

07/06; [2006] VSC 98

SUPREME COURT OF VICTORIA

MELBOURNE CITY COUNCIL v EURODYNAMICS PTY LTD

Smith J

20 February, 17 March 2006 — (2006) 45 MVR 119

PARKING INFRINGEMENT – OWNER ONUS – PARKING INFRINGEMENT NOTICES AFFIXED TO VEHICLE REGISTERED IN COMPANY NAME – PENALTIES NOT PAID – COURTESY LETTER SENT – STATUTORY DECLARATION PROVIDED STATING THAT THE COMPANY WAS NOT "DRIVING THE VEHICLE" AT THE RELEVANT TIMES – STATEMENT THAT ANOTHER COMPANY WAS THE ACTUAL DRIVER – MATTERS REFERRED TO A MAGISTRATE – FINDING BY MAGISTRATE THAT THE COMPANY HAD COMPLIED WITH THE RELEVANT STATUTORY PROVISION – CHARGES DISMISSED – WHETHER MAGISTRATE IN ERROR: ROAD SAFETY ACT 1986, S86(3).

On four separate occasions parking infringement notices were affixed to the windscreen of a motor vehicle registered in the name of EP/L. As the penalties were not paid, a courtesy letter was sent giving further time to pay or to complete a statutory declaration "stating the name and address of the person who was in charge of the motor vehicle at the relevant time". Declarations were completed indicating that the "actual driver" was a company named KC Management Services Pty Ltd. The Council refused to accept this nomination and subsequently the matter came on for hearing before a magistrate. The magistrate held that EP/L had complied with the statutory provision and as a result was not guilty of the offences. Upon appeal—

HELD: Appeal allowed.

1. The critical question was whether a body corporate could be the "person in charge of a motor vehicle" for the purposes of s86(3) of the *Road Safety Act 1986* ('Act'). It is well established that courts should try to avoid a construction of the Act that would produce absurd or unjust consequences. If "person in charge of the vehicle" could be interpreted in the relevant section to cover a body corporate which was not the owner but was the employer of the driver that would result in the owner of the vehicle and the actual driver escaping liability.

2. Addressing the purpose of the provisions, it appears reasonably clear that the intention was to overcome the difficulty of proving the identity of the individual responsible by making the owner liable and imposing the burden upon the owner to identify the actual offender. The intention is reasonably clear that the ultimate choice of the person to bear the penalty lies between the owner and the person in actual control of the motor vehicle at the time of the offence.

3. One of the objectives of any regulatory system which imposes penalties for breaches of the system is to deter people from breaching the regulations. The interpretation advanced by EP/L could significantly diminish the deterrent effect because actual drivers could avoid the consequences of their actions. That would be undesirable. Also EP/L's submission may also have the undesirable result that s86(2) would not protect the company nominated in the present case from further penalty even if the owner or actual offender had paid the full amount of the penalty.

4. A further relevant consideration is that the construction advanced by EP/L introduces complications into what is otherwise a relatively simple system and it would be surprising if, bearing in mind the nature of the system, it was intended to introduce any complications such as those advanced by EP/L. Its construction also opens up opportunities for evasion.

5. On proper analysis, there is no ambiguity in the expression "person in charge". It is a reference to the individual in charge of the vehicle at the time the offence is committed. In those circumstances a corporation cannot be "in charge". Accordingly, the appeal should be allowed.

SMITH J:

Background to the appeal

1. In March 2004, parking infringement notices were affixed on four separate occasions to the windscreen of a green 1997 Mercedes Benz sedan registered in the name of Eurodynamics Pty Ltd (the respondent). On three of those occasions the offence specified was breach of *Road Rule 205* – that the vehicle had been parked for a period longer than that indicated. On the other occasion, the offence alleged was breach of *Road Rule 179 (1)* – that the vehicle had been stopped in a loading zone.

2. In each case, the respondent did not respond to the notice or pay the penalty within the time specified and as a result a courtesy letter was sent to the respondent in accordance with Schedule 7 to the *Magistrates' Court Act* 1989 in respect of the parking infringement notices. The courtesy letter gave the respondent 28 days in which to pay the penalty and costs or to complete a statutory declaration "stating the name and address of the person who was in charge of the motor vehicle at the relevant time".

