

ful excuse within the meaning of the statute. It was contended on behalf of the respondent that, inasmuch as it had been proved or admitted that the die was used only for the purposes aforesaid, the respondent had shown a lawful excuse for the possession of the said die. The magistrate found (a) that the respondent did have in his possession a die or instrument capable of making a fictitious stamp; (b) that there were facts which showed absolute *bona fides* in the respondent, and that there was a certainty that the respondent would not use the die for any improper purpose. The magistrate thought that this was evidence of a lawful excuse, and found, as a fact, that there was a lawful excuse, and dismissed the information. The question for the opinion of the Court was—Whether it appeared on the evidence as a matter of law that there was no lawful excuse, and that consequently the magistrate was not entitled to find, as a fact, that there was a lawful excuse.

*The Solicitor-General (Sir R. Finlay, Q.C.) and W. O. Danckwerts*, for the appellants, submitted that the Act absolutely prohibited the possession of a die unless there was a 'lawful excuse.' By 'lawful excuse' was meant such a case as that of a Custom-house officer who seized an imported die, or a magistrate having a die in his possession during a hearing of a case, but the mere fact that there was an absence of a guilty purpose did not constitute a lawful excuse within the meaning of section 7, subsection (c).

*C. W. Mathews*, for the respondent, contended that authority from the Crown, such as that suggested by the Solicitor-General in the case of the Custom-house officer or magistrate, was unnecessary in order to constitute 'lawful excuse.' Lawful excuse meant something less than 'authority.'

GRANTHAM, J.: In this case, as the respondent could not get the die made here, he sent abroad and had it made there for the purpose of avoiding the money penalty under the Act. I think after that it would be difficult to make out his innocence within the meaning of the Act. He had in his possession a die which can be used for the purpose of making a fictitious stamp. It has been argued that if the respondent were convicted a stamp collector might be convicted under section 7, subsection (b), which says that a person shall not have in his possession, unless he shows a lawful excuse, any fictitious stamp. It would be