

there had therefore been no good tender as against the mortgagees.

Kekewich, J., said that he assumed that either Mr. Stanley-Jones, or Mr. Chapman in his place, had authority to accept a tender in cash; but it would be a mischievous extension of that authority to hold that they had any implied authority to accept a cheque by way of tender; that consequently, there had been no sufficient tender as against the mortgagees, and the motion must be refused.

* * *

COLLMAN (APPELLANT) v. MILLS
(RESPONDENT).

[Queen's Bench Division (Magistrate's Case)—12TH DECEMBER, 1896.

Master and servant — Foreman slaughterman — Breach of by-laws under slaughter-houses, etc. (Metropolis) Act, 1874 (37 & 38 Vict. c. 67 — Master's liability to penalties.

Case stated by a metropolitan police magistrate, who had dismissed two summonses against the respondent, the first charging that he, being the occupier of a licensed slaughter-house, did unlawfully slaughter certain sheep in the pound attached to the said slaughter-house; and the second charging that he did unlawfully slaughter certain sheep within the view of other sheep, contrary to the by-laws for regulating the conduct of the business of a slaughterer of cattle made in pursuance of the Slaughter-house, etc. (Metropolis) Act, 1874.

The by-laws were as follows: "No. 2. An occupier of a slaughter-house (a) shall not slaughter or permit to be slaughtered any animal in any pound, pen, or lair, or in any part of the premises other than the slaugh-

ter-house; (c) shall not slaughter or permit to be slaughtered any animal within public view, or within the view of any other animal."

It was proved or admitted that the respondent was the occupier of a slaughter-house; that on May 11, 1896, two sheep were slaughtered in the pound in the view of and close to eight or nine other sheep; that the slaughtering was done by one Alfred Bridgen, foreman and slaughterman in the employ of the respondent, but who had no general authority to manage the business; that the respondent was absent when the slaughtering took place, and that he had forbidden his servants to do the acts complained of. Bridgen was called as a witness, and acknowledged that he had disobeyed the respondent, and had done so to save himself trouble. The learned magistrate found that the acts complained of were done without the knowledge of the respondent, and dismissed the summonses on the ground that he could not be said to have "permitted" that which was done in his absence, without his knowledge, and against his express prohibition, and not done by any person who had general authority to manage the business, and referred the Court to *Somerset v. Wade*, 63 Law J. Rep. M. C. 126; L. R. (1894) 1 Q. B. 574.

The Court (Wills, J., and Wright, J.) held that the by-law must receive a rational construction so as to include the acts of servants, otherwise legislation on the subject would become inoperative. The case must be remitted. Appeal allowed.

[See a criticism on this case by *The Law Journal* (Eng.) at p. 25 of this number.—Ed.]