1955 *Present :* **Gratiaen J.**

ATTORNEY-GENERAL, Appellant, *and* UPLANDS BUS
COMPANY, LTD., Respondent

S. C. 1,111—M. C. Nuwara Eliya, 9,859

*Wages Boards Ordinance, No. 27 of 1941—Section 39 (1)— Prosecutions thereunder—
Time-limit—Section 28 of amending Act No. 5 of 1953—Retrospective effect—
Interpretation Ordinance, s. 6 (3).*

Section 28 of the Wages Boards (Amendment) Act No. 5 of 1953, which alters
the time-limit for prosecutions from one year to two years in regard to offences
punishable under section 39 (1) of the Wages Boards Ordinance No. 27 of 1941,
applies not only to prosecutions for offences committed after the amending
Act No. 5 of 1953 passed into law, but also to prosecutions for earlier offences
other than those which had already become barred by limitation under the
provisions of the principal Ordinance.

[1] *(1922) 24 N. L R. 249.*

APPEAL from a judgment of the Magistrate's Court, Nuwara Eliya.

H. A. Wijemanne, Crown Counsel, with *Cecil Jayetileke*, Crown Counsel, for the complainant appellant.

Izzadeen Mohamed, with *C. Jayasinghe*, for the accused respondent.

Cur. adv. vult.

January 21, 1955. GRATIAEN J.—

This is an appeal by the Attorney-General against an order of the learned Magistrate of N'Eliya upholding *in limine* an objection that criminal proceedings instituted against the respondent for the alleged commission of three offences punishable under Section 39 (1) of the Wages Boards Ordinance No. 27 of 1941 (hereinafter called " the principal Ordinance ") were barred by limitation.

The offences in question were allegedly committed on 10th July, 1952, but the prosecution was not initiated until 20th April, 1954. Section 54 (*b*) of the principal Ordinance, in the form in which it stood on 10th July, 1952, had prohibited the institution of proceedings for any offence under the Ordinance except within one year of the date of its commission. On 27th February 1953, however,—that is to say, before the expiry of one year from 10th July, 1952—Parliament enacted Section 28 of the Wages Boards (Amendment) Act, No. 5 of 1953, extending the period of limitation to two years. It follows that, if the amending Act applies to these proceedings, they were instituted well within the time-limit prescribed by law. If, on the other hand, the case is still governed by Section 54 (*b*) of the principal Ordinance in its original form, the respondent had ceased to be liable to prosecution before these proceedings commenced.

The learned Magistrate held that Section 28 of the amending Act was not retrospective in operation and that the prosecution of the respondent was therefore belated. The learned Magistrate appears to have had in mind the principle that subsequent legislation is presumed not to affect rights acquired under any earlier repealed law—*vide* Section 6 (3) of the Interpretation Ordinance.

I agree with learned Crown Counsel that section 6 (3) of the Interpretation Ordinance has no application to the facts of this case. The position would without doubt have been different if the period of limitation had been extended only after the expiry of one year after the date on which the respondent is alleged to have committed these offences. In that event, the language of the amending Act would not have sufficed to withdraw the immunity from prosecution which the respondent already enjoyed. But we are here concerned with an amending Act which is merely procedural in its scope and which came into operation at a time when the respondent was still liable to be prosecuted. The ruling in *R. v. Chandradharma*[1] is precisely in point. Section 28 applies not only to prosecutions for offences committed after the amending Act passed into

[1] *(1905) 2 K.B. 335.*

law, but also to prosecutions (for earlier offences) other than those which had already become barred by limitation under the provisions of the principal Ordinance.

I allow the appeal and hold that the respondent was prematurely discharged. The record must now be returned to the lower court with a direction that the trial of the respondent should proceed *de novo* according to law.

Appeal allowed.