[TYSER, C.J. AND BERTRAM, J.]

TYSER, C.J. & BERTRAM, J. 1908 April 6

REX

v.

STYLLI HAJI KYRIAKO KASTIAKI.

PRACTICE—APPEAL—JUDGE'S NOTE—ALLEGED INACCURACY—AFFIDAVIT.

The Supreme Court will not listen to any statement that a judge's note is incomplete or inaccurate, unless the statement is supported by affidavit.

This was an appeal from a sentence by the District Court of Famagusta.

The facts of the case are not material to the report.

Michaelides for the Appellant in the course of his argument relied upon a certain statement as to the character of his client said to have been made under cross-examination by a police officer. This statement did not appear on the judge's note.

The statement was nevertheless made, but the President did not think it worth while to take it down.

CHIEF JUSTICE: This Court cannot listen to any statement as to the deficiency or inaccuracy of a judge's note, unless the statement is supported by affidavit.

Appeal allowed. Sentence varied.

[TYSER, C.J. AND BERTRAM, J.]

TYSER, C.J. & BERTRAM, J. 1908 April 7

IN RE A PETITION BY CRISTO ANGELI

AND

IN RE THE MALICIOUS INJURY TO PROPERTY LAW, 1894.

MALICIOUS INJURY TO PROPERTY—LAW 6 OF 1894, SEC. 1—"ANIMAL USED FOR BURDEN, DRAUGHT OR FOOD"—ZAPTIEH'S HORSE.

The words "any animal used for burden, draught or food" in Sec. 1 of the Malicious Injury to Property Law, 1894, mean "any animal of a kind which is used for burden, draught or food."

The horse of a zaptieh, while staying a night in a village, was maliciously injured by the mutilation of its ears.

HELD: That the village was liable to pay compensation under the Malicious Injury to Property Law, 1894.

In this case, an appeal from the District Court of Paphos, the only question to be considered was what is the true meaning of Sec. 1 of the Malicious Injury to Property Law, 1894.

The petitioner was a trooper and while he was in the village in question, some one cut off one ear of his pony and damaged the other.

TYSER, C.J. & BERTRAM, J.

IN RE A PETITION BY CRISTO ANGELI AND IN RE THE MALICIOUS INJURY TO PROPERTY LAW, 1894.

The District Court decided that a zaptieh's horse did not come within the section and dismissed the petition.

The section is in the following terms:—

" ' Property ' means any dwelling house, mandra, tree, plantation, fruit, vegetables, crops, whether standing or otherwise, or any agricultural produce, also any animal used for burden, draught or food, any fence, or agricultural implements, and any mill, oil or wine press of any kind, weir, dam, sluice, or other construction made or used for the purpose of irrigation; it does not include any crops, fruit or other agricultural produce contained in any store or building other than such as are contained in a dwelling house and have not been purchased for the purposes of trade."

The zaptieh appealed.

Bucknill, K.A., for the Appellant.
Theodotou for the Respondents.

The Court allowed the appeal.

Judgment: The question is what is the meaning of the words " any animal used for burden, draught or food."

It was contended for the Respondents that it meant an animal " kept for the purpose of being used for burden, draught or food," or an animal " actually being employed for burden, draught or food purposes " and further that it meant burden or draught for agricultural purposes only.

On the other hand it was submitted for the Appellant that the act meant to include all animals of any class used for burden, draught or food and if not that a horse used to carry a zaptieh was used for burden.

We think it clear that an " animal used for food " must mean " an animal of a sort which is used for food " and that the words " animal used for " in that sentence can only be construed to have one meaning whether with reference to burden, draught or food.

Consequently that the words " animal used for draught or burden " mean animals of a sort used for draught or burden.

This would include any horse and therefore includes the zaptieh's horse.

Appeal allowed.