

REPORTS OF CASES
DECIDED IN THE
HIGH COURT
OF THE
ORANGE RIVER COLONY.

1910.

REX v. VELDHUIZEN.

1910. February 15. MAASDORP, C.J., and WARD, J.

*Criminal law. — Review. — Customs statistics. — False declaration. —
Sec. 26, sub-sec. (a), of Ordinance 34 of 1903.*

The making of a false declaration under customs regulation 2, which requires for statistical purposes certain statements to be made by persons despatching goods, the growth, produce or manufacture of the customs union from this colony to another within the union, is not a criminal offence.

The accused had been charged before the Resident Magistrate of Bethulie with contravening sub-sec. (a) of sec. 26 of Ordinance 34 of 1903, which reads as follows: "Any person who fraudulently signs or issues or obtains or attempts to obtain, or incites any person to obtain or aids or abets any person in obtaining by means of any fraud, false pretence, falsehood or other improper means any pass, permit, certificate

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or other document required or prescribed by this Ordinance or any other Customs Law hereafter to be enacted or by any regulations made thereunder . . . shall upon conviction be liable to the penalties hereinafter provided." The penalty provided by sec. 29 is a fine not exceeding £300, and in default of payment imprisonment with or without hard labour for a period not exceeding one year, or both such fine and imprisonment.

The accused had purchased wool in Bethulie from certain farmers in the Cape Colony, and had, when forwarding the wool by railway to East London, filled in a form required by customs regulation 2 for statistical purposes preparatory to despatching the wool for sale. The false declaration consisted in a statement that the wool was the produce of the Orange River Colony. The accused had been acquitted by the magistrate on the ground that as nobody had been prejudiced by the falsity no crime had been committed, and the case was now brought in review by the Attorney-General under the provisions of Ordinance 38 of 1903, sec. 6.

Lloyd, for the Attorney-General: The magistrate was wrong in holding that no one had been prejudiced by the falsity. The purchasers of the wool would be prejudiced, because a larger price can be procured for wool grown in the Orange River Colony than for that grown in the Cape Colony.

[MAASDORP, C.J.: It does not appear that the form signed by the accused ever came into the hands of the purchasers of the wool, and in any case no wool buyer would be so unbusinesslike as to accept a statement contained on such a form without examining the wool himself.]

The wool growers in this colony as a whole were indirectly prejudiced to some slight extent by the fact that wool not grown in this colony was held out to have been grown here. The Government were prejudiced, because it is of great importance that accurate statistics should be obtained.

MAASDORP, C.J.: It has not been shown that any person was prejudiced by the falsity of the declaration made by the accused,

and no fraud has been proved. There is no law making it a crime to falsify statistics, and it would no doubt be difficult to get the legislature to pass a law compelling people to make returns and subjecting them to a punishment for failure to do so.

