

the day on which the sentence was passed. If there is no such corresponding day in the next month, then the sentence expires on the last day of that month.

Where a prisoner was sentenced to one calendar month's imprisonment on the 31st October, held affirming the decision of Denman, J., that the month expired on the 30th November.

Appeal from a decision of Denman, J., giving judgment for the defendant.

The action was to recover damages against the governor of Coldbath Fields Prison for alleged false imprisonment of the plaintiff. At the trial, before Denman, J., and a common jury, the following facts were proved in evidence or admitted :

The plaintiff was convicted by a Metropolitan Police magistrate of two different assaults. The convictions took place at 11 A. M. on the 31st October, and the commitments were drawn up in accordance with the sentences passed. The plaintiff, for the first assault, was sentenced to be imprisoned for "one calendar month," and for the second assault "for fourteen days, to commence at the expiration of the imprisonment previously adjudged." The prisoner was accordingly taken into the custody of the defendant, who was the governor of Coldbath Fields Prison, during the afternoon of the 31st of October, and finally released at 9 A. M., on the 14th December, having asked to be released on the preceding day. Denman, J., on these facts, asked the jury to assess the damages (which they did at 20s.), and reserved for further consideration the question whether judgment ought to be entered for the plaintiff or defendant. After hearing the arguments of counsel on further consideration, the learned judge directed judgment to be entered for the defendant, with costs.

The plaintiff appealed.

The plaintiff in person contended that, as his imprisonment must be taken to have commenced at midnight on the 30th October, the calendar month expired on the 29th November, and that being so, that he ought to have been released on December 13. Otherwise, he said, he would have been imprisoned the whole of November, which was a calendar month, and one day in October, and also for the fourteen days. He submitted that the question of time was one of fact for the jury.

A. L. Smith, for defendant, was not called upon to argue.

BRAMWELL, L. J. I am of opinion that this judgment must be affirmed. As Denman, J., said, there is no doubt a plausible argument for the now plaintiff that, according to his opinion, he has been imprisoned during the whole of November and one day in October as constituting one calendar month. The difficulty really arises because the term "calendar month" is not applicable except as applied to particular months, and that it is inapplicable where the month begins in the middle of a particular calendar month. Then the month is made up of a portion of two calendar months, which may be of unequal lengths, and various consequences seem to follow. It is clear that the only sensible rule that can be laid down is this, that where the imprisonment begins on a day in one month, so many days of the next month must be taken, if there are enough days to do it, as will come up to the date of the day before that on which the imprisonment commenced. That is to say, that, if the day of imprisonment commenced on the 5th of the month, it must go on until the 4th of the next month; if on the 29th until the 28th. That is to say, you must take as many days out of the next month as had passed in the month when the imprisonment began before that imprisonment commenced. If that were not so, see what the consequences would be. The plaintiff says: "I was sent to prison on October 31st. Therefore, I ought to have been let out on November 29th. Otherwise I should have had one calendar month's imprisonment, and one day of another month." The effect of his argument is this, that whereas the imprisonment began on October 30th, it ought to end on the 29th November. So ought it if the imprisonment began on the 31st. There is no reason why that should be so. Suppose a man is sentenced to two calendar months' imprisonment, when does he come out? Certainly not until December 30th. Now, if one month ends on November 29th, how do you get the next month ending on the 30th? The only way to make sense of it is to apply the rule I have mentioned. It would never operate to the prejudice of the prisoner. If he was sent to prison in a long month he would get thirty-one days; if in a short one he would get thirty days. If he was sent to prison in February, so much the better for him. If he went to prison