered in Ceylon. The licence issued to the 2nd accused-appellant authorises him to slaughter animals, and sell the meat at the private beef stall mentioned in the licence. By-law 30 prohibits the sale at a public or private market, of meat of an animal not slaughtered at the Municipal Slaughter-House.

Mr. Sethukavalar submits that there is, therefore, a conflict between the by-law and the Butchers Ordinance. Mr. Wanigatunga for the complainant-respondent contends against this ; he submits that the slaughter of animals should be according to the law and section 14 of the Butchers Ordinance gives no right, but places a restriction on a butcher's right to slaughter animals.

To my mind section 14 enacts that a licensed butcher should not slaughter any animal except at a public slaughter house or at a place appointed by the proper authority : there is, undoubtedly, a restriction placed on a licensed butcher as to the venue of the slaughter : he may not slaughter at any place he chooses. Mr. Wanigatunga is right in his submission that slaughter should conform to the requirements of the law ; for a licensed butcher whether he slaughters in a public slaughter house, or a place appointed by the proper authority, must comply with the provisions of sections 13 and 15 of the Butchers Ordinance, and any other provision applicable to the slaughter of animals, provided it does not conflict with the general law. My opinion is that by-law 30 by confining the sale of meat of only animals slaughtered in the Municipal

Slaughter-House forbids and makes unlawful that which the general law has impliedly authorised. A by-law is said to be repugnant if it says something inconsistent with the general law contained in a Statute or if it expressly or by necessary implication seeks to run counter to the general law. I agree with Mr. Sethukavalar's submission, and I hold that by-law 30 is *ultra vires* of the Butchers Ordinance.

No doubt, the by-laws and Regulations relating to slaughter-houses and markets have been framed with the essential object of safe-guarding the health of the community by providing for the sale of wholesome and clean meat, and other food in clean surroundings: the opinion I have expressed may fail to achieve this object as some of the by-laws may not be applicable to animals slaughtered in a licensed private market. If my opinion be right, the remedy lies with the legislature and the Municipal Council.

The charges on which the appellants have been convicted fail, and the convictions entered are set aside and they are acquitted: the fine, if paid, should be returned to them.

Appeal allowed.