3. The respondent took up the latter alternative and through a Mr Mick Petrovitch returned statutory declarations declaring that at the time of the relevant offences Eurodynamics Pty Ltd was not "driving the vehicle" and that the "actual driver" was K C Management Services Pty Ltd. The quoted expressions appear in the standard form to which Mr Petrovitch responded.

4. This nomination was unacceptable to the Council and it advised the respondent that it did not accept a company as being responsible for the parking infringement notice and requiring Mr Petrovitch to submit the name of the individual who was in charge of the vehicle at the time of the infringement. The respondent did not reply to that letter.

5. The Council then registered the parking infringement notices with the PERIN Court pursuant to Schedule 7 to the *Magistrates' Court Act* 1989. Enforcement orders were made in respect of the notices. Mr Petrovitch then applied to revoke the enforcement orders filing statutory declarations maintaining the position stated in the previous statutory declaration that the respondent was not "the person who committed the offence" and that the "vehicle" was driven by K C Management Services Pty Ltd. The orders were revoked. The Council then successfully applied to have the matters referred to the Magistrates' Court.

6. The hearing of the proceedings took place on 5 May 2005. It is common ground that the respondent owner would be deemed guilty in relation to each of the contraventions unless s86(3) of the *Road Safety Act* applied. That section is in the following terms:

"86(3) Despite sub-sections (1) and (2), the owner of the vehicle is not by virtue of this section guilty of an offences if

(a) before or within 28 days after service of the owner of—

(i) . . . (iii) a courtesy letter under Schedule 7 to the *Magistrates' Court Act* 1989—

. . . in respect of the parking infringement concerned the owner supplies to an enforcement official in a sworn statement in writing or in a statutory declaration the name and address of the person who was in charge of the vehicle at the relevant time."

7. The learned Magistrate held that the respondent had complied with that provision and as a result was not guilty of an offence.

8. The appellant appeals from that decision.

The issue

9. It is common ground that the question of law that is raised in this appeal is the same as that which was raised below, namely, whether by nominating KC Management Services Pty Ltd as the driver, the respondent complied with s86(3)(a) of the 1986 Act by supplying: "to an enforcement official ... in a statutory declaration the name and address of the person who was in charge of the vehicle at the relevant time."

10. The learned Magistrate stated the following conclusions on this issue:

"There seems to be no reason why, and in fact it appears to be countenanced by the legislation, that a corporation can be the nominated person pursuant to a statutory declaration. There is no limit in the way that the Act is constructed, that is the *Road Safety Act*, to a person who is in fact driving. It would have been easy, if that was the intent of Parliament, to in fact allow a prosecuting authority to pursue a driver for 86(3) to demand of the owner that the name and address of the person who was driving the motor vehicle most recently at the relevant time would be declared. Of course when a car is parked, there is no necessity for a driver to be present at all.

So I can't understand how it can be said as a matter of law that a nomination of a corporation is anything but a proper nomination. This matter is only contested upon that issue. The corporation in my view has failed to act upon an appropriate nomination pursuant to s86(3)."

Common ground

11. The critical issue in the appeals is whether a body corporate can be the "person in charge of a motor vehicle" for the purposes of s86(3)(a) of the Act.

12. It was common ground that the starting point for considering that question is s38 *Interpretation of Legislation Act* 1984. It provides so far as relevant:

"In all Acts and subordinate instruments, unless the contrary intention appears—
... '**person**' includes a body politic or corporate as well as an individual;"

It is also common ground that the issue is to be approached by asking the question whether the contrary intention appears. In approaching that question, the respondent identified the following principles that can be distilled from the judgment of McGarvie J in *Gibbs v Clarke*,^[1] namely:

- "• it is as if the provision in the *Interpretation of Legislation Act* is in the interpretation section of the act;
- every part of the Act is to be construed with reference to the other parts of the Act;
- where alternative constructions are open, the alternative is to be chosen which is consistent with the smooth workings of the system which the statute purports to be regulating;
- the approach is to regard the word "person" as including a corporation unless the Act as a whole shows, with reasonable clarity, that it is intended that the word does not include a corporation.

13. It is in the exploration of the question of whether a contrary intention appears, that the parties diverge in their submissions.

14. In support of its position, the appellant Council relied on an analysis of the following:

- the subject matter of the provision;
- the context in which the provision is to be read – the section and Act as a whole;
- the purpose of the provision; and
- avoiding absurd or unjust consequences.

