

extent of the operation of this section,<sup>17</sup> but said that it was certainly intended to put obstacles in the way of challenging the Board's orders once they were made. This was accepted as a good reason for a liberal approach to the question of awarding prohibition at a stage before the decision is actually made.

Although one might well question whether the Court's view of the obligations of an employer was more "correct" than that of the Board, the decision clearly indicates that the present High Court is committed to a policy of close and strict supervision over the actions of administrative authorities, at least when they exercise powers which can be regarded as in some sense quasi-judicial. It may well give new vitality to Dicey's "rule of law." And if it leads to greater particularity in the considerations which legislatures may require or authorise to be taken into account in the exercise of administrative powers, that will be all to the good so far as the persons likely to be affected by the exercise of those powers are concerned.

ROSS ANDERSON\*

## CONTRACT.

### *Offer and Acceptance: Display of Goods for Sale.*

Is the display of goods for sale, with marked prices, an offer to sell or merely an invitation to customers to offer to buy? This much debated question has at last been settled by the Court of Appeal in favour of the latter interpretation: *Pharmaceutical Society of Great Britain v. Boots Cash Chemists (Southern) Ltd.*<sup>1</sup> It was held that in a self-service shop there was no contract until the shopkeeper accepted the customer's offer to buy the goods taken by him from the shelves.

### *Market Overt.*

The *Sale of Goods Act of 1896* (Qld.) contains no provision corresponding to s. 22 of the English *Sale of Goods Act 1893*, which incorporates the common law principle that a buyer of goods in market overt acquires a good title in spite of any defect in the seller's title provided he buys in good faith and without notice of the defect. In *Sorley v. Surawski*<sup>2</sup> the Full Court of the Supreme Court was asked to hold that despite this omission from the Queensland Act the common law principle was

17. See Anderson: *Parliament v. Court: the Effect of Legislative Attempts to Restrict the Control of Supreme Courts over Administrative Tribunals through the Prerogative Writs*, 1 U.Q.L.J. No. 2, p. 39.

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1. [1953] 1 Q.B. 401.

2. [1953] St. R. Qd. 110.

preserved by s. 61 (2).<sup>3</sup> It was held, however, that the principle of market overt was inconsistent with the express terms of s. 24 (1)<sup>4</sup> and that it formed no part of the law of Queensland.

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## CRIMINAL LAW.

### *Arrest without Warrant.*

The decision of the English Court of Appeal in *Tims v. John Lewis and Co. Ltd.* [1951] 1 All E.R. 814, which was discussed in the last number of this Journal (at page 67), has been reversed by the House of Lords *sub nomine John Lewis and Co. Ltd. v. Tims* [1952] 1 All E.R. 1203. The House of Lords drew a distinction between the obligation imposed upon a person who arrests another without warrant in exercise of the power given to him by the common law and the obligation imposed upon a person who arrests another without warrant pursuant to a Statute which requires him to take the arrested person before a magistrate "forthwith" or "immediately"—as, for example, the obligation imposed by Section 552 of *The Criminal Code*. The House of Lords accordingly held that where the arrest took place pursuant to the exercise of the common law right the arrested person should be taken before a justice of the peace or a police officer not necessarily forthwith, but as soon as was reasonably possible.

In his judgment Lord Porter said, at p. 1209—"Where the right of arrest is given to a private person it is obviously desirable that the arrested person should be entrusted to some official care as soon as possible and statements to that effect are to be found in I think all the text books old or new. But it does not appear that in earlier days it was essential that the accused man should be brought before a magistrate in order that he might be bailed." The House of Lords considered that a regulation of the store, John Lewis and Co. Ltd., which authorised only a senior officer of the store to institute proceedings was a reasonable regulation and therefore held that where store detectives had properly arrested the respondent on suspicion of shop lifting and had taken her to the appellants' office to obtain authority to prosecute and she was there detained against her will for a reasonable time before she was handed over to the police, there was no unreasonable delay on the part of the store detectives, the imprisonment was justified and the appellants were not liable for false imprisonment. It is a matter for the Judge to

3. "The rules of the common law, including the law merchant, save in so far as they are inconsistent with the express provisions of this Act, . . . continue to apply to contracts for the sale of goods."
4. "Subject to the provisions of this Act, when goods are sold by a person who is not the owner thereof, and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell."