

Act, 1915, 5 Geo. V. ch. 8 (D.), by reason of their not affixing stamps on certain preparations sold by them to one H. J. Dager, an Inland Revenue officer, acting for and at the request of the appellant—the magistrates holding that Dager was not a “consumer” within the meaning of the Act, sec. 15.

The appeals were heard by JUDD, Jun. Co. C.J., Middlesex.
A. H. M. Graydon, for the appellant.
P. H. Bartlett, for the respondent Thornton.
F. F. Harper, for the respondents Jones and Lewis.
W. R. Meredith, for the respondent Lamb.

JUDD, Jun. Co. C.J., in a written judgment, dealt first with a preliminary objection that the appeals were not properly lodged because they were in the name of the Minister, whereas the informations had been laid by Dager. The informations, however, shewed that they were laid in the name of the Minister, though signed and sworn to by Dager. The Minister was the prosecutor, if not the complainant, and as prosecutor might appeal under sec. 749 of the Criminal Code. The appeals were properly lodged; the objection was overruled.

Dealing next with the case of Thornton, the learned Judge said that there was no dispute either as to the sale or the want of a stamp; and he was bound to hold, on the evidence, that the sale to Dager was made by a clerk in Thornton's store, and that Thornton was responsible for the clerk's act: *Rex v. Russill* (1913), 29 O.L.R. 367; *Patenaude v. Thivierge* (1916), 26 Can. Crim. Cas. 138; *Ethier v. Minister of Inland Revenue* (1916), 27 Can. Crim. Cas. 12.

In the Jones case, the dispute was as to whether a stamp was or was not affixed at any time to the package of tooth-paste produced. The learned Judge finds that no stamp was attached at or before sale.

Coming to Lewis's case, it was admitted that the respondent was not the proprietor or even a stockholder in the incorporated company which kept the store in which goods were purchased without stamps being affixed. The respondent was said to be the manager of the company, and was no more than a fellow-employee of the saleswoman who made the sale or sales. Lewis was not a “person selling” under sub-sec. (1) of sec. 15, nor an “importer” under (2), nor a “manufacturer or producer” under (3). The saleswoman herself would be liable as a “person selling,” and the company, her employers, because of her acts—but it could not be said that one employee was liable for the illegal