Submissions – subject matter of the provision

15. Relying principally upon the analysis of the Queensland Court of Appeal in *Ringelstein v Redford Cattle Co Pty Ltd*^[2] the appellant submitted that the concept of being "in charge of" a motor vehicle is an essentially practical one that is concerned with the question of actual control not theoretical control. It quoted the following passage from *Ringelstein*^[3]

"It is difficult to perceive why theoretical control should be introduced into the essentially practical concept of being "in charge of" a motor vehicle, and there is nothing in the language or apparent policy of the provisions in the *Motor Vehicles Insurance Act* in which the phrase is used to require or support such a conclusion. While a person may be "in charge of" a motor vehicle although not at the time driving it ..., the concept of "being in charge" is less concerned with legal authority than with physical control. Indeed, the legislative use of the phrase in that sense in connection with the motor vehicle is well established in Queensland and elsewhere."

Counsel for the appellant submitted that only a natural person can physically control a motor car. A body corporate cannot drive a car or park a car. Counsel submitted that a body corporate cannot leave a car parked in a space for longer than the lawful limit or park it in a loading zone. Only a natural person can do that.

16. Counsel also submitted that the concept of being "in charge of" a vehicle requires actual control. Counsel referred to discussion, for example, in *Haines v Roberts*^[4] where Lord Goddard commented that where a person leaves a car outside a hotel and asks a friend to take the car home, "he has put it in charge of somebody else, but if he has not put the vehicle in charge of somebody else he is in charge of it until he does so". Similar sentiments were repeated in *Woodage v Jones*.^[5] The same distinction was drawn in *Director of Public Prosecutions v Watkins* where it was said:

"Usually such a defendant will be prima facie in charge unless he has put the vehicle in someone else's charge. However, he would not be so if in all the circumstances he has ceased to be in actual

control and there is no realistic possibility of his resuming actual control while unfit, eg if he is at home in bed for the night, if he is a great distance from the car or if it is taken by another."

17. Counsel for the respondent submitted that limited assistance can be derived from judicial definitions of "person in charge of a motor vehicle" in other contexts. Counsel referred to the words of caution in *Ogden Industries Pty Ltd v Lucas*.^[6] In particular, counsel referred to those authorities that had interpreted the expression in the context of drink driving and argued that plainly a corporation cannot be in control of a vehicle for the purposes of engaging in driving under the influence of alcohol but that that is a different situation. Counsel submitted that a company can be guilty of an offence under s86(1). Counsel referred to the fact that the word "owner" is defined in s85 of the Act as "the person in whose name the motor vehicle is registered at the time of the offence under this Act". Counsel also drew attention to Regulation 201 of the *Road Safety Vehicles Regulations* 1999 (Vic) which provides:

"A person is eligible to be the registered operator of a vehicle if

(a) that person is—

...

(ii) a corporation; and

(b) the vehicle is owned by, or is under the management of, that person."

Counsel argued that it is clear, therefore, that the registered operator of a vehicle can be a corporation and therefore an owner of the vehicle for the purposes of s86 of the 1986 Act. That much, of course, is common ground. Counsel submitted that the fact that a corporation can be liable for a parking infringement under s86 does not evince a contrary intention that a corporation cannot be nominated under s86(3) rather it evinces an intention that it can be nominated. That, however, is the issue to be determined.

Submissions on the interpretation of the provisions in the context of the legislation

18. Counsel for the appellant submitted that reading s86(3)(a) in the context of s86 as a whole supported the conclusion it advanced. He noted that s86(1) provides that the owner of the vehicle is guilty of an offence "as if that person had been the actual offender who was guilty of the infringement" – unless the court is satisfied the vehicle was stolen or the plates were stolen. Counsel then drew attention to s86(2) which provided that sub-section 86(1) did not affect the liability of the "actual offender" but went on to provide that where the penalty has been paid by "the actual offender or owner" then no further penalty can be imposed or recovered from "the owner or actual offender". Turning to s86(3) counsel emphasised the fact that the person to be nominated is the person "who was in charge at the relevant time". Counsel submitted that the reference to relevant time was significant and required attention to focus on who was in actual control of the car when the parking infringement occurred – not who was in theoretical control of the vehicle generally. Counsel further submitted that having regard to the intention revealed in s86(1) and s86(2), the scheme required the reference to the person "in charge of the vehicle" to be the actual offender responsible for the parking infringement.

