

1941

Present : Howard C.J.

COOPER v. SIRISENA.

659—M. N. Colombo, 68.984.

Motor traffic—Power to regulate—By-law—Municipal Councils Ordinance, s. 110 (6) (c) (Chap. 193).

The power given to the Municipal Council by section 110 (6) (c) of the Municipal Councils Ordinance to make by-laws for the regulation of traffic in streets does not include the power to make by-laws for regulating motor traffic.

A PPEAL from a conviction by the Municipal Magistrate of Colombo.

V. E. Charavanamuttu, for the accused, appellant.

H. W. R. Weerasooriya, Crown Counsel, for the complainant, respondent.

December 5, 1941. HOWARD C.J.—

In this case the appellant was convicted by the Municipal Magistrate, Colombo, with having, whilst driving a motor car, failed to keep to the left of the white line laid on the Bambalapitiya-Galle road at its intersection with De Vos avenue in breach of section 6 Chapter VI. of the Municipal Council by-laws published in the *Gazette* No. 8,239 of August 14, 1936, an offence punishable under section 109 (2) of the Municipal Councils Ordinance. Counsel for the appellant has contended that there was no white line marked along Galle road at its intersection with De Vos avenue as proclaimed and hence the appellant could not be convicted. Inasmuch as the white line came up to the junction of the Galle road and De Vos avenue I am of opinion that this point is without substance.

The second point taken by Counsel for the appellant is of a more substantial character. The by-law alleged to have been contravened by the appellant is worded as follows:—

“6. From the date of the publication of a notice under the hand of the Chairman in the *Gazette*, that a white or coloured line has, by the authority of this Council, been laid or marked along the middle of any street within the administrative limits of this Council, the driver of every vehicle using that street shall keep to the left of the line so laid or marked.”

This by-law is made under section 110 (6) (c) of the Municipal Councils Ordinance (Chapter 193) which paragraph gives power to make by-laws for “the regulation of traffic in streets.” But is this power to regulate traffic in streets unlimited in respect of the vehicles controlled? Having regard to the fact that sections 82 and 174 of the Motor Car Ordinance, No. 45 of 1938, impose on the Executive Committee of Local Administration the power to make regulations for control of motor cars, I do not think the power given to Municipal Councils is unlimited. Such bodies cannot regulate motor traffic. Moreover section 4 of the Ordinance contains a definition of the word “vehicle” as follows:—

“‘Vehicle’ includes any carriage, cart, coach, or tramcar, and every artificial contrivance not being a mechanically propelled vehicle used or capable of being used as a means of transportation on land.”

The question therefore arises as to the interpretation to be given to the word "vehicle" as used in the regulation. Section 16 of the Interpretation Ordinance (Chapter 1) is worded as follows:—

"16. Where any Ordinance, whether passed before or after the commencement of this Ordinance, confers power to make, grant or issue any instrument, that is to say, any proclamation, letters patent, Order-in-Council, order, warrant, scheme, rules, regulations, or by-laws, expressions used in the instruments shall, unless the contrary intention appears, have the same respective meaning as in the Ordinance conferring the power."

Hence the word "vehicle" when employed in the regulation must, "unless the contrary intention appears", be given the same meaning as in the Ordinance. I do not think it can be said that a contrary intention does appear, particularly as the power to make regulations is, as I have already pointed out, expressly vested by the Motor Car Ordinance, No. 45 of 1938, in the Executive Committee of Local Administration. In these circumstances I am of opinion that the term "vehicle", when used in the regulation, did not include a motor car.

The conviction of the appellant is, therefore, set aside, and he is acquitted.

Set aside.

