

medicine . . . either in serving his own wants or in producing therefrom any other article of value; and 'selling to a consumer' includes selling by retail."

Following the decision of Mr. Justice Cross in the case of *Ethier v. Minister of Inland Revenue*, tried before him at Montreal, on the 26th September, 1916, not yet reported, the learned Junior Judge holds that the words, "'selling to a consumer' includes selling by retail," in sec. 14 of the Act, would include the sale in question to the inspector; and, therefore, that the sale was one which required the affixing of a stamp at or before the time of the sale. On this ground the appeal succeeds.

It was argued by counsel for the respondent that he should not be liable for the act of his servant, in view of the fact that instructions were given to the clerk to affix stamps on all articles of this kind sold by him. But, following the authority above cited, the clerk omitted to affix the stamp while acting within the scope of his employment in selling the article, and the employer, the respondent, is liable.

The appeal should be allowed, but without costs, and the respondent should pay to the appellant the sum of \$50 and such costs as were incurred on the trial before the magistrate.