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verdict might reasonably arise out of the evidence which the Court accepts; this is clear from the judgment of Lord Chancellor in *Mancini* v. *The Director of Public Prosecutions,* 1941 (3) A.E.R. 272. In the present case once the Court had rejected the appellant's version as to how the collision occurred, they were left with the evidence of the two Turkish women and of Mustafa, and with the inferences to be drawn from the real evidence concerning the *locus in quo* and the physical objects involved in the collision. In our view upon the evidence which the trial Court accepted as true there was no reasonable ground upon which the Court could base itself in returning a verdict of manslaughter. There was no room to find that the collision was due to accident and negligence. The appellant's car was almost new and mechanically sound. The appellant's eye-sight was normal for a man of his age and there was no other traffic on the road except the deceased on his bicycle in front of him. There is no evidence that his mind had been distracted in any way; on the contrary the evidence which the Court accepted revealed what could only be described as a deliberate pursuit of the deceased until he was run over.

We have now considered all the grounds of appeal. In our view the appellant received a fair trial and was ably defended by his counsel who have raised every possible point in his defence both at the trial and here upon appeal. We are satisfied that he was convicted upon sufficient evidence and no ground has been established for upsetting his conviction.

The appeal is therefore dismissed.

[HALLINAN, C. J. and GRIFFITH WILLIAMS, J.]
(Jan. 15, 1955)

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GEORGHIOS KYRIAKIDES
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THE MAYOR, DEPUTY MAYOR, COUNCILLORS AND TOWNSMEN OF NICOSIA TOWN

GEORGHIOS KYRIAKIDES of Nicosia, *Appellant,*

v.

THE MAYOR, DEPUTY MAYOR, COUNCILLORS AND TOWNSMEN of Nicosia Town, *Respondents.*

(Case Stated No. 97)

"Place of Public Resort"—Meaning of in Nicosia Municipal Corporation Bye-law 1938, Bye-law 2.

The appellant cooked "kebab" in a private building; members of the public did not consume it on the premises but bought "kebab" and took it away. The appellant was convicted under the Nicosia Municipal Corporation Bye-law 1938, Bye-law 124A (1) (b) of cooking food in a place of public resort and within 100 feet of the street without a licence.

Held: Upon a case stated, the definition of "place of public resort" in Bye-law 2 does not include premises privately owned to which the public resort merely for the purpose of buying an article and carrying it away.

Appeal allowed.

Appeal by accused against the judgment of the District Court of Nicosia (Case No. 14050/54).

M. Triantafyllides for the appellant.

G. Polyviou for the respondents.

The facts of the case are set out in the judgment of the Court which was delivered by:

HALLINAN, C. J.: In this case stated the appellant carried on the business of cooking kebab on a private building site three feet from the public street. No food was consumed on the premises but was taken away by members of the public who came to the premises to buy kebab. The appellant was convicted for carrying on this occupation on the premises without a licence contrary to bye-law 124A (1) (b) of the Nicosia Municipal Corporation Bye-Laws, 1938.

The sole point of law on which our opinion is sought turns on the interpretation of the expression "place of public resort". The bye-law provides that except with the consent of the Municipal Council "no person shall, within the municipal limits of Nicosia, cook any food in a place of public resort within a distance of 100 feet from any street". The expression "place of public resort" is defined in section 2 of the Bye-Laws as follows: " 'place of public resort' includes any building, booth, tent or place to which the public may resort for meeting, accommodation, entertainment or refreshment of any kind or for the consumption of any foodstuff or liquid."

The learned Magistrate has set out with admirable clarity the reasons for deciding that on the facts of the present case the appellant's premises are a place of public resort. He considered that the word "includes" in the definition was not exhaustive and that in addition to the places which were places of public resort within the definition, bye-law 124A could also apply to places that were places of public resort according to the ordinary meaning of that expression. He held that the premises where the appellant sold kebab were a place of public resort within the ordinary meaning of this expression.

Now this expression is usually only used in legislation and it is used with regard to premises which the law-making authority considers should be the subject matter of control, because the premises are being used by the public. This phrase is very frequently used in legislation where the public not merely procure something from the premises but make use of the premises, for example where premises are used by the public for meeting, for accommodation, for entertainment or for refreshment. We have not been able to think of a case which is within the ordinary meaning of the phrase and yet which is not within the meaning of the phrase as it is interpreted in bye-law 2. We do not consider that in its ordinary user in legislation this expression is employed to cover premises

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that are privately owned and to which the public resort merely for the purpose of buying an article and carrying it away.

It is clear from those parts of the bye-laws to which counsel on both sides have referred us that the word "includes" is sometimes used restrictively and sometimes not restrictively, so that we think that no inference can be drawn from placing any reliance on the meaning of the word "includes".

On the facts of the present case as found we are of opinion that the premises on which the offence was alleged to have been committed was not a place of public resort, either according to the ordinary meaning of that phrase or to the meaning assigned to it in the interpretation bye-law.

In view of our opinion the conviction and sentence must be set aside.

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THE ELECTRICITY AUTHORITY OF CYPRUS

v.

COSTAS PARTASSIDES, VASSOS PAPADOPOULLOS, ETC.

[HALLINAN, C.J. and GRIFFITH WILLIAMS, J.]
(March 3, 1955)

THE ELECTRICITY AUTHORITY OF CYPRUS,

Appellant,

v.

COSTAS PARTASSIDES, VASSOS PAPADOPOULLOS, ETC., AS THE APPROPRIATE AUTHORITY FOR THE MUNICIPAL AREA OF LIMASSOL, UNDER THE STREETS AND BUILDINGS REGULATION LAW, CAP. 165,

Respondents.
(Case Stated No. 99)

Repeal by implication—Streets and Buildings Regulation Law (Cap. 165), sec. 3—Building permits required by Electricity Authority.

Under powers conferred by the Electricity Law (Cap. 82) and the Electricity Development Law (No. 23 of 1952) the Electricity Authority erected a building within the Municipal area of Limassol. The Authority was convicted under sec. 3 of the Streets and Buildings Regulation Law (Cap. 165) for erecting the building without a permit from the Municipal authority.

Held: The controls established by the Laws, Cap. 82 and No. 23 of 1952, did not by implication repeal or prevent the application of the provisions of Cap. 165 to the building erected by the Authority as those controls were not of a nature to ensure the carrying out of the objects and purposes of Cap. 165 especially with regard to the zoning and widening and straightening of streets. The decision of the Magistrate was correct.

City and South London Railway Coy. v. *L.C.C., 1891, 60 L.J., Q.B.D., 149*

distinguished.