

MORRIS, HEDSTROM, LTD. *ats* POLICE.

[Appellate Jurisdiction (Corrie C. J.) February 19, 1943]

Liquor Ordinance, 1932—s. 66¹—supplying liquor—whether “supply” means something more than mere delivery.

The Appellant company through its servant delivered a quantity of liquor to one Shiunaraiyan, an Indian, who was not the holder of a certificate of exemption but who did at the time of taking delivery produce to the Appellant's salesman the certificate of exemption of one Jowala. It was contended by the Appellant that the liquor was actually supplied to Jowala.

HELD.—The word “supply” is equivalent to “deliver”.

APPEAL against conviction and sentence. The facts appear from the judgment.

R. Cromption for the Appellant.

The Attorney-General, *E. E. Jenkins* for the Respondent.

CORRIE, C. J.—This is an appeal from a judgment of the Magistrate's Court, Suva, given on the 18th December 1942, whereby the Appellant Company was convicted of unlawfully supplying liquor to one Shiunaraiyan, he being an Indian, contrary to s. 66¹ of the Liquor Ordinance 1932.

It is not denied that the liquor was delivered to Shiunaraiyan, but it is argued on behalf of the Appellant that the word “supply” in s. 66 connotes something more than mere delivery, and that the liquor was actually supplied to Jowala, the holder of a certificate of exemption which was produced to the Appellant's salesman by Shiunaraiyan and in which an entry was made of the sale.

S. 71² of the Ordinance however, speaks of “any person supplying liquor to natives” upon orders from their employers; and it is clear that in that section the terms “supply” is used as equivalent to “deliver”. No ground has been suggested for holding that the term “supply” is used in a more restricted sense in other sections of the Ordinance. S. 71 it is true, was repealed by s. 2 of the Liquor (Amendment) (No. 2) Ordinance 1940 (Ordinance 45 of 1940), but there is nothing to suggest that such repeal in any way affected the meaning of the term “supply” in other sections of the Ordinance.

The Appellant has also asked this Court to hold that the penalty imposed is excessive. It must be noted, however, that even if s. 66 were given the meaning which the Appellant suggests, an offence was committed under the section, as the liquor was supplied without a certificate of exemption being exhibited personally by the person to whom it was granted, as required by s. 70 paragraph (d)³. I see no reason therefore to reduce the penalty. The appeal is dismissed.

¹ *Rep.* The section was substantially the same as s. 70 of the Liquor Ordinance, 1946.

² *Rep.* There is no corresponding section in the Ordinance of 1946.

³ *Vide* Liquor Ordinance, 1946, s. 74 (d).