19. Counsel for the respondent submitted that it was significant that different expressions had been used in other parts of the legislation where the same expression might well have been used. Counsel referred to the use of the word "individual" in juxtaposition with bodies corporate and entities and instead of "person".^[7]

20. Counsel also referred to the use of the expression "natural person" instead of "person" in s138(2) of the Act limiting the use of information obtained from a "natural person" in criminal proceedings against that person. Counsel also drew attention to situations where the word "person" is used to include corporations.^[8]

21. Counsel submitted that Parliament having used in the same Act the word "individual" or "natural person", and having not done so in s86(3) itself, an intention contrary to the proposition that "person" include a corporation does not appear in the Act.

22. Counsel for the respondent also argued that the use of the expression "person in charge of a motor vehicle" in other parts of the Act had to be confined to natural persons because only a natural person could breach or comply with the provision. Examples given included the duty

to stop the motor vehicle if requested imposed on the driver or person in charge,^[9] the statutory definition in s3AA of the Act of persons in charge (non exhaustive),^[10] the obligation to have a licence in his or her possession when driving or in charge of a vehicle,^[11] inspecting a vehicle when the driver or person apparently in charge is present^[12] and the obligation on an inspector to supply name, rank and place of duty in certain circumstances to the driver or person apparently in charge.^[13]

23. I note that in relation to s3AA of the 1986 Act, counsel for the appellant submitted that while it did not give an exhaustive list it, nonetheless, focussed on actual control. Counsel for the respondent referred to authority from the area of Customs law and in particular the case of *Sheen v G O Cornish Pty Ltd*.^[14] In that case the question arose whether certain provisions enabling the dismissal of charges that had been proved applied to corporations as well as natural persons. Begg J held that some of the provisions could be applied to corporations while others could not. Counsel submitted that similarly under the Act, merely because a corporation cannot do some of the things set out in, for example, s3AA does not mean that a corporation can never be in charge of a vehicle. Counsel referred, for example, to the position of a vehicle left in a no standing zone by an employee of a corporation in the course of his employment with the intention that another employee of the same corporation was to collect the vehicle and take it elsewhere in the course of his employment. Counsel argued that the corporation would be regarded as being in charge of the vehicle in those circumstances. As to this example there is, in my view, an alternative argument, namely that the first employee remains in charge until the next takes over. It is not necessary to interpret s3AA to apply to corporations to give it a satisfactory operation.

24. Counsel for the respondent further submitted that the expression "person in charge" was at worst from his client's point of view ambiguous and in those circumstances any real ambiguity persisting after the application of the ordinary rules of construction should be resolved in favour of the most lenient construction.^[15]

Submissions as to the purpose of the provisions

25. The appellant submitted that the purpose of s86(3) is to allow the owner of the motor vehicle to avoid liability for a parking infringement by nominating the actual offender whose acts or omissions caused the infringement. It was submitted that this analysis is supported by the legislative history. It appears that s86 of the Act was introduced to deal with traffic and parking problems which were emerging in the City of Melbourne at the time. At the time the legislation provided only that the owner was liable unless the car had been stolen or illegally used. This was seen as being too onerous on owners of vehicles. Counsel referred to *Hansard* quoting from the speech of Mr Rylah who was then in opposition, and his concerns about the limited nature of the protection given to owners and his emphasis that relief needed to be given to the innocent owner. Mr Rylah concluded:

"We believe that the terms should not be so drastic, and that if an owner supplies the name of the person in charge of the vehicle or satisfies the court that he was not the driver at the time and did not know the name of the driver he should not be responsible for the offence."

It was put that ultimately, the Bill was amended to address these issues in the terminology that is now found there.

26. Relying on this material, counsel submitted that the Act was amended to ensure that the owner of the vehicle could avoid liability for a parking infringement by nominating the actual offender or the real culprit whose action or inaction caused the parking infringement.

