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that the respondents' acts did in law amount to an attempt. In the leading case in England *Reg.* v. *Cheeseman*[1] Mr. Justice Blackburn, as he then was, in laying down the difference between a preparation antecedent to an offence and the actual attempt, said this :—If the actual transaction has commenced which would have ended in the crime if not interrupted, there is clearly an attempt to commit the crime. Here the actual transaction, the distinct overt act, was begun and to a certain point carried through. It was only not carried through to completion by reason of the respondents' being interrupted by other people. It seems to me clear that if the facts as alleged are proved against these respondents, then they ought to be convicted of the attempt at house-breaking. Whether those facts are or are not proved is a matter which we do not now decide, seeing that the second respondent has not appeared before us; but with this expression of our view upon the point of law, we reverse the order of the Sessions Judge and remand the case to him in order that this charge under sections 457 and 511 may be dealt with in accordance with law.

Order reversed.

R. R.

[1] (1862) 9 Cox 100.

CRIMINAL REVISION.

Before Mr. Justice Batchelor and Mr. Justice Heaton.

EMPEROR *v.* FULCHAND BAPUJI SHAH.*

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Indian Press Act (X of 1910), section 3—Printing press—Order to make deposit—Failure to make deposit—Liability—Deposit to be made within reasonable time.

The Government of Bombay, on the 13th September 1912, issued to the applicant a notice calling upon him under section 3, sub-section 2, of the

* Criminal Application for Revision No. 57 of 1913.

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Indian Press Act, 1910, to deposit with the District Magistrate of Kaira security to the amount of Rs. 3,000. It was served on the applicant on the afternoon of the 28th September. On the 30th idem, which was a Monday, the applicant sent off by post letters to His Excellency the Governor and to the District Magistrate of Kaira, stating that he had closed down the press. On the 2nd October, the applicant sold the press ; and had his declaration in respect of the press cancelled the next day. On the 5th October, proceedings were taken against the applicant, under section 23 (1) of the Act, for keeping the press without making the deposit. He was convicted of the offence. The applicant having applied to the High Court :—

Held, that no limit of time having been given to the applicant within which to make the deposit ordered, the notice and section 3 of the Indian Press Act, 1910, must be construed as meaning that the deposit ordered should be made within a reasonable time.

Held, also, that the interval which elapsed between the afternoon of the 28th September and the 3rd October could not be reckoned as an unreasonable time.

THIS was an application to revise conviction and sentence passed by A. Chuckerbutty, District Magistrate of Kaira.

Proceedings under the Indian Press Act (X of 1910).

The applicant was the proprietor of a printing press. A notice was issued to him, on the 13th September 1912, by the Government of Bombay, under section 3, sub-section 2, of the Indian Press Act, calling upon him to deposit with the District Magistrate of Kaira security to the extent of Rs. 3,000 in money or in Government securities. The notice was served upon the applicant in the afternoon of the 28th September 1912. He did nothing on the next day which was a Sunday. On the 30th, the applicant addressed letters to the Government of Bombay and to the District Magistrate of Kaira saying that he had closed down the press. On the 2nd of October he sold the press to one Hurjivan ; and on the 3rd he appeared before a Magistrate and had his former declaration cancelled. The applicant was on these facts charged on the 5th October with an offence punishable under section 23 (1) of the Indian Press Act,

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1910, in that he kept a press in his possession without making the deposit he was required to make.

The District Magistrate convicted the applicant of the offence charged and sentenced him to pay a fine of Rs. 5.

The applicant applied to the High Court under its Criminal Revision jurisdiction.

Campbell, with *H. G. Kulkarni*, for the applicant.—As neither the notice nor the Act provides any time within which to make the deposit, a reasonable time should be allowed. See *Hydraulic Engineering Company* v. *McHaffie*[1]. Under the circumstances of the present case, there is nothing to show that the applicant had delayed unreasonably.

G. S. Rao, Government Pleader, for the Crown.—The fact in the present case remains that the applicant kept the press without making the deposit. He said he was unable to pay: and eventually also he did not pay.

