

NETTLETON,  
C.J.  
&  
GRIMSHAW,  
P.J.  
1925  
March 25

NETTLETON, C.J. AND GRIMSHAW, P.J.]

THE MUNICIPAL COUNCIL OF LARNACA

v.

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| <ol style="list-style-type: none"> <li>1. RASHID KENAN</li> <li>2. AHMED RASHID KENAN</li> <li>3. SADI KENAN</li> </ol> | } | <p>All of Larnaca and carrying on business as traders under the style "Rashid Kenan &amp; Sons," of Larnaca.</p> |
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WEIGHING (MUNICIPALITIES) LAW NO. 15 OF 1923, SECTIONS 4 (1), 5, 6 AND 7—  
WEIGHING FEES—GOODS BOUGHT ABROAD—VENDOR TO PAY FEES.

This is a case stated from the Magisterial Court of Larnaca on a question of law reserved for this Court under section 47 of the Criminal Law and Procedure Amendment Law, 1886.

*Nicolaides* for Municipality.

*Paschalis* for Accused.

*Judgment* : THE CHIEF JUSTICE: The point for the decision of this Court is, in substance, whether the provisions of section 4 (1) and section 6 of the Weighing (Municipalities) Law, 1923, concerning compulsory weighing apply to goods from abroad which are the subject matter of a sale which took place abroad on their delivery on importation to the purchaser at a port in Cyprus which is a municipality within the law.

The goods in question were of the nature and weight specified in the schedule thereto. It appears from the admitted facts that the defendants purchased 6,588 okes of flour at Alexandria at an agreed price f.o.b. at that port to be consigned to them in Larnaca. They took delivery of the flour at the last named port through the Customs.

They did not, before taking delivery, inform the municipality that the goods were ready to be weighed, nor did they afford to the municipal weigher any opportunity of weighing them.

For this omission they were prosecuted before the Magisterial Court under section 4 and 6 of the Weighing (Municipalities) Law, 1923.

The question is, will a prosecution lie? Section 4 (1) runs as follows:

"Whenever a sale of goods takes place within the limits of any municipality, or whenever goods, the subject matter of any sale,

“ are delivered or are to be delivered within such limits, in either of  
 “ such cases, such goods shall be weighed by the municipal weigher,  
 “ and upon such weighing there shall be paid by the vendor to the  
 “ municipal weigher in respect of the weighing of such goods, the fees  
 “ specified in the Schedule ”

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Section 6 lays down the procedure to be followed in connection with  
 the weighing

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Notice, it is to be observed, is to be given to the municipality, and  
 not to the municipal weigher as laid in the charge, which should be  
 amended accordingly.

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For the prosecution it was contended that the object of the law in  
 question was to prevent frauds generally in connection with the sale  
 of goods delivered or to be delivered within the limits of a municipality,  
 and that it was immaterial whether the sale took place in Cyprus or  
 abroad and that it applied to goods on their delivery on importation  
 from abroad

For the defence it was argued that the law was intended to protect  
 the local farmer and producer and did not apply to goods delivered on  
 importation from abroad Stress was laid on the point that most of the  
 goods mentioned in the schedule are products of Cyprus, that certain  
 staple articles of import from abroad such as sugar and coffee which  
 are ordinarily bought and sold in bulk are not mentioned in it at all  
 Also in the last words of the schedule, “ all other articles, not being  
 “ imported articles ”

It is to be observed that there is no preamble to the law and its scope  
 and object must be gathered from an examination of it as a whole  
 The paramount object in construing a statute is to ascertain the legis-  
 lative intent. To quote Lord Blackburn in *Wear Navigation Co v*  
*Adamson*, 2 Appeal Cases, 743, “ The true meaning of any passage,  
 “ it is said, is to be found not merely in the words of that passage,  
 “ but in comparing it with every other part of the law, ascertaining  
 “ also what were the circumstances with reference to which the words  
 “ were used, and what was the object appearing from those circum-  
 “ stances which the legislature had in view ”

No records of the proceedings of the legislature when Law No 14 of  
 1898 (which was substantially identical with that of 1923 and included  
 section 4 (1)) was passed are available, and little is to be learned from a  
 perusal of a report of the discussion which preceded the passing of the  
 Law of 1923.

