

Saskatchewan Court of Queen's Bench

Citation: R. v. Camber

Date: 1976-06-30

Council:

D. I. Quon, for the Crown.

B. P. Carey, for respondent.

30th June 1976

(Saskatoon D.C. 615)

[1] BATTEN D.C.J. (orally):—The crux of the case is, of course, what is lawful justification, and essentially the justification proposed in this case is that the accused sincerely and honestly believed that these dogs were strays and, secondly, that this was a ranch where cattle were at this time calving and this was to protect the cattle. And I think probably under some circumstances this could be justification.

[2] But in this case there is nothing to indicate any propensity or anything that would give rise to a reasonable belief that these animals, these dogs, had the propensity to worry the cattle or were dangerous to any human being.

[3] If cattle had been destroyed or worried by similar animals and they had come back a second time or if they had been straying on this property off and on a number of times, but there is nothing to indicate that. There is nothing to indicate that these dogs were vicious in any way. And I particularly have to take into account that this is the first time that these animals were on this place.

[4] Even if they were strays, even if they did not belong to anybody, there is just no reason to destroy animals the first time they come on a place because I think you have to consider that it is natural for animals, for dogs, to come on a farm yard and as long as there is nothing in the behaviour of that animal to suggest a propensity for doing any harm, I do not think that there is justification under the provisions of the Code to destroy that animal. And there is procedure for doing so in a lawful way.

[5] And I therefore have to find that there is no lawful justification in the case before me for the destruction of these animals and that the accused is guilty as charged.

[6] The appeal is accordingly allowed.