BATCHELOR, J.:—This is an application in revision. The applicant was a keeper of a certain printing press at Nadiad in Kaira, and in respect of that press he had made the declaration required by the statute. In consequence of certain objectionable matter which had appeared in the press, the Government of Bombay, on the 13th September 1912, issued to the applicant a notice, Exhibit 3, calling upon him under section 3, sub-section 2, of the Indian Press Act, 1910, to deposit with the District Magistrate security to the amount of Rs. 3,000 in money or an equivalent thereof in securities of the Government of India. This notice was, on the 26th September, made over to the Police for service on the applicant, and it was actually served on the applicant on the afternoon of the 28th September which was a Saturday. It is to be observed that section 3, sub-section 2, of the statute makes no provision for the

[1] (1878) 4 Q. B. D. 670.

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specification of any time within which the deposit required has to be made, and the notice, Exhibit 3, following the statute was also silent as to any time limit within which the deposit had to be offered. The 29th of September was a Sunday. On the following day the 30th, the applicant sent off by post letters to His Excellency the Governor and to the District Magistrate of Kaira stating that he had closed down the press. On the 2nd of October the applicant sold the press to one Hurjivan Amarsi, and the deed of sale was executed as of that date. On the 3rd of October the applicant repaired to the Resident Magistrate of Nadiad, and there cancelled his former declaration in respect of this press. On the 5th October, however, proceedings were taken against the applicant, and his prosecution was begun under section 23 (1) of the Indian Press Act, 1910. That section provides for the punishment of any person who keeps in his possession a press for the printing of books or papers without making a deposit under section 3 when required so to do. The District Magistrate, though he seems to be of opinion that it was a hard case as against the applicant, has convicted him of a technical offence and fined him Rs. 5 or in default has passed a sentence of one week's simple imprisonment.

The question is whether on these facts that conviction is good. In my opinion it is not good. It seems to me that seeing that no limit of time was given to the applicant within which to make the deposit ordered, we must construe the notice Exhibit 3 and section 3 of the Act, under which that notice is issued, as meaning that the deposit ordered should be made within a reasonable time. If that is so, the only question which remains for consideration is whether the interval which elapsed between the afternoon of 28th September and the 3rd October, when the applicant relieved himself of liability, is to be reckoned an unreasonable time within which to

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find such a large sum of Rs. 3,000 and to tender it to the District Magistrate of whose whereabouts at the time we have no certain knowledge. I am of opinion that this interval cannot be regarded as an unreasonable time, and in that view of the case I think that the applicant was not rightly convicted of having kept in his possession a press for the printing of books or papers without making a deposit when required so to do. I would, therefore, making the rule absolute, reverse the conviction and order that the fine, if paid, be refunded to the applicant.

HEATON, J. :—I concur. Broadly speaking I hold that the applicant has not behaved in any way that is unreasonable. He received the notice on the 28th September and by the 3rd October he had relieved himself of all responsibility in the matter by withdrawing his declaration and disposing of the press to another person. There is nothing in the Act of 1910 to suggest that it should be interpreted or enforced in such a way as to either compel a person to act with a rapidity that it is unreasonable to expect; or in default of his so doing to be subjected to a penalty. Therefore I think the Magistrate is wrong and that his order ought to be set aside.

Order set aside.

R. R.

APPELLATE CIVIL.

Before Mr. Justice Batchelor and Mr. Justice Heaton.

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MURGEPPA MUDIWALLAPPA KOTTANHALLI (ORIGINAL DEFENDANT), APPELLANT, *v.* BASAWANTRAO KHALILAPPA DESAI (ORIGINAL PLAINTIFF), RESPONDENT.*

Limitation Act (IX of 1908), Schedule I, Article 182, clause (5)—Decree—Execution—Step-in-aid of execution—Application for certificate under Succession Certificate Act (VII of 1889).

An application by the representative of a judgment-creditor to obtain a certificate under the Succession Certificate Act (VII of 1889) is not a step-in-

* Second Appeal No. 440 of 1912.