Hence, as I have indicated, I can only look at the law as a whole  
 In the first place provision is made in section 4 (1) for the payment of the

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fees for weighing by the vendor. If the law was intended to apply to goods the subject of a sale made abroad on their importation from abroad on their delivery to a purchaser, it is remarkable that the burden of paying the weighing fees should be cast upon a foreign vendor, who may be and usually is resident far outside the jurisdiction.

Again the schedule to the law refers mainly to native produce, of which it supplies a somewhat comprehensive list and from this it would seem that the primary intention of the legislature was to protect the native producer and dealers in native produce. Otherwise why should imports of a heavy type such as sugar and the like not be included ?

In the case of one item, olive oil, the weight specified as sufficient to render weighing by the municipal weigher necessary, is far too low to appear applicable to olive oil from abroad on its importation and delivery at a port.

The concluding words of the schedule " All other articles not being " imported articles " are of significance. Why should the legislature, if it was its intention to protect the purchaser of imported goods on his taking delivery here from abroad, limit the protection to such a very small number of the items set out in the schedule ?

Section 7 which provides for the separate weighing of receptacles containing wines and spirits would seem peculiarly inapplicable to wines and spirits on their delivery here on importation from abroad in cask or bottle, and would appear unworkable if applied to them.

Again section 5 makes elaborate provision for methods of weighing spirit of native manufacture, but no reference is made in the law to imported spirit in this connection.

Was it the intention of the legislature that the words " whenever " goods, the subject matter of any sale, are delivered or are to be " delivered within such limits," should or should not apply to imported goods within the schedule on their delivery to the importing purchaser at the quay side or Customs ?

The Court is obviously not at liberty to put limitations on more or less general words which are not called for by the sense or the objects of an enactment.

But reading the law as a whole I find that, though there is no express provision to that effect, it would be against its intent and scope to hold that on the delivery of scheduled goods imported from abroad to the importing purchaser its provisions as to weighing by the municipal weigher apply.

Section 6 of the Law shows that delay in securing the attendance of the municipal weigher may be anticipated, and provision is made in

such case for dispensing with the municipal weighing. But in any event compulsory weighing of goods from abroad on importation would constitute an impediment and hindrance to the import trade of the ports.

It is not a law for harassing the importers of foreign goods but for the protection of the local buyers and sellers. In my view the legislature has provided for compulsory municipal weighing in the case of all sales or deliveries within a municipality of all goods, whether native or imported, of the nature and quality specified in the schedule, but not in the case of deliveries ex-ship to an importer of goods from abroad through the Customs.

Once goods within the schedule have been delivered through the Customs to the importing purchaser, any subsequent sale or delivery of such goods of the specified weight or quantity must be accompanied by municipal weighing under the law.

Thus protection has been provided by the Act not only for the vendors and growers of native produce, but also for the buyers and sellers of all goods within the schedule within the municipal limits, whether of native production or imported from abroad.

As already stated the items on the schedule which are ordinarily imported, are very few. Coals are the principal one. Obviously it is to the public advantage that purchasers of coal should be protected by municipal weighing, but to hold that under the law a whole cargo of coal must be weighed by the municipal weigher on its delivery to an importing purchaser from the ship would be, in my view, altogether against the object of the Act. And similarly with other imported goods on delivery at the port.

I hold that on the question of law reserved for this Court that the defendants are not liable under sections 4 (1) and 6 of Law 15 of 1923, on the charge preferred against them, and the case is remitted to the Magisterial Court in order that it may deliver judgment acquitting the defendants.

PUISNE JUDGE: I concur.

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