27. Counsel also sought to rely upon the comparison with s66 of the Act which deals with prescribed offences detected by a photographic detection device and also provides an owner onus regime. In those provisions, however, the word "driver" and "driving" is used. The argument is double-edged because those words are not used in s86. The offences in the rules to which the section relates, however, refer to the offender as the "driver".^[16]

28. Counsel also drew attention to the explanatory memorandum relating to amendments to s86 that came into effect in 2004. Amendments were made to s86 dealing, among other things, with the time in which the nomination should take place, the range of people to whom the person served

with the parking infringement notice may give the nomination and the evidentiary consequences of the notice. In the discussion in the explanatory memorandum, reference is made on a number of occasions to the "actual driver" when referring to the person who could be nominated as the person who infringed the provisions.

29. In addressing the issue of the purpose of the provisions, counsel for the respondent submitted that if it was intended to limit the class of persons to be nominated to the "offender", that term could have been used. Counsel also submitted that s86(3)(ab) revealed an expectation that there would be more than one nomination. Counsel also drew attention to the fact that the Act was intended to operate in a variety of circumstances including the circumstance where a company who owned the vehicle may have leased it to another company. Counsel also referred to a situation of companies who hire out vehicles. In many instances, it would not be possible it was argued, for the company that owned the vehicle to be able to identify the individual and in those circumstances it could only nominate the leasing or hiring company as the person in charge. It may be said, however, that the company that leases the vehicle will normally be identified as the company managing the vehicle for the purpose of registration^[17] and so any infringement notice will be served on that company. As for the hiring of vehicles, the company hiring out the vehicle will normally have personal details of persons who will be driving the vehicle.

Submissions of parties – avoiding absurd or unjust consequences

30. Counsel for the appellant submitted that it was well established that courts should try to avoid a construction of the Act that would produce absurd or unjust consequences. Counsel quoted Gibbs J^[18]

"Where two meanings are open . . . it is proper to adopt that meaning that will avoid consequences that appear irrational and unjust."

Counsel submitted that if "person in charge of the vehicle" could be interpreted in the relevant section to cover a body corporate which was not the owner but which was, for example, the employer of the driver, you would have the result that the owner of the vehicle would escape liability and the actual driver would escape liability. Further, the company nominated would escape liability because it could not be prosecuted under the road rules because the relevant road rules define the offence in terms of the "driver" not the person in charge. Counsel submitted that it followed that if the "person in charge of the vehicle" could be a body corporate the parking infringements in a case like the present would always remain unpunished. Counsel also submitted that it followed that nominating a body corporate as the person in charge could be used as a device to avoid paying parking fines. Counsel submitted that such a construction should be avoided.

Analysis

31. Bearing in mind that a corporation can only act through its servants and agents and, through them, can commit offences, the critical question is whether there is revealed an intention to exclude, from the concept of "person in charge" a corporation whose servant or agent is in actual control of the vehicle.

32. In my view, the expression "person in charge of a motor vehicle at the relevant time" read literally is referring to a person with the actual control of a motor vehicle at a particular point in time. If that be the correct construction a corporation cannot be "in charge".

33. Such a construction of the expression "in charge of" in the context of other offences appears to be of longstanding.^[19] While the context of parking offences is different, it would be surprising if such an expression was intended to have a different meaning and include those not in actual control but in a theoretical position to exercise control – such as the owner or corporate employer. If it was intended to have such a meaning, there would arguably have been no need to specifically refer to the owner. These views are strengthened by consideration of the immediate context in which they are found.

34. In s86 itself a clear dichotomy is provided between the owner and the actual offender in sub-sections (1) and (2) and the scheme of the provisions is that either the owner or the actual offender will be liable for the penalty. These are the primary provisions:-

"(1) The owner of a vehicle in relation to which a parking infringement occurs is guilty of an offence

against the Act, rule, regulation or by-law contravened, in all respects as if that person had been the actual offender who was guilty of the infringement, unless the court is satisfied that the vehicle was a stolen vehicle or that the number plates displayed on the vehicle were stolen

(2) Sub-section (1) does not affect the liability of the actual offender, but where the full amount of any penalty has been paid by the actual offender or owner in relation to any parking infringement (whether pursuant to section 89 or on the order of the Magistrates' Court) no further penalty may be imposed on or recovered from the owner or actual offender in relation to that infringement."

Section 86 (3) is a subsidiary provision qualifying the operation of sub-sections (1) and (2).

