

HIGH COURT. Apia. 1955. 10, 16, June. MARSACK C.J.

Road Traffic Amendment Ordinance - passenger service licence - whether condition as to stopping places valid.

The defendant company operated a passenger service pursuant to a licence stipulating, inter alia, a certain condition regarding approved stopping places for buses. The said condition was new and did not appear in a previous licence. On the question whether the new condition was valid without prior public notice -

Held: that a licence issued for one year subsists for that period only and has no further validity beyond the date of its expiration; and since the "new" condition was an original condition of the licence, it could not be said that this was a condition added during the currency of the licence within the meaning of section 13 of the Road Traffic Amendment Ordinance 1934; and therefore, no prior public notice of such condition was required.

Defendant convicted.

Drummond, for Police.
Phillips, for defendant.

Cur. adv. vult.

MARSACK C.J.: The defendant company is charged with carrying on a passenger service otherwise than in conformity with the terms and conditions of its licence, in that omnibus No. 14 the property of the defendant stopped to pick up passengers elsewhere than at an authorised stopping place.

The licence, which was issued on the 7th April 1954, has endorsed upon it the conditions under which the licence was issued. Condition No. 3(g) reads:-

"Each bus owner and driver shall ensure that the bus or buses under his control shall stop only at those stopping places approved by the Superintendent of Police in those localities where the Superintendent of Police has approved stopping places for the purposes of these conditions."

Mr Phillips contends that condition No. 3(g) is ultra vires and invalid in that proper notice under section 13 of Road Traffic Amendment Ordinance 1934 was not given to the licensee before this "new" condition was added to his licence. It appears that in the licence previously held by the defendant, this condition did not appear.

It is to be noted that under the provisions of section 13 the High Commissioner may, after giving the appropriate notice, amend or revoke the terms and conditions of a licence or add new terms and conditions during the currency of any passenger service licence. It thus becomes necessary to determine whether the condition regarding authorised stopping places was added during the currency of the licence (in which case proper notice must be given to the licensee) or was an original term of the licence.

Mr Phillips's contention is based on the submission that the licence issued on the 7th April 1954 was not a new licence, but a renewal of an existing licence. But section 16 of the Road Traffic Amendment Ordinance 1934 provides that a licence, unless previously revoked, remains in force until the following 31st day of March. I have been unable to find any provision as to renewal of such a licence. Section 16 seems to me to make it clear that on the 31st March, following the date of issue, the licence expires and has no further effect or validity. If the following year a new licence is issued in respect of the same motor vehicle then in

my opinion that is an original licence and not a mere renewal. As the licence dated 7th April 1954 contained the condition No. 3(g) then I conclude that this was an original condition of the licence, and not a condition added during the currency of the passenger service licence as provided in section 13. Consequently it was not necessary, in order to establish the legal validity of the condition in question, that notice should be given under section 13. The fact that some form of notice over the signature of H.A. Levestam appeared in the Press News may be taken as an act of courtesy on the part of the administration and not as an effort to comply with a legal obligation.

There has been in this case a breach of condition No. 3(g) of the passenger service licence, and therefore the defendant must be convicted under section 4 of the Road Traffic Amendment Ordinance 1934.