

Present: Mr. Justice Wood Renton:

JOHN v. CASSIM.

P. C., Colombo (Joint), 6,062.

Port rules—"Vessel"—Steam launch—Ordinance No. 6 of 1865, s. 6.

In the prohibitive part of rule 4 of the Port rules made under section 6 of Ordinance No. 6 of 1865 the term "vessel" includes a steam launch.

A PPEAL from a conviction under rule 4 of the Port rules framed under section 6 of Ordinance No. 6 of 1865.

The facts and arguments appear in the judgment.

Dornhorst (junior) for the accused-appellant.

21st March, 1906. WOOD RENTON J.—

I am indebted to Mr. Dornhorst for a clear and concise argument in support of the appeal. But in my opinion the view of the learned Police Magistrate is right. He has found as a fact that the accused, being then in charge of the steam launch "Fanny," blew his whistle repeatedly at 3 A.M. in the Harbour of Colombo, and that the steam launch was not "under weigh" at the time. If a steam launch is a "vessel" within the meaning of rule 4, section IV. of the rules of the Port of Colombo, the conviction is clearly good. Now the rules in question are made under section 6 of Ordinance No. 6 of 1865; and section 3 of that Ordinance defines the word "vessel" as including "anything made for the conveyance by water of human beings or property." Why are we to place a more restricted meaning on the term in rule 4 of the Port rules? On two grounds, says Mr. Dornhorst—first, because other rules (see Nos. 1 and 9 of section I. and 6 and 9 of section IV., differentiate vessels from boats, steam launches, and other craft; and secondly, because the saving clause in rule 4 itself, "except vessels when under weigh, either in entering or leaving the harbour," shows that that rule contemplates the case of ocean-going steam vessels alone. How far the saving clause in rule 4, as it stands, protects steam launches under weigh is a question which I have not now to consider. But I am clearly of opinion that as regards the prohibitive part of that rule the term "vessel" includes a steam launch. It prohibits between the hours of 9 P.M. and 6 A.M. the sounding "for any purpose whatever" of "any kind of steam whistle"—words which themselves point to a variety of steam vessels being included in the definition. I do not think that the specification of different classes of vessels in other rules, when it is found necessary to make such vessels the subject of particular regulations, tells against this construction. I affirm the conviction and sentence.

1906.

March 21.