

License Act. The defendant was conducting a fruit and candy store as well as a restaurant at Whitney Pier, Sydney. She sold soft drinks in her store. The drinks were all exposed without attempt to concealment. She swears that she never, to her knowledge, sold intoxicating drinks, and would never knowingly sell or keep any intoxicating liquor for sale. The liquor which the inspector found on her premises was purchased by her in good faith as non-intoxicating and non-alcoholic liquor. She also swears that she had no knowledge or suspicion that it was otherwise than as represented. The inspector visited her premises, found two or three cases of liquor marked "Pilsener Beer," and took a bottle away which, on analysis, was found to contain 7.40 per cent. of alcohol in volume and 5.94 per cent. of weight. The defendant's solicitor contended that there is a difference between selling and keeping for sale. That when a sale is effected the offence is committed, and knowledge of the nature of the liquor sold is not essential, but that in keeping for sale knowledge is essential. That if the party shews that he only intended to sell non-intoxicating liquor, and if he happens by mistake or ignorance to have intoxicating liquor in his possession that he cannot be said to keep them for sale for the reason that he never intended to sell intoxicating liquor. That knowledge of the quality of the liquor must be brought home to him, otherwise he does not commit the offence. I regret that I cannot accept this view, and must hold the conviction good. The License Act is an absolute prohibition of selling or keeping for sale without a license, and there does not seem to be any difference in these two offences so far as knowledge of the quality is concerned. In nearly all sumptuary statutes mens rea is not essential to the commission of an offence, and the only intent required is the intent to sell, and if the articles sold or intended for sale are without the prohibition of the Act the offence is complete whether the accused knew of the character or quality of the thing sold or not. The Courts of Massachusetts, as well as those of England, hold this view. Hoar, J., in *Comm. v. Boynton*, 2 Allen 160, case of selling, said: "If the defendant sold the liquor, which was in fact intoxicating, he was bound at his peril to ascertain the nature of the article sold. Where the act is expressly prohibited without reference to the intent or purpose, and the party committing it was under no obligation to