

POLICE *ats.* P. J. PATEL.

[Apellate Jurisdiction (Corrie, C.J.) October 17, 1943.]

Prices of Goods Ordinance, 1940¹—s. 19—seizure of books and documents by police—when excusable—Order by Court of Summary jurisdiction for return of books—whether within jurisdiction of Court.

In the course of investigations into an alleged offence against the Prices of Goods Ordinance, 1940¹ a person authorised by the Competent Authority seized certain books and documents of the respondent. During the subsequent prosecution of the respondent, the respondent applied to the District Commissioner for the return of his books and documents and an order was made accordingly. Against this order the police appealed by way of case stated.

HELD.—(1) S. 19 of the Prices of Goods Ordinance, 1940¹ does not authorise the seizure and removal of books or documents without the consent of the person having their custody : the seizure was unlawful.

(2) As regards such books and documents as are to be used in connection with criminal proceedings the seizure is excusable and the police have the right to retain such books and documents until the conclusion of such proceedings.

(3) As regards books or documents not to be used the police retain them at their peril.

(4) A District Commissioner has no jurisdiction in the course of criminal proceedings to make any order as to books and documents not related to those proceedings.

[EDITORIAL NOTE.—S. 19 of the Price of Goods Ordinance, 1940 (rep.) was as follows :—

“ Any person duly authorised by the Competent Authority shall be, and is hereby, empowered to demand evidence either by way of invoices, books or other documents, or by such other information as may be available, for the purpose of verifying the cost and pricing of any goods not included in any current Price Order, sold or offered for sale, and if such available as may be required be not furnished within a reasonable time, or on being furnished be found to be in any respect false, or if the authorised person be obstructed in the performance of his duties, the person so offending as well as the owner, partner, manager or other person in charge of the business, and each of them severally shall be guilty of an offence, unless he proves that the offence took place without his knowledge, instigation, consent or approval.

“ If upon inspection, any goods shall be found to be priced or offered for sale at a price in excess of that allowable under subsection (3) of s. 4, the owner, partner, manager or other person in charge of the business, and each of them severally, shall, in respect of any such goods be guilty of an offence, unless he proves that the offence took place without his knowledge, instigation, consent or approval.” See now Price Control Ordinance, 1946, s. 18.]

¹ Rep. Vide Price Control Ordinance, 1946 s. 18.

Case referred to :—

Elias v. Pasmore [1934] 2 K.B. 164.

APPEAL BY THE PROSECUTION BY WAY OF CASE stated against an order of a District Commissioner made in the course of criminal proceedings.

A. G. Forbes for the appellant.

S. B. Patel, for the respondent.

CORRIE, C.J.—I hold that s. 19 of the Prices of Goods Ordinance, 1940, does not authorize the seizure and removal by a person authorized by the Competent Authority of books or documents, without the consent of the person having their custody ; and the seizure of the respondent's books and documents was, therefore, unlawful. As regards such of them, however, as are to be used in connexion with criminal proceedings against any person, it is clear, on the authority of *Elias v. Pasmore* [1934] 2 K.B., 164, that the seizure is excusable and that the police have the right to retain such books and documents until the conclusion of such proceedings. With regard to any books or documents not to be used ; while it appears on the authority of the same case that the police retain them at their peril, it is clear that the District Commissioner had no jurisdiction in the course of criminal proceedings against the respondent to make any order as to books and documents not related to those proceedings.

The appeal is allowed and the judgment of the District Commissioner is set aside.

SWAMI RUDRANAND *ats.* POLICE.

[Appellate Jurisdiction (Corrie, C.J.) October 18, 1943.]

Regulation 22—(1) (a) of the Defence (General) Regulations, 1942—endeavouring to seduce from their duty persons engaged in the performance of an essential industry—no allegation as to particular persons—whether information too vague—whether cane growers have a duty to harvest cane.

Appellant was convicted by a Court of Summary Jurisdiction of the offence created by Regulation 22—(1) (a) of the Defence (General) Regulations 1942. The evidence was that he had attempted to persuade cane growers not to harvest cane. The cane growers concerned were lessees or owners of their own farms and had an agreement with the Colonial Sugar Refining Company as to the harvesting of cane by the cane growers and the purchase of same by the Company.

HELD.—(1) The particulars in the information need not be more precise than those required by the Incitement to Disaffection Act, 1934 and need not specify the particular persons whom the accused is alleged to have endeavoured to seduce from their duty.