

BOVILL,
C.J.
&
SMITH, J.
1885.

October 15.

[BOVILL, C.J. AND SMITH, J.]

THE QUEEN'S ADVOCATE

Plaintiff,

v.

THE SUPERINTENDENT OF SINAI
MONASTERY

Defendant.

SHEEP TAX—EXEMPTION CLAIMED BY MONASTIC COMMUNITY—
CHARTER OF MOHAMMED AND BERATS GIVEN BY SULTAN—
TAXATION ORDINANCE, 1879.

All exemptions from payment of taxes mentioned in the Schedule to "The Taxation Ordinance, 1879," were abolished by that Ordinance, and therefore the defendant was held liable to payment of sheep tax even though the Monks of Sinai Monastery may have been exempted from payment of taxes by a charter of the Prophet Mohammed and the berats of certain Sultans and even though these berats could be held to have the force of laws.

APPEAL from the judgment of the District Court of Kyrenia.

The action was brought to recover certain monies alleged to be due from the defendant as sheep tax.

The defence was that under a charter granted by the Prophet Mohammed and certain berats granted by the Sultans Abdul Mejid and Aziz the monks of the Sinai Monastery were exempted from liability to pay the tax.

The District Court gave judgment for the defendant (the President of the Court dissenting).

The plaintiff appealed.

The Queen's Advocate in person contended that the language of the documents relied upon by the defendant was not strong enough to support the exemption claimed, and that such privileges have been abolished by the Taxation Ordinance, 1879.

Pascal Constantinides for the respondent.—The documents in question have always been recognized by the Ottoman Government and the monks of the Sinai Monastery have always been exempt from taxation.

With regard to the Taxation Ordinance, 1879, the berats granted by the Sultans have the force of law, and the Ordinance does not apply to exemptions created by a law, but only to exemptions claimed by "custom, licence, nationality, condition, creed, calling or otherwise."

Judgment: We are of opinion that this appeal should be allowed. Whatever the precise effect of these documents may be, and whether they have the force of law or not, their effect has been destroyed by the "Taxation Ordinance, 1879." That law says there shall not be claimed by, or allowed to, any person or persons whomsoever, native or alien whose domicilium for the time being is this Island, and whether under plea or pretence of custom, licence, nationality, condition, creed, calling or otherwise the right of exemption from payment of the several taxes, duties, etc., enumerated in the schedule.—The sheep-tax is one of the taxes enumerated in the schedule.

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—

We have no doubt that this law abolished all exemptions from taxation however founded. The words "and whether," etc., are not words of limitation and mean "even if a person had a licence from a competent authority" he is obliged to pay. The law intended to abolish all such exemptions as are claimed in this case, and we think the language is wide enough to carry out this intention.

Appeal allowed with costs.

[BOVILL, C.J. AND SMITH, J.]

ELENI HADJI HARALAMBO (AS NEXT
FRIEND OF HER INFANT CHILDREN THEO-
DORO AND CHRYSALLOU) *Plaintiff,*

v.

TOGLI HADJI MICHAÏL *Defendant.*

BOVILL, ---
C.J. -
&
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October 13.

LEGITIMACY—CHILDREN BORN OUT OF WEDLOCK—ACKNOWLEDGMENT OF CHILDREN—INCAPACITY OF PARENTS TO CONTRACT A VALID MARRIAGE.

A man cannot by acknowledgment render legitimate the children born of intercourse with a woman with whom he could not contract a valid marriage by reason of her relationship to him.

APPEAL from the District Court of Kyrenia.

Action to recover the sum of 5,000 p., representing the share which the plaintiff alleged her infant children were entitled to in the estate of Michail Lefteri, deceased.

Michail Lefteri lived with the plaintiff as his wife and the father of her two children.

The deceased and Eleni were related and there was evidence that a Bishop of the Eastern Church, to which they both belonged, had refused to give them a licence to be married as they were within the prohibited degrees of consanguinity.