

1935

*Present : Soertsz A.J.*BANDARANAYAKE *v.* PERERA.

612—P. C. CHILAW, 45,956.

*Motor omnibus—Carrying goods inside—Passenger's luggage—Motor Car Ordinance, No. 20 of 1927, Schedule IV., s. 6 (1).*

It is not a breach of section 6 (1) of the Fourth Schedule of Ordinance No. 20 of 1927, to carry goods inside a motor omnibus.

*G. E. Chitty*, for accused, appellant.

October 18, 1935. SOERTSZ A.J.

**I**N my opinion the charge against the accused has not been made out.

The case for the prosecution appears to be that the accused is guilty of a breach of the section under which he is charged because the "goods" were carried "inside the bus". The prosecuting Police Constable says, "The licence does not permit the bus to carry goods inside the bus." It is not alleged that the licence does not permit goods to be carried at all on this bus. In fact, I do not think such an allegation can be made with regard to any bus at all, for every bus is permitted to carry goods to a certain extent and in a certain manner.

The section under which the accused in this case is charged is section 6 (1) of the Rules of the Fourth Schedule of Ordinance No. 20 of 1927. That section enacts "No goods shall be carried on an omnibus unless permitted by the licence". It would seem as if those responsible for the prosecution have understood the word "on" in that section as meaning 'on the top of' and "not inside". I cannot agree with this interpretation. "On" in the context clearly means in any part of the omnibus.

I think I ought to add that these prosecutions should be undertaken only after some allowance is made for the convenience of the passengers and the difficulties of drivers and conductors. The "goods" said to have been found inside this bus are clearly the personal luggage and baggage of the passengers—suit cases, pillow-cases or mat-bags, with their contents. It will be impossible for omnibus owners to ply their buses for hire with due regard to the convenience of the public if passengers may not take with them an attaché case or a hand bag.

I set aside the conviction and acquit the accused.

*Set aside.*