

POLICE *v.* SIU PRASAD

[Revisional Jurisdiction (Vaughan, C.J.) January 17th, 1951]

Forest Regulations *—Reg. 3 (c)—charge of cutting produce without a licence.

The accused pleaded guilty to the offence of cutting forest produce without a licence contrary to Regulation 3 (c) of the Forest Regulations.

The charge did not state the nature of the land on which the produce was cut.

HELD.—Since it was only an offence to cut forest produce without a licence under this regulation on Crown land, the charge was defective.

The accused appeared in person.

B. A. Doyle, Q.C. Attorney-General, for the respondent.

VAUGHAN, C.J.—The accused was charged with “cutting forest produce without a licence” contrary to Reg. 3 (c) of the Forest Regulations (p. 1012 of Vol. V, Rev. Laws).* The accused admitted the truth of the charge and was convicted on his plea. The charge, however, was defective in that it did not state the nature of the land on which the forest produce was cut.

It is clear from the marginal note to Reg. 3 and from the reference therein to Reg. 8, that Reg. 3 (c) makes it an offence to cut forest produce on Crown land only.

The Ordinance (Cap. 130) does not define “Crown land” but it does define “alienated land” as being “land subject of sale, lease, grant, transfer or exchange”, and both the Ordinance and the Regulation distinguished between “Crown land” and “alienated land”: it follows that for the purposes of the Forest Ordinance and Regulations the expression “Crown Land” does not include land of any kind which is in fact the subject of a sale or lease, etc.

Section 49 of the Ordinance, under which the Regulations are made, contains no power to make regulations licensing the cutting of forest produce on alienated land—see sub-section (2), paragraphs (b) and (e).

It follows from the above that a charge under Reg. 3 (c) must specify that the produce was cut on Crown land—and that must be put to the accused and proved by the prosecution if denied. It appears from what the prosecution said in this case that had the charge been fully put to the accused he would have pleaded “not guilty” and may well have had a good defence to the charge since it appears that the forest produce concerned was or may have been cut on alienated land.

The Hon. Attorney-General does not wish to be heard in support of the conviction.

The conviction is quashed.

* Repealed, see Section 13 of the Forest Ordinance, 1953.