

1946

*Present : de Silva J.*

**WILLIAM SINGHO**, Appellant, and **SELVADURAI (S. I. Police)**, Respondent.

405—*M. C. Gampaha, 30,739.*

*Defence (War Equipment) (Purchase by Civilians) Regulations, 1944, Regulation 3—Possession of property intended for the use of Admiralty Civilian Personnel—No offence.*

Possession of property which is intended for the use of Admiralty Civilian Personnel is not an offence in breach of Regulation 3 of the Defence (War Equipment) (Purchase by Civilians) Regulations, 1944.

**A** PPEAL against a conviction from the Magistrate's Court, Gampaha.

*C. S. Barr Kumarakulasighe*, for the accused, appellant.

*J. G. T. Weeraratne, C.C.*, for the Attorney-General.

May 28, 1946. DE SILVA J.—

In this case the accused has been convicted of having had in his possession two rolls of mosquito netting valued at Rs. 324, property belonging to the War Department, to wit, the Navy, in breach of Regulation 3 of the Defence (War Equipment) (Purchase by Civilians) Regulations, 1944, and has been sentenced to a term of three months' rigorous imprisonment.

The evidence shows that the house of the accused was searched and in the almirah two rolls of mosquito netting were found. These rolls were identified by the witness Graham as mosquito netting belonging to the Naval Store Department; but, in the course of his evidence, this witness stated that this netting was made up into mosquito nets and issued to Admiralty Civilian Personnel.

The Defence Regulation dealing with (War Equipment) (Purchase by Civilians) provides that the property should not only belong to His Majesty but also should be intended for the use of the fighting forces.

" Fighting forces " means the forces of His Majesty, or of any Power allied for the time being with His Majesty, or of any foreign authority recognised by His Majesty as competent to maintain such forces for service in association with the forces of His Majesty."

Now, the evidence of Graham shows that the second part of the Defence Regulation has not been satisfied since this property is intended for the use of Admiralty Civilian Personnel.

There is no doubt that this netting has been stolen, and it was open to the Police to charge the accused with being in possession of stolen property; but the charge made against the accused cannot be supported on the evidence. I therefore set aside the conviction and acquit the accused.

*Appeal allowed.*