

VAN HAGT v. PITCHE TAMBY.

P. C., Ratnapura, 3,691.

1896.

November 10
and 12.

Petroleum—Possession without license—Confiscation of quantity illegally possessed—Ordinance No. 6 of 1887, ss. 14, 20, and 26.

The "keeping" of petroleum regulated by section 14* of Ordinance No. 6 of 1887 is the same as the "possessing," punishable under section 20.†

The confiscation, under section 26,‡ of petroleum found in a person's possession is limited to the quantity in excess of that which he may, under section 14, keep without a license.

IN this case the accused was found in possession of sixty gallons of petroleum without a license. He was, under section 20 of Ordinance No. 6 of 1887, charged with and convicted of keeping

* Section 14 of Ordinance No. 6 of 1887 :—No quantity of petroleum exceeding fifty gallons shall be kept by any one person on the same premises or shall be transported, except under and in accordance with the conditions of a license from the local authority.

† Section 20 :—Any person who in contravention of this Ordinance, or of any rules made hereunder, imports, possesses, or transports any petroleum, and any person who otherwise contravenes any such rules or any conditions contained in a license granted hereunder, shall be punished with simple or rigorous imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

‡ Section 26 :—In any case in which an offence under sections 19, 20, or 21 has been committed, the convicting Police Magistrate may direct—

(a) The petroleum in respect of which the offence has been committed ; or

(b) Where the offender is importing, transporting, hawking, or is in possession of any petroleum exceeding the quantity, if any, which he is permitted to import, transport, hawk, or possess, as the case may be, the whole of the petroleum which he is importing, transporting, hawking, or is in possession of, shall, together with the tins or other vessels in which it is contained, be confiscated.

1896.
November 10
and 12.

a quantity of petroleum exceeding fifty gallons, in contravention of the Ordinance ; and the Police Magistrate, acting under section 26, confiscated the whole of the sixty gallons. In appeal,

Dornhorst, for appellant.

12th November, 1896. LAWRIE, J.—

On the matter of law raised by the appeal, whether when a man is convicted under the 14th section of the Ordinance of "keeping" more than fifty gallons of petroleum on the same premises, the petroleum can be confiscated by virtue of the powers given by section 26, I answer the "keeping" of petroleum regulated by the 14th section is the same as the "possessing," punishable by the 20th section. The 20th section enacts when the penalty shall be exigible if the regulation of the 14th section be infringed. It seems to me, however, that it is not fair to say that the offence was committed with regard to the whole of the sixty gallons. It was I think committed only with regard to ten gallons, because it was lawful to keep fifty gallons—it is as to the excess only that an offence was committed. I therefore reform the order and allow ten gallons to be confiscated, and the remaining fifty gallons to be returned to the accused.
