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The State v. Keith.

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THE STATE V. KEITH.

1. LIQUOR: *Selling without license.*

A licensed dealer may sell his own or any other's liquor without offense; and if the owner has license, his agent may sell; but if neither the seller, owner or person interested in the sale has license, all may be guilty.

APPEAL from *Logan* Circuit Court.

Hon. J. H. ROGERS, Circuit Judge.

STATEMENT.

Indictment for selling liquor without license.

The opinion states the case.

*C. B. Moore, Attorney-General*, for appellant:

The indictment was under section 5 of the Act of 1879, and follows the language of the statute.

ENGLISH, C. J. The indictment charged that J. A. Keith, on the fifteenth day of July, 1880, in Logan county, unlawfully did sell to one Charles Sharp, one pint of ardent liquor, without the owner or owners thereof having previously procured a license from the County Court of said county, authorizing such sale, against the peace, &c.

The Court sustained a demurrer to the indictment, and the State appealed.

All the allegations of the indictment may be true, and yet appellee guilty of no offense. It is not alleged that he sold the liquor without license, and if he had license, no matter whether the owner of the liquor had or not. Any licensed dealer may sell his own or the liquor of others without offense.

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So, if the owner has license, one acting as his agent, or in his employ, may sell without violation of law.

But if the seller has no license, and the owner, or a person interested in the sale none, all may be liable. *Acts of 8th March, 1879, Sec. 5. Cloud v. State, 36 Ark., 151.*

Affirmed.

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On this opinion the following cases are affirmed:

No. 56, *State v. Nelson*, appeal from *Logan*.

No. 57, *State v. Barton*, appeal from *Logan*.

No. 58, *State v. Perkins*, appeal from *Logan*.

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