

# IS THAT JOURNEY REALLY NECESSARY?

## A Disquisition on Small Print and Liability

Written for "The Listener"  
by "PULEX"

AT this time of year, we are all engaged in making up our income-tax returns. We know that we must disclose everything we have received in the way of income, and that we can deduct only the expenditure allowed by law. We make up our annual reckoning conscious of the fact that the Minister of Finance, through his active and seemingly all-seeing agent, the Commissioner of Taxes, has involved us in a pastime similar to that of "the good old game of Doodelumbuck—the more you put down, the more he takes up."

The prospective taxpayer is supplied with a mass of printed information to occupy his reading-time in between power cuts. But whether or not he reads it all, it does not matter a bit; because he is bound by all the provisions—penal and otherwise—of the Land and Income Tax legislation. It is entirely a one-sided affair.

The position is different when a person buys a tram, or railway, or steamship, or airplane tickets. Here, there are two parties—the carrier and the passenger. And every such ticket involves a contract between them, with rights and responsibilities on the part of each.

The issue and acceptance of a ticket is, in law, a "contract" which, in simple terms, may be defined as an agreement which creates, or is intended to create, a legal obligation. A contract is concluded when one party has communicated to another an offer, and that other has accepted it. The communication of an offer takes place when it is brought to the knowledge of the person to whom it is made.

### A Ticket is a Contract

Anyone who buys a passenger ticket of any kind usually looks upon it merely as a token of payment of the fare, or as a voucher that such payment has been made. It is really much more than that. It is evidence that a passenger-carrying concern, be it the Railways Department, the municipal tramway authority, or a steamship company, has offered to transport the passenger from one stated place to another on certain conditions, which may or may not appear on the ticket. That is the offer. The intending passenger, on paying the

amount of the fare and receiving the ticket, accepts that offer. The contract between them is complete.

Passenger-carrying concerns, however, have a habit of limiting their legal responsibilities by attaching conditions to the ticket (which is, as we have seen, their offer to the passenger). These may be lengthy and cover a variety of circumstances, such as a limitation of a shipping company's liability towards the passenger in the event of collision or wreck. Or they may take the form of a brief reference merely, as in the case of a tram ticket, to the fact that it is issued subject to the by-laws, rules, or regulations of the owning municipality. In the case of a ticket issued by the New Zealand Railways Department, there is nothing in the way of conditions mentioned on the ticket.

There have been cases before the Courts in which passengers have claimed damages from the ticket-issuing party, which the latter has resisted on the grounds that the conditions on the ticket, or attached to it by reference, have exempted it from liability.

Let us see how far, in law, the passenger is bound by conditions appearing in the ticket itself, or by reference to by-laws or otherwise.

### Reasonable Steps

When an intending passenger accepts a ticket containing printed conditions, and signs it (as is the case with most tickets issued by shipping companies), he is bound by those conditions whether he reads them or not, and even if he cannot read. Most tickets, however, pass from hand to hand, without any signature being required.

When an intending passenger accepts such a ticket, to which conditions are attached—either printed in full or by reference to regulations—reasonably sufficient steps must be taken by the party issuing the ticket to bring the limitative conditions to the notice of the passenger, under the usage of proper conduct in the circumstances. The question whether reasonable steps have been taken is one of fact. It is here that the parties usually join issue in an action by a passenger.

A question of law is always for the Court to decide. In ticket cases the law is settled before the case starts: it is a question of simple contract. But, as

has been shown, the contract is not complete until its terms have been communicated to the accepting party, and he has freely accepted those terms. When we say of anything that it is a question of fact, we mean that it is to be decided by a jury on the evidence.

It has been laid down by the highest authority that the proper questions to ask the jury in a ticket case are:



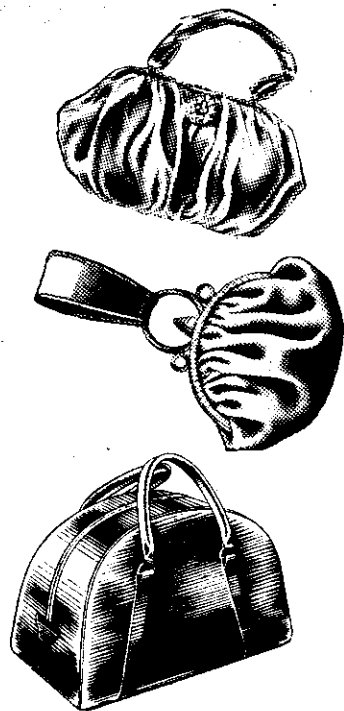
"The prospective taxpayer is supplied with a mass of printed information"

1. Did the passenger know there was writing or printing on the ticket?
2. Did he know that the writing or printing on the ticket contained conditions relative to the contract of carriage?
3. Did the passenger-carrying concern do what was reasonably sufficient to give the passenger notice of the conditions?

The passenger-carrier must prove all these three matters in its favour to the satisfaction of the jury. If it does not, then it is proved that notice of the conditions of the contract was not brought to the notice of the passenger, who can succeed despite the limitation of the passenger-carrier's liability set out in conditions.

The effect of the jury's answer to these questions is this: If the person receiving the ticket did not see or know there was any writing on the ticket, he is not bound by the conditions. If he knew there was writing on the ticket, and knew or believed that the writing contained conditions, then he is bound by the conditions. If he knew there was writing on the ticket but did not know or believe that the writing contained conditions, nevertheless he would be bound by the conditions, if the delivery of the ticket to him in such a manner that he could see that there was writing upon it, was, in the opinion of the jury, reasonable notice that the writing contained conditions.

No definite rule has been laid down (and it probably cannot be laid down) (continued on next page)



### FOR ALL OCCASIONS

No matter for what occasion you need a bag, Day, Evening or for Travelling, Lands can supply your needs.

*Lands for Bags*

*Back again!*



- Brilliant, durable gloss.
- Dries in few hours.
- For exteriors and interiors.
- Will not chip or crack.
- For cars, cycles, boats.
- Furniture or houses.
- Attractive colour range.

**CHINESE LACQUER**  
STARLINE BRAND  
MADE IN SOUTHEND ENGLAND

From leading retailers everywhere.  
N.Z. Distributors Ltd., 37 Albert St., AUCKLAND

### MECRAFTSMEN!

The Revolutionary  
**"BURGESS" VIBRO-TOOL**  
Now available for easy engraving  
on Plastics, Glass, Metals, Wood  
and Leather.

DE LUXE MODEL, with all Accessories, £7/10/-, Includes postage,  
packed and promptly mailed to any part of New Zealand.

**R. & E. TINGEY & CO. LTD., WELLINGTON**  
Box 545,

"EXCELSIOR" PAINTS, VARNISHES AND SYNTHETIC FINISHES  
N.Z. Headquarters for "PERSPEX," PLASTICS, MECRAFTS & ARTISTS' MATERIALS