35. It is reasonably clear that Parliament was seeking to draw a distinction between the owner and the offender, who is the person who was actually in control. Bearing in mind that the owner could be said to be in charge of the vehicle vicariously through its servants or agents, it would seem reasonably clear that Parliament was intending to use the concept of "person in charge" to focus on the individual who was actually in control of the vehicle at the relevant time rather than any employer or principal or other intermediary.

36. Looking at the Act as a whole, different terminology, identified by counsel,^[20] is used. But the context generally explains the choice of words. For example, when setting out different penalties for corporations and individuals, it was inappropriate to use "person". On the other hand, the definition of "registered proprietor" uses the expression "person responsible" rather than "person in charge" – consistently with the appellant's construction. The list in s3AA is also consistent with that construction. In the end, an examination of the rest of the Act is inconclusive. The immediate context of s86, however, strongly supports the interpretation advanced by the appellant.

37. Addressing the purpose of the provisions,^[21] it appears reasonably clear that the intention was to overcome the difficulty of proving the identity of the individual responsible by making the owner liable and imposing the burden upon the owner to identify the actual offender. It is true that the legislation now accepts that there may be a chain of people between the owner and the actual offender.^[22] That is consistent with the need to make provision for inaccurate nominations. But even there the intention is reasonably clear that the ultimate choice of the person to bear the penalty lies between the owner and the person in actual control of the motor vehicle at the time of the offence.

38. A further point to be borne in mind is that as one of the objectives of any regulatory system which imposes penalties for breaches of the system is to deter people from breaching the regulations. The interpretation advanced by the respondent could significantly diminish the deterrent effect because actual drivers could avoid the consequences of their actions. That would be undesirable. I note also that the respondent's construction may also have the undesirable result that s86(2) would not protect the company nominated in the present case from further penalty even if the owner or actual offender had paid the full amount of the penalty.

39. A further relevant consideration is that the construction advanced by the respondent introduces complications into what is otherwise a relatively simple system and it would be surprising if, bearing in mind the nature of the system, it was intended to introduce any complications such as those advanced for the respondent. Its construction also opens up opportunities for evasion.

Conclusion

40. On proper analysis, there is no ambiguity in the expression "person in charge". It is a reference to the individual in charge of the vehicle at the time the offence is committed. Accordingly, the appeal should be allowed.

^[1] [1985] VicRp 74; [1985] VR 778.

^[2] [1994] QCA 14; [1995] 1 Qd R 433, 436; (1994) 19 MVR 188; *WorkCover Queensland v Suncorp Metway Insurance Ltd* [2005] QCA 155 at [1], [34] – [37] and [55]; [2005] 2 Qd R 210; (2005) 43 MVR 363.

^[3] *ibid*

^[4] [1953] 1 All ER 344, 345.

^[5] (No 2) [1975] RTR 119.

^[6] [1970] AC 113, 127; [1969] 3 WLR 75.

^[7] S3, definition of body corporate and home address; s7(3) and 95(3)(f) which set out different penalties for "individuals" and bodies corporate; and the use of "individual" in s135.

^[8] S3, Definition of registered operator (note the "person responsible"), s16C(1)(b) referring to a person who was the registered operator; s85 defining owner in terms of "a person who . . .", s 93 relating to the service of notices of "any person".

^[9] S59.

^[10] S3AA.

^[11] S19(5).

^[12] S116(1).

^[13] S117(3).

^[14] (1978) 34 FLR 466; 22 ALR 155; [1978] 2 NSWLR 162.

^[15] *Deming No 456 Pty Ltd v Brisbane Unit Development Corporation Pty Ltd* [1983] HCA 44; (1983) 155 CLR 129; (1983) 50 ALR 1; 58 ALJR 1.

^[16] *Road Rules – Victoria*, Part 12.

^[17] *Road Safety (Vehicles) Regulations* 1999 Reg 201 and s85 Definitions of the Act.

^[18] *Public Transport Commission (NSW) v J Murray Moore (NSW) Pty Ltd* [1975] HCA 28; (1975) 132 CLR 336 at 350; (1975) 6 ALR 271; 49 ALJR 302.

^[19] See above.

^[20] See above.

^[21] *Interpretation of Legislation Act* 1984, s35.

^[22] 86(3) (ab).

APPEARANCES: For the appellant Melbourne City Council: Mr J Pizer, counsel. Maddocks, solicitors. For the respondent Eurodynamics Pty Ltd: Mr C Shaw, counsel. Madgwicks, solicitors.
